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Texas Register

Volume 13, Number 41, May 27, 1988

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Texas Register

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

Governor—appointments, executive orders, and proclamations

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

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

Proposed Sections—sections proposed for adoption

Withdrawn Sections—sections withdrawn by state agencies from consideration for adoption, or automatically withdrawn by the *Texas Register* six months after proposal publication date

Adopted Sections—sections adopted following a 30-day public comment period

Open Meetings—notices of open meetings

In Addition—miscellaneous information required to be published by statute or provided as a public service

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

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

In order that readers may cite material more easily page numbers are now written as citations. Example: on page 2 in the lower left-hand corner of the page, would be written: "13 TexReg 2 issue date," while on the opposite page, page 3, in the lower right-hand corner, would be written "issue date 13 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 using *Texas Register* indexes, the *Texas Administrative Code*, sections number, or TRD number.

Texas Administrative Code

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

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

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

TAC stands for the *Texas Administrative Code*;

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



Texas Register Publications

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Subscriptions—one year (96 regular issues), \$80; six months (48 regular issues and two index issues), \$60. Single copies of most issues are available at \$3 per copy.

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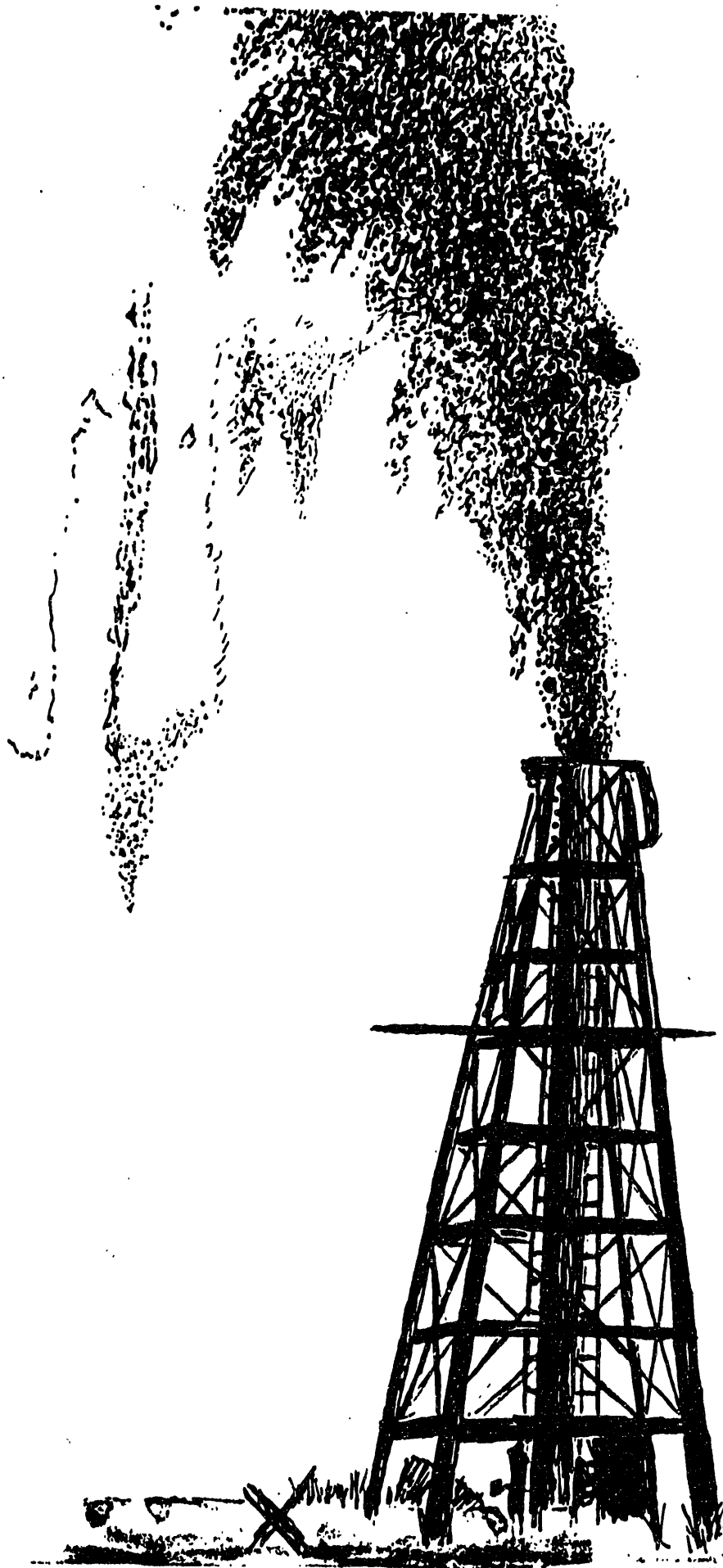
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Name: Paul Smith
Grade: 11
School: Marshall High, Marshall

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 May 16, 1988

To be a member of the Texas State University System Board of Regents for a term to expire February 1, 1993: George William Worth, 17910 IH 10 West, San Antonio, Texas 78257. Mr. Worth will be filling the unexpired term of Jeff Wentworth who resigned.

To be a member of the Texas Committee on Purchases of Products and Services of Blind and Severely Disabled Persons for a term to serve at the pleasure of the governor: Gibson M. DuTerroil, P.O. Box 13435, Houston, Texas 77219.

To be chairman of the Texas Juvenile Probation Commission for a term to expire August 31, 1988: Jane Allman Wetzell, 3311 Beverly Drive, Dallas, Texas 75205.

To be chairman of the Texas Rehabilitation Commission for a term to serve at the pleasure of the governor: Jerry Kane, P.O. Box 9254, Corpus Christi, Texas 78408.

To be chairman of the State Commission on Human Rights for a term to serve at the pleasure of the governor: Rae Schollmaier, 3904 Arlan Lane, Fort Worth, Texas 76109.

To be a member of the Texas Industrialized Building Code Council for a term to expire February 1, 1990: Karen A. Barrett, P.O. Box 1700, Houston, Texas 77373. Ms. Barrett will be replacing Charles Kieffer of Dallas whose term expired.

To be a member of the Energy Resources Committee of the Interstate Oil Compact Commission for a term to serve at the pleasure of the governor: Herman Loeb, 812 Challenger, Austin, Texas 78734.

To be a member of the Enhanced Recovery Committee of the Interstate Oil Compact Commission for a term to serve at the pleasure of the governor: Gail Watkins, P.O. Box 12967, Austin, Texas 78711.

To be a member of the Legal Committee of the Interstate Oil Compact Commission for a term to serve at the pleasure of the governor: Auburn Mitchell, Governor's

Office, 205 Sam Houston Building, Austin, Texas 78711.

To be a member of the Texas Structural Pest Control Board for a term to expire August 30, 1989: Rayford G. Kay, 10015 Warwana, Houston, Texas 77080. Mr. Kay will be replacing Jim Burns of Alial whose term expired.

To be a member of the Produce Recovery Fund Board for a term to expire January 31, 1989: Steven L. Weltman, 2990 Richmond, Suite 210, Houston, Texas 77098. Mr. Weltman is being appointed to a vacant position on the board.

To be a member of the San Jacinto Historical Records Advisory Board for a term to expire September 1, 1993: Cecil D. Ghormely, 18096 Kings Row, Suite B, Houston, Texas 77058. Mr. Ghormely will be replacing Lennie Hunt of Houston whose term expired.

To be a member of the On-Site Wastewater Treatment Research Council for a term to expire September 1, 1989: Robert L. Morriss, P.O. Box 1688, Cedar Park, Texas 78613. Mr. Morriss is being appointed pursuant to House Bill 32, 70th Legislature.

To be a member of the Brazos River Authority Board of Directors for a term to expire February 1, 1993: James F. Wood, City Manager, City of Woodway, 200 Sharron, Woodway, Texas 76112. Mr. Wood will be filling the unexpired term of Gary Wood of Waco who resigned.

To be a member of the Rio Grande Valley Municipal Water Authority Board of Directors for a term to expire April 30, 1990: Sylvia H. Flores, 949 South Georgia, Mercedes, Texas 78570. Mrs. Flores is being reappointed.

To be a member of the Rio Grande Valley Municipal Water Authority Board of Directors for a term to expire April 30, 1990: Charles Caesar Cardenas, 1209 West Pecan, McAllen, Texas 78501. Mr. Cardenas is being reappointed.

To be a member of the State Board of Medical Examiners District One Review

Committee for a term to expire January 15, 1994: Clara Hubert Haney, Haney and Associates, 8031 Airport Boulevard, Suite 214, Houston, Texas 77061. Mrs. Haney is being appointed to a new position on the committee.

To be a member of the Texas Committee on Purchases of Products and Services of Blind and Severely Disabled Persons for a term to expire January 31, 1989: Gibson M. DuTerroil, The Lighthouse of Houston, 3530 West Dallas, Houston, Texas 77219. Mr. DuTerroil is being reappointed.

To be a member of the State Committee on Examiners for Speech Pathology and Audiology for a term to expire August 31, 1993: Sandra Carson Waters, The Education Clinic, 7670 Woodway, Suite 200, Houston, Texas 77063. Mrs. Waters will be replacing Dr. Mary Wood of Austin whose term expired.

To be a member of the Lavaca-Navidad River Authority Board of Directors for a term to expire May 1, 1993: R. Don Sachtleben, P.O. Box 833, Edna, Texas 77957. Mr. Sachtleben will be replacing Joe Bonnot of Lolita whose term expired.

To be a member of the Rio Grande Valley Municipal Water Authority Board of Directors for a term to expire April 30, 1990: John W. Topp, 802 East Harrison, Harlingen, Texas 78550. Mr. Topp is being reappointed.

To be a member of the State Rural Medical Education Board for a term to expire February 27, 1994: Sam A. Nixon, M.D., P.O. Box 20367, Houston, Texas 77025. Dr. Nixon is being reappointed.

To be a member of the Texas Diabetes Council for a term to expire February 1, 1990: Lily Mae Fonteno, 2215 Cleburne, Houston, Texas 77004. Ms. Fonteno will be replacing Jacqueline Colvill of Houston whose term expired.

Issued in Austin, Texas on May 16, 1988.

TRD-8805085

William P. Clements, Jr.
Governor of Texas





Name: Shauna Clay
Grade: 9
School: Pemberton High, Marshall

Attorney General

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

Opinions

JM-901 (RQ-1385). Request from Mike Driscoll, Harris County Attorney, Houston, concerning whether the Harris County Bail Bond Board is authorized to regulate licensed attorneys who execute bail bonds for criminal defendants.

Summary of Opinion. The Harris County Bail Bond Board does not have the authority to require attorneys to comply with Texas Civil Statutes, Article 2372p-3, when the attorney has executed a bail bond or acted as a surety for a person the attorney is actually representing in a criminal case. Nor is such board authorized to regulate an agency in gathering, reviewing, and reporting information to a court that may have a bearing on whether an accused is entitled to a personal bond under Texas Civil Statutes, Article 2372p-2. TRD-8805181

JM-902 (RQ-1253). Request from D.C. Jim Dozier, Montgomery County Attorney, Conroe, concerning what constitutes an improvement district for purposes of Texas Civil Statutes, Article 1667.

Summary of Opinion. The provisions of Texas Civil Statutes, Article 1667, do not apply to an emergency communication district, a hospital district, or a rural fire prevention district. These districts are not "improvement districts" within the meaning of Texas Civil Statutes, Article 1667.

The Local Government Code, §84.021, and Texas Civil Statutes, Article 1672, entitle a county to reimbursement from special districts for the salaries of such additional assistant auditors as may be required to perform the duties imposed by Article 1667. TRD-8805182

JM-903 (RQ-1390). Request from Bob Bullock, Comptroller of Public Accounts,

Austin, concerning the authority of Racing Commission members to delegate duties, and authority of Racing Commission to contract with Texas Veterinary Medical Diagnostic Laboratory.

Summary of Opinion. The comptroller's chief clerk may perform the comptroller's duties as ex officio member of the Racing Commission if the comptroller is unavoidably absent or otherwise unable to discharge those duties. In such a situation the chief clerk may vote and should be counted in determining whether a quorum is present. Members of the Racing Commission may not delegate their duties as members of the commission. The chief clerk is authorized to act in the comptroller's absence by virtue of statutory authority, not by virtue of delegation.

The Racing Commission has no authority to spend money to develop a laboratory to perform drug testing, and the commission has no authority to contract with the Texas Veterinary Medical Diagnostic Laboratory to develop a laboratory to perform drug testing. The commission may approve an accredited laboratory other than the Texas Veterinary Medical Diagnostic Laboratory to perform drug testing, but the Texas Veterinary Medical Diagnostic Laboratory must also approve the laboratory. TRD-8805184

Requests for Opinions

(RQ-1427). Request from Hugh Parmer, Chairman, Senate Committee on Intergovernmental Relations, Austin, concerning the constitutionality of Texas Civil Statutes, Article 601h, requiring payment of a \$10 fee to dismiss proceedings for failure to maintain proof of financial responsibility. TRD-8805185

(RQ-1428). Request from Roy Blake, Presi-

dent Pro Tempore, Senate of the State of Texas, Austin, concerning liability of trustees of the Stephen F. Austin University Foundation. TRD-8805186

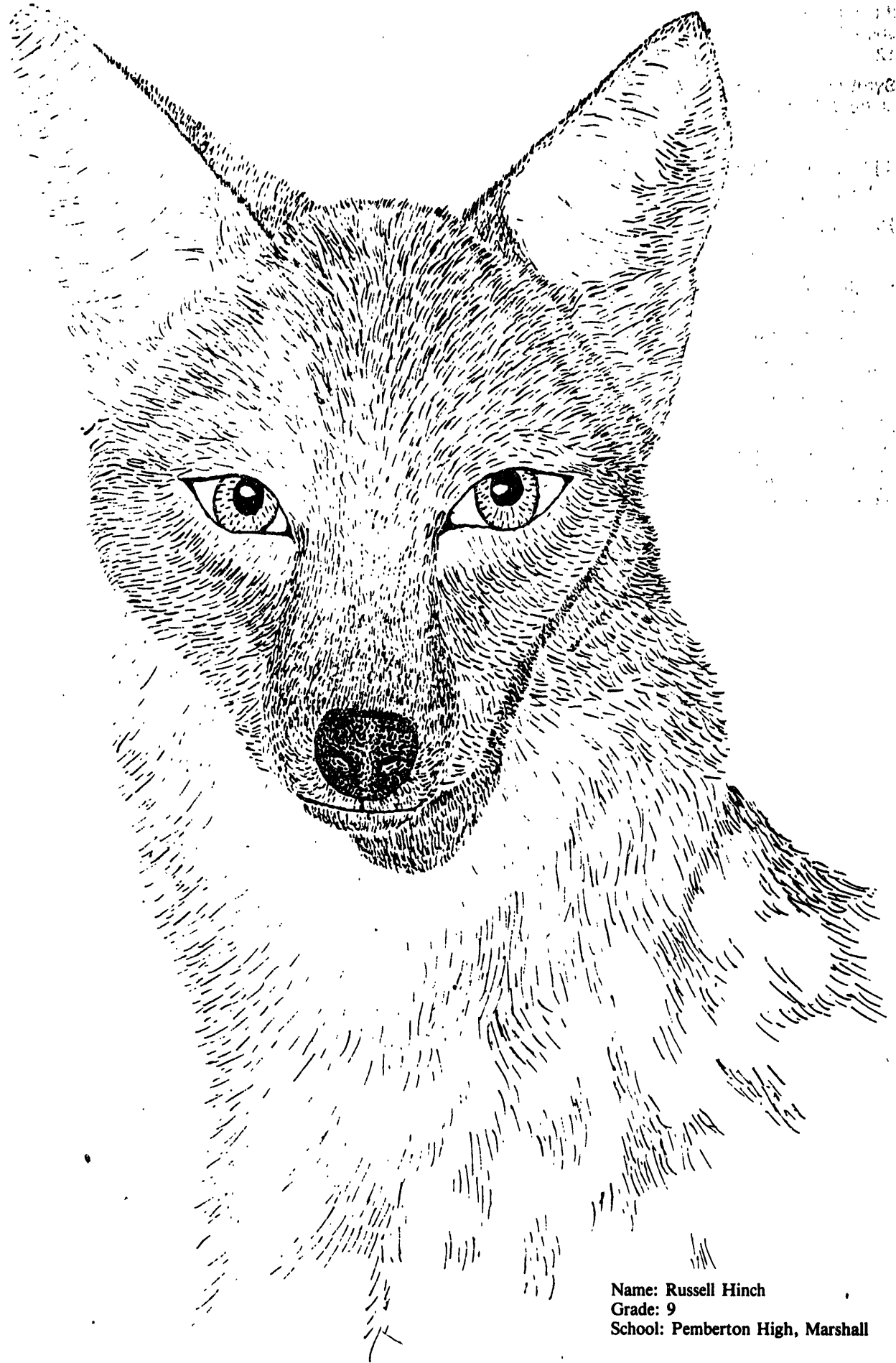
(RQ-1429). Request from Jerry Cobb, Criminal District Attorney, Denton, concerning eligibility of certain former district judge for assignment. TRD-8805187

(RQ-1430). Request from John D. Hughes, Office of the County Attorney, Granbury, concerning the authority of a county judge under the Texas Code of Criminal Procedure, Article 45.54, to defer adjudication in cases appealed from justice or municipal court. TRD-8805188

(RQ-1431). Request from Bill Sarpalus, The Senate of The State of Texas, Austin, concerning preemption on the Texas Hazard Communication Act and the Texas Agricultural Hazard Communication Act by federal law. TRD-8805189

(RQ-1432). Request from W. S. McBeath, Administrator, Texas Alcoholic Beverage Commission, Austin, concerning the authority of the Alcoholic Beverage Commission to prorate annual permit fees for a private club registration permit. TRD-8805190

(RQ-1433). Request from H. Earl Hall, Jr., Commissioner, Texas Savings and Loan Department, Austin, concerning the effect of Texas Civil Statutes, Article 302f, relating to fees charged for the preparation of instruments affecting title to real property. TRD-8805191



Name: Russell Hinch
Grade: 9
School: Pemberton High, Marshall

Emergency Sections

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

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

TITLE 16. ECONOMIC REGULATION

Part IV. Texas Department of Labor and Standards

Chapter 75. Air Conditioning and Refrigeration Contractor License Law

16 TAC §75.5

The Texas Department of Labor and Standards adopts on an emergency basis amendments to §75.5 concerning air conditioning and refrigeration licenses and renewals. The emergency amendments are needed to enforce the new refrigeration endorsement as mandated by House Bill 1961.

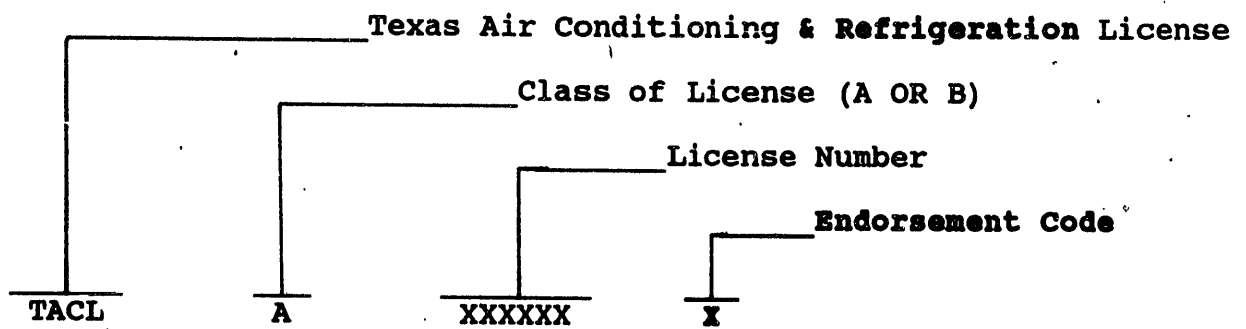
The section is adopted on an emergency basis to protect the safety, welfare, and health of air conditioning and refrigeration consumers in Texas.

The section is adopted on an emergency basis under Texas Civil Statutes, Article 8861, which provide the commissioner of the Texas Department of Labor and Standards with the authority to promulgate any and all reasonable rules and regulations which may be necessary for the purpose of enforcing the provisions of this Act.

§75.5. Licenses and Renewals.

(a)-(g) (No change.)

(h) Each license shall be numbered sequentially as they are originally issued. A number originally assigned and subsequently relinquished, suspended, revoked, or otherwise terminated shall not be assigned to another licensee. Each license shall be numbered as follows:



(Note: Endorsement Codes are as follows: Environmental Air Conditioning-E; Commercial Refrigeration and Process Cooling and Heating-R; Combined Endorsements-C.)

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

(k) All advertising by contractors designed to solicit business shall include the contractor's license number. Advertising which requires the license number shall include printed material, radio ads, television ads, newspaper ads, yellow pages, business cards, solicitations, proposals, quotations, invoices, and other items for the purpose of attracting business. Yellow page listings that do not contain any information except the name, address, and telephone number are not required to contain the contractor's license number. Letterheads and printed forms not used to solicit business are not required to have the license number included. Any promotional item of value, including ball caps, tee shirts, pens, pencils, and other gift items are not required to have the license number included. Signs located at the contractor's permanent business location are not required to have the license number displayed.

(l)[k] A license holder is required to notify the commissioner in writing within 30 days of any change in mailing address, change of location, business affiliation, or business telephone number. The mailing address on file with the commissioner shall be considered the license holder's primary place of business, and all correspondence, including license expiration notice from the department, will be mailed to such address of record. A license holder wishing a duplicate license or to replace a lost license or to revise a license shall request in writing the revision or replacement and pay the appropriate fee required in §75.3 of this title (relating to Fees) and return the original license. Additionally, a revised insurance certificate must be provided to the department correctly reflecting the requested revisions. A license holder wishing to revise or replace the identification card shall request in writing the revision or replacement and pay the appropriate fee required in §75.3 of this title (relating to Fees) and submit an identification photograph, 1 1/2 x 2 inches in size.

(m)[l] Each Class A and Class B air conditioning contractor's license shall expire three years after the date of issuance. The department shall submit a renewal notice to each license holder approximately six months prior to the license expiration date. The renewal notice shall advise the amount of the renewal fee and include a renewal application.

(n)[m] A license holder is responsible for the timely filing of the renewal application. Failure to receive notification from the department prior to the expiration date of the license will not excuse failure to file for renewal.

(o)[n] To renew a license, each license holder shall submit to the department

a renewal application accompanied with the renewal fee, [and] evidence of the insurance requirement, and certification of franchise tax status or non-incorporated status. The renewal application and renewal fee shall be received by the department not less than 30 days prior to the expiration date. Each license shall be renewed for a three-year period.

(p)[o] A license that has expired for a period of two years [90 days] or less may be renewed by submitting the renewal application, payment of the renewal fee, evidence of the insurance requirement, certification of franchise tax status or non-incorporated status and an additional \$50 late renewal penalty fee. If a license has expired for a period of more than two years [90 days], that license may not be renewed. The former license holder may obtain a new license in the same manner as a new applicant, including taking the applicable exam and payment of all required fees.

(q) A contractor who is not contracting with the public may request inactive status for a period not to exceed 24 consecutive months. Insurance is not required on an inactive license. The original license and ID card must be returned to the department during the inactive period. In order to return to active status, a request in writing and proof of insurance must be submitted to the department. Licenses expiring during inactive status must be renewed by payment of the renewal fee and submission of two pictures.

(r) Each air conditioning and refrigeration contractor licensed under this Act will have a licensee in direct supervision of the work in each of his permanent offices.

(s) A licensee must register all assumed names, legally registered with the Secretary of State, associated with his license, and these assumed names shall be listed with his license. Failure to keep the registration current will result in suspension of the license. All notification will be in writing and submitted within 30 days of any change. Only legally registered assumed names will be accepted.

(t)[p] The commissioner shall publish annually a directory of the persons licensed under the Act. The commissioner may sell the directory on payment of a reasonable fee set by the commissioner. The fees collected under this subsection shall be appropriated to the department for use in the administration of the Act.

Issued in Austin, Texas, on May 18, 1988.

TRD-8805094

Larry Kosta
Assistant Commissioner
Texas Department of Labor
and Standards

Effective date: May 18, 1988

Expiration date: September 15, 1988

For further information, please call: (512) 463-3128

TITLE 34. PUBLIC FINANCE

Part I. Comptroller of Public Accounts

Chapter 3. Tax Administration

Subchapter V. Bingo Regulation and Tax

34 TAC §3.548

The Comptroller of Public Accounts adopts on an emergency basis an amendment to an emergency amendment to §3.548, concerning general restrictions on the conduct of bingo. The original emergency amendment was published in the April 8, 1988, issue of the *Texas Register* (13 TexReg 1638). The amendment amends subsection (a) to allow a commercial lessor which is an organization licensed to conduct bingo to assist organizations to which it leases premises in the conduct of bingo by those lessee organizations. The amendment also amends subsection (g) to remove the prohibition on conducting bingo between 6 p.m. and midnight and also between midnight and 6 a.m. the next day.

The amendment is adopted on an emergency basis to encourage licensed authorized organizations to act as commercial lessors, since the net rental would be used for charitable purposes, and to allow organizations more flexibility in the scheduling of their games.

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

§3.548. *General Restrictions on the Conduct of Bingo.*

(a) Who may conduct bingo.

(1) (No change.)

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

(A) (No change.)

(B) A commercial lessor which is an organization licensed to conduct bingo and which leases premises it owns or occupies to another [an] authorized organization [which is an auxiliary of the lessor, or to which the lessor is an auxiliary,] may assist in the conduct of bingo games by that [the related] organization except that a member, employee, or

agent of the lessor may not act as an operator for the lessee organization.

(C) (No change.)

(b)-(f) (No change.)

(g) Frequency of bingo occasions. No more than two organizations may be licensed to conduct bingo at the same location, as that term is defined in §3.544 of this title (relating to Definitions), on the same day. If two organizations are licensed to conduct bingo at the same location on the same day, there must be a minimum 30 minute break or intermission between each organization's occasion. The operator or

caller must announce prior to the start of the occasion the name of the organization that will be conducting bingo for that session. If two or more licensed organizations are conducting bingo at the same location, a person may not at any time be required to purchase cards for more than one bingo session. [If bingo is conducted at a location between the hours of 6 p.m. and midnight on a calendar day, then bingo may not be conducted at that same location between the hours of 12:01 a.m. and 6 a.m. on the next succeeding calendar day. The restrictions in the immediately preceding sentence apply to initial or renewal applications, to applications for amendments relating to changes in

times of bingo occasions submitted on or after May 18, 1987, and to bingo games conducted at a location as defined in §3.544 of this title (relating to Definitions) even though the initial application for a commercial lessor's license for that location was issued prior to May 4, 1987.]

(h)-(k) (No change.)

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

TRD-8805161

Bob Bullock
Comptroller of Public
Accounts

Effective date: May 20, 1988

Expiration date: September 17, 1988

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



Proposed Sections

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

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

TITLE 22. EXAMINING BOARDS

Part V. Texas State Board of Dental Examiners

Chapter 109. Conduct

Definitions

22 TAC §109.211

The Texas State Board of Dental Examiners proposes an amendment to §109.211, concerning unprofessional, dishonorable, and immoral conduct. There have been a number of instances where it appears that the amount filed on an insurance claim is different from the amount that was accepted for dental treatment. The board is proposing this amendment to take care of this problem.

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

Mr. Nail 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 better protection for the public by regulating the filing of insurance or third party claim forms. There is no anticipated economic cost to individuals who are required to comply with the section as proposed.

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

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

§109.211. Unprofessional, Dishonorable, and Immoral Conduct. Unprofessional conduct, dishonorable conduct, and immoral conduct are synonymous terms when applied to the conduct of a dental licensee and include the following.

(1)-(9) (No change.)

(10) Indicating a fee for dental services on an insurance or other third party reimbursement claim form which is other than the fee which the dentist

expects to collect for services rendered.

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 May 17, 1988.

TRD-8805076

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

Earliest possible date of adoption: June 27, 1988

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

Part XXII. Texas State Board of Public Accountancy

Chapter 513. Registration

Registration of Corporations

22 TAC §513.46

The Texas State Board of Public Accountancy proposes new §513.46, concerning certification of corporate franchise tax status upon application for new and reciprocal licenses by public accounting professional corporations. The section includes sanctions for falsification of certification.

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

Mr. Bradley also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be that the new section will assist in insuring that professional public accounting corporations are current with their corporate franchise tax. There is no anticipated economic cost to individuals who are required to comply with the section as proposed.

Comments on the proposal may be submitted to William A. Sansing, 1033 La Posada, Suite 340, Austin, Texas 78752-3892.

The amendment is proposed under Texas Civil Statutes, Article 41a-1, §6(a), which provide the Texas State Board of Public Accountancy with the authority to promulgate rules regarding certification of corporate franchise tax status.

§513.46. Certification of Corporate Franchise Tax Status.

(a) Each professional corporation authorized to engage in the practice of public accountancy in this state shall certify, as prescribed by the board, upon application for license or renewal of license, that the corporation's Texas franchise taxes are current.

(b) The making of a false statement as to corporate franchise tax status on any license application or renewal is grounds for suspension or revocation of the license.

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

Issued in Austin, Texas, on May 16, 1988.

TRD-8805097

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

Earliest possible date of adoption: June 27, 1988

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

Chapter 523. Continuing Professional Education

Continuing Professional Education Programs

• 22 TAC §523.1

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

The Texas State Board of Public Accountancy proposes the repeal of §523.1, concerning the formal continuing professional education program. The repeal will allow for the adoption of a new section that will provide uniform criteria for the formal group and self-study programs.

Bob E. Bradley, executive director, has determined that for the first five-year period the proposed repeal is in effect there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the repeal.

