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Texas Register

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Governor—appointments, executive orders, and proclamations

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

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

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Withdrawn Sections—sections withdrawn by state agencies from consideration for adoption, or automatically withdrawn by the *Texas Register* six months after proposal publication date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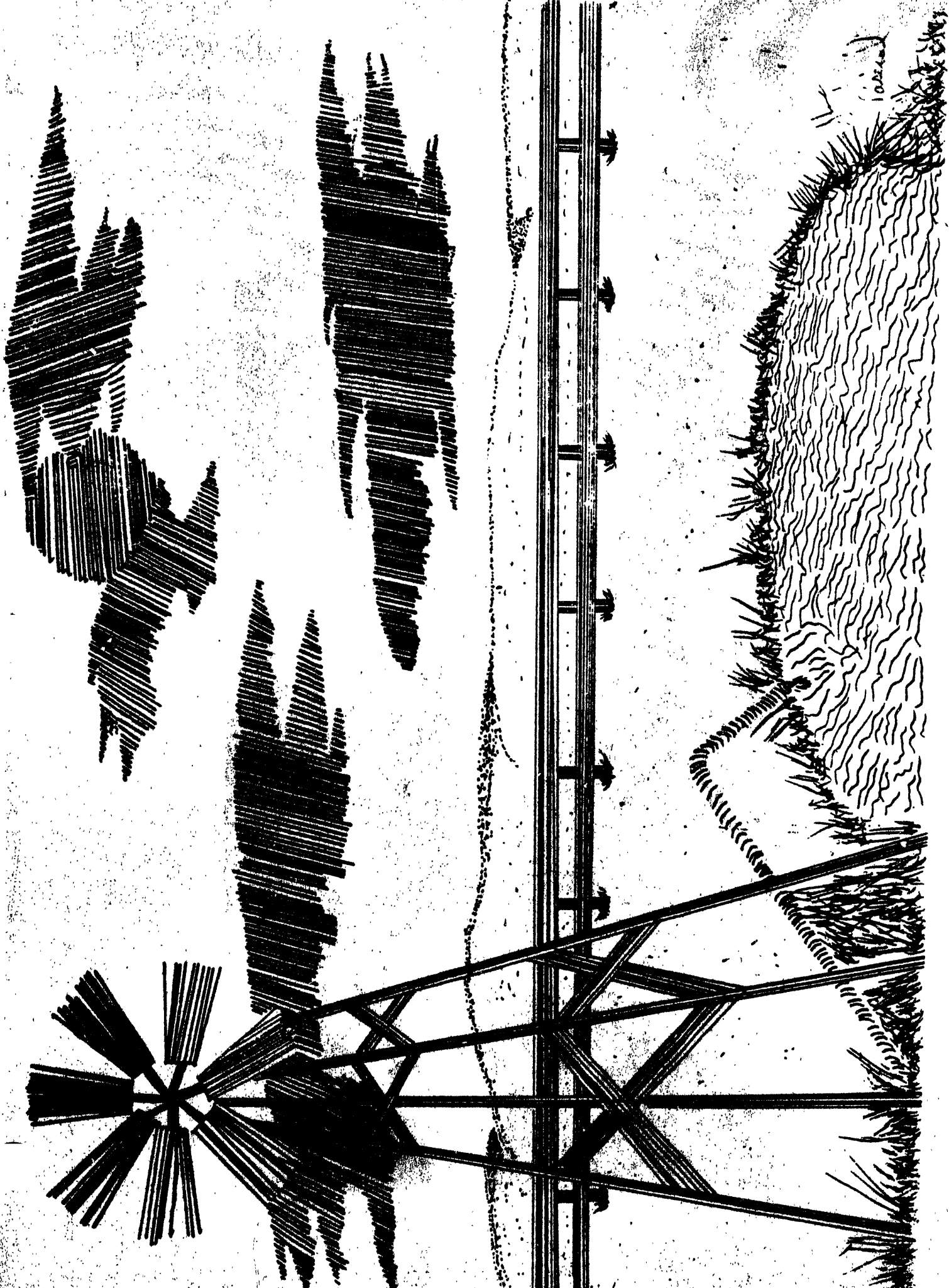
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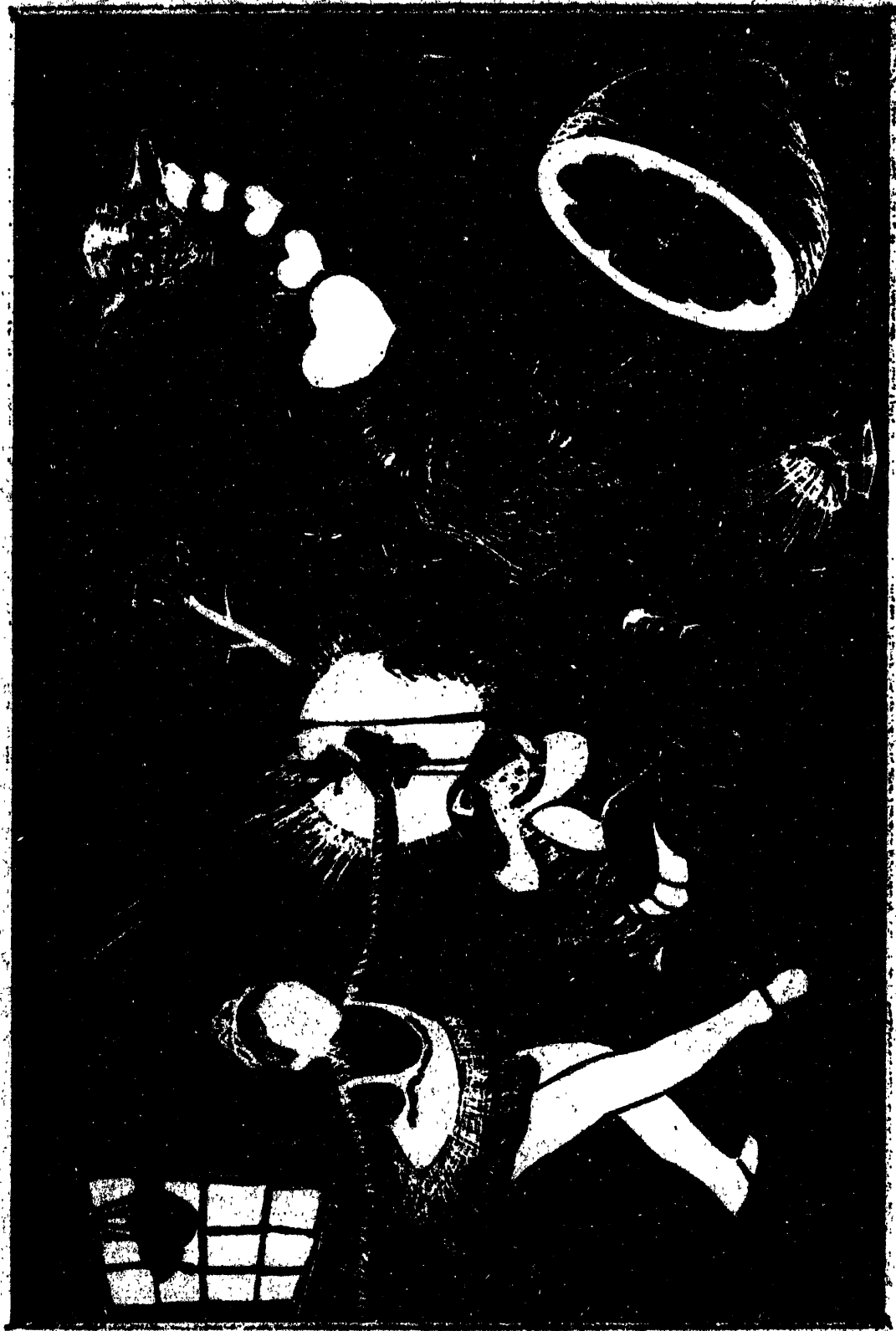
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Emergency Sections

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

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

TITLE 19. EDUCATION Part II. Texas Education Agency

Chapter 149. Education Personnel Development

Subchapter D. Teacher Career Ladder

• 19 TAC §149.71

The Texas Education Agency adopts on an emergency basis an amendment to §149.71, concerning the teacher career ladder. The amendment provides for a transition strategy to permit those school districts that previously paid monthly payments of supplements beginning as early as September to continue to do so in school year 1989-1990, requires that current year appraisals be used for making entry and maintenance decisions in school year 1990-1991, and directs that, effective in school year 1990-1991, career ladder salary supplements for all advanced levels will be paid after the conclusion of the appropriate appraisal period(s) that year. In addition the amendment identifies master teacher duties to be utilized by the districts for purposes of reviewing level three maintenance requirements during the current school year, and provides for career ladder level assignments for teachers who experience interruptions in service.

The agency finds that imminent peril to the public health and welfare requires the adoption of this amendment on an emergency basis to allow for immediate implementation of this section by local school districts.

The amendment is adopted on an emergency basis under the Texas Education Code, §16.057, which provides for career ladder salary supplements; §§13.301-13.322, which establishes the teacher career ladder; and §16.005, which authorizes the State Board of Education to make rules for implementation of the Foundation School Program.

§149.71. Assignment to the Teacher Career Ladder.

(a) General provisions. Each teacher shall be assigned to a position on the career ladder unless excluded under other provisions of this section. Assignment shall be based on performance experience, job-related education, and/or advanced academic training, job assignments, and other requirements as specified in subsection (e) of this section. [For the 1984-1985 school year, all teacher career ladder assignments and salary allotments shall be made in ac-

cordance with the guidelines for the teacher career ladder authorized by the State Board of Education and issued by the Central Education Agency in July, 1984. Effective with the 1985-1986 school year, each] Each teacher as defined in subsection (b) of this section shall be assigned to an appropriate level, maintained at an assigned level, and provided salary allotments for the teacher career ladder in accordance with the provisions of this section.

(b) Eligibility by job assignment. Eligibility for assignment to the teacher career ladder shall include a certified person who teaches or provides instructionally-related services to students at least four hours each day or not less than 60% of the school year [day].

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

(6) A person who is employed full-time but who does not teach in the classroom at least four hours per day or 60% of the [regular] school year [day] as defined in paragraphs (1) and (4) of this subsection shall not be assigned to the teacher career ladder.

(7) [Effective with the 1985-1986 school year, a] A person shall not be assigned to the teacher career ladder if that person is serving as:

(A)-(H) (No change.)

(I) a guidance associate who teaches less than four hours per day or less than 60% of the school year [day] in the classroom as defined in paragraph (1) of this subsection; or

(J) (No change.)

(c) The selection process.

(1) Local school districts shall use current school year performance evaluations and preceding year(s) performance evaluations for purposes of placing a teacher on an advanced level of the career ladder. For school year 1989-1990 school districts shall use only preceding year performance evaluations for purposes of placing a teacher on level three of the career ladder.

(2) Local school districts shall use current school year performance evaluations for purposes of maintaining a teacher on an advanced level of the ca-

reer ladder. For school year 1989-1990 school districts shall use 1988-1989 performance evaluations for purposes of maintaining teachers on levels two or three of the career ladder.

(3) Current school year performance evaluations shall be used for purposes of placing or maintaining teachers on an advanced level of the career ladder in the following circumstances:

(A) a teacher was not appraised in the prior year because the teacher was on a local district approved temporary disability leave or a local district approved professional development leave;

(B) no performance evaluation was completed by the district for a teacher who taught in the immediately preceding school year;

(C) a performance evaluation for the teacher from the immediately preceding school year was destroyed or is otherwise unavailable to the district; or

(D) upon approval by the commissioner of education of a written request from the district for a teacher under extenuating circumstances that are fully disclosed in the request.

(4) Interruption in service will be addressed in the following manner.

(A) A teacher who is not employed as a teacher for a period of not more than two school years may be assigned to the same career ladder level to which the person was assigned before the interruption in service.

(B) A teacher who has an interruption in service as a teacher of more than two school years may be assigned to the career ladder level that is one level below the level to which the person was assigned before the interruption in service.

(C) A teacher who is assigned to a career ladder level following an interruption in service as a teacher must meet the same performance requirements for advancement on the ca-

reer ladder that all other teachers must meet for advancement.

[(1) A local district shall use a current school year performance evaluation as a criterion for placing a teacher on an advanced level of the career ladder or maintaining a teacher on an advanced level if one or more of the following conditions exist:

[(A) no performance evaluation was completed for the teacher by that district in the immediately preceding school year; or

[(B) a performance evaluation for the teacher from the immediately preceding school year was destroyed or otherwise removed from the district by former employees.

[(2) A local district may use current school year performance evaluations as a criterion for placing or maintaining teachers on career ladder levels only under the conditions specified in paragraphs (2) and (4) of this subsection or in accordance with the following:

[(A) when extenuating circumstances exist for which an exception is sought, a local district must submit to the commissioner of education a written request in which extenuating circumstances are fully disclosed; and

[(B) the commissioner of education may allow a local district to use current school year performance evaluations if the circumstances are deemed extenuating.

[(3) Current school year performance evaluations shall be used for purposes of placing or maintaining teachers on advanced levels of the teacher career ladder in the following circumstances:

[(A) a teacher was not appraised in the prior year because the teacher was on a local district approved temporary disability leave; or

[(B) a teacher was not appraised in the prior year because the teacher was on a local district approved professional development leave.]

(5)(4) Texas Civil Statutes, Articles 5996a and 5996d, concerning nepotism, do not apply to the selection of level two, three, or four teachers pursuant to the Texas Education Code, Chapter 13, Subchapter E, added by House Bill 72 of the 68th Legislature, Second Called Session.

(d) Higher education course work and advanced academic training.

(1) The local school district shall determine in accordance with the provisions of this subsection whether courses taken for credit at accredited institutions of higher education or work obtained through programs of advanced academic training may be applied toward requirements for level placement and maintenance on the teacher career ladder. [Effective September 1, 1983, higher] Higher education course work or advanced academic training must be related to the job assignment in one of the following ways:

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

(2) (No change.)

(3) Higher education course work and advanced academic training that is in accordance with this subsection and earned after the bachelor's degree and prior to September 1 of each year shall be creditable toward requirements for level placement [and maintenance] on the teacher career ladder for the subsequent year. Decisions made in accordance with 1984-1985 guidelines concerning credits retained for purposes of career ladder advancement shall not be invalidated by the implementation of this subsection.

(4) (No change.)

(5) Higher education course work used for level placement [or maintenance] on the teacher career ladder must satisfy the requirements stated in paragraphs (1) and (2) of this subsection and may carry lower division, upper division, or graduate level credits. No more than one-third of the course work may be in lower division courses unless the work is being taken in a subject or area that has been designated by the State Board of Education or a local school district as an area or field of acute teacher shortage as specified in subsection (d)(1)(A) of this section.

(6) All higher education course work creditable toward level placement [or maintenance] on the teacher career ladder must be awarded by a college or university that is accredited by a recognized regional accrediting [agency] organization, or approved by a state department of education or a recognized governmental entity.

(7) -(8) (No change.)

(e) Use of stricter performance criteria. If the funds available for the support of the teacher career ladder are insufficient to fund the supplements as provided in the Texas Education Code, §16.057, a local school district may require stricter performance criteria for placing teachers on career ladder levels and for maintaining teachers on previously assigned levels. Criteria not related to the quality of performance shall not be utilized to restrict eligibility for consideration for career ladder advancement.

(1) Local districts must specify requirements for stricter performance in written policy no later than September 30 of the school year for which the criteria are to apply. However, a district that has adopted stricter performance criteria may reduce the strictness of the criteria or revoke the adoption entirely if the district determines that funds are available to place more teachers at an advanced level on the career ladder than would be placed under the stricter criteria [the requirements for stricter performance]. Local district requirements for stricter performance that are consistent with this section shall be considered approved.

(2) Criteria for stricter performance may be required in one or more of the following areas:

(A) a higher category of performance may be required for each of the years for placement on or maintenance of a career ladder level; for example, "exceeding expectations" may be required for maintaining level two rather than "meets expectations."

(B) (No change.)

(C) a higher level of performance may be required within a category; for example, performance that excels [needs improvement] in a majority of [only one] major areas [area] rather than some major areas could be designated as "exceeding expectations." ["below expectation."]

(f) Criteria for selection. [For the 1984-1985 school year, all] All teachers [classified in accordance with the Texas Education Code, §16.056, including nondegreed teachers,] shall be assigned to [level one or level two on] the teacher career ladder except for positions listed in subsection (b)(7) of this section. An individual being considered for career ladder level assignment or advancement shall satisfy the following requirements for the respective level.

(1) Level one placement shall require that a teacher[:]

[(A)] possess a [provisional or professional] teaching certificate as defined in §141.2(a) of this title (relating to Classes of Certificates) [or a level one certificate] or its equivalent as determined by the State Board of Education. [; and]

[(B) demonstrate at least "satisfactory" performance in every appraisal category for the year immediately preceding placement].

(2) Level two placement shall require that a teacher:

(A) possess an appropriate [a provisional or professional] teaching certificate as defined in §141.2(a) of this title (relating to Classes of Certificates) or [a level two certificate or] its equivalent as determined by the State Board of Education;

(B) receive performance evaluations which reflect at least performance "exceeding expectations" during the current year [immediately preceding consideration for placement at level two] and "meets expectations" ["satisfactory"] performance during the other year or years, or performance evaluations as specified by the local district in accordance with subsection (e) of this section; and

(C) possess one of the following combinations of education and experience:

(i) Option I.

(I) (No change.)

(II) three years of classroom teaching experience on level one (need not be consecutive years); and

(III) (No change.)

(ii) Option II.

(I) (No change.)

(II) two years of classroom teaching experience on level one (need not be consecutive years).

(3) Level three placement shall require that a teacher:

(A) possess an appropriate teaching certificate as defined in §141.2(a) of this title (relating to Classes of Certificates) [a level three certificate] or its equivalent as approved by the State Board of Education;

(B) file a uniform application for consideration of advancement to level three by October 1 of the year in which entry is sought; for school 1989-1990 only, any application used by the district must be submitted by the teacher to the district no later than December 15, 1989.

(C)(B) possess a baccalaureate degree and one of the following combinations of education, experience, and evaluation:

(i) Option I:

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

(III) performance evaluations of "clearly outstanding" during the current year and "clearly outstanding" during one of the preceding two years of service with "exceeding expectations" the other year, or performance evaluations as specified by the local district in accordance with subsection (e) of this section; for school year 1989-1990 only, performance evaluations must be "exceeding expectations" for three of the four years of service preceding consideration and at least "meets expectations" the other year (during three of the four years immediately preceding consideration for placement at level three indicating performance "exceeding expectations" and at least "satisfactory" performance during the other year), or performance evaluations as specified by the local district in accordance with subsection (e) of this section; or

(ii) Option II:

(I) three years of classroom teaching at level two (need not be consecutive years);

(II) (No change.)

(III) performance evaluations of "clearly outstanding" during the current year and the preceding two years of service, or performance evaluations as specified by the local district in accordance with subsection (e) of this section; for school year 1989-1990 only, performance evaluations during two of the three years of service [immediately] preceding consideration for placement at level three indicating "clearly outstanding" and at least "meets expectations" ["satisfactory"] performance during the other year, or performance evaluations as specified by the local district in accordance with subsection (e) of this section.

(4) Level four placement shall require that a teacher:

(A) (No change.)

(B) demonstrate satisfactory performance on the master teacher examination; [and]

(C) possess a baccalaureate degree; [and one of the following combinations of education, experience, and evaluation:

(i) Option I:

(I) three years of classroom teaching experience at or above level three;

(II) complete six semester hours of higher education college work; or complete 90 hours of advanced academic training (a portion of which must emphasize classroom management training only if classroom management or discipline is identified as an area that needs improvement on the teacher's performance appraisal for the preceding year), or an equivalent combination so that one semester hour of higher education course work is equivalent to 15 hours of advanced academic training; and

[(III) receive performance evaluations during two of the three years immediately preceding consideration for placement at level four indicating "clearly outstanding" performance and at least "satisfactory" performance during the other year; or performance evaluations as specified by the local district in accordance with subsection (e) of this section; or]

[(ii) Option II:]

(D)(I) have three [two] years of classroom teaching at or above level three (need not be consecutive years);

(E)(II) have three semester hours of higher education course work, or 45 hours of advanced academic training (a portion of which must emphasize classroom management training only if classroom management or discipline is identified as an area that needs improvement on the teacher's performance appraisal for the preceding year), or an equivalent combination so that one semester hour of higher education course work is equivalent to 15 hours of advanced academic training; and

(F) demonstrate "clearly outstanding" performance during the current year and the two preceding years of service, or performance evaluations as specified by the local district in accordance with subsection (e) of this section; and.]

(G) file a uniform application for consideration of advancement to level four by October 1 of the year in which entry is sought.

[(III) receive performance evaluations during the three years immediately preceding consideration for placement at level four indicating "clearly outstanding" performance.]

(g) Maintenance or reassignment of career ladder levels [level].

(1) Level one maintenance. To remain at level one, a teacher must perform at a level that "meets expectations" during the current year in every appraisal domain. In the event that a level

one teacher fails to perform at a level that "meets expectations," the teacher shall be retained at the current salary level and the district shall be required to prescribe specific remediation that the teacher must satisfactorily complete during the following school year. [A teacher shall remain at career ladder level one until full eligibility requirements for a level two, level three, or master teacher certificate as described in Chapter 141 of this title (relating to Teacher Certification) have been met and the teacher has been assigned to career ladder level two.] A district may not renew the contract of a teacher who fails to achieve at least "meets expectations" ["satisfactory"] performance during either of the next [first] two years [of experience at level one].

(2) **Level two maintenance.** [A teacher shall remain at career ladder level two until full eligibility requirements for a level three or master teacher certificate as described in Chapter 141 of this title (relating to Teacher Certification) and level three entry requirements have been met.] A teacher shall be reassigned from career ladder level two to career ladder level one if the teacher's performance is "below expectations" during the current [preceding] year, or fails to achieve performance evaluations as specified by the local district in accordance with subsection (e) of this section. For school year 1989-1990 school districts shall use the 1988-1989 performance evaluations for purposes of maintaining teachers on level two of the career ladder.

(3) **Level three maintenance.** [A teacher shall remain at career ladder level three until full eligibility requirements for a master teacher certificate as described in Chapter 141 of this title (relating to Teacher Certification) and level four entry requirements have been met.]

(A) A teacher shall be reassigned from career ladder level three to career ladder level two if the:

(i) teacher's performance at level three during the current year is [teacher demonstrates] less than "exceeding expectations" [performance at level three for two consecutive years], or fails to achieve performance evaluations as specified by the local district in accordance with subsection (e) of this section. For school year 1989-1990 school districts shall use the 1988-1989 performance evaluations for purposes of maintaining teachers on level three of the career ladder.

(ii) teacher has not been teaching in a classroom for at least 60% of the school year; or

(iii) teacher has not performed at least one master teacher duty every three years at level three, unless the district fails to provide the teacher an

opportunity to perform a master teacher duty. Among the duties that may be included are: supervising student teachers; acting as team leader, induction year mentor, or department chairman; conducting advanced academic training; and assessing teachers at a career ladder level below that teacher's level to assist those teachers in developing their teaching skills independently of the career ladder appraisal process.

(B) A teacher shall be reassigned from career ladder level three to career ladder level one if the teacher demonstrates performance which is "below expectations" during the current [preceding] year, or fails to achieve performance evaluations as specified by the local district in accordance with subsection (e) of this section.

(4) **Level four maintenance.** To remain at level four, a teacher must have "clearly outstanding" performance during the current year, been teaching in a classroom for not less than 60% of the school year, and performed two master teacher duties every three years. The performance of master teacher duties is not required if the district fails to provide the opportunity to perform the duties [A teacher shall remain at career ladder level four unless the requirements stated in this subsection are no longer satisfied].

[(A) A teacher shall be required:

(i) to demonstrate "clearly outstanding" performance during two of every three years and at least "satisfactory" performance during the other year and complete three semester hours of higher education course work or 45 hours of advanced academic training or an equivalent combination so that one semester hour of higher education course work is equivalent to 15 hours of advanced academic training, to demonstrate "clearly outstanding" performance during each of the three years, or to achieve performance evaluations as specified by the local district in accordance with subsection (e) of this section;

(ii) to teach in a classroom for not less than four hours or 60% of the school day in accordance with the provisions of subsection (b)(4) of this section; and

(iii) to perform at least two master teacher duties every three years.]

(5) **Reinstatement to former level.** In the event that a school district determines that reassignment to a lower level resulted from performance appraisals that were influenced by extraordinary personal circumstances and the teacher receives a "clearly outstanding" performance appraisal in the year following

reassignment, the school district may reassign the teacher to the former level. In any other case, a teacher reassigned under this subsection may reenter higher levels only by requalifying under the performance standards for entry into the higher levels.

(h) Out-of-state teachers entering the career ladder.

[(1)] A teacher who possesses a valid classroom teaching certificate issued by another state department of education or foreign country may enter the career ladder at any level assigned by the employing school district, at the commensurate salary step, under a probationary contract, with the following requirements.

(1) [(2)] At the end of the first year of teaching in Texas, the teacher must meet the current year performance requirements for that level [established in subsection (f) of this section with the exception of the requirement for the prior certificate held].

(2) [(A)] In the event that such performance requirements are not met [satisfactorily], the teacher shall be maintained at the career ladder level below assignment with no salary step increase.

(3) [(B)] Failure to [satisfactorily] meet current year performance [such] requirements during the second year of teaching shall result in termination of contract.

(3) Upon satisfactory achievement of certification requirements, the district may recommend certification at the appropriate level as established in Chapter 141 of this title (relating to Teacher Certification).

[(4) The employing school district shall have the authority to accept or reject the performance appraisal or appraisals based on service completed in other districts.]

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

(k) Property right of teacher.

[(1) A teacher who has earned a level one, level two, level three, or master teacher certificate in accordance with Chapter 141 of this title (relating to Teacher Certification) has a right to retain that certificate until it has expired or is duly suspended, revoked, or otherwise removed in accordance with law.]

[(2)] Assignment to career ladder level one, level two, level three, or level four is neither a property right nor the equivalent of tenure.

(1) Career ladder salary supplement. The career ladder salary supplement shall be paid during the school year at a time not later than August 31 of the school year in which the teacher entered or was maintained and in a manner to be determined by the local school district in

accordance with law and this section.

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

(3) If the allotment to the district that is designated for support of the career ladder will not fully fund the supplements for the teachers meeting the minimum state requirements, the district may:

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

[(4) In the event that funds designated at the allotment for career ladder salary supplements are deemed insufficient for placement and/or maintenance of all teachers meeting the state-mandated minimum criteria for selection and/or maintenance on the teacher career ladder, the local district may fund additional career ladder salary supplements from local or other funds permitted by law and State Board of Education rules effective with the 1985-1986 school year, provided that the following requirements have been met:

[(A) that funds available for any legal purpose in accordance with the Texas Education Code, §16.158, have been fully exhausted in the payment of teacher career ladder salary supplements; and

[(B) that the local school district demonstrates its intent to utilize career ladder supplements as a means of identifying and rewarding excellence in teacher performance as opposed to a salary supplement for all teachers meeting the minimum requirements by establishing in written policy one or more requirements for stricter performance as specified in subsection (e) of this section.]

(4)[(5)] Monies received by the district from the state as the allotment for career ladder salary supplements may not be used to supplement the salary of an employee for directing cocurricular or extracurricular activities.

(5)[(6)] The district must pay each teacher selected for a specific career ladder level the same amount of supplement for a particular career ladder level during that particular school year.

(6)[(7)] Districts may reduce the amount of the career ladder supplement on a pro rata basis utilizing the number of days of employment, not the date when the award is made, when the teacher is employed for fewer than 183 days.

(7)[(8)] Teachers employed for no less than half time as defined in subsection (b)(5) of this section shall be paid no less than one-half of the designated salary supplement awarded by the local school district for that particular level for the specific school year or a proportionate amount consistent with the portion of the school day served.

Issued in Austin, Texas on October 23, 1989.

TRD-8910344

W. H. Kirby
Commissioner of Education

Effective date: October 27, 1989

Expiration date: February 24, 1990

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

TITLE 34. PUBLIC FINANCE

Part I. Comptroller of Public Accounts

Chapter 3. Tax Administration

Subchapter J. Petroleum Products Delivery Fee

• 34 TAC §3.152

The Comptroller of Public Accounts adopts on an emergency basis an amendment to new emergency §3.152, concerning imposition and collection of the fee. The original emergency section appeared in the October 20, 1989, issue of the Texas Register (14 TexReg 5008). The new emergency section explains the standards for determining when the Texas petroleum product delivery fee applies and the amount to be collected.

This amendment is adopted on an emergency basis to provide guidance to persons required to pay or collect the fee. The new section implements recent legislation which became effective September 1, 1989.

The amendment is adopted on an emergency basis under the Tax Code, §111.002, which

provides the comptroller with the authority to promulgate, amend, and rescind rules necessary for the administration and enforcement of the provisions of the Tax Code, Title 2.

§3.152. Imposition and Collection of the Fee.

(a) The Texas Petroleum Product Delivery Fee is imposed, collected, and paid to the state by operators of bulk facilities. The fee is assessed when petroleum products are withdrawn from the bulk facility and delivered into a cargo tank or barge or imported into this state in a cargo tank or barge for delivery to another location for distribution or sale. The fee is not assessed when the fuel is destined for delivery to another bulk facility, export from the state, an electrical generating plant, or common carrier railroad for its exclusive use.

(b)-(j) (No change.)

(k) Only persons who [Unless required to do so by other government agencies, sellers who do not] hold a petroleum product delivery fee permit may [not] charge and collect the fee on the basis of the bracket system established in [subsection (b) of] this section[, and may not list the fee as a separate item on invoices or manifests]. No other person selling fuel may list the fee as a separate item on invoices or manifests except:

(1) when required to do so by other governmental agency; or

(2) when an amount is clearly identified as reimbursement. An amount collected as reimbursement may not exceed the amount of fee actually paid by the person issuing the manifest or invoice.

(l) This section is effective November 1, 1989.

Issued in Austin, Texas, on October 30, 1989.

TRD-8910371

Bob Bullock
Comptroller of Public Accounts

Effective date: November 1, 1989

Expiration date: February 13, 1990

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

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 V. State Purchasing and General Services Commission

Chapter 121.

Telecommunications Services Division

Telecommunications Services

- 1. TAC §§121.1, 121.2, 121.3, 121.4, 121.5, 121.8

The State Purchasing and General Services Commission proposes amendments to §§121.1, 121.2, 121.3, 121.4, 121.5, and 121.8, concerning the Texas Agency Network (TEX-AN). The amendments are proposed to update the rules, correct punctuation errors, reflect the change of the network's title from State Telecommunications Systems (STS) to Texas Agency Network (TEX-AN), reflect the change in name from Automated Information and Telecommunications Council to Department of Information Resources, and to more accurately reflect the TEX-AN billing procedures.

Carl Stringfellow, director, Telecommunications Services Division, 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 government as a result of enforcing or administering the sections.

Mr. Stringfellow 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 a more accurate statement of the TEX-AN billing procedures. There will be no effect on small businesses as a result of enforcing the sections. There is no anticipated economic cost to persons who are required to comply with the sections as proposed.

Comments on the proposal may be submitted to John R. Neel, General Counsel, State Purchasing and General Services Commission, P.O. Box 13047, Austin, Texas 78711-3047. Comments must be received no later than 30 days from the date of publication in the *Texas Register*.

The amendments are proposed under Texas Civil Statutes, Article 601b, which provide the State Purchasing and General Services Commission with the authority to promulgate rules necessary for the administration and enforcement of the Act.

§121.1. General. The Texas Agency Network [State Telecommunications System] authorized by Texas Civil Statutes, Article 601b, §§ [§] 10.01-10.08 [et seq.] will be administered by the State Purchasing and General Services Commission through its Telecommunications Services Division. The system will be referred to as "TEX-AN" [hereafter by the designation "STS"].

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

Automatic number identification (ANI)—The special [Special] equipment installed for obtaining and storing for record purposes data on toll calls by originating station number, date, time, length of call, and called number (Also referred to as Automatic Identification, Outdial—AIOD.)

Bit rate—The [is the] quantity, per unit of time[,] (usually per second), of binary digits which pass a given point on a communication line or channel in a continuous serial stream.

Dedicated circuit—A circuit obtained and reserved for the exclusive use of the agency requesting it. For the purpose of this section, dedicated circuits provided from TEX-AN [the STS] are exclusively intercity[,] and interconnect with agency owned[,] or leased modems[,] and terminal equipment, etc. [,] at the interface or demarcation point of each customer premise at each city in which the dedicated circuits terminate.

Dial up—A method by which connections between customers are [is] established by electronic and mechanical apparatus, controlled by manipulation of dials operated by the calling party.

[Digital and/or specialized network services—Special purpose telecommunication services generally operated by a single agency using the STS switched network and/or dedicated circuits for its intercity transmission media.]

Interconnect devices—Those devices required by federal and/or state legislative action or court rulings for protective isolation between circuits provided by the telecommunications [telecommunication] common carriers or utilities[,] and noncertified equipment.

Main connecting frame—The connecting point where TEX-AN [STS] circuitry interconnects with the agency's

terminal equipment. The interface or demarcation point is located at the point of minimum penetration at the customer premises as defined by telephone industry tariffs on file with the Texas Public Utility Commission.

Parallel toll—All [intrastate] telephone toll, including WATS, foreign exchange (feature groups A, B, or D), credit card, and third party billing incurred outside of TEX-AN [the STS].

Plan, establish, and manage—The planning for, implementation of, and the operational and fiscal maintenance and management of the TEX-AN [STS] network[,] required to support the intercity telecommunications [telecommunication] service requirements of the government of the State of Texas.

Single agency [Agency] point to point radio systems—Telecommunications systems[,] owned or leased by a single agency, operating in any frequency spectrum, and providing telecommunications [telecommunication] service between two designated points. For the purpose of this section, they are not included as part of TEX-AN [the STS].

Specialized network services—The special purpose telecommunications services generally operated by a single agency using the TEX-AN switched network and/or dedicated circuits for its intercity transmission media.

Telecommunications [Telecommunication] carrier—Any [is any] company or corporation which leases, rents, or contracts to provide telecommunications [telecommunication] service, equipment, and/or circuitry to the general public on an intercity and/or intracity basis.

Telecommunications facilities—That equipment that is an integral part of TEX-AN [the STS] and is used for any means [such modes] of transmission including, but not limited to, [as] telephone, telegraph, typewriter, digital including teletyping, facsimile, telephoto, video, audio, and such corollary items as distribution systems. For the purpose of this section, telecommunications facilities refers to equipment and circuitry necessary for the make-up of an intercity [switched voice and data] telecommunications [telecommunication] service network, including dedicated circuitry that interconnects at the interface or demarcation point on a customer premises. It does not include agency owned or leased terminal equipment.

Telecommunications services—Includes, without limitation, the transmission, emission, or reception of signals, signs, writing, images, sounds, or intelligence of any nature by wire, radio, visual, or other electrical, electromagnetic, optical, or acoustically coupled means. For the purpose of this section, telecommunications [telecommunication] services refers to the transfer of information as defined previously, on an intercity basis.

Telecommunications [Telecommunication] utility—A telecommunications [telecommunication] carrier which is required to provide service to all segments of the population on an indiscriminate basis. Utility companies' rates are normally approved and/or regulated by a city, state, or federal governmental body.

§121.3. Coverage.

(a) Coverage within TEX-AN [STS] includes:

(1) (No change.)

(2) intercity digital and/or analog network service including dedicated data and special use circuits.

(b) TEX-AN [STS] coverage does not include:

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

(4) terminal equipment, switchboards, telephone key equipment, and other equipment [equipments] required in distributing TEX-AN [STS] service on an intradepartmental basis at a particular location.

§121.4. Commission Responsibility and Method of Contracting.

(a) The commission is specifically charged with:

(1) planning actions to ensure that the system meets the telecommunications needs of state government and that all changes and growth are carried out in an orderly manner and are consistent with the strategic [long-range telecommunications] plans developed by the Department of Information Resources [automated information and telecommunications council];

(2) managing the operation [operating] of TEX-AN [the STS] to ensure [insure] that the quality of the service is adequate and that the service is provided on a cost effective basis;

(3) publishing and disseminating appropriate policies, guidelines, and operating procedures to all users to ensure [insure] efficient utilization and operation of TEX-AN [the STS]. Policies, guidelines, and procedures may not be inconsistent with a guideline or rule adopted by the Department of Information Resources [automated information and telecommunications council]. In the event of conflict, the guidelines and rules of the Department of

Information Resources [automated information and telecommunications council] will prevail;

(4) establishing a system or systems of equitable billings and charges for services provided on TEX-AN [the STS]; and

(5) evaluating agency requests for waivers to determine if specific requirements for intercity telecommunications facilities or services can be met by the TEX-AN network based on the cost effectiveness to state government taken as a whole. Waivers permitting agencies to contract for alternative facilities or services must be granted jointly by the commission and the Department of Information Resources.

(b) The State Purchasing and General Services Commission, in coordination with the agency concerned, will review all requirements for service on TEX-AN [the STS] to determine the system's capability to satisfy the requirement and to determine if the service can be provided in a cost effective manner.

(c) Services within TEX-AN [the STS] may be contracted for by the commission with telecommunications [telecommunication] service providers[,] and such contracts shall be let on a competitive bid basis[,] if possible. All such contracts shall provide that the commission or any participating agency[,] may obtain data relating to the costs to the state of parallel toll. The commission may acquire transmission facilities by purchase, lease, or lease-purchase, which shall be done on a competitive bid basis if possible. The commission may develop, establish, and maintain carrier systems necessary to the operation of the telecommunications system. The commission may own, lease, or lease-purchase any or all of the facilities or equipment necessary to provide telecommunications services.

§121.5. TEX-AN Billing Process.

(a) TEX-AN [STS] calls should not be regarded as "free" because the charges made to an agency for TEX-AN [STS] service are dependent upon the total number of minutes of usage.

(b) Long distance service for [on-to-on, on-to-off, and that portion of off-to-on] calls that traverse the network will be billed as TEX-AN [STS] service. [The portion of off-to-on calls from point of origin to the nearest STS entry point (for those calls which do not originate from one of the off-to-on cities) will be billed directly to the using agency as regular long distance service by the carrier utilized to provide the service.] Local service will continue to be billed to the using agency by the local telecommunications [telecommunication] utility. Long distance service not placed on TEX-AN [STS] will be billed directly to

the using agency by its [the] selected long distance carrier.

(c) The Telecommunications Services Division [of the commission] will accumulate all charges for TEX-AN [STS] service[,] and bill the using agencies on a monthly[,] or other regular basis.[] The bill will [to] include the following:

(1) charges for long distance services [a recurring charge] based on a proration by each using agency of total network costs to provide each service [not appropriated to the commission]. Prorations [Proration] shall be based on the total usage of each service [a 20% sampling of the total STS network use] in minutes, and the costs for circuits needed to access the services. An agency may install at its own expense automatic numbering equipment or similar function equipment to obtain amplified data for internal distribution of TEX-AN [STS] call usage for select locations. In any case, the actual billing for TEX-AN long distance [STS] service by the commission and payment will be on the basis of usage and other costs which may be attributed to the provision of each service [the expanded 20% sample as provided by the telephone industry]. Measures shall also be taken to assure that all costs associated with providing service to nonstate entities are recovered from each nonstate entity through the monthly billing system. All long distance call detail records are maintained by the commission for a period of 30 days after the date the interagency transaction vouchers are mailed; thereafter, the records are destroyed. Agencies who find it necessary to request duplicates of bills must therefore send their requests to the Telecommunications Services Division prior to expiration of the 30-day retention period [The using agency is the owner and custodian of all call detail records accompanying the monthly STS bill and the commission shall not release such records for any purpose without written permission of the using agency];

(2) nonrecurring charges for moves, changes of local service equipment, local feature changes, and/or modification involving TEX-AN [STS] circuitry [will be billed to the agency by the telecommunications services division of the commission];

(3) a mileage charge each [per] billing period for specialized voice and/or data circuits, as requested by each agency. Such circuits will be provided on an "as available" intercity basis between the common carrier toll center main connecting frames. All charges for local loop circuits, line conditioning, terminal equipment, modems as necessary, interconnect devices as necessary, and other ancillary equipment will be billed to the requesting agency;

(4) charges for all other services offered on TEX-AN based on each agency's proportionate use of these ser-

views and the actual cost to the state for providing the services;

(5)(4) an overhead charge for the operation of the system by the State Purchasing and General Services Commission at a rate not to exceed 15% of the total of the charges in paragraphs (1)-(4) [paragraphs (1) and (3)] of this subsection prorated on an actual cost basis.

(d) To facilitate the operation of the system and to expedite the payment of the state's telecommunications expenses, the using agency shall validate the Interagency transaction [purchase] voucher and render complete payment to the commission within 10 calendar days of the date of the voucher. Should the last day for returning the voucher fall on a Saturday, Sunday, or state holiday, then the last day for rendering payment shall be the following working day. Questions involving the propriety or accuracy of the voucher should be presented in writing to the commission [Commission] as soon as possible within the 10-day period, and every effort should be made to resolve the questions without undue delay. Adjustments, either credits or debits, will be made on a subsequent TEX-AN bill.

(e) Prompt and complete payment to the telecommunications service providers for all service provided to TEX-AN [STS] is the joint responsibility of the using agencies and the commission. Validation of the voucher [required by §121.5(d) of this title (relating to Billing Process)] is the keystone of this joint responsibility. Whenever the commission experiences a series of payment periods when it is unable to make timely payments to the telecommunications service providers for service [hereunder], the commission may require any or all of the participating agencies to make advance payments to the telecommunications [telecommunication] revolving fund[,] based upon the average of the previous three month TEX-AN [STS] service charge, exclusive of charges [items] described in subsection (c)(2) of this section [§121.5(c)(2) of this title (relating to Billing Process)]. If these advance payments are not equal to the actual amount due at the end of the period, the subsequent advance payment will [shall] be adjusted accordingly.

§121.8. Operations.

(a) Monthly traffic reports are prepared on each location that has TEX-AN [STS] service showing daily [the] busy hour traffic [of the day] for the trunk group serving a particular location. TEX-AN [The STS] users can help reduce network costs by making calls at non-busy hours.

(b) Long distance [toll] calls that could have been made via TEX-AN [STS], but were not, are parallel toll calls. These calls are generally [considerably] more expensive than TEX-AN [STS] calls[,] and state agencies should, therefore, attempt to reduce parallel toll calls to a minimum.

(c) Any state agency planning to utilize the STS network on a "dial up" basis for the transmission of any type of data either by means of an acoustic coupled device, data phone, or other means should notify the Telecommunications Services Division at least 30 days prior to the inservice date.]

(c)(d) Grade of service is a term used to describe both an objective and actual level of call completion. Objective grades of service are those for which a trunk group is engineered. Actual service levels are those reflecting the measured performance of a given trunk group. The grade of service is expressed in terms of probability of delay or call blockage. The commission conducts traffic reviews or studies of network circuitry on a monthly basis to determine if the TEX-AN [STS] objective grades of service levels are being met. Objective grades of service vary by the type of TEX-AN [STS] access used and the cost effectiveness of serving individual locations. The objective grades of service are based on both operational and economic considerations. Traffic loading in any part of the system may vary from month to month. The commission, as a result of the monthly traffic reviews[,] and in coordination with the using agencies, will take appropriate action to add or remove circuits based on trends established over three [six] months.

(d)(e) Each agency should designate an employee(s) [one or more individuals] who is [would be] responsible for approving that agency's proposed changes to or additions to TEX-AN [the STS]. The employee(s) [individual] so designated will be referred to as "telecommunications professional(s) [agency STS representative]." Agencies should advise the Telecommunications Services Division of the name, title, mailing address, and both the TEX-AN [STS] and regular telephone numbers [number] of their telecommunications professional(s), and the geographical area or location for which they are responsible. The notification should be kept current to facilitate processing of TEX-AN [STS] matters.

(e)(f) In each agency, responsibility for changes or additions in the TEX-AN [STS] telephone directory should be assigned to an employee(s) [one or more individuals]. The employee(s) [individual] so designated will be referred to as the "directory [STS telephone listing] coordinator(s)." [The agency STS representative and the STS telephone listing coordinator may be one and the same if the agency so desires.] Agencies should advise the Telecommunications Services Division of the name, title [titles], mailing address, and both the TEX-AN [STS] and regular telephone numbers [number] of their directory [STS telephone listing] coordinator(s).

(f)(g) The purpose of the TEX-AN [STS] telephone directory is to provide TEX-AN [STS] users with the telephone

numbers necessary for the conduct of state business. The directory is composed of an alphabetical listing [(white section)] and an organizational listing [(yellow section)] of the various agencies, departments, and organizational units of state government and other political subdivisions participating on the TEX-AN [STS] network. The agencies will be requested to provide inputs for each of these sections on an annual basis. The organizational and alphabetical sections [white section] should be limited to key positions and employees requiring frequent contact by other state personnel where it is essential for the conduct of official state business.

(g)(h) In some cases, offices are served as detached stations or as tributary PBX's [PBX] through the switching equipment of another agency's PBX. In these cases the office serviced is usually blocked from the ninth level, thus prohibiting local calls or one plus calls from being made through the primary agency's PBX. In any event, ninth level calls should not be made by detached stations or tributary PBX's.

(h)(i) The TEX-AN [STS] access lines may be connected for centralized answering when it is necessary to have calls "screened" before being [then] directed to the proper person(s) or when a telephone must be answered when the person who normally answers is absent.

(i)(j) When usage requirements indicate more than one line is needed on key systems, consideration should be given to the use of "rotary" or "trunking lines." These lines are capable of handling a substantially greater number of calls at a particular grade of service than the same number of individual lines.

(j)(k) At locations where the usage of detached stations serving other agencies is measured by meters, the sharing agency should designate an individual to record data from the meters on a monthly basis. Agencies should advise the Telecommunications Services Division of the name, mailing address, and both the TEX-AN and regular [STS] telephone numbers [number] of the "meter reader." The Telecommunications Services Division will provide each shared location with a monthly report form on which to return the collected meter data.

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

Issued in Austin, Texas on October 25, 1989.

TRD-89-10332

John R. Neel
General Counsel
State Purchasing and
General Services
Commission

Earliest possible date of adoption: December 8, 1989

For further information, please call: (512) 463-3446

**TITLE 16. ECONOMIC
REGULATION
Part I. Railroad
Commission of Texas
Chapter 5. Transportation
Division**

**Subchapter Z. Base Rates,
Deviations and Suspensions
• 16 TAC §5.582**

The Railroad Commission of Texas proposes an amendment to §5.582, concerning deviations from base rates. The amendment as proposed would delete the provisions which allow deviations of 10% below the minimum tariff rate on certain shipments by specialized motor carriers of sand, and gravel commodities.

Jackie S. Greenlee, assistant director of 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.

Ronald D. Stutes, 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 to ensure that motor carriers of sand and gravel commodities will continue to attract sufficient revenues to allow full safety maintenance of fleets, and to ensure that owner-operators continue to earn sufficient wages. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the section as proposed.

Public comment is invited and may be submitted within 30 days to Ronald D. Stutes, Hearings Examiner, Legal Division, and Raymond A. Bennett, Director, Gas Utility/Transportation Division, Railroad Commission of Texas, P.O. Box 12967, Austin, Texas 78711.

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

§5.582. Deviations from Base Rates.

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

(g) Specialized Motor Carriers subject to Sand and Gravel Motor Carrier Association Tariff 2 series shall be permitted to deviate by an amount not to exceed 10% below the applicable minimum rate for shipments weighing 10,000 pounds or more moving 100 miles or less, other than shipments transported in pneumatic trailer, tank trailer, or pneumatic-tank trailer equipment, of the following commodities:

- (1) aggregate, concrete;
- (2) aggregate, lightweight;
- (3) aggregate, lightweight expanded;
- (4) aggregate, synthetic;

[(5) asphalt coated stone, crushed or ground, when loaded at origin from a stockpile and delivered to a stockpile at destination;

[(6) base, flexible;

[(7) brick, crushed;

[(8) caliche;

[(9) cement, bulk, mixed with gravel;

[(10) cement, bulk, mixed with crushed limestone;

[(11) cement, bulk, mixed with sand;

[(12) cement, dry batch;

[(13) cement, ready mix, in dry form;

[(14) cinder, soil;

[(15) clam shell;

[(16) clay, unprocessed;

[(17) dirt;

[(18) dust;

[(19) ferro ore;

[(20) filings, iron, powdered and granulated;

[(21) gravel;

[(22) iron ore;

[(23) limestone, crushed;

[(24) manganese ore;

[(25) oyster shell;

[(26) pipe, crushed sewer;

[(27) rocks;

[(28) rocks, shatt or roofing;

[(29) sand;

[(30) sand, cement stabilized;

[(31) screenings, gypsum;

[(32) shale;

[(33) shell marine;

[(34) shells, crushed;

[(35) silico ore;

[(36) slag, crushed, powdered and granulated;

[(37) soil, top;

[(38) stabilized soil supplement;

[(39) stone, building, crushed, cut and ground;

[(40) tile, crushed; and

[(41) uranium ore.]

