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# Texas Register

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## Texas Register

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Open Meetings—notices of open meetings

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**Part V. Veterans Land Board**

40 TAC §175.17—4730, 4774

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

40 TAC §181.900

**Part IX. Texas Department on Aging**

40 TAC §§266.1, 266.3, 266.5—4530

40 TAC §§268.1, 268.3, 268.5, 268.7, 268.9, 268.11,  
268.13—4386

40 TAC §§266.7, 266.9, 266.11, 266.15, 266.17—4513

**TITLE 43. TRANSPORTATION**

**Part I. State Department of Highways and Public Transportation**

43 TAC §§25.601-25.610—4376

43 TAC §§25.701-25.709—4378

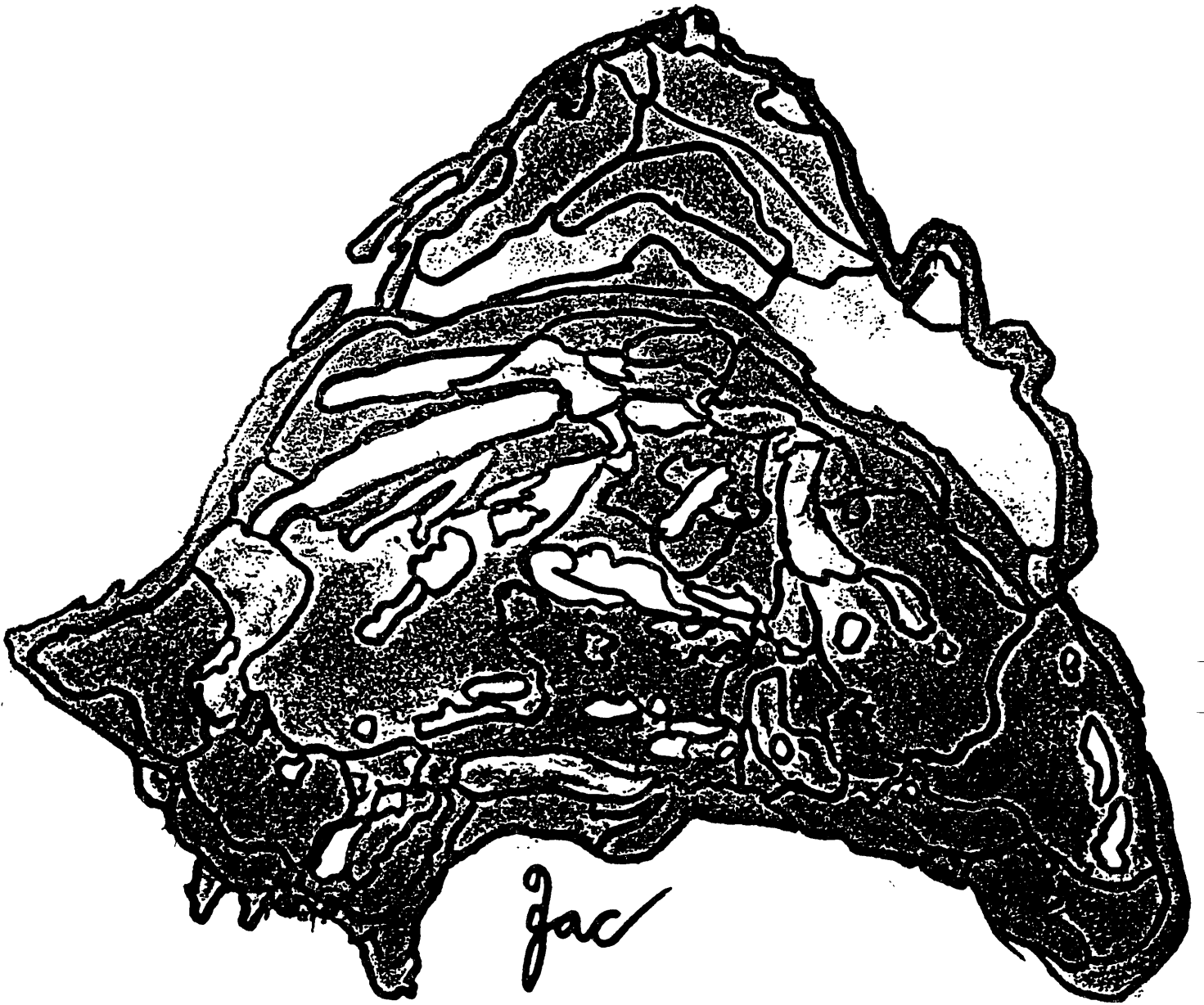
43 TAC §§63.1-63.5, 63.11, 63.12, 63.17, 63.21, 63.22—  
4507

43 TAC §§65.1-65.3, 65.5-65.9, 65.11, 65.13-65.18,  
65.20, 65.21—4509

**Part III. Texas Aeronautics Commission**

40 TAC §§63.6, 63.7—4680





Name: Zac Norton  
Grade: 4  
School: Pope Elementary, Arlington

# The Governor

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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.

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## Proclamation 41-2224

I, William P. Clements, Jr., Governor of Texas, do hereby certify that a hurricane watch has been declared by the National Hurricane Center for the Texas Coast and that Hurricane Gilbert poses a threat of imminent disaster along the Texas Coast and portions of State Disaster Districts 2A, 2B, and 3A and Subdistricts 2A and 3A beginning September 15, 1988.

Therefore, in accordance with the authority vested in me by Section 418.014 of the Texas Government Code, I do hereby proclaim the existence of such threat and direct that all necessary measures both public and private as authorized under Section 418.015 of the Code be implemented to meet that threat.

As provided in Section 418.016, all rules and regulations that may inhibit or prevent prompt response to this threat are suspended for the duration of the incident.

Any elections scheduled during the state of disaster in the affected area with respect to which the appropriate authority of a political subdivision orally or in writing indicates its intent to me to have said election postponed shall hereby be postponed.

In accordance with the statutory requirements, copies of this proclamation shall be filed with the applicable authorities.

Issued in Austin, Texas on September 15, 1988.

TRD-8809635      William P. Clements, Jr.  
Governor of Texas



## Proclamation 41-2225

Be it known that I, William P. Clements, Jr., Governor of the State of Texas, do hereby order a General Election to be held throughout the State of Texas on Tuesday next after the first Monday in November, A.D. 1988, same being the 8th day of November, A.D. 1988; and (Sepase que yo, William P. Clements, Jr., Gobernador del Estado de Texas, por la presente ordeno una Eleccion General que se llevara a cabo por todo el Estado de Texas el Martes que siga el primer Lunes en Noviembre, A.D. 1988, el mismo siendo el dia 8 de Noviembre, A.D. 1988; y)

Notice thereof is hereby given to the people as required by Section 3.003, V. T.C.A., Election Code, and the County Judge of each county is directed to cause said election to be held at each precinct in the county on such date for the purpose of electing state and district officers, Members of Congress, Members of the Legislature, and President/Vice President; and

(Por la presente se da aviso de esto a la gente como requiere el Section 3. 003, V.T.C.A.,Codigo de Elecciones, y el Juez del Condado de cada condado es dirigido que haga causar la celebracion de la eleccion en cada precincto del condado en tal fecha con el proposito de elegir oficiales del estado y del distrito, miembros del Congreso, miembros de la Legislatura, y Presidente y Vice Presidente; y)

For the purpose of adopting or rejecting the proposed Constitutional Amendments as submitted by the 70th Legislature of the State of Texas. (Con el proposito de adoptar o rechazar las Enmiendas Propuestas a la Constitucion como sometidas por la 70a Legislatura del Estado de Texas.)

In testimony whereof, I have hereunto signed my name and affixed the Seal of State at my Office in the City of Austin, Texas, this 20th day of September A.D. 1988.

(En testimonio de lo cual, yo he firmado mi nombre oficialmente sobre la presente y he puesto el Sello del Estado en mi oficina en la Ciudad de Austin este dia 20th de Septiembre A.D. 1988.

Issued in Austin, Texas on September 20, 1988.

TRD-8809661      William P. Clements, Jr.  
Governor of Texas





Name Lucio Carvajal  
Grade: 11  
School: Texas School for the Deaf

## Appointments Made September 12, 1988

To be a member of the 275th Judicial District Court, Hidalgo County until the next general election and until his successor shall be duly elected and qualified: Robert Field Barnes, 500 Wichita, #71, McAllen, Texas 78503. Mr. Barnes will be filling the unexpired term of Hector Villarreal who resigned.

To be appointed as Judge of the 72nd Judicial District Court, Lubbock County until the next general election and until his successor shall be duly elected and qualified: Johnson Blair Cherry, Jr., 4627 Fifth Street, Lubbock, Texas 79416. Mr. Cherry will be filling the unexpired term of Denzil Bevers who resigned.

Issued in Austin, Texas on September 14, 1988.

TRD-8809482

William P. Clements, Jr.  
Governor of Texas

## Appointments Made September 13, 1988

To be a justice of the Third District Court of Appeals until the next general election and until his successor shall be duly elected and qualified: J. Woodfin Jones, 1323 Wilderness, Austin, Texas 78746. Mr. Jones will be filling the unexpired term of James Brady who resigned.

To be a branch pilot for the Sabine Bar, Pass, and Tributaries: for a term to expire August 16, 1992: Captain Konstantinos I. Selinidis, 3741 Memorial Boulevard, Port Arthur, Texas 77640. Mr. Selinidis is being reappointed.

To be a branch pilot for the Sabine Bar, Pass, and Tributaries: for a term to expire August 16, 1992: Captain Millard A. Scott, 5285 Stardust, Beaumont, Texas 77704. Mr. Scott is being reappointed.

To be a branch pilot for the Sabine Bar, Pass, and Tributaries: for a term to expire June 24, 1992: Captain Robert C. Brown, 1011 17th Street, Nederland, Texas 77627. Mr. Brown is being reappointed.

To be a branch pilot for the Matagorda Ship Channel for a term to expire November 21, 1990: Captain Steven C. Gibson, 116 Spyglass Hill, Port Lavaca, Texas 77979. Mr. Gibson is being reappointed.

To be a branch pilot for the Port Aransas Bar, Corpus Christi Bay, and Tributaries for a term to expire September 4, 1992: Captain Buford E. McRae, 660 Donnan Court, Aransas Pass, Texas 78336. Mr. McRae is being reappointed.

To be a member of the Texas Criminal Justice Task Force for the Comprehensive Review of the Criminal Justice System for a term at the pleasure of the Governor: James Raney, 3624 Buckingham, Nacogdoches, Texas 75961.

To be a members of the Governor's Energy Council for terms at the pleasure of the Governor.

Mr. John F. Bookout, P.O. Box 13614, Houston, Texas 77219.

Mr. Jack Bowen, Transco Energy Company, P.O. Box 1396, Houston, Texas 77251.

Mr. Edwin L. Cox, 4101 Beverly Drive, Dallas, Texas 75205.

Dr. William L. Fisher, The University of Texas at Austin, University Station, Box X, Austin, Texas 78713.

Dr. Peter Flawn, 3718 Bridle Path, Austin, Texas 78703.

Mr. Robert Gunn, 3312 Kessler Boulevard, Wichita Falls, Texas 76309.

The Honorable Kent R. Hance, Sr., Railroad Commission of Texas, P.O. Drawer 12967, Austin, Texas 78711.

Mr. Bobby Holt, Oil Properties, 2200 First National Bank Building, Midland, Texas 79701.

Mr. Larry G. Jones, Deloitte Haskins and Sells, 1200 Travis, Houston, Texas 77002-6054.

Mr. C. B. Moncrief, Moncrief Building, Ninth at Congress, Fort Worth, Texas 76102.

Mr. Chester R. Upham, Jr., 999 Energy Avenue, P.O. Box 940, Mineral Wells, Texas 76067.

Mr. Edward O. Vetter, Edward O. Vetter and Associates, 1525 Elm Street, Suite 2030, Dallas, Texas 75201.

Mr. Cyril Wagner, Jr., Wagner and Brown, 300 North Marienfield, Suite 1100, Midland, Texas 79701.

Mr. Robert A. Mosbacher, Sr., Mosbacher Energy Company, 712 Main Street, Suite 2200, Houston, Texas 77002-3290.

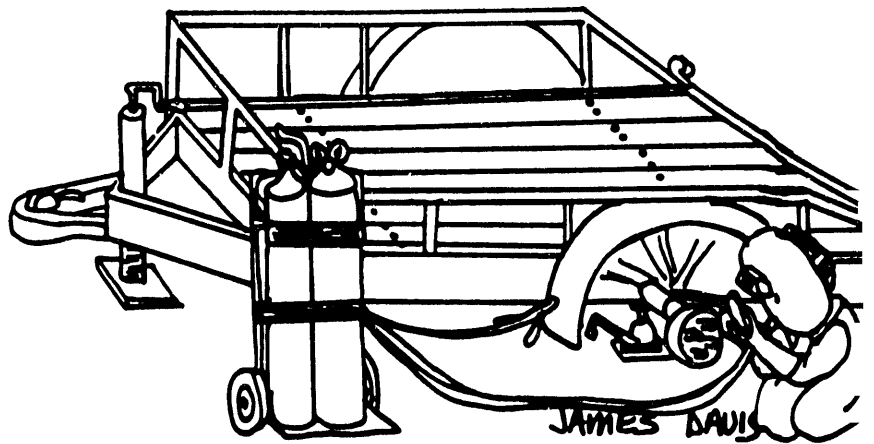
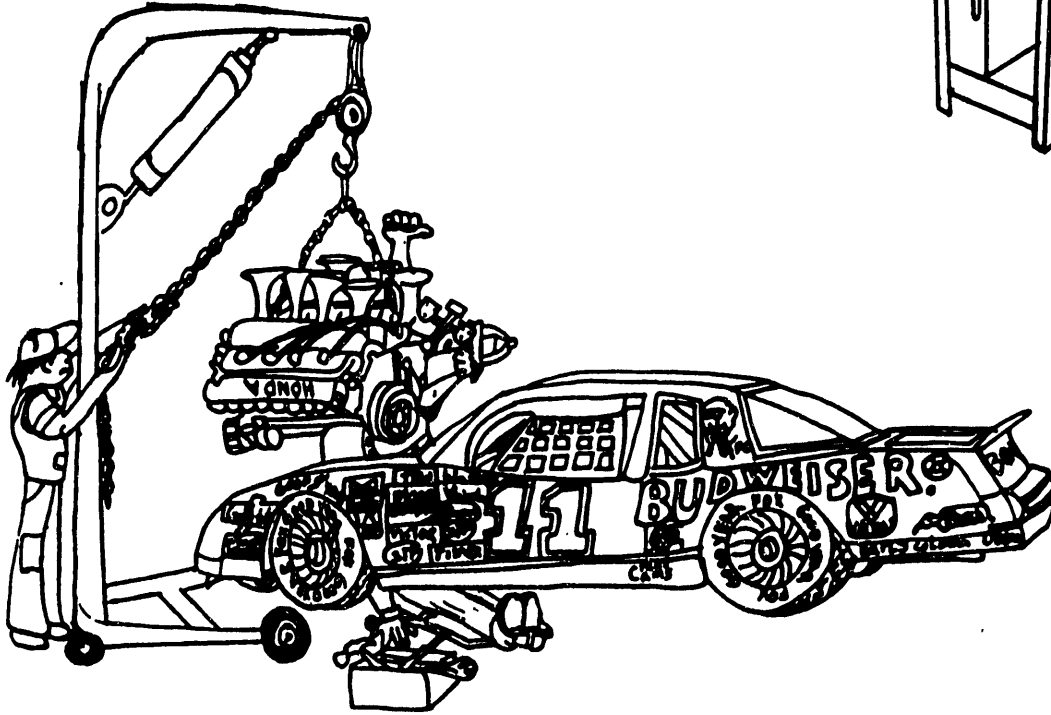
Mr. Louis A. Beecherl, Jr., 3801 Beverly Drive, Dallas, Texas 75205.

Mr. Kenneth L. Lay, Enron Corporation, P.O. Box 1188, Houston, Texas 77251-1188.

Issued in Austin, Texas on September 19, 1988

TRD-8809632

William P. Clements, Jr.  
Governor of Texas



# TSD VOCATIONAL

Name: James Davis  
Grade: 12  
School: Texas School for the Deaf

# 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*. The Attorney General responds to many requests for opinions and open records decisions with letter opinions. A letter opinion has the same force and effect as a formal Attorney General Opinion, and represents the opinion of the Attorney General unless and until it is modified or overruled by a subsequent letter opinion, a formal Attorney General Opinion, or a decision of a court of record.

## Open Records Decisions

ORD-504 (RQ-1284). Request from James E. Nugent, John Sharp, and Kent Hance, Railroad Commission of Texas, Austin, concerning whether information submitted as part of a private company's voluntary pollution abatement efforts is protected from required public disclosure by the Texas Open Records Act, Texas Civil Statutes, Article 6252-17a, §§3(a)(1), 3(a)(10), and 3(a)(13).