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

will allow for the adoption of a new section that will provide uniform criteria for both formal group and formal self-study programs. It will also help to insure that practitioners receive quality continuing education through appropriate standards. There is no anticipated economic cost to individuals who are required to comply with the repeal as proposed.

Comments on the proposal may be submitted to William A. Sansing, 1033 La Posada, Suite 340, Austin, Texas 78752-3892.

The repeal is proposed under Texas Civil Statutes, Article 41a-1, §6(a), which provide the Texas State Board of Public Accountancy with the authority to promulgate rules relating to formal continuing professional education standards.

§523.1. Formal Continuing Education Programs.

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

Issued in Austin, Texas, on May 16, 1988.

TRD-8805117 Bob E. Bradley
Executive Director
Texas State Board of
Public Accountancy

Earliest possible date of adoption: June 27, 1988

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



The Texas State Board of Public Accountancy proposes new §523.1, concerning the formal continuing professional education program. The new section provides uniform criteria for the formal group and self-study programs.

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

Mr. Bradley also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be that the new section will provide uniform criteria for both formal group and formal self-study programs. The new section will help to insure that practitioners receive quality continuing education through appropriate standards. There is no anticipated economic cost to individuals who are required to comply with the section as proposed.

Comments on the proposal may be submitted to William S. Sansing, 1033 La Posada, Suite 340, Austin, Texas 78752-3892.

The new section is proposed under Texas Civil Statutes, Article 41a-1, §6(a), which provide the Texas State Board of Public Accountancy with the authority to promulgate rules relating to formal continuing professional education standards.

§523.1. Formal Continuing Education Programs.

(a) Preamble. To help insure that practitioners receive quality continuing edu-

cation, appropriate standards are needed. With appropriate standards, programs are less likely to vary in quality of development, presentation, in measurement, and in reporting of credits. Moreover, the large number of programs available throughout the United States, the varying backgrounds of credentials of sponsoring organizations, and the mobility of participants in these programs, create measuring and reporting problems that suggest the need for nationally uniform standards. The purpose of this statement is to provide such uniform criteria.

(b) Through this statement, the term "programs" refers to both formal group and formal self-study programs.

(1) A group program is an education process designed to permit a participant to learn a given subject through interaction with an instructor and other participants. When a group program complies with the standards in this statement, it becomes a formal group program eligible for credit.

(2) A self-study program is an educational process designed to permit a participant to learn a given subject without major interaction with an instructor. For a self-study program to be formal:

(A) the sponsor must provide a certificate upon evidence of satisfactory completion, such as a completed workbook or examination, and

(B) it must comply with the standards in this statement.

(c) Sponsors are the organizations responsible for presenting programs and are not necessarily program developers; however, it is their responsibility to see that their programs comply with all standards in this statement.

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 May 16, 1988.

TRD-8805118 Bob E. Bradley
Executive Director
Texas State Board of
Public Accountancy

Earliest possible date of adoption: June 27, 1988

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



Continuing Professional Education Standards

• 22 TAC §523.21

(Editor's note: The text of the following section proposed for repeal will not be published. The section may be examined in the offices of the Texas State Board of Public Accountancy, 1033

La Posada, Suite 340, Austin or in the Texas Register office, Room 503, Sam Houston Building, 201 East 14th Street, Austin.)

The Texas State Board of Public Accountancy proposes the repeal of §523.21, concerning program presentation standards for continuing education courses offered to accounting professionals.

Bob E. Bradley, executive director, has determined that for the first five-year period the proposed repeal in effect there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the repeal.

Mr. Bradley also has determined that for each year of the first five years the repeal in effect the public benefit anticipated as a result of enforcing the repeal will be that the repeal of this section will allow the adoption of a new section which will provide clear guidelines to the provider of continuing education courses as to program presentation standards. There is no anticipated economic cost to individuals who are required to comply with the repeal as proposed.

Comments on the proposal may be submitted to William A. Sansing, Attorney, 1033 La Posada, Suite 340, Austin, Texas 78752-3892.

The repeal is proposed under Texas Civil Statutes, Article 41a-1, §6(a), which provides Texas State Board of Public Accountancy with the authority to promulgate rules regarding program presentation standards.

§523.21. Program Presentation Standards.

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 May 10, 1988.

TRD-8805115 Bob E. Bradley
Executive Director
Texas State Board of
Public Accountancy

Earliest possible date of adoption: June 27, 1988

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



The Texas State Board of Public Accountancy proposes new §523.21, concerning the notification of prospective participation of the objectives, participants, experience levels, contents, advanced preparation, and teaching methods of continuing education courses. This will allow for advanced planning by participants.

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

Mr. Bradley, also has determined that for each year of the first five years the section in effect the public benefit anticipated as a result of enforcing the section will be that the new section will allow for a more informed selection of continuing education concepts to insure better overall qualification of participants. There is no anticipated economic cost to individuals who are required to

comply with the section as proposed.

Comments on the proposal may be submitted to William A. Sansing, Attorney, 1033 La Posada, Suite 340, Austin, Texas 78752-3892.

The new section is proposed under Texas Civil Statutes, Article 41a-1, §6(a), which provide Texas State Board of Public Accountancy with the authority to promulgate rules regarding program presentation standards.

§523.21. *Program Presentation Standards.* Participants should be informed in advance of objectives, prerequisites, experience level, content, advance preparation teaching method (methods), and recommended credit hours. In order for potential participants to most effectively plan their continuing education, the salient features of any program should be disclosed through brochures or other announcements.

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 May 10, 1988.

TRD-8805115 Bob E. Bradley
Executive Director
Texas State Board of
Public Accountancy

Earliest possible date of adoption: June 27, 1988

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

◆ ◆ ◆
• 22 TAC §523.22

(Editor's note: The text of the following section proposed for repeal will not be published. The section may be examined in the offices of the Texas State Board of Public Accountancy, 1033 La Posada, Suite 340, Austin or in the Texas Register office, Room 503, Sam Houston Building, 201 East 14th Street, Austin.)

The Texas State Board of Public Accountancy proposes the repeal of §523. 22, concerning the qualifications of instructors in continuing education courses offered accounting professionals. Evaluation of the instructor is also addressed.

Bob E. Bradley, executive director, has determined that for the first five-year period the proposed repeal is in effect there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the repeal.

Mr. Bradley also has determined that for each year of the first five years the repeal in effect the public benefit anticipated as a result of enforcing the repeal will be that the repeal will allow for the adoption of a new section which will provide clear guidelines as to the qualification, abilities, and performance evaluation of continuing education course instructors. There is no anticipated economic cost to individuals who are required to comply with the repeal as proposed.

Comments on the proposal may be submitted to William A. Sansing, Attorney, 1033 La Posada, Suite 340, Austin, Texas 78752-3892.

The repeal is proposed under Texas Civil Statutes, Article 41a-1, §6(a), which provides Texas State Board of Public Accountancy

with the authority to promulgate rules regarding formal continuing education instructors. §523.22. *Instructors.*

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 May 10, 1988.

TRD-8805113 Bob E. Bradley
Executive Director
Texas State Board of
Public Accountancy

Earliest possible date of adoption: June 27, 1988

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

◆ ◆ ◆
The Texas State Board of Public Accountancy proposes new §523.22, concerning the qualifications of instructors in continuing education program courses. The evaluation of the instructors by suppliers is provided for.

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

Mr. Bradley also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be that the new section will provide clear guidelines for continuing education course instructors and their evaluation as to continuing utilization. There is no anticipated economic cost to individuals who are required to comply with the section as proposed.

Comments on the proposal may be submitted to William A. Sansing, Attorney, 1033 La Posada, Suite 340, Austin, Texas 78752-3892.

The new section is proposed under Texas Civil Statutes, Article 41a-1, §6(a), which provides Texas State Board of Public Accountancy with the authority to promulgate rules regarding formal continuing education instructors.

§523.22. *Instructors.* Instructors should be qualified both with respect to program content and teaching methods used. The instructor is a key ingredient in the learning process in any group program; therefore, it is imperative that sponsors exercise great care in selecting qualified instructors for all group programs. A qualified instructor is one who is capable, through background, training, education, and/or experience, of providing an environment conducive to learning. Sponsors should evaluate the performance of instructors at the conclusion of each program to determine their suitability for continuing to serve as instructors.

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 May 10, 1988.

TRD-8805113 Bob E. Bradley
Executive Director
Texas State Board of
Public Accountancy

Earliest possible date of adoption: June 27, 1988

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

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• 22 TAC §523.23

The Texas State Board of Public Accountancy proposed an amendment to §523. 23, concerning program sponsors for continuing education courses offered accounting professionals and their efforts to encourage advance preparation of participants and proper credit for course hours of participants who arrive late or leave early.

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

Mr. Bradley also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be that the amendment provides for the monitoring of course participants to allow for credit hour adjustment for those arriving late or leaving early.

Comments on the proposal may be submitted to William A. Sansing, Attorney, 1033 La Posada, Suite 340, Austin, Texas 78752-3892.

The amendment is proposed under Texas Civil Statutes, Article 41a-1, which provides the Texas State Board of Public Accountancy with the authority to promulgate rules regarding formal continuing education program sponsors.

§523.23. *Program Sponsors.*

(a) So that participants can expect programs to increase their professional competence, sponsors should encourage only those who have the appropriate education and/or experience to participate. The term "education and/or experience" in the standard also implies that participants will be expected to complete any advance preparation. An essential step in encouraging advance preparation is timely distribution of program materials. Although implementing this standard may be difficult, sponsors should make a significant effort to comply with the spirit of the standard by encouraging:

- (1) enrollment only by eligible participants;
- (2) timely distribution of materials; and
- (3) completion of any advance preparation;

(b) Sponsors should monitor group programs in order to accurately assign the appropriate number of credit hours for participants who arrive late or

leave before a program is completed.

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 May 10, 1988.

TRD-8805112 Bob E. Bradley
Executive Director
Texas State Board of
Public Accountancy

Earliest possible date of adoption: June 27, 1988

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

Continuing Professional Education Standards

• 22 TAC §523.25

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

The Texas State Board of Public Accountancy proposes the repeal of §523.25, concerning evaluation of sponsor provided CE courses.

Bob E. Bradley, executive director, has determined that for the first five-year period the proposed repeal is in effect there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the repeal.

Mr. Bradley also has determined that for each year of the first five years the repeal is in effect the public benefit anticipated as a result of enforcing the repeal will be that the repeal will allow for the adoption of more precise guidelines and procedures for evaluation of the continuing educational courses. There is no anticipated economic cost to individuals who are required to comply with the repeal as proposed.

Comments on the proposal may be submitted to William A. Sansing, 1033 La Posada, Suite 340, Austin, Texas 78752-3892.

The repeal is proposed under Texas Civil Statutes, Article 41a-1, §6(a), which provide the Texas State Board of Public Accountancy with the authority to promulgate rules regarding formal continuing professional education evaluation.

§523.25. Evaluation.

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 May 10, 1988.

TRD-8805110 Bob E. Bradley
Executive Director
Texas State Board of
Public Accountancy

Earliest possible date of adoption: June 27, 1988

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

The Texas State Board of Public Accountancy proposes new §523.25, concerning evaluation guidelines and suggested procedures for the CE program sponsors. The evaluation of instructors is also covered by this section.

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

Mr. Bradley also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be that the new section provides more precise guidelines and procedures to insure a quality continuing education course offering. There is no anticipated economic cost to individuals who are required to comply with the section as proposed.

Comments on the proposal may be submitted to William S. Sansing, 1033 La Posada, Suite 340, Austin, Texas 78752-3892.

The new section is proposed under Texas Civil Statutes, Article 41a-1, §6(a), which provide the Texas State Board of Public Accountancy with the authority to promulgate rules relating to formal continuing professional education standards.

§523.25. Evaluation.

(a) All programs must include some means for evaluating quality by both participants and instructors to determine whether:

- (1) objectives have been met;
- (2) prerequisites were necessary or desirable;
- (3) facilities were satisfactory;
- (4) the instructor was effective;
- (5) advance preparation materials, if any, were satisfactory; and
- (5) the program content was timely and effective.

(b) Evaluations might take the form of:

- (1) pretests for advance preparation; and/or
- (2) posttests for effectiveness of the program; and/or
- (3) other evaluation forms or questionnaires completed at the end of the program or later.

(c) Instructors should be informed of their performance, and sponsors should systematically review the evaluation process to ensure its effectiveness.

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 May 10, 1988.

TRD-8805111 Bob E. Bradley
Executive Director
Texas State Board of
Public Accountancy

Earliest possible date of adoption: June 27, 1988

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

• 22 TAC §523.26

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

The Texas State Board of Public Accountancy proposes the repeal of §523.26, concerning program measurements for CE courses to include credit hours given.

Bob E. Bradley, executive director, has determined that for the first five-year period the proposed repeal is in effect there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the repeal.

Mr. Bradley also has determined that for each year of the first five years the repeal is in effect the public benefit anticipated as a result of enforcing the repeal will be that the repeal will allow for the adoption of a new section with more precise guidelines for awarding of continuing education credit for attendance. There is no anticipated economic cost to individuals who are required to comply with the repeal as proposed.

Comments on the proposal may be submitted to William A. Sansing, 1033 La Posada, Suite 340, Austin, Texas 78752-3892.

The repeal is proposed under Texas Civil Statutes, Article 41a-1, §6(a), which provide the Texas State Board of Public Accountancy with the authority to promulgate rules regarding formal continuing professional education evaluation.

§523.26. Program Measurement.

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 May 10, 1988.

TRD-8805108 Bob E. Bradley
Executive Director
Texas State Board of
Public Accountancy

Earliest possible date of adoption: June 27, 1988

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

The Texas State Board of Public Accountancy proposes new §523.26, concerning program measurement for CE courses. The new section provides guidelines for assessing hour credits for participants.

Bob E. Bradley, executive director, has determined that for the first five-year period the

proposed section is in effect there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the section.

Mr. Bradley also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be that the new section will insure proper credit hours and provide full participation in continuing education courses. There is no anticipated economic cost to individuals who are required to comply with the section as proposed.

Comments on the proposal may be submitted to William S. Sansing, 1033 La Posada, Suite 340, Austin, Texas 78752-3892.

The new section is proposed under Texas Civil Statutes, Article 41a-1, §6(a), which provide the Texas State Board of Public Accountancy with the authority to promulgate rules relating to formal continuing professional education standards.

§523.26. Program Measurement.

(a) All programs should be measured in terms of 50-minute contact hours. The shortest recognized program should consist of one contact hour. The purpose of this standard is to develop uniformity in the measurement of continuing education activity. A contact hour is 50 minutes of continuous participation in a group program. Under this standard, a credit hour is granted only for each contact hour. For example, a group program lasting 100 minutes would count for two contact hours; however, one lasting between 50 and 100 minutes would count only one hour.

(b) For continuous conferences and conventions, when individual segments are less than 50 minutes, the sum of the segments should be considered one total program. For example, five 30-minute presentations would equal 150 minutes and should be counted as three contact hours.

(c) For university or college courses, each semester hour credit should equal 15 hours toward the requirement. A quarter hour credit should equal 10 hours.

(d) Self-study programs should be pretested to determine average completion time. One half of the average completion time is the recommended credit to be allowed. For example, a self-study program that takes an average of 800 minutes to complete is recommended for eight contact hours of credit.

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 May 10, 1988.

TRD-8805109 Bob E. Bradley
Executive Director
Texas State Board of
Public Accountancy

Earliest possible date of adoption: June 27, 1988

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

• 22 TAC §523.29

The Texas State Board of Public Accountancy proposes new §523.29, concerning the requirement of a minimum of 16 hours of continuing education credit as participation in a qualified continuing education program.

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

Mr. Bradley also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section as proposed will be that the new section requiring a minimum of 16 credit hours must be gained through participation in a quality continuing education program. There is no anticipated economic cost to individuals who are required to comply with the section as proposed.

Comments on the proposal may be submitted to William S. Sansing, 1033 La Posada, Suite 340, Austin, Texas 78752-3892.

The new section is proposed under Texas Civil Statutes, Article 41a-1, §6(a), which provide the Texas State Board of Public Accountancy with the authority to promulgate rules relating to formal continuing education minimum hours required as a participant.

§523.29. Minimum Hours Required as a Participant. A minimum of 16 hours continuing education credit hours of the annual requirement must be from involvement as a participant in a qualified continuing education program.

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 May 10, 1988.

TRD-8805107 Bob E. Bradley
Executive Director
Texas State Board of
Public Accountancy

Earliest possible date of adoption: June 27, 1988

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

Continuing Professional Education Reporting

• 22 TAC §523.41

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

The Texas State Board of Public Accountancy proposes the repeal of §523.41, concerning the standards for continuing professional education reporting.

Bob E. Bradley, executive director, has determined that for the first five-year period the proposed repeal is in effect there will be no fiscal implications for state or local govern-

ment or small businesses as a result of enforcing or administering the repeal.

Mr. Bradley also has determined that for each year of the first five years the repeal is in effect the public benefit anticipated as a result of enforcing the repeal will be that the repeal will allow the adoption of a new section which will provide more precise guidelines for reporting continuing professional education participation. There is no anticipated economic cost to individuals who are required to comply with the repeal as proposed.

Comments on the proposal may be submitted to William A. Sansing, 1033 La Posada, Suite 340, Austin, Texas 78752-3892.

The repeal is proposed under Texas Civil Statutes, Article 41a-1, §6(a), which provide the Texas State Board of Public Accountancy with the authority to promulgate rules regarding formal continuing education standards for CPE reporting.

§523.41. Standards for CPE Reporting.

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 May 10, 1988.

TRD-8805105 Bob E. Bradley
Executive Director
Texas State Board of
Public Accountancy

Earliest possible date of adoption: June 27, 1988

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

The Texas State Board of Public Accountancy proposes new §523.41, concerning standards for continuing professional education reporting. The section contains basic requirements for reporting.

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

Mr. Bradley also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be that the new section insures basic information relating to continuing education attendance, will be reported and documentation of attendance preserved. There is no anticipated economic cost to individuals who are required to comply with the section as proposed.

Comments on the proposal may be submitted to William S. Sansing, 1033 La Posada, Suite 340, Austin, Texas 78752-3892.

The new section is proposed under Texas Civil Statutes, Article 41a-1, §6(a), which provide the Texas State Board of Public Accountancy with the authority to promulgate rules regarding formal continuing education standards for CPE reporting.

§523.41. Standards for CPE Reporting.

(a) Participants in group or self-study programs must document their participation, including:

- (1) sponsor;
- (2) title or description of content, or both;
- (3) date (dates);
- (4) location; and
- (5) number of credit hours.

(b) These standards are designed to encourage participants to document their attendance at group programs or participation in self-study programs. Evidence of completion would normally be the certificate supplied by the sponsor. Documentation must be retained for the three most recent full reporting periods.

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 May 10, 1988.

TRD-8805106 Bob E. Bradley
Executive Director
Texas State Board of
Public Accountancy

Earliest possible date of adoption: June 27, 1988

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

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• 22 TAC §523.42

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

The Texas State Board of Public Accountancy proposes the repeal of §523.42, concerning the maintenance of sponsor's records for continuing education courses offered.

Bob E. Bradley, executive director, has determined that for the first five-year period the proposed repeal is in effect there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the repeal.

Mr. Bradley also has determined that for each year of the first five years the repeal is in effect the public benefit anticipated as a result of enforcing the repeal will be that the repeal will allow for the adoption of a new section that will provide precise guidelines for documentation and retention of continuing education sponsor's records. There is no anticipated economic cost to individuals who are required to comply with the repeal as proposed.

Comments on the proposal may be submitted to William A. Sansing, 1033 La Posada, Suite 340, Austin, Texas 78752-3892.

The repeal is proposed under Texas Civil Statutes, Article 41a-1, §6(a), which provide the Texas State Board of Public Accountancy with the authority to promulgate rules regarding mandatory continuing education sponsor's records.

§523.42. Sponsor's Record.

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 May 16, 1988.

TRD-8805103 Bob E. Bradley
Executive Director
Texas State Board of
Public Accountancy

Earliest possible date of adoption: June 27, 1988

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

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The Texas State Board of Public Accountancy proposes new §523.42, concerning the requirements of what must be maintained in the sponsor's records in continuing education courses to include course evaluations.

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

Mr. Bradley also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be that the new section includes the requirement of maintaining course evaluation in the sponsor's records while making the record maintenance mandatory. There is no anticipated economic cost to individuals who are required to comply with the section as proposed.

Comments on the proposal may be submitted to William S. Sansing, 1033 La Posada, Suite 340, Austin, Texas 78752-3892.

The new section is proposed under Texas Civil Statutes, Article 41a-1, §6(a), which provide the Texas State Board of Public Accountancy with the authority to promulgate rules regarding formal continuing education sponsor's record.

§523.42. Sponsor's Record.

(a) In order to support the reports required of participants, the sponsor of group or self-study programs must retain for an appropriate period:

- (1) record of participation,
- (2) outline of the course (or equivalent);
- (3) date (dates);
- (4) location;
- (5) instructor (instructors);
- (6) number of credit hours; and
- (7) evaluation of the program as directed in §523.25 (relating to Evaluation).

(b) Because participants may come from any state or jurisdiction, the appropriate time for the sponsor to retain this information is not dependent solely on the location of the program or sponsor. To satisfy the detailed requirements of all jurisdictions, a retention period of five years from the date the program is completed is appropriate. The record of attendance

should reflect the credit hours earned by each participant, including those who arrive late or leave early.

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 May 16, 1988.

TRD-8805104 Bob E. Bradley
Executive Director
Texas State Board of
Public Accountancy

Earliest possible date of adoption: June 27, 1988

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

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Mandatory Continuing
Education (CE) Program

• 22 TAC §523.61

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

The Texas State Board of Public Accountancy proposes the repeal of §523.61, concerning the establishment of a mandatory continuing education program. The repeal will allow for a new section. The new section will provide for birth-month reporting of continuing education by licensees of the board.

Bob E. Bradley, executive director, has determined that for the first five-year period the proposed repeal is in effect there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the repeal.

Mr. Bradley also has determined that for each year of the first five years the repeal is in effect the public benefit anticipated as a result of enforcing the repeal will be that the repeal will allow for a new section which provides for birth-month reporting, that will reduce the heavy workload encountered with single-period reporting for all licensees. There is no anticipated economic cost to individuals who are required to comply with the repeal as proposed.

Comments on the proposal may be submitted to William A. Sansing, 1033 La Posada, Suite 340, Austin, Texas 78752-3892.

The repeal is proposed under Texas Civil Statutes, Article 41a-1, §6(a), which provide the Texas State Board of Public Accountancy with the authority to promulgate rules regarding the establishment of a mandatory continuing education program.

§523.61. Establishing of Mandatory CE Program.

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 May 16, 1988.

TRD-8805101

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

Earliest possible date of adoption: June 27, 1988

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



The Texas State Board of Public Accountancy proposes new §523.61, concerning the establishment of a mandatory continuing education program. The new section provides for birth-month reporting of continuing education by licensees of the board.

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

Mr. Bradley also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be that the new section will provide uniform criteria for both formal group and formal self-study programs, and the new section provides for birth-month reporting, which will reduce the heavy workload encountered with single period reporting for all licensees. There is no anticipated economic cost to individuals who are required to comply with the section as proposed.

Comments on the proposal may be submitted to William S. Sansing, 1033 La Posada, Suite 340, Austin, Texas 78752-3892.

The new section is proposed under Texas Civil Statutes, Article 41a-1, §6(a), which provide the Texas State Board of Public Accountancy with the authority to promulgate rules regarding the establishment of mandatory CE Program.

§523.61. Establishment of Mandatory CE Program.

(a) A mandatory CE program was established pursuant to the Public Accountancy Act of 1979, §6(a), as amended, Texas Civil Statutes, Article 41a-1, which provided the board with authority to adopt a system of required continuing education for licensees.

(1) All licensees are required to report CE hours accrued during the applicable reporting period.

(2) All licensees in public practice are required to accrue and report a specified number of CE credit hours as a condition for a 1985 or later license to practice public accountancy, except that a program requiring mandatory attendance may not be put into effect until the board, by majority vote, determines that the following conditions have been met:

(A) the establishment within the board organization of a CE section,

headed by a qualified director and supported by adequate staff and facilities to afford a viable and positive program of review and enforcement; and

(B) the program shall lead to improved professional competence among persons licensed by the board.

(b) A licensee shall be responsible for ensuring that CE credit hours claimed conform to the board's standards as outlined in §§523.21-523.23, and 523.25-523.29, of this title (relating to Program Presentation Standards; Instructors; Program Sponsors; Evaluation; Program Measurement; Credits for Instructors and Discussion Leaders; Credits for Published Articles and Books; and Minimum Hours Required as a Participant).

(c) Definitions.

(1) CE reporting period:

(A) Current through 1991 license year: September 1 through August 31 of the following year.

(B) 1992 or later license year: the twelve months beginning with the month of the licensees birth.

<u>Month of Birth</u>		<u>Next Calendar Year</u>
October	through	September
November	through	October
December	through	November
January	through	December
February	through	January
March	through	February
April	through	March
May	through	April
June	through	July
July	through	June
August	through	July
September	through	August

(2) A licensee who does not have the required credit hours during his/her current reporting period must have obtained the required CE during the current and two most recent reporting periods. Normally, the three-year requirement will be 120 credit hours; however, it may be less if the individual has been licensed for less than three full years or has reentered public practice within the last three years.

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

Issued in Austin, Texas, on May 16, 1988.

TRD-8805102 Bob E. Bradley
 Executive Director
 Texas State Board of
 Public Accountancy

Earliest possible date of adoption: June 27, 1988

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

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• 22 TAC §523.62

The Texas State Board of Public Accountancy proposes an amendment to §523.1, concerning mandatory continuing education requirements of licensees. The possible sanctions for noncompliance are stated.

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

Mr. Bradley also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be to allow the staff to interpret a blank on the report form to be zero, not requiring contacting of non-public practitioners. There is no anticipated economic cost to individuals who are required to comply with the section as proposed.

Comments on the proposal may be submitted to William S. Sansing, 1033 La Posada, Suite 340, Austin, Texas 78752-3892.

The new section is proposed under Texas Civil Statutes, Article 41a-1, §6(a), which provide the Texas State Board of Public Accountancy with the authority to promulgate rules regarding formal continuing education mandatory CE reporting.

§523.62. *Mandatory CE Reporting.*

(a) The board shall issue licenses to those individuals who pay the required fees. In addition, as a condition for a 1983 or later license, a licensee shall report CE credit hours accrued during the applicable reporting period, even if the number is zero. A blank on the reporting form will be interpreted as a zero. A licensee who fails to report the CE credit hours accrued may have his/her license canceled after notice and hearing, as provided in the Public Accountancy Act of 1979, §21, as amended, Texas Civil Statutes, Article 41-a, 1981 (r-

elating to Revocation or Suspension of Certificate of License), and in §523.64 of this chapter (relating to Disciplinary Actions, relating to CE).

(b) A licensee shall report CE credit hours accrued on forms prescribed by the board, to wit: license renewal notices or license notices. License notices are normally mailed in November of each year, and license notices are mailed to those who receive certificates of registrations during the current year. Renewal or initial license notices shall contain a space for reporting the total number of CE credit hours accrued during the reporting period, and a space for entering information relating to the CE credit hours claimed. Appropriate instructions shall accompany the notices.

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 May 16, 1988.

TRD-8805100 Bob E. Bradley
 Executive Director
 Texas State Board of
 Public Accountancy

Earliest possible date of adoption: June 27, 1988

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

◆ ◆ ◆
• 22 TAC §523.64

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

The State Board of Public Accountancy proposes the repeal of §523.64, concerning disciplinary action in relation to continuing education participation by licensees.

Bob E. Bradley, executive director, has determined that for the first five-year period the proposed repeal is in effect there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the repeal.

Mr. Bradley also has determined that for each year of the first five years the repeal is in effect the public benefit anticipated as a result of enforcing the repeal will be that the repeal will allow for the adoption of a new section which will provide precise guidelines on retention of continuing education attendance data and board audit procedures for continuing education data. There is no anticipated economic cost to individuals who are required to comply with the repeal as proposed.

Comments on the proposal may be submitted to William A. Sansing, 1033 La Posada, Suite 340, Austin, Texas 78752-3892.

The repeal is proposed under Texas Civil Statutes, Article 41a-1, §6(a), which provide the Texas State Board of Public Accountancy with the authority to promulgate rules relating to formal continuing professional education

disciplinary actions relating to CE.
§523.64. *Disciplinary Actions Relating to CE.*

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 May 16, 1988.

TRD-8805098 Bob E. Bradley
 Executive Director
 Texas State Board of
 Public Accountancy

Earliest possible date of adoption: June 27, 1988

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

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The Texas State Board of Public Accountancy proposes new §523.64, concerning disciplinary action relating to continuing education programs, including the retention of proof of attendance.

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

Mr. Bradley also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be that the new section provides precise guidelines for retention of proof of attendance at continuing education courses and board audit of continuing education courses. There is no anticipated economic cost to individuals who are required to comply with the section as proposed.

Comments on the proposal may be submitted to William S. Sansing, 1033 La Posada, Suite 340, Austin, Texas 78752-3892.

The new section is proposed under Texas Civil Statutes, Article 41a-1, §6(a), which provide the Texas State Board of Public Accountancy with the authority to promulgate rules regarding formal continuing education disciplinary actions relating to continuing education (CE).

§523.64. *Disciplinary Actions Relating to CE.*

(a) A licensee who fails to comply with the provisions of §523.62 (relating to Mandatory CE Reporting) or §523.63 (relating to Mandatory CE Attendance) may be subject to disciplinary action under the Public Accountancy Act of 1979, §21, as amended, Texas Civil Statutes, Article 41a-1, for violation of the Rules of Professional Conduct, §501.25, which requires compliance with §523.62 (relating to Mandatory CE Reporting) and §523.63 (relating to Mandatory CE Attendance) by a licensee in public practice, and compliance with §523.62 (relating to Mandatory CE Reporting) by licensees not in public practice.