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

Issued in Austin, Texas on October 30, 1989.

TRD-8810428

Cris Payne
Assistant Director, Legal
Division-General Law
Railroad Commission of
Texas

Earliest possible date of adoption: December 8, 1989

For further information, please call: (512) 463-7094

**TITLE 19. EDUCATION
Part II. Texas Education
Agency**

Chapter 75. Curriculum

**Subchapter H. Promotion and
Alternatives to Social
Promotion**

• 19 TAC §§75.191-75.193

The Texas Education Agency proposes amendments to §§75.191, 75.192, and 75.193, concerning grading, promotion, and course credit. The proposed amendments would eliminate the requirement that students below second grade receive numerical scores, allow school districts to grant promotions using assessment methods other than numerical scores, and allow districts to record and report grades in accordance with the promotion standards. The proposed amendments also would require that grade reports include a statement that a parent-teacher conference is needed in cases where a student's level of achievement is below the level required for course credit or grade level advancement. These amendments are proposed pursuant to Senate Bill 40 and Senate Bill 417 of the 71st Texas Legislature.

Lynn M. Moak, deputy commissioner for research and development, 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 government as a result of enforcing or administering the sections.

Mr. Moak and Criss Cloudt McCuller, director for planning coordination, have determined that for each year of the first five years the proposed sections are in effect the public benefit anticipated as a result of enforcing the sections will be the flexibility for school districts to consider factors other than numerical scores for determining promotion and compliance with state law. There will be no effect on small businesses as a result of enforcing the sections. There is no anticipated economic cost for persons who are required to comply with the sections as proposed.

Comments on the proposal may be submitted to Criss Cloudt McCuller, Office of Planning Coordination, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9701. All requests for a public hearing on proposed sections submitted in accordance with the Administrative Procedure and Texas Register Act must be received by the commissioner of education not more than 15 calendar days after notice of a proposed change in section has been published in the *Texas Register*.

The amendments are proposed under the Texas Education Code, §21.101, which pro-

vides the State Board of Education with the authority to designate essential elements of each subject and to require each district to provide instruction in these elements at appropriate grade levels; and the Texas Education Code, §21.721, which authorizes the State Board of Education to make rules concerning alternatives to social promotion for students who are consistently unable to be promoted because of poor academic achievement.

§75.191. Grading and Reporting Requirements.

(a) School districts shall determine student academic achievement using a numerical score on a scale of 0-100. For grades two[one]-six, numerical scores shall be established for the subjects of language arts, mathematics, science, and social studies. Grades for health, fine arts, and physical education may be determined by local district policy using numerical grades, letter grades, or indications of excellent, satisfactory, unsatisfactory, or needs improvement or any combination thereof. A board of trustees may, at its option, use grading designations of excellent, satisfactory, improvement needed, and unsatisfactory or any combination thereof for reporting purposes for students below grade two [in grade one] for all of such grade or any portion thereof. For grades seven-twelve, numerical scores shall be used for courses listed in Subchapters C and D of this chapter (relating to Essential Elements-Grades Seven-Eight; and Essential Elements-Grades Nine-Twelve).

(b) (No change.)

(c) Grades in all subjects or courses shall be reported to parents and students at the end of each six-week period. The report shall include the number of times the student has been absent. For students in alternative programs, the report to parents must clearly specify the instructional level at which the student is functioning. For a student whose level of achievement is below the level required for course credit or grade level advancement, the notice must state the need for a conference between the appropriate teacher and the parent or guardian and must quote the requirements for advancement or course credit.

(d) (No change.)

(e) For districts that choose to report letter grades to parents, the total numerical scores for grades two and above shall be used in determining promotion, course credit, and maintenance of a grade of 70 for participation in extracurricular and other activities. Numerical scores shall be maintained in the permanent records for grades two [one]-eight and used on the academic achievement records (transcripts) for grades nine-twelve. Below grade two districts may grant promotions using assessment methods other than numerical scores.

(f)-(h) (No change.)

§75.192. Promotion and Course Credit.

(a) Elementary grades. To be promoted from one grade level to the next in grades two and above, a student shall attain for the year an overall average of 70 or above, which is derived by averaging the final numerical grade for language arts, mathematics, social studies, and science. In addition, a student shall attain an average of 70 or above in language arts and in mathematics. Below grade two districts may grant promotions using assessment methods other than numerical scores. Grades for health, fine arts, and physical education may be determined by local district policy using numerical grades, letter grades, or indications of excellent, satisfactory, unsatisfactory, or needs improvement or any combination thereof.

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

§75.193. Grade Level Advancement and Course Credit.

(a) Student academic achievement shall be determined based on degree of mastery of the essential elements as set forth in Subchapter B of this chapter (relating to Essential Elements-Prekindergarten-Grade Six), Subchapter C of this chapter (relating to Essential Elements-Grade Seven-Eight), and Subchapter D of this chapter (relating to Essential Elements-Grades Nine-Twelve) for the grade level, subject, or course. Each school district shall establish a procedure to ensure that all students, except those handicapped students whose individual education plan (IEP) provides for alternative achievement standards, demonstrate an acceptable level of mastery of the essential elements for a subject or course sufficient for successful performance at the next subject or grade level as a prerequisite to earning a grade of 70 or above, pursuant to the Texas Education Code, §21.721. Students below grade two may be promoted in accordance with assessment methods other than numerical scores. The acceptable level of mastery shall be set to ensure that students are challenged for maximum performance.

(b) (No change.)

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

Issued in Austin, Texas, on October 20, 1989.

TRD-891033S

W. N. Kirby
Commissioner of Education

Proposed date of adoption: January 13, 1990

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

Chapter 89. Adaptations for Special Populations

Subchapter J. Migrant Education Program

• 19 TAC §89.334

The Texas Education Agency proposes an amendment to §89.334, concerning the membership and length of terms of the state parent advisory council for migrant education. The proposed amendment would require that the council be comprised of 15 members, allow that there be more than one representative from the same State Board of Education district, and extend the length of terms from two to three years. The proposed amendment would remove obsolete language and make the length of terms consistent with the length of other advisory councils' terms.

Lynn Moak, deputy commissioner for research and development, 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. Moak and Cris Cloudt McCuller, director for planning coordination, have 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 a three-year membership cycle consistent with those of other board advisory councils. There is no anticipated economic cost to individuals who are required to comply with the section. There will be no effect on small businesses as a result of enforcing the section as proposed.

Comments on the proposal may be submitted to Cris Cloudt McCuller, Office of Planning Coordination, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9701. All requests for a public hearing on proposed sections submitted in accordance with the Administrative Procedure and Texas Register Act must be received by the commissioner of education not more than 15 calendar days after notice of a proposed change in sections has been published in the Texas Register.

The amendment is proposed under the Texas Education Code, §11.25, which provides the State Board of Education with the authority to authorize the appointment of official commissions composed of citizens of the state.

§89.334. State Parent Advisory Council for Migrant Education.

(a) (No change.)

(b) Membership of the advisory council shall consist of [not exceed] 15 members [not be less than eight members]. The majority of members shall be parents of identified migrant students served in a migrant project. All members of council shall be knowledgeable of the needs of migratory children. Because of the high concentration of migrant education programs in a few areas of the state, the committee may have more than one representative from the same State Board of Education [congressional] district.

(c) Members of the council shall be appointed by the State Board of Education for a term of three [two] years upon recommendation of the commissioner of education. Members shall be eligible for reappointment once.

(d)-(f) (No change.)

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

Issued in Austin, Texas, on October 20, 1989.

TRD-8910337 W. N. Kirby
Commissioner of Education

Proposed date of adoption: January 13, 1990

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

Chapter 109. Budgeting, Accounting, and Auditing

Subchapter C. Advisory Committee for Budgeting, Accounting and Auditing

• 19 TAC §109.42

The Texas Education Agency proposes an amendment to §109.42, concerning the membership of the advisory committee for budgeting, accounting, and auditing. The proposed amendment would increase the membership of the committee from nine to 15, with each State Board of Education district having one representative. Two of the new members would represent school districts of between 500 and 100,000 average daily attendance, one would be a certified public accountant actively engaged in school auditing, and three would represent users of school financial data. Users could include such personnel as Public Education Information Management System coordinators, private accounting service vendors, electronic data processing interfacers, and professional organization staff. Anticipated changes to generally accepted accounting principles and the development of automated systems will cause agency staff to need comprehensive input from outside accounting experts and users of school district financial data.

Lynn M. Moak, deputy commissioner for research and development has determined that for the first five-year period the sections are in effect there will be no fiscal implications for local government as a result of enforcing or administering the sections. The effect on state government will involve added administrative costs related to the travel and per diem expenses of additional committee members. This expense is expected to be approximately \$900 annually.

Mr. Moak and Criss Cloudt McCuller, director for planning coordination, have determined that for the first five-year period the proposed section is in effect the public benefit anticipated as a result of enforcing the section will be the improved representation from school districts and their auditors and from users of school district fiscal information. There will be no effect on small businesses as a result of enforcing the section. There is no anticipated

economic cost for persons who are required to comply with the section as proposed.

Comments on the proposal may be submitted to Criss Cloudt McCuller, Office of Planning Coordination, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9701. All requests for a public hearing on proposed sections submitted in accordance with the Administrative Procedure and Texas Register Act must be received by the commissioner of education not more than 15 calendar days after notice of a proposed change in sections has been published in the *Texas Register*.

The amendment is proposed under the Texas Education Code, §11.25, which provides the State Board of Education with the authority to authorize the appointment of official commissions composed of citizens of the state.

§109.42. Membership and Appointment.

(a) The Advisory Committee for Budgeting, Accounting, and Auditing shall be composed of 15 [nine] members, approved by the State Board of Education upon recommendation of the commissioner of education, allocated as follows.

(b) The composition of membership shall be allocated as follows.

(1) One member shall represent a school district with more than 100,000 average daily attendance.

(2) One member shall represent a school district with fewer than 500 average daily attendance.

(3) Five [three] members shall represent school districts with between 500 and 100,000 average daily attendance.

(4) One member shall represent regional education service centers.

(5) One member shall be a professor of accounting from a Texas university.

(6) Three [Two] members shall be certified public accountants representing firms actively engaged in auditing of Texas public schools.

(7) Three members shall be persons that are involved with the use of Texas public school financial data.

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

Issued in Austin, Texas, on October 20, 1989.

TRD-8910338 W. N. Kirby
Commissioner of Education

Proposed date of adoption: January 13, 1990

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

Chapter 141. Teacher Certification

Subchapter J. Requirements for Issuance of Texas Certificate Based on Certificates and College Credentials from Other States

• 19 TAC §141.182

The Texas Education Agency proposes an amendment to §141.182, concerning the required examinations for certification of educators in Texas (ExCET). The proposed amendment would enable a school district to request authorization of a nonrenewable permit to validate the continued employment of a teacher from another state who did not pass the professional development portion of the ExCET. The nonrenewable permit could be authorized for no more than 12 months from the date the teacher first attempted that portion of the examination. This amendment is proposed pursuant to Senate Bill 417 of the 71st Texas Legislature.

Lynn M. Moak, deputy commissioner for research and development, 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. Moak and Criss Cloudt McCuller, director for planning coordination, have determined that for each year of the first five years the proposed section is in effect the public benefit anticipated as a result of enforcing the section will be the increased flexibility for teachers new to Texas to complete satisfactorily the state testing requirements for teachers certification and compliance with state law. There will be no effect on small businesses as a result of enforcing the section. There is no anticipated economic cost for persons who are required to comply with the section as proposed.

Comments on the proposal may be submitted to Criss Cloudt McCuller, Office of Planning Coordination, 1701 North Congress Avenue, Austin, Texas, 78701, (512) 463-9701. All requests for a public hearing on proposed sections submitted in accordance with the Administrative Procedure and Texas Register Act must be received by the commissioner of education not more than 15 calendar days after notice of a proposed change in sections has been published in the *Texas Register*.

The amendment is proposed under the Texas Education Code, §13.032, which provides the State Board of Education with the authority to make rules concerning teacher certification.

§141.182. Required Examinations for Certification of Educators in Texas.

(a) (No change.)

(b) If the applicant is issued a non-renewable certificate, the appropriate test requirement(s) must be satisfied prior to expiration of the certificate.

(1) if the appropriate content specialization portion(s) of the ExCET text requirement is not fulfilled within the

12-month validity period of the nonrenewable certificate, the individual is not eligible for any type of certificate or permit authorizing employment for the same certificate level or area(s) until such time as the appropriate ExCET tests are passed.

(2) If a teacher does not achieve a passing score on the professional development portion of the ExCET during the validity of the nonrenewable certificate but does attain a passing score(s) on the appropriate content specialization portion(s) of the examination, an employing superintendent may apply for continued employment eligibility for the teacher by requesting authorization of a nonrenewable permit for a period not to exceed 12 months from the date the individual first attempted the professional development portion of the ExCET.

(3)[2] Upon presentation of written evidence documenting extreme hardship conditions, the commissioner of education may grant an extension of the nonrenewable certificate for a period not to exceed 12 months.

(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 October 20, 1989.

TRD-8910340

W. N. Kirby

Commissioner of Education

Proposed date of adoption: January 13, 1990

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

Subchapter P. Record of Certificates

The Texas Education Agency proposes an amendment to §141.341 and new §141.342, concerning presentation of teacher certificates and parent notification of uncertified teachers. The proposed amendment to §141.341 would delete obsolete language to comply with current statutes regarding presentation and retention of certificates. The proposed new §141.342 would establish guidelines by which school districts must provide written notification to parents whose children are scheduled to receive classroom instruction without benefit of a certified teacher or person otherwise eligible for that teaching assignment, unless specifically exempted by statute. The amendment and new section are proposed pursuant to Senate Bill 417 of the 71st Texas Legislature.

Lynn M. Meak, deputy commissioner for research and development, 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 government as a result of enforcing or administering the section. For local school districts, the anticipated fiscal impact is not expected to be significant because the proposed section exempts any teacher with a deficiency plan.

Mr. Meak and Criss Cloude McCuller, director for planning coordination, have determined that for each year of the first five years the proposed section is in effect the public benefit anticipated as a result of enforcing the section will be the notification of parents as to the certification of their children's teachers and compliance with state law. There will be no effect on small businesses as a result of enforcing the section. There is no anticipated economic cost for persons who are required to comply with the section as proposed.

Comments on the proposal may be submitted to Criss Cloude McCuller, Office of Planning Coordination, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9701. All requests for a public hearing on proposed sections submitted in accordance with the Administrative Procedure and Texas Register Act must be received by the commissioner of education not more than 15 calendar days after notice of a proposed change in sections has been published in the Texas Register.

• 19 TAC §141.341

The amendment is proposed under the Texas Education Code, §19.032, which provides the State Board of Education with the authority to make rules concerning teacher certification.

§141.341. Presentation of Certificate or Permit [Records; Retention of Records].

(a) [Policy.]

[(1)] A person who desires to teach in a public school in Texas must present his certificate for recording or filing to the superintendent of the employing school district [or county superintendent]. The certificate must be presented for record before a contract with the board of trustees of the district is binding.

(b)[(2)] Any staff member who is required to be certificated and who does not hold a valid certificate or emergency permit shall not be paid for teaching or work done before the effective date of [issuance of] a valid certificate or permit.

[(b) Administrative procedure.

[(1)] Any person who desires to teach in a public school district presents his certificate for record before his contract with the board of trustees of the district shall become binding.

[(2)] The county superintendent keeps a record of all certificates held by persons teaching in:

[(A) public schools of all common school districts;

[(B) rural high school districts; and

[(C) independent school districts having less than 150 scholastics and administered by the laws applicable to common school districts under the jurisdiction of his county.

[(3) Any person who desires to teach in a public school of an independent school district having 150 or more scholastics or in an independent school district with less than 150 scholastics which is not governed by laws applicable to common school districts presents his certificate for filing with the employing district before his contract with the board of trustees shall become binding.

[(4) Any staff member who is required to be certificated and who does not hold a valid certificate or emergency permit is not paid for teaching or work done before the effective date of issuance of a valid certificate or emergency permit.

[(5) An application for a certificate or emergency permit is filed in the division of certification with 60 days after the teacher begins his service in the school district. No certificate or emergency permit is back dated for more than 60 days from the date it is received by the State Department of Education.]

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

Issued in Austin, Texas, on October 20, 1989.

TRD-8910340

W. N. Kirby

Commissioner of Education

Proposed date of adoption: January 13, 1990

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

• 19 TAC §141.342

The new section is proposed under the Texas Education Code, §19.032, which provides the State Board of Education with the authority to make rules concerning teacher certification.

§141.342. Required Parent Notification of Uncertified Teachers.

(a) School districts which assign a person as teacher of record to a classroom or subject area for which the teacher is not certified shall provide written notification to the parents of students taught by that teacher unless:

(1) the teacher qualifies for and the district activates or renews an emergency permit to validate the assignment; or

(2) the teacher has 24 semester hours in the subject taught; or

(3) the teacher is serving an internship under an approved alternative certificate program.

(b) Written notification must be provided to parents when students are required to attend classes in an instructional arrangement for which the district has not employed a certified teacher or person otherwise eligible for the assignment as defined in subsection (a) of this section. Except for circumstances identified in sub-

section (c) of this section, such notice must be sent no later than 10 school days after the start of school or at any subsequent point in the school year when staffing changes result in students being placed in such classes.

(c) When the extended absence of a certified teacher, in excess of 30 consecutive school days, requires a district to assign responsibility for the continued instructional program of that teacher's students to an uncertified person or persons, the district must provide written notification to the parents.

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

Issued in Austin, Texas, on October 20, 1989.

TRD-8910341

W. N. Kirby
Commissioner of Education

Proposed date of adoption: January 13, 1990

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

Chapter 161. Advisory Groups

• 19 TAC §161.2

The Texas Education Agency proposes an amendment to §161.2, concerning procedures for appointing official advisory committees. The proposed amendment would allow the State Board of Education to authorize the commissioner of education to recommend for approval a final list of proposed advisory group members in a timeframe of less than 30 days and without the submission of three names per vacancy, not withstanding other requirements in the section. The proposed amendment would provide greater flexibility in the appointment of advisory committees designed to respond to actions of the 71st Texas Legislature.

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

Mr. Moak and Cries Cloudt McCuller, director of planning coordination, have determined that for each year of the first five years the proposed section is in effect the public benefit anticipated as a result of enforcing the section will be the appointment of the various advisory committees necessitated by actions of the 71st Texas Legislature. There will be no effect on small businesses as a result of enforcing the section. There is not anticipated economic cost for persons who are required to comply with the section as proposed.

Comments on the proposal may be submitted to Cries Cloudt McCuller, Office of Planning Coordination, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9701. All requests for a public hearing on proposed sections submitted in accordance with the Administrative Procedure and Texas Register Act must be received by the commissioner of education not more than 15 calendar days

after notice of a proposed change in sections has been published in the Texas Register.

The amendment is proposed under the Texas Education Code, §11.25, which provides the State Board of Education with the authority to authorize the appointment of official commissions composed of members of the state; and §11.24, which authorizes the State Board of Education to establish rules for carrying out the duties placed on it or the Central Education Agency by the legislature.

§161.2. Procedures for Appointment.

(a) (No change.)

(b) Unless otherwise prescribed by state statutes, federal law or regulations, or board rule establishing a particular committee, the following procedures for appointment of members shall apply:

(1) (No change.)

(2) No appointments to an advisory committee shall be recommended by the commissioner of education without consultation with the State Board of Education member representing the State Board of Education district in which the candidate resides.

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

(C) Notwithstanding the requirements in subparagraphs (A)-(B) of this paragraph, a majority vote of the State Board of Education may authorize the commissioner to recommend a final list of proposed advisory group members to the board for approval without either the submission of three names per vacancy or in a timeframe of less than 30 days.

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

Issued in Austin, Texas, on October 20, 1989.

TRD-8910342

W. N. Kirby
Commissioner of Education

Proposed date of adoption: January 13, 1990

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

TITLE 22. EXAMINING BOARDS

Part XI. Board of Nurse Examiners

Chapter 217. Licensure and Practice

• 22 TAC §217.18

The Board of Nurse Examiners proposes new §217.18, concerning copying a license/permit/permanent certificate belonging to a RN/GN. The new rule will provide clarification to the RN/GN and his or her employer re-

garding the copying of a license/permit/permanent certificate.

Louise Waddell, R.N., Ph.D., executive secretary, 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.

Ms. Waddell, R.N., Ph. D., executive secretary, also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section as proposed will be by decreasing the possibility of fraudulent credentials being used to practice unlawfully, the public is better protected. In addition, the holder of the credential is better protected from an imposter who might otherwise obtain a copy for fraudulent purposes. There will be no effect on small businesses as result of enforcing the section. 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 Louise Waddell, R.N., Ph.D., Executive Secretary, Board of Nurse Examiners, Box 140466, Austin, Texas 78714.

The new section is proposed under Texas Civil Statutes, Article 4514, §1, which provide the Board of Nurse Examiners with the authority to make and enforce all rules and regulations necessary for the performance of its duties and conducting of proceedings before it, to establish standards of professional conduct for all persons licensed under the provisions of this law in keeping with its purpose and objectives, to regulate the practice of professional nursing and to determine whether or not an act constitutes the practice of professional nursing, not inconsistent with this Act. Such rules and regulations shall not be inconsistent with the provisions of this law.

§217.18. Prohibition of Copying the License/Permit/Permanent Certificate of a Registered Nurse/Graduate Nurse.

(a) The licensee or permit holder has the responsibility to protect his or her license/permit/permanent certificate from loss and potential fraudulent or unlawful use.

(b) A licensee or permit holder shall not copy or allow his or her license/permit/permanent certificate to be copied for any purpose. An RN/GN licensee/permit holder may provide name, license or permit number, and expiration date to employers, other licensing boards, professional organizations or other needing to verify licensure. These persons and/or agencies may contact the board's office in writing or by phone to verify licensure.

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

Issued in Austin, Texas, on October 26, 1989.

TRD-8910315

Louise Waddell, R.N., Ph.D.
Executive Secretary
Board of Nurse Examiners

Earliest possible date of adoption: December 8, 1989

For further information, please call: (512) 835-8650

Part XXIII. Texas Real Estate Commission

Chapter 543. Rules Relating to the Provisions of the Texas Timeshare Act

• 22 TAC §543.4

The Texas Real Estate Commission proposes an amendment to §543.4, concerning forms used to register or amend the registration of a timeshare property.

The amendment adopts by reference a revised application form to register a timeshare property, Application Form TSR 1-1, and a revised application form to amend a timeshare registration, Application Form TSR 2-1.

Application Form TSR 1-1 is revised to reflect a correct mailing address for the commission and to re-phrase questions in accordance with recent amendments to the Texas Timeshare Act, Texas Property Code, Chapter 221, concerning cancellation rights. New questions are added to make a timeshare developer aware of statutory responsibility for all aspects of the offering of a timeshare interest and to make the developer aware of new disclosure requirements regarding gift or prize promotions and warranties.

Application Form TSR 2-1 is revised to reflect a correct mailing address for the commission and to require the developer to indicate the name of the timeshare property involved in the amendment.

Jack Morris, director of programs, 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. Morris also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be to make timeshare developers aware of their statutory obligations. There will be no effect on small businesses as a result of enforcing the section. 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 Jack Morris, Director of Programs, Texas Real Estate Commission, P.O. Box 12188, Austin, Texas 78711-2188.

The amendment is proposed under the Texas Property Code, Chapter 221, which provides

the Texas Real Estate Commission with the authority to prescribe and publish forms and adopt rules necessary to carry out the provisions of that law.

§543.4. Forms.

(a) The Texas Real Estate Commission adopts by reference revised Application Form TSR 1-1 [1-0] approved by the commission in October, 1989 [July, 1986]. This document is published by and available from the Texas Real Estate Commission, P.O. Box 12188, Austin, Texas 78711-2188.

(b) The Texas Real Estate Commission adopts by reference revised Application Form TSR 2-1 [2-0] approved by the commission in October, 1989 [July, 1986]. This document is published by and available from the Texas Real Estate Commission, P.O. Box 12188, Austin, Texas 78711-2188.

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

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

TRD-8910257

Mark A. Moseley
General Counsel
Texas Real Estate
Commission

Earliest possible date of adoption: December 8, 1989

For further information, please call: (512) 465-3650

TITLE 28. INSURANCE

Part I. State Board of Insurance

Chapter 1. General Administration

Subchapter I. Disclosure of Guaranty Fund Nonparticipation

• 28 TAC §1.1001

The State Board of Insurance proposes new §1.1001, concerning disclosure of guaranty fund nonparticipation. The new section is necessary to comply with the Insurance Code, Article 21.28-E, which requires disclosure of nonguaranty fund participation on each certificate or evidence of coverage and

on each insurance policy, contract, or application that is delivered or issued for delivery in this state and that is not covered by an insurance guaranty fund or other solvency protection arrangement. Under Article 21.28-E, a disclosure statement in 10-point type must be affixed to the first page of such policy, contract, or application, or of such certificate or evidence of coverage not protected. The proposed new section specifies the language to be used to comply with the Insurance Code, Article 21.28-E.

Lyndon Anderson, acting deputy insurance commissioner for property insurance, 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. Anderson 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 a more informed basis for choices by consumers in the purchase of insurance coverage with knowledge of those certificates and evidences of coverage and of those insurance policies, contracts, and applications which are not protected by a guaranty fund or other solvency protection arrangement. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the section as proposed.

Comments on the proposal may be submitted to Lyndon Anderson, Acting Deputy Insurance Commissioner for Property Insurance, Mail Code 011-1, 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 policy and rules in accordance with the laws of this state, and under the Insurance Code, Article 21.28-E(b), which authorizes and requires the State Board of Insurance to administer statutory provisions and promulgate statements that must be used by insurers to comply with Article 21.28-E, which requires disclosure of guaranty fund nonparticipation.

§1.1001. *Disclosure of Guaranty Fund Nonparticipation.* Each certificate or evidence of coverage and each insurance policy or contract or application that is delivered or issued for delivery in this state on or after January 1, 1990, and that is not covered by an insurance guaranty fund or other solvency protection arrangement authorized by the Insurance Code shall have the following notice affixed to the first page in no less than 10-point type:

DISCLOSURE OF GUARANTY FUND NONPARTICIPATION

In the event the _____ * is unable to fulfill its contractual obligation under this policy or contract or application or certificate or evidence of coverage, the policyholder or certificateholder is not protected by an insurance guaranty fund or other solvency protection arrangement.

*Insert insurer or fraternal benefit society.

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

Issued in Austin, Texas on October 30, 1989.

TRD-8910370 Nicholas Murphy
Chief Clerk
State Board of Insurance

Earliest possible date of adoption: December 8, 1989

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

TITLE 34. PUBLIC FINANCE

Part I. Comptroller of Public Accounts

Chapter 3. Tax Administration

Subchapter V. Bingo Regulation and Tax

• 34 TAC §3.541

The Comptroller of Public Accounts proposes an amendment to §3.541, concerning notification to the comptroller. The amendment amends subsections (a) - (c) to replace references to the comptroller with references to the Texas Alcoholic Beverage Commission.

Ben Lock, associate deputy comptroller for fiscal management, has determined that for the first five-year period the section is in effect there will be no significant revenue impact on the state or local government as a result of enforcing or administering the section.

Mr. Lock also has determined that for each year of the first five years the section is in

effect the public benefit anticipated as a result of enforcing the section will be the effective regulation of bingo in the state. There will be no effect on small businesses as a result of enforcing the section. There is no anticipated economic cost to persons who are required to comply with the section as proposed.

Comments on the proposal may be submitted to Claudia Stravato, Deputy for Tax Enforcement, Regulatory Taxes, P.O. Box 13528, Austin, Texas 78711.

The amendment is proposed 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.

§3.541. Notification to the Commission [Comptroller].

(a) The governing body (the commissioners court with regard to a county or justice precinct or the city council or other chief legislative body with regard to an incorporated city or town) of a political subdivision must, within 10 days after ordering an election to legalize or prohibit bingo, forward to the Texas Alcoholic Beverage Commission (commission) [comptroller] by registered or certified mail or a certified copy of the order, ordinance, or resolution of the governing body ordering the election.

(b) If the gross receipts tax is imposed on the conduct of bingo games within a political subdivision or is later abolished, the appropriate governing body must forward to the commission [comptroller] within 10 days by registered or certified mail a certified copy of the order or ordinance imposing or abolishing the tax and

reflecting the effective date. If the tax is imposed, licensees will be notified by the commission [comptroller] that their games are subject to tax beginning on the effective date of the imposition.

(c) If any municipality or just precinct in which the tax has been imposed changes or alters its boundaries, the appropriate governing body must forward to the commission [comptroller] by registered or certified mail a certified copy of the order or ordinance adding or detaching territory, the effective date of the change, and a map of the municipality or justice precinct clearly showing the territory added or detached.

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

Issued in Austin, Texas, on November 1, 1989.

TRD-8910439 Bob Bullock
Comptroller of Public Accounts

Earliest possible date of adoption: December 8, 1989

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

• 34 TAC §3.542

The Comptroller of Public Accounts proposes an amendment to §3.542, concerning investigation of applicants for licenses. The amendment amends subsections (b), (c), and (e) replace references to the comptroller with references to the Texas Alcoholic Beverage Commission and to replace a reference to the Regulatory Tax Division with a reference to the Bingo Division.

Ben Lock, associate deputy comptroller for fiscal management, has determined that for the first five-year period the proposed section will be in effect there will be no significant revenue impact on the state or local government as a result of enforcing or administering the section.

Mr. Lock also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be the effective regulation of bingo in the state. There will be no effect on small businesses as a result of the section. There is no anticipated economic cost to persons who are required to comply with the section as proposed.

Comments on the proposal may be submitted to Claudia Stravato, Deputy for Tax Enforcement, Regulatory Taxes, P.O. Box 13528, Austin, Texas 78711.

This amendment is proposed 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.

§3.542. Investigation of Applicants for Licenses.

(a) (No change.)

(b) Each person required to be named in an application for any license under the Act shall promptly furnish all information requested by the Texas Alcoholic Beverage Commission (commission) [comptroller] to obtain criminal history record information from the Texas Department of Public Safety, Federal Bureau of Investigation, or other law enforcement agency. Falsification or non-disclosure of requested information shall result in the denial, revocation, or suspension of a license under the Bingo Enabling Act.

(c) Information received from the Texas Department of Public Safety, the Federal Bureau of Investigation, or any other law enforcement agency may be used only by the director of the Bingo [Regulatory Tax] Division, an employee of that division authorized in writing by the director, or someone who exercises supervisory authority over the director. Criminal history information shall be kept under lock and key when not actually in use, and shall be destroyed by shredding or some other confidential method when no longer needed.

(d) (No change.)

(e) The existence of a disqualifying conviction on records obtained by the commission [comptroller] is prima facie evidence of disqualification. The burden of proof is on the applicant to show otherwise.

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

Issued in Austin, Texas, on November 1, 1989.

THD-0410438

Bob Bullock
Comptroller of Public
Accounts

Earliest possible date of adoption: December 8, 1989

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

• 34 TAC §3.543

The Comptroller of Public Accounts proposes an amendment to §3.543, concerning denials; suspensions; revocations; violations; hearings. The amendment amends subsections (a) and (b), and the current subsection (d) to change references to the Comptroller of Public Accounts to references to the Texas Alcoholic Beverage Commission. The amendment amends subsection (a) to add denial of a license on grounds which would justify suspension or revocation of a license. The amendment amends subsection (b) to delete grounds for suspension or revocation, to delete provisions concerning summary suspension, to refer to the Bingo Enabling Act, and to change the beginning date of a period of suspension. The amendment adds a new subsection (c) to consolidate, with changes, provisions dealing with hearings presently in subsections (a) and (b), and reletters the present subsections (c) and (d).

Ben Lock, associate deputy comptroller for fiscal management, has determined that for the first five-year period the proposed section will be in effect there will be no significant revenue impact on the state or local government as a result of enforcing or administering the section.

Mr. Lock also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be by allowing the commission to more efficiently regulate bingo. There will be no effect on small businesses as a result of enforcing the section. There is not anticipated economic cost to persons who are required to comply with the section as proposed.

Comments on the proposal may be submitted to Claudia Stravato, Deputy for Tax Enforcement, Regulatory Taxes, P.O. Box 13528, Austin, Texas 78711.

This amendment is proposed 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.

§3.543. Denials; Suspensions; Revocations; [Violations;] Hearings.

(a) Denial of application.

[(1)] If the Texas Alcoholic Beverage Commission (commission) [comptroller] determines that an applicant is not eligible for a license, or that the license should be denied on grounds [exist] which would justify suspension or revocation of an existing license, it [he] will notify the applicant in writing that the application has been denied and will state the reasons for the denial. If the applicant desires to contest the denial, the [The] applicant must [may], within 30 days of the date of the notice of denial, make a written request for a hearing to contest the denial.

[(2) The hearing will be conducted in accordance with the relevant portions of §§1.1-1.42 of this title (relating to Comptroller's Rules of Practice and Procedure). The burden of proof is upon the applicant to establish by a preponderance of the evidence its eligibility for a license.]

(b) Suspension and revocation.

(1) Grounds. The commission may suspend or revoke a license or temporary authorization in accordance with the Bingo Enabling Act, §16(e). If the commission proposes to revoke or suspend a license it will notify the licensee in writing and will state the grounds for the proposed action.

(2) Summary suspension. Grounds for summary suspension of licenses, provisions for service of notice to licensees and show-cause hearings, and the time period for requesting final hearings on suspension or revocation of licenses, and other related matters are contained in the Bingo Enabling Act, §16(e)-(g).

(c)[(b)] Hearings [Suspension and revocation].

(1) All hearings will be conducted in accordance with the relevant portions of 16 TAC §§37.1-37.45 concerning the commission's rules of practice and procedure. [Grounds. The comptroller may suspend or revoke a license or temporary authorization when the holder, or any other person with any interest in an organization holding a license or authorization:]

[(A) makes a false statement in an application for a license, or in any way makes a misrepresentation of, or fails to disclose a material fact to the comptroller;

[(B) obtains a license or temporary authorization by fraud, trick, misrepresentation, concealment, or through inadvertence or mistake;

[(C) engages in any act, practice, or course of operation in connection with a game of bingo which would or does operate as a fraud or deceit on any person;

[(D) diverts or pays any portion of the net proceeds of any game of bingo to any person, except in furtherance of one or more of the lawful purposes prescribed by the Act;

[(E) violates the Act or a term of a license or temporary authorization issued under the Act;

(F) fails or refuses to provide the comptroller with any information required or requested under the Bingo Enabling Act or rules promulgated thereunder within the time period set by the comptroller, or if no time limit is set, then within 10 days after the request by the comptroller for information;

(2) Summary suspension.

(A) Upon a finding by the comptroller that an immediate and irreparable harm will result from a licensee exercising his privileges under a license, the comptroller may summarily suspend the license. Upon summary suspension, the comptroller shall notify the licensee in writing of the suspension and the specific reasons for the suspension.

(B) A summary suspension is effective at the time of service of the notice.

(C) A preliminary hearing to show cause why the license should not be suspended pending a final hearing will be provided if requested within two days. The notice shall so inform the licensee.

(D) If requested, a preliminary show cause hearing will be provided within three days. If requested, a final hearing will be granted and may be held within 20 days.

(3)(3) Hearing. After a notice of proposed suspension or revocation has been served, the licensee or holder will have an opportunity for a hearing [upon the question of renewal of a license or temporary authorization if it would expire within the period of temporary suspension or upon any proposed suspension or revocation. If a hearing is requested, it will be held]. The hearing may be held within 20 days from the date the commission [comptroller] receives the request. If the licensee or holder does not request a hearing within 30 days after the date of the notice of proposed suspension or revocation, the opportunity for a hearing is waived and a final order will be issued.

(3)(4) Final action on a suspension or revocation. After a hearing on the alleged violation and upon finding that a violation did occur, the commission [comptroller] may suspend a license or temporary authorization for a period not to exceed one year, or may revoke a license or temporary authorization. The period of a suspension begins on the date [notice was given to an authorized organization or authorized commercial lessor if there was a summary suspension of the permit, or from the date] of the order invoking the suspension, or the date of the order overruling the motion for rehearing, if one was filed [if there was not summary suspension].

(4)(5) In the event a licensee has requested an administrative hearing, and has made timely and sufficient application for renewal of its license, the licensee may be issued a temporary authorization to conduct bingo and continue to act pursuant to said authorization until the commission issues a final decision [comptroller approves the decision of the administrative law judge], regardless of whether said license has expired during the hearing process; except when the comptroller has summarily suspended same as provided for in other paragraphs of this section].

(d)(c) Reapplication. No person or organization whose license has been revoked or forfeited, or whose application has been denied for reasons which would justify a revocation of an existing license [as provided in subsection (b)(1) of this section,] will be eligible to apply for another license earlier than one year from the date of forfeiture, revocation, or denial.

(e)(d) Reporters and transcripts.

(1) A court reporter shall be present at every hearing involving an applicant or licensee. The cost of transcribing the hearing by the reporter shall be assessed against the applicant or licensee following the hearing.

(2) Should the commission [comptroller] determine that a transcript of the hearing is required, the cost of the original transcript shall be assessed to the applicant or licensee. The applicant or licensee may purchase a copy of the transcript for its own use directly from the court reporter.

(3) Should the commission [comptroller] determine that a transcript is not required, the applicant may purchase a copy of the transcript for its own use directly from the court reporter. If the applicant or licensee purchases a copy of the transcript, it shall provide at its own cost the original transcript to the commission [comptroller].

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

Issued in Austin, Texas, on November 1, 1989.

TRD-8910447 Bob Bullock
Comptroller of Public
Accounts

Earliest possible date of adoption: December 8, 1989

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

• 34 TAC §3.544

The Comptroller of Public Accounts proposes an amendment to §3.544, concerning definitions. The amendment adds definitions of "commission," "comptroller," and "sale." The amendment also deletes the definition of "bingo occasion" which is defined in House

Bill 2260.

Ben Lock, associate deputy comptroller for fiscal management, has determined that for the first five-year period the proposed section is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the section.

Mr. Lock also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be the effective regulation of bingo in the state. There will be no effect on small businesses as a result of enforcing the section. 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 Claudia Stravato, Deputy for Tax Enforcement, Regulatory Taxes, P.O. Box 13620, Austin, Texas 78711.

The amendment is proposed 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.

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

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

[Bingo occasion—a single gathering or session at which a series of successive bingo games are played.]

Commission—The Texas Alcoholic Beverage Commission.

Comptroller—Texas Comptroller of Public Accounts.

Sale—For the purposes of the Bingo Enabling Act, §11(o) and §13c(l), the term "sale" includes installment plan purchases by licensed authorized organizations or exempt entities under the Bingo Enabling Act, §39(b)(3) or (4), of bingo equipment other than bingo cards, boards, sheets, markers, pads, or blotters. The due date of each installment payment is considered the date of actual delivery.

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

Issued in Austin, Texas on November 1, 1989.

TRD-8910438 Bob Bullock
Comptroller of Public
Accounts

Earliest possible date of adoption: December 8, 1989

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

• 34 TAC §3.545

The Comptroller of Public Accounts proposes an amendment to §3.545 concerning licenses, fees, and bonds for conduct of bingo and commercial lessor. The amendment amends subsection (b)(3)(C) to clarify that in certain situations more than one lessor's license may be issued for one location. The amendment also adds new subparagraphs (D), (E), and (F) to subsection (a)(3), concerning removal of an existing lessor's license at a different location and concerning applications to conduct bingo at a commercial hall. The amendment also amends subsections (a)-(d) and (f)-(m) to replace references to the comptroller with references to the Texas Alcoholic Beverage Commission.

Ben Lock, associate deputy comptroller for fiscal management, 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. Lock also has determined that for each year of the first five years the sections are in effect the public benefit anticipated as a result of enforcing the section will be by allowing the commission to more efficiently regulate bingo. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the section as proposed.

Comments on the proposal may be submitted to Claudia Stravato, Deputy for Tax Enforcement, Regulatory Taxes, P.O. Box 13828, Austin, Texas 78711.

The amendment is proposed 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.

§3.545. License, Fees, and Bonds for Conduct of Bingo and Commercial Lessor.

(a) Annual license to conduct bingo games.

(1) Application. An organization which desires to conduct bingo on a regular basis must apply to the Texas Alcoholic Beverage Commission (commission) [comptroller] for an annual license to conduct bingo. The application must be made on a form prepared by the commission [comptroller] and must contain all the information required by that form.

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

(4) Bond or other security. Each application for an annual license to conduct bingo must be accompanied by a bond or other security equal to the applicant's estimated quarterly tax liability. If the amount is estimated to be less than \$1,900, no bond or other security will be required, unless the commission [comptroller] determines a bond or other security is necessary based on the applicant's history at recordkeeping, reporting, and payment of tax. No new bond will be required upon renewal if the licensee would be eligible to have an existing bond released under subparagraph (D) of

this paragraph. If a bond or other form of security is required, no license will be issued until such bond or other security has been posted.

(A) Type of bond. Only the following types of bonds are acceptable:

(i) (No change.)

(ii) irrevocable assignments (executed on forms approved by the commission [comptroller]) of certificates of deposit or savings accounts in banks, savings and loan institutions, or credit unions whose deposits are insured by an agency of the United States Government;

(iii) (No change.)

(iv) a surety bond executed on a form approved by the commission [comptroller] and issued by a surety company chartered or authorized to do business in the State of Texas. The bond will constitute a new and separate obligation in the penal sum shown for each calendar year or a portion of a year while the bond is in force. The bond must be executed by an attorney-in-fact appointed by the surety. The appointing instrument must be properly notarized and physically attached to the bond.

(B) New bond or changes in amount. If a surety company notifies the commission [comptroller] in writing that it has withdrawn as surety on a bond issued on behalf of a licensee as security for bingo tax liability, the commission [comptroller] will notify the licensee that it must post a new bond to maintain its license. The commission [comptroller] may increase the amount required to be posted as a bond whenever the bond already posted does not cover the licensee's average quarterly tax liability, or if, in the commission's [comptroller's] opinion, the amount of bond or other security is not sufficient to protect against failure to pay the amount which may become due. The commission [comptroller] may also reduce the amount of bond already posted, either on its [his] own determination or at the request of the licensee. In determining whether to require the furnishing of additional bond or other security by a licensee or to reduce the amount already posted, the commission [comptroller] will consider payment history, general financial condition, or other factors which indicate the risks involved in insuring the payment of applicable taxes.

(C) Forfeiture. If a licensee pays less than the amount of tax due under the Act, the commission [comptroller] will notify both the licensee and any surety of the delinquency by jeopardy or deficiency determination. If payment is not made by the demand date stated in the notice, the commission [comptroller] will forfeit the bond or security or any part of the bond or

security necessary to pay the proper amount of tax. Failure to pay any delinquency when due is grounds for suspension or revocation of the licensee's organization's right to conduct bingo.

(D) Release. If the licensee ceases to conduct bingo games and relinquishes its license or if the license is revoked by the commission [comptroller] for any reason, the commission [comptroller] will release any bond or security on its [his] determination that no amounts of tax, penalty, or interest remain due and payable under the Act. If the licensee has filed all required returns, has no outstanding amounts of tax, penalty, or interest due and payable under the Act, and has completed seven consecutive quarters without a deficiency determination becoming final the bond or security will be released at the time the licensee next renews its license.

(E) (No change.)

(5) Application to conduct bingo at premises of a commercial lessor.

(A) (No change.)

(B) Commission [Comptroller] determination. The commission [comptroller] shall conduct a physical examination of those premises. In determining whether those premises are adequate and suitable for the conduct of bingo, the commission [comptroller] shall consider:

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

(b) Commercial license to lease bingo premises.

(1) Application. Any commercial lessor who desires to lease premises, as that term is defined in §3.544 of this title (relating to Definitions), in a legalized area in Texas to a licensee organization for the purpose of conducting bingo must apply to the commission [comptroller] for a commercial lessor's license. The application must be made on a form prepared by the commission [comptroller] and must contain all the information required by that form.

(2) (No change.)

(3) License.

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

(C) Except as required by the Bingo Enabling Act, §13(a)(1) and (2), Texas Civil Statutes, Article 179d, the [The] commission [comptroller] may not issue more than one license to lease bingo premises for any one location, as that term is defined in §3.544 of this title (relating to Definitions).

(D) A commercial lessor seeking to renew or amend its license for a different location on grounds that the premises leased have become unavailable due to reasons beyond the commercial lessor's control shall file with the commission a written application stating in detail the circumstances rendering the premises unavailable together with all available documentation of the fact. If physical damage to the leased premises is claimed as the reason the premises are no longer available, the application shall:

(i) state when the damage occurred and the cause of the damage;

(ii) specify the areas of the building damaged, the nature, and extent of the damage;

(iii) state who has responsibility for repairing the premises and include documentation; and

(iv) state whether the damage has been reported to an insurance company, and, if so, provide the name and address of the insurance company and the name and telephone number of the contact person representing the insurance company in regard to adjustment of the loss. A copy of the report to the insurance company, and a copy of any written assessment of the loss by the insurance company, shall be provided, if possible. If the loss or damage was reported to a local fire department, police department, or other local authorities, the date of said report shall be given, as well as a copy of any written report to or by said authority with respect to the loss.

(E) A commercial lessor may not, in any event, renew its license for any location outside the boundaries of the county where the licensed premises were located on June 10, 1989.

(F) When more organizations apply to play bingo on premises of a commercial lessor than can be licensed for the location, the commission will process only the number of applications for which there are openings with the commercial lessor, taking the applications in the order in which they are received. Additional applications over and beyond the number that may be licensed for the commercial lessor's premises will not be processed until there is an opening with the commercial lessor and no other application pending for the opening.

(c) Temporary license to conduct bingo games.

(1) Application. Any organization which desires to conduct bingo on a limited basis must apply to the commission [comptroller] for a temporary license. The application must contain the same information and be made on the same form used by

applicants for an annual license. The complete application with required attachments should be filed with the commission [comptroller] at least 30 days in advance of the first bingo game that will be played under the temporary license.

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

(d) Temporary authorization. After a preliminary approval of the applicant for a license, the commission [comptroller] may issue a temporary authorization for an initial period not to exceed 60 days. The commission [comptroller] may extend the period of temporary authorization for good cause. If the application is approved during the period of the temporary authorization, the temporary authorization will be replaced by the issuance of an annual license which will expire one year from the date of issuance of the temporary authorization.

(e) (No change.)

(f) Payment of fees. The proper license fee must accompany each application. License fees will not be prorated. The fee and any cash bond must be in the form of cash, cashier's check, money order, or check made payable to the state treasurer. After the filing of the application, fee, and any required bond, the commission [comptroller] will promptly investigate the qualifications of the applicant and either:

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

(g) Notification of election results. No license will be issued until the commission [comptroller] receives from the appropriate governing body written notification of the date and results of a legalization election along with a map of the boundaries in which games may be held.

(h) (No change.)

(i) Copies of licenses. Upon receipt of any license or amended license issued by the commission [comptroller], the licensee must immediately send a copy to:

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

(j) Transfer of license. Licenses and renewals issued by the commission [comptroller] may not be transferred or assigned.

(k) Amendments.

(1) Applications. A license may be amended if the subject matter of the amendment properly and lawfully could have been included in the original license. An application for an amendment must be filed on a form approved by the commission [comptroller] and will be processed in the same manner as an original application. A licensed organization may not change the location, days, or times of its bingo games until it has surrendered its original license and received an amended license from the commission [comptroller]. An application for an amendment must be accompanied by a \$25 amendment fee.

(2) (No change.)

(l) Notification of changes. Both licensee and a continuing responsibility to promptly notify the commission [comptroller] in writing of any changes to information in a filed application, information filed with the commission [comptroller] becomes inaccurate in any way, or when additions or deletions are necessary to reflect changes in circumstances of the licensee. Examples of such changes include the name of organizational officers, the amount of rent charged for leased premises, the name of a member responsible for the conduct of games, or the name of an individual connected with a commercial lessor that would affect its eligibility to hold a license and, in the case of lessors, the name of a new, authorized organization that intends to lease premises from it for the purpose of conducting bingo.

