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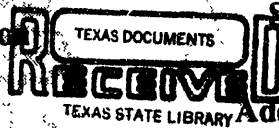
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Texas Register

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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- Withdrawn Rules—rules withdrawn by state agencies from consideration for adoption, or automatically withdrawn by the *Texas Register* six months after proposal publication date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: 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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TAC Titles Affected—April

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

TITLE 1. ADMINISTRATION

Part V. State Purchasing and General Services Commission

1 TAC §113.6—1518

Part IV. Secretary of State

1 TAC §75.41, §75.42—1579, 1580

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4 TAC §§9.10, 9.12, 9.13—1538

TITLE 7. BANKING AND SECURITIES

7 TAC §3.101—1580

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TITLE 13. CULTURAL RESOURCES

13 TAC §§13.1-13.3, 13.7, 13.8, 13.10, 13.13, 13.17, 13.20, 13.22, 13.24, 13.26—1584

13 TAC §15.1, §15.2—1585

13 TAC §§17.1-17.3—1588

TITLE 16. ECONOMIC REGULATION

Part I. Railroad Commission of Texas

16 TAC §5.91—1605

16 TAC §5.256—1609

16 TAC §5.316—1609

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Part II. Texas Education Agency

19 TAC §109.61—1518

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22 TAC §109.171—1590, 1605

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Part VII. Texas Board of Examiners in the Fitting and Dispensing of Hearing Aids

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22 TAC §711.11—1596

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25 TAC §§1001.1-1001.6—1522

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28 TAC §3.3311—1517

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28 TAC §51.7—1539

28 TAC §53.22—1539

28 TAC §55.50—1539

28 TAC §56.40—1539

28 TAC §69.33—1522

TITLE 31. NATURAL RESOURCES AND CONSERVATION

Part II. Texas Parks and Wildlife Department

31 TAC §115.171, §115.176—1540

31 TAC §§115.191, 115.193, 115.194—1541

31 TAC §§115.201-115.203—1543

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31 TAC §§304.1-304.3—1596

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31 TAC §304.51—1600

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31 TAC §305.125—1523

31 TAC §335.13—1524

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34 TAC §161.1—1611

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37 TAC §15.81—1603

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37 TAC §211.70, §211.77—1603

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TITLE 40. SOCIAL SERVICES AND ASSISTANCE

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40 TAC §27.3010—1546

40 TAC §27.9801—1532

40 TAC §§30.101, 30.103, 30.105—1547

40 TAC §48.1201—1547

40 TAC §48.2919, §48.2928—1547

40 TAC §48.3903—1547

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40 TAC §§52.601-52.603—1552

Part IX. Texas Department on Aging

40 TAC §255.36—1552

40 TAC §§275.2-275.4—1553



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*.

Requests for Opinions

(RQ-1362). Request from George Pierce, Chairman, Committee on Urban Affairs, Austin, concerning the authority to set pension benefits for municipal fire and police employees. TRD-8803196

(RQ-1363). Request from Perry L. Adkisson, Chancellor, Texas A&M University System, College Station, concerning whether a state institution of higher education is entitled to withhold a percentage of gross sales tax receipts as reimbursement for the cost of collection. TRD-8803197

(RQ-1364). Request from J. A. Lynaugh, Director, Texas Department of Corrections, Huntsville, concerning authority of the Department of Corrections to engage in a joint venture to provide printing services. TRD-8803198

(RQ-1365). Request from Hugh Parmer, Chairman, Senate Committee on Intergovernmental Relations, Austin, concerning constitutionality of medical assistance liens authorized by the Human Resources Code, §32.0331. TRD-8803199

(RQ-1366). Request from Gary Garrison, County Attorney, Ector County Courthouse, Odessa, concerning the authority of a commissioner court to direct the count auditor to set up a separate account. TRD-8803200

(RQ-1367). Request from Bob Bullock, Comptroller of Public Accounts, Austin, concerning the authority of the Texas Racing Commission, and related questions, was withdrawn on March 25, 1988 (see RQ-1390). TRD-8803201

(RQ-1368). Request from Charles D. Travis, executive director, Texas Parks and Wildlife Department, Austin, concerning the use of a state facility to hold fishing tournaments which involve gambling. TRD-8803202

(RQ-1369). Request from Thomas H. Fowler, County Attorney, Red River County Courthouse, Clarksville, concerning whether a religious organization which purchases property under the Tax Code, §11.20, is liable from taxes which arise under the Tax Code, §23.55(a). TRD-8803203

(RQ-1370). Request from Lois M. Smith, Executive Director, Texas State Board of Physical Therapy Examiners, Austin, concerning the authority of the chairman of the board of Physical Therapy Examiners to adopt an emergency rule without prior approval of the full board. TRD-8803204

(RQ-1371). Request from Gray and Becker, Attorney at Law, McKean-Eilers Building, 323 Congress Avenue, Suite 300, Austin, concerning whether the Texas Open Records Act, Texas Civil Statutes, Article 6252-17a applies to the Austin-Travis County Private Industry Council, and, if so, whether the Act excepts from disclosure certain information held by the council. TRD-8803205

(RQ-1372). Request from Willie L. Scott, Executive Director, Texas Department of Community Affairs, Austin, concerning the use of sick leave by employees who are involuntarily terminated. TRD-8803206

(RQ-1373). Request from Bob Bullock, Comptroller of Public Accounts, Austin, concerning whether certain organizations are fraternal organizations for purposes of the Bingo Enabling Act. TRD-8803207

(RQ-1374). Request from Oliver Lewis, Jr., County Attorney, Bexar County, San Antonio, concerning the authority of the Bexar County Election Commission to discipline the election administrator. TRD-8803208

(RQ-1375). Request from Betty Strohacker, President, Upper Guadalupe River Authority,

Kerrville, concerning the authority of the Upper Guadalupe River Authority to compel property owners within its service area to connect to a sewage gathering, transmission and disposal facility. TRD-8803209

(RQ-1376). Request from Sam W. Dick, Criminal District Attorney, Fort Bend County, Richmond, concerning the recordability of certain documents by a county clerk. TRD-8803210

(RQ-1377). Request from Jim Hightower, Commissioner of Agriculture, Austin, concerning the authority of the legislature to transfer funds from the Produce Recovery Fund Board into the general revenue fund. TRD-8803211

(RQ-1378). Request from David H. Cairn, Texas House of Representatives, District 107, Austin, concerning whether the use of abusive, indecent, profane or vulgar language in a public place constitutes an immediate breach of the peace. TRD-8803212

(RQ-1379). Request from Mike Driscoll, County Attorney, Houston, concerning the appointment of counsel for indigent defendants under the Texas Code of Criminal Procedure, Article 1.051(c), and related questions. TRD-8803213

(RQ-1380). Request from Mark W. Stiles, Chairman, Committee on County Affairs, Texas House of Representatives, Austin, concerning provision of sewer service by a municipality to newly annexed territory. TRD-8803214

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 20 days. The emergency action is renewable once for no more than 60 days.

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

TITLE 1. ADMINISTRATION Part.IV. Secretary of State Chapter 75. Automobile Club

• 1 TAC §75.41, §75.42

The Office of the Secretary of State adopts on an emergency basis new §75.41 and §75.42, concerning the processing of permits for automobile clubs; and the time period for conducting case hearings. The passage of House Bill 5 requires state agencies to adopt rules covering the procedures by which agencies process applications for permits and the time it takes the department to conduct a contested case hearing. The new §75.41 also establishes an appeal procedure for resolving disputes which might arise over possible violations of the time periods. It is necessary to adopt these sections on an emergency basis to protect the welfare of those members of the public who obtain permits.

The new sections are adopted on an emergency basis under Texas Civil Statutes, Article 6252-13b.1, (House Bill 5, 70th legislature, 1987), which provide the Office of the Secretary of State with the authority to adopt rules concerning the time periods involved in the department's processing and issuing of permits, and in the conducting of contested case hearings.

§75.41. Processing Permits for Automobile Clubs.

(a) Purpose. The purpose of this section is to describe the time periods by which the secretary of state processes applications for permits for automobile clubs.

(b) Processing time period. The department shall, within 15 days from the date of receipt of an application, notify the applicant in writing of the department's decision to approve or deny applicant's application. If the application is denied by the department, the forms and filing fee will be returned to the applicant. A request for a formal or informal hearing shall be made by the applicant to the program administrator in writing within 15 days from receipt of the department's denial letter.

(c) Refund of fees and security. In the event the application is not processed in the time period stated in subsection (b) of this section, the applicant has the right to request of the program administrator a full refund of all filing fees and security deposited with the application. The applicant shall submit his written request for a refund to the program administrator within 15 days

from receipt of the certificate of authority to act as an automobile club.

(d) Contested case hearing. If at any time during the processing of the permit, an applicant wishes to contest the department's decision, the time periods in §75.42 of this title (relating to Time Periods for Conducting Contested Case Hearings) are applicable.

§75.42. Time Period for Conducting Contested Case Hearings.

(a) Contested cases involving the processing of a permit during the time period set out in §75.41 of this title (relating to Processing Permits for Automobile Clubs) will range from four to eight months to complete all necessary hearings. The starting time for a contested case is when the department receives a written request for a hearing, and the ending time is when the decision is final and appealable.

(b) If an individual person or entity who is a party to the hearing takes action which causes an unnecessary delay in the department's conduct of the hearing, the time utilized by the person or entity is not included in the time covered by this section.

Issued in Austin, Texas, on March 28, 1988.

TRD-8803222

Lorna Wassdorf
Special Assistant
Secretary of State

Effective date: March 30, 1988

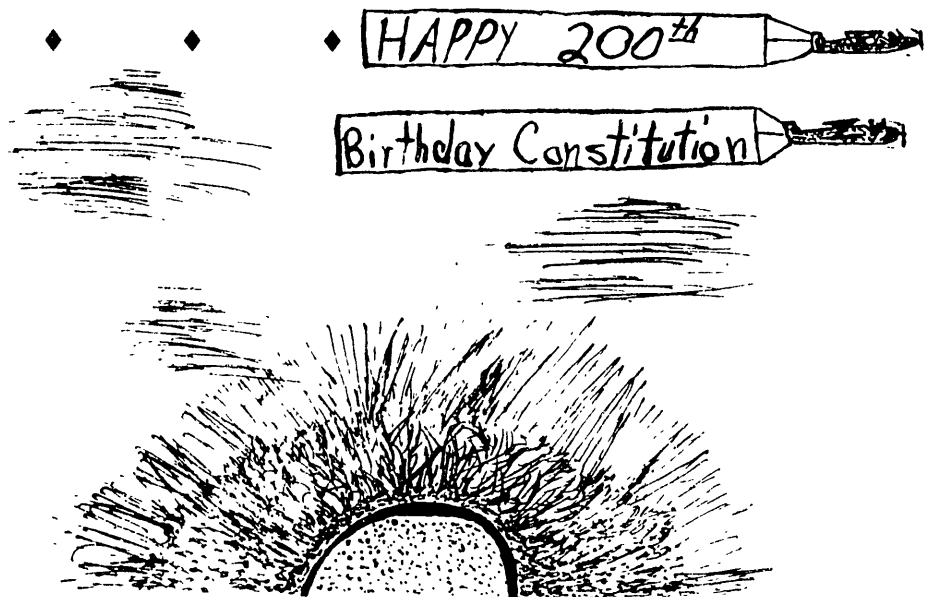
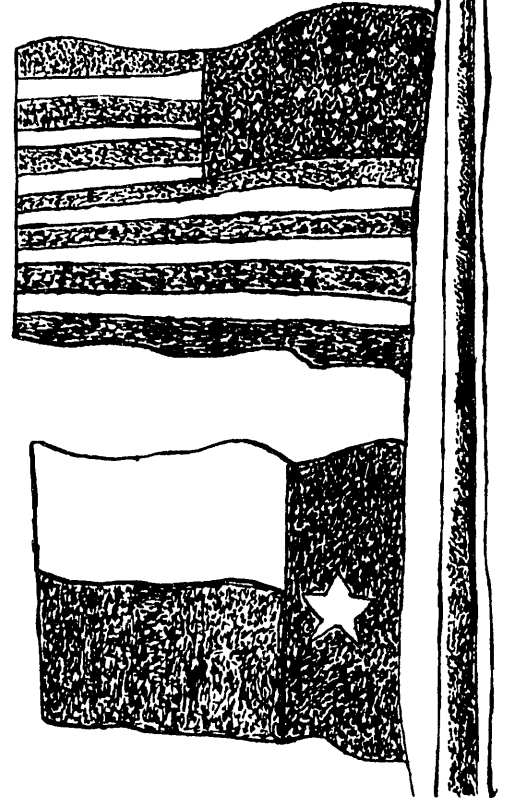
Expiration date: July 28, 1988

For further information, please call: (512) 463-5701

Name: Robby Baker

Grade: 7

School: Clear Lake Intermediate, Clear Creek



Proposed Sections

Before an agency may permanently adopt a new or amended section, or repeal an existing section, a proposal detailing the action must be published in the *Texas Register* at least 30 days before any action may be taken. The 30-day time period gives interested persons an opportunity to review and make oral or written comments on the section. Also, in the case of substantive sections, a public hearing must be granted if requested by at least 2 persons, a governmental subdivision or agency, or an association having at least 25 members.

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

TITLE 1.

ADMINISTRATION

Part IV. Office of the Secretary of State

Chapter 75. Automobile Club

• 1

TAC §75.41, §75.42

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

The Office of the Secretary of State proposes new §75.41 and §75.42, concerning the processing of permits for automobile clubs; and the time period for conducting contested case hearings. The new sections implement House Bill 5, 70th Legislature, 1987, which requires state agencies to adopt rules concerning the procedures by which agencies process applications for permits; and the time that it takes the department to conduct a contested case hearing. New §75.41 covers the time period during which an initial and renewal application for a permit for an automobile club will be processed by the department and provides for the refund of the filing fee and security if the permit is not processed during the established time period.

House Bill 5 requires that the department publish with the new sections a statement of the department's minimum, maximum, and median times for processing applications and conducting case hearings based on the departments actual performance during the period June 1, 1987-August 31, 1987. The agency's actual performance for processing an initial and a renewal application for a permit for an automobile club could not be adequately determined based upon the three-month period beginning June 1, 1987-August 31, 1987, due to inactivity; therefore, the analysis is based upon the four-month period beginning September 1, 1987-December 31, 1987. The analysis reveals that permits were processed at a maximum time of 64 days, a minimum time of 1 day, and a median time of 26 days. The application will be examined for completeness and compliance with statutory requirements and the application will be evaluated in accordance with the statutory requirements for obtaining a certificate of authority to act as an automobile club. Since the department did not start and complete any contested case hearings during this period of time, there are no minimum, maximum, and median times which will be published with proposed new §75.42. The justification for the time period in new §75.42

is that the time is based on the time requirements in the Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6252-13a, plus any additional times based on legal requirements in the APTRA and due process consideration which arise in such cases.

Jim Mathieson, attorney, has determined that for the first five-year period the proposed sections will be in effect that will be no fiscal implication for state or local government or small businesses as a result of enforcing or administering the sections.

Mr. Mathieson 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 are will be to make automobile clubs aware of the time periods involved in the department's processing and issuance of permits; and to make the public aware of the time period involved in the department's contested case hearings. There is no anticipated economic cost to individuals who are required to comply with the proposed sections.

Comments on the proposal may be submitted to Jim Mathieson, attorney, Statutory Documents Section, P.O. Box 12887, Austin Texas 78711. Comments will be accepted for 30 days after publication of this proposal in the *Texas Register*.

The new sections are proposed under Texas Civil Statutes, Article 6252-13b.1, §3 (House Bill 5, 70th Legislature, 1987), which provide the Office of the Secretary of State with the authority to adopt rules concerning the time period involved in the department's processing and issuing of permits.

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 28, 1988.

TRD-8803221

Lorna Wassdorf
Special Assistant
Office of the Secretary of State

Earliest possible date of adoption: May 6, 1988

For further information, please call: (512) 463-5701



TITLE 7. BANKING AND SECURITIES

Part I. State Finance Commission

Chapter 3. Banking Section

Subchapter F. Insurance Activities of State Chartered Banks

• 7 TAC §3.101

The Banking Section of the State Finance Commission proposes new §3.101, concerning insurance sales activities authorized for state chartered banks. This new section sets forth the Banking Section's authority to promulgate the sections contained in this subchapter, as well as the public policy considerations that made the sections necessary for the continued viability and competitiveness of state chartered banks. This new section also expressly prohibits a bank from requiring that a customer accept any insurance product marketed by the bank as condition to the bank's approval of a loan or the offering of a favorable interest rate. This new section further sets forth certain basic definitions of terms used in this subchapter.

Hubert Bell, Jr., assistant general counsel, has determined that for the first five-year period the proposed section is in effect there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the section.

Kenneth W. Littlefield, Texas banking commissioner, 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 convenient insurance services provided to the general public at competitive prices, and enhancement of the economic stabilization of Texas banks. The sale of insurance products by a licensed insurance agent located in a state bank also could result in the availability of such insurance service to small communities where presently the service may not be available. Another important benefit of this section will be assurance that state banks are allowed to compete on an equal basis with national banks, which presently, under federal law, possess the power to act as agents in the sale of any insurance product if the national bank's office is located in a community of 5,000 or less inhabitants. Parity and competitive equality is essential to the continued strength of the dual banking system. 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. A public hearing on the proposed sections will be held April 26, 1988, 9 a.m. State Finance Commission Building-Department of Banking Hearing Room, 2601 North Lamar Boulevard, Austin.

The new section is proposed under Texas Civil Statutes, Article 342-113, which provide the Banking Section of the State Finance Commission with the authority to promulgate rules and regulations that are not inconsistent with the Constitution and statutes of this state; to permit state banks to transact their affairs in any manner or make any loan or investment which they could make under existing or any future law, rule, or regulation were they organized and operating as a national bank under the laws of the United States; and to identify and determine incidental powers which a state bank may exercise as necessary to its specific powers.

§3.101. Authority, Purpose, Anti-Tying Provision, and Definitions.

(a) Authority. These sections are issued by the Banking Section of the State Finance Commission under the authority of the Texas Banking Code, as amended, and the Texas Constitution. The Texas Constitution, Article 16, 16(c), provides that a state bank has the same rights and privileges that are or may be granted to national banks of the United States domiciled in this state. As an expression of this policy of competitive parity and regulatory equality, the Texas Legislature enacted Texas Civil Statutes, Article 342-908, which provides that state and national banks are declared to be within the same class under the Constitution and laws of this state. In determining whether the sections in this subchapter are consistent with the Constitution and statutes of this state, the Banking Section acknowledges that state banks are chartered pursuant to the Texas Banking Code as opposed to incorporation under the Texas Business Corporation Act. Pursuant to Texas Civil Statutes, Article 342-113, the Banking Section may promulgate general rules and regulations:

- (1) that are not inconsistent with the Constitution and statutes of this state;
- (2) to permit state banks to transact their affairs in any manner or make any loan or investment which they could make under existing or any future law, rule, or regulation were they organized and operating as a national bank under the laws of the United States; and
- (3) to identify and determine incidental powers which a state bank may exercise as necessary to its specific powers.

(b) Purpose. The purpose of these regulations is to provide guidance and clarification of the permissible extent to which state chartered banks may engage in insurance-related activities; to ensure that such activities be conducted in a safe and sound manner; and to further ensure that

said insurance related activities are engaged in by licensed agents who are subject to regulation by the State Board of Insurance. The provision of such insurance-related services by Texas banks will serve the public interest by providing economic stabilization to such banks as well as convenient insurance services at competitive prices to the public they serve. The National Banking Act, 12 United States Code §92, provides that a national bank located and doing business in any place where the population does not exceed 5,000 inhabitants, (as shown by the last preceding decennial census), may act as the agent for any fire, life, or other insurance company authorized by the authorities of the state in which such bank is located to do business in said state, by soliciting and selling insurance and collecting premiums on policies issued by such company; and may receive for services so rendered such fees or commissions as may be agreed upon between the said association and the insurance company for which it may act as agent. An underlying purpose of this federal law is to provide banks located in small communities, with an additional source of income so as to enhance their financial strength and thereby better protect the interest of depositors, creditors, and shareholders. The sections in the subchapter are thus consistent with this underlying purpose as well as Texas Civil Statutes, Article 342-305, which establishes as criteria to obtain a state bank charter that such banks meet the needs of the public and operate profitably. Federal regulations 12 Code of Federal Regulations §7.7100, further provide that 12 United States Code §92 is applicable to any office of a national bank when such office is located in a community having a population of less than 5,000 even though the principal office (principal bank building) of such bank is located in a community whose population exceeds 5,000. As provided in the Texas Constitution, state chartered banks are to possess the same rights and privileges as those granted to national banks. If Texas chartered banks were unable to conduct this same type insurance activity permitted under federal law for national banks, they would be forced to operate at a competitive disadvantage. These regulations are intended to prevent such competitive inequality by authorizing state chartered banks to transact their affairs in the same manner as authorized for national banks with respect to insurance-related activities. This intent is consistent with the joint policy statement relating to implementation of proposition one Texas Constitution, Article XVI, §16(c) (amended 1984) issued jointly by the Banking Section of the State Finance Commission and the State Banking Board, as published in the June 11, 1985, edition of the *Texas Register* (10 TexReg 1942). Sections in this subchapter further identify certain permissible insurance-related activities that are incidental to the business of banking that may be engaged in by state chartered banks domiciled in any place in this state.

(c) Anti-tying provision. Under no circumstance may any product or service (including a loan or interest rate) offered by a bank be provided or denied to a customer or potential customer, or in any way tied to or contingent upon the acceptance or rejection of any form of insurance offered by an employee, officer, shareholder of the bank, or independent agent or agency located on the bank's premises. The substance of this provision must be disclosed to each customer offered any insurance product under the authority set forth in this subchapter. Examination procedures shall be developed and implemented by the banking commissioner to determine that state banks are complying with the purpose and spirit of this subsection.

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

- (1) Bank—A state chartered bank.
- (2) Bank premises—That portion of the bank building or any facility that is used for conducting customary commercial banking activities and does not include space in such building or facility that is or has been leased to other entities for conduct of business activities other than banking. For example, if banking activities are conducted on only two floors of a five story bank owned building, and the remaining three floor are leased to other persons or corporations, then for the purpose of this subchapter, those three floors are not considered bank premises.
- (3) Interest—Shall include:
 - (A) ownership through a spouse or minor children;
 - (B) ownership through a broker, nominee, or other agent;
 - (C) ownership through a corporation, partnership, association, joint venture, or proprietorship controlled by a director, officer, employee, or principal shareholder of the bank.

(4) Principal shareholder—Any shareholder who directly or indirectly owns or controls an interest of more than 5.0% in the bank's outstanding shares.

(5) Officer, director, employee, and principal shareholder—Shall include the spouse and minor children of such officer, director, employee, or principal shareholder.

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 30, 1988.
TRD-8803231 Jorge A. Gutierrez

Earliest possible date of adoption: May 6, 1988

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

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• 7 TAC §3.102

The Banking Section of the State Finance Commission proposes new §3.102, concerning insurance activities engaged in by a bank at its principal banking house, banking facilities, or through other affiliated offices located in any place with a population of 5,000 or less. Presently, under federal law, 12 United States Code §92, national banks are authorized to act as agent in the sale of any insurance product if the bank's office is located in a place with 5,000 or less inhabitants. This new section, pursuant to the Texas Constitution, as more fully explained in proposed §3.101, grants state banks the same authority as exists for national banks domiciled in this state.

Hubert Bell, Jr., assistant general counsel, has determined that for the first five-year period the section will be in effect, there will be no fiscal implications as a result of enforcing or administering the section.

Kenneth W. Littlefield, Texas banking commissioner, has determined that for each year of the first five year period the section is in effect the public benefit anticipated as a result of enforcing the section will be to allow state banks to engage in the sale of insurance products in the same manner as permitted for national banks under federal law. Residents of the state, particularly those in and around small communities, will have more convenient insurance services at competitive prices. There will be no possible economic cost to individuals who are required to comply with the section 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. A public hearing on the proposed section will be held April 26, 1988, 9 a.m., State Finance Commission Building—Department of Banking Hearing Room, 2601 North Lamar Boulevard, Austin.

The new section is proposed under Texas Civil Statutes, Article 342-113, which provide the Banking Section of the State Finance Commission with the authority to promulgate rules and regulations.

§3.102. Insurance Activities Engaged in by a Bank at its Principal Banking House, Banking Facilities, or through Other Affiliated Offices Located in Any Place with a Population of 5,000 or Less. An employee, officer, director, or shareholder of a state bank located in any place in Texas with a population of less than 5,000 inhabitants, (as shown by the last preceding decennial census), who is licensed as an insurance agent in the State of Texas and who enters into a contract with an insurer, authorized to engage in insurance business in this state, to act as the insurer's agent in soliciting or writing policies for any form of

insurance permitted under the laws of this state, may assign and transfer to such bank any commissions, fees, or other compensation to be paid to such agent under the agent's contract with the insurer. Said agent may solicit, sell insurance, and collect premiums on policies issued by such insurance companies; and may receive, on behalf of the bank, for services so rendered such fees or commissions as may be agreed upon between the bank and the insurance company. Provided, however, that no such bank shall in any case assume or guarantee the payment of any premium on insurance policies issued by its agent; nor shall the bank guarantee the payment of any premium on insurance policies issued by its agent; nor shall the bank guarantee the truth of any statement made by an insured in filing his application for insurance. Refer to §3.104 of this title (relating to Distribution of Income Derived from Insurance Related Activities) for guidance on distribution of commissions or fees between the bank and its insurance agent. A state chartered bank may also engage in such insurance-related activity by engaging the services of a licensed insurance agent as provided for in §3.105 of this title (relating to Lease of a Portion of Bank Premises to an Insurance 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 March 30, 1988.

