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Texas Register

Volume 13, Number 34, April 29, 1988

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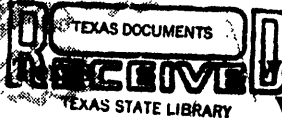
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Texas Register

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- Governor—appointments, executive orders, and proclamations
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- State Ethics Advisory Commission—summaries of requests for opinions and opinions
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- Emergency Rules—rules adopted by state agencies on an emergency basis
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- Adopted Rules—rules adopted following a 30-day public comment period
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- In Addition—miscellaneous information required to be published by statute or provided as a public service

Specific explanations on the contents of each section can be found on the beginning page of the section. The division also publishes accumulative quarterly and annual indexes to aid in researching material published.

How To Cite: Material published in the *Texas Register* is referenced by citing the volume in which a document appears, the words "TexReg," and the beginning page number on which that document was published. For example, a document published on page 2402 of Volume 6 (1981) is cited as follows: 6 TexReg 2402.

In order that readers may cite material more easily, page numbers are now written as citations. Example: on page 2, in the lower left-hand corner of the page, would be written: "12 TexReg 2 issue date," while on the opposite page, page 3, in the lower right-hand corner, would be written "issue date 12 TexReg 3."

How To Research: The public is invited to research rules and information of interest between 8 a.m. and 5 p.m. weekdays at the *Texas Register* office, 503E Sam Houston Building, Austin. Material can be found by using *Register* indexes, the *Texas Administrative Code*, rule number, or TRD number.

Texas Administrative Code

The *Texas Administrative Code* (TAC) is the approved, collected volumes of Texas administrative rules.

How To Cite: Under the TAC scheme, each agency rule is designated by a TAC number. For example, in the citation 1 TAC §27.15:

1 indicates the title under which the agency appears in the *Texas Administrative Code*;

TAC stands for the *Texas Administrative Code*;

27.15 is the section number of the rule (27 indicates that the rule is under Chapter 27 of Title 1; 15 represents the individual rule within the chapter).



Texas Register Publications

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The Governor

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

Appointments Made April 21, 1988

To be a member of the **Midwestern State University Board of Regents**, for a term to expire February 25, 1994: Kathryn Anne Yeager, 2111 Avondale, Wichita Falls, Texas 76308. Mrs. Yeager will be replacing Jack L. Russell of Midland whose term expired.

To be a member of the **Midwestern State University Board of Regents**, for a term to expire February 25, 1994: David H. Allen, M.D., 500 Broad Street, Wichita Falls, Texas 76308. Dr. Allen will be replacing Harold Rogers of Wichita Falls whose term expired.

To be a member of the **Texas State Technical Institute Board of Regents**, for a term to expire August 31, 1993: John E. Davis, 2637 Woodmont, Waco, Texas 76710. Mr. Davis will be replacing Herman Coleman of Waco whose term expired.

To be a member of the **West Texas State University Board of Regents**, for a term to expire August 31, 1991: Becky Love Dodson, Amarillo Imports, Inc., 3019 West 26th, Amarillo, Texas 79109. Mrs. Dodson will be filling the unexpired term of Margo E. Fields of Amarillo who resigned.

To be a member of the **Texas Committee for the Humanities**, for a term to expire December 31, 1989: William R. Tucker, 2580 Gladys Avenue, Beaumont, Texas 77702. Mr. Tucker will be replacing William P. Wright, Jr. of Abilene whose term expired.

To be a member of the **Texas Committee for the Humanities**, for a term to expire

December 31, 1988: Paul A. Leche, P.O. Box 2960, Austin, Texas 78769. Mr. Leche is being appointed to a new position on the committee.

To be a member of the **Select Interim Committee on Capital Construction**, for a term to serve at the pleasure of the Governor: Daniel N. Matheson, III, 1500 MBank Tower, 221 West Sixth Street, Austin, Texas 78701. Pursuant to House Concurrent Resolution 189, 70th Legislature.

To be a member of the **Select Interim Committee on Capital Construction**, for a term to serve at the pleasure of the Governor: Barry Lee Friedman, 8080 North Central Expressway, Suite 850, Dallas, Texas 75206. Pursuant to House Concurrent Resolution 189, 70th Legislature.

To be a member of the **Select Interim Committee on Capital Construction**, for a term to serve at the pleasure of the Governor: James K. Wilhelm, 1500 CityWest Boulevard, Houston, Texas 77042. Pursuant to House Concurrent Resolution 189, 70th Legislature.

To be a member of the **Select Interim Committee on Capital Construction**, for a term to serve at the pleasure of the Governor: Thomas G. Yantis, P.O. Box 17045, San Antonio, Texas 78217. Pursuant to House Concurrent Resolution 189, 70th Legislature.

To be a member of the **Select Interim Committee on Capital Construction**, for a term at the pleasure of the Governor: Florence D. Shapiro, Shapiro, Small and Associates, 400 Chisholm Place, Suite 212, Plano, Texas 75075. Mrs. Shapiro is being appointed pursuant to House Concurrent Resolution 189 and 137, 70th Legislature.

To be a member of the **Governor's Committee on Water Resources Management**, for a term at the pleasure of the Governor: Walter W. Cardwell, III, 807 Brazos, Austin, Texas 78701. Pursuant to Executive Order WPC-88-4.

To be a member of the **Governor's Committee on Water Resources Management**, for a term to serve at the pleasure of the Governor: Charles Patrick Oles, Jr., 807 Brazos, Suite 802, Austin, Texas 78701. Pursuant to Executive Order WPC-88-4.

To be a member of the **Governor's Committee on Water Resources Management**, for a term to serve at the pleasure of the Governor: The Honorable Terral R. Smith, P.O. Box 2207, Austin, Texas 78768-2207. Representative Smith is being appointed pursuant to Executive Order WPC-88-4.

To be a member of the **Governor's Committee on Water Resources Management**, for a term to serve at the pleasure of the Governor: Earnest F. Gloyna, 3317 River Road, Austin, Texas 78703. Mr. Gloyna is being appointed pursuant to Executive Order WPC-88-4.

To be a member of the **Governor's Committee on Water Resources Management**, for a term to serve at the pleasure of the Governor: I. M. Rice, Ph.D., P.O. Box 165085, Irving, Texas 75016. Dr. Rice is being appointed pursuant to Executive Order WPC-88-4.

Issued in Austin, Texas on April 22, 1988.

TRD-8800220

William P. Clements, Jr.
Governor of Texas





Name: John Butler
Grade: 7
School: Metropolitan Alternative, Dallas

Emergency Rules

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

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

TITLE 4. AGRICULTURE

Part I. Texas Department of Agriculture

Chapter 11. Herbicide Regulations

4 TAC §11.2

The Texas Department of Agriculture adopts on an emergency basis an amendment to §11.2, concerning the special provisions for Swisher County under the Texas Herbicide Law, Chapter 75, Texas Agriculture Code.

The department is acting upon a request from Swisher County Commissioners Court for a 10 day extension of the time allowed for the aerial application of 2,4-D and derivatives thereof. In addition, the commissioners court has requested that the per acre amount of 2,4-D used be limited to four ounces. Adverse weather conditions have created a situation compelling an extension of the deadline for aerial applications of 2,4-D and derivatives thereof for weed and brush control. The continuation of unusually cold weather into April has resulted in late weed emergence and recent high winds have prevented herbicide applications from being made prior to the April 20, 1987 deadline, as applications under those conditions would have been impractical and unsafe. Allowing the uncontrolled growth of weeds and brush on pastureland will result in substantially less available forage for cattle and other livestock, and weeds in and near cropland reducing yields, creating a significant economic loss to Texas ranchers and, consequently, the state's economy. As the planting of susceptible crops has not commenced, the department believes that extending the deadline is both necessary and appropriate, and that the limiting of the amount of 2,4-D used per acre is appropriate.

The emergency amendment extends the deadline for the aerial application of 2, 4-D to April 30 and for 1988, limits the amount of 2,4-D to be used to four ounces per acre.

The emergency amendment is adopted under the Texas Agriculture Code, §75. 018, which gives the Texas Department of Agriculture the authority to consider a request for a revision of a rule, an exemption from a requirement of Chapter 75, or a prohibition of spraying in an area, and adopts rules granting such a revision, an exemption, or prohibition as the department deems appropriate; and Texas Civil Statutes, Article 6252 §13a(5) which provide for the adoption of administrative rules on an emergency basis without notice and comment.

§11.2. *County Special Provisions.*

(a)-(cc) (No change.)

(dd) Swisher

(1) The use of 2,4-D ester is prohibited for the period beginning April 30 [20] and ending September 20 of each year.

(2) The aerial application of all 2,4-D is prohibited for the period beginning April 30 [20] and ending September 20 of each year. For 1988, the amount of 2,4-D to be used for aerial application shall not exceed 4 ounces per acre.

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

(ee)-(ii) (No change.)

Issued in Austin, Texas, on April 20, 1988.

TRD-8804078 Dolores Alvarado Hibbs
Director of Hearings
Texas Department of
Agriculture

Effective date: April 20, 1988

Expiration date: May 20, 1988

For further information, please call: (512) 463-7583

TITLE 7. BANKING AND SECURITIES

Part II. Banking Department of Texas

Chapter 25. Prepaid Funeral Contracts

Subchapter B. Regulation of Licenses

• 7 TAC §25.13

The Banking Department of Texas is renewing the effectiveness of the emergency adoption of new §25.13, for a 60-day period effective April 25, 1988. The text of new §25.13 was originally published in the January 22, 1988, issue of the *Texas Register* (13 TexReg 372).

Issued in Austin, Texas on April 25, 1988.

TRD-8804193 Jorge A. Gutierrez
General Counsel
Banking Department of
Texas

Effective date: April 25, 1988

Expiration date: May 15, 1988

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

• 7 TAC §25.17

The Banking Department of Texas is renewing the effectiveness of the emergency adoption of new §25.17, for a 60-day period effective April 25, 1988. The text of new §25.17 was originally published in the January 22, 1988, issue of the *Texas Register* (13 TexReg 372).

Issued in Austin, Texas on April 25, 1988.

TRD-8804195 Jorge A. Gutierrez
General Counsel
Banking Department of
Texas

Effective date: April 25, 1988

Expiration date: May 15, 1988

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

TITLE 22. EXAMINING BOARDS

Part XXII. Texas State Board of Public Accountancy

Chapter 515. Licenses

• 22 TAC §515.8

The Texas State Board of Public Accountancy adopts on an emergency basis repeal of §515.8. This section is being repealed on an emergency basis in order to propose a new section based on Attorney General Opinion JM-873, issued March 17, 1988. Based on this opinion, the Attorney General's office has informed the Texas State Board of Public Accountancy that its substantive rules dealing with fees for retired licensees should be amended.

The repeal is adopted on an emergency basis 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 fees for retired licensees.

Issued in Austin, Texas, on April 20, 1988.

TRD-8804010 Bob E. Bradley
Executive Director
Texas State Board of
Public Accountancy

Effective date: April 21, 1988

Expiration date: August 19, 1988

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

The Texas State Board of Public Accountancy

tancy adopts on an emergency basis new §515.8, on the basis of Attorney General Opinion JM-873, issued March 17, 1988. Based on this opinion, the Attorney General's office has informed the Texas State Board of Public Accountancy that its substantive rules dealing with fees for retired licensees should be amended.

The new section is adopted on an emergency basis 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 fees for retired licensees.

§515.8. Retired Status. An individual who holds a current license issued by the board, who has reached his or her 65th birthday, and who will not be in public practice may be granted a retired status. An annual fee of \$10 shall be payable to the board in lieu of the 1988, 1989, and other future license fees otherwise payable.

(1) The licensee seeking retired status must timely file a request on a form prescribed by the board which shows date of birth and contains a certified statement that the individual is no longer in public practice and will not be in public practice on January 1 of the year following the 65th birthday.

(2) Retired status becomes effective on January 1 only.

(3) An individual with retired status who wishes to return to public practice must adhere to the following:

(A) pay the annual license fee established by the board;

(B) complete the form prescribed by the board for renewal of an annual license;

(C) meet the continuing education requirements (if any); and

(D) surrender the retired status.

(4) All board rules and all provisions of the Public Accountancy Act apply to a licensee in either an active or retired status unless specifically exempt by board rule or the Act.

Issued in Austin, Texas, on April 20, 1988

TRD-8804100 Bob E. Bradley
Executive Director
Texas State Board of
Public Accountancy

Effective date: April 21, 1988

Expiration date: August 19, 1988

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

◆ ◆ ◆
• 22 TAC §521.8

The Texas State Board of Public Accountancy

tancy adopts on an emergency basis the repeal of §521.8. This section is being repealed on an emergency basis in order to propose a new section based on Attorney General Opinion JM-873, issued March 17, 1988. Based on this opinion, the Attorney General's office has informed the Texas State Board of Public Accountancy that its substantive rules dealing with fees for retired licensees should be amended.

The repeal is adopted on an emergency basis 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 fees for retired licensees

Issued in Austin, Texas, on April 20, 1988.

TRD-8804103 Bob E. Bradley
Executive Director
Texas State Board of
Public Accountancy

Effective date: April 21, 1988

Expiration date: August 19, 1988

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

◆ ◆ ◆
The Texas State Board of Public Accountancy adopts on an emergency basis new §521.8., on the basis of Attorney General Opinion JM-873, issued March 17, 1988. Based on this opinion, the Attorney General's office has informed the Texas State Board of Public Accountancy that its substantive rules dealing with fees for retired licensees should be amended.

The new section is adopted on an emergency basis 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 fees for retired licensees.

§521.8. Retired Status. The license fee, including the annual fee and any temporary fees established by statute, for an individual in retired status shall be \$10.

Issued in Austin, Texas, on April 20, 1988

TRD 8804102 Bob E. Bradley
Executive Director
Texas State Board of
Public Accountancy

Effective date: April 21, 1988

Expiration date: August 19, 1988

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

◆ ◆ ◆
TITLE 25. HEALTH SERVICES

Part I. Texas Department of Health

Chapter 113. Special Health Services Permits

◆ ◆ ◆
• 25 TAC §113.1

The Texas Department of Health is renewing the effectiveness of the emergency adoption of new §113.1 until June 1, 1988. The text of

new §113.1 was originally published in the January 12, 1988, issue of the *Texas Register* (13 TexReg 216).

A correction of error for this section was published in the February 5, 1988, issue of the *Texas Register*.

Issued in Austin, Texas, on April 21, 1988.

TRD-8804097 Robert A. MacLean
Deputy Commissioner for
Professional Services
Texas Department of
Health

Effective date: May 1, 1988

Expiration date: June 1, 1988

For further information, please call: (512) 458-7531

◆ ◆ ◆
• 25 TAC §113.2

The Texas Department of Health is renewing the effectiveness of the emergency adoption of new §113.2 until May 11, 1988. The text of new §113.2 was originally published in the January 12, 1988, issue of the *Texas Register* (13 TexReg 217). A correction of error for this section was published in the February 5, 1988, issue of the *Texas Register*.

This agency hereby certifies that the renewal of effectiveness of the emergency adoption has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on April 22, 1988.

TRD-8804164 Robert A. MacLean
Deputy Commissioner for
Professional Services
Texas Department of
Health

Effective date: May 1, 1988

Expiration date: May 11, 1988

For further information, please call: (512) 458-7245.

◆ ◆ ◆
Chapter 133. Hospital Licensing

Permits

◆ ◆ ◆
• 25 TAC §133.31

The Texas Department of Health is renewing the effectiveness of the emergency adoption of new §133.31 until June 1, 1988. The text of new §133.31 was originally published in the January 12, 1988, issue of the *Texas Register* (13 TexReg 219)

Issued in Austin, Texas, on April 21, 1988

TRD 8804095 Robert A. MacLean
Deputy Commissioner for
Professional Services
Texas Department of
Health

Effective date: May 1, 1988

Expiration date: June 1, 1988

For further information, please call: (512) 458-7531

Chapter 143. Medical Radiologic Technologist

• 25 TAC §§143.1-143.14

The Texas Department of Health is renewing the effectiveness of the emergency adoption of new §§143.1-143.14, until June 20, 1988. The text of new §143.1 - 143.14 was originally published in the January 8, 1988, issue of the *Texas Register* (13 *TexReg* 145).

This agency hereby certifies that the renewal of effectiveness of the emergency adoption has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on April 22, 1988.

TRD-8804163 Robert A. MacLean
Deputy Commissioner for
Professional Services
Texas Department of
Health

Effective date: May 1, 1988

Expiration date: June 1, 1988

For further information, please call: (512)
458-7248



Chapter 145. Long Term Care Procedures on Long Term Care Facilities

• 25 TAC §145.95

The Texas Department of Health is renewing the effectiveness of the emergency adoption of new §145.95 until June 1, 1988. The text of new §145.95 was originally published in the January 12, 1988, issue of the *Texas Register* (13 *TexReg* 220).

Issued in Austin, Texas, on April 21, 1988

TRD-8804098 Robert A. MacLean
Deputy Commissioner for
Professional Services
Texas Department of
Health

Effective date: May 1, 1988

Expiration date: June 1, 1988

For further information, please call (512)
458-7706



Chapter 157. Emergency Medical Care

Emergency Medical Services

• 25 TAC §157.83

The Texas Department of Health is renewing the effectiveness of the emergency adoption of new §157.83 until June 1, 1988. The text of new §157.83 was originally published in the January 12, 1988, issue of the *Texas Register* (13 *TexReg* 220).

Issued in Austin, Texas, on April 21, 1988

TRD-8804104

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

Effective date: May 1, 1988

Expiration date: June 1, 1988.

For further information, please call: (512)
465-2601

Chapter 229. Food and Drug

Permit Applications

• 25 TAC §229.281

The Texas Department of Health is renewing the effectiveness of the emergency adoption of new §229.281 until June 1, 1988. The text of new §229.281 was originally published in the January 12, 1988, issue of the *Texas Register* (13 *TexReg* 221).

Issued in Austin, Texas, on April 21, 1988.

TRD-8804094 Robert A. MacLean
Deputy Commissioner for
Professional Services
Texas Department of
Health

Effective date: May 1, 1988

Expiration date: June 1, 1988

For further information, please call: (512)
458-7248



Chapter 265. General Sanitation

Texas Youth Camp Safety and Health

• 25 TAC 265.23

The Texas Department of Health is renewing the effectiveness of the emergency adoption of new §265.23 until June 1, 1988. The text of new §265.23 was originally published in the January 8, 1988, issue of the *Texas Register* (13 *TexReg* 222).

Issued in Austin, Texas, on April 21, 1988

TRD-8804109 Robert A. MacLean
Commissioner for
Professional Services
Texas Department of
Health

Effective date: May 1, 1988

Expiration date: June 1, 1988

For further information, please call: (512)
458-7521



Migrant Labor Housing Facilities

• 25 TAC §265.34

The Texas Department of Health is renewing the effectiveness of the emergency adoption of an amendment to §265.34 until June 1, 1988. The text of new §265.34 was originally published in the January 8, 1988, issue of the *Texas Register* (13 *TexReg* 223).

Issued in Austin, Texas, on April 21, 1988

TRD-8804107

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

Effective date: May 1, 1988

Expiration date: June 1, 1988

For further information, please call: (512)
458-7521

Chapter 337. Water Hygiene

Permit Applications

• 25 TAC §337.131

The Texas Department of Health is renewing the effectiveness of the emergency adoption of new §337.131 until June 1, 1988. The text of new §337.131 was originally published in the January 12, 1988, issue of the *Texas Register* (13 *TexReg* 224).

Issued in Austin, Texas, on April 21, 1988.

TRD-8804091 Robert A. MacLean
Deputy Commissioner for
Professional Services
Texas Department of
Health

Effective date: May 1, 1988.

Expiration date: June 1, 1988.

For further information, please call: (512)
458-7533



TITLE 34. PUBLIC FINANCE

Part I. Comptroller of Public Accounts

Chapter 3. Tax Administration

Subchapter O. State Sales and Use Tax

• 34 TAC §3.356

The Comptroller of Public Accounts adopts on an emergency basis an amendment to §3.356, concerning real properties services. The amendment would add industrial solid waste to those exclusions from the definition of garbage found in the section and give guidance to those persons providing both taxable and nontaxable garbage and other solid waste collection services on when to collect sales tax.

The amendment is adopted on an emergency basis under the Tax Code, §111.002, which provides the comptroller with the authority to prescribe, adopt, and enforce rules relating to the administration and enforcement of the provisions of the Tax Code, Title 2. §3.356. *Real Property Service.*

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

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

(4) Garbage or other solid waste—Waste, refuse, sludge from waste treatment plant, water supply treatment plant, or air pollution control facility, and

other discarded material, including solid, liquid, semisolid, or contained gaseous material, resulting from residential, industrial, municipal, commercial, mining, and agricultural operations, and from community and institutional activities. The term does not include any of the following:

(A) solid or dissolved material in domestic sewage, or solid or dissolved material in irrigation return flows, or industrial discharges subject to regulation by permit issued pursuant to the Texas Water Code, Chapter 26;

(B) waste materials which result from activities associated with the exploration, development, or production of oil, gas, or geothermal resources, and any other substance or material regulated by the Railroad Commission of Texas pursuant to the Natural Resources Code, §91.101;

(C) any waste which requires specific licensing under Texas Civil Statutes, Article 4590f, and the rules adopted by the Texas Board of Health under that law, which for the purposes of this section shall be referred to as radioactive waste; [or]

(D) hazardous waste, as identified or listed as a hazardous waste by the administrator of the United States Environmental Protection Agency or by other appropriate federal or state agency;[,] or

(E) industrial solid waste, as that term is defined in the Texas Civil Statutes, Article 4477-7, Texas Solid Waste Disposal Act, with the exception of industrial solid waste which meets the definition of garbage or municipal solid waste as defined in the Texas Solid Waste Disposal Act.

(5)-(8) (No change.)

(b) Responsibilities of persons providing real property services. Persons providing those services defined in subsection (a) of this section are performing real property services. Persons performing real property services must obtain a tax permit and collect and remit sales tax on all charges for real property services.

(c)-(g) (No change.)

(h) Nontaxable garbage collection services. Persons providing collection services for businesses having waste excluded from the definition of "garbage or other solid waste" may accept a certification from the customer in lieu of tax. The certification should state that the customer has waste to collect which is not subject to tax and that the customer will be responsible for accruing tax on that portion of the charge which represents taxable services. The customer may use

any reasonable allocation for reporting tax on taxable services which is supportable by books and records.

(l)(h) Unrelated services. A service will be considered as unrelated if:

(1) it is not a real property service, nor a service taxable under another provision of the Tax Code, Chapter 151;

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

(3) the performance of the unrelated service is distinct and identifiable. Examples of an unrelated service which may be excluded from the tax base include consultation, training, expedited filing charges, and maintenance charges.

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

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

(j)(i) Governmental entities. When garbage collection services are provided by a governmental entity without a specific charge being assessed, such as when this service is provided as a basic part of services funded by the tax or fee structure of the governmental entity, sales tax is not due.

(k)(j) Local taxes. Local sales and use taxes (city, county, MTA, and CTD) apply to services in the same way as they apply to tangible personal property. Generally, service providers must collect local sales taxes if their place of business is within a local taxing jurisdiction, even if the service is actually provided at a location outside that jurisdiction. However, MTA and CTD sales taxes do not apply to services provided outside the boundaries of the transit area. If the place of business is outside such a jurisdiction but the service is provided to a customer within a local taxing

jurisdiction, local use taxes apply and the service provider is required to collect it. For information on the collection and reporting responsibilities of providers and purchasers of taxable services, see §§3.374, 3.375, 3.424, and 3.425 of this title (relating to Imposition of the Sales Tax., Collection by Retailer; Bracket System Formula; Determining City Tax; Administration of Use Tax., Collection by Retailer; Imposition of Sales Tax; Administration of Use Tax; Imposition and Collection).

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

(m)(l) Property management companies.

(1) Property management companies whose employees provide taxable services as part of their overall management and operation of an apartment complex, office building or other real property for the owner need not collect tax on those services if their value is insignificant.

(2) Such services will be considered insignificant in any billing period in which their value is less than 5.0% of the amount charged by the management company for services. The amount charged by the management company for services is to be determined by deducting from the management company's total charge any mortgage payments made by the management company for the property owner and any amounts paid to persons other than employees of the management company for goods and services.

(3) If the value of the services exceeds the 5.0% limit, the entire amount charged by the management company will be considered taxable unless charges for taxable services are separately itemized and taxed.

(4) Purchases of taxable goods and services from persons other than employees of the management company may be handled in either of the following ways:

(A) the management company may issue a resale certificate to the supplier and collect tax from the property owner on the itemized charge for the goods or service; or

(B) the management company may pay tax to the supplier and collect from the property owner an amount equal to the total of the amount paid by the management company for the goods or services and the tax paid.

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

TRD-8804176

Bob Bullock
Comptroller of Public
Accounts

Effective date: April 25, 1988

Expiration date: August 23, 1988

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





Jennifer K. '08

Name: Jennifer Kelly
Grade: 6
School: F.P. Caillet Elementary, Dallas

Proposed Sections

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

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

TITLE 16. ECONOMIC REGULATION

Part II. Public Utility Commission of Texas

Chapter 23. Substantive Rules

Customer Service and Protection

16 TAC §23.53

The Public Utility Commission of Texas proposes new §23.53, concerning a Universal Service Fund. The new section establishes a fund to assist local exchange carriers in providing basic local exchange service at reasonable rates in high cost rural areas, to reimburse companies for revenues lost as a result of providing tel-assistance service, and to reimburse the Texas Department of Human Services and the Public Utility Commission for costs incurred in implementing the provisions of §23.52 and §23.53. These sections are proposed to comply with the Public Utility Regulatory Act, §98.

Diane Friday, Telephone Rate Analyst, 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.

Ms. Friday 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 increased affordability of basic local telephone service for individuals living in high cost rural areas and for individuals who qualify for tel-assistance service under the provisions of §23.52.

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 Phillip A. Holder, Secretary of the Commission, 7800 Shoal Creek Boulevard, Suite 450N, Austin, Texas 78757 within 30 days after publication.

The new section is proposed under Texas Civil Statutes, Article 1446c, §16, which provide the Public Utility Commission of Texas with the authority to make and enforce rules reasonably required in the exercise of its powers and jurisdiction.

§23.53. *Universal Service Fund.*

(a) Purpose. The provisions of this section are intended to establish a universal service fund to assist local exchange companies in providing basic local exchange

service at reasonable rates in high cost rural areas, to reimburse local exchange companies for revenues lost as a result of providing Tel-Assistance Service under the provisions of §23.52, of this title (relating to Tel-Assistance and Lifeline Service,) and to reimburse the Texas Department of Human Services and the Public Utility Commission of Texas for costs incurred in implementing the provisions of this §23.53 and §23.52, of this title (relating to Tel-Assistance and Lifeline Service.)

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

(1) Telecommunications utilities—All specialized communication, common carriers, resellers of communications, and other communications carriers who convey, transmit, or receive communications in whole or in part over a telephone system.

(2) Local exchange company—A telecommunications utility certificated to provide local exchange service within the state.

(3) Commission—the Public Utility Commission of Texas.

(4) Department—The Texas Department of Human Services.

(5) Tel-Assistance Service—The program providing eligible consumers with a reduction in costs of certain telecommunications service as defined in §23.52 of this title (relating to Tel-Assistance and Lifeline Service.)

(c) Administration of universal service fund.

(1) General Rules.

(A) The Universal Service Fund (USF) is administered by the Texas Exchange Carrier Association (TECA). TECA may recover all costs directly and reasonably associated with the administration of the USF through the assessment to telecommunications utilities as specified in paragraph (2)(D) of this subsection.

(B) The commission reserves the exclusive power to establish and revise rules related to the operation and administration of the Universal Service Fund and to

monitor, supervise, and require auditing of the administration of the USF through contractual agreement with TECA.

(C) Upon its own motion, upon the petition of the general counsel, or upon petition by any telecommunications utility, the commission may initiate an inquiry into any aspect of the administration of the Universal Service Fund, including but not limited to reported claims of qualifying companies and agencies against the USF.

(2) Assessments to telecommunications utilities.

(A) Local exchanger companies (LECs) shall submit records to TECA each month showing the local switching assess minutes billed to interexchange carriers for the previous month, and showing the LEC's total intralata toll minutes, converted to equivalent access minutes, for the previous month.