(m) Representation; personal receipt of documents. For purposes of this subsection, an individual shall be recognized by the commission [comptroller] as an applicant's or licensee's authorized representative only if the commission [comptroller] has on file written authorization in the form of a resolution of the applicant's or licensee's governing body, that such individual has the authority to act on behalf of the applicant or licensee, and the extent of such authority. Written authorization furnished by an applicant or licensee under this section shall apply only to the specific individuals listed in the authorization. Agents or employees of an authorized representative are not authorized representatives of the applicant or licensee unless specifically named in the written authorization on file with the commission [comptroller]. Only the applicant, licensee, or those individuals specifically named in the applicant's or licensee's resolution as authorized representatives shall be recognized by the commission [comptroller] concerning any matter relating to the licensing process or any corrective measures to be taken after an audit or field investigation. Only the applicant or its authorized representative may personally receive from the commission [comptroller] documents relating to an applicant's 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 November 1, 1989.

TRD-8910446

Bob Bullock
Comptroller of Public
Accounts

Earliest possible date of adoption: December 8, 1989

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

• 34 TAC §3.546

The Comptroller of Public Accounts proposes an amendment to §3.546, concerning exemptions from licensing requirements. The amendment amends subsection (b) to replace references to the comptroller with references to the Texas Alcoholic Beverage Commission.

Ben Lock, associate deputy comptroller for fiscal management, 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. Lock also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be the effective regulation of bingo in the state. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the section as proposed.

Comments on the proposal may be submitted to Claudia Stravato, Deputy for Tax Enforcement, Regulatory Taxes, P.O. Box 13528, Austin, Texas 78711.

The amendment is proposed under Texas Civil Statutes, Article 179d, which provides the comptroller with the authority to prescribe, adopt, and enforce rules relating to the administration and enforcement of the Bingo Enabling Act.

§3.546. Exemptions from Licensing Requirements.

(a) (No change.)

(b) Any group or organization which qualifies under Texas Civil Statutes, Article 179d, §39(b)(3), must write the Texas Alcoholic Beverage Commission (commission) [comptroller], stating the facts that support its exemption from the licensing requirements. If the organization or group is exempt, the commission [comptroller] will issue a letter of exemption which must be available on the premises at all times during the conduct of bingo.

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

Issued in Austin, Texas on November 1, 1989.

TRD-8910441 Bob Bullock
Comptroller of Public
Accounts

Earliest possible date of adoption: December 8, 1989

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

• 34 TAC §3.547

The Comptroller of Public Accounts proposes an amendment to §3.547, concerning books and records-bingo licenses. The amendment amends subsections (a)(1)(D) and (d) to replace references to the comptroller with

references to the Texas Alcoholic Beverage Commission. The amendment also amends subsection (a) to require use of a disposable card sales summary and a cash register and to specify how floor sales are to be recorded.

Ben Lock, associate deputy comptroller for fiscal management, has determined that for the first five-year period the proposed section will be in effect there will be no significant revenue impact on the state or local government as a result of enforcing or administering the section.

Mr. Lock also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be by allowing the commission to more efficiently regulate bingo. There will be no effect on small businesses as a result of enforcing the section. There is no anticipated economic cost to persons who are required to comply with the proposed section.

Comments on the proposal may be submitted to Claudia Stravato, Deputy for Tax Enforcement, Regulatory Taxes, P.O. Box 13528, Austin, Texas 78711.

This amendment is proposed under Texas Civil Statutes, Article 179d, which provides the comptroller with the authority to prescribe, adopt, and enforce rules relating to the administration and enforcement of the Bingo Enabling Act.

§3.547. Books and Records-Bingo Licenses.

(a) This section sets minimum standards for record keeping for licensees that conduct bingo. Where the Texas Alcoholic Beverage Commission (commission) [comptroller] provides forms for record keeping, licensees may use those forms or forms of their own choosing which contain the same information, except as otherwise provided in paragraph (1)(D) of this subsection.

(1) Cash receipt records. The records required to document cash receipts consist of the following.

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

(D) Documenting daily receipts. A licensed organization shall substantiate the contents of these cash receipt records by use of a disposable card sales summary on a form prescribed by the commission and [comptroller,] the use of a cash register, or some other equivalent method of substantiation. In using [if] a cash register [is used to record sales], the following directions [would] apply.

(i) (No change.)

(ii) Various types of sales must each be recorded with a separate key. Income from various types of sales must be separately recorded and the cash register must be able to provide a total for each type of sale recorded. The total of floor sales for each type of sale must be recorded at

the conclusion of the organization's sales for the occasion.

(iii) (No change.)

(2) (No change.)

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

(d) Loans to the bingo account.

(1) A licensed authorized organization or an organization applying for a license to conduct bingo may loan money to its bingo account from its general fund if:

(A) a request is filed with the commission [comptroller] which states:

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

(B) the commission [comptroller] approves the loan. Prior to approval the commission [comptroller] must find that:

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

(2) The commission [comptroller] may consider the organization's financial condition as reflected in all available information including past quarterly reports prior to the approval of the loan request.

(3)-(5) (No change.)

(e) (No change.)

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

Issued in Austin, Texas, on November 1, 1989.

TRD-8910449 Bob Bullock
Comptroller of Public
Accounts

Earliest possible date of adoption: December 8, 1989

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

• 34 TAC §3.548

The Comptroller of Public Accounts proposes an amendment to §3.548, concerning general restrictions on the conduct of bingo. The amendment amends subsection (a) to replace a reference to the comptroller with a reference to the Texas Alcoholic Beverage Commission, to prohibit a person from being an operator for more than one organization, and to delete references to involvement in conducting bingo by manufacturers or distributors. The amendment amends subsection (b)(2) to clarify a reference to publicly owned premises. The amendment amends subsection (c) to apply the rent limits set by House Bill 2280. The amendment amends subsection (g) to change references to bingo occasions to references to bingo games so as to be consistent with the definition of "bingo occasion" in House Bill 2280. The amendment deletes subsection (i) and reletters subsections (j)-(m).

The amendment is proposed to implement Texas Civil Statutes, Article 179d, the Bingo Enabling Act, §11a, as added by the 71st Legislature, 1969, House Bill 2260.

San Lock, assistant deputy comptroller for fiscal management, 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 on as a result of enforcing or administering the section.

Mr. Lock also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be by allowing the commission to more efficiently regulate bingo. There will be no effect on small businesses as a result of enforcing the section. 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 Claudia Stravato, Deputy for Tax Enforcement, Regulatory Taxes, P.O. Box 13628, Austin, Texas 78711.

The amendment is proposed under Texas Civil Statutes, Article 179d, which provides the comptroller with the authority to prescribe, adopt, and enforce rules relating to the administration and enforcement of the Bingo Enabling Act.

§3.543. General Restrictions on the Conduct of Bingo.

(a) Who may conduct bingo.

(1) Except for those groups set out in §3.546 of this title (relating to Exemptions From Licensing Requirements), only an authorized organization licensed by the Texas Alcoholic Beverage Commission (commission [comptroller] under §3.545(a), (c), or (d) of this title (relating to Licenses, Fees, and Bonds for Conduct of Bingo and Commercial Lessor), may conduct bingo. Only persons who have been bona fide members of a licensed organization for at least the preceding calendar year may operate, manage, conduct, promote, or administer the organization's games of bingo unless otherwise excluded by this subsection. No person may be an operator for more than one organization.

(2) All callers, cashiers, ushers, bookkeepers, and accountants who assist in conducting, promoting, or administering bingo games must be members of the authorized organization or hired by and acting under the supervision of the authorized organization.

(A) Except as provided hereafter, neither a commercial lessor, distributor, or manufacturer, nor any person having an interest in a commercial lessor, distributor, or manufacturer, nor any employee or agent of any of them shall operate, manage, conduct, advise, or assist in the operating, managing, conducting, promoting, or administering of bingo. The term "assist" as used in this section includes, but is not limited to, the payment of any ex-

penditure of a licensed bingo organization by a commercial lessor, distributor, or manufacturer, whether such payment is by loan or otherwise. This prohibition does not apply to a person whose employment by or business relationship with a commercial lessor, distributor, or manufacturer is unrelated to the leasing of bingo premises and who is not acting in the capacity of operator.

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

(b) Location. Bingo may be conducted by a licensed organization only on premises, as that term is defined in §3.544 of this title (relating to Definitions), which are:

(1) (No change.)

(2) [publicly] owned by a governmental agency;

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

(c) Limit on rent. The payment of rent shall be limited as follows, subject to the exceptions specified in the Bingo Enabling Act, §11a(c). [The rent charged by a licensed commercial lessor for a location to conduct bingo, as that term is defined in §3.544 of this title (relating to Definitions), must be a fair and reasonable market rental rate for the location. The rent may not be based, in whole or part, on a percentage of the gross receipts, income, or net proceeds of bingo or by reference in any way to the number of people in attendance at any game. A rental agreement may not guarantee that an organization will break even or receive a profit from the conduct of its games.]

(1) The rent charged by a licensed commercial lessor for a location to conduct bingo, as that term is defined in §3.544 of this title (relating to Definitions), must not exceed \$600 per occasion, unless the commercial lessor leases to a licensed authorized organization that subleases the premises to one or more other licensed authorized organizations to conduct bingo, in which case the rent may not exceed \$600 for each day that bingo is conducted. The licensed authorized organization that subleases the premises to one or more other licensed authorized organizations to conduct bingo may charge those groups no more than \$600 per occasion. A rental agreement may not guarantee that an organization will break even or receive a profit from the conduct of its games.

(2) All rent paid to the lessor must be paid in a lump sum. Rent includes all expenses authorized by the Bingo Enabling Act, §19(c), that are paid by the licensed authorized organization to the lessor in connection with the use of the premises. All payments to an organization, association, or business are considered payments to the lessor if any person who has a substantial interest in the lessor also has a substantial interest

in the organization, association, or business. The term "substantial interest" shall be as defined in the Bingo Enabling Act, §2(31).

(d)-(f) (No change.)

(g) Frequency of bingo occasions. No more than two organizations may be licensed to conduct bingo at the same location, as that term is defined in §3.544 of this title (relating to Definitions), on the same day. If two organizations are licensed to conduct bingo at the same location on the same day, there must be a minimum 30-minute break or intermission between each organization's regular bingo games [occasion]. The operator or caller must announce prior to the start of the first regular game [occasion] the name of the organization that will be conducting bingo for that session. If two or more licensed organizations are conducting bingo at the same location, a person may not at any time be required to purchase cards for more than one bingo session.

(h) (No change.)

(i) Gifts prohibited. No licensee or holder of a temporary authorization may offer, distribute, or give any service, thing of value, or opportunity to play bingo without charge, unless all players are offered or given the service, thing of value, or opportunity to play without charge. Bingo proceeds may not be used to purchase any such service or thing of value. This subsection does not apply to additional prizes which are prohibited by §3.562 of this title (relating to Unauthorized Prizes).]

(j)(j) Workers as players. No licensee or holder of a temporary authorization may permit any person who is conducting or assisting in the conduct of bingo to participate as a player when the person is conducting or assisting in the conduct of bingo.

(j)(k) Reservation of bingo cards. No licensed organization may reserve, or allow to be reserved, any bingo card or cards for use by a particular individual.

(k)(l) Inspection of equipment, tampering prohibited. All bingo equipment, including blowers, flashboards, balls, and bingo cards, are subject to inspection at any time by any representative of the comptroller. An authorized organization conducting bingo shall replace the bingo balls in use with a complete new set at least each six months or after each 50 occasions whichever occurs later and shall replace the balls at any time upon order of the comptroller or his representative. No person may tamper with or modify any bingo equipment in any manner which would affect the randomness of numbers chosen or which changes the numbers or symbols appearing on the face of a bingo card. A licensed authorized organization has a continuing responsibility to ensure that all bingo equipment used by it is in proper working condition.

(D)(m) Verification.

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

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

Issued in Austin, Texas on November 1, 1989.

TRD-8910454 Bob Bullock
Comptroller of Public
Accounts

Earliest possible date of adoption: December 8, 1989

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

◆ ◆ ◆
• **34 TAC §3.549**

The Comptroller of Public Accounts proposes an amendment to §3.549, concerning allowable expenditures of receipts from bingo. The amendment deletes the present subsection (b) concerning expenses which must be paid from the bingo account, which is codified in House Bill 2260, and reletters succeeding subsections. The amendment also amends the present subsections (c) and (d) to replace references to the comptroller with references to the Texas Alcoholic Beverage Commission.

Ben Lock, associate deputy comptroller for fiscal management, has determined that for the first five-year period the proposed section is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the section.

Mr. Lock also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be the effective regulation of bingo in the state. There will be no effect on small businesses as a result of enforcing the section. 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 Claudia Stravato, Deputy for Tax Enforcement, Regulatory Taxes, P.O. Box 13528, Austin, Texas 78711.

The amendment is proposed 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.

§3.549. Allowable Expenditures of Receipts from Bingo.

(a) (No change.)

(b) The following items of expense incurred or paid in connection with bingo must be paid from the bingo account:

- (1)** advertising;
- (2)** security during the bingo occasion;
- (3)** the purchase and repair of bingo supplies and equipment;

(4) prizes;

(5) stated rental, unless the organization rents the location on a monthly basis for use as its primary business location;

(6) bookkeeping, legal, or accounting services related to bingo;

(7) fees in amounts authorized by the Comptroller of Public Accounts for callers, cashiers, and ushers;

(8) license fees; and

(9) janitorial services.]

(b)(c) Upon written request by a licensee, the commission [comptroller] will issue a ruling on the legality of a proposed expenditure out of bingo receipts or of a proposed disbursement for charitable purposes. Ruling requests should be addressed to the Texas Alcoholic Beverage Commission, Bingo Division, P.O. Box 13127, Austin, Texas 78711 [Regulatory Taxes Division, Comptroller of Public Accounts, Austin, Texas 78774].

(c)(d) If the commission [comptroller] disallows all or any portion of an expense or charitable distribution shown on a licensee's quarterly report, the licensee must immediately transfer from other funds an amount into its bingo account equal to the amount of disallowed expense or charitable distribution.

(d)(e) The license of any authorized organization which does not distribute the required amount of proceeds for charitable purposes during any quarter may be suspended or revoked.

(e)(f) No expenses may be paid out of the petty cash fund, except for emergency expenses validated by proper receipts.

(f)(g) The only expenses that may be paid from the petty cash fund are expenses necessary to continue or complete the operation of a bingo occasion.

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

Issued in Austin, Texas on November 1, 1989.

TRD-8910453 Bob Bullock
Comptroller of Public
Accounts

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

◆ ◆ ◆
• **34 TAC §3.550**

The Comptroller of Public Accounts proposes an amendment to §3.550, concerning bingo reports. The amendment amends subsections (a)-(d) to replace references to the comptroller with references to the Texas Al-

coholic Beverage Commission, to require that quarterly reports be filed both with the commission and the comptroller, to increase the amount of receipts exempt from tax, and to specify for what reporting period the amendment takes effect.

Ben Lock, associate deputy comptroller for fiscal management, 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. Lock also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be in allowing organizations to increase their profits by increasing the exemption, and thus allowing organizations to allot more revenues to facilities and charitable distributions. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the section as proposed.

Comments on the proposal may be submitted to Claudia Stravato, Deputy for Tax Enforcement, Regulatory Taxes, P.O. Box 13528, Austin, Texas 78711.

The amendment is proposed 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.

§3.550. Bingo Reports.

(a) Quarterly reports for gross receipts tax and for information relating to the conduct of bingo games.

(1) An authorized organization holding an annual license, temporary license, or a temporary authorization to conduct bingo must file on a form provided by the Texas Alcoholic Beverage Commission (commission) [comptroller] a quarterly report for gross receipts taxes and statistical information relating to the conduct of bingo games. The report must be filed with both the commission and the comptroller, the copy filed with the comptroller must be accompanied by any tax due, and both copies must be filed on or before the 15th day of the month following the end of the calendar quarter even if there were no gross receipts or gross receipts subject to tax for that quarter.

(2) The first \$15,000 [\$2,500] of gross receipts each report period is exempt from tax.

(3) (No change.)

(b) Failure to receive forms. The failure of licensees conducting bingo games to receive forms from the commission [comptroller] does not relieve them from the requirement of filing reports and remitting bingo gross receipts taxes on a timely basis.

(c) Commercial lessor. A licensed commercial lessor must file an informational report at any time it is requested by the commission [comptroller].

(d) **Effective date.** This section, as amended, is effective for all quarterly reports and bingo gross receipts tax payments due on or after April 15, 1990 [January 1, 1988], covering periods beginning with the first [4th] quarter of 1990 [1987].

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

Issued in Austin, Texas on November 1, 1989.

TRD-8910450

Bob Bullock
Comptroller of Public
Accounts

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

◆ ◆ ◆
• 34 TAC §3.552

The Comptroller of Public Accounts proposes an amendment to §3.552, concerning licenses, fees, and bonds for manufacturers, distributors, and representatives of distributors of bingo supplies, devices, and equipment. The amendment relates subsection (a)(3) as subsection (c), relates the other subsections accordingly, deletes subsection (a)(6) which is codified in House Bill 2260, and amends subsections (a)-(f) to replace references to the comptroller with references to the commission, to delete references to representatives, and to changing an investigation fee to distributors as well as manufacturers.

Ben Lock, associate deputy comptroller for fiscal management, has determined that for the first five-year period the proposed section is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the section.

Mr. Lock also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be by allowing the commission to more efficiently regulate bingo. There will be no effect on small businesses as a result of enforcing the section. 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 Claudia Stravato, Deputy Tax Enforcement, Regulatory Taxes, P.O. Box 13528, Austin, Texas 78711.

The amendment is proposed 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.

§3.552. Licenses, Fees, and Bonds for Manufacturers[,] and Distributors[, and Representatives of Distributors of Bingo Supplies, Devices, and Equipment].

(a) Annual manufacturer's license.

(1) **Application.** A manufacturer must apply to the Texas Alcoholic

Beverage Commission (commission) [comptroller] for a manufacturer's license. The application must be made on a form prepared by the commission [comptroller] and must contain all the information required by that form.

(2) **Basic fee.** An application for a manufacturer's license must be accompanied by a \$3,000 license fee.

(3) **Investigation fee.** The comptroller may require an applicant to pay an additional fee in an amount equal to the cost of a background investigation, including the inspection of manufacturing plants and locations. If the comptroller intends to impose the investigation fee, he will notify the applicant in writing prior to starting the investigation that the fee will be imposed and will supply an estimate of the amount of the fee. If the applicant does not wish to pay the investigation fee, he may withdraw the application and the basic fee will be refunded. The persons making the inspection shall submit travel vouchers and supporting documents to the comptroller and shall receive reimbursement or a travel advance from the comptroller in the same manner as for other state travel, as provided in the State Employees Travel Allowance Guide, as most recently revised and issued by the comptroller. The comptroller shall send to the applicant copies of the vouchers and supporting documents together with a statement for the fee, in the same amount as was paid by the comptroller on account of the inspection. The applicant shall reimburse the comptroller, within 30 days of the date of the statement for the amount shown in the statement.]

(3)[(4)] **Expiration of license.** A manufacturer's license expires one calendar year after its issuance.

(4)[(5)] **Bond.** Each application [applicant] for a manufacturer's license must be accompanied by a bond in the amount of \$10,000. No license will be issued until a satisfactory bond has been posted.

(A) **Type of bond.** Only the following types of bonds are acceptable:

(i) (No change.)

(ii) A surety bond executed on a form approved by the commission [comptroller] and issued by a surety company chartered or authorized to do business in the State of Texas. The bond will constitute a new and separate obligation in the penal amount shown for each calendar year or a portion of a year while the bond is in force. The bond must be executed by an attorney-in-fact appointed by the surety. The appointing instrument must be properly notarized and physically attached to the bond.

(B) **Forfeiture.** If the commission [comptroller] revokes the licens-

ee's license, the commission [comptroller] shall forfeit the licensee's bond.

(C) **Release.** A bond must be posted at all times that a license is in effect. If the licensee relinquishes its license, the commission [comptroller] will release any bond that the licensee has posted.

[(6) **Revocation in another state.** The comptroller may not issue a manufacturer's license to an applicant who has had a license to manufacture, distribute, or supply bingo equipment, devices, or supplies revoked by another state until one year after the effective date of that revocation.]

(b) **Distributor's [and representative's] license.**

[(1) **License required.]**

(1)[(A)] Each distributor must obtain a distributor's license.

[(B) Each representative of a manufacturer or distributor must obtain a representative's license.]

(2) **Application.** Each distributor [and representative of a distributor or manufacturer] must apply to the commission [comptroller] for a license. The application must be made on a form prepared by the commission [comptroller] and must contain all the information required by that form.

(3) **Fees.** An application for a distributor's license must be accompanied by a \$1,000 license fee. [An application for a representative's license must be accompanied by a \$150 license fee.]

(4) **Expiration of license.** A distributor's [or representative's] license expires one calendar year after its issuance.

(c) **Investigation fee.** The commission may require an applicant to pay an additional fee in an amount equal to the cost of a background investigation, including the inspection of applicant's plants and other facilities. If the commission intends to impose the investigation fee, it will notify the applicant in writing prior to starting the investigation that the fee will be imposed and will supply an estimate of the amount of the fee. If the applicant does not wish to pay the investigation fee, it may withdraw the application and the basic fee will be refunded. The persons making the inspection shall submit travel vouchers and supporting documents to the commission and shall receive reimbursement of a travel advance from the commission in the same manner as for other state travel, as provided in the State Employees Travel Allowance Guide, as most recently revised and issued by the comptroller. The commission shall send to the applicant copies of the vouchers and supporting documents together with a statement for the fee, in the same amount as was paid by the commission on account of the inspec-

tion. The applicant shall reimburse the commission, within 30 days of the date of the statement for the amount shown in the statement.

(d)(c) Supplemental information. In addition to the application form, an applicant or licensee must submit any supplemental information requested by the commission [comptroller] within the time limit set by the commission [comptroller]. Failure to timely submit any of the requested supplemental information is grounds for denial of the license sought or for revocation of any license held.

(e)(d) Transfer of license. No license issued under this section may be transferred or assigned.

(f)(e) Representation; personal receipt of documents. For purposes of this subsection, an individual shall be recognized by the commission [comptroller] as an applicant's or licensee's authorized representative only if the commission [comptroller] has on file written authorization in the form of a resolution of the applicant's or licensee's governing body, that such individual has the authority to act on behalf of the applicant or licensee, and the extent of such authority. Written authorization furnished by an applicant or licensee under this section shall apply only to the specific individuals listed in the authorization. Agents or employees of an authorized representative are not authorized representatives of the applicant or licensee unless specifically named in the written authorization on file with the commission [comptroller]. Only the applicant, licensee, or those individuals specifically named in the applicant's or licensee's resolution as authorized representatives shall be recognized by the commission [comptroller] concerning any matter relating to the licensing process or any corrective measures to be taken after an audit or field investigation. Only the applicant or its authorized representative may personally receive from the commission [comptroller] documents relating to an applicant's 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.

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Bob Bullock
Comptroller of Public
Accounts

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add a new subsection (b), and reinsert the existing subsection (b); to require manufacturers to keep a list of persons representing them prior to January 1, 1990, and to require a person licensed both as a manufacturer and as a distributor to keep a separate set of records for each license.

Ben Lock, associate deputy comptroller for fiscal management, 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. Lock also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be by allowing the commission to more efficiently regulate bingo. There will be no effect on small businesses as a result of enforcing the section. There is no anticipated economic cost to persons who are required to comply with the section as proposed.

Comments on the proposal may be submitted to Claudia Stravato, Deputy for Tax Enforcement, Regulatory Taxes, P.O. Box 13528, Austin, Texas 78711.

The amendment is proposed 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.

§3.553. Books and Records—Distributors and Manufacturers.

(a) Every licensed distributor and manufacturer must maintain a complete set of records including, but not limited to, the following:

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

(4) a complete list of the [licensed] persons licensed to represent [representing] the licensee prior to January 1, 1990;

(5) (No change.)

(b) A licensee who holds both a distributor's license and a manufacturer's license pursuant to the Bingo Enabling Act, §13c(j), must maintain a separate set of records for their activities under each license.

(c)(b) Records required by this section must be maintained for at least four years.

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-8910444

Bob Bullock
Comptroller of Public
Accounts

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

§3.554. Instant Bingo

The Comptroller of Public Accounts proposes an amendment to §3.554, concerning instant bingo. The amendment amends subsections (a)-(c), (e)-(g), and adds subsection (h). The amendment changes references to the Comptroller of Public Accounts to references to the Alcoholic Beverage Commission, requires that the seal and authorization by the commission be printed on all instant bingo cards, requires that sales of instant cards be recorded on a cash register, states that sales of cards are subject to statutory restrictions, deletes references to representatives and to sales by manufacturers to licensed authorized organizations, and establishes an implementation schedule.

Ben Lock, associate deputy comptroller for fiscal management, has determined that for the first five-year period the proposed section will be in effect there is no fiscal implications for state or local government as a result of enforcing or administering the section. Mr. Lock also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be by allowing the commission to more efficiently regulate bingo. There will be no effect on small businesses as a result of enforcing the section. 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 Claudia Stravato, Deputy for Tax Enforcement, Regulatory Taxes, P.O. Box 13528, Austin, Texas 78711.

The amendment is proposed 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.

§3.554. Instant Bingo.

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

(1) (No change.)

(2) Instant bingo card—A device used to play a specific game of chance consisting of an individual card, the face of which is initially hidden from view to conceal numbers. Each individual card must:

(A) bear an impression of the Texas Alcoholic Beverage Commission's (commission's) [comptroller's] seal with the words "Texas Alcoholic Beverage Commission" ["Comptroller's Office, State of Texas"] engraved around the margin and a five-pointed star in the center;

(B) (No change.)

(C) be imprinted in no less than nine-point type with the words "Authorized by the Texas Alcoholic Beverage Commission [Bingo Regulation Division]";

§3.553

The Comptroller of Public Accounts proposes an amendment to §3.553, concerning books and records—distributors and manufacturers. The amendment amends subsection (a)(4),

(D)-(G) (No change.)

(3) (No change.)

(b) Approval of cards.

(1) No instant bingo card may be sold or otherwise furnished to any person in this state or used in the conduct of bingo for public play unless and until a complete series of an identical prototype of that card has first been presented to the commission [comptroller] by its manufacturer and has been approved by the commission [Comptroller] for use within this state.

(2) Prototypes or examples of all cards must be presented to the Texas Alcoholic Beverage Commission [Regulatory Taxes Section, Enforcement Division, of the comptroller's office] in Austin, for review. If granted, approval extends only to the specific card or series approved. If the card is modified in any way, except only in series number, it must be resubmitted to the commission [comptroller] for approval.

(3) Once an instant bingo card has been approved, a complete series of that card must be resubmitted to the commission [comptroller] each two years for reapproval. The commission [comptroller] may require resubmission of a series of approved cards at any time.

(c) Manufacturing requirements.

(1) Manufacturers of instant bingo cards must manufacture, assemble, and package each deal in such a manner that none of the winning cards, nor the location or approximate location of any of the winning cards, can be determined in advance of opening by any means or device including any pattern in manufacture, printing, color variations, assembly, packaging markings, or by the use of a light. All winning and losing numbers conforming with designated numbers on the instant bingo card must be randomly selected. Each manufacturer must supply proof of random selection to the Texas Alcoholic Beverage Commission [Regulatory Taxes Section, Enforcement Division] by detailed description of the manufacturing process, and is subject to inspection by the commission [Comptroller] or its [his] designee.

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

(4) Each individual card must be constructed so that it is substantially impossible, in the opinion of the commission [comptroller], to determine a concealed number or numbers until it has been opened by a player. Without limiting the requirements of the previous sentence of this paragraph, for all instant bingo cards offered for sale by a licensed organization on or after February 1, 1988, such cards shall be required to be constructed in such a manner so that card gluing occurs on all four edges of the card and between the individual breakopen tabs on the card.

(5) No manufacturer may sell or otherwise provide to a distributor and no [.] distributor[, or representative] may sell or otherwise provide to any person in this state or for use in this state any instant bingo series that does not contain a minimum prize payout of 65% of total receipts if completely sold out.

(6) A manufacturer in selling or providing instant bingo cards to a distributor and a [or] distributor[, in selling or providing instant bingo cards to a licensed authorized organization, shall seal or wrap each series completely in a clear wrapping material in such a way that it will be apparent if the series is opened prior to use by the licensed authorized organization.

(d) (No change.)

(e) Restrictions.

(1) The commission's [comptroller's] seal and required authorization language must be placed on all cards by a licensed manufacturer only.

(2) All sales or other furnishing of instant bingo cards are subject to the restrictions contained in the Bingo Enabling Act, §11(a)-(u) and §13c(f). [No manufacturer, distributor, or representative of either may sell or otherwise make available to any person any instant bingo cards in this state unless it has first determined that the person has a valid license issued by the comptroller to sell or distribute bingo equipment, supplies, or devices or to conduct bingo games.]

(3) (No change.)

(f) Inspection. The commission [comptroller] or its [his] authorized representatives may examine and inspect any individual instant bingo card or series of cards and may, if deemed necessary, pull all chances remaining in an unsold deal.

(g) Records.

(1) Any licensed organization selling instant bingo cards must maintain a purchase log showing:

(A) (No change.)

(B) the name, address, and license number of the [representative,] distributor[, or manufacturer] from whom the cards were purchased.

(2) The sales of and prizes paid for instant bingo cards, including the series number, shall be shown on the daily cash report and aggregate total sales for the organization must be recorded on the cash register as required by §3.547 of this title (relating to Books and Records-Bingo Licenses).

(3) All records, reports, and receipts relating to an instant bingo series in play must be retained on the licensed premises for examination by the commission [comptroller] as long as the series is in play.

(4) Manufacturers or [.] distributors[, or their representatives] must provide the following information on each invoice and other document used in connection with a sale:

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

(5) (No change.)

(h) Implementation schedule. The requirement that instant bingo cards have printed on them the seal of the Texas Alcoholic Beverage Commission and the words "Authorized by the Texas Alcoholic Beverage Commission" shall be implemented according to the same schedule as provided for printing the commission seal on disposable paper cards in the emergency amendment to §3.558(f) of this title (relating to Seal Required on Disposable Bingo Cards).

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

Issued in Austin, Texas on November 1, 1989.

TRD-8910443

Bob Bullock
Comptroller of Public
Accounts

Earliest possible date of adoption: December 8, 1989

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

◆ ◆ ◆
• 34 TAC §3.555

The Comptroller of Public Accounts proposes an amendment to §3.555, concerning minimum charitable distribution. The amendment deletes the present subsections (a), (b), (d)-(g), deletes the letter from the present subsection (c), and adds to the present subsection (c) a reference to the applicable provision of the Bingo Enabling Act as amended by House Bill 2260.

Ben Lock, associate deputy comptroller for fiscal management, 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. Lock also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be the effective regulation of bingo in the state. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the section as proposed.

Comments on the proposal may be submitted to Claude Stravato, Deputy for Tax Enforcement, Regulatory Taxes, P.O. Box 13628, Austin, Texas 78711.

The amendment is proposed under Texas Civil Statutes, Article 170d, which provide the comptroller with the authority to prescribe, adopt, and enforce rules relating to the administration and enforcement of the Bingo Enabling Act.

§3.555. Minimum Charitable Distribution.

[(a) For the purposes of this section, the term "adjusted gross receipts" means gross receipts less the amount awarded as prizes.

[(b) By the end of each quarter, each licensed authorized organization shall distribute for charitable purposes an amount not less than 35% of the organization's adjusted gross receipts from the last preceding quarter, less the credits allowed under subsection (c) of this section.]

[(c) The amount paid as bingo taxes for the last preceding quarter and an amount for basic fixed expenses equal to 2.75% of the gross receipts for the last preceding quarter shall be allowed as a credit towards the required 35% charitable distribution under Texas Civil Statutes, Article 179d, Bingo Enabling Act, §19a(k). However, the total of all credits, both for bingo gross receipts taxes and for expenses may not exceed \$11,000 per quarter.

[(d) In reviewing a situation where a licensed authorized organization has failed to meet the requirements of this section for a particular quarter, the comptroller may consider whether, taking the amount required to be distributed during that quarter and the three preceding quarters and the charitable distributions and credits for each of those quarters under the sections in effect during each quarter, the organization has distributed a total amount sufficient to have met the 35% requirement for the quarter in question and the three preceding quarters combined.

[(e) Contributions made on or after January 1, 1988, to dedicated building funds are not considered to be charitable distributions. However, amounts contributed to dedicated building funds prior to January 1, 1988, must, by January 1, 1989, be distributed to the organization's general fund building account or, if prior written approval is obtained from the comptroller, may be distributed for any allowable charitable purpose.

[(f) Contributions made on or after April 1, 1988, to other dedicated funds are not considered to be charitable distributions. However, amounts contributed to other dedicated funds prior to April 1, 1988, must, by April 1, 1989, be distributed to the organization's general fund.

[(g) This section is effective for reporting periods beginning on or after April 1, 1988.]

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

Issued in Austin, Texas on November 1, 1989.

TRD-8910448

Bob Bullock
Comptroller of Public
Accounts

Earliest possible date of adoption: December 8, 1989

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

◆ ◆ ◆
• 34 TAC §3.557

The Comptroller of Public Accounts proposes an amendment to §3.567, concerning manufacturer's and distributor's quarterly reports. The amendment adds a new subsection (d), reletters the present subsection (d), and amends subsections (a) and (b), to replace references to the comptroller with references to the Texas Alcoholic Beverage Commission (Commission), to provide that a person licensed as a manufacturer and as a distributor must file separate reports for each license, and removing an obsolete effective date.

Ben Lock, associate deputy comptroller for fiscal management, 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. Lock also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be by allowing the commission to more efficiently regulate bingo. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the section as proposed.

Comments on the proposal may be submitted to Claudia Stravato, Deputy for Tax Enforcement, Regulatory Taxes, P.O. Box 13528, Austin, Texas 78711.

The amendment is proposed under Texas Civil Statutes, Article 179d, which provides the comptroller with the authority to prescribe, adopt, and enforce rules relating to the administration and enforcement of the Bingo Enabling Act.

§3.557. Manufacturer's and Distributor's Quarterly Reports.

(a) Each manufacturer and each distributor holding or required to hold a license issued by the Texas Alcoholic Beverage Commission (commission) [comptroller] under the Bingo Enabling Act, Texas Civil Statutes, Article 179d, shall file a report, on forms prescribed by the commission [comptroller], reflecting the information listed in this section with regard to each sale of bingo equipment and cards to a person or organization in this state or for use in this state.

(b) The report shall be filed with regard to each calendar quarter, and is due on or before the last day of the month following each calendar quarter. [The amendment to this section applies beginning with the report for the first quarter of 1989.]

(c) (No change.)

(d) A person licensed as a manufacturer and as a distributor pursuant to the Bingo Enabling Act, §13c(j), shall file

separate reports covering his or her activities under each license for each quarter beginning with the first quarter of 1990.

(e) [(d)] The manufacturer or distributor shall retain a copy of the report in his records for at least four years after the date on which the return is filed.

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

Issued in Austin, Texas on November 1, 1989.

TRD-8910442

Bob Bullock
Comptroller of Public
Accounts

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

◆ ◆ ◆
• 34 TAC §3.558

The Comptroller of Public Accounts proposes an amendment to §3.558, concerning seal required on disposable bingo cards. The amendment amends subsections (b)-(f) to provide for printing the seal of the Texas Alcoholic Beverage Commission on disposable paper bingo cards, to replace references to the Comptroller of Public Accounts with references to the Texas Alcoholic Beverage Commission, to delete references to sales of cards from manufacturers to licensed organizations, to state that sales or purchases of cards are subject to statutory restrictions, and to specify an implementation schedule and amend the implementation schedule for the requirement that the manufacturer's name, trade name, or trademark be printed on all cards.

Ben Lock, associate deputy comptroller for fiscal management, has determined that for the first five-year period the proposed section will be in effect there will be no significant revenue impact on the state or local government as a result of enforcing or administering the section.

Mr. Lock also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be in allowing the commission to comply with recent legislative changes in order to more effectively regulate the bingo industry. There will be no effect on small businesses as a result of enforcing the section. There is no anticipated economic cost to persons who are required to comply with the section as proposed.

Comments on the proposal may be submitted to Claudia Stravato, Deputy for Tax Enforcement, Regulatory Taxes, P.O. Box 13528, Austin, Texas 78711.

The amendment is proposed under Texas Civil Statutes, Article 179d, which provides 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 Texas Alcoholic Beverage Commission (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 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 commission [Regulatory Taxes Division of the Comptroller's Office] for approval.

(e) In addition to the restrictions contained in the Bingo Enabling Act, §11(n)-(u) and §13c(l), the [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 bear the comptroller's seal and do or do not bear the manufacturer's name, trade name, or trademark 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, trade name, or trademark 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 seal of the Texas Alcoholic Beverage Commission and the manufacturer's name, trade name, or trademark after June 30, 1990 [December 31, 1989].

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

Issued in Austin, Texas, on November 1, 1989.

TRD-8910440

Bob Bullock
Comptroller of Public
Accounts

Earliest possible date of adoption: December 8, 1989

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

◆ ◆ ◆
• 34 TAC §3.560

The Comptroller of Public Accounts proposes an amendment to §3.560, concerning promotional bingo. The amendment amends subsections (d)-(f) and the notice of promotional bingo, which is adopted by reference in this section, to replace references to the comptroller with references to the Texas Alcoholic Beverage Commission.

Ben Lock, associate deputy comptroller for fiscal management, has determined that for

the first five-year period the proposed section is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the section.

Mr. Lock also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be the effective regulation of bingo in the state. There will be no effect on small businesses as a result of enforcing the section. 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 Claudia Stravato, Deputy for Tax Enforcement, Regulatory Taxes, P.O. Box 18528, Austin, Texas 78711.

The amendment is proposed under Texas Civil Statutes, Article 179d, which provides the comptroller with the authority to prescribe, adopt, and enforce rules relating to the administration and enforcement of the Bingo Enabling Act.

§3.560. Promotional Bingo.

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

(d) No seal permitted. No person conducting a game under this section may use cards which bear the commission's [comptroller's] seal, as described in §3.554 of this title (relating to Instant Bingo) or §3.558 of this title (relating to Seal Required on Disposable Cards).

(e) Notice.

(1) Any person conducting a game under the Bingo Enabling Act, Texas Civil Statutes, Article 179d, §39(b)(4), must give the commission [comptroller] written notice which must include:

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

(E) a copy of the bingo card to be used or a reference to a card previously submitted to the commission [comptroller];

(F)-(H) (No change.)

(2) Notice must be furnished at least 15 days in advance of the commencement of the game unless:

(A) (No change.)

(B) an example of the bingo card to be used and the manufacturer's name and address have been supplied to the commission [comptroller] at least 15 days in advance of the commencement of the game.

(C) (No change.)

(f) Adoption by reference. The commission [comptroller of Public Accounts] adopts by reference the notice of promotional bingo form. Copies may be

obtained from the Texas Alcoholic Beverage Commission, Bingo Division, P. O. Box 13127 [Comptroller of Public Accounts, Bingo Regulation Division, P.O. Box 13528], Austin, Texas 78711.

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

Issued in Austin, Texas, on November 1, 1989.

TRD-8910437

Bob Bullock
Comptroller of Public
Accounts

Earliest possible date of adoption: December 8, 1989

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

• 34 TAC §3.561

The Comptroller of Public Accounts proposes an amendment to §3.561, concerning interview requirements. The amendment deletes a reference to representatives and replaces references to the comptroller with references to the Texas Alcoholic Beverage Commission.

Ben Lock, associate deputy comptroller for fiscal management, 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. Lock also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be by allowing the commission to more efficiently regulate bingo. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the section as proposed.

Comments on the proposal may be submitted to Claudia Stravato, Deputy for Tax Enforcement, Regulatory Taxes, P.O. Box 13528, Austin, Texas 78711.

The amendment is proposed 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.

§3.561. Interview Requirements. Each applicant for a bingo license or the renewal of an existing license, whether as a conducting organization, lessor, manufacturer, or distributor [or representative,] may be required to be interviewed by a representative of the Texas Alcoholic Beverage Commission (commission) [Comptroller of Public Accounts]. The commission [comptroller] may specify the persons required to be present and the time and location of the interview. The interview will ensure the applicant's awareness and understanding of requirements of the Bingo Enabling Act and the rules and regulations promulgated thereunder. The applicant will assure the commission [comptroller] that all operations by the

applicant relating to bingo will be conducted according to the Act and the rules and regulations promulgated thereunder. The commission [comptroller] may refuse to issue or renew an annual license based on the conclusions resulting from the interview.

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

Issued in Austin, Texas on November 1, 1989.

TRD-8910452

Bob Bullock
Comptroller of Public
Accounts

Earliest possible date of adoption: December 8, 1989

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

• 34 TAC §3.562

The Comptroller of Public Accounts proposes an amendment to §3.562, concerning unauthorized prizes. The amendment amends subsection (a) to clarify the reference to House Bill 1043. The amendment amends subsection (b) to delete the definition of "present at a bingo occasion and participating in a bingo occasion" since "bingo occasion" is defined in House Bill 2280. The amendment also deletes subsection (d).

Ben Lock, associate deputy comptroller for fiscal management, 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. Lock also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be by allowing the commission to more efficiently regulate bingo. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the section as proposed.

Comments on the proposal may be submitted to Claudia Stravato, Deputy for Tax Enforcement, Regulatory Taxes, P.O. Box 13528, Austin, Texas 78711.

The amendment is proposed 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.

§3.562. Unauthorized Prizes.

(a) Construction. The prohibition contained in this section shall be broadly construed in order to carry out the legislative purpose expressed in House Bill 1043, Acts of the 70th Legislature, 1987, of prohibiting all door prizes or other prizes in addition to those given for winning individual bingo games.

(b) Definitions. The following words and terms, when used in this section,

shall have the following meanings, unless the context clearly indicates otherwise.

(1) (No change.)

[(2) Present at a bingo occasion and participating in a bingo occasion—Being present at or participating in any activity at the bingo location during the time when people are gathered for the purpose of playing bingo, including times before, during, between, and after bingo games.]

(2)(3) Prize—Money or anything of value offered or awarded to one or more persons present at a bingo occasion, whether offered or awarded at that occasion, or awarded at a different time or place.

(c) (No change.)

[(d) Conflict. In the event of conflict between this section and §3.548 of this title (relating to General Restrictions on the Conduct of Bingo), this section prevails.]

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

Issued in Austin, Texas on November 1, 1989.

TRD-8910451

Bob Bullock
Comptroller of Public
Accounts

Earliest possible date of adoption: December 8, 1989

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

TITLE 40. SOCIAL SERVICES AND ASSISTANCE

Part I. Texas Department of Human Services

Chapter 8. Home Energy Assistance Program

Program Requirements

• 40 TAC §§8.1-8.8

The Texas Department of Human Services (DHS) proposes amendments to §§8.1-8.8, concerning program requirements, in its Home Energy Assistance Program chapter. The purpose of the amendments is to re-establish DHS's normal policies for operation of both the summer and winter cycles of the Home Energy Assistance Program (HEAP). The department amended these sections last July in order to operate the cooling assistance component of HEAP through local contractors during the summer of 1989. The use of contractors permitted DHS to provide limited HEAP benefits last summer despite a reduction in available funds. Benefits were restricted to households with a medical need for cooling assistance. The amendments proposed here will permit DHS to resume direct operation of HEAP without restricting assistance to households with a medical need.

Burton F. Railford, chief financial officer, has determined that for the first five-year period the proposed sections are in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the sections.

Mr. Railford 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 to provide heating and cooling assistance to low-income households. There will be no effect on small businesses as a result of enforcing the section. 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 Roseberg, Administrator, Policy Development Services-572, 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, Chapter 22, which authorizes the department to administer public assistance programs.

§8.1. Time Frames for Home Energy Assistance Program (HEAP) (Heat Stress Relief Program (HSRP)) Qualification.

(a) To qualify for Home Energy Assistance Program (HEAP) heating assistance, the household must either apply and be certified before the November deadline for December AFDC, SSI, or food stamp benefits, or request an application from DHS during the designated application period for the HEAP heating program.

(b)(a) To qualify for HEAP [HSRP] cooling assistance, the household must either apply and be certified before the April deadline for May AFDC, SSI, or food stamp benefits, or request an application from DHS [to the local HSRP contractor] during the designated application period for the HEAP [HSRP] cooling program.

(c)(b) DHS [The local contractor] announces the dates for the HEAP heating and cooling programs [HSRP]

through posters in each office, public service announcements, and newspaper releases.

§8.2. Home Energy Assistance Program (HEAP) (Heat Stress Relief Program (HSRP)) Eligibility Criteria.

(a) The household's income is its gross income without deductions, as determined by the household's Home Energy Assistance Program (HEAP) worker, [local HSRP contractor.] To qualify for HEAP [HSRP] assistance, the household's income must be less than 120% of federal poverty income guidelines [as projected by DHS each year. DHS bases its projections on the methodology used by the Department of Health and Human Services to adjust for increases in the consumer price index].

(b) For the three benefit levels specified in §8.6 of this title (relating to Benefit Amount), household income limits for HEAP [HSRP] are listed in the following chart. For households with more than eight members, the limits increase by \$60, \$119, and \$204 for each additional member.

Number of Persons in Household	0% to 35% of poverty guidelines	36% to 70% of poverty guidelines	71% to 120% of poverty guidelines
1	\$0 - \$174.49	\$174.50 - \$349.49	\$349.50 - \$598.49
2	\$0 - \$234.49	\$234.50 - \$468.49	\$468.50 - \$802.49
3	\$0 - \$293.49	\$293.50 - \$587.49	\$587.50 - \$1,006.49
4	\$0 - \$353.49	\$353.50 - \$706.49	\$706.50 - \$1,210.49
5	\$0 - \$412.49	\$412.50 - \$825.49	\$825.50 - \$1,414.49
6	\$0 - \$472.49	\$472.50 - \$944.49	\$944.50 - \$1,618.49
7	\$0 - \$531.49	\$531.50 - \$1,063.49	\$1,063.50 - \$1,822.49
8	\$0 - \$591.49	\$591.50 - \$1,182.49	\$1,182.50 - \$2,026.49

(c) The resource limits for HEAP [HSRP] eligibility are:

(1) \$3,000 for a household with at least one person who is 60 years old or older, and

(2) (No change.)

(d) The head of the household and the applicant (if different) must provide proof of identity on request. [, if requested.]

(e) To qualify for HEAP benefits, members of the household must:

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

(f) For the summer program only, at [A] least one person in the household must be:

(1) 60 years old or older in the current calendar year; or

(2) disabled, as evidenced by:

(A) receiving SSI before age 65;

(B) receiving AFDC because of an incapacity;

(C) receiving Social Security disability benefits;

(D) being classified as totally disabled by the Veteran's Administration;

(E) being certified by a physician or a registered nurse as having a medical condition that increases the risk of developing a heat-related illness; or [have a medical condition, as certified by a physician or a registered nurse, that increases his risk of developing a heat-related illness.]

(F) being certified as a current participant in the Women, Infants, and Children (WIC) Program.

§8.3. Vulnerability.

(a) To qualify for Home Energy Assistance Program (HEAP) [Heat Stress Relief Program (HSRP)] assistance, the household must be vulnerable to increases in the cost of home energy. The term "home energy" means a source of heating or cooling in a residential dwelling. [dwellings.] Households that reside in privately owned rental housing meet this requirement even if all or part of the cost of their utilities is included in their rent. [payment.]

(b) Residents in government subsidized housing meet the requirement in subsection (a) of this section even if all or part of the cost of their utilities is included in their rent [payment] and even if the Department of Housing and Urban Development gives them [they receive] assistance in paying their utilities [from the Department of Housing and Urban Development].

§8.4. Rights and Responsibilities of Households.

(a) Each household applying for and receiving Home Energy Assistance Program (HEAP) [Heat Stress Relief Program (HSRP)] assistance has the following rights and responsibilities:

(1) to complete an application and return it to DHS [the local contractor] within the time limit specified on the application;

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

(4) to provide the name(s) of its energy supplier(s). [as appropriate.]

(b) (No Change).

(c) When [If] DHS determines that it [a local contractor] has overpaid a household, [either] DHS [or the contractor] must notify the household of its right to contest the determination.

(d) AFDC, SSI, and food-stamp households that are potentially eligible for HEAP assistance usually receive applications automatically from DHS. A household that does not receive an application automatically may request one.

§8.5. Responsibilities of Energy Suppliers and Housing Authorities. Energy suppliers and housing authorities participating in the Home Energy Assistance Program (HEAP) [Heat Stress Relief Program (HSRP)] vendor payment process:

(1) must not discriminate against recipients of HEAP [HSRP] benefits either in the cost of goods supplied or in the service provided, and

(2) must complete [a] vendor agreements [agreement] and return them [it] to DHS. DHS only makes payments to vendors after receiving their completed vendor agreements. [before warrants can be made payable to them.]