**Summary of Decision.** The Texas Open Records Act, Texas Civil Statutes, Article 6252-17a, §§3(a)(1), 3(a)(10), and 3(a)(13), does not protect from required disclosure certain reports containing groundwater quality assessments, summaries of hydrological work, and numerous maps, graphs, and charts, all directly related to Texaco's voluntary pollution-abatement activities when the Texas Railroad Commission does not show how release of the information would impair its ability to obtain the information in the future and neither the commission nor Texaco shows how release of the information would reveal trade secrets or would be likely to cause substantial competitive injury to Texaco or damage to the commercial value of geological data. The result of Open Records Decision Number 479 (1987) is overruled. TRD-8809460

ORD-505 (RQ-1410). Request from Joe Lucas, El Paso County Attorney, El Paso, concerning whether voted ballots and software purchased for the tabulation of votes are public information under the Texas Open Records Act, Texas Civil Statutes, Article 6252-17a.

**Summary of Decision.** Voted ballots from a primary election become public information available for public inspection after the 22 month retention period. A request under the Open Records Act for access to voted ballots must be honored before the ballots may be destroyed.

Release of copies of computer programs protected by copyright would violate federal law. TRD-8809456

ORD-506 (RQ-1331 ). Request from Mike Driscoll, Harris County Attorney, Houston, concerning whether cellular mobile telephone numbers of county officials and employees are excepted from required disclosure under the Texas Open Records Act, Texas Civil Statutes, Article 6252-17a.

**Summary of Decision.** The Texas Open Records Act, Texas Civil Statutes, Article 6252-17a, §3(a)(8), protects from required public disclosure the cellular mobile phone numbers assigned to public and private vehicles used by county officials and employees with specific law enforcement responsibilities.

Sections 3(a)(1), 3(a)(2), 3(a)(9), and 3(a)(17) do not protect the cellular mobile phone numbers installed by and billed to the county for public and private vehicles used by non-law enforcement county officials and employees. Section 3(a)(17) protects the cellular mobile phone numbers of county officials and employees who pay directly for the purchase of, installation of, and billing to phones installed in their private vehicles if the officials and employees request that the numbers be maintained as confidential pursuant to the Act, §3a.

TRD-8809682

## Opinions

JM-949 (RQ-1426). Request from Wilhelmina Delco, Chairman, Committee on Higher Education, Texas House of Representatives, Austin, concerning whether land designated for "agricultural use" is subject to a five-year roll-back provision when the property is acquired under eminent domain.

**Summary of Opinion.** If real property that has been valued for tax purposes under the Texas Constitution, Article VIII, §1-d-1, and the Tax Code, Chapter 23, Subchapter D, is condemned through eminent domain proceedings, no recapture or rollback of taxes occurs. If real property designated as "agricultural land" under the Texas Constitution, Article VIII, §1-d, and the Tax Code, Chapter 23, Subchapter C, is sold or condemned, the individual who owned the land is not responsible for paying the additional taxes which arise in the event of a

roll-back. TRD-8809457

JM-950 (RQ-1477). Request from Henry B. Keene, Chairman, Board of Pardons and Paroles, Austin, concerning the constitutionality of the Texas Code of Criminal Procedure, Article 42.18, §27, regarding contracting for parole services, and related questions.

**Summary of Opinion.** The Texas Code of Criminal Procedure, Article 42.18, §27, does not violate the separation of powers doctrine of the Texas Constitution by providing that "[t]he Board of Pardons and Paroles shall request proposals and may award contracts to district probation offices to provide parole services—if the board determines" that certain conditions exist. No violation of the separation of powers doctrine is shown by virtue of the board requiring a district probation office with whom it has a contract to perform certain duties prescribed by the board relative to the parole process. Article 42.18, §27, does not impinge on the constitutional authority of the Board of Pardons and Paroles to recommend or advise the governor relative to "reprieves and commutation of punishment and pardons." TRD-8809458

JM-951 (RQ-1513). Request from Hugh Parmer, Chairman, Intergovernmental Relations Committee, Texas State Senate, Austin, concerning whether a public television station is a "charitable organization" for purposes of liability, including slander and libel, and related questions.

**Summary of Opinion.** The Charitable Immunity and Liability Act of 1987, Civil Practice and Remedies Code, Chapter 84, may provide for immunity to volunteers serving as members of the boards of directors of public broadcasters. Whether the Act applies to a public broadcasting station, its employees and volunteers is a question of fact. Defamation is a category of injury subject to the Act. Public broadcasting stations, their operators, agents, and employees may have a limited defense in the case of defamation broadcast over their facilities. Civil Practice and Remedies Code, §73.004. TRD-8809459

**JM-952 (RQ-1296).** Request from Hugh Parmer, Chairman, Committee on Intergovernmental Relations, Texas State Senate, Austin, concerning whether certain improvements may constitute "regional economic development facilities" within the meaning of Texas Civil Statutes, Article 1118x.

**Summary of Opinion.** To qualify as "regional economic development facilities" pursuant to Texas Civil Statutes, Article 1118x, §6C(e), such facilities must be located at a station or terminal complex, must be aimed at providing jobs or improving economic conditions generally, must be dedicated to lawful purposes, and must meet statutory requirements for funding and approval. Whether a particular facility qualifies will depend upon the facts peculiar to it. TRD-8809681





# 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 1.

### ADMINISTRATION

#### Part IV. Secretary of State

#### Chapter 75. Automobile Club

##### Automobile Club Services

###### • 1 TAC §75.21

The Office of the Secretary of State adopts on an emergency basis new §75.21, concerning the services an automobile club may provide its customers or subscribers. It is necessary to adopt this section on an emergency basis to protect the welfare of those members of the public who wish to obtain a membership in an automobile club.

The new section is adopted on an emergency basis under Texas Civil Statutes, Article 6252-13a, §4, and Texas Civil Statutes, Article 6252-13a, §4, and Texas Civil Statutes, Article 1528d, which provide the Office of the Secretary of State with the authority to adopt rules of practice reasonably necessary to carry out its ministerial duties under the Act. *§75.21. Services an Automobile Club may Provide.* By way of illustration and not by way of limitation, an automobile club may provide its customers or subscribers with the following services:

- (1) a community traffic safety service;
- (2) a travel and touring service;
- (3) a theft or reward service;
- (4) a map service;
- (5) a towing service;
- (6) an emergency road service;
- (7) a bail bond service;
- (8) a legal fee reimbursement service in the defense of traffic violations;
- (9) the purchase of accidental injury and death benefits insurance coverage from a duly authorized insurance company;
- (10) a reimbursement for the deductible on an automobile insurance policy for the collision of a motor vehicle not to exceed \$500; and
- (11) a reimbursement for the deductible on an automobile insurance policy for the theft of a motor vehicle not to exceed \$500.

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

TRD-8809845

Lorna Wassdorf  
Special Assistant  
Office of the Secretary of  
State

Effective date: September 19, 1988

Expiration date: January 17, 1988

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

## TITLE 4. AGRICULTURE

### Part I. Texas Department of Agriculture

#### Chapter 21. Seed Certification Standards

###### • 4 TAC §21.68

The Texas Department of Agriculture (the department) adopts on an emergency basis new §21.68 concerning certification of fields in which sclerotinia blight is found. New §21.68 requires that a peanut field in which sclerotinia blight is found shall be ineligible for certification.

The department is acting upon a request made to it by the Texas Seed and Plant Board to add a requirement to the Texas seed certification standards which would make peanut seed production ineligible for seed certification if sclerotinia blight is found to be present in fields for which seed certification is requested. There are currently no requirements regarding sclerotinia blight in the seed certification standards. The department believes that the addition of a requirement for ineligibility of peanut production fields for certification where sclerotinia blight is found is both necessary and appropriate. Recent research information indicates that the disease can be transmitted by seed and that once the disease is introduced into a field, it can remain inactive in the soil and infect subsequent peanut crops. Due to the devastating results of this disease and the need to prevent its spread to land that is currently free of it, the department must act immediately. The department's failure to act to help contain infected areas could result in damage and economical loss to peanut producers in Texas.

New §21.68 is adopted under the Texas Agriculture Code, Chapter 62, §12.001, which provides the Texas Department of Agriculture with the authority to make rules necessary to carry out provisions of the code.

*§21.68. Disease Requirements for Peanut Production.* A peanut field in which sclerotinia blight is found in the course of any inspection shall be ineligible for any class of certification by the department.

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

TRD-8809559

Dolores Alvarado Hibbs  
Director of Hearings  
Texas Department of  
Hearings

Effective date: September 16, 1988

Expiration date: January 14, 1989

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

## TITLE 16. ECONOMIC REGULATION

### Part I. Railroad Commission of Texas

#### Chapter 5. Transportation Division

##### Subchapter L. Insurance Requirements

###### • 16 TAC §5.184

The Railroad Commission of Texas adopts on an emergency basis an amendment to §5.184 concerning insurance carrier requirements. The amendment is adopted on an emergency basis because a previous emergency section which expanded the type of companies who may file proof of insurance coverage with the commission will expire prior to the effectiveness of this section. A temporary reversion to the previous system would cause certain carriers to become out of compliance, which poses an imminent threat to the general welfare.

The amendment allows the commission to accept proof of insurance issued by surplus lines companies on the eligible list issued by the State Board of Insurance. The proof would be accompanied by the affidavit required by the State Board of Insurance to demonstrate that the carrier was unable to obtain insurance from an insurance company licensed to do business in Texas.

The new section is adopted under Texas Civil Statutes, Article 911b, §13, which authorizes the Railroad Commission to accept insurance filings from surplus lines companies.

*§5.184. Insurance Carrier.* No surety bond, insurance policy, or certificate of insurance will be accepted by the commission unless issued by an insurance company or surety company licensed and authorized to do business in the State of Texas in the form prescribed or approved by the State Board of Insurance and signed or countersigned by an authorized agent of the insur-

ance or surety company. The commission will accept a certificate of insurance issued by a surplus lines insurer that meets the requirements of the Insurance Code, Article 1.14-2, and rules adopted by the State Board of Insurance under that article, if accompanied by proof of inability to obtain insurance from any insurance company authorized to do business in the State of Texas in the form of the affidavit required under 28 TAC §15.13 (relating to Surplus Lines Insurance Affidavit). Each certificate of insurance filed with the commission for the coverage required under §5.182(a)(1) of this title (concerning Evidence of Insurance Required) shall be accompanied by a filing fee of \$25.

Issued in Austin, Texas, on September 12, 1988.

TRD-8809485

James E. (Jim) Nugent  
Chairman  
Railroad Commission of  
Texas

Effective date: September 15, 1988

Expiration date: January 13, 1989

For further information, please call: (512) 463-7187

## Part IV. Texas Department of Labor and Standards

### Chapter 75. Air Conditioning and Refrigeration Contractor License

#### • 16 TAC §75.3

The Texas Department of Labor and Standards adopts on an emergency basis an amendment to §75.3. The emergency amendment is 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 provides 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.

#### §75.3. Fees.

(a) All fees should be paid by cashier's check or money order made payable to the Texas Department of Labor and Standards.

(1) Exam costs: Both Class A and Class B License One exam (either for environmental air conditioning or commercial refrigeration and process cooling and heating)—\$100; Two exams taken during the same examination period—\$150. [Class A license—Exam \$100 Re-exam \$50 Class B license—Exam \$100 Re-exam \$50]

(2) License fees: Class A license—for three years \$300 renewal every three years \$150 Class B license—for three years \$150 renewal every three years \$75 Late renewal fee \$50.

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

Issued in Austin, Texas, on September 15, 1988.

TRD-8809539

Larry Kosta  
Assistant Commissioner  
Texas Department of Labor  
and Standards

Effective date: September 15, 1988

Expiration date: November 14, 1988

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

#### • 16 TAC §75.4

The Texas Department of Labor and Standards adopts on an emergency basis an amendment to §75.4. The emergency amendment is needed to comply with the Attorney General's Opinion regarding House Bill 175.

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.

#### §75.4. Exams.

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

(c) All exams shall be given open book, and applicants are [encouraged] to bring reference material only. A list of reference material may be obtained from the department. [The exam shall be based on common industry practices and the latest edition of the Uniform Mechanical Code, published jointly by the International Conference of Building Officials and the International Association of Plumbing and Mechanical Officials, or the Standard Mechanical Code published by the Southern Building Code Congress International, Inc., and herein adopted by reference. Copies may be obtained from the International Conference of Building Officials, 1601 Rio Grande, Suite 456, Austin, Texas 78701, (512) 479-8278 or Southern Building Code Congress International, Inc., 3355 Bee Cave Road, Suite 404, Austin, Texas 78746, (512) 327-8278. An applicant will also need to know the Texas Boiler Law and Chapter 65 of this title concerning Boiler Division as they apply to air conditioning contracting.]

(d) Separate tests are administered for environmental air conditioning and for commercial refrigeration and process cooling and heating. Both tests

may be taken during the same testing period, either during the same day, or on successive days. Tests may also be taken in different testing periods, which will result in higher fees for the exams and an additional fee for revising the license.

(e)[d] Class A license exam shall consist of 100 questions. Class B license exam shall consist of 50 questions.

(f)[e] An applicant who correctly answers 70% of the exam questions shall be eligible for a State of Texas air conditioning and refrigeration contractors license, provided the license fee has been paid and the proof of insurance coverage and Certification of Franchise Tax Status or Non-Incorporation have [has] been received by the department. [An applicant who is employed by or is an officer of a corporation must also furnish a "Certificate of Good Standing", which may be obtained from the State Comptrollers, 1-800-252-5555.] Eligibility for a license shall last not more than two years [90 days] from the date of examination result notification. Applicants who pass the exam but do not choose to acquire a license before the two year [90 day] period must take a re-exam and pay the required re-examination fee.

(g) An applicant whose business affiliation is a corporation must submit a certification by the corporation that its franchise taxes are current (or if a corporation is exempt from the payment of the franchise tax or an out-of-state corporation that is not subject to Texas franchise tax is involved, to certify to a statement to that effect). An applicant whose business affiliation is not incorporated must submit a certification to that effect. Making a false statement as to corporate franchise tax status is grounds for the denial, suspension, or revocation of the license.

(h) A form for certification of franchise tax status or non-incorporation will be included in the information packet sent to prospective applicants, and will be handed out at each examination. Contractors renewing their license must certify by indicating either that their franchise tax is paid or that they are exempt, and signing the renewal notice which will be sent to them.

(i)[f] All applicants will be notified of the examination results within 30 days of the exam date.

(j)[g] An applicant who does not correctly answer 70% of the exam questions (or make a minimum passing grade of 70) shall be eligible for re-examination, provided the applicant notifies the director in writing and pays the re-exam fee for each re-exam taken. The written notice must be received by the director not less than 45 [60] days prior to being scheduled for a re-examination.

(k)[h] An applicant shall be notified by the director of the scheduled examination date within a reasonable amount of time prior to the examination. Applicants who are scheduled for an examination but fail to appeal as scheduled and have failed to notify the director not less than 72 hours prior to the scheduled exam must reapply and pay the examination fee prior to being rescheduled. An applicant who notifies the director less than 72 hours prior to a scheduled examination of the need to reschedule due to unforeseen circumstances (subject to approval by the director) may do so without the required rescheduling fee. An applicant may only be rescheduled in this manner one time. The examination notification form must be submitted confirming the reason for rescheduling [pay the re-examination fee prior to being rescheduled].

Issued in Austin, Texas, on September 15, 1988.

TRD-8809540 Larry Kosta  
Assistant Commissioner  
Texas Department of Labor  
and Standards

Effective date: September 15, 1988

Expiration date: November 14, 1988

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

◆ ◆ ◆  
• 16 TAC §75.5

The Texas Department of Labor and Standards is renewing the effectiveness of the emergency adoption of amended §75.5, for a 60-day period effective September 15, 1988. The text of amended §75.5 was originally published in the May 27, 1988, issue of the *Texas Register* (13 TexReg 2587).

Issued in Austin, Texas on September 15, 1988.

TRD-8809538 Jennifer Mellett  
General Counsel  
Texas Department of Labor  
and Standards

Effective date: September 15, 1988

Expiration date: November 14, 1988

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

◆ ◆ ◆  
TITLE 19. EDUCATION  
Part I. Texas Higher  
Education Coordinating  
Board

Chapter 5. Program  
Development

Subchapter P. Testing and  
Remediation

• 19 TAC §§5.311-5.314, 5.316-  
5.318

The Coordinating Board adopts on an emergency basis new Subchapter P, §§5. 311-

5.314, and 5.316-5.318, concerning testing and remediation. House Bill 2182 called for the testing and advisement of undergraduate students and remediation for those who are found to be underprepared. Subchapter P will provide guidance to institutions and students in pursuing those objectives and will establish policies and guidelines for implementation of the testing, advising, remediation, and reporting process. All eligible students will be evaluated through the Texas Academic Skills Program (TASP) Test. Students with identified deficiencies will be required to participate in an appropriate remedial program. Institutions will be required to advise and place students in appropriate courses and programs. These emergency sections are necessary so that the testing and remediation rules may be effective immediately.

The new sections are adopted on an emergency basis under the Texas Education Code §51.306, which provides the Coordinating Board with the authority to adopt rules regarding testing and remediation.

§5.311. *Purpose.* In accordance with the Texas Education Code §51.306, this subchapter is intended to delineate policies relating to the Texas Academic Skills Program and the treatment of students in public institutions of higher education who do not pass one or more sections of the examination.

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

(a) Freshman—A matriculated student who has accumulated fewer than thirty college-level semester credit hours or the equivalent.