TRD-8803230

Jorge A. Gutierrez
General Counsel
Department of Banking

Earliest possible date of adoption: March 30, 1988

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

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• 7 TAC §3.103

The Banking Section of the State Finance Commission proposes new §3.103, concerning authorized insurance-related activities (sales through a licensed agent) that are incidental to the business of banking, and a state bank's specific powers, that may be conducted by such banks domiciled in any place in the state. This new section provides that a licensed insurance agent may sell insurance products in a bank when the insurance coverage is directly related to the bank's lending function; such as credit life or accident insurance or physical damage insurance on collateral for a loan. As presently is allowed for the sale of credit life insurance, the agent may assign or transfer to the bank any commission, fee, or other compensation paid to the agent under the agent's contract with the insurer.

Hubert Bell, Jr., assistant general counsel, has determined that for the first five-year period the proposed section is in effect there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the section.

Kenneth W. Littlefield, Texas banking commissioner, 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 enhanced economic stabilization in the Texas banking industry by allowing state banks to better compete with diversified nonbank financial (banking related) products, including insurance, to banking customers. The public will also benefit from a new agent-provider of insurance products at competitive prices. 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. A public hearing on the proposed sections will be held April 26, 1988, 9 a.m., State Finance Commission Building—Department of Banking Hearing Room, 2601 North Lamar Boulevard, Austin.

The new section is proposed under Texas Civil Statutes, Article 342-113, which provide the Banking Section of the State Finance Commission with the authority to promulgate rules and regulations that are not inconsistent with the Constitution and statutes of this state; to permit state banks to transact their affairs in any manner or make any loan or investment which they could make under existing or any future law, rule, or regulation were they organized and operating as a national bank under the laws of the United States; and to identify and determine incidental powers which a state bank may exercise as necessary to its specific powers.

§3.103. Authorized Insurance-Related Activities Incidental to the Business of Banking that may be Conducted by State Chartered Banks Domiciled in any Place in This State. An employee, officer, director, or shareholder of a state bank domiciled in any place in this state, who is licensed as an insurance agent in the State of Texas and who enters into a contract with an insurer, authorized to engage in the insurance business in this state, to act as the insurer's agent in soliciting or writing policies or certificates of insurance of the types listed in paragraphs (1)-(3) of this section, may assign and transfer to such bank any commissions, fees, or other compensation to be paid to such agent under the agent's contract with the insurer. Refer to §3.104 of this title (relating to Distribution of Income Derived from Insurance-Related Activities) for guidance on distribution of commissions or fees between the bank and its insurance agent. A state chartered bank may also engage in such insurance-related activity by engaging the services of a licensed insurance agent as provided for in §3.105 of this title (relating to Lease of a Portion of Bank Premises to an Insurance Agent). Those acceptable forms of insurance are as follows:

(1) credit life insurance, or credit accident and health insurance covering debtors of the bank;

(2) physical damage insurance on property or goods used as collateral for

an extension of credit; title insurance to protect the bank's or mortgagee's interest in real property financed by the bank; or any other form of insurance directly related to the extension of credit by a bank;

(3) insurance customarily sold as part of an insurance package with or in conjunction with insurance that protects the collateral as described in paragraph (2) of this section, such as automobile liability insurance and comprehensive personal liability coverage contained in a homeowner's and mobile homeowner's insurance policy.

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 30, 1988.

TRD-8803229

Jorge A. Gutierrez
General Counsel
Department of Banking

Earliest possible date of adoption: May 6, 1988

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

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• 7 TAC 3.104

The Banking Section of the State Finance Commission proposes new §3.104, concerning acceptable methods by which income derived by banks from the sale of insurance products by agents may be distributed between the bank and the agent. This new section allows an employee bonus plan with certain prescribed limitations. The new section further provides that income from insurance sales may be credited to an affiliate of the bank or other related entities if the bank receives reasonable compensation in recognition of its role in generating such sales. The new section also allows a state bank to lease space on its premises to a licensed insurance agent. Finally, the new section requires approval by the bank's board of directors of any agreements entered into between the bank and an insurance agent.

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

Kenneth W. Littlefield, Texas banking commissioner, 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 enhanced economic stabilization in the Texas banking industry by allowing state banks to better compete with diversified nonbank financial services organizations that provide a multitude of financial banking related products, including insurance, to banking customers. The public will also benefit from a new agent-provider of insurance products at competitive prices. There will be no possible economic cost to individuals who are required to comply with the section 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. A public hearing on the proposed sections will be held April 26, 1988, 9 a.m., State Finance Commission Building—Department of Banking Hearing Room, 2601 North Lamar Boulevard, Austin.

The new section is proposed under Texas Civil Statutes, Article 342-113, which provide the Banking Section of the State Finance Commission with the authority to promulgate rules and regulations that are not inconsistent with the constitution and statutes of this state; to permit state banks to transact their affairs in any manner or make any loan or investment which they could make under existing or any future law, rule, or regulation were they organized and operating as a national bank under the laws of the United States; and to identify and determine incidental powers which a state bank may exercise as necessary to its specific powers.

§3.104. Distribution of Income Derived from Insurance-Related Activities. No bank employee, officer, director, or principal shareholder may retain commissions or other income from the sale of insurance as provided for in §3.102 and §3.103 of this title (relating to Insurance Activities Engaged in by a Bank at its Principal Banking House, Banking Facilities, or through other Affiliated Offices Located in Any Place with a Population of 5,000 or Less; and Authorized Insurance Related Activities Incidental to the Business of Banking that may be Conducted by State-Chartered Banks Domiciled in any Place in this State).

(1) Except as provided in paragraph (2) of this section, retention of insurance agent's commission or other income by such persons (bank employee, officer, director, or principal shareholder) or by corporations, partnerships, associations, or other entities in which such persons have an interest of more than 5.0% is an unsafe and unsound banking practice. Notwithstanding this prohibition, bank employees and officers may participate in a bonus or incentive plan under which payments based on insurance sales are made in cash or in kind out of the bank's funds not more frequently than quarterly and in an amount not exceeding in any one year 5.0% of the recipient's annual salary. Alternatively, bonuses paid to any one individual during the year for insurance sales may not exceed 5.0% of the average salary of all loan officers participating in the plan and may not be paid more frequently than quarterly. It shall also constitute an unsafe and unsound banking practice for a bank employee, officer, director, or principal shareholder to make or approve a loan on the basis that insurance was purchased through the bank's agent rather than upon the creditworthiness of the loan applicant.

(2) As an accounting and operations matter, income derived from insurance sales to loan customers shall be credited to the income accounts of the bank and not to the bank's individual employees, officers, directors, principal shareholders, their interests, or other affiliates. However, such in-

come may be credited to an affiliate operating under the Bank Holding Company Act; to a trust for the benefit of all shareholders; or any other entity in which an employee, officer, director, or principal shareholder have an interest of more than 5.0%. Provided that the bank receives reasonable compensation in recognition of the role played by its personnel, premises, and good will in insurance sales. It is suggested that reasonable compensation means an amount equivalent to at least 20% of the affiliate's or other entity's net income attributable to such insurance sales. A full accounting of the calculation of such compensation must be made to and approved by the bank's board of directors at the board's organizational meeting following the annual stockholders' meeting; the details of the compensation, including gross commissions received by the agency, the portion received by the bank as compensation, and any fees or other payments made by the agency to the officers, directors, and principal shareholders, shall be entered into the board's minutes and disclosed to the shareholders' at the annual stockholders' meeting.

(3) Nothing in this section shall be construed to prohibit a bank employee, officer, director, or principal shareholder who holds an insurance agent's license from agreeing to compensate that bank for the use of its premises, employees, and good will, provided, that all income received by said employee, officer, director, or principal shareholder from this activity is turned over to the bank as compensation.

(4) The selection of an insurance company, agent, or agency and the agreements between the company, agent, or agency and the bank shall be approved by an appropriate resolution of the bank's board of directors.

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 30, 1988.

TRD-8803228

Jorge A. Gutierrez
General Counsel
Department of Banking

Earliest possible date of adoption: March 30, 1988

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

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• 7 TAC §3.105

The Banking Section of the State Finance Commission proposes new §3.105, concerning a state bank leasing a portion of its premises to an insurance agency. The new section expressly allows such lease arrangements, provided the bank exercises no management control over the lessee (agent), and any advertisement of the agency makes clear that the insurance agency is independently owned and operated.

Hubert Bell, Jr., assistant general counsel,

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

Kenneth W. Littlefield, Texas banking commissioner, 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 guidance to state banks in establishing lease arrangements with licensed insurance agents. In order that state banks may conduct their affairs in a manner consistent with regulatory guidelines, the new section sets forth certain conditions and requirements to be met when state banks enter into such leasing arrangements. 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 Hubert Bell, Jr., Assistant General Counsel, Texas Department of Banking, 2601 North Lamar Boulevard, Austin, Texas 78705-4294. A public hearing on the proposed sections will be held April 26, 1988, 9 a.m., State Finance Commission Building-Department of Banking Hearing Room, 2601 North Lamar Boulevard, Austin.

The new section is proposed under Texas Civil Statutes, Article 342-113 which provide the Banking Section of the State Finance Commission with the authority to promulgate rules and regulations that are not inconsistent with the Constitution and statutes of this state; to permit state banks to transact their affairs in any manner or make any loan or investment which they could make under existing or any future law, rule, or regulation were they organized and operating as a national bank under the laws of the United States; and to identify and determine incidental powers which a state bank may exercise as necessary to its specific powers.

§3.105. Lease of a Portion of Bank Premises to an Insurance Agent. A state bank may lease a portion of its bank premises to an insurance agent or agencies, wherein the agent or employees of the agency are not employees, officers, or principal shareholders of the bank. The bank may enter into a percentage lease whereby rental payments may be based on the amount of space used, the volume of business generated by the agent or agency, or the various services provided by the parties to the agreement. However, under such an arrangement, the bank shall not exercise any management control over the lessee's business. The insurance agency must be appropriately and separately identified and any advertising that mentions the insurance agency should make clear the agency's independent ownership and operation.

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

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Jorge A. Gutierrez
General Counsel
Department of Banking

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

TITLE 13. CULTURAL RESOURCES

Part II. Texas Historical Commission

Chapter 13. State Marker Program

- 13 TAC §§13.1-13.3, 13.7, 13.8, 13.10, 13.13, 13.17, 13.20, 13.22, 13.24, 13.26

The Texas Historical Commission (THC) proposes amendments to §§13.1-13.3, 13.7, 13.8, 13.10, 13.13, 13.17, 13.20, 13.22, 13.24, and new §13.26, concerning the state marker program. These sections were amended to incorporate changes which were required because of incorporation of Article 6145 into the Texas Government Code, Chapter 442, as well as minor changes which have accumulated since the last revisions in 1984. These changes will be printed in a new rule book for the agency and distributed to the public.

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

Curtis Tunnell, executive director, also has determined that for each year of the first five years the sections are in effect the public benefit anticipated as a result of enforcing the sections will be that these sections will be printed in pamphlet format and will provide much needed guidance to the public concerning the functions of the THC and the responsibilities of the state historic preservation officer. The amendments and new section will be used uniformly in dealing with the public on matters. 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 Cindy Laguna Dally, Texas Historical Commission, P.O. Box 12276, Austin, Texas 78711, (512) 463-6100.

The amendments are proposed under Texas Government Code, Chapter 442, which provides Texas Historical Commission with the authority to adopt rules as it considers proper for the effective administration of this chapter (§442.005(q)).

§13.1. State Marker Committee. All policies and procedures related to the marker process are determined by the State Marker Committee, comprised of members of the Texas Historical Commission appointed by the chairman. The decisions of the committee about the eligibility of marker topics are final. When additional information warrants and the applicant submits a new application form and narrative history, the marker committee may reevaluate a topic that has been previously rejected.

§13.2. Definition of Official Texas Historical Markers. Official Texas historical

markers are those markers and plaques awarded, approved, or administered by the Texas Historical Commission. They include centennial markers awarded by the state in the 1930s, Civil War centennial markers (1960s), medallions, and markers awarded by the Texas Historical Commission or its predecessor, the Texas Historical Survey Committee [and private, state approved markers].

§13.3. Documentation. The basic document governing decisions of the State Marker Committee to grant a marker shall be a comprehensive history of the topic, with footnotes and bibliography as prescribed in the application form. Collections of miscellaneous documents or notes are not acceptable in lieu of a narrative history. **At least one photograph of the proposed marker location must be included with all marker applications.**

§13.7. Response Required of Applicant. When an Official Texas historical marker is proposed, whether for a structure, event, person, institution, site, or any other topic, the applicants shall comply with the regulations of the Texas Historical Commission as set forth in these policies. Failure to respond after two consecutive written requests from the commission regarding any part of the marker process can result in termination of the application. Upon termination the commission shall return the application and accompanying history to the applicant. [The applicant may reactivate a terminated application and supply the commission with requested information in compliance with marker policies.]

§13.8. Burden of Proof. The burden of proof for all historic claims rests upon the applicant for historical marker, who shall support such claims with documentation in the form of proper footnotes and bibliography [and supportive documentation is to be submitted according to specifications in the application form]. If the topic or subject purports to be unique (one of a kind, the largest, smallest, oldest, first, etc.), the submission is to include documentation from an unbiased and authoritative source which validates the claim. If oral histories are used in the documentation for a marker topic the bibliography [application] will indicate the form of the recorded data, whether tape or transcript, and whether or not the data are available to the public; will give the name of the interviewer and interviewee; [and] will include the date, place, and subject of the interview; and will indicate the location of the tape and/or transcript.

§13.10. Subject Marker Approval. Subject Markers are awarded to Texas history topics of local, state, or national significance. A topic whose history dates back at least 75 years may be approved for a subject marker. The State Marker Committee may waive the age requirement for topics they deem exceptionally significant [may be approved for institutions (including, but not limited to, churches, schools, cemeteries, businesses, organiza-

tions, and ethnic groups) that are at least 100 years old or two-thirds the age of the community with which they are associated, whichever is the smaller figure].

§13.13. Recorded Texas Historic Landmarks. Designation as a recorded Texas historic landmark is given to structures that are deemed worthy of preservation for their architectural and historical associations [significant in history and preservation]. Such structures are eligible for the landmark status because of architectural integrity, [architecture] history, and [or] age (50 years old or older). In no case may the landmark status be awarded unless the structure is in good repair. The landmark designation becomes effective when the application is approved by the State Marker Committee.

§13.17. Restraints to Changes in Recorded Texas Historic Landmarks. The exterior appearance of structures designated as Recorded Texas historic landmarks may not be changed appreciably after receiving such designation. If structural changes, including the relocation of the structure, are desired, the applicant will conform to the provisions of Texas Government Code, Chapter 442, §442.006(f) [Texas Civil Statutes, Article 6145, §12(d)].

§13.20. Relocation of Historical Markers.

(a) (No change.)

(b) Written permission. Relocation shall be with the written consent of the Texas Historical Commission, given through the office of the executive director. **Requests to relocate 1936 centennial markers will be carefully scrutinized. The original historic location of these markers should be retained if at all possible.**

(c) Supplemental plate. In cases where a marker's text will be affected [revised] by reason of the relocation, a supplemental plate may be required by the commission.

§13.22. Significance of Marker Topics. No topic is to be considered for historical commemoration for its amuse-ment value alone. There must be inherent significance over and above the matter of popular appeal, and that significance must be demonstrated in the narrative history

§13.24. Restraint on Including Owners or Restorers in Marker Text. Neither restorers nor [recent or] current owners of historic structures may be named in the text of an official Texas historical marker awarded to the structure.

§13.26. Owner's Permission. Permission of the owner to place an official Texas historical marker on his or her property must be secured prior to the submission of the application.

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 January 29, 1988.

TRD-8803112

Curtis Tunnell
Executive Director
Texas Historical
Commission

Earliest possible date of adoption: May 6, 1988

For further information, please call: (512) 463-6100

Chapter 15. Administration of Federal Programs

• 13 TAC§15.1, §15.2

The Texas Historical Commission (THC) proposes amendments to §15.1 and §15.2, concerning administration of federal programs. These sections were amended to incorporate changes which were required because of incorporation of Article 6145 into the Texas Government Code, Chapter 442, as well as minor changes which have accumulated since the last revisions in 1984. These changes will be printed in a new rule book for the agency and distributed to the public.

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

Curtis Tunnell, executive director, also has determined that for each year of the first five years the sections are in effect the public benefit anticipated as a result of enforcing the sections will be that these sections will be printed in pamphlet format and will provide much needed guidance to the public concerning the functions of the THC and the responsibilities of the state historic preservation officer. The sections will be used uniformly in dealing with the public on matters. 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 Cindy Laguna Dally, Texas Historical Commission, P.O. Box 12276, Austin, Texas 78711 (512) 463-6100.

The amendments are proposed under Texas Government Code, Chapter 442, which provides Texas Historical Commission with the authority to adopt rules as it considers proper for the effective administration of this chapter (§442.005 (q)).

§15.1. Designation of State Historic Preservation Officer.

(a) (No change.)

(b) The Governor of Texas, in accordance with Texas Government Code, Chapter 442, §442.005, [Texas Civil Statutes, Article 6145, Sections 98 and 10] has designated the executive director of the Texas Historical Commission as the state historic preservation officer, or state liaison officer of Texas.

(c) (No change.)

§15.2. Standards for Administration.

(a) For the purpose of administering and complying with the National Historic Preservation Act of 1966, as amended

(Public Law 96-515, 94 Statute 2987, 16 United States Code 470); the Tax Reform Act of 1976 (Public Law 94-455, 90 Statute 1525, 26 United States Code 1); the Revenue Act of 1978 (Public Law 95-6700); the Economic Recovery Tax Act of 1981 (Public Law 97-34, 95 Statute 178, 26 United States Code 1); The Tax Equity and Fiscal Responsibility Act of 1982 (Public Law 97-248, 96 Statute 324, 26 United States Code 1); the Tax Reform Act of 1984 (Public Law 98-369) the Tax Reform Act of 1986 (Public Law 99-514); the Archaeological Historic Preservation Act of 1974 (Public Law 93-291, 88 Statute 174, 16 United States Code 469); the Archaeological Resources Protection Act of 1979 (Public Law 96-95, 93 Statute 721, 16 United States Code 470a); Executive Order 11593; Executive Order 12071, federal programs, as well as other pertinent federal legislation and directives, the Texas Historical Commission adopts as its own the relevant federal rules and regulations, standards and guidelines, including but not limited to 36 Code of Federal Regulations 60: National Register of historic places; 36 Code of Federal Regulations 800: Protection of historic and cultural properties; 36 Code of Federal Regulations 61: Criteria for comprehensive statewide historic surveys and plans; 36 Code of Federal Regulations 63 Determinations of eligibility for inclusion in the National Register of historic places; 36 Code of Federal Regulations 65: National historic landmarks; 36 Code of Federal Regulations 66: Recovery of scientific, pre-historic, historic, and archaeological data: methods, standards, and reporting requirements; 36 Code of Federal Regulations 67: Historic Preservation Certification; 36 Code of Federal Regulations 68: Secretary of the Interior's Standards for Historic Preservation Projects; and "Archeology and Historic Preservation: Secretary of the Interior's Standards and Guidelines" (Federal Register, September 29, 1983).

(b) Guidelines formulated and adopted by the Council of Texas Archeologists on April 6, 1984, and amended on March 10, 1987, are adopted by reference for use by the state historic preservation officer insofar as those guidelines do not conflict with federal regulations which apply to the same subjects. The Council of Texas Archeologists guidelines, [available from the Texas Historical Commission, Box 12276, Austin, Texas 78711], address the following topics:

(1) (No change.)

(2) cultural resource management reports; [and]

(3) curation standards and procedures; and

(4) curatorial guidelines for human remains. Information regarding the availability of the Council of Texas Archeologist guidelines may be obtained from the Texas Historical Commission,

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 January 29, 1988.

TRD-8803111 Curtis Tunnell
Executive Director
Texas Historical
Commission

Earliest possible date of adoption: May 6, 1988

For further information, please call: (512) 463-6100



The Texas Historical Commission (THC) proposes an amendment to §15. 6, concerning administration of federal programs. This section was amended to incorporate changes which were required because of incorporation of Article 6145 into the Texas Government Code, Chapter 442, as well as minor changes which have accumulated since the last revisions in 1986. These changes will be printed in a new rule book for the agency and distributed to the public.

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

Curtis Tunnell, executive director, also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be that these sections will be printed in pamphlet format and will provide much needed guidance to the public concerning the functions of the THC and the responsibilities of the state historic preservation officer. The sections will be used uniformly in dealing with the public on matters relating to historic preservation. 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 Cindy Laguna Dally, Texas Historical Commission, P.O. Box 12276, Austin, Texas 78711, (512) 463-6100.

The amendment is proposed under the Texas Government Code, Chapter 442, which provides Texas Historical Commission with the authority to adopt rules as it considers proper for the effective administration of this chapter (§442.005 (q)).

§15.6. Rules and Procedures for Certified Local Governments.

(a)-(c) (No change)

(d) The need for rules. The following rules provide the procedures by which local governments may become certified local governments and by which application may be made for federal funds. The rules are also intended to assure that the performance of a certified local government is consistent with the identification, evaluation, and preservation priorities of the Texas Historical Commission's statewide, comprehensive historic preservation planning

process.

(e) County Participation. Counties shall participate in the certified local government process through compliance with the Texas Local Government Code, Chapter 318, [Texas Civil Statutes, Article 6145.1, as amended] which empowers the commissioners court of each county to appoint a county historical commission, and specifies the duties of such a commission.

(f) Minimum requirements for certification of local governments.

(1) Cities and towns shall enforce appropriate state and local legislation for the designation and protection of historic properties. Ordinances of these municipal governments shall provide for the following:

(A) authorization for historic preservation under the Local Government Code, Chapter 211, Municipal Zoning Authority, [Texas Civil Statutes, Article 1011 (a-j), 1963,] as amended [(See Appendix A)];

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

(D) establishment by ordinance of a review commission, board, or committee for historic preservation and the granting of specified powers to it;

(E) (No change.)

(F) establishment of standards and criteria for the review of alterations, demolition, or new construction in designated historic districts or to individual historic landmarks, with the adoption of the [such as the] Secretary of the Interior's Standards for Historic Preservation Projects and/or [a part thereof such as] the Standards for Rehabilitation;

(G)-(H) (No change.)

(2) Counties shall enforce appropriate state legislation for the protection of historic properties. By-laws adopted by an appointed county historical commission shall provide for the following:

(A) designation of a county official, staff person, or other appropriate resident of the county as local preservation officer;

(B) statement of purpose;

(C) establishment of a review board or committee for historic preservation and the granting of specified responsibilities to it;

(D) definition of a process of surveying (identifying), evaluating, registering, documenting and protecting (treatment) of individual historic properties and districts;

(E) provision for developing and maintaining an inventory of surveyed (identified) individual historic properties and districts;

(F) establishment of a system for the periodic review of recorded Texas historic landmarks, state archeological landmarks, or individual historic properties or districts listed in the national register of historic places located in the county; and

(G) adoption of the Secretary of the Interior's Standards and Guidelines for Archeology and Historic Preservation as the standards for all county historical commission activities.

(3)[2] The local government shall establish an adequate and qualified review commission, board, or committee for historic preservation composed of professional and lay members. The commission, board, or committee shall fulfill the following requirements.

(A) The review commission, board, or committee shall have no fewer than five members and no more than fifteen.

(B) Members of the review commission, board, or committee shall be residents of the county or municipal entity for which they serve, and shall represent the general ethnic make up of that community.

(C) All review commission, board, or committee members shall have a demonstrated interest, competence, or knowledge in historic preservation. To the extent available in the community, the local government is to appoint professional members from the disciplines of architecture, history, architectural history, planning, archeology, or other disciplines related to historic preservation such as urban planning, American studies, American civilization, cultural geography, or cultural anthropology. [(See Appendix B for professional requirements.)]

(D) When a professional in the fields of history, architecture, architectural history, planning, or archeology is not represented in the membership of the review commission, board, or committee, then the commission, board, or committee shall seek outside expertise in the appropriate discipline when considering National Register nominations and actions that will affect historic properties which are nor-

mally evaluated by a professional in such disciplines. This expertise may be obtained through using a consultant, provided that the Texas Historical Commission has approved the consultant in advance on each occasion he or she is required. A government may be certified without the minimum number or types of disciplines noted in subparagraph (C) of this paragraph, provided it can demonstrate to the commission's satisfaction that a reasonable effort was made to fill those positions, and that such expertise was not available in the community.