(b) A licensee shall retain documents or other evidence supporting CE credit hours claimed for the three most re-

cent full reporting periods to the date the credit hours are reported to the board, but shall submit the supporting evidence to the board only if such data is specifically requested.

(c) The board shall, as deemed appropriate, audit CE data supplied by a licensee and request that all evidence supporting CE credit hours claimed be provided to the board within a reasonable period of time as prescribed by the board.

(d) Evidence of falsification, fraud, or deceit in the CE information or documentation supplied may necessitate disciplinary action as authorized in the Public Accountancy Act of 1979, §21(b)(1), as amended, Texas Civil Statutes, Article 41a-1.

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 May 16, 1988.

TRD-8805099

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

Earliest possible date of adoption: June 27, 1988

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

TITLE 25. HEALTH SERVICES

Part I. Texas Department of Health

Chapter 123. Respiratory Care Practitioner Certification

• 25 TAC §§123.1 -123.10, 123.12, 123.14

The Texas Department of Health proposes amendments to §§123.1-123.10, 123.12, and 123.14, concerning purpose and scope, definitions, the advisory board's operation, fees, exceptions to certifications, application requirements and procedures, types of certificates and temporary permits, and applicant eligibility, examination, certificate renewal, continuing education requirements, professional and ethical standards, and violations, complaints, and subsequent actions.

The amendments delete all references to temporary certificates; clarify quorum of the advisory board; outline procedures to be followed regarding un claimed renewal notices returned to the department; clarify student status of students enrolled in nontraditional respiratory care education programs; allow the department to deny an application if applicant cannot submit proof of examination results; delete paragraphs relating to reexaminations due to the difficulty of the department to administer that provision; add additional types of acceptable continuing education; add language for other provisions relating to continuing education; and further define professional representation and re-

sponsibilities, and relationships with patients/clients.

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

Mr. Seale also has determined that for each year of the first five years the sections are in effect the public benefits anticipated as a result of enforcing the sections as proposed will be the assurance that the certification and regulation of respiratory care practitioners continues to identify competent practitioners by updating, clarifying, and strengthening the sections; and by including more comprehensive language and procedures. The anticipated economic cost to individuals will be none.

Comments on the proposal may be submitted to Kathy Craft, Program Administrator, Respiratory Care Practitioners Certification Program, 1100 West 49th Street, Austin, Texas 78756-3183. Comments will be accepted for 30 days from the date of publication of these proposed amendments in the *Texas Register*.

The amendments are proposed under Texas Civil Statutes, Article 45121, which provide the Texas Department of Health with the authority to establish minimum standards for issuing, renewing, suspending, or revoking any certificate, temporary permit, or temporary certificate; 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.

§123.1. Purpose and Scope.

(a) (No change.)

(b) Scope. These sections cover definitions; the Advisory Board's operation; fees; exceptions to certification; application requirements and procedures; types of certificates, temporary permits [and temporary certificates] and applicant eligibility; examination; certificate renewal; continuing education requirements; changes of name or address; professional and ethical standards; certifying or permitting persons with criminal background to be respiratory care practitioners; violations, complaints and subsequent actions.

§123.2. Definitions. The following words and terms when used in these sections, shall have the following meanings, unless the context clearly indicates otherwise:

Applicant—A person who applies to the Texas Department of Health for a certificate[, or temporary permit, [or temporary certificate].

Practitioner—A person who holds a certificate[, temporary certificate,] or temporary permit issued under the Act to practice respiratory care.

[Temporary certificate—A certificate which expires August 31, 1987, issued to a

person who, at the time of application to the department, is not registered or certified by the NBRC, and who is practicing respiratory care under the direction of a qualified medical director or other physician licensed by and in good standing with the BME.] care.

§123.3. The Advisory Board's Operation.

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

(f) Quorum. a quorum of the advisory board necessary to transact official business is [five members] a majority of the members appointed at the time.

(g)-(k) (No change.)

(l) Policy against discrimination. The advisory board shall make no decision in the discharge of its statutory authority with regard to any person's race, creed, sex, religion, color, national origin, geographical distribution, age, [physical condition,] or economic status.

§123.4. Fees. The following fees are prescribed by the board and are required to be paid to the department before any certificate or permit is issued. All fees shall be submitted in the form of a check and/or money order and are non-refundable. The department may direct examination applicants to submit examination fees to the NBRC.

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

[(3) Schedule of fees for a temporary certificate (for persons making application to the department on or before November 16, 1986):

[(A) application processing fee-\$30;

[(B) temporary certificate fee-\$30 (prorated at \$2.50 per month through August 31, 1987); and

[(C) temporary certificate and/or identification card replacement fee-\$10.]

(4) Fees for upgrading a [temporary certificate or] temporary permit-\$30 (prorated at \$2.50 per month).

(5) (No change.)

(6) An approved applicant whose check for the temporary permit[, temporary certificate] or certificate fee is returned marked insufficient funds, account closed or payment stopped shall remit to the department a money order or check for guaranteed funds within 30 days of the date of receipt of the department's notice. Otherwise, the application and the approval shall be invalid.

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

(9) If the department's notice, as set out in subparagraphs (5)-(8) is returned unclaimed, the department shall mail the notice to the applicant or certificate holder by first class mail. If a money

order or check for guaranteed funds is not received by the department's cashier within 30 days of the postmark date on the second mailing, the approval or certificate issued shall be invalid. The department shall notify the applicant's or certificate holder's employer that the person has failed to comply with this section.

(9) (10) The advisory board, on behalf of the board, shall make periodic reviews of the fee schedule and make any adjustments necessary to provide sufficient funds to meet the expenses of the respiratory care practitioner certification program without creating an unnecessary surplus. Such adjustments shall be made through rule amendments approved by the board §123.5. *Exceptions to Certification.*

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

(d) Student status is further clarified as follows.

(1) Students who are not engaged in the clinical portion of their respiratory care educational program may not be employed for compensation by a health care facility to provide limited respiratory care services unless they hold a temporary permit [or temporary certificate].

(2) Students in a nontraditional accredited respiratory care educational program [which is delivered off campus according to the Joint Review Committee for Respiratory Therapy Education of the AMA or its successor organization.] may be considered as being engaged in the clinical portion of their educational program during its entire duration. For the purposes of this section nontraditional shall mean those respiratory care educational programs recognized as nontraditional education systems by the Joint Review Committee for Respiratory Care Education of the AMA.

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

(e) (No change.)

§123.6. *Application Requirements and Procedures.*

(a) (No change.)

(b) General.

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

(4) For persons applying for the temporary certificate, the department must receive all required application materials at least four months prior to the date the applicant wishes to take the examination required for the regular certificate.

(5) Applications will be accepted for a temporary certificate (effective January 1, 1986, through November 16, 1986) from students in a respiratory care education program who expect to graduate within 45 days. After November 16, 1986, applications will be accepted for the temporary permit.]

(c) Required application materials.

(1) Application form. The application form shall contain:

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

(D) a statement that the applicant, if issued a certificate[,] or temporary permit [or temporary certificate,] shall return the certificate[,] or temporary permit [or temporary certificate] and identification card(s) to the department upon the revocation or suspension of the certificate[,] or temporary permit[, or temporary certificate].

(E)-(I) (No change.)

(2) Educational records. Applicants for a certificate, who were not certified or registered in respiratory care by the NBRC on or before September 1, 1985, or a temporary permit [(effective November 16, 1986)] must submit:

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

(3) Examination results.

(A) If the applicant is making application for a temporary permit [or temporary certificate,] an examination score release form shall be signed allowing the department to obtain the applicant's examination results from the NBRC, or other agency administering the examination prescribed by the board.

(B) If an applicant for a regular certificate is:

(i) (No change.)

(ii) *unable to show proof of successful completion or otherwise provide documentation acceptable to the department of the applicant's examination results, [the applicant shall sign a form allowing the department to obtain the applicant's examination results from the NBRC, or other agency administering the examination prescribed by the board] the application shall be disapproved.*

(4) Employment/experience documentation report form.

[(A)] Persons applying for any certificate or permit who are not recognized as a certified respiratory therapy technician or registered respiratory therapist by the NBRC and who are licensed, registered, or otherwise regulated in another state, territory, or country at the time of application must submit with their applications a properly completed employment/experience documentation report form signed by their medical director attesting that the applicant is currently practicing, or has practiced respiratory care within the 12-month period immediately preceding application to the department.

[(B) Persons applying for a temporary certificate must submit their applications on or before November 16, 1986, with a properly completed employment/experience documentation report form signed by their qualified medical director as defined in §123.2 of this title (relating to Definitions) attesting that the applicant is presently functioning as a respiratory care practitioner. For the purposes of this section, presently shall mean at the time of application to the department.]

(5) (No change.)

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

§123.7. *Types of Certificates and Temporary Permits [or Temporary Certificates,] and Applicant Eligibility.*

(a) General. The purpose of this section is to set out the types of certificates and permits issued, and the qualifications of applicants for certification as respiratory care practitioners.

(1) The department shall prepare and provide to each respiratory care practitioner a certificate[, temporary certificate] or temporary permit with an identification card(s) which contain the practitioner's name, certificate or permit number, and date of certificate or permit issue. The [temporary certificate,] temporary permit[, and all identification cards shall indicate an expiration date.

(2)-(6) (No change.)

(b) Issuance of certificates and permits.

(1) (No change.)

(2) Certificates [and temporary certificates] issued within three months of the practitioner's birth month shall be issued for that period of time plus the next full year[, excepting temporary certificates which expire August 31, 1987].

(3) Upon receiving the approved applicant's form and fee, the department shall issue the person a certificate[, temporary certificate,] or temporary permit and identification card(s) with an expiration date and a certificate or permit number.

(4) (No change.)

(c) Replacements. The department shall replace a lost, damaged, or destroyed certificate[, or temporary permit [or temporary certificate,] and/or identification card(s) upon a written request from the practitioner and payment of the replacement fee. Requests shall include a statement detailing the loss or destruction of the original certificate, temporary permit [or temporary certificate] and/or identification card(s), or be accompanied by the damaged certificate, permit or card(s).

(d) Applicant eligibility.

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

(3) Regular certificate. The department shall issue a regular certificate to practice respiratory care to an applicant who has applied on a form prescribed by the department, who has paid the prescribed application fee and who:

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

[(E) holds a temporary certificate and who has applied for examination (as set out in §123.8 of this title (relating to Examination) by September 1, 1987, and who has passed the examination during the period September 1, 1985 through December 31, 1987.]

(4) (No change.)

[(5) Temporary certificate. The department shall issue a temporary certificate expiring August 31, 1987, to an applicant who has applied on or before November 16, 1986, on the forms prescribed by the department, who has paid the prescribed application fee, and who demonstrates through written evidence as set out in §123.6 of this title (relating to Application Requirements and Procedures) that the applicant is functioning in the capacity of a respiratory care practitioner at the time of application to the department. Temporary certificate fees shall be prorated from the month following approval through August 31, 1987.

[(6) Temporary certificate holders who are students. Effective January 1, 1987, temporary certificate holders who are also students in an approved respiratory care education program who comply with §123.6(c)(2) of this title (relating to Application Requirements and Procedures) may be issued a temporary permit in accordance with subsection (d)(1) of this section. The temporary certificate must be returned to the department before a temporary permit will be issued.]

§123.8. Examination.

(a) (No change.)

(b) Examination eligibility. Holders of temporary permits [and temporary certificates] are allowed to take the examination provided the holder complies with the requirements of the Act and these sections. Persons who are certified or registered in respiratory care by the NBRC at the time of application to the department are not required to be reexamined for state certification.

(c) (No change.)

(d) Standards of acceptable performance. [For examinations administered on and after December 31, 1987, the] The cut-score determined by the NBRC at the time of examination or reexamination shall be the cut-score utilized by the department to determine pass or fail performance. [For examinations administered during the period, September 1, 1985, through Decem-

ber 31, 1987, the cut-score utilized by the department to determine pass or fail performance shall be 60.]

(e) (No change.)

(f) Results.

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

(3) [For persons holding a temporary certificate, if] If the examination is graded by a national or state testing service, or by the NBRC or its designee, the department shall notify each examinee of the examination results within 14 days of the date the department receives the results.

(4)-(5) (No change.)

[(g) Reexaminations.

[(1) Effective September 1, 1987, an applicant who fails the exam twice during the time the temporary certificate or temporary permit or extension was valid shall furnish the department evidence that said applicant has taken appropriate measures to improve proficiency prior to the third examination. Such evidence must include one or more of the following:

[(A) an official transcript (not a grade report) from a respiratory care educational program indicating successful completion of respiratory care courses for credit or audit purposes; or

[(B) a certificate of completion of acceptable continuing education as set out in §123.10 of this title (relating to Continuing Education Requirements) for a minimum of 10 clock hours; or

[(C) a statement(s) from a practitioner(s) who holds a valid certificate attesting to the applicant's successful completion of tutoring by that practitioner in respiratory care for a minimum of 10 clock hours.

[(2) The examination application form must be signed by the administrator attesting to the receipt of such evidence prior to submitting the form to the NBRC or other agency or organization administering the examination.]

[(h)](g) Refunds. Examination fee refunds to persons who fail to appear for the examination will be in accordance with policies and procedures of the NBRC or other agency approved by the board to administer an examination prescribed in this section.

§123.9. Certificate Renewal.

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

(d) Certificate renewal.

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

(3) A practitioner has renewed the certificate when the [practitioner has mailed] department has received the renewal form, continuing education report

forms required as set out in §123.10 of this title (relating to Continuing Education Requirements), and the required renewal fee to the department prior to the expiration date of the certificate. The postmark date shall be considered as the date of mailing.

(4) (No change.)

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

(g) Expiration of certificate.

[(1)] A person whose certificate has expired may not use the title or represent or imply that he has the title of certified respiratory care practitioner, respiratory care practitioner, or respiratory therapist, or use the letters R.C.P., and may not use any facsimile of those titles in any manner. Any person who practices respiratory care with an expired certificate is in violation of the Act.

[(2) Temporary certificates expiring August 31, 1987, are not subject to renewal.]

§123.10. Continuing Education Requirements.

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

(c) Hour requirements for continuing education. A practitioner must complete 18 clock hours of continuing education acceptable to the department during each three year period as described in subsection (b) of this section.

(1) A clock hour shall be [60] 50 minutes of attendance and participation in an acceptable continuing education experience.

(2) (No change.)

(d) Types of acceptable continuing education. Continuing education undertaken by a practitioner for recertification shall be acceptable if the experience falls in one or more of the following categories:

(1) respiratory care coursework seminars, workshops, review sessions, or other organized educational programs completed at or through any respiratory care education program [or Texas Board of Education approved program];

(2) participation in any program (e.g., in-service educational training programs, institutes, seminars, workshops, and conferences) which is directly related to the profession of respiratory care, is instructor directed and is approved by one or more of the following agencies and organizations: the AARC (Category I only), the TSRC, the Texas Thoracic Society, the American Thoracic Society, the American College of Cardiology, the American College of Chest Physicians, the American Society of Anesthesiologists, the Texas Society of Anesthesiologists, the American Medical Association (Category I only), the Texas Medical Association, or the Texas Education Agency [for which continuing respiratory care education (CRCE), continuing education units

(CEU), except as set out in subsection (h) of this section, or equivalent credits are granted through a national or state respiratory care association such as the AARC or the Texas Society for Respiratory Care or their successor organizations]; or

(3) (No change.)

(e) (No change.)

(f) Determination of clock hour credits. The department shall credit continuing education experiences as follows.

(1) (No change.)

(2) Parts of programs activities, workshops, seminars, sessions, etc. which meet the criteria of subsections (d)(1) and (d)(2) of this section shall be credited on a one-for-one basis with one clock hour credit for each clock hour spent in the continuing education activity.

(3)-(7) (No change.)

(8) Passing the certification examination for entry level pulmonary function technologists or the registry examination for advanced pulmonary function technologists for credentialing shall be credited on basis of nine clock hour credits.

(g) (No change.)

(h) Activities unacceptable as continuing education. The department may not grant continuing education credit to any practitioner for:

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

(3) any program or activity which is not approved [as CRCE or CEU] in accordance with subsection (d)(2) of this section;

(4)-(5) (No change.)

(6) [nonsupervised] self-study continuing education programs or activities; or

(7) (No change.)

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

(k) Other miscellaneous provisions.

(1) Audiovisual programs may be accepted by the department if such a program represents one of the instructional methods or strategies rather than constituting the entire program and provided the program meets the criteria as set out in subsection (d) of this section (relating to Types of Acceptable Continuing Education).

(2) A practitioner who also holds a current license, registration, or certification in another health care profession or a current license, registration, or certification as a respiratory care practitioner in another state, territory, or country may satisfy the continuing education requirements for renewal in Texas with hours counted toward renewal of another license, registra-

tion, or certification as long as all of the hours meet all of the requirements of this section.

§123.12. Professional and Ethical Standards. The purpose of this section shall be to establish the standards of professional and ethical conduct required of a practitioner pursuant to the Act, §11(b)(4).

(1) Professional representation and responsibilities.

(A)-(J) (No change.)

(K) A practitioner shall not retaliate against any person who reported in good faith to the department alleged incompetence, illegal, [or] unethical, or negligent conduct of any practitioner, or alleged misrepresentation or any violation(s) of the Act or these sections.

(L)-(Q) (No change.)

(2) Relationships with patients/clients.

(A)-(E) (No change.)

(F) A practitioner shall provide respiratory care with respect for the patient's dignity without discrimination based on race, creed, sex, religion, national origin, [or] age, or medical condition.

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

§123.14. Violations, Complaints and Subsequent Actions.

(a)-(h) (No change.)

(i) Final action.

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

[6](5) If the commissioner suspends or revokes a temporary certificate and the suspension is in effect at the time of expiration of the temporary certificate, the former temporary certificate holder is not eligible to reapply for a temporary certificate.]

[6](5) If the commissioner revokes or does not renew the certificate or extend a temporary permit, the former certificate or temporary permit holder may reapply in order to obtain a new certificate or permit by complying with the requirements and procedures at the time of reapplication. The department may not issue a new certificate or temporary permit until the administrator or the department determines that the reasons for revocation or nonrenewal have been removed. An investigation may be required.

[7](6) Upon revocation or nonrenewal, the former certificate or permit holder shall return the certificate or permit and any identification card(s) to the department.

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 May 20, 1988.

TRD-8805169

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

Earliest possible date of adoption: August 20, 1988.

For further information, please call: (512) 458-6574

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**Part VII. Texas Medical
Disclosure Panel**
Chapter 601. Informed Consent
**Medical Treatments and
Surgical Procedures
Established by the Texas
Medical Disclosure Panel**

• 25 TAC §601.1

The Texas Medical Disclosure Panel proposes an amendment to §601.1, concerning procedures requiring full disclosure (List A). As part of this proposed amendment, the Panel also proposes amendments to List A itself, which the Panel has adopted by reference in §601.1. List A covers the medical treatments and surgical procedures which physicians and health care providers are required to disclose to patients or persons authorized to consent for the patients.

The proposed amendment to §601.1 itself will show the date of the amendment. The proposed amendment to List A will be to §601.1, .17 in the list concerning psychiatric procedures. The amendment will identify the procedure and list the related risks concerning electroconvulsive therapy with modification by intravenous muscle relaxants and sedatives.

The Medical Liability and Insurance Improvement Act, Texas Civil Statutes, Article 4590i, §6.04, requires that any amendments to List A in §601.1 be published in the *Texas Register*. Since List A itself is being published in the "In Addition" issue of this issue of the *Texas Register*.

James H. Duke, Jr., M.D., chairman, Texas Medical Disclosure Panel, 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 as proposed. In some cases concerning hospitals which are small businesses, there may be a cost for forms and related paperwork but the cost will vary in each case and will be extremely minimal.

Doctor Duke also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be that providers of medical care will be made aware of the psychiatric procedure, including the related risk, concerning electroconvulsive

therapy with modification by intravenous muscle relaxants and sedatives. There is no anticipated economic cost to individuals who are required to comply with the section as proposed. In some cases an individual physician may have costs for forms and paper work but the cost will vary with each physician and will be extremely minimal.

Comments on the proposal may be submitted to Carroll Gregory, Health Facility Licensure and Certification Division, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756. Comments will be received for 30 days after publication of the proposed amendment in the Register.

The amendment is proposed under Texas Civil Statutes, Article 4590i, §6.04, which authorize the Texas Medical Disclosure Panel to adopt a list, including amendments, of medical treatments and surgical procedures, which physicians and health care providers are required to disclose to patients or persons authorized to consent for the patients.

§601.1. *Procedures requiring full disclosure (List A).*

(a) (No change.)

(b) The Texas Medical Disclosure panel adopts by reference the list of medical treatments and surgical procedures requiring full disclosure, as amended August [May] 1988. The list is indexed and filed in the office of the Texas Medical Disclosure Panel, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756 and is available for public inspection during regular working hours.

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 May 23, 1988.

TRD-8805209

James H. Duke, Jr.
Chairman
Texas Medical Disclosure
Panel

Earliest possible date of adoption: August 21, 1988.

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

TITLE 40. SOCIAL SERVICES AND ASSISTANCE

Part I. Texas Department of Human Services

Chapter 29. Purchased Health Services

Subchapter F. Physicians Services

• 40 TAC §29.502

The Texas Department of Human Services (DHS) proposes an amendment to §29.502, concerning authorized physician's services. The section is contained in its Purchased Health Services chapter. For services per-

formed by a physician's assistant in an intermediate care/skilled nursing facility to be covered, the services must be consistent with rules issued by the Texas State Board of Medical Examiners and the ICF/SNF standards for participation.

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

Mr. Packard also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be greater availability of medical services to Medicaid recipients in intermediate care/skilled nursing facilities. There is no anticipated economic cost to individuals who are required to comply with the section as proposed.

Comments on the proposal may be submitted to Cathy Rossberg, Administrator, Policy Development Support Division-302, 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.

§29.502. *Authorized Physician Services.*

(a) The term "physician services" includes those reasonable and medically necessary services that are provided by, or under the personal supervision of, a physician and that are within the scope of practice of medicine or osteopathy as defined by state law. Unless otherwise specified in writing by the department or its designee, the physician must have examined the patient, made a diagnosis, and established a plan of care, and documented these tasks on the appropriate medical records of the patient before submitting claims for payment to the department or its designee. If such documentation is not present in the appropriate medical record, then any payment may be recouped. Except as specified in subsection (c) or (d) of this section, the term "personal supervision" means that the physician must be in the building of the office or facility at the time, when, and where the service is provided.

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

(d) If the attending physician delegates health care tasks to a qualified physician's assistant in an intermediate care/skilled nursing facility, the physician services are covered if the supervision or delegation is consistent with the rules and regulations of the Texas State Board of Medical Examiners. Services provided by physician's assistants in intermediate care/skilled nursing facilities must be consistent with the requirements of §§16.1906, 16.1912, 16.3017(c), and 16.3207(a) of this title (relating to operating policies and procedures, recipient-patient care policies, con-

formance with physician orders, and drug orders). If the supervision of the delegated task is not appropriately documented in the patient's chart, any payment for services may be recouped.

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 May 19, 1988.

TRD-8805252

Marlin W. Johnston
Commissioner
Texas Department of
Human Services

Proposed date of adoption: July 27, 1988.

For further information, please call: (512) 463-3765

Subchapter L. General Administration

• 40 TAC §29.1101

The Texas Department of Human Services (DHS) proposed to amend §29.1101, concerning payments to eligible providers. The section is contained in its Purchased Health Services rules. Section 29.1101 is being amended to add a specific statement of liability that providers need to get from recipients if the provider is to bill them. If the department, or its designee, determines that a service is not reasonable and medically necessary, the provider may not charge the recipient for the service unless the recipient requested the service and the provider obtained this signed statement.

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

Mr. Packard also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be the elimination of confusion about billing for services not covered by Medicaid because they are not considered reasonable and medically necessary. There is no anticipated economic cost to individuals who are required to comply with the section as proposed.

Comments on the proposal may be submitted to Cathy Rossberg, Administrator, Policy Development Support Division-301, 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.

§29.1101. *Payments to Eligible Providers.*

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

(d) The department does not pay claims for services that are not reasonable and medically necessary according to the criteria established by the department and

its health insuring agent, as cited at §29.1112(a)(12) of this chapter (relating to Limitations and Exclusions). The provider may bill the recipient only if:

(1) (No change.)

(2) the provider has obtained and kept a written acknowledgment, signed by the recipient, that states: "I understand that, in the opinion of (provider's name), the services or items that I have requested to be provided to me on (dates of service) may not be covered under the Texas Medical Assistance Program as being reasonable and medically necessary for my care. I understand that the Texas Department of Human Services or its health insuring agent determines the medical necessity of the services or items that I request and receive. I also understand that I am responsible for payment of the services or items I request and receive if these services or items are determined not to be reasonable and medically necessary for my care" [stating that the provider has informed him of the following]:

[(A) in the provider's opinion, the service(s) or item(s) to be furnished are not considered reasonable and medically necessary and/or are not covered under the Texas Medicaid Program;

[(B) the recipient is responsible for the payment of the service(s) or item(s) he requested and received; and

[(C) the department or its health insuring agent determines the medical necessity of the service(s) or item(s) the recipient received].

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

(g) Recipients are responsible for any medical care or services they receive that are beyond the amount, duration, and scope of the Texas Medicaid Program, as determined by the department or its health insuring agent. **Providers must inform recipients of this responsibility.**

(h) (No change.)

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

Issued in Austin, Texas, on May 19, 1988.

TRD-8805251 Marlin W. Johnston
Commissioner
Texas Department of
Human Services

Earliest possible date of adoption: July 27, 1988.

For further information, please call: (512) 463-3765

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Part X. Texas Employment Commission

Chapter 301. Unemployment Insurance

• 40 TAC §§301.16-301.18

The Texas Employment Commission proposes amendments to §§301.16-301.18 concerning administrative appeals and hearings.

D.L. Kahanek, Program Director-Appeals, has determined that for the first five-year period the proposed sections are in effect there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the sections.

Mr. Kahanek also has determined that for each year of the first five years the sections are in effect the public benefit anticipated as a result of enforcing the section will be a more efficient and timely disposition of appeals. 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 Carolyn Calhoun, Office of Special Counsel, TEC Building, 101 East 15th Street, Room 660, Austin, Texas 78778, (512) 463-2291.

The amendments are proposed under Texas Civil Statutes, Article 5221b, which provide the Texas Employment Commission with the authority to adopt, amend, or rescind such rules as it deems necessary for the effective administration of this Act.

§301.16. Appeals to Appeal Tribunals from Determinations on Entitlement to Benefits. Appeals with respect to entitlement to benefits shall be in accordance with the terms of this section and of §301.17 of this title (relating to Appeals to the Commission from Decisions on Entitlement to Benefits) and §301.18 of this title (relating to General Rules for Both Appeal Stages). As used in this section and §301.17 of this title (relating to Appeals to the Commission from Decisions on Entitlement to Benefits) and §301.18 of this title (relating to General Rules for Both Appeal Stages), party means an individual or organization entitled to receive a copy of the determination made by the examiner under the terms of the Act, §6(b).

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

(3) Hearing of appeal.

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

(C) In appeals in which one or more parties are out of state, [or] in which the parties are at different intrastate locations, [or] in which both parties are at a location infrequently served by itinerant appeals referees, in which the commission is required by the Act §11(c), to provide language interpreters, or in which in-person hearings have been determined by

the administrator to be impractical because of the large volume of appeals and/or limited funding resources, the appeal tribunal may schedule the hearing to be conducted by telephone. The rules and procedures governing hearings in general shall govern telephone hearings.

(4)-(5) (No change.)

(6) The determination of appeals.

(A) Following the conclusion of a hearing of an appeal, the appeal tribunal shall, as early as possible, announce its findings of fact and decision with respect to the appeal. The decision shall be in writing and shall [be signed by] reflect the name of the appeals examiner who conducted the hearing and who rendered the decision. The appeals examiner shall set forth his findings of fact with respect to the matters on appeal, his decision, and the reasons therefor.

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

§301.17. Appeals to the Commission from Decisions on Entitlement to Benefits.

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

(f) The determination of appeals.

(1) the commission shall render its decision with respect to an appeal as soon as possible after reviewing the case. The decision shall be in writing and shall [be signed by] reflect the names of the members of the commission who participated in the review.

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

§301.18. General Rules for Both Appeal Stages. This rule shall be applicable to appeals both to the appeal tribunal and to the commission.

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

(6) **The commission or an appeal tribunal may, after an appropriate warning, expel from any proceeding any person, whether or not a party, who fails to comport himself in a manner befitting the proceeding. The commission or an appeal tribunal may then continue with the proceeding, hear evidence, and render a decision on the appeal.**

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 May 19, 1988.

TRD-8805147 Carolyn Calhoun
Administrative Technician
IV
Texas Employment
Commission

Earliest possible date of adoption: June 27, 1988

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

◆ ◆ ◆

TITLE 43.

TRANSPORTATION

Part I. State Department of Highways and Public Transportation

Chapter 11. Design Division

Freeway Mainlanes

• 43 TAC §11.71

The State Department of Highways and Public Transportation proposes an amendment to §11.71, concerning control of access on freeway mainlanes. The proposed amendment is intended to not only modify, but to clarify the department's role and responsibility relative to its participation in the cost of constructing additional frontage roads requested by local governments. Essentially the amendment provides for the following three levels of departmental participation for frontage road additions or extensions: (1) 100% for correcting safety or system continuity deficiencies; (2) 50% where additions or extensions provide benefits to both the traveling public and local area; and (3) 0% where benefits are for local properties almost exclusively.

