

00.6
263
:19

Texas Register

Volume 13, Number 19, March 8, 1988

Pages 1165-1209

In This Issue...

The Governor

Appointments Made February 25, 1988

- 1171— Texas Alcoholic Beverage Commission
- 1171— On-Site Wastewater Treatment Research Council
- 1171— Hospital Licensing Advisory Council
- 1171— District Three Review Committee
- 1171— Fire Fighter's Relief and Retirement Fund
- 1171— Texas Advisory Commission on Intergovernmental Relations
- 1171— Advisory Council for Technical Vocational Education
- 1171— Commission on Law Enforcement Standards and Education
- 1171— Task Force on Waste Management Policy

- 1173— RQ-1353
- 1173— RQ-1354
- 1173— RQ-1355
- 1173— RQ-1356
- 1173— RQ-1357
- 1173— RQ-1358
- 1173— RQ-1359
- 1173— RQ-1360
- 1173— RQ-1361

Attorney General

Open Records Decisions

- 1172— JM-488 (RQ-1264)

Opinions

- 1172— JM-856 (RQ-1070)
- 1172— JM-857 (RQ-984)
- 1172— JM-821 (RQ-1225)
- 1172— JM-859 (RQ-1281)
- 1172— JM-863 (RQ-1238)
- 1172— JM-864 (RQ-1277)

Requests for Opinions

- 1172— RQ-1344
- 1173— RQ-1345
- 1173— RQ-1346
- 1173— RQ-1347
- 1173— RQ-1348
- 1173— RQ-1349
- 1173— RQ-1350
- 1173— RQ-1351
- 1173— RQ-1352

Emergency Rules

Railroad Commission of Texas

- 1174— Transportation Division

State Board of Insurance

- 1174— Corporate and Financial

Comptroller of Public Accounts

- 1175— Tax Administration

Proposed Rules

Banking Department of Texas

- 1177— Lending Limits

State Board of Medical Examiners

- 1177— Reinstatement
- 1178— Voluntary Surrender of a Medical License

Texas Real Estate Commission

- 1178— Provisions of the Real Estate Licensing Act

Comptroller of Public Accounts

- 1179— Tax Administration

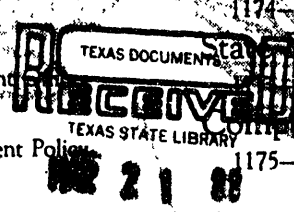
Texas Department of Human Services

- 1182— Home Energy Assistance Program
- 1183— Memoranda of Understanding with Other State Agencies

Withdrawn Rules

Texas Department of Health

- 1185— Long Term Care



Texas Register

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Information Available: The 10 sections of the *Register* represent various facets of state government. Documents contained within them include:

- Governor—appointments, executive orders, and proclamations
- Secretary of State—summaries of opinions based on election laws
- State Ethics Advisory Commission—summaries of requests for opinions and opinions
- Attorney General—summaries of requests for opinions, opinions, and open records decisions
- Emergency Rules—rules adopted by state agencies on an emergency basis
- Proposed Rules—rules proposed for adoption
- Withdrawn Rules—rules withdrawn by state agencies from consideration for adoption, or automatically withdrawn by the *Texas Register* six months after proposal publication date
- Adopted Rules—rules 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 explanations 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: "12 TexReg 2 issue date," while on the opposite page, page 3, in the lower right-hand corner, would be written "Issue date 12 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, 503E Sam Houston Building, Austin. Material can be found by using *Register* indexes, the *Texas Administrative Code*, rule 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 rule 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 the rule (27 indicates that the rule is under Chapter 27 of Title 1; 15 represents the individual rule within the chapter).



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Adopted Rules

Polygraph Examiners Board

1186— Practice and Procedure

State Board of Veterinary Medical Examiners

1186— Licensing

1189— Practice and Procedure

1191— General Administration and Duties

Texas Parks and Wildlife

1191— Administration

Comptroller of Public Accounts

1192— Tax Administration

Texas Department of Human Services

1195— Income Assistance

Texas Advisory Board of Occupational Therapy

1195— Types of Licenses

State Board of Insurance

1196— Notification Pursuant to the Insurance Code, Chapter 5, Subchapter L

Open Meetings

1197— Texas Department of Corrections

1197— Texas County and District Retirement System

1197— Texas Commission for the Deaf

1197— Texas Employment Commission

1197— Governor's Office

1197— Texas Hospital Equipment Financing Council

1197— University of Houston System

1197— Texas Department of Human Services

1198— State Board of Insurance

1198— Texas Board of Land Surveying

1198— Board for Lease of State-Owned Lands

1198— Midwestern State University

1198— Special Committee on Organization of State Agencies

1198— Texas Parks and Wildlife Department

1199— Texas State Board of Public Accountancy

1199— Public Utility Commission of Texas

1199— Texas Rehabilitation Commission

1199— Special task Force on Rural Health Care Delivery in Texas

1199— State Securities Board

1199— Texas State Soil and Water Conservation Board

1199— Texas A&M University

1200— Transition Services Task Force

1200— Texas Turnpike Authority

1200— Texas Water Commission

1201— Regional Meetings

In Addition

Office of the Attorney General

1202— Solid Waste Enforcement Notice

Texas Department of Banking

1202— Notice of Application

Texas Department of Commerce

1203— Weekly Report on the 1988 Allocation of the State Ceiling on Certain Private Activity Bonds

Texas Department of Community Affairs

1203— Notice of Availability of Funds

1203— Request for Proposals

Office of Consumer Credit Commissioner

1204— Notice of Rate Ceilings

Texas Education Agency

1206— Request for Exhibits

Texas Department of Health

1206— Availability of 1987 Block Grant Annual Reports

1207— Correction of Error

Texas Department of Highways and Public Transportation

1207— Correction of Error

State Board of Insurance

1207— Consultant Proposal Request

1208— Public Hearing

Texas State Board of Medical Examiners

1208— Consultant Proposal Request

State Purchasing and General Services Commission

1209— Correction of Error

State Committee of Examiners for Speech-Language Pathology and Audiology

1209— Correction of Error

Texas Water Commission

1209— Enforcement Orders

TAC Titles Affected

TAC Titles Affected—March

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

TITLE 4. AGRICULTURE

Part I. Texas Department of Agriculture

4 TAC §§18.1-18.38—1063

TITLE 7. BANKING AND SECURITIES

Part II. Banking Department of Texas

7 TAC §12.3—1177

TITLE 16. ECONOMIC REGULATION

Part I. Railroad Commission of Texas

16 TAC §1.32—1087

16 TAC §3.22—1087

16 TAC §5.183—1174

Part II. Public Utility Commission of Texas

16 TAC §23.21—1072

16 TAC §23.26—1087

16 TAC §23.27—1089

16 TAC §23.31—1072

16 TAC §23.44—1074

16 TAC §23.54—1074

TITLE 19. EDUCATION

Part II. Texas Education Agency

19 TAC §105.1—1076

19 TAC §§105.41-105.46, 105.48, 105.50, 105.53-105.55—1076

19 TAC §105.49—1076

19 TAC §195.91—1076

19 TAC §105.92—1076

19 TAC §105.111—1081

19 TAC §105.151—1081

19 TAC §105.191—1081

19 TAC §105.211—1081

19 TAC §105.231—1081

19 TAC §§105.251, 105.256, 105.257—1082

19 TAC §105.271—1082

19 TAC §105.311, §105.312—1082

19 TAC §105.331—1082

19 TAC §105.351—1082

19 TAC §105.371—1083

TITLE 22. EXAMINING BOARDS

Part IX. State Board of Medical Examiners

22 TAC §167.3—1177

22 TAC §§196.1-196.5kk—1178

Part XIII. Texas Board of Licensure for Nursing Home Administrators

22 TAC §245.3—1094

Part XIX. Polygraph Examiners Board

22 TAC §397.26—1186

Part XXII. Texas State Board of Public Accountancy

22 TAC §501.2—1059

22 TAC §501.3—1059

22 TAC §501.11—1059

22 TAC §501.12—1059

22 TAC §501.13—1059

22 TAC §501.14—1059

22 TAC §501.21—1060

22 TAC §501.22—1060

22 TAC §501.23—1060

22 TAC §501.24—1060

22 TAC §501.25—1060

22 TAC §501.31—1060

22 TAC §501.32—1061

22 TAC §501.41—1061

22 TAC §501.42—1061

22 TAC §501.43—1061

22 TAC §501.44—1061

22 TAC §501.45—1061

22 TAC §501.46—1061

22 TAC §§501.47—1061

22 TAC §§501.48—1061

22 TAC §§501.50—1062

Part XXIII. Texas Real Estate Commission

22 TAC §§535.163—1178

Part XXIV. State Board of Veterinary Medical Examiners

22 TAC §§571.2—1186

22 TAC §§571.3—1186

22 TAC §§571.4—1186

22 TAC §§571.8—1187

22 TAC §§571.12—1187

22 TAC §§571.15—1187

22 TAC §§571.16—1188

22 TAC §§571.52—1188

22 TAC §§571.53—1188

22 TAC §§571.54—1188

22 TAC §§571.55—1188

22 TAC §§571.57—1189

22 TAC §§575.2—1189

22 TAC §§575.3—1189

22 TAC §§575.9—1189

22 TAC §§575.10—1189

22 TAC §§575.12—1190

22 TAC §§575.13—1190

22 TAC §§575.20—1190

22 TAC §§575.21—1190

22 TAC §§577.1—1190

22 TAC §§577.2—1190

TITLE 25. HEALTH SERVICES

Part I. Texas Department of Health

25 TAC §§145.94—1185

Part II. Texas Department of Mental Health and Mental Retardation

25 TAC §§402.41-402.51—1094

25 TAC §§403.76, §403.77—1097

25 TAC §§403.501-403.507—1098

25 TAC §§403.551-403.558—1098

25 TAC §§404.1-404.14—1098

25 TAC §§404.41-404.51—1101

25 TAC §§404.81-404.87—1103

25 TAC §§405.361-405.372—1104

TITLE 28. INSURANCE

Part I. State Board of Insurance

28 TAC §§7.56—1174

**TITLE 31. NATURAL RESOURCES
AND CONSERVATION**

Part XIV. Texas Board of Irrigators

31 TAC §§425.19—1104

TITLE 34. PUBLIC FINANCE

Part I. Comptroller of Public Accounts

34 TAC §§3.330—1179

34 TAC §§3.357—1181

34 TAC §§3.601—1175

34 TAC §§3.602—1175

Part IV. Employees Retirement System of Texas

34 TAC §§67.89—1062, 1083

34 TAC §§71.1—1104

34 TAC §§73.15—1105

Part X. Texas Public Finance Authority

34 TAC §§221.1-221.4—1105

**TITLE 40. SOCIAL SERVICES AND
ASSISTANCE**

Part I. Texas Department of Human Services

40 TAC §§3.501—1195

40 TAC §§8.2, §8.3—1182

40 TAC §§11.6008—1084

40 TAC §§29.502—1107

40 TAC §§29.1101—1107

40 TAC §§47.4902—1084

40 TAC §§56.901-56.905—1084

40 TAC §§72.301—1183

40 TAC §§73.4006, 73.4008, 73.4010—1085

40 TAC §§73.4105, 73.4107, 73.4110, 73.4111—1085

40 TAC §79.1203—1086

40 TAC §79.1302—1086

Part XII. Texas Advisory Board of Occupational Therapy

40 TAC §367.1—1195

The Governor

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

Appointments Made

February 25, 1988

To be a member of the Texas Alcoholic Beverage Commission, for a term to expire November 15, 1993, R. Allan Shivers, Jr., 1200 Gaston Avenue, Austin, Texas 78703. Mr. Shivers will be replacing Mr. J.A. Whittenburg, III of Amarillo, whose term expired.

To be a member of the On-Site Wastewater Treatment Research Council, for a term to expire September 1, 1989, Michael E. Cavalier, P.O. Box 329, Conroe, Texas 77305.

To be a member of the Hospital Licensing Advisory Council, for a term to expire December 7, 1993, Brian Stanley Harper, M.D., 305 Childress, Rockdale, Texas 76567. Dr. Harper will be replacing Dr. Jim Bob Brame of Eldorado whose term expired.

To be a member of the District Three Riveiw Committee, Board of Medical Examiners, for a term to expire January 15, 1992, Carlos A. Fernandez, 6385 Los Roles, El Paso, Texas 79912. Dr. Fernandez will be replacing Dr. Gordon McGee of El Paso whose term expired.

To be a member of the Fire Fighters' Relief and Retirement Fund, Board of Trustees, for a term to expire September 1, 1993, Allen Ray Russell, 404 Meadowridge, Cedar Hill, Texas 75104.

Mr. Russell will be replacing Mr. W. Harold Brodt of Sequin whose term expired.

To be a member of the Texas Advisory Commission on Intergovernmental Relations, for a term to expire September 1, 1993, Hollis v. Rutledge, Jr., 6061 DeZavala Road, #404, San Antonio, Texas 78249. Mr. Rutledge will be replacing J. Lynn Futch of Temple whose term expired.

To be a member of the Advisory Council for Technical-Vocational Education, Helen Soto Knaggs, 1800 West 46th Street, Austin, Texas 78756. Mrs. Knaggs will be filling the unexpired term of Jan Sarah Lack of Victoria who is no longer eligible.

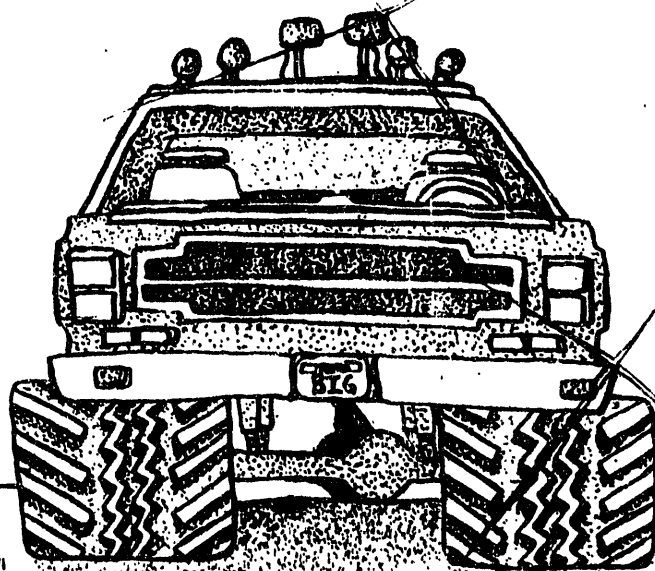
To be a member of the Commission on Law Enforcement Officer Standard and Education, for a term to expire August 30, 1993, Louis Theodore Getterman, III, P.O. Box 2266, Austin, Texas 78780. Mr. Getterman will be replacing Sammy Leach, Jr. of Lufkin whose term expired.

To be a member of the Task Force on Waste Management Policy, pursuant to S. R. 109, 70th Legislature, for a term through January 1989 and at the pleasure of the Governor, James C. Morriss, III, 3300 First City Center, 1700 Pacific Avenue, Dallas, Texas 75201.

Issued in Austin, Texas on February 25, 1988.

TRD-8802209

William P. Clements, Jr.
Governor of Texas



Name: Sheldon Jolly
Grade: 11
School: Sam Houston High, Arlington

Attorney General

Description of Attorney General submissions. Under provisions set out in the Texas Constitution, Texas Civil Statutes, Article 4399, and numerous statutes, the attorney general is authorized to write advisory opinions for state and local officials. These advisory opinions are requested by agencies or officials when they are confronted with unique or unusually difficult legal questions. The attorney general also determines, under authority of the Texas Open Records Act, whether information requested for release from governmental agencies maybe held from public disclosure. Requests for opinions, opinions, and open record decisions are summarized for publication in the *Texas Register*.

Open Records Decisions

JM-488 (RQ-1264).

Request from Edward H. Perry, Assistant City Attorney, City Hall, Dallas, concerning whether the Texas Open Records Act, §3A and §3(a)(17), Texas Civil Statutes, Article 6252-17a, apply to governmental employees who have already retired.

Summary of Decision. The home addresses and telephone numbers of city employees who were not peace officers and who retired prior to the effective date of the Texas Open Records Act, §3A, Texas Civil Statutes, Article 6252-17a, may not be withheld from public disclosure under the Act, §3(a)(17), in conjunction with §3A. This information may be withheld under §3(a)(1) and (2) only upon a showing of special circumstances related to privacy interests.

As recently amended, the Open Records Act, subsection 9(a), requires the requestor to bear the cost of access to or copies of up to legal-size public records, "including costs of materials, labor, and overhead unless the request is for 50 pages or less of readily available information." In requests involving 50 pages or less, the cost of deleting information deemed confidential under the Open Records Act may be considered in determining whether information is "readily available." TRD-8802246

Opinions

JM-856 (RQ-1070).

Request from Mike Driscoll, Harris County Attorney, Houston, concerning whether a sheriff may use his officeholder or campaign funds to pay or reimburse cash shortages in his official account (RQ-1070).

Summary of Opinion. A sheriff may use his campaign or office-holder contributions to pay or reimburse cash shortages in his official account. The use of political funds for this purpose would not violate the personal use restriction of the Election Code, §253.035. TRD-8802252

JM-857 (RQ-984).

Request from Gary Garrison, Ector County Attorney, Odessa, and Billy Ray

Stubblefield, Williamson County Attorney, Georgetown, concerning whether a taxing unit that contracts with a private attorney pursuant to the Tax Code, §6.30 may impose the additional penalty of 15% authorized by the Tax Code §33.07, in an instance in which the §6.30 contract provides that the delinquent tax attorney will be compensated by a percentage of less than 15% (RQ-984).

Summary of Opinion. Pursuant to the Tax Code, §33.07 a taxing unit that has contracted with an attorney to collect delinquent taxes under the Tax Code, §6.30, is authorized to impose a penalty not to exceed 15% against delinquent taxpayers to cover the attorney's compensation. The taxing unit may not apply any part of the penalties collected under §33.07 to any additional costs of collection which it incurs but must use all of the assessed penalties solely to compensate the attorney with whom it contracted. TRD-8802251

JM-821 (RQ-1225).

Request from Dudley Harrison, Chairman, Agriculture and Livestock Committee, Texas House of Representatives, Austin, concerning the responsibility of a hospital district to provide medical care for the needy inhabitants of the district and related questions (RQ-1199).

Summary of Opinion. The terms "needy" and "inhabitant", found in the Texas Constitution, Article IX, §9, and in the enabling legislation for the Presidio County Hospital District are equivalent to the terms "indigent" and "resident."

Absent legislative action pursuant to the Texas Constitution, Article IX, §9A, establishing eligibility requirements, the Presidio County Hospital District must determine whether a county resident is indigent.

Presidio County Hospital District may affiliate with another hospital district to provide medical care to the needy inhabitants of Presidio County. The agreement between the affiliating entities may provide for Presidio County Hospital District to fund capital expenditures for the other hospital district. TRD-8802250

JM-859 (RQ-1281). Request from James W. Carr, Lavaca County Attorney,

Hallettsville, and William H. Cantrell, Parker County Attorney, Weatherford, concerning, whether hospital district taxes may be rolled back by election called pursuant to petition by taxpayers (RQ-1281).

Summary of Opinion. The Tax Code, §26.07, which authorizes ad valorem tax rate rollback elections for taxing units other than school districts, is constitutional insofar as it applies to hospital districts. TRD-8802249

JM-863 (RQ-1238). Request from Abelardo Garza, Duval County Attorney, San Diego, concerning, whether a county may set a curfew for minors in public property (RQ-1238).

Summary of Opinion. A commissioners court has no authority to enact a county-wide juvenile curfew ordinance. TRD-8802248

JM-864 (RQ-1277). Request from Ashley Smith, Chairman, Government Organization Committee, Texas House of Representatives, Austin, concerning the authority of the Amarillo Hospital District to dispose of Northwest Texas Hospital (RQ-1277).

Summary of Opinion. The City of Amarillo Hospital District owns the Northwest Texas Hospital. The board of managers of the hospital district operates the facility.

Pursuant to Texas Civil Statutes, Article 4437c-2, the hospital district's board of managers may sell, lease, or close a hospital after a finding that such action is in the best interest of the district's residents. The voters of the district may petition for an election on the issue of selling or closing a hospital.

If the Northwest Texas Hospital is sold, leased, or closed, the City of Amarillo Hospital District continues to be legally responsible for providing medical care pursuant to the Indigent Health Care and Treatment Act. TRD-8802247

Requests for Opinions

(RQ-1344).

Request from Sam W. Dick, Criminal District Attorney, Fort Bend County, concern-

ing the authority of a justice of the peace to prescribe community service as a sentencing alternative, and related questions.
TRD-8802245

◆ ◆ ◆
(RQ-1345).

Request from Senator O. H. "Ike" Harris, Chairman, Senate Economic Development Committee, District Number 8, Dallas, concerning whether a governmental body may invest bonds proceeds in a bank-oriented money market mutual fund. TRD-8802244

◆ ◆ ◆
(RQ-1346).

Request from Bob Bullock, Comptroller of Public Accounts, Austin, concerning the use of bingo proceeds for political contributions; comptroller's enforcement authority under the Bingo Enabling Act. TRD-8802243

◆ ◆ ◆
(RQ-1347).

Request from Toby C. Wilkinson, Hunt County Attorney, Greenville, concerning the constitutionality of temporary occupation tax on attorney. TRD-8802242

◆ ◆ ◆
(RQ-1348).

Request from Lois M. Smith, Executive Director, Texas State Board of Physical Therapy Examiners, Austin, concerning the authority of the Board of Physical Therapy Examiners to adopt a rule regarding discipline of a license. TRD-8802241

◆ ◆ ◆
(RQ-1349).

Request from S. Dale Ousley, Chairman, Texas Board of Irrigators, Austin, concerning per diem for members of the Board of Irrigators. TRD-8802240

◆ ◆ ◆
(RQ-1350).

Request from Rene Guerra, Criminal District Attorney, Hidalgo County Courthouse, Edinburg, concerning the selection of a depository by a hospital authority. TRD-8802239

◆ ◆ ◆
(RQ-1351).

Request from Charles D. Travis, Executive Director, Texas Parks and Wildlife Department, Austin, concerning conflict between portions of the Parks and Wildlife Code. TRD-8802238

(RQ-1352).

Request from Tom O'Connel, Criminal District Attorney, Collin County Courthouse, McKinney, concerning the authority of a commissioners court to set fees for service of process. TRD-8802237

◆ ◆ ◆
(RQ-1353).

Request from Joseph C. Gagen, Chairman, Texas Industrial Accident Board, Austin, concerning the authority of the Industrial Accident Board to approve a settlement agreement that would terminate liability for future medical expenses. TRD-8802236

◆ ◆ ◆
(RQ-1354).

Request from Ron Wilson, State Representative, District 131, Austin, concerning whether the Houston municipal retirement system is required to call an election. TRD-8802235

◆ ◆ ◆
(RQ-1355).

Request from Tim Rudolph, County Attorney, Somervell County Courthouse, Glen Rose, concerning the powers and duties of a county attorney pro tem under the Code of Criminal Procedure, Article 2.07. TRD-8802234

◆ ◆ ◆
(RQ-1356).