(b) The certification form of the TASP examination—A version that shall be uniformly administered statewide on days prescribed by the board and shall be scored by National Evaluation Systems, Inc.

(c) The campus form of the TASP examination—A version that may be administered and scored by qualified campus personnel on a schedule determined by the institution. The campus form may not be used to satisfy the requirements of §5.313(e) or (g).

(d) A certificate program subject to the requirements of TASP—One which contains nine or more semester credit hours or the equivalent of basic core general education courses as defined by the Southern Association of Colleges and Schools.

(e) Upper division course—Any degree credit course beyond the sophomore level as defined by a four year senior university, and any degree credit course offered by an upper level institution (for the purposes of this section).

§5.313. *Eligibility.*

(a) Any student with at least three college-level credit hours accumulated prior to the fall of 1989 shall not be required to take the examination. If the student is transferring to an institution affected by the

TASP, any previous college-level hours must be acceptable to the receiving institution as counting toward a certificate or degree program not exempted under subsection (of) of this paragraph.

(b) All students in the following categories who enter public institutions of higher education in the fall of 1989 or thereafter must be tested for reading, writing, and mathematics skills:

(1) all full-time and part-time freshmen enrolled in a certificate program or degree program; and

(2) any other student, including transfers from private or out-of-state institutions, prior to the accumulation of nine or more college-level semester credit hours or the equivalent in a Texas public institution of higher education.

(c) High school students may take the examination prior to graduation only if they have previously passed all sections of the exit level TEAMS test, and have been admitted to, or are currently enrolled in, an institution of higher education.

(d) Pre-collegiate or non-credit courses may not be counted toward the accumulation of the semester credit hours referred to in subsection (b) of this section.

(e) No student may graduate from a certificate program defined in §5. 312(d), an associate degree program, or a baccalaureate degree program without having passed all sections of the certification form of the examination, unless the student is exempted under subsection (a) of this section.

(f) Students in certificate programs other than those defined in paragraph 5.312(d) are exempted from the requirement of taking the examination unless and until they become eligible under the provisions of subsection (b) of this section.

(g) A student may not enroll in any upper division course completion of which would give the student sixty or more college-level semester credit hours or the equivalent until the student's examination results meet or exceed the minimum standards in all test sections (reading, writing, and math).

(h) An institution which by law may not offer lower division courses may use performance on the certification form of the examination as a condition of admission.

(i) A health science center may use performance on the certification form of the examination as a condition of admission only to upper level programs.

(j) To assist with placement decisions only, institutions may elect to administer to freshmen entering a Texas public institution of higher education for the first time the campus form of the TASP or any appropriate diagnostic instrument designated by the institution. Such students must

then take the certification form of the TASP prior to the end of the semester in which they accumulate 15 or more college-level semester credit hours.

(k) All students not included in subsection (j) of this section, who enter a Texas public institution of higher education for the first time in fall 1989 or thereafter, other than those exempted by this subchapter, must take the certification form of the examination prior to the end of the semester in which they accumulate nine or more college-level semester credit hours.

(l) If any student tested under either subsection (j) or (k) of this section fails to take the certification form of the TASP during the designated semester, the student may not be permitted to re-enroll or to enroll in any other Texas public higher education institution in any courses other than non-credit remedial, developmental, or pre-collegiate courses until he or she has taken the examination.

#### §5.314. Administration.

(a) All institutions shall use TASP test instruments and testing procedures prescribed by The board. The same instruments shall be used at all public institutions of higher education.

(b) The test instruments shall be diagnostic in nature and be designed to provide a comparison of the skill level of the individual student with the skill level necessary for a student to perform effectively in an undergraduate degree or certificate program.

(1) For the purposes of this provision it is the intent of The board that the diagnostic feature of the TASP assures that for each of the three examination sections -- reading, writing, and mathematics -- the student score report will provide an indication of student performance on both the examination and on the specific skills assessed by the examination. This information will help to identify areas of student academic strength and weakness, and thereby will facilitate student remediation and preparation for retaking any section not passed.

(2) Also, even in cases where a student has demonstrated minimum skill proficiency, the diagnostic score report may help the student to identify skills where further improvement may be needed in order to increase the likelihood of benefiting from collegiate instruction.

(c) Once a student has passed any section of the certification form of the examination, his or her score shall remain active.

(d) A public institution of higher education serving as a testing site may not charge students for site costs.

(e) An institution may not charge a student more than \$3.00 for the administration and scoring of the campus form of the examination.

§5.316. Standards. The board shall set statewide standards for the certification form of the examination, but an institution may require higher performance standards than those set by the board.

#### §5.317. Remediation and Advisement.

(a) For initial placement of a student, an institution may use any appropriate assessment procedures.

(b) A student whose performance is below the standard set by the board for a tested skill area on the certification form of the examination must participate in a remediation program.

(c) If the examination results indicate that remedial education is necessary in any area tested, the institution shall refer the student to remedial courses or other types of remedial programs made available by the institution.

(d) Each institution shall make available those courses and programs on the same campus or center at which the student would otherwise attend classes. Where there are multiple centers or sites for classes, an institution may designate a principal site or sites where remediation will be held.

(e) An institution may elect to provide remedial programs or courses on its campus by contracting with a second institution to deliver the instruction. If such an arrangement is made, the host institution will be responsible for the quality and effectiveness of remediation.

(f) An upper level institution or health science center that admits a student who has not passed the certification form of the examination is responsible for providing remedial instruction on campus either through the provision on non-credit remedial programs or by contracting with another institution, as provided in subsection (e) of this section.

(g) Remedial courses and programs may not be considered as credit toward completion of degree or certificate requirements.

(h) Each institution shall establish an advising program to advise students at every level of courses and degree options that are appropriate for the individual student.

(i) Each institution shall formulate policies to require and monitor students' continuous participation in appropriate remedial courses and/or other types of programs until such students have passed all sections of the certification form of the TASP examination.

(j) The faculty of each institution should review its degree credit and certificate courses, and may identify those courses for which students must demonstrate prior successful performance on one or more parts of the TASP examination. Each institution adopting such a placement plan shall file it with the Texas Higher Education Coordinating Board.

(k) When students are concurrently enrolled in multiple public institutions of higher education, the institution where the student pays the tuition base fee takes precedence for the provision of remediation in accordance with subsections (d) and (e) of this section.

#### §5.318. Institutional Reporting.

(a) Each institution shall report annually to the board, on or before a day set by rule of the board and in a manner prescribed by the board, concerning the results of the students being tested and the effectiveness of the institution's remedial program and advising program. The report shall identify by name the high school from which each tested student graduated and a statement as to whether or not the student's performance was above or below the standard. For the purposes of this report, students shall not be identified by name.

(b) Annual reports on the effectiveness of advising shall contain information about the institution's total advisement program.

Issued in Austin, Texas, on September 15, 1988.

TRD-8809496

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

Effective date: September 15, 1988

Expiration date: January 13, 1989

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

## Chapter 85. Student Services

### Subchapter H. Transportation Services

#### Types of Transportation

##### • 19 TAC §85.184

The Texas Education Agency adopts on an emergency basis an amendment to §85.184, concerning contract with transportation company or system. The amendment allows the commissioner of education to approve transportation contracts for school districts' bus routes provided that the approval is consistent with criteria adopted by the State Board of Education and the board is kept apprised of the commissioner's actions through the information pages of the agenda. Several districts are negotiating transportation contracts at this time.

The agency finds that imminent peril to the public health and welfare requires the adoption of this amendment on an emergency basis to prevent untimely delays in school districts' efforts to provide necessary transportation services to eligible school children, and to expedite approval of the contracts, allowing school districts to take immediate advantage of cost savings.

The amendment is adopted on an emergency basis under the Texas Education Code, §21.181(d), which allows the State Board of Education to adopt rules for the administration of contracts with transportation companies or systems.

§85.184. *Contract with Transportation Company or System.*

(a) (No change.)

(b) A contract application must be filed with the Central Education Agency in accordance with the following requirements of the State Board of Education:

[(1) The commissioner of education shall establish a schedule for submission, review, and approval of contract applications which schedules State Board of Education action on contracts not more than three times a year. Contracts shall be approved for a maximum of five years.]

(1)[(2)] All contract applications shall be filed on a form designed and supplied by the agency.

(2)[(3)] Each contract shall furnish information on previously approved length of each bus route and the estimated number of eligible students to be transported for the next school year.

(3)[(4)] If a contract is to include provisions for the transportation to and from approved school programs or activities, such provisions must be stated separately and apart from the regular school transportation program.

(c) The commissioner of education shall review and approve contracts based on criteria for approval adopted by the State Board of Education. Contracts shall be approved for a maximum of five years.

(d)[(c)] The commissioner of education is authorized to [State Board of Education shall] approve the proposed contract for transportation services only if the contract is economically advantageous. A contract is considered economically advantageous if the board of trustees certifies that the contract cost is equal to or less than the total cost to the district for providing the services for which the district intends to contract.

(e)[(d)] Contract services be subject to examination by the Central Education Agency prior to approval [before a recommendation is made by the commissioner of education].

(f) Contract approvals granted under this section shall be reported to the State Board of Education at its next meeting.

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

TRD-8809612 W. N. Kirby  
Commissioner of Education  
Texas Education Agency

Effective date: September 16, 1988

Expiration date: January 14, 1989

For further information, please call: (512) 463-9212

## TITLE 22. EXAMINING BOARDS

### Part XXII. Texas State Board of Public Accountancy

#### Chapter 511. Certification as CPA

##### Certification by Examination

###### • 22 TAC §511.26

The Texas State Board of Public Accountancy adopts on an emergency basis the repeal of §511.26, concerning prior applications.

The section is being repealed on an emergency basis in order to adopt a new section that will give ample notification to candidates applying for the November 1988 uniform CPA examination of the changes in the section prior to submission of their applications, and in order to have the section in effect for the November 1988 examination cycle.

The repeal is adopted under Texas Civil Statutes, Article 41a-1, §6(a), which provide the Texas State Board of Public Accountancy with the authority to promulgate rules of professional conduct relating to education and experience requirements of applicants for examination.

###### §511.26. *Prior Applications.*

Issued in Austin, Texas, on September 13, 1988.

TRD-8809477 Bob E. Bradley  
Executive Director  
Texas State Board of  
Public Accountancy

Effective date: September 14, 1988

Expiration date: January 12, 1989

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

The Texas State Board of Public Accountancy adopts on an emergency basis new §511.26.

The section is being adopted on an emergency basis in order to give ample notification to candidates applying for the November 1988 uniform CPA examination of the changes in the section prior to submission of their applications, and in order to have the section in effect for the November 1988 examination cycle.

The new section is adopted under Texas Civil Statutes, Article 41a-1, §6(a), which provide the Texas State Board of Public Accountancy with the authority to promulgate rules of professional conduct relating to education and experience requirements of applicants for examination under the Public Accountancy Act of 1945, as amended.

§511.26. *Applications Under the 1945 Act.* Candidates for certification who ini-

tially apply and qualify to sit for the uniform CPA examination under the Public Accountancy Act of 1945 must meet the applicable education and experience requirements as set out in the 1945 Act.

Issued in Austin, Texas, on September 13, 1988.

TRD-8809478 Bob E. Bradley  
Executive Director  
Texas State Board of  
Public Accountancy

Effective date: September 14, 1988

Expiration date: January 12, 1989

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

###### • 22 TAC §511.27

The Texas State Board of Public Accountancy adopts on an emergency basis the repeal of §511.27, concerning continuing qualifications.

The section is being repealed on an emergency basis in order to adopt a new section that will give ample notification to candidates applying for the November 1988 uniform CPA examination of the changes in the section prior to submission of their applications, and in order to have the section in effect for the November 1988 examination cycle.

The repeal is adopted under Texas Civil Statutes, Article 41a-1, §6(a), which provide the Texas State Board of Public Accountancy with the authority to promulgate rules of professional conduct relating to education and experience requirements of applicants for examination.

###### §511.27. *Continuing Qualifications.*

Issued in Austin, Texas, on September 13, 1988.

TRD-8809475 Bob E. Bradley  
Executive Director  
Texas State Board of  
Public Accountancy

Effective date: September 14, 1988

Expiration date: January 12, 1989

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

The Texas State Board of Public Accountancy adopts on an emergency basis new §511.27, concerning qualifications of candidates who initially apply to sit under the 1979 Act.

The section is being adopted on an emergency basis in order to give ample notification to candidates applying for the November 1988 uniform CPA examination of the changes in the section prior to submission of their applications, and in order to have the section in effect in time for the November 1988 examination cycle.

The new section is adopted under Texas Civil Statutes, Article 41a-1, §6(a), which provide the Texas State Board of Public Accountancy with the authority to promulgate rules of professional conduct relating to education and experience requirements of applicants for examination.

**§511.27. Qualifications of Candidates Who Initially Apply To Sit Under the 1979 Act.**

(a) Any candidate for a certificate as a certified public accountant who, prior to March 1, 1988, applies and qualifies to sit for the uniform CPA examination under the Public Accountancy Act of 1979, must meet the educational and experience requirements in effect when the candidate initially applied and qualified to sit for the examination.

(b) Any candidate for a certificate as a certified public accountant who initially applies and qualifies to sit for the uniform CPA examination under the Public Accountancy Act of 1979 on or after March 1, 1988, must meet the educational and experience requirements in effect when the candidate applies to sit for the uniform CPA examination by which the candidate successfully completes the examination.

Issued in Austin, Texas, on September 13, 1988.

TRD-8809476

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

Effective date: September 14, 1988

Expiration date: January 12, 1989

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

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**TITLE 25. HEALTH SERVICES**

**Part II. Texas Department of Mental Health and Mental Retardation**

**Chapter 402. Client Assignment and Continuity of Services**

**Subchapter F. Continuity of Services--Mental Retardation Campus-Based Components**

- 25 TAC §§402.201-402.203, 402.218, 402.222

The Texas Department of Mental Health and Mental Retardation (TDMHMR) adopts on an emergency basis new §§402.201-402.203, 402.218, and 402.222, concerning continuity of services--mental retardation. These and other sections of the new subchapter are proposed in this issue of the *Texas Register* for public comment. A variation of these sections was adopted on an emergency basis previously.

The new sections reflect changes in the procedures of the department consistent with board policy and the settlement of *Lelsz v. Kavanagh*. The sections adopted on an emergency basis provide information and guidance for situations in which a client in a community-based placement wishes to return to the campus-based component.

The emergency adoption is necessary to ensure that an effective mechanism is in place for the transfer of clients from community placements back to the state school campus under routine and emergency situations.

These new sections are adopted on an emergency basis under Texas Civil Statutes, Article 5547-202, §2.11, which provides the Texas Board of Mental Health and Mental Retardation with rulemaking powers.

**§402.201. Purpose.**

(a) The purpose of this subchapter is to establish criteria and procedures for:

(1) admission of a client to the campus-based component of a mental retardation (MR) facility; and

(2) continuity of services activities related to MR campus-based components.

(b) Interstate transfer of a client from an MR campus-based component in Texas to a residential facility in another state is governed by Chapter 403, Subchapter H of this title, concerning interstate transfer.

**§402.202. Application.**

(a) This subchapter applies to all MR campus-based components of the Texas Department of Mental Health and Mental Retardation (TDMHMR) as defined in this subchapter.

(b) This subchapter applies to mental retardation authorities (MRAs) in the provision of continuity of services activities.

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

**Absence**—A period of time during which a client is physically away from a campus-based assignment and a return is expected. This term includes: absence for community hospitalization, absence for home visit, absence—special therapeutic, absence for temporary transfer to another component, absence for trial placement (see definition of "community placement"), absence for other.

**Adaptive behavior**—The effectiveness or degree with which the individual meets the standards of personal independence and social responsibility expected of the person's age and cultural group. A table of descriptions and illustrations of expected behavior has been developed by the American Association on Mental Deficiency (AAMD) to guide in determining adaptive behavior level. (See AAMD's Classification in Mental Retardation, 1983.)

**Admission—Assignment** of a client to an MR campus-based component.

**Assignment**—The identification of the location at which a client is receiving

services. Assignments track client movements throughout the TDMHMR service delivery system. Clients may have multiple assignments; however, a client may not have two concurrent residential assignments.

**CARE**—The TDMHMR client assignment and registration system.

**Community-based facility**—Any community-based facility, including facility community services, that provides supervision and rehabilitative services and includes residential services, in which the client is engaged in programs designed to improve the client's capabilities to optimally function or to maintain the client's present level of functioning (e.g., geriatric facilities).

**Community MHMR center**—An entity organized pursuant to the Texas Mental Health and Mental Retardation Act, Texas Civil Statutes, Articles 5547-203, as amended, which provides mental retardation services. The term does not include facility community services.

**Community placement**—The movement of a client from an MR campus-based component to a community-based facility. For the purposes of this subchapter, the term will be used for initial movement from the MR campus-based component to the community-based facility if the return of the client is not expected; and for the movement of the client from an MR campus-based component to a community-based facility, following the initial movement, when reassignment to the MRA is accomplished. If the client is absent from the MR campus-based component for a trial community placement and return is expected (e.g., from a weekend visit to a group home), the absence is considered an absence for trial placement.

**Community support services**—A network of services to assist the client to remain in the community in lieu of or subsequent to placement in an MR campus-based component.