(E) Terms of office shall be staggered, with initial terms of one, two, and three years to prevent a simultaneous turnover of all review commission, board, or committee members. Subsequent terms shall be for a period of at least two years.

(F) Meetings of the review commission, board, or committee shall be held monthly unless no applications for work have been received, or unless no commission action is required.

(G) A handbook, approved by the Texas Historical Commission, shall be provided each commission, board, or committee member.

(H) The review commission, board, or committee shall be represented each year at a minimum of one informational or educational meeting which is sponsored by the Texas Historical Commission, and which pertains to the current work and functions of the review commission, board, or committee or to other related historic preservation topics. The Texas Historical Commission shall make available orientation materials and training to all local commissions, boards, or committees.

(I) Written minutes shall be maintained which record all actions of the review commission, board, or committee and the reasons for taking such actions. These minutes shall be the responsibility of the secretary of the commission, board, or committee, and copies shall be distributed to the members of the review commission, board, or committee and to the Texas Historical Commission within sixty days of the date of a commission, board, or committee meeting.

(J) The review commission, board, or committee shall monitor and report to the Texas Historical Commission any actions affecting any county courthouse, Recorded Texas Historic Landmark, State Archeological Landmark, National Register property, and any locally designated landmark.

(4)[3] The local government

shall implement and maintain a system for the survey and inventory of historic properties which shall be coordinated with, and be complementary to, the historic sites inventory of the Texas Historical Commission, and which shall be subject to the following provisions.

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

(E) A building-by-building survey and inventory shall be made for each [designated] historic district.

(5)[4] The local government shall provide for public participation in the local historic preservation program, including the process of nominating properties to the National Register of Historic Places.

(A) (No change.)

(B) Careful minutes shall be kept of all meetings of the review commission. The reasons for commission, board, or committee decisions are to be fully stated in the minutes, which are to be kept on file and available for review by the public.

(6)[5] The local government shall satisfactorily perform the responsibilities mandated in paragraphs (1-4) of this subsection, and those specifically delegated to it by the state historic preservation officer. The state historic preservation officer does not delegate to any certified local government the authority to nominate properties directly to the National Register of Historic Places.

(7)[6] The local government may assume additional responsibilities agreed to by the state historic preservation officer.

(8)[7] The state historic preservation officer, or his designee, shall have a reasonable opportunity to review all records and materials pertinent to the implementation of these regulations.

(g) Participation by certified local governments in the process of nominating properties to the National Register.

(1) All documentation and materials necessary for the nomination of properties to the National Register of Historic Places shall be received by the National Register Programs Office [Department] of the Texas Historical Commission. The department shall notify the certified local government of proposed nominations if there is a reasonable certainty that the proposal will result in the implementation of the nomination process.

(2) If the properties to be nominated lie within the jurisdiction of a certified local government, the National Register Programs Office [Department] shall transmit the nomination materials to the historic

preservation review commission, board, or committee within 30 days after the department has determined that the nomination materials are complete and correct. This will be accompanied by a preliminary National Register Programs Office [Department] staff recommendation in regard to the form, content, and merit of the proposed nomination.

(3) The historic preservation review commission, board, or committee and the chief elected official of the certified local government shall separately notify the National Register Programs Office [Department], the owner of the property, and the applicant as to their opinions in regard to the proposed nomination within 60 days of the receipt of the nomination materials. In the 60 day period, the certified local government shall provide a reasonable opportunity for public comment.

(4) In the event that the historic preservation review commission, board, or committee and the chief elected official agree that the proposed nomination meets the criteria for listing properties on the National Register Programs Office [Department] will place the proposed nomination before the State Board of Review at the earliest possible quarterly meeting for its consideration.

(5) In the event the historic preservation review commission, board, or committee and the chief elected official disagree that the proposed nomination meets the criteria for listing on the National Register of Historic Places, the National Register Programs Office [Department] will place the proposed nomination before the State Board of Review at the earliest possible quarterly meeting.

(6) In the event the historic preservation review commission, board, or committee and the chief elected official agree that the proposed nomination does not meet the criteria for listing on the National Register of Historic Places, the historic preservation review commission, board, or committee will return the nomination materials to the National Register Programs Office [Department] who shall take no further action unless, within 30 days of the receipt of such nomination materials to the National Register Programs Office [Department] who shall take no further action unless, within 30 days of the receipt of such nomination material by the National Register Programs Office [Department], an appeal is filed with the National Register Programs Office [Department]. If such an appeal is filed, the National Register Programs Office [Department] shall place the nomination before the State Board of Review at the earliest possible quarterly meeting.

(7) (No change.)

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

(h) Process for certification of local governments.

(1) The chief elected official of a city or town [the appropriate local-governing body] shall request certification from the State Historic Preservation Officer. The request for certification shall include the following:

(A) a written assurance by the local chief elected official that the local government is fulfilling the standards for certification outlined in subsection (f)(1-5) [(f)(1-4)] of this section;

(B)-(E) (No change.)

(2) The chief elected official of a county shall request certification from the state historic preservation officer [shall respond to the chief elected local official within 60 days of receipt of an adequately documented written request for such certification.] The request for certification shall include the following:

(A) a written assurance by the local chief elected official that the local government is fulfilling the appropriate standards for certification outlined in subsection (f)(1-5) of this section;

(B) a copy of the county historical commission's by-laws including designation of a review board or committee with specific responsibilities as outlined in subsection (f) (1)-(5) of this section;

(C) a list, with appropriate location maps, of recorded Texas historic landmarks, state archeological landmarks, and any individual properties or districts surveyed (identified) and/or listed on the National Register of Historic Places with statements about the historical significance of the properties;

(D) resumes or completed standard forms outlining the experience of each member of the local review board for committee for historic preservation including, where appropriate, data documenting the expertise of members in the professional fields related to historic preservation; and

(E) a copy of the local historic preservation plan, if available, or a statement of goals and objectives for the local preservation program including the activities of survey (identification), evaluation, registration, documentation, and protection (treatment).

(3) (No change.)

(5)[(4)] Upon approval of a request for certification, according to the

approved certification process, the state historic preservation officer shall prepare a written certification agreement that lists the specific responsibilities of the local governments when certified. The following shall be contained within the written certification agreement:

(A) the four minimum responsibilities required of all Certified Local Governments as outlined in subsection (f)(1)-(5) [(f)(1)-(4)] of this section.

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

(6)[5] The state historic preservation officer shall forward to the Secretary of the Interior a copy of the approved request and a copy of the certification agreement.

(i) Process for monitoring certified local governments.

(1)-(4) (No change.)

(5) The performance of the certified local government shall be reviewed by the state historic preservation officer on the basis of recognized standards for historic preservation activities. These standards shall include, but not be limited to, the Secretary of the Interior's Standards and Guidelines for Archeology and Historic Preservation; National Register Criteria for Evaluation in reviewing the local government's role in the National Register Program; state survey grant requirements in assessing the local government's execution of the survey requirement of the certified local government regulations; and the Secretary of the Interior's Standards for Historic Preservation Projects and/or Standards for Rehabilitation in considering the city's and town's [local government's] role in overseeing work to locally designated landmarks and districts.

(j) (No change.)

(k) Eligibility for receipt of historic preservation funds.

(1) Any certified local government shall be eligible to apply for, and to receive, grants from the local share of the state's historic preservation fund which is allocated annually. Any year in which the total appropriation for state grants from the historic preservation fund [annual state grant appropriation from the historic preservation fund] exceeds \$65,000,000, 1/2 of the excess shall also be transferred to certified local governments according to procedures to be provided by the Secretary.

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

(2) Historic preservation fund monies allocated to certified local governments are to be used only for activities that are eligible for Historic preservation fund assistance and that are consistent with a statewide comprehensive

historic preservation planning process.

(l) (No change.)

(m) Application procedures for grants.

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

(4) The project contract. A contractual agreement, approved by the Office of the Texas Attorney General, specifying the approximate scope of work, a timetable for completion, and a list of budgetary concerns will be prepared by the Texas Historical Commission on the basis of the project proposal and consultations with the grant recipient. This contract shall also contain the minimum requirements for Certified Local Governments as outlined in subsection (f)(1)-(5) [(f)(1)-(4)] of this section. The agreement shall be signed by the parties involved, including the appropriate legal representatives. [jointly by the state historic preservation officer and the appropriate legal representative of the concerned local government prior to commencement of project work.]

(5)-(6) (No change.)

(7) Project certification and final report. Twenty-five [Ten] percent of the money amount of the grant awards will be retained by the Texas Historical Commission and paid to the grantee upon certification of the completed project and receipt of a detailed and documented final report. All material will be reviewed within 21 days of submission to the Texas Historical Commission.

(8) (No change.)

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

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

TRD-8803114

Curtis Tunnell
Executive Director
Texas Historical
Commission

Earliest possible date of adoption: May 6, 1988

For further information, please call: (512) 463-6100

Chapter 17. State Architectural Programs

• 13 TAC §§17.1-17.3

The Texas Historical Commission proposes amendment to §§17.1-17.3, concerning the state architectural program. These sections were amended to incorporate changes which were required because of incorporation of Article 6145 into the Texas Government Code, Chapter 442, as well as minor changes which have accumulated since the last revisions in 1984. These changes will be printed in a new rule book for the agency and distributed to the public.

George Ramirez, fiscal officer, has deter-

mined 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.

Curtis Tunnell, executive director, also has determined that for each year of the first five years the sections are in effect the public benefit anticipated as a result of enforcing the sections will be that these sections will be printed in pamphlet format and will provide much needed guidance to the public concerning the functions of the THC and the responsibilities of the state historic preservation officer. The new sections will be used uniformly in dealing with the public on matters relating to historic preservation. 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 Cindy Laguna Dally, Texas Historical Commission, P.O. Box 12276, Austin, Texas 78711, (512) 463-6100.

The amendments are proposed under the Texas Government Code, Chapter 442, which provides Texas Historical Commission with the authority to adopt rules as it considers proper for the effective administration of this chapter (§442. 005(q)).

§17.1. Texas Historic Preservation Grants.

(a) (No change.)

(b) Eligible organizations. Preservation grants shall be made only to:

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

(3) Texas historic preservation grants will not be given to eligible applicants for development work on privately owned structures.

(c)-(d) (No change.)

(e) Pre-application deadline is 5 p.m. on June 1 of each year, or 5 p.m. of the last regular work day of May if June 1 should fall on a weekend or holiday, or at

other times as announced by the Texas Historical Commission; pre-application forms are to be received by the commission at its offices by this deadline.

(f) Initial grant allocations. Grants shall be allocated by vote of the commission at large at quarterly meetings or at other open meetings designated as appropriate by vote of the commission. Reallocation of returned funds shall be made by the executive committee of the commission upon the recommendation of the Architecture [National Register] Committee of the commission. Grant [All] allocations will generally [shall] be in the amount of \$2,500 or more, but shall not exceed \$50,000 except when surplus funds remain after all eligible projects have been funded; then grant awards in excess of \$50,000 may be made until all grant funds are allocated.

(g) Final grant approval.

(1) Submission of application (project proposal).

(A) To remain eligible for the grant allocation, an acceptable application (project proposal), consistent with the Secretary of the Interior's Standards for Historic Preservation Projects, 1983, or most recent edition [1979] and consisting of plans/specifications, research design, appraisal, unexecuted contract documents, and/or other material as required shall be submitted to the commission for review and approval.

(B) (No change.)

(2) (No change.)

(3) Commencement of project work. Project work as approved shall commence within 60 days of the assigned state date unless otherwise approved in writing by the commission.

(4) (No change.)

(h) (No change.)

(i) Grant reimbursement procedures.

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

(3) Deadline for submission of requests for reimbursement. Allowable project expenses equal to three times the grant amount shall be incurred by the following July 15 unless otherwise announced by the commission. Proof of those incurred expenses and corresponding payments shall be submitted to the commission by the following August 1 unless otherwise announced by the commission.

(4) Forfeiture of grant. Failure to expend the full grant amount by the July 15 deadline or to submit to the commission all required material by the August 1 deadline shall result in forfeiture of the remaining grant amount.

(j) Deed restrictions. Acquisition and development projects shall be encumbered, prior to reimbursement of any project expenses, with a deed restriction in a format acceptable to the commission requiring the owner and successors in interest, if any, to maintain the site in state of repair as at the time of completion of grant-assisted work, to secure the approval of the commission or its duly authorized representative for any proposed changes beyond normal maintenance to the site, and, in the case of political subdivisions of the state, to meet the requirements of the Uniform Grant and Contract Management Act of 1981, Texas Civil Statutes, Article 44B, §32g [Texas Civil Statutes, Article 4413, §32b]. The deed restriction shall run with the land, be enforceable by the State of Texas, and its duration will be based upon the cumulative amount of grant assistance to the project as follows:

\$2,500 - \$4,999	5 years from the start date of the deed restrictions set by the commission
\$5,000 - \$9,999	10 years from the start date of the deed restrictions set by the commission
\$10,000 - \$14,999	15 years from the start date of the deed restrictions set by the commission
\$15,000 - \$19,999	20 years from the start date of the deed restrictions set by the commission
\$20,000+	25 years from the start date of the deed restrictions set by the commission

(k) (No change.)

(l) Completion reports for acquisition and development projects. Projects assisted with acquisition or development grants will be required to submit a project completion report in triplicate, consisting of photo documentation and project summary prepared by the supervising project professional, to the commission no later than August 1 or as otherwise announced by the commission of the current fiscal year. Fifty percent of the grant allocation will be retained until receipt of an acceptable completion report by the commission.

(m) (No change.)

(n) Performance standards. All development and planning projects must be in conformance with the Secretary of the Interior's Standards for Historic Preservation Projects, 1983 or latest edition [1979].

(o) Compliance with requirements for access of handicapped. All projects must be in compliance with or in receipt of appropriate waiver from the barrier-free access provisions of the Handicapped Accessibility Act of Texas, Texas Civil Statutes, Article 601b, §7.

(p) Compliance with Uniform Grant and Contract Management Act. All projects by political subdivisions of the state must be in compliance with the Uniform Grant and Contract Management Act of 1981, Texas Civil Statutes, Article 4413, §32g, [§32b].
§17.2. The Architectural Visiting Specialist Program.

(a) The Architecture [National Register] Department of the Texas Historical Commission administers an architectural visiting specialist program to provide technical preservation assistance for threatened historic structures.

(b) In situations where the historical integrity of a structure is in serious danger, threatened either by natural causes or pending human action, and the immediacy of the threat or the location of the site or the scope of services make visitation by commission staff impractical, a one-day site visit by a qualified architectural conservator may be provided by the program. For sites visited, a brief report in conformance with requirements of the commission addressing the special problems of the structure will be prepared by the architectural visiting specialist; three copies of the report will be filed with the commission, and two copies will be given the local representative of the structure.

(c) (No change.)
§17.3. Review of Work on Courthouses. Texas Government Code Chapter 442, §442.008 [Vernon's Texas Civil Statutes, Article 6145] require that the Texas Historical Commission review (all) changes made to courthouse structures.

(1) Definitions. The following words and terms, when used in this subsection, shall have the following meaning, unless the context clearly indicates otherwise.

(A) (No change.)

(B) Sell-To give up (property) to another for money or other valuable consideration; this includes giving the property to avoid maintenance, repair, etc.

(C)-(D) (No change.)

(E) Integrity-Refers to the physical condition and therefore the capacity of the resource to convey a sense of time and place or historic identity. Integrity is a quality that applies to location, design, setting, materials, and workmanship. It refers to the clarity of the historic identity possessed by a resource. In terms of architectural design, to have "integrity" means that a building still possess much of its mass, scale, decoration, and so on, of either the period in which it was conceived and built, or the period in which it was adapted to a later style which has validity in its own right as an expression of historical character or development. The question of whether or not a building possesses integrity is a question of the building's retention of sufficient fabric to be identifiable as a historic resource. [degree of alteration.] For a building to possess integrity, its principal features must be sufficiently intact for its historic identity to be apparent. A building that is significant because of its historic association(s) must retain sufficient physical integrity to convey such association(s).

(F) Courthouse-The principal building and its surrounding site which houses (or housed) county government offices and courts.

(G) (No change.)

(2) Procedures.

(A) (No change.)

(B) Notice from the commission to the commissioners court of the county. Written notice of the commission's determination regarding the historical significance of a courthouse for which work is proposed shall include comments pursuant to a review of the proposed shall include comments pursuant to a review of the proposed work by the commission. comments shall be made based on the Secretary's of the Interior's Standards for Historic Preservation Projects, 1983 or latest edition, [1979] which follow in part.

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

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

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

TRD-8803113

Curtis Tunnell
Executive Director
Texas Historical
Commission

Earliest possible date of adoption: May 6, 1988

For further information, please call: (512) 463-6100

TITLE 22. EXAMINING BOARDS

Part V. State Board of Dental Examiners

Chapter 109. Conduct

Anesthesia and Anesthesia Agents

• 22 TAC §109.171

The Texas State Board of Dental Examiners proposes new §§109.171-109.177, concerning anesthesia and anesthetic agents. The standards of care, the levels of training, and the levels of monitoring have changed. The requirements in general for the administration of anesthesia have evolved over the last several years and it is felt that a total revision of the anesthesia sections is needed. Also, this revision will closely parallel the standards set by the American Dental Association and will bring Texas up to national standards in the administration of anesthesia.

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

Mr. Nail 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 upgrading of the standards for the administration of anesthesia and thereby provide better protection for the public. The possible economic cost to individuals who are required to comply with the rule as proposed will be possibly, the upgrading of monitoring equipment which cannot be determined.

Comments may be submitted to William S. Nail, Executive Director, 8317 Cross Park Drive, Suite 400, Austin, Texas 78754.

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

§109.171. Effective Date. The effective date of these sections shall be June 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 March 29, 1988.

TRD-8803168 William S. Nail
Executive Director
Texas State Board of
Dental Examiners

Earliest possible date of adoption: May 6, 1988

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

◆ ◆ ◆
• 22 TAC §109.172

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

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

Analgesia—The diminution or production of increased tolerance to pain in the conscious patient.

Direct supervision—The dentist responsible for the sedation/anesthesia procedure shall be physically present in the office and shall be continuously aware of the patient's physical status and well being.

Enteral/parenteral conscious sedation—A minimally depressed level of consciousness that retains the patient's ability to independently and continuously maintain an airway and respond appropriately to physical stimulation and verbal command, produced by a pharmacologic or non-pharmacologic method, or a combination thereof.

General anesthesia—A controlled state of unconsciousness accompanied by partial or complete loss of protective reflexes, including inability to independently maintain an airway and respond purposefully to verbal command, produced by a pharmacologic or non-pharmacologic method, or a combination thereof.

Local anesthesia—The elimination of sensations, especially pain, in one part of the body by the topical application or regional injection of a drug.

May or could—Indicates freedom or liberty to follow a suggested alternative.

Must or shall—Indicates an imperative need and/or duty; an essential or indispensable item; mandatory.

Nitrous oxide/oxygen inhalation conscious sedation—The administration by inhalation of a combination of nitrous oxide and oxygen producing an altered level of consciousness that retains the patient's ability to independently and continuously maintain an airway and respond appropriately to physical stimulation and/or verbal command.

Personal supervision—The dentist responsible for the sedation/anesthesia procedure shall be physically present in the room with the patient

at all times during the induction and maintenance of the procedure.

Should—Indicates the recommended manner to obtain the standard; highly desirable.

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 29, 1988.

TRD-8803168 William S. Nail
Executive Director
Texas State Board of
Dental Examiners

Earliest possible date of adoption: May 6, 1988

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

◆ ◆ ◆
• §109.173

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

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

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

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

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

(4) shall maintain current certification in basic cardiopulmonary resuscitation sponsored by either the American Heart Association of the American Red Cross. Proof of current certification shall be the responsibility of the dentist;

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

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

adopt.

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

TRD-8803167 William S. Nail
Executive Director
Texas State Board of
Dental Examiners

Earliest possible date of adoption: May 6, 1988

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

◆ ◆ ◆
• §109.174

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

§109.174. Sedation/Anesthesia Permit.

(a) The Texas State Board of Dental Examiners shall appoint advisory consultants for advice and recommendations to the board on permit requirements, applicant and facility approval.

(b) From the effective date of these sections, each dentist licensed by the Texas State Board of Dental Examiners and practicing in Texas, who desires to utilize nitrous oxide/oxygen inhalation conscious sedation, enteral/parenteral conscious sedation, and/or general anesthesia, must obtain a permit of authorization from the Texas State Board of Dental Examiners for the requested procedure.

(c) Any dentist approved by the Texas State Board of Dental Examiners under previous rules prior to the effective date of this section for the utilization of nitrous oxide/oxygen inhalation conscious sedation, enteral/parenteral conscious sedation, or general anesthesia may qualify for a new permit.

(d) Each holder of an existing permit shall be required to complete and submit a new application for the procedure(s) desired within one year from the effective date of these sections to the Texas State Board of Dental Examiners. If the new permit application is not received within this designated period, the prior permit may be cancelled. Each new application shall be reviewed to determine if the permit holder meets the standard of care requirements for the permit requested. If the requirements are met, a new permit shall be issued. If the requirements are not met, the permit applicant shall be notified and provided an appropriate period, at the discretion of the board, to correct the deficiency.

(e) For new applicants who are otherwise properly qualified, a temporary provisional permit may be issued for one year by the board, based solely upon the creden-

tials contained in the application.

(f) Prior to or after the issuance of any permit, the Texas State Board of Dental Examiners may, at its discretion, require an on-site office evaluation to determine if all standards of these section are being met.

(g) Once a permit is issued, the Texas State Board of Dental Examiners shall automatically renew the permit annually unless the holder of said permit is informed by the board that an evaluation of the permit is required. Prior to an evaluation of an existing permit, the board shall consider factors to include patient complaints, morbidity, mortality, and advisory consultant recommendations.

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 29, 1988.

TRD-8803166 William S. Nail
Executive Director
Texas State Board of
Dental Examiners

Earliest possible date of adoption: May 6, 1988

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

◆ ◆ ◆
• 22 TAC §109.175

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

§109.175. *Permit Requirements.*

(a) Nitrous oxide/oxygen inhalation conscious sedation. To induce and maintain this type of conscious sedation on dental office patients in the State of Texas, the following requirements must be met.

(1) Professional requirements.

(A) Each dentist wishing to utilize this technique must produce satisfactory evidence of completion of a didactic and clinical course of instruction in this technique. Such courses of instruction shall:

(i) be directed by qualified instructors with advanced education in comprehensive pain control and with broad clinical experience in this technique;

(ii) include a minimum of four hours of didactic work in pharmacodynamics of nitrous oxide/oxygen inhalation conscious sedation;

(iii) include a minimum of six hours of clinical experience under personal supervision.

(B) Each dentist must produce satisfactory evidence of completion of a continuing education course in the nitrous oxide oxygen inhalation/conscious sedation which includes the prevention and management of emergencies in the dental office; or

(C) Each dentist must have successfully completed qualifications governing the use of enteral/parenteral conscious sedation as noted in subsection (b) of this section or general anesthesia as noted in subsection (c) of this section.

(2) Standard of care requirements.

(A) Each dentist must maintain the minimum standard of care as noted in §109.173 of this title (relating to Minimum Standard of Care).

(B) Each dentist shall induce, maintain, and provide continuous personal supervision of the inhalation conscious sedation procedure.

(b) Enteral/parenteral conscious sedation (IV, IM, SC, SM, oral, rectal). To induce and maintain this type of conscious sedation on dental office patients in the State of Texas, the following requirements must be met.

(1) Enteral/parenteral conscious sedation shall be induced and maintained by a dentist licensed by the State of Texas and practicing in Texas only when he/she has successfully completed a course of study in the technique of enteral/parenteral conscious sedation being utilized and approved by the Texas State Board of Dental Examiners, a physician anesthesiologist licensed by the Texas State Board of Medical Examiners, or a certified registered nurse anesthetist licensed in Texas (see paragraph (3)(G) of this subsection).

(2) Professional requirements are as follows:

(A) has satisfactorily completed an intensive course that meets the "Guidelines for Teaching the Comprehensive Control of Pain and Anxiety in Dentistry," published by the American Dental Association Council on Dental Education for the enteral/parenteral conscious sedation technique requested; or

(B) has satisfactorily completed an approved graduate program by the Commission on Dental Accreditation of the American Dental Association where training to competency in parenteral conscious sedation is a minimum standard required in the training guidelines (oral and maxillofacial surgery, pediatric dentistry, periodontics, and some general practice residencies); or

(C) has satisfactorily completed qualifications governing the use of general anesthesia.