§8.6. Benefit Amount.

(a) The Home Energy Assistance Program (HEAP) [Heat Stress Relief Program (HSRP)] provides three levels of basic benefits [benefit levels]. The highest benefit level is for households with gross incomes from 0%-35% of federal poverty income guidelines, as specified in §8.2 of this title (relating to HEAP [HSRP] Eligibility Criteria). The intermediate benefit level is for households with gross incomes from 36% through 70% of federal poverty income guidelines. The lowest benefit level is for households with gross incomes from 71% through 120% of federal poverty income guidelines. Because government subsidies already reduce the energy costs of [For] households living in government subsidized housing, the Texas Department of Human Services (DHS) adjusts the [three] basic benefits [benefit levels] that these households receive [are adjusted] as

specified in subsection (b) of this section. [because the energy costs of these households have already been reduced by a government subsidy.]

(b) The Texas Department of Human Services (DHS) reduces the basic benefits of households [For residents] in government subsidized housing by 30%. [the three basic benefit levels are reduced by a standardized percentage determined by DHS.] DHS bases this percentage on a comparison of [The reduction is based on the best available statewide data comparing] the average heating and cooling costs of households in subsidized housing [residents] and the average heating and cooling costs of other households. [This standardized percentage reduction is 30%.] Revisions to the percentage amount of the department's reduction for households in government subsidized housing require the approval of the Texas Board of Human Services. [This percentage reduction will not be increased without the Texas Board of Human Services' approval.]

(c) For heating assistance, the benefit levels cited in subsections (a) and (b) of this section are determined county-by-county based on the total amount of funds available for the HEAP program, the anticipated caseload, and the best data available from the Texas Railroad Commission regarding the average cost of natural gas for residential users in each county. Each household's benefit is based on the household's county of residence at the time its eligibility is certified.

(d)[(c)] For cooling assistance, the [The] benefit levels cited in subsections (a) and (b) of this section are determined statewide based on the total amount of funds available for the HEAP [HSRP] program, the anticipated caseload, and the best [available] data available from the Public Utility Commission regarding the average cost of electricity for [to] residential users.

(e) No eligible household may receive less than a minimum benefit of \$10 or more than a maximum benefit of \$175.

(f)[(d)] DHS submits its [The] methodology for calculating benefit levels as described in subsections (c)-(e) [is submitted] to the United States Department of Health and Human Services as part of the HEAP [Heat Stress Relief Program] Texas State Plan for Operation. [The methodology applies in all cases except that every eligible household receives benefits of at least \$48 and no more than \$138.]

§8.7. Outreach. DHS [Local contractors] must publicize Home Energy Assistance Program (HEAP) [Heat Stress Relief Program (HSRP)] eligibility requirements and benefits. The department's publicity must include [Local contractors must release] public service announcements about [regarding operation of] the program.

§8.8. Appeals. Households are entitled to request fair hearings when [if] their applications for Home Energy Assistance Program (HEAP) [Heat Stress Relief Program (HSRP)] assistance are denied or not acted on promptly. The household must request a fair hearing within 90 days after [from] the effective date of the denial [action] or a legal inaction. The Texas Department of Human Services (DHS) follows the [DHS's] appeal procedures specified [and addressed] in Chapter 79 of this title (relating to Legal Services).

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

Issued in Austin, Texas, on October 31, 1989.

TRD-8910406

Cathy Rosenberg
Agency Liaison, Policy
Development Services
Texas Department of
Human Services

Proposed date of adoption: February 1, 1990.

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

Chapter 16. Intermediate Care Facilities/Skilled Nursing Facilities (ICF/SNF)

Compliance with State and Local Laws

• 40 TAC §16.1511

The Texas Department of Human Services (DHS) proposes to amend §16.1511, concerning exemptions from the moratorium on applications for new nursing facility beds, in its Intermediate Care Facilities/Skilled Nursing Facilities (ICF/SNF) chapter. The amendment authorizes the commissioner of DHS to waive the department's restrictions on contracts for new Medicaid nursing facility beds when there is a documented and immediate community need for additional beds.

Burton F. Raiford, chief financial officer, 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 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 to ensure that Medicaid recipients have reasonable access to nursing facility care that meets the department's standards for quality. There will be no effect on small businesses as a result of enforcing the section. There is no anticipated economic cost to individuals who are required to comply with the proposed section.

In order to implement the proposed amendment upon its adoption, the department will begin accepting the documentation that the proposed amendment requires of prospective contractors as soon as this proposal is published in the *Texas Register*. Prospective

contractors may submit this documentation to Gary L. Allen, Administrator, Long-term Care Department, Texas Department of Human Services 350-E, P.O. Box 149030, Austin, Texas 78714-9030.

Comments on the proposal may be submitted to Cathy Rosenberg, Administrator, Policy Development Services-691, 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 department will hold a public hearing on the proposal on Thursday, November 30, 1989, at 9 a.m. in the John H. Winters Building Public Hearing Room, first floor, East Tower, 701 West 51st Street, Austin.

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

§16.1511. Additional Participation Requirements.

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

(c) If the provider meets all criteria, DHS may exempt the following facilities from the policy stated in subsection (b) of this section:

(1)-(10) (No change.)

(11) facilities that apply for participation under the DHS commissioner's waiver authority.

(A) The commissioner of DHS has authority to waive the restriction on contracting in subsection (b) of this section and direct the department to enter into Medicaid contracts with nursing facilities that satisfy the requirements specified in this subparagraph. In a manner acceptable to DHS, each of these facilities must:

(i) document that there is a crisis and immediate need for additional Medicaid nursing-facility beds in the facility's community;

(ii) document that there are problems with the quality of care available in the facility's community, and show that new Medicaid-contracted beds will remedy these problems;

(iii) demonstrate that Medicaid recipients in the facility's community do not have reasonable access to nursing-facility care;

(iv) document strong community support for a new Medicaid nursing-facility;

(v) agree to make a contractual commitment that the individual or company entering into a Medicaid contract under the provisions of this paragraph will directly own and operate the facility for at least three years; and

(vi) after meeting the requirements in clauses (i)-(v) of this

subparagraph, provide proof that the beds offered for a Medicaid contract are Medicare-certified. The purpose of this requirement is to ensure that federal and state funds are used as cost-effectively as possible. To this end, the facility must also use all other available third-party resources before Medicaid funds are paid.

(B) The commissioner also has the authority to:

(i) waive the requirement in paragraph (10)(A) of this subsection, which provides that teaching nursing facilities must exist for at least three years before applying to participate in Medicaid; and

(ii) direct the department to enter into Medicaid contracts with teaching nursing facilities that meet the requirements in paragraph (10)(B)-(E) of this subsection.

(d)-(g) (No change.)

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

Issued in Austin, Texas, on October 31, 1989.

TRD-8910417

Cathy Rosenberg
Agency Liaison, Policy
Development Services
Texas Department of
Human Services

Proposed date of adoption: January 1, 1990.

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

Chapter 18. Native American Restitutionary Program

Subchapter A. Program Requirements

• 40 TAC §§18.1-18.5

The Texas Department of Human Services (DHS) proposes to adopt new §§18.1-18.5, concerning program requirements, in its Native American Restitutionary Program chapter. The new sections establish requirements for the use and administration of grant funds from the state's oil overcharge account for the purpose of providing energy-related assistance to native Americans in Texas.

Burton F. Raiford, chief financial officer, 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 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 to provide direct energy-related assistance to members of native American tribes in Texas. There will be no effect on small businesses as a result of enforcing the section. There is no anti-

ipated economic cost to persons who are required to comply with the proposed sections.

Comments on the proposal may be submitted to Cathy Rosenberg, Administrator, Policy Development Services-629, 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 authorizes the department to administer public assistance programs. The new sections are also proposed under the Oil Overcharge Restitutionary Act (Texas Civil Statutes, Article 4413(56)) and State of Texas Executive Order WFC-89-12, which authorize the department to administer the Native American Restitutionary Program.

§18.1. Program Description.

(a) The Native American Restitutionary Program (NARP) provides energy related assistance to native American tribes in Texas. The Texas Department of Human Services (DHS) serves as the supervising agency for operation of the NARP on behalf of the Energy Management Center of the Governor's Office of Budget and Planning.

(b) DHS allocates NARP funds equally among the Alabama-Coushatta Indian Tribe, the Texas Band of Kickapooes, and the Ysleta del Sur Pueblo or Tigua tribe on the basis of program plans submitted by the tribes as specified in §18.2 of this title (relating to Program Plans).

§18.2. Program Plans. Each participating tribe's program plan must identify suitable, energy related projects for the expenditure of Native American Restitutionary Program (NARP) funds and must demonstrate sufficient planning to ensure cost-effective and timely execution of each project.

(b) Each program plan must include the following elements:

(1) a general description of each energy-related project and a detailed description of the steps through which the project will be implemented;

(2) a detailed budget for each project; and

(3) documentation of the need for each project.

(c) The Texas Department of Human Services (DHS) must approve each tribe's program plan before entering into a contract with the tribe for implementing it. DHS approves program plans only when they satisfy the following criteria:

(1) the program plan demonstrates the need for each proposed project;

(2) the planning to implement each project is thorough and realistic;

(3) the budget for each project is realistic and cost-effective;

(4) each project directly addresses the energy needs of the tribe or its members; and

(5) the program plan complies with all applicable federal and state laws and regulations.

§18.3. Eligible Projects.

(a) General requirement. Participating tribes may contract with the Texas Department of Human Services (DHS) to expend Native American Restitutionary Program (NARP) funds for any combination of purposes specified in subsections (b)-(g) of this section, as long as the funds are used solely to address the energy needs of the tribes or their members.

(b) Emergency relief and energy crisis intervention. The tribal government may expend NARP funds to pay vendors of energy utility services in order to prevent interruption or termination of service and/or to restore service to low-income persons. To the same end, the tribal government may also make payment to vendors of goods and services related to the procurement of energy for heating or cooling dwellings. This assistance must address the energy needs of low-income tribal members who require emergency assistance, who are in imminent danger of utility service termination, who are experiencing other energy-related emergencies, or who meet federal poverty income guidelines. Tribal governments must give priority to elderly and handicapped people, to the families with whom these people reside, and to people who have recently become unemployed when they do not qualify for other income assistance.

(c) Home energy assistance. The tribal government may expend NARP funds to help low-income households meet the costs of home energy, either by making payments directly to the households or by making payments to their energy suppliers. This assistance must be addressed to tribal households whose incomes do not exceed 150% of federal poverty income guidelines or 60% of the state's median income.

(d) Community facility weatherization and rehabilitation. The tribal government may expend NARP funds to:

(1) insulate community facilities by installing weatherization materials;

(2) repair, modify, or replace heating and cooling systems in community facilities to improve efficiency and reduce costs; and

(3) repair, modify, or replace roofs, ceilings, doors, windows, and related architectural features of community facilities to improve energy efficiency, to improve building operation, maintenance, and safety, and to reduce energy costs.

(e) Tribal government and community energy and fuel consumption. The tribal government may expend NARP funds

to pay the costs of energy and fuel consumption incurred in the operation of community facilities and in the provision of health, safety, and community services. This assistance, however, must not be used to pay fuel costs for private vehicles or utility costs for employee housing or for buildings or parts of buildings that are used primarily for nontribal enterprises or activities.

(f) Weatherization assistance. The tribal government may expend NARP funds to install weatherization materials to insulate dwellings occupied by elderly or handicapped tribal members or by tribal members whose incomes do not exceed 150% of federal poverty income guidelines or 60% of the state's median income.

(g) Other. The tribal government may expend NARP funds for other activities that satisfy the requirements of this chapter as long as the activities:

(1) directly address the energy needs of the tribe or its members; and

(2) are approved by DHS.

§18.4. Implementation.

(a) The tribal government must contract with the Texas Department of Human Services (DHS) to carry out the approved projects in its program plan.

(b) The tribal government must provide all the on-site administrative support necessary to implement its program plan and to comply with DHS's contract requirements.

(c) The tribal government must designate a representative on the reservation to serve as the tribal contact with DHS. This representative must:

(1) direct on-site program and fiscal management;

(2) ensure compliance with all applicable accounting requirements; and

(3) submit monthly program status reports to DHS no later than 15 days after the end of each month.

(d) At least once every three months, DHS makes an on-site visit to the reservation to monitor the tribal government's implementation of its program plan. When necessary, DHS makes more frequent visits to the reservation to monitor the implementation of community facility weatherization and rehabilitation projects as well as other projects that require more frequent inspection. The tribal government must give DHS free access to the sites of its program plan projects and to all related records.

§18.5. Reimbursement.

(a) DHS reimburses the tribal government for budgeted costs incurred to implement the program plan. The department

makes payment on receipt of signed reimbursement requests that properly document accrued costs. The tribal government may submit reimbursement requests as often as twice a month. All reimbursement requests are subject to DHS approval.

(b) The tribal government must ensure that expenditures of Native American Restitutionary Program (NARP) funds comply with all applicable federal and state laws and regulations, including applicable federal and state accounting and purchasing requirements.

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

Issued in Austin, Texas, on October 31, 1990.

TRD-8910409

Cathy Rosenberg
Agency Liaison, Policy
Development Services
Texas Department of
Human Services

Proposed date of adoption: February 1, 1990.

For further information, please call: (512) 450-3785

Chapter 29. Purchased Health Services

Subchapter L. General Administration

• 40 TAC §29.1127

The Texas Department of Human Services (DHS) proposes new §29.1127, concerning in-home respiratory therapy services for ventilator-dependent persons, in its Purchased Health Services chapter. The proposal specifies that the Texas Medical Assistance Program will cover in-home respiratory therapy services for ventilator-dependent persons.

Burton F. Raiford, chief financial officer, has determined that for the first five-year period the proposed section is in effect there will be fiscal implications for state government as a result of enforcing or administering the section. The effect on state government for the first five-year period the section is in effect is an estimated cost of \$215,044 in 1990; \$383,032 in 1991; \$435,677 in 1992; \$500,136 in 1993; and \$574,080 in 1994. There will be no fiscal implications for local government as a result of enforcing or administering the section.

Mr. Raiford also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be that recipients who are ventilator-dependent will receive respiratory therapy services in their home rather than in an institutional setting. There will be no effect on small businesses as a result of enforcing the section. 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 Rosenberg, Administrator, Policy De-

Development Services Division 657, Texas Department of Human Services 222-E, P.O. Box 149030, Austin, Texas 78714-0030, within 30 days of publication in the Texas Register. DHS will hold a public hearing to accept comments on the proposal. The purpose of the public hearing will also be to consider comments on the proposed payment rates which are based on the reimbursement methodology in this proposal. Copies of the proposed rates may be obtained from Kay Staring, Purchased Health Services, 611-S, Texas Department of Human Services, P.O. Box 149030, Austin, Texas 78714-0030. The hearing will be held at 9 a.m. on November 25, 1989, in the public hearing room, 701 West 51st Street, Austin.

The amendment is proposed under the Human Resources Code, Title 2, Chapters 22 and 23, which provide the department with the authority to administer public and medical assistance programs.

§29.127. In-home Respiratory Therapy Services for Ventilator-Dependent Persons.

(a) Subject to the specifications, conditions, limitations, and requirements established by the department, in-home respiratory therapy services are available to eligible recipients who:

- (1) are ventilator-dependent for life support at least six hours per day;
- (2) have been so dependent for at least 30 consecutive days as an inpatient in one or more hospitals, skilled nursing facilities (SNF), or intermediate care facilities (ICF);
- (3) but for the availability of these respiratory care services at home, would require respiratory care as an inpatient in a hospital, SNF, or ICF;
- (4) would be eligible to have payment made for such inpatient care under the State Medicaid plan;
- (5) have adequate social support services to be cared for at home; and
- (6) wish to be cared for at home.

(b) Covered respiratory therapy services must be reasonable, medically necessary, and prescribed by the recipient's physician (M.D. or D.O.). The physician must be licensed in the state in which the physician practices.

(c) The department or its designee must authorize the services prior to their delivery. Prior authorization requests must include all pertinent medical records as required by the department or its designee to justify the medical necessity/dependency of the ventilator support and therapy services. Prior authorization is a mandatory requirement for payment. The department or its designee may extend the prior authorization based upon an interim report from the physician, documenting the medical necessity and appropriateness of continued in-home respiratory therapy services.

(d) Covered services include, but are not necessarily limited to, the following:

- (1) respiratory therapy services and treatments prescribed by the recipient's physician;
 - (2) supplies, excluding drugs, that are necessary in the administration of the therapy and treatment;
 - (3) education of the recipient and/or appropriate family members/support persons regarding the in-home respiratory care. Education must include the use and maintenance of required supplies, equipment, and techniques appropriate to the situation.
- (e) Providers of respiratory therapy services must meet the following requirements:

- (1) comply with all applicable federal, state, and local laws and regulations;
- (2) be certified by the Texas Department of Health to practice under Texas Revised Civil Statutes Article 4512L;
- (3) be enrolled and approved for participation in the Texas Medical Assistance Program;
- (4) sign a written provider agreement with the department or its designee. By signing the agreement, the provider agrees to comply with the terms of the agreement and all requirements of the Texas Medical Assistance Program including regulations, rules, handbooks, standards, and guidelines published by the department or its designee;
- (5) bill for covered services in the manner and format prescribed by the department or its designee.

(f) The department or its designee reimburses each respiratory therapy provider on a per-visit basis. Reimbursement for the visit is based on the lesser of the provider's customary charge or the maximum allowable fee or rate established by the department or its designee. Reimbursement for supplies furnished by the respiratory care practitioner is the lesser of the provider's customary charges or the maximum allowable fees or rates established by the department or its designee. The department updates its allowable fees or rates each state fiscal year by applying the implicit price deflator for personal consumption expenditures.

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

Issued in Austin, Texas, on November 1, 1989.

TRD-8910434

Cathy Rossberg
Agency Liaison, Policy
Development Services
Texas Department of
Human Services

Proposed date of adoption: January 1, 1990.
For further information, please call: (512) 450-3765

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**Part VI. Texas
Commission for the
Deaf**

**Chapter 181. General Rules of
Practice and Procedures**

**Subchapter E. Gifts, Grants,
and Donations**

- 40 TAC §§181.690, 181.692,
181.694, 181.696, 181.698,
181.700, 181.702, 181.704

The Texas Commission for the Deaf proposes new §§181.690, 181.692, 181.694, 181.696, 181.698, 181.700, 181.702, and 181.704, concerning who may accept gifts, grants, and donations for the commission; solicitation, restriction and unrestricted, and transference of gifts, grants, and donations; investing of donations; and standards of conduct between employees and officers of the commission and grantors or donors. The new sections will govern the use of an employee or property of the commission by a grantor, or donor, monetary enrichment of an officer or employee of the commission by a grantor or donor, and other potential conflicts of interest situations.

Larry D. Evans, executive director, 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 government as a result of enforcing or administering the sections.

Mr. Evans also has determined that for each year of the first five years the sections are in effect the public benefits anticipated as a result of enforcing the sections will be prevention of potential conflicts of interest in the event the commission receives gifts, grants, and donations from other sources. There will be no effect on small businesses as result of enforcing the sections. There will be no economic cost to persons who are required to comply with the sections as proposed.

Comments on the proposal may be submitted to William F. Eckstein, Coordinator of Administrative Procedures and Program Services, P.O. Box 12904, Austin, Texas 78711.

The new sections are proposed under the Human Resources Code, Chapter 81, which provides the Texas Commission for the Deaf with the authority to adopt rules governing the function of the commission and the General Appropriations Act 1989 (Senate Bill 222), 71st Legislature, Rider Number 7, Texas Commission for the Deaf, authorizing the commission for solicitation of gifts, grants, and donations.

§181.690. Purpose. The purpose of this section is to establish rules for acceptance of gifts, grants, and donations and standards of conduct to govern the relationships between officers and employees of the commission and donors or grantors.

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

Commission—The Texas Commission for the Deaf.

Employee—A regular, classified, acting, or exempt, full- or part-time employee of the commission.

Officer—Any one of the nine members of the commission's governing body duly appointed by the governor, or a member of the Board for Evaluation of Interpreters or a member of the commission's or board's committee.

Donor—One or more individuals or organizations that offer to give or give financial assistance to the commission.

Grantor—Public or private entities or agencies that award grants to the commission.

§181.694. General Authority to Accept Gifts, Grants, and Donations.

(a) The authority to accept gifts, grants, and donations for the commission is vested in the governing body of the commission. Employees of the commission are empowered to accept gifts, grants, and donations within the policies set by the commission's governing body. Receipts of such gifts, grants, and donations shall be expended for the purposes specified by the donor provided that such programs are consistent with the Human Resources Code, Chapter 81.

(b) The commission may accept gifts, grants, and donations of money, personal property, or real property for use in expanding and improving services to deaf persons of the State of Texas.

§181.696. Solicitation. The commission may solicit gifts, grants, and donations from private and public sources to be expended for the purposes specified by the donor provided that such programs are consistent with the Human Resources Code, Chapter 81.

§181.698. Investing or Depositing. All donations of money or grants will be invested or deposited with the state treasurer unless exempt by specific statute.

§181.700. Restricted/Unrestricted.

(a) All restrictive gifts, grants, and donations will be utilized for purposes specified by the donor or grantor.

(b) Unrestricted gifts, grants, and donations and any accrued interest will be expended by the executive director under the guidance of the commission's governing board.

§181.702. Transfer. No gifts, grants, and donations will be transferred to another en-

tity without written permission from the donor or grantor or the donor's or grantor's designated representative, and the written approval of the executive director.

§181.704. Standards of Conduct Between Employees and Officers and Donors.

(a) An officer or employee shall not accept or solicit any gift, favor, or service from a donor that might reasonably tend to influence the officer's or employee's official conduct.

(b) An officer or employee shall not accept employment or engage in any business or professional activity with a donor which the officer or employee might reasonably expect, would require, or induce the officer or employee to disclose confidential information acquired by reason of the officer's or employee's official position.

(c) An officer or employee shall not accept other employment or compensation from a donor which could reasonably be expected to impair the officer's or employee's independence of judgment in the performance of the officer's or employee's official duty.

(d) An officer or employee shall not make personal investments in association with a donor which could reasonably be expected to create a substantial conflict between the officer's or employee's private interest and the interest of the commission.

(e) An officer or employee shall not solicit, accept, or agree to accept any benefit for having exercised the officer's or employee's official power on behalf of a donor or performed the officer's or employee's official duties in favor of a donor.

(f) An officer or employee who has policy direction over the commission and who serves as an officer or director of a donor shall not vote on or otherwise participate in any measure, proposal, or decision pending before the donor if the commission might reasonably be expected to have an interest in such measure, proposal, or decision.

(g) An officer or employee shall not authorize a donor to use property of the commission unless the property is used in accordance with a contract between the commission and the donor, or the commission is otherwise compensated for the use of the property.

(h) In all matters relating to a donor, an officer or employee of the commission shall avoid not only impropriety but also the appearance of impropriety.

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

Issued in Austin, Texas on October 23, 1989.

TRD-8910875

Larry D. Evans
Executive Director
Texas Commission for the
Deaf

Earliest possible date of adoption: December 8, 1989

For further information, please call: (512) 462-4801

Subchapter F. Fees

• 40 TAC §181.810

The Texas Commission for the Deaf proposes an amendment to §181.810, regarding rates for the publications. The amendment is necessary because the commission has determined to charge for a copy of the handbook to cover the commission's publication cost.

Larry D. Evans, executive director, has determined that there will be fiscal implications for state and local government and small businesses as a result of enforcing or administering the proposed section. The effect on governments and businesses for the first five-year period the proposed section will be in effect is a charge for obtaining copies of the handbook as established by the commission.

Mr. Evans also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be the availability of information relating services to individuals who are deaf and the assurance of quality services through the direct services program. The anticipated economic cost to persons who are required to comply with the section as proposed will be a charge for obtaining copies of the handbook as established by the commission.

Comments on the proposal may be submitted to William F. Eckstein, Coordinator of Administrative Procedures and Program Services, P.O. Box 12804, Austin, Texas 78711-2804.

The amendment is proposed under the Human Resources Code, §81.006(g), which provides the Texas Commission for the Deaf with the authority to adopt rules for publication fees.

§181.810. Publications.

(a) (No change.)

(b) There is a charge of \$5.00 for a copy of the Resources Handbook for Interpreter Services in Texas. (There is no charge for a copy of the Directory of Sign Language/Oral Interpreters for the Deaf in Texas, but for mailing directories, a total cost of postage and handling is \$1.50 per copy. For each listing in the directory of the name, address, and telephone number of an interpreter; interpreter services, or entity providing interpreter services, there is a \$2.00 charge. Each listing is entitled to one free copy. An advertisement of services or businesses will be charged at an appropriate higher rate to be determined by the commission prior to publishing the directory.)

(c)-(f) (No change.)

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

Issued in Austin, Texas, on October 30, 1969.

TRD-8910418

Larry D. Evans
Executive Director
Texas Commission for the
Deaf

Earliest possible date of adoption: December
8, 1969

For further information, please call: (512)
469-9901

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 19. EDUCATION Part II. Texas Education Agency

Chapter 69. Proprietary Schools and Veterans Education

Subchapter E. Guidelines and Minimum Standards for Operation of Texas Proprietary Schools

• 19 TAC §69.128

The Texas Education Agency has withdrawn the emergency effectiveness of amendment to §69.128, concerning the Guidelines and Minimum Standards for Operation of Texas Proprietary Schools. The text of the emergency amendment appeared in the September 26, 1989, issue of the *Texas Register* (14 TexReg 4059). The effective date of this withdrawal is November 17, 1989.

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

TRD-8910334 Cries Clouet McCuller
Director for Planning
Coordination
Texas Education Agency

Effective date: November 17, 1989

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

Chapter 149. Education Personnel Development

Subchapter D

• 19 TAC §149.71

The Texas Education Agency has withdrawn the emergency effectiveness of amendment to §149.71, concerning the Teacher Career Ladder. The text of the emergency amendment appeared in the October 31, 1989, is-

due of the *Texas Register* (14 TexReg 5768). The effective date of this withdrawal is October 27, 1989.

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

TRD-8910343 Cries Clouet McCuller
Director for Planning
Coordination
Texas Education Agency

Effective date: October 27, 1989

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

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 has withdrawn from consideration for permanent adoption a proposed amendment §3.558 which appeared in the September 22, 1989, issue of the *Texas Register* (14 TexReg 4906). The effective date of this withdrawal is October 30, 1989.

Issued in Austin, Texas, on October 30, 1989

TRD-8910378 Wade Anderson
Rules Coordinator
Comptroller of Public
Accounts

Effective date: October 30, 1989

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

Part IV. Employees Retirement System of Texas

Chapter 81. Insurance

• 34 TAC §81.7

The Employees Retirement System of Texas has withdrawn from consideration for permanent adoption a proposed amendment §81.7 which appeared in the April 5, 1989, issue of the *Texas Register* (14 TexReg 2140). The effective date of this proposed action is October 25, 1989.

Issued in Austin, Texas, on October 25, 1989

TRD-8910265 William S. Nail
General Counsel
Employees Retirement
System of Texas

Effective date: October 25, 1989

For further information, please call: (512) 476-6431, ext 213

TITLE 37. PUBLIC SAFETY AND CORRECTIONS

Part V. Board of Pardons and Paroles

Chapter 145. Parole

• 37 TAC §§145.50, 145.51, 145.53

The Board of Pardons and Paroles has withdrawn from consideration for permanent adoption a proposed amendment which appeared in the September 19, 1989, issue of the *Texas Register* (14 TexReg 4857). The effective date of this withdrawal is October 25, 1989.

Issued in Austin, Texas, on October 25, 1989

TRD-8910251 Harry G. Green
General Counsel
Board of Pardons and
Paroles

Effective date: October 25, 1989

For further information, please call: (512) 469-3708

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 30 days after the agency files the correct document with the *Texas Register*, unless a later date is specified or unless a federal statute or regulation requires implementation of the action on shorter notice.

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

TITLE 1.

ADMINISTRATION

Part V. State Purchasing and General Services Commission

Chapter 113. Central Purchasing Division

Purchasing

• 1 TAC §§113.3

The State Purchasing and General Services Commission adopts an amendment to §113.3, without changes to the proposed text as published in the August 29, 1989, issue of the *Texas Register* (14 TexReg 4355).

The amendment provides for implementation of Article V, §104, Senate Bill 222, 71st Legislature, Regular Session, 1989.

The section as amended details the procedure for and a listing of individuals to receive notice of the commission's exception to a procurement made under the provisions of Texas Civil Statutes, Article 601b, §9.09.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 601b, §9, which provide the State Purchasing and General Services Commission with the authority to institute and maintain an effective and economical system for purchasing supplies, materials, services, and equipment.

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 October 25, 1989.

TRD-8910331

John R. Neel
General Counsel
State Purchasing and
General Services
Commission

Effective date: November 17, 1989

Proposal publication date: August 29, 1989

For further information, please call: (512) 463-3446

Surplus Property Sales

• 1 TAC §§113.72, 113.73, 113.75

The State Purchasing and General Services Commission adopts amendments to §113.72 and §113.73, and new §113.75, without changes to the proposed text as published in

the August 29, 1989, issue of the *Texas Register* (14 TexReg 4356).

The amendments and new section are adopted to implement the provisions of Senate Bills 508 and 723, 71st Legislature, Regular Session, 1989.

Amendments to §113.72, concerning definitions define the terms "assistance organization" and "political subdivision." Amendments to §113.73 concerning the sale and disposal of surplus or salvage property provide procedures for transfer of surplus or salvage to assistance organizations and the assistance of the Texas Surplus Property Agency in the disposal process. New §113.75 adopts by reference a memorandum of understanding between the Commission and the Texas Surplus Property Agency.

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

The amendments and new section are adopted under Texas Civil Statutes, Article 601b, Article 9, §9.09, which provide the State Purchasing and General Services Commission with the authority to promulgate rules to accomplish the purpose of Article 9.

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 October 25, 1989.

TRD-8910330

John R. Neel
General Counsel
State Purchasing and
General Services
Commission

Effective date: November 17, 1989

Proposal publication date: August 29, 1989

For further information, please call: (512) 463-3446

Competitive Cost Review

• 1 TAC §113.91

The State Purchasing and General Services Commission adopts an amendment to §113.91, without changes to the proposed text as published in the September 29, 1989, issue of the *Texas Register* (14 TexReg 4356).

The amendments provide for the implementation of those parts of Senate Bills 417, 457, and 489 pertaining to the commission's competitive cost review program.

Under this proposal the following agencies would be subject to the competitive cost review requirements of Texas Civil Statutes, Article 601b, §13: the Central Education

Agency, the Texas Higher Education Coordinating Board, and the Department of Agriculture.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 601b, §13, which provide the State Purchasing and General Services Commission with the authority and responsibility to conduct cost comparison reviews of commercial activities performed by certain state agencies.

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 October 25, 1989.

TRD-8910329

John R. Neel
General Counsel
State Purchasing and
General Services
Commission

Effective date: November 17, 1989

Proposal publication date: August 29, 1989

For further information, please call: (512) 463-3446

Chapter 117. Centralized Services Division

Centrex System

• 1 TAC §§117.1, 117.2, 117.3, 117.4, 117.5

The State Purchasing and General Services Commission adopts the repeal of §§117.1, 117.2, 117.3, 117.4, and 117.5, without changes to the proposed text, as published in the August 29, 1989, issue of the *Texas Register* (14 TexReg 4360).

The repeals are necessary because the Centrex telephone system is no longer operational and rules pertaining to its replacement, the Centralized Capitol Complex telephone system, have previously been adopted in §121.9 (a)-(h).

The repeals function to eliminate outdated, unnecessary rules of the commission.

No comments were received regarding adoption of the repeals.

The repeals are adopted under Texas Civil Statutes, Article 601b, which provide the State Purchasing and General Services Commission with the authority to promulgate rules necessary for the administration and enforcement of the Act.

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

Issued in Austin, Texas, on October 25, 1989.

TRD-8910328

John R. Neel
General Counsel
State Purchasing and
General Services
Commission

Effective date: November 17, 1989

Proposal publication date: August 29, 1989

For further information, please call: (512) 463-3446

Messenger Service

• 1 TAC §117.31

The State Purchasing and General Services Commission adopts an amendment to §117.31, without changes to the proposed text as published in the August 29, 1989, issue of the *Texas Register* (14 TexReg 4357).

The amendment implements the provisions of House Bill 411, 71st Legislature, Regular Session, 1989.

The amended section apprises the public and affected agencies of the expansion of the Commission's Messenger Service to include packages, as well as mail, and to extend to the entirety of Travis County.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 601b, which provides the State Purchasing and General Services Commission with the authority to promulgate rules necessary for the administration and enforcement of the Act.

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

Issued in Austin, Texas, on October 25, 1989.

TRD-8910327

John R. Neel
General Counsel
State Purchasing and
General Services
Commission

Effective date: November 17, 1989

Proposal publication date: August 29, 1989

For further information, please call: (512) 463-3446

Chapter 121.

Telecommunications Services Division

Telecommunications Services Division

• 1 TAC §121.6

The State Purchasing and General Services Commission adopts an amendment to §121.6, without changes to the proposed text

as published in the August 29, 1989, issue of the *Texas Register* (14 TexReg 4357).

The amendment is adopted to establish agency responsibilities and procedures conforming to the requirements of the law.

The amendment apprises state agencies of the requirements and procedures necessary to request waivers for intercity telecommunications facilities or services that cannot be provided at reasonable costs on the TEX-AN network.

One comment recommended that intercity telecommunications facilities or services obtained from regulated utilities should be excluded from the required process of requesting a waiver.

Commenting against the amendment was the State Department of Highways and Public Transportation.

The agency disagrees with the comment because virtually all services provided on the TEX-AN network are provided by regulated utilities. There is no legal authority in Texas Civil Statutes, Article 601b, or Senate Bill 222, Article V, §48, for excluding facilities and services provided by regulated utilities from the waiver process.

The amendment is adopted under Texas Civil Statutes, Article 601b, which provides the State Purchasing and General Services Commission with the authority to promulgate rules necessary for the administration and enforcement of the Act and Senate Bill 222, Article V, §48.

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 October 25, 1989.

TRD-8910328

John R. Neel
General Counsel
State Purchasing and
General Services
Commission

Effective date: November 17, 1989

Proposal publication date: August 29, 1989

For further information, please call: (512) 463-3446

TITLE 16. ECONOMIC REGULATION

Part I. Railroad Commission of Texas

Chapter 5. Transportation Division

Subchapter L. Insurance Requirements

• 16 TAC §5.183

The Railroad Commission of Texas adopts an amendment to §5.183 with changes to the proposed text as published in the August 8, 1989, issue of the *Texas Register* (14 TexReg 3865).

The section as amended will provide the shipping public greater protection in the event of

loss or damage to cargo. In addition, the language clarification will aid the public by making the language consistent with current Railroad Commission interpretation, and by setting out the effect of multiple claims.

The amendment as adopted will clarify the meaning of these subsections by amending obsolete and confusing language. It will also raise the required minimum coverage from \$1,000 and \$2,000 to \$5,000. In addition to the changes as published, the amendment as adopted will clarify the effect of the limit in paragraph (3) of the section when multiple claimants have suffered damages to shipments in a single vehicle which total more than \$5,000.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Texas Motor Carrier Act, Texas Civil Statutes, Article 911b, §13, which authorize the Commission to require motor carriers to have cargo insurance.

§5.183. Minimum Limits. The minimum amounts referred to in §5.181 of this title (relating to Evidence of Insurance Required) are hereby prescribed as follows:

- (1) (No change.)
- (2) limit for loss of or damage to total cargo shipped by any one shipper on any one motor vehicle \$5,000; and
- (3) limit for loss of or damage to total cargo carried on any one motor vehicle \$5,000. In cases where multiple shippers sustain damage and the aggregate amount of damage is greater than the cargo insurance in force, the insurance company shall prorate the benefits among the shippers in relationship to the damage incurred by each shipper.

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 October 30, 1989.

TRD-8910428

Kent Hance
Chairman
Railroad Commission of
Texas

Effective date: November 21, 1989

Proposal publication date: August 8, 1989

For further information, please call: (512) 463-7094

Subchapter M. Motor Bus Companies

• 16 TAC §5.217

The Railroad Commission of Texas, pursuant to a petition filed by Kerrville Bus Company Inc., Painter Bus Lines, Inc., Kerrville Tours, Inc., and North Texas Lines, Inc., adopts an amendment to §5.217, with changes to the proposed text as published in the August 8, 1989, issue of the *Texas Register* (14 TexReg 3868).

The amendment as adopted will set the liability insurance required for motor bus companies at an amount equal to that required by the Interstate Commerce Commission for interstate motor bus companies. In addition, the Railroad Commission of Texas has subjected motor bus companies to the same cargo insurance requirements as motor carriers. The originally published version set out the cargo requirements for bus companies separately in this section.

The section as amended will afford the bus riding public greater insurance benefits for death or injury in the event of an accident, and put intrastate and interstate motor bus carriers on equal competitive footing by increasing the amount of intrastate insurance coverage required to equal that required for interstate carriers. In addition, the clarification of the cargo insurance requirements will be placed in §5.183 of this title (relating to Minimum Limits).

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Texas Motor Bus Act, Texas Civil Statutes, Article 911a, which authorize the Commission to regulate motor buses in all matters.

§5.217. Insurance. All motor bus companies shall be subject to and governed by the insurance requirements of Subchapter L of this chapter (relating to Insurance Requirements). The minimum amounts for each motor vehicle as referred to in §5.181 of this title (relating to Evidence of Insurance Required) are hereby prescribed as follows for motor bus companies:

(1) combined single limit for bodily injuries to or death of all persons injured or killed in any accident, and loss or damage in any one accident to property of others (excluding cargo), for any vehicle with a seating capacity of 21 passengers or more \$5,000,000;

(2) combined single limit for bodily injuries to or death of all persons injured or killed in any accident, and loss or damage in any one accident to property of others (excluding cargo), for any vehicle with a seating capacity of 20 passengers or less \$1,500,000;

(3) when a motor bus company is operating as a motor carrier of property, the motor bus company shall maintain cargo insurance in the amounts required by §5.183 of this title (relating to Minimum Limits).

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 October 30, 1989.

TRD-8910427 Kent Hance
Chairman
Railroad Commission of
Texas

Effective date: November 21, 1989

Proposal publication date: August 8, 1989

For further information, please call: (512) 483-7084

Chapter 11. Surface Mining and Reclamation Division

Subchapter D. Coal Mining

• 16 TAC §11.221

The Railroad Commission of Texas adopts an amendment to §11.221, without changes to the proposed text as published in the September 19, 1989, issue of the *Texas Register* (14 TexReg 4837).

The amendment received no adverse comment as proposed by the commission.

The amendment will provide additional information of an applicant's violation history and will provide additional means to prevent the issuance of permits to persons who have owned or controlled a mine with uncorrected violations or unpaid fines or fees. The amendment will also allow consideration of these factors in permit reviews.

One commenter stated appreciation for the opportunity to review the section, but expressed no comment on the section.

The amendment is adopted under Texas Civil Statutes, Article 5920-11, §6, which provide the Railroad Commission of Texas with the authority to promulgate rules pertaining to surface coal mining and reclamation operations.

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 October 30, 1989.

TRD-8910402 Kent Hance
Chairman
Railroad Commission of
Texas

Effective date: November 20, 1989

Proposal publication date: September 19, 1989

For further information, please call: (512) 483-7152

Part IV. Texas Department of Licensing and Regulation

Chapter 75. Air Conditioning and Refrigeration Contractor License Law

• 16 TAC §§75.1, 75.10, 75.20, 75.30, 75.40, 75.50, 75.60, 75. 70, 75.80, 75.90, 75.100

(Editor's note: For clarity the following sections adopted by the Department of Licensing and Regulation, are being printed in their entirety, even though some are adopted without changes to the proposed version. The effective date of the permanent adoption of all the sections is November 15, 1989.)

The Texas Department of Licensing and Regulation adopts new §§75.1, 75.10, 75.20, 75.30, 75.40, 75.50, 75.60, 75.70, 75.80, 75.90, and 75.100. Sections 75.10, 75.20, 75.30, 75.40, 75.60, and 75.70 are adopted with changes to the proposed text as published in the May 28, 1989, issue of the *Texas Register* (14 TexReg 2539). Sections 75.1, 75.50, 75.80, 75.90, and 75.100 are adopted without changes from the proposed text.

The agency determined a need for a standard numbering system, therefore, these numbered, reorganized sections are being adopted. Sections 75.10, 75.20, 75.30, 75.40, 75.60, and 75.70 are adopted with changes to the proposed text in order to comply as mandated by House Bill 869, House Bill 822, House Bill 1631, and House Bill 2936.

These sections have been reorganized, renumbered, edited, and amended to improve clarity and consistency, and incorporate changes as a result of the passage of House Bill 869, House Bill 822, House Bill 1631, and House Bill 2936.

No comments were received regarding adoption of the new sections.

The new sections are adopted under Texas Civil Statutes, Article 8861, which provide the Texas Department of Licensing and Regulation with the authority to promulgate rules necessary to effectuate the purpose of the Act.

§75.1. Authority.

(a) The sections in this chapter are authorized by the Air Conditioning and Refrigeration Contractor License Law, Article 8861, §3.

(b) Article 8861 became effective September 1, 1983. Licensing became mandatory January 1, 1986. Amendments were passed in 1985 and 1987. Commercial refrigeration was added in the 1987 amendment, effective September 1, 1987.

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

Advertising or advertisement—Any commercial message which promotes the services of an air conditioning and refrigeration contractor and which appears in or is presented on radio, television, a public-address system, telephone solicitation, newspapers, magazines, leaflets, fliers, catalogs, direct mail literature, other printed material, an inside or outside sign, or window display.

Advisory board—The Air Conditioning and Refrigeration Contractors Advisory Board.

Air conditioning and refrigeration contracting—The design, installation, construction, maintenance, service, repair, alteration, or modification of a product or of equipment in environmental air conditioning, commercial refrigeration, or process cooling or heating systems.

Air conditioning and refrigeration contractor—A person who performs air conditioning and refrigeration contracting.

Assumed name—A business name which has been legally registered with the secretary of state, or a county clerk, as an assumed name being used by a company.

Boiler—As defined in the Texas Boiler Law, Texas Civil Statutes, Article 5221c.

Business affiliation—The company that is being operated using the specific license issued.

Commercial refrigeration—The use of mechanical or absorption equipment to control temperature, humidity, or both in order to satisfy the intended use of a specific space.

Commission—The Texas Commission of Licensing and Regulation.

Commissioner—The commissioner of Licensing and Regulation.

Cooling capacity—The nominal tonnage of the compression equipment based on 40 degrees Fahrenheit suction temperature and 105 degrees Fahrenheit condensing temperature.

Department—The Texas Department of Licensing and Regulation, Air Conditioning and Refrigeration Licensing Section, P.O. Box 12157, Austin, Texas 78711.

Direct personal supervision—Will be satisfied if the entity employed a full time licensee in a responsible position. Each air conditioning and refrigeration contractor licensed under the Act shall have a full time licensee in direct supervision of the work in each of his permanent offices.

Environmental air conditioning—The process of treating air to control temperature, humidity, cleanliness, ventilation, and circulation to meet human comfort requirements.

Environmental air conditioning maintenance work—Repair work and all other work required for the continued normal performance of an environmental air conditioning system. The term does not include the installation of a total replacement of the system or the installation of boilers or pressure vessels that must be installed by licensed persons pursuant to rules and regulations adopted by the commissioner under the Texas Boiler Law, Chapter 436, 45th Legislature, 1937, Texas Civil Statutes, Article 5221c.

Heating capacity—Will be measured in British thermal units per hour (Btu/h) output.

Mechanical integrity—Physical installation of products, systems, or equipment in accordance with their intended purpose and according to:

(A) standards at least as strict as the standards set forth in the *Uniform Mechanical Code* published jointly by the International Conference of Building Officials and the International Association of Plumbing and Mechanical Officials or their successor organizations, or the *Standard Mechanical Code* published by the Southern Building Code Congress International, Inc., or its successor organizations;

(B) all other applicable codes; and

(C) the manufacturer's specifications.

Municipal authority—The elected governing body of the municipality.

Municipality—Any incorporated city or town.

Permanent office—Any office, branch office, or location which has the ability to enter into contractual obligations to perform air conditioning and/or refrigeration contracting work and have control and supervisory responsibility over these contracts.

Person—An individual.

Process cooling or heating—Includes the control of temperature, humidity, or cleanliness solely for proper operation of equipment or for production requirements.

Program manager—The program manager of the Air Conditioning and Refrigeration Section of the Texas Department of Licensing and Regulation.

Subcontractor—A person contracted by a Texas air conditioning contractor license (TACL) licensed contractor to perform a certain task. The TACL licensed contractor is responsible for the work performed by the subcontractor.

The Act—The Air Conditioning and Refrigeration Contractor License Law, Texas Civil Statutes, Article 8861.

§75.20. Licensing Requirements.

(a) Applications.

(1) Each person desiring a State of Texas air conditioning and refrigeration contractor license shall request an application from the department. All applications shall be submitted only on the form approved by the commissioner and provided by the department. Acknowledgment of the receipt of an acceptable application will be made within 10 working days and will indicate the next actions to be taken.

(A) Incorrect or incomplete applications will be returned with an explanation of the problem within 10 working days.

(B) Applications submitted indicating a conviction of a felony are processed separately. The applicant is requested to explain in writing the circumstances regarding their conviction(s). The provisions of subsection (d) of this section are followed and must be responded to by the applicant.

(2) An applicant for an air conditioning and refrigeration contractor license must be at least 18 years old and must present to the commissioner satisfac-

tory evidence of at least 36 months of practical experience with the tools of the trade in the preceding five years. For purposes of the experience requirement, a degree or diploma in air conditioning engineering, refrigeration engineering, or mechanical engineering from an institution of higher education whose program is approved by the Texas State Board of Registration for Professional Engineers for the purpose of licensing professional engineers is considered the equivalent of two years of practical experience. Credit for air conditioning and refrigeration courses emphasizing hands-on training taken at schools accredited by the Texas Education Agency, the Coordinating Board of the Texas College and University System, and the National Association of Trade and Technical Schools will be allowed at the rate of one month's credit for each two months of successfully completed training. Transcripts will be required. The applicant must specify on the application form prescribed by the commissioner, the class of license and each endorsement he or she seeks. The application must be verified by the program manager. Before an applicant can be approved to take the applicable exam, the following must be received and approved by the department:

(A) the application form complete and correctly filled out;

(B) a statement of the applicant's practical experience;

(C) evidence of the insurance coverage required. The license will not be issued before evidence of the insurance coverage has been received by the department; however, an applicant may qualify to take the exam without evidence of insurance coverage;

(D) the examination fee. All examination fees should be paid by cashier's check or money order.

(3) An applicant's application file must be complete and received by the program manager not less than 45 days prior to being scheduled for an examination.

(4) Applicants may appeal any dispute arising from a violation of the time periods set for processing an application. An appeal is perfected by filing with the commissioner of the department a letter explaining the time period dispute. The letter of appeal must be received by the commissioner no later than 20 days after the date the dispute arose. The Legal Section will decide the appeal within 20 days of the receipt of the letter of appeal by the commissioner.

(b) Exams.

(1) Class A license exam shall consist of 100 questions. Class B license exam shall consist of 50 questions.

(2) An applicant who correctly answers 70% of the exam questions shall be eligible for a State of Texas air conditioning and refrigeration contractors license, provided the license fee has been paid and the proof of insurance coverage has been received by the department. Eligibility for a license shall last not more than two years from the date of examination result notification. Applicants who pass the exam but do not choose to acquire a license before the two-year period must take a re-exam and pay the required re-examination fee.

(3) All applicants will be notified of the examination results within 30 days of the exam date.

(4) An applicant who does not correctly answer 70% of the exam questions (or make a minimum passing grade of 70) shall be eligible for re-examination, provided the applicant notifies the program manager in writing and pays the re-exam fee for each re-exam taken. The written notice must be received by the program manager not less than 45 days prior to being scheduled for a re-examination.

(5) An applicant shall be notified by the program manager of the scheduled examination date within a reasonable amount of time prior to the examination. Applicants who are scheduled for an examination but fail to appear as scheduled and have failed to notify the program manager not less than 72 hours prior to the scheduled exam must reapply and pay the examination fee prior to being rescheduled. An applicant who has notified the program manager more than 72 hours before the scheduled exam and received a free reschedule may be rescheduled in this manner two times. If he wishes to reschedule a third time he must reapply and pay the full fee. An applicant who notifies the program manager less than 72 hours prior to a scheduled examination of the need to reschedule due to unforeseen circumstances (subject to approval by the program manager) may do so without the required rescheduling fee. An applicant may only be rescheduled in this manner one time. The examination notification form must be submitted confirming the reason for rescheduling.