Request from Louise Sanders, R. N., Executive Secretary, Board of Nurse Examiners, Austin, concerning regulation by the Board of Nurse Examiners under the Medical Radiologic Technologist Certification Act, Texas Civil Statutes, Article 4512m. TRD-8802233

◆ ◆ ◆
(RQ-1357).

Request from Harold R. Schmidt, Mason County Attorney, Mason, concerning the authority of a commissioners court to contract with a nonprofit corporation for hospital services. TRD-8802232

◆ ◆ ◆
(RQ-1358).

Request from Ernestine V. Glossbrenner, Texas House of Representatives, Austin, concerning whether certain worker safety requirement for excavation and trenching operations comply with Texas Civil Statutes, Articles 1015q, and 2368a. 6. TRD-8802231

◆ ◆ ◆
(RQ-1359).

Request from Mike Driscoll, Harris County Attorney, Houston, concerning bail bond processing fees under the Texas Local Government Code, §118.131. TRD-8802230

◆ ◆ ◆
(RQ-1360).

Request from O. H. "Ike" Harris, Chairman, Senate Economic Development Committee, District Number 8, Dallas, concerning whether local governments, as defined in the Interlocal Cooperation Act, Texas Civil Statutes, Articles 4413 (32c), may pool their funds for purposes of an authorized investment. TRD-8802229

◆ ◆ ◆
(RQ-1361).

Request from Chet Brooks, Chairman, Health and Human Services Committee, Texas State Senate, Austin, concerning the authority of a person or entity not licensed under the Public Accountancy Act, Texas Civil Statutes, Article 41a-1, to offer seminars or use the description "accountant", and related questions. TRD-8802228

Emergency Rules

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

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

TITLE 16. ECONOMIC REGULATION

Part I. Railroad Commission of Texas

Chapter 5. Transportation Division

Subchapter L. Insurance Requirements

16 TAC §5.183

The Railroad Commission of Texas adopts on an emergency basis an amendment to §5.183, concerning minimum limits. The amendment is adopted on an emergency basis due to the fact that normal rulemaking procedures will not allow final adoption of rules which set out standards for commission acceptance of proof of insurance issued by surplus lines insurance companies and carriers wishing to be self insured; all registering pursuant to statutory requirements that commercial motor vehicles be registered with the commission. The deadline for commercial carrier registration is April 1, 1988. Emergency adoption of amendment to this section is also made necessary by the unavailability of insurance coverage for some commercial motor carriers from insurance companies licensed to do business in Texas. If commercial carriers are unable to maintain their operations in service to the general public on April 1, 1988, an imminent threat to the general public welfare will result.

The amendment is adopted on an emergency basis under Texas Civil Statutes, Articles 911b, §4(a)(13) and §13, and 6701d, §139c, which authorize the commission to register commercial motor vehicles and require the filing of proof of liability insurance.

§5.183. Minimum Limits.

(a) The minimum amounts referred to in §5.181 of this title (relating to Evidence of Insurance Required) are hereby prescribed as follows:

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

(b) The commission will conditionally accept proof of insurance in the amounts prescribed in subsection (a) of this section by surplus lines insurance companies, as that term is defined in the Texas Insurance Code, Article 1.14-2, whose names appear on the list of eligible surplus lines companies published by the State Board of Insurance. The commission acceptance of such insurance is contingent on a determination by the Surplus Lines Stamping Office of Texas

that a surplus lines company is suitable and fit.

(c) The commission shall accept as proof of insurance coverage in the amount prescribed in subsection (a) of this section, certificates of self insurance issued by the Texas Department of Public Safety.

(d) Subsection (c) of this section shall apply only to commercial carriers registering under the provisions of Texas Civil Statutes, Article 911b, §4(a)(13) and Article 6701-d, §139c.

Issued in Austin, Texas, on February 29, 1988.

TRD-8802202

James E. Nugent
Chairman
Railroad Commission of
Texas

Effective date: March 1, 1988

Expiration date: June 29, 1988

For further information, please call: (512) 463-7149.

TITLE 28. INSURANCE

Part I. State Board of Insurance

Chapter 7. Corporate and Financial

Subchapter A. Examination and Corporate Custodian and Tax

• 28 TAC §7.56

The State Board of Insurance adopts on an emergency basis new §7.56, concerning corporate and financial regulation. Section 7.56 concerns forms and instructions for the preparation and filing of tax returns for insurers and other entities required to file tax returns with the State Board of Insurance for the 1987 calendar year or required to file quarterly premium tax returns with the board during the 1988 calendar year. This new section is necessary to provide forms and instructions which will facilitate compliance with statutory requirements for reporting and payment of taxes to the State Board of Insurance. The annual gross premium tax return is required by statute to be filed either on or before March 1, 1988, or the date the annual statement for the carrier is required to be filed with the board. Quarterly tax returns are required to be filed four times per year: the first quarter is due and payable March 1, 1988, (or

the date the annual statement for such carrier is required to be filed with the State Board of Insurance); the second quarter is due and payable May 15, 1988; the third quarter is due and payable August 15, 1988; and the fourth quarter is due and payable November 15, 1988. The forms and instructions include requirements for information respecting gross premium taxes, maintenance taxes, and other taxes, and certain incidental fees, and provide a form to be used in determining and reporting the amount owed. It is the board's opinion and the board finds that an imminent peril to the public welfare requires that §7.5 be adopted on an emergency basis in order to continue the proper functioning of administrative regulation of the business of insurance in Texas. An imminent peril to the public welfare requires adoption of this new section on an emergency basis in order to enable the board to provide insurers and other entities with forms and instructions in sufficient time for affected entities to file tax returns on or before the statutory due date. Timely and accurate payment of the taxes is necessary for support of regulatory functions of the State Board of Insurance. Adoption of this section on an emergency basis includes adoption by reference of forms and instructions. The board has filed copies of these forms and instructions with the Secretary of State's Office, Texas Register Section. Persons desiring copies of the forms and instructions can obtain copies from the Corporate Custodian and Tax Division of the State Board of Insurance, 1110 San Jacinto Boulevard, Austin, Texas 78701-1998.

This section is adopted on an emergency basis under the Texas Insurance Code, Articles 1.04, 1.10, §9, 4.07, 4.10, 4.11, 5.12, 5.24, 5.49, 5.68, 9.46, 21.07-5, and 23.08; the Texas Health Maintenance Organization Act, §22 and §33; and Texas Civil Statutes, Articles 6252-13a, §4, and 8306, §28. The Insurance Code, Article 1.04, places original jurisdiction for the adoption of rules in the State Board of Insurance. Article 1.10, §9, requires the board to furnish, to companies required to report to the board, statement blanks for the statements required. Article 4.07 specifies the charges for certain fees. The Insurance Code, Articles 4.10 and 4.11; Texas Civil Statutes, Article 8306, §28; and the Texas Health Maintenance Organization Act, §33, require the payment of taxes on gross premiums by entities regulated by the board or on gross amounts of similar revenue by health maintenance organizations. The Insurance Code, Articles 5.12, 5.24, 5.49, 5.68, 9.46, 21.705, and 23.08, requires the payment of maintenance taxes by certain entities regulated by the board. The Insurance Code, Articles 4.10 and 4.11, give the board rulemaking authority. The Texas Health Maintenance Organization Act, §22 gives the board rulemaking authority. Texas Civil Stat-

utes, Article 6252-13a, §4, requires and authorizes the board to adopt rules of practice setting forth the nature and requirements of all procedures available.

§756. Preparation of 1987 Tax Returns. Forms and instructions for the preparation of tax returns and certain fees for insurance companies and other principals for the 1987 calendar year are adopted by reference. These instructions and forms are published by the State Board of Insurance and may be obtained from the Corporate Custodian and Tax Division of the State Board of Insurance, 1110 San Jacinto Boulevard, Austin, Texas 78701-1998. Each insurer or other entity shall follow such instructions and use and report on such forms as appropriate to its operation. The instructions and forms are more particularly identified as follows:

(1) a form identified as the 1987 Specific Instructions for Completing the Texas Annual Tax Return, for Domestic, Foreign, and Alien Life, Health and Accident Carriers;

(2) a form identified as the 1987 Specific Instructions for Completing the Texas Annual Tax Return, for Domestic, Foreign, and Alien Life, Health and Accident Carriers;

(3) a form identified as the 1987 Texas Annual Tax Return for Domestic, Foreign, and Alien Life, Health and Accident Companies Doing Business in the State of Texas;

(4) a form identified as the 1987 Specific Instructions for Completing the Texas Annual Tax Return for Domestic, Foreign, and Alien Companies Transacting Fire and/or Casualty or Title Business in Texas;

(5) a form identified as the 1987 Texas Annual Tax Return for Domestic, Foreign, and Alien Companies, Lloyds, Reciprocal, and Miscellaneous Organizations in Texas;

(6) a form identified as the 1987 Texas Specific Instructions for Completing the Texas Annual Tax Return for Health Maintenance Organizations;

(7) a form identified as the 1987 Texas Annual Tax Return for Health Maintenance Organizations;

(8) a form identified as the 1987 Texas Annual Tax Return, including instructions, for Nonprofit Prepaid Legal Services Corporation;

(9) a form identified as the 1987 Texas Annual Tax Return, including instructions, for Local Mutual Aid Associations;

(10) a form identified as the 1988 Specific Instructions for Preparing and Filing Texas Quarterly Premium Tax Return for Life, Health, and Accident Business;

(11) a form identified as the 1988 Texas Quarterly Premium Tax Return for Life, Health, and Accident Business;

(12) a form identified as the 1988 Specific Instructions for Preparing and Filing Texas Quarterly Premium Tax Return for Fire and Casualty Business;

(13) a form identified as the 1988 Texas Quarterly Premium Tax Return for Fire and Casualty Business;

(14) a form identified as the 1988 Specific Instructions for Preparing and Filing Texas Quarterly Premium Tax Return for Health Maintenance Organizations;

(15) a form identified as the 1988 Texas Quarterly Premium Tax Return for Health Maintenance Organizations;

(16) a form identified as the 1988 Specific Instruction for Preparing and Filing Texas Quarterly Premium Tax Return for Title Business;

(17) a form identified as the 1988 Texas Quarterly Premium Tax Return for Title Business;

(18) a form identified as the 1988 General Instructions for Completing Texas Annual Tax Return, for companies under the provisions of the Texas Insurance Code, Articles 3.25 and 3.59;

(19) a form identified as the 1987 Texas Annual Tax Return, for companies under the provisions of the Texas Insurance Code, Articles 3.25 and 3.59;

(20) a form identified as the general instructions for filing the 1987 maintenance tax returns for third party administrators; and

(21) a form identified as the maintenance tax return for third-party administrators (from September 1, 1987-December 31, 1987).

Issued in Austin, Texas, on February 29, 1988.

TRD-8802154 Nicholas Murphy
Chief Clerk
State Board of Insurance

Effective date: February 29, 1988

Expiration date: June 28, 1988

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

TITLE 34. PUBLIC FINANCE

Part I. Comptroller of Public Accountants

Chapter 3. Tax Administration

Subchapter W. Amusement Machine Regulation

• 34 TAC §3.601

The Comptroller of Public Accounts adopts

on an emergency basis an amendment to §3.601, concerning definitions. The amendment clarifies the definition of amusement machines and restricts when a machine will not be considered a machine for the purchase of calculating the license fee. This amendment is needed on an emergency basis to avoid confusion regarding the definition of a machine.

The amendment is adopted on an emergency basis under Texas Civil Statutes, Article 8807(1), which provide the comptroller with the authority to prescribe, adopt, and enforce rules relating to the administration and enforcement of the Coin-Operated Services Law, Texas Civil Statutes, Articles 8801-8817.

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

Machine or amusement machine—In the sections published by the comptroller relating to the Coin-Operated Services Law, all machines which vend music, skill, or pleasure. The term "machine," as used in these sections, does not include service machines or machines which dispense a product. Coin-operated machines which dispense a product that require skill or pleasure to activate the dispensing of a product constitutes a machine played for skill or pleasure. A machine is subject to tax if it is coin-operated for music, skill, or pleasure, capable of independent operation and independent viewing in an independent cabinet with separate activating coin mechanisms whether displayed separately or in series, and regardless of [or] any central electrical, mechanical, or manual component, shall be considered separate machines in regard to occupation tax requirements. A machine which is no longer functional, and has been permanently taken out of service, will not be considered to be a coin-operated machine operated for music, skill, or pleasure. A machine only temporarily taken out of service is a machine subject to the annual occupation tax. A machine permanently taken out of service means a machine which is no longer functional of independent operation and [or] will be used only for parts. No longer functional means that it is no longer financially practical to operate the machine.

Issued in Austin, Texas, on February 29, 1988.

TRD-8802204 Bob Bullock
Comptroller of Public
Accounts

Effective date: March 1, 1988

Expiration date: June 29, 1988

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

• 34 TAC §3.602

The Comptroller of Public Accounts adopts on an emergency basis an amendment to §3.601, concerning license and registration certificate renewal and occupation tax permit renewal due dates. This amendment clarifies when occupation tax is due on coin-operated machines. This amendment is needed on an emergency basis to avoid confusion regarding the taxability of coin-operated machines.

The amendment is adopted on an emergency

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 action. 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 7. BANKING AND SECURITIES

Part II. Banking Department of Texas

Chapter 12. Lending Limits

7 TAC §12.3

(Editor's note: The following submission was inadvertently omitted from the February 26, 1988, issue.)

The Banking Department of Texas proposes amendments to §12.3 concerning the applicability of a state bank's lending limitations to loan renewals or extensions following a decline in the bank's lending limit. This section is being amended so as to no longer require that a bank first attempt to participate the amount by which a loan may exceed the bank's reduced lending limit upon renewal of the loan.

Hubert Bell, Jr., Assistant General Counsel, has determined that for the first five-year period the proposed sections are in effect there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the sections.

Mr. Bell, assistant general counsel, 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 clearer guidance to state banks as to requirements surrounding loan renewals following a decline in a bank's lending limit. The amended section attempts to reflect a closer alignment of regulatory requirements with actual market opportunities to participate loans. There is no anticipated economic cost to individuals who are required to comply with the sections as proposed.

Comments on the proposal may be submitted to Hubert Bell, Jr., Assistant General Counsel, Texas Department of Banking, 2601 North Lamar Boulevard, Austin, Texas 78705-4294.

The amendment is proposed under Texas Civil Statutes, Article 342-507, which provide the Banking Commissioner with the authority to promulgate rules to administer and carry out this article.

§12.3. General Limitations.

(a) (No change.)

(b) Change in lending limit due to a change in the bank's net capital and certified surplus. For the purpose of these sections, net capital and certified surplus used in determining a bank's lending limit, repre-

sents the lesser of the actual capital stock and certified surplus or the net balance of all capital accounts not including the reserve for bad debts. In the event that a loan or binding commitment to make a loan is within a bank's lending limit when made, but due to a subsequent decrease in the bank's net capital and certified surplus, for whatever reason, said loan, or advances which are made pursuant to the commitment, then exceeds the bank's new lending limit, such occurrence in itself will not result in the bank being in violation of its legal lending limit; provided that when the loan or commitment was made, the bank had no knowledge of any impending decrease in its net capital or certified surplus. [A bank may renew or extend such loan or binding commitment at its existing level only if failure to continue the commitment at its existing level could impair the value of the collateral or the bank's ability to collect loan funds previously advanced to the person(s) involved. The existence of such condition shall be evidenced by documentation contained in the bank's credit files which shall reflect the bank's attempt to arrange a participation of the amount that exceeds the bank's new lending limit and/or efforts toward referring the borrower to another financial institution. Otherwise, any new loan or commitment, including renewals or extensions, shall be based on the bank's lending limit at the time the new loan, renewal, or extension is executed.]

(c) Loan Renewals. In determining whether a loan or commitment should be renewed or extended, prudent banking judgment would require that management consider whether failure to renew or extend the loan or commitment at its existing level would impair the value of the collateral or the bank's ability to collect funds previously advanced.

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

Issued in Austin, Texas, on February 17, 1988.

TRD-8801753

Jorge A. Gutierrez
General Counsel
Department of Banking of
Texas

Earliest possible date of adoption: March 28, 1988

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

TITLE 22. EXAMINING BOARDS Part IX. State Board of Medical Examiners

Chapter 167. Reinstatement [of Medical License]

22 TAC §167.3

The Texas State Board of Medical Examiners proposes new §167.3, concerning reinstatement of Drug Enforcement Administration registration following surrender for cause. The physician applicant must complete the necessary application and appear before the Texas State Board of Medical Examiners to give the reasons he or she wishes reinstatement of the registration. Such applications will not be considered more often than once each year, unless approved for appearance more often.

Florence Allen, business manager, and Jean Davis, Texas Register liaison, have determined that for the first five-year period the proposed section is in effect there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the section.

Ms. Davis also has determined that for each year of the first five years the section will be in effect there will be no public benefit anticipated as a result of enforcing the section. Since this new section applies to physicians, the public in general should be relatively unaffected by this new 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 Jean Davis, P.O. Box 13562, Austin, Texas 78711. A public hearing is expected on the new section. Those interested may contact the board office for more information on the date and time.

The new section is proposed under Texas Civil Statutes, Article 4495b, which provide the Texas State Board of Medical Examiners with the authority to make rules, regulations, and bylaws not inconsistent with this Act as may be necessary for the governing of its own proceedings, the performance of its duties, the regulation of the practice of medicine in this state, and the enforcement of this Act. §167.3. *Reinstatement of Drug Enforcement Agency Registration Following Surrender for Cause.*

(a) The applicant must complete an application for reinstatement of Drug Enforcement Agency registration.

(b) The applicant must appear before the board to state his or her request and the reasons for reinstatement.

(c) Applications for reinstatement following surrender for cause will not be received or considered more often than once each year unless the executive director, at his or her discretion, decides to waive the one-year period.

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

Issued in Austin, Texas, on February 29, 1988.

TRD-8802159

G. V. Brindley, Jr.
Executive Director
Texas State Board of
Medical Examiners

Earliest possible date of adoption: April 8, 1988

For further information, please call: (512) 452-1078

Chapter 196. Voluntary Surrender of a Medical License

• 22 TAC §§196.1-196.5

The Texas State Board of Medical Examiners proposes new §§196.1-196.5, concerning voluntary surrender of a medical license. The new sections outline when a license may be surrendered, how it should be delivered to the board, and the steps the board would take in accepting such surrender of license. The new sections also address procedures when the surrender is associated with disciplinary action and when it is associated with physician impairment. In the event the license is later returned, steps to assure physician competency are also outlined.

Florence Allen, business manager, and Jean Davis, Texas Register liaison, have determined that for the first five-year period the proposed sections are in effect there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the sections.

Ms. Davis also has determined that for each year of the first five years the sections are in effect there will be no public benefit anticipated as a result of enforcing the sections. The sections pertain to the physician sector, and the public should be relatively unaffected by the new sections. There is no anticipated economic cost to individuals who are required to comply with the sections as proposed.

Comments on the proposal may be submitted to Jean Davis, P.O. Box 13562, Austin, Texas 78711. A public hearing is expected on the new sections. Anyone interested in testifying before the board should contact the board office for more information.

The new sections are proposed under Texas Civil Statutes, Article 4495b, which provide the Texas State Board of Medical Examiners with the authority to make rules, regulations, and bylaws not inconsistent with this Act as may be necessary for the governing of its

own proceedings, the performance of its duties, the regulation of the practice of medicine in this state, and the enforcement of this Act. §196.1. Surrender of License.

(a) Surrender by licensee.

(1) A licensee may at any time voluntarily surrender his or her license to practice medicine in Texas for any reason, without compulsion.

(2) Tender of the license may be by delivery by any means to the offices of the board, return receipt requested.

(b) Acceptance by the board.

(1) The board, at its next duly scheduled meeting, shall consider whether to formally accept the voluntary surrender of the Texas medical license.

(2) The board shall safeguard and keep secure any and all Texas medical licenses surrendered to the board until such time as the board determines an appropriate disposition of the license.

§196.2. Surrender Associated with Disciplinary Action.

(a) When a licensee has surrendered his or her Texas medical license after a compliant alleging violation(s) of Texas Civil Statutes, Article 4449b, that surrender is deemed a surrender associated with a disciplinary action.

(b) A Texas medical license surrendered in accordance with this section shall not be returned to a licensee until after a board determination that the licensee is competent to resume practice.

(c) If the surrender of a Texas medical license was associated with disciplinary action, the Texas medical license shall not be returned to the licensee if the board's order on the merits of the disciplinary action is inconsistent with the return of that license.

§196.3. Surrender Associated with Impairment.

(a) When a licensee who, by reason of impairment from illness, drunkenness, excessive use of drugs, narcotics, chemicals, or any other type material or as a result of any mental or physical condition, is unable to treat patients with reasonable skill and safety and surrenders his or her Texas medical license, that surrender shall be deemed a surrender associated with impairment.

(b) A Texas medical license surrendered in accordance with this section shall not be returned to a licensee until after the board has determined that the licensee is competent to resume practice following discharge from a recognized treatment program and documented participation in any after-care program.

§196.4. Return of License to Licensee. Whenever a licensee voluntarily surrenders his or her Texas medical license under circumstances not associated with

disciplinary or impairment action, the licensee may have his or her license returned after a determination by the board that the licensee is competent to resume practice, following payment of applicable fees, and after completion of courses or seminars as directed by the board.

§196.5. Competence to Resume Practice.

(a) The board shall determine whether or not a licensee is competent to resume practice by hearing evidence of the licensee's competence or lack thereof in open hearing, en banc, by a panel of the board or a hearings examiner duly appointed in accordance with Chapter 187 of this title (relating to Procedure).

(b) Competence to resume practice may be shown by the licensee providing probative credible evidence to indicate that he or she is fit to resume the practice of medicine. Likewise, any converting evidence may be introduced to show the licensee's lack of competence or fitness.

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

Issued in Austin, Texas, on February 29, 1988.

TRD-8802158

G. V. Brindley, Jr.
Executive Director
Texas State Board of
Medical Examiners

Earliest possible date of adoption: April 8, 1988

For further information, please call: (512) 452-1078

TITLE 22. EXAMINING BOARDS

Part XXIII. Texas Real Estate Commission

Chapter 535. Provisions of the Real Estate License Act

Disclosure of Agency- Commercial

• 22 TAC §535.163

The Texas Real Estate Commission proposes new §535.163, concerning disclosure of agency by Texas real estate licensees engaged in the sale, rental, or lease of commercial real estate. The new section adopts by reference a disclosure form which licensees would be required to provide to prospective buyers, tenants or their representatives.

The proposed disclosure form advises a potential buyer or tenant that real estate brokers usually represent the owner of the property and that the purchaser or tenant has the right to be represented in the transaction. Examples of the kinds of services a broker can perform without being the agent of a buyer or tenant are described in the form.

The Texas Real Estate Commission recently adopted a disclosure form for use in residen-

tial real estate transactions; the new section is proposed in response to comments urging a separate disclosure form for use in commercial real estate transactions.

Mark A. Moseley, legal counsel, has determined that for the first five-year period the proposed sections are in effect there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the sections.