(3) Standard of care requirements. Each dentist shall utilize the following standard of care in addition to the minimum standards noted in §109.173 of this title (relating to Minimum Standard of Care):

(A) maintain an informed conscious sedation consent by each dental patient on which this technique is performed;

(B) maintain an adequate written sedation record which shall include physiologic vital sign monitoring during the course of the procedure;

(C) maintain continuous direct supervision of the sedation procedure and patient vital sign monitoring during the course of the procedure;

(D) maintain current certification in basic cardiopulmonary resuscitation for the assistant staff by having them pass a course sponsored by the American Heart Association or the American Red Cross;

(E) in utilizing parenteral conscious sedation via an intravenous (IV) route of administration, the dentist shall:

(i) maintain personal supervision of the patient during the induction of conscious sedation and for a period of time necessary to establish pharmacologic and physiologic vital sign stability before he/she may utilize direct supervision of personnel unless anesthetic personnel (DDS or MD anesthesiologist, CRNA) are utilized, in which case the attending dentist may delegate personal supervision to the anesthetic personnel;

(ii) maintain the same monitoring standard of care required for general anesthesia;

(F) maintain direct supervision of auxiliary personnel who shall be capable of reasonably assisting in procedures, problems, and emergencies incident to the use of parenteral conscious sedation;

(G) not allow an enteral/parenteral conscious sedation procedure to be performed in his/her office by a certified registered nurse anesthetist (CRNA) unless the dentist holds a permit for the procedure being performed issued by the Texas State Board of Dental Examiners.

(c) General anesthesia. To induce and maintain general anesthesia on dental

office patients in the State of Texas, the following requirements must be met.

(1) General anesthesia shall be induced and maintained by a dentist licensed by the State of Texas and practicing in Texas, a physician anesthesiologist licensed by the Texas State Board of Medical Examiners or a certified registered nurse anesthetist licensed in Texas (see paragraph (3)(G) of this subsection).

(2) Professional requirements are as follows:

(A) has completed a minimum of one year of advanced training in anesthesiology and related academic subjects beyond the undergraduate dental school level in a training program as described in Part II of the "Guidelines for Teaching the Comprehensive Control of Pain and Anxiety in Dentistry" of the American Dental Association Council on Dental Education; or

(B) has completed an approved graduate program by the Commission on Dental Accreditation of the American Dental Association where training to competency in general anesthesia is a minimum standard in the training guidelines and maintains an equivalency to one year of anesthesia training (oral and maxillofacial surgery); or

(C) has completed the requirements for admission to and has passed the fellowship exam in the American Dental Society of Anesthesiology.

(3) Standard of care requirements. Each dentist shall utilize the following standard of care in addition to the minimum standards noted in §109.173 of this title (relating to Minimum Standard of Care):

(A) maintain an informed general anesthesia consent by each dental patient on which this technique is performed;

(B) maintain an adequate written anesthesia record which shall include, but shall not necessarily be limited to, physiologic vital signs and all medications administered during the course of the procedure;

(C) maintain personal supervision of the patient during the induction and maintenance unless anesthetic personnel (DDS or MD Anesthesiologist, CRNA) are utilized, in which case the attending dentist may delegate personal supervision to the anesthetic personnel. Vital sign monitoring shall utilize visual and mechanical methods which shall include, but shall not necessarily be limited to, pulse rate, patient

color/ texture, blood pressure, respiration, blood and tissue oxygenation, and heart rhythm;

(D) maintain current certification in advanced cardiac life support from a course sponsored by the American Heart Association. The dentist shall require his assistant staff to maintain current certification in basic life support as obtained by courses offered by the American Heart Association or the American Red Cross;

(E) maintain the necessary emergency equipment and medications to perform advanced cardiac life support under the guidelines of the American Heart Association (airway equipment, required intravenous equipment and medication, defibrillator, electrocardioscope, etc.);

(F) maintain a minimum of two auxiliary personnel who shall be capable of reasonably assisting in procedures, problems, and emergencies incident to the use of general anesthesia;

(G) not allow a general anesthesia procedure to be performed on a dental patient in his/her office by a certified registered nurse anesthetist (CRNA) unless the dentist maintains a permit for general anesthesia issued by the Texas State Board of Dental Examiners.

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 29, 1988.

TRD-8803165

William S. Nail
Executive Director
Texas State Board of
Dental Examiners

Earliest possible date of adoption: May 5, 1988

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

◆ ◆ ◆
• 22 TAC §109.176.

The new section is proposed under Texas Civil Statutes, Article 4551d, which provide the Texas State Board of Dental Examiners with the authority to adopt and enforce such rules and regulations not inconsistent with the laws of the state as may be necessary for the performance of its duties and/or to ensure compliance with the state laws relating to the practice of dentistry to protect the public health and safety.
§109.176. Authority to Demonstrate Anesthesia.

(a) Any course, clinic, lecture, or demonstration involving the use of any sedative/anesthetic agent or technique except local or topical anesthesia must have prior approval by the Texas State Board of Dental Examiners unless such course, clinic,

lecture, or demonstration is given and supervised within the confines of an established and recognized school of dentistry or medicine.

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 29, 1988.

TRD-8803164

William S. Nail
Executive Director
Texas State Board of
Dental Examiners

Earliest possible date of adoption: May 6, 1988

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

◆ ◆ ◆
• 22 TAC §109.177.

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

§109.177. Report of Injury (Morbidity) or Death (Mortality) in the Dental Office or Hospital.

(a) All licensees engaged in the practice of dentistry in the State of Texas must submit a written report within a period of 30 days to the Texas State Board of Dental Examiners after the occurrence of any incident, injury (morbidity), or death (mortality), resulting in temporary or permanent physical or mental disability or injury to any patient for whom said dentist has rendered any dental or medical service. Routine hospitalization to guard against postoperative complications for patient comfort need not be reported where complications do not thereafter result in injury (morbidity) or death (mortality) as hereinafter set forth. Additional patient records may be requested at the discretion of the board.

(b) In the evaluation of sedation/anesthesia morbidity or mortality, the Texas State Board of Dental Examiners shall consider the standard of care necessary to be that applicable to the patient's state of consciousness during the procedure.

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 29, 1988.

TRD-8803163

William S. Nail
Executive Director
Texas State Board of
Dental Examiners

Earliest possible date of adoption: May 6, 1988

Chapter 116. Dental Laboratories

• 22 TAC §§116.1-116.4

The Texas State Board of Dental Examiners proposes new §§116.1-116.4, concerning dental laboratories. The board proposed these new sections in compliance with Senate Bill 1421, which gives the board rule-making authority in the areas of registration and continuing education. The new sections regulate registration and continuing education for dental laboratories.

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

Mr. Nail also has determined that for each year of the first five years the sections are in effect the public benefit anticipated as a result of enforcing the sections will be better protection for the public health and safety. 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 William S. Nail, Executive Director, 8317 Cross Park Drive, Suite 400, Austin, Texas 78754.

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

§116.1 Dental Student. A dental student is defined as a person enrolled as a full-time student in an accredited dental school.

§116.2 Dental Technician. A dental technician shall be considered an employee working on the premises of the dental laboratory if said dental technician is working a minimum of 30 hours per week at a specific laboratory.

§116.3 Requirements.

(a) A dental laboratory shall be registered according to the provisions of Texas Civil Statutes, Article 4551f(6)(a)-(c), if it is a place where a person undertakes to perform or accomplish any act or service listed in Texas Civil Statutes, Article 4551f (1).

(b) A dental laboratory shall, when furnishing a licensed dentist with its permanent registration number and expiration date of such registration, also furnish the dentist the permanent registration number and certificate expiration date of any laboratories used as subcontractors.

§116.4 Continuing Education.

(a) Any laboratory renewing a cer-

tificate subsequent to September 1, 1990, must provide proof that at least one employee working on the premises of the dental laboratory has completed at least 12 hours of continuing education during the preceding 12-month period.

(b) The continuing education shall be comprised of business management, infection control, and technical competency courses presented in seminars or clinics as accepted by a nationally recognized organization of dentistry or dental technology.

(c) In lieu of furnishing continuing education proof as set forth in subsection (b) of this section, the dental laboratory may furnish proof that at least one dental technician, employed and working on the premises of the dental laboratory, has a current certification by a nationally recognized board of certification for dental technology.

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 30, 1988.

TRD-8803220

William S. Nail
Executive Director
Texas State Board of
Dental Examiners

Earliest possible date of adoption: May 6, 1988

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

Part IX. State Board of Medical Examiners

Chapter 193. Standing Delegation Orders

• 22 TAC §193.7

The Texas State Board of Medical Examiners proposes new section §193.7 concerning radiologic technologists. In complying with recent legislation, the board is proposing a new section relating to radiologic technologists. An emergency adoption has been submitted previously. Senate Bill §2.08, requires the board to adopt rules to regulate the manner in which a licensed physician may order, instruct, or direct a person in the performance of radiologic procedures.

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 is in effect the public benefit anticipated as a result of enforcing the section will be that the public should be further assured that the actions of these radiologic technologists are under the stated supervision of a licensed physician. The anticipated economic cost to individuals who are required to comply with the section

as proposed will be \$25 for each year from 1988-1993, which is the cost to the physician for supervision registration for any year in which he or she applies.

Jean Davis, P.O. Box 13562, Austin, Texas 78711. The board will hold a public hearing at a future date.

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. §193.7. *Radiologic Technologists.*

(a) Any person performing radiologic procedures under the supervision of a physician must be registered with the Texas State Board of Medical Examiners. This section does not apply to registered nurses or to persons certified by the Department of Health under the Medical Radiologic Technologist Certification Act. Each physician who supervises a registrant shall make application for such registration on a form provided by the board and shall certify that:

(1) the registrant has received satisfactory training and instruction in the performance of the authorized radiologic procedure; and

(2) the registrant is 18 years of age or older.

(b) Applicants shall register annually. The fee for registration shall be \$25 per annum, payable to the Texas State Board of Medical Examiners by cashiers check or money order upon submission of the registration application.

(c) Registration may be suspended, revoked, not renewed, or denied for the following reasons:

(1) violation of the rules of the Texas State Board of Medical Examiners;

(2) violation of the Medical Radiologic Technologist Certification Act;

(3) violation of the rules of the Texas Department of Health for control of radiation;

(4) violation of the Texas Medical Practice Act; and

(5) nonpayment of registration fees.

(d) Unless licensed, certified by the Texas Department of Health, or performing procedures under the supervision of a licensed physician, a registrant may perform only chest, spine, extremities, abdomen, and skull studies utilizing standard film or film screen combinations and an x-ray tube that is stationary at the time of exposure. The use of fluoroscopy and contrast agents by the registrant is not permitted unless the registrant is certified or is under the supervision of a licensed physician.

(e) All registrants must comply with the safety rules of the Texas Department of Health relating to the control of radiation as set forth in that department's document titled, "Texas Regulations for Control of Radiation."

(f) All registrants who perform radiologic procedures must meet the minimum training and supervision standards promulgated by the Texas Department of Health at 25 TAC §§143.1-143.13, unless they perform said procedure under the supervision of a license physician.

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 28, 1988.

TRD-8803117

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

Earliest possible date of adoption: May 6, 1988

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

Part XXIII. Texas Real Estate Commission

Chapter 535. Provisions of the Real Estate License Act

• 22 TAC §535.162

(Editor's note: The text of the following section proposed for repeal will not be published. The section may be examined in the offices of the Texas Real Estate Commission or in the Texas Register office, Room 503, Sam Houston Building, 201, East 14th Street, Austin.)

The Texas Real Estate Commission proposes the repeal of §535.162, concerning disclosure of agency in residential real estate transactions. Section 535.162 adopts by reference a disclosure from concerning agency in real estate transactions which Texas real estate licensees were required to provide to a prospective purchaser or tenant of residential property.

This section is proposed for repeal so that a single section dealing with disclosure of agency may be adopted. The Texas Real Estate Commission is simultaneously proposing a revised agency disclosure form and guidelines for use of the form and is withdrawing a proposed section relating to disclosure of agency in commercial real estate transactions.

Mark A. Moseley, legal counsel, has determined that for the first five-year period the proposed repeal 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 repeal.

Mr. Moseley also has determined that for each year of the first five years the repeal is in effect the public benefit anticipated as a result of enforcing the repeal will be the elimi-

nation of confusion as to which party a real estate licensee represents in a real estate transaction. There is no anticipated economic cost to individuals who are required to comply with the repeal as proposed.

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

The repeal 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.

§535.162. Disclosure of Agency-Residential.

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 Mark A. Moseley, 1988.

TRD-8803156

Mark A. Moseley
Legal Counsel
Texas Real Estate
Commission

Earliest possible date of adoption: May 6, 1988

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

• 22 TAC §535.164

The Texas Real Estate Commission proposes new §535.164, concerning disclosure of agency in real estate transactions. The new section adopts by reference a disclosure form which Texas real estate licensees would be required to provide to prospective buyers and tenants before the licensee discusses the contract bargaining position of either party to the transaction or before the licensee prepares a written offer to purchase, rent, or lease real estate, whichever event occurs first. The disclosure form advises a potential buyer or tenant that brokers are usually paid by the owner and represent the owner, although the buyer or tenant can obtain representation. The form also describes ways a broker can assist a prospective buyer or tenant even if the broker is not representing the prospective buyer or tenant.

The Texas Real Estate Commission is simultaneously proposing the repeal of a section adopted to become effective September 1, 1988, which concerned disclosure of agency in residential real estate transactions and is withdrawing a proposed section concerning disclosure of agency in commercial transactions. By these actions the Texas Real Estate Commission proposes to adopt a single disclosure form and related guidelines for use by real estate licensee.

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

Mr. Moseley also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a

result of enforcing the section will be the 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.

§535.164. Disclosure of Agency.

(a) The Texas Real Estate Commission adopts by reference agency disclosure form, 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, Austin, Texas 78711.

(b) A real estate licensee dealing in person with a prospective buyer or tenant shall provide the prospective buyer or tenant or its representative with a copy of the agency disclosure form signed by the licensee before the time the first of the following events occurs:

(1) discussing the contract negotiating position of a seller, landlord, buyer, or tenant to purchase, rent, or lease a specific property; or

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

(c) The licensee should retain a copy of the agency disclosure form 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 either of the two preceding events or to a real estate licensee acting as a principal and not as an agent or to residential leases for less than one year where no sale is contemplated.

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 24, 1988.

TRD-8803157

Mark A. Moseley
Legal Counsel
Texas Real Estate
Commission

Earliest possible date of adoption: May 6, 1988

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

Part XXXI. Texas State Board of Dietitians

Chapter 711. Dietitians

Licensure

• 22 TAC §711.11

The Texas State Board of Examiners of Dietitians proposes new §711.11, concerning changes of name or address. Existing §711.11 is proposed for repeal and was published in the March 18, 1988, issue of the *Texas Register* (13 TexReg 1299).

The new section replace the repealed section and sets out the responsibilities and procedures for name and address changes.

Stephen Seale, chief accountant III, has determined that for the first five-year period the proposed section is in effect there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the section.

Mr. Seale 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 assurance that the licensing and regulation of dietitians continues to identify competent practitioners by updating and clarifying the sections. 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 Becky Berryhill, Executive Secretary, Texas State Board of Examiners of Dietitians, 1100 West 49th Street, Austin, Texas 78756-3183, (512) 458-7501. Comments on the proposal will be accepted for 30 days after publication of this proposed section in the *Texas Register*.

The new section is proposed under Texas Civil Statutes, Article 4512h, §6, which provide the Texas State Board of Examiners of Dietitians, subject to final approval of the Texas Board of Health, with the authority to adopt rules consistent with the Licensed Dietitian Act relating to board actions and qualifications of applicants.

§711.11. Changes of Name or Address.

(a) The purpose of this section is to set out the responsibilities and procedures for name and address changes.

(b) The licensee shall notify the board of changes in name or preferred mailing address within 30 days of such change(s).

(c) Notification of address changes shall be made in writing including the name, mailing address, and zip codes, and be mailed to the executive secretary.

(d) Before another license certificate or identification cards will be issued by the board, notification of name changes must be mailed to the executive secretary and shall include a notarized copy of a marriage certificate, court decree evidencing such change, or a social security card reflecting the new name. The licensee shall return any previously issued license or identification cards and remit the appropriate

replacement fee as set out in §711.2(u) of this title (relating to The Board's Operation).

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 30, 1988.

TRD-8803242

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

Proposed date of adoption: May 13, 1988

For further information, please call: (512) 458-7501.

TITLE 31. NATURAL RESOURCES AND CONSERVATION

Part IX. Texas Water Commission

Chapter 304. Watermaster Operations

Introductory Provisions

• 31 TAC §§304.1-304.3

The Texas Water Commission proposes new §§304.1-304.3, 304.11-304.16, 304.21, 304.31-304.33, 304.41-304.44, 304.51, and 304.61-304.63, concerning the regulation, allocation, enforcement, administration and financing responsibilities of watermaster operations outside of the Rio Grande Water Division. The Rio Grande Water Division is already governed by sections located in Chapter 303 of this title (related to Operations of the Rio Grande), which are similar to these sections, but are not applicable to the rest of the state because of the unique nature of the Rio Grande operation.

Sections 304.1-304.3 are general introductory provisions. Section 304.1 explains how these sections will be applicable to all water rights within a watermaster division. In case of conflict, these sections will have precedence over other rules of the Texas Water Commission. The watermaster is appointed by the executive director, as specified in §304.2. Definitions of key terms used throughout the chapter are included in §304.3.

The methodology to be used by the watermaster to regulate the diversion and use of state water is included in §§304.11-304.16. Sections 304.12 and 304.13 outline some initial steps for diverters, including identification of facilities and installation of measuring devices. Once approved by the watermaster, each facility will be assigned an identification number. Exemptions to the requirement for measuring devices are listed in §304.13(b). The requirement for outlets to allow the passage of water that the owner of a reservoir is not entitled to divert or impound is in §304.14. The procedures for notifying the watermaster of intent to impound, divert, and/or make a dedicated release of water are outlined in §304.15. By way of a declaration of intent, the watermaster must be advised of the specific

manner in which the water is intended to be used. This section also explains the allowance of modifications to any declaration of intent. Section 304.16 describes the accounting system to be used for all diversions. Unless the actual diversions are within 10% of the amount specified in the declaration of intent, certain surcharges can be applied to an account.

The distribution of available state water among water right holders will be in accordance with the procedures explained in §304.21. This includes allocations to senior water rights as established by the Texas Water Code. In the event there is insufficient flow to satisfy existing demands or other streamflow conditions, the watermaster may cancel or modify any existing declarations of intent, or take any other action included in §304.21(d).

Sections 304.31-304.33 pertain to violations and enforcement actions. Violations are described in §304.32. In the event a violation does occur, the options available to the watermaster and the executive director are discussed in §304.33.

General administrative policies are outlined in §§304.41-304.44. A watermaster's authority to alleviate emergencies is described in §304.41. Section 304.42 states that quarterly reports prepared by the watermaster will be submitted to each water right holder. Ownership policies are discussed in §304.43. Whenever a water right is sold, the ownership documents must be submitted on a timely basis to the watermaster, or no declarations of intent will be honored for the unverified owner(s). When appropriate for water rights with multiple owners, the division of ownership will be on a pro rata basis by acreage, as explained in §304.43. Any person acting on behalf of a water right owner shall submit a document confirming his or her authority as agent as required in §304.44.

Section 304.51 pertains to the right to appeal of any action of the watermaster.

Assessments for financing watermaster operations are addressed in §§304.61-304.63. As stated in §304.61, the assessments, by law, are necessary to reimburse the commission for the expenses of a watermaster operation. The total assessment for each account will be the sum of a uniform base charge, and as applicable for the account, either a use fee or a storage fee, or both. The calculation of assessments is explained in §304.62 and §304.63. The assessments are based on the type and amount of use authorized by each water right owner. The rate for each type of use is calculated by the equation shown in §304.62. Section 304.63 provides details regarding calculation of use fees for multiple authorizations when the sum of the individual authorizations does not equal the total authorization for the water right. The assessments are to be paid by either the owner or his agent. No diversion will be allowed if assessment payments are delinquent.

David Crawford, chief fiscal officer, has determined that for the first five-year period the proposed sections are in effect there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the sections. In all cases, the fiscal impact will be only for those that have water rights, and will consist of a

combination of yearly assessments and a one-time installation cost for flow meters. An assessment account will be established for each authorized use, and for storage, under each water right. The total assessment for each account will be the sum of a uniform base charge and, as applicable for that use, either a use fee or a storage fee, or both, where each fee is the product of the rate established for that type of use and the number of acre-feet authorized for that use. Estimated additional costs for local government for the first five-year period the new sections are in effect will be \$199,920 for fiscal year 1989; \$507,200 for fiscal year 1990; \$727,840 for fiscal year 1991; \$817,710 for fiscal year 1992; and \$888,300 for fiscal year 1993. Estimated additional costs for state and federal agencies for the first five-year period the new sections are in effect will be \$6,305 for fiscal year 1989; \$4,175 for fiscal year 1990; \$6,115 for fiscal year 1991; \$7,145 for fiscal year 1992; and \$7,838 for fiscal year 1993. For large business, the estimated additional costs for the first five-year period will be \$62,880 for fiscal year 1989; \$164,770 for fiscal year 1990; \$229,250 for fiscal year 1991; \$251,450 for fiscal year 1992; and \$270,860 for fiscal year 1993. The usual method of calculating the cost of compliance for businesses, based on the cost per employee, cost per hour of labor, or cost per \$100 of sales ratio is not applicable because the cost is determined by the amount and type of use authorized by the water right, and not be the size of the business. The cost to individuals, including the cost to small businesses that own water rights, who are required to comply with the new sections will be \$386,850 for fiscal year 1989; \$712,800 for fiscal year 1990; \$717,870 for fiscal year 1991; \$539,990 for fiscal year 1992; and \$487,660 for fiscal year 1993.

Mr. Crawford 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 improved management and supervision of water rights under the watermaster system, resulting in more efficient and equitable distribution of available state water. For 30 days after the date of this publication, written comments may be submitted to Robert M. Johnson, Chief, Water Rights Administration Section; or Tom Bohl, Senior Staff Attorney, Legal Division, Texas Water Commission, P.O. Box 13087, Austin, Texas 78711-3087. A public hearing for the proposed rules is scheduled for 9 a.m. on Thursday, April 28, 1988. The hearing will be held in Room 118, Stephen F. Austin Building, 1700 Congress Avenue, Austin, Texas. Public comment, both oral and written, is invited at the hearing.

These new sections are proposed under the Texas Water Code, §5.103 and §5.105, which provide the Texas Water Commission with the authority to adopt any rules necessary to carry out its powers and duties under the code and other laws of the State of Texas, and to establish and approve all general policy of the commission. The sections are also proposed under the Texas Water Code, Chapter 11, Subchapter G, which establishes the watermaster operations.

§304.1. Applicability. The provisions of this chapter are applicable to each water division created by the commission

pursuant to the Texas Water Code, §11.325, outside of the Rio Grande Water Division, and to all water rights and matters related to water rights within each such water division. Water rights and matters inside the Rio Grande Water Division are governed by Chapter 303 of this title (relating to Operation of the Rio Grande). All other rules promulgated by the commission are also applicable to the water rights subject to this chapter unless in conflict with the provisions of this chapter, in which event the provisions of this chapter shall govern.

§304.2. Appointment of Watermaster. The executive director may appoint one watermaster for each water division, or the same person may be appointed watermaster for two or more water divisions. In a water division in which the office of watermaster is vacant, the executive director has the powers of a watermaster.

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

Account—The record of diversion and use of state water maintained by the watermaster for each purpose of use authorized for each owner's separate portion of a water right, or the record of impoundment and releases for each owner's separate portion of an on-channel reservoir authorized under a water right, except those reservoirs exempted in accordance with the Texas Water Code, §11.142. An account will also be established for each separate arrangement by a contractual buyer to purchase state water.

Agent—A person who wishes to act in behalf of a water right holder in regard to diversion use, impoundment of state water, payment of a watermaster assessment, or, for a contractual buyer, in regard to diversion, use, or impoundment of state water.

Allocation—The division of available flow between water right holders by the watermaster. This also includes regulation of diversions by water right holders in order to meet demands for exempt domestic and livestock users.

Assessment—The cost to be levied by the commission to water right holders to finance watermaster operations.

Contractual buyer—A person who impounds or diverts water under a contractual permit, or under a particular water right pursuant to a contract with the holder of that water right, where such contract has been approved by the executive director.

Declaration of intent—A statement submitted by a diverter to the watermaster describing an intent under a specific water right or contractual purchase arrangement to divert or impound water, or to make a dedicated release of stored water, for a specified period of time and in association with an authorized facility.

Dedicated release—The release of

lawfully stored water from a reservoir, under a specific water right, for specific authorized uses downstream.

Diversion facility—Any dam, pump, canal or other such device used to take water, for other than exempt uses, from a watercourse or impoundment.

Diverter—Any water right holder, agent, or contractual buyer who impounds, takes, diverts, or makes a dedicated release of state water.

Measuring device—A device designed for the measurement of rates of flow and/or quantities of water.

Report of diversion, impoundment, or release—A report which the diverter is required to submit to the watermaster after recording the amount of water actually diverted, impounded, or released during the period of a declaration of intent, as well as any additional information required by the watermaster. The watermaster may specify a report period that is different from the declaration of intent period.

Return flow—The entry into a stream or reservoir of water following its use for municipal, industrial, irrigation or other purposes.