Mr. Frank D. Holzmann, chief engineer, highway design, has determined that for the first five-year period the proposed section is in effect there will be fiscal implications as a result of enforcing or administering the section. The effect on state government for the five-year period the section will be in effect will be no additional cost for 1988; two million estimated additional cost for 1989; and five million estimated additional cost for 1990-1992. The effect on local government for the first five-year period the section will be in effect will be no fiscal implications for 1988. There will be an estimated reduction in cost of one million for 1989 and two million for 1990-1992. There will be no fiscal implications for small businesses as a result of enforcing or administering the section.

Mr. Holzmann also has determined that for each year of the first five years the section as proposed is in effect the public benefit anticipated as a result of enforcing the section will be the adoption by the department of a policy aimed at assisting local governments in the construction of additional frontage roads where such construction will improve the safety or enhance traffic operations for the traveling public.

Comments on the proposal may be submitted to Frank D. Holzmann, Chief Engineer, Highway Design, State Department of Highways and Public Transportation, 11th and Brazos Streets, Austin, Texas 78701.

The amendment is proposed under Texas Civil Statutes, Article 6666, which provide the State of Highways and Public Transportation Commission with the authority to establish rules and regulations for the conduct of the work of the State Department of Highways and Public Transportation, which includes construction of the state highway system. §11.71. *Control of Access on Freeway Mainlanes.*

(a) For facilities with full control access (i.e., freeways), such as interstate

highways or freeways developed by State Highway and Public Transportation Commission designation pursuant to Texas Civil Statutes, Article 6674w et. seq. [under House Bill 179, (Acts 1957, 55th Legislature, Regular Session)] access to the main travel lanes is fully controlled [either] through designation, purchase of access rights or provision of frontage roads.

(b) (No change.)

(c) In those instances where requests for additional frontage roads are received during or subsequent to the planning stage or after the freeway has been constructed, they may be considered and placed in order of priority of highway needs. [when the following conditions are met:]

(1) When right of way and utility adjustments costs are shared with a local government on a standard participation basis applicable to the highway designation the department may assume 100% responsibility for additional frontage road construction as follows: [A usable section of frontage road shall be developed. The intent of a usable section would be a facility from a separation to a separation or connecting public roadway.]

(A) on relatively short sections of frontage roads where through lane traffic is experiencing high accident rates due to local access and where such construction can be expected to substantially improve safety; and

(B) in heavily traveled urban corridors where gaps occur in the existing frontage systems and closing these frontage road gaps will restore system continuity and provide a cost-effective method of enhancing traffic operations in the corridor.

(2) The department may assist a requesting local government in the construction of additional frontage roads as follows: [The construction of frontage roads shall not adversely affect the movement of traffic at the ramp terminals and cross roads.]

(A) where a usable section of frontage road that will be of benefit to the traveling public is to be developed (usable section being defined as an addition or extension from a cross road separation to cross road separation or connecting to a public roadway or major traffic generator);

(B) where such frontage road construction is judged to not adversely impact existing traffic operations or safety;

(C) where the department is responsible for design and construction

of the added frontage roads; and

(D) when the requesting local government furnishes 100% of needed right of way and utility adjustment costs and 50% of the cost of construction, including preliminary and construction engineering.

(3) The department may approve additional frontage road construction, which is 100% funded by the requesting local government, as follows: [The frontage road shall be constructed to departmental specifications and standards.]

(A) if the frontage road construction primarily provides new or improved access to abutting property and does not necessarily provide a usable section as defined in paragraph (2)(A) of this subsection (These type additions would provide limited benefits to the general traveling public.); and

(B) where the department is responsible for design and construction and the requesting local government is responsible for 100% construction, right of way and utility adjustment costs including preliminary and construction engineering.

(4) Where right of way costs are 100% the responsibility of the requesting local government, the costs of relocation assistance benefits will also be 100% the responsibility of the local government; however the [The department shall receive from the requesting agency or individual the actual construction cost, including all preliminary and construction engineering costs.

(5) Any additional right-of-way shall be furnished free of cost and clear of utilities, and the requesting agency shall be responsible for any relocation assistance payments involved in the acquisition. The department shall handle all relocation actions exclusive of monetary payments to insure compliance with departmental policies and procedures.

(d) For additional frontage roads requested subsequent to the planning stage or after the freeway has been constructed, control of access as originally conceived for the facility may be modified to allow access to the proposed frontage road only to the extent as may be permitted by safety considerations and in keeping with departmental policies and procedures. [Access control will be similar to precedents as far as traffic volumes, safety, and design policy permit.]

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 May 20, 1988.

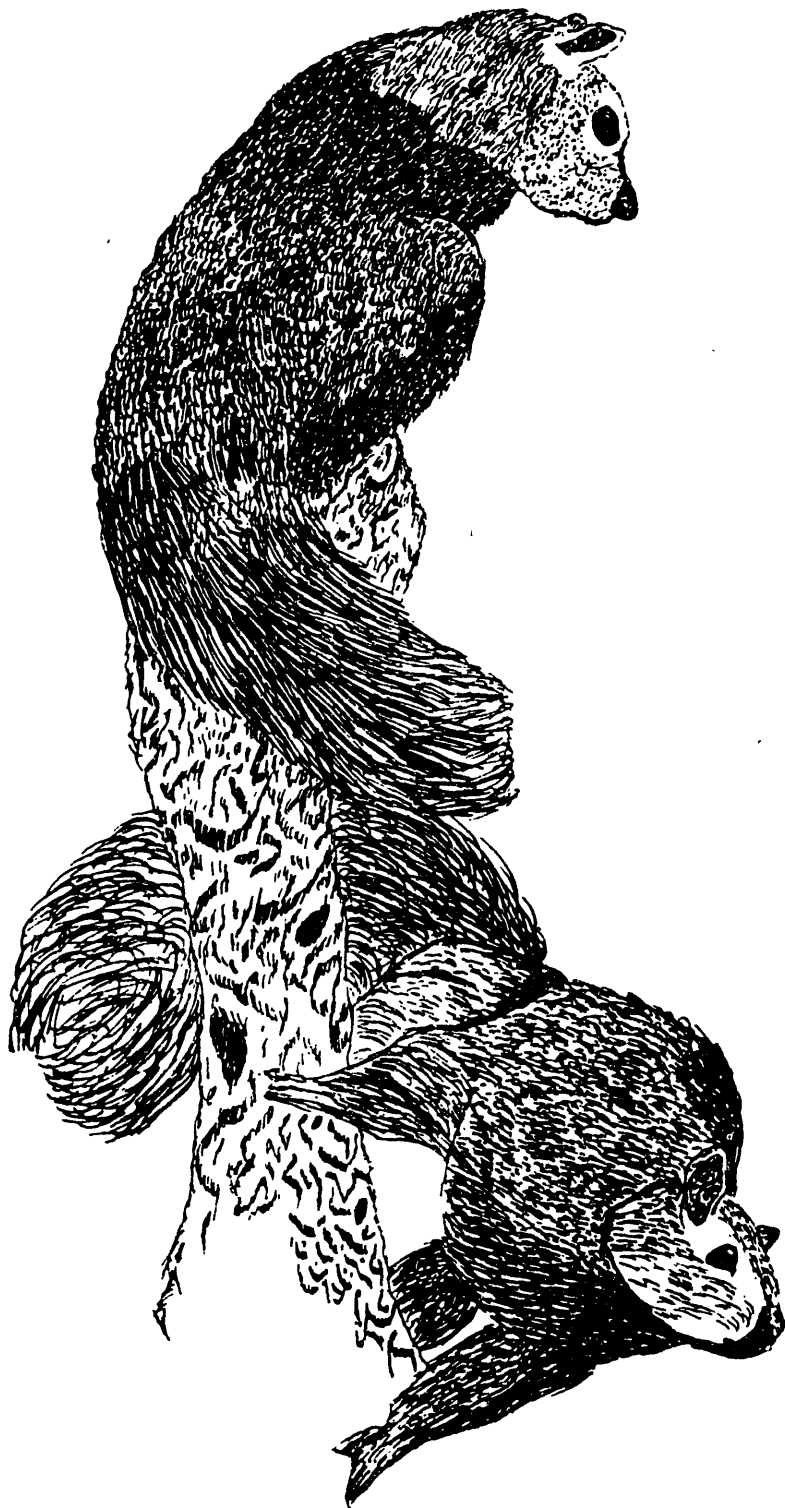
TRD-8905174

Diane L. Northam
Administrative Technician
State Department of
Highways and Public
Transportation

Earliest possible date of adoption: May 20,
1988

For further information, please call: (512)
463-8630.





Name: Jordan Turner
Grade: 9
School: Pemberton High, Marshall

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 1. ADMINISTRATION

Part I. Office of the Governor

Chapter 5. Budget and Planning

Subchapter A. State and Local Review of Federal and State Assistance Applications

1 TAC §5.1, §5.6

The Governor has withdrawn from consideration for permanent adoption a proposed repeal which appeared in the May 19, 1988, issue of the *Texas Register* (13 TexReg 2207). The effective date of this withdrawal is May 20, 1988.

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

Issued in Austin, Texas on May 20, 1988.

TRD-8805171

D. R. Millard, III
Assistant General Counsel
Office of the Governor

Filed: May 20, 1988

For further information, please call: (512) 463-1788

TITLE 22. EXAMINING BOARDS

Part XXII. Texas State Board of Public Accountancy

Chapter 523. Continuing Professional Education

Mandatory Continuing Education (CE) Program

22 TAC §523.61

The Texas State Board of Public Accountancy has withdrawn the emergency effectiveness of repealed §523.61, concerning the mandatory continuing education program. The text of the emergency §523.61 appeared in the April 13, 1988, issue of the *Texas Register* (13 TexReg 1520). The effective date of this withdrawal is May 20, 1988.

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

Issued in Austin, Texas on May 20, 1988.

TRD-8805197

Filed: May 20, 1988

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

The Texas State Board of Public Accountancy has withdrawn the emergency effectiveness of new §523.61, concerning the mandatory continuing education program. The text of the emergency §523.61 appeared in the April 13, 1988, issue of the *Texas Register* (13 TexReg 1520). The effective date of this withdrawal is May 20, 1988.

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

Issued in Austin, Texas on May 20, 1988.

TRD-8805198

Filed: May 20, 1988

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

TITLE 43. TRANSPORTATION

Part I. State Department of Highways and Public Transportation

Chapter 1. Administration

Contested Case Procedure

• 43 TAC §§1.21, 1.23, 1.26, 1.41, 1.43, 1.46, 1.48, 1.56, 1.59, 1.60, 1.62, 1.63

The State Department of Highways and Public Transportation has withdrawn the emergency effectiveness of §§1.21, 1.23, 1.26, 1.41, 1.43, 1.46, 1.48, 1.56, 1.59, 1.60, 1.62, and 1.63, concerning contested case procedure. The text of the emergency §§1.21, 1.23, 1.26, 1.41, 1.43, 1.46, 1.48, 1.56, 1.59, 1.60, 1.62, and 1.63 appeared in the April 12, 1988, issue of the *Texas Register* (13 TexReg 1701). The effective date of this withdrawal is June 10, 1988.

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

Issued in Austin, Texas on May 20, 1988.

TRD-8805179

Filed: May 20, 1988

For further information, please call: (512) 463-8630.

• 43 TAC §1.68

The State Department of Highways and Public Transportation has withdrawn the emergency effectiveness of §1.68, concerning contested case procedure. The text of the emergency §1.68, appeared in the April 12, 1988, issue of the *Texas Register* (13 TexReg 1701). The effective date of this withdrawal is June 10, 1988.

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

Issued in Austin, Texas on May 20, 1988.

TRD-8805178

Filed: May 20, 1988

For further information, please call: (512) 463-8630.

Chapter 9. Construction Division

Construction Division Practice and Regulations

• 43 TAC §9.5

The State Department of Highways and Public Transportation has withdrawn the emergency effectiveness of the repeal to §9.5, concerning the construction division practice and regulations. The text of the emergency repeal appeared in the April 12, 1988, issue of the *Texas Register* (13 TexReg 1701). The effective date of this withdrawal is June 10, 1988.

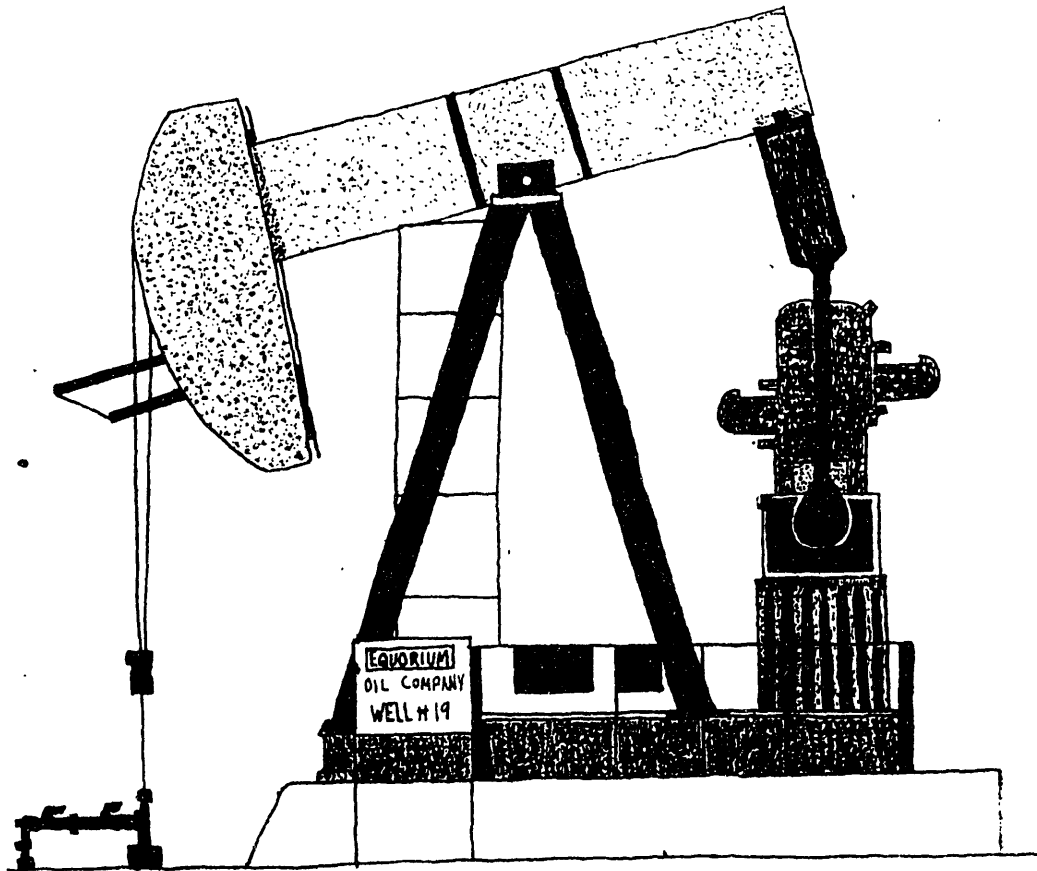
This agency hereby certifies that the rule as adopted has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas on May 20, 1988.

TRD-8805180

Filed: May 20, 1988

For further information, please call: (512) 463-8630



Name: Casey Goolsby
Grade: 9
School: Pemberton High, Marshall

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 1.

ADMINISTRATION

Part III. Office of the Attorney General

Chapter 59. Collections (NEW)

• 1 TAC §59.1

The Office of the Attorney General of Texas adopts new §59.1, without changes to the proposed text as published in the April 12, 1988, issue of the *Texas Register*. The new section makes it unnecessary for a local taxing authority to authorize the attorney general's office to include it in a collection suit each time the authority receives a certification of sales tax delinquency from the comptroller of public accounts. The new section deems a suit authorization to be a blanket authorization that continues in effect, permitting the attorney general's office to represent the taxing authority in every collection suit involving that authority, unless the authorization is revoked by certified mail notice.

No comments were received regarding adoption of the new section.

The new section is adopted under the Texas Tax Code, Title 3, Chapters 321, 322 and 323, which necessarily imply such power from the duties imposed upon the attorney general by such enactments.

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 May 20, 1988.

TRD-8805192

Lou McCreary
Executive Assistant
Office of the Attorney
General

Effective date: June 10, 1988

Proposal publication date: April 12, 1988

For further information, please call: (512) 463-2040.



TITLE 19. EDUCATION

Part I. Texas Higher Education Coordinating Board

Chapter 25. Administrative Council

Subchapter C. Administration of the Texas State College and University Employees Uniform Insurance Benefits Program

• 19 TAC §25.33

The Texas Higher Education Coordinating Board adopts an amendment to §25.33, with changes to the proposed text published in the January 12, 1988, issue of the *Texas Register* (13 TexReg 225).

The amendment will reduce overutilization of inpatient hospital treatment for psychiatric and drug abuse treatment and will provide benefits to encourage outpatient treatment. The amendment changes "doctor of psychiatry" to "psychiatrist" in subsection (a)(1)(Q) and (S) and subsection (a)(3).

The amendment would permit institutions to limit benefits by reducing the number of days allowable in health insurance plans for inpatient psychiatric and drug abuse treatment; to provide benefits for nonresidential day treatment programs for psychiatric and drug abuse treatment; and to increase benefits for outpatient treatment of psychiatric disorders and drug abuse.

The board received some comments which supported, while others opposed the proposed amendment. The negative comments focused primarily on the reduction of allowable inpatient hospital days for psychiatric treatment. The concern is that some patients needing more inpatient care might be adversely affected. Comments in support of the amendment favored the inclusion of nonresidential care and increased benefits for outpatient care for psychiatric and drug abuse treatment. Proponents support a shift in treatment modalities from the inpatient setting to outpatient care.

Commenters who were in favor of adopting the proposed amendment are: Robert B. Hunter, M.D., Texas A&M University and Scott and White Hospital, and Rogers Coleman, M.D., Blue Cross/Blue Shield.

Commenters who were opposed to adopting the proposed amendment are: Sheryl Harding, Texas Society of Psychiatric Physicians; Genevieve Hearon, Texas Alliance for the Mentally III; Robert L. Leon, M.D., UT

HSC at San Antonio; Kenneth Z. Altshuler, M.D., UT Southwestern Medical Center at Dallas; Charley H. Shannon, Angelo State University; Carmen A. Johnson, Southwest Texas State University; Roger Knott, UT HSC at Houston; Leonard Gopp, UT HSC at Houston; Gary Matthews, Ph.D., Texas Psychological Association; and Charles T. McDonald, Ph.D., Psychologist.

The agency disagrees with opponents on the basis that there is a need to reduce the rising costs associated with inpatient psychiatric/drug abuse treatment by encouraging a less expensive, but effective mode of treatment through partial hospitalization and outpatient therapy.

The amendment is adopted under the Texas Insurance Code, Article 3.50-3, which provides the administrative council with the authority to adopt rules and regulations consistent with the provision of the Act to carry out its statutory responsibilities. §25.33. *Basic Coverage Standards.*

(a) Each institution shall provide in its program of group insurance a basic plan for active employees and retired employees that includes at least the following minimum coverage standards.

(1) Hospital care expense. The plan shall cover the reasonable charges for the following hospital services:

(A) room allowance of semi-private rate for 365 days per year, except for the treatment of mental or emotional illness or disorder, which may be limited to 30 days per calendar year, and the treatment of drug addiction, which may be limited to 15 days per calendar year. The plan may require the payment of the charges for treatment of mental or emotional illness or disorder and drug addiction not apply towards satisfying the annual maximum out-of-pocket expenses;

(B) all other care in the nature of usual hospital services necessary and consistent with the condition of the patient; and

(C) non-residential day treatment programs for the treatment of mental or emotional illness or disorder and drug addiction, which may be limited to 80% of the established day treatment rate and 80% of the charges for other services necessary and consistent with the condition of the patient. The benefit may be limited to no less than 30 days for mental or emotional

illness or disorder and to no less than 15 days for drug addiction. The plan may allow for trading one day of hospital confinement in this subsection for two days of nonresidential day treatment in addition to the minimum benefits provided in this subsection. The plan may require that payment of the charges for nonresidential day treatment programs not apply towards satisfying the annual maximum out-of-pocket expenses.

(2) Other medical expense. The plan shall cover the reasonable charges for the following items of services or supplies furnished by or at the direction or prescription of a physician. If any of the following services or supplies are used while the participant is confined as a hospital bedpatient, other than professional services of a physician, psychologist, or certified registered nurse-anesthetist, the charges will be considered as hospital care expenses rather than other medical expenses:

(A)-(P) (No change.)

(Q) services of a psychologist, a psychiatrist, or a certified social worker-advanced clinical practitioner during the first 30 days of hospital confinement for mental or emotional illness or disorder and during the first 15 days of hospital confinement for drug abuse. The institution may require a professional recommendation from a doctor of medicine or doctor of osteopathy for services provided by a certified social worker-advanced clinical practitioner. The plan may require that payment of these charges not apply towards satisfying the annual maximum out-of-pocket expenses;

(R) (No change.)

(S) services of a psychologist, a psychiatrist, or a certified social worker-advanced clinical practitioner in conjunction with nonresidential day treatment programs for mental or emotional illness or disorder and drug addiction. The institution may require a professional recommendation from a doctor of medicine or doctor of osteopathy for services provided by a certified social worker-advanced clinical practitioner. The benefit may be limited to no less than 30 days for mental or emotional illness or disorder and to no less than 15 days for drug addiction. If the institution's plan allows the trading of nonresidential treatment days for hospital confinement as described in subsection (C) of this section, the same trade off for physician services may be provided in the plan. The benefit percentage may not be less than 80% of the usual customary and reasonable charges. The plan may require that payment of these charges not apply towards satisfying the annual maximum out-of-pocket expenses.

(3) Out-patient expenses of psychiatrist, psychologist, or certified social worker-advanced clinical practitioner. The plan shall provide for the services of a psychologist, services of a psychiatrist, or services of a certified social worker-advanced clinical practitioner for the treatment of mental or emotional illness or disorder while the participants are not hospital confined. The institution may require a professional recommendation from a doctor of medicine or a doctor of osteopathy for services provided by a certified social worker-advanced clinical practitioner. Benefits may not be limited to less than \$1,500 per benefit year. The benefit percentage may not be less than 80% of usual, customary, and reasonable charges. The plan may require that the deductible be satisfied prior to availability of benefits and that payment of these charges not apply towards satisfying the annual maximum out-of-pocket expenses.

(4) Out-patient drug abuse treatment. Benefits shall cover services for treatment of drug dependency. Benefits may not be limited to less than \$1,500 per benefit year. The benefit percentage may not be less than 80% of usual, customary, and reasonable charges. The plan may require that the deductible be satisfied prior to the availability of benefits and that payment of these charges not apply towards satisfying the annual maximum out-of-pocket expenses.

(5)-(9) (No change.)

(b) (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 May 18, 1988.

TRD-8805144 James McWhorter
Assistant Commissioner for
Planning and
Administration
Texas Higher Education
Coordinating Board

Effective date: June 9, 1988

Proposal publication date: January 12, 1988

For further information, please call: (512) 462-6420.

Subchapter C. Administration of Retirement Annuity Programs

• 19 TAC §25.72

The Texas Higher Education Coordinating Board adopts an amendment to §25.72, without changes to the proposed text published in the March 4, 1988, issue of the *Texas Register* (13 TexReg 1129).

The section is being adopted to provide for greater uniformity among the institutions of higher education in Texas in the administration of the Optional Retirement Program.

This amendment will provide guidelines to assist institutions in the administration of the Optional Retirement Program.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Insurance Code, Article 3.50-3, which provides the administrative council with the authority to develop policies, practices, and procedures as necessary in accordance with applicable statutes to provide for greater uniformity in the administration of retirement annuity insurance programs available under the Optional Retirement Program.

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

Issued in Austin, Texas, on May 18, 1988.

TRD-8805143 James McWhorter
Assistant Commissioner for
Planning and
Administration
Texas Higher Education
Coordinating Board

Effective date: June 9, 1988

Proposal publication date: March 4, 1988

For further information, please call: (512) 462-6420.

TITLE 22. EXAMINING BOARDS Part V. Texas State Board of Dental Examiners

Chapter 109. Conduct

Professional Signs

• 22 TAC §109.2

The Texas State Board of Dental Examiners adopts an amendment to §109.2, without changes to the proposed text published in the February 26, 1988, issue of the *Texas Register* (13 TexReg 958). The board is adopting this amendment in order to conform with the terminology currently being used in the profession. The amendment changes the word "pedodontics" to the term "pediatric dentistry".

No comments were received regarding adoption of this amendment.

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

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 May 17, 1988.

TRD-8805074

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

Effective date: June 8, 1988

Proposal publication date: February 26, 1988.

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



Prohibitions

• 22 TAC §109.107

The Texas State Board of Dental Examiners adopts an amendment to §109.107, without changes to the proposed text published in the February 26, 1988, issue of the *Texas Register* (13 TexReg 958). The board is adopting this amendment in order to conform with the terminology currently being used in the profession. The amendment changes the word "pedodontics" to the term "pediatric dentistry".

No comments were received regarding adoption of this amendment.

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

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 May 17, 1988.

TRD-8805073

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

Effective date: June 8, 1988

Proposal publication date: February 26, 1988.

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



Chapter 116. Dental Laboratories

• 22 TAC §§116.1-116.4

The Texas State Board of Dental Examiners adopts new §§116.1-116.4, without changes to the proposed text published in the April 5, 1988, issue of the *Texas Register* (13 TexReg 1594).

The board is adopting these new sections in compliance with Senate Bill 1421, which gives the board rule-making authority in the areas of registration and continuing education.

The new sections regulate registration and continuing education for dental laboratories.

No comments were received regarding adoption of the new sections.

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

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 May 17, 1988.

TRD-8805072

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

Effective date: June 8, 1988

Proposal publication date: April 5, 1988.

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



Chapter 119. Special Areas of Dental Practice

• 22 TAC §119.6

The Texas State Board of Dental Examiners adopts an amendment to §119.6, without changes to the proposed text published in the February 23, 1988, issue of the *Texas Register* (13 TexReg 907). The board adopted this amendment in order to conform with the terminology currently being used in the profession. The amendment changes the word "pedodontics" to the term "pediatric dentistry".

No comments were received regarding adoption of this amendment.

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

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 May 17, 1988.

TRD-8805075

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

Effective date: June 8, 1988

Proposal publication date: February 26, 1988.

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



Part IX. State Board of Medical Examiners

Chapter 175. Schedule of Fees

• 22 TAC §175.1

The Texas State Board of Medical Examiners adopts an amendment to §175.1, with changes to the proposed text as published in the April 15, 1988, issue of the *Texas Register* (13 TexReg 1752). The fee is necessary for processing the registration of radiologic technologists.

The fee will be collected and payable in the same manner as other required fees. The board voted to change the previously proposed amount of \$25 to \$24, in the event staggered registration is ever deemed appropriate and an amount divisible by 12 is desirable.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 4495b, which provide the Texas State Board of Medical Examiners with the authority to make rules, regulations, and bylaws not inconsistent with this Act as may be necessary for the governing of its own proceedings, the performance of its duties, the regulation of the practice of medicine in this state, and the enforcement of this Act. *§175.1. Fees.* The board shall charge the following fees:

(1)-(13) (No change.)

(14) radiologic technologist registration—\$24 per annum.

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 May 19, 1988.

TRD-8805146

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Executive Director
Texas State Board of
Medical Examiners

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



TITLE 28. INSURANCE

Part I. State Board of Insurance

Chapter 19. Agent's Licensing

Subchapter L. Use of Testing Service for Administration of Agent's Qualifying Examinations Under the Insurance Code

• 28 TAC §§19.1101-19.1110

The State Board of Insurance adopts new §§19.1101-19.1110. Sections 19.1101-19.1104 and §§19.1106-19.1110 are adopted with changes to the proposed text published

in the February 19, 1988, issue of the *Texas Register* (13 TexReg 869). Section 19.1105 is adopted without changes and will not be re-published.

The new sections concern the use by the State Board of Insurance of a testing service for administration of agent's qualifying examinations. These new sections are necessary for development and administration of higher quality examinations that more accurately measure the knowledge and expertise of persons required to be examined under the Insurance Code. This adoption includes many changes to the proposed text for the reasons explained in the following sentences. The adoption adds a sentence at the end of subsection 19.1101(a) in order to identify the evaluation committee's membership. The purpose of the changes to §§19.1102, 19.1104, and 19.1106-19.1110 is to clarify the meaning of the sections. The purpose of changes to §19.1103 is to make it clear that the Evaluation Committee will base its evaluation upon criteria within §19.1106 and that any evaluation by the committee is one advisory basis for actual decision-making by the board. The adoption adds a sentence to §19.1104 to state that the board may accept revised proposals before it awards any contract. The adoption changes subsections §19.1106(d) and (e) to add accommodations for handicapped candidates and proctor selection and training to the criteria for evaluation. The adoption changes §19.1110(1) to provide for the possibility of contract renewals for a period longer than one year. The adoption changes §19.1110(3) to make clear that termination of a contract may occur upon the filing of a petition for bankruptcy.

The new sections specify criteria and procedures for evaluating and selecting a testing service, specify requirements for a qualifying proposal from a vendor of testing services, and specify requirements for any agreement or contract under which the board would use a testing service for administering qualifying examinations for agents.