(B) Local exchange companies shall submit monthly reports in accordance with paragraph (3)(B) of this subsection showing the lost revenue associated with the provision of Tel-Assistance Service.

(C) The agencies which qualify to receive reimbursements from the USF in accordance with subparagraph (3)(A) of this subsection shall file quarterly reports with TECA showing the costs incurred for the previous quarter which are directly and reasonably associated with the administration of the Universal Service Fund and with Tel-Assistance Service.

(D) TECA shall establish an assessment to be applied to all telecommunications utilities based upon the total costs to be reimbursed for the current period, including costs reported under subparagraphs (B) and (C) of this paragraph, divided by the total industry equivalent toll access minutes for the same period. The assessment for each telecommunications utility shall be in the amount of that utility's equivalent toll access minutes multiplied by the assessment rate for the period.

(3) Disbursements to qualifying

companies and agencies.

(A) Qualify companies and agencies.

(i) The Public Utility Commission and the Department of Human Services are eligible for reimbursement of the costs directly and reasonably associated with the implementation of the provisions of to§23.53 and §23.52, of this title (relating to Tel-Assistance and Lifeline Service.)

(ii) Local exchange companies providing Tel-Assistance Service to qualified residents under §23.52, of this title (relating to Tel-Assistance and Lifeline Service) are eligible for reimbursement of the lost revenue associated with the application of a 65% reduction in the applicable tariff rate for those accounts, and for reimbursement of the lost revenue associated with the cost of transferring accounts into and out of Tel-Assistance Service.

(iii) Local exchange companies that qualify for high cost assistance under subsection (d) of this section are eligible to receive funds from the USF as specified in that section.

(iv) TECA may recover all costs directly and reasonably associated with the administration of the Universal Service Fund, as provided in the contractual agreement between the commission and TECA.

(B) Reporting requirements for the provision of Tel Assistance Service. LECs shall file monthly reports with TECA detailing the lost revenues associated with the 65% discount applied to Tel-Assistance accounts and with the service order charges incurred in transferring accounts into and out of Tel-Assistance Service. The LECs shall also file activity reports showing the total number of accounts transferred into and out of Tel-Assistance in the previous month and the total number of Tel-Assistance accounts at the end of the month.

(C) Disbursements. TECA shall verify that the appropriate cost and expense reports have been filed each month and shall issue reimbursements to agencies and companies within 15 days after the due date of reports as specified in paragraph (2) of this subsection.

(d) High cost assistance fund.

(1) Purpose. This section is to provide procedural guidelines for the establishment of criteria for financial assistance to local exchange companies which serve the high cost and rural areas of the state in pursuit of universal service.

(2) Proceeding.

(A) Upon its own motion, or

upon the petition of the commission's general counsel; the commission may, upon 30 days published notice, institute a rulemaking or docketed proceeding regarding the establishment of a high cost assistance fund.

(B) Any local exchange company may petition the commission regarding the need for establishment of a high cost assistance fund. Upon receipt of such petition, the commission may initiate an investigation of such need by taking comments of all interested parties or may institute a rulemaking or docketed proceeding regarding the establishment of a high cost assistance fund.

(C) In any proceeding under subparagraph (A) or (B) of this paragraph, the commission shall consider:

(i) the appropriate criteria to be used to evaluate a LEC's qualifications for high cost assistance;

(ii) the methodology by which an assessment will be made against all telecommunications carriers to fund the high cost assistance portion of the USF;

(iii) the methodology by which the level of disbursements will be determined for LECs which qualify for high cost assistance; and

(iv) the administrative procedures which will govern the operation of the high cost assistance portion of the USF.

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 April 20, 1988

TRD-8804168

Phillip A. Holder
Secretary of the
Commission
Public Utility Commission
of Texas

Earliest possible date of adoption: May 30, 1988

For further information, please call: (512) 458-0100.

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**Part III. Texas Alcoholic
Beverage Commission**
**Chapter 51. Limousine Service
Beverage Permit**

16 TAC §§51.1 - 51.29

The Texas Alcoholic Beverage Commission proposes new §§51.1-51.29, concerning the sale of alcoholic beverages by limousine services. The new sections implement Texas Alcoholic Beverage Code, Chapter 50, which has created a limousine service beverage permit.

Fred Marosko, executive assistant to the ad-

ministrators, has determined that the new sections will have no fiscal implications for state or local government. Taxes, fees, and penalties which are mentioned in the new sections are imposed by statute, not the new sections. Mr. Marosko has further determined that there are no fiscal implications for small businesses because no business is required to obtain a limousine service beverage permit.

Joe Darnall, general counsel, 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 more effective interdiction of illicit sales of alcoholic beverages by unscrupulous companies and enhanced protection of the public health and safety by providing appropriate regulatory controls for the legal sale of alcoholic beverages by legitimate limousine service businesses. No individuals are required to obtain a limousine service beverage permit, but those who do must comply with the proposed sections. No economic cost is anticipated for those who choose to obtain a permit and comply with the new sections because the permit and the enabling new sections would allow the permit holder to engage in a profitable legal enterprise which does not presently exist.

Comments on the proposal may be submitted to Joe Darnall, General Counsel, Texas Alcoholic Beverage Commission, P O Box 13127, Austin, Texas 78711

The new sections are expressly mandated by Texas Alcoholic Beverage Code, Chapter 50, which creates the limousine service beverage permit and requires the commission to pass rules implementing the chapter. In addition, Texas Alcoholic Beverage Code, §5.31, authorizes the commission to prescribe rules necessary to carry out the provisions of the Texas Alcoholic Beverage Code.

§51.1. Definitions and Construction.

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

(1) Code—The Texas Alcoholic Beverage Code.

(2) Guest—A bona fide passenger in a licensed limousine who was invited by the person or persons who rented the limousine.

(3) Individual serving—A quantity of alcoholic beverage according to the following criteria:

(A) not more than one fluid ounce of distilled spirits;

(B) not more than twelve fluid ounces of beer; and

(C) not more than six fluid ounces of wine.

(4) Licensed limousine—A limousine covered by a limousine service beverage permit.

(5) Licensed premises—Premises

covered by a limousine service beverage permit.

(6) **Limousine**—A luxury stretch sedan motor vehicle with a manufacturer's rated passenger capacity of not more than nine persons including the driver and having a permanently installed beverage service bar.

(7) **Limousine service**—The business of renting by prearrangement of at least one hour a limousine and driver for the use of not more than eight passengers.

(8) **Permit**—A limousine service beverage permit, unless another type of permit is clearly indicated in the context.

(9) **Permittee**—The holder of a limousine service beverage permit or his agent, servant, or employee, unless another type of permittee is clearly indicated in the context.

(10) **Purchase invoice**—An instrument issued by the seller of alcoholic beverages to a limousine service beverage permittee.

(11) **Sales invoice**—An instrument issued by a limousine service beverage permittee to a customer of the limousine service.

(12) **Seller**—A person who sells an alcoholic beverage to a limousine service beverage permittee.

(13) **State**—The State of Texas.

(b) Each word and term used in this chapter shall have the meaning given to it by:

(1) a definition in this chapter;

(2) a definition in the Texas Alcoholic Beverage Code; or

(3) the commonly accepted meaning if it were used in the Texas Alcoholic Beverage Code. In the event of conflict, the lower numbered provision in this paragraph shall control.

(c) In addition to administrative and civil sanctions, any violation of this chapter constitutes a criminal violation under the code and rules of the commission and is subject to the general penalty provided in §1.05 of the code.

§51.2. Authorized Container Sizes.

(a) Distilled spirits may be dispensed only in or from sealed containers containing not less than six fluid ounces.

(b) Beer may be dispensed only in or from sealed containers containing not less than seven fluid ounces nor more than 12 fluid ounces.

(c) Wine may be dispensed in or from sealed containers of any legal size.

§51.3. Dispensing Systems.

Distilled spirits and wine may be dispensed by means of a sealed dispensing system connected to the original containers if the system has been approved in writing in advance by the ad-

ministrator. Factors to be considered in determining approval shall include, but not be limited to: health and sanitation in the design; maintenance of the system; protection of state revenue; and the prevention of access to liquor by unauthorized persons.

§51.4. Permittee To Retain Records.

A limousine service beverage permittee shall keep any record or report required by this section or by the code in the permittee's files for a period of two years and shall make any such record or report available to a representative of the commission upon request.

§51.5. Failure To Make Proper Records.

No person may fail or refuse to make any record or report required by this chapter. No person may make or cause to be made any false or incorrect entry in any record or report required by this chapter. No person may fail or refuse to make any entry on any record or report required by this chapter at the time or in the place or in the manner required by this chapter.

§51.6. Sales Restricted.

A limousine service beverage permittee may not sell or serve any alcoholic beverage to any person except for consumption by a person and his guests in a licensed limousine then hired from that permittee by that person.

§51.7. Removal Of Beverages Prohibited.

(a) A limousine service beverage permittee or his bona fide agents and employees may, in the normal course of business, remove alcoholic beverages from his licensed limousines but only in the manner provided by this subsection. Sealed containers may be returned to storage at the licensed premises business address. All contents of unsealed containers shall be destroyed at the licensed premises business address promptly after arrival.

(b) No other person may remove any alcoholic beverage from a licensed limousine.

(c) A limousine service beverage permittee may not permit any other person to remove any alcoholic beverage from a licensed limousine.

§51.8. Purchase Invoice Required.

(a) A person who sells alcoholic beverages to a limousine service beverage permittee shall issue an invoice, which shall be the purchaser's purchase invoice, in an original and one copy. Such invoices shall be consecutively numbered and shall show the date of the sale or distribution, the name of the purchaser, the address of the purchaser, the quantity, brand, and class of the alcoholic beverages sold and the total price of each brand and class shown. The invoice or a copy thereof shall be delivered to the limousine service beverage permittee and a copy of such invoice shall be kept by the seller.

(b) A limousine service beverage permittee may not possess or permit to be possessed in the permittee's licensed limousine or on the permittee's licensed business

address premises, any alcoholic beverage which is not covered by an invoice from the supplier from whom the alcoholic beverage was purchased by the limousine service permittee.

§51.9. Purchase Of Alcoholic Beverages.

(a) A limousine service beverage permittee may purchase distilled spirits from only the holder of a local distributor's permit.

(b) A limousine service beverage permittee may purchase wine, beer, and ale from only:

(1) a local distributor's permittee; or

(2) a wholesaler holding a license or permit to sell the kind of alcoholic beverage being purchased.

§51.10. Container Identification Stamps.

No local distributor's permittee may knowingly sell, ship or deliver to any limousine service beverage permittee any distilled spirits in any container not bearing a serially numbered identification stamp issued by the commission.

§51.11. Monthly Report And Payment.

Each holder of a limousine service beverage permit shall make a monthly report to the commission on forms provided by the commission, which shall include any information requested by the commission or administrator. Such report shall be filed by the permittee at the state headquarters offices of the commission at Austin, on or before the 15th day of the month following the calendar month for which the report is made. The total payment due for the subject month shall accompany the report. Payment shall be in the form of a cashier's check, certified check, or United States postal money order and shall be payable to the State of Texas.

§51.12. Sales Invoice Requirements.

(a) Each limousine service beverage permittee shall record on a sales invoice the following information in a manner which makes such information clearly evident, or by a system of symbols if such symbols and their meanings are printed on the sales invoice or maintained in the permittee's files:

(1) the total number of individual servings of liquor sold or served;

(2) the total number of individual servings of beer sold or served;

(3) the total number of individual servings of wine sold or served; and

(4) the date of the transaction.

(b) Sales invoices shall be maintained in sequence by date.

(c) The limousine service beverage fee levied in Chapter 50 of the code accrues on the entire number of servings in the sealed original container of alcoholic beverages at the time such container is delivered to a passenger. Delivery occurs at the time

the seal of the container is broken.

§51.13. Daily Summary. Each limousine service beverage permittee shall prepare a daily summary of all information required to be recorded on sales invoices, including the sale or service of alcoholic beverages. Identifiable symbols may be used.

§51.14. Audit Computation Basis.

(a) In examining the tax and service fee accounts of any limousine service beverage permittee the commission staff may compute and determine the amount of tax and service fee liabilities upon the basis of reports filed with the commission by the permittee, but if such reports are found to be unsatisfactory the computation of the tax and service fee liabilities may be based upon any records or information obtained from the permittee, or any seller who furnished alcoholic beverages to the permittee.

(b) In examining the tax and service fee accounts of any limousine service beverage permittee, if the commission staff finds that the permittee has failed to maintain or make available the records required by this chapter or the code, the commission staff may compute and determine the amounts of the tax and service fee liabilities from any available source or records, and estimates of the tax and service fee liabilities may be made by use of any available records for any period for which the permittee has failed to maintain records or file a report with the commission.

(c) In examining the tax and service fee records of any limousine service beverage permittee to establish the permittee's tax and service fee liabilities, the commission presumes that the disposition of all alcoholic beverages purchased by the permittee is taxable and the service fee is due until the contrary is established. The burden of proving the contrary is upon the permittee and may only be established through authentic records.

(d) In examining the tax, service fee, and permit fee accounts of a limousine service beverage permittee the commission staff may examine all books, papers, records, documents, supplies, and equipment of the permittee. The commission staff may also investigate and take into account the character and operation of the permittee's business.

§51.15. Theft Or Disaster Loss.

(a) Concerning alcoholic beverages which are lost through theft or disaster, the limousine service beverage permittee shall prepare a written report showing the number of containers lost by size, brand, and class of beverage.

(b) A theft of alcoholic beverages shall be reported within 10 days to the proper police or sheriff's department and to the commission and must be substantiated by the official report of such police or sheriff's department.

(c) A disaster causing a loss of al-

coholic beverages shall be reported within 10 days to the commission by the permittee and must be substantiated by an affidavit of the investigating representative of the commission.

§51.16. Limousine Vehicle Record. Each limousine service beverage permittee shall keep a permanent record in which is shown the following about each licensed limousine owned, leased or operated by the limousine service: the vehicle year; the vehicle make; the vehicle identification number; the vehicle license number; the date the vehicle was placed in service and the date such vehicle was removed from service.

§51.17. Seller To Retain Records. The seller of any alcoholic beverage to a limousine service beverage permittee shall maintain a record of such sale for a period of two years and shall make any such record available to a representative of the commission upon request.

§51.18. Permit Fee. The limousine service beverage permit fee shall be based upon each qualified limousine owned, leased or operated by the limousine service, whether or not beverage service is offered in connection with the operation of any given limousine. The fee paid for each limousine is nonrefundable and cannot be transferred to another limousine. A limousine added to the fleet of the limousine service during the permit year will incur the full yearly fee for that fraction of a year without proration. Any addition to the fleet shall be reported to the commission within 10 days in writing on a form prescribed by the administrator.

§51.19. Permit Bond. No permit may be issued to any person until a bond is filed with the commission on approved forms in the amount of one thousand dollars for the security of any taxes or fees which may become due.

§51.20. Location Of Business. A limousine service beverage permit shall be issued to a business address where persons may telephone, write, or go in person to make advance arrangements for service, where the licensed limousines are dispatched and where the records and reports required by this rule and the code are kept. The location must be wet for the sale of mixed beverages.

§51.21. Alcoholic Beverage Storage. All alcoholic beverages held under authority of a limousine service beverage permit shall be stored at the business address covered by the permit except the beverages which are in licensed limousines in the due course of business.

§51.22. Service Or Consumption At Business Address. No person may sell, serve, deliver, or consume any alcoholic beverage or permit any person to consume any alcoholic beverage at the business address covered by a limousine service beverage permit. However, legal suppliers may deliver alcoholic beverages to the permittee and the permittee may otherwise acquire alcoholic beverages in his storage inventory by any procedure authorized by Texas law.

§51.23. Open Container At Business Address.

(a) The permittee and his employees may possess on the licensed premises open containers of alcoholic beverages which have been abandoned by, or not delivered to, customers of the permittee, but only for the purpose of returning the open containers to the licensed business address for destruction of the remaining contents.

(b) No other person may possess or be permitted by the permittee to possess an open container of alcoholic beverage at the business address covered by a limousine service beverage permit.

§51.24. Limousines Are Licensed Premises.

(a) All limousines covered by a limousine service beverage permit are, at all times and for all purposes contemplated by the code, licensed premises covered by the permit and are subject to all provisions of the code, including consent to inspection.

(b) Any authorized representative of the commission or any peace officer may stop a licensed limousine at any time to conduct an investigation or inspect the limousine for the purpose of performing any duty imposed by the code.

§51.25. Identification Stickers Required. There shall be displayed on each licensed limousine an identification sticker issued by the commission. The sticker shall be affixed to the left rear bumper in a manner which makes it clearly visible to the motoring public. If such location is not feasible due to the construction of the bumper or otherwise the administrator may in writing authorize a different location for the sticker. By means of smaller stickers affixed to the main sticker, or by any other method approved by the administrator, the expiration or renewal date of the sticker shall be displayed. No privilege of a limousine service beverage permit may be exercised in a limousine which does not have a valid and current identification sticker affixed as required by this section.

§51.26. Identification Cards. The commission shall issue an identification card for each individual licensed limousine in such form and containing such information as may from time to time be prescribed by the administrator. This card shall be kept at all times in the glove compartment of the licensed limousine for which it was issued. No privilege of a limousine service beverage permit may be exercised in a limousine in which there is no valid and current identification card in the glove compartment as required by this section.

§51.27. Application For A Permit.

(a) In addition to the information required under the code, an applicant for a limousine service beverage permit shall file as a part of his original or renewal application the following information under oath in a form prescribed by the administrator:

(1) the name and residential address of the lessor of each licensed limou-

sine;

(2) the amount of monthly rental or lease for each licensed limousine and the terms of each rental or lease;

(3) a statement as to whether the business is to be operated under a franchise and, if so, the name and address of the franchiser;

(4) a list of all bank accounts, including account numbers, used in connection with the business;

(5) a statement disclosing all persons having any direct or indirect financial interest of any kind in the business, the proposed business or in the granting of the permit; and

(6) any further information required from time to time by the administrator.

(b) The application shall be accompanied by remittance of the permit fee in the form of a cashier's check, certified check or United States postal money order. *§51.28. Permit To Be Displayed.* Each permittee shall at all times prominently display the permit at the licensed premises business address.

§51.29. Grounds For Suspension Or Cancellation.

(a) The administrator may, after notice and hearing, suspend for a period of not more than 60 days, or cancel, a limousine service beverage permit upon finding that:

(1) the permittee has failed to comply with any provision of the code or rules of the commission or any state or federal law applicable to the operation of a limousine service, or the sale or service of alcoholic beverages;

(2) the permittee has failed to comply with any rule of the Texas Railroad Commission or any other agency of the State of Texas applicable to the operation of a limousine service or the sale or service of alcoholic beverages;

(3) the permittee has failed to comply with any ordinance, rule, or regulation of a city or county in which the permittee is located applicable to the operation of the business covered by the permit.

(b) All provisions of the code pertaining to administrative hearings shall apply to hearings under this section.

(c) All provisions of the code pertaining to civil penalties shall apply to sanctions under this section.

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 April 18, 1988.

TRD-8804063

Joe Darnell
General Counsel
Texas Alcoholic Beverage
Commission

Earliest possible date of adoption: May 30, 1988

For further information, please call: (512) 458-2500

TITLE 28. INSURANCE Part I. State Board of Insurance

Chapter 19. Agent's Licensing

• 28 TAC §§19.1001-19.1011

The State Board of Insurance proposes new §§19.1001-19.1011, concerning continuing education requirements for agents licensed under the provisions of the Insurance Code, Article 21.07-1 and Article 21.14. The new sections were adopted on an emergency basis and became effective on December 31, 1987. Notice of the emergency adoption appeared in the January 8, 1988, issue of the *Texas Register* (13 TexReg 157). The new sections are necessary to comply with recent amendments to Article 21.07-1 and Article 21.14. The recent statutory amendments direct the State Board of Insurance to certify continuing education programs for agents and mandate agents' participation in the programs. New §19.1001 summarizes the purpose and scope of these new sections for establishing continuing education requirements for certain agents under the Insurance Code. Section 19.1002 defines words and terms used in these new sections. New §19.1003 provides a schedule for implementation of continuing education requirements and sets forth certain exemptions from applicability. Section 19.1004 provides the details of the educational requirements. New §19.1005 determines the consequences of failing to comply with education requirements. Section 19.1006 establishes a procedure for designating courses as approved for the purpose of meeting the continuing education requirements. New §19.1007 and new §19.1008 set forth record keeping responsibilities in connection with this subchapter and provide for verification of the records by the board. Section 19.1009 enumerates the duties of the advisory council to be appointed by the board to furnish information and assistance in the conduct of the continuing education programs. New §19.1010 directs that certain information be distributed upon request. New §19.1011 approves and adopts by reference various forms for required use with the program. The board has filed copies of these forms with the Secretary of State's Office, Texas Register Section. Persons desiring copies of the forms can obtain copies from the Educational Coordinator, Agent's License Division, State Board of Insurance, 1110 San Jacinto Boulevard, Austin, Texas 78701-1998.

Melvin D. Clanton, manager of the agent's license division, has determined that, for the first five year period the proposed sections will be in effect, there will be no fiscal implication for local government as a result of enforcing or administering the section. The fiscal implication for state government will be an additional cost of approximately \$83,632 for fiscal year 1988 and approximately \$58,915 for each year thereafter. The fiscal implication for small businesses will be the

same as the anticipated economic cost to all persons who we required to comply with the sections as proposed. On the basis of cost per hour of labor or per unit of instruction, there is no anticipated difference in cost of compliance between small and large businesses.

Mr. Clanton 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 is the adoption of requirements and instructions to facilitate appropriate continuing education requirements for insurance agents. The anticipated economic cost to persons who are required to comply with the proposed sections depends on the method of compliance selected by a regulated entity. The anticipated minimum cost of compliance for each person is \$100 per year.

Comments on the proposal may be submitted to Melvin D. Clanton, Manager of Agent's License Division, State Board of Insurance, 1110 San Jacinto Boulevard, Austin, Texas 78701-1998.

The new sections are proposed under the Insurance Code, Article 21.07-1, §3A, and Article 21.14, §5b, which directs the State Board of Insurance to adopt procedures for certifying continuing education programs for agents and to certify such programs.

§19.1001. Purpose and Scope. The purpose of this subchapter is to set forth a procedure for certifying continuing education programs for agents licensed under the Insurance Code, Article 21.07-1 and Article 21.14, and to establish requirements for implementation of the continuing education programs mandated in the Insurance Code, Article 21.14, §5b, and Article 21.07-1, §3A.

§19.1002. Definitions. The following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise.

Advisory council—The Continuing Education Advisory Council as described in §19.1009 of this title (relating to Texas Continuing Education Advisory Council).

Approved course of study—A course which has been deemed to meet the requirements in §19.1006 of this title (relating to Approved Courses of Study).

Board—The State Board of Insurance.

Class hours—Contact hours of formal class instruction or the equivalent as may be defined and adopted by the advisory council.

Council—The advisory council.

Educational coordinator—The person in the Agent's License Division of the State Board of Insurance who is designated to work with the advisory council in administering the continuing education program, and who may be addressed as follows: Educational Coordinator, Agent's License Division, State Board of Insurance, 1110 San Jacinto Boulevard, Austin, Texas 78701-1998.

Licensee—Any holder of a license under the authority of the Insurance Code, Article 21.07-1 or Article 21.14.

Provider—A statewide agents' association

or a professional association, or a local chapter of a statewide agents' association or professional association; an accredited college or university; a proprietary school; or an educational publisher; or an insurance company; or a Texas public school system.

Staff—Persons employed in the Agent's License Division of the State Board of Insurance. §19.1003. *Applicability of Requirement.*

(a) The continuing education requirement shall apply to all individual licensees from January 1, 1988, unless a licensee is directly exempted by statute or in this subchapter and makes proper application for such exemption. Instructions for applying for an exemption may be obtained from the educational coordinator.

(b) The continuing education requirement shall not apply to:

(1) persons who maintain a license solely for the purpose of receiving residual or renewal commissions. Such persons must certify as a condition of renewal of the license that they have performed none of the acts of an insurance agent as defined in the statute governing such license and that the sole reason for maintenance of the license is to receive residuals or renewals;

(2) licensed or unlicensed persons who share in the profits of a local recording agent under the provisions of the Insurance Code, Article 21.14, §3a;

(3) those persons holding a license under the authority of the Insurance Code, Article 21.07-1, §4A; or

(4) nonresident licensees who are subject to continuing education requirements in their home state, provided the residence state recognizes reciprocity with Texas continuing education requirements.

(c) These requirements shall apply from January 1, 1988; except that a licensee's initial liability for continuing education shall be determined as follows.

(1) A licensee whose license had an effective issue date or renewal date within 90 days prior to January 1, 1988, shall be liable for the entire requirement.

(2) Liability for continuing education of all other licensees may be determined by consulting the following subparagraphs of this paragraph.

(A) If the date the license was first issued or was last renewed is from January 1, 1985, to March 31, 1985, the number of hours of continuing education required before the next renewal is zero.

(B) If the date the license was first issued or was last renewed is from April 1, 1985, to June 30, 1986, the number of hours of continuing education required before the next renewal is zero.

(C) If the date the license was first issued or was last renewed is from July 1, 1986, to September 30, 1986, the number of hours of continuing education required before the next renewal is five hours.

(D) If the date the license was first issued or was last renewed is from October 1, 1986, to December 31, 1986, the number of hours of continuing education required before the next renewal is 10 hours.

(E) If the date the license was first issued or was last renewed is from January 1, 1987, to March 31, 1987, the number of hours of continuing education required before the next renewal is 15 hours.

(F) If the date the license was first issued or was last renewed is from April 1, 1987, to June 30, 1987, the number of hours of continuing education required before the next renewal is 20 hours.

(G) If the date the license was first issued or was last renewed is from July 1, 1987, to September 30, 1987, the number of hours of continuing education required before the next renewal is 25 hours.

(H) If the date the license was first issued or was last renewed is from October 1, 1987, to December 31, 1987, the number of hours of continuing education required before the next renewal is 30 hours.

(3) All licenses issued or renewed after January 1, 1988, carry a continuing education requirement of 30 hours per renewal period unless otherwise exempted.

(4) Solicitors for local recording agents must use the original issue date of the license held on January 1, 1988, to calculate the cycle for reporting continuing education hours unless such a solicitor has written permission from the State Board of Insurance to use a new agency renewal date. In no case under this paragraph will liability be less than 30 hours.

§19.1004. *Continuing Education Requirements.*

(a) The licensee must successfully complete not less than 30 class hours in each 24-month period beginning on the issue date of the license and ending on the expiration date of the license except as follows.

(1) A licensee under the Insurance Code, Article 21.07-1, in the licensee's first year of licensure shall provide certification upon the first renewal of that license to the board of successful completion of at

least 15 class hours done within the first year following the issuance of the license and 15 additional class hours.

(2) A Texas local recording agent who does not hold a license under the Insurance Code, Article 21.07-1, must provide certification to the board that 15 class hours have been successfully completed during the year immediately prior to the first renewal of that license. After the first renewal, the local recording agent is subject to the full requirement as described in this subchapter.

(b) If licenses are held both under the Insurance Code, Article 21.07-1, and under the Insurance Code, Article 21.14, only 30 class hours must be completed in each 24-month period, and these may be taken entirely from the list of courses approved for either license or may be divided between the lists in any way. The intent of these sections that will be enforced is that each licensee receive at least 30 hours of continuing education in each 24-month period.

§19.1005. *Failure to Comply.* Failure of a licensee to provide satisfactory evidence of successful completion of the required number of hours of continuing education at the time of license renewal, in the absence of an exemption, is a ground for refusing renewal of the license in accordance with the provisions of the Insurance Code, Article 21.07-1, §12, or Article 21.14, §16. No extensions of time will be granted. A licensee whose license renewal is refused shall not be entitled to file another application of the same type within one year from the effective date of the refusal.

§19.1006. *Approved Courses of Study.*

(a) An approved course of study is one that has been submitted to the board for approval on SBI Form LDCE-002, has been reviewed and approved by staff and has been placed on the list of approved courses, form LDCE-002, except that the council shall determine the hours of credit to be given for the several national examination certification programs. These programs include but are not limited to CIC, CLU, CPCU, and LUTC, and no further action on the part of staff or provider shall be required for approval of these courses. Further, any insurance course that is part of the degree curriculum of an accredited college or university shall be awarded 15 hours of continuing education credit for each semester hour earned.