Salt water diversion—Diversion of state water from the Gulf of Mexico or its bays and arms, or any watercourse or reservoir subject to tidal influence, or when the water right specifies diversion of salt or brackish water; and where, for such cases, the diversion has no significant adverse effect on the supply of water for other authorized diverters, and the diversion does not require protection from junior appropriators.

Water division—A specific area of the state, designated by the commission pursuant to the Texas Water Code, §11.325, for the purpose of administering water rights.

Watermaster—The person appointed by the executive director pursuant to the Texas Water Code, §11.326(a), to administer water rights in a given water division or group of water divisions.

Water right—A right acquired under the laws of the state and the rules of the Texas Water Commission to impound, divert, and/or use state water. Contractual permits and water contracts are not included under this definition.

Water right holder—A person or entity who owns a water right. In the case of divided interests, this term will apply to each separate owner.

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

Earliest possible date of adoption: May 6, 1988

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

Regulation of the Use of State Water

• 31 TAC §§304.11-304.16

These new sections are proposed under the Texas Water Code, §§5.103 and §5.105, which provide the Texas Water Commission with the authority to adopt any rules necessary to carry out its powers and duties under the code and other laws of the State of Texas, and to establish and approve all general policy of the commission. The sections are also proposed under the Texas Water Code, Chapter 11, Subchapter G, which establishes the watermaster operations.

§304.11. Difference in Operations. The executive director may establish different strategies, timetables, procedures, and other requirements for different water divisions or for different portions of a water division.

§304.12. Identification of Diversion Facilities, Outlet Works, and Points of Return. Each diverter shall advise the watermaster of all diversion facilities, reservoir controlling works, and significant return flow points to be employed in the use of state water. This includes borrowed and rented pumps. The watermaster shall assign an identification number for each diversion facility and the controlling works of each reservoir authorized under a water right within the water division. Also, the watermaster may assign an identification number for any point of discharge or other point at which water is returned to a watercourse or reservoir.

§304.13. Requirement for Measuring Devices.

(a) Each diverter, and each person who makes a significant return flow, shall install and maintain a measuring device at such point or points as may be determined by the watermaster to be necessary for proper and efficient administration of water rights. All such measuring devices shall be subject to approval of the watermaster. The measuring devices shall measure within 5.0% accuracy, unless otherwise approved by the watermaster. The diverter shall provide reasonable access to such measuring device. The diverter, or person who makes a return flow, shall be liable for all expenses incurred in the acquisition, installation, maintenance and operation of such measuring devices. In the event a measuring device becomes inoperable, the diverter, or person who makes a return flow, at the direction of the watermaster, shall provide an alternate method of measurement, or estimation acceptable to the watermaster.

(b) Unless required by a permit, certificate of adjudication, or other water right, the following types of diversions and return flows associated with such diversions shall be exempt from the requirement to install and maintain measuring devices; provided, however that the watermaster may require any such diverter, or any person making return flows, to provide an alternate method of estimating diversions or return flows acceptable to the watermaster:

(1) diversions of water by spreader dams;

(2) diversions of water for hydroelectric generation;

(3) salt water diversions;

(4) diversions of water for direct input from a cooling pond into an electric steam power plant for cooling purposes and return flows of such water to a cooling pond;

(5) wastewater treatment plant effluent for which the return flow is being measured and reported in a manner consistent with commission standards relative to wastewater discharge regulations; and

(6) any other diversion or return flow of water that the watermaster may deem appropriate.

§304.14. Requirement for Outlets for Passage of Water. The owner of any works for the diversion or storage of water shall maintain a substantial headgate at the point of diversion, or a gate on each discharge pipe of a pumping plant, constructed so that it can be located at the proper place by the watermaster, or a suitable outlet in a dam to allow the free passage of water that the owner of the dam is not entitled to divert or impound.

§304.15. Declarations of Intent to Divert, Impound, or Release Water.

(a) Prior to diverting or impounding state water or making a dedicated release, a diverter shall submit to the watermaster a declaration expressing the diverter's intent in regard to the anticipated diversion, impoundment, or release. Such a declaration of intent must be submitted within the time limitations established by the watermaster. Each diverter shall divert or release water only in accordance with the statements in the declaration of intent.

(b) Each declaration of intent to divert or impound water shall identify the specific account under which water is to be diverted or impounded; the amount of water to be diverted or impounded; a schedule for the diversions or impoundment; the diversion or impoundment facility to be used; and the rate at which water will be diverted or impounded. Diversion or impoundment shall only be made using authorized facilities, or at points associated with the water right under which the diversion is to be made. Use of water under an irrigation water right shall be only for use on the tract(s) authorized by the water right.

(c) Each declaration of intent to make dedicated releases for downstream uses shall identify the specific account(s) under which water is to be released; the schedule of releases; the amount of water to be released; the specific account(s) under which the water is to be used; the actual rate at which water will be released; and the identification and location of the user. Dedicated releases will be protected only if the preceding data is provided. Dedicated releases shall only be diverted at points authorized by the water right under which the release is made, or an associated approved water contract.

(d) In regard to declarations of intent under either subsection (b) or (c) of this section, the watermaster may require any diverter to provide such additional information as may be necessary for the proper and efficient administration of water rights.

(e) The watermaster shall establish the duration of time for which declarations of intent will remain in effect and may change the duration as conditions warrant. After the end of the duration of a declaration of intent, no further diversion, impoundment, or release of state water shall be made under that water right, or portion thereof, until a new declaration of intent has been submitted to the watermaster.

(f) At the request of the diverter, a declaration of intent may be modified in regard to the duration, the amount of water to be impounded or diverted, the diversion rate, or other specific elements. Such a request must be made in advance of the desired change.

(g) The watermaster from time to time may determine that it is necessary for the proper and efficient administration of water rights that diversions, impoundments of inflows, or releases of dedicated flow in certain areas, or by certain diverters, may not be made without prior approval by the watermaster of declarations of intent. Any such determination shall be effective for the period designated by the watermaster.

(h) The watermaster may exempt any facility or water right from any requirement under this section due to extenuating circumstances.

§304.16. Records of Diversions, Impoundments, and Releases.

(a) Each diverter who has submitted a declaration of intent shall subsequently submit to the watermaster a report including the actual amount of water diverted, impounded, or released during the period of the subject declaration of intent. The watermaster may specify a report period that is different from the period of the declaration of intent. The watermaster shall provide forms to be used for the reports. Each diversion or impoundment facility, including borrowed and rented pumps, used during the period of the declaration of intent shall be designated on the report by the identification number assigned by the

watermaster. Reports must be complete and signed by the diverter. Reports must be received or postmarked within seven days from the termination of the period of the declaration of intent, or other report period specified by the watermaster. If such report is incomplete or not timely filed, the watermaster may cancel any existing declaration of intent for that account and allow no further impoundment, diversion or dedicated release until the report is properly filed.

(b) To the extent that water was available for diversion or impoundment during the period of a declaration of intent, the subject account will be charged as follows.

(1) If the actual diversion or impoundment is within 10% of the amount stated in the declaration of intent, the charge will be the actual amount diverted.

(2) If the actual diversion or impoundment is greater than 110% of the amount stated in the declaration of intent, the charge will be the amount actually diverted plus twice the amount greater than 110%.

(3) If the actual diversion or impoundment is less than 90% of the amount stated in the declaration of intent, the charge will be 90% of the stated amount.

(4) For a declaration of intent that was modified, including cancellation or extension, the charge will consist of the sum of two parts, one for the period before modification, and one for the period after modification. For each of the two periods, the charge will be determined by applying paragraph (1), (2), or (3) of this subsection relative to the amount declared for the particular period. If a modified declaration of intent is subsequently modified further, resulting in multiple parts, the procedure described in this subsection will be applied to each part.

(c) Any amount charged under subsection (b) of this section will apply against the yearly authorization, but only the amount of water actually diverted will apply toward perfection of a water right.

(d) The watermaster shall have the discretion to waive the accounting provisions contained in subsections (b) and (c) of this section for excessive or inadequate diversions due to circumstances beyond the control of the diverter.

(e) In addition to the report to be submitted to the watermaster pursuant to subsection (a) of this section, each water right holder or his agent shall submit to the executive director a written report of the amount of water actually diverted and used during the preceding calendar year under a specific water right in accordance with §295.202 of this title (relating to Reports). This report is required even if no water is used. The form for this report can either be one furnished by the executive director, or

be a form approved by the executive director prior to the submission of the report.

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

Issued in Austin, Texas, on March 30, 1988.

TRD-8803238

William G. Newchurch
Director, Legal Division
Texas Water Commission

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

Allocation of Waters

• 31 TAC §304.21

The new sections is proposed under the Texas Water Code, §5.103 and §5.105, which provide the Texas Water Commission with the authority to adopt any rules necessary to carry out its powers and duties under the code and other laws of the State of Texas, and to establish and approve all general policy of the commission. The section is also proposed under the Texas Water Commission. The section is also proposed under the Texas Water Code, Chapter 11, Subchapter G, which establishes the watermaster operations.

§304.21. Allocation of Available Waters.

(a) The allocation of water between water rights holders shall be on the basis of seniority, which may be modified as provided in subsection (b) of this section. The watermaster shall allocate waters in such a way as to maximize the beneficial utilization of state water, to minimize the potential impairment of senior water rights by the diversions of junior water rights holders, and to prevent waste or use in excess of quantities to which the holders of water rights are lawfully entitled.

(b) In administering water rights, the watermaster shall take into account any exceptions to the priority system as directed by the commission relative to the Wagstaff Act, Texas Water Code, §11.028.

(c) The executive director may request suspension of any or all special streamflow or minimum release requirements. Such a request shall be considered under §297.61 of this title (relating to Amendments by Executive Director).

(d) When available flow is not sufficient to meet the demands of existing declarations of intent, demands for domestic and livestock purposes that are not included under any water right, or other minimum streamflow requirements that the commission determines necessary for purposes other than protection of downstream senior and superior water rights, the watermaster may:

(1) cancel or modify, as needed, any existing declaration of intent made pursuant to §304.15 of this title (relating to

Declarations of Intent to Divert, Impound, or Release Water);

(2) order that water right holders with reservoir(s) allow inflows to pass through such reservoir(s) to the extent necessary to honor downstream senior water rights, demands for domestic and livestock purposes, minimum streamflow requirements, minimum release requirements, and other conditions;

(3) order that diverters limit or cease diversions to the extent necessary to honor downstream senior water rights, demands for domestic and livestock purposes, minimum streamflow requirements, minimum release requirement, and other conditions; and/or

(4) take any other action necessary to ensure that downstream senior water rights, demands for domestic and livestock purposes, minimum streamflow requirements, minimum release requirements, and other conditions, are administered in accordance with the laws of Texas.

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

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Enforcement Regarding Watermaster Operations

• 31 TAC §§304.31-304.33

These new sections are proposed under the Texas Water Code, §5.103 and §5.105, which provide the Texas Water Commission with the authority to adopt any rules necessary to carry out its powers and duties under the code and other laws of the State of Texas, and to establish and approve all general policy of the commission. The sections are also proposed under the Texas Water Code, Chapter 11, Subchapter G, which establishes the watermaster operations.

§304.31. General. The watermaster or executive director may pursue appropriate enforcement action when there is an violation of the Texas Water Code, the terms of a water right, or a commission order of rules.

§304.32. Violations.

(a) It shall be a violation for any person to do the following:

(1) divert, impound, use, or make a dedicated release of state water, either personally or through another, without proper authorization under the Texas Water Code or any applicable final judgment rendered by a court of competent jurisdiction, or without submitting to the

watermaster a declaration of intent in accordance with §304.15(a) or (g) of this title (relating to Declarations of Intent to Divert, Impound, or Release Water);

(2) fail to modify a declaration of intent in advance of a desired change as provided in §304.15(f) of this title (relating to Declarations of Intent to Divert, Impound, or Release Water);

(3) fail to provide an outlet as required in §304.14 of this title (relating to Requirement for Outlets for Passage of Water);

(4) fail to provide an outlet as required in §304.14 of this title (relating to Requirement for Outlets for Passage of Water);

(5) refuse to allow, or to interfere with, the inspection of any land, natural watercourse, artificial waterway, impoundment, return flow point, or diversion facility by an employee of the commission in the discharge of its duties;

(6) break, tamper with, or mutilate any seal or other device used to enforce orders of the commission, executive director, court, or watermaster; or

(7) fail to comply with any statute, rule, or order of the commission.

(b) The list of violations in subsection (a) of this section is not exclusive. **§304.33. Enforcement Actions.** When a violation under §304.32 of this title (relating to Violations) occurs, the watermaster or the executive director may seek voluntary compliance, or may pursue appropriate enforcement action. In the absence of voluntary compliance:

(1) the watermaster may refuse to recognize a declaration of intent;

(2) the watermaster may lock headgates or pumping facilities or take other necessary actions to effectively cease diversion, impoundment, or release of state water under the account associated with the violation; provided, however, that for violations of §304.32(a)(3) or (a)(4) of this title (relating to Violations), the diverter shall be given at least 10 days notice prior to any such action by the watermaster;

(3) the executive director may seek a hearing before the commission culminating with the issuance of an appropriate order; if such an order is subsequently violated, the matter may be referred to the attorney general for appropriate action in a court of competent jurisdiction;

(4) the executive director may refer the violation to the attorney general for appropriate legal remedy in a court of competent jurisdiction, which may include a penalty assessment to the maximum extent allowed by law; and/or

(5) the executive director may seek any other appropriate remedies or action available at law.

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

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Administration

• 31 TAC §§304.41-304.44

These new sections are proposed under the Texas Water Code, §5.103 and §5.105, which provide the Texas Water Commission with the authority to adopt any rules necessary to carry out its powers and duties under the code and other laws of the State of Texas, and to establish and approve all general policy of the commission. The sections are also proposed under the Texas Water Code, Chapter 11, Subchapter G, which establishes the watermaster operations.

§304.41. Emergency Actions. The watermaster may take any reasonable action appropriate to alleviate emergencies.

§304.42. Reports. The watermaster shall submit a quarterly report to each water right holder or his agent who has a diversion account. A water right holder or agent may apply in writing to the watermaster for correction of any alleged errors in the report. Any such application must be received by the watermaster within 20 business days following the date the report from the watermaster was postmarked.

§304.43. Ownership. When a water right is sold or otherwise transferred the new owner shall promptly inform the executive director of the change of ownership and shall provide the appropriate ownership documents. If a tract of land to which a smaller water right acreage is appurtenant is owned by more than one person in divided interest, the executive director may administratively divide the water right among the owners on a prorata basis by acreage. If the new ownership record is not complete, the executive director shall inform the alleged owner by letter that ownership documents must be filed within 30 days and approved by the executive director. During a 60-day period following the date of the executive director's letter, the watermaster will honor declarations of intent by the alleged owner in accordance with the water right. After the 60-day period, no declaration of intent will be honored until the executive director notifies the watermaster of the approved change in ownership. Requests for extension for the initial 60-day period must be submitted in writing to the executive director at least five business days prior to the end of the 60-day period. If the extension is granted, the watermaster may honor declarations of intent for the alleged owner; otherwise no declaration of intent from the

unverified owner will be honored.

§304.44. Appointment of an Agent. Any person purporting to act for any water right holder, in regard to diversion, use, or impoundment of state water, or payment of a watermaster assessment, or for a contractual buyer, in regard to diversion, use, or impoundment of state water, shall submit to the watermaster a document signed by such water right holder confirming such authority and specifying the duration of such authority.

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

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

Appeal of Watermaster Actions

• §304.51.

This new section is proposed under the Texas Water Code, §5.103 and §5.105, which provide the Texas Water Commission with the authority to adopt any rules necessary to carry out its powers and duties under the code and other laws of the State of Texas, and to establish and approve all general policy of the commission. The section is also proposed under the Texas Water Code, Chapter 11, Subchapter G, which establishes the watermaster operations.

§304.51. Appeal of Watermaster Actions. Any person dissatisfied with any action of the watermaster may apply to the executive director for relief under the Texas Water Code, §11.326.

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

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William G. Newchurch
Director, Legal Division
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Financing Watermaster Operations.

• 31 TAC §§304.61-304.63.

These new sections are proposed under the Texas Water Code, §5.103 and §5.105, which provide the Texas Water Commission with the authority to adopt any rules necessary to carry out its powers and duties under the code and other laws of the State of Texas, and to establish and approve all general

policy of the commission. The sections are also proposed under the Texas Water Code, Chapter 11, Subchapter G, which establishes the watermaster operations.

§304.61. *Costs of Administration.* In accordance with the Texas Water Code, §11.329, all holders of water rights that are administered by a watermaster shall reimburse the commission for the expenses of watermaster operations. An assessment account shall be established for each water right holder for each water right authorization by category of use. The total assessment for each account shall be the sum of a

uniform base charge and, as applicable for that account, either a use fee or a storage fee, or both. The executive director shall file with the commission a copy of the proposed budget. Following a public hearing, the commission shall issue an order for each water division or group of water divisions, as the commission may determine to be appropriate, approving the assessment income needed for the watermaster operations for the assessment period under consideration. The order shall also specify the base charge per account and the reinstatement

fee for delinquent assessment payment.

§304.62. *Determination of Assessment Rates.*

(a) After a commission order is issued approving the assessment income needed for the watermaster operations for assessment period under consideration, the executive director shall calculate assessment rates for water use and storage for each water division, or group of divisions, based on the following formula:

$$\text{Municipal Assessment Rate} = \frac{I - M(N)}{(RF_n)(AF_n) + AF_1 + (RF_2)(AF_2) + (RF_3)(AF_3) \dots (RF_n)(AF_n)}$$

Where:

- I : Income needed to meet the adopted budget
- M : Base charge per account
- N : Total number of accounts to be assessed in each water division or group of water divisions
- n, s : Code for type of use or for storage
- RF_n, RF_s : Rate factor for each the following categories of use:

municipal	RF ₁ = 1.00
industrial - consumptive	RF ₂ = 1.00
irrigation	RF ₃ = 0.80
mining - consumptive	RF ₄ = 1.00
recreation - consumptive	RF ₅ = 1.00
non-consumptive (Industrial mining recreation)	RF ₆ = 0.20
hydroelectric - priority	RF ₇ = 0.20
hydroelectric - non-priority	RF ₈ = 0.05
recharge for underground storage	RF ₉ = 0.50
salt water	RF ₁₀ = 0.10
spreader dam diversion	RF ₁₁ = 0.40
secondary use	RF ₁₂ = 0.50
on-channel storage	RF _s = 0.40

AF_n, AF_s: Total diversion, or storage, authorization for all water rights to be assessed in each water division or group of water divisions, for each of the above categories of use, which are defined as follows:

Municipal--The total amount of water authorized for diversion under a water right for this purpose, including non-exempt domestic and livestock uses;

Industrial, Mining, Recreation, or Salt Water Diversions--The total amount of water authorized for consumptive use for each of these categories of use under a water right. In the event there is no specific authorization for consumptive use, the assessment shall be based on the total amount of water authorized for diversion under the water right. Diversions that do not conform to the definition for salt water diversion in §304.4 of this title (relating to Definitions) will be assessed at the rate for the category of use(s) authorized by the water right. For any diversion that would fit the salt water diversion definition except for the fact that the watermaster may be required to protect that water right against junior appropriators, the water right holder or agent may achieve conformity with the definition, and be assessed at the salt water rate, by providing to the executive director, at least 60 days in advance of assessment billing, an affidavit waiving such protection. Such an affidavit shall be subject to approval by the executive director and shall specify the duration for waiving such protection, but shall not be for less than one assessment accounting period, and shall be coterminous with assessment periods as establish by the commission.

Nonconsumptive Industrial, Mining, or Recreation--under a given water right where part of the authorization for one of these uses is specified as being consumptive, the remainder will be considered nonconsumptive.

Irrigation, Hydroelectric (Priority and Non-priority), Recharge, Spreader Dam Diversions, or Secondary Use--the total amount of water authorized for diversion for each of these categories of use under a water right.

On-channel Storage--the total conservation storage authorized for impoundment under a water right. This category includes only on-channel reservoirs authorized under the Texas Water Code, except those reservoirs exempted in accordance with the Texas Water Code, §11.142.

(B) After the assessment rate for municipal use has been determined, the assessment rates for the other uses or for storage shall be calculated as the mathematical product of the municipal assessment rate and the rate factor for each use or for storage.

§304.63. Assessment of Costs.

(a) To determine the amount of assessment for each account, computations shall be made by adding together a base charge as specified in the commission order adopted in accordance with §304.61 of this title (relating to Costs of Administration) and, as applicable, either or both of the following:

(1) a use fee, which is the mathematical product of the total amount of water authorized for use under that account and the appropriate assessment rate as determined by §304.62 of this title (relating to Determination of Assessment Rates); provided, however, that if the water right authorizes more than one type of use, and if the maximum amount of water authorized to be used annually for all uses (the maximum total authorization) is less than the sum of the maximum amounts authorized to be used annually for each use (the sum of all authorizations), then in calculating the fee for each account the number to be used for the authorized amount shall be the product of the maximum total authorization and a fraction whose numerator is the amount of water authorized for that use, and whose denominator is the sum of all authorizations; and also provided that the water right holder or the executive director may apply to the commission for, and the commission may grant, an order providing, for assessment purposes only, that different portions of the total amount of water authorized be applied to the various authorized uses; and

(2) a storage fee for on-channel storage, which is calculated by multiplying the total amount of water authorized for conservation storage under that account by the storage assessment rate as determined by §304.62 of this title (relating to Determination of Assessment Rates). For any water right authorizing storage and more than one type of use for the same owner, the storage fee for that owner's total storage authorization shall be applied to the assessment account for any one of the uses associated with that owner.

(b) The assessment shall be paid to the executive director in advance of expenditures. The executive director in advance of expenditures. The executive director shall specify the dates by which payments shall be due, and provide for payments in installments. The executive director shall transmit all collections to the state treasurer to be held in a special fund to provide for the cost of the watermaster operation.

(c) Water shall not be diverted, taken, stored, or used by any diverter or agent while any assessment payment is delin-

quent.

(d) Either the water right owner or agent shall pay the assessment, but only one person per account shall be authorized to pay assessments.

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 30, 1988.

TRD-8803233 William G. Newchurch
Director, Legal Division
Texas Water Commission

Earliest possible date of adoption: May 6, 1988

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

◆ ◆ ◆
TITLE 37. PUBLIC SAFETY AND CORRECTIONS
Part I. Texas Department of Public Safety

Chapter 15. Drivers License Rules

Driver Improvement

• 37 TAC §15.81

The Texas Department of Public Safety proposes an amendment to §15.81, concerning criteria for driver improvement action. This section is amended by adding subsection (e) regarding educational program suspension. If the Department of Public Safety receives notice that a person has been required or permitted to attend an educational program, but the court has not ordered a period of suspension, the department shall suspend the person's driver's license or shall issue an order prohibiting the person from obtaining a license for a period of 365 days. Proof of financial responsibility will be required for a period as required by the Safety Responsibility Act.

Melvin C. Peeples, assistant chief of fiscal affairs, has determined that there will be fiscal implications as a result of enforcing or administering the section. The effect on state government for the first five-year period the section will be in effect is an estimated additional cost of \$40,687 in 1988; and \$39,688, each year from 1989-1992; and estimated increase in revenue of \$71, 000 each year from 1988-1992.

Vernon Cole, manager, also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be a reduction of alcohol related accidents, fatalities, and other offenses through quality education and uniform and consistent enforcement of the DWI Education Program provisions. The anticipated economic cost to individuals who are required to comply with the section as proposed will be a \$50 safety responsibility reinstatement fee. The agency is unable to determine the cost of liability insurance.

Comments may be submitted to John C. West, Jr., Texas Department of Public Safety, Box 4087, Austin, Texas 78773-0001 (512) 465-2000.

The amendment is proposed under Texas Civil Statutes, Article 6687b, §1A, §§10, 21, 22, 24A, 25, 28, 29, and 30; and the Code of Criminal Procedure, Article 42.12, §6f, which provide the Texas Department of Public Safety with authority to adopt rules that it determines are necessary to effectively administer this Act and suspend a person's driver's license or operating privilege when the court has not ordered a period of suspension to a person that has been previously convicted of an offense under Texas Civil Statutes, Article 67011-1, who has previously been required to attend such programs.

§15.81. Criteria for Driver Improvement Action.

(a)-(d) (No change.)

(e) Educational program suspension.

(1) The Department of Public Safety will suspend a person's driver's license, permit, or operating privilege for a period of 365 days when it receives notice that the individual has been required or permitted to attend a subsequent educational program and the court did not order a period of suspension. Effective date of suspension will be seven days from the date of the department's suspension order.

(2) Proof of financial responsibility will be required for a period as required by the Safety Responsibility Act. Proof is required from the date of suspension.

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 28, 1988.