One commenter recommended that members of any evaluation committee should have no relationship to potential bidders. The board has added a sentence to §19.1101(a) in response to this comment. A commenter suggested that the requirement for each qualifying proposal to comply with "other necessary requirements" was too general. In response to this comment, the board has added language to the first sentence in §19.1102(a). A commenter suggested clarification concerning possible waiver of irregularities or of requirements for qualifying proposals. In response to this comment, the board has modified the second sentence in §19.1102(a) and has deleted proposed subsection in §19.1103(b). Commenters indicated a lack of full understanding of the process for award and approval of any contract. The board notes that §19.1101(c) and the other provisions of this subchapter describe a process in which the board will make any final decision after receiving evaluations from the evaluation committee; the board has deleted the last two sentences of proposed subsection in §19.1103(a) in order to eliminate possible confusion about this process. Commenters stated that the bases for development of examination questions were unclear. In response to these comments, the board has modified the first sentence of §19.1107(a)(1)

and has deleted proposed paragraph §19.1107(i)(3). A commenter objected to language requiring contractors to guarantee that examinations validly measure minimum competency. In response to this comment, the board has modified the last sentence of §19.1107(a)(1). A commenter noted that more meaningful results can sometimes be obtained by dividing an examination into more than the two parts which the proposed language specified. In response to this comment, the board has modified §19.1107(a)(2). A commenter noted the effect on cost by any requirement that the contractor pay for travel and subsistence of board personnel or advisory committee members. In response to this comment, the board has deleted the third sentence of proposed paragraph §19.1107(a)(5). One commenter objected to a requirement that examinations be available to walk-in candidates. The board has deleted the last sentence of proposed paragraph §19.1107(b)(1), which would have required that any qualifying proposal shall describe a system for accomplishing availability of examinations to walk-in candidates. The board has retained the third sentence of §19.1107(b)(1), which requires availability of examinations to walk-in candidates. The board responds that such availability is consistent with efficient communication among the board, the testing service, and potential candidates for examination. A commenter questioned the propriety of providing a candidate's examination results to insurance companies. In response to this comment, the board has modified the last sentence of §19.1107(g). Commenters argued that a requirement of an assurance of the legal defensibility of an examination against attack under a specific statute or specific regulatory guidelines is inappropriate if the statute or guidelines may be inapplicable, and contended that such a requirement may not be broad enough to encompass all applicable legal requirements. In response to these comments, the board did modify the first sentence in §19.1107(h). A commenter has complained that the extent of a contractor's responsibility in the development of tests for various lines is unclear. In response to this comment, the board has modified §19.1107(i). A commenter has suggested that screening of applicants should include more direct and specific involvement by the board. In response to this comment, the board has modified §19.1108(b)(1) and (2). A commenter suggested that language concerning development of computer programs should not require a contractor to give away trade secrets. In response to this comment the board has modified §19.1108(c). One commenter argued that reasonable limits should control any requirement that a contractor shall furnish equipment for transmission of data. In response to this comment the board has modified §19.1108(c)(4). One commenter argued for the possibility of contract renewals for a period longer than one year in order to provide for adequate amortization of developmental costs. In response to this comment, the board has modified the second sentence in §19.1110(1).

The Insurance Testing Institute and Educational Testing Service submitted comments generally for the proposed sections; however, they did suggest some modification of the sections as proposed.

The new sections are adopted under the Insurance Code, Article 21.01-1, which authorizes the State Board of Insurance to adopt rules, regulations, and standards for use of a testing service for administration of agents' qualifying examinations.

§19.1101. Evaluation and Selection Procedure.

(a) Appointment of evaluation committee. The State Board of Insurance shall appoint an advisory committee for evaluation of testing services for administration of agents' qualifying examinations (the Evaluation Committee). Such committee shall consist of State Board of Insurance staff with responsibility in areas affected by the various licensing procedures as well as technical testing experts who have no direct or indirect relationship to potential vendors.

(b) Any vendor of testing services who wishes to be considered for selection by the board for administration of agents' qualifying examinations shall submit a qualifying proposal to the Evaluation Committee. In order to be considered, a vendor must submit the qualifying proposal in the manner and by the deadline set by the Evaluation Committee. In evaluating a qualifying proposal, the Evaluation Committee may request and utilize technical assistance from any source.

(c) Selection by the board of any testing services shall be in accordance with the Insurance Code, Article 21.01-1.
§19.1102. Qualifying Proposals.

(a) The Evaluation Committee shall review each proposal for compliance with this subchapter and other necessary requirements as contained in related statutes, rules, and bid requests. The board retains the right to waive a requirement when to do so is in the best interest of fair and effective administration of the board's responsibilities.

(b) Any proposal submitted must be complete and will be submitted to a full evaluation. In addition, the vendor must assume full responsibility for addressing all necessary technical and operational issues in meeting the objectives of the request for proposal (RFP).

§19.1103. Evaluation. The Evaluation Committee shall conduct its evaluation based upon the evaluation criteria in §19.1106 of this title (relating to Evaluation Criteria). The evaluations of all members of the Evaluation Committee will be compiled and the average score established for each vendor.

§19.1104. Final Ranking and Award of Contract. The Evaluation Committee will report its final rankings to the board with the committee's recommendation for vendor selection, if any. The committee shall include in its report the total number of points assigned to each vendor together with any other information which might be useful to the board in its decision on awarding any contract. The board may accept revised proposals before it awards any contract. Contract awards, if any, resulting

from an RFP, are subject to appropriate state approvals.

§19.1106. Evaluation Criteria.

(a) General. The Evaluation Committee shall evaluate the clarity and content of the vendor's proposal, including the vendor's understanding of the nature of the project. Weighting factor: 5.

(b) Qualifications. The committee shall evaluate the vendor's demonstrated general experience in providing testing services and specific experience providing testing services in the general licensing field and the insurance licensing field in particular. Weighting factor: 10.

(c) Test development and revision. For a total weighting factor of 15, the committee shall evaluate the vendor's:

(1) psychometric methodology utilized in development of examinations and test items;

(2) equating of different versions of examinations;

(3) review of performance of examinations;

(4) frequency of substantial replacement of versions of examinations; and

(5) responsiveness to challenges to specific test items.

(d) Test accessibility. The committee shall evaluate frequency and geographical distribution of test offerings for all Texas insurance licensing examinations, accommodations for handicapped candidates, opportunity for testing on a walk-in basis, and speed with which a candidate may reschedule an examination. Weighting factor: 15.

(e) Security. The committee shall evaluate the vendor's ability to provide security at test sites, including proctor selection and training, proctor-to-candidate ratios, candidate identification, spatial arrangements for candidates taking examination, and details of vendor's arrangements for protecting the integrity of all examination materials. Weighting factor: 15.

(f) Scoring. The committee shall evaluate the average time and procedure by which test results will be transmitted to candidates and to the State Board of Insurance and the analysis of examination performance provided to candidates regarding examination failure. Weighting factor: 20.

(g) Application screening. The committee shall evaluate the vendor's ability to effectively and expeditiously review applications for license under State Board of Insurance guidelines. Weighting factor: 10.

(h) Records maintenance and reports. The committee shall evaluate the vendor's arrangements for retention and recovery of records relating to examinations, individually or in aggregate, and the

vendor's plans to provide scheduling rosters and reports to the State Board of Insurance. Weighting factor: 5.

(i) Examination cost. The committee shall evaluate scheduled charges which will apply to candidates taking examinations, including any differential charges for walk-ins or for other candidates under unusual circumstances. Weighting factor: 5.

(j) Total of weighting factors. The total of the weighting factors used by the committee for all criteria in subsections (a)-(i) of this section shall be 100.

§19.1107. Specific Requirements Concerning Examination.

(a) Development of questions.

(1) Examination content must be fully supported by the materials and content of the study manuals, textbooks or other materials approved for use by the board. The examinations must validly measure the knowledge, skills, and abilities necessary for entry into the insurance business as agents, solicitors, counselors, risk managers, or adjusters as relates to practice in Texas.

(2) The examination questions shall reflect Texas legislation and rules and regulations relating to insurance and related products. Examinations shall be divided into at least two discernible parts. One or more parts shall examine the candidate's knowledge and understanding of the general principles and practices of insurance and/or related products. One or more other parts shall examine the candidate's knowledge of Texas laws, rules, and regulations.

(3) Each contractor shall identify the number of questions in its data bank for each examination and its methods of developing questions for examinations. The contractor must utilize a test development and review process which assures relevance of each question to entry-level knowledge required of licensees. It also must employ methods of psychometric review which provide reasonable assurance of the validity of each examination.

(4) The board must be able to modify and reject any examination questions which contain subject matter that is not in compliance with the laws or regulations of this state.

(5) The contractor shall agree to reviews from time to time, but not less frequently than annually, by advisory committees as may be appointed by the board in accordance with the Insurance Code, Article 21.01-1. The contractor shall agree that such advisory committees may review the examinations by item and part prior to the examination's administration. The board retains the right to reject any exam item.

(b) Administration of examinations.

(1) The contractor will be responsible for establishing test locations throughout Texas. Examinations must be

given at least weekly in Austin and in the immediate Houston and Dallas vicinities, and at least monthly in such other locations as may subsequently be agreed upon by the contractor and the board, so as to provide adequate opportunity and convenience to candidates. Examinations must be available for administration to either pre-registered or walk-in candidates.

(2) The contractor must arrange adequate testing facilities in each location. The contractor must employ adequately trained test center supervisors and proctors to administer the examinations. Any contract shall describe the means of providing test accessibility and exam site security as specified in §19.1106(d) and (e) of this title (relating to Evaluation Criteria).

(c) Score. The contractor must score and report all examination results in accordance with the requirements established by the board. The contractor will also assist in setting passing scores.

(d) Security of Examinations.

(1) A new examination or a substantial replacement of any existing examination must be implemented for the major lines, as described in subsection (i)(1) of this section, at least once every three months and for each of the minor lines, as described in subsection (i)(2) of this section, at least once every six months. All versions of each examination shall be comparable in difficulty. Substantial replacement shall be considered to mean replacing, or substantially altering, at least 60% of the questions on a given version of an examination.

(2) The scored examinations must be kept on file for a period of six months. After six months, the examinations may be destroyed. Any proposal and any contract shall describe the system of security for the examination questions and for test center security, and shall indicate the methods to be used by the contractor to provide security in transmission of test results to the board, to insurance companies, and/or to candidates. The contractor must investigate and report to the board any security violation or any instance of cheating or suspected cheating by any candidate. The contractor must assist the board in any proceedings which may be undertaken against a candidate for cheating or in respect to any other security violations.

(e) Maintaining statistics. The contractor shall provide, on an agreed-to scheduled basis, statistical reports of the number of persons registering for, passing, failing, and retaking an examination, and will further provide psychometric examination statistics on the performance of each question and of each examination as a whole.

(f) Collecting and accounting for registration fees. The contractor must establish a system of accounting showing fees collected and funds disbursed in a form

acceptable to the accounting staff of the board and capable of audit by the state auditor or his designee.

(g) Notification of board, companies, and applicants. Examination results for all applicants must be received by the board within five working days of each examination date. Notification to failing candidates must be mailed within five working days of each examination date. Notification that a candidate has passed or failed an examination must be mailed to all sponsoring companies within five working days of each examination date.

(h) Assurance of compliance with legal requirements. The contractor shall provide a legal opinion that all examinations are designed to comply with applicable state and federal laws. In the event of any legal challenge to any examination administered by the contractor in Texas, the contractor agrees to join in the legal defense against such challenge.

(i) Development of tests for various lines. A contractor will develop specific examinations for:

(1) major lines as follows:

(A) life, health, and accident (or Group I) agents;

(B) property and casualty (or local recording) agents; and

(C) property and casualty solicitors.

(2) minor lines as follows:

(A) life;

(B) health and accident;

(C) life insurance counselors;

(D) automobile;

(E) surplus lines;

(F) managing general agents;

(G) prepaid legal services;

(H) liability risk managers;

(I) health maintenance organization agents; and

(J) adjusters, as follows:

(i) all lines;

(ii) casualty, including auto physical damage, auto liability, general liability, and aircraft;

(iii) workers' compensation, employers liability, and USL&H;

(iv) fire, allied lines, and inland marine;

(v) fidelity and surety;

(vi) boiler and machinery;

(vii) marine; and

(viii) multi-lines (qualifying for lines listed in clauses (ii), (iii), and (iv) of this subparagraph).

§19.1108. Specific Requirements Concerning Services to be Rendered under Contract.

(a) Development of forms.

(1) The contractor shall develop, print, revise, and distribute an information booklet and a registration form as approved by the board. A sample copy of the proposed information booklet and registration form shall be submitted with each response to the request for proposal (RFP) required by §19.1102 of this title (relating to Qualifying Proposals). The contractor shall describe the procedure for developing and revising such forms. The information booklet shall contain a registration form and an outline of the particular examination's topic areas, and the relative value assigned to each topic area in scoring an examination.

(2) The contractor shall provide the board with samples of various administrative forms which would be used in operation of the program, including forms for reporting examination results, notification letters to individuals or companies, and statistical reports conveying information set out in §19.1106(h) of this title (relating to Evaluation Criteria), and any reports or forms which must be furnished from the board to the contractor on a regular basis. All of the aforementioned should be attached to the response to the RFP required by §19.1102 of this title (relating to Qualifying Proposals).

(b) Screening of applications for license.

(1) Applicants for licensing examinations in Texas will make application directly to the contractor. The form of the application will be designed to elicit information sufficient to establish a valid licensing record as required by the laws and regulations of this state. The board will specify those items of information which will be included in all license applications.

(2) The contractor will be responsible for receiving and screening these applications for completeness. The contractor will forward completed applications with examination results. The board will provide guidelines for evaluating application questions. If the responses do not meet the board's guidelines, the application will be forwarded for the board's review prior to scheduling an examination. The board will specify those items of information which

will be included in all license applications. The board will investigate applicants who may be ineligible for licensing due to the statutory or regulatory provisions of this state.

(3) The contractor will be responsible for creating, maintaining, and transmitting a record on all applicants by a means which will permit the automated entry of an agent master record into the data base of licensees operated by the board. The contractor shall also forward to the board either the original application forms or copies of those forms which have been reproduced in conformance with the rules of the United States Bureau of Standards relating to photography, microphotography, photocopying, and/or microfilm, as applicable.

(c) Development of computer programs.

(1) The contractor will develop any computer programs necessary to provide for fulfillment of a contract awarded pursuant to this subchapter. While the contractor may license this program to other states, copies of the program and its documentation must be available at all times without charge to computer personnel appointed by the board. This would apply whether or not the contract runs its full term or is earlier terminated.

(2) A documented copy of any computer program developed as described in paragraph (1) of this subsection shall be furnished to the board's Data Processing Division. Documented copies of all changes to any such program throughout the term of the contract are to be furnished immediately upon implementation. The contractor may retain all rights to this program to license and distribute in any manner it chooses. Upon the expiration or termination of the contract, the board may retain, use in any manner, and/or modify the program without cost or charge.

(3) The program must be capable of transmitting data from the contractor's offices to the data base of licensees operated by the board. Upon receipt of the data transmissions, the computer record for the candidate on the board's data base will be updated to reflect the examination results without the necessity of re-keying this information. The program shall contain adequate safeguards to prevent alteration, duplication, substitution, or elimination of existing records. A means of auditing and safeguarding the data must be included in the program.

(4) The contractor shall furnish any equipment necessary for fulfillment of the provisions of this subchapter and which may be needed by the board in order to achieve efficiency and time savings in transmission of data.

(d) Providing information. On all working days, the contractor must provide information by letter or telephone to candi-

dates who have questions or complaints concerning the examination process. The board shall have access to full and complete information concerning applicants and/or the examination process during all normal working hours. A record of complaints and their disposition shall be forwarded to the board on an agreed-to-scheduled basis. Any qualifying proposal or contract shall describe services to meet these requirements.

(e) Approval of news releases. No news releases pertaining to the contract shall be made without the prior approval of the board.

§19.1109. Specific Requirements Concerning Contractor's Fees.

(a) The board anticipates that the contractor's fee will be established for at least the first three years. Thereafter, the contractor will notify the board in writing at least 180 days prior to anticipated fee changes.

(b) If a fixed schedule of fees is not practical, the contractor shall indicate the maximum percentage of increase or decrease in those fees which will be applicable on an annual basis, including information concerning fees as follows:

(1) contractor's examination fee for pre-registered applicants;

(2) any additional fee for walk-in applicants; and

(3) any other costs or fees individually described and enumerated.

(c) Program costs shall be paid by fees collected by the contractor from candidates. The program of examination administration as outlined in the RFP required by §19.1102 of this title (relating to Qualifying Proposals) shall be without cost to the board.

§19.1110. Contract Terms and Conditions. The following are minimum terms and conditions of the contract. Others may be added at a later time.

(1) Contract period. The contract period will be for an initial period of at least three years. Thereafter, the contract can be renewed annually or for a longer period of time. The contract can be changed only with the express written agreement of both parties.

(2) Termination. Upon the mutual written agreement of both the board and the contractor, the contract can be terminated at any time with 180 days written notice except in the case of nonperformance or for cause. In the case of non-performance or for cause, the board may terminate the contract with 30 days notice. The board reserves the right to recover reasonable costs from the contractor if termination is at the contractor's request or if the board terminates the contract for cause. If, in the opinion of the board, there is a danger to the interest of the insurance industry or to

the citizens of this state, or if any rules of the board have been violated, the board shall have the right to permanently terminate the contract or to temporarily suspend it. No later than 10 days after receiving written notice of such action, the contractor may request a hearing before the board, but any order of termination or suspension shall remain in full force and effect until final resolution of the contested case.

(3) Bankruptcy. Upon the filing of a petition for bankruptcy, or upon the judgment of bankruptcy or insolvency by or against the contractor, the board may terminate this contract for cause without notice.

(4) Confidentiality of data. The contractor agrees to protect the confidentiality of any files, data, or other materials provided by this board or by any license applicants. Any such data shall be restricted in use and purpose to the performance under this contract.

(5) Care of data. The contractor shall take all steps necessary to safeguard any data, files, reports, or other information from loss, destruction, or erasure.

(6) Implementation and operational costs. All costs of design, installation, and operation of services under any contract awarded pursuant to this subchapter shall be borne by the contractor.

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 May 20, 1988.

TRD-8805196 Nicholas Murphy
Chief Clerk
State Board of Insurance

Effective date: June 10, 1988

Proposal publication date: February 19, 1988

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

◆ ◆ ◆
TITLE 40. SOCIAL SERVICES AND ASSISTANCE

Part I. Texas Department of Human Services
Chapter 27. Intermediate Care Facility for the Mentally Retarded

The Texas Department of Human Services adopts amendments to §27.2505 and §27.3007, without changes to the proposed text published in the March 22, 1988, issue of the *Texas Register* (13 TexReg 1379).

The amendments update references that were inaccurate because of changes to the referenced section titles and numbers. The amendments delete references to a section that replaced the repealed one.

No comments were received regarding adop-

tion of the amendments.

Subchapter Z. Change in Status of Intermediate Care MR Sections

◆ ◆ ◆
• 40 TAC §27.2505

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

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 May 19, 1988.

TRD-8805126 Marlin W. Johnston
Commissioner
Texas Department of Human Services

Effective date: June 15, 1988

Proposal publication date: March 22, 1988

For further information, please call: (512) 463-3765

◆ ◆ ◆
Subchapter EE. Admission and Release

◆ ◆ ◆
• 40 TAC §27.3007

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

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 May 19, 1988.

TRD-8805127 Marlin W. Johnston
Commissioner
Texas Department of Human Services

Effective date: June 15, 1988

Proposal publication date: March 22, 1988

For further information, please call: (512) 463-3765

◆ ◆ ◆
TITLE 43. TRANSPORTATION
Part I. State Department of Highways and Public Transportation

Chapter 1. Administration

Contested Case Procedure

◆ ◆ ◆
• 43 TAC §§1.21, 1.23, 1.26, 1.41, 1.43, 1.46, 1.48, 1.56, 1.59, 1.60, 1.62, 1.63

The State Department of Highways and Public Transportation adopts amendments to §§1.21, 1.23, 1.26, 1.41, 1.43, 1.46, 1.48, 1.56, 1.59, 1.60, 1.62, and 1.63, without

changes to the proposed text as published in the January 1, 1988, issue of the *Texas Register* (13 TexReg 50).

The sections are being amended to incorporate certain procedures peculiar to contract claim disputes and to complement new §1.68, concerning contract claim procedure, which is being adopted contemporaneously.

Section 1.21 is amended to include a definition of contract claim to expand the definition of hearing officer to cover a presiding officer. Section 1.23 is amended to exempt parties in a contract claim case from the general requirement that a signed copy of all pleadings must be filed for each member of the State of Highways and Public Transportation Commission. Section 1.26 is amended to require the petition in a contract claim case to reference certain claim documents and to be accompanied by a copy of those documents. Section 1.41 is retitled as Presiding Officer, and expanded to allow a case to be heard by more than one hearing officer, in which instance, the presiding officer will be designated. Section 1.43 is amended to allow the hearing officer to specify the time period for delivery of the transcript in lieu of the mandatory 14 working day requirement. Section 1.48 is amended for proper statutory citation form and for exclusion of proceedings under §1.68 from being admissible in the contested case hearing. The inadmissibility is based upon the nature of the §1.68 proceedings as informal attempts to reach mutually agreeable resolution of disputes. Sections 1.46, 1.56, 1.60, 1.62, and 1.63 are amended to provide for respective actions to be taken by the engineer-director in lieu of the commission in those cases involving contract claims.

No comments were received regarding adoption of the amendments.

The amendments are adopted under Texas Civil Statutes, Article 6666, which provide the State Highways and Public Transportation Commission with the authority to promulgate rules for the conduct of the work of the State Department of Highways and Public Transportation.

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 May 17, 1988.

TRD-8805177

Diane L. Northam
Administrative Technician
State Department of
Highways and Public
Transportation

Effective date: June 10, 1988

Proposal publication date: January 1, 1988

For further information, please call: (512) 463-8630.

Contested Case Procedure

• 43 TAC §1.68

The State Department of Highways and Public Transportation adopts new §1.68, with changes to the proposed text as published in the January 1, 1988, issue of the *Texas Register* (13 TexReg 51).

The new section will provide a more expeditious means of resolving contract claim disputes consistent with principles of due process. Change to subparagraph (b)(1) will allow more than one contract claim committee to function to meet varying schedules and needs. Change to subparagraph (b)(2) will allow claims to be processed before completion of a contract instead of restricting to post completion of a contract when resolution is required for orderly performance of work. Changes to subparagraph (b)(5) clarifies phrasing, including the time period for a contractor to accept the committee's proposed claims resolution or to request a formal administrative hearing.

The new section will provide a more expeditious means of resolving contract claim disputes consistent with principles of due process. In addition to the procedure whereby a contractor may appear before a review committee to attempt to resolve those disputes by mutual agreement, the new section provides for a more formal administrative appeal under §§§1.21-1.63 of this title (relating to Contested Case Procedure). Contract claims covered will be those arising under contracts entered by the department pursuant to Texas Civil Statutes, Articles 6674h, 6252-11c, and 664-4, as amended.

No comments were received regarding adoption of the new section.

The new section is adopted under Texas Civil Statutes, Article 6666, which provide the State Highways and Public Transportation Commission with the authority to promulgate rules for the conduct of the work of the State Department of Highways and Public Transportation.

§1.68. *Contract Claim Procedure.*

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

(1) Commission—The three member body appointed by the governor to compose the State Highway and Public Transportation Commission.

(2) Committee—The Contract Claim Committee.

(3) Contract claim—A claim for additional compensation or time extension, or for any other reason, arising out of a contract between the State of Texas and a contractor which is entered into and administered by the State Department of Highways and Public Transportation pursuant to Texas Civil Statutes, Articles 6674h, 6252-11c, and 664-4, as amended.

(4) Contractor—An individual, partnership, corporation, or other business entity that is a party to a written contract with the State of Texas which is entered into and administered by the State Department of Highways and Public Transportation pursuant to Texas Civil Statutes, Article 6674h, 6252-11c, and 664-4, as amended.

(5) Department—The State Department of Highways and Public Transportation.

(6) District—One of the 24 districts of the department.

(7) Division—One of the 15 operating divisions of the department.

(8) Engineer-director—The state engineer-director for the State Department of Highways and Public Transportation.

(b) Contract Claim Committee.

(1) The engineer-director will name the members and chairman of a contract claim committee or committees to serve at his pleasure. It will be the responsibility of a committee to gather information, study, and meet informally with contractors, if requested, to resolve any disputes that may exist between a district or division and the contractor, and which result in one or more contract claims.

(2) The commission stresses that, to every extent possible, disputes between a contractor and the engineer or other department employee in charge of a project would be resolved during the course of the contract. If, however, after completion of a contract, or when required for orderly performance prior to completion, resolution of a contract claim is not reached with the district or division, the contractor should file a detailed report and request with the district-engineer or division head under whose administration the contract was or is being performed. The filed documents will be transmitted to the engineer-director for referral to a committee.

(3) The committee will secure detailed reports and recommendations from the responsible district or division, and may confer with any other divisions deemed appropriate by the committee.

(4) The committee will then afford the contractor an opportunity for a meeting to informally discuss the disputed matters and to provide the contractor an opportunity to present relevant information and respond to information the committee has received from the district/division(s).

(5) The committee chairman will give written notice of the committee's proposed disposition of the claim to the contractor. If that disposition is acceptable the contractor shall advise the committee chairman in writing within 20 days of the date such notice is received, and the chairman will forward the agreed disposition to the engineer-director for a final and binding order on the claim. If the contractor is dissatisfied with the proposal of the committee, the contractor may petition the engineer-director for a formal administrative hearing to litigate the claim pursuant to the provisions of §§1.21-1.63 of this title (relating to Contested Case Procedure).

(6) Proceedings before a district engineer, division head, or the committee are in nature an attempt to mutually resolve a contract claim without litigation and are not admissible for any purpose in a formal

administrative hearing provided in paragraph 5 of this subsection.

(7) If the contractor fails to submit the petition within 20 days after notice of the committee's recommendation is received, that recommendation will be final, and all further appeal by the contractor shall be barred.

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 May 17, 1988.

TRD-8805176

Diane L. Northam
Administrative Technician
State Department of
Highways and Public
Transportation

Effective date: June 10, 1988

Proposal publication date: January 1, 1988

For further information, please call: (512) 463-8630.



Chapter 9. Construction Division

Construction Division Practice and Regulations

• 43 TAC §9.5

The State Department of Highways and Public Transportation adopts the repeal of §9.5, without changes to the proposed text as published in the January 1, 1988, issue of the *Texas Register* (13 TexReg 51).

The repeal of this section is required by the contemporaneous adoption of a new §1.68, in Chapter 1 of Part 1 of this title, which incorporates certain of the repealed provisions in an amended form to provide for resolution of contract claim disputes consistent with principles of due process.

No comments were received regarding adoption of the repeal.

The repeal is adopted under Texas Civil Statutes, Article 6666, which provide the State Highway and Public Transportation Commission with the authority to promulgate rules for the conduct of the work of the State Department of Highways and Public Transportation.

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 May 17, 1988.

TRD-8805175

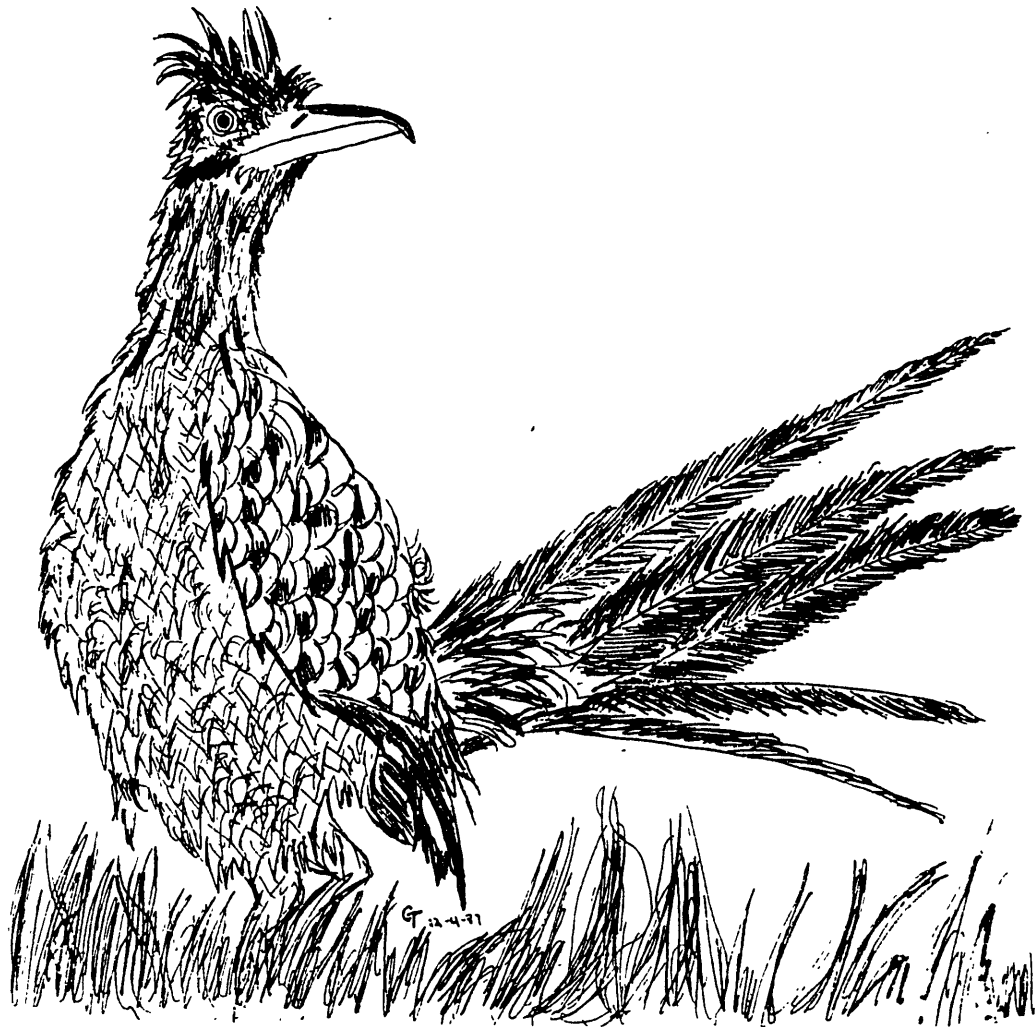
Diane L. Northam
Administrative Technician
State Department of
Highways and
Transportation

Effective date: June 10, 1988

Proposal publication date: January 1, 1988

For further information, please call: (512) 463-8630





Name: Edward Thomas
Grade: 9
School: Pemberton High, Marshall

Open Meetings

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

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

Posting of open meeting notices. All notices are posted on the billeting board outside the Office of the Secretary of State on the first floor of the East Wing in the State Capitol, Austin. These notices may contain more detailed agenda than what is published in the *Texas Register*.