(b) The list of approved courses shall clearly designate whether the courses required class attendance or not, and each license to which the course hours may be applied. The list shall be available to all interested parties on request made to the educational coordinator.

(c) To be considered for approval, the course of study must meet the following requirements.

(1) The content of the course

must be intended to increase the licensee's knowledge and understanding of insurance principles and coverages; applicable laws; rules and regulations promulgated by the board; recent and prospective changes in coverages, law, regulation, and practice; management of the licensee's insurance business; or duties and responsibilities of the agent.

(2) Successful completion of the course by a licensee must be verifiable to the satisfaction of staff.

(d) The number of class hours for a course of study shall be assigned by staff in accordance with guidelines laid down by the advisory council, and any decision as to the number of hours assigned to a particular course by staff may be appealed to the advisory council by the provider of the course by making written application to the Chairman, Continuing Education Advisory Council, in care of State Board of Insurance, Agent's License Division, 1110 San Jacinto Boulevard, Austin, Texas 78701-1998.

(e) In order for a course to remain on the list of approved courses, the provider must agree:

(1) to maintain records of attendance and enrollment for a minimum of four years and to make these records available to the board at the time and place of the board's choosing; and

(2) to update course material as required by changes in statute, rule, or practice.

(f) A particular course may not be used by a licensee for continuing education credit more than once in any reporting period.

(g) A licensee who teaches an approved course may receive 3/4 of the class hour credit toward meeting the continuing education requirement, but this credit may not be used more often than once in any one reporting period.

(h) The following types of courses shall not be considered for approval:

(1) a course that is used, or a course based on a text that is used, for pre-license training or qualifying examination preparation;

(2) any course or text used or approved for the local recording agents educational requirement under the Insurance Code, Article 21.14, §5a;

(3) courses teaching general accounting or other general business skills, speed reading, or computer use;

(4) courses in motivation, goal-setting, time management, or communication;

(5) meetings held in conjunction with the regular business of the licensee; or

(6) training relating to the mar-

keting practices of a specific company.

§19.1007. Licensee's Responsibility for Record Keeping. Licensees are responsible for maintaining their own continuing education records. This includes preserving for four years copies of the certifications received upon completion of an approved course. The accuracy of a licensee's records is subject to verification at any time, as more particularly set forth in §19.1008 of this title (relating to Records and Audit). *§19.1008. Records and Audit.*

(a) The provider shall furnish to each licensee who successfully completes an approved course a certificate of completion, SBI Form LDCE-001, and shall make available a blank SBI Form LDCE-003, Licensee's Continuing Education Summary Report. The certificate of completion shall include the following information: the licensee's full name, address, State Board of Insurance file number, and license type, the course provider's name and the State Board of Insurance course number, the date of successful completion, the number of course hours credit being requested, and the signature of an approval official of the provider.

(b) The licensee shall furnish to the board as part of the license renewal, SBI Form LDCE-003, Licensee's Continuing Education Summary Report, which the board at any time may verify by requiring submission of the completion certificates.

(c) All continuing education reports and records submitted or maintained for the purpose of licensure or continued course approval are subject to audit or review by the board.

(d) If such records are audited or reviewed and are suspected of being falsified, incomplete, or in any way questionable, the licensee or provider shall have 30 days in which to correct the discrepancies or submit new documentation.

(e) If compliance has not been made within the 30-day period, the license may be revoked or not renewed, and if the license is revoked or not renewed, the licensee shall not be entitled to file another application for a license of the same type within one year from the effective date of the revocation or non-renewal.

(f) In the case of a provider, if the required corrections have not been taken by the end of the 30-day period, approval may be withdrawn for any courses administered by the provider and that provider may be prevented from resubmitting or submitting any courses for approval for a period of 180 days.

§19.1009. Texas Continuing Education Advisory Council.

(a) The board shall create an advisory council to furnish the board with information and assistance in the conduct of the continuing education program for agents licensed either under the Insurance Code,

Article 21.07-1, or under the Insurance Code, Article 21.14.

(b) The council shall be appointed by the board and serves at the board's pleasure. The board may, from time to time, make additional appointments to replace members who have resigned.

(c) The composition of the council shall be as follows: representatives of the several segments of the insurance community including, but not limited to, members of home office and agency force of legal reserve life insurance companies and companies writing property and casualty insurance, and educators and/or educational administrators. The educational coordinator shall be an ex officio member of the council, participating fully, but unable to vote.

(d) The primary role of the council shall be advisory, and it shall offer advice as to the following:

(1) method of course approval;

(2) qualifications of course instructors/graders; and

(3) method of establishing hourly equivalents for courses not involving class attendance.

(e) The council shall meet at least quarterly during the first year after adoption of this subchapter, and at least semi-annually thereafter. At the first meeting of the advisory council, the council shall do the following:

(1) elect a chairman and any other officers it desires and establish rules as to internal procedure;

(2) develop a set of guidelines for use by the educational coordinator in approving courses and assigning credit hours to courses;

(3) assign credit hours to LUTC, CIC, CLU, and CPCU course parts leading to certification; and

(4) at that time or later designate any type of course that shall not receive approval in addition to those excluded by these sections.

(f) At a subsequent meeting, the chairman of the council may, in the chairman's sole discretion, divide the council into such subcommittees as the chairman deems may be required.

(g) The council may amend its guidelines as it sees fit. All rules and guidelines that this council passes shall be deemed procedural guidelines, not rules binding on the State Board of Insurance.

(h) At all meetings after the first, the council will hear appeals from providers who are not satisfied with hours assigned to their courses, and when possible, settle these appeals at the time of hearing them, or at least within 30 days, providing the educational coordinator with a written decision which shall be transmitted promptly to the

provider.

(i) The council will serve without pay, but a reasonable per diem and travel allowance will be made available to each member of the council in order that the widest possible cross section of the insurance community be represented on the council.

§19.1010. Distribution of Rules and Attachments.

(a) A copy of this subchapter as promulgated by the State Board of Insurance shall be given to any interested person upon request made to the educational coordinator.

(b) No copy of this subchapter may be distributed without one copy of each form used in the administration of this subchapter being attached.

(c) A copy of the Insurance Code, Article 21.07-1, §3A, and Article 21.14, §5b, shall be distributed with every copy of this subchapter.

§19.1011. Forms Adopted by Reference. The State Board of Insurance adopts by reference certain forms to be used in conjunction with the administration of this subchapter. These forms are published by the State Board of Insurance and copies of the forms may be obtained from the Educational Coordinator, Agent's License Division, State Board of Insurance, 1110 San Jacinto Boulevard, Austin, Texas 78701-1998. Licensees and providers shall use such forms as are required by the provisions of this subchapter. The forms adopted by reference are specifically identified as follows:

(1) SBI Form LDCE-001, Continuing Education Certificate of Completion;

(2) SBI Form LDCE-002, Request for Approval of Continuing Education Course; and

(3) SBI Form LDCE-003, Licensee's Continuing Education Summary 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 April 25, 1988.

TRD-8804177 Nicholas Murphy
Chief Clerk
State Board of Insurance

Earliest possible date of adoption: May 30, 1988

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

Chapter 25. Insurance Premium Finance

Subchapter H. Annual Reports, Examinations, and Assessments

• 28 TAC §25.712

The State Board of Insurance proposes new §25.712, concerning assessment of insurance premium finance companies in 1988. Section 25.712 was adopted on an emergency basis and became effective on December 31, 1987. Notice of the emergency adoption appeared in the January 8, 1988, issue of the *Texas Register* (13 TexReg 160). This section is necessary to provide a rate of assessment sufficient to meet the expenses of performing the board's statutory responsibilities for examining, investigating, and regulating insurance premium finance companies. Under new §25.712, the board levies a rate of assessment for 1988 to cover general administrative expense and collects from each insurance premium finance company on the basis of a percentage of total loan dollar volume for the 1987 calendar year.

Carroll Fuchs, chief of staff services, 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. The fiscal implications for small businesses will be the same as the anticipated economic cost to all persons who are required to comply with the section as proposed. Except that a minimum overhead assessment of \$250 shall be assessed and collected, there is no difference in the rate of assessment between small and large businesses.

Mr. Fuchs 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 is the adoption of a rate of assessment to cover the general administrative expense attributable to the administrative regulation of insurance premium finance companies. The anticipated economic cost to persons who are required to comply with the proposal will be payment of the assessment at the rate specified.

Comments on the proposal may be submitted to Nicholas Murphy, Chief Clerk, State Board of Insurance, 1110 San Jacinto Boulevard, Austin, Texas 78701-1998.

The section is proposed under the Insurance Code, Article 24.06, §(c), which provides that each insurance premium finance company licensed by the board shall pay an amount assessed by the board to cover the direct and indirect cost of examinations and investigations and proportionate share of general administrative expense attributable to regulation of insurance premium finance companies, and Article 24.09, which authorizes the State Board of Insurance to adopt and enforce rules necessary to carry out provisions of the Insurance Code concerning the regulation of insurance premium finance companies.

§25.712. General Administrative Expense Assessment, 1988. On or before April 1, 1988, each insurance premium finance company holding a license issued by the State Board of Insurance under the Insurance

Code, Chapter 24, shall pay to the Texas State Board of Insurance an overhead charge which the board shall assess to cover the general administrative expense attributable to the regulation of insurance premium finance companies. Payment shall be by check, which shall be filed with the report required by the Insurance Code, Article 24.10(b), at the offices of the State Board of Insurance at 1110 San Jacinto Boulevard, Austin, Texas 7801-1998. The assessment to cover general administrative expense shall be computed and paid as follows.

(1) Payment shall be in the amount of 0.00815 of 1.0% of the total loan dollar volume of the company for the calendar year 1987.

(2) Should the overhead charge, as computed under paragraph (1) of this section, produce an overhead assessment of less than \$250, a minimum overhead assessment of \$250 shall be levied and collected.

(3) The overhead assessments are to be based on the total loan dollar volume which the insurance premium finance company has reported to the board, except where there has been an understating of total loan dollar volume.

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 April 25, 1988.

TRD-8804178 Nicholas Murphy
Chief Clerk
State Board of Insurance

Earliest possible date of adoption: May 30, 1988

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

TITLE 40. SOCIAL SERVICES & ASSISTANCE

Part I. Texas Department of Human Services

Chapter 4. Medicaid Programs - Children and Pregnant Women

Eligibility Requirements

• 40 TAC §4.1004

The Texas Department of Human Services (DHS) proposes an amendment to §4.1004, concerning eligible groups, in its Medicaid Programs - Children and Pregnant Women rule chapter. The amendment provides Medicaid benefits to dependent children who meet all AFDC eligibility criteria except for the applied income of their stepparents or grandparents.

Brian Packard, associate commissioner for budget, planning, and economic analysis, has determined that for the first five-year period the proposed section will be in effect there

will be 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 \$13,032 in FY 1988; \$1,639,007 in FY 1989; \$2,828,625 in FY 1990; \$3,622, 852 in FY 1991; and \$4,271,948 in FY 1992. There is no anticipated effect on local governments or small businesses.

Mr. Packard has also determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be the availability of Medicaid benefits to more needy children. There is no anticipated economic cost to individuals who are required to comply with the proposed section.

Comments on the proposal may be submitted to Cathy Rossberg, Administrator, Policy Development Support Division-271, Texas Department of Human Services 222-E, P.O. Box 2960, Austin, Texas 78769, within 30 days of publication in the *Texas Register*.

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

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

- (1)-(4) (No change.)
- (5) Children who meet all

AFDC eligibility requirements except income. These deprived children live with their legal parent and stepparent or their legal minor parent and their minor parent's parents. They are ineligible for AFDC because of the applied income of their stepparent or grandparents.

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 April 22, 1988.

TRD-8804117

Marlin W. Johnston
Commissioner
Texas Department of
Human Services

Earliest possible date of adoption: May 30, 1988

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





Name: Brandon Hines
Grade: 6
School: F.P. Caillet Elementary, Dallas

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 31. NATURAL RESOURCES AND CONSERVATION

Part IX. Texas Water Commission

Chapter 337. Enforcement

Subchapter B. Enforcement Hearings

- 31 TAC §337.34, §337.36

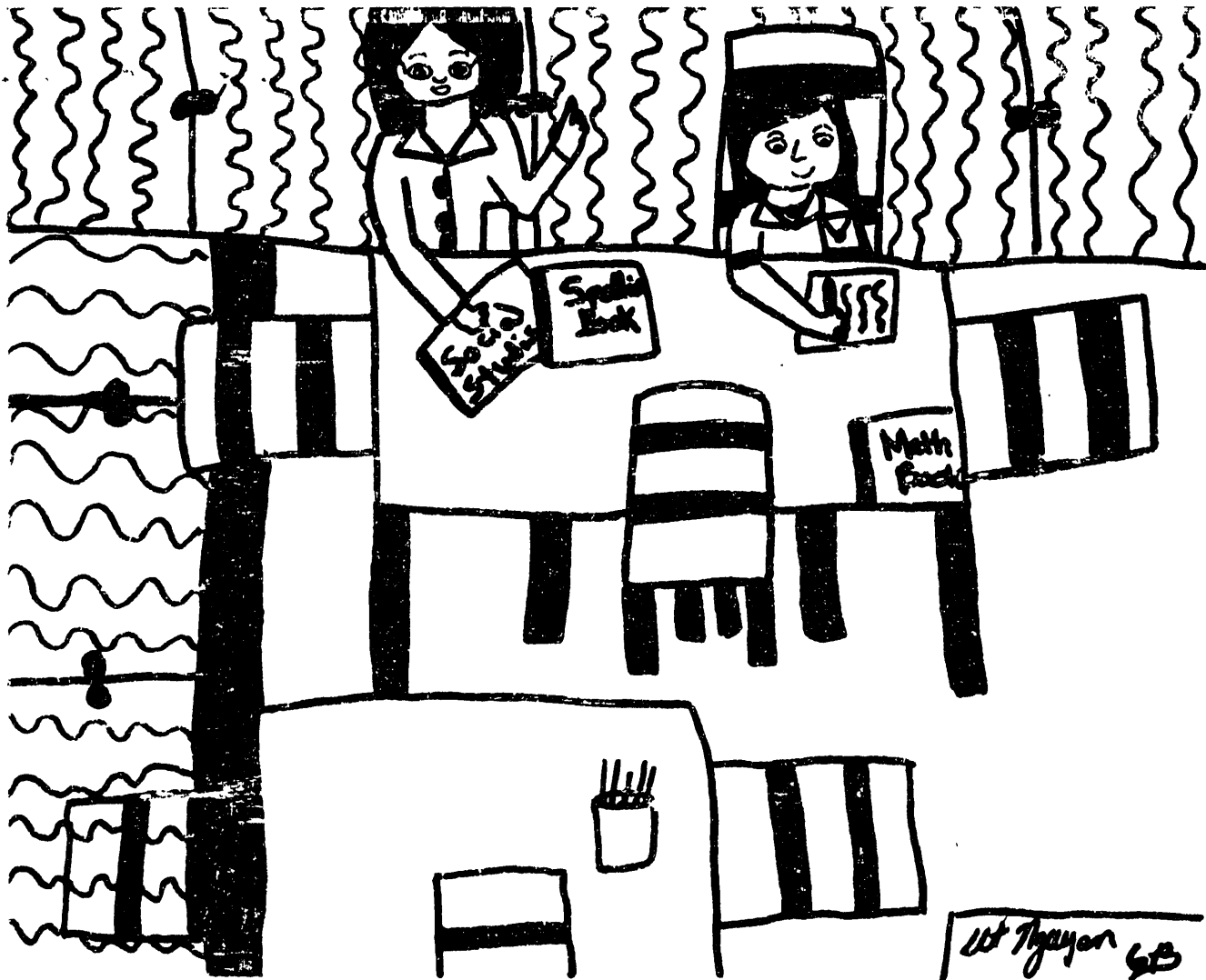
Pursuant to Texas Civil Statutes, Article 6252-13, §5(b), and 1 TAC §91.24(b), the proposed amendment to §337.34 and §337.36 submitted by the Texas Water Commission has been automatically withdrawn, effective April 26, 1988. The amendment as proposed appeared in the October 15, 1987 issue of the *Texas Register* (12 TexReg 3906).

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.

TRD-8804226

Filed: April 26, 1988





Name: Ut Nguyen
Grade: 6
School: F.P. Caillet Elementary, Dallas

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 7. BANKING AND SECURITIES

Part II. Banking Department of Texas Chapter 12. Lending Limit

7 TAC §12.3

The Banking Department of Texas adopt an amendment to §12.3, with changes to the proposed text published in the March 8, 1988, issue of the *Texas Register* (13 TexReg 1177).

The amendment is needed to provide clearer guidance to state banks when renewing existing loans, or commitments, so that they may conduct their affairs accordingly.

The amendment no longer requires that a state bank, following a decline in its lending limit, first attempt to participate a loan upon renewal if the amount of the loan exceeds the bank's current (reduced) lending limit. However, the amendment provides that as a matter of prudent banking, a banker must consider, or weigh, the potential adverse effects on the bank of a renewal versus taking other available actions.

The Banking Department received one comment in support of the proposed amendment. The commenter suggested certain language to clarify proposed new subsection (c) which was accepted by the department and incorporated into the section.

Joan Conway Waller commented in favor of the amendment and the agency agreed with the comments.

The amendment to this section is authorized under Texas Civil Statutes, Article 342-507, which provide the banking commissioner with authority to promulgate rules to administer and carry out this article.

§12.3. General Limitations.

(a) (No change.)

(b) Change in lending limit due to a change in the bank's net capital and certified surplus. For the purpose of these sections, net capital and certified surplus used in determining a bank's lending limit, represents the lesser of the actual capital stock and certified surplus or the net balance of all capital accounts not including the reserve for bad debts. In the event that a loan or binding commitment to make a loan is within a bank's lending limit when made, but due to a subsequent decrease in the bank's net capital and certified surplus, for whatever reason, said loan, or advances which are made pursuant to the commit-

ment, then exceeds the bank's new lending limit, such occurrence in itself will not result in the bank being in violation of its legal lending limit; provided that when the loan or commitment was made, the bank had no knowledge of any impending decrease in its net capital or certified surplus.

(c) Loan renewals. If a loan or binding commitment to make a loan is within a bank's lending limit when made, but due to a subsequent decrease in the bank's net capital and certified surplus, for whatever reason, said loan or commitment exceeds the bank's lending limit at the time of renewal or extension, the bank may renew, or extend the loan, or commitment, if the renewal or extension is in accordance with prudent banking judgment. Prudent banking judgment would require that management consider whether failure to renew or extend the loan or commitment at its existing level would impair the value of the collateral or the bank's ability to collect funds previously advanced.

This agency hereby certifies that the 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 April 20, 1988.

TRD-8804192 Jorge A. Gutierrez
General Counsel
Department of Banking

Effective date: May 16, 1988

Proposal publication date: March 8, 1988

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

Chapter 25. Prepaid Funeral Contracts

Subchapter B. Regulation of Licenses

7 TAC §25.13

The Banking Department of Texas adopts new §25.13, without changes to the proposed text published in the January 22, 1988, issue of the *Texas Register* (13 TexReg 372).

The new section is adopted to facilitate the fair processing of applications for withdrawals of excess earnings.

The new section requires that applications for withdrawal of excess earnings must be filed on an application form prescribed by the commissioner. The new section also requires that each applicant must pay a non-refundable fee

of \$500.

No comments were received regarding adoption of the new section.

The new section is adopted pursuant to Texas Civil Statutes, Article 548b, which provide the Banking Department with the authority to promulgate rules and regulations as may be necessary to facilitate the fair processing of applications.

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 April 22, 1988.

TRD-8804191 Jorge A. Gutierrez
General Counsel
Department of Banking

Effective date: May 16, 1988

Proposal publication date: January 22, 1988

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

• 7 TAC §25.17

The State Banking Board adopts new a §25.17 with changes to the proposed text published in the January 22, 1988, issue of the *Texas Register* (13 TexReg 375).

The section is adopted with changes to subsection (5)(3) pursuant to Texas Civil Statutes, Article 548b, §8A, which provide that the department will, by rule, create and maintain a guaranty fund to guarantee performance by sellers of prepaid funeral services.

The section creates a guaranty fund to guarantee performance by sellers of prepaid funeral services and provides that the Department will assess from each seller \$1.00 for each unexpired contract existing on January 1, 1988, and \$1.00 per contract for each contract sold in 1988 from a permittee first receiving a permit in 1988. The section also creates an advisory council to supervise the fund.

There were two comments received against subsection (b)(3) of the proposed section. The comments opposed granting the department the authority to assess and collect up to \$1.00 per contract for each outstanding unexpired contract existing at the time of the assessment in order to maintain a sound fund. The comments suggested that the department tie any additional assessments to an amount necessary to maintain the guaranty fund at the amount found to be actuarially sound.

Commenting against the section were C.H. Shackelford and Robert W. Strauser.

The Banking Department agrees with the comments received and adopts an amendment to the proposed subsection (b)(3).

The section is adopted pursuant to Texas Civil Statutes, Article 548b, §8A which provide that the department will, by section, create and maintain a guaranty fund to guarantee performance by sellers of prepaid funeral services.

§25.17. Guaranty Fund.

(a) Pursuant to Texas Civil Statutes, Article, 548b, §8A, a guaranty fund is hereby created to guarantee performance by sellers of prepaid funeral services. The fund will be named the prepaid funeral guaranty fund, and will be supervised by an advisory council composed of the following: the banking commissioner, or his official designee, who will sit as chairperson of the council; the attorney general or his official designee; and an industry representative appointed by the commissioner. The industry representative will serve a two-year term beginning on January 1 of an even numbered year and ending December 31 of the following odd numbered year. The industry representative may not serve more than one term.

(b) The prepaid funeral guaranty fund will be capitalized as follows.

(1) The department shall assess and collect from all trust funded prepaid funeral sellers \$1.00 for each unmaturred contract existing on January 1, 1988.

(2) The department shall assess and collect from all trust funded prepaid funeral sellers \$1.00 for each unmaturred contract sold in 1988 from a permittee first receiving a permit in 1988.

(3) In accordance with the findings of an actuarial study made pursuant to Texas Civil Statutes, Article 548b, §8A, the department may make additional assessments on unmaturred contracts to maintain the fund at an amount found to be actuarially sound.

(c) The commissioner may use any earnings from the fund for the expenses of operating, maintaining, and supervising the fund, including the reimbursement of travel expenses incurred by the industry representative pursuant to the same travel guidelines of state employees.

(d) The advisory council shall meet on a periodic basis as determined by the commissioner in order to fulfill the requirements of supervising the operation and maintenance of the fund. However, in no event shall the advisory council fail to meet at least once annually.

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 April 22, 1988.

TRD-8804194

Jorge A. Gutierrez
General Counsel
Department of Banking

Effective date: May 16, 1988

Proposal publication date: January 22, 1988

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

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**TITLE 16. ECONOMIC
REGULATION**

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

Chapter 23. Substantive Rules

**Customer Service and
Protection**

• **16 TAC §23.52**

The Public Utility Commission of Texas adopts new section §23.52, with changes to the proposed text published in the February 26, 1988, issue of the *Texas Register* (13 TexReg 949).

The Public Utility Regulatory Act, §94, requires the Public Utility Commission to adopt new rules requiring each local exchange company to establish a telecommunications service assistance program to provide eligible consumers with a reduction in costs of telecommunications services.

Local exchange companies shall provide tel-assistance service to all eligible consumers within its certificated area in the form of a 65% reduction in the applicable tariff rate for a qualifying service. The Texas Department of Human Services will determine eligibility and notify the local exchange companies. Each local exchange company must file a tariff to implement tel-assistance service.

Commenters suggested minor changes to the section as proposed clarifying; when reduced billing would begin, the period of eligibility, implementation of the appropriate subscriber line charge reduction or waiver, responsibility for obtaining and returning forms, certification of eligibility, verification of income, and the allowance of certain services necessary to aid persons in using the qualifying services.

Southwestern Bell Telephone Company, GTE Southwest, Inc., Statewide Telephone Cooperative, Inc., Rolla L. Johnson and Associates, Inc., Texas Department of Human Services, and Consumers Union commented in favor of adoption of the new section.

The section incorporates most of the suggested clarifying changes, but the agency finds certain comments by Consumers Union to be beyond the scope of its rulemaking powers under the Public Utility Regulatory Act.

The new section is adopted under Public Utility Regulatory Act, which provides the Public Utility Commission of Texas with the authority to adopt rules requiring local exchange companies to establish tel-assistance service programs.

§23.52. Tel-Assistance and Lifeline Service.

(a) Application. This section applies to local exchange carriers (LECs), as that term is defined by §23.61(a)(17) of this title (relating to Telephone Utilities), that are subject to the rate-making jurisdic-

tion of the commission for any service or geographic market.

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

(1) Tel-assistance service—A program providing eligible consumers, as determined under applicable rules of the Texas Department of Human Services, with a reduction in costs of certain telecommunications service.

(2) Lifeline service—A program certified by the Federal Communications Commission (FCC) to provide for the reduction or waiver of the federal subscriber line charge (SLC) for residential consumers.

(3) The department—The Texas Department of Human Services.

(4) Qualifying service

(A) residential flat rate basic local exchange service; or

(B) residential local exchange access service; and

(C) residential local area calling usage.

(c) Rate reductions under tel-assistance service. Each LEC shall provide tel-assistance service to all eligible consumers within its certificated area in the form of a 65% reduction in the applicable tariff rate for the service provided. The reduction shall apply only to the qualifying service. The reduction for local area calling usage shall be limited to an amount such that together with the reduction for local exchange access service the overall rate reduction does not exceed the comparable reduction applicable to flat rate service.

(d) Application for tel-assistance service. Application forms for tel-assistance service shall be obtained from the department by the applicant and when completed shall be returned to the department by the applicant. The department will review the information provided and will determine if the applicant meets the eligibility criteria.

(e) Certification of eligibility to LECs. The department will provide each LEC an initial list of persons eligible for tel-assistance service. Changes to the list will be provided by the department to each LEC on a monthly basis. The LEC shall identify those individuals to whom it is providing telephone service and shall determine if the existing telephone service arrangements meet the required criteria. Within 60 days after receipt of the list, the LEC shall begin reduced billing for those persons whose telephone service arrangements meet the requirements. If the telephone service arrangements do not meet the requirements, the LEC shall advise the ap-

plicant of changes that would be required to satisfy the Tel-Assistance Service Program criteria. The LEC shall advise the applicant that persons choosing not to make necessary changes to their telephone service arrangements will not receive tel-assistance service. If the applicant chooses to make changes in the telephone service arrangements, the LEC shall begin reduced billing at the time the change of service goes into effect. The applicant shall not be charged for changes in telephone service arrangements that are made in order to qualify for tel-assistance service, provided that reimbursement for expenses related to such changes is available from the Universal Service Fund. Persons on the list who did not have telephone service at the time that the department provided the list to the LECs are responsible for initiating a request for service from their serving LEC. The LEC shall begin reduced billing so such persons at the time service is established, if the telephone service arrangements satisfy the program criteria. After tel-assistance service is established, if the recipient requests a change in telephone service arrangements such that the new arrangements do not meet the program requirements, before making such changes the LEC shall advise the consumer that the requested changes will result in removal of the tel-assistance service discount. If the consumer then chooses to have such changes made, the discount shall be removed at the time the change of service goes into effect. The LEC shall notify the department on a monthly basis of changes in the status of individuals on the department's eligibility list.

(f) Specific service exceptions for tel-assistance service. No other local voice service may be provided to the dwelling place of a tel-assistance service consumer, nor may single or party line optional extended area service, optional extended area calling service, foreign zone, or foreign exchange service be provided to a tel-assistance service consumer. Nothing in this section shall prohibit a person otherwise eligible to receive tel-assistance service from obtaining and using telecommunications equipment or services designed to aid such person in utilizing qualifying telecommunications services.

(g) Retroactive prohibition for tel-assistance service. Tel-assistance shall not be available on a retroactive basis except for such instances in which the LEC failed to initiate reduced billing within the time frame established in subsection (e) of this section.

(h) Termination of tel-assistance service. A tel-assistance service recipient will remain eligible for tel-assistance service for a period of 12 months from the date of certification by the department, and reduced billing will continue until such time as either the department notifies the LEC that the consumer is no longer eligible or the consumer establishes telephone service

arrangements that do not satisfy requirements in this section. Certification is provided by the department subject to annual renewal.