(6) An applicant who fails an examination may request from the commissioner an analysis of his performance on the examination. The request must be in writing and must be received within 30 days of the date of the exam grade notification form.

(7) An applicant may request an oral exam. The request must be in writing and must be received at least 45 days before the exam date.

(c) Licenses.

(1) A Class A license entitles the licensee to perform air conditioning and refrigeration contracting, of each type for which the license is endorsed, on systems, products, or equipment of any size or capacity.

(2) A Class B license entitles the licensee to perform air conditioning and refrigeration contracting, of each type for which the license is endorsed, on systems, products, or equipment of not more than 25 tons cooling capacity or of not more than 1.5 million British thermal units (Btu's) per hour output heating capacity. A combination of smaller units totaling more than 25 tons of cooling capacity or more than 1.5 million Btu's per hour of heating capacity shall not be construed as a system requiring a Class A license.

(3) Endorsements are of two types, environmental air conditioning, and commercial refrigeration and process cooling and heating.

(A) An environmental air conditioning endorsement entitles the licensee to perform air conditioning and refrigeration contracting in relation to environmental air conditioning with the class of license held.

(B) A commercial refrigeration and process cooling and heating endorsement entitles the licensee to perform air conditioning and refrigeration contracting in relation to commercial refrigeration and process cooling and heating within the class of license held.

(4) Each license shall be endorsed for either environmental air conditioning or commercial refrigeration and process cooling and heating, or both. For each endorsement, the licensee must perform satisfactorily on a separate examination related to the endorsement. A licensee may not perform under a state license air conditioning and refrigeration contracting of a type for which the person's license is not endorsed.

(5) There will be separate examinations for each class of license and, within each class, separate examinations for environmental air conditioning and for commercial refrigeration and process cooling and heating.

(6) A person who holds a valid Class A air conditioning contractor license on September 1, 1987, is entitled, without additional examination, to a license as a Class A air conditioning and refrigeration contractor with endorsements for environmental air conditioning and for commercial refrigeration and process cooling and heating if the licensee applies to the commissioner of the Texas Department of Licensing and Regulation not later than September 1, 1990.

(7) A person who holds a valid Class B air conditioning contractor license on September 1, 1987, is entitled, without additional examination, to a Class B air conditioning and refrigeration contractor license of the same class with endorsements for environmental air conditioning and for

commercial refrigeration and process cooling and heating if the licensee applies to the commissioner of the Texas Department of Licensing and Regulation not later than September 1, 1990.

(8) Any contractor who had a Class B license in environmental air conditioning on September 1, 1987, and who, passing the exam for a Class A license in environmental air conditioning, upgrades his license, is eligible for a Class B endorsement for commercial refrigeration and process cooling and heating. In order to be issued a Class A license with both endorsements, he must also pass an exam for Class A commercial refrigeration and process cooling and heating.

(9) A contractor who wishes to have endorsements of different classes, either a Class A in environmental air conditioning and a Class B in commercial refrigeration and process cooling and heating, or a Class B in environmental air conditioning and a Class A in commercial refrigeration and process cooling and heating, must buy a separate license for each endorsement. Each license will expire three years from the date of issue, and will not have concurrent expiration dates unless both are issued on the same date.

(10) In order to be eligible for separate licenses for different classes, a contractor must have requested a Class B endorsement for commercial refrigeration and process cooling and heating based on a Class B environmental air conditioning license held on September 1, 1987, and must have passed an exam for a Class A endorsement for environmental air conditioning; or he must have passed an exam for each Class endorsement for which he wishes to be licensed.

(11) A contractor may have only one endorsement per license when he has two separate licenses. Both licenses must have the same business affiliation and permanent and business addresses.

(12) The requirement for insurance for separate licenses can be met with a single policy with limits at least as high as those required for a Class A license.

(13) Any violation of the law or the rules and regulations resulting in suspension or revocation of one license would automatically result in suspension or revocation of both licenses. A status of inactive or a waiver of insurance for one license would automatically be applied to both licenses.

(14) Licensed air conditioning and refrigeration contractors shall not be simultaneously employed by, or work for, more than one business entity.

(15) In a building or a complex of buildings having more than one air conditioning or heating unit, a contractor holding a Class B license may design, install, construct, maintain, service, repair, alter, or

modify any unit of 25 tons or less of cooling capacity or 1.5 million Btu/h or less of heating capacity. A Class B license holder cannot design, install, construct, maintain, service, repair, alter, or modify components of a system where either the cooling source has a unit capacity of more than 25 tons or the heating source has a unit capacity of more than 1.5 million Btu/h. A Class B license holder may work on a combination of units where the combination total is more than 25 tons cooling capacity or more than 1.5 million Btu/h, as long as each complete, individual unit has a cooling capacity of 25 tons or less and a heating capacity of 1.5 million Btu/h or less.

(16) A license issued by a municipality of this state is valid under the terms of the license within that municipality. However, a license issued under the Act is valid throughout the state, and the holder and people under supervision are not required to hold a municipal license to practice air conditioning and refrigeration contracting in any municipality within this state.

(d) Denial of license: criminal background.

(1) The following criteria shall be utilized to determine whether an applicant shall be issued a license if that applicant states in their application for said license that they have previously been or are presently under conviction for a criminal offense:

(A) the nature and seriousness of the crime;

(B) the relationship of the crime to the purpose of requiring a license to engage in the occupation or industry;

(C) the extent to which a license might offer an opportunity to engage in further criminal activity of the same or similar type as that in which the applicant previously had been involved;

(D) the relationship of the crime to the ability, capacity, or fitness required to perform the duties and discharge the functions and responsibilities of the licensed occupation or industry.

(2) In addition to the factors that may be considered in paragraph (1) of this subsection, the department, in determining the present fitness of a person who has been convicted of a crime, may consider the following:

(A) the extended nature of the person's past criminal activity;

(B) the age of the person at the time of the commission of the crime;

(C) the amount of time that has elapsed since the person's last criminal activity;

(D) the conduct and work activity of the person prior to and following the criminal activity;

(E) evidence of the person's rehabilitation or attempted rehabilitation effort while incarcerated or following release; and

(F) other evidence of the person's present fitness including letters of recommendation from prosecution, law enforcement, and correctional officers who prosecuted, arrested, or had custodial responsibility for the person, the sheriff and chief of police in the community where the person resides, and any other persons in contact with the convicted person.

(3) It shall be the responsibility of the applicant to the extent possible to secure and provide to the licensing authority the recommendations of the prosecution, law enforcement, and correctional authorities as required by these rules.

(4) The applicant should also furnish proof in any form, as may be required by the licensing authority, that they have maintained a record of steady employment and have otherwise maintained a record of good conduct and have paid all outstanding court costs, supervision fees, fines, and restitution as may have been ordered in all criminal cases in which the applicant had been convicted.

(5) If the department denies a person a license or the opportunity to be examined for a license in accordance with these rules because of the person's prior conviction of a crime and the relationship of the crime to the license, the department shall:

(A) notify the person in writing stating reasons for denial or disqualification;

(B) use the review procedure provided by Texas Civil Statutes, Article 6252-13c and 6252-13d.

(6) The department will be concerned with those offenses defined as crimes of moral turpitude by statute or common law; Class A misdemeanors to first, second and third degree felonies carrying fines and/or imprisonment or both. Special emphasis shall be given to crimes of robbery, burglary, theft, embezzlement, and conversion.

(e) Renewals.

(1) A license holder is responsible for the timely filing of the renewal application. Failure to receive notification

from the department prior to the expiration date of the license will not excuse failure to file for renewal.

(2) To renew a license, each license holder shall submit to the department a renewal application accompanied by the renewal fee and evidence of the insurance requirement as provided in §75.40 of this title (relating to Insurance Requirement). The renewal application and renewal fee shall be received by the department not less than 30 days prior to the expiration date. Each license shall be renewed for a three-year period.

(3) A license that has expired for a period of two years or less may be renewed by submitting the renewal application, payment of the renewal fee, evidence of the insurance requirement as provided in §75.40 of this title (relating to Insurance Requirement) and an additional \$50 late renewal penalty fee. If a license has expired for a period of more than two years, that license may not be renewed. The former license holder may obtain a new license in the same manner as a new applicant, including taking the applicable exam and payment of all required fees.

(4) Contractors renewing their licenses must sign the renewal notice which will be sent to them.

§75.30. Exemptions.

(a) The Act and its rules and regulations do not apply to a person who:

(1) performs air conditioning and refrigeration contracting in a building owned solely by him as his home;

(2) performs environmental air conditioning maintenance work if:

(A) the person is a maintenance man or maintenance engineer who is a regular bona fide employee of the property owner, the property lessee, or the management company managing the property where the maintenance work is being performed;

(B) the work is performed in connection with the business in which the person is employed; and

(C) the person and the person's employer referred to in subparagraph (A) of this paragraph do not engage in the occupation of air conditioning and refrigeration contracting for the general public;

(3) performs air conditioning and refrigeration contracting and is regularly employed by a regulated electric or gas utility. Air conditioning and refrigeration contracting must be performed in connection with the utility business in which the person is employed;

(4) is licensed as a professional engineer under the Texas Engineering Practice Act, Texas Civil Statutes, Article 3271a, performs work in connection with the business in which the person is employed, and does not engage in the practice of air conditioning and refrigeration contracting for the general public;

(5) performs process cooling or heating work for all industrial operation such as a chemical plant, petrochemical plant, refinery, natural gas plant, or natural gas treating plant when employed by that operation;

(6) performs air conditioning and refrigeration contracting on:

(A) a portable or self-contained ductless environmental air conditioning product that has a cooling capacity of three tons or less;

(B) a portable or self-contained heating product that does not require the forced movement of air outside the heating unit; or

(C) environmental air conditioning equipment that is intended for temporary use and is not fixed in place;

(7) performs plumbing work and is licensed under the Plumbing License Law, Texas Civil Statutes, Article 6243-101. A person licensed under the Act may not perform or offer or attempt to perform any act, service, or function that is defined as plumbing work under the Plumbing License Law, unless licensed under that law. A person who is licensed in this state as a plumber and is engaged in business as a plumber may not perform or offer or attempt to perform air conditioning and refrigeration contracting unless licensed under the Act;

(8) assists in the performance of air conditioning and refrigeration contracting work under the direct personal supervision of a license holder. A person who assists in the performance of air conditioning and refrigeration work may not engage in the practice of air conditioning and refrigeration work for the general public without being under direct personal supervision by a duly licensed air conditioning and refrigeration contractor. To directly supervise air conditioning and refrigeration work, a license holder must accept responsibility for work done by those persons assisting the license holder in meeting the standards for air conditioning and refrigeration work established by the commissioner under the Act;

(9) is regulated under the Natural Resources Code, Chapter 113. A person licensed under the Act may not perform or offer or attempt to perform any act, service, or function regulated under the Natural Resources Code, Chapter 113, unless licensed

or exempted by rule under that law. A person regulated under the Natural Resources Code, Chapter 113, may not perform or offer or attempt to perform air conditioning or refrigeration contracting unless licensed under the Act;

(10) performs air conditioning maintenance work if the person is licensed as a professional engineer under the Texas Engineering Practice Act, Texas Civil Statutes, Article 3217a; the work is performed in connection with the business in which the person is employed; and the person does not engage in the occupation of air conditioning and refrigeration contracting for the general public; or

(11) is registered as a manufacturer, retailer, or installer and regulated pursuant to the Texas Manufactured Housing Standards Act, Texas Civil Statutes, Article 5221f, and that engages exclusively in air conditioning and refrigeration contracting for manufactured homes.

(b) The work described by subsection (a)(1)-(5) of this section remains subject to any permit, inspection, or approval requirements prescribed by a municipal ordinance. All work shall meet or exceed the standards for air conditioning and refrigeration work established by the commissioner under the Act.

(c) A person licensed under the Act may not perform or offer or attempt to perform any act, service, or function that is defined as the practice of engineering by the Texas Engineering Practice Act, as amended (Texas Civil Statutes, Article 3271a).

(d) A person who assists in the performance of air conditioning and refrigeration contracting work under the supervision of a licensee is not required to be licensed by a municipality.

§75.40. Insurance Requirements.

(a) Each Class A license applicant or holder shall have in force commercial general liability insurance in an amount not less than \$300,000 combined for property damage and bodily injury sustained by one or more persons, \$300,000 aggregate (total amount the policy will pay), and \$200,000 aggregate for products and completed operations. In the event claims occur which reduce the required coverage to a level of \$250,000 or less, the licensee shall reinstate the coverage to the original \$300,000 amount or greater.

(b) Each Class B license applicant or holder shall have in force commercial general liability insurance in an amount not less than \$100,000 combined for property damage and bodily injury sustained by one or more persons, \$100,000 aggregate (total amount the policy will pay), and \$100,000 aggregate for products and completed operations. In the event claims occur which reduce the required coverage to a level of

\$75,000 or less, the licensee shall reinstate the coverage to the original \$100,000 amount or greater.

(c) The products and completed operations liability covers the public and the contractor from claims arising from an occurrence after the job is completed.

(d) A license applicant or holder shall furnish to the department a certificate of insurance as evidence of the insurance required in subsection (a) or (b) of this section. The license holder's name and address must be shown as it appears on the license. Binders and interim certificates of less than 60 days will not be accepted. The certificates of insurance shall be issued to each municipality where air conditioning and refrigeration contracting is performed.

(e) The certificate of insurance shall certify that the policy has been endorsed with the provision that in the event such coverage is canceled or reduced, the insurance carrier shall notify the department at least 45 days prior to such cancellation or reduction in coverage. Each nonrenewal notice shall also be submitted by the insurance carrier to the department at least 45 days prior to the renewal date. In the event that coverage is canceled for nonpayment of premium, the insurance carrier shall notify the department at least 10 days prior to such cancellation.

(f) Certificates of insurance will be accepted only when signed by those officers or agents of an insurance company empowered to sign such certificates by the insurance company. The department will obtain the names of such officers or agents from the insurance companies.

(g) The commissioner may waive the insurance requirements for license applicant or holder not contracting with the general public. All requests to waive the insurance requirements shall be submitted in writing to the program manager and shall contain a detailed explanation of the conditions on which the license applicant or holder is requesting the waiver.

§75.50 Reporting Requirements.

(a) A municipality may by ordinance adopt and enforce standards for air conditioning and refrigeration contractors that are consistent with the standards established under the Act. The municipality shall report violations of the ordinance to the commissioner not later than the 10th day after the date on which the municipality takes action to enforce the ordinance. Conviction of an offense under the municipal ordinance is a ground for the denial, suspension, or revocation of a license issued under the Act.

(b) Complaints must be made in writing with the necessary supporting documentation. All complainants must identify themselves and provide sufficient information necessary for an agency investigator to

contact them by telephone or mail. The receipt of all complaints will be acknowledged within 10 working days and will be evaluated for validity within the department's authority. Individuals with complaints that are not within the department's authority will be so advised as soon as the determination has been made.

§75.60. Responsibilities of the Department.

(a) Exams.

(1) Exams shall be administered and monitored by examiners employed by the department. Examiners shall be employed by contract on a 12-month basis and approved by the commissioner. Examiners shall be full-time air conditioning and refrigeration professionals. For the purpose of this section, an air conditioning and refrigeration professional is anyone who meets the criteria established in the Act, §4(e), and additionally has a total of eight years of practical experience in air conditioning and

refrigeration work. For the purpose of this experience requirement, a degree or diploma in air conditioning engineering or mechanical engineering from an institute of higher education whose program is approved by the Texas State Board of Registration for Professional Engineers for the purpose of licensing professional engineers is considered to be the equivalent of two years of practical experience.

(2) The license examinations shall be offered in Travis County not less than four times per year. The four regular scheduled exams shall be scheduled for January, April, July, and October. Additional exams shall be scheduled by the program manager as required.

(3) All exams shall be given open book, and applicants are to bring reference material only. A list of reference material may be obtained from the department.

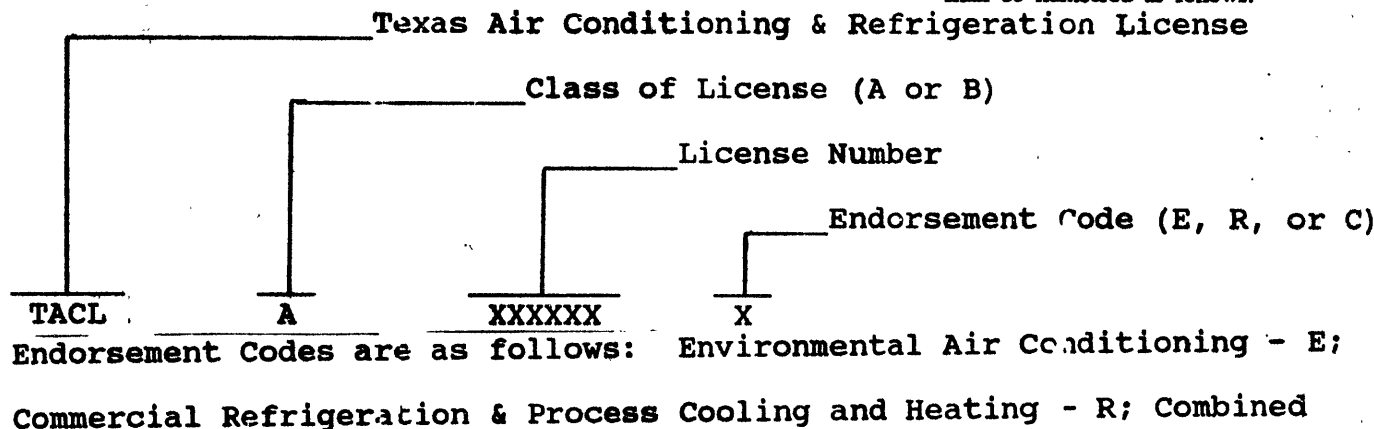
(4) Separate tests are administered for environmental air conditioning and

for commercial refrigeration and process cooling and heating. Both tests may be taken during the same testing period, either during the same day, or on successive days. Tests may also be taken in different testing periods, which will result in higher fees for the exams and an additional fee for revising the license.

(b) Licenses and renewals.

(1) Each license shall clearly indicate the name and permanent address of the holder, the name and address of the business affiliation, and the license class. A license being used with a legally registered assumed name(s) must show the company name. If the company has legally registered assumed name(s), the license will so indicate.

(2) Each license shall be numbered sequentially as they are originally issued. A number originally assigned and subsequently relinquished, suspended, revoked, or otherwise terminated shall not be assigned to another licensee. Each license shall be numbered as follows.



Endorsements - C.

(3) Each Class A and Class B air conditioning and refrigeration contractor's license shall expire three years after the date of issuance. The department shall submit a renewal notice to each license holder approximately three months prior to the license expiration date. The renewal notice shall advise the amount of the renewal fee and include a renewal application.

(4) The commissioner shall publish annually a directory of the persons licensed under the Act. The commissioner may sell the directory on payment of a reasonable fee set by the commissioner.

§75.70. Responsibilities of the Licensee.

(a) Each license shall be displayed at the contractor's place of business as listed with the commissioner.

(b) Each licensed contractor shall display the license number and company name in letters not less than two inches high on both sides of all trucks used in conjunction with air conditioning and refrigeration contracting. Job sites not identi-

fied by a marked truck shall be identified by a posted sign visible and readable from the nearest public street, containing the Texas air conditioning and refrigeration license number and company name.

(c) All advertising by contractors requiring a license under the Act designed to solicit business shall include the contractor's license number. Advertising which requires the license number shall include printed material, television ads, newspaper ads, yellow pages, business cards, solicitations, proposals, quotations, invoices, and other items for the purpose of attracting business. Yellow page listings that do not contain any information except the name, address, and telephone number are not required to contain the contractor's license number. Letterheads and printed forms not used to solicit business are not required to have the license number included. Any promotional item of value, including ball caps, tee shirts, pens, pencils, and other gift items are not required to have the license number included. Signs located at the contractor's permanent business location are not required to have the license number displayed.

(d) A license holder is required to notify the commissioner in writing within 30 days of any change in permanent mailing address, business affiliation, change of business location, or business telephone number. A license revision is required for any change to permanent mailing address, change of business affiliation, or the business location reflected on the license. The permanent address on file with the commissioner shall be considered the licensee's permanent address and all correspondence, including license expiration notice from the department, will be mailed to such address of record. A license holder wishing to revise a license shall request in writing the revision, return the original license reflecting requested revisions, and pay the appropriate fee required in §75.80 of this title (relating to Fees). Additionally, a revised insurance certificate must be provided to the department correctly reflecting the requested revisions. A license holder requiring a replacement license or wallet card must send a notarized statement to the department indicating the loss and requesting the replacement. Pay-

ment of the fees required in §75.80 of this title (relating to Fees) must be submitted with the statement of loss.

(e) Each license shall be used only by the business listed as the business affiliation on the license. If a licensed contractor works as a subcontractor for another business, he may not do so under his license. He must work under the license of the business to which he has contracted, and he may not bill or receive payment for such subcontracting from any other source.

(f) Each air conditioning and refrigeration contractor licensed under the Act will have a licensee in direct supervision of the work in each of his permanent offices.

(g) A licensee must register all assumed names under which he operates, whether registered with the secretary of state, a county clerk, or elsewhere and these assumed names shall be listed with his license. Failure to keep the registration current will result in suspension of the license. All notifications will be in writing and submitted within 30 days of any change. Only legally registered assumed names will be accepted.

(h) A contractor who is not contracting with the public may request inactive status for a period not to exceed 24 consecutive months. Insurance is not required on an inactive license. The original license and wallet card must be returned to the department during the inactive period. In order to return to active status, a request in writing and proof of insurance must be submitted to the department. Licenses expiring during inactive status must be renewed by payment of the renewal fee.

(i) Each person licensed under the Act shall notify, within 10 days, the municipal authority who has control of the enforcement of regulations relative to air conditioning and refrigeration contracting in the municipality in which the person is engaged in air conditioning and refrigeration contracting that the person has obtained a state license. The notification must be in the form required by the municipality. A listing of all municipalities in which a licensee has registered shall be submitted to the department. The department must be notified within 10 days of any change.

§75.80. Fees. All fees should be paid by cashier's check or money order made payable to the Texas Department of Labor and Standards.

(1) Exam costs. Class A and Class B exam fees are: one exam \$100 (either for environmental air conditioning or commercial refrigeration and process cooling and heating); two exams \$150 (taken during the same examination period); re-exam \$50; reschedule \$50.

(2) License fees. Class A license for three years \$300; renewal every three years \$150; Class B license for three years

\$150; renewal every three years \$75; late renewal fee \$50.

(3) Lost or revised license. A \$25 fee shall be required and accompany each request for a revised license or to replace a lost or duplicate license.

(4) Lost or revised wallet card. A \$10 fee shall be required and accompany each request for a revised or lost wallet card.

(5) Addition of an endorsement to an existing license. Reprint of license and wallet card is \$25. If the license is to be reprinted for renewal or revision at the same time, for which required fees are paid, and the request is received before the license has been reprinted, this fee may be waived.

§75.90. Sanctions.

(a) A violation of the Texas Air Conditioning and Refrigeration Contractors License Law or this chapter is grounds for the denial, suspension, or revocation of a license. The failure to provide proper installation, service, and mechanical integrity under the Act constitutes a violation of the Act. An intentional or knowing misrepresentation of necessary services, services to be provided, or services that have been provided, or a fraudulent promise made to influence, persuade, or induce an individual to contract for services constitutes a violation of the Act and a ground for the suspension or revocation of a license issued under the Act.

(b) A person whose application for a license is denied or a person whose license is suspended or revoked is entitled to a hearing before the commissioner if he submits a written request for hearing to the department. Proceedings for the denial, suspension, or revocation of a license and appeals from those proceedings are governed by the Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6252-13a. If a person's license is revoked, or a person is denied a license, the person may not apply for a new license before one year from the date the revocation or denial became effective.

(c) The commissioner shall revoke or suspend a license, probate a license suspension, or reprimand a licensee for any violation of the Act or rules promulgated by the commissioner. A violation of the Act shall include, but not be limited to, obtaining a license through error or fraud; knowingly making a substantial misrepresentation of services to be provided or which have been provided; or making any false promise with intent to influence, persuade, or induce an individual to contract for services. Any person whose license has been revoked may apply for a new license after the expiration of one year from the date of such revocation, but not before.

(d) A person who knowingly or intentionally engaged in air conditioning and refrigeration contracting without a license

issued under Texas Civil Statutes, Article 8861, can be found guilty of a Class B misdemeanor.

(e) Subject to the other provisions hereof, any person that violates any of the provisions of the Act or this chapter shall be guilty of an offense, and upon conviction thereof shall be fined in any amount not in excess of \$200. Each and every day that any such violation continues shall constitute a separate offense and be punishable as such. The conviction of any person under this provision shall not preclude the state from pursuing any other remedy or remedies that it desires to enjoin a violation or to enforce compliance with the provisions of the Act.

(f) Unless licensed under the provisions of the Act, it shall be unlawful for any person, partnership, firm, or corporation to display a sign or use any advertising that such person, partnership, firm, or corporation is authorized to engage in the business of an air conditioning and refrigeration contractor.

(g) It shall be unlawful for a licensed air conditioning and refrigeration contractor to permit his license to be used in any manner contrary to any of the provisions of the Act; or to obtain a municipal permit, required under the provision hereof, in his name, or to allow the use of his name directly or indirectly by another person for the purpose of obtaining a municipal permit, when such licensed air conditioning and refrigeration contractor does not intend to, or does not in fact, do or supervise the work authorized by such municipal permit; or to take out municipal permits for air conditioning and refrigeration work to be done by another person, firm, partnership, or corporation by whom he is not employed.

(h) Each license shall be suspended during any period during which the required insurance is not in effect by evidence of a current certificate of insurance on file with the department or when the required level of insurance has not been reinstated as required in §75.40(a) or (b) of this title (relating to Insurance Requirement).

(i) It shall be unlawful for any person, or the owner, agent, or occupant of any building or premises, to aid or abet an air conditioning and refrigeration contractor in the violation of the Act or this chapter or to connive in its violation.

(j) Punishment for offenses under the Act will be in accordance with the law in effect at the time the offense was committed.

§75.100. Technical Requirements.

(a) Boilers.

(1) Boilers used in the process of environmental air conditioning shall comply with the Texas Boiler Law, Texas

Civil Statutes, Article 5221c, and Chapter 65 of this title (relating to Boiler Section). The Texas Boiler Law provides for rules and regulations for safe construction, installation, inspection, operating limits, alteration, and repair of boilers and their appurtenances performed under the scope of the Texas Boiler Law by those who possess the applicable American Society of Mechanical Engineers certificate of authorization or National Board "R" Stamp certificate. These certificate holders are not required to hold a license as an air conditioning and refrigeration contractor.

(2) All others who alter, construct, design, install, maintain, modify, repair, or service boilers used in the process of environmental air conditioning, commercial refrigeration, or process cooling or heating must comply with the Texas Boiler Law, Texas Civil Statutes, Article 5221c, and Chapter 65 of this title (relating to Boiler Section), and shall also hold the applicable class license as an air conditioning and refrigeration contractor.

(b) Electrical connections.

(1) The new construction of environmental air conditioning, commercial refrigeration, and process cooling or heating systems begins after the first connection on the line side of any listed appliance.

(2) Air conditioning and refrigeration contractors licensed under this law may replace and reconnect environmental air conditioning, commercial refrigeration, process cooling or heating systems, or component parts of the same or lesser amperage. On replacement environmental air conditioning, commercial refrigeration, process cooling or heating systems where the electrical disconnect has not been installed and is required by the National Electrical Code, the air conditioning and refrigeration contractor may install a disconnect directly on the replacement system and reconnect the system.

(3) Control wiring of 50 volts or less may be installed and serviced by an air conditioning and refrigeration contractor licensed under this law.

(4) Line voltage wiring is not within the scope of air conditioning and refrigeration contracting.

(5) All component parts may be serviced or replaced by an air conditioning and refrigeration contractor licensed under this law.

(6) All electrical work shall be performed in accordance with standards at least as strict as that established by the National Electrical Code.

(c) Piping.

(1) Fuel gas piping for new or replaced environmental air conditioning, commercial refrigeration, or process cooling or heating systems may be installed by a contractor licensed under this law. Fuel gas

piping by a licensed contractor is limited to the portion of piping between the appliance and the existing piping system, connected at either an existing shut-off valve or an existing opening for such use. Existing piping systems, stops, or shut-off valves shall not be altered by a licensed contractor.

(2) Drain piping associated with environmental air conditioning, commercial refrigeration, or process cooling or heating systems may be installed by a contractor licensed under this law.

(3) Mechanical piping associated with environmental air conditioning, commercial refrigeration, or process cooling or heating systems shall be installed by a contractor licensed under this law.

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

Issued in Austin, Texas on October 30, 1989.

TRD-8910455

Lary E. Kosta
Acting Executive Director
Texas Department of
Licensing and
Regulation

Effective date: November 15, 1989

Proposal publication date: May 26, 1989

For further information, please call: (512) 463-3127

◆ ◆ ◆
TITLE 19. EDUCATION
Part II. Texas Education
Agency

Chapter 41. State
Commissioner of Education

Subchapter D. Adoptions by
Reference

◆ ◆ ◆
• **19 TAC §41.61**

The Texas Education Agency adopts an amendment to §41.61, without changes to the proposed text as published in the August 18, 1989, issue of the *Texas Register* (14 TexReg 4111).

The amendment concerns the adoption by reference of School District Data Submission to the Texas Education Agency, Bulletin 742.

The amendment reflects necessary updating and minor revisions for the 1989-1990 school year. In many cases, data collection forms are improved and/or standardized. The amendment also reduces several complete reports and eliminates data requirements in many other reports.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Texas Education Code, §11.52(d), which authorizes the commissioner of education to prescribe uniform systems of forms, reports, and records necessary to secure information from county school officers and local school districts.

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 October 24, 1989.

TRD-8910333

W. N. Kirby
Commissioner of Education

Effective date: November 17, 1989

Proposal publication date: August 18, 1989

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

◆ ◆ ◆
Chapter 69. Proprietary
Schools and Veterans
Education

Subchapter E. Guidelines and
Minimum Standards for
Operation of Texas
Proprietary Schools

◆ ◆ ◆
• **19 TAC §69.128**

The Texas Education Agency adopts an amendment to §69.128, with changes to the proposed text as published in the August 4, 1989, issue of the *Texas Register* (14 TexReg 3747).

The amendment sets the schedule of fees required of Texas proprietary schools at the level allowed by Senate Bill 417 passed by the 71st Texas Legislature. The level of fees represents an amount that will staff the agency's proprietary school division to the degree necessary to adequately fulfill the responsibilities assigned by the legislature.

The changes involve subsection (c) in which the late renewal fee was changed from \$100 plus the late renewal fee to 12% of the late renewal fee plus the late renewal fee.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Texas Education Code, §32.22, which requires the State Board of Education to adopt policies, regulations, and rules necessary for carrying out provisions of the Texas Proprietary School Act after consultation with the Proprietary School Advisory Commission, and §32.71 as amended by the 71st Texas Legislature, which authorizes the State Board of Education to increase proprietary school fees by as much as 50%.

§69.128. Fees.

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

(c) A late renewal fee of 12% of the renewal fee shall be paid in addition to the annual renewal fee if the school fails to file a complete application for renewal at least 30 days before the expiration date of the certificate of approval. The requirements for a complete application for renewal are found in §69.125 of this title (relating to Certificates of Approval and Permits for Representatives). The complete renewal application must be postmarked with a date on or before the due date.

(d) Fees shall be set in an amount allowed by law that is estimated to finance agency regulation of the proprietary school industry.

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

001	...
002	...
003	...
004	...
005	...
006	...
007	...

...

(1) initial fee for a school is \$2,550;

(2) the first annual renewal fee is 2,100;

(3) each subsequent annual renewal fee is based on the gross amount of annual student tuition and fees, as follows:

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

(4) the initial fee for a representative is 90;

(5) the annual renewal fee for a representative is 45;

(6) the fee for a change of name or a school owner is 150;

(7) the fee for the change of address of a school is 270;

(8) the fee for a change in the name or address of a representative or a change of the name or address of a school that causes the reissuance of a representative permit is 15;

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

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

(11) the application fee for the authority to grant degrees is 3,000;

(12) the application fee for an additional degree course is 375;

(13) the fee for an inspection required by rule of the State Board of Education of classroom facilities that are separate from the main campus is 375; and

(14) the fee for an investigation of a complaint against a school, if the school is at fault, is 600.

(f) The fee for regulating a school or course through a memorandum of understanding is 2,000.

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 October 17, 1989.

TRD-8910335 W. N. Kirby
Commissioner of Education

Effective date: November 17, 1989

Proposal publication date: August 4, 1989

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

TITLE 28. INSURANCE

Part II. Industrial Accident Board

Chapter 42. Medical Benefits

Subchapter B. Medical Cost Evaluation

• 28 TAC §42.110

The Industrial Accident Board adopts the repeal of §42.110, without changes to the proposed text as published in the July 21, 1989, issue of the *Texas Register* (14 TexReg 3506).

The section is repealed to comply with a court order of voidness. *Methodist Hospitals of Dallas, et al. v. Industrial Accident Board, et al.*; Cause Number 465,511; 331st Judicial District (Travis County).

No comments were received regarding adoption of the repeal.

The repeal is adopted under Texas Civil Statutes, Article 8307, §4 (a), which authorize the board to adopt rules necessary to administer the workers' compensation laws, and Article 8306, §7b, which specifically authorizes the board to adopt rules to implement guidelines for medical fees, charges, and treatment incurred or rendered under the workers' compensation laws.

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 October 31, 1989.

TRD-8910423 Richard Fulcher
Acting Executive Director
Industrial Accident Board

Effective date: November 21, 1989

Proposal publication date: July 21, 1989

For further information, please call: (512) 448-7960

The Industrial Accident Board adopts new §42.110, with changes to the proposed text as published in the July 21, 1989, issue of the *Texas Register* (14 TexReg 3507).

The new section establishes guidelines for fair and reasonable charges for services and items provided to workers' compensation claimants by health facilities. It is adopted pursuant to Senate Bill 1355, 70th Legisla-

ture, 1987. The new section will appear in Subchapter B, entitled Medical Cost Evaluation, of Chapter 42, concerning medical benefits.

The new §42.110 is changed from the proposed section by several cosmetic changes intended to clarify the concepts and improve understanding and implementation. These include reordering the proposed subsections, and rewording certain subsections.

Regarding definitions, the following terms have been added: "adjusted chagemaster"; "base chagemaster"; "compensable services and items"; "multi-facility system"; and "unit price". The following terms have been deleted: "adjusted billed charges" and "maximum allowable rate of increase". The following terms have been amended: "other operating revenues", "total operating expenses", and "total patient revenues", by deleting the reference to Worksheet G-3 of Form HCFA-2552-85. In response to public comment, the term "total operating expenses" has also been amended to include "state and local taxes paid, excluding any income tax".

Regarding the official guideline, the subsection has been reworded for improved understanding, and both the interim guideline, applicable from October 1, 1989 to the date of publication of the health facility's ratio, and the guideline applicable from October 1, 1988 to February 6, 1989 have been deleted.

A subsection has been added expressly permitting health facilities to bill at any amount, while additionally referencing on the bill the unit price as it appears on the adjusted chagemaster.

Regarding the maximum allowable rate of increase, the concept has been reframed as limitations on adjusting the base chagemaster, and the subsection amended to provide for addition of new services and items to the base chagemaster. The penalty provision for noncompliance has been deleted.

Regarding information required to be filed with the board, procedural details regarding the ratio report have been deleted, and the penalties for noncompliance with this filing requirement reduced to one, assignment of a .85 ratio. The requirement that each facility file a copy of its December 1, 1989, chagemaster with the board has been added.

In response to public comment, the time to appeal an assigned ratio has been increased to 30 days from 15.

Regarding special provisions for certain facilities, the term "new facilities" has been redefined to include those facilities which have not completed one full fiscal year of operations before September 1, 1989. In response to public comment, a provision regarding multi-facility systems has been added, permitting such a system to elect to file a single ratio report and be assigned a composite ratio, applicable to all facilities within the system.

Public comment was received in writing, and in testimony at two public hearings held on August 8, 1989, and October 16, 1989. Comment has been organized according to subject matter.

Comment was received on the nature of the guideline for fair and reasonable charges.

Most commenters supported the proposed guideline of facility-specific discounts on billed charges; further, they recommended calculation and application of each facility's actual discount ratio, instead of the proposal to cap the ratio at 0.85. As noted below, most commenters also suggested eliminating the annual maximum allowable rate of increase (MARI). Two commenters recommended withdrawing the proposed guideline in its entirety, and substituting a guideline based on a per diem system.

Many commenters who supported the proposed guideline recommended that facilities be permitted to elect alternative guidelines. These included: the lower of a facility's discount ratio or its billed charges; a facility's Blue Cross/Blue Shield negotiated rates; a facility's usual fair and reasonable charges; and the lowest of a facility's pre-guideline charges, discount ratio, or discount provided to insurance plans or preferred provider organizations (PPO's). Two commenters, however, expressly opposed permitting facilities to use their Blue Cross/Blue Shield negotiated rates, noting that hospitals had foreclosed this option by rejecting it when proposed in 1987.

It was suggested that workers' compensation carriers be expressly permitted to contract for discounted charges either directly with facilities, or with PPO's contracting with facilities. It was noted by one commenter, however, that the PPO concept would have little or no value in the workers' compensation system, since it is based on projected volume of patients, and claimants have no economic incentive to select one facility over another.

One commenter suggested that the guideline apply to both in-patient and out-patient charges.

Regarding rural hospitals, it was suggested that some undefined alternative payment guideline be established; and they be permitted to elect as their payment guideline either their specific ratio or their fair and reasonable charges.

Comment was received on calculation of the proposed facility-specific payment ratio. It was noted that the proposed formula for calculating the ratio (Total Operating Expenses + Adjusted Net Revenues) would penalize facilities with relatively lower operating expenses and higher Medicare/Medicaid utilization and charity/bad debt burden. Accordingly, it was suggested that the formula be revised to be: Total Operating Expenses + Deductions From Revenue + Total Patient Revenue.

It was suggested that the definition of a facility's "Total Operating Expenses" be expanded to include a capital cost factor of at least 4.0% of either gross billed charges or total patient revenues; state and federal taxes; and an allowance for uncompensated care. One commenter opposed including the capital cost factor, taxes and uncompensated care in this item.

It was suggested that the definition of a facility's "Adjusted Billed Charges" be revised to delete the provision for subtracting "inappropriate charges." One commenter proposed amending the definition to require a facility to adjust billed charges by subtracting "errors, personal items, unrelated, undocumented, and unnecessary charges."

It was suggested that a facility be permitted to adjust line-item numbers from its Medicaid Cost Reports as necessary to achieve fair and reasonable payment, and elect to submit either worksheet G-3 of Form HCFA 2552-85 (12/85), or revenue and expense data from its audited financial statement.

Regarding multi-facility systems, it was suggested that they be permitted to elect to report and receive payment ratios either individually or as a consolidated unit. One commenter opposed aggregate reporting.

Comment was received on per diem rates. It was suggested that maximum per diem rates be established by the type of admission, i.e., medical, surgical, or intensive care; and that increases in per diem rates should be permitted bi-annually. It was also suggested that workers, compensation carriers be expressly permitted to contract for discounted charges either directly with facilities, or with PPO's contracting with facilities.

Comment was received on the Maximum Allowable Rate of Increase (MARI). It was suggested that the proposed MARI concept be deleted because it was ambiguous; costly to administer and comply with; and unnecessary if the ratio cap were eliminated, since the formula would be self-adjusting. One commenter supported the MARI concept, but recommended setting it at 6.0%.

Comment was received on the time period for applying the guideline. Some commenters suggested that the guideline be applied to bills for services rendered between October 1, 1989 and September 30, 1991; another proposed that its effectiveness be limited to the 1990 calendar year, while yet another suggested it be applied for a two year trial period.

Other comments were received. It was suggested that the board adopt an interim guideline of a 15% discount to be applied to all health facility bills.

Concern was expressed over the number of Texas hospitals which have closed in the past five years.

Two commenters commended the board and the hospital industry for the hard work done trying to establish guidelines, while another opposed the adoption of any guidelines, reasoning that charges previously accepted as reasonable and necessary have not become unreasonable or unnecessary with the passage of time.

One commenter requested that audit firms not be permitted to review hospital bills.

One commenter, noting that Texas has the nation's highest average medical cost per workers, compensation claim, recommended speedy adoption of utilization guidelines, in addition to fee guidelines.

Commenters included: Department Manager, American Medical International, Inc., Houston; Vice President and CFO, Baptist Memorial Hospital System, San Antonio; Senior Vice President and CFO, Baylor Health Care System, Dallas; Administrator, Colonial Hospital, Terrell; Director, I.A.B. Services, Employers Insurance of Texas; Executive Vice President, Fort Worth Osteopathic Medical Center, Fort Worth; Senior Vice President, Good Shepherd Medical Center, Longview; Vice President, Harris Methodist, Bedford;

Managing Director, Harris Methodist Health Services, Fort Worth; Nurse Auditor, the Hartford Insurance Company; Chairman of the Board, Health Benefit Management, Inc., Austin; President, Hendrick Medical Center, Abilene; Vice President, and Associate Counsel, Hermann Hospital, Houston; Incarnate Word Health Services, San Antonio; Senior Vice President, Irving Health Care System, Irving; Claims Manager, Liberty Mutual Insurance Company; Administrator, Mansfield Hospital, Mansfield; Administrator and President, Marshall Memorial Hospital, Marshall; Association Administrator, Memorial Hospital, Nacogoches; President, and Vice President for Legal Affairs, Methodist Hospitals of Dallas, Dallas; Senior Vice President, Mother Frances Hospital, Tyler; Administrator, Ochiltree General Hospital, Peryton; President, Odessa Diagnostic Imaging Center; President and CEO, Parkland Memorial Hospital, Dallas; Senior Associate Executive Director and CFO, Presbyterian Hospital of Dallas, Dallas; President and CEO, St. Luke's Episcopal Hospital, Houston; Administrator, St. Luke's Lutheran Hospital, San Antonio; Executive Vice President, St. Mary of the Plains Hospital, Lubbock; Executive Vice President, St. Paul Medical Center, Dallas; President and CEO, and Senior Vice President and CFO, Santa Rosa Health Care Corporation, San Antonio; Southwest Texas Methodist Hospital, San Antonio; Texas Association of Business; President and CEO, Vice President, and Vice President for Governmental Relations, Texas Hospital Association; President, Texoma Medical Center, Denison; Administrator, Uvalde Memorial Hospital, Uvalde; Senior Vice President, Valley Baptist Medical Center, Harlingen.

Aside from the items noted above, the board declines to incorporate the remainder of the public comment into the adopted section. Since June of 1987, the board has attempted to comply with the mandate of the 70th Legislature to adopt guidelines for health facilities, charges for services rendered to workers, compensation claimants, while simultaneously responding to the concerns of Texas hospitals. Since September, 1987, the board has attempted to adopt three guidelines; all three attempts have failed due to resistance from some of the affected hospitals.

Pursuant to Senate Bill 1355, the board formed advisory committees took voluminous testimony, drafted recommendations, proposed these to the interested parties. A guideline recommended by the Texas Hospital Association and the advisory committees was tentatively adopted, only to be rejected by the participating hospitals, refusal to provide the necessary data. Thereupon a second guideline, based on one used by the Texas Rehabilitation Commission for the last 14 years, was considered and adopted by the board, to be effective September 1, 1988. On August 30, 1988, the Texas Hospital Association, on behalf of itself and its member hospitals, filed an action for a temporary restraining order in a Travis County district court. The TRO was granted, and application of the guideline enjoined. After negotiation, the board agreed to withdraw the section, and reopen the issue for further work. THA agreed to participate in the drafting, and promised to support the resulting guideline. A general discount of 10% was agreed to, as an interim guideline, and adopted by emergency action.

The advisory committees were reconvened, and the issue readdressed. THA was an active participant. A guideline was agreed to by all parties, and adopted to be effective in February, 1989. The section remained unchallenged until May 30, 1989, when Methodist Hospitals of Dallas and 25 co-plaintiffs (all but one of which were members of THA) filed an action for TRO and declaratory judgment in a Travis County district court. THA distanced itself from the suit, claiming its agreement to support this guideline was not binding on its individual members. The TRO was granted. Thereupon, after a hearing on a temporary injunction, a Travis County District Court declared the rule void ab initio, apparently on the basis of procedural defects. The board, believing this guideline would be upheld on its merits, responded by reproposeing the section in July, 1989.

As noted above, two public hearings have been held on the section, the second resulting from the board's decision to re-open the period for public comment, to ensure all interested parties adequate opportunity to be heard.

The board believes that the proposed guideline, if given the opportunity, will produce the required results: ensure provision of needed services to injured workers, guarantee a fair and reasonable return to health facilities, and perhaps curb the spiraling medical costs contributing to the rate increases borne by employers. Ritchie Jackson, chairman of the Health Care Advisory Committee, described the goal of the committee in producing a guideline as follows: "the goal was not to establish a desired rate of return for shareholder equity as may be the cases in a rate determination adopted by the State Board of Insurance. Our goal was to find a discount rate for the workers compensation system that recognizes the volume of business workers compensation claims generate and to negotiate a system-wide discount which was facility specific and would approximate the discounts given to other third party payors who have the ability to negotiate rates." The board hopes that the adopted guideline will meet this goal.

The new sections are adopted under Texas Civil Statutes, Article 8307, §4(a), which authorize the board to adopt rules necessary to administer the workers, compensation act, and Article 8306, §7b, which authorize the board to adopt as rules guidelines for fair and reasonable charges for health care provided under the workers, compensation act.

§42.110. Official Health Facility Fee Guidelines.

(a) Amount of reimbursement due. The amount of reimbursement to which a health facility is entitled for compensable services and items shall be that amount that is fair and reasonable and does not exceed the fees and charges for similar treatment of injured persons of a like standard of living where the cost of the treatment is paid by the injured person or someone acting for the injured person.

(b) Official guideline for establishing amount of reimbursement due. The guideline to assist the parties in determining

the amount of reimbursement shall be as follows: prices for compensable services and items as listed on the facility's adjusted chargemaster multiplied by the facility's workers, compensation ratio.

(c) Calculation of health facility workers, compensation ratio.

(1) Based on information filed pursuant to subsection (f) of this section, the board will calculate and assign a spe-

cific health facility workers' compensation ratio for each health facility seeking reimbursement for compensable services and items.

(2) A health facility workers, compensation ratio is calculated as follows:

$$\text{Ratio} = \frac{\text{total operating expenses}}{\text{adjusted net revenue}}$$

(3) The ratio shall not be less than .85 and shall not be greater than 1.00.

(d) Limitations on amount billed for compensable services and items. On any bill for reimbursement submitted by a health facility, the health facility shall state the unit price for each service or item as listed on the facility's adjusted chargemaster; provided, however, that nothing in this section shall prevent a health facility from billing any amount for a particular service or item.

(e) Limitations on adjusting the base chargemaster.

(1) At any time between January 1, 1990 and December 31, 1990, inclusive, a health facility may adjust a unit price as listed on its base chargemaster to create an adjusted chargemaster; however, at no time between January 1, 1990, and December 31, 1990, inclusive, shall the sum total of all unit prices listed on the adjusted chargemaster be greater than the sum total of all unit prices on the base chargemaster multiplied by 1.07.

(2) If a new service or item provided by the health facility is added to the facility's adjusted chargemaster after December 1, 1989, the initial unit price for the new service or item shall be added to the sum total of all unit prices listed on the base chargemaster for the purpose of determining whether the adjusted chargemaster complies with the limitations specified in this subsection.

(f) Ratio report required to be filed by each health facility.

(1) No later than December 31, 1989, a health facility shall file with the board a complete and correct Health Facility Ratio Report, consisting of a board-prescribed package of forms, the charge for which shall be established by the board; and supporting documentation, including, but not limited to, the facility's most recent audited financial statement; the facility's most recently filed Medicare cost report, if applicable; or the facility's most recently filed Medicaid cost report.

(2) The information filed with the board shall be based on the health facility's most recent fiscal year ending prior to September 1, 1989.

(3) All data and audited financial statements that are required to be filed, excluding the Medicare or Medicaid cost reports, shall be prepared in accordance with generally accepted accounting principles and generally accepted auditing standards if applicable.

(4) The health facility's chief executive officer shall certify that all information required to be filed complies with this subsection.