Mr. Moseley also has determined that for each year of the first five years the sections are in effect the public benefit anticipated as a result of enforcing the sections will be the elimination of confusion as to which party a real estate licensee represents in a real estate transaction. The anticipated economic cost to individuals who are required to comply with the section as proposed will be the cost of copies of the disclosure forms, estimated at \$5.00 per pad of 50 copies.

Comments may be submitted to Mark A. Moseley, Texas Real Estate Commission, P. O. Box 12188, Austin, Texas 78711.

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

§535.163. *Disclosure of Agency-Commercial.*

(a) The Texas Real Estate Commission adopts by reference Agency Disclosure Form 2, approved by the Texas Real Estate Commission in 1988. This document is published by and available from the Texas Real Estate Commission, P. O. Box 12188 Capitol Station, Austin, Texas 78711.

(b) A real estate licensee dealing in person with a prospective buyer or tenant of a property other than a residential property of one-four units shall provide the prospective buyer or tenant or its representative with a copy of Agency Disclosure Form 2 signed by the licensee at or before the time the first of the following events occurs:

(1) showing real property to a prospective buyer or tenant;

(2) discussing confidential financial information of a prospective buyer or tenant to purchase, rent, or lease a specific property; or

(3) preparing a written offer to purchase, rent, or lease real property.

(c) The licensee should retain a copy of Agency Disclosure Form 2 signed by the prospective buyer or tenant or its representative in order to demonstrate compliance with this section.

(d) This section does not apply to a real estate licensee who enters into a written agreement to represent a prospective buyer or tenant prior to the occurrence of any of the three preceding events or to a real estate licensee acting as a principal and not as an agent.

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

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

Issued in Austin, Texas, on February 25, 1988.

TRD-8802121

Mark A. Moseley
Legal Counsel
Texas Real Estate
Commission

Earliest possible date of adoption: April 8, 1988

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

TITLE 34. PUBLIC FINANCE

Part I. Comptroller of Public Accounts

Chapter 3. Tax Administration

Subchapter O. State Sales and Use Tax

• 34 TAC §3.330

The Comptroller of Public Accounts proposes new §3.330, concerning data processing services. During the last special session of the legislature, data processing was added to the Tax Code, Chapter 151, as a taxable service effective January 1, 1988. This new section is needed so that persons involved in the activities described as data processing will be aware of their sales tax responsibilities. An emergency new section was filed in the issue of the December 18, 1987 *Texas Register*. The new section is now proposed as a permanent section.

Ben Lock, director of the comptroller's economic analysis center, 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. This section is adopted under the Tax Code, Title 2, which does not require a statement of the fiscal implications for small businesses.

Mr. Lock also has determined that this change will benefit the public by provision of new information regarding tax responsibilities under changes made by the legislature. 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 Mona Ezell Shoemate, Tax Policy Division, P.O. Box 13528, Austin, Texas 78711.

The new section is proposed under the Tax Code, §111.002, which provides the comptroller with the authority to prescribe, adopt, and enforce rules relating to the administration and enforcement of the provisions of the Tax Code, Title 2.

§3.330. *Data Processing Services.*

(a) Services. Data processing services means the processing of information for the purpose of compiling and producing records of transactions, maintaining information, and entering and retrieving information. It specifically includes word processing, payroll and business account-

ing, and computerized data and information storage or manipulation. The charge for data processing services is taxable regardless of the ownership of the computer. Examples of data processing services would include the entry of all inventory control data for a company, maintenance of records of employee work time, filing payroll tax returns, preparing W-2 forms, and computing and preparing payroll checks. Data processing does not include the use of a computer by a provider of other services when the computer is used to facilitate the performance of the service or the application of the knowledge of accounting principals and tax laws, e.g., the use of a computer by a C.P.A. firm, enrolled agent, or bookkeeping firm to produce a financial report, prepare federal income tax, state franchise or sales tax returns, or charges for temporary secretarial personnel who as part of their function use word processing equipment.

(b) Hold permits. All providers of data processing services must obtain a Texas sales and use tax permit and collect tax on the total amount charged for data processing services, or accept a properly completed resale, exemption, or direct pay permit certificate in lieu of collecting tax. See §§3.285, 3.287, and 3.288 of this title (relating to Resale Certificate; Sales for Resale; to Exemption Certificates; and Direct Payment Procedures and Qualifications).

(c) Resale certificates.

(1) Providers of data processing service may issue a resale certificate in lieu of tax to suppliers of tangible personal property only if care, custody, and control of the property is transferred to the client. For example, a service provider purchases magnetic tape to transfer the results of data processing services to customers. The tape is transferred to the customer, and the customer owns and uses the tape to review the results of the data processing service. The service provider may purchase the tape tax free by issuing a resale certificate. Tax is due on the total amount charged the customer, including amounts for the tape and for the services.

(2) A resale certificate may be issued for a service if the buyer intends to transfer the service as an integral part of taxable services. A service will be considered an integral part of a taxable service if the service purchased is essential to the performance of the taxable service and without which the taxable service could not be rendered.

(3) A resale certificate may be issued for a taxable service if the buyer intends to incorporate the service into tangible personal property which will be resold. If the entire service is not incorporated into the tangible personal property, it will be presumed the service is subject to tax and the service will only be exempt to the extent the buyer can establish the portion of

the service actually incorporated into the tangible personal property. If the buyer does not intend to incorporate the entire service into the tangible personal property, no resale certificate may be issued, but credit may be claimed at the time of sale of the tangible personal property to the extent the service was actually incorporated into the tangible personal property.

(d) Unrelated services.

(1) A service will be considered as unrelated if:

(A) it is neither a data processing service, nor a service taxed under other provisions of the Tax Code, Chapter 151;

(B) it is of a type which is commonly provided on a stand-alone basis; and

(C) the performance of the service is distinct and identifiable. Examples of such a service would be consultation, development of and preparation of feasibility studies, design and development, or training.

(2) Where nontaxable unrelated services and taxable services are sold or purchased for a single charge and the portion relating to taxable services represents more than 5.0% of the total charge, the total charge is presumed to be taxable. The presumption may be overcome by the data processing service provider at the time the transaction occurs by separately stating to the customer a reasonable charge for the taxable services. The service provider's books must support the apportionment between exempt and nonexempt activities based on the cost of providing the service or on a comparison to the normal charge for each service if provided alone. If the charge for exempt services is unreasonable when the overall transaction is reviewed considering the cost of providing the service or a comparable charge made in the industry for each service, the comptroller will adjust the charges and assess additional tax, penalty, and interest on the taxable services.

(3) Charges for services or expenses directly related to and incurred while providing the taxable service are taxable and may not be separated for the purpose of excluding these charges from the tax base. Examples would be charges for meals, telephone calls, hotel rooms, or airplane tickets.

(e) Service benefit location. If both the data processing service provider and the customer are located in Texas, Texas tax is due.

(f) Service benefit location-multi-state customer.

(1) To the extent a data processing service is used to support a separate, identifiable segment of a customer's busi-

ness (other than general administration or operation of the business) the service is presumed to be used at the location where that part of the business is conducted.

(2) If that part of the business is conducted at locations both within and outside the state, the service is not taxable to the extent it is used outside Texas. A multi-state customer may use any reasonable method for allocation which is supported by business records.

(3) A multi-state customer purchasing data processing services for the benefit of both in-state and out-of-state locations is responsible for issuing to the data processing service provider an exemption certificate asserting a multi-state benefit, and for reporting and paying the tax on that portion of the data processing charge which will benefit the Texas location. A data processing service provider that accepts such a certificate in good faith is relieved of responsibility for collecting and remitting tax on transactions to which the certificate relates.

(4) The customer's books must support the assignment of the service to an identifiable segment of the business, the determination of the location or locations of the use of the service, and the allocation of the taxable charge to Texas.

(5) To the extent the use of the service cannot be assigned to an identifiable segment of a customer's business, the service is presumed to be used to support the administration or operation of the customer's business generally. The service is presumed to be used at the customer's principal place of business. The principal place of business means the place from which the trade or business is directed or managed.

(g) Local taxes.

(1) For local sales tax purposes, city, MTA, or county sales taxes are due if the data processing service provider has only one place of business (the location where clients request service) within the boundaries of a local taxing entity. Local sales tax must be collected based upon the tax rate at that location, except that no MTA or CTD sales tax is due on services provided at a location outside the boundaries of the transit area. In the case of multiple locations, if an order for service is placed at one location but the service is provided at another location, the place of business from which the service is provided will determine to which local taxing entity (city, MTA, or county) the tax is allocated.

(2) For the purposes of the local use tax, if a place of business is outside the boundaries of a local taxing entity, the data processing service provider will be required to collect local use tax if the client is within the local taxing entity and the service provider has representation in the local taxing entity as outlined in §3.286 of this title

(relating to Seller's Responsibilities). Even if the service provider is not required to collect local use tax, the client is still liable for the tax if the service is performed or a benefit is derived from the service within the boundaries of a local taxing entity.

(A) An in-state customer purchasing data processing services for the benefit of locations in more than one local taxing entity is responsible for issuing to the data processing service provider an exemption certificate claiming a multi-city benefit and for determining the extent of benefit for each entity. The local use tax for each entity must be reported, allocated, and paid by the customer. A data processing service provider that accepts in good faith an exemption certificate claiming a multi-city benefit is relieved of responsibility for collecting and remitting local tax on transactions to which the certificate relates.

(B) A multi-state customer purchasing data processing services for the benefit of both in-state and out-of-state locations is responsible for issuing an exemption certificate and for reporting and paying local tax as provided by subsection (f)(3) and (4) of this section.

(h) Use tax. If a provider of a data processing service is not doing business in Texas or in a specific local taxing jurisdiction and is not required to collect Texas tax, it is the Texas customer's responsibility to report and pay the state and local use tax directly to this office.

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

Issued in Austin, Texas, on February 26, 1988.

TRD-8802143

Bob Bullock
Comptroller of Public
Accounts

Earliest possible date of adoption: April 8, 1988

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

◆ ◆ ◆
• 34 TAC §3.357

The Comptroller of Public Accounts proposes new §3.357, concerning real property repair and remodeling. During the last special session of the legislature, a new service was added to the sales tax base. The new section is needed to offer guidance to the public and to persons who build, repair, and remodel realty which became taxable effective January 1, 1988. The new section also addresses maintenance of real property. An emergency new section was filed in the December 28, 1987, issue of the *Texas Register*. This new section is now proposed for permanent adoption.

Ben Lock, director of the comptroller's economic analysis center, 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. The new section is adopted under the Tax Code, Title 2, and does not require a statement of the fiscal implications for small businesses.

Mr. Lock also has determined that this change will benefit the public by provision of new information regarding tax responsibilities under changes made by the legislature. 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 Mona Ezell Shoemate, Tax Policy Division, P.O. Box 13528, Austin, Texas 78711.

The new section is proposed under the Tax Code, §111.002, which provides the comptroller with the authority to prescribe, adopt, and enforce rules relating to the administration and enforcement of the provisions of the Tax Code, Title 2.

§3.357. Real Property Repair and Remodeling.

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

(1) Contractor—A person who builds new structures, completes any part of an uncompleted new structure which is an improvement to real property, or makes an improvement to residential property. Contractors are not covered by this section. Contractors should refer to §3.291 of this title (relating to Contractors).

(2) Labor—For the purposes of this section, labor means all components of a transaction or contract other than those components attributable to materials.

(3) Maintenance on real property—All scheduled, recurring, or periodic work on operational and functioning improvements to real property necessary to sustain or support safe, efficient, continuous operations or to keep in good working order by preventing the decline, failure, lapse, or deterioration of the improvement.

(4) New construction—All new improvements to real property, including initial finish out work of each area to either the interior or exterior of the improvement. An example would be a multiple story building which has only had its first floor finished and occupied. The finishing out of each additional floor prior to occupancy will be considered new construction. New construction also includes the addition of new footage to an existing structure.

(5) Real property—Land, and includes structures and other improvements to real property.

(6) Remodeling or modification—To make over or rebuild real property or structures in a similar but different way. Replacement or upgrading any part of an existing structure is remodeling or modification. Finish out work performed

after initial finish out has been done is remodeling even though the improvement has not been occupied.

(7) Repair—To mend or bring back as near as can be to its original working order real property which was broken, damaged, or defective. Repair also includes repainting and reroofing real property unless repainting meets the definition of maintenance in paragraph (3) of this subsection.

(8) Residential property—Property used as a family dwelling or a multifamily apartment or housing complex, nursing homes, condominiums, or retirement homes. The term includes swimming pools, laundry rooms for tenants, and other common areas for tenants' use. Managers' offices will only be residential if the space occupied by the office is 5.0% or less of the total space of the residence. The term does not include hotels or any other facilities which are subject to the hotel occupancy tax or any other area open to nonresidents.

(b) Tax responsibilities of repairmen and remodelers.

(1) All persons who repair or remodel real property must obtain a Texas sales and use tax permit. Persons who maintain real property are not covered by this section. Persons who are constructing new facilities or are repairing or remodeling residential property should refer to §3.291 of this title (relating to Contractors).

(2) All persons who repair or remodel real property must collect tax on the total sales price to their customers or accept valid resale, exemption, or direct payment exemption certificates in lieu of tax. The distinction previously made between repair or remodeling contracts which charged a lump sum amount for labor and material and those contracts which separately stated charges for labor and material is no longer applicable to repair or remodeling contracts.

(3) A contract which involves both remodeling and new construction will be taxed in total unless the charge for new construction labor is separately stated as outlined in paragraph (7) of this subsection. An example would be remodeling a restaurant's kitchen at the same time a new dining area outside the existing structure was added. Work on the kitchen would be taxable as remodeling, while the new dining area would be new construction. Minor repair or remodeling done in connection with new construction will not be taxable if the charge attributed to repair or remodeling is 5.0% or less of the overall charge.

(4) All tangible personal property purchased by the repairman or remodeler and incorporated into the real property may either be purchased tax free or the repairman or remodeler may pay tax on purchases and take credit against tax later collected and remitted on the total

sales price.

(5) Items used in performing repairs, remodeling, or restoration for exempt entities.

(A) Persons who repair, remodel, or restore real property or make improvements to real property for exempt organizations may claim an exemption for taxable items used in those activities. Taxable items used in performing repairs, remodeling, or restoration activities for exempt organizations are exempt from tax to the extent of the value of the items so used or consumed.

(B) Procedures for calculating and claiming this exemption are the same as are set out in §3.291(d) of this title (relating to Contractors).

(6) Repairs or remodeling performed upon a structure which is used both for residential and commercial purposes will be taxable in total unless the labor on the residence is separately identified. The labor to repair or remodel the residence will not be taxable if separately stated.

(7) When both remodeling and new construction are being performed under the same contract, the parties should separately identify taxable from nontaxable labor in a construction contract or the entire contract will be presumed to be for repair and remodeling. Documentation should be retained by both parties to show that had the new construction and remodeling been done independently of each other, the cost of each would be reasonably near the estimate. The comptroller may recalculate the percentage if it is unreasonable. The owner should provide the contractor with an exemption certificate stating the exempt percentage. Tax would then be collected only on the taxable percentage.

(c) Exemptions.

(1) It is the responsibility of the repairman or remodeler to verify any exemption claimed by the customer unless the customer is a governmental agency or a public school.

(2) A charge for labor to maintain real property is not taxable. Persons providing maintenance on real property are liable for tax on all materials used. Persons claiming their labor is maintenance labor must be able to show by maintenance schedules or work orders that the services met the definition in subsection (a)(3) of this section. Repairs performed under a maintenance contract will not change a maintenance contract into a repair contract as long as the charges attributable to repairs are 5.0% or less of the overall charge. Maintenance contracts with charges exceeding 5.0% will be taxable in total unless the charges for repairs are separately identified to the customer.

(3) Modifying parts of existing structures for the sole purpose of supporting the addition of new space will not change a new construction contract into a remodeling contract. Examples include changing a one-story building to a two-story building and adding a stairway to the existing structure to provide access to the new space, or removing a wall to add additional structural support in the process of adding on a new room outside the original structural space. Remodeling will not change a construction contract into a remodeling contract as long as the charges attributable to remodeling are 5.0% or less of the overall charge.

(4) An exemption issued by a private school, church, charitable organization, or by persons remodeling or repairing buildings listed in the National Register of Historic Places may be accepted if an exemption certificate is properly completed and the repair or remodeling appears reasonably related to the exempt purpose of the organization claiming the exemption. See §3.322 of this title (relating to Exempt Organizations).

(5) Restoring property lost or damaged by fire, flood, explosion, natural disasters or other unforeseen accidents which result in casualty losses will be considered new construction.

(6) Employees providing labor to repair or remodel real property belonging to their employer are not covered by the provisions of this section. An employee, for the purposes of this section, is a person who receives a salary, who has applicable federal taxes withheld from the employee's salary, who has employment-related benefits, such as health insurance, etc., paid for by the same person who exercises direct control over work performed by the employee.

(d) Resale certificates.

(1) Persons who repair and remodel real property may issue a resale certificate in lieu of tax to suppliers of tangible personal property only if care, custody, and control of the property is transferred to the client. For example, a repairman or remodeler purchases paint to repaint a repaired or remodeled area. The paint is transferred to the customer as a part of the finished job. The repairman or remodeler may purchase the paint tax free by issuing a resale certificate. Tax is due on the total amount charged the customer, including amounts for the paint and for the services.

(2) A resale certificate may be issued for a service if the buyer intends to transfer the service as an integral part of taxable services. A service will be considered an integral part of a taxable service if the service purchased is essential to the performance of the taxable service and without which the taxable service could not be rendered.

(3) A resale certificate may be issued for a taxable service if the buyer

intends to incorporate the service into tangible personal property which will be resold. If the entire service is not incorporated into the tangible personal property, it will be presumed the service is subject to tax and the service will only be exempt to the extent the buyer can establish the portion of the service actually incorporated into the tangible personal property. If the buyer does not intend to incorporate the entire service into the tangible personal property, no resale certificate may be issued, but credit may be claimed at the time of sale of the tangible personal property to the extent the service was actually incorporated into the tangible personal property.

(e) Local taxes. Local sales and use taxes (city, county, MTA, and CTD) apply to services in the same way as they apply to tangible personal property. Generally, service providers must collect local sales taxes if their place of business is within a local taxing jurisdiction, even if the service is actually provided at a location outside that jurisdiction. However, MTA and CTD sales taxes do not apply to services provided outside the boundaries of the transit area. If the place of business is outside such a jurisdiction but the service is provided to a customer within a local taxing jurisdiction, local use taxes apply and the service provider is required to collect it. For information on the collection and reporting responsibilities of providers and purchasers of taxable services, see §§3.374, 3.375, 3.424, and 3.425 of this title (relating to Imposition of the Sales Tax; Collection by Retailer; Bracket System Formula; Determining City Tax; Administration and Use Tax; Collection by Retailer; Imposition of Sales Tax; Administration of Use Tax; Imposition and Collection).

(f) Use tax. If a seller of a service is not doing business in Texas or in a specific local taxing jurisdiction and is not required to collect Texas tax, it is the Texas customer's responsibility to report and pay the use tax directly to this office.

(g) Effective date. Written contracts or bids signed on or before July 21, 1987, but not completed prior to January 1, 1988, shall be governed by the provisions of §3.319 of this title (relating to Prior Contracts). Contracts signed after July 21, 1987, are subject to state use tax on the gross receipts to the extent it was performed on or after January 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 February 26, 1988.

TRD-8802141
Comptroller of
Public Accounts
Bob Bullock

Earliest possible date of adoption: April 8, 1988

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 §8.2, §8.3

The Texas Department of Human Services (DHS) proposes amendments to §8.2 and §8.3, concerning the program requirements for the Home Energy Assistance Program (HEAP). Section 8.2 is amended to add eligibility requirements for the 1988 HEAP summer program. To be eligible, households must include an aged or disabled person or a person with a medical need. Section 8.3 is amended to clarify that the program is for persons in a residential dwelling who have heating or cooling expenses.

Brian Packard, associate commissioner for budget, planning, and economic analysis, has determined that for the first five-year period the proposed sections will be in effect there will be no fiscal implications for state or local governments or small businesses as a result of enforcing or administering the sections.

Mr. Packard has also determined that for each year of the first five years the sections are in effect the public benefit anticipated as a result of enforcing the sections will be the availability of HEAP benefits to those persons requiring assistance. There is no anticipated economic cost to individuals who are required to comply with the proposed sections.

The department will hold a hearing to accept comments on the proposal at 9:00 a.m., Wednesday, March 23, 1988, in the Department of Human Services Public Hearing Room, 701 West 51st Street, Austin. Written comments may be submitted to Cathy Rossberg, Administrator, Policy Development Support Division-101, Texas Department of Human Services 222-E, P.O. Box 2960, Austin, Texas 78769, within 30 days of publication in the *Texas Register*.

The amendments are proposed under the Human Resources Code, Title 2, Chapter 22, which provides the department with the authority to administer public assistance programs.

§8.2. HEAP Eligibility Criteria.

(a)-(e) (No change.)

(f) Additionally, a person in the household must be:

(1) age 60 or older in 1988, or

(2) disabled, as evidenced by one of the following:

(A) receives SSI if under age 65;

(B) receives AFDC because of incapacity;

(C) receives Social Security disability benefits;

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

(E) has a medical condition, as certified by a physician or a registered nurse, that increases the person's risk of developing a heat-related illness. Participants of the Women, Infants, and Children (WIC) Program may qualify under this criterion if they present current WIC certification documents.

§8.3. Vulnerability.

(a) To qualify for HEAP 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 residential dwellings. Households that reside in privately owned rental housing meet the requirement even if all or part of their cost of utilities [heating and cooling] is included in their rent payment.

(b) Residents of government subsidized housing meet the requirement even if all or part of the cost of utilities [heating or cooling] is included in their rent payment or if they receive assistance in paying their utilities [heating or cooling costs] from the Department of Housing and Urban Development (HUD).

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 March 1, 1988.

TRD-8802220

Martin W. Johnston
Commissioner
Texas Department of
Human Services

Proposed date of adoption: June 1, 1988

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

Chapter 72. Memoranda of Understanding with Other State Agencies

Memorandum of Understanding for Exchange and Distribution of Public Awareness Information

• 40 TAC §72.301

The Texas Department of Human Services (DHS) proposes new §72.301, concerning authorization and requirement to exchange and distribute public awareness information, in the department's rule chapter governing

memoranda of understanding (MOU) with other state agencies. Legislation passed by the 70th Legislature, 1987, requires the adoption by rule of an MOU between DHS, the Texas Rehabilitation Commission, the Texas Department of Health, and the Texas Department of Mental Health and Mental Retardation regarding implementation and coordination of the exchange and distribution of public awareness information among the four agencies.

Brian Packard, associate commissioner for budget, planning, and economic analysis, has determined that for the first five-year period the proposed section will be in effect there will be no fiscal implications for state or local governments or small businesses as a result of enforcing or administering the section.

Mr. Packard has also 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 enhanced inter-agency cooperation in the exchange of public awareness information. There is no anticipated economic cost to individuals who are required to comply with the proposed section.

Comments on the proposal may be submitted to Cathy Rossberg, Administrator, Policy Development Support Division-060, Texas Department of Human Services 222-E, P.O. Box 2960, Austin, Texas 78769, within 30 days of publication in the *Texas Register*.