TRD-8803158 Leo E. Gossett
Director
Texas Department of
Public Safety

Earliest possible date of adoption: May 6, 1988

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

◆ ◆ ◆
Part VII. Texas Commission on Law Enforcement Officer Standards and Education
Chapter 211. Administrative Division

Substantive Rules

• 37 TAC §211.70, §211.77

The Texas Commission on Law Enforcement Officer Standards and Education proposes new §211.70 and §211.77, concerning minimum training standards for peace officers

and minimum training standards for reserves. Section 211.77 modifies the academic path for peace officer training to require three Texas peace officer sequence courses, requires completion of the Texas reactivation course to supplement out-of-state training, defines successful completion of academic courses, and allows for credit until February 1991 for previous academic supplementary training. Section 211.70 still permits issuance of a reserve license to one who has finished the 145-hour basic reserve, but it becomes a conditional license, conditioned upon completion of the intermediate reserve training within two years and the advanced reserve training within four years. Failure to do so will result in suspension until the training is completed. This section also requires completion of the reactivation course to supplement out-of-state training. Both sections require similar supplementation for any training older than two years.

David M. Boatright, has determined that there will be fiscal implications as a result of enforcing or administering the sections. There will be no effect on state government for the first five year period the sections will be in effect. The effect on local government an estimated additional cost \$0.00 in 1989 and 1990, \$39,300 each year in 1991 and 1992, and \$76,500 in 1993. There will be no cost of compliance with the section for small businesses.

Mr. Boatright also has determined that for each year of the first five years the sections are in effect the public benefit anticipated as a result of enforcing the sections will be better trained and more knowledgeable peace officers and reserves. The anticipated economic cost to individuals who are required to comply with the sections as proposed will be the total additional tuition of \$30,000 each year in 1989-1993.

Comments on the proposal may be submitted to David M. Boatright, General Counsel, Texas Commission on Law Enforcement Officer Standards and Education, 1606 Headway Circle, Suite 100, Austin, Texas 78754.

The new sections are proposed under the Government Code, §415.010(10), which provides the Texas Commission on Law Enforcement Officer Standards and Education with the authority to establish minimum standards relating to competence and reliability, including education and training standards for peace officers and reserves.

§211.70. *Minimum Training Standards for Reserves.*

(a) The minimum training standards for permanent licensing as a reserve before January 1, 1989, shall be:

(1) completion of the 145-hour basic reserve course;

(2) successful completion of the following peace officer requirements:

(A) the seven college level law enforcement transfer curriculum courses; and

(B) Law Enforcement #1;

(3) holding a permanent peace

officer license, whether active or deactivated;

(4) completion of any specifically required supplementary training;

(5) credit for sufficient previous training which is equivalent to that 145-hour course; or

(6) completion of any standard found in subsection (b) of this section.

(b) The minimum training standards for permanent licensing as a reserve on and after January 1, 1989, shall be:

(1) completion of the current basic peace officer course;

(2) successful completion of the 10 college level law enforcement courses, including the seven transfer curriculum courses and the three supplementary courses of the Texas peace officer sequence;

(3) holding a permanent peace officer license, whether active or deactivated;

(4) completion of any specifically required supplementary or remedial training; or

(5) credit for sufficient previous training which is equivalent to the current basic peace officer course, including specifically, completion of one each of the separate reserve component courses which together meet or exceed the learning objectives of the basic peace officer course.

(c) On and after January 1, 1989, the commission shall issue one of the following licenses to an applicant who meets all other reserve licensing standards, including the state examination:

(1) a permanent reserve license to an applicant who meets the full peace officer training standard; or

(2) a conditional reserve license to an applicant who:

(A) under the professional training path, has received credit for at least the 145-hour basic reserve course; or

(B) under the academic path, has successfully completed at least the seven courses known as the criminal justice transfer curriculum with law enforcement emphasis and the third course, known as Texas peace officer skills, from the Texas peace officer sequence.

(d) A conditional reserve license shall be suspended if the holder has not received credit for the following training, or successfully completed the following courses, under each respective path, within the specified time from the conditional license date:

(1) under the professional training path:

(A) the 131-hour intermediate reserve course within two years; or

(B) both the 131-hour intermediate and the 124-hour advanced reserve courses within four years; and

(2) under the academic path:

(A) the Texas peace officer laws course within two years; or

(B) both the Texas peace officer laws and procedures courses within four years.

(e) A license suspended under subsection (d) of this section shall remain suspended until proof of compliance with the provisions of that subsection has been accepted by the commission.

(f) The commission may, through its executive director, review documentation of previous training submitted by a potential license applicant or an appointing agency and may then either:

(1) accept that training as equivalent to any training required under the current commission standards; or

(2) require specific supplementary or remedial training necessary to equate the previous training to those current standards.

(g) However, if the previous training is out-of-state, the applicant must complete the peace officer reactivation course covering Texas law and procedure in addition to any out-of-state training which may have been credited.

(h) Each reserve course, basic, intermediate, and advanced, shall cover the subjects and be taught in accordance with the current instructor guides provided by the commission.

(i) The basic reserve course shall consist of 145 hours of instruction including the following subjects and topics:

(1) course activities—introduction to the course; and classroom notetaking, review, and testing;

(2) investigation patrol—United States Constitution and Bill of Rights; Code of Criminal Procedure; Use of force; and arrest, search, and seizure;

(3) skills training—firearms; and emergency medical care; and

(4) miscellaneous—traffic direction and control; crowd control; and courtroom demeanor and testimony.

(j) The intermediate reserve course shall consist of 131 hours of instruction, including the following subjects and topics:

(1) course activities—introduction to course; and, class-

room notetaking, review, and testing; and

(2) investigative patrol—Penal Code; community relations; basic investigation; field notetaking; report writing; and use of reports.

(k) The advanced reserve course shall consist of 124 hours of instruction including the following subjects and topics:

(1) course

activities—introduction to the course; and classroom notetaking, review, and testing;

(2) patrol—introduction to patrol; preparation for patrol; communications; crime prevention and public service; and preventive patrol and traffic law enforcement; and

(3) investigative patrol—Family Code; Alcoholic Beverage Code; Dangerous Drugs and Controlled Substances Acts; civil law and process; and law enforcement driving.

(l) Successful completion of Law Enforcement Number 1 before February 1, 1989, shall meet the requirements of successful completion of the Texas peace officer skills course under subsection (c)(2)(B) of this section. However, this only applies to the initial issuance of a conditional reserve license under that subsection, based on an application received before February 1, 1991. In addition to the other suspension provisions of this section, any conditional license that was issued under the provisions of this subsection may be suspended if the holder has not received credit within two years for those learning objectives found within the Texas peace officer skills course which are not covered in Law Enforcement Number 1.

(m) On and after January 1, 1989, an applicant for a permanent reserve license, who has met the minimum training standards for reserves, must pass the required state licensing examination before two years has elapsed after meeting those standards. If not, training or courses that would otherwise meet the minimum standards of this section must be supplemented by completion of the peace officer reactivation course. The executive director may, in his discretion, determine the exact date of completion or credit in unusual or questionable cases.

(n) The effective date of this section shall be July 1, 1988.
§211.77. Minimum Training Standards for Peace Officers.

(a) The minimum training standards for permanent licensing as a peace officer from September 1, 1985-December 31, 1988, shall be either:

(1) completion of the 400-hour basic peace officer course;

(2) successful completion of the seven college level law enforcement courses known as the criminal justice trans-

fer curriculum with law enforcement emphasis, as particularly described in subsection (h) of this section and successful completion of the two supplementary law enforcement courses, known as Law Enforcement Number 1 and 2, as described in subsection (i) of this section;

(3) completion of any specifically required supplementary or remedial training;

(4) credit for either any sufficient previous training which is equivalent to the 400-hour course, or specifically, for one such of the three separate reserve component courses:

(A) the 145-hour basic;

(B) the 131-hour intermediate; and

(C) the 124-hour advanced;

or

(5) completion of any standard found in subsection (b) of this section.

(b) The minimum training standards for permanent licensing as a peace officer on and after January 1, 1989, shall be either:

(1) completion of the 400-hour basic peace officer course;

(2) successful completion of the 10 college level law enforcement courses, seven of which are known as the criminal justice transfer curriculum with law enforcement emphasis as described in subsection (h) of this section and three of which are supplementary courses known as the Texas peace officer sequence, as described in subsection (j) of this section;

(3) completion of any specifically required supplementary or remedial training; or

(4) credit for either any sufficient previous training which is equivalent to the 400-hour course, or specifically, for one each of the three separate reserve component courses:

(A) the 145-hour basic;

(B) the 131-hour intermediate; and

(C) the 124-hour advanced.

(c) The commission may, through its executive director, review documentation of previous training submitted by a potential license applicant or an appointing agency and may then either:

(1) accept that training as equivalent to any training required under the current commission standards; or

(2) require specific supplementary or remedial training necessary to equate the previous training to those current standards.

(d) However, if the previous training is out-of-state, the applicant must complete the peace officer reactivation course covering Texas law and procedure in addition to any out-of-state training which may have been credited.

(e) The basic peace officer course shall consist of a minimum of 400 hours of instruction, covering the subjects and taught in accordance with the current instructor guides provided by the commission.

(f) The basic peace officer course shall include the following subjects and topics:

(1) course

activities—introduction to the course; and classroom notetaking, review, and testing;

(2) patrol—introduction to patrol; preparation for patrol; communications; crime prevention and public service; preventive patrol; and traffic law enforcement;

(3) investigative patrol—United States Constitution and Bill of Rights; Code of Criminal Procedure; Penal Code; use of force; Family Code; Alcoholic Beverage Code; Dangerous Drugs and Controlled Substances Acts; civil law and process; arrest, search, and seizure, community relations; investigations; field notetaking; report writing; and use of reports;

(4) skills training—firearms; law enforcement driving; and emergency medical care; and

(5) miscellaneous—traffic direction and control; crowd control; and courtroom demeanor and testimony.

(g) To be acceptable under this section, the transfer curriculum courses and the supplementary law enforcement courses shall be taught in accordance with the current guidelines and illustrative transfer course outlines provided by the Texas Higher Education Coordinating Board. For purposes of this section, the term "successful completion" shall, when applied to an academic course, mean a passing grade from an academic institution of either:

(1) C or better, unless the course is only offered pass/fail; or

(2) pass, in a course only offered pass/fail by the institution.

(h) The seven transfer curriculum courses, which are known as the criminal justice transfer curriculum with law enforcement emphasis and which are necessary under this section, shall include the following subjects and topics:

(1) crime in America—American crime problems in historical perspective; social and public policy factors affecting crime; impact and trends; social characteris-

tics of specific crimes; and prevention of crime;

(2) introduction to criminal justice—history and philosophy of criminal justice and ethical considerations; crime defined: its nature and impact; overview of criminal justice system: law enforcement; court system; prosecution and defense; trial process; and corrections;

(3) fundamentals of criminal law—nature of criminal law; philosophical and historical development; major definitions and concepts; classification of crime; elements of crimes and penalties (using Texas statutes as illustrations); and criminal responsibility;

(4) the courts and criminal procedure—the judiciary in the criminal justice system; structure of American court system; prosecution; right to counsel; pre-trial release; grand juries; adjudication process; types and rules of evidence; and sentencing;

(5) police systems and practices—the police profession in the criminal justice system; organization of law enforcement systems; the police role; police discretion; ethics; police community interaction; and current and future issues;

(6) criminal investigation—investigative theory; collection and preservation of evidence; sources of information; interview and interrogation; uses of forensic sciences; and case and trial preparation; and

(7) legal aspects of law enforcement—sources of police authority; police responsibilities; constitutional constraints; laws of arrest, search, and seizure; case studies in arrest, search, and seizure; and police liability.

(i) the supplementary law enforcement courses shall include the following topics within each respective course:

(1) Law Enforcement Number 1 (66 hours)—firearms training and qualification; emergency medical care; traffic direction and control; and crowd control; and

(2) Law Enforcement Number 2 (124 hours)—course activities; introduction to patrol; preparation for patrol; crime prevention and public service; communications; preventive patrol and traffic law enforcement; Family Code; Alcoholic Beverage Code; Dangerous Drugs and Controlled Substances Acts; civil law and process; and law enforcement driving.

(j) The 10 college level law enforcement courses shall be the seven transfer curriculum courses of subsection (h) of this section and the three supplementary course which are known as the Texas peace officer sequence. That sequence shall include the following topics within each respective course:

(1) Texas peace officer laws (a

minimum of 77 contact hours)—traffic law enforcement; intoxicated driver; offenses against the person and family; offenses against property; offenses against public order and decency; offenses against public health, safety, and morals; use of force; Family Code; Alcoholic Beverage Code; and civil law, process, and liability;

(2) Texas peace officer procedures (a minimum of 77 contact hours)—patrol procedures; dangerous drugs—controlled substances; controlled substances identification; recognizing and handling abnormal persons; traffic collision investigation; notetaking and report writing; introduction to vehicle operation; traffic direction; crowd control; and jail operations (booking procedures); and

(3) Texas peace officer skills (a minimum of 92 contact hours)—patrol procedures; traffic stops; mechanics of arrest; firearms safety; and emergency medical care.

(k) Completion of the 145-hour basic reserve course shall substitute as credit for Law Enforcement Number 1. Credit for, or successful completion of, either the 124-hour advanced reserve course or the 124-hour Law Enforcement Number 2 course shall substitute as interchangeable credit for the other. Successful completion of both Law Enforcement Number 1 and Law Enforcement Number 2 before February 1, 1989, shall meet the requirements of successful completion of the Texas peace officer sequence for an applicant whose application is received by the commission before February 1, 1991.

(1) On and after January 1, 1989, an applicant for a permanent peace officer license, who has met the minimum training standards for peace officers, must pass the required state licensing examination before two years has elapsed after meeting those standards. If not, training or courses that would otherwise meet the minimum standards of this section must be supplemented by completion of the peace officer reactivation course. The executive director may, in his discretion, determine the exact date of completion or credit in unusual or questionable cases.

(m) The effective date of this section shall be July 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 March 28, 1988

TRD-8803161 David M Boatright
General Counsel
Texas Commission on Law
Enforcement Officer
Standards and
Education

Earliest possible date of adoption July 1, 1988

For further information, please call (512) 834-9222

• 37 TAC §211.77

(Editor's note: The text of the following section proposed for repeal will not be published. The section may be examined in the offices of the Texas Commission on Law Enforcement Officer Standards and Education or in the Texas Register office, Room 503, Sam Houston Building, 201, East 14th Street, Austin.)

The Texas Commission on Law Enforcement Officer Standards and Education proposes the repeal of §211.77, concerning minimum training standards required for peace officer and reserves law enforcement officers. This section is repealed because it has been completely rewritten as two new sections §211.77 and §211.70.

David M. Boatright, general counsel, has determined that for the first five-year period the proposed repeal 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 repeal.

Mr Boatright, also has determined that for each year of the first five years the repeal is in effect the public benefit anticipated as a result of enforcing the repeal will be more efficient implementation of the commission law concerning minimum training standards for peace officers and reserves. The anticipated economic cost to individuals required to comply with the repeal will be identical to the cost shown in proposed new §211.77.

Comments on the proposal may be submitted to David M. Boatright, general counsel, Texas Commission on Law Enforcement Officer Standards and Education, 1606 Headway Circle, Suite 100, Austin, Texas 78754.

The repeal is proposed under the Government Code, §415.010(10), which provides the Texas Commission on Law Enforcement Officer Standards and Education with the authority to establish minimum standards relating to competence and reliability, including educational and training standards for peace officers and reserves.

§211.77. Minimum Training Standards Required for Peace Officers and Reserve Law Enforcement Officers.

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 28, 1988.

TRD-8803162 David M. Boatright
General Counsel
Texas Commission on Law
Enforcement Officer
Standards and
Education

Proposed date of adoption: July 1, 1988

For further information, please call: (512) 834-9222



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 16. ECONOMIC REGULATION

Part I. Railroad Commission of Texas

Chapter 5. Transportation Division

Subchapter F. Bills of Lading to be Issued

16 TAC §5.91

The Railroad Commission of Texas has withdrawn from consideration for permanent adoption of proposed amendment to §5.91 which appeared in the October 6, 1987, issue of the *Texas Register* (12 TexReg 3590). The effective date of this withdrawal is April 20, 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 March 31, 1988.

TRD-8803271 Walter E. Lilie
Special Counsel
Railroad Commission of
Texas

Filed: March 31, 1988

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

TITLE 22. EXAMINING BOARDS

Part V. State Board of Dental Examiners

Chapter 109. Conduct

Anesthesia and Anesthetic Agents

• 22 TAC §109.171

The State Board of Dental Examiners has withdrawn from consideration for permanent adoption proposed new §109.171 which appeared in the December 22, 1987, issue of the *Texas Register* (12 TexReg 4820). The effective date of this new section is March 29, 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 March 29, 1988.

TRD-8803176 Carol McPherson
Accountant
State Board of Dental
Examiners

Filed: March 29, 1988, 9:52 a.m.

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

• 22 TAC §109.172

The State Board of Dental Examiners has withdrawn from consideration for permanent adoption proposed new §109.172 which appeared in the December 22, 1987, issue of the *Texas Register* (12 TexReg 4820). The effective date of this new section is March 29, 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 March 29, 1988.

TRD-8803175 Carol McPherson
Accountant
State Board of Dental
Examiners

Filed: March 29, 1988, 9:52 a.m.

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

• 22 TAC §109.173

The State Board of Dental Examiners has withdrawn from consideration for permanent adoption proposed new §109.173 which appeared in the December 22, 1987, issue of the *Texas Register* (12 TexReg 4821). The effective date of this new section is March 29, 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 March 29, 1988.

TRD-8803174 Carol McPherson
Accountant
State Board of Dental
Examiners

Filed: March 29, 1988, 9:52 a.m.

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

• 22 TAC §109.174

The State Board of Dental Examiners has withdrawn from consideration for permanent adoption proposed new §109.174 which ap-

peared in the December 22, 1987, issue of the *Texas Register* (12 TexReg 4821). The effective date of this new section is March 29, 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 March 29, 1988.

TRD-8803173 Carol McPherson
Accountant
State Board of Dental
Examiners

Filed: March 29, 1988, 9:52 a.m.

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

• 22 TAC §109.175

The State Board of Dental Examiners has withdrawn from consideration for permanent adoption proposed new §109.175 which appeared in the December 22, 1987, issue of the *Texas Register* (12 TexReg 4822). The effective date of this new section is March 29, 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 March 29, 1988.

TRD-8803172 Carol McPherson
Accountant
State Board of Dental
Examiners

Filed: March 29, 1988, 9:52 a.m.

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

• 22 TAC §109.176

The State Board of Dental Examiners has withdrawn from consideration for permanent adoption proposed new §109.176 which appeared in the December 22, 1987, issue of the *Texas Register* (12 TexReg 4823). The effective date of this new section is March 29, 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 March 29, 1988.

TRD-8803171 Carol McPherson
Accountant
State Board of Dental
Examiners

Filed: March 29, 1988, 9:52 a.m.

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

Issued in Austin, Texas on March 28, 1988.

TRD-8803118

Jean Davis
Liaison
State Board of Medical
Examiners

Filed: March 28, 1988, 2:19 a.m.

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

◆ ◆ ◆
• 22 TAC §109.177

The State Board of Dental Examiners has withdrawn from consideration for permanent adoption proposed new §109.177 which appeared in the December 22, 1987, issue of the *Texas Register* (12 TexReg 4823). The effective date of this new section is March 29, 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 March 29, 1988.

TRD-8803170

Carol McPherson
Accountant
State Board of Dental
Examiners

Filed: March 29, 1988, 9:52 a.m.

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

Name: Chad Herrison
Grade: 7
School: Clear Lake Intermediate, Clear
Creek

◆ ◆ ◆
Chapter 116. Dental
Laboratories

• 22 TAC §§116.1-116.4

The State Board of Dental Examiners has withdrawn from consideration for permanent adoption proposed new §§116.1-116.4 which appeared in the February 23, 1988, issue of the *Texas Register* (13 TexReg 907). The effective date of this withdrawal is March 30, 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 March 30, 1988.

TRD-8803219

Carol McPherson
Accountant
State Board of Dental
Examiners

Filed: March 30, 1988

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

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Part IX. State Board of
Medical Examiners

Chapter 193. Standing
Delegation Orders

• 22 TAC §193.7

The State Board of Medical Examiners has withdrawn from consideration for permanent adoption proposed new §193.7 which appeared in the December 18, 1987, issue of the *Texas Register* (12 TexReg 4731). The effective date of this new section is March 28, 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.



Adopted Sections

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

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

TITLE 16. ECONOMIC REGULATIONS

Part I. Railroad Commission of Texas

Chapter 5. Transportation Division

The Railroad Commission of Texas adopts the repeal of §5.256 and existing §5.316, and new §5.316. New §5.316 is adopted with changes to the proposed text published in the October 6, 1987, issue of the *Texas Register* (12 TexReg 3590). The proposed amendment to §5.91, also published in the October 6, 1987 issue, is withdrawn in this issue of the *Texas Register*.

The purpose of the repeals and new section is to place all rules governing claims in one section, to simplify claims procedures, to shorten carrier response times on claims, and to remove unnecessary burdens on claimants. The changes to the proposed version of new §5.316 were made to remove additional burdens on the shipper, and to also lengthen the time allotted for carrier inspection of a damaged shipment to a reasonable time. The amendment to §5.91 is not adopted because of the disruptions which apparently would be caused by removing the subsections from the uniform bill of lading.

The new section will consolidate all claims rules in one unified system. The special system in place for household goods movers will be eliminated; household goods movers will now be subject to the same claims rules as are all other carriers. The new section will also generally reduce the time periods allotted to carriers to respond to claims submitted by shippers.

Numerous comments were received in response to the proposal. Most commenters opposed the amendment to the uniform bill of lading found in §5.91, stating that the amendment would result in a different transportation contract in Texas than in the rest of the country. The commenters also opposed the reduction in time limits for response to claims, and for inspection of damage. One comment suggested that the bill of lading inventory be the sole determination of the condition of the shipment. Comments were received which opposed the elimination of separate claims rules for household goods carriers, as well as comments which opposed the entire proposal.

No comments were received in favor of the propose repeals and new section comment in opposition to all or part of the proposal were Atlas Van Lines of Texas, Inc., UNIRISC, Central Freight Lines, Inc., Southwest Warehouse and Transfer Association,

Inc., Merchants Fast Motor Lines, Inc., Texas Bulk Carriers, Inc., Teas Motor Express Association, Brown Express, Inc., Greyhound Lines, Inc., Red Arrow Freight Lines, Inc., Alamo Express, Inc., DSI Transports, Inc., Melton Truck Lines, Inc., Burnham Service Corporation, C.A. White Trucking Company, Big State Freight Lines, Inc., Herder Truck Lines, Inc., and Lange Truck Lines.

The commission disagrees with the bulk of the comments in opposition to the new section. The commission agrees that no change should be made in the present version of §5.91. The omission feels that the existing special provisions for household goods carriers are duplicated by the new rules for the most part, and that a separate section is therefore unnecessary. The commission also disagrees with the comments opposing the reduction in time limits for acknowledgement of claims, and for declination, payment or compromise of a claim. The present system allows carriers to unnecessarily delay the disposition of a claim. The new deadlines do not force a carrier to pay claims not properly investigated, but simply ensure that the shipper is kept apprised of the statute of the claim. Finally, the commission disagrees with the suggestion that the inventory on the bill of lading be the sole determination of the condition of the shipment. The commission believes that the claims handling system should have fewer technical requirements, and should instead promote an amicable resolution of claims.

Subchapter N. Household Goods Carriers

16 TAC §5.256

The repeal is adopted under Texas Civil Statutes, Article 911b, which provide the Railroad Commission of Texas with authority to prescribe rules to govern motor carriers.

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 28, 1988.

TRD-8803154

Jim Nugent
Chairman
Railroad Commission of
Texas

Effective date: April 19, 1988

Proposal publication date: October 6, 1987

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

Subchapter Q. Miscellaneous Provisions

• 16 TAC §5.316

The repeal is adopted under Texas Civil Statutes, Article 911b, which provide the Railroad Commission with authority to prescribe rules to govern motor carriers.

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 28, 1988.

TRD-8803153

Jim Nugent
Chairman
Railroad Commission of
Texas

Effective date: April 19, 1988

Proposal publication date: October 6, 1987

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

The new section is adopted under Texas Civil Statutes, Article 911b, which provide the Railroad Commission of Texas with authority to prescribe rules to govern motor carriers. §5.316. *Claims for Loss or Damage.*

(a) Filing of claims.

(1) A claim for loss, damage, injury, or delay to a shipment must be filed in writing with the carrier who received, delivered, or handled the shipment. The use of a claims form set out in the applicable tariff is recommended but not required.

(2) The claim must contain facts sufficient to identify the shipment, and make demand for payment of a specified or determinable amount of money.

(3) Bad order reports, appraisal of reports of damage, notation of exceptions on freight bills or other documents, inspection reports issued by carriers inspectors, or tracers or inspection requests, cannot be substituted for a written claim but may be used to supplement or support a written claim.

(b) Documents required in support of claims. A claim must be accompanied by the following:

(1) the original freight bill and bill of lading or other contract of carriage, or copies of such documents;

(2) documentation to establish the value of the property;

(3) when an asserted claim for loss cannot otherwise be confirmed by the carrier, if the carrier requires, a signed statement that the property covered by the claim has not been received;

(4) when the interest of the claimant in the property involved does not appear from the documents submitted, if the carrier requires, a written assignment or other documentation of claimant's interest.