**Comprehensive diagnosis and evaluation (D & E)**—A study including a sequence of observations and examinations of a person leading to conclusions and recommendations formulated jointly, with dissenting opinions, if any, by a diagnostic and evaluation team. The study shall include, but not be restricted to, a social and medical history; medical, neurological, audiological, visual, educational, and appropriate psychological and sociological examinations; and an examination of the person's adaptive behavior.

**Continuity of services activities**—The activities designed to ensure coordination of services to the client, particularly between

components within the TDMHMR system, to include: exchange of information pertinent to treatment/training, joint discharge planning, development of the community support plan, implementation of treatment recommendations and revisions, the obtaining of adequate resources to meet the client's needs, and other activities as outlined in the TDMHMR community standards for mental retardation services.

**Discharge**—Discharge from an MR campus-based component when an MR client chooses to terminate association with TDMHMR or when an MR client is found to be ineligible for continued MR services.

**Developmental period**—The period of a person's life which begins at conception and extends to the age 18 years.

**Facility**—community services—Community-based program of a facility.

**Guardian**—The person who, under court order, is the guardian of the person of another or is a limited guardian under Texas Probate Code §130A-O.

**Habilitation**—The process by which an individual is assisted to acquire and maintain those life skills which enable the person to cope more effectively with the demands of self and the environment and to raise the level of physical, mental, and social efficiency, and which is not limited to programs of formal, structured education and training.

**Individual program coordinator**—A single staff person as defined in the TDMHMR Community Standards for Mental Retardation Services representing the receiving community-based service (a community center or facility community service) and who:

(A) participates with staff of the MR campus-based component in joint planning regarding community-based services and the development of the community support plan;

(B) informs the facility treatment coordinator at the MR campus-based component of community resources and facilitates the coordination and development of community contacts and resources when necessary and practicable; and

(C) facilitates the delivery of services to the client as outlined in the TDMHMR Community Standards for Mental Retardation Services to include monitoring and coordination of the overall treatment plan and treatment recommendations.

**Interdisciplinary team (IDT)**—A group of persons as outlined in the "Interdisciplinary Team Staffing Procedures in Mental Retardation Programs: Guidelines and Recommendations" of TDMHMR.

**Involuntary admission**—The placement of a mentally retarded person pursuant to a court order in a TDMHMR MR campus-based component for services.

**Legally adequate consent**—Consent given by a person when each of the following conditions has been met:

(A) **Legal capacity.** The person giving the consent is of the minimum legal age and has not been adjudicated incompetent to manage his personal affairs by an appropriate court of law (i.e., does not have a court-appointed guardian for this purpose).

(B) **Comprehension of information.** The person giving the consent has been informed of and comprehends the nature, purpose, consequences, risks, and benefits of and alternatives to the procedure, and the fact that withholding or withdrawal of consent shall not prejudice the future provision of care and services to the client.

(C) **Voluntariness.** The consent has been given voluntarily and free from coercion and undue influence.

**Local service area**—A geographic area composed of one or more Texas counties delimiting the population which may receive services from an MRA.

**Mental retardation**—A condition characterized by significantly subaverage general intellectual functioning existing concurrently with deficits in adaptive behavior and originating during the developmental period.

**Mental retardation authority (MRA)**—A component of the TDMHMR service delivery system designated by the department to direct, operate, facilitate, or coordinate MR services delivery for a local service area. Unless otherwise specified, MRA refers to the MRA serving the client's county of residence (see Exhibit A in §402.220 of this title, relating to Exhibits).

**Mental retardation (MR) campus-based component**—A program composed of residential services provided for clients on the grounds of a state school or state center providing long-term residential services.

**Mental retardation services**—Programs and assistance for persons

with mental retardation which may include, but shall not be limited to, diagnosis and evaluation, education, special training, supervision, care, treatment, rehabilitation, residential care, and counseling, but shall not include those services or programs which have been explicitly delegated by law to other state agencies.

**Parent**—For the purpose of complying with §402.218 of this title (relating to review procedures concerning return to MR campus-based component), parent includes:

(A) The natural or adoptive mother and father of a client, but does not include a parent as to whom the parent-child relationship has been legally terminated, and does not include the parent of a client who is competent.

(B) A family member or advocate if there is one who acts in behalf of the client instead of the mother or father and is listed as the primary correspondent for the client, and does not include the family member or advocate of a client who is competent.

(C) A legally appointed guardian of the client.

(D) A legally appointed managing conservator of the client.

**Resident of the state**—

(A) A person who physically resides in Texas, who intends to remain in Texas indefinitely or who has no present intention to leave, and who is able to show that residence in any other state other than Texas has been abandoned;

(B) A person who has established residency in Texas, but is temporarily absent from the state;

(C) A minor whose parent or legal guardian is a resident of Texas;

(D) An adult whose legal guardian is a resident of Texas; or

(E) A military dependent who is a minor and whose parents' residence of record is Texas.

**Register for MR campus-based component (RCBC)**—A state-wide listing of applicants who have been recommended by a certified D & E team or IDT for assignment to an MR campus-based component. The CARE system retains the date the client was initially placed

on the register, the status (active or temporarily deferred), and the date the status was established or the last date the status changed.

**Respite**—The assignment to an MR campus-based component of a client to provide special assistance or relief to the client or the client's family for a brief period of time.

**Service district**—County or counties for which an MR campus-based component has responsibility to serve individuals residing in that area.

**TDMHMR service system**—All campus-based facilities and community-based services operated or contracted by TDMHMR.

**Transfer/Reassignment**—The movement of a client between MR campus-based components, or from an MR campus-based component to a community-based facility with the intent of permanent relocation and reassignment within the TDMHMR service delivery system.

*§402.218. Review Procedures Concerning Return to MR Campus-Based Component.*

(a) The department shall provide an administrative review procedure governing:

(1) appeal of the continuation of a community placement. Except when a factually and legally competent adult wishes to remain in a community-based facility, the client, parent, guardian, or other representative may request the client's return from a community-based facility to the MR campus-based component from which the client came or to the MR campus-based component to which the client has been reassigned (see §402.214(s) of this title, relating to Requirements for Community Placement); and

(2) appeal of the IDT recommendation for return to an MR campus-based component from a community placement. Except when a factually and legally competent adult wishes to return to the MR campus-based component, the client, parent, guardian, or other representative may request that the client remain in a community placement.

(b) The appeal should be sent to the head of the MRA, who will forward a copy to the head of the MR campus-based component.

(1) The appeal should be in writing and should contain:

(A) the names and addresses of the parents of the client;

(B) a short and plain statement of the action the requestor desires;

(C) a short and plain statement of the factual reasons why the requested action should be taken;

(D) any statutes or rules with bearing on the request; and

(E) the name and address of the person making the request and his or her relationship to the client.

(2) If the client, parent, guardian, or other representative needs assistance inputting the appeal in writing, the client, parent, guardian, or other representative may contact the Office of Client Services and Rights Protection, Central Office, and help will be provided to put the appeal in written form.

(3) Within 10 days of receipt of the appeal, a representative of the MRA with input from the head of the MR campus-based component involved will contact the requestor and attempt to resolve the situation. Pending resolution of the matter, no action will be taken regarding the client's assignment.

(c) If, after contact with the MRA, resolution cannot be attained, the client, parent, guardian, or other representative may request an administrative hearing by forwarding a copy of the appeal to the deputy commissioner for Mental Retardation Services, who shall take action to provide an administrative hearing in accord with §402.288 of this title (relating to Appointment of a Hearing Officer); §402.289 of this title (relating to Access to Records); §402.290 of this title (relating to Prehearing Conference); §402.291 of this title (relating to Standard and Burden of Proof); §402.292 of this title (relating to Notice of Filing; Service of Notices; Certificate of Service); §402.293 of this title (relating to Representation of Parties); §402.294 of this title (relating to Notice of Hearing); §402.295 of this title (relating to Setting a Time and Place for the Administrative Hearing); §402.296 of this title (relating to Rules of Evidence; Official Notice; Witnesses; Transcription); and §402.297 of this title (relating to Final Decisions).

(d) In cases in which the client, parent, guardian, or other representative believes that the continued placement of the client in the community-based facility presents an existing or imminent danger to the life, health, or safety of the client or others, or has resulted in the continued deterioration of the client's ability to function in the residential setting, an emergency return review procedure shall be used instead of the administrative review and hearing procedure.

(1) The client, parent, guardian, or other representative should notify the head of the MRA of the region in which the community-based facility is located, the

head of the MR campus-based component, and the head of the community-based facility where the client is currently residing, if applicable.

(2) Notification should be by telephone immediately after the parent, guardian, or other representative determines that the emergency provision should be used.

(3) The head of the MRA shall investigate the situation and make a decision concerning return within 24 hours of receipt of notification by the client, parent, guardian, or other representative. If the decision is not to return the client on an emergency basis, administrative review may be initiated by the client, parent, guardian, or other representative in accord with the procedures described in subsections (b) and (c) of this section.

(4) The decision of the head of the MRA shall be reviewed by the deputy commissioner for Mental Retardation Services or designee within two days following the decision.

(e) Documentation. All appeals concerning return to MR campus-based components, administrative hearings, requests for emergency return, final dispositions, and other pertinent information shall be documented.

*§402.222. Distribution.*

(a) This subchapter shall be distributed to members of the Texas Board of Mental Health and Mental Retardation; the medical director, deputy and assistant deputy commissioners, and management and program staff of Central Office; superintendents and directors of all TDMHMR facilities; and members of board of trustees and executive directors of all community mental health and mental retardation centers.

(b) The superintendents and directors of TDMHMR facilities and the executive directors of community mental health and mental retardation centers shall be responsible for the dissemination of the information contained in this subchapter to all appropriate staff.

Issued in Austin, Texas, on September 15, 1988.

TRD-8809525

Pattilou Dawkins  
Chairman, Texas Board of  
Mental Health and  
Mental Retardation  
Texas Department of  
Mental Health and  
Mental Retardation

Effective date: September 28, 1988

Expiration date: January 26, 1989

For further information, please call: (512) 465-4670





**TITLE 40. SOCIAL SERVICES AND ASSISTANCE**

**Part I. Texas Department of Human Services**

**Chapter 16. ICF/SNF**

**Support Documents**

**• 40 TAC §16.9801**

The Texas Department of Human Services (DHS) adopts on an emergency basis an amendment to §16.9801, concerning reimbursement methodology, in its Intermediate Care Facilities and Skilled Nursing Facilities (ICF/SNF) chapter.

The current methodology specifies that reimbursement rates are determined by level of care based on the sum of projected costs from four cost centers after each cost center is enhanced by a seven percent margin. The current methodology also requires that the administration cost center be truncated at the eighty-fifth (85th) percentile prior to calculation of the rate component.

The cumulative effect of these conditions is an understatement in the uniform rate of projected costs for the facility and administrative components of the rate. This effect, in turn, tends to cause facilities to shift revenues from what was intended in the rate setting process as patient care dollars to cover shortfalls in the facilities' fixed costs in the administration and facility areas.

To rectify this situation, the department will now base rates on only two cost centers: patient care costs and a composite of dietary, facility, and administration costs. The new methodology eliminates truncation of administration costs prior to calculation of rates. The amendment will result in an interim per diem rate of \$31.13 for ICF II, \$35.62 for ICF III, and \$48.42 for SNF levels of care for services provided from July 1, 1988, through December 31, 1988.

The department adopts the amendment on an emergency basis because the need for facilities to shift patient care funds to cover administrative and facility costs directly threatens patient care and constitutes an imminent peril to the public health, safety, and welfare.

The amendment is adopted on an emergency basis 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. §16.9801. *Reimbursement Methodology for Intermediate Care Facilities and Skilled Nursing Facilities.*

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

(f) Cost finding methodology.

(1) Exclusion of and adjustments to certain reported expenses. Providers must eliminate unallowable expenses from the cost report.

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

(C) Effective July 1, 1988, the department no longer truncates the adjusted administration cost array at the 85th percentile to compensate for extraordinary rates of increase which tend to skew the distribution toward the high end. Effective July 1, 1988, the department no longer [then] bases the final rate determination process on this truncated array.

(2) Cost determination by cost centers. Effective July 1, 1988, TDHS combines adjusted expenses from the rate base into two [four] cost centers.

(A) (No change.)

(B) All other cost center. [Dietary care cost center] Effective July 1, 1988, this composite cost center combines:

(ii) dietary costs, consisting of food, food service, and dietary consultant expenses;

(i) facility costs, consisting of expenses to operate and maintain buildings, equipment, and capital necessary to provide patient care; and

(iii) administration costs, consisting of administrative salaries, supplies, and interest on working capital loans. [The dietary cost center includes food, food service, and dietary consultant expense.]

(C) Facility cost center. The facility cost center includes expenses to operate and maintain the buildings, equipment, and capital necessary to provide patient care.

(D) Administration cost center. The administration cost center includes administrative salaries and supplies and interest on working capital loans.]

(g)-(h) (No change.)

Issued in Austin, Texas, on September 15, 1988.

TRD-8809535

Marlin W. Johnston  
Commissioner  
Texas Department of  
Human Services

Effective date: September 15, 1988

Expiration date: January 18, 1989

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



**Chapter 27. Intermediate Care Facility for Mentally Retarded**

**Subchapter UUUU. Support Documents**

**• 40 TAC §27.9801**

The Texas Department of Human Services (DHS) adopts on an emergency basis an amendment to §27.9801, concerning reimbursement methodology, in its Intermediate Care Facilities for the Mentally Retarded (ICF-MR) chapter.

The amendment redefines the cost centers used to determine reimbursement rates for community-based providers. The cost centers used to determine rates for state school providers remain unchanged.

The amendment also establishes a new, experimental class of providers who serve Level V and Level VI clients and who operate facilities with six beds or less. To achieve accurate calculation of costs, cost reports from the experimental class of small-facility providers will not be included in the rate base for community-based ICFs-MR.

The current methodology for determining reimbursement rates for community-based providers bases the rates on the sum of projected costs from four cost centers, after enhancing each cost center by a 7.0% margin. The current methodology also places a ceiling on expenses for central office overhead and administrator salaries. The cumulative effect of the methodology has been to understate facility costs, particularly administrative costs, and to cause facilities to shift patient care funds to cover administrative and facility costs.

The redefinition of community-based provider cost centers is intended to rectify this situation. The department's analysis indicates that a differentiated approach to cost centers for community-based providers and state schools will result in more accurate and equitable rates.

The department's analysis also indicates that the new, experimental class of small-facility providers is significantly different from other class groupings and requires development of distinct rates in order to provide effective patient care.

The department adopts the amendment on an emergency basis because the existing methodology as applied to small facilities threatens the availability and quality of patient care and because the use of funds intended for patient care to cover administrative and facility costs also threatens the quality of patient care. These threats to the availability and quality of care constitute an imminent peril to the public health, safety, and welfare.

The amendment is adopted on an emergency basis 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. §16.9801. *Reimbursement Methodology for Intermediate Care Facilities for the Mentally Retarded.*

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

(f) Cost finding methodology.

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

(3) Cost determination by cost centers for community-based providers. [Within each of the two provider classes (community-based providers and state schools).] Effective July 1, 1988, TDHS combines adjusted expenses from the rate base into the following cost centers for community-based providers:

(A) (No change.)

(B) All other cost center [Dietary care cost center]. Effective July 1, 1988, this composite cost center combines:

(i) dietary costs, consisting of food, food service, and dietary consultant expenses;

(ii) facility costs, consisting of expenses to operate and maintain buildings, equipment, and capital necessary to provide patient care; and

(iii) administration costs, consisting of administrative salaries, supplies, and interest on working capital loans. [The dietary cost center includes food, food service, and dietary consultant expenses.]

(C) Facility cost center. The facility cost center includes expenses to operate and maintain the buildings, equipment, and capital necessary to provide resident care.

(D) Administration cost center. The administration cost center includes administrative salaries and supplies and interest on working capital loans.

(E) Comprehensive medical cost center. The comprehensive medical cost center includes medical expenses for services provided directly to state school residents. Since these services are not provided directly to community-based residents by ICF-MR providers, reimbursement for this cost center is limited to those state schools providing comprehensive medical care.]

(4) Cost determination by cost centers for state schools. Effective July 1, 1988, TDHS combines adjusted expenses from the rate base into the following cost centers for state schools:

(A) Resident care cost center. The resident care cost center includes all direct resident care expenses: nursing care; and consultant, social service, activity, training, laundry, and housekeeping expenses.

(B) Dietary care cost center. The dietary care cost center includes food, food service, and dietary consultant expenses.

(C) Facility cost center. The facility cost center includes expenses to operate and maintain the buildings, equipment, and capital necessary to provide resident care.

(D) Administration cost center. The administration cost center includes administrative salaries, supplies, and interest on working capital loans.

(E) Comprehensive medical cost center. The comprehensive medical cost center includes medical expenses for services provided directly to state school residents. Since these services are not provided directly to community-based residents by ICF-MR providers, reimbursement for this cost center is limited to those state schools providing comprehensive medical care.

(g) Rate setting methodology.