(5) A facility failing to timely file the information required by this subsection will be assigned a workers, compensation ratio of .85 for the period established in subsection (h) of this section.

(g) Base chargemaster required to be filed by each health facility.

(1) No later than December 31, 1989, a health facility shall file with the board a copy of its base chargemaster, certified as true and correct by the health facility's chief executive officer.

(2) To comply with this subsection, a health facility shall file a magnetic tape of its base chargemaster, in a form and manner prescribed by the board, if the facility has the capability of creating such a tape; otherwise, the health facility shall file a paper copy of its base chargemaster.

(3) A facility failing to timely file the information required by this subsection will be assigned a workers, compensation ratio of .85 for the period established in subsection (h) of this section.

(h) Effective date of guidelines and limitations. The guidelines and limitations established in subsections (b), (d), and (e) of this section apply to all compensable services and items provided from January 1, 1990-December 31, 1990, inclusive.

(i) Appeal of a board-assigned ratio.

(1) A facility or carrier may challenge a board-assigned ratio by filing a

written appeal with the board no later than 30 calendar days after the ratio is assigned. The board will promptly set a hearing to consider the appeal.

(2) A ratio becomes final if no appeal is filed as provided.

(j) Special provisions for certain health facilities.

(1) Small rural hospitals. A small rural hospital, as defined in §42.15 of this title (relating to Definitions), may elect to use the guideline of fair and reasonable for reimbursement for compensable services and items as an alternative to the official guideline. This election shall be made on a board-prescribed form, to be included in the facility's ratio report, as provided by subsection (f)(1) of this section. A small rural hospital is subject to the filing requirements established in subsections (f) and (g) of this section.

(2) New health facilities. A health facility that has not completed its first fiscal year by September 1, 1989, is considered a new health facility, and shall be assigned a ratio of .90. A new health facility is not subject to the filing requirements established in subsections (f) and (g) of this section, but shall file a true and correct copy of its base chargemaster no later than the latter of December 31, 1989, or 30 days after the date the facility initiated services.

(3) Multi-facility systems.

(1) A multi-facility system may elect to file a single ratio report based on financial information for all Texas facilities within the system, and be assigned a composite ratio applicable to all facilities within the system.

(2) The multi-facility system ratio report shall include the name, address, and calculated ratio of each facility within the system.

(3) Each facility within the system is subject to the filing requirement established in subsection (g) of this section.

(k) Definitions. The following words and terms, when used in this

subchapter, shall have the following meanings, unless the context clearly indicates otherwise:

Adjusted chargemaster—The health facility's base chargemaster, as it exists between December 2, 1989 and December 31, 1990, inclusive, adjusted as permitted by subsection (e) of this section, if applicable.

Adjusted net revenues—Total patient revenues plus other operating revenues, minus deductions for uncompensated care, Medicare contractual allowances, Medicaid contractual allowances, and other governmental contractual allowances.

Audited financial statement—A presentation of financial data, including accompanying notes, derived from accounting records and intended to communicate a health facility's economic resources or obligations at a point in time, or the changes therein for a period of time, in accordance with generally accepted accounting principles.

Base chargemaster—The list maintained by a health facility of services and items provided by the facility with accompanying unit prices reflecting the health facility's expected amount of reimbursement, as it existed on December 1, 1989, or as it existed on the date the health facility initiated services, if later. This is not a chargemaster reflecting any negotiated or mandated charges.

Compensable services and items—Those services and items provided by a health facility to cure and relieve an injured worker from the effects naturally resulting from a compensable injury, as defined in §42.15 of this title (relating to Definitions).

Generally accepted accounting principles—Accounting principles or standards generally accepted in the United States, including, but not limited to, *Accounting Principles Board Opinions*, as published by the American Institute of Certified Public Accountants, and *Statements of Financial Accounting Standards*, and interpretations thereof, as published by the Financial Accounting Standards Board.

Generally accepted auditing standards—The 10 generally accepted auditing standards adopted by the American Institute of Certified Public Accountants, together with interpretations thereof, as set forth in *Statements on Auditing Standards* as published by the American Institute of Certified Public Accountants.

Medicaid contractual allowances—Gross patient charges at established rates minus the amounts received or to be received from the Medicaid Program under the contract between the participating health facility and the United States Department of Health and Human Services.

Medicare contractual allowances—Gross patient charges at established rates minus the amounts received or to be received from the Medicare Program under the contract between the participating health facility and the United States Department of Health and Human Services.

Multi-facility system—An aggregation of health facilities, however legally organized, under common ownership or governance.

Other allowances—Gross patient charges at established rates minus amounts received or to be received:

(A) under contractual agreements with non-governmental third party payors; or

(B) under courtesy discounts.

Other governmental contractual allowances—Unreimbursed charges for contractual allowances from such governmental entities as CHAMPUS, the Veterans Administration, and the Texas Rehabilitation Commission.

Other operating revenues—Revenues received from patients for non-patient care services to patients, and sales and activities to persons other than patients minus grants, gifts, and investment income including, but not limited to, revenues from educational programs, rental of hospital space, sales to employees, physicians, or non-patients, fees charged for transcripts or reproduction of medical records; cafeteria sales; recovery of charges for personal telephone calls; proceeds from sale of metal scrap and x-ray film; and proceeds from gift shops, parking, and other services operated by the health facility.

Total deductions from revenue—The sum of uncompensated care, Medicare contractual allowances, Medicaid contractual allowances, and other governmental contractual allowances.

Total operating expenses—The sum of health facility operating expenses, as recorded on an accrual basis, including, but not limited to, salaries and wages; employee benefits; professional fees; supplies; depreciation; amortization; interest; state and local taxes paid, excluding any income tax; and administrative and facility overhead expenses.

Total patient revenues—Revenues recorded on an accrual basis at established rates for routine and ancillary services, both in-patient and outpatient.

Uncompensated care—Deductions from total patient revenues for charity care and bad debt as recorded in a health facility's audited financial statement.

Unit price—The price listed on a health facility's chargemaster for a particular service or item.

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 October 31, 1989.

TRD-8910422

Richard Fulcher
Acting Executive Director
Industrial Accident Board

Effective date: November 22, 1989

Proposal publication date: July 21, 1989

For further information, please call: (512) 448-7960

TITLE 40. SOCIAL SERVICES AND ASSISTANCE

Part I. Texas Department of Human Services

Chapter 14. County Indigent Health Care Program

Subchapter E. SLIAG

Reimbursement for County Indigent Health Care Program Services Provided to Eligible Legalized Aliens

• 40 TAC §14.406

The Texas Department of Human Services (DHS) adopts new §14.406, without changes to the proposed text as published in the August 4, 1989, issue of the *Texas Register* (14 TexReg 3792).

The purpose of the new section is to provide the methodology DHS uses to reimburse counties for State Legalization Impact Assistant Grant (SLIAG) expenditures. The United States Department of Health and Human Services (HHS) has approved DHS's methodology as presented in the adopted section. The section also has received the unanimous approval of a 14-member committee, consisting of county judges, commissioners, auditors, and program administrators associated with County Indigent Health Care Programs in each DHS region, and a representative of the Texas Association of Counties.

The section will function by increasing federal sharing of costs for indigent health care and a reducing of the tax burden on state and local governments.

No comments were received regarding adoption of the new section.

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

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

Issued in Austin, Texas, on October 30, 1989.

TRD-8910385

Cathy Rosenberg
Agency Liaison, Policy
Development Services
Texas Department of
Human Services

Effective date: November 20, 1989.

Proposal publication date: August 4, 1989.

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

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

(Editor's note: As required by the Insurance Code, Article 5.96 and Article 5.97, the Register publishes notices of actions taken by the State Board of Insurance pursuant to Chapter 5, Subchapter L, of the Code. Board action taken under these articles is not subject to the Administrative Procedure and Texas Register Act, and the final actions printed in this section have not been previously published as proposals.

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

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

The State Board of Insurance has approved a filing by Nuclear Insurance Rating Bureau proposing new endorsements for Nuclear Energy Liability Policies. The NE series of forms is applicable to the policies issued through the Nuclear Energy Liability Insurance Association (NELIA) and the ME series of forms is applicable to the policies issued through the Mutual Atomic Energy Liability Underwriters (MAELU).

This filing is approved to become effective January 1, 1990.

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

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

Issued in Austin, Texas, on October 27 1989.

TRD-8910368 Nicholas Murphy
Chief Clerk
State Board of Insurance

Effective date: January 1, 1990

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

The State Board of Insurance has amended the Texas Automobile Manual and the automobile liability experience rating plan.

Revision of the automobile liability experience rating plan will be effective January 1, 1990. The changes are necessary because of the increase in the financial responsibility limits (expressed in thousands) from \$10/20/5 to \$15/30/15 on January 1, 1984, and subsequently to the current level of \$20/40/15 on January 1, 1986. Since the plan utilizes a three-year experience period ending one year prior to the effective date of the rating, January 1, 1990, is the earliest date that the entire experience period will have been written under the \$20/40/15 level (January 1, 1986 to January 1, 1989).

This revision changes the definition of basic limits from \$10/20/5 to \$20/40/15 so that the rating will be calculated at the \$20/40/15 limits. This new rating system, calculating at a higher premium and loss level, necessitates a change in the eligibility requirements, credibil-

ity factors, and maximum single loss amounts and their corresponding "D" ratios. Each of these is explained as follows.

(a) Eligibility Requirements-Currently, a risk is required to be rated under the plan if the Texas exposures produce a basic limits premium at manual rates of at least \$5,000 in the latest year or \$7,000 in the latest two years. The 20/40 bodily injury rates are currently 67% higher than 10/20 rates, while \$15,000 property damage rates are 15% higher than \$5,000 rates. Therefore, the eligibility requirements are hereby increased to a level of basic limits premium at manual rates for Texas exposures of at least \$7,500 in the latest year or \$10, 000 in the latest two years.

(b) Credibility Factors-The current credibility formula is $P/(P+K)$, where P is the adjusted basic limits premium and K is a constant equal to \$30,000. The self-rating point is \$250,000. The constant K is revised to \$69,000 and the self-rating point to \$845,000. These are the same values reflected in the countrywide automobile liability experience rating plan produced by the Insurance Services Office (ISO) in 1987.

(c) Maximum Single Loss Amounts and "D" Ratios-The "D" ratio curve and the corresponding maximum single loss amounts (MSL) are derived from the countrywide data utilized by ISO in its 1987 revision.

The "D" ratio is curve updated for trend based on Texas commercial automobile trend data for companies reporting to ISO.

The average date of loss of the raw "D" ratio data is January 1, 1984. Assuming a rating plan effective date of January 1, 1990, the average date of loss in the typical experience rating period is January 1, 1988. Therefore, the trend from January 1, 1984 to January 1, 1988 is used to update the E parameter of the "D" ratio curve.

(d) Expected Loss Ratios-The expected loss ratios are updated to those currently underlying the Texas commercial automobile liability rates.

(e) Experience rating plan explanatory memorandum and supplement (currently appearing at the beginning of the experience rating plan) are deleted since they are no longer needed.

The revised wording for Manual Rules 43, 44, and 48 is set forth in exhibits attached to the board order. The revised automobile liability experience rating plan is set forth in its entirety in an exhibit attached to the board order. One additional change to said plan is for clarification only, involving Section III., Subsection 1., "Employees' and Officers' Automobiles." All of

these amendments are effective January 1, 1990.

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

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

Issued in Austin, Texas, on October 30 1989.

TRD-8910410 Nicholas Murphy
Chief Clerk
State Board of Insurance

Effective date: January 1, 1990

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

The State Board of Insurance has adopted a filing submitted by the Comptroller of Public Accounts of a continuous surety bond to be filed by racing associations licensed under the Texas Racing Act.

In accordance with the provisions of the Insurance Code, Article 5.97, a text of the proposed filing has been filed in the Office of the Chief Clerk of the State Board of Insurance. The proposed filing has been available for public inspection for 15 days and a public hearing was not requested by any party.

The adopted bond must be filed by any racing association licensed to conduct races with pari-mutuel wagering, under the Texas Racing Act (Texas Civil Statutes, Article 170e). The bond is conditioned upon timely payment of all taxes, interest, penalties, and costs accruing against the licensee under the Act.

The bond requirement was established in accordance with the Act, §4.03, and in accordance with the comptroller's administrative rules under 34 TAC §3. 641(c). The penal amount of the bond will be an amount estimated to be five times the highest daily state share of the pari-mutuel pool.

The State Board of Insurance adopted a rate of \$10 per thousand per annum for this bond which was recommended by the Surety Association of America. The Classification Code is 475.

The form and rate are adopted effective on and after 12:01 a.m. on the 15th day after notice of this action is published in the Texas Register.

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

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

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

TRD-8910369 Nicholas Murphy
Chief Clerk
State Board of Insurance

Effective date: November 22, 1989

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

Open Meetings

Agencies with statewide jurisdiction must give at least seven days notice before an impending meeting. Institutions of higher education or political subdivisions covering all or part of four or more counties (regional agencies) must post notice at least 72 hours prior to a scheduled meeting time. Some notices may be received too late to be published before the meeting is held, but all notices are published in the *Texas Register*.

Emergency meetings and agendas. Any of the governmental entities named above must have notice of an emergency meeting, an emergency revision to an agenda, and the reason for such emergency posted for at least two hours before the meeting is convened. Emergency meeting notices filed by all governmental agencies will be published.

Posting of open meeting notices. All notices are posted on the bulletin board outside the Office of the Secretary of State on the first floor of the East Wing in the State Capitol, Austin. These notices may contain more detailed agenda than what is published in the *Texas Register*.

Texas Department of Agriculture

Tuesday, November 7, 1989, 7 p.m. The Southern Rolling Plains Cotton Producers Board of the Texas Department of Agriculture will meet at Miles Co-operative Gin, Board Room, 1 1/2 miles northwest of Miles on FM 1692. According to the agenda, the board will have reading and approval of the minutes; treasurer's report; report of activities; and committee reports.

Contact: Kenneth Fully, San Angelo Route, Eola, Texas 76937, (915) 469-3638.

Filed: October 27, 1989, 10:36 a.m.

TRD-8910323

Friday, November 10, 1989, 10 a.m. The Texas Department of Agriculture will meet at the district office, 2626 South Loop West, Suite 103, Houston. According to the agenda, there will be an administrative hearing to review: alleged violation of Texas Agriculture Code Ann. §103.001 by Syndex Corporation doing business as Schoenmann Produce Company, as petitioned by Sunsprouts of Texas, Inc.

Contact: Bruce Fant, P.O. Box 12847, Austin, Texas 78711, (512) 463-7589.

Filed: October 31, 1989, 10:47 a.m.

TRD-8910405

Friday, December 8, 1989, 1 p.m. The Department of Agriculture will meet in the district office, 2626 South Loop West, Suite 130, Houston. According to the agenda, the department will have an administrative hearing to review: alleged violations of Texas Administrative Code by John N. "Ned" Walker doing business as Walker Spraying Service holder of commercial applicator license.

Contact: Cordelia Martinez, P.O. Box 12847, Austin, Texas 78711, (512) 475-1609.

Filed: October 30, 1989, 3:41 p.m.

TRD-8910383

State Banking Board

Thursday, November 9, 1989, 2 p.m. The State Banking Board will meet at 2601 North Lamar, Austin. According to the agenda, the board will discuss approval of previous minutes; consideration of charter application; other pending litigation; and the board may convene into executive session to discuss pending litigation or charter application.

Contact: William F. Aldridge, 2601 North Lamar, Austin, Texas 78705.

Filed: November 1, 1989, 2:30 p.m.

TRD-8910478

Texas Commission for the Blind, Texas Rehabilitation Commission

Sunday, November 5, 1989, 2 p.m. and Monday, November 6, 1989, 8:30 a.m. The State Independent Living Council of the Texas Commission for the Blind, Texas Rehabilitation Commission will meet at the Harvey Hotel, 7815 LBJ Freeway, Dallas. According to the agenda, on Sunday the council will discuss public comments on independent living issues, report of nominating committee, and election of officers. On Monday the council will discuss liaison reports from the commission, appointment of committee members, review strategies for updating five-year state plan; and discuss public input regarding the five-year state plan.

Contact: Robert Packard, Texas Commission for the Blind at (512) 459-2588 or Mel Fajkus, Texas Rehabilitation Commission, (512) 483-4133.

Filed: October 27, 1989, 10:46 a.m.

TRD-8910347

Texas School for the Blind and Visually Impaired

Friday, November 3, 1989, 10 a.m. and 1:30 p.m. The Board of Trustees of the

Texas School for the Blind and Visually Impaired met at Location 1, 1100 West 45th Street, Austin, and Location 2, the Office of the Attorney General, Supreme Court Building, Austin. According to the agenda, the board met at Location 1 to have an executive session; litigation-Sherri D. Case and personnel matters. At Location 2 at 1:30 p.m. the board met to resume executive session with administrative official from the Texas Attorney General's office to discuss legal representation by the attorney general's office of the school, in general and in reference to Sherri, A.D. v. Kirby.

Contact: Cyral A. Miller, 1100 West 45th Street, Austin, Texas 78756, (512) 454-8631, ext. 233.

Filed: October 26, 1989, 4:23 p.m.

TRD-8910291

Texas Committee on Purchases of Products and Services of Blind and Severely Disabled Persons

November 9, 1989, 10 a.m. The Subcommittee for Review of State Auditor's Report of the Texas Committee on Purchases of Products and Services of Blind and Severely Disabled Persons will meet at the State Purchasing and General Services Commission Central Services Building in Room 300-A, 1711 San Jacinto, Austin. According to the agenda, the subcommittee will review the state auditor's report number 9-128; discuss and recommend for action on state auditor's report number 9-128.

Contact: Michael T. Phillips, P.O. Box 12866, Austin, Texas 78711, 512-459-2603.

Filed: October 27, 1989, 2:13 p.m.

TRD-8910358

Child Care Development Board

Thursday, November 9, 1989, 10 a.m. The Child Care Development Board will

meet in the Sam Houston Building, 7th Floor Conference Room, Austin. According to the agenda, the board will appoint state employee members to the Advisory Committee; report from Legislative Council; report from the Child Care Advisory Committee; report from the State Purchasing Commission; consideration of initial parameters for the child care center; and public testimony.

Contact: Lynn Levery, P.O. Box 12608, Austin, Texas 78711, (512) 463-5971.

Filed: November 1, 1989, 3:01p.m.

TRD-8910482

Texas Department of Community Affairs

Friday, November 17, 1989, 2 p.m. The Interagency Council for Services for the Homeless of the Texas Department of Community Affairs will meet in the Conference Room, 1st Floor, 8317 Cross Park Drive, Austin. According to the agenda, the council will discuss Senate Bill 2473; election of officers; roles and responsibilities of interagency council; goals for the interagency council; action plans; and establish meeting schedule.

Contact: Lucio Varela, 8317 Cross Park Drive, Austin, Texas, (512) 834-6006.

Filed: November 1, 1989, 8:24 a.m.

TRD-8910428

Texas Department of Criminal Justice

Monday, November 13, 1989, 9 a.m. The Board of the Texas Department of Criminal Justice will meet in the Senate Chamber at the State Capitol Building, Austin. According to the agenda, the board will have an executive session to discuss Windham School Board: consent items including: new employee contracts; dual employment requests; additional appraisers; donation; naming of textbook coordinator. The board will discuss board subcommittee reports; authorization for construction and remodeling projects; architect and engineer selection; consent items including: interagency contracts, requests for dual employment, request for extension of employment, and vending machine request; and TDCJ-ID site locations. Members of the Legislative Criminal Justice Board have been invited to attend.

Contact: James A. Lynaugh, P.O. Box 99, Huntsville, Texas 77342-0099, (409) 294-2101.

Filed: November 1, 1989, 8:44 a.m.

TRD-8910464

Monday, November 13, 1989, 3 p.m. The Subcommittee on Mental Health the Texas Department of Criminal Justice will meet in the John H. Reagan Building, 105 West 15th Street, Room 106, Austin. According to the agenda, the committee will discuss the report from the Texas Council on Mentally Impaired Offenders; sex offender treatment program update; Ruiz update; and status of new psychiatric facility plan.

Contact: James A. Lynaugh, P.O. Box 99, Huntsville, Texas 77342-0099, (409) 294-2101.

Filed: October 31, 1989, 8:52 a.m.

TRD-8910414

Texas Education Agency

Thursday, November 9, 1989, 10 a.m. The Committee of the Whole of the Texas Education Agency, will meet in the William B. Travis Building, Room 1-104, 1701 North Congress Avenue, Austin. According to the agenda, there will be a public hearing on textbooks being considered for adoption in 1989. Testimony is limited to residents of Texas who filed official written comments on textbooks or participated in the July public hearings before the State Textbook Committee. Official representatives of publishing companies will be allowed to respond to testimony. The deadlines for residents and publishers to file written requests to appear on November 9 at the hearing was October 13 at 5:00 p.m.

Contact: W. N. Kirby, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-8985.

Filed: October 27, 1989, 4:14 p.m.

TRD-8910362

Thursday, November 9, 1989, 10 a.m. The Committee of the Whole of the Texas Education Agency will meet in Room 1-104, William B. Travis Building, 1701 North Congress Avenue, Austin. According to the agenda, the committee will have a public hearing on textbooks; resolutions honoring members of the 1989 State Textbook Committee; recommendations on re-adoption of textbooks; report of the State Textbook Committee on textbooks and report of the commissioner of education concerning recommended changes and corrections; proposed amendments to 19 TAC Chapter 161; official advisory committees; SBOE advisory committee appointments; discussion of proposed amendments to SBOE operating rules concerning public testimony; proposed amendments to SBOE operating rules concerning standards of conduct and conflicts of interest; annual update of the master plan for vocational education; preliminary list of proposed priority occupations.

Contact: W. N. Kirby, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-8985.

Filed: November 1, 1989, 4:20 p.m.

TRD-8910507

Texas Employment Commission

Tuesday, November 7, 1989, 8:30 a.m. The Texas Employment Commission will meet in Room 644, TEC Building, 101 East 15th Street, Austin. According to the agenda, the commission will discuss O.D. Johnson, Jr. vs. Bob Blodgett, et al. and Buford Hall vs. Texas Employment Commission, et al.; actions, if any, resulting from executive session; internal procedures of commission appeals; consideration and action on tax liability cases and higher level appeals in unemployment compensation cases listed on commission docket 45; and set date of next meeting.

Contact: C. Ed Davis, 101 East 15th Street, Austin, Texas 78778, (512) 463-2291.

Filed: October 30, 1989, 3:47 p.m.

TRD-8910381

Texas Board of Examiners in the Fitting and Dispensing of Hearing Aids

Thursday, October 26, 1989, 7 p.m. The Continuing Education Committee of the Texas Board of Examiners in the Fitting and Dispensing of Hearing Aids had an emergency meeting at Howard Johnson's South Plaza Hotel, 3401 South IH 35, Austin. According to the agenda, the committee added the review of American Conference of Audioprostology Management Course to the agenda. The emergency status was necessary because of the revised agenda.

Contact: Wanda F. Stewart, 4800 North Lamar, Suite 150, Austin, Texas 78756.

Filed: October 26, 1989, 11 a.m.

TRD-8910276

Texas Feed and Fertilizer Control Service

Thursday, November 16, 1989, 1 p.m. The Advisory Committee of the Texas Feed and Fertilizer Control Service will meet in Room 308, Rudder Tower, Texas A&M Campus, College Station. According to the agenda, the committee will discuss soil fertility research, tonnage distribution/revenues; mycotoxins, products deficiency rates, fertilizer deficiency study committee rec-

ommendations; delinquency in payment of lab charges by firms whose analytical appeals are denied; liquid feed/fertilizer meter survey; and election of executive council members.

Contact: I.J. Shenkir, Box 3160, College Station, Texas 77841, (409) 845-1121.

Filed: October 30, 1989, 3:51 p.m.

TRD-8910382

Texas Department of Health

Friday, November 3, 1989, 5 p.m. The Environmental Health Committee of the Texas Board of Health met in Salon A, Stouffer Dallas Hotel, 2222 Stemmons Freeway, Dallas. According to the agenda, the committee considered proposed rules on riding stable registration program; final rules on construction standards for on-site sewerage facilities; proposed rule on renewal and non-renewal of youth camp licenses; emergency and proposed rule on municipal solid waste facility and reports; appointments to municipal solid waste management and resource recovery advisory council.

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

Filed: October 25, 1989, 4:12 p.m.

TRD-8910313

Saturday, November 4, 1989, 12 noon The Emergency and Disaster Committee of the Texas Board of Health met in Salon A, Stouffer Dallas Hotel, 2222 Stemmons Freeway, Dallas. According to the agenda, the committee considered appointments to trauma technical advisory committee and Texas emergency medical services advisory committee (TEMSAC).

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

Filed: October 26, 1989, 4:13 p.m.

TRD-8910306

Saturday, November 4, 1989, 1 p.m. The Personnel Committee of the Texas Board of Health met in Salon A, Stouffer Dallas Hotel, 2222 Stemmons Freeway, Dallas. According to the agenda, the committee considered policies and procedures for the committee; appointments to advisory committees (dental technical; tuberculosis; hospital patient transfer; personal care; interagency family planning; municipal solid waste management and resource recovery; Texas Emergency Medical Services, trauma technical).

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

Filed: October 26, 1989, 4:11 p.m.

TRD-8910305

Saturday, November 4, 1989, 3 p.m. The Alternate Care Committee of the Texas Board of Health met in Salon B, Stouffer Dallas Hotel, 2222 Stemmons Freeway, Dallas. According to the agenda, the committee considered final rules on speech-language pathologists and audiologists and final rules on home health agencies and home dialysis technicians.

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

Filed: October 26, 1989, 4:20 p.m.

TRD-8910311

Saturday, November 4, 1989, 3 p.m. The Executive Committee of the Texas Board of Health met in the Commissioner's Room, Stouffer Dallas Hotel, 2222 Stemmons Freeway, Dallas. According to the agenda, the committee considered items of procedure for November, 1989 board of health meeting.

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

Filed: October 26, 1989, 4:18 p.m.

TRD-8910310

Saturday, November 4, 1989, 4 p.m. The Nursing Home Committee of the Texas Board of Health met in Salon B, Stouffer Dallas Hotel, 2222 Stemmons Freeway, Dallas. According to the agenda, the committee considered emergency and proposed rules for informal administrative review process for facilities for mentally retarded; and proposed rules on administrative penalties for nursing homes.

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

Filed: October 26, 1989, 4:16

TRD-8910309

Saturday, November 4, 1989, 4 p.m. The Disease Control Committee of the Texas Board of Health met in Salon A, Stouffer Dallas Hotel, 2222 Stemmons Freeway, Dallas. According to the agenda, the committee considered proposed rule on possible exposure of state employees to HIV; and final rule on written notice of positive HIV-related test result to insurance applicant.

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

Filed: October 26, 1989, 4:15 p.m.

TRD-8910308

Sunday, November 5, 1989, 8 a.m. The Public Health Promotion Committee of the Texas Board of Health met in Salon A, Stouffer Dallas Hotel, 2222 Stemmons Freeway, Dallas. According to the agenda, the committee considered public informa-

tion progress report and overview of volunteer service program activities.

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

Filed: October 26, 1989, 4:15 p.m.

TRD-8910307

Sunday, November 5, 1989, 9 a.m. The Board of Health of the Texas Board of Health met in Salon A, Stouffer Dallas Hotel, 2222 Stemmons Freeway, Dallas. According to the agenda, the board approved minutes of previous meeting and consider commissioner's report; AIDS update; resolutions; emergency and proposed rules (facilities for the mentally retarded); proposed rules (exposure of state employees to HIV; administrative penalties for nursing homes; riding stable registration program); final rules (dissent by board members during board meetings; speech-language pathologists and audiologists; home health agencies and home dialysis technicians; notice of positive HIV-related test result to insurance applicant; construction standards for on-site sewerage facilities); committee reports (public health promotion; personnel); advisory committee appointments (dental technical; tuberculosis; hospital patient transfer; personal care facilities; interagency family planning; municipal solid waste management and resource recovery; Texas emergency medical services; trauma technical); announcements and comments.

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

Filed: October 26, 1989, 4:29 p.m.

TRD-8910312

Wednesday, November 8, 1989, 9 a.m. The Vision, Hearing and Speech Services Children's Vision Screening Advisory Committee of the Texas Department of Health will meet in Room M-418, Texas Department of Health, 1100 West 49th Street, Austin. According to the agenda, the committee will consider report on status of vision screening results from fiscal year 1989; screening for muscle balance; screening for use of near vision and for hyperopia; screening of color vision, birth-to 3 populations, special education populations; efficacy of screening with and without glasses; acceptable optotypes for screening charts; use of isolated window cover cards.

Contact: Douglas Ozias, Ph.D., 1100 West 49th Street, Austin, Texas 78756, (512) 458-7420.

Filed: October 31, 1989, 8:12 a.m.

TRD-8910401

Texas Health and Human Services Coordinating Council

Monday, November 13, 1989, 9 a.m. The Advisory Committee on Immigration of the Texas Health and Human Services Coordinating Council will meet at 12th and Trinity Streets, Room 304, Texas Employment Commission, Austin. According to the agenda, the committee will discuss the overview of SLIAG and federal update; relationship of Advisory Committee on immigration to Texas Health and Human Services Coordinating Council; agency reports on SLIAG implementation; charges to committee as defined by House Bill 2356; review of committee by-laws; discussion of committee role in procedure for issue resolution; presentation of Outreach proposal by Outreach subcommittee of Texas Education Advisory Committee; discussion of methods for information dissemination and state-wide input; report on visit by U.S. Department of Health and Human Services; new business: THHSCC Sunset review; and future meetings.

Contact: Marguerite Rivera Houze, 311-A East 14th St, Austin, Texas 78701, (512) 463-2195.

Filed: November 1, 1989, 3:46 p.m.

TRD-8910496

Monday, November 3, 1989, 2 p.m. The Commission on Children, Youth, and Family Services of the Texas Health and Human Services Coordinating Council will meet in the Reagan Building, Room 102, 15th and Congress Avenue, Austin. According to the agenda, the commission will discuss charge to the commission; overview of the council-structure and priorities; review and approval of by-laws; establish terms of membership; discussion of legislation and prioritization of tasks; legislative assignments and memoranda of understanding; discussion of commission structure; workgroups, appointment of workgroup chairs, and meeting schedule; announcement of council Sunset review; and new business.

Contact: Tom Olsen, 311-A East 14th Street, Austin, Texas (512) 463-2195.

Filed: November 1, 1989, 3:46 p.m.

TRD-8910495

Friday, November 17, 1989, 7:30 a.m. The Human Services Interagency Committee of the Texas Health and Human Services Coordinating Council will meet at the DHS Commissioner's Conference Room, 652-West, 701 West 51st Street, Austin. According to the agenda, the committee will discuss and act on approval of minutes; selection of officers; approval of committee operating guidelines; THHSCC projects for FY 1990-91; commission on children, youth, and family services; uniform medical payment methodology; mandated Senate Bill 959 AIDS program for state agencies;

action on recommendation to establish a subcommittee on client information sharing and program service delivery; old business and new business.

Contact: Patrice Thomas, 311-A East 14th Street, Austin, Texas, (512) 463-2195.

Filed: November 1, 1989, 3:46 p.m.

TRD-8910497

Texas Higher Education Coordinating Board

Thursday, November 9, 1989, 10:30 a.m. The Administrative Council of the Texas Higher Education Coordinating Board will meet in the Bevington A. Reed Building, Conference Room 209, 200 E. Riverside Drive, Austin. According to the agenda, the council will consider proposed amendments to \$25.33--basic coverage standards (maximum out-of-pocket expenses); \$25.32--definitions (definition of retiree); \$25.50--coverage for dependents (5-year vesting); and \$25.34--basic procedural and administrative practices (pre-existing conditions exclusion waiver); institutional program review; summary of 1987-88 institutional audit reports and executive secretary's report.

Contact: Kathy Lewis, P.O. Box 12788, Austin, Texas 78711, (512) 462-6420.

Filed: October 27, 1989, 2:09 p.m.

TRD-8910359

Texas Housing Agency

Monday, October 30, 1989, 3 p.m. The Personnel and Programs Committee of the Texas Housing Agency met in the THA Conference Room, Suite 300, 811 Barton Springs, Austin. According to the emergency revised agenda, the committee considered a report on loan restructure of San Jacinto Gardens' investment. The emergency status was necessary because of urgent public necessity to better manage and preserve state funds and property to provide safe, decent, and sanitary housing for Texans of low and moderate income.

Contact: Thomas C. Adams, P.O. Box 13941, Austin, Texas 78711, (512) 474-2974.

Filed: October 30, 1989, 12:28 p.m.

TRD-8910376

Tuesday, October 31, 1989, 1 p.m. The Board of Directors of the Texas Housing Agency had an emergency meeting at 811 Barton Springs Road, Conference Room, Suite 300, Austin. According to the agenda, the board considered the report on loan restructure of San Jacinto Gardens' investment; south Texas letter of credit issue; and reports on 1989 low income tax credit allocation request chart. The emergency status

was necessary because of urgent public necessity to better manage and preserve state funds and property to provide safe, decent and sanitary housing for Texans of low and moderate income.

Contact: Thomas C. Adams, P.O. Box 13941, Austin, Texas 78711, (512) 474-2974.

Filed: October 31, 1989, 10:36 a.m.

TRD-8910403

Texas Department of Human Services

Friday, November 3, 1989, 9 a.m. The Medical Care Advisory Committee of the Texas Department of Human Services met at 701 West 51st Street, 1st Floor, East Tower, Public Hearing Room, Austin. According to the agenda, the committee had opening comments; commissioner's comments; approval of minutes; Senate Bill 487 status report; town meetings on aging and disabled Texans; changes to primary home care reimbursement methodology; amendment to ICF/SNF nursing facility standards for participation; DAHS intake rule; ICF/SNF standards for participation concerning reimbursement for physical therapy; mandatory payroll deductions from earned income; appointment of task force on nursing home sanctions; Medicaid income eligibility for pregnant women and children; Medicaid coverage for children born to inmates; excluding children from Medicaid programs; presumptive Medicaid eligibility for pregnant women; revised outlier payment methodology for inpatient hospital services; expansion of allowable optometrist services; direct reimbursement for certified registered nurse anesthetists' services; reimbursement for hospital outpatient services; MCAC advisory committee FY 90 objectives; subcommittee reports; and open discussion.

Contact: Carolyn Howell, P.O. Box 149030, Austin, Texas 78714-9030, (512) 450-3053.

Filed: October 26, 1989, 4:11 p.m.

TRD-8910304

Tuesday, November 7, 1989, 8 a.m. and 10:30 a.m. The Board of the Texas Department of Human Services will meet at 701 West 51st Street, East Tower, 1st Floor, Public Hearing Room, Austin. According to the agenda, the department will have a board briefing at 8 a.m.; the regular board meeting will convene at 10:30 a.m.; task force on nursing home sanctions; \$487; outlier payment methodology for inpatient hospital reimbursement; ICF/SNF reimbursement for physical therapy; ICF/SNF durable power of attorney for health care and the withholding/withdrawing of life-sustaining procedures; treatment services for chemically dependent children; reimbursement to hospitals regarding total parenteral

hyperalimentation outpatient services; direct reimbursement for certified registered nurse anesthetists' services; discipline of children in the managing conservatorship of DHS; family violence program on emergency transportation, in-kind contributions and 24-hour shelter; office of services to persons with disabilities; moratorium on Medicaid nursing home beds; rider 68 for ICF-MR persons with related conditions; native American restitution; FY 89 and 90 budget adjustments; FY 89 year-end budget report; federal legislative issues and commissioner's report.

Contact: Bill Woods, P.O. Box 14930, Austin, Texas 78714-9030, (512) 450-3047.

Filed: October 30, 1989, 3:25 p.m.

TRD-8910380

Thursday, November 9, 1989, 9 a.m. The Income Assistance Advisory Council of the Texas Department of Human Services will meet at the Thompson Conference Center, 26th and Red River Streets, Room 2.122, Austin. According to the agenda, the council will discuss food stamp allotment deduction changes; excluding children from Medicaid cases; beginning date of Medicaid coverage for pregnant women; including stepparents in AFDC cases; food stamp replacement procedures; AFDC income and deduction changes mandated by the family support act; native American restitutionary program; presumptive eligibility; deletion of AFDC MRRB; Medicaid coverage for children born to inmates; new income limits for pregnant women and children.

Contact: Dolores Ablowich, P.O. Box 149030, Austin, Texas 78714-9030, (512) 450-4140.

Filed: November 1, 1989, 7:37 a.m.

TRD-8910431

Thursday, November 9, 1989, 10 a.m. The Family Support Services Advisory Council of the Texas Department of Human Services will meet at the Thompson Conference Center, 26th and Red River Streets, Room 2.120, Austin. According to the agenda, the council will discuss and act on election of officers; transitional day care; child care management agency; and program updates.

Contact: Dolores Ablowich, P.O. Box 149030, Austin, Texas 78714-9030, (512) 450-4140.

Filed: November 1, 1989, 7:37 a.m.

TRD-8910429

Thursday, November 9, 1989, 1 p.m. The Joint IAS/FSS Advisory Committee of the Texas Department of Human Services will meet at the Thompson Conference Center, 26th and Red River Streets, Room 2.120, Austin. According to the agenda, the committee will discuss reorganization of department; and welfare reform.

Contact: Dolores Ablowich, P.O. Box

149030, Austin, Texas 78714-9030, (512) 450-4140.

Filed: November 1, 1989, 7:37 a.m.

TRD-8910432

Thursday and Friday, November 9 and 10, 1989, 1 p.m. The Social Work Certification Advisory Council of the Texas Department of Human Services will meet at 701 West 51st Street, 1st Floor, East Tower, Public Hearing Room, Austin. According to the agenda, the council will discuss approval of minutes; staff report; subcommittee meeting; discussion of social work application; draft revisions sections 6000; committee reports; and discussion of regional training meetings.

Contact: Michael Doughty, P.O. Box 149030, Austin, Texas 78714-9030, (512) 450-3248.

Filed: November 1, 1989, 7:37 a.m.

TRD-8910430

Industrial Accident Board

Monday, October 30, 1989, 9:30 a.m. The Industrial Accident Board met at the Bevington A. Reed Building, 200 East Riverside Drive, 1st Floor, Room 107, Austin. According to the agenda, the board discussed approval of board minutes; discussed and considered repeal of existing board rule 28 TAC §42.110, health facility fee guidelines and proposed new board rule 28 TAC §42.110, health facility fee guidelines published in 7-21-89 Texas Register (14 TexReg 3506); board rule 28 TAC §42.155(c)(2); carr. review of bills; pamphlet or brochure that carriers may use to inform insureds of rights and responsibilities; suspension of pre-employment record checks; internal audit charter; nurse auditor position; 1989 gross premium tax rate; executive session-personnel-executive director; personnel-executive director; review and discussed board files-closed session, Article 8307, §4b, Texas Civil Statutes; and review and discussion of board activities.

Contact: Inez "Tippy" Foster, 200 East Riverside Drive, 1st Floor, Austin, Texas 78704, (512) 448-7960.

Filed: October 26, 1989, 10:18 a.m.

TRD-8910275

State Board of Insurance

Monday, November 6, 1989, 1 p.m. The State Board of Insurance met in Room 414, State Insurance Building, 1110 San Jacinto, Austin. According to the agenda, the board held a public hearing rescheduled from November 2, 1989, 9:30 a.m. to consider an appeal by Bransom Floor Service, Inc., of calculation of experience modifier and of Assigned Risk Pool surcharge applicable to workers' compensation insurance premium.

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

Filed: Filed October 26, 1989, 4 p.m.

TRD-8910289

Tuesday, November 7, 1989, 8:30 a.m. The State Board of Insurance will meet in Room 414, State Insurance Building, 1110 San Jacinto, Austin. According to the agenda, the board will hold a rescheduled public hearing to consider the motion for stay and appeal by William Morris Risby of commissioner's order 89-1291.

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

Filed: October 27, 1989, 11 a.m.

TRD-8910345

Tuesday, November 7, 1989, 9 a.m. The Commissioner's Hearing Section of the State Board of Insurance will meet at 1110 San Jacinto Street, Room 460, Austin. According to the agenda, the commissioner's hearing section will conduct a public hearing to consider Docket Number 10598; application of New Era Enterprises, Inc. to acquire control of Nobel Life Insurance Company.

Contact: James Norman, 1110 San Jacinto, Austin, Texas 78701-1998, (512) 463-6526.

Filed: October 30, 1989, 3:23 p.m.

TRD-8910389

Tuesday, November 7, 1989, 9 a.m. The Commissioner's Hearing Section of the State Board of Insurance will meet at 1110 San Jacinto Street, Room 353, Austin. According to the agenda, the commissioner's hearing section will conduct a public hearing to consider Docket Number 10584; whether disciplinary action should be taken against Kenneth R. Goree, Houston, Texas, who holds a Group II, Insurance Agent's license issued by the board.

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

Filed: October 30, 1989, 3:23 p.m.

TRD-8910388

Wednesday, November 8, 1989, 9 a.m. The Commissioner's Hearing Section of the State Board of Insurance will meet at 1110 San Jacinto Street, Room 460, Austin. According to the agenda, the commissioner's hearing section will conduct a public hearing to consider Docket Number 10579; whether disciplinary action should be taken against Evan Franklin Swinford, Lancaster, Texas, who holds Recording Agent's license issued by the board.

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

Filed: October 30, 1989, 3:23 p.m.

TRD-8910390

Wednesday, November 8, 1989, 1:30 p.m.

The Commissioner's Hearing Section of the State Board of Insurance will meet at 1110 San Jacinto Street, Room 353, Austin. According to the agenda, the commissioner's hearing section will conduct a public hearing to consider Docket Number 10555; application of Steven Lewis Bergstrom, Fair Oaks, California, for a non-resident group I, legal reserve life insurance agent's license.

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

Filed: October 30, 1989, 3:23 p.m.

TRD-8910391

Friday, November 10, 1989, 1:30 p.m. The Commissioner's Hearing Section of the State Board of Insurance will meet at 1110 San Jacinto Street, Room 342, Austin. According to the agenda, the commissioner's hearing section will conduct a public hearing to consider Docket Number 10570; application of Goose Creek (a Texas General Partnership), Waco, Texas, to acquire control of West Texas Fidelity Life Insurance Company, Austin, Texas.

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

Filed: October 30, 1989, 3:22 p.m.

TRD-8910394

Friday, November 10, 1989, 9 a.m. The Commissioner's Hearing Section of the State Board of Insurance will meet at 1110 San Jacinto Street, Room 353, Austin. According to the agenda, the commissioner's hearing section will conduct a public hearing to consider Docket Number 10552; whether disciplinary action should be taken against Larry Vanderwoude, Dallas, Texas, who holds a local recording agent's license issued by the board.

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

Filed: October 30, 1989, 3:23 p.m.

TRD-8910393

Friday, November 10, 1989, 9 a.m. The Commissioner's Hearing Section of the State Board of Insurance will meet at 1110 San Jacinto Street, Room 342, Austin. According to the agenda, the commissioner's hearing section will conduct a public hearing to consider Docket Number 10557; whether disciplinary action should be taken against Ronald Matthew Hayes, Houston, who holds a group II, insurance agent's license issued by the board.

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

Filed: October 30, 1989, 3:23 p.m.

TRD-8910392

Monday, November 13, 1989, 9 a.m. The Commissioner's Hearing Section of the State Board of Insurance will meet at 1110

San Jacinto Street, Room, 353, Austin. According to the agenda, the commissioner's hearing section will conduct a hearing to consider Docket Number 10539; applications of Rudolfo A. Ramirez, Houston, Texas, for a group I, legal reserve life insurance agent's license and a local recording agent's license.

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

Filed: October 30, 1989, 3:22 p.m.

TRD-8910395

Monday, November 13, 1989, 9 a.m. The Commissioner's Hearing Section of the State Board of Insurance will meet at 1110 San Jacinto Street, Room 460, Austin. According to the agenda, the commissioner's hearing section will conduct a public hearing to consider Docket Number 10574; whether disciplinary action should be taken against Elmer Barney Gibson, San Antonio, Texas, who holds a group I, legal reserve life insurance agent's license.

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

Filed: October 30, 1989, 3:22 p.m.

TRD-8910397

Monday, November 13, 1989, 1:30 p.m. The Commissioner's Hearing Section of the State Board of Insurance will meet at 1110 San Jacinto Street, Room 353, Austin. According to the agenda, the commissioner's hearing section will conduct a public hearing to consider Docket Number 10595; application of Associated Insurance Companies, Inc. and the Associated Group, Inc. to acquire control of American General Group Insurance Company, Dallas, Texas.

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

Filed: October 30, 1989, 3:22 p.m.

TRD-8910398

Monday, November 27, 1989, 1 p.m. The State Board of Insurance will meet in the Hearing Room, DeWitt Greer Building, 125 East 11th Street, Austin. According to the agenda, the board will hold a public hearing to consider promulgation of title insurance premium rates and amendments to the Basic Manual of Rules, Rates, and Forms for the writing of title insurance in the State of Texas.

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

Filed: October 27, 1989, 11:01 a.m.

TRD-8910348

Texas Commission on Jail Standards

Wednesday, November 15, 1989, 9 a.m.

The Texas Commission on Jail Standards will meet at the Employees Retirement Building, Room 100, 8th and Brazos Streets, Austin. According to the agenda, the commission will discuss the reading and approval of minutes of last meeting September 27, 1989; old business: Angelina County, Bowie County, Camp County, Clay County, Harrison County, Jefferson County, Liberty County, Williamson County, active remedial orders, change to standards, status of county correctional center program, completed jail projects, status of private jail facilities, jail population report, report on AIDS, fire in municipal jail, smoke and fume removal. New business: DeWitt County, Ector County, Franklin County, Morris County, Palo Pinto and Burleson Counties, review of emergency operation of doors standards, Sam Houston State University, statutory revisions affecting TCJS. Application for variances: Leon County. Directors Report. Other business and executive session.

Contact: Jack E. Crump, P.O. Box 12985, Austin, Texas 78704, (512) 463-5505.

Filed: November 1, 1989, 10:34 a.m.

TRD-8910468

Legislative Audit Committee

Wednesday, November 15, 1989, 2:30 p.m. The Legislative Audit Committee will meet in the Old Supreme Court Room in the State Capitol Building, Austin. According to the agenda, the committee will consider the proposal on outside management studies; status of prior audits; and other issues.

Contact: Lawrence F. Alwin, P.O. Box 12067, Austin, Texas 78711 (512) 479-4900.

Filed: November 1, 1989, 2:00 p.m.

TRD-8910477

Legislative Budget Board

Monday, November 13, 1989, 2 p.m. The Legislative Budget Board will meet in Room 310, State Capitol Building, Austin. According to the agenda, the board will consider the governor's budget execution proposals and any other business. Following the public hearings, the board may take such action as it determines to be appropriate.

Contact: Jim Oliver, Room 207-A, State Capitol Building, Austin, Texas, (512) 463-1166.

Filed: October 31, 1989, 10:39 a.m.

TRD-8910404

Texas Department of Licensing and Regulation

Thursday, November 2, 1989, 9 a.m. The Manufactured Housing Division of Texas Department of Licensing and Regulation had an emergency meeting at 920 Colorado, E.O. Thompson Building, 10th Floor Conference Room, Austin. According to the agenda, the division considered suspension, revocation or denial of respondent's Appletree Homes, license/registration for violation of the department's manufactured housing rules and regulations. The emergency status was necessary because of the availability of consumer.

Contact: Jack Shriver, 920 Colorado, Austin, Texas, 78711 (512) 463-7332.

Filed: October 26, 1989, 1:10 p.m.

TRD-8910277

Thursday, November 16, 1989, 9 a.m. The Air Conditioning and Refrigeration Section of the Texas Department of Licensing and Regulation will meet at 920 Colorado, E.O. Thompson Building, 10th Floor Conference Room, Austin. According to the agenda, the section will consider suspension, revocation or denial of respondent's Hien Trong Luong, license/registration for violation of the department's air conditioning and refrigeration contractor rules and regulations.

Contact: Jack Shriver, 920 Colorado, Austin, Texas, 78711 (512) 463-3128.

Filed: October 26, 1989, 1 p.m.

TRD-8910279

Thursday, November 16, 1989, 10:30 a.m. The Air Conditioning and Refrigeration Section of Texas Department of Licensing and Regulation will meet at 920 Colorado, E.O. Thompson Building, 10th Floor Conference Room, Austin. According to the agenda, the section consider suspension, revocation or denial of respondent's, Timothy Stevenson, license/registration for violation of the department's air conditioning and refrigeration contractor rules and regulations.

Contact: Jack Shriver, 920 Colorado, Austin, Texas 78711, (512) 463-3128.

Filed: October 26, 1989, 1 p.m.