(i) Tariff requirement. Each LEC shall file a tariff to implement tel-assistance service in compliance with applicable law.

(j) Waiver of federal subscriber line charges (SLC). Upon certification by the FCC that tel-assistance service complies with the federal standards for the Lifeline Service Program, and LEC shall implement the appropriate SLC reduction or waiver approved by the FCC.

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 April 22, 1988.

TRD-8804174

Phillip A. Holder
Secretary of the
Commission
Public Utility Commission
of Texas

Effective date: May 16, 1988

Proposal publication date: February 26, 1988

For further information, please call: (512) 458-0100

TITLE 25. HEALTH SERVICES

Part I. Texas Department of Health

Permits

Chapter 113. Special Health Services Permits

• 25 TAC §113.1

The Texas Department of Health adopts new §113.1, without changes to the proposed text published in the January 12, 1988, issue of the *Texas Register* (13 TexReg 216).

The new section implements House Bill 5, 70th Legislature, 1987, which requires state agencies to adopt rules covering the procedures by which agencies process applications.

The new section sets out time periods during which applications for initial and renewed licenses, permits, certificates, and registrations will be processed by the department. It also establishes an appeal for a resolution of any dispute arising from a possible violation of the established periods.

No comments were received regarding the adoption of the new section.

The new section is adopted under Texas Civil Statutes, Article 6252-13b.1, §3, House Bill 5, 70th Texas Legislature, 1987, which provide the Texas Board of Health with the authority to adopt rules concerning the time periods involved in the department's processing and issuing of permits for special health services professionals.

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 April 21, 1988.

TRD-8804098

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

Effective date: June 1, 1988.

Proposal publication date: January 12, 1988.

For further information, please call: (512) 458-7531

• 25 TAC §113.2

The Texas Department of Health adopts new §113.2, with changes to the text as proposed in the January 12, 1988, issue of the *Texas Register* (13 TexReg 230).

The new section implements the provisions of House Bill 5, 70th Legislature, 1987, which requires the department to adopt rules covering the time periods by which the department processes applications and issues licenses and permits. The new section enables applicants for licenses and permits to be aware of the applicable time periods.

The new section covers time periods for the processing of applications of initial licenses, renewals of licenses, and changes of ownership for home health agencies, abortion facilities, birthing centers and ambulatory surgical centers. The new section also allows for an appeal process through which an applicant can appeal for a resolution of any dispute arising from a possible violation of the time periods.

The following comments were received concerning the adoption of the new section.

Three commenters objected to the lengthy time frames in subsections (c)(2) and (d)(2). The commenters were specifically concerned about the processing of ambulatory surgical center (ASC) license applications. The commenters questioned the difference in time frames for processing a hospital license and an ASC license application. One of the three commenters considered the proposed section to be discriminatory against small businesses such as ASCs. The department agrees with the commenters and has changed the time frame in subsections (c)(2) and (d)(2) to 45 days. Language has been added to subsection (d)(1) to clarify the requirements the applicant must meet before the department can issue a temporary license. The 45 days is considered reasonable for the department to process initial applications of the four licensure programs. The lengthy time frames originally proposed were based on the history of the department's implementation of three new licensure programs. The lengthy time frames are no longer applicable as the licensure programs are now established and ongoing.

One commenter took exception to the department's penalty exemption in subsection (e)(2) for a 15% increase in the number of applications processed in a calendar quarter. The department disagrees with the commenter. The language is consistent with the statutory requirements. The department does not have control over when an applicant wishes to ap-

ply during any given quarter.

One commenter took exception to the department's penalty exemption in subsection (e)(2) for delays caused by the use of another entity in the processing of applications. The department disagrees with the commenter as the language is consistent with the statutory requirements. The department does not rely on another public or private entity for the processing of an ASC license application.

The department has made a few editorial changes for purposes of clarification.

One commenter stated there would be tremendous economic cost to a small business if the department allowed six months to two years to process an ASC application. The department agrees and has changed the language in subsections (c)(2) and (d)(2) to require the department to process applications within 45 days.

Commenters were Humana Day Surgery, Bryan; Surgical Center of El Paso, El Paso; Honorable Nancy McDonald, Texas House of Representatives. None of the commenters objected to the section in its entirety, however, the commenters expressed concerns and made recommendations regarding specific provisions in the section as proposed.

The new section is adopted under Texas Civil Statutes, Article 6252-13b.1, §3 House Bill 5, 70th Texas Legislature 1987, which provides the Texas Board of Health with the authority to adopt rules concerning the time periods involved in the departments processing and issuing of licenses for home health agencies, abortion facilities, birthing centers, and ambulatory surgical centers; and Article 4414b, §1.05, which provides the Texas Board of Health with the authority to adopt rules for the performance of every duty imposed by law on the Texas Board of Health, the Texas Department of Health, and the Commissioner of Health.

§113.2. Time Periods for Processing and Issuing Licenses for Health Care Providers.

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

(1) Health care providers—Licensed home health agencies, ambulatory surgical centers, birthing centers, and abortion facilities.

(2) Small business—A corporation, partnership, sole proprietorship, or other legal entity that is formed for the purpose of making a profit, that is independently owned and operated, and that has either fewer than 100 employees or less than \$1 million in annual gross receipts.

(b) License applications. All license applications received from health care providers by the department shall be reviewed to determine if the applicant is a small business as defined in subsection (a) of this section. The applications of the applicants that meet the definition of a small business shall be processed in accordance with the time periods in subsections (c) and (d) of this section.

(c) First time period.

(1) The first time period begins on the date the department's health facility licensure and certification division receives an application for a license to operate as a health care provider, the required documentation for the license applied for, and the license fee. The first time period ends on the date the department submits a written notice to the applicant approving the completed application, or the date the department receives the required documentation requested in a written notice to the applicant outlining the reason(s) why the application is incomplete and specifying a time frame for the applicant to submit the required documentation. Upon receipt of the required documentation the department will provide a written notice to the applicant approving the completed application.

(2) The time period for each initial license application for all the programs is 45 days.

(3) The time periods for each renewal license application are as follows.

(A) As regards home health agencies, a license renewal notice shall be sent by the department to the agency at least 60 days before the expiration date of the annual license. An application, required documents and fee shall be submitted by the agency to the department and postmarked no later than 30 days prior to the expiration date of the license.

(B) As regards abortion facilities, a license renewal notice shall be sent by the department to the abortion facility at least 90 days before the expiration date of the annual license. An application, required documents and fee shall be submitted by the facility to the department no later than 60 days prior to the expiration date of the license. The annual abortion report shall be submitted by the facility to the department and postmarked no later than 30 days prior to the expiration date of the license.

(C) As regards birthing centers, a license renewal notice shall be sent by the department to the birthing center at least 60 days before the expiration date of the annual license. An application, required documents and fee shall be submitted by the birthing center to the department postmarked no later than 30 days prior to the expiration date of the license.

(D) As regards ambulatory surgical centers (ASC), a license renewal notice shall be sent by the department to the ASC at least 90 days before the expiration date of the annual license. An application, required documents and fee shall be submitted by the ASC to the department and postmarked no later than 60 days prior to the expiration date of the license.

(E) Applicants who are delinquent in renewing their annual license, and initial applicants who do not pursue licensure, account for a time frame that is beyond the department's control.

(4) The time frames for a license issued due to a change of ownership are the same as an initial license application. Applicants who are delinquent in notifying the department of the change of ownership account for a time frame that is beyond the department's control.

(5) The time frames for licenses pending license exemption claims, proposed punitive action, administrative hearings, temporary restraining orders or injunctive relief are covered in the sections listed in subparagraphs (A) - (D) of this paragraph, as follows:

(A) as regards home health agencies, §115.3 of this title (relating to Unregulated Agency), §115.4 of this title (relating to Exemptions), and §115.12 of this title (relating to License Denial, Suspension or Revocation);

(B) as regards abortion facilities, §139.5 of this title (relating to Unlicensed Facility), §139.6 of this title (relating to Exemptions), and §139.12 of this title (relating to License Denial, Suspension, or Revocation);

(C) as regards birthing centers, §137.2 of this title (relating to Unregulated Center), §137.3 of this title (relating to Exemptions), and §137.7 of this title (relating to License Denial, Suspension, or Revocation);

(D) as regards ambulatory surgical centers (ASC), §135.18 of this title (relating to Unlicensed Ambulatory Surgical Centers), §135.19 of this title (relating to Exemptions), and §135.24 of this section (relating to License Denial, Suspension or Revocation).

(d) Second time period.

(1) The second period begins either the day the department's health facility licensure and certification division receives the document(s) requested in the written notice in subsection (c) of this section. The documentation must be received within the time frame specified in the written notice and must be correct to consider the application complete, or on the day the department issued a written notice approving the completed application. The last day of the second period under this paragraph is the date the following items have been received, reviewed, conducted, and found to be acceptable: attendance at the required pre-survey conference; submittal of required Medicare application documents, as applicable for ASCs and home health agencies; completion of the division's architectural unit final

life safety code inspection and approval of the building for occupancy as applicable to ASCs and abortion facilities and issuance of a temporary license for the provision of services requested. Applicants who are delinquent in submitting the required documents or do not attend a pre-survey conference or complete the building requirements account for a time frame that is beyond the department's control.

(2) The time period for initial license application for all the programs is 45 days.

(3) The time periods for renewal license applications are as follows.

(A) As regards home health agencies, a license renewal notice shall be sent by the department to the agency at least 60 days before the expiration date of the annual license. An application, required documents and fee shall be submitted by the agency to the department and postmarked no later than 30 days prior to the expiration day of the license.

(B) As regards abortion facilities, a renewal license notice shall be sent by the department to the abortion facility at least 90 days before the expiration date of the annual license. An application, required documents and fee shall be submitted by the facility to the department and postmarked no later than 60 days prior to the expiration date of the license. The annual abortion report shall be submitted by the facility to the department and postmarked no later than 30 days prior to the expiration date of the license.

(C) As regards birthing centers, a license renewal notice shall be sent by the department to the birthing center at least 60 days before the expiration date of the annual license. An application, required documents and fee shall be submitted by the birthing center to the department and postmarked no later than 30 days prior to the expiration date of the license.

(D) As regards ambulatory surgical centers, a license renewal notice shall be sent by the department to the ASC at least 90 days before the expiration date of the annual license. An application, required documents and fee shall be submitted by the ASC to the department and postmarked no later than 60 days prior to the expiration date of the license.

(e) Reimbursement of fees.

(1) In the event the application is not processed in the time periods as stated in subsections (c) and (d) of this section, the applicant has the right to request full reimbursement of the license fee paid with the application process. If the department does not agree that the established periods were violated or finds that

good cause existed for exceeding the established periods the request will be denied and there will be no refund of the license fee. If the department agrees that the established periods were violated or finds there were no existing causes to exceed the established periods, the department will rule in favor of the applicant and the applicant will be refunded the license fee.

(2) Good cause for exceeding the period established is considered to exist if the number of applications for licensure to be processed exceed by 15% or more of the applications processed in the calendar quarter the preceding year, another public or private entity utilized in the application process caused the delay, or other conditions existed giving good cause for exceeding the established periods.

(f) Appeal. If the request for full reimbursement authorized by subsection (e) of this section is denied, the applicant may then appeal to the Commissioner of Health for a resolution of the dispute. The applicant shall give written notice to the commissioner that full reimbursement of all licensure fees be paid because the application was not processed within the adopted time period. The director of the health facilities licensure and certification division shall submit a written report of the facts related to the processing of the application and good cause for exceeding the established time periods. The commissioner will determine the final action and provide written notification of the decision to the applicant and the director.

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

Issued in Austin, Texas, on April 22, 1988.

TRD-8804160 Robert A. MacLean, M.D.
Deputy Commissioner for
Professional Services
Texas Department of
Health

Effective date: May 13, 1988.

Proposal publication date: January 12, 1988.

For further information, please call: (512) 458-7245.

Chapter 133. Hospital Licensing

Permits

• 25 TAC §133.31

The Texas Department of Health adopts new §133.31 without changes to the proposed text published in the January 12, 1988, issue of the *Texas Register* (13 TexReg 234). The new section implements House Bill 5, 70th Legislature, 1987, which mandates state agencies that issue permits to adopt rules regarding the procedures by which the agency processes applications for and issues permits.

The new section will apprise applicants of the length of time required to process an application for a hospital license. The new section covers time periods for processing of hospital license applications for initial issuances, changes of ownership, and renewals.

The new section also establishes an appeal process through which an applicant can appeal for a resolution of any dispute arising from a possible violation of the established periods.

No comments were received regarding the adoption of the new section.

The new section is adopted under Texas Civil Statutes, Article 6252-13b.1, §3 House Bill 5, 70th Texas Legislature, 1987 which provide the Texas Board of Health with the authority to adopt rules concerning the time periods involved in the departments' processing and issuing of hospital licenses.

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 April 21, 1988

TRD-8804105 Robert A. MacLean
Deputy Commissioner for
Professional Services
Texas Department of
Health

Effective date: June 1, 1988

Proposal publication date: January 12, 1988

For further information, please call: (512) 458-7531

Chapter 139. Abortion Facilities

Subchapter A. Abortion Facility Reporting and Licensing

• 25 TAC §139.2, §139.10

The Texas Department of Health adopts amendments to §139.2 and §139.10. Section 139.10, is adopted with changes to the proposed text as published in the January 12, 1988, issue of the *Texas Register* (13 TexReg 235). Section 139.2, is adopted without changes and will not be republished.

The amendments provide for the identification of and justification for third trimester abortions performed by physicians in the State of Texas.

Specifically, the amendments define third trimester pregnancy and require physicians to obtain a certification form from the department and to report by certified mail the medical indications supporting the judgment for abortions performed during the third trimester of pregnancy.

The following comments were received regarding the adoption of the amendments.

Regarding §139.2, concerning definitions, thirteen commenters objected to the language viable unborn child in the definition certification form. The commenters stated the correct medical terminology should be fetus. The department disagrees with the commenters because the language viable unborn child is consistent with the language in Texas Civil Statutes, Article 4512.8.

One commenter questioned the difference between 60 millimeter biparietal diameter and a gestational period of not less than 26 weeks. The commenter considered the two variables to be inconsistent in determining a third trimester abortion. The commenter suggested the gestational period for the definition third trimester should be based on referenced obstetrical-gynecological terminology of 29-42 weeks as well as composite mean values of biparietal diameter. The department disagrees with the commenter. The statute stipulates the biparietal diameter of the unborn child is to be no less than 60 millimeters. The definition for trimester is based on thirds. The trimesters applied to a 40-week gestational period would allow for a gestational period of not less than 26 weeks.

In §139.10, concerning annual reporting requirements, one commenter recommended the inclusion of the language in the statute which requires reporting abortions of a viable unborn child. The department agrees and has added the language to subsection (g).

One commenter recommended adding language in subsection (g) to include with the exception of the fetus whose biparietal diameter is less than 60 millimeters. The department agrees and has added the language. The department has also added the language in subsection (h) to clarify that the certification form should not be completed if the biparietal diameter of the fetus is less than 60 millimeters.

Eight commenters stated that the requirements exceed the statutory ones. This comment was based upon the extensive documentation and copies of reports required to be submitted by the physician to the department. The commenters felt the extensive requirements would hinder care to women. The department agrees in part with the commenters and has deleted the requirement in subsection (h)(9)-(10) requiring the diagnosis and supporting documents of maternal and fetal status. The submission of this information is now optional. The summary required in subsection (h)(11) has been changed to require only the medical indications supporting the physician's judgment that the abortion was authorized by subsection (d)(2) or (d)(3) of the statute. The requirement in subsection (h)(6) regarding complications has been eliminated. One commenter recommended the deletion of the requirements in subsection (h)(4)-(8). The department agrees in part with the commenter and has deleted subsections (h)(6)-(7). The department considers the remaining requirements to be essential to the reporting of third trimester abortions.

Seven commenters considered the disclosure of the patient's name and identification number to be a breach of patient/physician confidentiality. One commenter suggested only using a patient identification number. The department agrees with the majority of the commenters and has deleted subsection (h)(7).

Two commenters objected to the requirement for a notary. The department agrees and has deleted the notary requirement in subsection (h)(13). The certification form only requires a physician signature.

One commenter objected to requiring the physician to return the documents by certified

mail in subsection (g)(2). The department disagrees with the commenter. The information contained on the certification form is strictly confidential. To help assure the security and confidentiality of the information, the department considers a certified receipt signed by a designated department staff member for the document to be a necessary and appropriate requirement.

The department has modified the language in subsection (g)(3) to clarify the confidentiality of the documents and release of information.

One commenter objected to subsection (g)(4) requiring the department to forward copies of the certification form to the Board of Medical Examiners. The department disagrees with the commenter because the Board of Medical Examiners needs this information in order to implement its statutory obligations under Texas Civil Statutes, Article 4495b.

One commenter objected to the ambiguity of the definition abortion. The commenter stated this definition could allow for any act that is done with the intention other than to increase a probability of a live birth. The commenter cited numerous examples, including a cesarean section performed before a patient goes into labor. The department disagrees with the commenter. The ambiguity is in the language of the statute and not in the rule. The numerous examples cited by the commenter cannot be addressed as each patient's case is different. The definition of abortion in the statute refers to three factors that must be applied based upon the physician's judgment of each patient's case.

One commenter recommended the exclusion of third trimester reporting for women who are obstetrical patients managed in an obstetrical unit of a licensed hospital accredited by the Joint Commission on Accreditation of Hospitals. The department disagrees as the statute does not allow for exemptions.

One commenter objected to the fiscal note which stated there would be no anticipated economic cost to individuals who are required to comply with the sections. The commenter stated there is a cost factor involved with physician time, reproduction cost, and postage cost. The department agrees that the items the commenter listed would entail a cost to the individual physician. However, the time charged by each physician, total number of reproductions made, and cost of postage is an economic variable which could only be done on a case by case basis.

None of the commenters were against the rules in their entirety. However, they raised questions, expressed concerns, and made recommendations concerning specific provisions in the rules. Commenters were and the concerns include: Texas Medical Association; University of Texas Health Science Center at San Antonio; Planned Parenthood of Houston and Southeast Texas, Inc.; Burt & Company, Inc., P.C.; Texas Abortion Rights Action League; Planned Parenthood of North Texas, Inc.; Texas Civil Liberties Union Women's Pavilion.

Nine individuals submitted written comments to the proposed amendments.

The amendments are adopted under Texas Civil Statutes, Article 4512.8, §3, which provide the Texas Board of Health with the authority to adopt rules concerning abortion

facilities; the Medical Practice Act, Article 4495b, §5.08 which requires the Texas Department of Health to keep physician-patient conversations confidential; and Article 4414b, §1.05, which provides the Texas Board of Health with the authority to adopt rules for the performance of every duty imposed by law on the Texas Board of Health, the Texas Department of Health, and the Commissioner of Health.

§139.10. Annual Reporting Requirements.

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

(g) Physicians who perform an abortion of a viable unborn child during the third trimester of the pregnancy shall comply with the following reporting requirements. Abortions performed to a fetus whose biparietal diameter is less and 60 millimeters are exempted under Texas Civil Statutes, Article 4495b from the following reporting requirements.

(1) The physician shall obtain the certification forms from the Director of the Health Facility Licensure and Certification Division, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7240.

(2) The physician shall return by certified mail, marked confidential, the certification form and may submit any supporting documents to the director not later than the 30th day after the date the abortion was performed.

(3) The department will retain copies of the certification form and supporting documents as a cross-reference to the annual reporting requirements of Texas Civil Statutes, Article 4512.8, and this section. Copies of the certification form and supporting documents retained by the department are confidential. Any release of the documents will be in accordance with the provisions of the Texas Medical Practice Act, Texas Civil Statutes, Article 4495b.

(4) The department will forward a copy of the certification form and supporting documents by certified mail, marked confidential, to the Texas Board of Medical Examiners within 30 days of the department's receipt of the documents.

(5) A physician performing abortions at a licensed abortion facility who fails to report and/or submit the certification form may subject the licensed facility to denial, suspension, or revocation of the license in accordance with §139.12 of this title (relating to License Denial, Suspension, or Revocation).

(h) A certification form shall not be required if the biparietal diameter of the fetus is less than 60 millimeters. The certification form shall contain, but is not limited to, the following information:

(1) the physician's name, address, telephone number;

(2) the name, address, and telephone number of the facility at which the

abortion was performed;

(3) the date the abortion was performed;

(4) the gestational age assessment and information used to establish length of pregnancy;

(5) the type of abortion procedure performed;

(6) the patient's date of birth, race, city and state of residence;

(7) a list of the medical indications to support that the abortion is authorized by the Medical Practice Act, Article 4495b, §4.011 (d)(2)-(d)(3); and

(8) the physician's signature and date.

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

Issued in Austin, Texas, on April 22, 1988.

TRD-8804161 Robert A. MacLean
Deputy Commissioner for
Professional Services
Texas Department of
Health

Effective date: May 13, 1988.

Proposal publication date: January 12, 1988.

For further information, please call: (512) 458-7245.

Chapter 145. Long Term Care Procedures on Long Term Care Facilities

• 25 TAC §145.95

The Texas Department of Health adopts new §145.95, without changes to the proposed text published in the January 12, 1988, issue of the *Texas Register* (13 Tex Reg 235).

The new section implements the provisions of House Bill 5, 70th Legislature, 1987, by establishing time periods during which application for licenses for long term care facilities will be processed. The section also establishes an appeal process through which an applicant can appeal for a resolution of any dispute arising from a possible violation of the established time periods.

No comments were received regarding the adoption of the proposed new section.

The new section is adopted under Texas Civil Statutes, Article 6252-13b.1, §3 (House Bill 5, 70th Texas Legislature, 1987), which provide the Board of Health with the authority to adopt rules covering the time periods for processing and issuing applications for licenses for long term care facilities.

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 April 21, 1988.

TRD-8804099 Robert A. MacLean
Deputy Commissioner for

Professional Services
Texas Department of
Health

Effective date: June 1, 1988.

Proposal publication date: January 12, 1988.

For further information, please call: (512) 458-7706

Chapter 157. Emergency Medical Care

Emergency Medical Services

• 25 TAC §157.83

The Texas Department of Health adopts new §157.83, with changes to the proposed text published in the January 12, 1988 issue of the *Texas Register* (13 TexReg 236).

New §157.83 establishes time periods during which applications for permits and certificates will be processed. Additionally, the new section establishes an appeal process through which an applicant can appeal for a resolution of any dispute arising from a possible violation of the established periods. The new section implements House Bill 5, 70th Legislature, 1987, which requires state agencies that issue permits and licenses to adopt rules regarding the time periods for processing applications and issuing permits and licenses.

The new section also establishes a procedure for the implementation of House Bill 175, 70th Legislature, 1987, which prohibits an agency to grant a permit or license to any corporation that is delinquent in a tax owed.

No public comments were received regarding the adoption of the new section. However, department staff recommended incorporation of the requirements of House Bill 175, 70th Legislature, 1987, which prohibits an agency to grant a permit or license to any corporation that is delinquent in a tax owed. The department agrees with the recommendation and has added subsection (g) to the section.

The new section is adopted under Texas Civil Statutes, Article 6252-13b.1, §3, House Bill 5, 70th Texas Legislature, 1987 which provide the Board of Health with the authority to adopt rules concerning the time periods involved in the department's processing and issuing of permits and licenses; and Texas Business Corporation Act, Texas Civil Statutes, Article 2.45, House Bill 175, 70th Legislature, 1987, which provide the Texas Board of Health with authority to adopt rules concerning issuance of a permit or license to a corporation.

§157.83. Processing EMS Vehicle Permits and Applications for EMS Personnel Certification.

(a) Purpose. The purpose of this section is to set out the time periods by which the department processes applications for EMS vehicle permits and EMS personnel certification.

(b) First time period. The first period is a time from the date of receipt of an application to the date of issuance of a written notice that the application is complete or that additional specific information

is required. An appointment for the inspection of an EMS vehicle may be in lieu of the notice of acceptance of a complete application. The time periods for each application are as follows.

(1) EMS vehicle permits. The time periods are 14 days for the letter of application acceptance for inspection of the EMS vehicle, 14 days for the letter of deficiency, and 30 days after passing inspection for the issuance of the EMS vehicle permit.

(2) EMS personnel certificates. The time periods are seven days for the letter of application acceptance for testing for EMS personnel certification, seven days for the letter of deficiency, and 30 days after testing for the issuance of EMS personnel certificate.

(c) Second time period. The second period is a time from the date of receipt of the last item necessary to complete the application, including inspection or testing, to the date of issuance of written notice approving or denying the application. The denial time periods include notification of the proposed decision and the opportunity for a informal or formal hearing. The time periods for each application are as follows.

(1) EMS vehicle permits.

(A) The time period for the initial letter of approval for a permit is 30 days.

(B) The time period for the letter of denial for a permit is 120 days. The time period includes the applicant requests for a variance from minimum standards and the review necessary for this request.

(C) The time period for the issuance of a permit is 30 days.

(2) EMS personnel certificates.

(A) The time period for the letter of approval for an examination is 30 days.

(B) The time period for the letter of denial for an examination is 180 days. This time limit reflects the applicant being investigated for acceptance for examination based on a criminal conviction or statutory action under the Emergency Medical Services Act, Texas Civil Statutes, Article 4447o.

(C) The time period for the issuance of a certificate is 30 days.

(d) Reimbursement of fees.

(1) In the event the application is not processed in the time periods as stated in subsections (b) and (c) of this section, the applicant has the right to request of the EMS division director full re-

imbursement of all filing fees paid in that particular application process. If the EMS division director does not agree that the established periods have been violated or finds that good cause existed for exceeding the established periods, the request will be denied.

(2) Good cause for exceeding the period established is considered to exist if:

(A) the number of applications for licenses, registrations, certifications, and permits as appropriate to be processed exceeds by 15% or more the number processed in the same calendar quarter the preceding year;

(B) another public or private entity utilized in the application process caused the delay; or

(C) other conditions existed giving good cause for exceeding the established periods.

(e) Appeal. If the request for full reimbursement authorized by subsection (d) of this section is denied, the applicant may then appeal to the commissioner of health for a resolution of the dispute. The applicant shall give written notice to the commissioner that he requests full reimbursement of all filing fees paid because his application was not processed within the adopted time period. The EMS division director shall submit a written report of the facts related to the processing of the application and good cause for exceeding the established time periods. The commissioner will make the final decision and provide written notification of his decision to the applicant and the EMS division director.

(f) Contested case hearing. If at any time during the processing of the permit during the second time period, a contested case hearing becomes involved, the time periods in §1.34 of this title (relating to Time Periods for Conducting Contested Case Hearing) are applicable.

(g) Application for EMS vehicle permit by a corporation. An applicant for an EMS vehicle permit who is a corporation under the Texas Business Corporation Act, Texas Civil Statutes, Article 2.45, shall provide the department with an affidavit issued by the comptroller's office attesting to the applicant's good standing under the Tax Code, Texas Codes Annotated, Chapter 171.

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 April 21, 1988

TRD-8804110 Robert A. MacLean
Deputy Commissioner for
Professional Services
Texas Department of
Health

Effective date: June 1, 1988

Proposal publication date: January 12, 1988

For further information, please call: (512) 458-2601

Chapter 229. Food and Drug Permit Applications

• 25 TAC §229.281

The Texas Department of Health adopts new §229.281 without changes to the proposed text published in the January 12, 1988, issue of the *Texas Register* (13 Tex Reg 237).

The new section implements the provisions of House Bill 5, 70th Legislature, 1987, which requires that state agencies to adopt rules covering the time periods for processing applications relating to food and drug operations. The new section enables applicants for licenses and permits to be aware of the department's time periods for processing and issuing the licenses and permits. The new section also will cover an appeal process through which an applicant can appeal for a resolution of any dispute arising from a violation of the established time periods.

The new section covers the department's time periods for processing permits from the date the initial application is received to the date of the final permit decision. The programs covered are manufacturers of food, wholesale distributors of drugs, salvage brokers, salvage establishments, and synthetic narcotic drug treatment facilities.

No comments were received regarding the adoption of the proposed new section.

The new section is being adopted under Texas Civil Statutes, Article 6252-13b.1, §3 House Bill 5, 70th Legislature, 1987 which provide the department with the authority to adopt rules concerning time periods for processing permit applications.

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 April 21, 1988.