Texas Department of Agriculture

Wednesday, May 25, 1988, 11 a.m. The Texas Agricultural Diversification Board of the Texas Department of Agriculture met in emergency session in Room 618, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. According to the agenda, the board heard introductory remarks, oath of office to new board members, presented background on the Texas Agricultural Diversification Act, reviewed linked deposit program, and discussed grant program priorities. The emergency status was necessary because the next possible meeting date for a quorum of the board would be in August, which would delay the effect implementation of the program.

Contact: Brian Muller, P.O. Box 12847, Austin, Texas 78711, (512) 463-7639.

Filed: May 20, 1988, 11:38 a.m.

TRD-8805173

Texas Antiquities Committee

Friday, May 27, 1988, 9:30 a.m. The Texas Antiquities Committee submitted a revised agenda for a meeting held in Room 118, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. According to the agenda summary, the committee will accept nomination of one more archaeological site in Kimble County. The emergency status is necessary because the additional item is added to agenda at the board's request.

Contact: Molly Godwin, P.O. Box 12276, Austin, Texas 78711, (512) 463-6098.

Filed: May 23, 1988, 1:29 p.m.

TRD-8805235

Banking Section of the State Finance Commission

Friday, May 27, 1988, 10 a.m. The Banking Section of the State Finance Commission will meet in the State Banking Depart-

ment, 2601 North Lamar Boulevard, Austin. According to the agenda, the commission will discuss utilization of consultants for certain examination purposes; consider proposed rules (7 TAC §§3.101-3.105), relating to insurance sale activities; consider appeals to the banking section; review departmental operations. The board also will meet in executive session to discuss pending or contemplated litigation.

Contact: Hubert Bell, Jr., 2601 North Lamar Boulevard, Austin, Texas 78705, (512) 479-1200.

Filed: May 19, 1988, 11:10 a.m.

TRD-8805134

Texas Commission for the Blind

Wednesday, June 22, 1988, 4 p.m. The El Paso District Office of the Texas Commission for the Blind will meet in the District Office, 5100 El Paso Drive, El Paso. According to the agenda, the commission is offering concerned citizens the chance to comment on the state plan for vocational rehabilitation services in Texas during 1988. Such public meetings are called for in a requirement contained in the Rehabilitation Act Amendments of 1986, which stipulates state agencies must hold public meetings throughout the state to allow comment on the plan. Those who are unable to attend may send comments to the Public Information, Office of the Texas Commission for the Blind, 4800 North Lamar Boulevard, Suite 320, Austin, Texas 78756.

Contact: David Zarazua, (512) 779-6385, Betty Huffman, (512) 459-2613.

Filed: May 20, 1988, 9:18 a.m.

TRD-8805162

Texas Board of Chiropractic Examiners

Thursday, June 9, 1988, 2 p.m. The Texas Board of Chiropractic Examiners will meet in the Westin Paso Del Norte, 101 South El

Paso Street, El Paso. According to the agenda summary, the board will approve minutes of the previous meeting; hold public hearing concerning adjunctive therapy; hear board committee reports; consider adoption of §§71.8(a)(c), 78, and 77.2(2)-(10); consider rules of practice; approve budget for fiscal year 1990-1991; consider amending §75.3 and §75.4 concerning rules of practice; hear FTC report; consider amending §§75.1(7), 71.3(a), and 71.10 concerning rules of practice; consider repeal of §§77.3, 77.4, 77.5, 75.1(3), 75.1(5) last sentence, and 75.1(8) concerning rules of practice; discuss definition of subluxation and adjustment; hear TCA legislative committee report; and consider new and unfinished business. The board will also meet in executive session to discuss legal and personnel matters.

Contact: Bobbye Ferris, 1300 East Anderson Lane, Suite 245, Austin, Texas 78752.

Filed: May 24, 1988, 9:12 a.m.

TRD-8805271

Texas Education Agency

Tuesday and Wednesday, May 31 and June 1, 1988, 6:30 p.m. and 8:15 a.m., respectively. The Texas Academic Skills Program Bias Review Panel of the Texas Education Agency will meet at the Hyatt Regency Hotel, 208 Barton Springs Road, Austin. According to the agenda, the panel will hold registration and orientation. The panel will also meet in closed session in accordance with Texas Attorney General Opinions H-484 (1974) and H-780 (1976) to review and discuss skills survey results; conduct test area group sign-in; introduce to the test and item specifications review task; review task specifications in test area groups; present test area group reports; and summarize recommendations.

Contact: Pamela Tackett, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9525.

Filed: May 23, 1988, 11:17 a.m.

TRD-8805232

Thursday and Friday, June 2 and 3, 1988, 6:30 p.m. and 8:15 a.m., respectively. The Texas Academic Skills Program Content Advisory Committee of the Texas Education Agency will meet in the Hyatt Regency Hotel, 208 Barton Springs Road, Austin. According to the agenda summary, the committee will hold registration and orientation. The committee will also meet in closed session in accordance with Texas Attorney General Opinion, H-484, (1974) and H-780 (1976) to consider content area committees review and discussion of skills survey results (content areas are reading, writing, and mathematics); consider content area committee meeting sign-in; introduce test and item specifications review task; and consider content area committees review of test specifications.

Contact: Pamela Tackett, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9525.

Filed: May 23, 1988, 11:17 a.m.

TRD-8805231

Tuesday, June 14, 1988, 9 a.m. The Advisory Group for the Plan for Adult and Community Education of the Texas Education Agency will meet in Room 1-108, William B. Travis Building, 1701 North Congress Avenue, Austin. According to the agenda, the group will consider scope of work and responsibilities of the advisory group; consider presentation of draft plan, input into draft plan by committee, and next meeting date.

Contact: Deborah Stedman, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9447.

Filed: May 23, 1988, 11:18 a.m.

TRD-8805230

The Advisory Commission on State Emergency Communications

Thursday, May 26, 1988, 8:30 a.m. The Administration Committee of the Advisory Commission on State Emergency Communications submitted an emergency revised agenda to meeting held in Room 104, John H. Reagan Building, Austin. According to the agenda, the committee continued to work on the development of an administrative policy and procedures manual; considered any 9-1-1 legislative needs; developed job descriptions and considered new business related to 9-1-1 administration; and discussed funding for operations of the commission. The emergency status was necessary in order to avoid delay of implementation of the state 9-1-1 program, the issue of funding for the operations of the commission needs to be discussed.

Contact: Mary Boyd, P.O. Box 13206, Austin, Texas 78711, (512) 463-1812.

Filed: May 23, 1988, 10:48 a.m.

TRD-8805211

Health and Human Services Coordinating Council

Tuesday, May 31, 1988, 1 p.m. The Restructuring Committee, Service Delivery Task Force for Health and Human Services Coordinating Council will meet at 311-A East 14th Street, Austin. According to the agenda, the committee will hear a report on agency information received to date, report on committee coordination project, resource contact reports, discuss preliminary recommendations, and new and old business.

Contact: Patricio O. Thomas, 311-A East 14th Street, Austin, Texas 78701, (512) 463-2195.

Filed: May 23, 1988, 4:17 p.m.

TRD-8805258

Texas Department of Human Services

Wednesday, June 1, 1988, 9 a.m. The Texas Board of Human Services of the Texas Department of Human Services will meet in the Public Hearing Room, First Floor, 701 West 51st Street, Austin. According to the agenda, the board will hear report on refocused employment services; consider staff presentations and public comment on the proposed fiscal year 1989 operating plan and the proposed 1990-1991 legislative appropriation request and board direction on proposed fiscal year operating plan and fiscal year 1990-1991 legislative appropriation request.

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

Filed: May 24, 1988, 8:33 a.m.

TRD-8805268

Texas Industrial Accident Board

Monday, May 23, 1988, 9:30 a.m. The Texas Industrial Accident Board met for an agenda revision in Room 107, Bevington A. Reed, First Floor, 200 East Riverside Drive, Austin. According to the agenda, the board considered board policy regarding suspension of benefits, including emergency rule making. (Items 4 and 5 will become Items 5 and 6).

Contact: Inez "Tippy" Foster, 200 East Riverside Drive, Austin, Texas 78704, (512) 448-7960.

Filed: May 19, 1988, 4:57 p.m.

TRD-8805158

Monday, May 23, 1988, 9:30 a.m. The

Texas Industrial Accident Board met in Room 107, Bevington A. Reed Building, 200 East Riverside Drive, Austin. According to the agenda, the board approved board minutes; heard public comment and final adoption of 28 TAC §49.125 and §69.55; final adoption of medical cost providers reimbursement for attending medical examination orders; reviewed board files (this portion of meeting closed pursuant to workers' compensation statute); and reviewed and discussed board activities.

Contact: Inez "Tippy" Foster, 200 East Riverside Drive, Austin, Texas 78704, (512) 448-7960.

Filed: May 19, 1988, 4:57 p.m.

TRD-8805158

State Board of Insurance

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

Friday, May 27, 1988, 9 a.m. The board will meet in Room 414, to consider revision of commercial fire and allied lines rates, etc., scheduled for June 1, 1988.

Contact: Pat Wagner, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6328.

Filed: May 19, 1988, 4:21 p.m.

TRD-8805157

Tuesday, May 23, 1988, 9 a.m. The Commissioner's Hearing Section will meet in Room 353 to consider Docket 9932-Application for amendment to the Articles of Incorporation of TDA Life and Health Insurance Company, Houston, changing the authorized capital, changing the name of the company, and limiting the liability of directors of the company.

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

Filed: May 23, 1988, 2:48 p.m.

TRD-8805237

Tuesday, May 31, 1988, 10 a.m. The State Board of Insurance will meet in Room 414, 1110 San Jacinto, Austin. According to the agenda, the board will hear a report from the Mechanical Breakdown Policy Advisory Committee; final action on 28 TAC §§19.1001-19.1011 and §25.712; board orders on several different matters as itemized on the completed agenda; fire marshal: personnel and litigation; statistical and rate development: personnel; research and information services: personnel; commissioner: personnel and litigation; and appointment of an Advisory Committee on Health Maintenance Organizations.

Contact: Pat Wagner, 1110 San Jacinto, Austin, Texas 78701-1998, (512) 463-6328.

Filed: May 23, 1988, 3:11 p.m.

TRD-8805250

Tuesday, May 31, 1988, 1:30 p.m. The Commissioner's Hearing Section will meet in Room 353 to consider Docket 9900-Whether disciplinary action should be taken against Verna Lee Eaglin, Missouri City, who holds 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: May 23, 1988, 2:47 p.m.

TRD-8805238

Tuesday, May 31, 1988, 1:30 p.m. The Commissioner's Hearing Section will meet in Room 342, to consider Docket 9915-Application of United Benefit Life Insurance Company, Dallas, for a charter amendment to convert a stipulated premium company (Chapter 22, Texas Insurance Code) to a legal reserve life, accident, and health insurance company (Chapter 3, Texas Insurance Code).

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

Filed: May 23, 1988, 2:47 p.m.

TRD-8805239

Wednesday, June 1, 1988, 9 a.m. The Commissioner's Hearing Section will meet in Room 342, to consider Docket 9880-Application of Alberto C. Hinojosa, San Antonio, for a group I, legal reserve combination or industrial insurance agent's license.

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

Filed: May 23, 1988, 2:47 p.m.

TRD-8805240

Wednesday, June 1, 1988, 9 a.m. The Commissioner's Hearing Section will meet in Room 353, to consider Docket 9927-Application for amendment to the declaration of subscribers, the subscribers agreement and power of attorney, and the by-laws of Texas Lawyers Insurance Exchange, Austin, in regards to director liability.

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

Filed: May 23, 1988, 2:47 p.m.

TRD-8805241

Wednesday, June 1, 1988, 1:30 p.m. The Commissioner's Hearing Section will meet in Room 353 to consider Docket 9921-Whether disciplinary action should be taken against Pablo Gonzales, Jr., San Benito, who holds a group I, legal reserve life insurance agent's license issued by the board.

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

Filed: May 23, 1988, 2:47 p.m.

TRD-8805242

Monday, June 6, 1988, 9 a.m. The Commissioner's Hearing Section will meet in Room 353, to consider Docket 9813-Whether disciplinary action should be taken against Dave Douglas Anderson, Wichita Falls, who holds a group II, health and accident insurance agent's license; and to consider the renewal application of Dave Douglas Anderson, Wichita Falls, to hold 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: May 23, 1988, 2:47 p.m.

TRD-8805243

Monday, June 6, 1988, 4 p.m. The Commissioner's Hearing Section will meet in Room 353, to consider Docket 9760-Whether disciplinary action should be taken against Charles Leonard Gilchrest, Houston, who holds a group II, health and accident insurance agent's license issued by the board.

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

Filed: May 23, 1988, 2:46 p.m.

TRD-8805244

Texas Commission on Jail Standards

Wednesday, May 25, 1988, 9 a.m. The Texas Commission on Jail Standards met for an emergency agenda revision in Room 100, Employees Retirement System Building, 18th and Brazos Streets, Austin. According to the agenda, the commission will consider new business: Lamar County. The emergency status was necessary as an unexpected development required immediate attention.

Contact: Robert O. Viterna, 611 South Congress Avenue, Suite 200, Austin, Texas 78704, (512) 463-5505.

Filed: May 20, 1988, 9:17 a.m.

TRD-8805163

Texas Commission on Law Enforcement Officer Standards and Education

Wednesday, June 8, 1988, 10 a.m. The Texas Commission on Law Enforcement Officer Standards and Education will meet in Room 310, Old Supreme Court Room,

State Capitol, Austin. According to the agenda summary, the commission will recognize visitors; hold election of officers; approve minutes of the previous meeting; consider four new rule proposals and one amendment, proposed repeal of two rules, and final adoption of two rules and one repeal; consider action on suspensions, revocations, and voluntary surrenders; hear reports on pending litigation on entry level reading and writing test and on status of Port of Houston (may be in executive session); and consider staff activities.

Contact: David M. Boatright, 1606 Headway Circle, Suite 100, Austin, Texas 78754, (512) 834-9222.

Filed: May 23, 1988, 12:52 p.m.

TRD-8805234

Texas State Library and Archives Commission

Thursday, June 2, 1988, 2 p.m. The Records Management and Preservation Advisory Committee of the Texas State Library and Archives Commission will meet in Room 314, Lorenzo de Zavala State Archives and Library Commission, 1201 Brazos Street, Austin. According to the agenda, the committee will review responses to the report submitted to the legislative; hear report of subcommittee on electronic records; consider new directions for the committee; status of the records center expansion; and other business brought before the commission.

Contact: Susan Tennison, P.O. Box 2960, Austin, Texas 78769, (512) 450-4557.

Filed: May 20, 1988, 9:17 a.m.

TRD-8805164

Long-Term Care Coordinating Council for the Elderly

Friday, June 3, 1988, at 1:30 p.m. The Long-Term Care Coordinating Council for the Elderly will meet in the Third Floor Conference Room, Texas Department on Aging, 1949 IH 35 South, Austin. According to the agenda, the council will approve minutes of last meeting; introduce new members; consider recommendations to 71st Legislature; hear report on activities of related groups; elect vice-chair; and schedule for future council meetings.

Contact: Peggy Davidson, P.O. Box 12786, Austin, Texas 78711, (512) 444-2727.

Filed: May 23, 1988, 5:18 p.m.

TRD-8805267

Board of Nurse Examiners

Tuesday-Thursday, May 24-26, 1988, 8 a.m. The Board of Nurse Examiners met for an emergency agenda revision at the Marriott Hotel, 6121 North IH 35 at Highway 290 East, Austin. According to the agenda, the board considered Cynthia Cook, previously listed on the may agenda under old business, 7.5., should be changed to 3.1., Hearings, as she is requesting and will be heard on May 25, 1988, on the 1:30 p.m. docket; and emergency addition: under 4, Report of Executive Secretary, add 4.9, RNs Performing Radiologic Procedures. The emergency status was necessary as 4.9 is being added for board action as a result of receipt of an attorney general opinion letter and action needs to be taken prior to the next regularly scheduled meeting.

Contact: Louise Sanders, 1300 East Anderson Lane, Suite C-225, Austin, Texas 78752, (512) 835-4880.

Filed: May 19, 1988, 1:40 p.m.

TRD-8805145

Board of Pardons and Paroles

Tuesday-Friday, May 31-June 3, 1988, 1:30 dally except 11 a.m. Friday. A panel of the Board of Pardons and Paroles (composed of 3 board members) will meet at 8610 Shoal Creek Boulevard, Austin. According to the agenda summary, the panel will receive, review and consider information and reports concerning prisoners/inmates 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: May 20, 10:37 a.m.

TRD-8805167

Tuesday May 31, 1988, 1:30 p.m. The Board of Pardons and Paroles will meet at 8610 Shoal Creek Boulevard, Austin. According to the agenda, the board will meet to consider executive clemency recommendations and related actions (other than out of country conditional pardons), including: full pardons/restoration of civil rights of citizenship; emergency medical reprieves; commutations of sentence; and other reprieves, remissions and executive clemency actions.

Contact: Juanita Llamas, 8610 Shoal Creek Boulevard, Austin, Texas 78758, (512) 459-2749.

Filed: May 20, 1988, 10:37 a.m.

TRD-8805168

Texas State Board of Pharmacy

Monday-Thursday, May 23-26, 1988, 5:30 p.m., except 2:30 p.m. on Tuesday and 1 p.m. on Monday. The Texas State Board of Pharmacy met in emergency session at the Embassy Suites Hotel North, 5901 IH 35, Austin. According to the agenda, the board made an emergency addition to the agenda submitted for the May 13, 1988, issue, consideration of proposed agreed board orders. The emergency status was necessary as adjudication matters have recently been resolved regarding proposed agreed board orders.

Contact: Fred S. Brinkley, Jr., 8505 Cross Park Drive, Suite 110, Austin, Texas 78754, (512) 832-0661.

Filed: May 20, 1988, 9:11 a.m.

TRD-8805160

State Preservation Board

Monday, May 23, 1988, 10 a.m. The Architect of the Capitol Selection Committee for the State Preservation Board met in emergency session in the Lieutenant Governor's Committee Room 220, State Capitol, Austin. According to the agenda, the committee reviewed applicants in executive session; formed short list; and discussed future interview procedures.

Contact: Dealey Herndon, 322 Congress Avenue, Austin, Texas 78711, (512) 474-7743.

Filed: May 20, 1988, 3:42 p.m.

TRD-8805203

Texas State Board of Public Accountancy

Wednesday, June 1, 1988, 9 a.m. The Enforcement Committee of the Texas State Board of Public Accountancy will meet in Suite 340, 1033 La Posada, Austin. According to the agenda, the committee will hear a status report for April and May, recommendations regarding specific complaints-licensees, discuss items, and standard agenda items.

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

Filed: May 23, 1988, 3:39 p.m.

TRD-8805253

Thursday, June 2, 1988, 9 a.m. The Texas State Board of Public Accountancy will meet in informal conferences in Suite 340, 1033 La Posada, Austin. According to the agenda, the board will discuss complaints 87-11-13L, 87-11-12L, 87-08-10L, 87-10-26L, 87-10-29L, and 87-10-27L.

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

Filed: May 24, 1988, 9:13 a.m.

TRD-8805269

Friday, June 3, 1988, 8 a.m. The Technical Standards Review Committee of the Texas State Board of Public Accountancy will meet in Suite 340, 1033 La Posada, Austin. According to the agenda summary, the committee will hear a status report; consider recommendations regarding specific complaints concerning licensees, discussion items, and standards agenda items.

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

Filed: May 24, 1988, 9:13 a.m.

TRD-8805270

Public Utility Commission of Texas

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

Wednesday, May 25, 1988, 4:30 p.m. According to the emergency revised agenda, the division additionally met in executive session to consider personnel matters.

The emergency status was necessary because of an urgent need to fill open positions to ensure smooth internal operation.

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

Filed: May 20, 1988, 3:15 p.m.

TRD-8805199

Tuesday, May 31, 1988, 1:30 p.m. According to the agenda, the division will hold a prehearing conference regarding docket number 6995, petition of Lower Colorado River Authority et al., for determination of Wheeling Impact of the transmission of bulk power from Oklahoma Unit Number 1 to the Public Utilities Board of the City of Brownsville.

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

Filed: May 20, 1988, 3:15 p.m.

TRD-8805200

Wednesday, June 1, 1988, 10 a.m. According to the agenda, the division will hold a prehearing conference regarding docket number 8120, application of Five Area Telephone Cooperative, Inc. to offer private pay telephone service.

Contact: Phillip A. Holder, 7800 Shoal Creek Boulevard, Austin, Texas 78757,

(512) 458-0100.

Filed: May 20, 1988, 3:15 p.m.

TRD-8805201

June 9, 1988, 2 p.m. According to the agenda, the division will hold a prehearing conference regarding docket numbers 8037 and 8075, complaint of Bruce Penny against Southwestern Bell Telephone Company and Application of Southwestern Bell Telephone Company to Provide Optional Hunting Service.

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

Filed: May 19, 1988, 2:48 p.m.

TRD-8805149

Tuesday, August 2, 1988, 10 a.m. The Hearings Division of the Public Utility Commission of Texas will meet in Suite 450N, 7800 Shoal Creek Boulevard, Austin. According to the agenda, the division will hold a hearing on the merits in Docket 8096-Application of Kaufman County Electric Cooperative, Inc., for authority to change rates.

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

Filed: May 23, 1988, 3:07 p.m.

TRD-8805249

Wednesday, August 3, 1988, 10 a.m. According to the agenda, the division will hold a hearing on the merits of docket number 8095, application of Texas-New Mexico Power Company for authority to change rates.

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

Filed: May 20, 1988, 3:15 p.m.

TRD-8805202

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

Thursday, June 2, 1988, 10 a.m. The Texas Committee on Purchases of Products and Services of Blind and Severely Disabled Persons will meet in Suite 320, Executive Conference Room, Texas Commission for the Blind, Administrative Building, 4800 North Lamar Boulevard, Austin. According to the agenda, the committee will introduce visitors, accept minutes from the May 5, 1988, meeting, orientation for committee members, and discuss and act on proposed commission rate approval/budget review process.

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

2603.

Filed: May 19, 1988, 11:49 a.m.

TRD-8805141

Wednesday, June 1, 1988, 9 a.m. The State Purchasing and General Services Commission will meet in Room 1-111, William B. Travis Building, 1701 North Congress Avenue, Austin, rescheduled from May 26, 1988. According to the agenda, the commission will consider final adoption of amendment to Rule 133. 6, monthly 3.09 report, report on status of Texas public finance authority projects, appeal of Harvey-Monarch Engineers and Builders; approve 1990-1991 legislative appropriations request, and set date and time of next meeting. The commission also will meet in executive session to consider pending litigation, i. e., Del E. Webb Corporation vs. the State of Texas and State Purchasing and General Services Commission, receive report on and advice from counsel regarding contemplated litigation between the commission and Meyerson Construction Company relating to renovation of the TEA Building, and consider status of the potential purchase of real property pursuant to the provisions of Texas Civil Statutes, Article 601b, §5.34.

Contact: John R. Neel, 111 East 17th Street, Austin, Texas 78701, (512) 463-3446.

Filed: May 20, 1988, 4:05 p.m.

TRD-8805204

Railroad Commission of Texas

Monday, May 23, 1988, 9 a.m. The Oil and Gas Division of the Railroad Commission of Texas met in emergency session in Conference Room 12-126, William B. Travis Building, 1701 North Congress Avenue, Austin. According to the agenda, the division considered whether to use state funds to plug a leaking well, Associated Developers, L.L. Davidson lease, well 1A, Young County. The emergency status was necessary as the cable tool hold which is leaking produced brine into the ground surface causing an imminent threat to the public's health, safety, and welfare.

Contact: Willis Steed, P.O. Drawer 12967, Austin, Texas 78711, (512) 463-6830.

Filed: May 20, 1988, 2:10 p.m.

TRD-8805183

Texas Rehabilitation Commission

Friday, June 10, 1988, 9:30 a.m. The Quarterly Council meeting of the Texas

Planning Council for Developmental Disabilities of the Texas Rehabilitation Commission will meet in Room E-F, Wyndham Southpark Hotel, IH-35 at Ben White, Austin. According to the agenda, the council will approve minutes of the previous meeting; hear the chairman's report, executive director's report, 1990 report task force update, Advocacy and Public Information Committee report, Planning and Evaluation Committee report, Executive Committee report, and public comments.

Contact: Roger A. Webb, 118 East Riverside Drive, Austin, Texas 78704, (512) 445-8867.

Filed: May 23, 1988, 10:10 a.m.

TRD-8805233

The Texas Senate

Thursday, June 9, 1988, 10:30 a.m. The Senate Subcommittee on Health Services of the Texas Senate will meet in the Texas A&M University Agriculture Experiment Station, Corpus Christi, four miles west on Highway 44. According to the agenda, the subcommittee will receive testimony from the public and from the Texas Water Commission and the Department of Health on the regulation of radioactive contamination in surface and groundwater; from the Railroad Commission concerning the inventory of uranium mines; from the Department of Agriculture on radioactive contamination of agricultural chemicals.

Contact: Vick Hines, State Capitol, Room 126, Austin, Texas, (512) 463-0120.

Filed: May 23, 1988, 10:23 a.m.

TRD-8805210

Texas State Soil and Water Conservation Board

Wednesday, May 25, 1988, 8 a.m. The Texas State Soil and Water Conservation Board, made an emergency revised agenda to a meeting held in the Piney Woods Conservation Center, Stephen F. Austin State University, Sam Rayburn Reservoir, FM Road 3127 approximately 70 miles southeast of Nacogdoches. According to the agenda summary, the board considered allocation of 1988 conservation assistance funds. The emergency status was necessary because the request was received after agenda was posted.

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

Filed: May 24, 1988, 9:10 a.m.

TRD-8805272

Texas Southern University

Friday, June 3, 1988. The Board of Regents of Texas Southern University will meet in Room 203, Sterling Student Life Center, 3100 Cleburne Avenue, Texas Southern University, Houston. Times and agendas follow.

8:30 a.m. The Building and Grounds Committee will consider construction change orders, payment to architects contractors and engineers, authorization and ratification of contracts and awards, and review of ongoing construction and current contractual relations.

Contact: Everett O. Bell, Texas Southern University, Houston, Texas 77004, (713) 529-8911.

Filed: May 24, 1988, 9:08 a.m.

TRD-8805275

9:30 a.m. The Finance Committee will review university budgets for the 1988-1989 fiscal year.

Contact: Everett O. Bell, Texas Southern University, Houston, Texas 77004, (713) 529-8911.

Filed: May 24, 1988, 9:08 a.m.

TRD-8805273

1 p.m. The board will approve minutes of the previous meeting; consider matters relating to financial reporting systems and budgets; hear fiscal reports from the administration; consider investments, information items, construction change orders, payment to architects contractors and engineers, authorization and ratification of contracts and awards; review on going construction and current contractual relations; consider personnel action; and hear report on progress of academic activities and programs. The board will also meet in executive session.

Contact: Everett O. Bell, Texas Southern University, Houston, Texas 77004, (713) 529-8911.

Filed: May 24, 1988, 9:08 a.m.

TRD-8805274

Sunset Advisory Commission

Thursday, June 2, 1988, 9 a.m. The Ad Hoc Study Committee on Medicaid Liens and Estate Recovery of the Sunset Advisory Commission will meet in Room 106, John H. Reagan Building, Austin. According to the agenda, the committee will approve minutes of the previous meeting; review and approve committee's report to the commission; and consider other business.

Contact: Jeri E. Kramer, P.O. Box 13066, Austin, Texas 78711, (512) 463-1300.

Filed: May 23, 1988, 1:54 p.m.

TRD-8805236

University of North Texas/Texas College of Osteopathic Medicine

Various committees of the Board of Regents for the University of North Texas/Texas College of Osteopathic Medicine met in the Administrative Building, University of North Texas, Denton, unless otherwise noted. Room numbers, dates, times, and agendas follow.

Tuesday, May 24, 1988, 9 a.m. The Budget and Finance Committee met in Room 213 for TCOM to hear gift report, consider ethical guidelines for investments, investment policy, statement of Proposition II transactions, and hear a report on interest earnings. UTN heard gift report, considered increase in union fees, fee registration, 1988-1989, ethical guidelines for investments, investment policy, statement of proposition II transactions, and heard a report on interest earnings.

Contact: Jan Dobbs, P.O. Box 13737, North Texas Station, Denton, Texas 76203, (817) 565-2904.

Filed: May 19, 1988, 10:59 a.m.

TRD-8805139

Thursday, May 26, 1988, 1 p.m. The Role and Scope Committee met in Room 201 for TCOM to appoint advisory council, considered promotion and tenure recommendations, holiday schedule, malpractice insurance coverage, and update on Special Committee on Medical, Dental, and Allied Health Education. UTN considered end of semester enrollment report, faculty on modified service, faculty development leaves, distinguished enterprise professorships, promotion and tenure recommendations, personnel holidays for 1988-1989, center for experimental music and intermedia, research institute proposal, athletics update, and coordinating board projects. Both TCOM and UNT considered resolution of appreciation for Wayne O. Stockseth.

Contact: Jan Dobbs, P.O. Box 13737, North Texas Station, Denton, Texas 76203, (817) 565-2904.

Filed: May 19, 1988, 10:59 a.m.