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

§72.301. Authorization and Requirement to Exchange and Distribute Public Awareness Information.

(a) This memorandum of understanding (MOU) between the Texas Rehabilitation Commission (TRC), Texas Department of Human Services (DHS), Texas Department of Health (TDH), and Texas Department of Mental Health and Mental Retardation (TDMHMR) is to implement and coordinate the exchange and distribution of public awareness information among the agencies. This agreement is intended to satisfy the requirement of Senate Bill 298 of the 70th Legislature, 1987.

(1) The TRC is the state authority for the delivery of vocational rehabilitation services (Texas Code Annotated Human Resources Code, Title 7) leading to

(A) employment for persons with disabilities;

(B) the determination of social security disability benefits;

(C) licensing of occupational therapists;

(D) promoting employer acceptance of workers with disabilities; and

(E) developing programs to serve persons with developmental disabilities.

(2) DHS provides services to two major groups of needy people: families and children, and aged and disabled adults.

(A) Eligible families and children receive cash grants from the Aid to Families with Dependent Children Program, health care, family self-support services, and food stamps.

(B) Services to aged and disabled individuals who are poor include health care, institutional care, community care, and food stamps.

(C) Services available to all Texans, regardless of financial need, include protective services for children, protective services for aged and disabled persons, disaster assistance, and child-care licensing.

(3) TDH is an agency of the state of Texas created by Texas Civil Statutes, Article 4414b, to better protect and promote the health of the people of Texas.

(4) TDMHMR is the state agency that provides a system of services for the conservation and restoration of mental health among Texas citizens and to provide, coordinate, develop, and improve services for the mentally retarded citizens of this state so that they will be afforded the opportunity to develop their respective mental capacities to the fullest practicable extent and to live as useful and productive lives as possible. To accomplish this, the department provides a network of eight state hospitals for the mentally ill, 13 state schools for the mentally retarded, seven special centers, and 34 community centers.

(b) Each state agency designs, writes, publishes, and distributes information to the public about the programs and services available from that agency. For the purpose of this MOU, each agency agrees to:

(1) provide a current list of publications designed for public awareness to the other agencies; and

(2) provide a copy of each publication designed for public awareness to the other agencies. As publications are updated they will be distributed to the other agencies.

(c) Each agency adopts this memorandum of understanding and agrees to review and update the memorandum no later than the last month of each state fiscal year. Each agency by rule shall adopt the memorandum of understanding and all revisions to the memorandum.

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

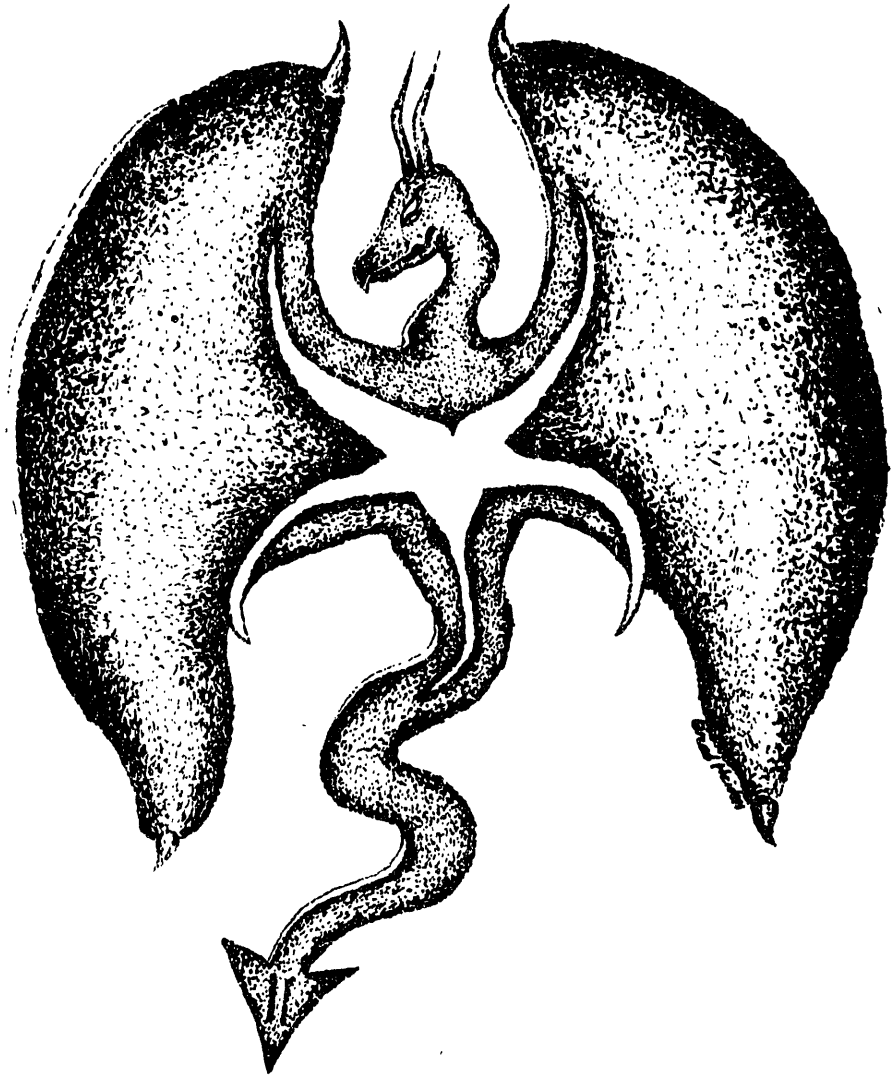
Issued in Austin, Texas, on March 1, 1988.

TRD-8802221

Marlin W. Johnston
Commissioner
Texas Department of
Human Services

Proposed date of adoption: April 1, 1988

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



Name: Brad Heiden
Grade: 11
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Withdrawn Sections

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

TITLE 25. HEALTH SERVICES

Part I. Texas Department of Health

Chapter 145. Long Term Care

Subchapter E. Procedures on Long Term Care Facilities

25 TAC §145.94

(Editor's note: The following withdrawals of emergency effectiveness on §145.94 were inadvertently omitted from the February 9, 1988, issue.)

The Texas Department of Health has withdrawn the emergency effectiveness of repeal of §145.94, concerning the procedures on long term care facilities. The text of the emergency repeal appeared in the December 22, 1987, issue of the *Texas Register* (12 TexReg 4813). The effective date of this withdrawal is February 18, 1988.

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

Issued in Austin, Texas on February 4 1988.

TRD-8802275

Filed: February 4, 1988

For further information, please call: (512) 458-7236

◆ ◆ ◆
The Texas Department of Health has withdrawn the emergency effectiveness of the new §145.94, concerning the procedures on long term care facilities. The text of the emergency new section appeared in the December 22, 1987, issue of the *Texas Register* (12 TexReg 4813). The effective date of this withdrawal is February 18, 1988.

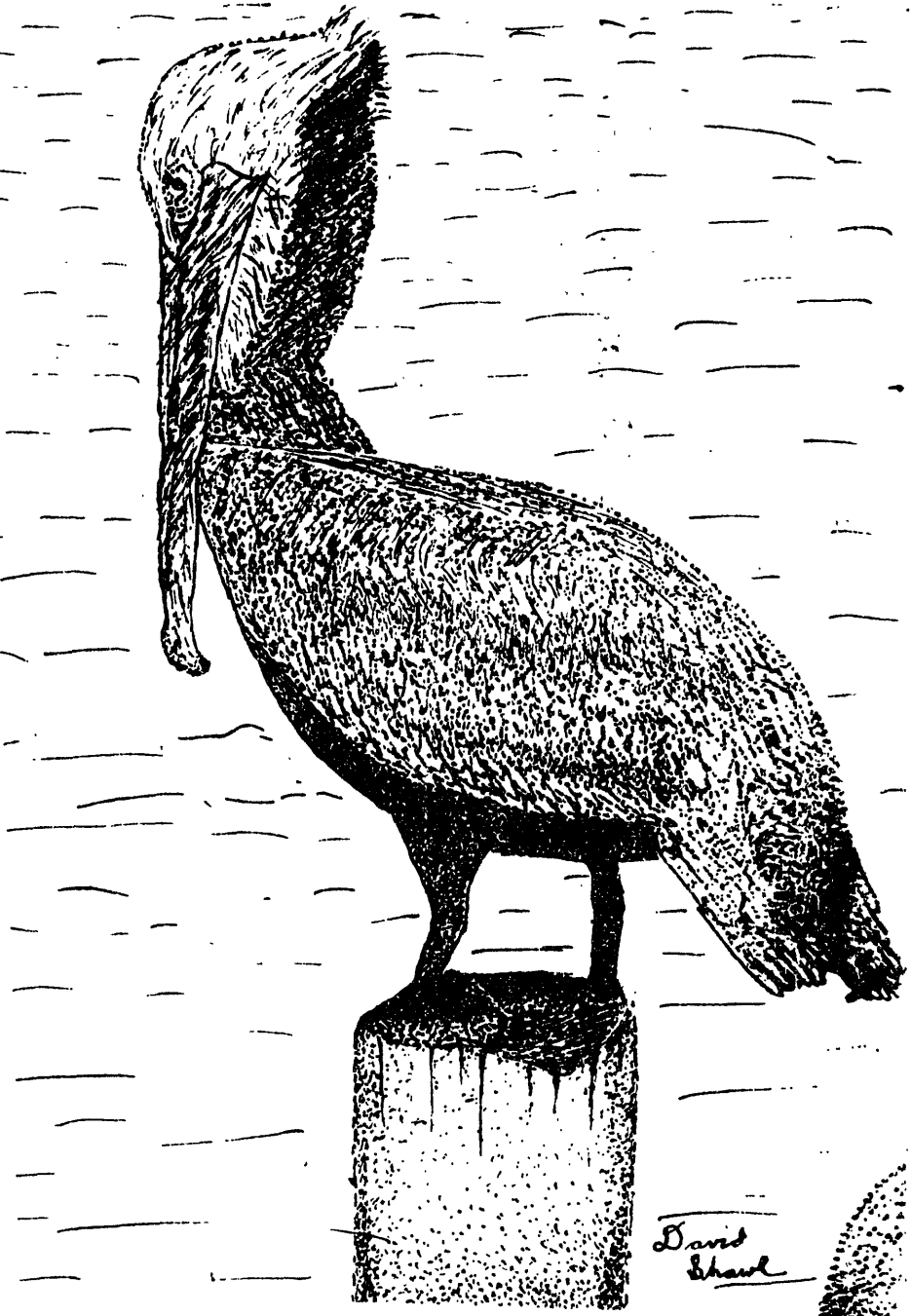
This agency hereby certifies that the rule as adopted has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas on February 4, 1988.

TRD-8802276

Filed: February 4, 1988

For further information, please call: (512) 458-7236



David
Shawl

Name: David Shawl
Grade: 11
School: Sam Houston High, Arlington

Adopted Sections

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

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

TITLE 22. EXAMINING BOARDS

Part XIX. Polygraph Examiners Board

Chapter 397. Practice and Procedure

22 TAC §397.26

The Polygraph Examiners Board adopts an amendment to §397.26, without changes to the proposed text published in the September 18, 1987, issue of the *Texas Register* (12 TexReg 3256).

This section is being amended as a cost saving measure for the state. The Polygraph Examiners Board adopts this amendment to immediately defer costs for transcription of board records concerning proceedings before the board.

The amendment ensures that transcription costs will not be a financial burden to the state.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 4413(29cc), which give the board the authority to regulate persons who purport to be able to detect deception or to verify truth of statements through the use of instrumentation and to issue regulations consistent with the provisions of this Act for the administration and enforcement of this 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 February 26, 1988.

TRD-8802135

Bryan M. Perot
Executive Officer
Polygraph Examiners
Board

Effective date: March 21, 1988

Proposal publication date: September 18, 1987

For further information, please call: (512) 465-2058

TITLE 22. EXAMINING BOARDS

Part XXIV. State Board of Veterinary Medical Examiners

Chapter 571. Licensing

Examinations

• 22 TAC §571.2

The State Board of Veterinary Medical Examiners adopts an amendment to §571.2, without changes to the proposed text published in the December 25, 1987, issue of the *Texas Register* (12 TexReg 4906).

Revisions will make the section more grammatically correct, clarify those portions that were previously unclear, and bring procedures in alignment with revisions to the Veterinary Practice Act adopted by the 1987 legislature.

The amendment removes references to reciprocal applicants as Texas maintains no reciprocal agreements with other states.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 7465a, §7(a), which provide the State Board of Veterinary Medical Examiners with the authority to make, alter, or amend such rules and regulations as may be necessary or desirable to carry into effect the provisions of this 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 February 11, 1988.

TRD-8802173

Donald B. Wilson
Executive Director
Texas Board of Veterinary
Medical Examiners

Effective date: March 22, 1988

Proposal publication date: December 25, 1987

For further information, please call: (512) 447-1183.

• 22 TAC §571.3

The State Board of Veterinary Medical Examiners adopts an amendment to §571.3, without changes to the proposed text published in the November 6, 1987, issue of the *Texas Register* (12 TexReg 4091).

Revisions will make the section more grammatically correct, clarify those portions that were previously unclear, and bring procedures in alignment with revisions to the Veterinary Practice Act adopted by the 1987 legislature. The only change consists of a redesignation of the section parts.

The amendment sets requirements for eligibility to participate in the licensing examinations.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 7465a, §7(a), which provide the State Board of Veterinary Medical Examiners with the authority to make, alter, or amend such rules and regulations as may be necessary or desirable to carry into effect the provisions of this Act.

§571.3. Licensing Examinations Eligibility.

(a) To be eligible to participate in the state board licensing examination, an applicant must be certified by the dean of the college from which he is expected to graduate that he is in the last 120 days of his veterinary college education and is expected to graduate. The dean must submit a letter stating the applicant is eligible to obtain his license if he has satisfied all other requirements.

(b) To be eligible to participate in the national board examination (NBE) or the clinical competency test (CCT), an applicant must be certified by the dean of the college, from which he or she is expected to graduate, that the applicant is a graduating senior in good academic standing and is expected to graduate.

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

Issued in Austin, Texas, on February 11, 1988.

TRD-8802170

Donald B. Wilson
Executive Director
State Board of Veterinary
Medical Examiners

Effective date: March 22, 1988

Proposal publication date: November 6, 1987

For further information, please call: (512) 447-1183.

• 22 TAC §571.4

The State Board of Veterinary Medical Examiners adopts an amendment to §571.4, without changes to the proposed text published in

the November 6, 1987, issue of the *Texas Register* (12 TexReg 4092).

Revisions will make the section more grammatically correct, clarify those portions that were previously unclear, and bring procedures in alignment with revisions to the Veterinary Practice Act adopted by the 1987 legislature.

The amendment sets criteria for applicants seeking special licenses under the authorization provided by the last session of the legislature.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 7465a, §7(a), which provide State Board of Veterinary Medical Examiners with the authority to make, alter, or amend such rules and regulations as may be necessary or desirable to carry into effect the provisions of this 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 February 11, 1988.

TRD-8802172 Donald B. Wilson
Executive Director
State Board Veterinary
Medical Examiners

Effective date: March 22, 1988

Proposal publication date: November 6, 1987

For further information, please call: (512) 447-1183

• 22 TAC §571.5

The State Board of Veterinary Medical Examiners adopts an amendment to §571.5, without changes to the proposed without changes to the proposed text published in the November 6, 1987, issue of the *Texas Register* (12 TexReg 4092).

Revisions will make the section more grammatically correct, clarify those portions that were previously unclear, and bring procedures in alignment with revisions to the Veterinary Practice Act adopted by the 1987 legislature.

The amendment sets the passing score for national board and clinical competency examinations.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 7465a, §7(a), which provide the State Board of Veterinary Medical Examiners with the authority to make, alter, or amend such rules and regulations as may be necessary or desirable to carry into effect the provisions of this 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 February 11, 1988.

TRD-8802169 Donald B. Wilson

Executive Director
State Board of Veterinary
Medical Examiners

Effective date: March 22, 1988

Proposal publication date: November 6, 1987

For further information, please call: (512) 447-1183

• 22 TAC §571.8

The State Board of Veterinary Medical Examiners adopts an amendment to §571.8, without changes to the proposed text published in the November 6, 1987, issue of the *Texas Register* (12 TexReg 4093).

Revisions will make the rule more grammatically correct, clarify those portions that were previously unclear, and bring procedures in alignment with revisions to the Veterinary Practice Act adopted by the 1987 legislature.

The amendment sets the passing score for the state board licensing examination.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 7465a, §7(a), which provide the State Board of Veterinary Medical Examiners with the authority to make, alter, or amend such rules and regulations as may be necessary or desirable to carry into effect the provisions of this 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 February 11, 1988.

TRD-8802175 Donald B. Wilson
Executive Director
State Board of Veterinary
Medical Examiners

Effective date: March 22, 1988

Proposal publication date: November 6, 1987

For further information, please call: (512) 447-1183

Examinations

• 22 TAC §571.12

The State Board of Veterinary Medical Examiners adopts an amendment to §571.12, with changes to the proposed text published in the November 6, 1987, issue of the *Texas Register* (12 TexReg 4093).

Revisions will make the section more grammatically correct, clarify those portions that were previously unclear, and bring procedures in alignment with revisions to the Veterinary Practice Act adopted by the 1987 legislature. The only change corrects a reference to another section of this title.

The amendment sets criteria for foreign veterinary graduates' participation in examinations for licensure.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 7465a, §7(a), which provide the State Board of Veterinary Medical Examiners with the authority to make, alter, and amend such rules and regulations as may be necessary or desirable to carry into effect the provisions of this Act.

§571.12. Educational Commission for Foreign Veterinary Graduates of American Veterinary Medical Association. The Texas State Board of Veterinary Medical Examiners will accept the ECFVG certificate issued by the educational commission for foreign veterinary graduates of American Veterinary Medical Association (ECFVG), provided the applicant meets the provisions of §571.5 this title (relating to Certification of Score).

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

Issued in Austin, Texas, on February 11, 1988.

TRD-8802176 Donald B. Wilson
Executive Director
Texas Board of Veterinary
Medical Examiners

Effective date: March 22, 1988

Proposal publication date: November 6, 1988

For further information, please call: (512) 447-1183

• 22 TAC §571.13

The State Board of Veterinary Medical Examiners adopts an amendment to §571.13, without changes to the proposed text published in the November 6, 1987, issue of the *Texas Register* (12 TexReg 4093).

Revisions will make the section more grammatically correct, clarify those portions that were previously unclear, and bring procedures in alignment with revisions to the Veterinary Practice Act adopted by the 1987 legislature.

The amendment requires applicants for examination to reapply if they fail to appear for two consecutive examinations.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 7465a, §7(a), which provide the State Board of Veterinary Medical Examiners with the authority to make, alter, or amend such rules and regulations as may be necessary or desirable to carry into effect the provisions of this 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 February 11, 1988.

TRD-8802177 Donald B. Wilson
Executive Director
Texas Board of Veterinary
Medical Examiners

Effective date: March 22, 1988

Proposal publication date: November 11, 1987

For further information, please call: (512) 447-1183

◆ ◆ ◆
• 22 TAC §571.15

The State Board of Veterinary Medical Examiners adopts an amendment to §571.15, without changes to the proposed text published in the November 6, 1987, issue of the *Texas Register* (12 TexReg 4093).

Revisions will make the section more grammatically correct, clarify those portions that were previously unclear, and bring procedures in alignment with revisions to the Veterinary Practice Act adopted by the 1987 legislature.

The amendment relieves from responsibility for certification of national board and clinical competency examination scores from the Texas board, persons who are serving only as administrators of the test.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 7465a, §7(a), which provide the State Board of Veterinary Medical Examiners with the authority to make, alter, or amend such rules and regulations as may be necessary or desirable to carry into effect the provisions of this 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 February 11, 1988.

TRD-8801278 Donald B. Wilson
Executive Director
Texas Board of Veterinary
Medical Examiners

Effective date: March 22, 1988

Proposal publication date: November 6, 1987

For further information, please call: (512) 447-1183.

◆ ◆ ◆
• 22 TAC §571.16

The State Board of Veterinary Medical Examiners adopts an amendment to §571.16, without changes to the proposed text published in the November 6, 1987, issue of the *Texas Register* (12 TexReg 4094).

Revisions will make the rule more grammatically correct, clarify those portions that were previously unclear, and bring procedures in alignment with revisions to the Veterinary Practice Act adopted by the 1987 legislature.

The amendment requires unsuccessful applicants and applicants failing to appear for examination to complete a reapplication in lieu of the previously required affidavit of practice.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 7465a, §7(a), which provide the State Board of Veterinary Medical Exam-

iners with the authority to make, alter, or amend such rules and regulations as may be necessary or desirable to carry into effect the provisions of this 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 February 11, 1988.

TRD-8802179 Donald B. Wilson
Executive Director
Texas Board of Veterinary
Medical Examiners

Effective date: March 22, 1988

Proposal publication date: November 6, 1987

For further information, please call: (512) 447-1183.

◆ ◆ ◆
License Renewals

• 22 TAC §571.52

The State Board of Veterinary Medical Examiners adopts an §571.52, without changes to the proposed text published in the November 6, 1987, issue of the *Texas Register* (12 TexReg 4094).

Revisions will make the section more grammatically correct, clarify those portions that were previously unclear, and bring procedures in alignment with revisions to the Veterinary Practice Act adopted by the 1987 legislature.

The amendment authorizes the executive director to sign renewal certificates.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 7465a, §7(a), which provide the State Board of Veterinary Medical Examiners with the authority to make, alter, or amend such rules and regulations as may be necessary or desirable to carry into effect the provisions of this 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 February 11, 1988.

TRD-8802180 Donald B. Wilson
Executive Director
Texas Board of Veterinary
Medical Examiners

Effective date: March 22, 1988

Proposal publication date: November 6, 1987

For further information, please call: (512) 447-1183.

◆ ◆ ◆
• 22 TAC §571.53

The State Board of Veterinary Medical Examiners adopts an amendment to §571.53, without changes to the proposed text published in the November 6, 1987, issue of the *Texas Register* (12 TexReg 4094).

Revisions will make the section more gram-

matically correct, clarify those portions that were previously unclear, and bring procedures in alignment with revisions to the Veterinary Practice Act adopted by the 1987 legislature.

The amendment removes reduced fees for Texas A&M faculty and creates a waiver of renewal fees for those practitioners permanently and totally retired from the practice of veterinary medicine.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 7465a, §7(a), which provide the State Board of Veterinary Medical Examiners with the authority to make, alter, or amend such rules and regulations as may be necessary or desirable to carry into effect the provisions of this 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 February 11, 1988.

TRD-8802181 Donald B. Wilson
Executive Director
Texas Board of Veterinary
Medical Examiners

Effective date: March 22, 1988

Proposal publication date: November 16, 1987

For further information, please call: (512) 447-1183.

◆ ◆ ◆
• 22 TAC §571.54

The State Board of Veterinary Medical Examiners adopts new §571.54, with changes to the proposed text published in the November 6, 1987, issue of the *Texas Register* (12 TexReg 4095). The changes clarify that licenses lapsed in excess of two years cannot be renewed without reexamination.