(c) Acknowledgement and disposition of claims.

(1) Each carrier which receives a written claim for loss of or damage to property transported shall acknowledge receipt of the claim in writing to the claimant within 15 calendar days after receipt by the carrier or the carrier's agent, unless the carrier pays or declines to pay the claim within that 15 days. At the time of claim acknowledgement, the carrier will notify the claimant in writing of the following: "Claim handling procedures are established by the Railroad Commission of Texas. Motor Carriers operating in intrastate commerce must comply with the Motor Transportation Regulations §5.316 in the handling of loss and/or damage claims. Questions or complaints concerning the carrier's handling (the commission has no authority to adjudicate the settlement of the claim) should be directed to the Railroad Commission of Texas, Transportation Division at its Austin, Texas address, or at (512) 463-7110." The carrier or carrier's agent shall record the date of receipt on the claim.

(2) The carrier shall pay, decline to pay, or make a firm compromise settlement offer in writing to the claimant within 60 days after receipt of the claim by the carrier or its agent. If, for reasons beyond the control of the carrier, the claim cannot be processed and disposed of within 60 days after receipt, the carrier shall at that time and at the expiration of each succeeding 30-day period while the claim remains pending, advise the claimant in writing of the status of the claim and the reasons for the delay in final disposition.

(d) Inconsistent claims. When two or more carriers have been presented with a similar claim on the same shipment, the carriers may require further substantiation from each claimant to the extent necessary to resolve any overlap or conflict.

(e) Document pilferage. If any portion of a shipment bears any indication of pilferage, the carrier and consignee shall jointly inventory the contents and note shortages or damages on the carrier's delivery receipt.

(f) Reporting of concealed damage. The consignee has the responsibility to notify the delivering carrier of concealed damage to a shipment as soon as it is discovered, and to preserve the shipping container and its contents in the same condition as when the damage was discovered,

insofar as possible.

(g) Inspection by carrier or consignee. The carrier shall inspect a damaged shipment as soon as practicable after being notified and requested to inspect by the consignee, but no later than 15 normal working days after that request. The carrier shall make a written report of the results of the inspection and provide the original to the consignee.

(h) Payment of shipping charges. Payment of shipping charges and payment of claims shall be handled separately, and one shall not be used to offset the other.

(i) Inconsistent tariff provisions. Any and all items or provisions of tariffs which are the basis for the operation of motor carriers are superseded to the extent that they conflict with the provisions of this section.

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 28, 1988.

TRD-8803257

Jim Nugent
Chairman
Railroad Commission of
Texas

Effective date: April 19, 1988

Proposal publication date: October 6, 1987

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

TITLE 22. EXAMINING BOARDS

Part IX. State Board of Medical Examiners

Chapter 161. General Provisions

• 22 TAC §161.1

The Texas State Board of Medical Examiners adopts an amendment to §161.1 without changes to the proposed text published in the February 16, 1988, issue of the *Texas Register* (13 TexReg 826).

The amendment relates to board and committee meetings. The amendment calls for a change in parliamentary procedures from *Sturgis* to the *Robert's Rules of Order Newly Revised*. There is provision for issues before the board to require a decision by majority vote. The board's standing committees are also listed.

It is expected that the amendment will greatly clarify the procedural aspects of board and committee meetings.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes Article 4495b, which provides 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.

Issued in Austin, Texas, on March 28, 1988.

TRD 8803120

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

Effective date: April 18, 1988

Proposal publication date: February 16, 1988

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

• 22 TAC §161.3

The Texas State Board of Medical Examiners adopts new §161.3 without changes to the proposed text published in the February 16, 1988, issue of the *Texas Register* (13 TexReg 828).

The new section is necessary to outline the succession of officers in the event of incapacity or absence. It also sets out method of election to fill vacant officer positions.

It is expected that the rule as adopted will clarify the procedure for officer service and election.

No comments were received regarding adoption of the new section.

The new section is adopted under Texas Civil Statutes Article 4495b, which provides 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.

Issued in Austin, Texas, on March 28, 1988.

TRD-8803119

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

Effective date: April 18, 1988

Proposal publication date: February 16, 1988

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

Part XXII. Texas State Board of Public Accountancy

Chapter 523. Continuing Professional Education

Registered Continuing Education Sponsors

• 22 TAC §523.71

The Texas State Board of Public Accountancy adopts the new §523.71, without changes to the proposed text published in the February 12, 1988, issue of the *Texas Register* (13 TexReg 759).

The new section sets forth guidelines for sponsors making application to provide con-

tinuing education.

The new section specifies the method by which sponsors of continuing education make application for registration with the board.

No comments were received regarding adoption of the new section.

The new section is adopted under Texas Civil Statutes, Article 41a-1, §6(a), which provide the Texas State Board of Public Accountancy with the authority to promulgate rules of professional conduct relating to application to become a sponsor of continuing education and the review of such application.

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

TRD-8803122

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

Effective date: April 18, 1988

Proposal publication date: February 12, 1988

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

◆ ◆ ◆
• §523.72

The Texas State Board of Public Accountancy adopts the new §523.72, without changes to the proposed text published in the February 12, 1988, issue of the *Texas Register* (13 TexReg 759).

The new section requires sponsors annually to indicate their desire to continue as registered continuing education sponsors.

The new section provides the authority to audit continuing education sponsors to preclude the granting of credit for substandard courses being offered by some sponsors.

No comments were received regarding adoption of the new section.

The new section is adopted under Texas Civil Statutes, Article 41a-1, which provide the Texas State Board of Public Accountancy with the authority to promulgate rules of professional conduct relating to the renewal application for sponsors of continuing education courses and the review of such applications.

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

TRD-8803121

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

Effective date: April 18, 1988

Proposal publication date: February 12, 1988

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

TITLE 34. PUBLIC FINANCE

Part VII. State Property Tax Board

Chapter 161. Tax Record Requirement

• 34 TAC §161.1

The State Property Tax Board adopts an amendment to §161.1, with changes to the proposed text published in the September 29, 1987, issue of the *Texas Register* (12 TexReg 3474).

The section adopts by reference the State Property Tax Board publication "Manual for the Appraisal of Agricultural Land." The amendment adopts a new edition of the manual that sets forth the method of appraising qualified 1-d-1 and 1-d land and develops procedures to verify that land qualifies for a special agricultural appraisal for property tax purposes.

The updated version of the manual reflects current practice, new legislation, and judicial interpretations of the law. The manual will help taxpayers and public officials to better understand their rights and obligations under the law.

One comment was made against adopting an updated version of the manual. All other comments favored adopting an updated version. Some comments urged adoption of a policy that land used to raise horses qualifies for an agricultural appraisal. Others opposed qualifying land used to raise horses. The appraisal of orchard trees separately from the land was opposed by those who felt the trees should be valued along with the land. The classification of conservation reserve production (CRP) land as open-space land was opposed by those who felt CRP land should be placed in a separate category from other agricultural land, and that CRP payments should be included in determining net-to-land for productivity value. Some comments indicated that the rollback section in the manual should clarify the agency's policy on changes of use that trigger rollback. Finally, some commented that the proposed manual was too broad in scope, considering the wide diversity of agricultural activities in the state.

The manual must be updated to inform the public of changes in law and policy. The manual must be broad in scope to provide useful guidance to all appraisal districts.

The agency disagrees with the position that land used to raise horses should not qualify because the law and past administrative interpretations have permitted land used to raise horses to qualify for agricultural appraisal.

The agency agrees that orchard trees should be valued with the land.

The agency does not agree that CRP land can be included in the net-to-land calculation. Net-to-land measures productivity, yet these federal payments are not based on productivity. Land categories are required by statute to be based on the land's agricultural use; a category for CRP land would be based on the absence of agricultural production on the land.

The agency agrees that the change of use policy was unclear in the manual and has revised the section accordingly.

The amendment is adopted under the Property Tax Code, §23.52, which provides State Property Tax Board with the authority to develop and distribute to each appraisal office manuals setting forth methods of appraising and administering special appraisal, and the Property Tax Code, §5.07, which requires the board to prescribe the contents of all forms necessary for the administration of the property tax system, and a uniform record system to be used by all appraisal offices.

§161.1. Valuation of Open-Space and Agricultural Lands. The State Property Tax Board adopts by reference the Manual for the Appraisal of Agricultural Land as amended March 25, 1988. This document is published by and available from the State Property Tax Board, 9501 North IH35, P.O. Box 15900, Austin, Texas 78761.

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 28, 1988.

TRD-8803193

Ron Patterson
Executive Director
State Property Tax Board

Effective date: April 19, 1988

Proposal publication date: September 29, 1988

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

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 billeting 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 Animal Health Commission

Friday, April 8, 1988, 9 a.m. The Texas Animal Health Commission will meet in the First Floor Conference Room, 210 Barton Springs Road, Austin. According to the agenda, the commission will approve minutes of the previous meeting, approve actions of the executive director, authorize employees to sign vouchers for expenditures of funds, hear a report on calfhood vaccination funds, discuss issues before the Sunset Commission, consider adoption of amendments to the brucellosis and Equine regulations, and proposing amendments to the Brucellosis and requirements and standards for approved personnel regulation; discuss proposal for a veterinary biologics regulation, hear a report on the Brucellosis Program in Texas, discuss importation of "F" branded heifers, and the proposal to establish an export/import facility for cattle to and from Mexico.

Contact: Jo Anne Conner, 210 Barton Springs Road, Austin, Texas 78704.

Filed: March 30, 1988, 4:48 p.m.

TRD-8803261

Texas Department of Corrections

Thursday, March 31, 1988, 1 p.m. The Texas Department of Corrections met in emergency session in Rooms 101 and 102, John H. Reagan Building, 105 West 15th Street, Austin. According to the agenda, the department considered approval of process for pre-release center contracts. The department also meet in closed session pursuant to Texas Civil Statutes, Article 6252-17, §2(e) to discuss with board attorneys regarding Ruiz litigation and regarding pre-release center negotiations. The emergency status was necessary because new matters which require prompt board approval cannot wait for May 1988 regular meeting.

Contact: James A. Lynaugh, P.O. Box 90, Huntsville, Texas 77342, (409) 294-2101.

Filed: March 30, 1988, 8:34 a.m.

TRD-8803224

Texas Education Agency

Friday, April 8, 1988. Various committees for the State Board of Education, Texas Education Agency will meet in the William B. Travis Building, 1701 North Congress Avenue, Austin, unless otherwise noted. Times, room numbers, and agendas follow.

8 a.m. The Committee for Finance and Programs will meet in Room 1-104 will consider the permanent school fund, annual operating plan/budget, vocational education, public school finance-personnel, the State Textbook Program, the Foundation School Program, the State Textbook Committee, State Plan for Federal Vocational Education Funding, priority occupations, State Plan for Adult Education, vocational education curriculum projects, and the operating plan/budget for 1986-1987 and 1987-1988; discuss the McKinney Homeless Assistance Act funds, status report on Select Committee on Education, Sunset Review Commission, and legislative matters; Texas Textbook System, legislative recommendations on funding for Master Plan in Vocational Education, State Board of Education priorities for fiscal year 1989, operating budget and fiscal biennium for 1990-1991 operating budget request and priorities under the Long-range Plan.

Contact: W. N. Kirby, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-8985.

Filed: March 30, 1988, 4:32 p.m.

TRD-8803263

8:30 a.m. The Committee for Personnel will meet in Room 1-100 to consider testing program, standards for teacher education and 1987 program requirements for preparation of school personnel for initial certificates and endorsements, annual performance report on institutions approved for teacher education, certification of general requirements, assignment to the teacher career ladder, hear a report on panel review-

ing Texas teacher appraisal system for scoring standards and approval of commissioner's recommendations, and review considerations for administrator appraisal.

Contact: W. N. Kirby, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-8985.

Filed: March 30, 1988, 4:32 p.m.

TRD-8803267

9:30 a.m. The Committee for Finance and Programs will meet in Room 1-104 for a public hearing on the proposed state plan for federal vocational education funding, fiscal years 1989-1990.

Contact: W. N. Kirby, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-8985.

Filed: March 30, 1988, 4:32 p.m.

TRD-8803268

1:15 p.m. The Committee for Students will meet in Room 1-111 to award credit for grades nine-12; discuss curriculum, discipline of handicapped students, revision of timeline for development of plan for adult and community education, amendments to University Interscholastic League rules, petition for adoption of rule amendment to change the month of the administration of the Texas Educational Assessment of Minimum Skills (TEAMS) tests, discuss grade nine TEAMS composition, academic achievement record, and present Natural Heritage of Texas map.

Contact: W. N. Kirby, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-8985.

Filed: March 30, 1988, 4:32 p.m.

TRD-8803269

3 p.m. The Committee for Long-Range Planning will meet in Room 1-110 to discuss State Board of Education priorities for fiscal year 1989 operating budget and fiscal

biennium for 1990-1991 operating budget request and priorities under the Long-range Plan, update on the Long-range Plan for Technology, hear status report on the accreditation of school districts, and discuss revised state plan for regional education service centers.

Contact: W. N. Kirby, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-8985.

Filed: March 30, 1988, 4:32 p.m.

TRD-8803266

7 p.m. The State Board of Education will meet in the Longhorn Room, Guest Quarters Hotel, 303 West 15th Street, Austin. According to the agenda, the board will hold a dinner meeting to receive reports from the chairmen of the State Board of Education committees, i.e., Committee for Finance and Programs, Committee for Students, Committee for Personnel, and Committee for Long-range Planning, concerning items discussed in the committee meetings on Friday, April 8, 1988.

Contact: W. N. Kirby, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-8985.

Filed: March 30, 1988, 4:32 p.m.

TRD-8803264

Saturday, April 9, 1988, 8:30 a.m. The State Board of Education will meet in Room 1-104 to discuss the permanent school fund, annual operating plan/budget, state vocational education allotment, public school finance-personnel, State Textbook Program, Foundation School Program, State Textbook Committee, State Plan for Federal Vocational Education Funding, priority occupations, State Plan for Adult Education, vocational education curriculum projects, and the operating plan/budget for 1986-1987 and 1987-1988; discuss the McKinney Homeless Assistance Act funds, award credit for grades nine-12; discuss curriculum, discipline of handicapped students, plan for adult and community education, University Interscholastic League rules, Texas Educational Assessment of Minimum Skills, testing program, standards for teacher education and 1987 program requirements for preparation of school personnel, annual performance report of institutions approved for teacher education, certification, teacher career ladder, and Texas teacher appraisal system.

Contact: W. N. Kirby, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-8985.

Filed: March 30, 1988, 4:32 p.m.

TRD-8803265

Wednesday, April 13, 1988, 8:30 a.m. The Continuing Advisory Committee for Special Education will meet in the Longhorn Room, Guest Quarters Hotel, 303 West 15th Street, Austin. According to the agenda, the committee will discuss guidelines for comments from the floor at regularly scheduled meetings, approve letter of certification, consider allocation of funds for regional day care school programs for the deaf, discuss extended years services, learning disabled task force report, Texas Department of Mental Health and Mental Retardation money for care and treatment, problems and unmet needs of special education, and committee goals for 1987-1988.

Contact: W. N. Kirby, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-8985.

Filed: March 30, 1988, 4:32 p.m.

TRD-8803262

Advisory Commission on State Emergency Communications

Wednesday, April 6, 1988, 9 a.m. The Advisory Commission on State Emergency Communications will meet in Room 104, John H. Reagan Building, 105 West 15th Street, Austin. According to the agenda summary, the commission will hear committee reports from the Public Information Committee, Administrative Committee, Finance Committee, and Regional Plan Committee; consider adoption of an emergency rule relating to the definition of equivalent local exchange access line as provided in Texas Civil Statutes, Article 1432f, §6; consider final adoption of new rule proposals regarding §§255.1-255.3 related to the 9-1-1 equalization surcharge, adoption of emergency and proposed rules concerning electronic transfer and deposit of 9-1-1 surcharge of funds and 9-1-1 service fees, adoption of rules related to the definition of a state agency for purposes of billing the 9-1-1 fees and surcharges, and agreement with the Treasury Department for collection and management of 9-1-1 surcharge funds and related services; hear public comments; and discuss new business and future meetings.

Contact: Mary A. Boyd, P.O. Box 13206, Austin, Texas, (512) 463-1812.

Filed: March 29, 1988, 4:23 p.m.

TRD-8803192

Texas Employment Commission

Wednesday, April 6, 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, tax liability cases and higher level appeals in unemployment compensation cases listed on docket 14, and date of next meeting. The commission will also meet in executive session to discuss Zesch Restaurants, Inc. v. TEC and David Keating.

Contact: C. Ed Davis, 101 East 15th Street, Austin, Texas 78778, (512) 463-2291.

Filed: March 29, 1988, 2:01 p.m.

TRD-8803185

Office of the Governor-Criminal Justice Division

Tuesday, April 5, 1988, 2 p.m. The Texas Crime Stoppers Advisory Council of the Criminal Justice Division will meet in emergency session in the Conference Room, Third Floor, Sam Houston Building, 201 East 14th Street, Austin. According to the agenda, the council will consider election of officers; approve minutes from August 26, 1987; hear coordinator's report; and consider 1988/1989 tentative council meeting schedule. The emergency status is necessary because new appointed board members/need to appoint chairperson and other offices for the operation of the Texas Crime Stoppers Advisory Council.

Contact: David Cobbs, Sam Houston Building, 201 East 14th Street, Austin, Texas, (512) 463-1784.

Filed: March 30, 1988, 9:19 a.m.

TRD-8803226

Wednesday and Thursday, April 6 and 7, 1988, 9 a.m. and 2 p.m., respectively. The Select Committee on Education of the Governor's Office, will consider historical perspective presentation Texas Research League; consider House Bill 72 concerning four years later Tom Luce, chief of staff, Select Committee on Public Education; hold a work session on research needs and priorities; consider committee business; hear presentation of case overview and solutions MALDEF, equity center, and plaintiff interveners; and hear subcommittee reports.

Contact: Margaret La Montagne, (512) 463-1834.

Filed: March 30, 1988, 9:32 a.m.

TRD-8803232

Health and Human Services Coordinating Council

Wednesday, April 6, 1988, 9 a.m. The Task Force on Policy Planning of the Health and Human Services Coordinating Council will meet in the Seventh Floor Conference Room, Sam Houston Building,

Austin. According to the agenda, the task force will consider objectives of meeting; hear presentation of current policy making practices; and set objectives for future meetings.

Contact: Patricia O. Thomas, 311-A, East 14th Street, Austin, Texas, (512) 463-2195.

Filed: March 29, 1988, 12:40 p.m.

TRD-8803182

Texas Higher Education Coordinating Board

Thursday, April 21, 1988, 9:30 a.m. The Texas Higher Education Coordinating Board will meet in the Boardroom, Bevington A. Reed Building, 200 East Riverside Drive, Austin. Times and agendas follow.

9:30 a.m. The Research Programs Committee will approve awards for advanced research program and advanced technology program and consider program announcements for energy research and applications programs

Contact: Kenneth H. Ashworth, P.O. Box 12788, Austin, Texas 78711, (512) 462-6400.

Filed: March 31, 1988, 9:03 a.m.

TRD-8803277

10:15 a.m. The Health Affairs Committee will consider matters relating to health affairs.

Contact: Kenneth H. Ashworth, P.O. Box 12788, Austin, Texas 78711, (512) 462-6400.

Filed: March 31, 1988, 9:03 a.m.

TRD-8803280

10:45 a.m. The Universities Committee will consider matters relating to universities.

Contact: Kenneth H. Ashworth, P.O. Box 12788, Austin, Texas 78711, (512) 462-6400.

Filed: March 31, 1988, 9:03 a.m.

TRD-8803276

11:30 a.m. The Facilities and Campus Planning Committee will consider matters relating to facilities and campus planning.

Contact: Kenneth H. Ashworth, P.O. Box 12788, Austin, Texas 78711, (512) 462-6400.

Filed: March 31, 1988, 9:03 a.m.

TRD-8803279

2 p.m. The Community Colleges and Technical Institutes Committee will consider matters relating to community colleges and technical institutes.

Contact: Kenneth H. Ashworth, P.O. Box 12788, Austin, Texas 78711, (512) 462-

6400.

Filed: March 31, 1988, 9:03 a.m.

TRD-8803278

3 p.m. The Planning and Administration Committee will consider matters relating to planning and administration.

Contact: Kenneth H. Ashworth, P.O. Box 12788, Austin, Texas 78711, (512) 462-6400.

Filed: March 31, 1988, 9:03 a.m.

TRD-8803275

Friday, April 22, 1988, 9 a.m. The Coordinating Board will consider matters relating on research programs, Committee on Facilities and Campus Planning, Committee on Community Colleges and Technical Institutes, Committee on Health Affairs, Committee on Universities, and Committee on Planning and Administration.

Contact: Kenneth H. Ashworth, P.O. Box 12788, Austin, Texas 78711, (512) 462-6400.

Filed: March 31, 1988, 9:03 a.m.

TRD-8803274

Texas Housing Agency

Wednesday, April 6, 1988. The Texas Housing Agency will meet in Suite 300, 811 Barton Springs Road, Austin. Times and agendas follow.

9 a.m. The Personnel and Planning Committee will consider statewide housing study, overtime policy for work off premises, employee evaluation procedures, and maternity leave policy.

Contact: Kenneth DeJarnett, P.O. Box 13941, Austin, Texas 78711, (512) 474-2974.

Filed: March 29, 1988, 4:48 p.m.

TRD-883215

11 a.m. The Ad Hoc Tax Credit Committee will approve minutes of the December 30, 1987, meeting; consider summary of 1987 tax credit activity, applications for the low income rental housing tax credit program, and special requests for the low income rental housing tax credit.

Contact: Kenneth DeJarnett, P.O. Box 13941, Austin, Texas 78711, (512) 474-2974.

Filed: March 29, 1988, 4:48 p.m.

TRD-883216

11 a.m. The Finance and Audit Committee will hear reports from management consultants; consider organizational structure, personnel, and staff evaluation compliance as relates to budget, policy manual, budget for fiscal year 1988, bond counsel and minority attorney's participation and association plan (review), and investment bankers.

Contact: Kenneth DeJarnett, P.O. Box 13941, Austin, Texas 78711, (512) 474-2974.

Filed: March 29, 1988, 4:48 p.m.

TRD-883217

2 p.m. The Board of Directors will consider statewide housing study, overtime policy for work off premises, evaluation procedure, maternity leave policy, management consultants, organizational structure, personnel and staff evaluation compliance as same relates to budget, policy manual, budget for fiscal year 1988, bond counsel and minority attorney's participation and association plan (review), investment bankers, summary of 1987 tax credit activity, applications for the low income rental housing tax credit program, and special requests for the low income rental housing tax credit program. The board will also meet in executive session to discuss pending litigation relating to THA and trustee relationship and staff evaluations and organizational structure.

Contact: Kenneth DeJarnett, P.O. Box 13941, Austin, Texas 78711, (512) 474-2974.

Filed: March 29, 1988, 4:48 p.m.

TRD-883218

State Board of Insurance

Friday, April 8, 1988, 2 p.m. The State Board of Insurance will meet in Room 414, State Insurance Building, 1110 San Jacinto Street, Austin. According to the agenda, the board will conduct a public hearing to consider possible approval of investments by the Texas Catastrophe Property Insurance Association in a "Trust for Short-term U.S. Government Securities."

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

Filed: March 30, 1988, 2:25 p.m.

TRD-8803256

Lamar University System- Board of Regents

Wednesday, March 30, 1988, 5 p.m. The Athletic Committee of the Lamar University System-Board of Regents met in emergency session in the Office of the Chancellor, John Gray Library, 855 Florida, Beaumont. According to the agenda, the committee met in executive session to discuss personnel matters. The emergency status was necessary because the matter had to be discussed prior to the next regularly scheduled meeting of the board of regents.

Contact: George McLaughlin, P.O. Box 11900, Beaumont, Texas 77710.

TRD-8803250

Special Committee on Organization of State Agencies

Wednesday, April 6, 1988, 9 a.m. The Subcommittee on Professional Licensing of the Special Committee on Organization of State Agencies will meet in the Tarrant County Administration Building, 100 East Weatherford, Fort Worth. According to the agenda, the subcommittee will discuss various options for organization of professional licensing agencies.

Contact: Ernest Leonard, P.O. Box 13206, Austin, Texas 78711, (512) 463-1812

Filed: March 29, 1988, 4:31 p.m.

TRD-8803185

Friday, April 8, 1988, 9:30 a.m. The Subcommittee on Public Protection/Criminal Justice and Corrections, will meet in Room 105, John H. Reagan Building, Austin. According to the agenda summary, the subcommittee will hear testimony from representatives of Texas state agencies involved with public protection, criminal justice, and corrections activities regarding the agencies' organizational structure, budgets, and methods of operation. The subcommittee may discuss and consider potential alternative organizational structures for carrying out some or all of these functions. The agencies requested to testify have been notified of the meeting by the committee staff.

Contact: Ernest Leonard, P.O. Box 13206, Austin, Texas 78711, (512) 463-1812.