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

(4) Experimental class. TDHS may define experimental classes of service to be used in research and demonstration projects on new reimbursement methods. Demonstration or pilot projects based on experimental classes may be implemented on a statewide basis or may be limited to a specific region of the state or to a selected group or providers. Reimbursement for an experimental class is not implemented, however, unless the Texas Board of Human Services and the Health Care Financing Administration (HCFA) approve the experimental methodology.

(A)-(M) (No change.)

(N) Small-facility Rates. TDHS defines community-based ICFs-MR certified for level V or VI and having no more than six Medicaid-contracted beds as an experimental class.

(i) Effective September 1, 1988, facilities in the small-facility class receive per diem rates of \$71.11 and \$80.41 for ICF-MR V and ICF-MR VI clients, respectively. These rates are based on projected budgets for the operation of six-bed facilities at each level of care. Each budget is based on adequate staff to comply with Medicaid program standards and reasonable costs for employee compensation, contracted services, capital equipment, and supplies, as reflected in data from Medicaid cost reports, sample surveys, consultation with service providers, and other sources.

(ii) Small-facility rates are revised each time the community-

based rates paid to larger facilities are adjusted. Revisions to these rates reflect proportionate changes in community-based rates paid to larger facilities for corresponding levels of care. Cost reports from this experimental class of small-facility providers are not included in the rate base for community-based providers. Adjustments to small-facility rates are made in this manner until an adequate data base is available to permit deriving rates for both levels of care directly from Medicaid cost report data.

(iii) Small-facility rates represent payment-in-full for Medicaid ICF-MR services. Small-facility providers may not receive supplemental reimbursement rate payments for higher-than-average needs for Medicaid-covered services.

(h) (No change.)

Issued in Austin, Texas, on September 15, 1988.

TRD-8809664

Marlin W. Johnston  
Commissioner  
Texas Department of  
Human Services

Effective date: September 20, 1988

Expiration date: January 18, 1989

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

## Part V. Veterans Land Board

### Chapter 175. General Rules of the Veterans Land Board

#### • 40 TAC §175.17

The Veterans Land Board adopts on an emergency basis an amendment to §175.17, concerning fees and deposits. The board receives in any given month a substantial number of returned checks. The section is proposed on an emergency basis to allow the board to pass the cost of processing returned checks on to those responsible for the check, thereby halting any drain on the veterans land fund.

The amendment is proposed on an emergency basis under the Natural Resources Code, §161.061 and §161.063, which provides the Veterans Land Board with the authority to adopt rules that it considers necessary or advisable.

*§175.17. Fees and Deposits.* In addition to the fees cited in this chapter, the board is authorized and required to collect the following fees when they are applicable:

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

(11) returned check fee-\$15

Issued in Austin, Texas, on September 14, 1988.

TRD-8809493

Gary Mauro  
Chairman  
Veterans Land board

Effective date: September 15, 1988

Expiration date: January 13, 1989

For further information, please call: (512)  
463-5009





Name: Lisa Rademaker  
Grade: 4  
School: Pope Elementary, Arlington

# Proposed Sections

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

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

## TITLE 1.

### ADMINISTRATION

#### Part IV. Secretary of State

##### Chapter 75. Automobile Club

##### Subchapter Automobile Club Services

###### • 1 TAC §75.21

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

The Office of the Secretary of State proposes new §75.21, concerning the services an automobile club may provide its customers or subscribers.

Jim Mathieson, attorney, 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. Mathieson 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 provide the public with examples of those services an automobile club may offer to their customers or subscribers. 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 Jim Mathieson, Attorney, Statutory Documents Section, P.O. Box 12887, Austin, Texas 78711.

The new section is proposed under Texas Civil Statutes, Article 6252-13a, §4, and Texas Civil Statutes, Article 1528d, which provide the Office of the Secretary of State with the authority to adopt rules of practice reasonably necessary to carry out its ministerial duties under the Act.

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 September 19, 1988.

TRD-8809648

Loma Wassdorf  
Special Assistant  
Office of the Secretary of  
State

Earliest possible date of adoption: October 28, 1988

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

## Part X. Automated Information and Telecommunications Council

### Chapter 201. Acquisition of Automated Information and Telecommunications Systems

#### • 1 TAC §201.1

The Automated Information and Telecommunications Council (AITC) proposes and amendment to §201.1, concerning the acquisition of automated information and telecommunications systems. The amendment updates statutory references to the AITC's enabling legislation, reduces procurement review thresholds for advanced procurement certification, and provides additional procedural submission instructions concerning procurements requiring advanced certification.

Ms. Lynn Polson, acting 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.

Ms. Polson 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 corresponding review thresholds for the AITC and Bond Review Board will improve the relative oversight functions of the two agencies and expedite the procurement review process for affected state governmental bodies. These amendments will also clarify the timing requirements for procurement submissions. 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 Lynn Polson, Acting Executive Director, Automated Information and Telecommunications Council, P.O. Box 13564, Austin, Texas 78711-3564.

The amendment is proposed under the Texas Government Code, §463.021(a), (Vernon Supplemental 1988), which provides the Automated Information and Telecommunications Council with the authority to adopt guidelines relating to procedures for granting advanced certification of automated information and telecommunications procurements.

§201.1. *Automated Information and Telecommunications Council Guidelines.*

(a) (No change.)

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

(1) Advanced Certification—A certification by AITC that all criteria for a proposed information systems procurement action as defined in Texas Government Code, §463.021.(a) (Vernon Supplemental 1988), [Texas Civil Statutes, Article 4413 (32h), §2.02.] regarding advanced certification, have been fulfilled by a state governmental body.

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

(4) Basic Certification—A certification by AITC that all criteria for basic certification as defined in Texas Government Code, §463.021.(a) (Vernon Supplemental 1988), [Texas Civil Statutes, Article 4413(32h), §2.015.] have been fulfilled by a state governmental body.

(5)-(10) (No change.)

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

(e) Criteria for Basic Certification.

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

(3) When the council finds serious inadequacies in the long-range AITS plan or inventories submitted, the council will note the areas of inadequacies which require action by the state governmental body, with a specified date indicated by which time the inadequacies must be addressed. The council may provisionally certify the long-range AITS plan during this time limit extension. If so, the State Purchasing and General Services Commission will be notified of the extension. If the state governmental body does not satisfactorily address the noted inadequacies of the long-range AITS plan or inventories within the specified date, then the council will notify the State Purchasing and General Services Commission and the agency of that fact, and the actions contingent upon basic certification specified in Texas Government Code, §463.021.(a) (Vernon Supplemental 1988), [Texas Civil Statutes, Article 4413(32h), §2.16.] may not be taken.

(4) (No change.)

(f) Criteria for proposed actions requiring advanced certification.

(1) The following provides the

criteria for proposed actions of state governmental bodies in regard to automated information or telecommunications devices, systems, or services:

(A) the purchase of telecommunications devices, systems, or services, or of automated information systems or the computers on which they are automated which will have a cost recorded in an inventory of at least \$250,000; [\$300,000 or 2.0% of the governmental body's annual budget, whichever is less, provided, however, that such initial cost shall be at least \$100,000;]

(B) the acquisition of proprietary computer programs which shall be components of automated information or telecommunications systems which have an initial cost of at least \$150,000; [or 1.0% of the governmental body's annual budget, which is less, provided, however, that such initial cost shall be at least \$100,000;]

(C) (No change.)

(D) the leasing of automated information or telecommunications devices, systems or services, or the licensing of computer programs to be used in automated information or telecommunications systems which have a monthly cost of \$12,000; [or 0.08% of a governmental body's annual budget, whichever is less, provided, however, that such monthly cost shall be at least \$5,000.]

(E) an annual purchase of computer time-shared service or an annual increase of such service, provided by private sources, of more than \$250,000; [\$300,000 or 2.0% of the governmental body's annual budget, whichever is less, provided, however, that such annual purchase shall be at least \$100,000.]

(2) (No change.)

(g) (No change.)

(h) Submission instructions.

(1) (No change.)

(2) Adequate documentation supporting advanced certification actions that require council review in an open meeting must be received by the Automated Information and Telecommunications Council (AITC) staff at least 60 days prior to the open council meeting, to ensure adequate time for evaluation and analysis. This 60 day requirement may be waived at the discretion of the council, but in no case will the council schedule an open meeting for an advanced certification received less than 30 days in advance of a meeting. Such waiver must be specifically requested in writing and present good cause. If the AITC staff determines that the advanced certification

documentation is inadequate, insufficient, or not timely received, then the council may remove such item/proposed action from the council open meeting agenda.

(3) Advanced certification actions that are projected to be purchased under the provisions of Texas Civil Statutes, Article 601b, §3.09, must include the purchase requisition as part of the advanced certification documentation.

(4)[(2)] Long-range AITS plans and inventories submitted prior to December, 1987, may be prepared under prior AITC rules and guidelines at the state governmental body's option. Subsequent plans must be submitted in accordance with subsection (c)(1) of this section.

(5)[(3)] Long-range AITS plans and inventories must be prepared and submitted to the council within 30 days of submission of the first legislative appropriations request by the state governmental body during each even-numbered fiscal year.

(6)[(4)] A summary of all hardware purchases over \$100,000, but less than \$250,000 [\$300,000] executed during the prior fiscal year are to be submitted to the above address during September of each calendar year.

(7)[(5)] Extensions of the time limit for filing for and making basic or advanced certifications may be granted by agreement between the state governmental body and the council.

(i) (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 September 21, 1988.

TRD-8809683

Lynn B. Poison  
Acting Executive Director  
Automated Information and  
Telecommunications  
Council

Earliest possible date of adoption: October 28, 1988

For further information, please call: (512) 463-5530

◆ ◆ ◆  
**TITLE 7. BANKING AND  
SECURITIES**

**Part V. Office of  
Consumer Credit  
Commission**

**Chapter 81. Consumer Credit  
Commission**

**Public Hearing**

• 7 TAC §81.20

The Office of Consumer Credit Commissioner

proposes an amendment to §81.20, concerning allowable reimbursement for expenses of witnesses or deponents who are not a party and who are subpoenaed or otherwise appear at any hearing or proceeding at the instances of the Office of Consumer Credit Commissioner. The amendment changes §81.20 by designating §81.20(a) and adds §81.20(b), which authorizes the Office of Consumer Credit Commissioner to reimburse a witness or deponent who is not a party and who is subpoenaed or otherwise appears at any hearing or proceeding at the instances of the Office of Consumer Credit Commissioner for expenses incurred by such witness or deponent for transportation, lodging, and meals.

Al Endsley, consumer credit commissioner, has determined that for each year of the first five-year period the proposed section will be in effect there will be fiscal implications for state government, the exact dollar amount of which cannot be determined without knowing what expenses will be incurred by such witnesses or deponents, but such fiscal implications will be minimal as the Office of Consumer Credit Commissioner has only had one occasion in the last five years to reimburse a witness or deponent for transportation, lodging, and meals. Mr. Endsley has determined that there will be no fiscal implications to units of local government or small businesses.

Mr. Endsley 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 eliminate any out-of-pocket costs to witnesses or deponents that are not parties to proceedings pending before the Office of Consumer Credit Commissioner. 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 Al Endsley in care of the Office of Consumer Credit Commissioner, 2601 North Lamar Boulevard, Austin, Texas 78705, within 30 days after the date of this publication.

The section is proposed under Texas Civil Statutes, Article 6252-13a, which provide the Office of Consumer Credit Commissioner with the authority to prescribe rules for practice and procedure.

§81.20. *Public Hearings.*

(a) All hearings conducted in any proceeding shall be open to the public. All hearings shall be held in Austin, unless for good and sufficient cause the commissioner shall designate another place of hearing in the interest of the public.

(b) Any witness or deponent who is not a party and who is subpoenaed or otherwise appears at any hearing or proceeding at the instances of the Office of Consumer Credit Commissioner is entitled to receive as reimbursement for expenses incurred the transportation allowance(s) as prescribed by the travel regulations in the General Appropriations Act at the time the travel expenses incurred for going to and/or returning from the place of the hearing or the place where the deposition is to be taken. Such

witness or deponent may receive a meals and lodging allowance also as prescribed by the travel regulations of the General Appropriations Act in effect at the time the travel expenses are incurred. Travel expense reimbursement is only applicable if the place of hearing or deposition is greater than 25 miles from witness' or deponent's residence.

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 September 12, 1988.

TRD-8809586 Al Endsley  
Commissioner  
Office of Consumer Credit  
Commissioner

Earliest possible date of adoption: October 28, 1988

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

◆ ◆ ◆  
**TITLE 16. ECONOMIC  
REGULATION**  
**Part I. Railroad**  
**Commission of Texas**  
**Chapter 5. Transportation**  
**Division**  
**Subchapter L. Insurance**  
**Requirements**  
• 16 TAC §5.184

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

The Railroad Commission of Texas proposes an amendment to §5.184 concerning insurance carrier requirements. The amendment allows the commission to accept proof of insurance issued by surplus lines companies on the eligible list issued by the State Board of Insurance.

Nim K. Graves, assistant 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.

Sylvia Salazar, hearings examiner, 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 increased availability of insurance for motor carriers. 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 Sylvia Salazar, Hearings Examiner, Legal Division, Railroad Commission of Texas, P.O. Drawer 12967, Austin, Texas 78711-2967. Comments will be accepted for 30 days after

publication in the *Texas Register*.

The new section is proposed under Texas Civil Statutes, Article 911b, §13, which authorizes the Railroad Commission to accept insurance filings from surplus lines companies.

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 September 12, 1988.

TRD-8809463 Robert F. Biard  
Staff Attorney, Legal  
Division  
Railroad Commission of  
Texas

Earliest possible date of adoption: October 28, 1988

For further information, please call: (512) 463-7187

◆ ◆ ◆  
**Subchapter M. Motor Bus  
Companies**

• 16 TAC §5.249

The Railroad Commission of Texas proposes an amendment to §5.249, concerning operations solely within certain cities and their suburbs. The amendment is proposed pursuant to a petition filed by Central West Motor States, Inc., doing business as Central West of Texas, Inc. The amendment extends the area which is defined as "suburbs" of both Dallas and Fort Worth. The amendment defines those cities which lie between Dallas and Fort Worth as suburbs of both cities.

Nim K. Graves, assistant director for planning and administration, 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.

Ronald D. Stutes, hearings examiner, 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 added consistency in treating areas which are not within the commission's jurisdiction under the Texas Motor Bus Act. 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 Ronald D. Stutes, Hearings Examiner, Railroad Commission of Texas, P.O. Box 12967, Capitol Station, Austin, Texas 78711.

The amendment is proposed under the Texas Motor Bus Act, Texas Civil Statutes, Article 911a, which exclude from the commission's jurisdiction operations of buses wholly within a city and its suburbs.

§5.249. *Operations Wholly Within Certain Cities and Their Suburbs.*

(a) For the purpose of interpreting the phrase "wholly within the limits of any incorporated town or city, and the suburbs thereof, whether separately incorporated or otherwise," in §5.248(a)(1)(A) of this title (relating to Motor Bus Certificates, Rates,

and Regulations):

(1) the following are suburbs of Dallas:

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

(C) Dallas/Fort Worth International Airport; [and]

(D) Plano, Arlington, Hurst, Euless, Bedford, Keller, Colleyville, Southlake, North Richland Hills, Mansfield, Dalworthington Gardens, and Pantego;

(2) the following are suburbs of Fort Worth:

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

(C) Dallas/Fort Worth International Airport, Duncanville, Irving, Cedar Hill, DeSoto, and Coppell;

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

(b) (No change.)

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

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

TRD-8809685 Robert F. Biard  
Staff Attorney, Legal  
Division  
Railroad Commission of  
Texas

Earliest possible date of adoption: October 28, 1988

For further information, please call: (512) 463-7187

◆ ◆ ◆  
**TITLE 19. EDUCATION**  
**Part I. Texas Higher  
Education Coordinating  
Board**

**Chapter 5. Program  
Development**

**Subchapter P. Testing and  
Remediation**

• 19 TAC §§5.311-5.314, 5.316-5.318

*(Editor's Note: The Texas Higher Education Coordinating Board proposes for permanent adoption the new sections it adopts on an emergency basis in this issue. The text of the new sections is in the Emergency Rules section of this issue.)*

The Texas Higher Education Coordinating Board proposes new §§5.311-5.314, and 5.316-5.318, concerning testing and remediation. House Bill 2182 called for the testing and advisement of undergraduate students

and remediation for those who are found to be under prepared. Subchapter P will provide guidance to institutions and students in pursuing those objectives and will establish policies and guidelines for implementation of the testing, advising, remediation, and reporting process. All eligible students will be evaluated through the Texas Academic Skills Program (TASP) Test. Students with identified deficiencies will be required to participate in an appropriate remedial program. Institutions will be required to advise and place students in appropriate courses and programs.

Bill Sanford, assistant commissioner for universities and health affairs, has determined that there will be fiscal implications as a result of enforcing or administering the new sections. The effect on state government for the first five-year period the sections will be in effect is an estimated additional cost of \$18,646,580 in fiscal year 1990, \$18,759,080 in fiscal year 1991, \$19,697,034 in fiscal year 1992, and \$20,681,886 in fiscal year 1993. There will be no additional costs for local government or small businesses.