TRD-8804093 Robert A. MacLean
Deputy Commissioner for
Professional Services
Texas Department for
Health

Effective date: June 1, 1988.

Proposal publication date: January 12, 1988.

For further information, please call: (512) 458-7248

Chapter 265. General Sanitation

Texas Youth Camp Safety and Health

• 25 TAC §265.23

The Texas Department of Health adopts new §265.23 with changes to the proposed text published in the January 12, 1988, issue of the *Texas Register* (13 Tex Reg 238).

The new section implements the provisions of House Bill 5, 70th Legislature, 1987. House Bill 5 requires the department to adopt rules covering time for processing applications for youth camp licenses.

New §265.23 implements the provisions of House Bill 5, 70th Legislature, 1987, by establishing time periods during which applications for youth camp licenses will be processed. The new section also covers an appeal process through which an applicant can appeal for a resolution of any dispute arising from a violation of the established time periods.

Concerning §265.23(b)(2), a commentator suggested that good cause or exceeding the period established be expanded to include "other conditions exist giving good cause for exceeding the established time periods". The department agrees and has added this statement to subsection (b)(2) of this section.

The new section is adopted under Texas Civil Statutes, Article 6252-13b.1, §3 House Bill 5, 70th Legislature, 1987, which provide the Texas Board of Health with the authority to adopt rules covering time periods for processing and issuing licenses.

§265.23. Time Periods for Processing Applications for Youth Camp Licenses.

(a) (No change.)

(b) Reimbursement of fees.

(1) In the event the application is not processed in the time periods as stated in the subsection (a) of this section, the applicant has the right to request of the administrator full reimbursement of all filing fees paid in that particular application process. If the administration does not agree that the established periods have been violated or finds that good cause existed for exceeding the established periods, the request will be denied.

(2) Good cause for exceeding the period established is considered to exist if:

(A) the number of applications for licenses to be processed exceeds by 15% or more the number processed in the same calendar quarter the preceding year;

(B) another public or private entity utilized in the application process caused the delay; or

(C) other conditions exist

giving good cause for exceeding the established time periods.

(3) (No change.)

(c) (No change.)

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

Issued in Austin, Texas, on April 21, 1988

TRD-8804108

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

Effective date: June 1, 1988

Proposal publication date: January 12, 1988

For further information, please call: (512) 458-7521

Migrant Labor Housing Facilities

• 25 TAC §265.34

The Texas Department of Health adopts an amendment to §265.34, without changes to the proposed text published in the January 12, 1988, issue of the *Texas Register* (13 Tex Reg 238).

The amendment implements the provisions of House Bill 5, 70th Legislature, 1987, by establishing time periods during which applications for migrant labor housing licenses will be processed.

The amendment to §265.34 updates and clarifies the procedures for applications for licenses to operate migrant labor housing facilities and also establishes an appeal process through which an applicant can appeal for resolution of any dispute arising from a possible violation of established periods.

No comments were received concerning the adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 6252-13b.1, §3 House Bill 5, 70th Legislature, 1987, which provide the Texas Board of Health with the authority to adopt rules concerning time periods for processing license applications for operation of migrant labor housing facilities.

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 April 21, 1988

TRD-8804106

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

Effective date: June 1, 1988

Proposal publication date: January 12, 1988

For further information, please call: (512) 458-7521

Chapter 289. Occupational Health and Radiation Control

Asbestos Exposure Abatement in Public Buildings

• 25 TAC §289.157

The Texas Department of Health adopts new §289.157, with changes to the proposed text published in the February 12, 1988, issue of the *Texas Register* (13 Tex Reg 761).

New §289.157 implements the provisions of House Bill 5, 70th Legislature, 1987, which requires state agencies to adopt rules covering time periods for processing licenses and certificates.

The new section establishes the time periods required to process licenses and certificates for asbestos contractors, abatement supervisors, and abatement workers. The new section also specifies time periods and provisions for reimbursement of fees to applicants if the department exceeds the established time periods, and provides for an appeal process through which an applicant can appeal for resolution of any dispute arising from a violation of the established periods.

No comments were received regarding adoption of the new section; however, department staff recommended a few changes for clarification purposes which have been incorporated into subsections (b) and (c).

The new section is adopted under Texas Civil Statutes, Article 6251-13b.1, §3 House Bill 5, 70th Legislature, 1987, which provide the Board of Health with authority to adopt rules concerning time periods for processing licenses and certificates.

§289.157. Processing of Licenses and Certificates for Asbestos Contractors, Abatement Supervisors, and Abatement Workers.

(a) Time periods. Applications for licensure as asbestos contractors, abatement supervisors, and abatement workers shall be processed in accordance with the following time periods.

(1) The first period is a time from the receipt of a written application to the date of issuance of a written notice approving the application or outlining the reasons why the application is unacceptable. The time period for each application type is 90 days for the initial contractor or supervisor license; 30 days for the renewal of contractor or supervisor license; and 30 days for the abatement worker certificate.

(2) The second period is a time from receipt of the last item necessary to complete the application to the date of issuance of written notice approving or denying approval of the application. The time period for each application type is 60 days for the initial contractor or supervisor license; 15 days for renewal of the contractor or supervisor license; and 30 days for the abatement worker certification.

(b) Reimbursement of fees.

(1) In the event the application is not processed in the time periods as stated in subsection (a) of this section, the applicant has the right to request of the administrator full reimbursement of all filing fees paid in that particular application process. If the administrator does not agree that the established periods have been violated or finds that good cause existed for exceeding the established periods, the request will be denied.

(2) Good cause for exceeding the period established is considered to exist if the number of applications processed exceeds by 15% or more the number processed in the same calendar quarter the preceeding year; another public or private entity utilized in the application process caused the delay; or other conditions existed giving good cause for exceeding the established time periods.

(c) Appeal. If the request for full reimbursement authorized by this section is denied, the applicant may then appeal to the commissioner of health for a resolution of the dispute. The applicant shall give written notice to the commissioner that he requests full reimbursement of all filing fees paid because his application was not processed within the adopted time period. The program administration shall submit a written report of the facts related to the processing of the application and good cause for exceeding the established time periods. The commissioner will determine the final action and provide written notification of his decision to the applicant and the program administrator.

(d) Contested case hearing. If at any time during the processing of the permit during the second time period, a contested case hearing becomes involved, the time periods in §1.34 of this title (relating to Time Periods for Contested Case Hearing) is applicable.

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

Issued in Austin, Texas, on April 22, 1988.

TRD-8804162

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

Effective date: May 13, 1988.

Proposal publication date: February 12, 1988.

For further information, please call: (512) 458-7255.

Chapter 337. Water Hygiene

Permit Applications

• 25 TAC §337.131

The Texas Department of Health adopts new §337.131, without changes to the proposed text published in January 12, 1988, issue of

the *Texas Register* (13 TexReg 242).

The new section implements the provisions of House Bill 5, 70th Texas Legislature, 1987, which requires the department to adopt rules covering time periods during which applications from individuals seeking permits of approval as waterworks operators, bottled water plant operators, residential water treatment facility operators, solid waste technicians, and sanitarians will be processed.

The new section establishes the periods of time that it takes to process and issue applications for permits, establishes provisions for reimbursement of fees, and an appeal process through which an applicant can appeal for a resolution of any dispute arising from a possible violation of the established time periods.

No comments were received regarding the adoption of the proposed new section.

The new section is being adopted under Texas Civil Statutes, Article 6252-13b.1, §3 House Bill 5, 70th Legislature, 1987 which provides the Texas Board of Health with the authority to adopt rules concerning time periods for processing permit applications.

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 April 21, 1988.

TRD-8804092 Robert A. MacLean
Deputy Commissioner for
Professional Services
Texas Department of
Health

Effective date: June 1, 1988.

Proposal publication date: January 12, 1988.

For further information, please call: (512) 458-7533

TITLE 31. NATURAL RESOURCES AND CONSERVATION Part IX. Texas Water Commission

Chapter 337. Enforcement

Subchapter B. Enforcement Hearings

• 31 TAC §337.34, §337.36

The Texas Water Commission (TWC) adopts amendments to §337.34 and §337.36, without changes to the proposed text published in the October 23, 1987, issue of the *Texas Register* (12 TexReg 3906).

The amendment to §337.34 clarifies that a certificate of convenience and necessity is not considered to be a permit or license for the purpose of this section. Section 337.34 was adopted pursuant to the Water Code, §5.117, which provides for the monitoring of all permits and licenses for compliance with the activities authorized therein. The commission interprets this provision of the Code to apply to permits and licenses for which self-reporting data is available, rather than to cer-

tificates of convenience and necessity.

The amendment to §337.36 adds a reference to the Water Code, §13.4151, a new section that became effective on September 1, 1987, authorizing the commission to impose administrative penalties for violations of the Water Code, Chapter 13, or any rule or order adopted under the chapter. The amendment, which appeared in House Bill 1459, 70th Legislature, 1987, is intended to bring this new phase of the administrative penalty program into the existing procedural framework of the commission and continue the uniform handling of all administrative penalty cases.

No comments were received regarding adoption of the amendment.

The amendments are adopted under the Texas Water Code, §5.103 and §5.105, which provide the Texas Water Commission with the authority to adopt any regulations necessary to carry out its powers and duties under the Water Code and other laws of the State of Texas.

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 April 20, 1988.

TRD-8804081 William G. Newchurch
Director, Legal Division
Texas Water Commission

Effective date: May 11, 1988

Proposal publication date: October 23, 1987

For further information, please call: (512) 463-8069

TITLE 34. PUBLIC FINANCE

Part I. Comptroller of Public Accounts

Chapter 3. Tax Administration

Subchapter V. Bingo Regulation and Tax

• 34 TAC §3.544

The Comptroller of Public Accounts adopts an amendment to §3.544, without changes to the proposed text published in the March 15, 1988, issue of the *Texas Register* (13 TexReg 1251).

The amendment expanded the definition of fraternal organization to include nonprofit Nation Historical District Preservation Committees and specified that daubers and glue sticks are not bingo equipment.

This amendment was proposed so that the definition of fraternal organization in §3.544 will not conflict with the definition of the same term in the Bingo Establishing Act as amended effective September 1, 1987.

No comments were received regarding adoption of the amendment.

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

Enabling Act.

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 April 22, 1988.

TRD-8804151 Bob Bullock
Comptroller of Public
Accounts

Effective date: May 13, 1988

Proposal publication date: March 15, 1988

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

• 34 TAC §3.550

The Comptroller of Public Accounts adopts an amendment to §3.550, without changes to the proposed text published in the March 15, 1988, issue of the *Texas Register* (13 TexReg 1252).

The amendment deleted references to areas where the bingo gross receipts tax has not been imposed because there was imposed a state bingo gross receipts tax effective September 1, 1987.

No comments were received regarding adoption of this amendment.

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

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 April 22, 1988.

TRD-8804152 Bob Bullock
Comptroller of Public
Accounts

Effective date: May 13, 1988

Proposal publication date: March 13, 1988

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

• 34 TAC §3.558

The Comptroller of Public Accounts adopts amendments to §3.558, without changes to the proposed text published in the March 15, 1988, issue of the *Texas Register* (13 TexReg 1253).

The amendments amended subsection (a) to prohibit any card furnished for use in promotional bingo from containing a seal such as is required to be included on all other disposable cards; amended subsection (e)(1) to provide that the requirement that the comptroller approve cards (except promotional bingo cards) also applies to manufacturers collating cards, even though such cards were previously approved; and amended subsection (e)(1) to provide that any manufacturer collating cards must purchase paper for that purpose from a licensed manufacturer. These amendments were intended to clearly inform

manufacturers, distributors, licensees, and their employees and agents of their duties and responsibilities regarding the conduct of promotional bingo games permitted under the Texas Civil Statutes, Article 179d, Bingo Enabling Act, §39(b)(4).

These amendments implement the statement of legislative purpose expressed in the Bingo Enabling Act, §39(b)(4), of permitting the conduct of promotional bingo games in this state in accordance with the applicable sections of such Act and the rules promulgated thereunder.

No comments were received regarding adoption of the amendment.

These amendments are adopted under Texas Civil Statutes, Article 179d, which provide the comptroller with the authority to prescribe, adopt, and enforce rules relating to the administration and enforcement of the Bingo Enabling Act.

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 April 22, 1988.

TRD-8804150 Bob Bullock
Comptroller of Public
Accounts

Effective date: May 13, 1988

Proposal publication date: March 15, 1988

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

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**TITLE 37. PUBLIC
SAFETY AND
CORRECTIONS**

**Part I. Texas Department
of Public Safety**

**Chapter 19. Breath Alcohol
Testing Regulations**

**Breath Alcohol Testing
Regulations**

• 37 TAC §19.4, §19.7

The Texas Department of Public Safety adopts amendments to §19.4 and §19.7 without changes to the proposed text published in the March 15, 1988, issue of the *Texas Register* (13 TexReg 1253), and will not be republished.

The adoption of these amendments will result in a reduction in the cost of administering the Breath Alcohol Testing Program and a saving of the peace officer's time in maintaining breath test operator certification with no negative impact to program credibility.

The amendment to §19.4, paragraph (c)(2) removes language and deletes paragraph (c)(4) in order to rescind the mandatory proficiency requirements of a certified breath test operator. Amendments to §19.7, paragraph (i)(1) and subsection (n) removes and adds language which promulgates mandatory proficiency testing for certified breath test operators. The amendment to §19.7, subsection (p) changes the word certification to certificate

for clarification in the fifth sentence. It will no longer be mandatory for certified breath test operators to perform six reference analyses every two months.

A comment in favor of the amendments was received from one individual. These amendments will save time and money for other more productive activities, increase morale, and simplify the task of enforcement.

The amendments are adopted under Texas Civil Statutes, Article 67011-5(b)-(c), which provide the Texas Department of Public Safety with the authority to establish rules approving satisfactory techniques or methods to ascertain the qualifications and competence of individuals to conduct such analysis, and to issue certificates certifying such fact. Breath specimens taken at the request of a peace officer must be taken and analysis made under such conditions as may be prescribed by the Texas Department of Public Safety and by such persons as the Texas Department of Public Safety has certified to be qualified.

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 April 19, 1988.

TRD-8804085 Leo E. Gossett
Director
Texas Department of
Public Safety

Effective date: May 12, 1988

Proposal publication date: March 15, 1988

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

◆ ◆ ◆
**TITLE 40. SOCIAL
SERVICES AND
ASSISTANCE**

**Part IX. Texas Department
on Aging**

**Chapter 293. Case
Management Standards**

Statutes and Regulations

• 40 TAC §§293.1, 293.3, 293.5,
293.7, 293.9, 293.11, 293.13,
293.15, 293.17, 293.19, 293.21,
293.23

The Texas Department on Aging adopts new §§293.1, 293.5, 293.7, 293.9, 293.11, 293.13, 293.15, 293.17, 293.19, and 293.21. Sections 293.3, 293.7, and 293.23, are adopted with changes to the proposed text published in the October 23, 1987 issue of the *Texas Register* (40 TexReg 3910). All other sections are adopted without changes and will not be republished.

These sections provide policies and procedures governing the purpose, objectives, service activities, location, access, delivery characteristics, staffing, training, and monitoring requirements to be required of service providers who conduct case management activities under the Older Americans Act, Title III.

The chapter establishes standards for the conduct of case management services and fosters uniformity in delivery of these services statewide.

A number of comments were received regarding units of service definition, target groups, service activities, delivery characteristics, and administrative requirements established by the chapter. Several commenters expressed concern because the definition of a unit of service as detailed in §293.3 does not include travel time, staff training, program publicity, and similar activities. It was not our intent to state that these are not reimbursable activities. The intent was to clarify which activities are actually a part of one unit (one hour) of case management service and which are not. Consequently, to clarify the intent of this definition, we have added an explanatory note which states that these allowable expenses should be built into the unit rate for case management. Additionally, TDoA will address this concern during technical assistance visits and issue correspondence clarifying reporting requirements.

In §293.7 (relating to the characteristics of persons to whom case management is to be targeted), one commenter objected to the statement concerning a client's need for "at least two in-home or community-based services" apparently believing that if the person eventually was found not to need two services that the case management would be disallowed. We recognize that it is not possible to determine prior to screening and assessment the amount of service a client needs. The chapter is intended to describe who is a likely candidate for case management. In order to clarify the point, we have revised §293.7(2).

With regard to both §293.7(3) and §293.15(4), a commenter stated that both sections refer to "case management involving hospital discharge of the client." He stated that Medicare requires hospital discharge planning prior to discharge. This is accurate. However, TDoA is encouraging the provision of case management and follow up after the client leaves the hospital, which is not required under Medicare and is all too often unavailable-hence our encouragement of development of this service.

Stated in §293.9, Service Activities, a commenter objected to the requirements that a home visit be made as a part of the assessment of the client (§293.9(2)), and also as a part of monitoring activities, as mentioned in §293.9(5). Based on information submitted by the commenter, it appears that he is currently meeting these requirements in those cases handled directly by their case manager, and therefore would not be negatively affected by their implementation. In order to properly serve the intended target group, we believe that home visits are essential in both the assessment and monitoring processes. The standards apply only to service provided either by an area agency on aging or by a provider under contract with an area agency on aging.

Regarding §293.15, Delivery Characteristics, a commenter objected to the requirement stated in §293.15(5) that a care plan be written and placed in the client's file no later than three working days after the assessment is completed, and suggested a longer but undefined time frame. Our research and informa-

tion obtained from service providers, indicates that the time frame established is not an unreasonable time frame. We believe it is in the best interests of the client and efficient service delivery to retain this requirement.

Regarding §293.23, Administrative Requirements, a commenter requested clarification of §293.23(3)(d), concerning "signatures of those attending training." It is our intent that the provider agency maintain documentation of training provided to its staff. This requirement may be met by requiring each staff person who attends a training session to write and sign a brief summary of the session, which indicates when and where it was, who provided the training, and a description of the content.

One commenter noted that language concerning client confidentiality should be strengthened. We concur. We revised the wording of §298.23(6) and (7) (regarding Client Case Records and Consent, Confidentiality and Complaints), respectively, to provide stronger language.

One commenter requested §293.23(8) be revised. The chapter requires that client contributions received from case management clients be used only for the support or expansion of case management or in-home services. The commenter requested allowance for such contributions to be used "in obtaining services or implements such as hearing aids, eye glasses, dentures, and other medical hardware." While we recognize the need for such services and devices, these do not fall within the allowable costs for case management or in-home services. This equipment could, however, be purchased under a separately funded service entitled health maintenance.

One commenter expressed general objection to the standards but did not suggest specific revisions. They commented that the standards are "top of the line, but impractical, restrictive, and prohibitive, not based on practice, but theory." In the absence of specific suggestions for revision, we have noted these remarks and appreciate this concern, but have made no changes in response to the comments.

The following commented in favor of the sections: Ark-Tex Council of Governments; South Plains Association of Governments; Panhandle Registration Planning Commission; Tarrant County Area Agency on Aging; National Association of Social Workers; and Texas Association of Registration Councils. The Community Council of Greater Dallas following commented against the sections.

The new sections are adopted under Human Resources Code, Chapter 101, which provides the Texas Department on Aging with the authority to promulgate rules governing the operation of the department.

§293.3. Unit of Service. One unit of service equals one hour. A unit is defined as that time which is spent by the caseworker, or qualified designee, engaged in working on an eligible client case. (Note: A unit does not include travel time, staff training, program publicity, or direct client services other than case management. However, the cost of these allowable expenses should be built into the unit rate for case management.)

§293.7. Target Groups. The target groups for case management service are persons age 60 or older and/or their spouses who:

(1) are functionally impaired in their ability to perform regular activities of daily living (such as bathing, dressing, meal preparation) and therefore need at least two in-home or community-based services;

(2) who may be likely to require nursing home care if appropriate in-home or community-based services are not available through community support as identified by the case manager;

(3) who need additional attention during recuperation stages after hospital discharge; and

(4) who need assistance in obtaining necessary services to resolve the identified problems.

§293.23. Administration Requirements. The following administrative and management requirements and systems will be established by entities providing case management services.

(1) Legal requirements.

(A) The provider agency shall have the necessary legal authority to operate in conformity with federal, state, and local laws and regulations.

(B) The provider agency shall be in compliance with all legislation relating to prohibition of discriminatory practices.

(C) The provider agency shall have a governing authority and structure which is responsible for establishing policy and ensuring effective control of services and finances.

(D) The governing authority shall employ or contract for an agency administrator to whom authority and responsibility for administration is delegated.

(2) Personnel Management. The provider agency shall have a personnel management system, including:

(A) written job descriptions and qualifications for each category (including volunteers);

(B) established wage scales for each job category;

(C) written personnel policies which include at least:

(i) recruitment and selection processes;

(ii) benefits;

(iii) leaves and absences;

(iv) hours of employment or method of scheduling;

(v) evaluation;

(vi) discipline or termination; and

(vii) grievance procedure/appeals process.

(3) Training. The provider agency shall maintain documentation of all staff training provided consisting of at least:

(A) date, time, and length of training;

(B) name and qualifications of the person providing training;

(C) brief summary of the training; and

(D) signature of those attending training.

(4) Organizational records. The provider agency will maintain accurate administrative, fiscal, personnel, and client case records that will be accessible and available to authorized representatives of the area agency on aging, the Texas Department on Aging, and the Administration on Aging.

(A) All records are required to be retained for a minimum of three years after termination of the contract with the area agency on aging, and until any litigation, claim, or audit involving these records is resolved.

(B) Provider agency financial records will contain at least:

(i) daily report of client contributions, program income, and in-kind contributions;

(ii) documentation of cash and in-kind match; and

(iii) payroll records and time sheet documentation.

(5) Accounting systems. Each provider agency is responsible for maintaining an adequate accounting system to accurately determine service costs. Cost analysis reports should be generated by the accounting system monthly to assist the agency manager in controlling costs and as a basis for negotiating rate changes.

(6) Client case records. A confidential client case record will be maintained on each client served and shall be protected from damage, theft, and unauthorized inspection, and will contain at least:

(A) the needs assessment, including initial referral date and date of com-

pletion of assessment;

(B) the care plan, including amount, frequency, and duration of each service to be provided;

(C) names of service providers and informal care givers responsible for service to the client;

(D) a notation explaining any laps in service;

(E) notation of hospital admission and/or discharge, with dates;

(F) date and signature for each notation;

(G) record of all case manager visits and contacts;

(H) record of all case manager collateral contacts;

(I) record of monitoring visits;

(J) record of any client complaints and action taken;

(K) record of termination or closure; and

(L) list of names and phone numbers for notification in event of an emergency.

(7) Consent, confidentiality, and complaints.

(A) Written procedures must be established and followed to ensure client confidentiality.

(B) Written procedures must be established and followed by the provider agency for obtaining the written consent of the client for release of confidential information to other service provider agency(ies) when referrals are made.

(C) A written client complaint procedure will be established and distributed to all clients at the time of service initiation.

(8) Contributions.

(A) The provider agency will inform all clients that they or family members acting in their behalf, have the opportunity to contribute voluntarily to the cost of their service(s).

(B) The privacy of the client with respect to his or her contributions will be protected.

(C) Appropriate procedures will be established to safeguard and account for all contributions.

(D) A suggested contribution schedule may be adopted which takes into consideration the income ranges of the clients. However, no eligible person will be denied services because he or she will not or cannot contribute to the cost of services.

(E) Client contributions will be used only for the support or expansion of case-management or in-home services.

(9) Monitoring, evaluation, and reporting.

(A) The provider agency's performance will be monitored at least quarterly, and evaluated at least annually, by the AAA. (When the AAA is the provider agency, quarterly program performance monitoring and annual evaluation will be done by the Texas Department on Aging.)

(B) The AAA's provider agency's performance may be monitored periodically by the Texas Department on Aging.

(C) The provider agency will keep such records and submit to the area agency on aging (or to TDoA when the AAA is the provider), timely, complete, and accurate reports at such times, in such form, and containing such information as may be necessary to enable determination of compliance with the Older Americans Act, federal regulations, and the Texas Department on Aging service standards, policies, and procedures.

(10) Insurance. The provider agency will maintain fire and casualty, workman's compensation, and general liability insurance.

(11) Contracting for services. Competitive selection processes will be utilized in the determination of service providers.

(A) The AAA will award contracts through procedures that assure full and open competition.

(B) Requests for proposals will contain a scope of work consistent with standards established in this document and will not contain unnecessary specifications that discourage competition.

(C) The AAA will award contracts to responsible agencies capable of providing cost effective services. Evaluation criteria will include, but not be limited to, the following:

(i) unit cost;

(ii) service plan, including days and service area;

(iii) necessary staff experience and training, accounting, operational controls, and technical skills, or ability to obtain them;

(iv) management plan;

(v) a satisfactory performance record, including service delivery and fiscal accounting procedures;

(vi) adequate financial resources to perform the contract or ability to obtain them;

(vii) coordination and resource development plan; and

(viii) minority ownership.

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 April 20, 1988.

TRD-8804082

O. P. (Bob) Bobbitt
Executive Director
Texas Department on
Aging

Effective date: October 1, 1988

Proposal publication date: October 23, 1987

For further information, please call: (512) 444-2727



State Board of Insurance Exempt Filing

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

(Editor's note: As required by the Insurance Code, Article 5.96 and Article 5.97, the Register publishes notices of actions taken by the State

Board of Insurance pursuant to Chapter 5, Subchapter L, of the Code. Board action taken under these articles is not subject to the Administrative Procedure and Texas Register Act, and

the final actions printed in this section have not been previously published as proposals.

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

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

The State Board of Insurance has adopted amendments to the Texas automobile manuals II and III, Rule 38, §G and Rule 74, §E, of the Texas Automobile Manuals II and III have been amended to include new subsections reading as follows:

(31) Gulf Coast Driving School Defensive Driver Improvement Course

(a) An auto afforded personal auto coverage shall be subject to a credit of 10% applied to the rate otherwise applicable, provided satisfactory evidence (certificate of completion or photostat thereof issued by

Gulf Coast Driving School) is presented to the company that the principal operator of such auto has successfully completed the Gulf Coast Driving School Defensive Driver Improvement Course.

(b) If the policy insures two or more autos, the credit shall apply only to the autos principally operated by the person awarded the Gulf Coast Driving School Defensive Driver Improvement Course Certificate of Completion.

(c) The credit shall apply for a period of 36 months subsequent to the date of issuance of the Certificate of Completion. Following such 36 month period in order to again qualify for such credit, the course must be successfully completed and evidence again presented to the company. The credit shall only apply if the Certificate of Completion is issued on or after June 1, 1988.

(30) Gulf Coast Driving School Defensive Driver Improvement Course requires certification issued on or after June 1, 1988, by Gulf Coast Driving School.

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

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

Issued in Austin, Texas on April 20, 1988.

TRD-8804065

Nicholas Murphy
Chief Clerk
State Board of Insurance

Effective date: June 1, 1988

Proposal publication date: April 29, 1988

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



Open Meetings

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

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

Posting of open meeting notices. All notices are posted on the 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*.

State Bar of Texas

Friday and Saturday, April 29 and 30, 1988, 9 a.m. daily. The Board of Directors of the State Bar of Texas will meet in the Gunter Hotel, San Antonio. According to the agenda summary, the board will hear reports of board chairman, president, executive director, general counsel, president-elect, TYLA president, immediate past president, immediate past chairman, annual report from insurance trust, Committee on Legal Services to the Poor in Civil Matters, Bar Foundation and board committees, supreme court liaison, judicial section liaison, and federal judiciary liaison; consider items; and hear comments by public members.

Contact: Paula Welch, 1414 Colorado Street, Austin, Texas 78711, (512) 463-1451.

Filed: April 22, 1988, 3:56 p.m.

TRD-8804111

Texas Committee on Purchases of Products and Services of Blind and Severely Disabled Persons

Thursday, May 5, 1988, 10 a.m. The Texas Committee on Purchases of Products and Services of Blind and Severely Disabled Persons will meet in the Executive Conference Room, Administrative Building, Texas Commission for the Blind, Third Floor, Suite 320, 4800 North Lamar Boulevard, Austin. According to the agenda, the committee will approve minutes of the January 21, 1988, meeting; discuss and act on budget format for 1988-1989, travel reimbursement, filing TIBH catalog with Texas Register, new services, renewal services, new products, electronic typewriters, video cassettes, ribbon re-inking, mechanical pencils, photographic film, animal control tags, polyethylene garbage carts, anti-slip safety slippers, product changes and revisions, instant coffee, flexible diskettes, battery wall clocks, hall trees, and secretarial footstools.