Revisions will make the section more grammatically correct, clarify those portions that were previously unclear, and bring procedures in alignment with revisions to the Veterinary Practice Act adopted by the 1987 legislature.

The new section creates a waiver of license renewal fees for DVMs retired from the practice of veterinary medicine.

No comments were received regarding adoption of the new section.

The new section is adopted under Texas Civil Statutes, Article 7465a, §7(a), which provide the State Board of Veterinary Medical Examiners with the authority to make, alter, or amend such rules and regulations as may be necessary or desirable to carry into effect the provisions of the Act.

§571.54. *Retired Licensee Status.*

(a) Licensees who are permanently and totally retired qualify to have their annual registration renewal fee waived providing they are no longer in practice. Reinstatement of a retired license to an active status requires payment of all back fees and penalties, if the license has been in

retirement less than 24 months. After 24 months, the license may not be renewed, and retirees may obtain a new license by successful reexamination.

(b) Retired license status is not available to licensees who wish to place their license in an inactive status to avoid the annual registration fee.

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

Issued in Austin, Texas, on February 11, 1988.

TRD-8802182 Donald B. Wilson
Executive Director
Texas Board of Veterinary
Medical Examiners

Effective date: March 22, 1988

Proposal publication date: November 6, 1987

For further information, please call: (512) 447-1183.

◆ ◆ ◆
• 22 TAC §571.55

The State Board of Veterinary Medical Examiners adopts an amendment to §571.55, without changes to the proposed text published in the November 6, 1987, issue of the *Texas Register* (12 TexReg 4095).

Revisions will make the section more grammatically correct, clarify those portions that were previously unclear, and bring procedures in alignment with revisions to the Veterinary Practice Act adopted by the 1987 legislature.

This amendment changes the title of the agency head to executive director.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 7465a, §7(a), which provide the State Board of Veterinary Medical Examiners with the authority to make, alter, or amend such rules and regulations as may be necessary or desirable to carry into effect the provisions of this 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 February 11, 1988.

TRD-8802183 Donald B. Wilson
Executive Director
Texas Board of Veterinary
Medical Examiners

Effective date: March 22, 1988

Proposal publication date: November 6, 1987

For further information, please call: (512) 447-1183.

◆ ◆ ◆
• 22 TAC §571.57

The State Board of Veterinary Medical Examiners adopts the repeal of §571.57, without changes to the proposed text published in the

November 6, 1987, issue of the *Texas Register* (12 TexReg 4096).

The repeal is necessary due to legislative changes.

The repeal eliminates an outdated and unenforceable section.

No comments were received regarding adoption of the repeal.

The repeal is adopted under Texas Civil Statutes, Article 7465a, §7(a), which provide the State Board of Veterinary Medical Examiners with the authority to make, alter, or amend such rules and regulations as may be necessary or desirable to carry into effect the provisions of this 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 February 11, 1988.

TRD-8802189 Donald B. Wilson
Executive Director
Texas Board of Veterinary
Medical Examiners

Effective date: March 22, 1988

Proposal publication date: November 6, 1987

For further information, please call: (512) 447-1183

◆ ◆ ◆
Chapter 575. Practice and
Procedure

• 22 TAC §575.2

The State Board of Veterinary Medical Examiners adopts an amendment to §575.2, without changes to the proposed text published in the October 16, 1987, issue of the *Texas Register* (12 TexReg 3815).

The amendment changes the title of the agency head to executive director.

The amendment clarifies the procedures to be followed concerning filing of documents relating to proceedings pending before the board.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 7465a, §7(a), which provide the State Board of Veterinary Medical Examiners with the authority to make, alter, or amend such rules and regulations as may be necessary or desirable to carry into effect the provisions of this 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 February 11, 1988.

TRD-8802190 Donald B. Wilson
Executive Director
Texas Board of Veterinary
Medical Examiners

Effective date: March 22, 1988

Proposal publication date: October 16, 1987

For further information, please call: (512) 447-1183.

◆ ◆ ◆
• 22 TAC §575.3

The State Board of Veterinary Medical Examiners adopts an amendment to §575.3, without changes to the proposed text published in the October 16, 1987, issue of the *Texas Register* (12 TexReg 3815).

The amendment is necessary to change the agency head's title to executive director.

The amendment outlines the provisions available to respondents concerning filing of documents in a pleading before the board.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 7465a, §7(a), which provide the State Board of Veterinary Medical Examiners with the authority to make, alter, or amend such rules and regulations as may be necessary or desirable to carry into effect the provisions of this 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 February 11, 1988.

TRD-8802191 Donald B. Wilson
Executive Director
Texas Board of Veterinary
Medical Examiners

Effective date: March 22, 1988

Proposal publication date: October 16, 1987

For further information, please call: (512) 447-1183

◆ ◆ ◆
• 22 TAC §575.9

The State Board of Veterinary Medical Examiners adopts an amendment to §577.9, without changes to the proposed text published in the October 16, 1987, issue of the *Texas Register* (12 TexReg 2815).

The amendment requires the board secretary, who is a DVM, to docket cases being brought before the board.

The amendment requires that a licensed practitioner (board secretary) determine which complaints will be brought before the board for disciplinary action and allows for service of such hearing to be made by registered mail.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 7465a, §7(a), which provide the State Board of Veterinary Medical Examiners with the authority to make, alter, or amend such rules and regulations as may be necessary or desirable to carry into effect the provisions of this 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 February 11, 1988.

TRD-8802192

Donald B. Wilson
Executive Director
Texas Board of Veterinary
Medical Examiners

Effective date: March 22, 1988

Proposal publication date: October 16, 1987

For further information, please call: (512) 447-1183.

◆ ◆ ◆
• 22 TAC §575.10

The State Board of Veterinary Medical Examiners adopts an amendment to §575.10, without changes to the proposed text published in the October 16, 1987, issue of the *Texas Register* (12 TexReg 2816).

The amendment changes the title of the agency head to executive director.

The amendment outlines procedures for filing motions for actions pending before the board.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 7465a, §7(a), which provide the State Board of Veterinary Medical Examiners with the authority to make, alter, or amend such rules and regulations as may be necessary or desirable to carry into effect the provisions of this 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 February 11, 1988.

TRD-8802193

Donald B. Wilson
Executive Director
Texas Board of Veterinary
Medical Examiners

Effective date: March 22, 1988

Proposal publication date: October 16, 1987

For further information, please call: (512) 447-1183.

◆ ◆ ◆
• 22 TAC §575.12

The State Board of Veterinary Medical Examiners adopts an amendment to §575.12, without changes to the proposed text published in the October 16, 1987, issue of the *Texas Register* (12 TexReg 3816).

The amendment brings the procedures for hearings into alignment with the Administrative Practice and Procedures Act by which the board must conduct disciplinary hearings.

The amendment requires a quorum to be present for conducting disciplinary hearings, requires the court reporters to administer the oath prior to testimony, and authorizes the presiding officer to place witnesses under the rule.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 7465a, §7(a), which provide the State Board of Veterinary Medical Exam-

iners with the authority to make, alter, or amend such rules and regulations as may be necessary or desirable to carry into effect the provisions of this 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 February 11, 1988.

TRD-8802194

Donald B. Wilson
Executive Director
Texas Board of Veterinary
Medical Examiners

Effective date: March 22, 1988

Proposal publication date: October 16, 1987

For further information, please call: (512) 447-1183.

◆ ◆ ◆
• 22 TAC §575.13

The State Board of Veterinary Medical Examiners adopts an amendment to §575.13, without changes to the proposed text published in the October 16, 1987, issue of the *Texas Register* (12 TexReg 3816).

The amendment changes the title of the agency head to director.

The amendment authorizes the board to employ a court reporter for disciplinary hearings and allows the board to exclude reports with a history of poor performance.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 7465a, §7(a), which provide the State Board of Veterinary Medical Examiners with the authority to make, alter, or amend such rules and regulations as may be necessary or desirable to carry into effect the provisions of this 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 February 11, 1988.

TRD-8802195

Donald B. Wilson
Executive Director
Texas Board of Veterinary
Medical Examiners

Effective date: March 22, 1988

Proposal publication date: March 22, 1988

For further information, please call: October 16, 1987

◆ ◆ ◆
• 22 TAC §575.20

The State Board of Veterinary Medical Examiners adopts an amendment to §575.20, without changes to the proposed text published in the October 16, 1987, issue of the *Texas Register* (12 TexReg 3817).

The amendment receipts for expenses claimed by witnesses traveling for the board to testify in hearings.

The amendment allows the board to reimburse witnesses for expenses incurred in

traveling to testify in disciplinary hearings when accompanied by receipts for claimed expenses.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 7465a, §7(a), which provide the State Board of Veterinary Medical Examiners with the authority to make, alter, or amend such rules and regulations as may be necessary or desirable to carry into effect the provisions of this 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 February 11, 1988.

TRD-8802196

Donald B. Wilson
Executive Director
Texas Board of Veterinary
Medical Examiners

Effective date: March 22, 1988

Proposal publication date: October 16, 1987

For further information, please call: (512) 447-1183.

◆ ◆ ◆
• 22 TAC §575.21

The State Board of Veterinary Medical Examiners adopts new §575.21, without changes to the proposed text published in the October 16, 1987, issue of the *Texas Register*.

The new section establishes guidelines by which civil penalties will be paid to the board.

The new section requires that respondents pay penalties through cashier's checks or money orders within 45 days from the date of hearings in which the penalties are assessed.

No comments were received regarding adoption of the new section.

The new section is adopted under Texas Civil Statutes, Article 7465a, §7(a), which provide the State Board of Veterinary Medical Examiners with the authority to make, alter, or amend such rules and regulations as may be necessary or desirable to carry into effect the provisions of this 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 February 11, 1988.

TRD-8802197

Donald B. Wilson
Executive Director
Texas Board of Veterinary
Medical Examiners

Effective date: March 22, 1988

Proposal publication date: October 16, 1987

For further information, please call: (512) 447-1183.

Chapter 577. General Administration and Duties

Board Members and Meetings—Duties

• 22 TAC §577.1

The State Board of Veterinary Medical Examiners adopts an amendment to §577.1, without changes to the proposed text published in the November 6, 1987, issue of the *Texas Register* (12 TexReg 4096).

The amendment clarifies when officers of the board are to be elected.

The amendment requires the election of officers at the first meeting of the fiscal year.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 7465a, §7(a), which provide the State Board of Veterinary Medical Examiners with the authority to make, alter, or amend such rules and regulations as may be necessary or desirable to carry into effect the provisions of this 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 February 11, 1988.

TRD-8802198 Donald B. Wilson
Executive Director
Texas Board of Veterinary
Medical Examiners

Effective date: March 22, 1988

Proposal publication date: November 6, 1987

For further information, please call: (512) 447-1183.

• 22 TAC §577.2

The State Board of Veterinary Medical Examiners adopts an amendment to §577.2, without changes to the proposed text published in the November 6, 1987, issue of the *Texas Register* (12 TexReg 4096).

The amendment clarifies the number of board meetings and examinations to be conducted by the agency.

The amendment requires the board to hold a minimum of two meetings for disciplinary hearings and two state board examinations each year.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 7465a, §7(a), which provide the State Board of Veterinary Medical Examiners with the authority to make, alter, or amend such rules and regulations as may be necessary or desirable to carry into effect the provisions of this 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 February 11,

1988.

TRD-8802199 Donald B. Wilson
Executive Director
Texas Board of Veterinary
Medical Examiners

Effective date: March 22, 1988

Proposal publication date: November 6, 1987

For further information, please call: (512) 447-1183.

Staff and Miscellaneous

• 22 TAC §577.11

The State Board of Veterinary Medical Examiners adopts an amendment to §577.11, without changes to the proposed text published in the November 6, 1987, issue of the *Texas Register* (12 TexReg 4097).

The amendment changes the agency head's title to that of director instead of secretary.

The amendment authorizes the president of the board to appoint persons to sign vouchers and instruments required by law for disbursement of funds.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 7465a, §7(a), which provide the State Board of Veterinary Medical Examiners with the authority to make, alter, or amend such rules and regulations as may be necessary or desirable to carry into effect the provisions of this 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 February 11, 1988.

TRD-8802200 Donald B. Wilson
Executive Director
Texas Board of Veterinary
Medical Examiners

Effective date: March 22, 1988

Proposal publication date: November 6, 1987

For further information, please call: (512) 447-1183.

• 22 TAC §577.13

The State Board of Veterinary Medical Examiners adopts an amendment to §577.13, without changes to the proposed text published in the November 6, 1987, issue of the *Texas Register* (12 TexReg 4097).

The amendment clarifies under what conditions nonlicensed practitioners must work in the State of Texas.

The amendment requires that nonresident (nonlicensed) practitioners must work under the direct supervision of licensee when serving as a consultant in veterinary cases.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 7465a, §7(a), which provide the State Board of Veterinary Medical Exam-

iners with the authority to make, alter, or amend such rules and regulations as may be necessary or desirable to carry into effect the provisions of this 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 February 11, 1988.

TRD-8802201 Donald B. Wilson
Executive Director
Texas Board of Veterinary
Medical Examiners

Effective date: March 22, 1988

Proposal publication date: November 6, 1987

For further information, please call: (512) 477-1183.

TITLE 31. NATURAL RESOURCES AND CONSERVATION

Part II. Texas Parks and Wildlife Department

Chapter 63. Administration

Mandatory Hunter Education Program

• 31 TAC §§63.5-63.9

The Texas Parks and Wildlife Commission adopts new §§63.5-63.9, without changes to the proposed text published in the December 22, 1987, issue of the *Texas Register* (12 TexReg 4830).

These new sections are adopted to provide for fees to cover the cost of administering the hunter education training program and to provide public information on requirements for hunter education as a prerequisite for certain age groups to hunt in Texas.

The sections enable individuals to obtain the required education from certified instructors.

No comments were received regarding adoption of the new sections.

The new sections are adopted under the Parks and Wildlife Code, §62.014, which authorizes the commission to implement a mandatory hunter education program and to charge a fee to defray the administrative costs of administering the hunter education program.

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

Issued in Austin, Texas, on March 1, 1988.

TRD-8802210 Boyd M. Johnson
General Counsel
Texas Parks and Wildlife
Department

Effective date: June 1, 1988

Proposal publication date: December 22, 1987

TITLE 34. PUBLIC FINANCE

Part I. Comptroller of Public Accounts

Chapter 3. Tax Administration

Subchapter O. State Sales and Use Tax

• 34 TAC §3.342

The Comptroller of Public Accounts adopts new §3.342, with changes to the proposed text published in the December 18, 1987, issue of the *Texas Register* (12 TexReg 4769).

During the last special session of the legislature, information services were added to the Tax Code, Chapter 151, as services upon which sales tax must be collected. An emergency new section was filed since the change became effective October 1. After comments from industry, the section is now adopted in final form.

Comments were received from the following groups concerning the taxability of mailing lists: Freedom Financial Corporation of Dallas, The Horchow Collection of Dallas, Allied Marketing Group of Irving, Direct Marketing Association of North Dallas, and J. C. Penney Life Insurance Company of Dallas. The comptroller agreed Texas sales tax would only apply to the portion of the mailing list which contained the names of persons located in Texas.

Minor wording changes are made by the comptroller in several places for clarity.

The new section is adopted under the Tax Code, §111.002, which provides the comptroller with the authority to prescribe, adopt, and enforce rules relating to the administration and enforcement of the provisions of the Tax Code, Title 2.

§3.342. Information Services.

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

(1) Data processing services—Processing, reformatting, or manipulation of data provided by the customer; not included in the definition of information services.

(2) Information services—Furnishing general or specialized news or other current information, including financial information, by printed, mimeographed, electronic, or electrical transmission, or by utilizing wires, cable, radio waves, microwaves, satellites, fiber optics, or any other method now in existence or which may be devised, and electronic data retrieval or research.

(b) Taxable information services. Information which is gathered, maintained, or compiled and made available by the pro-

vider of the information service to the public or to a specific segment of industry for a consideration is subject to sales tax. Except as provided in subsection (d)(3) of this section, the total charge for information services whether by subscription or on an as-needed basis is taxable. Examples of such information include, but are not limited to, the following:

- (1) newsletters;
- (2) scouting reports and surveys, including those used in sports and the oil and gas and related industries;
- (3) mailing lists and bad check lists (only that percentage which represents names of persons located in Texas is taxable);
- (4) real estate listings;
- (5) financial, investment, stock market, or bond rating, or financial reports, other than charges to a person by a financial institution for account balance information;
- (6) news clipping services and wire services; and
- (7) abstracts of title and other information provided by title plants.

(c) Exempt information services. Sales tax is not due on information services sold to a newspaper or to a radio or television station licensed by the Federal Communications Commission, if an exemption certificate is obtained. The exemption certificate must state that the purchaser is a newspaper with a general circulation published at least as frequently as weekly, or is a station licensed by the Federal Communications Commission.

(d) Nontaxable information.

(1) The sale of information which is gathered or compiled on behalf of a particular client is not subject to tax if the information is of a proprietary nature to that client and may not be sold to others by the person who gathered or compiled the information. Any subsequent sale of such information by the client for whom the information was gathered or compiled is subject to tax. Examples include opinion polls and management consultant reports.

(2) Any sale of information primarily derived from laboratory, medical, or exploratory testing or experimentation or any similar method of direct scientific observation of physical phenomena is not subject to tax. Examples of information the sale of which is exempt from tax under this subsection include, but are not limited to, geophysical survey information, polygraph test, and medical test results.

(3) Information required to be furnished pursuant to the Open Records Act is not subject to sales tax. See §3.341 of this title (relating to Sales of Governmental Publications, Records, or Documents). Fees paid when obtaining these documents may be excluded from the tax base if separately

stated when the documents are furnished to clients. Tax will only be due on the amount over and above the cost of the documents.

(e) Resale certificates.

(1) Providers of information service may issue a resale certificate in lieu of tax to suppliers of tangible personal property only if care, custody, and control of the property will be transferred to the service provider's client. For example, an information provider purchases magnetic tape to transfer information to customers. The tape is transferred to the customer, and the customer owns and uses the tape to review the information. The information provider may purchase the tape tax free by issuing a resale certificate. Tax is due on the total amount charged the customer, including amounts for the tape and for the services.

(2) A resale certificate may be issued for a service if the buyer intends to transfer the service as an integral part of taxable services. A service will be considered an integral part of a taxable service if the service purchased is essential to the performance of the taxable service and without which the taxable service could not be rendered.

(3) A resale certificate may be issued for a taxable service if the buyer intends to incorporate the service into tangible personal property which will be resold. If the entire service is not incorporated into the tangible personal property, it will be presumed the service is subject to tax and the service will only be exempt to the extent the buyer can establish the portion of the service actually incorporated into the tangible personal property. If the buyer does not intend to incorporate the entire service into the tangible personal property, no resale certificate may be issued, but credit may be claimed at the time of sale of the tangible personal property to the extent the service was actually incorporated into the tangible personal property.

(f) Unrelated services.

(1) A service will be considered as unrelated if:

(A) it is not an information service nor a service taxed under other provisions of the Tax Code, Chapter 151;

(B) it is of a type which is commonly provided on a stand alone basis; and

(C) the performance of the unrelated service is distinct and identifiable. Examples of an unrelated service which may be excluded from the tax base include consultation, training, expedited filing charges, escrow fees, or charges for proprietary information.

(2) Where nontaxable unrelated services and taxable services are sold or

purchased for a single charge and the portion relating to taxable services represents more than 5.0% of the total charge, the total charge is presumed to be taxable. The presumption may be overcome by the information provider at the time the transaction occurs by separately stating to the customer a reasonable charge for the taxable services. The information provider's books must support the apportionment between exempt and nonexempt activities based on the cost of providing the service or on a comparison to the normal charge for each service if provided alone. If the charge for exempt services is unreasonable when the overall transaction is reviewed considering the cost of providing the service or a comparable charge made in the industry for each service, the comptroller will adjust the charges and assess additional tax, penalty, and interest on the taxable services.

(3) Charges for services or expenses directly related to and incurred while providing the taxable service are taxable and may not be separated for the purpose of excluding these charges from the tax base. Examples would be charges for meals, telephone calls, hotel rooms, or airplane tickets.

(g) Service benefit location. If both the information service provider and the customer are located in Texas, Texas tax is due.

(h) Service benefit location—multi-state customer.

(1) To the extent information service is used to support a separate, identifiable segment of a customer's business (other than general administration or operation of the business), the service is presumed to be used at the location where that part of the business is conducted.

(2) If that part of the business is conducted at locations both within and outside the state, the service is not taxable to the extent it is used outside Texas. A multi-state customer may use any reasonable method for allocation which is supported by business records.

(3) A multi-state customer purchasing information services for the benefit of both in-state and out-of-state locations is responsible for issuing to the debt collector an exemption certificate asserting a multi-state benefit, and for reporting and paying the tax on that portion of the charge for information which will benefit the Texas location. An information provider that accepts such a certificate in good faith is relieved of responsibility for collecting and remitting tax on transactions to which the certificate relates.

(4) The customer's books must support the assignment of the service to an identifiable segment of the business, the determination of the location or locations of the use of the service, and the allocation of the taxable charge to Texas.

(5) To the extent the use of the

service cannot be assigned to an identifiable segment of a customer's business, the service is presumed to be used to support the administration or operation of the customer's business generally. The service is presumed to be used at the customer's principal place of business. The principal place of business means the place from which the trade or business is directed or managed.

(i) Local taxes.

(1) For local sales tax purposes, city, MTA, or county sales taxes are due if an information provider has only one place of business (the location where clients request service) within the boundaries of a local taxing entity. Local sales tax must be collected based on the tax rate at that location, except that no MTA or CTD sales tax is due on services provided at a location outside the boundaries of the transit area. In the case of multiple locations, if an order for service is placed at one location but the service is provided at another location, the place of business from which the service is provided will determine to which local taxing entity (city, MTA, or county) the tax is allocated.

(2) If a place of business is outside the boundaries of a local taxing entity, the information provider will be required to collect local use tax if the client is within the local taxing entity and the information provider has representation in the local taxing entity as outlined in §3.286 of this title (relating to Seller's Responsibilities). Even if the information provider is not required to collect local use tax, the client is still liable for the tax if the service is performed or a benefit is derived from the service within the boundaries of a local taxing entity.

(A) An in-state customer purchasing information services for the benefit of locations in more than one local taxing entity is responsible for issuing to the information provider an exemption certificate asserting a multi-city benefit and for determining the extent of benefit for each entity. The local tax for each entity must be reported, allocated, and paid by the customer. An information provider that accepts in good faith an exemption certificate claiming a multi-city benefit is relieved of responsibility for collecting and remitting local tax on transactions to which the certificate relates.

(B) A multi-state customer purchasing information services for the benefit of both in-state and out-of-state locations is responsible for issuing an exemption certificate and for reporting and paying local tax as provided by subsection (f)(3) and (4) of this section.

(j) Use tax. If an information provider is not doing business in Texas or in specific local taxing jurisdictions and is not

required to collect Texas state or local tax, it is the Texas customer's responsibility to report the state and local use tax directly to this office.

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

Issued in Austin, Texas, on February 26, 1988.