Mr. Sanford also has determined that for each year of the first five years the sections as proposed are in effect the public benefits anticipated as a result of enforcing the sections will be that the public will benefit by more students staying in school, being more successful in their college careers, and being better prepared graduates. The possible economic cost to individuals who are required to comply with the sections as proposed will be that a fee of \$24 will be charged to each student taking the test.

Comments on the proposal may be submitted to Kenneth H. Ashworth, Texas Higher Education Coordinating Board, P.O. Box 12788, Austin, Texas 78711.

The new sections are proposed under the Texas Education Code, §51.306, which provides the Coordinating Board with the authority to adopt rules regarding testing and remediation.

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 September 15, 1988.

TRD-8809495 James McWhorter  
Assistant Commissioner for  
Planning and  
Administration  
Texas Higher Education  
Coordinating Board

Proposed date of adoption: October 28, 1988

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



## Chapter 25. Administrative Council

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

#### • 19 TAC §25.32

The Texas Higher Education Coordinating Board proposes an amendment to §25.32, concerning definitions (dependent). This amendment will facilitate identification of dependent children eligible for participation in the higher education insurance program.

James McWhorter, executive secretary to the administrative council, 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. McWhorter 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 provide greater uniformity among the institutions in determining eligibility of dependent children for participation in the higher education insurance 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 James McWhorter, Executive Secretary to the Administrative Council, Texas Higher Education Coordinating Board, P.O. Box 12788, Austin, Texas 78711.

The amendment is proposed 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.

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

**Dependent**—The spouse, as defined in the Texas Family Code, of an employee or retired employee, and an unmarried child under 25 years of age including:

(A) the natural child of an employee or retired employee;

(B)[(A)] a [an] legally adopted child;

(C)[(B)] a stepchild, foster child, or other child who is in a regular parent-child relationship to the employee or retired employee;

(D)[(C)] any such child, regardless of age, who lives with or whose care is provided by an employee or retired employee on a regular basis, if such child is

mentally retarded or physically incapacitated to such an extent as to be dependent upon the employee or retired employee for care or support, as the administrative council shall determine. Mentally retarded or physically incapacitated means any medically determinable physical or mental condition which prevents the child from engaging in self-sustaining employment, provided that the condition commences prior to such child's attainment of age 25, the child was eligible and covered under the plan immediately prior to reaching age 25, and that satisfactory proof of such condition and dependency is submitted by the employee or retired employee within 31 days following such child's attainment of age 25. As a condition to the continued coverage of a child as a mentally retarded or physically incapacitated dependent beyond the age of 25, the institution, insurance carrier, or health maintenance organization shall have the right to require periodic certification of the child's physical or mental condition but not more frequently than annually after the two-year period following the child's attainment of age 25;

(E) an institution may require copies of documents produced by and/or filed with the appropriate state or county court, department, or agency having authority or jurisdiction under the Texas Family Code as proof of the status of a spouse or child.

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 September 15, 1988.

TRD-8809628 James McWhorter  
Assistant Commissioner for  
Planning and  
Administration  
Texas Higher Education  
Coordinating Board

Earliest possible date of adoption: October 28, 1988

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



## Part II. Texas Education Agency

### Chapter 41. State Commissioner of Education

#### Subchapter D. Adoption by Reference

##### • 19 TAC §41.61

The Texas Education Agency proposes an amendment to §41.61, concerning the adoption by reference of School District Data Submission to the Texas Education Agency Bulletin 742.

The amendment reflects necessary updating



and minor revisions for the 1988-1989 school year. No major changes in the bulletin's data requirements were made, since fundamental and long-term improvements in the data collection process for public education will come as a result of the Public Education Information Management System project.

Lynn M. Moak, deputy commissioner for research and information, 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. Moak and Oscar A. Rodriguez, staff services assistant, also have determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be that school districts will have one current document that reflects data submission requirements. There is no anticipated economic cost to individuals who are required to comply with the proposed section.

Comments on the proposal may be submitted to Oscar A. Rodriguez, Office of Policy Coordination, 1701 North Congress Avenue, Austin, Texas, 78701, (512) 463-9682. All requests for a public hearing on the proposed section submitted in accordance with the Administrative Procedure and Texas Register Act must be received by the commissioner of education not more than 15 calendar days after notice of a proposed change in the section has been published in the *Texas Register*.

The amendment is proposed under the Texas Education Code, §11.52(d), which authorizes the commissioner of education to prescribe uniform systems of form, reports, and records necessary to secure information from county school officers and local school districts.

*§41.61. School District Data Submission to the Texas Education Agency.*

(a) The rules for data submission to the Texas Education Agency are described in the official Texas Education Agency Bulletin, School District Data Submission to the Texas Education Agency, Bulletin 742, as amended October 1988 [1987], which is adopted by this reference as the agency's official rule. A copy is available for examination during regular office hours, 8 a.m. to 5 p.m., except holidays, Saturdays, and Sundays, at the Central Education Agency, 1701 North Congress Avenue, Austin, Texas 78701.

(b) (No change.)

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

Issued in Austin, Texas, on September 10, 1988.

TRD-8809722 W.N. Kirby  
Commissioner of Education

Proposed date of adoption: November 11, 1988

For further information, please call: (512) 463-9212

## Chapter 69. Proprietary Schools and Veterans Education

### Subchapter E. Guidelines and Minimum Standards for Operation of Texas Proprietary Schools

- 19 §§69.122, 69.124, 69.125, 69.127, 69.129

The Texas Education Agency proposes amendments to §§69.122, 69.124, 69.125, 69.127, and 69.129, concerning guidelines and minimum operating standards for Texas proprietary schools. The proposed amendments would provide that certain associate of applied degrees and all new approvals to issue them requested after September 1, 1989, meet different standards to be designated by the Texas Higher Education Coordinating Board. The amendments would also establish stricter financial requirements; allow the suspension of new students' enrollment in schools violating admission and refund policies; require students to file a transcript for evaluation by the director to receive credit for past education; establish rules concerning student refunds; give more flexibility in advertising guidelines; clarify recordkeeping requirements; require schools to gather information for the labor market survey; and require the appointment of a liaison to act in the director's absence.

Lynn Moak, deputy commissioner for research and information, has determined that for the first five-year period the proposed sections will be in effect there will be no fiscal implications for state or local governments as a result of enforcing or administering the sections. The cost of compliance for small businesses will be that a somewhat higher cash reserve amount must be set aside for new schools. Because the amendments established a higher minimum standard for financial stability, it is not possible to ascertain how many schools will be significantly affected. The amendments do not affect the operating costs for schools. In addition, effective September 1, 1989, schools must comply with rules of the Texas Higher Education Board if associate level degree programs are offered. The cost of this cannot be determined.

Mr Moak and Mr. Oscar A. Rodriguez, staff services assistant, also have determined that for each year of the first five years the proposed sections are in effect the public benefit anticipated as a result of enforcing these amendments is the assurance that all persons receiving a degree title had conformed to standards; greater protection for students; increased financial stability of schools, particularly new ones; and the assurance that a proper authority is present at the school at all times. There is no anticipated economic cost for individuals who are required to comply with the sections.

Comments on the proposal may be submitted to Oscar A. Rodriguez Office of Policy Coordination, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9682. All requests for a public hearing on proposed sections submitted in accordance with the Administrative Procedure and Texas Register

Act must be received by the commissioner of education not more than 15 calendar days after notice of a proposed change in sections has been published in the *Texas Register*.

The amendments are proposed under the Texas Education Code, §32.22, which authorizes the State Board of Education to adopt policies regulations, and rules necessary for carrying out the provisions of the Texas Proprietary School Act after consultation with the Proprietary School Advisory Commission. *§69.122. Definitions.* The following words and terms when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise.

**Unearned tuition—This definition is for application in qualifying for a \$5,000 bond.** The total, at any given time during the period for which the certificate of approval is issued, of the following:

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

(C) the total of any tuition collected in advance from prospective students. [This definition is for application in qualifying for a \$5,000 bond.] *§69.124. General Provisions.*

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

(c) A proprietary school must obtain a certificate of approval for each location where a course or courses of instruction will be offered, unless the school meets one of the [following] exceptions in this subsection. Schools which held a certificate of approval on May 13, 1978, are not required to apply for an additional certificate for any facilities in which they are conducting continuous courses of instruction, provided that those facilities were approved as part of the school's application for its certificate of approval. The exception are as follows:

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

[(d) Schools which hold a certificate of approval on the date this section becomes effective will not be required to apply for an additional certificate for any facilities in which they are conducting continuous courses of instruction provided that those facilities were approved as a part of the school's application for its certificate of approval.]

(d)[(e)] A person or persons purchasing an approved proprietary school shall comply with all the requirements for securing an original approval. In addition, a copy of the sales contract(s), bill(s) of sale, deed(s) and all other instruments necessary to transfer ownership of the school must be submitted to the agency. The purchaser will accept responsibility for all refund liabilities.

(e)[(f)] Application forms and other pertinent data shall be submitted at least 30 days prior to change in ownership.

(f)(g) Exempted schools may make application for a certificate of approval and, upon approval and issuance, shall be subject to the provisions and regulations applicable to nonexempt schools during the period of approval. Applications for certificates of approval shall be made on forms provided by the administrator.

(g)(h) Any representative of a proprietary school who directly procures students or enrollees for the school by solicitation within or without this state shall apply for registration with the administrator. The registration, unless revoked for just cause, shall be valid for a period not to exceed 12 calendar months. Renewal of registration shall be made on renewal applications provided by the administrator. The administrator may, for good cause, suspend solicitation, enrollment, or reenrollment of students.

§69.125. *Certificates of Approval [and Permits for Representatives].*

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

(g) Suspension of Enrollments.

(1) Acceptance or enrollments of new students in any school may be suspended by the administrator for continued willful and intentional violations of rules or status pertaining to admissions and/or refunds.

(2) Prior to the suspension of the acceptance of enrollments of new students, the holder of the certificate shall be notified in writing of the impending action and the grounds for the action. §69.127. *Minimum Standards for Operation of Proprietary Schools.*

(a) (No change.)

(b) Schools desiring issuance and renewal of certificates of approval shall adhere to the following standards.

(1) Personnel.

(A) Director and administrative staff members.

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

(iv) The school director shall serve as a liaison person during any compliance visit by the division. The school director may designate a member of staff to serve as liaison.

(v) The director of the school shall designate an individual to perform all the functions of, and succeed to the authority of the named school director when the school director is absent from the school.

(B) (No change.)

(2) Admission requirements.

(A) (No change.)

(B) The school must maintain a written record of the previous education and training of the applicant student which clearly indicates that appropriate credit has been given by the school for previous education and training. Official transcripts of all previous postsecondary institutions attended provided by the student must be placed in the student file with a written evaluation initialed by the school director or the director's designee. The new training period shall be shortened where warranted through use of appropriate skills or achievement tests and the student so notified. When the training period is shortened, the course cost shall be reduced accordingly. With the exception of seminars and workshops as defined in §69.122 of this title (relating to Definitions) and individual subjects within an established curriculum, schools shall use form DPSVE-010 or the equivalent which will become a part of the student's permanent record at the school. The subject matter involved in seminars and workshops is such that credit for previous education and training may not be required.

(C) (No change.)

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

(5) Cancellation and refund policy.

(A) (No change.)

(B) Each school must have a cancellation and settlement policy that will permit a potential student to cancel any enrollment agreement or contract within 72 hours (until midnight of the third day excluding Saturdays, Sundays, and legal holidays) after the enrollment contract is signed by the prospective student.

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

(iii) Refunds based on enrollment in resident schools will be totally consummated within 30 days after the effective date of termination. Proof of consummation of refund will be the refund document or copies of both sides of the cancelled check and must be on file within 120 days of the effective date of termination. All refund checks must identify the student to whom the refund is assigned. In those cases where multiple refunds are made using one check, the check must identify each individual student and the amount to be credited to that student's account.

(C)-(H) (No change.)

(6) (No change.)

(7) Advertising.

(A)-(G) (No change.)

(H) All advertisements

which are more than 1/4 inch in size placed by the school or its representatives seeking prospective students must include and clearly indicate the full and correct name of the school, its address, and the city where the school is located.

(I)-(R) (No change.)

(8)-(10) (No change.)

(11) Financial stability.

[(A) Financial stability required. The school shall have sufficient finances to establish and carry out a satisfactory program of education on a continuing basis.]

(A)(B) New school. [The prospective owner shall furnish the director with his initial application for a certificate of approval, an audited statement of financial position (balance sheet) consistent with generally accepted accounting principles and auditing standards and certified by an independent public accountant or certified public accountant properly registered with the appropriate state board of accountancy. If the school will be owned by a sole proprietor, the balance sheet may be reviewed by the accountant rather than audited. The notes to the personal balance sheet must disclose the amount of payments for the next five years to meet debt agreements as required by generally accepted accounting principles for other types of financial statements. The prospective owner shall also furnish such other evidence as may be deemed appropriate by the administrator to establish financial stability.]

(i) The prospective owner shall furnish the director with an initial application for a certificate of approval, an audited balance sheet consistent with generally accepted accounting principles and auditing standards, and certified by an independent public accountant or certified public accountant properly registered with the appropriate state board of accountancy.

(ii) If the school will be owned by a sole proprietor, the balance sheet may be reviewed, rather than audited by the accountant. The notes to the personal balance sheet must disclose the amount of payments for the next five years to meet debt agreements as required by generally accepted accounting principles for other types of financial statements.

(iii) The balance sheet must be accompanied by the owner's statement outlining any payments made since the balance sheet date and the expected expenses for the first three months of operation. These expenses may include but are not limited to the following:

(I) salaries, listed by position name and including withholding, unemployment taxes, and any other related expenses;

(II) lease payments for equipment listed by the name of the equipment;

(III) lease payments for facilities;

(IV) accounting, legal, and professional fees; and

(V) an estimate of other expenses such as advertising, travel, textbooks, office supplies, classroom supplies, printing, telephone, utilities, taxes, and sales commission.

(iv) The prospective owner shall also furnish such other evidence as may be deemed appropriate by the administrator to establish financial stability.

(B)(C) General requirements for annual statements. Each certificated school shall furnish annually two copies of acceptable financial statements in association with an independent public accountant or certified public accountant not later than 120 days from the close of the school's fiscal year. These statements shall be consistent with generally accepted accounting principles and must include the following:

(i) balance sheet [Statement of financial position (balance sheet)];

(ii)-(iv) (No change.)

(C)(D) Specific types of statements required. Certificated schools shall meet the following requirements.

(i) (No change.)

(ii) Such schools must submit annual financial statements as set forth in subparagraph (B)(C)(i)-(iv) of this paragraph; however, they need not be audited or reviewed but must be compiled by a public accountant or certified public accountant and no opinion need be expressed. If a question arises as to the validity of the compiled or reviewed financial statements submitted or to the adequacy of the financial structure, the administrator may require an audit of a school, at the school's expense, certified by a public accountant or certified public accountant. Schools which are subsidiaries of another corporation may submit, in lieu of the statements required in subparagraph (B)(C)(i)-(iv) of this paragraph, the annual audited financial statements of the parent corporation provided that:

(I)-(III) (No change.)

(D)(E) Interim financial statements. If a school chooses to submit interim financial statements in addition to the annual statements to establish financial stability, those interim statements must meet the minimum requirements in subparagraph (B)(C) and (C)(D) of this paragraph.

(E) Financial stability required. The school shall have sufficient finances to establish and carry out a satisfactory program of education on a continuing basis.

(i) The balance sheet required in subparagraph (A) of this paragraph must reflect sufficient cash to pay all expenses for the first three months of operation. To determine sufficient cash, see subparagraph (A) (ii) of this paragraph.

(ii) The applicant's balance sheet required in subparagraphs (A), (B), (C), and (D) of this paragraph must reflect a current ratio of at least one-to-one and a positive equity or net worth balance. To determine this ratio, staff will deduct:

(I) any unearned tuition from both the asset and liability section; and

(I) any subscriptions receivable from the asset section and the equity section of the balance sheet.

(F) (No change.)

(G) Change in ownership. Prior to a change in ownership of a proprietary school, the purchaser must furnish the director an acceptable balance sheet [statement of financial position (balance sheet)] which meets the requirements outlined in subparagraph (A) [(b)] of this paragraph with the exception of clause (iii). The purchaser shall furnish any other evidence deemed appropriate by the administrator to establish financial stability.

(H) (No change.)

(12)-(13) (No change.)

(14) Records.

(A) (No change.)

(B) The schools shall retain all student records for at least three years. Financial records must be retained as required by federal retention requirements.

(C) Schools must maintain student transcripts which record academic records permanently. Transcripts shall be available to students and prospective employers at a reasonable charge [so long as the student is not in arrears or in default of obligations to the school incurred to finance the student's education].

(D)-(E) (No change.)

(F) All schools must complete the labor market information survey on forms provided by the division and submit on or before the date provided in the survey packet as requested by the administrator.

§69.129. Minimum Standards for Operation of Proprietary Schools Which Grant Associate of Applied Arts, Associate of Applied Science and Associate of Occupational Studies Degrees.