Contact: Michael T. Phillips, P.O. Box 12866, Austin, Texas 78711, (512) 459-2603.

Filed: April 26, 1988, 8:57 a.m.

TRD-8804223

Texas State Board of Dental Examiners

(Editors Note: The following meeting was originally published in the April 22, 1988 issue of the Texas Register (13 TexReg 1989). The meeting is being republished due to an error in the original publication).

Thursday-Saturday, May 5-7, 1988, 8 a.m. The Texas State Board of Dental Examiners will meet in Room 103, San Antonio Convention Center, 200 East Market Street, San Antonio. According to the agenda, the board will conduct disciplinary hearings; consider for permanent adoption-new anesthesia rules 109.171-109.177, repeal of old anesthesia rules 109.171-109.183, new laboratory rules 116.1-116.4, and amendments to 109.2, 109.107, and 119.6; hear report from Anesthesia Committee; approve of anesthesia applications; discuss exam information, rule amendment on unprofessional conduct, dental assistant educators on dental assistant duties, direct supervision of dental hygienists, and requests for interpretations; Dental Laboratory Certification Council; consider request to take board exams, license reinstatement requests, approve of honorary retired dentists and dental hygienists, cancel licenses for failure to register, and request to announce in dual specialties; discuss budget for 1990-1991, Luyda Cantu; and appearances by members of the public and profession. The board also will meet in executive session to discuss litigation.

Contact: William S. Nail, (512) 834-6021.

Filed: April 18, 1988, 9:10 a.m.

TRD-8803932

Thursday-Saturday, May 5-7, 1988, 8 a.m. The Texas State Board of Dental Examiners submitted a revised agenda for a meeting to be held in Room 108, San Antonio

Convention Center, 200 East Market Street, San Antonio. According to the agenda, the board will discuss criteria for exception to direct supervision.

Contact: William S. Nail, (512) 834-6021.

Filed: April 22, 1988, 1:51 p.m.

TRD-8804146

State Depository Board

Tuesday, May 9, 1988, 10 a.m. The State Depository Board will meet in the Office of the State Treasurer, LBJ Building, 111 East 17th Street, Austin. According to the agenda, the board will approve depository applications received; consider eligible collateral; and hear administrative report by treasury staff.

Contact: Anne L. Schwartz, P.O. Box 12608, Austin, Texas 78711, (512) 463-5971.

Filed: April 25, 1988, 2:08 p.m.

TRD-8804203

Governor's Committee on Water Resources Management

Wednesday, May 4, 1988, 7 p.m. The Governor's Committee on Water Resources Management will meet in Room 102, John H. Reagan Building, Austin. According to the agenda, the committee will introduce guests; discuss committee responsibilities; consider subcommittee organization, schedule future meetings, and other business.

Contact: Ralph Boeker, Jr., Sam Houston Building, Seventh Floor, Austin, Texas, (512) 463-1778.

Filed: April 25, 1988, 3:02 p.m.

TRD-8804205

Health and Human Services Coordinating Council

Friday, April 29, 1988, 9 a.m. The Administration Management Task Force Technical Advisory Subcommittee of the Health and Human Services Coordinating Council will meet in emergency session in the MIS Conference Room, Building 200, Texas Youth Commission, 8900 Shoal Creek Boulevard, Austin. According to the agenda, the subcommittee will approve minutes of the previous meeting; review relevant materials; consider agency by agency assessment concerning service delivery environment, current data exchanges, hardware/software environment, general trends for the future, etc.; consider inventory of systems from AITC and possible approaches: an idea session. The emergency status is necessary because of rescheduling of time.

Contact: Greg Olsson 311-A, East 14th Street, Austin, Texas (512) 463-2195.

Filed: April 25, 1988, 4:38 p.m.

TRD-8804217

Friday, April 29, 1988, 1:30 p.m. The Administration Management Task Force Technical Advisory Subcommittee of the Health and Human Services Coordinating Council will meet in emergency session in MIS Conference Room, Building 200, Texas Youth Commission, 9800 Shoal Creek Boulevard, Austin. According to the agenda, the subcommittee will approve minutes of the previous meeting; review relevant materials; consider agency by agency assessment: service delivery environment, current data exchanges, hardware/software environment, general trends for the future, etc.; consider inventory of systems from AITC, and possible approaches: an idea session. The emergency status was necessary because of finalized agenda.

Contact: Greg Olsson, 311-A East 14th Street, Austin, Texas, (512) 463-2195.

Filed: April 22, 1988, 10:43 a.m.

TRD-8804122

Monday, May 2, 1988, 9 a.m. The Service Delivery Task Force, will meet in the Sargeants Room, Senate Chamber, State Capitol, Austin. According to the agenda, the task force will approve minutes of the previous meeting; hear presentations on service delivery by state agency personnel and service delivery by clients; hold and question and answer sessions with presenters and general discussion.

Contact: Carol Price, 311-A East 14th Street, Austin, Texas (512) 463-2195.

Filed: April 22, 1988, 10:44 a.m.

TRD-8804121

University of Houston System

Wednesday, April 27, 1988, 8 a.m. The Board of Regents of University of Houston System will meet in the Zodiac Room Conrad Hilton College Hotel, University of Houston, 4800 Calhoun, Houston. According to the agenda summary, the board will approve minutes of the previous meeting; consent docket; hear various reports; consider memorial resolution, KUHT-TV channel 8, personnel recommendations, honorary degree, faculty emeriti appointments, continuance beyond retirement age, promotion in academic rank, telecommunication system, benefit administrative services, teller machine, maintenance agreements, various contracts, and board policies and gift acceptance reports.

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

Filed: April 21, 1988, 10:50 a.m.

TRD-8804087

State Board of Insurance

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

Tuesday, May 3, 1988, 10 a.m. The board will meet in Room 414, to consider personnel matters concerning Fire Marshal, Statistical and Rate Development, Research and Information Services, and Commissioner; consider litigation matters concerning Fire Marshal and Commissioner; and consider charter for internal audit section.

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

Filed: April 25, 1988, 4:08 p.m.

TRD-8804211

Tuesday, May 3, 1988, 1:30 p.m. The Commissioner's Hearing Section will meet in Room 342, to consider Docket 9860-Application for original charter of Meridian Life Insurance Company, San Antonio.

Contact: James W. Norman, 1110 San Jacinto Street, Austin, Texas, 78701-1998, (512) 463-6526.

Filed: April 22, 1988, 3 p.m.

TRD-8804153

Wednesday, May 4, 1988, 9 a.m. The Commissioner's Hearing Section will meet in Room 342, to consider Docket 9871-Whether disciplinary action should be taken against Fred Everett, San Antonio, who holds a group I, legal reserve life insurance agent's license, a group II, health and accident insurance agent's license and a local recording agent's license issued by the board.

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

Filed: April 22, 1988, 3 p.m.

TRD-8804154

Wednesday, May 4, 1988, 1:30 p.m. The Commissioner's Hearing Section will meet in Room 342 to consider Docket 9895-Application for amendment to the Articles of Incorporation of United Group Insurance Company, Irving, amending the purpose clause.

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

Filed: April 22, 1988, 3 p.m.

TRD-8804158

Thursday, May 5, 1988, 1:30 p.m. The Commissioner's Hearing Section will meet in Room 342, to consider Docket 9893-Application of Charles Ronald Hughes, Joshua, for a group I, legal reserve life insurance agent's license.

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

Filed: April 22, 1988, 3 p.m.

TRD-8804156

Friday, May 6, 1988, 9 a.m. The Commissioner's Hearing Section will meet in Room 342, to consider Docket 9874-Whether disciplinary action should be taken against Ronald D. Myles, Longview, who holds a Group I, legal reserve life insurance agent's license, a group II, health and accident insurance agent's license, and a local recording agent's license issued by the board.

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

Filed: April 22, 1988, 2:59 p.m.

TRD-8804157

Friday, May 6, 1988, 9 a.m. The Commissioner's Hearing Section will meet in Room 353, to consider Docket 9896-application for restatement of the articles of incorporation with amendments changing the home office, changing the purpose clause, adding a new article pertaining to shareholder rights, adding a new article pertaining to the number of directors, and adding a new article in regards to director liability of Allied Bankers Life Insurance Company, Dallas.

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

Filed: April 22, 1988, 2:59 p.m.

TRD-8804158

Friday, May 6, 1988, 1:30 p.m. The Commissioner's Hearing Section will meet in Room 342, to consider Docket 9897-Whether disciplinary action should be taken

against Miles Thomas Lee, Houston, who holds a group I, legal reserve life insurance agent's license (L0278009) issued by the board and to consider the application of Miles Thomas Lee, Houston, for a group II, health and accident insurance agent's license.

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

Filed: April 22, 1988, 2:59 p.m.

TRD-8804159

Texas Legislative Council

Monday May 2, 1988, 10 a.m. The Select Interim Committee on Capital Construction of the Texas Legislative Council will meet in the Senate Chamber, State Capitol. According to the agenda, the committee will discuss organizational issues, administrative issues, and role of capital spending in the state and local budget process.

Contact: Dale K. Craymer, (512) 463-0822.

Filed: April 22, 1988, 2:16 p.m.

TRD-8804147

Legislatively Created Council

Thursday, April 28, 1988, 2 p.m. The Alcohol and Substance Abuse Oversight Committee met in emergency session in Room 104, Reagan Building, Austin. According to the agenda, the committee heard opening statements of members; waived applicable statutory timetables; discussed alternative timetable and future meeting dates, possible subcommittee formation, schedule format and content of future testimony, information gathering process and future information needs, and committee's guidelines for agency plans; heard report on applicable interim studies and agency's MOU's; and considered other organizational business. The emergency status was necessary due to the organizational nature of the meeting, additional items were necessary for a complete agenda.

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

Filed: April 22, 1988, 4:18

TRD-8804172

Texas State Board of Medical Examiners

Thursday, May 5, 1988, The Texas State Board of Medical Examiners will meet at 1101 Camino LaCosta, Austin. Times and agendas follow.

9 a.m. The Finance Committee will discuss budget. The committee will also meet in

executive session under authority of Article 6252-17, as related to Article 4495b, 2.07, 3.05(d), 5.06(e)(1), and Op. A.G. 1974, H-484.

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

Filed: April 22, 1988, 1:52 p.m.

TRD-8804142

10:30 a.m./20The Standing Orders Committee will consider whether certain optometric services constitute practice of medicine and appointment of P. A. Advisory Committee. The committee will also meet in executive session under authority of Article 6252-17, as related to Article 4495b, 2.07, 3.05(d), 5.06(e) (1), and Op. A.G. 1974, H-484.

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

Filed: April 22, 1988, 1:52 p.m.

TRD-8804143

1 p.m. The Reciprocity Committee will consider applications for licensure. The committee will also meet in executive session under authority of Article 6252-17, as related to Article 4495b, 2.07, 3.05(d), 5.06(e)(1), and Op. A.G. 1974, H-484.

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

Filed: April 22, 1988, 1:52 p.m.

TRD-8804141

2:30 p.m. The Examination Committee will consider applicants for licensure. The committee will also meet in executive session under authority of Article 6252-17, as related to Article 4495b, 2.07, 3.05(d), 5.06(e)(1), and Op. A.G. 1974, H-484.

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

Filed: April 22, 1988, 1:52 p.m.

TRD-8804138

5 p.m. The Disciplinary Process Review Committee will review files and closures. The committee will also meet in executive session under authority of Article 6252-17, as related to Article 4495b, 2.07, 3.05(d), 5.06(e)(1), and Op. A.G. 1974, H-484.

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

Filed: April 22, 1988, 1:52 p.m.

TRD-8804139

Friday and Saturday, May 6 and 7, 1988, 8 a.m. The board will consider proposals for decisions, reciprocity hearings, and requests for license status changes; hear director's report; consider public hearings on proposed rules (radiologic technologists, voluntary surrender of medical license, reinstatement, and schedule of fees); hear administrative sanction report; approve minutes of the previous meeting; hear performance evaluation report, and committee reports; and consider recent and upcoming

meetings of interest including Special Committee on State Organization. The committee will also meet in executive session under authority of Article 6252-17, as related to Article 4495b, 2.07, 3.05(d), 5.06(e)(1), and Op. A.G. 1974, H-484.

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

Filed: April 22, 1988, 1:52 p.m.

TRD-8804140.

Texas Motor Vehicle Commission

Thursday, April 28, 1988, 9 a.m. The Texas Motor Vehicle Commission submitted an emergency revised agenda to a meeting held in Suite 302, 815 Brazos Street, Austin. According to the agenda summary, the commission met in executive session to meet with assistant attorney general concerning pending litigation - Volvo-White Truck Corporation, et al. v. Texas Motor Vehicle Commission. The emergency status was necessary due to the necessity of receiving advice from the attorney general's office prior to an answer date.

Contact: Russell Harding, 815 Brazos, Suite 300, Austin, Texas 78701, (512) 476-3587.

Filed: April 22, 1988, 8:55 a.m.

TRD-8804116

State Occupational Information Coordinating Committee

Monday, May 9, 1988, 10 a.m. The State Occupational Coordinating Committee will meet in Room 640, TEC Building, 15th and Congress Avenue, Austin. According to the agenda summary, the committee will discuss current projects, past and current operating budget, and the PY 1988 basic assistance grant program plan. The committee will also meet in executive session to elect a chairman and discuss personnel matters.

Contact: Micheal R. Fernandez, Austin, Texas, (512) 463-2399.

Filed: April 25, 1988, 2:05 p.m.

TRD-8804202

Texas Optometry Board

Wednesday and Thursday, May 4 and 5, 1988, 8 p.m. and 8 a.m., respectively. The Texas Optometry Board will meet in the Doubletree Hotel, 6505, IH-35 North, Austin. According to the agenda summary the board will hear reports of secretary-treasurer, legal counsel, executive director, and committee chairperson; consider adoption of §275.1 concerning continuing educa-

tion amendments, correspondence from Commission on Blind regarding low vision aids, licensure of Charles Thomas, candidate, and International Association of Boards of Examiners in Optometry meeting; hear Medicare report; and consider Subcommittee on Licensing Special Committee on Organization of State Agencies. The board will also meet in executive session in compliance with Texas Civil Statutes, Article 6252-17 §2(e). Committees of the board will meet at 2, 3:30, 4:30, and 7:30 p.m. on February 4.

Contact: Lois Ewald, 1300 East Anderson Lane, Suite C-240, Austin, Texas 78752, (512) 835-1938.

Filed: April 26, 1988, 9:32 a.m.

TRD-8804225

Board of Pardons and Paroles

Tuesday, April 26, 1988, 9:30 a.m. The Board of Pardons and Paroles met in emergency session at 8610 Shoal Creek Boulevard, Austin. According to the agenda, the board discussed a bid proposal for contracting for services with probation departments. The emergency status was necessary because board members cannot adjust their schedules to meet at any other reasonable time.

Contact: Juanita Llamas, 8610 Shoal Creek Boulevard, Austin, Texas 78758, (512) 459-2749.

Filed: April 25, 1988, 4:12 p.m.

TRD-8804213

Monday-Friday, May 2-6, 1988, 1:30 p.m. daily, except 11 a.m. on Friday. The Board of Pardons and Paroles will meet at 8610 Shoal Creek Boulevard, Austin. According to the agenda summary, the board will receive, review, and consider information and reports concerning prisoners in mates and administrative releases subject to the board's jurisdiction and initiate and carry through with appropriate action.

Contact: Mike Roach, 8610 Shoal Creek Boulevard, Austin, Texas 78758, (512) 459-2713.

Filed: April 22, 1988, 10:30 a.m.

TRD-8804119

Tuesday, May 3, 1988, 9:30 a.m. The Board of Pardons and Paroles will meet at 8610 Shoal Creek Boulevard, Austin. According to the agenda, the board will approve minutes of the April 5 and 13, 1988 meeting; consider budget, authorization for Bill Brooks to sign agency expenditure vouchers, proposal for contracting with probation departments, Aids policy recommendation, quarter house proposal, return parole violator policy, administrative review policy recommendation, custodian of records des-

ignation, training academy proposal, ratification of memorandum regarding cases in disciplinary status, public input comments, and executive director's report.

Contact: Juanita Llamas, 8610 Shoal Creek Boulevard, Austin, Texas 78758, (512) 459-2749.

Filed: April 25, 1988, 4:12 p.m.

TRD-8804212

Tuesday, May 3, 1988, 1:30 p.m. The Board of Pardons and Paroles will consider executive clemency recommendations and related actions (other than out of country conditional pardons), including: full pardons restoration of civil rights of citizenship; emergency medical reprieves; commutations of sentences; and other reprieves, remissions, and executive clemency actions.

Contact: Juanita Llamas, 8610 Shoal Creek Boulevard, Austin, Texas 78758, (512) 459-2749.

Filed: April 22, 1988, 10:30 p.m.

TRD-8804120

State Preservation Board

Thursday, April 28, 1988, 9 a.m. The Permanent Advisory Commission of the State Preservation Board met in Room 103, John Reagan Building, Austin. According to the agenda summary, the commission considered master plan introduction; heard change definition status report, great walk status report, asbestos survey report, goddess of libertynorth corridor project status report, and Governor's press conference room report; considered update on maintenance and conservation survey, formally approved appointments to Collections Review Committee, and filming rules. The emergency status was necessary due to unforeseen circumstances, agenda was not complete on time.

Contact: Curtis Tunnel, 1511 Colorado, Austin, Texas 78701, (512) 463-6100.

Filed: April 21, 1988, 2 p.m.

TRD-8804090

Monday, May 2, 1988, 10 a.m. The Architect of the Capitol Selection Committee of the State Preservation Board will meet in the Lieutenant Governor's Committee Room, Second Floor, Capitol. According to the agenda summary, the committee will discuss job description; consider candidates for the position; and hold general discussion. The committee will also meet in executive session to consider agreement on procedure.

Contact: Dealey Herndon, 322 Congress Avenue, Austin, Texas 78701, (512) 474-7743.

Filed: April 22, 1988, 2:46 p.m.

TRD-8804149

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.

Friday, June 3, 1988, 10 a.m. The Hearings Division will consider Docket 8031-Petition of Guadalupe Blanco River Authority for authority to implement new contract rates.

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

Filed: April 22, 1988, 3:08 p.m.

TRD-8804166

Thursday, June 16, 1988, 10 a.m. The Hearings Division will consider Docket 8031-Petition of Guadalupe Blanco River Authority for authority to implement new contract rates.

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

Filed: April 22, 1988, 3:07 p.m.

TRD-8804165

Tuesday, July 26, 1988, 10 a.m. The Hearings Division will consider Docket 7361-Review and inquiry into the rates of Rayburn Country Electric Cooperative, Inc. pursuant to §42 and §43 of PURA.

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

Filed: April 22, 1988, 3:09 p.m.

TRD-8804167

Texas Racing Commission

Monday, May 9, 1988, 11 a.m. The Texas Racing Commission, will meet in Room 109, John H. Reagan Building, 105 West 15th Street, Austin. According to the agenda summary, the commission will discuss proposed rules for horse and greyhound racing and administrative rules for publication in the *Texas Register*, future meeting dates and locations for public hearings on the proposed rules, and joining the Association of State Racing Commissioners International. The Horseman's Benevolent Protective Association will address the commission.

Contact: Nancy Fisher, P.O. Box 12080, Austin, Texas 78711, (512) 463-7223.

Filed: April 22, 1988, 2:37 p.m.

TRD-8804148

Railroad Commission of Texas

Monday, May 2, 1988, 9 a.m. The Railroad Commission of Texas will meet in the 12th Floor Conference Room, William B. Travis Building, 1701 North Congress Avenue, Austin. Agendas follow.

The Administrative Services Division will consider and act on the division director's report on division administration, budget, procedure, and personnel matters.

Contact: Roger Dillon, P.O. Drawer 12967, Austin, Texas 78711, (512) 463-7527.

Filed: April 22, 1988, 11:16 p.m.

TRD-8804135

The Automatic Data Processing Division will consider and act on the division director's report on division administration, budget, procedures, equipment acquisitions, and personnel matters.

Contact: Bob Kmetz, P.O. Drawer 12967, Austin, Texas 78711, (512) 463-7251.

Filed: April 22, 1988, 11:16 p.m.

TRD-8804133

The Flight Division will consider and act on the division director's report on division administration, budget, procedures and personnel matters.

Contact: Ken Fossler, P.O. Drawer 12967, Austin, Texas 78711, (512) 463-6787.

Filed: April 22, 1988, 11:16 p.m.

TRD-8804125

The Gas Utilities Division will consider various matters within the regulatory jurisdiction of the Railroad Commission of Texas. In addition, the commission will consider items previously posted for open meeting and at such meeting verbally postponed or continued to this date. With regard to any item, the commission may take various actions, including but not limited to scheduling an item in its entirety or for particular action at a future time or date.

Contact: Shelley A. Dreiling, P.O. Drawer 12967, Austin, Texas 78711, (512) 463-7009.

Filed: April 22, 1988, 11:16 p.m.

TRD-8804129

The Office of General Counsel will consider and act on the general counsel's report on division administration, budget, procedures, and personnel matters; including but not limited to discussion and/or action on the following: Hufo Oils, et al v. Railroad Commission C-5937 in the Supreme Court of Texas, Walker Operating, et al v. Federal Energy Regulatory Commission, U.S. Court of Appeals for the 10th Circuit, 85-2683 and 86-2698 et al in relation of Oil and Gas Docket 10-87,017; FERC Orders 500, 500 A-C, and related litigation in the D.C., fifth, third, and seventh circuits.

Contact: Gail Watkins, P.O. Drawer 12967, Austin, Texas 78711, (512) 463-6921.

Filed: April 22, 1988, 11:16 p.m.

TRD-8804131

The Office of Information Services will consider and act on the Division Director's report on division administration, budget, procedures, and personnel matters.

Contact: Brian W. Schaible, P.O. Drawer 12967, Austin, Texas 78704, (512) 463-6710.

Filed: April 22, 1988, 11:16 p.m.

TRD-8804126

The Investigative Division will consider and act on the division director's report on division administration, investigations, budget, and personnel matters.

Contact: Mary Anne Wiley, P.O. Drawer 12967, Austin, Texas 78711, (512) 463-6828

Filed: April 22, 1988, 11:16 p.m.

TRD-8804136

LP-Gas Division will consider and act on division director's report on division administration, budget, procedures, and personnel matters.

Contact: Thomas D. Petru, P.O. Drawer 12967, Austin, Texas 78711, (512) 463-6931.

Filed: April 22, 1988, 11:16 p.m.

TRD-8804130

The Oil and Gas Division will consider various matters within the regulatory jurisdiction of the commission. In addition, the commission will consider items previously posted for open meeting and at such meeting verbally postponed or continued to this date. With regard to any item, the commission may take various actions, including but not limited to scheduling an item in its entirety or for particular action at a future time or date.

Contact: Tim Poe, P.O. Drawer 12967, Austin, Texas 78711, (512) 463-7325.

Filed: April 22, 1988, 11:16 p.m.

TRD-8804127

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

Contact: Margie L. Osborn, P.O. Drawer 12967, Austin, Texas 78711, (512) 463-6755.

Filed: April 22, 1988, 11:16 p.m.

TRD-8804134

The Personnel Division will consider and act on the division director's report on division administration, budget, procedures, and personnel matters.

Contact: Mark Bogan, P.O. Drawer 12967, Austin, Texas 78711, (512) 463-6981.

Filed: April 22, 1988, 11:16 p.m.

TRD-8804124

The Office of Research and Statistical Analysis will consider and act on the division director's report on division administration, budget, procedures, and personnel matters.

Contact: Gail Gemberling, P.O. Drawer 12967, Austin, Texas 78711, (512) 463-6976.

Filed: April 22, 1988, 11:16 p.m.

TRD-8804137

The Surface Mining Division will consider various matters within the regulatory jurisdiction of the commission. In addition, the commission will consider items previously posted for open meeting and at such meeting verbally postponed or continued to this date. With regard to any item, the commission may take various actions, including but not limited to scheduling an item in its entirety or for particular action at a future time of date.

Contact: Jerry Hill, P.O. Drawer 12967, Austin, Texas 78711, (512) 463-6900.

Filed: April 22, 1988, 11:16 p.m.

TRD-8804128

The Transportation Division will consider various matters within the regulatory jurisdiction of the commission. In addition, the commission will consider items previously posted for open meeting and at such meeting verbally postponed or continued to this date. With regard to any item, the commission may take various actions, including but not limited to scheduling an item in its entirety or for particular action at a future time or date.

Contact: C. Tom Clowe, P.O. Drawer 12967, Austin, Texas 78711, (512) 463-7122.

Filed: April 22, 1988, 11:16 p.m.

TRD-8804132

Monday, May 2, 1988, 10:30 a.m. The Oil and Gas Division submitted a revised agenda to consider Docket 7C-90,636-Application of University Gas, Inc., to consider an exception to statewide rule 69, blocks 46, 47, 48, 50, and 51 of the university lands survey (various leases), various fields, Reagan and Crockett Counties.

Contact: Don Walker, P.O. Drawer 12967, Austin, Texas 78711, (512) 463-6766.

Filed: April 25, 1988, 10:10 a.m.

TRD-8804196

Monday, May 2, 1988, 1:30 p.m. The Oil and Gas Division will consider Docket 8-90,210-Application of Wagner & Brown for determination of waste pursuant to Rule 34 (H)(4) in the Conger (Penn) Field, Sterling

and Glasscock Counties.

Contact: Don Walker, P.O. Drawer 12967, Austin, Texas 78711, (512) 463-6766.

Filed: April 22, 1988, 11:16 p.m.

TRD-8804123

Monday, May 2, 1988, 2:30 p.m. The Gas Utilities Division will consider Docket 7043-Consolidated appeal of Lone Star Gas Company from the City of Longview.

Contact: Vicky DiMego, P.O. Drawer 12967, Austin, Texas 78711, (512) 463-7009.

Filed: April 22, 1988, 4:23 p.m.

TRD-8804173

Special Task Force on Rural Health Care Delivery in Texas

Monday, May 2, 1988, 10 a.m. The Special Task Force on Rural Health Care Delivery in Texas will meet in emergency session in the Wadley Regional Medical Center, 100 Pine, Texarkana. According to the agenda, the task force will introduce members; hear presentation and public testimony; and consider other business. The emergency status is necessary because the meetings was suddenly rescheduled.

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

Filed: April 25, 1988, 11:13 a.m.

TRD-8804197

Tuesday, May 3, 1988, 10 a.m. The Special Task Force on Rural Health Care Delivery in Texas will meet in the Russell Auditorium, University of Texas Health Science Center at Tyler, Tyler. According to the agenda, the task force will introduce members; hear presentation and public testimony; and consider other business.

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

Filed: April 25, 1988, 11:13 a.m.

TRD-8804198

Texas Savings and Loan Department

The Texas Savings and Loan Department will meet in Suite 201, 2601 North Lamar Boulevard, Austin. Dates, times, and agendas follow.

Tuesday, May 3, 1988, 9 a.m. The department will accumulate a record of evidence to the application of a agency office for Capitol Savings Association, Austin, Travis County, to be located at 2807 North Ben Wilson, Suite 204, Victoria, Victoria Coun-

ty, from which record the commissioner will determine whether to grant or deny the application.

Contact: Laura M. Hale, 2601 North Lamar Boulevard, Suite 201, Austin, Texas 78705, (512) 479-1250.

Filed: April 22, 1988, 8:22 a.m.

TRD-8804112

Thursday, May 5, 1988, 9 a.m. The department will accumulate a record of evidence in regard to the application of Liberty Savings Association, Houston, Harris County, to relocate the home office from 3501 Fannin, Houston, Harris County, to 1225 North Loop West, Suite 128, Houston, Harris County, from which record the commissioner will determine whether to grant or deny the application.

Contact: Laura M. Hale, 2601 North Lamar Boulevard, Suite 201, Austin, Texas 78705, (512) 479-1250.

Filed: April 22, 1988, 8:22 a.m.

TRD-8804113

Thursday, May 5, 1988, 9 a.m. The department will accumulate a record of evidence in regard to the application of Liberty Savings Association, Houston, Harris County, to relocate a branch office from 14181 N.W. Freeway, Houston, Harris County, to 3501 Fanning Street, Houston, Harris County, from which record the commissioner will determine whether to grant or deny the application.