Filed: March 29, 1988, 4:31 p.m.

TRD-8803186

Texas Pork Producers Board

Friday, April 8, 1988, 2 p.m. The Texas Pork Producers Board of the Texas Department of Agriculture will meet in the Seguin-Guadalupe County Coliseum, 810 Guadalupe Street, Seguin. According to the agenda, the board will approve minutes of the previous meeting; hear the treasurer's report; and consider new business and announcements.

Contact: Ken Horton, P.O. Box 10168, Austin, Texas 78766, (512) 453-0615.

Filed: March 30, 1988, 8:30 a.m.

TRD-8803225

Texas State Board of Public Accountancy

Thursday-Friday, March 31-April 1, 1988, 9 a.m. The full board meeting of the

Texas State Board of Public Accountancy met for an emergency agenda revision in Suite 340, 1033 La Posada, Austin. According to the agenda, the board discussed possible amendment to Substantive Rule 521.8, Retired Status. The emergency status was necessary because the was the only time the board could meet with society members to discuss the topic.

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

Filed: March 30, 1988, 3:50 p.m.

TRD-8803260

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.

Wednesday, March 30, 1988, 10:30 a.m. The Hearings Division met in emergency session to consider Dockets 6668/6753. Inquiry of the commission into the prudence and efficiency of the planning and management of the construction of the South Texas Nuclear Project; Inquiry of the commission into the treatment of settlement proceeds from the settlement between Brown and Root and the participants in the south Texas project) appeal of examiner's order 29 (extension of time). The emergency status was necessary because absent extension of the time for ruling, the appeal will be overruled by operation of law prior to the next regularly scheduled final order meeting.

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

Filed: March 29, 1988, 4:33 p.m.

TRD-8803194

Wednesday, April 6, 1988, 9 a.m. The Hearings Division will consider Docket 8013-Application of Eastern New Mexico Rural Telephone Cooperative, Inc. to detariff CPE and inside wiring.

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

Filed: March 29, 1988, 2:33 p.m.

TRD-8803188

Monday, May 16, 1988, 10 a.m. The Hearings Division will consider Docket 7952-Complaint of Metro-Link Telecom against Southwestern Bell Telephone Company.

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

Filed: March 29, 1988, 2:33 p.m.

School Land Board

Tuesday, April 5, 1988, 10 a.m. The School Land Board submitted an emergency revised agenda for a meeting held in the Stephen F. Austin Building, 1700 North Congress Avenue, Austin. According to the agenda, the board considered schedule and procedures for the October 4, 1988, lease sale. The emergency status was necessary to meet tract nomination deadline.

Contact: Linda K. Fisher, 1700 North Congress Avenue, Room 836, Austin, Texas 78701, (512) 463-5016.

Filed: March 29, 1988, 2:21 p.m.

TRD-8803187

Texas Sunset Advisory Commission

Wednesday, April 6, 1988, 9 a.m. The Ad Hoc Study Committee on Medicaid Liens and Estate will meet in emergency session in Room 106, John H. Reagan Building, 105 West 15th Street, Austin. According to the agenda, the committee will discuss committee charges, the need for Medicaid-supported nursing home care in Texas, background and content of the Sunset Commission Medicaid liens and estate recovery recommendations, other states experiences in Medicaid liens and estate recovery, possible federal legislation regarding Medicaid liens and estate recovery, other business, and the proposal of April 22, 1988, as the next meeting date. The emergency status is necessary due to difficulty in coordinating schedules of recently appointed members.

Contact: Jeri Kramer, 105 West 15th Street, Austin, Texas 78701, (512) 463-1300.

Filed: March 30, 1988, 2:09 p.m.

TRD-8803252

University Interscholastic League

The University Interscholastic League met in emergency session in Room 2.102, Thompson Conference Center, 26th and Red River Street, University of Texas campus, Austin. The emergency status was necessary because meetings are open to public to speak and the agenda of speakers was not available until just prior to meeting. Dates, times, and agendas follow.

Wednesday, March 30, 1988, 9 a.m. The Committee to Analyze Consistency Among Programs heard concerns and proposals regarding consistency of rules among UIL programs and off-season issues.

Contact: Bonnie Northcutt, P.O. Box 8028, Austin, Texas 78713, (512) 471-5883.

Filed: March 29, 1988, 11:17 a.m.

TRD-8803178

Thursday, March 31, 1988, 9 a.m. The Committee to Review Eligibility and Penalties heard concerns and proposals regarding eligibility and penalties.

Contact: Bonnie Northcutt, P.O. Box 8028, Austin, Texas 78713, (512) 471-5883.

Filed: March 29, 1988, 11:17 a.m.

TRD-8803177

Texas Water Commission

The Texas Water Commission will meet in the Stephen F. Austin Building, 1700 North Congress Avenue, Austin. According to the agenda the commission submitted an emergency revised agenda for a meeting held in Room 118, to consider request by Celanese Chemical Company, Pampa Facility for the reissuance of an emergency order pursuant to §26.0191 of the Texas Water Code and 31 TAC §305.30 of the rules of the commission to waive secondary containment for certain existing tank's, allow the use of celrobic reactor without certifying structural integrity, allow the use of two temporary holding tanks without secondary containment, allow the use of a temporary hazardous waste incinerator, and allow the treatment of hazardous waste in the biological wastewater treatment system. This facility is located in the southwest quadrant formed by the intersection of the United States Highway 60 and FM Road 2300, approximately 3.5 miles southwest of the City of Pampa, Gray County. The emergency status was necessary because an explosion and fire at the applicant's plant necessitated the issuance of this emergency order to allow the applicant to proceed with cleanup and restart of the facility's operations without endangering public health or the environment.

Contact: Karen A. Phillips, P.O. Box 13087, Austin, Texas 78711, (512) 463-7898.

Filed: March 29, 11:53 a.m.

TRD-8803181

Texas Youth Commission

Thursday, April 7, 1988, 9 a.m. The board of the Texas Youth Commission will meet in Suite 322, 8900 Shoal Creek Boulevard, Austin. According to the agenda, the board will present automated medical records process (information); approve standard contract for residential and nonresidential services (action); approve lease of Parrie Haynes Ranch (action); select architects for construction projects (action); discuss consultant fees for asbestos abatement (action); consider extension of consultant fees for foundation testing at Crockett State School (action); discuss interagency contract between Texas Youth Commission and the

attorney general's office for litigation costs (action); consider an update on attorney general's response to the opinion on "Definition of Home" (action); and hear a report on student population.

Contact: Ron Jackson, P.O. Box 9999, Austin, Texas 78766.

Filed: March 30, 1988, 1:37 p.m.

TRD-8803251

Regional Meetings

Meeting Filed March 29, 1988

The Education Service Center, Region VII, Board of Directors, will meet in the Holiday Inn, Henderson, on April 14, 1988, at 7 p.m. Information may be obtained from Don J. Peters, 818 East Main, Kilgore, Texas 75662, (214) 984-3071.

TRD-8803180

Meetings Filed March 30, 1988

The Archer County Appraisal District, Board of Directors, will meet in at 211 South Center, Archer City, on April 13, 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 Hockley County Appraisal District, Appraisal Review Board, will meet at 1103-C Houston Street, Levelland, on April 5, 1988, at 10 a.m. Information may be obtained from Keith Toomire, P.O. Box 1090, Levelland, Texas 79336, (806) 894-9654.

The Lampasas County Appraisal District, Board of Directors, will meet at 109 East Fifth Street, Lampasas, on April 6, 1988, at 2 p.m. Information may be obtained from Dana Ripley, P.O. Box 175, Lampasas, Texas 76550, (512) 556-8058.

The North Plains Water District, Board of Directors, will meet at 702 East First Street, Dumas, on April 7, 1988, at 10 a.m. Information may be obtained from Richard S. Bowers, P.O. Box 795, Dumas, Texas 79029, (806) 935-6401.

TRD-8803191

Meetings Filed March 31, 1988

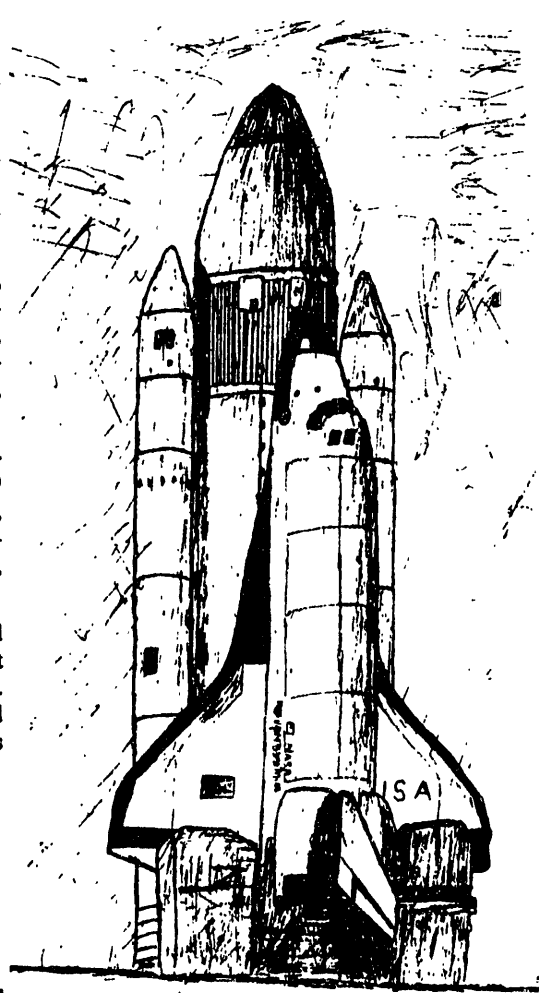
The East Texas Council of Governments, Board of Directors, will meet in the Ole West Steak House, Kilgore, on April 7, 1988, at 11:30 a.m. The Executive Committee will meet in ETCOG Offices at the same date at 2 p.m. Information may be obtained from Glynn Knight, 3800 Stone Road, Kilgore, Texas, (214) 984-8641.

The Grayson Appraisal District, Board of Directors, will meet at 205 North Travis, Sherman, on April 13, 1988, at noon. Information may be obtained from Deborah Reneau, 205 North Travis, Sherman, Texas 75090, (214) 893-9673.

The North Central Texas Council of Governments, North Central Texas Job Training Consortium Private Industry Council, will meet in Centerpoint Two, 616 Six Flags Drive, Arlington, on April 6, 1988, at 10 a.m. Information may be obtained from Mike Gilmore, P.O. Drawer COG, Arlington, Texas 76005-5888, (817) 640-3300.

The Panhandle Ground Water Conservation District, #3, Board of Directors, met at 300 South Omohundro, White Deer, on April 4, 1988, at 7:30 p.m. Information may be obtained from Gary L. Walker, P.O. Box 637, White Deer, Texas 79097, (806) 883-2501.

TRD-8803273



Name: Neil Kinnebrew
Grade: 10
School: A&M Consolidated High,
College Station

In Addition

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

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

Texas Department of Banking Notice of Application

Texas Civil Statutes, Article 342-401a, requires any person who intends to buy control of a 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 March 3, 1988, the banking commissioner received an application to acquire control of the Texas American Bank/Levelland, Levelland, by Eli S. Jacobs, New York, New York.

On March 28, 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 March 28, 1988.

TRD-8803152 William F. Aldridge
Director of Corporate Activities
Texas Department of Banking

Filed: March 29, 1988

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

State Banking Board Notice of Hearing

The hearing officer of the State Banking Board will conduct a hearing on Thursday, May 5, 1988, at 9 a.m., 2601 North Lamar Boulevard, Austin, on the change of domicile application for Community Bank, Katy.

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 .

TRD-88 William F. Aldridge
Director of Corporate Activities
Texas Department of Banking

Filed: March 28, 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 pri-

vate 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, March 14, 1988-March 18, 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 March 18, 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 March 18, 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 March 18, 1988: \$0

Total amount of the \$834,100,000 state ceiling remaining unreserved as of March 18, 1988: \$398,710,425.

Comprehensive listing of bond issues which have received a reservation date pursuant to the Act from March 14, 1988-March 18, 1988: none

Comprehensive listing of bonds issued and delivered as pursuant to the act from March 14, 1988-March 18, 1988: None.

Issued in Austin, Texas, on March 23, 1988.

TRD-8803179 J.W. Lauderback
Executive Director
Texas Department of Commerce

Filed: March 29, 1988

**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⁾/Agricultural/Commercial⁽⁴⁾ thru \$250,000</u>	<u>Commercial⁽⁴⁾ over \$250,000</u>
Indicated (Weekly) Rate - Art. 1.04(a)(1)	04/04/88-04/10/88	18.00%	18.00%
Monthly Rate ⁽¹⁾ Art. 1.04(c)	04/01/88-04/30/88	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 Quarterly 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	04/01/88-04/30/88	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 this the 28th day of March, 1988.

Issued in Austin, Texas, on March 28, 1988.

TRD-8803223 Al Endsley
Consumer Credit Commissioner

Filed: March 30, 1988

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

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Texas Department of Human Services
Public Notice

The Texas Department of Human Services has published a report describing the actual expenditures of Title XX social services block grant funds for fiscal years 1986-1987. Free copies of the report are available to the public.

Contact Person. To obtain a copy, write Brian Packard, Associate Commissioner for Budget and Economic Analysis 000-W, Policy Development Support Division 222-E, Texas Department of Human Services, P.O. Box 2960, Austin, Texas 78769.

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

TRD-8803190 Marlin W. Johnston
Commissioner
Texas Department of Human Services

Filed: March 29, 1988

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

◆ ◆ ◆
Texas State Board of Medical
Examiners

Correction of Error

The Texas State Board of Medical Examiners submitted a proposal section which contained an error as published by the office of the Texas Register in the February 16, 1988, issue of the *Texas Register* (13 TexReg 828).

In §161.3, subsection (c) should read: "

(c) In the event of the absence or incapacity of all three elected officers, the board may elect another person to act as presiding officer of a board meeting or may elect an interim acting president for the duration of the absence or incapacity of all three elected officers."

◆ ◆ ◆
Texas Department of Mental Health
and Mental Retardation

Correction of Error

The Texas Department of Mental Health and Mental Retardation submitted an invitation for comments which contained an error as published by the office of the Texas Register in the March 22, 1988, issue of the *Texas Register* (13 TexReg 1405).

The last sentence of the first paragraph should read: "Copies of the department's plan for the use of these funds may be obtained by writing to Nancy D. Dittmar, Ph.D., Director of Special Programs, Mental Health Services, P.O. Box 12668, Austin, Texas 78711."

As a result of the error the department would like to extend the time period for receiving comments to May 6, 1988.

Texas Department of Public Safety
Consultant Contract Award

The Texas Department of Public Safety (DPS), in accordance with Texas Civil Statutes, Article 6252-11c, announces the awarding of a consultant contract to develop a comprehensive proposal for implementing an automated fingerprint identification system (AFIS), for both central repository and latent applications within the DPS and a network of fingerprint access terminals in other law enforcement agencies throughout the state.

The solicitation for proposals was published in the December 25, 1987, issue of the *Texas Register* (12 TexReg 4928).

The consultant shall review DPS' current operations in fingerprint record processing and latent fingerprint examinations. The consultant shall develop and provide a document to the department for use in presenting to the legislature the need for, and cost-benefits of, a state-of-the-art fingerprint identification system for the Texas criminal justice community. The consultant shall also develop and provide a complete request for proposal (RFP) to the department containing functional specifications sufficient for solicitation of bids on an automated fingerprint identification system, including a detailed description of the benchmark test to be performed.

The consultant contract was awarded to Roland R. Sutfin, Information Systems Engineering, 9250 Wagner Creek Road, Talent, Oregon 97540.

The consultant contract began March 23, 1988, and will end June 22, 1988. The total value of the contract is \$40,431.

The document that the consultant will provide describing the need for, and cost-benefits of, an AFIS is due no later than June 22, 1988. The complete RFP containing functional specifications of the AFIS is due no later than June 22, 1988.

Issued in Austin, Texas, on March 28, 1988.

TRD-8803184 Leo E. Gossett
Director
Texas Department of Public Safety

Filed: March 29, 1988

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

◆ ◆ ◆
Public Hearing

The Texas Department of Public Safety, in accordance with the Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6252-13a, is holding a public hearing April 15, 1988, 10 a.m., Department of Public Safety Headquarters Conference Room B, 5805 North Lamar Boulevard, Austin.

The purpose of the hearing is to receive testimony regarding adoption of amendments to the administrative rule regarding regulations governing transportation safety, §3.59, promulgated pursuant to Texas Civil Statutes, Article 6701d, §139. The amendment was published in the February 12, 1988, issue of the *Texas Register* (13 TexReg 832).

The hearing is in response to the department's receiving a request for such from the Highway Pipeline Trucking Company and a request for such from Eleanor Tinsley, City Council, City of Houston. A previous request for a public hearing by the Texas Tank Truck Carriers, an

association of more than 25 members, was withdrawn by that association. In addition, the department has received four letters, one from a state representative, two from businesses, and one from an association in opposition to the amendments. Although none of the parties requesting a public hearing are specifically entitled to such a hearing, it is the department's decision to afford such an opportunity to interested parties.

Interested parties must submit advanced written notice of their intent to attend the hearing and present, at the time of the hearing, a written copy of any remarks they wish to make. Letters of intent to attend the hearing must be addressed to John C. West, Jr., General Counsel, Texas Department of Public Safety, Box 4087, Austin, Texas 78773-0001.

Issued in Austin, Texas, on March 28, 1988.

TRD-8803183 John C. West
 General Counsel
 Texas Department of Public Safety

Filed: March 29, 1988

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

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Texas Water Commission Enforcement Order

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 the City of Bardwell on March 25, 1988, assessing \$3,440 in administrative stipulated penalties.

Information concerning any aspect of this order may be obtained by contacting Wendall Corrigan, Staff Attorney, Texas Water Commission, P.O. Box 13087, Austin, Texas 78711-3087, (512) 463-8069.

Issued in Austin, Texas, on March 28, 1988.

TRD-8803143 Gloria A. Vasquez
 Notices Coordinator
 Texas Water Commission

Filed: March 28, 1988

For further information, please call (512) 463-8069.

◆ ◆ ◆

Notice of Application for Provisionally- Issued Temporary Permits

Notice is given by the Texas Water Commission of provisionally-issued temporary permits issued during the period of February 4, 1988-February 29, 1988.

These permits were issued without notice and hearing pursuant to §11.138 of the Texas Water Code and Commission Rules 31 TAC §§303.91-303.93.

The Executive Director has reviewed each application and found that sufficient water was available at the proposed point of diversion to satisfy the requirements of the applications as well as all existing water rights. It is further noted that these diversions are for not more than 10 acre-feet of water and for a period of not more than one year. If a complaint is received before or after diversions are commenced, a preliminary investigation shall be made by the Executive Director to determine whether there is a

reasonable basis for such complaint. Should the investigation indicate that there is a probability that diversions could result in injury to the complainant, the permit will be canceled and the application will revert to the status of a pending application and no further diversions may be made until a public hearing is held. Notice of the hearing shall then be sent to the complaining person.

Information concerning any aspect of these permits may be obtained by contacting the Texas Water Commission, P.O. Box 13087, Austin, Texas 78711-3087, (512) 463-8218.

Listed are the names of the permittees, diversion point, watercourse, amount of water authorized, period of time of the permit, permit number, and the date issued/administratively-complete.

Williams Brothers Construction Company, Inc.; water may be diverted at a maximum rate of 1.12 cfs (500 gpm) from two drainage ditches on BW 8, approximately 10 miles northwest of Houston, Harris County; ditches, tributary Halls Bayou, tributary Greens Bayou, tributary Houston Ship Channel, tributary San Jacinto River; one acre-foot; one year; TP-5874; February 4, 1988

Wagner and Sons Paving Company, Inc.; water may be diverted at a maximum rate of 0.67 cfs (300 gpm) from the stream crossing at FM Road 2673, approximately 13 miles northwest of New Braunfels, Comal County; Tom Creek, tributary Guadalupe River; three acre-feet; one year; TP-5872; February 4, 1988

Transamerican Natural Gas Corporation; water may be diverted at a maximum rate of 0.34 cfs (150 gpm) from the stream crossing near United States Highway 83, approximately 16 miles northwest of Zapata, Zapata County; Rio Grande; 10 acre-feet; one year; TP-5873; February 4, 1988

Mitchell Energy Corporation; water may be diverted at a maximum rate of 0.11 cfs (50 gpm) from the stream crossing near a county road, approximately 16 miles southwest of Denton, Denton County; Oliver Creek, tributary Denton Creek, tributary Elm Fork Trinity River, tributary Trinity River; two acre-feet; six months; TP-5877; February 12, 1988

Austin Paving Company; water may be diverted at a maximum rate of 0.45 cfs (200 gpm) from the stream crossing at FM Road 241, approximately 14 miles west of Georgetown, Williamson County; Berry Creek, tributary San Gabriel River, tributary Little River, tributary Brazos River; 10 acre-feet; one year; TP-5878; February 12, 1988

Allen Keller Company; water may be diverted at a maximum rate of 1.2 cfs (500 gpm) from two stream crossings of FM Road 1631, approximately one mile south and five miles east of Fredericksburg, Gillespie County; Barons Creek, and Palo Creek, tributaries Pedernales River, tributary Colorado River; three acre-feet; one year; TP-5880; February 12, 1988

Bandas Industries, Inc.; water may be diverted at a maximum rate of 1.12 cfs (500 gpm) from the stream crossing at United States Highway 380 and from the stream crossing of a private road, approximately 4.5 miles northwest of Dickens, Dickens County and 14 miles north of Aspermont, Stonewall County; Salt Fork Brazos River and Duck Creek, tributary Salt Fork Brazos River, tributary Brazos River; 10 acre-feet; one year; TP-5881; February 12, 1988

Bay, Inc.; water may be diverted at a maximum rate of 0.56 cfs (250 gpm) from the stream crossing at FM Road 624, approximately 25 miles west of Corpus Christi, Nueces County; Quinta Creek, tributary Banquete Creek, tribu-

tary Petronila Creek, tributary Cayo Del Mazon, tributary Cayo de Hinoso, tributary Alazan Bay, tributary Baffin Bay, tributary Laguna Madre; two acre-feet; five months; TP-5882; February 19, 1988

Trunkline Gas Company; water may be diverted at a maximum rate of 4.02 cfs (1800 gpm) from the stream crossing near SH 105, approximately 14 miles north of Liberty, Liberty County; Trinity River; 3.9 acre-feet; three months; TP-5883; February 19, 1988

Double "O" Enterprises; water may be diverted at a maximum rate of 0.22 cfs (100 gpm) from the stream crossing near US 83, approximately two miles southeast of Rio Grande City, Starr County; Rio Grande; 10 acre-feet; one year; TP-5892; February 25, 1988

Natural Gas Pipeline Company of America; water may be diverted at a maximum rate of 2.23 cfs (1,000 gpm) from the stream crossing of a pipeline, approximately 2.8 miles west of Refugio, Refugio County; Mission River, tributary Mission Bay, tributary Copano Bay, tributary Aransas Bay; four acre-feet; one year; TP-5891; February 24, 1988

Contract Paving Company; water may be diverted at a maximum rate of 0.22 cfs (100 gpm) from two stream crossings of FM Road 578, approximately 9 1/2 and 10 1/2 miles north of Breckenridge, Stephens County; Hubbard Creek, tributary Clear Fork Brazos River and Clear Fork Brazos River, tributary Brazos River; two acre-feet; eight month; TP-5886; February 24, 1988

HMB Construction Company; water may be diverted at a maximum rate of 0.67 cfs (300 gpm) from the stream crossing at FM Road 1397, approximately 20 miles northeast of Boston, Bowie County; McKinney Bayou (flows out of state); two acre-feet; five month; TP-5890; February 24, 1988

Strickland and Knight, Inc.; water may be diverted at a maximum rate of 0.67 cfs (300 gpm) from the stream crossing at FM Road 1808, approximately eight miles northwest of Colorado City, Mitchell County; Colorado River; four acre-feet; one year; TP-5887; February 24, 1988

Jamo's Vacuum Truck Service, Inc.; water may be diverted at a maximum rate of 0.40 cfs (181.6 gpm) from the stream crossing of FM Road 1322, approximately 15 miles south of Lockhart, Caldwell County; Salt Branch, tributary Plum Creek, tributary San Marcos River, tributary Guadalupe River; 10 acre-feet; one year; TP-5894; February 29, 1988

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TRD-8803136 Karen A. Phillips
Chief Clerk
Texas Water Commission

Filed: March 28, 1988

For further information, please call (512) 463-7898.



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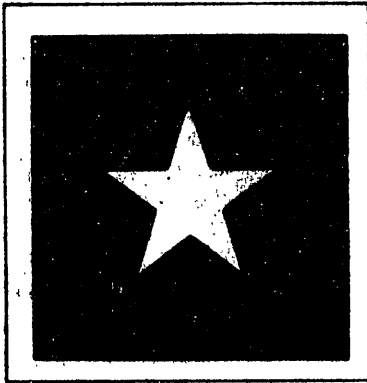


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