TRD-8805138

Thursday, May 26, 1988, 1 p.m. The Advancement Committee met in the Boardroom for TCOM to consider development update and letterhead and logo. UNT heard gift report, considered Fort Worth gala, funding for Texas Academy of Mathematics and Science, board of visitors, policy on naming of buildings, alumni directory, and preliminary discussion on accepting endowments for professorships and chairs through wills and bequests.

Contact: Jan Dobbs, P.O. Box 13737, North Texas Station, Denton, Texas 76203, (817) 565-2904.

Filed: May 19, 1988, 11 a.m.

TRD-8805137

Thursday, May 26, 1988, 3 p.m. The Facilities Committee met in the Conference Room for TCOM to hear status report and UNT to consider replacement of windows in industrial technology, chemistry, and music buildings, remodeling in Kerr Hall cafeteria-combined Phases 2 and 3, replacement of windows in West Hall, fraternity/sorority housing, hear project status report, considered coordinating board projects, chemistry building fire, cogeneration, natural gas, parking garage, and TWU lease space.

Contact: Jan Dobbs, P.O. Box 13737, North Texas Station, Denton, Texas 76203, (817) 565-2904.

Filed: May 19, 1988, 11 a.m.

TRD-8805136

Friday, May 27, 1988, 8 a.m. The Board of Regents will meet in the Diamond Eagle Suite, University Union, University of North Texas, Denton. According to the agenda, the board will approve minutes for TCOM, appointments to advisory council, promotion and tenure, holiday schedule, research update, gift report, guidelines for investments, investment policy, and meet in executive session to consider Cobb vs. Jenkins, Hudson vs. TCOM, Masters vs. TCOM Rounsaville vs. Stern, Hoskins vs. Bilyea and Tyler, and two student legal issues. UNT will meet in executive session to consider Sherman vs. UNT, two student legal issues, staff member legal issue, fraternity/sorority housing, compensation for Dr. Robert Blocker, and chancellor's contract. UNT will also approve minutes, hear enrollment report, faculty on modified service, development leaves, distinguished enterprise professors, personnel, holiday schedule, center for experimental music and intermedia, equal opportunity briefing, research update, gift report, increase in union fee, fee register, guidelines for investments, investment policy, windows for three buildings, Kerr Hall cafeteria remodeling, replace windows in West Hall, fraternity/sorority housing, advancement update, Texas Academy of Mathematics and Science, and resolution of appreciation for Wayne O. Stockseth.

Contact: Jan Dobbs, P.O. Box 13737, North Texas Station, Denton, Texas 76203, (817) 565-2904.

Filed: May 19, 1988, 10:58 a.m.

TRD-8805140

The Texas Board of Veterinary Medical Examiners

Thursday-Saturday, June 2-4, 1988, 8 a.m., daily. The Texas Board of Veterinary

Medical Examiners will meet in the Conference Room, 1946 South IH-35, Austin. According to the agenda summary, the board will conduct disciplinary hearings; consider proposed rules of professional conduct; approve examination results, cancellation of lapsed licensed and conduct other general business as reflected on the attached agenda. The board will also meet in executive session.

Contact: Don Wilson, 1946 South IH-35, Austin, Texas 78704, (512) 447-1183.

Filed: May 23, 1988, 2:44 p.m.

TRD-8805245

Texas Water Commission

Wednesday, July 6, 1988, 10 a.m. The Office of the Hearings Examiner of the Texas Water Commission will meet in the 10th Floor Conference Room, El Paso City Hall, corner of Sante Fe and Missouri Streets, El Paso. According to the agenda, the commission will consider El Paso water control and improvement district, Westway, 1002 Tiffany Road, Canutil, Texas 79835, who has applied to the commission for an amendment to Permit 10167-01, in order to change its method of disposal from irrigation to discharge into state waters and to authorize an increase in the permitted discharge volume from a daily average flow of 50,000 gallons to a daily average flow of 157,000 gallons. The applicant proposes to construct new treatment facilities to replace the existing system. Until completion of the new system, the applicant is authorized to operate under the terms and conditions of the existing permit authorizing disposal by irrigation.

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

Filed: May 19, 1988, 4:11 p.m.

TRD-8805154

Thursday, July 7, 1988, 9 a.m. The Office of the Hearings Examiner of the Texas Water Commission will meet in Room 1149B, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. According to the agenda, the commission will consider an application by Texas Utilities Mining Company (TUMCO) for approval of preliminary plans to construct a haul road embankment across Blundell Creek at TUMCO's Monticello-Winfield South H-Area Mine, in Titus County. The project will be located eight miles west southwest from the city of Mt. Pleasant and will consist of constructing a compacted fill haul road embankment and the installation of seven 108-inch diameter corrugated metal pipes to convey flows of Blundell Creek under the haul road.

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

Filed: May 23, 1988, 4:18 p.m.

TRD-8805264

Thursday, July 7, 1988, 9 a.m. The Office of the Hearings Examiner of the Texas Water Commission will meet in Council Chambers, City of Azle Municipal Building, 613 Southeast Freeway, Azle. According to the agenda, the commission will consider Permit 13438-01 from the Aledo Independent School District, P.O. Drawer K, Aledo, Texas 76008, to authorize a discharge of treated domestic wastewater effluent at a volume not to exceed an average flow of 30,000 gallons per day. The proposed facility will serve a new elementary school, 50 mobile homes, a child day care center, and nine commercial lots.

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

Filed: May 19, 1988, 4:11 p.m.

TRD-8805153

Thursday, July 7, 1988, 9 a.m. The Office of the Hearings Examiner of the Texas Water Commission will meet in Council Chambers, City of Azle Municipal Building, 613 Southeast Freeway, Azle. According to the agenda, the commission will consider Permit 10847 from Parker County, Texas, Utility District, P.O. Drawer R, Aledo, Texas 76008, for an amendment to authorize an increase in the discharge of treated domestic wastewater effluent from a volume not to exceed an average flow of 91,000 gallons per day to a volume not to exceed an average flow of 121,000 gallons per day. The proposed amendment would also revise the parameters for biochemical oxygen demand, total suspended solids and minimum dissolved oxygen concentration from 20 mg/l, 20 mg/l and 2 mg/l to 10 mg/l, 15 mg/l, and 3 mg/l, respectively, and add monitoring requirements for ammonia nitrogen. The applicant operates the City of Aledo Wastewater Treatment Plant.

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

Filed: May 19, 1988, 4:11 p.m.

TRD-8805155

Thursday, July 7, 1988, 10 a.m. The Office of the Hearings Examiner of the Texas Water Commission will meet in the Commissioner's Courtroom, Nueces County Courthouse, 901 Leopard, Corpus Christi. According to the agenda, the commission will consider Permit HW-50123-001 from Celanese Engineering Resins, Inc., P.O. Box 428, Bishop, Texas 78343, to authorize the continued operation of a Class I hazardous industrial solid waste management facility associated with its industrial organic chemicals and engineering resins, plastics, and nylons manufacturing plant in Bishop. The proposed permit will authorize the disposal of hazardous waste on-site in a 20-cell landfill of 500,000 cubic yards total capacity, the storage and processing of hazardous waste on-site in four solar ponds with about 220 million gallons total capacity

and in six surface impoundments of the wastewater treatment plant with at 11 million gallons total capacity.

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

Filed: May 19, 1988, 4:11 p.m.

TRD-8805156

Wednesday, July 13, 1988, 9 a.m. The Office of the Hearings Examiner of the Texas Water Commission will meet in the Emergency Medical Services Training Building, 7411 Park Place, Houston. According to the agenda, the commission will consider Permit 13382-01, from L.H. Homan, Jr., 2829 Timmons, Suite 194, Houston, Texas 77027, to authorize a discharge of treated domestic wastewater effluent at a volume not to exceed an average flow of 150,000 gallons per day. The applicant will operate the Lake Estates Wastewater Treatment facilities.

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

Filed: May 19, 1988, 4:11 p.m.

TRD-8805152

Wednesday, July 13, 1988, 9 a.m. The Office of the Hearings Examiner of the Texas Water Commission will meet in the Emergency Medical Services Training Building, 7411 Park Place, Houston. According to the agenda, the commission will consider Permit 02896, from A.E. Staley Manufacturing Company, Horizon Chemical Division, 2200 East Eldorado Street, Decatur, Illinois 62525, to authorize an increase in the discharge of treated wastewater effluent from a volume not to exceed an average flow of 500 gallons per day (750 gallons per day maximum) to a volume not to exceed an average flow of 5,000 gallons per day (7,500 gallons per day maximum). The applicant is authorized to treat and dispose of wastes from a demonstration facility which manufactures carbohydrate based chemical surfactants.

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

Filed: May 19, 1988, 4:11 p.m.

TRD-8805151

Wednesday, July 13, 1988, 10 a.m. The Office of the Hearings Examiner of the Texas Water Commission will meet in the District Courtroom, Polk County Courthouse, on the Square, Livingston. According to the agenda, the commission will consider Permit 13151 from Kickapoo Utilities, Inc., 327 Electra, Houston, Texas 77024, for an amendment to delete provisions stipulating that the Fountain Lake townhouse development shall tie into the Trinity River Authority's Onalaska Wastewater Treatment Plant, and that this facility shall than be abandoned and removed. The diversion has not been implemented since it is not economically feasible to install a 1 to 1.5 mile force main pipe line for tying into the

Onalaska Wastewater Treatment Plant. The permit currently authorizes a discharge of treated domestic wastewater effluent at a volume not to exceed an average flow of 21,000 gallons per day from the Fountain Lake Wastewater Treatment Plant, which will remain the same.

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

Filed: May 19, 1988, 4:11 p.m.

TRD-8805150

Regional Meetings

Meetings Filed May 19, 1988

The Bastrop County Appraisal District, Appraisal Review Board, met at 1200 Cedar Street, Bastrop, on May 25, 1988, at 7 p.m. The Board of Directors met at the same location on May 26, 1988, at 7:30 p.m. Information may be obtained from Lorraine Perry, (512) 321-3925.

The Coastal Bend Council of Governments, Membership, will meet in the Commissioners Courtroom, Nueces County Courthouse, 901 Leopard, Corpus Christi, on May 27, 1988, at 2 p.m. Information may be obtained from John P. Buckner, P.O. Box 9909, Corpus Christi, Texas 78408, (512) 883-5743.

The Education Service Center Region VIII, Board of Directors, met in the Ramada Inn Restaurant, Mt. Pleasant, on May 26, 1988, at 7 p.m. Information may be obtained from Scott Ferguson, P.O. Box 1894, Mt. Pleasant, Texas 75455.

The Hansford County Appraisal District, Appraisal Review Board, met at 709 West Seventh, Spearman, on May 26, 1988, at 9 a.m. Information may be obtained from Alice Peddy.

The Lampasas County Appraisal District, Review Board, met at 109 East Fifth, Lampasas, on May 26, 1988, at 1:30 p.m. Information may be obtained from Dana Ripley, P.O. Box 175, Lampasas, Texas 76550, (512) 556-8058.

The Leon County Central Appraisal District, Board of Directors, met in the Appraisal District Office, Centerville, on May 23, 1988, 7:30 p.m. Information may be obtained from Robert Winn, P.O. Box 536, Centerville, Texas 75833, (514) 536-2252.

The Lower Colorado River Authority, Board of Directors, met in emergency session at 3700 Lake Austin Boulevard, Austin, on May 19, 1988, at 3:15 p.m. Information may be obtained from Thomas G. Mason, 3700 Lake Austin Boulevard, Austin, Texas.

The Lower Rio Grande Valley Development Council, Board of Directors and Membership Committee, met at the Harlingen Chamber of Commerce, 311 East Tyler, Harlingen, on May 26, 1988, 1:30 p.m.

Information may be obtained from Robert A. Chandler, 4900 North 23rd Street, McAllen, Texas 78504, (512) 682-3481.

The South Texas Private Industry Council, Inc., met at IBOC Mini Bank, Highway 83 and 10th Street, Zapata, on May 26, 1988, at 4 p.m. Information may be obtained from Ruben M. Garcia, P.O. Box 1757, Laredo, Texas 78044.

TRD-8805159

Meetings Filed May 20, 1988

The Austin Travis County Mental Health and Mental Retardation Center, Board of Trustees, met in Room 410, 611 South Congress Avenue, Austin, on May 26, 1988, at 7 a.m. Information may be obtained from Sharon Taylor, 611 South Congress Avenue, Austin, Texas 78704, (512) 447-4141.

The Barton Springs-Edwards Aquifer Conservation District, Board of Directors, met in Suite F, 909 North Loop 4, Buda, on May 23, 1988, at 7 p.m. Information may be obtained from Ralph Roming, 909 North Loop 4, Suite F, Buda, Texas 78610, (512) 295-3596 or 282-8441.

The Mental Health Mental Retardation Authority of Brazos Valley, Board of Trustees, met at the Brazos Center, 3232 Briarcrest Drive, Bryan, on May 26, 1988, at 1:30 p.m. and 3 p.m. Information may be obtained from Leon Bawcom, (409) 822-6467.

The Dallas Area Rapid Transit, Budget and Finance Committee, and Board of Directors, met in the Boardroom, DART Office, 601 Pacific Avenue, Dallas, on May 24, 1988, at 3 p.m. and 6:30 p.m., respectively. Information may be obtained from Sylvia Villarreal, (214) 658-6237.

The Deep East Texas Private Industry Council, Planning Committee/Educational Advisory Committee, met at 118 South First Street, Lufkin, on May 26, 1988, 10 a.m. Information may be obtained from Mary Daniel, (409) 842-6386.

The Education Service Center Region XVIII, Board of Directors, will meet at 2811 LaForce Boulevard, Midland, on June 2, 1988, at 7:30 p.m. Information may be obtained from Vernon Stokes, P.O. Box 6020, Midland, Texas 79711, (915) 563-2380.

The Heart of Texas Council of Governments, Executive Committee met in the HOTCOG Conference Room, 320 Franklin Avenue, Waco, on May 26, 1988, at 10 a.m. Information may be obtained from Mary McDow, 320 Franklin Avenue, Waco, Texas 76701, (817) 756-6631.

The Parmer County Appraisal District, Board of Directors, will meet at 305 Third Street, Bovina, on June 9, 1988, at 8 p.m. Information may be obtained from Ron

Proctor, Box 56, Bovina, Texas 79009, (806) 238-1405.

The Rusk County Appraisal District, Board of Directors, met in the Administrative Offices, 107 North Van Buren, Henderson, on May 26, 1988, at 1:30 p.m. Information may be obtained from Melvin R. Cooper, P.O. Box 7, Henderson, Texas 75653-0007, (214) 657-9697.

The West Central Texas Council of Governments, Executive Committee, met at 1025 East North 10th Street, Abilene, on May 25, 1988, at 12:45 p.m. Information may be obtained from Brad Helbert, (915) 672-8544.

The West Central Texas Municipal Water District, will meet in Suite 300, First National West Building, 401 Cypress Street, Abilene, on June 1, 1988, at 9:30 a.m. Information may be obtained from Virginia Duncan, P.O. Box 2362, Abilene, Texas 79604, (915) 8254.

TRD-8805135

Meetings Filed May 23, 1988

The Alamo Area Council of Governments, Area Judges of the Alamo Service Delivery Area and the Budget and Workplan Committee, will meet in Suite 400, 118 Broadway, San Antonio, on June 1, 1988, at 11 a.m. and noon, respectively. Information may be obtained from Al J. Notzon, III, 118 Broadway, Suite 400, San Antonio Texas 78205, (512) 225-5201.

The Austin-Travis County MHMR Center, Personnel Committee, met in suite 440, 611 South Congress Avenue, Austin, on May 24, 1988, at 8:15 a.m. Information may be obtained from Sharon Taylor, 611 South Congress Avenue, Austin, Texas 78704, (512) 447-4141.

The Central Texas MHMR Center, Board of Trustees, will meet at 408 Mulberry Drive, Brownwood, on May 31, 1988, at 5 p.m. Information may be obtained from Nelda Andrews, P.O. Box 250, Brownwood, Texas 76804, (915) 646-9574, ext. 102.

The Hockley County Appraisal District, Board of Directors, will meet at 1103-C Street, Levelland, on June 2, 1988, at 8 p.m. Information may be obtained from Eugene Lewis, P.O. Box 1090, Levelland, Texas (806) 894-9654.

The Hunt County Tax Appraisal District, Board of Directors, will meet in the Boardroom, 4801 King Street, Greenville, on May 27, 1988, at 7:30 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 Liberty County Central Appraisal District, Appraisal Review Board, will meet at 1820 Sam Houston, Liberty on June 9, 14, 16, 17, 21, 23, 28, 30, and July 5, 7,

12, 14, 19, and 20, at 9 a.m. Information may be obtained from Sherry Greak, P.O. Box 10016, Liberty, Texas 77575.

The North Central Texas Council of Governments, North Central Texas Job Training Consortium Private Industry Council, will meet at 616 Six Flags Drive, Centerpoint Two, Arlington, on May 27, 1988, at 10 a.m. Information may be obtained from Mike Gilmore, P.O. Drawer COG, Arlington, Texas 76005-5888, (817) 640-3300.

The Panhandle Regional Planning Commission, Board of Directors, met in the PRPC Conference Room, 2736 West 10th

Street, Amarillo, on May 26, 1988, at 1:30 p.m. Information may be obtained from Pamela Nielsen, 2736, West 10th Street, Amarillo, Texas, (806) 372-3381.

The Tarrant Appraisal District, Board of Directors, will meet at 2309 Gravel Drive, Fort Worth, on May 27, 1988, at 9 a.m. Information may be obtained from Olive Miller, 2309 Gravel Drive, Fort Worth, Texas 76118, (817) 284-0024.

The West Central Texas Municipal Water District, will meet in Suite 300, First National West Building, 401 Cypress Street, Abilene, on June 1, 1988, at 9:30 a.m. Information may be obtained from Vir-

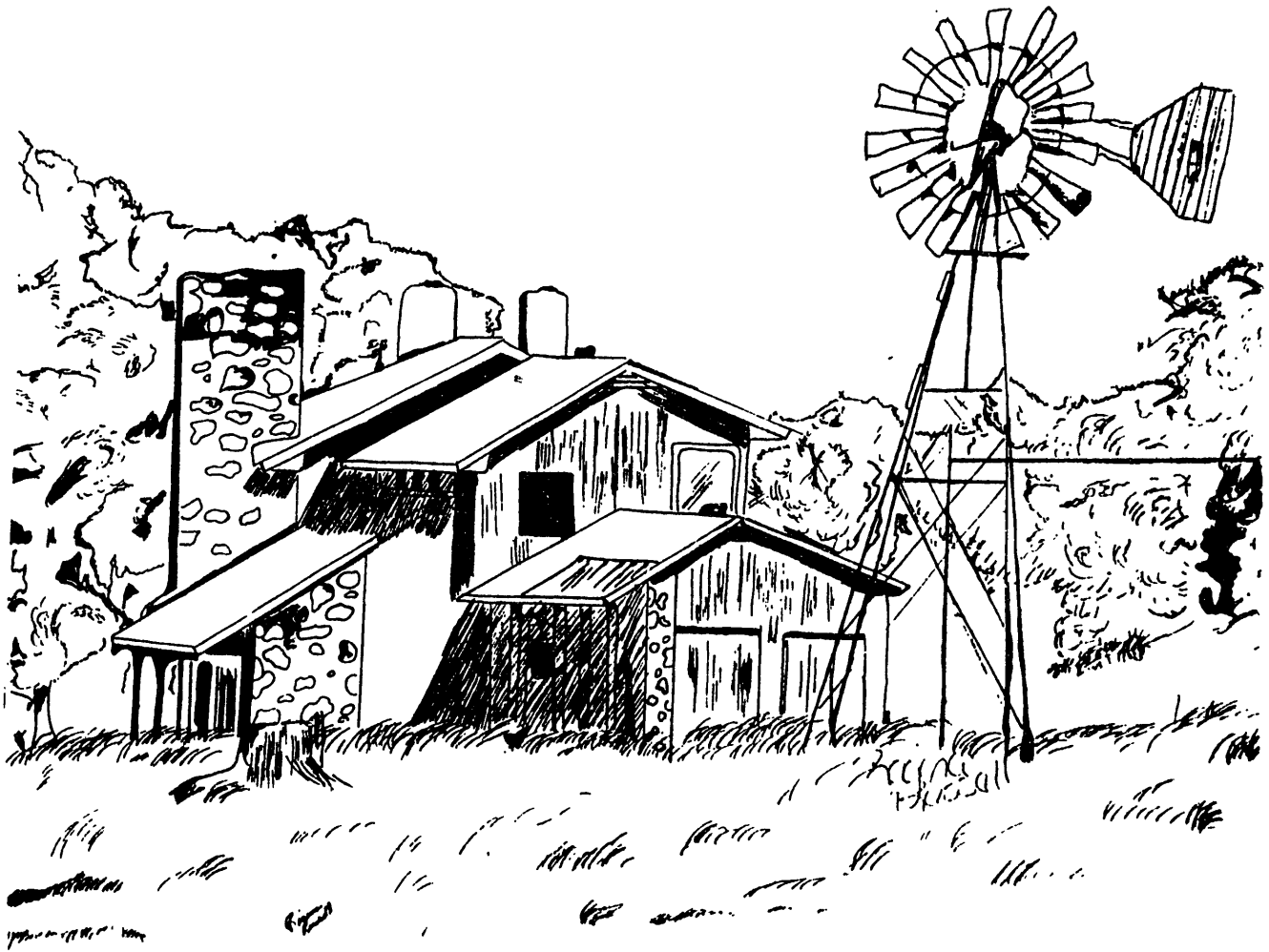
ginia Duncan, P.O. Box 2362, Abilene, Texas 79604, (915) 673-8254.

TRD-8805205

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Meetings Filed May 24, 1988

The Edwards Underground Water District, Add-Hoc Committee on Medina Lake Study will meet at 1615 North St. Mary's, San Antonio, on May 31, 1988, at 10 a.m. Information may be obtained from Thomas P. Fox, 1615 North St. Mary's, San Antonio, Texas 78215, (512) 222-2204.

TRD-8805265
◆ ◆ ◆



Name: Regina Russell
Grade: 9
School: Pemberton High, Marshall

In Addition

The *Texas Register* is required by statute to publish certain documents, including applications to purchase control of state banks, notices of rate ceilings, changes in interest rate and applications to install remote service units, and consultant proposal requests and awards.

To aid agencies in communicating information quickly and effectively, other information of general interest to the public is published as space allows.

Texas Air Control Board Notice of Contested Case Hearing Number 247

An examiner for the Texas Air Control Board (TACB) will conduct a contested case hearing to consider whether or not a special permit should be issued to Chem Pac, Inc., (the applicant) to construct a cedar wood oil processing facility on FM Road 2169, 3/4 mile from IH-10 in Kimble County.

Time and Place of Hearing. The examiner has set the hearing to begin at 1:30 p.m. on July 11, 1988, at the TACB Central Office, Room 332, 6330 Highway 290 East, Austin. No one may participate in the hearing without meeting the requirements set forth below.

Nature of Hearing. This hearing is a contested case hearing under the Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6252-13a, §13. The examiner will therefore conduct it in most respects like a nonjury civil trial in one of the district courts of this state.

What the Applicant Must Prove. The applicant must demonstrate at the hearing, by a preponderance of the evidence, that the proposed facility will meet the requirements of the Texas Clean Act (the Act), Texas Civil Statutes (the Act), Article 4477-5, and TACB §116.7. This demonstration must include proof that the proposed facility (1) will emit less than 250 tons per year of carbon monoxide or nitrogen oxides or 25 tons of any other air contaminant (except for carbon dioxide, water, nitrogen, methane, ethane, hydrogen, and oxygen); (2) will comply with all applicable TACB and federal regulations (including the TACB rule forbidding the creation of an air pollution nuisance); and (3) will use best available control technology, with consideration given to the technical practicability and economic reasonableness of reducing or eliminating the emission of air contaminants.

Parties to the Hearing. At the hearing on the merits, only those persons admitted as parties will be permitted to make motions, present evidence and argument, and cross-examine witnesses. Presently, the only prospective parties are the applicant and the TACB Staff.

Deadline for Requesting to be a Party. Any other person or organization that wants to be made a party must send a specific written request for party status to hearings examiner John Worley, and make sure that this request is actually received at the TACB Central Office, 6330 Highway 290 East, Austin, Texas 78723 by 5 p.m. on June 6, 1988. The examiner cannot grant party status to any person or organization whose request comes in after that deadline, unless there is good cause for the request's coming in late. Hearing requests, comments, or other correspondence sent to the TACB before publication of this notice are not party status requests and will not enable any person or organization to be a party to the hearing. The examiner will make a final decision on party status at the prehearing conference. If there is any obligation at the

prehearing conference to the granting of party status to any person or organization will not be admitted as a party without proof that he, she or it may be affected by the emissions from the proposed facility or that he or she is a member of the Texas Legislature from the general area in which the proposed facility is to be located.

Prehearing Conference. The examiner has scheduled a prehearing conference at 1 p.m. on June 1, 1988, at the TACB Central Office, Room 209, 6330 Highway 290 East, Austin. At this conference, in addition to making a final decision on party status, the examiner will also receive proposed written disputed issues for consideration at the hearing on the merits and motions to take official notice. The examiner will consider discovery motions and any other prehearing motions but may grant contested motions for continuance only upon proof of good cause. The examiner will also establish a specific date prior to the hearing on the merits for the exchange of written and documentary evidence. At or following the prehearing conference, the examiner may issue prehearing orders concerning discovery or other prehearing requirements.

Public Attendance and testimony. Members of the general public may attend the hearing. Those who plan to attend are encouraged to telephone the TACB Central Office in Austin at (512) 451-5711, extension 350, a day or two prior to the hearing date in order to confirm the setting, since continuances are granted from time to time.

Any persons who desires to give testimony at the hearing, but who does not desire to be a party, may call the TACB legal division at (512) 451-5711, extension 350, to find out the names and addresses of all admitted parties. These parties may then be contacted about the possibility of presenting testimony.

Information About the Application and TACB Rules. Information about the application and copies of the TACB's Rules and Regulations are available at the TACB Regional Office located at 4335 Piedras West, Suite 101, San Antonio, Texas, 78228, the TACB Central Office located at 6330 Highway 290 East, Austin, Texas 78723, and at the Office of the Kimble County Clerk, Kimble County Courthouse, 501 Main, Junction, Texas 76849.

Legal Authority. This hearing is called and will be conducted under the authority of the Act §§3.15, 3.16, 3.17, 3.27, and 3.271, and TACB Procedural rules 103.11(3), 103.31, and 103.41.

Issued in Austin, Texas on May 16, 1988.

TRD-8805092 Allen Eli Bell
Executive Director
Texas Air Control Board

Filed: May 18, 1988

For further information, please call (512) 451-5711, ext. 354



Ark-Tex Council of Governments

Request for Proposal for JTPA Classroom Training Activities

The Ark-Tex Council of Governments (ATCOG) hereby solicits proposals for a variety of classroom training activities sponsored by the Job Training Partnership Act (JTPA) program in the Northeast Texas Service Delivery Area (NETSDA). The NETSDA includes Bowie, Cass, Delta, Franklin, Hopkins, Lamar, Morris, Red River, and Titus Counties. ATCOG administers the JTPA program on behalf of the Ark-Tex Private Industry Council (ATPIC) and the Texas Department of Commerce.

The classroom training activities should address the following targeted occupational demands in the NETSDA: sales clerks/cashiers, secretaries, auto mechanics, auto body repairers, nurses-RN, nurse aides, orderlies, truck drivers, butchers, stock clerk/sales floor, production packers/baggers, managers, welders and flame cutters, assemblers and fabricators, electronic and precision workers, delivery and route workers, waiter/waitress, food preparation and service workers.

Scope of work: The courses shall consist of hands-on instruction and/or training necessary to successfully complete the requirements set forth in the service provider program objectives.

Statement of work: The proposal must include sufficient information for the ATPIC to evaluate all proposals. At the very least, the following information shall be provided:

(1) **Qualifications**—Information reflecting the qualifications of the offeror and those representatives of the offer that will be providing services.

(2) **Technical competence/experience**—Information indicating specialized experience and technical competence of the offeror and its personnel as it relates to the services required. Identify previous training experience and previous demonstrated program effectiveness, as well as the percentage of previous enrollees placed into unsubsidized employment.

(3) **Capacity for performance (work force)**—Identify number and title of staff to be assigned to provide services and their availability relative to current workload.

(4) **Estimated costs**—Set out cost and pricing data which indicates the maximum fees to be charged for the various tasks to be provided, including proposed total cost per participant training. A line item budget should be included.

(5) **Methodology**—Set out a detailed course description which outlines methods and schedule for accomplishing each phase of the course.

(6) **Financial accountability**—A copy of service provider's most recent audit and an updated balance sheet if the offeror is a private sector training institution.

Proposal evaluation review factors: The description and maximum points are as follows:

- (1) Qualifications-20;
- (2) Technical competence/experience-30;
- (3) Capacity for performance (work force)-20;
- (4) Estimated costs-10;
- (5) Methodology-10;
- (6) Financial accountability-10.

Proposals will be reviewed by ATPIC using the above evaluation review factors and scope of work. ATPIC will assign points to each criterion based on the content of the proposal only.

Contracts: Contracts may be performance based or fixed unit price depending on the nature of the service being provided. Under the two contractual arrangements, reimbursement will include incremental payments for units of performance, or performance milestones. Full payment will be made only:

- (1) when the participant has completed training;
- (2) when the participant has been placed into unsubsidized employment in the occupation trained for; and
- (3) at not less than the wage specified in the agreement.

Post secondary institutions who provide classroom training activities described above may be considered under a buy-in arrangement by verification and documentation of reasonable cost and demonstrated effectiveness.

Scheduling and Award of Bids: Selections or awards will be based upon the qualifications of offerors submitting proposals, their experience with JTPA or related program, and the cost identified. ATPIC retains the right to decline one or all proposals, depending upon what is in the best interest of ATCOG and JTPA.