Contact: Laura M. Hale, 2601 North Lamar Boulevard, Suite 201, Austin, Texas 78705, (512) 479-1250.

Filed: April 22, 1988, 8:22 a.m.

TRD-8804114

School Land Board

Tuesday, May 3, 1988, 10 a.m. The School Land Board will meet in Room 831, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. According to the agenda summary, the board will approve minutes of the previous meeting; consider bids received for the May 3, 1988 sealed bid land sale; consider pooling applications, nomination fee increase; consider emergency repeal and emergency adoption and proposed adoption of 31 TAC §153.1 concerning nominations of tracts for lease; hear report on Kilroy royalty reduction granted by the board on November 17, 1987; consider amendment to Brewster County land trade, amendment to City of Corpus Christi Lease CL-87-010, coastal public lands—commercial lease applications, easement applications, lease application, cabin permit terminations, cabin permit renewals, and cabin permit applications.

Contact: Linda K. Fisher, 1700 North Congress Avenue, Room 836, (512) 463-5016.

Filed: April 25, 1988, 4:33 p.m.

TRD-8804215

State Securities Board

Wednesday, July 6, 1988, 10 a.m. The Securities Commissioner of the State Securities Board will meet at 1800 San Jacinto Street, Austin. According to the agenda summary, the commissioner will determine whether a cease and desist order should be issued prohibiting the sale of securities by Oreo Mines, Inc., Bill W. Schmidt, William R. Cook, Oreo, Inc. and Douglas W. Litchfield.

Contact: John Morgan, 1800 San Jacinto Street, Austin, Texas, (512) 4740-2233.

Filed: April 26, 1988, 8:42 a.m.

TRD-8804221

The University of Texas at Austin

Monday, May 2, 1988, 2 p.m. The Intercollegiate Athletics Council for Men at the University of Texas at Austin will meet in Belmont Hall 240, 23rd and San Jacinto Streets, Austin. According to the agenda summary, the council will approve minutes of the March 14, 1988, meeting and schedule changes; consider awardsaward policies, budgetbudget changes, new business, construction, development, and old business. The council will also meet in executive session.

Contact: Haila Kauffman, P.O. Box 7399, Austin, Texas 78713, (512) 471-4439.

Filed: April 22, 1988, 3:39 p.m.

TRD-8804169

Texas Water Commission

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

Tuesday, May 3, 1988, 9 a.m. The commission will meet in Room 118, to consider water district release from escrow applications, water rate increase matter, certificate of convenience and necessity applications, water quality proposed permits, amendments, renewals, hazardous waste proposed permits, extension of time application, amendment to adjudication certificate, and contract matter.

Contact: Peggy O. Maxwell, P.O. Box 13087, Austin, Texas 78711, (512) 463-7899.

Filed: April 22, 1988, 4 p.m.

TRD-8804170

Texas Water Well Drillers Board

Thursday, May 5, 1988, 1 p.m. The Texas Water Well Drillers Board of the Texas Water Commission will meet in Room 118, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. According to the agenda summary, the board will consider revocation of suspension of the water well drillers license or imposition of an administrative penalty in the following dockets: WWDB-88-0007, Billy Husband, WWDB-88-0007, Jim Derrick, WWDB-88-0009, Robert Earl West WWDB-88-0010, Kenneth Moore, WWDB-880011, Jimmy Madewell, WWDB-88-0012, Ted Wells, WWDB-00-0013, Larry Wells, WWDB-88-0014, Gary Scott, WWDB-88-0015, Gary Scott and Larry Scott, WWDB-88-0016, Charlie Kuhn. The board will take additional evidence in the following dockets which were continued from prior board meetings. WWDB-88-0006, Charlie Kuhn, WWDB-87-0018, Charlie Kuhn, WWDB-87-0017, W.R. Doyle, WWDB-87-0029, W.R. Doyle and Jeffrey Rogers.

Contact: Larry Persky, P.O. Box 13087, Austin, Texas 78711-3087, (512) 463-8069.

Filed: April 26, 1988, 8:55 a.m.

TRD-8804222

Texas Wheat Producers Board

Tuesday and Wednesday, May 3 and 4, 1988, 10 a.m. and 9 a.m. respectively. The Texas Wheat Producers Board of the Texas Department of Agriculture will meet in the Potter-Randall Rooms and Main Ballroom, Hilton Inn, I-40 at Lakeside, Amarillo. According to the agenda, the board will consider 1988/1989 budget, set 1988 assessment, 1989 election and assessment increase, and Texas Agricultural Youth Congress; and hold grain quality symposium in cooperation with Panhandle Grain and Feed Association.

Contact: Bill Nelson, 2201 Civic Circle, Suite 600, Amarillo, Texas 79109, (806) 352-2191.

Filed: April 21, 1988, 1:40 p.m.

TRD-8804089

Regional Meetings

Meetings Filed April 21, 1988

The Austin-Travis County MHMR Center, Personnel Committee, met in Suite 440, 611 South Congress Avenue, Austin, on April 26, 1988, at noon. Information may be obtained from Sharon Taylor, 611 South Congress Avenue, Austin, Texas 78704, (512) 447-4141.

The Education Service Center, Region VIII, Board of Directors, met at F.M. 1734, Mount Pleasant, on April 28, 1988, at 7 p.m. Information may be obtained from Scott Ferguson, F.M. 1734, Mount Pleasant, Texas 75455.

The Education Service Center, Region XIV, Board of Directors, met in the Cafeteria, Cooper High School, 3639 Sayles Boulevard, Abilene, on April 21, 1988, at 2:04 p.m.

The Hunt County Tax Appraisal District, Board of Directors, will meet in the Boardroom, 4801 King Street, Greenville, on April 28, 1988, at 8 a.m. Information may be obtained from Joe Pat Davis or Linda S. Haynes, P.O. Box 1339, Greenville, Texas 75401, (214) 454-3510.

The Lamar County Appraisal District, met at 1523 Lamar Avenue, Paris, on April 25, 1988, at 5 p.m. Information may be obtained from Rodney Anderson, 1523 Lamar Avenue, Paris, Texas 75460, (214) 785-7822.

The Lower Colorado River Authority, Board of Directors, met at 3700 Lake Austin Boulevard, Austin, on April 25, 1988, at 10 a.m. Information may be obtained from Thomas G. Mason, 3700 Lake Austin Boulevard, Austin, Texas.

The MHMR Authority of Brazos Valley, Board of Trustees, met at the Brazos Center, 3232 Briarcrest Drive, Bryan, on April 28, 1988, at 1:30 and 5 p.m. Information may be obtained from Leon Bawcom, 3232 Briarcrest Drive, Bryan, Texas, (409) 822-6467.

The Middle Rio Grande Development Council, Private Industry Council, met in the Reading Room, Civic Center, 300 East Main, Uvalde, on April 25, 1988, at 10 a.m. Information may be obtained from Juan Pablo Velez, P.O. Box 1199, Carrizo Springs Texas 78834, (512) 876-3533.

The South Texas Development Council, Border Area Nutrition Council, met in the Wing Conference Room, 600 South Sandman, Laredo, on April 27, 1988, at 10:30 a.m. Information may be obtained from Noemi Suarez, P.O. Box 2909, Laredo, Texas 78044-2909, 722-5000.

The Trinity River Authority of Texas, Board of Directors, met in 5300 South Collins, Arlington, on April 27, 1988, at 10 a.m. Information may be obtained from Jack C. Worsham, P.O. Box 60, Arlington, Texas 76010, (817) 467-4343.

The Tyler County Appraisal District, Appraisal Review Board, met at 103 Pecan, Woodville, on April 28, 1988, at 9 a.m. and May 3, 1988, at 4 p.m. Information may be obtained from Mary F. Mann, P.O. Drawer 9, Woodville, Texas 75979, (409) 283-3736.

TRD-8804086

Meetings Filed April 22, 1988

The Austin-Travis County Mental Health and Mental Retardation Center, Finance and Control Committee, will meet in Suite 107, 611 South Congress Avenue, Austin, on April 27, 1988, at noon. The Board of Trustees will meet at the Salvation Army, 501 East Eighth Street, Austin, on Thursday, April 28, 1988, at 7 a.m. Information may be obtained from Sharon Taylor, 611 South Congress Avenue, Suite 107, Austin, Texas 78711, (512) 447-4141.

The Barton Springs-Edwards Aquifer Conservation District, Board of Directors, met in Suite F, 909 North Loop, Buda, on April 25, 1988, at 7 p.m. Information may be obtained from Ralph Roming, 909 North Loop 4, Suite F, Buda, Texas, (512) 282-8441.

The Capital Area Rural Transportation System (CARTS), Board of Directors, met in Conference Room, 511 East First Street, Austin, on April 28, 1988, at 9:30 a.m. Information may be obtained from Edna M. Burroughs, 511 East First Street, Austin, Texas 78702, (512) 389-1011.

The Dallas Area Rapid Transit, Operations Committee and Board met at 601 Pacific Avenue, Dallas, on April 26, 1988, at 2 p.m. and 4 p.m. respectively. Information may be obtained from Sylvia Villareal, 601 Pacific Avenue, Dallas, Texas 75202.

The MoPac South Transportation Corporation, Board of Directors, met at 10404 Dedham Court, Austin, April 27, 1988, at 10:45 a.m. Information may be obtained from John C. Boehm Jr., 2400 One American Center, Austin, Texas 78701, (512) 474-5201.

TRD-8804118

Meetings Filed April 25, 1988

The Brown County Appraisal District, Board of Directors, will meet at 403 Fisk Avenue, Brownwood, on May 2, 1988, at 7 p.m. Information may be obtained from Bob Young, 403 Fisk Avenue, Brownwood, Texas 76801, (915) 643-5676.

The Education Service Center, Region XI, Board of Directors, will meet at 3001 North Freeway, Fort Worth, on May 10, 1988, at noon. Information may be obtained from R.P. Campbell, Jr., 3001 North Freeway, Fort Worth, Texas 76106, (817) 625-5311, ext. 102.

The Education Service Center, Region XVII, Board of Directors, will meet in the Boardroom, 4000 22nd Place, Lubbock, on May 4, 1988, at 1 p.m. Information may be obtained from Weldon E. Day, 4000 22nd Place, Lubbock, Texas 79410, (806) 792-4000.

The Erath County Appraisal District, Appraisal Review Board, will meet in the

Boardroom, 1390 Harbin Drive, Stephenville, on May 5, 1988, at 9 a.m. Information may be obtained from Trecia Perales, 1390 Harbin Drive, Stephenville, Texas 76401, (817) 965-7301.

The Heart of Texas Council of Governments, Executive Committee, will meet in the Conference Room, 320 Franklin Avenue, Waco, on April 28, 1988, at 10 a.m. Information may be obtained from Mary McDow, 320 Franklin Avenue, Waco, Texas 76701-2297, (817) 756-6631.

The Lower Rio Grande Valley Development Council, Board of Directors, met at the Harlingen Chamber of Commerce, on April 28, 1988, at 1:30 p.m. Information may be obtained from Robert A. Chandler, 4900 North 23rd Street, McAllen, Texas 78504, (512) 682-3481.

The MHMR Regional Center of East Texas, Board of Trustees, met in the Boardroom, 2323 West Front Street, Tyler, on April 28, 1988, at 4 p.m. Information may be obtained from Richard J. DeSanto, P.O. Box 4730, Tyler, Texas 75712, (214) 597-1351.

The North Central Texas Council of Governments, Executive Board, will meet on the Second Floor, Centerpoint Two, 616 Six Flags Drive, Arlington, on April 28, 1988, at 12:45 p.m. Information may be obtained from Edwina J. Shires, P.O. Drawer COG, Arlington, Texas 76005-5888, (817) 640-3300.

The Panhandle Regional Planning Commission, Board of Directors, will meet in the Conference Room, 2736 West 10th Street, Amarillo, on April 28, 1988, at 1:30 p.m. Information may be obtained from Pamela Nielsen, 2736 West 10th Street, Amarillo, Texas, (817) 372-3381.

The Pecan Valley Mental Health and Mental Retardation Region, Board of Trustees, met in the Clinical Office, 104 Charles Street, Granbury, on April 27, 1988, at 8 a.m. Information may be obtained from Theresa Mulloy, P.O. Box 973, Stephenville, Texas 76401, (817) 965-7806.

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

TRD-8804175



Meetings Filed April 26, 1988

The Bexar-Medina-Atascosa Counties Water Control and Improvement District, #1, Board of Directors, will meet in District Office, Highway 81, Natalia, on May 2, 1988, at 10 a.m. Information may be obtained from C.A. Mueller, P.O. Box 170, Natalia, Texas 78059, (512) 663-2132.

TRD-8804220



In Addition

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

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

Texas Air Control Board

Additional Extension of Deadline for Written Comments

In the February 26, 1988, issue of the *Texas Register* (13 TexReg 966), the Texas Air Control Board (TACB) published a notice of public hearing on proposed amendments to be held March 31, 1988. The purpose of the hearing was to receive testimony concerning revisions to Regulation VI and the standard exemption list. The deadline for written comments as set out in the notice was extended to April 15, 1988, which appeared in the April 8, 1988, issue of the *Texas Register* (13 TexReg 1683), and, now, is extended to April 29, 1988. All comments at the hearing, as well as written comments received by 4 p.m. on April 29, 1988, in the TACB central office in Austin will be considered by the board prior to any final decision on the proposed changes.

Copies of the proposed revisions are available at the central office of the TACB located at 6330 United States Highway 290 East, Austin, Texas 78723, and at all regional offices of the agency. For further information, call Barry Irwin at (512) 451-5711.

Issued in Austin, Texas, on April 21, 1988.

TRD-8804088 Allen Eli Bell
Executive Director
Texas Air Control Board

Filed: April 21, 1988

For further information, please call (512) 451-5711, Ext. 354.

Notice of Applications for Construction Permits

Notice is given by the Texas Air Control Board (TACB) of applications for construction permits received during the period of April 11, 1988-April 15, 1988.

Information relative to the applications listed following including projected emissions and the opportunity to comment or to request a hearing, may be obtained by contacting the office of the executive director at the central office of the Texas Air Control Board, 6330 Highway 290 East, Austin, Texas 78723.

A copy of all material submitted by the applicant is available for public inspection at the central office of the TACB at the address stated previously and at the regional office for the air quality control region within which the proposed facility will be located.

Mastercraft Industries, Inc., Mt. Pleasant; Wood Product Manufacturing; Mt. Pleasant, Titus County; 18755; new

Koral Industries, Inc., Ennis; Fiberglass Tub/Shower; Ennis, Ellis County; 18756; new

Union Pacific Resources, Bryan; Gas Production; Bryan, Brazos County; 18757; new

Mosbacher Energy Company, Frankston; Gas Sweetening; Franston, Anderson County; 18766; new

GEH Transmission, Inc., Sunray; Amine Sour Gas Treating; Sunray, Moore County; 18772; new

Union Carbide, Seadrift; Polyethylene Unit LP-5; Seadrift, Calhoun County; 18773; new

Nalco Chemical Company, Freeport; Oxylation Resin Unit; Freeport, Brazoria County; 18775; new

Conoco, Inc., Forsan; Settler Central Battery; Forsan, Howard County; 18780; new

Mobil Exploration and Production, Coahoma; Heater Treater; Coahoma, Mitchell County; 18784; new

Tennessee Gas Pipeline, East Bernard; Gas Turbine Compressor Station; East Bernard, Wharton County; 18785; new

Atlas Architectural Metals, Inc., Corsicana; Aluminum Extrusion; Corsicana, Navarro County; 18786; new

Occidental Chemical Corporation, Ingleside; Chloralkali Plant; Ingleside, San Patricio County; 18787; new

Anzon, Inc., Laredo; Antimony Trichloride Production; Laredo, Webb County; 18792; new

Issued in Austin, Texas, on April 19, 1988.

TRD-8804145 Bill Ehret
Director of Hearings
Texas Air Control Board

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 28, 1988, the banking commissioner received an application to acquire control of the Citizens State Bank, Princeton, by Dr. Steven Pedro, Fort Worth, and Richard Smith, Aledo.

On April 21, 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 April 21, 1988.

TRD-8804144 William F. Aldridge
Director of Corporate Activities
Texas Department of Banking

Filed: April 22, 1988

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

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

On April 22, 1988, the banking commissioner received an application to acquire control of First Colony Bank, The Colony, by Theo B. Lamb of Bonita, California, Gerald Gleason of Chicago, Illinois, and Paul Tidwell of Carrollton.

Additional information may be obtained from: William F. Aldridge, 2601 North Lamar Boulevard, Austin, Texas 78705 (512) 475-4451.

Issued in Austin, Texas, on April 22, 1988.

TRD-8804179 William F. Aldridge
Director of Corporate Activities
Texas Department of Banking

Filed: April 25, 1988

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

Texas Department of Commerce

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

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

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

Pursuant to the Act, the aggregate amount for qualified mortgage bond subceiling is \$278,033,300 with 185,355,500 available to the local housing authorities and \$92,677,800 available to the Texas Housing Agency. The aggregate amount for state-voted issues is \$208,525,000 and the amount for all other 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, April 11, 1988 through April 15, 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 un-

der the Act as of April 15, 1988: \$228, 033,300

Total amount of state ceiling remaining unreserved for the \$208,525,000 subceiling for state-voted issues under the Act as of April 15, 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 April 15, 1988: \$60,000.

Total amount of the \$834,100,000 state ceiling remaining unreserved as of April 15, 1988: \$436,618,300.

Comprehensive listing of bond issues which have received a reservation date pursuant to the Act from April 11, 1988 through April 15, 1988: None

Comprehensive listing of bonds issued and delivered as pursuant to the Act from April 11, 1988 through April 15, 1988: Greater Texas Higher Education Authority, Inc., Eligible Borrowers, Qualified Student Loan Bonds, \$75,000,000; Brazos River Authority, Texas Utilities Electric Company Comanche Peak Steam Electric Station, Water Pollution Control and Solid Waste Disposal Facility, \$100,000,000; Houston Housing Finance Corporation, Eligible Borrowers, Qualified Mortgage Bonds, \$50,000,000.

Issued in Austin, Texas, on April 20, 1988.

TRD-8804069 J. William Lauderback
Executive Director
Texas Department of Commerce

Filed: April 20, 1988

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

Texas Higher Education Coordinating Board Notice of Meeting

The Regional Forum #1 will meet on Tuesday, May 17, 1988, 1 p.m. to 5 p.m., Sheraton Fairway at South 10th Street, McAllen. After the opening orientation, all regional forums will be closed sessions. For additional information contact the Texas Academic Skills Program (TASP) office at the Coordinating Board at (512) 462-6485.

Issued in Austin, Texas, on April 19, 1988.

TRD-8804187 James McWhorter
Assistant Commissioner for Planning and
Administration
Texas Higher Education Coordinating Board

Filed: April 25, 1988

For further information, please call (512) 462-6420.

The Regional Forum #3 will meet on Monday, May 16, 1988, 8:30 a.m. to 12:30 p.m. and 2 p.m. to 6 p.m., Marriot/Market Center, 2101 Stemmons Highway, Dallas. After the opening orientation, all regional forums will be closed sessions. For additional information contact the Texas Academic Skills Program (TASP) office at the Coordinating Board at (512) 462-6485.

Issued in Austin, Texas, on April 19, 1988.

TRD-8804186 James McWhorter
Assistant Commissioner for Planning and
Administration
Texas Higher Education Coordinating Board

Filed: April 25, 1988

For further information, please call (512) 462-6420.

The Regional Forum #4 will meet on Tuesday, May 17, 1988, 1 p.m. to 5 p.m., Holiday Inn/Civic Center, 801 Avenue Q, Lubbock. After the opening orientation, all regional forums will be closed sessions. For additional information contact the Texas Academic Skills Program (TASP) office at the Coordinating Board at (512) 462-6485.

Issued in Austin, Texas, on April 19, 1988.

TRD-8804188 James McWhorter
Assistant Commissioner for Planning and
Administration
Texas Higher Education Coordinating Board

Filed: April 25, 1988

For further information, please call (512) 462-6420.



The Regional Forum #5 will meet on Wednesday, May 18, 1988, 1 p.m. to 5 p.m., Best Western Airport, 100 Airport Plaza Drive, Midland. After the opening orientation, all regional forums will be closed sessions. For additional information contact the Texas Academic Skills Program (TASP) office at the Coordinating Board at (512) 462-6485.

Issued in Austin, Texas, on April 19, 1988.

TRD-8804189 James McWhorter
Assistant Commissioner for Planning and
Administration
Texas Higher Education Coordinating Board

Filed: April 25, 1988

For further information, please call (512) 462-6420.



The Regional Forum #6 will meet on Wednesday, May 18, 1988, 2 p.m. to 6 p.m., Wyndham South Part at IH 35 at Ben White, Austin. After the opening orientation, all regional forums will be closed sessions. For additional information contact the Texas Academic Skills Program (TASP) office at the Coordinating Board at (512) 462-6485.

Issued in Austin, Texas, on April 19, 1988.

TRD-8804190 James McWhorter
Assistant Commissioner for Planning and
Administration
Texas Higher Education Coordinating Board

Filed: April 25, 1988

For further information, please call (512) 462-6420.



The Regional Forum #6 will meet on Thursday, May 19, 1988, 8:30 a.m. to 12:30 p.m., Wyndham South Park at IH-35 at Ben White Boulevard, Austin. After the opening orientation, all regional forums will be closed sessions. For additional information contact the Texas Academic Skills Program (TASP) office at the Coordinating Board at (512) 462-6485.

Issued in Austin, Texas, on April 19, 1988.

TRD-8804180 James McWhorter
Assistant Commissioner for Planning and
Administration
Texas Higher Education Coordinating Board

Filed: April 25, 1988

For further information, please call (512) 462-6420.



The Faculty Development Committee will meet on Monday, May 9, 1988, 10 a.m. to 4 p.m., Coordinating Board, Room 209, 200 East Riverside Drive, Austin. For additional information contact the Texas Academic Skills Program (TASP) office at the Coordinating Board at (512) 462-6485.

Issued in Austin, Texas, on April 20, 1988.

TRD-8804181 James McWhorter
Assistant Commissioner for Planning and
Administration
Texas Higher Education Coordinating Board

Filed: April 25, 1988

For further information, please call (512) 462-6420.



The Evaluation Committee will meet on Tuesday, May 3, 1988, 10 a.m. to 4 p.m., Coordinating Board's Conference room 255, 200 East Riverside Drive, Austin. For additional information contact the Texas Academic Skills Program (TASP) office at the Coordinating Board at (512) 462-6485.

Issued in Austin, Texas, on April 19, 1988.

TRD-8804182 James McWhorter
Assistant Commissioner for Planning and
Administration
Texas Higher Education Coordinating Board

Filed: April 25, 1988

For further information, please call (512) 462-6420.



The Advisement and Placement Committee will meet on Wednesday, May 4, 1988, 10 a.m. to 4 p.m., Coordinating Board's Conference Room 255, 200 East Riverside Drive, Austin. For additional information contact the Texas Academic Skills Program (TASP) office at the Coordinating Board at (512) 462-6485.

Issued in Austin, Texas, on April 19, 1988.

TRD-8804183 James McWhorter
Assistant Commissioner for Planning and
Administration
Texas Higher Education Coordinating Board

Filed: April 25, 1988

For further information, please call (512) 462-6420.



The Tests and Measurements Committee will meet on Friday, May 6, 1988, 10 a.m. to 4 p.m., Coordinating Board's Conference Room 209, 200 East Riverside Drive, Austin. For additional information contact the Texas Academic Skills Program (TASP) office at the Coordinating Board at (512) 462-6485.

Issued in Austin, Texas, on April 19, 1988.

TRD-8804184 James McWhorter
Assistant Commissioner for Planning and
Administration
Texas Higher Education Coordinating Board

Filed: April 25, 1988

For further information, please call (512) 462-6420.



The Regional Forum #2 will meet on Monday, May 16, 1988, 8:30 a.m. to 12:30 p.m. and 2 p.m. to 6 p.m., Marriott/Greenspoint, 255 North Belt Highway, Houston.

After the opening orientation, all regional forums will be closed sessions. For additional information contact the Texas Academic Skills Program (TASP) office at the Coordinating Board at (512) 462-6485.

Issued in Austin, Texas, on April 19, 1988.

TRD-8804185 James McWhorter
Assistant Commissioner for Planning and
Administration
Texas Higher Education Coordinating Board

Filed: April 25, 1988

For further information, please call (512) 462-6420.

State Purchasing and General Services Commission

Summary of Other State Bidding Preference Laws

The State Purchasing and General Services Commission publishes this summary of other state bidding preference laws in accordance with Texas Civil Statutes, Article 601g(b)(1), which requires the publication of a list of states which have laws or regulations regarding the award of contracts for general construction, improvements, services, or public works projects or purchases of supplies, materials, or equipment to nonresident bidders, together with a citation to and summary of the most recent law or regulation of each state relating to the evaluation of bids from and award of contracts to nonresident bidders.

Alabama

Alabama Code

Sec. 41-4-139 (1987)—Class 2(a), 2(b) and 4 printing, generally official state documents specifically defined in §41-4-131 (1982), must be done in the city of Montgomery.

Sec. 41-16-57 (1987)—Products produced in state or sold by residents preferred in tie bids.

Alaska

Alaska Stat.

Sec. 36.15.050 (1987)—Preference of 7% to agricultural and fisheries products produced or harvested in the state, including timber and lumber, and products manufactured from timber and lumber harvested in the state. Preference is applicable to all purchases using state money, which includes state reimbursement to municipalities and school districts.

Sec. 36.30.332 (1987)—Preference of 3% to Class I products (more than 25% but less than 50% value added in state); 5% to Class II products (more than 50% but less than 75% value added in state); and 7% to Class III products (75% or more value added in the state). Preferences apply to state procurements.

Arizona

Arizona Rev. Stat. Ann.

Sec. 34-241 (1987)—Preference of 5% to contractors who have paid state or county taxes for at least two years, of at least \$200 per year.

Sec. 34-242 (1987)—Preference of 5% to construction materials produced or manufactured in the state.

Sec. 34-243 (1987)—Preference of 5% to construction materials bid by a resident dealer. Preferences apply to state and political subdivision contracts to be paid for from

public funds.

Arkansas

Ark. Stat. Ann.

Sec. 14-293 (1985)—Preference of 5% to firm resident in Arkansas on competitively bid purchases of all commodities by the state and all political subdivisions.

Secs. 14-294 to 14.294.5 (1985)—Preference of 15% to private industries located in the state bidding against out-of-state correctional institutions on sales of products to the state.

California—None

Colorado

Colorado Rev. Stat.

Sec. 8-19-103d—Reciprocal preferences.

Connecticut

Conn. Gen. Stat.

Sec. 4-119 (1988)—Printing contracts must be awarded to firms having a printing establishment in the state.

Delaware—None

Florida

Fla. Stat.

Sec. 287.102 (1987)—Class B printing must be performed in the state.

Georgia

Ga. Code Ann.

Secs. 50-5-60, 50-5-61, 50-5-62 (1986)—Resident and product preferences in tie bids.

Sec. 50-5-63 (1986)—Any contract for construction, addition to, or repair of a facility, to be paid for by the state or a political subdivision must stipulate Georgia forest products will be used, if such products are required and are available. Preferences apply to state and political subdivisions.

Hawaii

Haw. Rev. Stat.

Secs. 103-41, 103-42 (1985)—Preference of 3% to Class I products (i.e., 25-50% value added in state); 5% to Class II products (i.e., 50-75% value added in state) and 10% to Class III products (i.e., 75% or more value added in state). Preferences apply to any expenditure of public funds by a governmental agency, defined as the state and its political subdivisions and a public officer or employee thereof.

Idaho Code

Secs. 60-101, 60-103 (1987)—Preference of 10% to printing, binding, engraving and stationery work performed in the state, for the state unless exception in Sec. 60-103 applies.

Sec. 60-102 (1976)—All county printing, binding, and stationery work for counties must be performed within the county; if proper facilities do not exist to do the work in the county, it must be done within the state unless Sec. 60-103 is applicable.

Sec. 67-5718 (1987)—Product preference in tie bids.

Illinois

Ill. Ann. Stat.

Ch. 29, Sec. 36 (Smith-Hurd 1969)—Preference of 10% to coal mined in the state purchased for fuel by any state

agency or political subdivision.

Indiana

Ind. Code

Sec. 5-17-3-1 (1982)—Public institutions that purchase coal for fuel must purchase coal mined in Indiana unless low-sulphur coal is required by federal regulations.