TRD-8802147

Bob Bullock
Comptroller of Public
Accounts

Effective date: March 25, 1988

Proposal publication date: December 18, 1987

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

◆ ◆ ◆
• 34 TAC §3.343

The Comptroller of Public Accounts adopts new §3.343, with changes to the proposed text published in the December 18, 1987, issue of the *Texas Register* (12 TexReg 4771).

During the last special session of the legislature, credit reporting services were added to the Tax Code, Chapter 151, as an activity upon which sales tax must be collected. An emergency new section was filed October 1. After meetings with industry, the new section is now adopted in final form.

Comments on the new section were received from Bill Pewitt of Austin on behalf of his clients. He indicated there appeared to be a conflict between subsections (b) and (e). The comptroller changed subsection (e) to conform to subsection (b). Mr. Pewitt thought the definition of credit report was too broad. The comptroller responded that the definition should be left as filed in order to avoid confusion about what was covered in the section.

This new section is adopted under the Tax Code, §111.002, which provides the comptroller with the authority to prescribe, adopt, and enforce rules relating to the administration and enforcement of the provisions of the Tax Code, Title 2.

§3.343. Credit Reporting Services.

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

(1) Credit report—Any written, oral, or other compilation of any credit history or other information bearing on a person's credit worthiness, credit standing, credit capacity, or insurability, including information concerning character, general reputation and, if an individual, personal characteristics, medical information, or mode of living.

(2) Credit reporting services—The assembly or furnishing, for monetary fees, dues, or other consideration, of a credit report or any part of a credit report.

(b) Responsibilities of persons pro-

viding credit reporting services.

(1) Sales tax is due and must be collected on the total charge for credit reporting activities when:

(A) the address of the credit applicant (the subject of the credit report) at the time of the request for a report is in Texas; and

(B) the person who requested the credit report is located in Texas or is doing business in Texas as provided in the Tax Code, §151.107. Credit card companies are considered to be doing business in Texas if the financial institution issuing the card is doing business in Texas or if the credit card company is otherwise doing business in Texas.

(2) If a seller of a service is not doing business in Texas and is not required to collect Texas tax, it is the Texas customer's responsibility to report the tax directly to this office.

(3) Persons providing credit reporting services must obtain a tax permit and collect tax on the entire sales price of their service.

(c) Resale certificates.

(1) Providers of credit reporting service may issue a resale certificate in lieu of tax to suppliers of tangible personal property only if care, custody, and control of the property is transferred to the client. For example, a taxpayer purchases magnetic tape to transfer the results of a credit report to customers. The tape is transferred to the customer, and the customer owns and uses the tape to review the results of the credit reporting service. The taxpayer may purchase the tape tax free by issuing a resale certificate. Tax is due on the total amount charged the customer, including amounts for the tape and for the services.

(2) A resale certificate may be issued for a service if the buyer intends to transfer the service as an integral part of taxable services. A service will be considered an integral part of a taxable service if the service purchased is essential to the performance of the taxable service and without which the taxable service could not be rendered.

(3) A resale certificate may be issued for a taxable service if the buyer intends to incorporate the service into tangible personal property which will be resold. If the entire service is not incorporated into the tangible personal property, it will be presumed the service is subject to tax and the service will only be exempt to the extent the buyer can establish the portion of the service actually incorporated into the tangible personal property. If the buyer does not intend to incorporate the entire service into the tangible personal property, no resale certificate may be issued, but credit

may be claimed at the time of sale of the tangible personal property to the extent the service was actually incorporated into the tangible personal property.

(4) Persons providing credit reporting services may accept a valid exemption certificate in lieu of tax when performing a taxable service for an exempt entity. See §3.322 of this title (relating to Exempt Organizations).

(d) Unrelated services.

(1) A service will be considered as unrelated if:

(A) it is not a credit reporting service nor a service taxed under other provisions of the Tax Code, Chapter 151;

(B) it is of a type which is commonly provided on a stand-alone basis; and

(C) the performance of the unrelated service is distinct and identifiable. Examples of an unrelated service which may be excluded from the tax base include consultation, training, and charges for proprietary information.

(2) Where nontaxable unrelated services and taxable services are sold or purchased for a single charge and the portion relating to taxable services represents more than 5.0% of the total charge, the total charge is presumed to be taxable. The presumption may be overcome by the provider of credit reporting services at the time the transaction occurs by separately stating to the customer a reasonable charge for the taxable services. The service provider's books must support the apportionment between exempt and nonexempt activities based on the cost of providing the service or on a comparison to the normal charge for each service if provided alone. If the charge for exempt services is unreasonable when the overall transaction is reviewed considering the cost of providing the service or a comparable charge made in the industry for each service, the comptroller will adjust the charges and assess additional tax, penalty, and interest on the taxable services.

(3) Charges for services or expenses directly related to and incurred while providing the taxable service are taxable and may not be separated for the purpose of excluding these charges from the tax base. Examples would be charges for meals, telephone calls, hotel rooms, or airplane tickets.

(e) Service benefit location. If both the credit grantor and the credit applicant are located in Texas, Texas sales tax is due.

(f) Service benefit location-multi-state customer.

(1) To the extent a credit reporting service is used to support a separate, identifiable segment of a customer's busi-

ness (other than general administration or operation of the business) the service is presumed to be used at the location where that part of the business is conducted.

(2) If that part of the business is conducted at locations both within and outside the state, the service is not taxable to the extent it is used outside Texas. A multi-state customer may use any reasonable method for allocation which is supported by business records.

(3) A multi-state customer purchasing credit reporting services for the benefit of both in-state and out-of-state locations is responsible for issuing to the credit reporting entity an exemption certificate asserting a multi-state benefit, and for reporting and paying the tax on that portion of the credit reporting charge which will benefit the Texas location. A provider of credit reports that accepts such a certificate in good faith is relieved of responsibility for collecting and remitting tax on transactions to which the certificate relates.

(4) The customer's books must support the assignment of the service to an identifiable segment of the business, the determination of the location or locations of the use of the service, and the allocation of the taxable charge to Texas.

(5) To the extent the use of the service cannot be assigned to an identifiable segment of a customer's business, the service is presumed to be used to support the administration or operation of the customer's business generally. The service is presumed to be used at the customer's principal place of business. The principal place of business means the place from which the trade or business is directed or managed.

(g) Local tax.

(1) For local sales tax purposes, city, MTA, or county sales taxes are due if a provider of credit reports has only one place of business (the location where clients request service) within the boundaries of a local taxing entity. Local tax must be collected based upon the tax rate at that location, except that no MTA or CTD sales tax is due on services provided at a location outside the boundaries of the transit area. In the case of multiple locations, if an order for service is placed at one location but the service is provided at another location, the place of business from which the service is provided will determine to which local taxing entity (city, MTA, or county) the tax is allocated.

(2) For the purposes of the local use tax, if a place of business is outside the boundaries of a local taxing entity, the service provider will be required to collect local use tax if the client is within the local taxing entity and the service provider has representation in the local taxing entity as outlined in §3.286 of this title (relating to Seller's Responsibilities). Even if the ser-

vice provider is not required to collect local use tax, the client is still liable for the tax if the service is performed or a benefit is derived from the service within the boundaries of a local taxing entity.

(A) An in-state customer purchasing credit reporting services for the benefit of locations in more than one local taxing entity is responsible for issuing to the provider of credit reporting services an exemption certificate asserting a multi-city benefit and for determining the extent of benefit for each entity. The local use tax for each entity must be reported, allocated, and paid by the customer. A provider of credit reporting service that accepts in good faith an exemption certificate claiming a multi-city benefit is relieved of responsibility for collecting and remitting local tax on transactions to which the certificate relates.

(B) A multi-state customer purchasing credit reporting services for the benefit of both in-state and out-of-state locations is responsible for issuing an exemption certificate and for reporting and paying local tax as provided by subsection (f)(3) and (4) of this section.

(h) Use tax. If a seller of a service is not doing business in Texas or in specific local taxing jurisdictions and is not required to collect Texas tax, it is the Texas customer's responsibility to report and pay the state and local use tax directly to this office.

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

Issued in Austin, Texas, on February 26, 1988.

TRD-8802145 Bob Bullock
Comptroller of Public
Accounts

Effective date: March 21, 1988

Proposal publication date: December 18, 1987

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

TITLE 40. SOCIAL SERVICES AND ASSISTANCE

Part I. Texas Department of Human Services

Chapter 3. Income Assistance

Subchapter E. Household Determination

• 40 TAC §3.501

The Texas Department of Human Services (DHS) adopts an amendment to §3.501 without changes to the proposed text published in the January 22, 1988, issue of the *Texas*

Register (13 TexReg 402).

The justification for the amendment is to simplify the section by citing the relevant federal regulation rather than revising the policy and procedures.

The section will function by presenting a simpler and clearer statement of household composition requirements.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Human Resources Code, Title 2, Chapter 22, which provides the department with the authority to administer public assistance programs.

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

Issued in Austin, Texas, on February 29, 1988.

TRD-8802272 Marlin W. Johnston
Commissioner
Texas Department of
Human Services

Effective date: April 1, 1988

Proposal publication date: January 22, 1988

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

Part XII. Texas Advisory Board of Occupational Therapy

Chapter 367. Types of Licenses

• 40 TAC §367.1

The Texas Advisory Board of Occupational Therapy adopts an amendment to §367.1, without changes to the proposed text published in the January 19, 1988, issue of the *Texas Register* (13 TexReg 341).

This amendment clarifies the circumstances which would require taking the certification examination a second time.

This amendment provides better protection to the consumer.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 8851, §5(e), which provides the Texas Advisory Board of Occupational Therapy with the authority to adopt rules consistent with this Act to carry out its duties in administering this 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 February 26, 1988.

TRD-8802137 Charles Schiesser
Assistant Commissioner
Texas Rehabilitation
Commission

Effective date: March 21, 1988

Proposal publication date: January 19, 1988

For further information, please call: (512) 445-8124

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 considered a filing by the Insurance Services Office, Inc., proposing a revision of the Texas Commercial General Liability Guide (a) Rates Pamphlet for Division Six of the Commercial Lines Manual.

To provide additional flexibility in rating Commercial General Liability, certain classifications and corresponding rates are eliminated from the Commercial General Liability Guide (a) Rates Pamphlet.

After careful consideration the board hereby approves this filing to become effective July 1, 1988, in accordance with the following rule of application: These changes are applicable to all policies effective on or after July 1, 1988. No policy effective prior to July 1, 1988, shall be endorsed or cancelled and rewritten to take advantage of or to avoid the application of these changes except at the request of the insured and using the cancellation procedures applying on the date of such request.

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

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

Issued in Austin, Texas on February 29, 1988.

TRD-8802158 Nicholas Murphy
Chief Clerk
State Board of Insurance

Effective date: July 1, 1988

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



Name: Leidi Ana Escamilla
Grade: 12
School: Sam Houston High, Arlington



Open Meetings

Agencies with statewide jurisdiction must give at least seven days notice before an impending meeting. Institutions of higher education or political subdivisions covering all or part of four or more counties (regional agencies) must post notice at least 72 hours prior to a scheduled meeting time. Some notices may be received too late to be published before the meeting is held, but all notices are published in the *Texas Register*.

Emergency meetings and agendas. Any of the governmental entities named above must have notice of an emergency meeting, an emergency revision to an agenda, and the reason for such emergency posted for at least two hours before the meeting is convened. Emergency meeting notices filed by all governmental agencies will be published.

Posting of open meeting notices. All notices are posted on the bulleting 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 Corrections

Monday, March 14, 1988, 9 a.m. The Texas Department of Corrections will meet in the John H. Reagan Building, 105 West 15th Street, Austin. According to the agenda summary, the department will approve minutes of the previous meeting; consider land donation by Rusk Foundation, additional vending machines, Industry Advisory Board, construction, easements, hazardous duty pay, and Windham School System. The department will also meet in executive session to consider litigation and personnel matters.

Contact: James A. Lynaugh, P.O. Box 99, Huntsville, Texas 77340, (409) 294-2101.

Filed: March 2, 1988, 9:14 a.m.

TRD-8802262

Texas County and District Retirement System

Friday, March 11, 1988, 9 a.m. The Board of Trustees of the Texas County and District Retirement System, will meet in the Four Seasons Hotel, 98 San Jacinto Boulevard, Austin. According to the agenda summary, the board will consider and pass on applications for service retirement benefits and disability retirement benefits; review and act on report from director, actuary, and investment counsel; and set date for next meeting.

Contact: J. Robert Brown, 400 West 14th Street, Austin, Texas 78701, (512) 476-6651.

Filed: March 1, 1988, 1:47 p.m.

TRD-8802217

Texas Commission for the Deaf

Thursday, March 10, 1988, 7 p.m. The Subcommittee on Mental Health Services of the Texas Commission for the Deaf will meet at 510 South Congress Avenue,

Austin. According to the agenda, the subcommittee will approve minutes of the previous meeting and hold a work session.

Contact: Larry D. Evans, P.O. Box 12904, Austin, Texas 78704, (512) 469-9891.

Filed: March 2, 1988, 9:22 a.m.

TRD-8802255

Texas Employment Commission

Wednesday, March 9, 1988, 8:30 a.m. The Texas Employment Commission will meet in Room 644, TEC Building, 101 East 15th Street, Austin. According to the agenda summary, the commission will approve minutes of the previous meeting; consider internal procedures of commission appeals, action on tax liability cases and higher level appeals in unemployment compensation cases listed on docket 10, and set date of next meeting.

Contact: Courtenay Browning, 101 East 15th Street, Austin, Texas 78778, (512) 463-2226.

Filed: March 1, 1988, 1:09 p.m.

TRD-8802207

Governor's Office

Wednesday, March 9, 1988, 10 a.m. The Texas Criminal Justice Task Force of the Governor's Office, will meet in Room 309, Capitol, Austin. According to the agenda, the task force will consider old business; hear report on the criminal justice summit; discuss legislative recommendations; hear status report on interim committees and task force committee progress; and consider new business.

Contact: Sherry Smith, P.O. Box 12428, Austin, Texas 78711, (512) 463-1788.

Filed: March 1, 1988, 11:15 a.m.

TRD-8802171

Texas Hospital Equipment Financing Council

Wednesday, March 9, 1988, 11:30 a.m. The Executive Committee of the Texas Hospital Equipment Financing Council will meet in the Colony Park Hotel, 6060 North Central Expressway, Dallas. According to the agenda, the committee will consider recommendation to the council regarding a proposal to convert the council's series 1985 bonds to a fixed interest rate and to extend the period of the equipment loan fund and other matters related thereto.

Contact: Charles W. Bailey, P.O. Box 15587, Austin, Texas 78761, (512) 465-1000.

Filed: March 1, 1988, 1:58 p.m.

TRD-8802208

University of Houston System

Tuesday, March 8, 1988, 4:30 p.m. The Board of Regents of the University of Houston System will meet in the Third Floor Student Lounge, University of Houston Downtown, One Main Street, Houston. According to the agenda, the board will welcome Dr. Manuel T. Pacheco and hear remarks from Dr. Joan Raymond, Dr. Kenneth Jackson, Richard Conner, and downtown student and town meeting.

Contact: Micheal T. Johnson, 4600 Gulf Freeway, Suite 500, Houston, Texas 77023, (713) 749-7545.

Filed: March 2, 1988, 9:16 a.m.

TRD-8802261

Texas Department of Human Services

Thursday, March 10, 1988, 10 a.m. The Texas Board of Human Services of the Texas Department of Human Services will meet in the Embassy Suites Hotel, 4250 Ridgemont Drive, Abilene. According to the agenda summary, the board will consider fiscal year 1987 and 1988 budgets,

audit disposition process, food stamp vendor payments policy, purchased health services contract, SMIB buy-in contract, medical assistance recovery program, therapeutic home visits for ICF-MR, aged and disabled respite care, day care rules, child protective services intake study, foster care rates for level of care system, expunging child abuse and neglect records, family planning pregnancy prevention initiatives, family planning copayment, home deliveries performed by mid-wives, organ transplant services, Medicaid reimbursement to disproportionate share hospitals, physician services provided by dentists, registered family home initiatives, ICF-MR case mix pilot, primary home care unit rate, ICF-MR state school rates, refugee program, EPSDT orthodontics, TELFAP, summer rules for HEAP, Tel-Assistance program, federal legislation, memorandums of understanding, expanded membership of the Texas Interagency Council on Adolescent pregnancy and parenthood, and appointments to advisory committees.

Contact: Bill Woods, P.O. Box 2960, Austin, Texas 78769, (512) 450-3047.

Filed: March 1, 1988, 2:58 p.m.

TRD-88002218

State Board of Insurance

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

Thursday, March 10, 1988, 9:30 a.m. The board will meet in Room 414 to consider Docket 1571-Motion for rehearing filed by Christian Brotherhood and appeal from commissioner's order in the matter of the supervision of Christian Brotherhood, Bedford.

Contact: Pat Wagner, 1110 San Jacinto Street, Austin, Texas, 78701-1998, (512) 463-6526.

Filed: March 1, 1988, 4:05 p.m.

TRD-8802226

Thursday, March 10, 1988, 10 a.m. The board will meet in Room 414 to consider personnel matters concerning the Fire Marshal, Chief Clerk, Statistical and Rate Development, Research and Information Services, and Commissioner; litigation matters concerning commissioner; appointments to Board of Directors of Texas Property and Casualty Insurance Guaranty Association, and proposed amendment to 28 TAC §31.1 and §31.2.

Contact: Pat Wagner, 1110 San Jacinto Street, Austin, Texas, 78701-1998, (512) 463-6526.

Filed: March 1, 1988, 4:05 p.m.

TRD-8802225

Texas Board of Land Surveying

Friday, March 18, 1988, 8 a.m. The Texas Board of Land Surveying will meet in Suite 304, 7703 North Lamar Boulevard, Austin. According to the agenda, the board will approve minutes of the previous meeting and items for the April 1988 examination; adopt proposed amendments to rules published in the January 1, 1988, issue of the *Texas Register*; and discuss correspondence and any other business to come before the board.

Contact: Betty J. Pope, 7703 North Lamar Boulevard, Suite 304, Austin, Texas 78752, (512) 452-9427.

Filed: March 2, 1988, 9:21 a.m.

TRD-8802257

Board for Lease of State-Owned Lands

Thursday, March 10, 1988, 2:30 p.m. The Board for Lease of Texas Parks and Wildlife Lands of the Board for Lease of State-Owned Lands will meet in Room 833, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. According to the agenda, the board will approve minutes of the previous meeting; and consider pipeline easement applications for Cherokee, Montgomery, and Harris Counties.

Contact: Linda K. Fisher, 1700 North Congress Avenue, Austin, Texas 78701, (512) 463-5016

Filed: March 2, 1988, 2:45 p.m.

TRD-8802271

Midwestern State University

Friday, March 4, 1988, 2 p.m. The Board of Regents of Midwestern State University meet in the Hardin Boardroom, Midwestern State University, Wichita Falls. According to the agenda, the board considered acquisition of small university bus, music education building renovation, cafeteria equipment purchase, rental of Ligon Coliseum, and Bookstore operation.

Contact: Deborah L. Barrow, 3400 Taft Boulevard, Wichita Falls, Texas 76308, (817) 692-6551.

Filed: March 1, 1988, 11:09 a.m.

TRD-8802168

Special Committee on Organization of State Agencies

Thursday, March 10, 1988, 9 a.m. The Special Committee on Organization of State

Agencies will meet in Room 101, John H. Reagan Building, 105 West 15th Street, Austin. According to the agenda, the committee will approve minutes of the previous meeting; hear a presentation on the background and process of reorganization by Professor Terrell Blodgett, status report of the reorganization study currently being conducted by the Health and Human Services Coordinating Council; reports from the subcommittees on professional licensing, natural resources/recreation/cultural affairs, general governments services, economic development/regulatory/local affairs, and public protection/criminal justice/corrections; consider preliminary findings, which may include alternative organizational structures, as well as data requirements for further study and future meeting schedules; and receive invited testimony concerning telecommunications and data processing systems.

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

Filed: March 1, 1988, 4:39 p.m.

TRD-88

Texas Parks and Wildlife Department

Wednesday, March 9, 1988, 7 p.m. The Texas Parks and Wildlife Commission of the Texas Parks and Wildlife Department will meet at 1204 West Lynn, Austin. According to the agenda summary, the commission will hold a social event in which there may be discussion of items on the agenda for March 10, 1988, at 9 a.m.

Contact: Charles D. Travis, 4200 Smith School Road, Austin, Texas 78744, (512) 389-4802.

Filed: March 1, 1988, 2:22 p.m.

TRD-8802213

Thursday, March 10, 1988. The Texas Parks and Wildlife Commission of the Texas Parks and Wildlife Department will meet in Complex Building B, 4200 Smith School Road, Austin. Times and agendas follow.

9 a.m. The commission will consider North American waterfowl management plan-fish and wildlife service and proposed statewide hunting and fishing regulations 1988-1989.

Contact: Charles D. Travis, 4200 Smith School Road, Austin, Texas 78744, (512) 389-4802.

Filed: March 1, 1988, 2:22 p.m.

TRD-8802214

9 a.m. The commission will approve court reporter minutes; hear presentation of retirement certificates and service awards; consider resolution commemorating Howard D. Dodgen, harmful tropical fish rules, concession contract (stable)-Palo Duro Canyon

State Park, concession contract (store)-Palo Duro Canyon State Park, pipeline easement-Texas State Railroad, pipeline easement-Lake Houston State Park, artwork for salt-water fishing print/stamp, concession contract-Lake Somerville S.R.A.-Birch Creek Unit, park use fees-Colorado Bend State Park, Huntsville fish hatchery reconstruction, six-year plan, need for comprehensive environmental analysis-Galveston Bay Area Development Project, white-winged dove habitat acquisition-Hidalgo County.

Contact: Charles D. Travis, 4200 Smith School Road, Austin, Texas 78744, (512) 389-4802.

Filed: March 1, 1988, 2:22 p.m.

TRD-8802211

Noon. The commission will approve January 21, 1988, executive session court reporter minutes, white-winged dove habitat acquisition-Hidalgo County, and transfer of land-Sierra Diablo Wildlife Management Area.

Contact: Charles D. Travis, 4200 Smith School Road, Austin, Texas 78744, (512) 389-4802.

Filed: March 1, 1988, 2:22 p.m.

TRD-8802211

Texas State Board of Public Accountancy

The Texas State Board of Public Accountancy will meet in Suite 340, 1033 La Posada, Austin. Dates, times, and agendas follow.

Monday, March 7, 1988, 8:30 a.m. The Continuing Education Committee met in emergency session to review all substantive rules to continuing education and exemption requests and forms which have been submitted to the committee and other matters before the committee. The emergency status was necessary because it was the only available time committee members could meet.

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

Filed: March 1, 1988, 3:31 p.m.

TRD-8802223.

Thursday-Friday, March 10-11, 1988, 9 a.m. daily. The CE Panel will hold hearings for individuals not in compliance with continuing education requirements on 1988 licenses.

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

Filed: March 1, 1988, 3:31 p.m.

TRD-8802222.

Public Utility Commission of Texas

The Public Utility Commission of Texas will meet in Suite 450N, 7800 Shoal Creek Boulevard, Austin. Dates, times, and agendas follow.