Proposals are to be received no later than 5 p.m., June 17, 1988, at Ark-Tex Council of Governments, P.O. Box 5307, Building A, Centre West, 911 Loop 151, Texarkana, Texas 75501, in accordance with this request for proposals.

Questions concerning this request for proposals should be addressed to Ermer Pondexter, (214) 832-8636.

Issued in Austin, Texas on May 11, 1988.

TRD-8805090

James D. Goerke
Executive Director
Ark-Tex Council of Governments

Filed: May 18, 1988

For further information, please call (214) 832-8636

Texas Department of Commerce Comments Related to 1988 Proposed Final Statement

To meet the United States Department of Housing and Urban Development's April 30, 1988, deadline, the Texas Department of Commerce (the department) recently submitted a final statement of its community development objectives and projected use of Community Development Block Grant (CDBG) nonentitlement area funds for federal fiscal year 1988 to the United States Department of Housing and Urban Development. The department published its proposed final statement in the March 18, 1988, issue of the *Texas Register* (13 TexReg 1357), and held a series of four public hearings throughout the state in March, 1988, to solicit comments on the proposed final statement. A total of 135 written comments were received from political subdivisions, organizations, and concerned citizens. Sixty-eight cities and towns, seven counties, and seven consultants expressed overall support for the 1988 proposed final statement. Eleven cities, seven counties 17 regional review committees and councils of governments, two consultants, and one concerned citizen opposed the 1988 proposed final statement. The opponents were most

often concerned about the state, rather than the regional review committees, setting project priorities. The next most common concern was the belief that changes in the proposed final statement would adversely impact smaller and poorer communities. A wide variety of other comments were received. The department has made several changes in the final statement as a result of the comments that were received. In accordance with Texas Civil Statutes, Article 6252, 13e, §4, the categories of comments received are summarized as follows:

1. Community distress: Twenty-three cities and towns, one county, one council of government, and four consultants objected to the allocation of points for community distress selection criteria. Most of them believed the number of points available for the unemployment rate scoring factor should be reduced. The department has decreased the points available for the unemployment rate factor to 25 and increased the number of points for the percentage of persons living in poverty and per capita income scoring factors to 25.

2. Benefit to low and moderate income persons: Twenty-two cities and towns, one regional review committee, and one council of government expressed support for the 60% threshold test for benefit to low and moderate income persons. Six cities and towns, one county, four regional review committees and councils of governments, two consultants, and one concerned citizen opposed the 60% threshold test for benefit to low and moderate income persons. The opponents believed the number of points available for the threshold should be reduced. The department has changed the final statement so that the threshold will be 51% and has allocated 25 points to projects that benefit 60% or more low and moderate income persons.

3. Minority hiring: Two comments were received in favor and two comments in opposition to the number of points available for the minority hiring scoring criterion. The opponents were concerned about the ability to hire adequate minorities in small cities. The department is making no changes in the minority hiring factor.

4. Project design: The proposed final statement allocated 150 points for the project priorities selection factor and 150 points for the project impact selection factor. Four cities and towns and three consultants supported the point allocation for project priorities and impact. Eight cities and towns, five counties, 12 regional review committees and councils of governments, one consultant, and one concerned citizen were opposed. The opponents were concerned that the state would be setting statewide priorities with insufficient regard for regional differences. The department has changed the final statement so that regional review committees will determine the number of points to be awarded for the project priorities selection criterion. The department believes, however, that the award of points for project impact will be more consistent if done on a statewide basis.

5. Local match: Twenty-four cities and towns, one county, one council of government, and two consultants supported the point allocation for the local match selection criterion. Thirteen cities and towns, five counties, four regional review committees and councils of governments, three consultants, and one state representative were opposed. The opponents believed that smaller cities would be unfairly penalized for the smaller contributions they would be able to make. The department has changed the final statement to reduce the amount of local match funds smaller communities would need to contribute to receive the same number of points as larger communities with greater contributions.

6. Continuation of need: Four comments supporting the allocation of points for the continuation of need scoring criterion and six opposing the factor were received. The opponents generally believed that this factor should be eliminated. The department has changed the final statement so that the continuation of need factor will be considered by regional review committees rather than evaluated by the state. This will give the regional review committees the option to decide if this factor is important to their region and if so to allocate up to 50 points for this criterion.

7. Regional review committees: In the proposed final statement, the regional review committees were authorized to allocate one-third of the total points available under the community development fund. Twenty-four cities and towns and six consultants were in favor of this allocation. Nine cities and towns, three counties, 13 regional review committees and councils of governments, one consultant, and one concerned citizen wanted a greater share of the points to be awarded by the regional review committees. The department has changed the final statement so that the regional review committees will award one-half of the total points available.

Funding for Economic Development Seven cities and towns, four regional review committees and councils of governments, and two consultants wanted less funds allocated to the Texas capital fund for economic development projects. They proposed that funds be taken from the Texas capital fund and allocated to either the community development fund or to reinstating the special impact fund. The department has reduced the amount of funds allocated to the Texas capital fund by two and one-half percent and has reinstated the special impact fund to receive two and one-half of the state's allocation of CDBG funds.

Award of Economic Development Grants A variety of comments were received about how economic development grants are awarded. Several comments indicated that the requirement that projects be denied funding from alternative sources meant that those projects submitted for economic development grants were likely to also be rejected by the state as excessive risks. The program does not have such a requirement; however, since the Texas capital fund represents gap financing, applicants must demonstrate that they cannot acquire sufficient funding from other sources under adequate terms and interest rates to make the project financially feasible without program funds. If such a project is deemed feasible otherwise (business plan, market and product/service analysis) a rigorous underwriting procedure is employed to determine the amount, terms and interest rates(s) at which program funds should be made available. Several comments were received concerning the perceived absence of guidelines for determining when a local government would be held responsible for repaying economic development funds. The department will provide additional guidance in the Texas capital fund procedures and application package.

A complete copy of the 1988 Final Statement and a summary of the public comments received are available upon request. Please write or call Ms. Julie Hartley, Finance Division, Texas Department of Commerce, P.O. Box 12728, Austin, Texas 78711, (512) 320-0110.

Issued in Austin, Texas on May 18, 1988.

TRD-8805172 J. W. Lauderback
Executive Director
Texas Department of Commerce

Filed: May 20, 1988

For further information, please call (512) 320-9666.

◆ ◆ ◆
**Weekly Report on the 1988 Allocation
of the State Ceiling on Certain Private
Activity Bonds**

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

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

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

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

The information that follows is a weekly report of the allocation activity for the period, May 9, 1988-May 13, 1988.

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

Total amount of state ceiling remaining unreserved for the \$278,033,300 subceiling for qualified mortgage bonds under the Act as of May 13, 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 May 13, 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 May 13, 1988: \$41,700

Total amount of the \$834,100,000 state ceiling remaining unreserved as of May 13, 1988: \$436,600,000.

Comprehensive listing of bond issues which have received a reservation date pursuant to the Act from May 9, 1988-May 13, 1988:

Hidalgo County Irrigation District Number 16; Farmers of Hidalgo County; Construction of Irrigation Facility; \$400,000.

Comprehensive listing of bonds issued and delivered as pursuant to the act from May 9, 1988-May 13, 1988: None

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

TRD-8805086 J.W. Lauderback
Executive Director
Texas Department of Commerce

Filed: May 18, 1988.

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

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**Comptroller of Public Accounts
Gasoline and Alcohol Mixture
Determination of Credits Allowable for
the Months of July, August and
September 1988**

Pursuant to the Tax Code, §153.123, the Comptroller of Public Accounts is required to publish the credit against the gasoline tax allowable for the first sale or use of gasoline and alcohol mixture blended from products produced in a state allowing a reciprocal credit for Texas-produced products.

The Comptroller of Public Accounts has determined that \$0.04 per gallon credit for the first sale or use of gasoline and alcohol mixture blended with alcohol produced in Texas from Texas products will be available for the months of July, August, and September 1988.

No credit will be allowed to be claimed for the first sale or use in July, August, and September 1988, of a gasoline and alcohol mixture blended from alcohol produced outside of Texas.

Inquires should be directed to Tax Policy Division, Comptroller of Public Accounts, Austin, Texas 78774, or area code (512) 463-4600, or toll free anywhere in Texas at 1-800-252-5555.

Issued in Austin, Texas on May 19, 1988.

TRD-8805148 Bob Bullock
Comptroller of Public Accounts

Filed: May 19, 1988

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

◆ ◆ ◆
**Texas Medical Disclosure Panel
Medical Treatment and Surgical
Procedures**

The Medical Liability and Insurance Improvement Act, Texas Civil Statutes, Article 4590i, §6.04, requires the Texas Medical Disclosure Panel to prepare lists of medical treatments and surgical procedures which physicians and health care providers are required to disclose or not disclose to patients or persons authorized to consent for the patients. In compliance with the Act, the panel has prepared List A, covering treatments and procedures which are required to be disclosed, and List B, covering treatments and procedures which are not required to be disclosed. The lists are adopted by reference in §601.1 and §601.2.

Article 4590i also requires the Medical Disclosure Panel to publish the lists, and amendments to them, in the *Texas Register*. Since the panel now proposes an amendment to List A in §601.1, the proposed amendment is published as follows. Further information about the proposed amendments is contained in the proposed rule section of this issue of the *Texas Register*.

Medical Treatment and Surgical Procedures Established by the Texas Medical Disclosure Panel §601.1. Procedures Requiring Full Disclosure (List A). The following treatments and procedures require full disclosure by the physician or health care provider to the patient or person authorized to consent for the patient. 1. - 16.(No change.) 17. Psychiatric Procedures. 1. Electroconvulsive therapy with modification by intravenous muscle relaxants and sedatives. 1. Memory changes of events prior to, during, and immediately following the treatment. 2. Fractures of dislocations of bones. 3. Significant temporary confusion requiring special care.

Issued in Austin, Texas on May 20, 1988.

TRD-8805170 James H. Duke
Chairman
Texas Medical Disclosure Panel

Filed: May 20, 1988

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

State Board of Insurance

Correction of Error

The State Board of Insurance submitted a notification which contained an error as published in the May 13, 1988, issue of the *Texas Register* (13 TexReg 2253).

The effective date of notification TRD-8804599 should read: "Effective date: May 29, 1988."

Texas State Board of Medical Examiners

Correction of Error

The Texas State Board of Medical Advisers submitted an adopted section which contained an error as submitted in the May 20, 1988, issue of the *Texas Register* (13 TexReg 2365).

In §193.7, subsection (f) should read: "(f) All registrants who perform radiologic procedures must meet the minimum training and supervision standards promulgated by the Texas Department of Health in 25 TAC §§143.1, et seq., unless they perform said procedures under the supervision of a licensed physician."

North Central Texas Council of Governments

Consultant Proposal Requests

Request for Proposals This request by the North Central Texas Council of Governments (NCTCOG) for consultant services is filed under the provisions of Texas Civil Statutes, Article 6252-11.

Background. The NCTCOG and the Fort Worth Transportation Authority (FWTA) are requesting proposals to review existing service to mobility impaired individuals in Fort Worth, to determine areas and methods for increasing service through improved scheduling and routing. The study should address alternative methods of providing the existing and projected services. The consultant will review current policies related to service, vehicle maintenance, and administrative functions and recommend appropriate improvements for each area.

Contract Award Procedures. The firm selected to perform this study will be recommended by a consultant selection committee. The committee will use evaluation criteria and methodology consistent with the scope of services contained in the request for proposals. The NCTCOG executive board will review the selection committee's recommendation, and if it is found acceptable, will issue an award of contract.

The North Central Texas Council of Governments, in accordance with the Civil Rights Act of 1964, Title VI 42 United States Code 2000d to 2000d-4, 78 Statute 252, and Code of Federal Regulations, Title 49, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally Assisted Programs of the Department of Transportation issued pursuant to each act, hereby notifies all bidders that it will affirmatively ensure that in regard to any contract entered into pursuant to this advertisement, disadvantaged business enterprises will be afforded full opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, sex, age, or national origin in consideration of an award.

Respondents must be willing to abide by all the applicable regulations of the Urban Mass Transportation Administration, United States Department of Transportation, including inspection and audit.

The contract will comply with all federal and state laws and regulations applicable to subcontractors, including, but not limited, to equal employment opportunity, Davis-Bacon Act, and records management.

Contact Person. For more information and copies of the request for proposals, contact Shirley Henry, North Central Texas Council of Governments, 616 Six Flags Drive, Suite 200, P.O. Drawer COG, Arlington, Texas 76005-5888, (817) 640-3300.

Due Date. Proposals must be submitted no later than noon, July 1, 1988, to Wanda Schafer, Fort Worth Transportation Authority, 2304 Pine, P.O. Box 1477, Fort Worth, Texas 76101-1477.

Issued in Austin, Texas on May 12, 1988.

TRD-8805194 William J. Pitstick
Executive Director
North Central Texas Council of
Governments

Filed: May 20, 1988

For further information, please call (817) 640-3300

Request for Proposals. This request by North Central Texas Council of Governments (NCTCOG) for consultant services is filed under the provisions of Texas Civil Statutes, Article 6252-11.

Background. The NCTCOG and the Fort Worth Transportation Authority (FWTA) are requesting proposals to locate mobility impaired individuals in Tarrant County, particularly those residing in the City of Fort Worth, and survey the transportation needs of those individuals. The results of the survey should include an analysis of travel patterns that are developing in the area.

Contract Award Procedures. The firm selected to perform this study will be recommended by a consultant selection committee. The committee will use evaluation criteria and methodology consistent with the scope of services contained in the request for proposals. The NCTCOG executive board will review the selection com-

mittee's recommendation, and if it is found acceptable, will issue an award of contract.

The North Central Texas Council of Governments, in accordance with the Civil Rights Act of 1964, Title VI 42 United States Code 2000d to 2000d-4, 78 Statute 252, and Code of Federal Regulations, Title 49, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally Assisted Programs of the Department of Transportation issued pursuant to each act, hereby notifies all bidders that it will affirmatively ensure that in regard to any contract entered into pursuant to this advertisement, disadvantaged business enterprises will be afforded full opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, sex, age, or national origin in consideration of an award.

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Issued in Austin, Texas on May 12, 1988.

TRD-8805193 William J. Pitstick
Executive Director
North Central Texas Council of
Governments

Filed: May 20, 1988

For further information, please call (817) 640-3300

Texas Rehabilitation Commission Request for Proposals

The Texas Rehabilitation Commission (TRC) is announcing for the purpose of establishing three Extended Rehabilitation Services (ERS) facilities to provide sheltered employment programs for persons with severe physical and/or mental disabilities. These three projects will be located in the following cities in Texas: (1) Beaumont, (2) Waco, and (3) Midland/Odessa. Each of the ERS projects will be funded for \$80,000 serving a minimum of 50 clients each for the first year. The Request for Proposal (RFP) must clearly illustrate the services coordination identified in sections of SCR 129/135, which directs TRC, Texas Education Agency (TEA), and the Texas Department of Mental Health/Mental Retardation (TDMHMR) to effectively network services for transition of individuals from public schools and state institutions into the most appropriate work environment and, if available, including independent living centers. Subsequent funding is dependent upon appropriate evaluation data and available funding from the Texas Rehabilitation Commission.

Disability Requirements: Disabilities which may qualify a person for ERS services include mental retardation,

mental illness, spinal or brain injury, physical impairments, speech/hearing/visual limitations, autism, cerebral palsy, deaf-blindness, and other disabling conditions requiring long term supervised services.

Applicant Services: The services of an ERS Program are intended to support the person in an employment setting to achieve maximum work productivity and independent living. The provision of extended rehabilitation services include:

(A) Job Readiness evaluations—general medical, psychological, and/or specialist examinations to determine the nature and severity of disability.

(B) Job training—limited training program to produce job readiness for employment.

(C) Employment—in sheltered industry or in job stations in industry.

(D) Assistive devices—artificial limbs, braces, wheelchairs, hearing aids, and other devices designed to improve functioning.

(E) Transportation—to and from employment.

(F) Housing—small group supervised living arrangements in the community.

Application Process: Persons interested in applying for an ERS project must contact the Regional TRC Office located in their geographic areas: (1) Beaumont, Austin Regional Office, Jackson King, Regional Director, 3000 South IH-35, Suite 300, Austin, Texas 78704, (512) 447-0616; (2) Waco, Fort Worth Regional Office, Lon Young, Regional Director, 3005 Alta Mere, Fort Worth, Texas 76116, (817) 731-7343; (3) Midland/Odessa, Lubbock Regional Office, Mary Valentini, Regional Director, 14 Briercroft Office Park, Lubbock, Texas 79412, (806) 762-0375.

Further information will be forwarded to the applicant containing requirements and format of the proposal.

Deadline: Proposals must be provided to the appropriate TRC Regional Office by 5 p.m., Friday, July 1, 1988.

For further information, call Carl Risinger, Program Specialist, (512) 445-8354.

Issued in Austin, Texas on May 18, 1988.

TRD-8805195 Charles Schiesser
Assistant Commissioner
Texas Rehabilitation Commission

Filed: May 20, 1988

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

Texas Savings and Loan Department Notice of Change of Control Application

Under Texas Civil Statutes, Article 852a, §11.20, require 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 May 13, 1987, the savings and loan commissioner received an application for approval of the acquisition of control of Park Cities Savings Association, Dallas County, by Louis Harold Lebowitz, 5944 Luther Lane #800, Dallas, Dallas County.

Any inquiries may be directed to the Texas Savings and Loan Department.

Issued in Austin, Texas on May 17, 1988.

TRD-8805123

Laura M. Hale
General Counsel
Texas Savings and Loan Department

Filed: May 19, 1988

For further information, please call (512) 479-1250

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Texas Water Commission
Enforcement Order

Pursuant to the Texas Water Code, which states that if the commission finds that a violation has occurred and a civil penalty is assessed, the commission shall file notice of its decision in the *Texas Register* not later than the 10th day after the date on which the decision is adopted, the following information is submitted.

An enforcement order was issued to Eddie V. Gray on May 16, 1988, assessing \$3,000 in administrative penalties; stipulated penalties; and \$5,600 in deferred penalties.

Information concerning any aspect of this order may be obtained by contacting Debra Eccles, Staff Attorney, Texas Water Commission, P.O. Box 13087, Austin, Texas 78711-3087, (512) 463-8069.

Issued in Austin, Texas, on May 16, 1988.

TRD-8805142

Gloria A. Vasquez
Notices Coordinator
Texas Water Commission

Filed: May 19, 1988

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

◆ ◆ ◆
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 May 2-13, 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 (1) the name, mailing address, and phone number of the person making the request; and (2) 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, Austin, Texas 78711, (512) 463-7905.

Listed are the name of the applicant and the city in which the facility is located, type of facility, location of the facility, permit number, and type of application--new permit, amendment, or renewal.

N L Petroleum Services, Inc., Houston; plant that threads steel pipe; at 7707 Wallisville Road in the City of Houston, Harris County; 01970; amendment.

Clear Lake City Water Authority, Houston; treatment plant; approximately one mile northeast of the intersection of Bay Area Boulevard and Space Center Boulevard, southeast of Horsepen Bayou and adjacent to the northernmost part of the L.B.J. Space Center in Harris County; 10539-01; new.

Ray Stephens, Burleson; wastewater treatment facility; within the mobile home park boundaries, approximately 3,000 feet east-southeast of the intersection of FM Road 917 and FM Road 600 in Johnson County; 13431-01; new.

City of Rochester; wastewater treatment facility; approximately 2,000 feet north of the city limits of Rochester and adjacent to the Santa Fe Railroad and State Highway 283 in Haskell County; 11636-01; amendment.

Mrs. W. W. Kahla, Winnie; wastewater treatment facilities; on the east side of IH 10, approximately one mile north of the City of Winnie in Chambers County; 12613-01; renewal.

Magnolia Independent School District, Magnolia; wastewater treatment plant; on the east side of FM Road 2978, at a point approximately 1.1 miles south of the intersection of FM Roads 1488 and 2978 in Montgomery County; 12703-01; renewal.

John D. and Douglas Ryman, Bay City; wastewater treatment facilities; approximately 400 feet east of State Highway 60 and 1,100 feet south of Laird Road in Matagorda County; 12618-01; renewal.

Evangelistic Temple, Kingwood; sewage treatment plant; approximately 2,400 feet north-northwest of the intersection of United States Highway 59 and McClellan Road and 250 feet west of McClellan Road in Montgomery County; 11878-01; renewal.

Harris County MUD Number 82, Houston; wastewater treatment facilities; at 2400 Domino Road, approximately three miles north of FM Road 1960 and 1 1/2 miles east of Aldine Westfield Road in Harris County; 11799-01; renewal.

City of Athens; wastewater treatment plant; south of Walnut Creek and approximately four miles southwest of the intersection of Prairieville and Corsicana Streets in the City of Athens in Henderson County; 10143-02; renewal.

Emile Jamail Properties, Inc., Austin; wastewater treatment facilities; approximately 3,000 feet north of FM Road 620, approximately 2.6 miles northeast of the intersection of FM Road 620 and United States Highway 183 in Williamson County; 12840-01; renewal.

City of Garland, Dallas; wastewater treatment plant; approximately 3,000 feet south of the intersection of State Highway 66 and Centerville Road and on the southeast corner where the Missouri, Kansas and Texas Railroad tracks; 10090-02; amendment.

Brazos Electric Power Cooperative, Inc., Belton; steam electric station; approximately 600 feet north of the AT&SF railroad and on the east bank of the Leon River, northeast of the City of Belton, Bell County; 01384; renewal.

South Hampton Refining Company, Silsbee; petroleum refinery and a products storage/shipment facility; one mile north of the FM Road 418/FM Road 92 intersection in the city limits of Silsbee in Hardin County; 01403; amendment.

Brad Bouma, doing business as MJB Dairy, Clint; dairy operation; at 12400 Gateway East, approximately two miles southeast of the intersection of IH 10 and Horizon Boulevard in the City of Clint in El Paso County; 02873;

new.

Folsom Investments, Inc., Houston; wastewater treatment facilities; approximately three miles east of the intersection of FM Road 1960 and Windfern Road and approximately two miles northwest of the intersection of Fairbanks-North Houston Road and FM Road 149 in Harris County; 13433-01; new.

Cedar Bayou Utilities, Inc., Houston; sewage treatment plant; approximately 1/4 mile north of the State Highway 146 Bridge over Cedar Bayou and on the east bank of Cedar Bayou in Chambers County; 11031-01; renewal.

Harris County Municipal Utility District Number 130, Houston; wastewater treatment facilities; at a point approximately 5,750 feet southwest of the intersection of United States Highway 290 and Jackrabbit Road in the City of Houston in Harris County; 12267-01; renewal.

Advanced Aromatics, Inc., a subsidiary of CXI, Baytown; petrochemical and industrial organic chemicals manufacturing plant; at 5501 Baker Road in the City of Baytown, Harris County; 01914; renewal.

Harris County Municipal Utility District Number 115, Spring; wastewater treatment facility; approximately 3,600 feet east of IH 45 adjacent to Lemm Gully and two miles south of the City of Spring, Harris County; 12661; renewal.

Ore City; wastewater treatment facilities; approximately one mile northeast of the intersection of Front Street and FM Road 450 in Ore City, Upshur County; 10241-01; renewal.

City of Buffalo; wastewater treatment plant; adjacent to and east of Marion Boulevard approximately 3/4 mile north-northeast of the intersection of United States Highways 75 and 79 in Leon County; 10022-01; renewal.

City of Paris; wastewater treatment facilities; approximately 1 1/2 miles west of United States Highway 271, just below Lake Crook Dam and north of the City of Paris, Lamar County; 10479-01; renewal.

City of Athens; sewage treatment plant; east of One Mile Creek and approximately 3,100 feet northwest of the intersection of Prairieville Street and State Highway 19 in the City of Athens, Henderson County; 10143-01; renewal.

City of San Marcos; wastewater treatment plant; on the north bank of the San Marcos River, approximately 4,000 feet east of the intersection of State Highway 123 and IH 35 in the City of San Marcos, Hays County; 10273-02; renewal.

Orbit Systems, Inc., Rosharon; wastewater treatment plant; approximately 1/2 mile south of FM Road 1462 and 1.5 miles west of State Highway 288 in Brazoria County; 12672; renewal.

Luce Bayou Public Utility District, Huffman; wastewater treatment plant; approximately 3.5 miles north of the intersection of FM Roads 1960 and 2100, at a point two miles north of Huffman, Harris County; 11167-01; renewal.

Brunner, Richard L. and Canion, James E.; wastewater treatment facilities; approximately 500 feet east of the intersection of Stuebner-Airline Road and Mitchell Road in the City of Houston, Harris County; 12659-01; renewal.

Issued in Austin, Texas on May 17, 1988.

TRD-8805087 Karen A. Phillips
Chief Clerk
Texas Water Commission

Filed: May 18, 1988

For further information, please call (512) 463-7906.

Public Meeting Notice

The Texas Water Commission will conduct a public meeting beginning at 1:30 p. m., August 1, 1988, Room 103, John H. Reagan Building, 15th and Congress Avenue, Austin, in order to receive public comment concerning the statewide draft **Nonpoint Source Management Report**. The public meeting shall be conducted in accordance with the Clean Water Act of 1987, §319(a).

The primary purpose of the Nonpoint Source Management Program is to select management programs for controlling nonpoint source pollution. The Commission's Water Quality Standards and Evaluation Section, the Commission's Water Rights and Uses Division, the Texas Soil and Water Conservation Board, the North Central Texas Council of Governments, the Houston-Galveston Area Council, and Dannenbaum Engineering Corporation have all provided studies into the nature, extent, effect, and best management practices to control this pollution. Representatives will be available at the meeting to answer questions.

The public is encouraged to attend the meeting and to present relevant evidence or opinions concerning the draft management report. The commission would appreciate receiving a copy of all written comments no later than 10 days after the public meeting. Copies of comments and questions concerning the public meeting should be addressed to: Daniel E. Beckett, Texas Water Commission, P.O. Box 13087, Austin, Texas 78711-3087, (512) 463-8452.

A copy of the draft Nonpoint Source Management Report will be available for review after June 30 in the Texas Water Commission Library, Room 511, Stephen F. Austin Building, 1700 North Congress Avenue in Austin, and in each of the commission's district offices at the following addresses: District 11, 3918 Canyon Drive, Amarillo, (806) 353-9251; District 2, 5124-C 69th Street, Lubbock, (806) 794-4435; District 3, 3221 Franklin, Waco, (817) 753-3688; District 4, 1019 North Duncanville Road, Duncanville, (214) 298-6171; District 5, 2916 Teague Drive, Tyler, (214) 595-5466; District 6, 4820 Ward Drive, Beaumont, (409) 842-9413; District 8, 140 Heimer Road, Suite 360, San Antonio, (512) 490-3096; District 9, 102 Canyon Road, San Angelo, (915) 655-9479; District 10-Odessa, 2626 Parkway Boulevard, Building B, Suite 129, Odessa, (915) 362-6997; District 10-El Paso, 1170 Westmoreland, El Rincon Building, Suite 241, El Paso, (915) 778-9634; District 11, 813 East Pike Boulevard, Weslaco, (512) 968-3165; District 12, Government Plaza Building, Suite 905, 400 Mann Street, Corpus Christi, (512) 882-2548; District 14, 510 South Congress, Suite 306, Austin, (512) 463-7803; Southeast Region-Houston Office, 15531 Kuykendahl, Suite 350, Houston, (713) 586-7780; Southeast Region-Deer Park Office, 4301 Center Street, Deer Park, (713) 479-5981.

A limited number of copies of the draft Nonpoint Source Management Report will be available from the Texas Water Commission after June 30, and may be obtained by contacting R. A. "Hos" Evans, Water Quality Division, Texas Water Commission, P.O. Box 13087, Austin, Texas 78711-3087, (512) 463-8452. There is no charge for the pre-meeting draft copy.

The date selected for this meeting is intended to comply

with deadlines set by statute and regulation. Any publication or receipt of this notice less than 30 calendar days prior to the meeting date is due to the necessity of scheduling the meeting on the date selected.

Issued in Austin, Texas on May 20, 1988.

TRD-8805207 William G. Newchurch
Director, Legal Division
Texas Water Commission

Filed: May 23, 1988

For further information, please call (512) 463-8452



Reschedule Public Meeting Notice

The public meeting scheduled by the Texas Water Commission, as published in the May 13, 1988, issue of the

Texas Register (13 TexReg 2775), to be held on June 14, 1988, 1:30 p.m., Room 103, John H. Reagan Building, 15th and Congress Avenue, Austin, has been changed to 1:30 p.m., June 29, 1988, Room 103, John H. Reagan Building, 15th and Congress Avenue, Austin.

The primary purpose of this public meeting is to receive comment concerning the Statewide Draft Nonpoint Source Assessment Report. The public meeting shall be conducted in accordance with the Water Quality Act of 1987 §319(a).

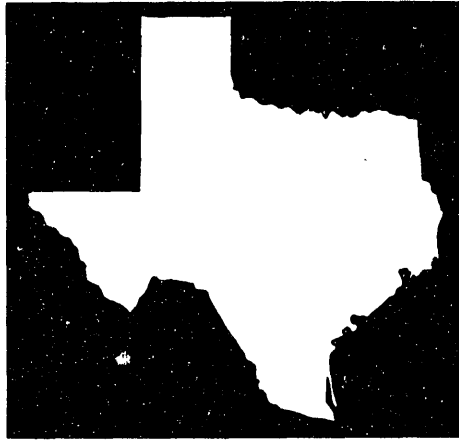
Issued in Austin, Texas on May 20, 1988.

TRD-8805208 William G. Newchurch
Director, Legal Division
Texas Water Commission

Filed: May 23, 1988

For further information, please call (512) 463-8452





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