TRD-8910278

Texas Medical Disclosure Panel

Saturday, November 11, 1989, 9:30 a.m. The Texas Medical Disclosure Panel will meet in Room T-607, Texas Department of Health, 1100 West 49th Street, Austin. According to the agenda, the panel will swear in reappointed panel members; approve minutes of meetings of April 9, 1989 and May 13, 1989; ratify August 13, 1989 as

the effective date for final rules on psychiatric procedures; discuss comments on proposed rules; consider final rules on radiation therapy procedures; old and new business not requiring panel action.

Contact: Nance Kerrigan, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7245.

Filed: October 31, 1989, 8:12 a.m.

TRD-8910400

Texas Department of Mental Health Mental Retardation

Thursday, November 9, 1989, 10 a.m. The Board Personnel Committee of the Texas Department of Mental Health Mental Retardation will meet at the Central Office, 909 West 45th Street, Austin. According to the agenda, the board will consider approval of appointment of the director of the Beaumont State Center.

Contact: Dennis R. Jones, 909 West 45th Street, Austin, Texas 78756.

Filed: October 26, 1989, 2:38 p.m.

TRD-8910281

Thursday, November 9, 1989, 10:30 a.m. The Board Planning and Policy Development of the Texas Department of Mental Health Mental Retardation will meet at the Central Office, 909 West 45th Street, Austin. According to the agenda, the board will discuss update on depart planning process; appointments to Medical Advisory Committee; amendment to board policies and procedures manual; rule governing lease of TDMHMR property; amendments to rules governing standards of TDMHMR; new subchapter governing CMHMRs; amendments to rules governing designation as signal portal authority; adoption of amendments to rules governing TDMHMR in-home and family support program; amendments to rules governing licensure of crisis stabilization units; new section on interagency agreements; amendments to rules governing life-sustaining treatment. If deaf interpreters required, notify TDMHMR (512) 455-4585, Ernest Fuentes, 72 hours prior to the meeting.

Contact: Dennis R. Jones, 909 West 45th Street, Austin, Texas 78756.

Filed: October 26, 1989, 2:38 p.m.

TRD-8910280

Thursday, November 9, 1989, 1 p.m. The Board Business and Asset Management Committee of the Texas Department of Mental Health Mental Retardation will meet at the Central Office, 909 West 45th Street, Austin. According to the agenda, the board will discuss proposed construction of Green House on campus of Big Spring State Hospital; Austin State Hospital development plan; consideration of transfer of right of way at Terrell State Hospital; consideration

of transfer of surplus property at Waco Center for Youth; FY 1989 year-end budget report. If deaf interpreters required, notify TDMHMR, (512) 465-4585, Ernest Fuentes, 72 hours prior to the meeting.

Contact: Dennis R. Jones, 909 West 45th Street, Austin, Texas 78756.

Filed: October 26, 1989, 2:37 p.m.

TRD-8910283

Friday, November 10, 1989, 9 a.m. The Board of the Texas Department of Mental Health Mental Retardation will meet at the Central Office, 909 West 45th Street, Austin. According to the agenda, the board will hear citizen's comments (limited to three minutes). If deaf interpreters required, notify TDMHMR, (512) 465-4585, Ernest Fuentes, 72 hours prior to the meeting.

Contact: Dennis R. Jones, 909 West 45th Street, Austin, Texas 78756.

Filed: October 26, 1989, 2:38 p.m.

TRD-8910282

Board of Pardons and Paroles

Tuesday, November 7, 1989, 9 a.m. The Board of Pardons and Paroles will meet at 8610 Shoal Creek Boulevard, Austin. According to the agenda, the board discuss and act on: minutes of October 10, 1989; final adoption of rules 145.22 and 149.1; taping board interview cases; victim notification procedure; criteria for special review cases; tentative parole 2 approved cases/disciplinary cases; tentative parole approved cases with new conviction; Harris County PIA cases; NTO for PIA cases; PIA process-review panels; board liaison/prison and jail overcrowding; public input/comments; executive director's report.

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

Filed: October 30, 1989, 4:24 p.m.

TRD-8910396

Tuesday, November 7, 1989, 1:30 p.m. The Board of Pardons and Paroles will meet at 8610 Shoal Creek Boulevard, Austin. According to the agenda, the board will consider executive clemency recommendations and related actions (other than out of country conditional pardons), including: full pardons/restoration of civil rights of citizenship; emergency medical reprieves; commutations of sentence; other reprieves, remissions and executive clemency actions.

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

Filed: October 27, 1989, 10:28 a.m.

TRD-8910321

Monday-Friday, November 6-10, 1989, 1:30 p.m. daily except 11 a.m. on Friday. The Board Panel of the Board of Pardons and Paroles will meet at 8610 Shoal Creek Boulevard, Austin. According to the agenda, the panel will receive, review and consider information and reports concerning prisoners/inmates and administrative releaseses subject to the board's jurisdiction and initiate and carry through with appropriate action.

Contact: K. Armstrong, 8610 Shoal Creek Boulevard, Austin, Texas 78758, (512) 459-2713.

Filed: October 17, 1989, 10:28 a.m.

TRD-8910322

State Pension Review Board

Monday, November 13, 1989, 9:30 a.m. The Investment Review Committee of the State Pension Review Board will meet in the Conference Room, 4th Floor, Room 403, Employees Retirement System Building, 18th and Brazos Streets, Austin. According to the agenda, the committee will have an organizational meeting.

Contact: Lynda Baker, 18th and Brazos Streets, Austin, Texas.

Filed: October 30, 1989, 10:45 a.m.

TRD-8910373

Monday, November 13, 1989, 9:30 a.m. The Investment Review Committee of the State Pension Review Board will meet at the Auditorium, First Floor, Employees Retirement System, 18th and Brazos Streets, Austin. According to the revised agenda, the committee will have an organizational meeting. The emergency status was necessary because the location of Investment Review Committee meeting changed.

Contact: Lynda Baker, P.O. Box 13498, Austin, Texas 78711, (512) 463-1736.

Filed: October 31, 1989, 10:32 a.m.

TRD-8910415

Structural Pest Control Board

Monday, November 13, 1989, 8:30 a.m. The Structural Pest Control Board will meet at 9101 Burnet Road, Suite 201, Austin. According to the agenda, the board will discuss and act on the approval of minutes of October 2, 1989 board meeting; Billy R. Brown doing business as Building Blox Pest and Lawn Service at 9:00 a.m.; Phillip B. Walston doing business as Bug-Master Pest Elimination Company at 10:00 a.m.; Andy's, Inc. to appear at 1:00 p.m.; and miscellaneous.

Contact: David A. Ivie, 9101 Burnet Road,

#201, Austin, Texas, (512) 835-4066.

Filed: November 1, 1989, 10:34 a.m.

TRD-8910470

Tuesday, November 14, 1989, 8:30 a.m. The Structural Pest Control Board will meet at 9101 Burnet Road, Suite 201, Austin. According to the agenda, the board will discuss and act on the executive director's report; M. Sohail Shaikh doing business as Big Bug Buster at 9:00 a.m.; Henry Handorf doing business as C & R Pest Control at 10:30 a.m.; Daryl G. Williams to appear at 11:00 a.m.; consider proposed rules for publication on administrative fines; discussion on continuing education units; report from executive director's search committee; executive session; and miscellaneous.

Contact: David A. Ivie, 9101 Burnet Road, #201, Austin, Texas, (512) 835-4066.

Filed: November 1, 1989, 10:34 a.m.

TRD-8910469

Texas State Board of Pharmacy

Tuesday and Wednesday, November 7 and 8, 1989, 9 a.m. The Texas State Board of Pharmacy will meet at the Austin Airport Hilton and Towers, 6000 Middle Fiskville Road, Austin. According to the agenda, the board will hear testimony and review evidence of alleged violations of those laws which persons are subject to administrative sanctions and what form the sanction are to take. The board will consider approval of minutes of September 19, 1989 disciplinary hearings; introduction of new board members; hear a presentation of the recommendations of the advisory committee on continuing education; consider proposed rules 295.8, 283.2, 283.10, and 291.32(d); review and approve FY89 budget expenditures; hear reports and discuss pharmacy in 21st century conference; organizational meeting of the strategic planning committee; meeting with interested parties regarding potential amendments to the Texas Pharmacy Act; NABP's manpower project survey; personnel update; discuss policy relating to non-compliance with fine payments; discuss policy and procedures for designation as a rural physician; discuss possible locations for FY90 summer policy meeting; hear status of the automated technology committee report and implementation of recommendations; consider proposed agreed board orders; hear details on honoring dinner; and executive session to discuss pending litigation and personnel matters.

Contact: Fred S. Brinkley, Jr., R.Ph., 8505 Cross Park Drive, # 110, Austin, Texas 78754, (512) 832-0661.

Filed: October 27, 1989, 12:49 p.m.

TRD-8910346

State Board of Plumbing Examiners

Monday, November 3, 1989, 9 a.m. The State Board of Plumbing Examiners at 929 East 41st Street, Austin. According to the agenda, the board recognized visitors-Robert S. Scruggs re: §3(c) plumbing law, regularly employed; minutes of last meeting; reviewed financial report; examination date; discussed proposed rule regarding fees; progress report on alternative sources of computer services; discussed hardship cases; discuss water heater as it relates to fixture definition; and any other topics for discussion that came before the board.

Contact: Lynn Brown, 929 East 41st Street, P.O. Box 4200, Austin, Texas 78765, (512) 458-2145.

Filed: October 31, 1989, 10:32 a.m.

TRD-8910416

Texas State Board of Public Accountancy

Friday, October 27, 1989, 3:30 p.m. The Ad-hoc Committee on Coordination of Sunset Legislation with the Texas State Board of Public Accountancy had an emergency meeting at 1033 La Posada, Suite 340, Austin. According to the agenda, the committee discussed policy issues and evaluation of programs in relationship to the Sunset self-evaluation report. The emergency status was necessary because the meeting was requested by the Sunset Commission on short notice.

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

Filed: October 26, 1989, 4:57 p.m.

TRD-8910317

Friday, November 10, 1989, 9 a.m. The Executive Committee of the Texas State Board of Public Accountancy will meet at 1033 La Posada, Suite 340, Austin. According to the agenda, the committee will review the board's financial matters; approval of the financial statement; approval of the board's annual report to the Governor; review of the status of computer purchase; review of the status of the State Auditor's EDP Audit; review of NASBA matters; review of personnel matters; discussion of implementation of Senate Bill 357 regarding sick leave pool; report on the status of the Sunset report; appointment to committee; discussion of changes to the examination on The Rules of Professional Conduct; discussion of the board's legal status in complaint proceedings; discussion of substantive rule 501.31, confidential client communications; request by Thomas Roland Stewart for reinstatement hearing; discussion of possible litigation; discussion of substantive rule 523.63, mandatory CE at-

tendance and other matters coming before the committee.

Contact: Bob E. Bradley, 1033 La Posada, Suite 340, Austin, Texas 78752-3892.

Filed: November 2, 1989, 10:07 a.m.

TRD-8910513

Friday, November 10, 1989, 11 a.m. and Saturday, November 11, 1989, 10 a.m.

The Full Board Meeting of the Texas State Board of Public Accountancy will meet Friday at 1033 La Posada, Suite 340, Austin, and Saturday at the Frank Erwin Special Events Center, Austin. According to the agenda, the board will discuss approval of minutes of the September 21-22, 1989 meeting; report of the Executive Committee; report of the Examination Committee; report of the Behavioral Enforcement Committee; report of the Technical Standards Review Committee; report of the Nominations Committee; action on substantive rules; report of the Licensing Committee; review of status of GA referrals; report of reinstatement hearing for Brooks Wilson; ratification of board orders, consent orders and proposals for decision; review of certain board communications; review of future meeting and hearing schedules; review of plans for the November 11, 1989, swearing-in ceremony; conduct of the swearing-in ceremony.

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

Filed: November 2, 1989, 9:58 a.m.

TRD-8910512

Texas Department of Public Safety

Tuesday, November 7, 1989, 8 a.m. The Public Safety Commission of the Texas Department of Public Safety will meet at the Commission Room, 5805 North Lamar, Austin. According to the agenda, the commission will discuss approval of minutes; continuation of appeal hearing of discharged employee.

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

Filed: October 27, 1989, 10:56 a.m.

TRD-8910324

Tuesday, November 7, 1989, 8 a.m. The Public Safety Commission of the Texas Department of Public Safety will meet at DPS Headquarters, Commission Room, 5805 North Lamar, Austin. According to the agenda, the commission will discuss and act upon approval of minutes; continuation of appeal hearing of discharged employee; budget matters; personnel matters; real estate matters; pending and contemplated litigation; miscellaneous and other unfinished business.

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

Filed: October 30, 1989, 10:49 a.m.

TRD-8910372

Public Utility Commission of Texas

Wednesday, November 8, 1989, 9 a.m. The Public Utility Commission of Texas will meet at 7800 Shoal Creek Boulevard, Suite 450N, Austin. According to the agenda, the commission will consider the following dockets: 6350, 7358, and 7385, 8847, 8896, 6925, and 7029, 8910, 8802, 8989, and 9014 and administrative matters.

Contact: Mary Ross McDonald, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: October 31, 1989, 3:39 p.m.

TRD-8910433

Wednesday, November 8, 1989, 1 p.m. The Administrative Board of the Public Utility Commission of Texas will meet at 7800 Shoal Creek Boulevard, Suite 450N, Austin. According to the agenda, the board will discuss reports, discuss and act on budget and fiscal matters including a report on the status of the lease of the PUC offices; approval of TECA expenses relating to administration of the Universal Service Fund; report on status of private pay telephone rule (\$23.54). Adjournment for executive session to consider: litigation and personnel matters. Reconvene for discussions considered in executive session; and set time and place for next meeting.

Contact: Mary Ross McDonald, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: October 31, 1989, 3:40 p.m.

TRD-8910472

Thursday, November 9, 1989, 10 a.m. The Public Utility Commission of Texas will meet at 7800 Shoal Creek Boulevard, Suite 450N, Austin. According to the agenda, the commission will have a prehearing conference in Docket Number 9102; application of Southwestern Bell Telephone Company for C.O. Lan service for Hardin-Simmons University.

Contact: Mary Ross McDonald, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: October 30, 1989, 3:38 p.m.

TRD-8910386

Thursday, November 9, 1989, 2 p.m. The Public Utility Commission of Texas will meet at 7800 Shoal Creek Boulevard, Suite 450N, Austin. According to the agenda, the commission will have a prehearing conference in Docket Number 8289. Petition of the City of Panorama Village for termina-

tion of mandatory extended area service between the cities of Panorama Village and New Waverly, will be held at the above date and time.

Contact: Mary Ross McDonald, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: October 30, 1989, 3:38 p.m.

TRD-8910384

Monday, November 13, 1989, 8:30 a.m. The Public Utility Commission of Texas will meet at 7800 Shoal Creek Boulevard, Suite 450N, Austin. According to the agenda, the commission will have a prehearing conference in Docket Number 9103; application of Mustang Telephone Company to add private pay telephone service.

Contact: Mary Ross McDonald, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: October 31, 1989, 3:40 p.m.

TRD-8910473

Monday, November 13, 1989, 9 a.m. The Public Utility Commission of Texas will meet at 7800 Shoal Creek Boulevard, Suite 450N, Austin. According to the agenda, the commission will have a hearing on the merits in Docket Number 8805; application of McLennan County Electric Cooperative, Inc. for authority to change rates.

Contact: Mary Ross McDonald, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: October 31, 1989, 3:40 p.m.

TRD-8910471

Monday, November 13, 1989, 10 a.m. The Hearings Division of the Public Utility Commission of Texas will meet at 7800 Shoal Creek Boulevard, Suite 450N, Austin. According to the agenda, the hearings division will have a prehearing conference in Docket Number 9080; complaint of Stamford Electric Cooperative, Inc. against West Texas Utilities.

Contact: Mary Ross McDonald, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: October 26, 1989, 3:25 p.m.

TRD-8910285

Monday, January 29, 1990, 10 a.m. The Public Utility Commission of Texas will meet at 7800 Shoal Creek Boulevard, Suite 450N, Austin. According to the agenda, the commission will have a hearing on the merits in Docket Number 9022; application of J-A-C Electric Cooperative, Inc. for tariff revision.

Contact: Mary Ross McDonald, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: October 30, 1989, 3:38 p.m.

TRD-8910387

Monday, February 26, 1989, 10 a.m. The Hearings Division of the Public Utility Commission of Texas will meet at 7800 Shoal Creek Boulevard, Suite 450N, Austin. According to the agenda, the hearings division will have a hearing on the merits in Docket Number 9091; General Counsel's Show Cause Petition against Royal Frontier Studios, Inc. and its representatives for violation of ADAD requirements.

Contact: Mary Ross McDonald, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: October 26, 1989, 3:23 p.m.

TRD-8910284

Texas Racing Commission

Monday, November 6, 1989, 9 a.m. The Texas Racing Commission met in Room 101, John H. Reagan Building, 105 West 15th Street, Austin. According to the agenda, the commission discussed approval of minutes, consider motions and other matters relating to the greyhound racetrack license for Galveston County and vote; voted to adopt as emergency rules and to propose for publication in the *Texas Register*, the following rules and regulations; §§305.35, 311.102, 311.103, 311.206, 313.402, 313.409, 319.9, 319.105, 319.107, 319.110 and 321.107. Approval of formal license certificates for greyhound racetracks and horse racetracks and vote. Presentation to Heart of Texas Racing, Inc. of a formal license. Status report on racetracks presentation to staff of appreciation certificate. Considered matters relating to Heart of Texas Racing and Vote. Discussed status of Manor Downs. Considered staff proposal relating to the reimbursement of administrative costs in preparation for racing/performance bonds and vote. Considered certification and examinations for farriers, presentation by Texas Professional Farrier's Assn., presented by John Mayton, Ryan Foundation. Considered and approved the final order for the Class I horse racetrack in Harris County and vote. Discussed old and new business.

Contact: Paula Cochran Carter, P.O. Box 12080, Austin, Texas 78711, (512) 476-7223.

Filed: October 27, 1989, 4:50 p.m.

TRD-8910363

Railroad Commission of Texas

Monday, November 6, 1989, 9 a.m. The Railroad Commission of Texas met in Room 12-126, William B. Travis Building, Room 12-126, 1701 North Congress, Austin. Agendas follow.

The commission considered and acted on

the personnel division director's report on division administration, budget, procedures, and personnel matters. The commission met in executive session to consider the appointment, employment, evaluation, reassignment, duties, discipline and/or dismissal of personnel.

Contact: Mark Bogan, P.O. Drawer 12967, Austin, Texas 78711-2967.

Filed: October 17, 1989, 1:39 p.m.

TRD-8910356

The commission considered and acted on the OIS director's report on division administration, budget, procedures, and personnel matters.

Contact: Brian W. Schaible, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-6710.

Filed: October 27, 1989, 1:39 p.m.

TRD-8910355

The commission considered and acted on division administration, investigations, budget, and personnel matters.

Contact: Mary Ann Wiley, P.O. Drawer 12967, Austin, Texas 78711, (512) 463-6828.

Filed: October 27, 1989, 1:39 p.m.

TRD-8910354

The commission considered and acted on the office of the executive director's report on commission budget and fiscal matters, administrative and procedural matters, personnel and staffing, state and federal legislation, and contracts and grants. Consider reorganization of various commission divisions; consolidation of positions; and appointment, reassignment and/or termination of various positions, including division directors. Consideration of reorganization of the well plugging program. The commission met in executive session to consider the appointment, employment, evaluation, reassignment, duties, discipline and/or dismissal of personnel.

Contact: Cril Payne, P.O. Drawer 12967, Austin, Texas 78711-2967, (512) 463-7274.

Filed: October 27, 1989, 1:39 p.m.

TRD-8910353

The commission considered and acted on the administrative services division director's report on division administration, budget, procedures, and personnel matters. Discussion of the development of a natural gas clearinghouse that would match companies that need gas to fuel new plants with producers that have gas to sell; and possible action.

Contact: Roger Dillon, P.O. Drawer 12967, Austin, Texas 78711, (512) 463-7257.

Filed: October 27, 1989, 1:39 p.m.

TRD-8910352

The commission considered and acted on

automatic data processing division director's report on division administration, budget, procedures, equipment acquisitions and personnel matters.

Contact: Bob Kmetz, P.O. Drawer 12967, Austin, Texas 78711, (512) 463-7251.

Filed: October 27, 1989, 1:40 p.m.

TRD-8910351

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

Contact: Margie Osborn, P.O. Drawer 12967, Austin, Texas 78711, (512) 463-6755.

Filed: October 27, 1989, 1:40 p.m.

TRD-8910350

The commission considered various matters within the jurisdiction of the commission. In addition, the commission considered items previously posted for open meeting and at such meeting verbally postponed or continued to this date. With regard to any item, the commission may have taken various action, including but not limited to scheduling an item in its entirety or for particular action at a future time or date. The commission considered the procedural status of any contested case if 60 days or more have elapsed from the date the hearing was closed or from the date the transcript was received. The commission met in executive session to receive legal advice regarding pending and/or contemplated litigation.

Contact: Cue D. Boykin, P.O. Drawer 12967, Austin, Texas 78711, (512) 463-6921.

Filed: October 27, 1989, 1:40 p.m.

TRD-8910349

Monday, November 16, 1989, 10 a.m. The commission will hold a statewide hearing on oil and gas.

Contact: Cril Payne, P.O. Drawer 12967, Austin, Texas 78711.

Filed: October 27, 1989, 1:38 p.m.

TRD-8910357

Texas Real Estate Commission

Monday and Tuesday, November 6 and 7, 1989, 9:30 a.m. The Texas Real Estate Commission will meet in the Conference Room, Headquarters Office, 1101 Camino La Costa, Austin. According to the agenda, the commission discuss and act upon the minutes of October 6, 1989; staff reports for month of September, 1989; 1989-'90 operating budget; education matters; proposed amendments to 22 TAC §535.91-92 relating to mandatory continuing education for real estate licensees as a condition to renewal or

issuance of a license and to 22 TAC §535.122 relating to mandatory continuing education required to return to active status as a salesman; consideration of request from Texas Real Estate Broker-Lawyer Committee to amend 22 TAC §537.11 concerning use of contract forms; executive session to discuss pending litigation and appointment of public officials; consideration of appointments to Texas Real Estate Appraiser Certification Committee; consideration of claims against Real Estate Recovery Fund; consideration of motions for rehearing and/or probation; entry or orders in contested cases; rehearing in hearing number 89-37-87536 in the matter of Joe Prado.

Contact: Mark A. Moseley, 1101 Camino La Costa, Austin, Texas.

Filed: October 26, 1989, 4:18 p.m.

TRD-8910290

School Land Board

Tuesday, November 7, 1989, 10 a.m. The School Land Board will meet at the General Land Office, Stephen F. Austin Building, 1700 North Congress Avenue, Room 831, Austin. According to the agenda, the board will discuss and act on the approval of the minutes of the previous board meetings; pooling applications; opening and consideration of bids received for the November 7, 1989 sealed bid land sale; applications for lease suspension; status report on suspended state leases; excess acreage applications; coastal public lands-lease applications; easement applications; structure permit terminations, renewals, and requests; executive session-proposed and pending litigation; executive session-status report on El Paso County; executive session-consideration of two land acquisitions.

Contact: Linda K. Fisher, 1700 North Congress Avenue, Room 836, Austin, Texas 78711, (512) 463-5016.

Filed: October 30, 1989, 2:48 p.m.

TRD-8910379

Texas Senate and House of Representatives

Thursday, November 16, 1989, 9 a.m. The Subcommittee on Agriculture and Livestock Commission of the Texas Senate and House of Representatives will meet in the Old Supreme Court Room, Capitol Building, Room 301, Austin. According to the agenda, the subcommittee will discuss and act on testimony from agriculture commodity groups; public testimony; and other business.

Contact: Maggie Banner, Room 421, Capitol Building, Austin, Texas 78711 (512) 463-0340.

Filed: October 31, 1989, 4:20 p.m.

TRD-8910467

Texas State Soil and Water Conservation Board

Wednesday, November 15, 1989, 8 a.m. The Texas State Soil and Water Conservation Board will meet at 311 North Fifth Street, Conference Room, Temple. According to the agenda, the board will review and take appropriate action on the following: minutes of October 23, 1989 board meeting; district director appointments; division and reorganization of North Concho River SWCD #208; petition for annexation to Nueces-Jim Wells-Kleberg SWCD # 311; request for name change from Nueces-Jim Wells-Kleberg SWCD #311; review of 1989 statewide annual meeting of SWCD directors in McAllen, Texas; Galveston Bay National Estuary Study; Gulf of Mexico program report; nonpoint source management program, monitoring proposal-Lower Rio Grande Valley, federal funding for Section 319 program, nonpoint source assessment update, silvi-cultural water quality documentary, report on "Watershed Protection through Pollution Prevention" meeting, report on Animal Waste Management permitting; watershed study progress report; FY 1990 subchapter H technical assistance allocations; FY 1990 technical assistance reallocation; report on 1989 FY technical assistance supplemental allocations; report from agencies and guests; public information/education program, shoreline erosion documentary; state board member travel, next regular board meeting January 17, 1990; NACD meeting, San Diego, California, February 4-7, 1990.

Contact: Robert G. Buckley, P.O. Box 658, Temple, Texas 76503, (817) 773-2250.

Filed: November 2, 1989, 8:58 a.m.

TRD-8910511

Teacher Retirement System of Texas

Tuesday, November 14, 1989, 12 noon The Medical Board of the Teacher Retirement System of Texas will meet at the Investment Library, 1001 Trinity, Austin. According to the agenda, the board will discuss the files of members who are currently applying for disability retirement and the files of disability retirees who are due a re-examination report.

Contact: Don Cadenhead, 1001 Trinity, Austin, Texas 78701, (512) 397-6400.

Filed: November 1, 1989, 10:29 a.m.

TRD-8910466

Texas State Technical Institute

Thursday, November 2, 1989, 2 p.m. The Board of Regents, Facilities Committee of the Texas State Technical Institute had an emergency meeting on a Teleconference Call with Board Members Facilities Committee, TSTI System Building, Waco. According to the agenda, the committee discussed approval of plans and specifications for construction of student center and gymnasium at Harlingen. The emergency status was necessary because of the need to approve plans and specifications for construction of student center and gymnasium at Harlingen.

Contact: Theodore A. Talbot, 3801 Campus Drive, Waco, Texas 76705, (817) 867-4894.

Filed: November 1, 1989, 8:49 a.m.

TRD-8910435

The Texas A&M University System/Board of Regents

Friday, November 3, 1989, 2 p.m. The Committee for Academic Campuses of the Texas A&M University System/Board of Regents met in the MSC Annex Board of Regents Dining Room, College Station. According to the agenda, the committee considered issues for a work session on issues presented to the committee during its tour and public hearings and discussed a future agenda for the committee.

Contact: Vickie E. Burt, Board of Regents/Texas A&M University, College Station, Texas 77843, (409) 845-9603.

Filed: October 30, 1989, 8:43 a.m.

TRD-8910374

University Interscholastic League

Wednesday, November 1, 1989, 1 p.m. The State Executive Committee of the University Interscholastic League met at the Radisson Hotel, Ballroom A, 7th and San Jacinto Streets, Austin. According to the agenda, the committee had a continuation of hearing on allegations of violation of rules by Savoy Independent School District; allegation of violations by Point Isabel Independent School District; and official interpretation.

Contact: P.O. Box 8028, Austin, Texas 78713, (512) 471-5883.

Filed: October 27, 1989, 11:12 p.m.

TRD-8910325

Texas Water Commission

Thursday, November 9, 1989, 10 a.m. The Texas Water Commission will meet at 1700 North Congress Avenue, Room 123, Stephen F. Austin Building, Austin. According to the agenda, 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: November 1, 1989, 11:41 a.m.

TRD-8910481

Tuesday, November 14, 1989, 10 a.m. The Texas Water Commission will meet in the Stephen F. Austin Building, Room 118, 1700 North Congress Avenue, Austin. According to the agenda, 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: October 31, 1989, 3:13 p.m.

TRD-8910413

Thursday, November 16, 1989, 10 a.m. The Texas Water Commission will meet at 1701 North Congress Avenue, Austin. According to the agenda, 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: October 31, 1989, 3:14 p.m.

TRD-8910412

Thursday, November 16, 1989, 2 p.m. The Texas Water Commission will meet at 1701 North Congress Avenue, William B. Travis Building, Room 1-111, Austin. According to the agenda, 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: October 31, 1989, 3:14 p.m.

TRD-8910411

Thursday, November 16, 1989, 2 p.m. The Texas Water Commission will meet at 1701 North Congress, Room 1-111, William B. Travis Building, Austin. According to the agenda, 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: November 1, 1989, 11:41 a.m.

TRD-8910480

Wednesday, January 17, 1990, 9 a.m. The Texas Water Commission will meet in the Stephen F. Austin State Office Building, Room 118, 1700 North Congress Avenue, Austin. According to the agenda, the commission will discuss the notice of application by M'rirel E. McNeill, App. No. 5258, for a water use permit to divert and use not to exceed 64 acre-feet of water per annum from the Atascosa River, tributary of the Nueces River, Nueces River Basin to irrigate 32 acres of land approximately 3.5 miles northwest of Three River, Live Oak County, Texas.

Contact: Weldon Hawthorne, P.O. Box 13087, Austin, Texas 78701, (512) 371-6300.

Filed: October 27, 1989, 3:08 p.m.

TRD-8910360

Wednesday, January 17, 1989, 9 a.m. The Texas Water Commission will meet in Room 118, Stephen F. Austin State Office Building, 1700 North Congress, Austin. According to the agenda, the commission will discuss notice of application by Fernwood Enterprises, A Partnership, Application Number 23-290A to amend Certificate Number 23-920, to change the place of use and diversion facilities from the present location downstream approximately 7.5 miles northwest of Presidio, Presidio County,

Texas.

Contact: Pete Hawthorne, P.O. Box 13087, Austin, Texas 78701, (512) 371-6388.

Filed: November 1, 1989, 3:10 p.m.

TRD-8910491

Texas Youth Commission

Thursday, November 9, 1989, 9 a.m. The Board of the Texas Youth Commission will meet at 4900 North Lamar, Room 2301, Austin. According to the agenda, the board will discuss approval of change order for the Corsicana State Home; addition of new elevator and kitchen equipment (action); approval of change order for the West Texas Children's Home; reroofing of administration and cafeteria building; approval of transfer of funds for FY 1990 in order to expand institutional statistical summary and report on student population (information); and adoption of strategic plan (action).

Contact: Ron Jackson, P.O. Box 4260, Austin, Texas 78765.

Filed: November 1, 1989, 9:58 a.m.

TRD-8910465

Thursday, November 9, 1989, 9 a.m. The Board of the Texas Youth Commission will meet at 4900 North Lamar, Room 2301, Austin. According to the agenda, the board will consider the proposal to expand the Juvenile Sentencing Statute (action).

Contact: Ron Jackson, 4900 North Lamar, Austin, Texas 78765.

Filed: November 1, 1989, 3:33 p.m.

TRD-8910494

Regional Meetings

Meetings Filed October 26, 1989

The Dallas Central Appraisal District, Board of Directors met at 1420 West Mockingbird Lane, Suite 500, Dallas, November 1, 1989, at 7:30 a.m. Information may be obtained from Rick L. Kuehler, 1420 West Mockingbird Lane, Suite 500, Dallas, Texas 75247, (214) 631-0520.

TRD-8910274

Meetings Filed October 27, 1989

The Dallas Area Rapid Transit, Planning and Development Committee met at 601 Pacific Avenue, Dallas, October 31, 1989, at 3:00 p.m. Information may be obtained from Nancy McKethan, 601 Pacific Avenue, Dallas, Texas 75202, (214) 658-6237.

The Dallas Area Rapid Transit, Procurement Ad Hoc Committee met at 601 Pacific Avenue, Dallas, November 3, 1989, at 1:00

p.m. Information may be obtained from Nancy McKethan, 601 Pacific Avenue, Dallas, Texas 75202, (214) 658-6237.

The North Plains Groundwater Conservation District, Board of Directors met at the District Office, 603 East First Street, Dumas, November 6, 1989, at 10:00 a.m. Information may be obtained from Richard Bowers, Box 795, Dumas, Texas 79029, (806) 935-6401.

The Parmer County Appraisal District, Board of Directors will meet at 305 Third Street, Bovina, November 9, 1989, at 11:30 a.m. Information may be obtained from Ron Proctor, Box 56, Bovina, Texas 79009, (806) 238-1405.

The Tyler County Appraisal District, Board of Directors met at 806 West Bluff, Woodville, November 2, 1989, at 4:00 p.m. Information may be obtained from Linda Lewis, P. O. Drawer 9, Woodville, Texas 75979, (409) 283-3736.

TRD-8910318

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Meetings Filed October 30, 1989

The Ark-Tex Council of Governments, Board of Directors will meet at City Hall, 200 Rusk, Pittsburg, November 8, 1989, at 5:30 p.m. Information may be obtained from Susan J. Rice, P.O. Box 5307, Texarkana, Texas 75505, (214) 832-8636.

The Bastrop County Appraisal District, Appraisal Review Board met at the Bastrop County Appraisal District, 1200 Cedar Street, Bastrop, November 2, 1989. Information may be obtained from Lorraine Perry, P.O. Box 578, Bastrop, Texas 78602, (512) 321-3925.

The Brown County Appraisal District, Board of Directors met at 403 Fisk Avenue, Brownwood, November 6, 1989, at 7:00 p.m. Information may be obtained from Bob Young, 403 Fisk Avenue, Brownwood, Texas 76801, (915) 643-5676.

The Callahan County Appraisal District, Board of Directors met at the Appraisal District Office, 130 West 2nd Street, Baird, November 6, 1989, at 7:30 p.m. Information may be obtained from Jane Ringhoffer, P.O. Box 806, Baird, Texas 79504, (915) 854-1165.

The Concho Valley Council of Governments, Regional Review Committee will meet at 5014 Knickerbocker Road, San Angelo, November 8, 1989, 2:00 p.m. Information may be obtained from Robert R. Weaver, P.O. Box 60050, San Angelo, Texas 76906, (915) 944-9666.

The Deep East Texas Private Industry Council, Inc., Executive Committee will meet at the Waterwood Resort, Livingston, November 7, 1989, at 10:00 a.m. Information may be obtained from Charlene Mead-

ows, P.O. Box 1423, Lufkin, Texas 75901, (409) 634-2247.

The East Texas Council of Governments, Executive Committee met at the Roy H. Laird Country Club, Kilgore, November 2, 1989, at 1:30 p.m. Information may be obtained from Glynn Knight, 3800 Stone Road, Kilgore, Texas, (214) 984-8641.

The Erath County Appraisal District, Board of Directors will meet in the Board Room, 1390 Harbin Drive, Stephenville, November 8, 1989, at 9:00 a.m. Information may be obtained from Jerry Lee, 1390 Harbin Drive, Stephenville, Texas 76401, (817) 965-5434.

The High Plains Underground Water Conservation District No. 1, Board of Directors will meet in the Conference Room located at 2930 Avenue Q, Lubbock, November 14, 1989, 10:00 a.m.

The Lower Neches Valley Authority, Board of Directors will meet at Lower Neches Valley Authority Office Building, 7850 Eastex Freeway, Beaumont, November 9, 1989, at 10:30 a.m. Information may be obtained from A.T. Hebert, Jr., P.O. Drawer 3464, Beaumont, Texas 77704, (409) 892-4011.

The Lower Neches Valley Authority, Personnel Committee will meet at the Lower Neches Valley Authority Office Building, 7850 Eastex Freeway, Beaumont, November 9, 1989, 9:45 a.m. Information may be obtained from A.T. Hebert, Jr., P.O. Drawer 3464, Beaumont, Texas 77704, (409) 892-4011.

The Panhandle Regional Planning Commission, Board of Directors will meet at 2736 West Tenth, PRPC Board Room, Amarillo, November 7, 1989, 1:30 p.m. Information may be obtained from Pamela Nielsen, P.O. Box 9257, Amarillo, Texas 79105-9257, (806) 372-3381.

The Wheeler County Appraisal District, Board of Directors will meet at the District Office, County Courthouse Square, Wheeler, November 13, 1989, at 2:00 p.m. Information may be obtained from Larry M. Schoenhals, P.O. Box 1200, Wheeler, Texas 79096, (806) 826-5900.

TRD-8910365

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Meetings Filed October 31, 1989

The Hansford Appraisal District, Regular Board will meet at 709 West Seventh Street, Spearman, November 8, 1989, at 9:00 a.m. Information may be obtained from Alice Peddy, Box 567, Spearman, Texas 79081, (806) 659-5575.

The Lavaca County Central Appraisal District, Board of Directors will meet at 113 North Main, Hallettsville, November 14, 1989, at 3:00 p.m. Information may be obtained from Diane Munson, P.O. Box 386, Hallettsville, Texas 77964, (512) 798-

4396.

The Lower Colorado River Authority, Energy Operations Committee met at 3700 Lake Austin Boulevard, Austin, November 6, 1989, 1:00 p.m. Information may be obtained from Glen E. Taylor, P.O. Box 220, 3700 Lake Austin Boulevard, Austin, Texas 78767, (512) 473-3250.

The Lower Colorado River Authority, Board of Directors met at 3700 Lake Austin Boulevard, Austin, November 6, 1989, at 2:00 p.m. Information may be obtained from Glen E. Taylor, P.O. Box 220, 3700 Lake Austin Boulevard, Austin, Texas 78767, (512) 437-3250.

The Trinity River Authority of Texas, Denton Creek Regional Wastewater System Right-of-Way Committee met at 5300 South Collins, Arlington, November 6, 1989, at 10:30 a.m. Information may be obtained from Jack C. Worsham, 5300 South Collins, P.O. Box 60, Arlington, Texas, (817) 467-4343.

TRD-8910399

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Meetings Filed November 1, 1989

The Brazos Valley Development Council, Executive Committee will meet at 3006 East 29th Street, Bryan, November 9, 1989, at 1:30 p.m. Information may be obtained from Bryan Rothermel, 3006 East 29th Street, Bryan, Texas 77803.

The Carson County Appraisal District, Board of Directors will meet at 102 Main, Panhandle, November 8, 1989, at 9:00 a.m. Information may be obtained from Dianne Lavake, Box 970, Panhandle, Texas 79068-0970.

The Hamilton County Appraisal District will meet in the Boardroom, 119 East Henry (North Side of Square), Hamilton, November 13, 1989, at 12:00 p.m. Information may be obtained from Doyle Roberts, 119 East Henry, Hamilton, Texas 76531, (817) 386-8945/8946

The San Patricio County Appraisal District, Board of Directors will meet at 1146 East Market, Sinton, November 9, 1989, at 9:30 a.m. Information may be obtained from Kathryn Vermillion, P.O. Box 938, Sinton, Texas 78387, (512) 364-5402.

TRD-8910424

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Meetings Filed November 2, 1989

The Education Service Center, Region VI, Regional Advisory Committee will meet at the Sam Houston State University (LSC), Huntsville, November 8, 1989, 10:30 a.m. Information may be obtained from Bobby Roberts, 3332 Montgomery Road, Huntsville, Texas 77340, (409) 295-9161.

The Grayson Appraisal District, Board of

Directors will meet at 205 North Travis,
Sherman. Information may be obtained
from Deborah Reneau, 205 North Travis,
Sherman, Texas 75090, (214) 893-9673.

Filed: November 2, 1989, 9:06 a.m.

TRD-8910510

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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 Air Control Board

Notice of Applications for Construction Permits

Notice is given by the Texas Air Control Board (TACB) of applications for construction permits received during the period of September 1, 1989 to September 30, 1989.

Information relative to the applications listed following including projected emissions and the opportunity to comment or to request a hearing, may be obtained by contacting the office of the executive director at the central office of the Texas Air Control Board, 6330 Highway 290 East, Austin, Texas 78723.

A copy of all material submitted by the applicant is available for public inspection at the central office of the TACB at the address stated previously and at the regional office for the air quality control region within which the proposed facility will be located.

Kocide Chemical Corporation; spray dryer; Houston, Harris County; 19683; September 1, 1989

E.I. Du Pont De Nemours and Company, Inc.; South formaldehyde unit; La Porte, Harris County; 19682; September 1, 1989

Phillips 66 Natural Gas Company; gas compressor engines; Andrews, Andrews County; 19680; September 1, 1989

Chem-pruf Door Company; fiberglass doors; Brownsville, Cameron County; 19777; September 5, 1989

Fermenta Plant Protection Company; sludge filter press system; Houston, Harris County; 19694; September 6, 1989

Kirby Forest Industries, Inc.; OSB plant; Silsbee, Hardin County; 19695; September 7, 1989

Cain Chemical, Inc.; Olefins IV, ethylene plant; Liverpool, Brazoria County; 19696; September 8, 1989

Envirosafe Services of Texas, Inc.; haz waste incinerator/disposal; 9175; September 8, 1989

BASF Corporation Chemicals Division; polymin; Freeport, Brazoria County; 19698; September 11, 1989

Allied Apical Corporation; storage tanks; Bayport, Harris County; 19700; September 12, 1989

Trinity Industries, Inc.; blast cleaning and painting; Vidor, Orange County; 19705; September 12, 1989

Strout Plastics Division of Inmopal Industries; flexographic printing process; Farmers Branch, Dallas County; 19701; September 13, 1989

Fermone Corporation, Inc.; pheromone insecticide prod fac; Houston, Harris County; 19702; September 13, 1989

Advanced Micro Devices, Inc.; integrated circuit manufacturing; San Antonio, Bexar County; 19708; September 14, 1989

Dow Chemical Company; parcel tanker wharf A5; Freeport, Brazoria County; 19720; September 14, 1989

Texoma Medical Center; incinerator; Denison, Grayson County; 19710; September 15, 1989

Magnaplate Service Corporation; plasma deposition; Arlington, Tarrant County; 19713; September 18, 1989

Gatx Terminals Corporation; gasoline storage; Pasadena, Harris County; 19712; September 18, 1989

Macklanburg Duncan of California; Md-Adhesive Division; Ewless, Tarrant County; 19721; September 18, 1989

Dow Chemical Company; Methyl Rack-2; Freeport, Brazoria County; 19715; September 19, 1989

Watertown Soles, Inc.; shoe sole manufacturing; Del Rio, Val Verde County; 19716; September 20, 1989

Phillips 66 Company; clemens terminal additives; Brazoria, Brazoria County; 19718; September 21, 1989

Oryx Energy Company; J. Welch tank battery; Brackenridge, Stephens County; 19719; September 22, 1989

Reynolds Metals Company; vertical calciners; Gregory, San Patricio County; 19732; September 28, 1989

Darling-Delaware Company; hide processing facility; Tyler, Smith County; 19736; September 29, 1989

Coastal Oil and Gas Corporation; flaring of sour natural gas; Tokio, Terry County; 19734; September 29, 1989

Petrounited Terminals, Inc.; Storage Tanks B36, B37, and B38; Seabrook; Harris County; 19733; September 29, 1989

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

TRD-8910263 Bill Ehret
Director of Hearings
Texas Air Control Board

Filed: October 25, 1989

For further information, please call: (512) 451-5711, ext. 354.

Texas Antiquities Committee Correction of Error

The Texas Antiquities Committee submitted proposed amendments and new sections which contained errors as submitted and as published in the October 27, 1989, issue of the *Texas Register* (14 TexReg 5711).

Concerning the preamble to §41.5, text was omitted from the final sentence of paragraph 17. The sentence should read as follows. "However, it is not possible at this time to estimate the decrease in economic costs due to the undetermined value of items yet to be reported and recovered."

Concerning the preamble to §41.29 and §41.30, text was omitted from paragraph 15, the last two sentences. The sentences should read as follows. "After recover, evalua-

tion, appraisal, and conservation of the valuable item is completed, a reward payment may be requested. It is believed the rider stipulates an individual may request payment of a reward equal to 25% of the value of the item. Payment of a reward could decrease economic costs to project sponsors for fiscal years 1990-1993. However, it is not possible at this time to estimate the decrease in economic costs due to undetermined value of items yet to be reported and recovered."

Concerning proposed new §41.29(d), text was omitted. The subsection should read as follows. "(d) Evaluation. All reported items of value resulting from permit investigations on state or university lands submitted for payment of reward must be evaluated in terms of historic significance by the Texas Antiquities Committee according to criteria for evaluation as specified in Section 41.29 of this title (relating to Specific Criteria for Evaluation of Historic Significance of Reported Items of Value). Items of value determined to be of historic significance are state archaeological landmarks and will be reviewed by the Committee and placed for curation on a case by case basis."

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Texas Department of Banking
Notice of Postponement

The November 2, 1989, hearing on an application to withdraw excess earnings from trust deposits filed by Forest Lawn Home, Inc., Beaumont, has been postponed and will be rescheduled at a later date.

Additional information may be obtained from: Ann Graham, General Counsel, Texas Department of Banking, 2601 North Lamar Boulevard, Austin, Texas 78705, (512) 479-1200.

Issued in Austin, Texas on October 25, 1989.

TRD-8910273 Ann Graham
 General Counsel
 State Banking Department

Filed: October 26, 1989

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

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Notices of Application

Texas Civil Statutes, Article 342-401a, requires any person who intends to buy control of a bank to file an application with the banking commissioner for the commissioner's approval to purchase control of a particular bank. A hearing may be held if the application is denied by the commissioner.

On September 29, 1989, the banking commissioner received an application to acquire control of United Peoples Bank, Lampasas, by Mike Helm of Harker Heights and Paula Lohse of Killeen.

On October 30, 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 October 30, 1989.

TRD-8910421 William F. Aldridge
 Director of Corporate Activities
 Texas Department of Banking

Filed: October 31, 1989

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

◆ ◆ ◆
Texas Civil Statutes, Article 342-401a, requires any person who intends to buy control of a bank to file an application with the banking commissioner for the commissioner's approval to purchase control of a particular bank. A hearing may be held if the application is denied by the commissioner.

On September 29, 1989, the banking commissioner received an application to acquire control of Heights Bank, Harker Heights, by Mike Helm of Harker Heights, and Paula Lohse of Killeen.

On October 30, 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 October 30, 1989.

TRD-8910420 William F. Aldridge
 Director of Corporate Activities
 Texas Department of Banking

Filed: October 31, 1989

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

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Texas Department of Community Affairs

Request for Proposals Amendment

The Texas Department of Community Affairs (TDCA), administering agency for the Community Services Block Grant (CSBG) Program in Texas, published a request for proposals (RFP) to provide services to low-income persons in the County of Dallas pursuant to the CSBG Act (42 United States Code, §9901 et seq.) in the October 6, 1989 issue of the *Texas Register* (14 TexReg 5375). The purpose of this amendment to the RFP is to extend the deadline for response and to add additional factors upon which proposals will be graded.

Any grantee selected pursuant to this RFP will be expected to operate, on an equitable basis throughout Dallas County, a program to ameliorate the causes of poverty through the provision of the types of services and activities specified in 42 United States Code, §9904(c)(1). Proposals should include a description of planned publicity and outreach for the program and a provision for providing the proposed program activities through the use of neighborhood centers located in low-income areas.

The initial proposed contract performance period is January 1, 1990-December 31, 1990. Funds available under this solicitation are estimated to be \$1,000,000. Any subsequent grant awards will be dependent upon the grantee's satisfactory performance, as determined by TDCA, of the initial contract and the receipt of FY 1991 CSBG funding by TDCA from the United States Department of Health and Human Services.

Qualifications. Eligible grantees are political subdivisions of the State of Texas or private, non-profit, community-based organizations with a board of directors meeting the requirements of 42 United States Code, §9904(c) (3). Selection of a grantee is to be competitive and will be based on a grading system that awards points to proposals in the following areas: organization purpose(s); planned outreach methods; financial accounting system; audit his-

Standard Annual Rate - Art. 1.04(a)(2) ⁽²⁾	10/01/89-12/31/89	18.00%	18.00%
Retail Credit Card Annual Rate - Art. 1.11 ⁽³⁾	10/01/89-12/31/89	18.00%	N.A.
Annual Rate Applicable to Pre-July 1, 1983 Retail Credit Card and Lender Credit Card Balances with Annual Implementation Dates from:	10/01/89-12/31/89	18.00%	N.A.
Judgment Rate - Art. 1.05, Section 2	11/01/89-11/30/89	10.00%	10.00%

- (1) For variable rate commercial transactions only.
- (2) Only for open-end credit as defined in Art. 5069-1.01(f) V.T.C.S.
- (3) Credit for personal, family or household use.
- (4) Credit for business, commercial, investment or other similar purpose.