Tuesday, March 15, 1988, 10 a.m. The Hearings Division will consider Docket 7790-Petition of the general counsel for an evidentiary proceeding to determine market dominance among interexchange telecommunications carriers.

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

Filed: March 2, 1988, 2:20 p.m.

Texas Rehabilitation Commission

Monday, March 7, 1988, 11 a.m. The Media Relations and Public Information Subcommittee of the Governor's Committee for Disabled Persons of the Texas Rehabilitation Commission met in emergency session in Suite 210, Dallas Center for Independent Living, 8625 King George Drive, Dallas. According to the agenda, the subcommittee approved minutes of the previous meeting; considered fiscal year 1988 and 1989 implementation plan; and Barbara Jordan awards. The emergency status was necessary because meeting space was available free of charge to save the state dollars.

Contact: Virginia Roberts, 118 East Riverside Drive, Austin, Texas 78704, (512) 445-8272.

Filed: March 1, 1988, 1:48 p.m.

TRD-8802216

Special Task Force on Rural Health Care Delivery in Texas

Wednesday, March 9, 1988, 1 p.m. The Special Task Force on Rural Health Care Delivery in Texas will meet in Room 104, Reagan Building, Austin. According to the agenda, the task force will hear presentations; consider proposed charge for adoption by the task force, resource/work groups for adoption, fundraising and finance, discussion of future meeting dates, and other business.

Contact: Susan Wilson, Sam Houston Building, Suite 1007, Austin, Texas 78711, (512) 463-0360.

Filed: March 1, 1988, 11:20 a.m.

TRD-8802174

State Securities Board

Tuesday, April 26, 1988, 9:30 a.m. The Securities Commissioner of the State Securities Board will meet at 1800 San Jacinto Street, Austin. According to the agenda summary, the board will determine whether a cease and desist order should be issued prohibiting the sale of securities by Oreo Mines, Inc., Bill W. Schmidt, William R. Cook, Orex, Inc. and Douglas W. Litchfield.

Contact: John Morgan, 1800 San Jacinto, Austin, Texas, 78705.

Filed: March 1, 1988, 10:38 a.m.

TRD-8802167

Texas State Soil and Water Conservation Board

Wednesday, March 16, 1988, 8 a.m. The Texas State Soil and Water Conservation Board will meet in the Conference Room, 311 North Fifth Street, Temple. According to the agenda, the board will approve minutes of the January 20, 1988, meeting; consider district director appointments, division of the San Saba-Brady SWCD and the Brazos-Robertson SWCD, 1989-1990 annual meeting sites, Public Law 83-566 watershed applications, nonpoint source activities, requests for 1987 technical assistance funds, requests for 1988 conservation assistance fund allocations and 1988 technical assistance fund allocations, 1990-1991 biennium budget request, information and education activities, and regional conservation awards programs, hear reports from agencies and guests; consider agency travel; hear report on organization of state agencies hearing; consider NACD board meeting in Washington D.C. April 10-13, 1988, and next regular board meeting of May 18, 1988.

Contact: Harvey Davis, P.O. Box 658, Temple, Texas, (817) 773-2250.

Filed: March 2, 1988, 9:19 a.m.

TRD-8802259

Texas A&M University

The Board of Regents of Texas A&M University met in the MSC Annex, Texas A&M University, College Station. Dates, times, and agendas follow.

Sunday, March 6, 1988, 2 p.m. The Planning and Building Committee considered cancellations of unexpended balances of appropriations; heard report of contract actions by the chancellor, report of construction project appropriations/authorizations by the chancellor, report of contract actions by

the presidents or deputy chancellor; considered initiation of major construction projects, action on bids, appropriations for designs, appropriations for renovation, authorization for the chancellor to award a construction contract and appropriate funds; and heard a report on the satellite utility plant siting study at Texas A&M University.

Contact: Vickie Burt, Texas A&M University, College Station, Texas 77843, (409) 845-9603.

Filed: March 2, 1988, 11:17 a.m.

TRD-8802267

Sunday, March 6, 1988, 3:10 p.m. The Committee for Service Units considered authorization to execute license agreements and authorization for appointments to non-elective position.

Contact: Vickie Burt, Texas A&M University, College Station, Texas 77843, (409) 845-9603.

Filed: March 2, 1988, 11:17 a.m.

TRD-8802263

Sunday, March 6, 1988, 3:20 p.m. The Committee for Academic Campuses considered authorization for establishment and change in fees.

Contact: Vickie Burt, Texas A&M University, College Station, Texas 77843, (409) 845-9603.

Filed: March 2, 1988, 11:17 a.m.

TRD-8802264

Sunday-Monday, March 6-7, 1988, 3:30 p.m. and 9 a.m., respectively. The Executive Committee considered acceptance of gifts, grants, loans, and bequests; considered budget and fiscal transfers, salary increases and new positions, appropriations from unappropriated sources by the chancellor, appointment of members for the System Investment Advisory Committee, authorization for appropriation of funds, authorization for the transfer of funds, authorization for the sale of PUF bonds, appointment and promotions, terminations, academic tenure, appointment of personnel, naming of facilities, land and investment matters, litigation, adoption of resolutions, employment of financial advisor, confirmation of the sale of combined fee and revenue system refunding and improvement bonds.

Contact: Vickie Burt, Texas A&M University, College Station, Texas 77843, (409) 845-9603.

Filed: March 2, 1988, 11:17 a.m.

TRD-8802265

Monday, March 7, 1988, 3 p.m. The Board of Regents considered construction matters for the Texas A&M University System, license agreements, appointment to nonelective position, establishment and change in fees, acceptance of gifts, grants,

loans and bequests, budget and fiscal transfers, salary increases and new positions, appropriations for unappropriated sources by the chancellor, appointments to System Investment Advisory Committee, appropriation of funds, transfer of funds, authorization for the sale of PUF; appointments and promotions, terminations, academic tenure, appointment of personnel, naming of facilities, land and investment matters, litigation, adoption of resolutions, employment of financial advisor, confirmation of sale of combined fee and revenue system refunding and improvement bonds.

Contact: Vickie Burt, Texas A&M University, College Station, Texas 77843, (409) 845-9603.

Filed: March 2, 1988, 11:17 a.m.

TRD-8802266

Transition Services Task Force

Wednesday, March 9, 1988, 1:30 p.m. The Transition Services Task Force will meet at Advocacy, Inc., Suite 171-E, 7800 Shoal Creek Boulevard, Austin. According to the agenda, the task force will approve minutes of the previous meeting; consider legal issues of the individualized transition plan and the individualized education plan; hear the Steering Committee report and staff report; hear reports from Education Subcommittee, Public Information Subcommittee, Models Subcommittee, and Case Management Subcommittee.

Contact: Mary Faithful, 7800 Shoal Creek Boulevard, Suite 171-E, Austin, Texas 78757, (512) 454-4816.

Filed: March 2, 1988, 2:22 p.m.

TRD-8802270

Texas Turnpike Authority

Thursday, March 10, 1988, 10 a.m. The Board of Directors of the Texas Turnpike Authority will meet in the San Jacinto Ballroom East, Four Seasons Hotel, 98 San Jacinto Boulevard, Austin. According to the agenda summary, the board will approve minutes of the previous meeting; consider new projects, engineering proposals for Plateau Parkway Turnpike, Dallas North Tollway, resolution supporting Collin County's adoption of future extension route of the tollway, proposal for general consulting engineering for Phase II, contract to repaint tollway bridges, purchase of right-of-way parcels, and proposal for landscape architectural services; hear TAG report; consider approval of authority's MBE policy, HSR project, acceptance of FRA grant, approval of committees recommendations, and resolution funding HSR study; hear financial advisor's report; consider Beltway Eight and resolution on highway commission

minute order and initial feasibility assessment. The board will also meet in executive session.

Contact: Harry Kabler, P.O. Box 190369, Dallas, Texas 75219, (214) 522-6200.

Filed: March 2, 1988, 9:17 a.m.

TRD-8802260

Texas Water Commission

Tuesday, March 15, 1988, 2 p.m. The Texas Water Commission will meet in Room 118, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. According to the agenda summary, the commission will consider whether emergency order 88-4E, granted by the commission to Excel Corporation, P.O. Box 910, Plainview, Texas 79072, should be affirmed, modified, or set aside by the commission.

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

Filed: March 1, 1988, 11:35 a.m.

Thursday, April 14, 1988, 10 a.m. The commission will meet in the County Courtroom, Live Oak Courthouse, George West. According to the agenda summary, the commission will consider application of USX Corporation, Texas Uranium Operations, P.O. Drawer V, George West, Texas 780222, to the commission for amendments to Permits URO2154-001 (Boots/Brown Uranium Mining Project) and URO2130-001 (Clay West Uranium Mining Project). The two mining projects are located approximately eight miles southwest of George West, Live Oak County.

Contact: Joe O'Neal, P.O. Box 13087, Austin, Texas 78711, (512) 463-7875.

Filed: March 1, 1988, 11:36 a.m.

Wednesday, April 20, 1988, 10 a.m. The Office of Hearings Examiner will meet in the Study Room, Southwest Center, 3222 West Seventh Street, Highway 67, Texarkana. According to the agenda summary, the office will consider application of United States Department of the Army, Red River Depot, Commander SDSRR-GE, Texarkana, Texas 75507-5000 to the commission for an amendment to Permit 02206 in order to add zinc limitations and monitoring requirements to internal Outfall 103 due to process changes which include zinc usage.

Contact: James Murphy, P.O. Box 13087, Austin, Texas 78711, (512) 463-7875.

Filed: March 1, 1988, 11:36 a.m.

Wednesday, April 20, 1988, 10 a.m. The Office of Hearings Examiner will meet in the Study Room, Southwest Center, 3222 West Seventh Street, Highway 64, Texarkana. According to the agenda summary, the office will consider application by Red River Army Depot, Commander, SDSRR-

C, Texarkana, Texas 75507-5000 to the commission for a Permit HW-50178-000 in order to continue operation of an existing storage, processing, and disposal facility for municipal hazardous waste from military maintenance and supply operations.

Contact: James Murphy, P.O. Box 13087, Austin, Texas 78711, (512) 463-7875.

Filed: March 1, 1988, 11:36 a.m.

Regional Meetings

Meetings Filed March 1

The Blanco County Appraisal District, Board of Directors, will meet in the Blanco County Courthouse Annex, Johnson City, on March 9, 1988, at 6 p.m. Information may be obtained from Hollis Petri, P.O. Box 338, Johnson City, Texas, (512) 868-4624.

The Dawson County Central Appraisal District, Board of Directors, will meet at 920 North Dallas Avenue, Lamesa, on March 9, 1988, at 7 a.m. Information may be obtained from Tom Anderson, P.O. Box 797, Lamesa, Texas 79331, (806) 872-7060.

The Gonzales County Appraisal District, Board of Directors, will meet at 928 St. Paul Street, Gonzales, on March 10, 1988, at 5 p.m. Information may be obtained from Glenda Strackbein, P.O. Box 867, Gonzales, Texas 78629, (512) 672-2879.

The Hunt County Tax Appraisal District, Board of Directors, will meet in the Boardroom, 4801 King Street, Greenville, on March 10, 1988, at 7 p.m. Information may be obtained from Joe Pat Davis or Jeanette Jordan, P.O. Box 1339, Greenville, Texas 75401, (214) 454-3510.

The Liberty County Central Appraisal District, Board of Directors, met at 1820 Sam Houston, Liberty, on March 3 and 4, 1988, at 1 p.m. daily. Information may be obtained from Sherry Greak, P.O. Box 10016, Liberty, Texas 77575.

TRD-8802215

Meetings Filed March 2

The Archer County Appraisal District, Board of Directors, will meet at 211 South Center, Archer City, on March 16, 1988, at 4:30 p.m. Information may be obtained from Edward H. Trigg III, P.O. Box 1141, Archer City, Texas 76351, (817) 574-2172.

The Central Texas Economic Development District, Executive Committee, will meet in Building 10-3, TSTI Campus, Airline Drive, Waco, on March 24, 1988, at 2 p.m. Information may be obtained from Bruce Gaines, P.O. Box 4408, Waco, Texas 76705, (817) 799-0258.

The Deep East Texas Private Industry Council, Executive Committee, met at 118

South First Street, Lufkin, on March 3, 1988, at 10:30 a.m. Information may be obtained from Floyd Clark, P.O. Box 700, Coldspring, Texas, (409) 653-4654.

The Golden Crescent Service Delivery Area, Private Industry Council, will meet at 1301 East Rio Grande, Victoria, on March 9, 1988, at 6:30 p.m. Information may be obtained from Cleve Schoener, P.O. Box 2149, Victoria, Texas 77902.

The Gregg Appraisal District, Board of Directors, will meet at 2010 Gilmer Road, Longview, on March 10, 1988, at 10:30 a.m. Information may be obtained from William T. Carroll, P.O. Box 6700, Longview, Texas 75608, (214) 759-0015.

The Wheeler County Appraisal District, Board of Directors, met in the County Courthouse Square, Wheeler, on March 7, 1988, at 2 p.m. Information may be obtained from Marilyn Copeland, P.O. Box 349, Wheeler, Texas 79096, (806) 826-5900.

TRD-8802258

Meetings Filed March 3

The Tax Appraisal District of Bell County, Board of Directors, will meet at 411 East Central, Belton, on March 16, 1988, at 7 p.m. Information may be obtained from Mike Watson, P.O. Box 390, Belton, Texas 76513-0390, (817) 939-5841, ext. 29.

The Edwards Underground Water District, Board of Directors, met at 1615 North St. Mary's, San Antonio, on March 7, 1988, at 1 p.m. Information may be obtained from Thomas P. Fox, 1615 North St. Mary's, San Antonio, Texas 78215, (512) 222-2204.

The Lamar County Appraisal District, Appraisal Review Board, met at 1523 Lamar Avenue, Paris, on March 7, 1988, at 1 p.m. Information may be obtained from Rodney Anderson, 1523 Lamar Avenue, Paris, Texas 75460.

The Tyler County Tax Appraisal District, Board of Directors, will meet at 103 Pecan, Woodville, on March 8, 1988, at 4 p.m. Information may be obtained from Mary F. Mann, P.O. Drawer 9, Woodville, Texas 75979, (409) 283-3736.

TRD-8802274

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.

Office of the Attorney General Solid Waste Enforcement Notice

Notice is given by the State of Texas of the following proposed resolution of an environmental enforcement lawsuit under the Texas Solid Waste Disposal Act. The following is a summary of the nature of the lawsuit and the proposed Agreed Final Judgment.

Case Title and Court. State of Texas v. Border Steel Rolling Mills, Inc.; Cause Number 85-9817 in the District Court of El Paso County, 41st Judicial District.

Complaint. Border Steel Rolling Mills, Inc., (Border Steel) is in the business of manufacturing steel at a plant in El Paso County. Border Steel has used one landfill for the disposal of bag-house dust waste and another landfill for the disposal of slag waste. Both types of wastes have been generated by the Border Steel plant, and both landfills are located on Border Steel's property.

The state alleges that Border Steel discharged slag into an arroyo adjacent to waters in the state, in violation of the Solid Waste Disposal Act. The state also alleges numerous violations of the rules and regulations of the Texas Water Commission applicable to hazardous waste facilities, including failure to control run-in and run-off of stormwater and failure to control wind dispersal at the baghouse dust landfill.

The judgement is as follows.

Civil penalty The proposed agreed final judgment requires Border Steel to pay a civil penalty of \$600,000, plus \$3,000 in attorney's fees.

Injunctive Relief. The proposed judgment also requires Border Steel to isolate the slag landfill from the 100-year floodplain either by removal of the slag or by stormwater diversion structures; and to close the baghouse dust landfill in accordance with a detailed engineering plan, which has been approved by the Texas Water Commission.

For a complete description of the allegations and proposed settlement, the original petition and proposed agreed final judgment should be consulted.

Comments and requests for copies of these pleadings should be directed to Grant Gurley, Texas Attorney General's Office, Environmental Protection Division, P.O. Box 12548, Austin, Texas 78711-2548, (512) 463-2012.

Issued in Austin, Texas, on February 29, 1988.

TRD-8802253 Lou McCreary
Assistant Attorney General
Office of the Attorney General

Filed: March 1, 1988

For further information, please call (512) 463-2087.

Texas Department of Banking Notice of Application

Texas Civil Statutes, Article 342-401a, requires any person who intends to buy control of a state bank to file an application with the banking commissioner for the commissioner's approval to purchase control of a particular bank. A hearing may be held if the application is denied by the commissioner.

On January 25, 1988, the banking commissioner received an application to acquire control of the Hull State Bank, Hull, by Henry J. Gilfillian of Liberty, and F. Jeff Green of Hardin.

On February 25, 1988, notice was given that the application would not be denied.

Additional information may be obtained from William F. Aldridge, 2601 North Lamar Boulevard, Austin, Texas 78705, (512) 479-1200.

Issued in Austin, Texas, on February 25, 1988.

TRD-8802136 William F. Aldridge
Director of Corporate Activities
Texas Department of Banking

Filed: February 29, 1988

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



Texas Civil Statutes, Article 342-401a, requires any person who intends to buy control of a state bank to file an application with the banking commissioner for the commissioner's approval to purchase control of a particular bank. A hearing may be held if the application is denied by the commissioner.

On January 25, 1988, the banking commissioner received an application to acquire control of the First Bank and Trust, Shamrock, by Charles Don Schaefer of Canadian; and Bobby D. Galmor, John McDowell, Rodney Barker, B. L. Betenbough, and Garland Moore of Shamrock.

On February 25, 1988, notice was given that the application would not be denied.

Additional information may be obtained from William F. Aldridge, Director of Corporate Activities, Texas Department of Banking, 2601 North Lamar Boulevard, Austin, Texas 78705, (512) 479-1200.

Issued in Austin, Texas, on February 25, 1988.

TRD-8802140 William F. Aldridge
Director of Corporate Activities
Texas Department of Banking

Filed: February 29, 1988

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



Texas Department of Commerce
Weekly Report on the 1988 Allocation
of the State Ceiling on Certain Private
Activity Bonds

The Tax Reform Act of 1986 (the "Tax Act") imposes a volume ceiling on the aggregate principal amount of private activity bonds that may be issued within the State of Texas during any calendar year. The state ceiling for Texas, imposed by the Tax Act for calendar year 1988 is \$834,100,000.

State legislation, Senate Bill 1382, Chapter 1092, Acts of the 70th Legislature, (the Act), established the allocation process for the State of Texas. The Act specifies that one-third of the state ceiling is to be made available to qualified mortgage bonds and of that one-third, one-third is available to the Texas Housing Agency. One-fourth of the state ceiling is available to state-voted issues, and the balance of the state ceiling is available for all other issuers of bonds requiring an allocation.

Pursuant to the Act, the aggregate amount for qualified mortgage bond subceiling is \$278,033,300 with \$185,355,500 available to the local housing authorities and \$92,677,800 available to the Texas Housing Agency. The aggregate amount for state-voted issues is \$208,525,000 and the amount for all other bonds requiring an allocation is \$347,541,700.

Generally, the state ceiling is allocated on a first-come, first-served basis, with the Texas Department of Commerce (the department) administering the allocation system.

The information that follows is a weekly report of the allocation activity for the period, February 22, 1988 through February 26, 1988.

Weekly report on the 1988 allocation of the state ceiling on certain private activity bonds as pursuant to Senate Bill 1382.

Total amount of state ceiling remaining unreserved for the \$278,033,300 subceiling for qualified mortgage bonds under the Act as of February 26, 1988: \$190,185,425.

Total amount of state ceiling remaining unreserved for the \$208,525,000 subceiling for state-voted issues under the Act as of February 26, 1988: \$208,525,000.

Total amount of state ceiling remaining unreserved for the \$347,541,700 subceiling for all other bonds under the Act as of February 26, 1988: \$0

Total amount of the \$834,100,000 state ceiling remaining unreserved as of February 26, 1988: \$398,710,425.

Comprehensive listing of bond issues which have received a reservation date pursuant to the Act from February 22, 1988, through February 26, 1988: none.

Comprehensive listing of bonds issued and delivered pursuant to the Act from February 12, 1988, through February 26, 1988: None.

Issued in Austin, Texas, on March 1, 1988.

TRD-8802268 J.W. Lauderback
Executive Director
Texas Department of Commerce

Filed: March 2, 1988

For further information, please call (512) 472-5059

Texas Department of Community
Affairs

Notice of Availability of Funds

The State of Texas announces the availability of funds for operating the Supportive Housing Demonstration Program-Permanent Housing for Handicapped Homeless Persons, and solicits indications of interest from private, nonprofit organizations in submitting an application to operate such a program in the state.

Notification of selection to the applicant (State of Texas) is tentatively scheduled for August 30, 1988.

Project sponsors selected must operate projects in accordance with the regulations-52 Federal Regulation 39,965 (1987) (to be codified in 24 Code of Federal Regulation Part 841)-issued under Title IV, Subtitle C, of the Stewart B. McKinney Homeless Assistance Act, Public Law Number 100-77, the Permanent Housing for Handicapped Homeless Persons Program is funded at \$30 million nationally and applications from states will be judged competitively.

Assistance provided under this program may include: advances of up to the lesser of \$200,000 or 50% of the total cost for the acquisition and/or rehabilitation of existing structures; grants for the moderate rehabilitation of existing structures; and technical assistance in establishing and operating such housing and providing supportive services to the residents of such housing.

Recipients of advances will be required to pay the advance in full if the project facility is used for handicapped homeless for less than 10 years. For each full year that the project is used for the designated purpose beyond the 10-year period, the amount that the project sponsor will be required to repay is reduced by 10%, up to 20 years, at which point repayment is no longer required.

The project sponsor(s) must match the federal assistance provided with an equal amount of state and local funds. In-kind contributions are excluded from the matching computation.

To document interest or obtain more information, parties should call Mr. Eddie Fariss, Texas Department of Community Affairs, (512) 834-6022, before the close of business on March 11, 1988.

Interested parties eligible to apply will be mailed an application with instructions for completion. The deadline for return of the completed applications is March 24, 1988.

Issued in Austin, Texas, on March 2, 1988.

TRD-8802254 Roger A. Coffield
General Counsel
Texas Department of Community Affairs

Filed: March 2, 1988

For further information, please call (512) 834-6109.

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Request for Proposals

The Texas Department of Community Affairs (TDCA), administering agency for the Weatherization Assistance for Low-Income Persons (WAFLIP) Program in Texas, requests proposals for the delivery of weatherization services in the following areas of the State of Texas: Lower Valley census tracts areas of El Paso County; and Dallas County. Operations funded for weatherization services in these two separate areas are scheduled to commence on or about April 1, 1988.

The offerors selected will be expected to deliver weatherization services to eligible households in accordance with the rules and regulations - 10 Code of Federal Regulations Part 440 (1987)-issued under Title IV of the Energy Conservation and Production Act, Public Law 94-385, 90 Stat. 1150 (42 United States Code 6861 *et seq.*) as amended. Services solicited are those that weatherize dwelling units to make them more energy efficient thereby reducing energy consumption and utility costs. Examples include weatherstripping; caulking; installation of attic insulation; and other weatherization allowed by the program regulations.