Iowa

Iowa Code

Sec. 18.6 (1978)—Product and resident preference in tie bids.

Sec. 73.1 (1987)—Products preferred in tie bids.

Sec. 73.6 (1987)—Coal mined or produced in Iowa is given preference of up to 5%.

Sec. 23.21 (1987) Reciprocal preferences. Sec. 18.6 applies to state; remaining provisions apply to state and political subdivisions.

Kansas

Kansas Stat. Ann.

Sec. 75-3740a (1984)—Reciprocal preferences.

Sec. 75-3740(b)—Residents preferred in tie bids.

Kentucky—None

Louisiana

La. Rev. Stat. Ann.

Sec 1595 (West 1988)—Preference of 7% to meat and meat products, seafood or seafood products grown, canned, frozen, or produced in state. Preference of 4% to domesticated catfish grown outside state but processed in state and meat and meat products further processed in state under the state's grading and certification process.

Sec. 1595.2 (West 1988)—Public works contractors reciprocal provision.

Sec. 1595.3 (West 1988)—Preference of 5% to vendors of services to organize or administer rodeo and livestock shows in state-owned facilities.

Sec. 1595.5 (West 1988)—Preference of 5% to Louisiana retail dealers for any public agency retail purchase

Sec. 1595.6 (West 1988)—Preference of 10% to steel rolled in Louisiana.

Maine

Me. Rev. Stat. Ann. tit 26, Sec. 1301 (1974)—Residents preferred on tie bids for public works contracts.

Maryland

Md. State Fin. & Proc. Code Ann. Sec. 11-145 (1987)—Reciprocal preferences.

Massachusetts

Mass. Ann. Law

Ch. 7, Sec. 22(17) (1987)—Products preferred in tie bids.

Michigan

Mich. Comp. Laws Ann.

Sec. 18.1261 (West 1987)—Products and residents preferred on tie bids.

Sec. 24.61 (West 1981)—Printing for state chargeable to state must be performed within the state and bear a local union label.

Minnesota

Minn. Stat.

Sec. 16B.102 (1988)—Reciprocal preferences.

Mississippi

Miss. Code Ann.

Sec. 31-7-15 (1972)—Products preferred in tie bids.

Sec. 31-7-47 (1987)—Reciprocal preferences.

Missouri

Missouri Ann. Stat.

Secs. 34.070 (Vernon 1969)—Residents and products preferred in tie bids.

Sec. 34.076 (Vernon 1988)—Reciprocal preferences. Preferences apply to state and political subdivisions.

Montana

Mont. Code Ann.

Secs. 18-1-101, 18-1-102, 18-1-103 (1987)—Preference of greater of 3% or the reciprocal preference to resident bidder for construction, repair, or public works contracts of state agencies and political subdivisions. Preference of 5% to resident bidders offering Montana made goods; or 3% to any bidder offering Montana made goods over resident bidder offering non-Montana made goods.

Nebraska

Neb. Rev. Stat.

Sec. 73-101 01 (1986)—Reciprocal preferences.

Nevada—None

New Hampshire—None

New Jersey

N.J. Stat. Ann.

Sec. 52:32-1.4 (1986)—Reciprocal preferences.

Sec. 52:36-3 (1986)—Printing for state must be performed in the state.

New Mexico

N.M. Stat. Ann.

Secs. 13-4-1, 13-4-2 (1985)—All governmental entities have duty to award public works construction contracts to resident contractors whenever practicable. Preference of 5% to resident contractors.

Sec. 13-1-21 (1985)—Preference of 5% to resident manufacturers and resident businesses.

Sec. 13-1-22 (1985)—Businesses and manufacturers must be precertified as resident firms before being given a preference.

New York—None

N. Carolina

N.C. Gen. Stat.

Sec. 143.59 (1987)—Residents preferred on tie bids

N. Dakota

N. Dakota Century Code

Sec. 44-08-01 (1987)—Reciprocal preferences.

Ohio

Ohio Rev. Code Ann.

Sec. 125.11 (1988)—Contracts are awarded for products produced or mined in Ohio if there is sufficient competition to insure against excessive price or inferior quality.

Sufficient competition is deemed to exist with two or more qualified bids offering Ohio produced or manufactured products. Preferences are mandatory on state but optional for political subdivisions.

Sec. 153 012 (1983)—Reciprocal preferences on construction contracts.

Oklahoma

Okla. Stat.

tit. 74 Sec. 85.32 (1987)—Preference of 5% to products grown, produced or manufactured in state, unless a reciprocal preference applies. Preference is applicable to contracts of the state and its political subdivisions.

Oregon

Or. Rev. Stat.

Sec. 282.210 (1987)—Printing, binding and stationery work for the state or political subdivisions must be performed within the state unless it cannot be done, the price is higher than that customarily charged private persons, or all bids are excessive.

Sec. 279.021 (1987)—Products preferred in tie bids.

Pennsylvania

72 P.S. Sec. 203 (1962)—Reciprocal prohibition.

Rhode Island—None

S. Carolina

S.C. Code Ann.

Sec. 11-35-1520 (1987)—Residents and products preferred in tie bids. Preference of 2% to residents on procurements under \$2 million, and 1%, over \$2 million. Preferences are applicable to state and political subdivision contracts, but do not apply to construction contractors, subcontractors or to procurements, regardless of total amount, if any individual item is more than \$10,000.

S. Dakota

S.D. Codified Laws Ann.

Sec. 5-19-3 (1987)—Reciprocal preferences. Bureau of Administration must maintain list of other state preference laws.

Sec. 5-23-13 (1985)—Residents and products preferred in tie bids.

Tennessee—None.

Texas

Tex. Rev. Civ. Stat. Ann.

Art. 601b, Sec. 3.28 (Vernon 1988)—Residents and products grown in state preferred in tie bids.

Art. 601g (Vernon 1988)—Reciprocal preference. State Purchasing and General Services Commission must publish list of other state preference laws at least annually. Art. 601b applies to state agencies only; Article 601g applies to state agencies and political subdivisions.

Utah

Utah Code Ann.

Sec. 63-56-20.5 (1986)—Residents preferred by matching low non-resident bid.

Vermont

Vt. Stat. Ann.

tit 6, ch 207, Sec. 4601 (1987)—Resident products preferred in tie bids.

Virginia

Va. Code Ann.

Sec. 11-47 (1985)—Residents preferred in tie bids; reciprocal preferences.

Sec. 11-47.1 (1987)—Preference of 4% to coal mined in state purchased for use in state facilities with state funds.

Washington—None

W. Virginia

W. Va. Code

Sec. 5A-3-44 (1987)—Preference of 2% to resident bidders for state commodities and printing contracts. Same preference may be granted by political subdivisions at their option.

Sec. 5A-3-45 (1987)—Reciprocal preferences.

Wisconsin

Wisconsin Stat. Ann.

Secs. 16.75 and 16.855 (1986)—Residents and products preferred on tie bids.

Wyoming

Wyo. Stat.

Sec. 16-1-101 et seq. (1987)—Preference of 5% to (1) resident contractors; (2) supplies, materials, equipment or provisions produced, manufactured or grown in the state offered by residents.

Sec. 16-6-301 (1982)—Preference of 10% to resident bidders for public printing. Preferences apply to state agencies and political subdivisions.

Issued in Austin, Texas, on April 22, 1988.

TRD-8804115

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

Filed: April 22, 1988

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

Railroad Commission of Texas Correction of Error

The Railroad Commission of Texas submitted an adopted amendment which contained an error as published in the April 19, 1988, issue of the *Texas Register* (13 TexReg 1911).

For \$5,459, the effective date for the adopted amendment should read: "Effective date: May 2, 1988".

Texas Savings and Loan Department Notice of Change of Control Application of Sabine Valley Savings and Loan Association

Section 11.20 of Texas Civil Statutes, Article 852a, requires any person who intends to acquire control of a state-chartered savings and loan association to file an application with the Savings and Loan Commissioner for approval of the transaction. A hearing may be held if the application is denied by the Commissioner.

On April 15, 1988, the Savings and Loan Commissioner

received an application for approval of the acquisition of control of Sabine Valley Savings and Loan Association, Center, Shelby County Texas, by Suncountry Resorts, Inc. (Joe R. Kennard, Edward R. Babenco, Mitchell Trainer, and James Douglas Turner).

Any inquiries may be directed to the Texas Savings and Loan Department.

Issued in Austin, Texas, on April 20, 1988.

TRD-8804068 Laura M. Hale
 General Counsel
 Texas Savings and Loan Department

Filed: April 20, 1988

For further information, please call (512) 479-1250.

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Public Utility Commission of Texas

Correction of Error

The Public Utility Commission of Texas submitted a proposed amendment which contained an error as published in the April 15, 1988, issue of the *Texas Register* (13 TexReg 1749).

In §23.3, the last two sentences to subparagraph (i)(3)(I) should read: "In any event, any of the parties to the joint filing may withdraw the joint filing without prejudice at any time prior to the rendition of the final order. Any alteration or modification of the joint filing by the commission may only be made upon the agreement of all parties."

◆ ◆ ◆

Texas Water Commission

Notice of Application For Waste Disposal Permit

Notice is given by the Texas Water Commission of public notices of waste disposal permit applications issued during the period of April 11-15, 1988.

No public hearing will be held on these applications unless an affected person has requested a public hearing. Any such request for a public hearing shall be in writing and contain the name, mailing address, and phone number of the person making the request; and a brief description of how the requester, or persons represented by the requester, would be adversely affected by the granting of the application. If the Commission determines that the request sets out an issue which is relevant to the waste discharge permit decision, or that a public hearing would serve the public interest, the Commission shall conduct a public hearing, after the issuance of proper and timely notice of the hearing. If no sufficient request for hearing is received within 30 days of the date of publication of notice concerning the applications, the permit will be submitted to the Commission for final decision on the application.

Information concerning any aspect of these applications may be obtained by contacting the Texas Water Commission, P.O. Box 13087, Capitol Station, Austin, Texas 78711, Telephone (512) 463-7905.

Listed are the name of the applicant and the city in which the facility is located, type of facility, location of the facility, permit number, and type of application—new permit, amendment or renewal.

City of Gatesville; wastewater treatment facilities; south of the City of Gatesville, on the north bank of the Leon River, at a point approximately eight blocks south of Main

Street in Coryell County; 10176-01; renewal.

Town of Buckholts; sewage treatment plant; on the north side of Town of the Buckholts, approximately 1,600 feet northeast of United States Highway 190, approximately 1,000 feet east of FM Road 1915 in Milam County; 11875; renewal.

Murphy Management, Inc. doing business as Frank W. Murphy Management, Inc., Rosenberg; wastewater treatment facilities; approximately 900 feet west of Random-Dyer Road and approximately 700 feet north of United States Highway 90A west of the City of Rosenberg in Fort Bend County; 12437-01; renewal.

Gifford-Hill Cement Company of Texas, Midlothian; cement processing plant; north of the City of Midlothian, adjacent to GIFCO Road two miles west of United States Highway 67 in Ellis County; 02427; renewal.

Del Lago Estates Utility Company, Houston; sewage treatment plant; east of Walden Road, approximately one mile north of State Highway 105 in Montgomery County; 12686-01; renewal.

Patrick D. George, Conroe; wastewater treatment facilities; approximately 500 feet south of State Highway 105, approx 1.4 miles east-southeast of the intersection of April Sound and State Highway 105 in Montgomery county; 12634-01; renewal.

Elysian Fields Independent School District, Elysian Fields; wastewater treatment facilities; adjacent to FM Road 451, at a point approximately two miles east of the intersection of State Highway 31 and FM Road 451 in Harrison County; 12663-01; renewal.

City of Frisco; wastewater treatment facilities; approximately 2,500 feet south of FM Road 720 and immediately west of the St. Louis-San Francisco Railroad in Collin County; 10172-01; renewal.

Derl and Taos Cribbs, Dalhart; wastewater treatment facilities; approximately five miles southwest of the City of Dalhart, north of FM Road 694 and approximately 1.2 miles west of the junction of FM Road 694 and United States Highway 54, Hartley County; 02980; new.

Pennzoil Sulphur Company, Galveston; sulphur storage and shipping facility; in the 4500 block of Port Industrial Boulevard in the City of Galveston, Galveston County; 01634; renewal.

Niles City Cattle Company, doing business as Fort Worth Stockyards, Fort Worth; sedimentation basins at a livestock auction; at the corner of North Main and Exchange Avenue in the city of Fort Worth, Tarrant County; 02060; renewal.

Harris County Municipal Utility District Number 250, Houston; wastewater treatment plant; on the west bank of Horsepen Creek approximately 1.3 miles southeast of the intersection of State Highway 6 and FM Road 529 in Harris County; 12685-01; renewal.

J.M. Tipps, Managing Partner, Point West, A Texas Joint Venture, Houston; sewage treatment plant; on the north side of Neb Road and the west side of Fry Road in Harris County; 12189-01; renewal.

Cameron Forge Company, Cypress Steel Mill, Cypress; cypress steel mill; at 22301 Hempstead Highway (United States Highway 290) near the town of Cypress, Harris County; 01402; renewal.

City of Anthony; wastewater treatment facilities; approximately 2,000 feet west of State Highway 20 and 4,000 feet south of FM Road 1905 in El Paso County; 10120-01; renewal.

City of Mission; wastewater treatment facilities; south of the City of Mission, on the west side of FM Road 1016, approximately 1,000 feet south of its intersection with United States Highway 83 in Hidalgo County; 10484-01; renewal.

L. H. Homan, Jr., Houston; wastewater treatment facilities; approximately 1,000 feet west of Red Bluff Road crossing Taylor Lake Bayou; 2,000 feet east of the intersection of Red Bluff Road and Kirby Road in Harris County; 13382-01; new.

Jusryn Company, Inc., Granbury; wastewater treatment facilities; approximately one mile northeast of the intersection of State Highway 208 and United States Highway 377 and east of the City of Granbury in Hood County; 13430-01; new.

Aledo Independent School district, Aledo; wastewater treatment facilities; approximately one mile southwest of the intersection of IH-20 and FM Road 1187; 4,500 feet west-northwest of the intersection of FM Road 1187 and County Road 4001 (Old Bankhead Highway) in Parker County; 13438-01; new.

Aurora Capital Group, Ltd., Dublin; dairy operation; two miles northwest of State Highway 377, approximately 2.5 miles west of the City of Dublin; in Erath County; 02946; new.

Kenaf International, Kenaf Rio Grande, McAllen; pulp-newsprint mill; south of La Sal Vieja and north of State Highway 186, Willacy County; 02983; new.

Jacob Brothers Ranch, Inc., Carmine; laying hen operation; approximately 3,000 feet north-northwest of the intersection of United States Highway 290 and State Highway Spur 458 (City of Carmine) in Fayette County; 02929; new.

James E. Petersen, Houston; wastewater treatment facilities; approximately 7,500 feet west of the intersection of United States Highway 290 and FM Road 529 and south of the intersection of Fairview Road and FM Road 529 in Harris County; 12398-01; amendment.

City of Greenville, Peniel; steam electric station; east of State Highway 69, approximately .75 mile north of the Town of Peniel, Hunt County; 02984; new.

Double Diamond, Inc., Dallas; sewage treatment plant; adjacent to Lake Granbury, approximately two miles northeast of the intersection of FM Road 2425 and FM Road 3210 in Walters Bend in Hood County; 12480-01; renewal.

South Austin Growth Corridor MUD Number One, Austin; wastewater treatment facilities; approximately 3/4 mile east and one mile south of the intersection of Manchaca Road and Slaughter Lane in Travis County; 12973-01; renewal.

Texas Utilities Mining Company, Athens; lignite mining areas; within a 20 mile radius of Forest Grove Reservoir, approximately seven miles northwest of the City of Athens, Henderson County; 02698; renewal.

West Harris County Municipal Utility district Number 10, Houston; wastewater treatment plant; at 9606 Rio Grande Street, approximately 3/4 mile east of Janoe Road, on the north bank of White Oak Bayou, 1,300 feet north of the intersection of West Road and Rio Grande Street in Harris County; 12171-01; renewal.

Dowdell Public Utility District, Houston; wastewater treatment facilities; approximately one mile east of FM Road 2920 and approximately seven miles west of IH 45 in the northwest quadrant of the intersection of Kuykendahl

Road and Dowdell Road in Harris County; 11404-01; renewal.

James M Easterling, Houston; treatment plant; approximately 340 feet northwest of the intersection of United States Highway 290 and Guhn Road and approximately 3.75 miles southeast of the intersection of United States Highway 290 and FM Road 529 in Harris County; 12690-01; renewal.

City of Jacinto City, Houston; wastewater treatment plant; just southeast of the Market St. Bridge over Hunding Bayou in Jacinto City in Harris County; 10195-01; renewal.

The Fluorocarbon Company, Houston; wastewater treatment facilities; in the southwest corner of an industrial park on Clark-Williams Road, south of United States Highway 90, approximately 1/2 mile west of South Lake Houston Parkway in Harris County; 11923-01; renewal.

City of Jefferson; surface water treatment plant; at the corner of Soda Street and Austin Street in the City of Jefferson, Marion County; 10801-02; renewal.

Aldine Independent School District, Houston; wastewater treatment plant; at 13800 Chrisman Road in Harris County; 12070-02; renewal.

Edward I. Shieh, Houston; wastewater treatment facilities; approximately 200 feet west of IH 45 and approximately 800 feet south of Northville Road in Harris County; 12610-01; renewal.

City of Morton; treatment facilities; approximately one mile northeast of State Highway 214 and FM Road 1780, northeast of the City of Morton, Cochran County; 10226-01; amendment.

E. I. Du Pont De Nemours and Company, Victoria Plant, Victoria; wastewater treatment facilities; one mile west of the intersection of FM Road 1686 with FM Road 404, approximately eight miles south of the City of Victoria, Victoria County; 00476; amendment.

City of Tolar; wastewater treatment facilities; approximately 1/4 mile south of United States Highway 377 and 1/5 mile west of FM Road 201 on the south side of Squaw Creek in the City of Tolar in Hood County; 11265-01; renewal.

Universal Savings Association, Houston; automatic car wash; on the south side of North Park Drive and 1.5 miles east of United States Highway 59, Montgomery County; 02642; renewal.

Trey Corporation of Vivian, Mt. Pleasant Refinery, Mt. Pleasant; refinery; south of FM Road 899, at the west city limits of the City of Mt. Pleasant, Titus County; 00378; renewal.

Craig Penfold doing business as Village Oaks Mobile Home Community, Flower Mound; wastewater treatment facilities; approximately 500 feet east of FM Road 2499 and 1,000 feet north of the Denton-Tarrant County Bounday in Denton County; 12667-01; renewal.

Texas Department of Corrections, Huntsville; wastewater treatment plant; on Smither's Farm Road, outside the southeast corner of the security compound of the Ellis II Unit; approximately two miles north of the intersection of the FM Road 980 and Turkey Creek in Walker County; 11180-02; renewal.

Reagent Chemical and Research, Inc., Texas City; chemical reclamation plant; in the Texas City Terminal Railway yard on 6th Street in the City of Texas City, Galveston County; 01396; renewal.

W. F. Meads, Jr., College Station; restaurant; one mile southwest of the intersection of FM Road 60 with FM Road 2818 in the City of College Station, Brazos County; 02641; renewal.

Needville Independent School District, Needville; wastewater treatment facilities; approximately three miles southeast of the City of Needville on State Highway 36 between the intersections of Roesler Road and Danhouse Road with Highway 36 in Ft. Bend County; 12010-01; renewal.

Stagecoach Properties, Inc., Salado; wastewater treatment facilities; southeast of the intersection of Salado Creek and IH 35 and north of FM Road 2268 in the City of Salado, Bell County; 10884-01; renewal.

Tom Lorance, Conroe; wastewater treatment facilities; northwest of the Montgomery County Airport, at a point approximately 1,000 feet west of FM Road 1484 and four miles north of the City of Conroe, Montgomery County; 11937-01; renewal.

National Pipe and Tube Company, Inc., Liberty; plant manufacturing steel pipes and tubes; at FM Road 3361 in the City of Liberty, Liberty County; 02017; renewal.

Williamson County Municipal Utility District Number 9, Austin; package plant; approximately 1,000 feet north of FM Road 1431 and 2,000 feet northeast of the intersection of FM 1431 and Sam Bass Road (County road 175) in Williamson County; 12424-01; new.

Tedd F. Richardson, Socorro; sewage treatment plant; at the eastern edge of the Socorro Center, which is at the northeast corner of the intersection of South Horizon and Alameda Streets in the City of Socorro, El Paso County; 13410; new.

City of Gainesville; wastewater treatment facilities; on the east bank of the Elm Fork of the Trinity river and approximately 1.5 miles south of the intersection of IH 35 and FM Road 51 in Cooke County; 10726-01; renewal.

Harris County Fresh Water Supply District #61; wastewater treatment facilities; on the southern bank of White Oak Bayou, approximately 2,000 feet north of FM Road 1960 and approximately 6,000 feet east of Huffmeister Road in Harris County; 10876-02; renewal.

Shintech Inc., Clute; polyvinyl chloride plant; at 5618 Highway 332 East, approximately midway between State Highway 288 and FM Road 523, about three miles southeast of the City of Clute, Brazoria County; 01871; renewal.

City of Kilgore; wastewater treatment facilities; approx 1/4 mile east and 1/2 mile north of the intersection of United States Highway 259 and FM Road 2204 in the City of Kilgore in Gregg County; 10201-01; renewal.

City of New Braunfels, New Braunfels Utilities; wastewater treatment facilities; approximately 700 feet southwest of the crossing of Gruene Loop Road over the Guadalupe River in Comal County; 10232-02; amendment.

Union Carbide Corporation, Seadrift Plant, Seadrift; plant manufacturing various chemicals and thermoplastic resin; on the east side of State Highway 185, approximately 8,000 feet south of its intersection with State Highway 35 and approximately eight miles north of the City of Seadrift, Calhoun County; 00447; amendment.

Texas Utilities Mining Company, Mt. Pleasant; mining area; approximately one mile south of FM Road 127 and five miles southwest of the City of Mt. Pleasant, Titus County; 02697; renewal.

Paul E. Orlando doing business as Ed-Lou Mobile Home Park, Cypress; sewage treatment plant; at 15110 Grant

Road on the southern bank of Faulkey Gully, approximately 800 feet northeast of Grant Road and approximately 600 feet west of Shaw Road in Harris County; 12600-01; renewal.

Cypress Fairbanks Independent School District, Houston; wastewater treatment facilities; on the grounds of Cy-Fair High School, southwest of the intersection of Cypress-North Houston Road and Tegla Road in Harris County; 10867-02; renewal.

Houston Chronicle Publishing Company, Houston; wastewater treatment facilities; on Old Katy Road, at a point approximately 3,000 feet east of State Highway 6 in Harris County; 12460-01; renewal.

Tubular Fiber Glass Company, Inc., Houston; wastewater treatment facilities; on 11811 Proctor Road, approximately 500 feet north of FM Road 149 and approximately 450 feet west of Proctor Road in Harris County; 12581-01; renewal.

City of Galveston; wastewater treatment facilities; approximately 4,200 feet northeast of the San Luis Toll Bridge, approximately 2,000 feet north-northwest of FM Road 3005 (Termini-San Luis Pass Road), approximately 23.5 miles southwest of the City of Galveston in Galveston County; 10688-06; renewal.

City of Krum; wastewater treatment facilities; approximately .6 mile southwest of the intersection of FM Roads 1173 and 156 and approximately 1.5 miles north of the intersection of FM Road 156 and United States Highway 380 in the City of Krum in Denton County; 10729-01; renewal.

Brookhollow Development Corporation, Orange; wastewater treatment facilities; approximately 4,400 feet northwest of the intersection of State Highway 105 and FM Road 1131 in Orange County; 11967-01; renewal.

Texas State Department of Highways and Public Transportation, Dallas; sewage treatment plant; along and within the right-of-way of IH-35 East, at a point approximately 1.4 miles north of FM Road 329 in Ellis County; 11959-01; renewal.

City of Point; surface water treatment plant; just east of the concrete spillway between the Lake Tawakoni earthen dam and Farm/Ranch Road 47 in Rains County; 02502; renewal.

Texas State Department of Highways and Public Transportation, Atlanta; wastewater treatment facilities; on the right-of-way of IH-30, at a point one mile west of FM Road 990 in Bowie County; 11987-01; renewal

West Point-Pepperell, Inc., Iselin Mill; new Braunfels; textile mill; between McQueeney Road and the Guadalupe river, bounded on the south by the Comal Guadalupe County line and on the north partially by the City of new Braunfels' wastewater treatment plant, Comal County; 01216; renewal.

Fred C. Cage Development, Inc., Odessa; wastewater treatment facilities; approximately 375 feet south-southeast of the intersection of West 16th Street and Tessco right-of-way, approximately 2,250 feet west-southwest of Moss Avenue and West 16th Street, Ector County; 12539-01; renewal.

Norman and Charlie Bentley, Merkel; settling basin and holding pond system; north of the City of Merkel, two miles east of FM Road 126 on Taylor County Road 408 in Jones County; 02996; new.

E. C. Joint Venture Number 1, Austin; wastewater treatment facility; adjacent to O'Connor Drive and approxi-

mately three miles southwest of the intersection of Ranch Road 620 and IH 35 in Williamson County; 13423-01; new.

George W. Cobb, Pearland; sewage treatment plant; approximately 2,000 feet east of State Highway 288 and 1,000 feet south of Fellows Road in Harris County; 12669-01 ;renewal.

Orange County Water Control and Improvement District Number 2, Orange; wastewater treatment plant; in West Orange at 1600 Western Avenue, approximately 450 east-northeast of the intersection of Western Avenue and Albany Street in Orange County; 10240-01;renewal.

West Montgomery Utilities Company, Houston; wastewater treatment facilities; southwest of the intersection of Bonazzi Boulevard and Stallings Drive, approximately 3,750 feet west of West Montgomery Road, northwest of

the City of Houston in Harris County; 11005-01; renewal. Bleacher Realty Company, Houston; wastewater treatment facilities; at 520 Gulf Bank Road, approximately 1,300 feet east of Airline Drive in Harris County; 12555-01; renewal.

Doty Sand Pit Venture, Doty Landfill, Houston; landfill; at 12000 Bissonnet in the City of Houston, Harris County; 02942; new.

Issued in Austin, Texas, on April 15, 1988.

TRD-8804070

Karen A. Phillips
Chief Clerk
Texas Water Commission

Filed: April 20, 1988

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





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GERARD L. CAFESJIAN
 Vice President
 Marketing and Sales

Dear Texas Register Subscriber,

We at West Publishing are very pleased to announce that we have signed an agreement with the state of Texas to publish the Official Texas Administrative Code (TAC). Texas Secretary of State Jack Rains, in his February news release, said, "I am pleased to see a company with West's credentials and experience undertaking this job. Texans deserve to have access to the state's constantly changing rules and regulations. They cannot afford to wait more than a year for updates."

With West as the official publisher of the TAC, you will not have to wait more than a year for updates; we plan on supplementing the TAC as often as necessary to keep you current. In addition to regular updates, the West Official TAC will continue to be supplemented twice each week by the Texas Register.

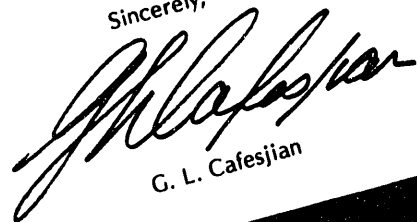
As this letter is being written, the following TAC titles are being scheduled for publication:

- Title 1 Administration
- Title 7 Banking and Securities
- Title 16 Economic Regulation
- Title 19 Education
- Title 25 Health Services
- Title 28 Insurance
- Title 31 Natural Resources and Conservation

We will be publishing the TAC in softbound pamphlet form, which is much easier to use and maintain than a looseleaf service. If you've ever subscribed to a looseleaf service, you know how easily material can be misfiled or important information can be discarded. And you know how expensive it can be! West also plans to immediately add a workable index.

We will be notifying you in the very near future as to the exact publication dates and prices of the TAC. We look forward to fulfilling your needs for accurate, easy-to-use and timely Texas Administrative Code Titles and updates. Please feel free to contact Myrna Currier at 1-800-328-9352 with any comments or questions that you might have.

Sincerely,


 G. L. Cafesjian