(a) Background. The commissioner of education and the commissioner of higher education will develop a memorandum of agreement regarding the delegation of authority for degrees issued by proprietary schools and those degrees previously granted. Schools approved to issue the Associate of Applied Arts (AAA), Associate of Applied Science (AAS) and Associate of Occupational Studies (AOS) degree prior to January 1, 1989, may continue to issue those degrees unless approval has been revoked. The degrees referred to in this subsection are only the AAA and AAS degrees previously approved by the Central Education Agency. Any new degrees requested after September 1, 1989, will have to meet different standards to be designated by the Texas Higher Education Coordinating Board. All new approvals to issue AAA and AAS degrees after September 1, 1989, will have to meet the standards determined by the coordinating board. All AOS degrees will continue to be under the jurisdiction of the Central Education Agency.

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

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

(c)(b) Minimum standards.

(1)-(14) (No change.)

(15) Adequate records shall be securely maintained by the institution to show attendance, progress, or grades. The institution shall maintain student academic transcripts permanently and shall make these transcripts available to students and prospective employers at a reasonable charge [so long as the student is not in arrears or in default of obligations to the school incurred to finance the student's education].

(16) The institution shall be required for admission into its degree programs a high school diploma or recognized equivalency certificate or evidence of successful completion of the equivalent of one full-time semester (12 semester hours) or quarter (18 quarter hours) at an accredited college or university or postsecondary institution. Official transcripts of all previous postsecondary institutions attended provided by the student must be in the student file with a written evaluation initiated by the school director or the director's designee.

(17) (No change.)

(d)(c) Eligibility requirements.

(1) Schools approved prior to January 1, 1989, [desiring approval] for issuance of an AAA, AAS, or AOS degree and schools desiring approval for the AOS degree shall be accredited by an agency or association recognized by the United States Commissioner of Education [Any nonaccredited school currently granting a degree must become accredited by May 9, 1987, or relinquish degree-granting authority.]

(2) Institutions which have been in operation in Texas and have complied with the Texas Education Code as non-degree-granting institutions for a minimum of two years may make application to the Central Education Agency for approval to grant the [AAA, AAS, or] AOS degree [degrees]. As a minimum, in operation means that classes have been conducted for two years.

(3) The institution and its programs of study submitted for approval of the AOS degree shall be fully operational on the dates of the onsite evaluations; i. e., there must be on hand or under contract all the human, physical, administrative, and financial resources necessary to demonstrate the capability to meet the minimum standards.

(4) A certificated and accredited branch campus of a fully and separately accredited institution that has been approved to grant the [AAA, AAS, or] AOS degree [degrees] in Texas may apply to grant the [AAA, AAS, or] AOS degree [degrees] provided that the branch campus is also in compliance with all other minimum standards except paragraph (2) of this subsection.

(5) Correspondence schools and schools which are not located in Texas are not eligible to apply for approval to grant the [AAA, AAS, or] AOS degree [degrees] under the provisions of this section.

(e)(d) Application for approval to grant the [AAA, AAS, or] AOS degree [degrees]. An institution may apply to the Central Education Agency for approval to grant the [AAA, AAS, or] AOS degree [degrees] in specified programs of study on the application forms provided by the agen-

cy. Effective September 1, 1989, all applications for the AAA and AAS degrees must be submitted to the Texas Higher Education Coordinating Board.

(f)(e) Issuance of approval to grant the [AAA, AAS, or] AOS degree [degrees].

(1) The administrator may issue approvals to grant the [AAA, AAS, or] AOS degree [degrees] if the administrator finds that the applicant institution meets the standards for approval.

(2) The approval to grant a degree [degrees] shall be valid for a period of five years from the date of issuance. Certificates of approval to grant the [AAA, AAS, or] AOS degree [degrees] issued prior to the effective date of this minimum standard will expire five years from the original effective date of approval or reapproval.

(3) (No change.)

(g)(f) Amendments to current approvals.

(1) When an amendment to an existing approval to award a new or different AOS degree or a change in a previously approved AAA or AAS degree is sought within the period covered by an existing approval, the institution shall forward to the Central Education Agency a detailed description of the proposed change. This shall include but need not be limited to, an outline of the curriculum to be offered, the qualifications of the faculty involved, textbooks to be used, learning resource center materials to be provided, and advisory committee membership changes, if appropriate.

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

(h)(g) Renewal of Central Education Agency approvals to grant AAA, AAS, or AOS degrees.

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

(i)(h) Denial of approval to grant AAA, AAS, or AOS degrees. If, upon review and consideration of a [an original,] renewal, or amended application for approval to grant AAA, AAS[,] degrees or an original, renewal or amended application to grant the [or] AOS degree [degrees], the administrator determines that the applicant fails to meet the requirements in the Texas Education Code or this chapter, the administrator shall notify the applicant, setting forth the reasons for denial in writing.

(j)(i) Revocation of approval to grant AAA, AAS, or AOS degrees. The administrator may revoke an institution's approval to grant AAA, AAS, or AOS degrees at any time if the administrator finds that:

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

(k)(j) Appeals An applicant whose authority to grant AAA, AAS, or AOS degrees is denied or revoked shall

have the right to appeal under Chapter 157 (Hearings and Appeals). Should the applicant fail to furnish additional evidence or exercise the right of appeal within 15 days after receipt of notice that the application is unacceptable, the notice shall become final.

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 September 10, 1988.

TRD-8809716

W. N. Kirby  
Commissioner of Education

Proposed date of adoption: November 11, 1988

For further information, please call: (512) 463-9212

## Chapter 81. Instructional Resources

The Texas Education Agency proposes amendments to §§81.63, 81.102, 81.121, 81.129, 81.152-81.154, new §81.156, and the repeal of §81.74, concerning the state textbook program. The proposed amendments to §§81.63, 81.102, 81.129 and 81.152, would delete expired rules concerning Proclamations 61 and 62, and allow publishers to mark cartons of textbooks instead of individual books as being complimentary. The proposed amendment to §81.121, would increase the time which publishers may loan complete systems to State Textbook Committee members. The proposed amendment to §81.153, would require that local textbook committees be selected by November 1 of each year. The proposed amendment to §81.154, would allow school districts to retain all expiring textbooks.

Proposed new §81.156, would require school districts to conduct and record an annual physical inventory of current textbooks and provide for reimbursement to the Central Education Agency for lost textbooks.

The proposed repeal of §81.74, would completely eliminate the readability level designation.

Lynn Moak, deputy commissioner for research and information, has determined that for the first five-year period the proposed sections and repeal 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 and repeal. Local school districts will be required to conduct an annual physical inventory of textbooks and reimburse the state for any lost materials. Because many districts already inventory books annually it is not possible to accurately estimate the added cost of the sections.

Mr. Moak and Oscar A. Rodriguez, staff services assistant, have determined that for each year of the first five years the sections and repeal are in effect the public benefit anticipated as a result of enforcing the sections and repeal will be that more time will be allowed for review of textbooks by local and state committee members, the negative impact that the recent emphasis on the read-

ability level has had on textbook content would be removed, and board rules concerning the state textbook program would be updated. 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 Oscar A. Rodriguez, Office of Policy Coordination, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9682. All requests for a public hearing on proposed sections submitted in accordance with the Administrative Procedure and Texas Register Act must be received by the commissioner of education not more than 15 calendar days after notice of a proposed change in sections has been published in the *Texas Register*.

## Subchapter D. State Textbook Program

### General Provisions

#### • 19 TAC §81.63

The amendment is proposed under the Texas Education Code, §12.01, which provides that textbook adoptions shall be carried out in accordance with the Code, Chapter 12, §12.11, which provides for the establishment and functioning of the State Textbook Committee; and §12.24, which authorizes the State Board of Education to make rules for the adoption of textbooks for use in public schools.

#### §81.63. *Materials Available For Use With Textbooks.*

(a) (No change.)

(b) Complimentary supplementary materials. Complimentary supplementary materials may be submitted with textbooks or teachers editions only when such materials have been specifically requested and described in a proclamation calling for textbooks.

(1) Publishers shall not provide complimentary supplementary pupil materials to local districts for classroom use.

(2) The teacher edition, in a format determined by the publishers not to exceed two parts, shall be provided at no charge.

(3) This subsection expires with the completion of required activities provided in Proclamation 62.]

(b)(c) Violations. Violation of this section shall be just cause for the State Board of Education to refuse to allow a publisher to participate in subsequent adoption for a period not to exceed 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 September 10, 1988.

TRD-8809717 W. N. Kirby  
Commissioner of Education

Proposed date of adoption: November 11, 1988

For further information, please call: (512) 463-9212

### General Content Requirements and Manufacturing Standards

#### • 19 TAC §81.74

*(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 Education Agency or in the Texas Register office, Room 503, Sam Houston Building, 201 East 14th Street, Austin.)*

The repeal is proposed under the Texas Education Code, §12.01, which provides that textbook adoptions shall be carried out in accordance with the code, Chapter 12, §12.11, which provides for the establishment and functioning of the State Textbook Committee; and §12.24, which authorizes the State Board of Education to make rules for the adoption of textbooks for use in public schools.

#### §81.74. *Readability Level Designation.*

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 September 10, 1988.

TRD-8809718 W.N. Kirby  
Commissioner of Education

Proposed date of adoption: November 11, 1988

For further information, please call: (512) 463-9212

### State Adoption, Acquisition, and Custody of Textbooks

#### • 19 TAC §§81.102, 81.121, 81.129

The amendments are proposed under the Texas Education Code, §12.01, which provides that textbook adoptions shall be carried out in accordance with the Code, Chapter 12, §12.11, which provides for the establishment and functioning of the State Textbook Committee; and §12.24, which authorizes the State Board of Education to make rules for the adoption of textbooks for use in public schools.

#### §81.102. *Proclamation, Public Notice, and Schedule for Adoption of Textbooks.*

(a) In accordance with Texas Education Code, §12.17, the State Board of Education shall issue a proclamation for new textbooks in those subjects in which contracts are not renewed. The proclamation shall serve as public notice to all Texas registered textbook publishers and to the public that bids to furnish textbooks to the state are being invited. The [Beginning with Proclamation 61, the] proclamation shall be issued one year in advance of the date specified in the adoption schedule for filing of samples by publishers.

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

#### §81.121. *Special Provisions Concerning Samples of Learning Systems and Supplementary Instructional Materials.*

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

(c) Publishers may lend a system to a State Textbook Committee member for no more than four [two] weeks upon the request of the committee member.

(d) (No change.)

#### §81.129. *Consideration and Adoption of Textbooks by the State Board of Education.*

(a) (No change.)

(b) Any request to [join or change depositories, change depository status, or to] establish a new depository must be submitted to the commissioner of education by September 1.

(c)-(f) (No change.)

(g) For Proclamation 62 only, in the event that a book from the list of five books in each adoption category recommended by the State Textbook Committee is removed by action of the State Board of Education, the book ranked next in order of preference by the committee on the alternate list shall be placed on the recommended list of five books in that adoption category. Beginning with Proclamation 63, the committee may not recommend alternate books.]

(g)(h) Upon finding a book subject to removal from the committee's recommended list, the board may direct the commissioner of education to confer with the publisher to determine if adjustment or changes can be made to avoid its removal.

(h)(i) In accordance with the Texas Education Code, §§12.13, 12.14, 12.16, and 12.24, the State Board of Education shall adopt a list of approved textbooks.

(i)(j) If the State Textbook Committee recommends and the board determines that substantial modifications should be made in books, learning systems, or supplementary instructional materials in a specific subject area, the board may delay adoption of textbooks or materials in that subject area pending the completion of the required modifications by the textbook publishers. When an adoption is delayed, the board shall specify the following:

(1)-(5) (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 September 10, 1988.

TRD-8809719 W. N. Kirby  
Commissioner of Education

Earliest proposal date of adoption: November 11, 1988

For further information, please call: (512) 463-9212

## Local Operations

### • 19 TAC §§81.152, 81.153, 81.154

The amendments are proposed under the Texas Education Code, §12.01, which provides that textbook adoptions shall be carried out in accordance with the Code, Chapter 12, §12.11, which provides for the establishment and functioning of the State Textbook Committee; and §12.24, which authorizes the State Board of Education to make rules for the adoption of textbooks for use in public schools.

#### *§81.152. Sample Copies of Textbooks for Local School Districts.*

[(a) For Proclamations 62 and 63, the provisions in this subsection shall apply.

[(1) School districts may be supplied with samples of books in those subjects for which adoptions are made each year. These shall be shipped to school districts on requisitions filed by bonded textbook custodians in independent districts and by county superintendents for county systems of schools. These requisitions must be sent to the textbook division prior to December 20. Samples supplied on the following schedule shall be considered to be adequate in all systems. Publishers are not expected to supply additional copies. Samples shall be supplied according to the following table of scholastic enrollments:

- |              |                               |
|--------------|-------------------------------|
| set;         | [(A) less than 500 pupils-one |
| sets;        | [(B) 501-1,500 pupils-two     |
| sets;        | [(C) 1,501-5,000 pupils-four  |
| eight sets;  | [(D) 5,001-10,000 pupils-     |
| sets;        | [(E) 10,001-50,000 pupils-16  |
| 32 sets; and | [(F) 50,001-100,000 pupils-   |
|              | [(G) 100,001 and up-75 sets.  |

[(2) The number of sets of samples (one copy of each book adopted) shown in the schedule in paragraph (1)(A)-(G) of this subsection are the maximum to be allowed. If fewer sets are needed, the requisition should be reduced accordingly to avoid unnecessary handling and transportation charges.

[(3) The scholastic enrollments to be used as the basis for distribution of samples are taken from the most recent records in the Texas Education Agency.

[(4) Only pupil texts, teacher editions, manuals, and other materials on

the adopted list are included in the sample book shipment.

[(5) Samples are for use by members of local textbook committees. They are not to be numbered, marked in any manner, or issued to pupils. As soon as the local committee's report has been approved, they are packed carefully in stout boxes and forwarded in a single shipment. Freight charges collect, to the State Textbook Depository, Austin. This shipment is made by April 1 of each year. If the books do not arrive at the state depository in new-book condition, the school district officials are held accountable at contract prices for missing or damaged samples. Future textbook requisitions are not honored until proper accounting has been made for samples.

[(6) School district officials may retain only copies of those books selected which will be used as texts in actual class instruction. These copies will be charged to the school's account and will reduce accordingly the total quotas which may be allowed on future requisitions.

[(7) Only those samples shipped to school districts from the publisher's depositories and charged on official state invoice forms will be accepted for credit at the state depository.

[(8) Samples must conform in content to the official copies on file in the textbook division, except that changes authorized by the commissioner may be included. Each copy must be manufactured to comply with manufacturing standards and specifications and carry the state label on the inside front cover.

[(9) Publishers pay all charges incurred in packaging and shipping samples to school districts. Each package in a shipment should be marked: "The books included in this package must be accounted for by textbook custodians in the same manner as all other textbooks shipped on state orders." Transportation charges from school districts to the state textbook depository are paid from the state textbook fund; however, publishing companies refund these charges to the state upon bills to be submitted by the textbook division Payment for samples is made after September 1 of each year.

[(10) Samples which have not been ordered from the state depository by September 1 of each year are returned to the publisher, transportation charges collect, for full credit, and the value of these samples is deducted from the total amount due the depository or company on the first payment made following the return of samples.

[(11) Samples of instructional systems will not be mailed to schools. Instead, a listing of systems with prices and a detailed description of the component parts will be distributed to schools. Samples of learning systems shall be available for re-

view through the regional education service centers in accordance with §81.121 of this title (relating to Special Provisions Concerning Samples of Learning Systems and Supplementary Instructional Materials) These systems will be adopted and ordered as regular textbooks are ordered.

[(b) For Proclamations 64 and thereafter, the provisions in this subsection shall apply.]

[(a)[(1)] Each publisher shall ship to every school district in this state which offers the course or which is considering offering a subject or course a minimum of one sample of each adopted textbook teacher edition, or teacher resource book, and one prospectus for each adopted learning system or teacher resource packet no later than December 1.

[(b)[(2)] Additional copies of sample materials shall be provided to meet the appropriate needs of the local textbook committee. Samples of learning systems or teacher resource packets may be supplied to local districts at the discretion of the publisher.

[(c)[(3)] Each sample supplied to school districts shall be provided and distributed at the expense of the publisher. No state or local funds shall be expended to purchase, distribute, or ship sample materials.

[(d)[(4)] Each carton of [All] sample materials supplied by a publisher shall be clearly marked with the statement "complimentary copies [copy]-not for classroom use."

[(e)[(5)] Each local district shall report the titles and publishers of adopted textbooks, teacher editions, or teacher resource books and prospectuses for learning systems or teacher resource packets for which appropriate samples were not received by January 2 in accordance with the provisions of this subsection.

[(f)[(6)] Failure to comply with the provisions of this section shall be just cause for the State Board of Education to refuse to allow a publisher to participate in subsequent adoptions for a period not to exceed three years.

#### *§81.153. Selection of Textbooks by Local School Districts.*

(a) (No change.)

(b) Prior to November 1 [On or before the local board meeting in November of each year,] each board of trustees and each county board shall appoint a local textbook committee composed of not fewer than five and not more than 15 members. The official minutes of each board at which the appointment of a textbook committee is made must include a record of the names of persons appointed to serve on the textbook committee.

(c)-(1) (No change.)

#### *§81.154. Retention of Expired Text-*

books. School districts may be permitted to retain out-of-adoption textbooks [in amounts of at least 25% or] as may justifiably be needed so long as they are used by the school for reference teaching aids, or library use. [If more than 25% is required, a request shall be filed with the Textbook Division.]