The designated service areas for this solicitation are: the Lower Valley census tracts area of El Paso County; and Dallas County. The proposed contract performance period is from April 1, 1988-\$75,000; and Dallas County-\$400,000.

Offerors responding to this notice must be (or become) familiar with the WAFLIP Program regulations set forth in 10 Code of Federal Regulations Part 400 (1987), and prepare a proposal that includes planned publicity and outreach for the program, a description of the organization's financial accounting system and audit records history, the work force (existing staff, new-hire staff, subcontractors, etc.) to be used, and any other information required by the request for proposals packet.

Selection of contractors is competitive and will be based on a grading system that awards points to proposals in the following or more component areas: organization purpose(s); planned outreach methods; financial accounting system; audit history; actual work force and task planning; interagency coordination; compliance with RFP submission requirements.

Qualifications. Offerors eligible to respond to this request are political subdivisions of Texas, and private, nonprofit community based corporation.. Offerors must be able to document their ability to accomplish the proposed services. TDCA will give preference to organizations whose past performance demonstrates effectiveness in providing tangible assistance to low-income households or in the actual provision of weatherization services. Offerors must document their legal aauthority and eligibility to contract with the TDCA.

Deadline. The deadline for TDCA's receipt of the proposals is 5 p.m. Wednesday, March 23, 1988. Proposals may be mailed to the Texas Department of Community Affairs, P.O. Box 13166, Austin, Texas 78711-3166. Proposals sent by special mailing or hand-carried may be delivered to 8317 Cross Park Drive, Third Floor, Austin, Texas 78754-5124.

General Information. The TDCA reserves the right to reject any or all proposals submitted. The TDCA is under no legal requirement to execute a contract on the basis on this notice and intends this material only as a means of identifying the various contractor alternatives. The TDCA intends to use responses as a basis for further negotiation of specific project details with potential contractors. If the TDCA selects a contractor(s) to provide the delivery of services, the TDCA will base its choice(s) upon criteria including, but not limited to, the demonstrated effectiveness to serve the low-income population sector; experience in weatherization services; and the capability to establish a weatherization service delivery system intended to meet the needs of the target population, i.e., households with annualized income at 125% of poverty with priority to the elderly and handicapped.

TDCA intends to select one or more contractors for each geographic area. This does not commit TDCA to pay for

any costs incurred prior to the execution of a contract. Any TDCA obligation is subject to the availability of sufficient WAFLIP program funds from the United States Department of Energy, the United States Department of Health and Human Services-Low-Income Home Energy Assistance Program block grant, and any other available sources.

TDCA specifically reserves the right to vary any or all terms at any time prior to the execution of a contract(s) if TDCA deems such variances to be in the best interest of the state, and to otherwise act as it determines in its sole discretion.

To obtain a request for proposals packet or additional information regarding this notice, please contact: Lucio Varela, Texas Department of Community Affairs, P.O.Box 13166, Austin, Texas 7871-3166, (512) 834-6006.

Issued in Austin, Texas, on February 29, 1988.

TRD-8802224

Anne O. Paddock
General Counsel
Texas Department of Community Affairs

Filed: March 1, 1988

For further information, please call (512) 834-6109

◆ ◆ ◆
**Office of Consumer Credit
Commissioner**

Notice of Rate Ceilings

The consumer credit commissioner of Texas has ascertained the following rate ceilings by use of the formulas and methods described in Texas Civil Statutes, Title 79, Articles 1.04, 1.05, 1.11, and 15.02, as amended (Texas Civil Statutes, Articles 5069-1.04, 1.05, 1.11, and 15.02).

<u>Type of Rate Ceilings</u>	<u>Effective Period (Dates are Inclusive)</u>	<u>Consumer⁽³⁾/Agri- cultural/Commercial⁽⁴⁾ thru \$250,000</u>	<u>Commercial⁽⁴⁾ over \$250,000</u>
Indicated (Weekly) Rate - Art. 1.04(a)(1)	03/07/88-03/13/88	18.00%	18.00%
Monthly Rate ⁽¹⁾ Art. 1.04(c)	03/01/88-03/31/88	18.00%	18.00%
Standard Quarterly Rate - Art. 1.04(a)(2)	04/01/88-06/30/88	18.00%	18.00%
Retail Credit Card Quarterly Rate - Art. 1.11 ⁽³⁾	04/01/88-06/30/88	18.00%	N.A.
Lender Credit Card Quar- terly Rate - Art. 15.02(d) ⁽³⁾	04/01/88-06/30/88	14.00%	N.A.
Standard Annual Rate - Art. 1.04(a)(2) ⁽²⁾	04/01/88-06/30/88	18.00%	18.00%
Retail Credit Card Annual Rate - Art. 1.11 ⁽³⁾	04/01/88-06/30/88	18.00%	N.A.
Annual Rate Applicable to Pre-July 1, 1983 Retail Credit Card and Lender Credit Card Balances with Annual Implementation Dates from:	04/01/88-06/30/88	18.00%	N.A.
Judgment Rate - Art. 1.05, Section 2	03/01/88-03/31/88	10.00%	10.00%

- (1) For variable rate commercial transactions only.
- (2) Only for open-end credit as defined in Art. 5069-1.01(f) V.T.C.S.
- (3) Credit for personal, family or household use.
- (4) Credit for business, commercial, investment or other similar purpose.

Issued in Austin, Texas, on February 29, 1988.

TRD-8802256 Al Endsley
Consumer Credit Commissioner

Filed: March 2, 1988

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

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Texas Education Agency
Request for Exhibits

The Texas Education Agency (TEA) is requesting exhibits from the private sector to display programs and materials pertaining to basic skills remediation and dropout prevention/recovery at the At-Risk Coordinators Conference to be held in Austin, Texas at the Austin Marriott Airport Hotel on March 30 and 31, 1988. The conference will be attended by newly-appointed school district at-risk coordinators and administrators of at-risk programs. Exhibitors will be selected on a first-come-first-served basis, but will need to demonstrate the relevance of their programs and materials to dropout prevention/recovery. No more than twenty exhibits will be accepted due to space limitation. A fee of \$200 will be charged for the day and one half conference. All inquiries should be made to Dr. Dale W. McCollough, Program Planning Division, TEA, (512) 463-9512.

Issued in Austin, Texas, on February 26, 1988.

TRD-8802219 W. N. Kirby
Commissioner of Education

Filed: March 1, 1988

For further information, please call (512) 463-9682.

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Texas Department of Health
Availability of 1987 Block Grant
Annual Reports

Under authority of the Omnibus Budget Reconciliation Act of 1981, the Texas Department of Health has prepared 1987 annual reports on the maternal and child health services and preventive health and health services block grants. Included in the annual reports are needs and priorities, goals and objectives, types of services, state activities, financial summary, and legislative proposals. The purpose of this notice is to inform the public of the availability of these annual reports for inspection and comment. The 1987 block grant annual reports may be viewed at the Texas Department of Health, 1100 West 49th Street, Austin, and the following regional offices: Public Health Region 1, 2408 South 37th Street, Temple, Texas 76501 (817) 778-6744; Public Health Region 2, 4709 66th Street, Lubbock, Texas 79414 (806) 797-4331; Public Health Region 3, 6090 Surety Dr., Suite 115, El Paso, Texas 79903 (915) 779-7783; Public Health Region 4, 10500 Forum Place, Suite 200, Houston, Texas 77036 (713) 995-1112; Public Health Region 5, 2561 Matlock Road, Arlington, Texas 76015 (817) 460-3032; Public Health Region 6, 1015 Jackson Keller Rd., San Antonio, Texas 78213 (512) 342-3300; Public Health Region 7, 1517 West Front Street, Tyler, Texas 75702 (214) 595-3585; and Public Health Region 8, 1401 South Ranger-ville Road, Harlingen, Texas 78552 (512) 423-0130. In ad-

dition, the reports may be viewed at the following local health departments: Angelina County and Cities Health District, 202 S. Bynum, Lufkin, Texas 75901 (409) 632-1372; Corpus Christi-Nueces County Department of Public Health, 1702 Horne Road, Corpus Christi, Texas 78416 (512) 851-7200; Grayson County Health Department, 515 North Walnut, Sherman, Texas 75090 (214) 893-0131; Harris County Health Department, 2501 Dunstan, Houston, Texas 77005 (713) 526-1841; Laredo-Webb County Health Department, 2600 Cedar Street, Laredo, Texas 78040 (512) 723-2051; San Angelo-Tom Green County Health Department, 2 City Hall Plaza, San Angelo, Texas 76903 (915) 657-4214; San Antonio Metropolitan Health District, 332 West Commerce Street, San Antonio, Texas 78285 (512) 299-8781; Texarkana-Bowie County Family Health Center, 902 West 12th Street, Texarkana, Texas 75501 (214) 792-8211; Victoria County Health Department, 107 West River Street, Victoria, Texas 77902 (512) 578-6281; and Wichita Falls-Wichita County Public Health District, 1700 Third Street, Wichita Falls, Texas 76301 (817) 322-9702.

Comments on the maternal and child health services block grant 1987 annual report may be sent to Walter P. Peter, Jr., M.D., Chief, Bureau of Maternal and Child Health. Comments on the preventive health and health services block grant 1987 annual report may be sent to Clift Price, M.D., Associate Commissioner, Personal Health Services. The address for the Texas Department of Health is 1100 West 49th Street, Austin, Texas, 78756.

Issued in Austin, Texas, on February 29, 1988.

TRD-8802286 Robert A. Maclean
Deputy Commissioner
Professional Services
Texas Department of
Health

Filed: February 29, 1988

For further information, please call (512) 458-7470.

◆ ◆ ◆

Correction of Error

The Texas Department of Health submitted sections which contained errors as submitted by the department in the February 9, 1988, issue of the *Texas Register* (13 TexReg 68).

— In §157.77, paragraph (6) should read: "Until January 1, 1989, a medical director of an EMS system that provides advanced life support may delegate the use of an AED to persons who are not certified EMS personnel if the following conditions are met."

In the preamble to Chapter 97, the last sentence in the third paragraph should read: "The author of House Bill 1829, 70th Legislature, 1987, (Article 9 of Article 4419b-1), was concerned that the proposed section would shift the emphasis from barrier protection to testing."

The statutory authority to Chapter 97 should also include "Texas Civil Statutes, Article 4419b-1."

In §97.13, the first sentence in subsection (c) should read: "For AIDS, HIV infection, syphilis, gonorrhea, viral hepatitis B, and genital infections from *Chlamydia trachomatis*, the procedures and tests shall be those specified in the department publication *Identification and Information of Reportable Diseases*, as adopted by reference in §97.3 of this title (relating to the Reportable Diseases and Health Conditions)."

The department also submitted an error in the February 12, 1988, issue of the *Texas Register* (13 TexReg 761).

In the preamble to §1.101, the phone number contact in the third paragraph should read: "(512) 458-7405."

Texas Department of Highways and Public Transportation

Correction of Error

The Texas Department of Highways and Public Transportation submitted proposals which contained errors as published by the *Texas Register* in the February 5, 1988, issue of the *Texas Register* (13 TexReg 599).

In §17.69, the last sentence in subparagraph (1)(A) should read: "As a minimum the office must be equipped with a desk and chairs from which the dealer transacts his business and be equipped with a working telephone instrument listed in the name of the dealer [dealership]."

In §17.69, the third sentence in subparagraph (2)(B) should read: "[The sign shall be in the immediate vicinity of the area where the vehicles are displayed and shall be visible from the public street or thoroughfare.]"

In §17.70, paragraph (a)(19) should read: "(19) makes a material misrepresentation in any application or other information filed with the department; or"

In §17.74, subsection (a) should read: "Purchase and sales record. A dealer must keep a complete record of all vehicle purchases and sales, and such record must be available for inspection by a representative of the department at the dealer's location."

State Board of Insurance Consultant Proposal Request

In accordance with Texas Civil Statutes, Article 6252-11C,

the State Board of Insurance (SBI) gives notice that it is seeking proposals for consulting services to be rendered in the performance of a study of selected aspects of workers' compensation insurance rating. A three-part study is contemplated.

Part I. One part of the study would be an evaluation of the experience rating formula currently used in Texas and, if appropriate, recommendations for modification of the formula. As a part of the evaluation, the consultant would: analyze the appropriateness of each component of the experience rating formula, and the formula as a whole, to determine if they meet their intended purposes; review the relationship and weight given individual claims versus what are defined as catastrophic losses; review the differing impacts which claim frequency and claim severity have on the system; provide an analysis of the hypothetical and practical impact of lengthening or shortening the experience period; compare eligibility requirements in Texas to those in other states and analyze the extent to which the requirements promote or hinder the purpose of the system; analyze the potential impact on interstate rated risks of any change in the Texas formula; determine if there are ways in which the formula might be changed so as to further promote job safety and loss prevention without jeopardizing other requirements of the formula; analyze the feasibility or desirability of integrating such concepts as deductibles or co-payments with the concept of experience rating; and analyze the impact on experience rating of a system of manual rate deviations.

Part II. A second part of the study would be an evaluation of the surcharge formula currently used by the Texas workers' compensation assigned risk plan and, if appropriate, recommendations for modification of the formula. As a part of the evaluation the consultant would: analyze the appropriateness of surcharges generated under the formula; compare and contrast the logic and the effect of the surcharge formula with the logic and effect of the experience rating formula; and analyze the interplay of the surcharge formula and the experience rating formula, including the potential for the two formulas to produce conflicting results and the potential for such conflicting results to frustrate the purposes underlying one or both of the formulas.

Part III. A third part of the study would be an evaluation of how effectively the pricing of workers' compensation insurance in Texas serves to promote worker safety and loss prevention. As a part of the evaluation, the consultant would consider experience rating and the surcharge formula along with other components of the pricing mechanism, such as policyholder dividends, retrospective rating, and the availability of credits under the Texas Insurance Code, Article 5.55A, and would recommend any changes to the present system which seem appropriate.

In addition to performing the study, the consultant would be required to be available to appear in legislative or administrative forums after completion of the study for the purpose of giving expert testimony as to the study and its findings.

A draft report of preliminary findings will be required by September 15, 1988. A final report will be required by December 1, 1988.

Persons responding to this request for proposals should have demonstrated qualifications and experience in accounting and/or actuarial science. Previous involvements in independent studies and familiarity with workers' compensation and/or property/casualty insurance are also essential.

Responses should contain a description of work to be

performed, and the cost thereof, for each of the three parts of the study described in this notice. Fees and/or expenses to be charged in connection with appearances made after completion of the study should also be outlined.

SBI expects to use responses to this request as the basis for refinements to any ultimate consulting contract. SBI reserves the right to reject any or all proposals submitted and is under no obligation to execute a contract on the basis of this request for proposals. SBI will not be responsible for any costs incurred by persons or firms responding to this request.

SBI will review all proposals and may select the service of the person or firm which, in the sole discretion and judgment of SBI, has the better qualifications and competence to provide the required services on a cost-effective basis.

A conference concerning the request for proposals will be held on March 21, 1988, at 9 a.m. in Room 415 of the Insurance Building. The deadline for submission of proposals is April 1, 1988. Proposals should be addressed to Dixie Evatt, Director, Research and Information Services, 1110 San Jacinto Boulevard, Austin, Texas 78701-1998.

Issued in Austin, Texas, on March 1, 1988.

TRD-8802165 Nicholas Murphy
Chief Clerk
State Board of Insurance

Filed: March 1, 1988

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



Public Hearing

Notice is hereby given that a public hearing will be held under Docket 1573 before the State Board of Insurance at 2 p.m. on Monday, March 21, 1988, in Room 414 of the State Insurance Building at 1110 San Jacinto Boulevard in Austin. The hearing will consider possible adoption of amendments to 28 TAC §§7.201-7.205, 7.209, and 7.210, and a new §7.213, concerning rules for administrative regulation under the Insurance Holding Company System Regulatory Act (the Insurance Code, Article 21.49-1). The amendments and new sections were published as a proposal with accompanying information in the February 9, 1988, issue of the *Texas Register* (13 TexReg 682). The hearing will be held in accordance with the legal authority and jurisdictions provided in the Insurance Code, Article 21.49-1. The hearing and procedure will be governed by the rulemaking provisions of the Administrative Procedure and Texas Register Act (Texas Civil Statutes, Article 6252-13a) and the Rules of Practice and Procedure before the State Board of Insurance (Texas Administrative Code, Title 28, Chapter 1, Subchapter A).

Please direct inquiries regarding this hearing to Scott Nance, Manager, Holding Company Section, State Board of Insurance, 1110 San Jacinto Boulevard, Austin, Texas 78701-1998, (512) 463-6421.

Issued in Austin, Texas, on March 1, 1988.

TRD-8802166 Nicholas Murphy
Chief Clerk
State Board of Insurance

Filed: March 1, 1988

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



Texas State Board of Medical Examiners

Consultant Proposal Request

This request is filed pursuant to Texas Civil Statutes, Article 6252-11c. The Texas State Board of Medical Examiners, the licensing and regulatory agency for physicians in the State of Texas, invites written proposals for the services of a consultant to assist in the continued implementation of the board's AITC systems plan. This proposal should include the cost for each project of the systems plan as well as the total cost to implement all projects.

The consultant shall be project manager and shall provide all necessary personnel not provided by the board's staff.

The following projects have been identified as the highest priority and must be completed before September 1, 1989: registration and cash; enforcement; application; fund accounting; and interorganization connections.

The registration and cash project will begin April 1988, to be completed by August 31, 1988. This project will result in the design and implementation of the following interrelated components: licensed physicians; and cash. The project is designed to support the registration of practitioners and residents. The project will address this objective by providing the following functions: maintenance of current registration data; processing annual renewals of licensing; printing renewal notices and permits; generating directories, listings, labels, microfiche, magnetic tapes, process reinstatements of delinquent licenses; generating endorsements and verifications for the public and other agencies; enhancing on-line inquiry and reporting capabilities; and processing all cash payments received, including applications, institutional permits, renewal and other miscellaneous fees.

The enforcement project will begin June 1988, to be completed December 1988. The enforcement system will store, maintain, and retrieve information about complaints and disciplinary actions against licensed physicians. Functions of the system are: maintenance of investigations, hearings, probation and medical liability claims data; utilization of the data to generate correspondence with complainants, subjects of complaints, insurance companies, and other parties as needed; and extensive on-line inquiry and reporting capabilities.

The application project will begin January 1989, to be completed August 1989. The application system will be designed to support the board's objective of determining eligibility for licensure by examination or reciprocity by providing the following functions: maintenance of applicant data; utilization of this data to generate acceptance letters; extensive on-line inquiry and reporting capabilities; maintenance of current registration data for physician assistants, medical radiologic technologists, and acupuncturists; processing applications for institutional permits; printing letters and reports to hospitals regarding institutional permit applications; and producing preliminary receipt reports. This application system will interface directly with the systems described in the registration project.

The fund accounting project will begin May 1989, to be completed August 1989. The fund accounting system will store, maintain, and retrieve general ledger, budget, and revenue information. This system will be designed to assist the business office to improve the day-to-day operation by providing the following functions: maintenance of general ledger, budget, and revenue information; and utili-

zation of this data to generate monthly and yearly accounting reports.

The interorganization connections project will be ongoing, to begin in April 1988, and to be completed August 1989. This project will support sharing of data between organizations to maximize the services provided by each organization.

A copy of the systems plan to be implemented and other information regarding the proposal may be obtained by contacting Joan Dorris at the Board of Medical Examiners, (512) 452-1078.

A bidders conference will be scheduled for the afternoon of Tuesday, March 22, 1988, at 1 p.m. at the Board Office, 1101 Camino La Costa, Suite 201, Austin, Texas.

Deadline for the receipt of proposals in the offices of the board is on or before April 6, 1988, noon. Proposals received after the established deadline cannot be considered for selection. Proposals are to be addressed to G. Valter Brindley, Jr., M.D., 1101 Camino La Costa, Suite 201, Austin, Texas 78752.

The top three firms will be selected and asked to make an oral presentation at a time to be announced.

Final determination will be based on the following criteria: quality of task/activity plan for completion of this project; quality of technical approach; previous experience of consultant on similar projects; technical experience of consultant; ability to communicate with technical and non-technical staff; resources available to consultant for the project; reputation of the consultant, availability during work hours, and cost. Contractor selected shall be expected to commence work on April 20, 1988, and to complete all five projects no later than September 1, 1989. Ending dates for individual projects are stated in information in this notice.

The contractor selected shall be expected to commence work on April 20, 1988, and to complete each project in accordance with the ending dates as specified. The contractor should acknowledge in their proposal their awareness of the beginning and ending dates for each individual project as well as the entire group of projects.

Issued in Austin, Texas, on February 29, 1988.

TRD-8802181 G. V. Brindley, Jr.
Executive Director
Texas State Board of Medical Examiners

Filed: February 29, 1988

For further information, please call (512) 452-1078.

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**State Purchasing and General Services
Commission**
Correction of Error

The State Purchasing and General Services Commission submitted an emergency renewal which contained an error as published by the *Texas Register* in the February 16, 1988, issue of the *Texas Register* (13 TexReg 824).

In §113.9, the first sentence should read: "The State Purchasing and General Services Commission is renewing the effectiveness of the emergency adoption of amended §113.9 for a five-day period effective February 25, 1988."

**State Committee of Examiners for
Speech-Language Pathology and
Audiology**

Correction of Error

The State Committee of Examiners for Speech-Language Pathology and Audiology submitted a proposed amendment which contained an error as published by the *Texas Register* in the February 9, 1988, issue of the *Texas Register* (13 TexReg 679).

In §741.162, the first sentence in subsection (i) should read: "An individual who fails to renew a [his/her] license within two years after the date if its expiration may not renew it, and it may not be restored, reissued, or reinstated thereafter."

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Texas Water Commission
Enforcement Orders

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

An enforcement order was issued to Pat G. Chapman, Sr. on February 25, 1988, assessing stipulated administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Debra Eccles, Staff Attorney, Texas Water Commission, P.O. Box 13087, Austin, Texas 78711-3087, (512) 463-8069.

Issued in Austin, Texas, on February 26, 1988.

TRD-8802138 Gloria A. Vasquez
Notices Coordinator
Texas Water Commission

Filed: February 29, 1988

For further information, please call (512) 463-8069.

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

An enforcement order was issued to DKM Enterprises on February 29, 1988, assessing \$1,500 in administrative penalties; stipulated administrative penalties; and \$5,860 deferred penalty.

Information concerning any aspect of this order may be obtained by contacting Bill Thompson, Staff Attorney, Texas Water Commission, P.O. Box 13087, Austin, Texas 78711-3087, (512) 463-8069.

Issued in Austin, Texas, on February 29, 1988.

TRD-8802184 Gloria A. Vasquez
Notices Coordinator
Texas Water Commission

Filed: March 1, 1988

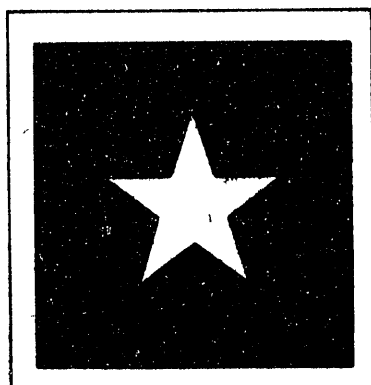
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