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

TRD-8910258 Al Endeley
Consumer Credit Commissioner

Filed: October 25, 1989

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

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Texas Education Agency Request for Proposals

Description. The Texas Education Agency is requesting proposals for education research and evaluation projects pertaining to grade levels prekindergarten-12. Local education agencies, regional education service centers, and institutions of higher education are eligible for this program.

The Commissioner's Advisory Committee for Research and Evaluation has identified 16 priority research areas for this program. These priority areas are dropouts/at-risk students, the effect of the Texas educational assessment of minimum skills testing program on instruction, defining

quality indicators for schools, effective schools, parental involvement and support, promotion and retention issues, compensatory education programs, educational technology, teacher effectiveness measures related to student outcomes, prekindergarten programs, educator supply and demand, special education programs, adequacy of non-college career preparation, bilingual education programs, extended school day/year, and gifted/talented education or magnet programs. Proposals addressing topics within any of these priority areas will be considered for funding. Proposals must contain a research or evaluation element in order to be considered for funding. A final report of project outcomes will be required.

Dates of Projects. Projects will commence in January 1990 and will end no later than August 31, 1990.

Project Amount. Funding for any one project will not exceed \$5,000.

Selection Criteria. Proposals will be evaluated on the basis of demonstrated knowledge of the topic area addressed, quality and appropriateness of the research design, ability to obtain access to the data required, potential applicability of the findings to state

NEW LICENSES ISSUED:

<u>Location</u>	<u>Name</u>	<u>License#</u>	<u>City</u>	<u>Amend- ment #</u>	<u>Date of Action</u>
Throughout Texas	Petro/Chem Environmental Services	L04351	Dallas	0	10/06/89
Victoria	Karl K. Chen, M.D., Ph.D.	L04327	Victoria	0	09/21/89

AMENDMENTS TO EXISTING LICENSES ISSUED:

<u>Location</u>	<u>Name</u>	<u>License#</u>	<u>City</u>	<u>Amend- ment #</u>	<u>Date of Action</u>
Alvin	NOTAMI Hospitals of Texas, Inc.	L02474	Alvin	11	09/26/89
Anson	Anson General Hospital	L03417	Anson	5	09/26/89
Austin	State Dept. of Highways and Public Transportation	L00197	Austin	56	10/06/89
Ballinger	Ballinger Memorial Hospital	L03443	Ballinger	4	10/02/89
College Station	Texas A & M University	L00448	College Station	65	09/18/89
Conroe	Medical Center Hospital	L01769	Conroe	22	09/28/89
Conroe	Conroe Radiology Associates	L04083	Conroe	4	09/26/89
Corpus Christi	Humana Hospital Corpus Christi	L02816	Corpus Christi	19	09/28/89
Crockett	Houston County Hospital	L01411	Crockett	12	09/28/89
El Paso	Sierra Medical Center	L02365	El Paso	19	09/28/89
El Paso	Providence Memorial Hospital	L02353	El Paso	35	09/21/89
Fort Worth	Medical Plaza Hospital	L02171	Fort Worth	19	09/26/89
Fort Worth	Carter Blood Center	L03676	Fort Worth	4	10/02/89
Fort Worth	Texas Christian University	L01096	Fort Worth	22	09/29/89
Gainesville	Gainesville Memorial Hospital	L02585	Gainesville	11	09/26/89
Gladewater	Gladewater Municipal Hospital	L03330	Gladewater	5	09/26/89
George West	USX Corporation	L02449	George West	21	09/26/89
Gilmer	Baylor Medical Center at Gilmer	L03493	Gilmer	7	09/28/89
Grand Prairie	Dallas Fort Worth Medical Center - Grand Prairie	L02612	Grand Prairie	16	09/28/89
Hamlin	Hamlin Memorial Hospital	L03418	Hamlin	5	09/26/89
Hico	Hico Community Hospital	L03220	Hico	6	09/26/89
Houston	Baylor College of Medicine	L00587	Houston	22	09/27/89
Houston	St. Luke's Episcopal-Texas Children's Hospitals	L00581	Houston	37	09/28/89
Houston	University of Texas M.D. Anderson Cancer Center	L02972	Houston	4	09/18/89
Houston	Roche Professional Service Centers, Inc.	L04024	Houston	3	09/14/89
Katy	Katy Medical Center	L03052	Katy	13	09/27/89

AMENDMENTS TO EXISTING LICENSES ISSUED CONTINUED:

Lubbock	Texas Tech University Health Sciences Center	L01869	Lubbock	45	09/26/89
McAllen	Rio Grande Regional Hospital	L03288	McAllen	18	10/02/89
Pasadena	Hoechst Celanese Chemical Company	L01130	Houston	35	09/27/89
Port Arthur	Chevron U.S.A., Inc.	L00054	Port Arthur	35	10/03/89

San Antonio	Advanced Medical Imaging	L04305	San Antonio	1	09/26/
San Antonio	Humana Hospital San Antonio	L02266	San Antonio	24	09/27/
Seguin	Cone Biotech, Inc.	L02045	Seguin	15	10/06/
Stafford	Burzynski Research Institute, Inc.	L02948	Stafford	6	09/26/
Stanton	Martin County Hospital District	L03882	Stanton	1	09/26/
Texarkana	Medical Arts Hospital	L02881	Texarkana	14	09/26/
Texarkana	Wadley Regional Medical Center	L01437	Texarkana	15	09/26/
Texarkana	Wadley Regional Medical Center	L02486	Texarkana	14	09/26/
Throughout Texas	Tuboscope, Inc.	L00287	Houston	81	09/15/
Throughout Texas	Bee-Line Services, Inc.	L03436	Corsicana	4	09/22/
Throughout Texas	Halliburton Logging Services, Inc.	L02113	Houston	57	09/07/
Throughout Texas	The Western Company of North America	L01323	Fort Worth	46	09/28/
Throughout Texas	Ground Technology Inc.	L03151	Houston	3	09/29/
Throughout Texas	DJ Inspection Services, Inc.	L02067	Houston	21	09/28/
Throughout Texas	Century Inspection, Inc.	L00062	Dallas	49	09/29/
Throughout Texas	Terra Engineers, Inc.	L02464	Lubbock	13	09/29/
Throughout Texas	Sivalls, Inc.	L02298	Odessa	15	09/29/
Throughout Texas	MRA/Materials Engineers, Inc.	L03018	Houston	11	09/29/
Throughout Texas	E. I. du Pont de Nemours & Co., Inc.	L00517	Beaumont	51	09/28/
Throughout Texas	Jack H. Holt & Associates, Inc.	L02752	Austin	5	09/27/
Throughout Texas	Precision Inspection, Inc.	L00203	Houston	34	10/04/
Throughout Texas	Brazos Valley Inspection Services, Inc.	L02859	Bryan	25	10/10/
Throughout Texas	Reinhart and Associates, Inc.	L03189	Austin	7	10/
Throughout Texas	Daniel Industries, Inc.	L03456	Houston	7	10/
Throughout Texas	C. A. Turner Construction Company	L04293	Port Arthur	1	10/10/
Throughout Texas	Southwestern Laboratories	L01934	Dallas	25	10/06/
Throughout Texas	Computalog Wireline Products, Inc.	L00747	Fort Worth	44	10/05/
Throughout Texas	American Pipe Inspection, Inc.	L02576	Houston	8	10/04/
Throughout Texas	Star-Jet Services, Inc.	L02214	Corpus Christi	14	10/05/
Throughout Texas	Harding-Lawson Associates	L01970	Houston	18	10/06/
Throughout Texas	GCT Inspection, Inc.	L02378	South Houston	25	10/06/
Tyler	East Texas Cancer Center	L03281	Tyler	7	09/28/
Tyler	Medical Center Hospital	L00977	Tyler	49	09/28/
Vernon	Wilbarger General Hospital	L03047	Vernon	10	09/22/
Wadsworth	Houston Lighting and Power Company	L04222	Wadsworth	4	10/10/
Webster	Diagnostic Systems Laboratories, Inc.	L03084	Webster	9	10/12/
Wharton	Gulf Coast Medical Center	L01388	Wharton	25	09/28/
Wichita Falls	Wichita General Hospital	L00350	Wichita Falls	38	09/21/
Winters	North Rumlens Hospital	L03861	Winters	2	09/28/

DETAILS OF EXISTING LICENSES ISSUED:

<u>Location</u>	<u>Name</u>	<u>License#</u>	<u>City</u>	<u>Amend- ment #</u>	<u>Date of Action</u>
Amarillo	Panhandle Diagnostic Imaging Center, Ltd.	L03737	Amarillo	6	09/27/89
Dumas	Memorial Hospital	L03540	Dumas	8	09/29/89
El Paso	Alan W. Pittle, Podiatrist	L03744	El Paso	3	09/26/89
Friendswood	Indo-Medix, Inc.	L03714	Friendswood	1	09/28/89
Richardson	EPI Technologies, Inc.	L03706	Richardson	2	09/28/89
Throughout Texas	Syncor International Corporation	L01911	Houston	72	09/21/89
Waco	Baylor University	L01136	Waco	15	10/02/89

TERMINATIONS OF LICENSES ISSUED:

<u>Location</u>	<u>Name</u>	<u>License#</u>	<u>City</u>	<u>Amend- ment #</u>	<u>Date of Action</u>
Dallas	U.T. Southwestern Medical Center of Dallas	L00777	Dallas	17	09/25/89
Fort Worth	Chun Han Tseng, M.D.	L02667	Fort Worth	7	09/14/89
Houston	Omni Hospital Medical Center	L04141	Houston	1	09/28/89
Marlin	Torbett, Hutchings, Smith Hospital	L03447	Marlin	2	09/28/89
Palestine	Aluminum Company of America	L01846	Palestine	21	09/18/89
Throughout Texas	Koonce Inspection Service	L03853	Clyde	1	09/27/89

In issuing new licenses and amending and renewing existing licenses, the Texas Department of Health, Bureau of Radiation Control, has determined that the applicants are qualified by reason of training and experience to use the material in question for the purposes requested in accordance with *Texas Regulations for Control of Radiation* in such a manner as to minimize danger to public health and safety or property and the environment; the applicants proposed equipment, facilities, and procedures are adequate to minimize danger to public health and safety or property and the environment; the issuance of the license(s) will not be inimical to the health and safety of the public or the environment; and the applicants satisfy any applicable special requirements in the *Texas Regulations for Control of Radiation*.

This notice affords the opportunity for a hearing on written request of a licensee, applicant, or "person affected" within 30 days of the date of publication of this notice. A "person affected" is defined as a person who is resident of a county, or a county adjacent to the county, in which the radioactive materials are or will be located, including any person who is doing business or who has a legal interest in land in the county or adjacent county, and any local government in the county; and who can demonstrate that he has suffered or will suffer actual injury or economic damage due to emissions of radiation. A licensee, applicant, or "person affected" may request a hearing by writing David K. Lacker, Chief, Bureau of Radiation Control (Director, Radiation Control Program), 1100 West 49th Street, Austin, Texas 78756-3189.

Any request for a hearing must contain the name and address of the person who considers himself affected by Agency action, identify the subject license, specify the reasons why the person considers himself affected, and state the relief sought. If the person is represented by an agent, the name and address of the agent must be stated.

Copies of these documents and supporting materials are available for inspection and copying at the office of the Bureau of Radiation Control, Texas Department of Health, 1212 East Anderson Lane, Austin, from 8 a.m. to 5 p.m. Monday-Friday (except holidays).

Issued in Austin, Texas, on October 26, 1989.

TRD-8910314 Robert A. MacLean, M.D.
Deputy Commissioner
Texas Department of Health

Filed: October 26, 1989

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

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**Texas State Library and Archives
Commission**
Consultant Contract Award

To comply with the provisions of Texas Civil Statutes, Article 6252-11c, the Texas State Library and Archives Commission furnishes this notice of a consultant contract award. After solicitation of proposals in the September 15, 1989, issue of the *Texas Register* (14 TexReg 4817) the following proposal was approved for funding.

The Texas Library Association (TLA) will plan, organize, and conduct a statewide conference and an associated program of state activities to precede the second national White House Conference on Libraries and Information Services. In preparation for the state conference ten regional meetings will be conducted by regional planning

committees and coordinated by TLA. Approximately 160 delegates will attend the state meeting; 140 of the delegates will be elected at the regional meetings, and 20 will be selected by a Delegate Selection Committee to help ensure a balance of ethnic and special group representation. The purpose of the state conference is to increase public awareness of library issues, to investigate the library's role in furthering the national priorities of improved literacy, productivity, and democracy, and to select delegates to the national conference. The state conference will be held in Austin on January 4-5, 1991; the national conference will be held in Washington, D.C. on July 9-13, 1991. Contract is with the Texas Library Association, 3355 Bee Caves Road, Suite 603, Austin, Texas 78746, for \$67,500 in federal Library Services and Construction Act, Title 1, and at least \$42,000 in National Commission on Library and Information Sciences funds.

The beginning date for this project is November 1, 1989; the ending date is August 31, 1991. Project Evaluation Reports are due on March 26, 1990, for the four month period ending February 1990, on September 25, 1990, for the six month period ending August 1990, on March 25, 1991, for the six month period ending February 1991, and on September 25, 1991, for the six month period ending August 1991. A final project evaluation report is due on October 31, 1991.

Issued in Austin, Texas, on November 1, 1989.

TRD-8910419 Raymond Hitt
Assistant State Librarian
Texas State Library and Archives
Commission

Filed: October 31, 1989

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

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**Texas Department of Licensing and
Regulation**
Correction of Error

The Texas Department of Licensing and Regulation submitted emergency amendments which were simultaneously proposed for permanent adoption in the October 24, 1989 issue of the *Texas Register*. The amendments contained errors as submitted and as published.

In §69.51(1) the final sentence was printed in boldface to indicate new language. The text is existing language and should read as follows. (1) All new and used HUD-code manufactured homes, mobile homes, and rebuilt salvaged homes shall be installed in accordance with the manufacturer's installation instructions or the generic standards approved and promulgated by the department. [All HUD-Code manufactured homes manufactured on or after June 15, 1976, shall be installed in accordance with the manufacturer's instructions.] Manufacturers shall file with the department installation instructions approved by the manufacturer's design approval primary inspection agency and shall provide changes, modifications, and updates as they occur in order that each manufacturer's current installation instructions may be on file with the department.

In §69.53(m)(2) the words Federal Specification for Strapping, Steel should be capitalized. The comma following "steel" should be omitted. The word Seals should be capitalized. The paragraph should read as follows. (2) Type 1, Finish B, Grade 1 steel strapping, 1 1/4 inches wide and 0.035 inches thick, conforming with Federal Specification For Strapping, Steel, [federal specification

for strapping, steel] and seals [seals] (FS QQ-S-781[-] H-1974 with 1977 Amendment 2 and Notice I), is judged to conform with the provisions of this section and paragraph (1) of this subsection.

In §69.54(a) the word "installations" should be singular.

In §69.54(a)(7), the phrase (or other condition) should be plural.

In §69.54(b)(1), the word "of" should be boldface to indicate new language. The sentence should read as follows. "Where practical, end piers shall be placed within one foot of the ends of the main frame."

North Central Texas Council of Governments

Consultant Proposal Request

This request by the North Central Texas Council of Governments (NCTCOG) for consultant services is filed under the provisions of Texas Civil Statutes, Article 6252-11c.

Background. NCTCOG is requesting proposals to develop a feasibility study for transportation services for elderly and handicapped persons in the Hurst-Eules-Bedford (HEB) area of Tarrant County, with particular concentration on services for persons being out-placed from vocational training in the HEB Independent School District. The work requested should determine whether there is sufficient demand to justify such services, whether the possible provider identified by the ISD can satisfactorily supply the transportation services needed, and what options exist for either of these two conditions. The following specific tasks have been identified for this project: determine travel demand; prepare demand profile; prepare possible service plan; identify provider qualifications; and recommend action strategy.

Contract Award Procedures. The firm selected to perform this study will be recommended by a consultant selection committee. The committee will use evaluation criteria and methodology consistent with the scope of services contained in the request for proposals. The NCTCOG Executive Board will review the selection committee's recommendation, and if it is found acceptable, will issue an award of contract.

The North Central Texas Council of Governments, in accordance with Title VI of the Civil Rights Act of 1964, 78 Statute 252, 42 United States Code 2000d to 2000d-4, and Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally Assisted Programs of the Department of Transportation issued pursuant to such Act, hereby notifies all bidders that it will affirmatively ensure that in regard to any contract entered into pursuant to this advertisement, disadvantaged business enterprises will be afforded full opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, sex, age, or national origin in consideration of an award.

Respondents must be willing to abide by all the applicable regulations of the Urban Mass Transportation Administration, United States Department of Transportation, including inspection and audit.

The contract will comply with all federal and state laws

and regulations applicable to subcontractors, including, but not limited to, equal employment opportunity, Davis-Bacon Act, and records management.

Due Date. Proposals must be submitted no later than noon, Monday, November 27, 1989, to Shirley Henry, North Central Texas Council of Governments, 616 Six Flags Drive, Second Floor, P.O. Drawer COG, Arlington, Texas 75005-5888. For more information and copies of the request for proposals, contact Shirley Henry, (817) 640-3300.

Issued in Arlington, Texas, on October 23, 1989.

TRD-8910318 William J. Pitatick
Executive Director
North Central Texas Council of Governments

Filed: October 26, 1989

For further information, please call: (817) 640-3300

Texas State Board of Examiners of Professional Counselors

Correction of Error

The Texas State Board of Examiners of Professional Counselors submitted proposed new sections which contained errors as submitted and as published in the September 26, 1989, issue of the *Texas Register* (14 TexReg 4982).

In §681.84(1), the reference to §681.33 (a)-(b), (d)-(f), (j)-and (n) should be "§681.33 (a)-(b), (d)-(f), (j)-(k) and (n)";

In §681.176(3), the word "working" should be "work";

In §681.219, subsection (h) should be subsection (g);

In §681.220(e), "APTRA, §19 and §20," should be "APTRA, §16,";

In §681.220(f), "§§19 and 20 of APTRA" should be "APTRA, §§19 and 20".

Texas State Board of Public Accountancy

Correction of Error

The Texas State Board of Public Accountancy submitted adopted sections which contained errors as published in the October 20, 1989, issue of the *Texas Register* (14 TexReg 5624).

Concerning §501.25, the part number and agency name were inadvertently omitted. The heading should read as follows.

"Part XXII. Texas State Board of Public Accountancy

Chapter 501. Professional Conduct

Professional Standards

22 TAC §501.25"

In the table of contents the entry should read as follows. "Texas State Board of Public Accountancy 5624-Professional Conduct."

Public Utility Commission of Texas
Notices of Application to Amend
Certificate of Convenience and
Necessity

Notice is given to the public of the filing with the Public Utility Commission of Texas of an application on October 16, 1989, to amend a certificate of convenience and necessity pursuant to the Public Utility Regulatory Act, §§16(a), 17(e), 50, 52, and 54. A summary of the application follows.

Docket Title and Number: Application of Southwestern Bell Telephone Company to Amend Certificate of Convenience and Necessity Within Duval County, Docket Number 9101 before the Public Utility Commission of Texas.

The Application: In Docket Number 9101, Southwestern Bell Telephone Company requests approval of its application to amend the boundary between Southwestern Bell's Bruni Exchange and an adjacent uncertificated area in Duval County.

Persons who wish to intervene in the proceeding or comment upon action sought, should contact the Public Utility Commission of Texas, at 7800 Shoal Creek Boulevard, Suite 400N, Austin, Texas 78757, or call the Public Utility Public Information Division at (512) 458-0223, or (512) 458-0227 within 15 days of this notice.

Issued in Austin, Texas, on October 25, 1989.

TRD-8910286 Mary Ross McDonald
Secretary of the Commission
Public Utility Commission of Texas

Filed: October 26, 1989

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

Notice is given to the public of the filing with the Public Utility Commission of Texas of an application on October 4, 1989, to amend a certificate of convenience and necessity pursuant to the Public Utility Regulatory Act, §§16(a), 17(e), 50, 52, and 54. A summary of the application follows.

Docket Title and Number: Application of Fort Bend Telephone Company for a Certificate of Convenience and Necessity to Amend the Boundary Between Fort Bend Telephone Company and Contel of Texas, Docket Number 9082 before the Public Utility Commission of Texas

The Application: In Docket Number 9082, Fort Bend Telephone Company requests approval of its application to provide service to a customer outside current service area boundaries in Fort Bend County.

Persons who wish to intervene in the proceeding or comment upon action sought, should contact the Public Utility Commission of Texas, at 7800 Shoal Creek Boulevard, Suite 400N, Austin, Texas 78757, or call the Public Utility Public Information Division at (512) 458-0223, or (512) 458-0227 within 15 days of this notice.

Issued in Austin, Texas, on October 25, 1989.

TRD-8910287 Mary Ross McDonald
Secretary of the Commission
Public Utility Commission of Texas

Filed: October 26, 1989

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

Notice is given to the public of the filing with the Public Utility Commission of Texas of an application on October 17, 1989, to amend a certificate of convenience and necessity pursuant to the Public Utility Regulatory Act, §§16(a), 17(e), 50, 52, and 54. A summary of the application follows.

Docket Title and Number: Application of GTE Southwest, Inc. to Revise the Three Rivers Exchange Area Boundary Map, Docket Number 9105 before the Public Utility Commission of Texas.

The Application: In Docket Number 9105, GTE Southwest, Inc. requests approval of its application to revise the Three Rivers exchange area boundary map to reflect topographical changes caused by the building of the Choke Canyon Reservoir.

Persons who wish to intervene in the proceeding or comment upon action sought, should contact the Public Utility Commission of Texas, at 7800 Shoal Creek Boulevard, Suite 400N, Austin, Texas 78757, or call the Public Utility Public Information Division at (512) 458-0223, or (512) 458-0227 within 15 days of this notice.

Issued in Austin, Texas, on October 25, 1989.

TRD-8910288 Mary Ross McDonald
Secretary of the Commission
Public Utility Commission of Texas

Filed: October 26, 1989

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

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 October 23-27, 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.

Loving County Disposal Inc.; Odessa; industrial hazardous waste disposal facility; approximately two miles east of the City of Mentone, Loving County; WDW-275 and WDW-276; new; 45-day notice.

Texas Department of Criminal Justice, Facilities Division; Huntsville; wastewater treatment facility; on the east bank of Oyster Creek approximately five miles west and 1/2 mile north of the intersection of State Highway 288 and FM Road 655 in Brazoria County; 11529-01; renewal.

City of Flatonia; wastewater treatment facility; approximately 500 feet north of Interstate Highway 10 and 1300 feet east of State Highway 95, on the north side of the City of Flatonia in Fayette County; 10101-01; renewal.

The Dow Chemical Company, Texas Operations; Freeport; wastewater treatment facility for an organic and inorganic chemical manufacturing plant; on the north bank of the Brazos River, approximately 9000 feet upstream of the State Highway 36 Bridge in the City Freeport, Brazoria County; 00007; renewal.

Fort Bend County Municipal Utility District Number 23; Houston; wastewater treatment facility; north of Rabb Road, approximately 1.4 miles west of its intersection with FM 521, north of Arcola in Fort Bend County; 11999-01; renewal.

City of Del Rio Utility Commission; wastewater treatment facility; approximately 3500 feet southeast of the intersection of Hudson Street and Guyler Lane, southeast of the City of Del Rio, Val Verde County; 10159-01; amendment.

Carl E. and Bonnie O. Steward Doing Business as Airline Mobile Home Park; Midland; wastewater treatment plant; approximately one mile east of the Midland Air Terminal on the north side of United States Highway 80, southeast of the City of Midland in Midland County; 11247-01; amendment.

Armco, Inc.; Middletown, Ohio; Greens Bayou Landfill; between Church Street, Greens Bayou Drive, Maxey Road and Greens Bayou, approximately 0.5 mile north of Interstate Highway 10 Harris County; 02549; amendment.

Spencer Road Public Utility District; Houston; wastewater treatment facility; 14310 Spencer Road (FM Road 529), approximately 2000 feet west of the intersection of Jack rabbit Road and Spencer Road, approximately 1.1 miles east of the intersection of State Highway 6 and Spencer Road, adjacent to the east bank of Horsepen Creek in Harris County; 11472-01; amendment.

City of Follett; wastewater treatment facility; approximately one mile north of State Highway 15 and approximately one mile west of FM Road 1454 in Lipscomb County; 10508-01; renewal.

Texas Eastman Company, Division of Eastman Kodak Company; Longview; wastewater treatment facility; five miles south of the City of Longview and south of IH 20 and east of State Highway 149, Harrison County; 00471; renewal.

City of Luling; North Wastewater Treatment Facility; approximately 1/2 mile north of United States Highway 90, at a point one mile east-northeast of United States Highway 90 and United States Highway 183 in Caldwell County; 10582-02; renewal.

Chevron Chemical Company; Baytown; wastewater treatment facility; on the west bank of Cedar Bayou, at Interstate Highway 10, north of the City of Baytown, Harris County; 01006; amendment.

Issued in Austin, Texas, on October 27, 1989

TRD-8910377

Brenda W. Foster
Chief Clerk
Texas Water Commission

Filed: October 27, 1989

For further information, please call (512) 463-7608

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Texas Water Development Board
Request for Proposals to Meet Flood
Protection Planning Needs in the
Vicinity of Wichita Falls, Texas

The Texas Water Development Board (board) requests, pursuant to 31 Texas Administrative Code (TAC), §355.34(a), the submission of proposals from political subdivisions leading to the possible award of a contract for fiscal year 1990 to develop a feasibility-level flood protection plan for the Plum Creek watershed in the vicinity of Wichita Falls. Specifically, the planning will represent part of a cooperative flood protection investigation authorized by the United States Congress and being carried out in conjunction with the United States Army Corps of Engineers.

In order to be eligible to receive a grant, the applicant must have the legal authority to plan for and abate flooding and must participate in the National Flood Insurance Program.

Description of Planning Objectives. The purpose of the project is to develop a feasibility-level flood protection plan that provides protection from flooding through structural or non-structural measures as described in 31 TAC, §355.33(e). Planning for flood protection will include studies and analyses to determine and describe problems resulting from or relating to flooding and the views and needs of the affected public relating to flooding problems. Potential solutions to flooding problems will be identified, and the benefits and costs of these solutions will be estimated. From the planning analysis, a feasible solution to flooding problems will be recommended.

Description of Funding Consideration. The board will provide funding from the Research and Planning Fund not to exceed 50% of the local costs for a state amount of up to \$100,000.

In the event that no acceptable proposal is submitted, the board retains the right to make no award of contract funds as specified by provisions of 31 TAC, §355.34(a)(3). The selected applicant will have 90 days from the date of board approval of an application to execute a contract and demonstrate to the executive administrator of the board that it has the local matching share committed and available.

Review Criteria and Procedure. The board's procedures for evaluating and selecting proposals for assistance awards are set forth in 31 TAC §355.38.

Guidelines for Proposal Contests. All proposals must conform to all of the requirements in 31 TAC, §§355.31-355.40.

Deadlines and Contact Person for Additional Information. Ten copies of the flood protection planning proposal must be filed with the board prior to 5 p.m., November 20, 1989. A contract must be completed and work must be underway as soon as possible after board approval of an application. A feasibility level report covering the initial phase of the work must be submitted to the board by August 31, 1991, unless this requirement is extended at a later date by the board. Flood protection planning proposals must be directed to G. E. Kretzschmar, Executive Administrator, Texas Water Development Board, P.O. Box 13231, Austin, Texas 78711-3231.

Requests for information, flood protection planning objectives, and applicable planning rules in accordance with 31

TAC, §§355.31-355.40, may be directed to T. James Fries at the preceding address or (512) 463-7926.

Statement of Contract Terms and Required Completion Date. Procedures for awarding contracts shall comply with Texas Civil Statutes, Article 6252-11c, and Article 664-4, where applicable, and with 31 TAC §§355.31-355.40. Contractual agreements and associated funding will terminate on August 31, 1991.

Completion Date: August 31, 1991.

Issued in Austin, Texas, on October 25, 1989.

TRD-8910459 Suzanne Schwartz
 General Counsel
 Texas Water Development Board

Filed: November 1, 1989

For further information, please call: (512) 463-7981.

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Request for Proposals to Plan for Water Reuse in Northwest Harris County

The Texas Water Development Board (board) requests, pursuant to 31 Texas Administrative Code (TAC), §335.13(a) the submission of regional planning proposals leading to the award of a contract to determine the feasibility of water reuse as a means of conserving groundwater resources. In order for a political subdivision to be eligible to receive a grant, the applicant must have the authority to plan, implement, and operate wastewater facilities.

Description of Planning Objectives. The purpose of this project is to prepare a plan that documents the economic and engineering feasibility of reusing treated wastewater effluent to irrigate public and private areas in Fairfield Village and presents estimates of costs associated with providing wastewater treatment system(s) and distribution systems. Discrete phases to implement effluent reuse will be identified. Cost estimates shall be made for each respective implementation phase to determine capital, operation, and maintenance costs for facilities and user costs. Cost estimates for wastewater facility services shall be prepared and presented separately for wastewater collection, wastewater treatment, and wastewater distribution.

The planning period for the proposed work shall extend from 1990 through the year 2020 and shall include project implementation schedules by service area and by type of service facility for the respective phases.

Description of Funding Consideration. The board has determined that there is an urgent need for regional wastewater planning in Northwest Harris County. Fifty percent state funding from the board's research and planning fund has been authorized for an amount of up to \$30,000 for Northwest Harris County. In the event that no acceptable proposal is submitted, the board retains the right to make no award of contract funds as specified by provisions of 31 Texas Administrative Code (TAC), §355.13(a)(3).

The selected proposer will have 90 days from board approval to enter into the contract and to demonstrate to the executive administrator that it has its matching share committed and available.

Deadlines and Contact Person for Additional Information. Ten copies of the full regional planning proposal must be filed with the board prior to 5 p. m., November 20, 1989. Regional planning proposals must be directed to G. E. Kretzschmar, Executive Administrator, Texas Water Development Board, P.O. Box 13231, Austin, Texas 78711-3231.

Requests for information, regional planning objectives, and applicable planning rules in accordance with 31 TAC, §§355.10-355.19 may be directed to Carolyn Brittin at the preceding address or (512) 463.7926.

Statement of Contract Terms and Required Completion Date. Procedures for awarding contracts shall comply with Texas Civil Statutes, Article 6252-11c, and Article 664-4, where applicable, and with 31 TAC, §§355.10-35.19. Contractual agreements and associated funding will terminate on August 31, 1990.

Completion date: August 31, 1990.

Issued in Austin, Texas, on October 25, 1989.

TRD-8910480 Suzanne Schwartz
 General Counsel
 Texas Water Development Board

Filed: November 1, 1989

For further information, please call: (512) 463-7850

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Request for Proposals to Meet Water Supply Needs for All or Parts of Wilbarger, Hardeman, Foard, Baylor, Knox, Wichita, Archer, Clay, and Montague Counties

The Texas Water Development Board (board) requests, pursuant to 31 Texas Administrative Code (TAC), §355.13(a), the submission of regional planning proposals from political subdivisions leading to the award of a contract to evaluate and determine the most feasible alternatives to meet water supply needs, estimate the costs associated with implementing feasible water supply alternatives, and identify institutional arrangements to provide water services for all or parts of the Red River Basin area of Wilbarger, Hardeman, Foard, Baylor, Knox, Wichita, Archer, Clay, and Montague Counties. In order for a political subdivision to receive a grant, the applicant must have the authority to plan, implement, and operate water supply facilities.

Description of Planning Objectives. The purposes of this project are to define and describe the potential water supply sources available to the planning study participants; to determine the feasibility of developing, treating, and delivering water to the participating entities; and to develop procedures to implement feasible water supply projects. A water conservation plan and a drought management plan will be developed to ensure that existing and future sources are used efficiently and as a basis for confirming demand projections of future need.

Discrete phases to implement water supply facilities to meet projected needs will be identified. Cost estimates shall be made for each respective implementation phase to determine the capital, operation, and maintenance requirements during a 30-year planning period. Separate cost estimates shall be made for each supply system component, including the water conservation program. Cost estimates for facilities shall be divided into water supply source(s); conveyance to treatment facilities; water treatment facilities; and storage and distribution facilities. The planning period for proposed work shall extend from 1990 through the year 2020 and shall include project implementation schedules by service area and by type of service facility and activity for the respective phases.

Description of Funding Consideration. The board has determined that there is an urgent need for regional water supply planning in the planning area. Fifty percent state

funding for a state amount of up to \$60,000 has been authorized from the board's research and planning fund. In the event that no acceptable proposal is submitted, the board retains the right to make no award of contract funds as specified by provisions of 31 Texas Administrative Code (TAC), §355.13(a)(3).

The selected proposer will have 90 days from Board approval to enter into the contract and to demonstrate to the executive administrator that it has its matching share committed and available.

Deadlines and Contact Person for Additional Information. Ten copies of the full regional planning proposal must be filed with the board prior to 5 p. m., November 20, 1989. The application must be directed to G. E. Kretzschmar, Executive Administrator, Texas Water Development Board, P.O. Box 13231, Austin, Texas 78711-3231.

Requests for information, regional planning objectives, and applicable planning rules in accordance with 31 TAC, §§355.10-355.19, may be directed to Carolyn L. Brittin at the address in the preceding paragraph or by calling (512) 463-7926.

Statement of Contract Terms and Required Completion Date. Procedures for awarding contracts shall comply with the Texas Water Code, §15.406 and with 31 TAC, §§355.10-355.19. Contractual agreements and associated funding will terminate on August 31, 1990.

Completion date: August 31, 1990.

Issued in Austin, Texas, on October 25, 1989.

TRD-8910461 Suzanne Schwartz
General Counsel
Texas Water Development Board

Filed: November 1, 1989

For further information, please call: (512) 463-7850

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Request for Proposals to Meet Water Supply Needs for the Guadalupe-Blanco River Basin Area

The Texas Water Development Board (board) requests, pursuant to 31 Texas Administrative Code (TAC), §355.13(a), the submission of regional planning proposals from political subdivisions leading to the award of a contract to evaluate and determine the most feasible alternatives to meet water supply needs, estimate the costs associated with implementing feasible water supply alternatives, and identify institutional arrangements to provide water services for the Guadalupe-Blanco River Basin area of Kendall, Hays, Comal, Caldwell, Guadalupe, Gonzales, DeWitt, Victoria, Calhoun, and Refugio Counties. In order for a political subdivision to receive a grant, the applicant must have the authority to plan, implement, and operate water supply facilities.

Description of Planning Objectives. The purpose of this project is to prepare a plan that documents service needs; identifies feasible alternatives to meet water supply needs; and presents estimates of costs and schedules associated with providing water supply source, conveyance, treatment, and distribution system(s). A water conservation plan and a drought management plan will be developed to ensure that existing and future sources are used efficiently and as a basis for confirming demand projections of future need.

Discrete phases to implement water supply facilities to meet projected needs will be identified. Cost estimates shall be made for each respective implementation phase to

determine the capital, operation, and maintenance requirements during a 30-year planning period. Separate cost estimates shall be made for each supply system component, including the water conservation program. Cost estimates for facilities shall be divided into water supply source(s); conveyance to treatment facilities; water treatment facilities; and storage and distribution facilities. The planning period for the proposed work shall extend from 1990 through the year 2020 and shall include project implementation schedules by service area and by type of service facility and activity for the respective phases.

Plan preparation will need to be closely coordinated with similar planning efforts being conducted by the Edwards Underground Aquifer District, the City of San Antonio, the Hays County Water Development Board, and other water supplies in the basin area. Coordination will involve avoiding duplication and ensuring regional compatibility of alternatives.

Description of Funding Consideration. The board has determined that there is an urgent need for regional water supply planning in the planning area. Fifty percent state funding for a state amount of up to \$50,000 has been authorized from the board's research and planning fund. In the event that no acceptable proposal is submitted, the board retains the right to make no award of contract funds as specified by provisions of 31 Texas Administrative Code (TAC), §355.13(a)(3).

The selected proposer will have 90 days from board approval to enter into the contract and to demonstrate to the executive administrator that it has its matching share committed and available.

Deadlines and Contact Person for Additional Information. Ten copies of the full regional planning proposal must be filed with the board prior to 5 p. m., November 20, 1989. The application must be directed to G. E. Kretzschmar, Executive Administrator, Texas Water Development Board, P.O. Box 13231, Austin, Texas 78711-3231.

Requests for information, regional planning objectives, and applicable planning rules in accordance with 31 TAC, §§355.10-355.19, may be directed to John Miloy at the address in the preceding paragraph or by calling (512) 463-7926.

Statement of Contract Terms and Required Completion Date. Procedures for awarding contracts shall comply with the Texas Water Code, §15.406, and with 31 TAC §§355.10-355.19. Contractual agreements and associated funding will terminate on August 31, 1990.

Completion date: August 31, 1990.

Issued in Austin, Texas, on October 25, 1989.

TRD-8910463 Suzanne Schwartz
General Counsel
Texas Water Development Board

Filed: November 1, 1989

For further information, please call: (512) 463-7850

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Request for Proposals to Meet Water Supply Needs in the Lake Tawakoni Area

The Texas Water Development Board (board) requests, pursuant to 31 Texas Administrative Code (TAC), §355.13(a), the submission of regional planning proposals from political subdivisions leading to the award of a contract to evaluate and determine the most feasible alternatives to

meet water supply needs, estimate the costs associated with implementing feasible water supply alternatives, and identify institutional arrangements to provide water services for the area in the Lake Tawakoni area of the Sabine River Basin that includes the Cities of Commerce, Greenville, Edgewood, Quinlan, East Tawakoni, Wills Point, Emory, Lone Oak, Terrell, and West Tawakoni. In order for a political subdivision to receive a grant, the applicant must have the authority to plan, implement, and operate water supply facilities.

Description of Planning Objectives. The purpose of this project is to prepare a plan that documents service needs; identifies feasible alternatives to meet water supply needs; and presents estimates of costs and schedules associated with providing water supply source, conveyance, treatment, and distribution system(s). A water conservation plan and a drought management plan will be developed to ensure that existing and future sources are used efficiently and as a basis for confirming demand projections of future need.

Discrete phases to implement water supply facilities to meet projected needs will be identified. Cost estimates shall be made for each respective implementation phase to determine the capital, operation, and maintenance requirements during a 30-year planning period. Separate cost estimates shall be made for each supply system component, including the water conservation program. Cost estimates for facilities shall be divided into water supply source(s); conveyance to treatment facilities; water treatment facilities; and storage and distribution facilities. The planning period for the proposed work shall extend from 1990 through the year 2020 and shall include project implementation schedules by service area and by type of service facility and activity for the respective phases.

Description of Funding Consideration. The board has determined that there is an urgent need for regional water supply planning in the planning area. Fifty percent state funding for a state amount of up to \$50,000 has been authorized from the board's research and planning fund. In the event that no acceptable proposal is submitted, the board retains the right to make no award of contract funds as specified by provisions of 31 Texas Administrative Code, (TAC), §355.13(a)(3).

The selected proposer will have 90 days from board approval to enter into the contract and to demonstrate to the executive administrator that it has its matching share committed and available.

Deadlines and Contact Person for Additional Information. Ten copies of the full regional planning proposal must be filed with the board prior to 5 p. m., November 20, 1989. The application must be directed to G. E. Kretschmar, Executive Administrator, Texas Water Development Board, P.O. Box 13231, Austin, Texas 78711-3231.

Requests for information, regional planning objectives, and applicable planning rules in accordance with 31 TAC, §§355.10-355.19, may be directed to Carolyn Brittin at the address in the preceding paragraph or by calling (512) 463-7926.

Statement of Contract Terms and Required Completion Date. Procedures for awarding contracts shall comply with the Texas Water Code, §15.406 and with 31 TAC, §§355.10-355.19. Contractual agreements and associated funding will terminate on August 31, 1990.

Completion Date: August 31, 1990.

Issued in Austin, Texas, on October 25, 1989.

TRD-8910462

Suzanne Schwartz
General Counsel
Texas Water Development Board

Filed: November 1, 1989

For further information, please call: (512) 463-7850

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**Request for Proposals to Meet Flood
Protection Planning Needs for Bastrop
Bayou Watershed in Brazoria County**

The Texas Water Development Board (board) requests, pursuant to 31 Texas Administrative Code (TAC), §355.34(a), the submission of proposals for fiscal year 1990 funding leading to the possible award of a contract to develop a flood protection plan for the Bastrop Bayou Watershed in Brazoria County.

In order to be eligible to receive a grant, the applicant must have the legal authority to plan for and abate flooding and must participate in the National Flood Insurance Program.

Description of Planning Objectives. The purpose of the project is to develop a flood protection plan that provides protection from flooding through structural and non-structural measures as described in 31 TAC, §355.33(e). Planning for flood protection will include studies and analyses to determine and describe problems resulting from or relating to flooding and the views and needs of the affected public relating to flooding problems. Potential solutions to flooding problems will be identified, and the benefits and costs of these solutions will be estimated. From the planning analysis, feasible solutions to flooding problems will be recommended.

Description of Funding Consideration. The board will provide funding from the research and planning fund not to exceed 50% for a state amount of up to \$50,000.

In the event that no acceptable proposal is submitted, the board retains the right to make no award of contract funds as specified by provisions of 31 TAC, §355.34 (a)(3). Each applicant will have 90 days from the date of board approval of an application to execute a contract and demonstrate to the executive administrator of the board that it has the local matching share committed and available.

Review Criteria and Procedure. The board's procedures for evaluating and selecting proposals for assistance awards are set forth in 31 TAC, §355.35 and §355.38.

Guidelines for Proposal Contents. All proposals must conform to all of the requirements in 31 TAC, §§355.31-355.40.

Deadlines and Contact Person for Additional Information. Ten copies of the flood protection planning proposal must be filed with the board prior to 5 p.m., November 20, 1989. A contract must be completed and work must be underway no later than March 21, 1990. Work must be completed by May 31, 1990, at which time the applicant must submit to the board a draft final report covering the work completed. A final report covering the work completed and incorporating board review comments must be submitted to the board by August 31, 1990, unless this requirement is extended at a later date by the board. Flood protection planning proposals must be directed to G. E. Kretschmar, Executive Administrator, Texas Water Development Board, P.O. Box 13231, Austin, Texas 78711-3231.

Requests for information, flood protection planning objectives, and applicable planning rules in accordance with 31

TAC, §§355.31-355.40, may be directed to Mr. Bob Wear at the preceding address or (512) 463-7987.

Statement of Contract Terms and Required Completion Date. Procedures for awarding contracts shall comply with Texas Civil Statutes, Article 6252-11c, and Article 664-4, where applicable, and with 31 TAC, §§355.31-355.40. Contractual agreements and associated funding will terminate on August 31, 1990.

Completion Date: August 31, 1990.

Issued in Austin, Texas, on October 25, 1989.

TRD-8910458 Suzanne Schwartz
General Counsel
Texas Water Development Board

Filed: November 1, 1989

For further information, please call: (512) 463-7850

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Request for Proposals to Meet Flood Protection Planning Needs Along Cottonwood Creek in Matagorda County

The Texas Water Development Board (board) requests, pursuant to 31 Texas Administrative Code (TAC), §355.34(a), the submission of proposals for fiscal year 1990 funding leading to the possible award of a contract to develop a flood protection plan along Cottonwood Creek both inside and outside of the corporate limits of Bay City in Matagorda County.

In order to be eligible to receive a grant the applicant must have the legal authority to plan for and abate flooding and must participate in the National Flood Insurance Program.

Description of Planning Objectives. The purpose of the project is to develop a flood protection plan that provides protection from flooding through structural and non-structural measures as described in 31 TAC, §355.33(e). Planning for flood protection will include studies and analyses to determine and describe problems resulting from or relating to flooding and the views and needs of the affected public relating to flooding problems. Potential solutions to flooding problems will be identified, and the benefits and costs of these solutions will be estimated. From the planning analysis, feasible solutions to flooding problems will be recommended.

Description of Funding Consideration. The board will provide funding from the research and planning fund not to exceed 50% for a state amount of up to \$25,000.

In the event that no acceptable proposal is submitted, the board retains the right to make no award of contract funds as specified by provisions of 31 TAC, §355.34(a)(3). Each applicant will have 90 days from the date of board approval of an application to execute a contract and demonstrate to the executive administrator of the board that it has the local matching share committed and available.

Review Criteria and Procedure. The board's procedures for evaluating and selecting proposals for assistance awards are set forth in 31 TAC, §355.35 and §355.38.

Guidelines for Proposal Contents. All proposals must conform to all of the requirements in 31 TAC, §§355.31-355.40.

Deadlines and Contact Person for Additional Information. Ten copies of the flood protection planning proposal must be filed with the board prior to 5 p.m., November 20, 1989. A contract must be completed and work must be

underway no later than March 21, 1990. Work must be completed by May 31, 1990, at which time the applicant must submit to the board a draft final report covering the work completed. A final report covering the work completed and incorporating board review comments must be submitted to the board by August 31, 1990, unless this requirement is extended at a later date by the board. Flood protection planning proposals must be directed to G. E. Kretschmar, Executive Administrator, Texas Water Development Board, P.O. Box 13231, Austin, Texas 78711-3231.

Requests for information, flood protection planning objectives, and applicable planning rules in accordance with 31 TAC, §§355.31-355.40, may be directed to Mr. Bob Wear at the preceding address or (512) 463-7987.

Statement of Contract Terms and Required Completion Date. Procedures for awarding contracts shall comply with Texas Civil Statutes, Article 6252-11c, and Article 664-4, where applicable, and with 31 TAC, §§355.31-355.40. Contractual agreements and associated funding will terminate on August 31, 1990.

Completion date: August 31, 1990.

Issued in Austin, Texas, on October 25, 1989.

TRD-8910457 Suzanne Schwartz
General Counsel
Texas Water Development Board

Filed: November 1, 1989

For further information, please call: (512) 463-7850

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Request for Proposals to Meet Flood Protection Planning Needs for Grace Creek and Surrounding Watersheds in the City of Longview Planning Area

The Texas Water Development Board (board) requests, pursuant to 31 Texas Administrative Code (TAC), §355.34(a), the submission of proposals for fiscal year 1990 funding leading to the possible award of a contract to develop a flood protection plan for Grace Creek and surrounding watersheds in the City of Longview planning area. Planning will be for FEMA designated creeks (the major system).

In order to be eligible to receive a grant, the applicant must have the legal authority to plan for and abate flooding and must participate in the National Flood Insurance Program.

Description of Planning Objectives. The purpose of the project is to develop a flood protection plan that provides protection from flooding through structural and non-structural measures as described in 31 TAC, §355.33(e). Planning for flood protection will include studies and analyses to determine and describe problems resulting from or relating to flooding and the views and needs of the affected public relating to flooding problems. Potential solutions to flooding problems will be identified, and the benefits and costs of these solutions will be estimated. From the planning analysis, feasible solutions to flooding problems will be recommended.

Description of Funding Consideration. The board will provide funding from the research and planning fund not to exceed 50% for a state amount of up to \$125,000.

In the event that no acceptable proposal is submitted, the board retains the right to make no award of contract funds as specified by provisions of 31 TAC, §355.34(a)(3). Each

applicant will have 90 days from the date of board approval of an application to execute a contract and demonstrate to the executive administrator of the board that it has the local matching share committed and available.

Review Criteria and Procedure: The board's procedures for evaluating and selecting proposals for assistance awards are set forth in 31 TAC, §§355.35 and §355.38.

Guidelines for Proposal Contents: All proposals must conform to all of the requirements in 31 TAC, §§355.31-355.40.

Deadlines and Contact Person for Additional Information: Ten copies of the flood protection planning proposal must be filed with the board prior to 5 p.m., November 20, 1989. A contract must be completed and work must be underway no later than March 21, 1990. Work must be completed by August 31, 1990, at which time the applicant must submit to the board a draft final report covering the work completed. A final report covering the work completed and incorporating board review comments must be submitted to the board by November 30, 1990, unless this requirement is extended at a later date by the board. Flood protection planning proposals must be directed to G. E.

Kretzschmar, Executive Administrator, Texas Water Development Board, P.O. Box 13231, Austin, Texas 78711-3231.

Requests for information, flood protection planning objectives, and applicable planning rules in accordance with 31 TAC, §§355.31-355.40, may be directed to Mr. Bob Wear at the preceding address or (512) 463-7987.

Statement of Contract Terms and Required Completion Date: Procedures for awarding contracts shall comply with Texas Civil Statutes, Article 6252-11c, and Article 664-4, where applicable, and with 31 TAC, §§355.31-355.40. Contractual agreements and associated funding will terminate on November 30, 1990.

Completion date: November 30, 1990.

Issued in Austin, Texas, on October 25, 1989.

TRD-8910458

Suzanne Schwartz
General Counsel
Texas Water Development Board

Filed November 1, 1989

For further information, please call: (512) 463-7850