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 September 10, 1988.

TRD-8809706 W. N. Kirby  
Commissioner of Education

Proposed date of adoption: November 11, 1988

For further information, please call: (512) 463-9212

## State Textbook Contracts and Local Textbook Selection

### • 19 TAC §81.156

The new section is proposed under the Texas Education Code, §12.01, which provides that textbook adoptions shall be carried out in accordance with the Code, Chapter 12, §12.11, which provides for the establishment and functioning of the State Textbook Committee; and §12.24, which authorizes the State Board of Education to make rules for the adoption of textbooks for use in public schools.

**§81.156. Local Accountability.** Each school district shall conduct an annual physical inventory of all current adoption textbooks and learning systems which have been requisitioned and delivered to the district. The results of the inventory shall be recorded in the district's files and be available for review by Central Education Agency monitoring staff. Reimbursement shall be made to the Central Education Agency for all textbooks and learning systems which are determined to be lost during the physical inventory.

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 September 10, 1988.

TRD-8809705 W. N. Kirby  
Commissioner of Education

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For further information, please call: (512) 463-9212

## Chapter 85. Student Services

### Subchapter H. Transportation Services

#### Types of Transportation

##### • 19 TAC §85.184

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

The Texas Education Agency proposes an amendment to §85.184, concerning contract with transportation company or system. The amendment would allow the commissioner of education to approve transportation contracts for school districts' bus routes provided that the approval is consistent with criteria adopted by the State Board of Education and the board is kept apprised of the commissioner's actions through the information pages of the agenda.

Lynn Moak, deputy commissioner for research and information, 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. Moak and Oscar A. Rodriguez, staff services assistant, also have determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be to expedite approval of transportation contracts, allowing districts to take immediate advantage of cost savings. 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 Oscar A. Rodriguez, Office of Policy Coordination, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9682. All requests for a public hearing on proposed sections submitted in accordance with the Administrative Procedure and Texas Register Act must be received by the commissioner of education not more than 15 calendar days after notice of a proposed change in sections has been published in the *Texas Register*.

The amendment is proposed under the Texas Education Code, §21.181(d), which allows the State Board of Education to adopt rules for the administration of contracts with transportation companies or systems.

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 September 16, 1988.

TRD-8809613 W. N. Kirby  
Commissioner of Education

Proposed date of adoption: November 12, 1988

For further information, please call: (512) 463-9212

## Chapter 101. Assessment

### Assessment of Minimum Skills

#### • 19 TAC §§101.1-101.3, 101.5

The Texas Education Agency proposes amendments §§101.1-101.3, and 101.5, concerning assessment of minimum skills. The proposed amendments would change student testing dates to October of each school year; permit the commissioner of education to designate testing dates appropriate for the new student assessment program; specify that the Grade 1 test will be a readiness inventory; and omit references to the Texas Educational Assessment of Minimum Skills (TEAMS).

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

Mr Moak and Oscar A. Rodriguez, staff services assistant, also have determined that for each year of the first five years the proposed sections are in effect the public benefit anticipated as a result of enforcing these amendments is that there will be improved information available on which to base evaluation of instructional programs. There is no anticipated economic cost for individuals who are required to comply with the sections.

Comments on the proposal may be submitted to Oscar A. Rodriguez, Office of Policy Coordination, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9682. All requests for a public hearing on proposed sections submitted in accordance with the Administrative Procedure and Texas Register Act must be received by the commissioner of education not more than 15 calendar days after notice of a proposed change in sections has been published in the *Texas Register*.

The amendments are proposed under the Texas Education Code, §21.551, which directs the agency to adopt criterion referenced tests to assess specified basic skills at grade's one, three, five, seven, nine, and the exit level.

#### §101.1. General Provisions.

(a) (No change.)

(b) **Until 1990-1991**, [Each year] the commissioner of education shall designate two weeks in February when the assessment instruments will be administered for grades three, five, seven, nine, and two weeks in April when the assessment instrument for grade one will be administered in all school districts in the state.

(c) **Beginning with the 1990-1991** school year the commissioner of education shall designate three days in October when the assessment instruments in mathematics, reading, and writing will be administered for grades three, five, seven, and nine in all school districts in the state.

(d) **Beginning with the 1990-1991** school year the commissioner of education shall designate a period in early fall for the administration of a readiness in-

ventory to first grade students in all school districts in the state.

(e)[(c)] Each year the commissioner of education shall designate two days in October and two days in May when the exit level assessment instrument for mathematics and English language arts will be administered in all school districts in the state. The commissioner of education may determine other dates of administration if the need arises.

(f)[(d)] The State Board of Education shall establish the criteria for satisfactory performance on the assessment instruments at grades one, three, five, seven, nine, and the exit level.

(g)[(e)] Each school district shall assist in the administration of the criterion referenced tests to its students in accordance with procedures established by the commissioner of education, and shall assist with field tests and other activities necessary to implement the requirements of the Texas Education Code, Chapter 21, Subchapter 0.

(h)[(f)] The superintendent or chief administrative officer in each school district shall be responsible for coordinating all local test activities, including:

(1) scheduling testing dates and times on all affected campuses (except for the exit level assessment instrument which will be administered only on the dates designated by the commissioner of education) until the 1990-1991 school year;

(2)-(4) (No change.)

(l)[(g)] The superintendent or chief administrative officer of each school district shall certify in writing to the commissioner of education that:

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

#### §101.2. Exit Level Requirements.

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

(d) Students who were [are] enrolled in the 11th grade during the 1985-1986 school year [will take the exit level test for the first time in October of 1985 and] will not receive a diploma unless they have passed both sections of the exit level test by the end of their 12th grade year. The following conditions for receiving a diploma will apply.

(1) Students who were juniors on or after September 1, 1985, must pass the exit level test unless they graduated [graduate] prior to May 1987.

(2) (No change.)

(3) The exit level test will be given [only] in October and May. Individuals who have satisfied all other graduation requirements but have not passed both sections of the exit level test must retake the section or sections not passed at a subsequent regular administration and demonstrate mastery in order to receive a high

school diploma.

(e)-(h) (No change.)  
§101.3. Exemptions.

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

(f) Students in grade one and grade three who have been identified as limited English proficient by the language proficiency assessment committee and whose native language is Spanish will be administered either the English version [Texas educational assessment of minimum skills test] or the Spanish version of the assessment instrument [Texas educational assessment of minimum skills test]. The language proficiency assessment committee will determine whether the student shall be tested in English and/or in Spanish.

(g) Limited English proficient students at grades one or three whose native language is not Spanish may receive an exemption from the assessment [Texas educational assessment of minimum skills for the test] at that grade level and will participate in the assessment at subsequent grade levels.

(h) Students at grades five, seven, or nine who have been identified as limited English proficient by the language proficiency assessment committee may receive an exemption from the assessment [Texas educational assessment of minimum skills for the test] at that grade level if the language proficiency assessment committee has determined that the student has not demonstrated sufficient proficiency in the English language to participate in the assessment. These students will participate in the assessment at subsequent grade levels.

(i)-(k) (No change.)  
§101.5. Reporting of Results.

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

(c) Assessment [The Texas educational assessment of minimum skills] results shall be included in each student's academic achievement record and shall be furnished for each student transferring to another school district.

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 September 10, 1988.

TRD-8809704 W. N. Kirby  
Commissioner of Education

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For further information, please call: (512) 463-9212

## Chapter 105. Foundation School Program

### Subchapter W. Price Differential Index

#### • 19 TAC §§105.466-105.468

The Texas Education Agency proposes new §§105.466.105.468, concerning the price differential index for 1989-1990 and 1990-1991. The proposed sections would create an index which is based on an analysis of variation in teacher salaries. The proposed index would have a more limited range compared to the current index, reflecting the changes which have taken place in teacher salaries since the passage of House Bill 72 (68th Legislature, Second Called Session). The proposed index is recommended by the State Board of Education's Price Differential Index Advisory Committee, which has been working on the subject since November 1987.

Lynn Moak, deputy commissioner for research and information, has determined that for the first five year period the proposed sections will be in effect there will be no fiscal implications for state government or small businesses as a result of enforcing or administering these sections. The effect on local government as a result of enforcing or administering the sections is such that some school districts will lose state aid under the proposed rule and some will gain. However, local school districts in the aggregate will not gain or lose revenue.

Mr Moak and Oscar A. Rodriguez, staff services assistant, also have determined that for each year of the first five years the proposed sections are in effect the public benefit anticipated as a result of enforcing these sections will be a distribution of state funds that more accurately reflects the cost of providing educational services. There is no anticipated economic cost for individuals who are required to comply with the sections.

Comments on the proposal may be submitted to Oscar A Rodriguez, Office of Policy Coordination, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463. 9682. All requests for a public hearing on proposed sections submitted in accordance with the Administrative Procedure and Texas Register Act must be received by the commissioner of education not more than 15 calendar days after notice of a proposed change in sections has been published in the *Texas Register*.

The new sections are proposed under the Texas Education Code, §16.179, which directs the State Board of Education to adopt a price differential index.  
§105.466. Price Differential Index for 1989-1990 and 1990-1991.

(a) General provisions.

(1) The price differential index shall be calculated using an econometric approach based upon linear regression. The method of least squares shall be used to produce estimates that are the best linear unbiased estimates under classical statistical assumptions.

(2) A simplified chart shall be developed from the linear regression equation. The simplified chart will show, for



each factor used in the regression, the value at which a 1.0% increase in the price differential index should occur.

(3) For the 1988-1989 school year, the price differential index shall be calculated as described in §§105.461-105.465 of this title (relating to Specifications for Econometric Model Data Values for Unadjusted Price Differential Index Factors; Determining Each District's Price Differential Index; Determining the Adjusted Basic Allotment; and Adjusted Price Differential Index and Adjusted Basic Allotment).

(4) Changes in district price differential index values shall be applied in two steps. For the 1989-1990 school year, the price differential index shall be the average of the 1988-1989 index value and the value calculated from the simplified chart defined below. In 1990-1991 the price differential index shall be the value calculated from the chart.

(b) Definition of terms and data elements.

(1) Average daily attendance. The average daily attendance shall be ob-

tained from the superintendent's report of pupil attendance and effective contact hours for the 1987-1988 school year maintained by the Central Education Agency as of May 31, 1988. The best four of eight weeks average daily attendance for the sums of all grades reported shall be used.

(2) Urban County. This factor, determined on a county basis, shall indicate that the county is considered to be an urban area. Each district shall receive the value of the county of which it is assigned for administrative purposes. The 28 urban counties are listed below.

014	Bell County	123	Jefferson County
015	Bexar County	152	Lubbock County
019	Bowie County	161	McLennan County
021	Brazos County	165	Midland County
031	Cameron County	178	Nueces County
057	Dallas County	188	Potter County
068	Ector County	212	Smith County
071	El Paso County	220	Tarrant County
084	Galveston County	221	Taylor County
091	Grayson County	226	Tom Green County
092	Gregg County	227	Travis County
101	Harris County	235	Victoria County
108	Hidalgo County	240	Webb County
114	Howard County	243	Wichita County

(3) Contiguous average beginning teacher salary. Instructional staff shall be defined as teachers, nurses, and librarians. The role identification reported on the Public Education Information Management System (PEIMS) data submission in the fall of 1987 for the 1987-1988 school year shall be used to determine if an individual was assigned as instructional staff. The assignment shall be the major assignment of the individual as determined by days employed and percent of day assigned. If the role identification is equal to 25, 29, 13, or 22 then the individual shall be categorized as instructional staff. To make the contiguous average beginning teacher salary calcula-

tion, the salaries and full-time equivalencies of instructional staff with zero years of experience shall be aggregated for all the districts in counties contiguous to the district's county, including the district's county. The value for each district shall be determined by subtracting the district values from the county values and dividing the resulting salaries by the resulting full-time equivalencies. The source shall be the fall 1987 PEIMS data submission for the 1987-1988 school year.

(4) Percent of compensatory students. This value shall be derived by dividing the best six-months average of students claiming free and reduced lunches under the

National School Lunch Program (NSL) by the average daily attendance in the district, and multiplying the result by 100. The count of NSL students shall be that number derived from Central Education Agency files as of May 31, 1988. Average daily attendance is defined in paragraph (1) of this subsection.

(c) The calculation of the index.

(1) Calculation of the index shall be computed according to the following chart. District values for the four factors defined in subsection (b) of this sections shall be compared to the ranges listed below and the appropriate number of points shall be added to the base index value of 1.00.

Value	District	Contiguous Average Begin-	Percentage	Urban
To Add	Size (ADA)	ning Teacher	Low Income	County
<u>To 1.00</u>	<u>Range</u>	<u>Salary Range</u>	<u>Range</u>	<u>Flag</u>
0.00	Less than 6	Less than 15,850	Less than 25%	No
0.01	7-10	15,851-16,400	25.01% - 45%	Yes
0.02	11-20	16,401-17,000	45.01% - 59%	
0.03	21-45	17,001-17,600	59.01% - 70%	
0.04	46-90	17,601-18,200	70.01% - 79%	
0.05	91-180	18,201-18,800	79.01% - 87%	
0.06	181-360	18,801-19,400	87.01% - 95%	
0.07	361-700	19,401-20,000	95.01% and Above	
0.08	701-1,400	20,001 and Above		
0.09	1,401-2,900			
0.10	2,901-5,800			
0.11	5,801-11,700			
0.12	11,701-23,500			
0.13	23,501-47,000			
0.14	47,001-90,000			
0.15	90,001 and Above			

(2) For the 1989-1990 school year, the price differential index shall be the sum of each district's 1988-1989 index value plus the index value calculated in paragraph (1) of this subsection, divided by two.

(3) For the 1990-1991 school year, the price differential index shall be the index value calculated in paragraph (1) of this subsection.  
*§105.467. Determining the Adjusted Basic Allotment.* For the 1989-1990 and 1990-

1991 school years the commissioner shall adjust each district's basic allotment by applying the following formula:

$$ABA = ( (BA \times .75) \times PDI ) + ( BA \times .25 )$$

where:

"ABA" is the adjusted basic allotment;

"BA" is the basic allotment; and

"PDI" is the price differential index applicable to the district.

*§105.468. Indices for Reconfigured Districts.* The commissioner of education shall determine the price differential index to be used in calculating the adjusted basic allotment for 1989-1990 and 1990-1991 for the districts which are configured differently than at the time of adoption of the index. Districts may be configured differently because of consolidations, annexations, or division into two or more new districts, or other situations which the commissioner determines to be a change in configuration. The decision of the commissioner shall be final and it shall not affect the price differential index of other school districts.

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 September 10, 1988.

TRD-8809715 W. N. Kirby  
Commissioner of Education

Proposed date of adoption: November 11, 1988

For further information, please call: (512) 463-9212



• 19 TAC §105.469

The Texas Education Agency proposes new §105.469 which will adopt by reference data values for price differential index factors. The proposed section would list the data values of the data items in proposed §105.466, concerning the price differential index for 1989-1990 and 1990-1991. The proposed section also provides that any necessary corrections to the data values must be made by September 1, 1989, by the commissioner of education.

Lynn Moak, deputy commissioner for research and information, has determined that for the first five-year period the proposed section is in effect there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the section. The effect on local government as a result of enforcing or administering the section is such that some school districts will lose state aid under the proposed section and some will gain. However, local school districts in the aggregate will not gain or lose revenue.

Mr. Moak and Oscar A. Rodriguez, staff services assistant, have determined that for each year of the first five years the proposed section is in effect the public benefit anticipated as a result of enforcing this section will be a distribution of state funds that more accurately reflects the cost of providing educational services. 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 Oscar A. Rodriguez, Office of Policy Coordination, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9682. All requests for a public hearing on the proposed section submitted in accordance with the Ad-

ministrative Procedure and Texas Register Act must be received by the commissioner of education not more than 15 calendar days after notice of a proposed change in the section have been published in the *Texas Register*.

The new section is proposed under the Texas Education Code, §16.179, which directs the State Board of Education to adopt a price differential index.

*§105.469. Data Values for Price Differential Index Factors.*

(a) The data values for the data items listed in §105.466(b)(1)-(4) of this title (relating to Price Differential Index for 1989-1990 and 1990-1991) are listed for each school district in Texas in the table entitled "Listing of Data Values for 1989-1990/1990-1991 PDI Factors" which is adopted by reference as an official rule of the Central Education Agency. A copy is available for examination during regular office hours, 8 a.m. to 5 p.m., except holidays, Saturdays, and Sundays, at the Central Education Agency. The agency is located at 1701 North Congress Avenue, Austin, Texas 78701.

(b) Should the need for correction of any data values be proven for a district prior to September 1, 1989, the commissioner of education shall adjust the index for the district. The decision of the commissioner shall be final.

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 September 10, 1988.

TRD-8809703 W. N. Kirby  
Commissioner of Education

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For further information, please call: (512) 463-9212



Chapter 137. Teacher Education

Subchapter K. 1987 Standards for Approval of Institutions Offering Teacher Education Programs for Initial Certification

• 19 TAC §137.505

The Texas Education Agency proposes amendments to §137.505 and §137.537, concerning approval standards for institutions offering teacher education programs. The proposed amendments would specify clearly that credits or degrees used for teacher certification must be from accredited institutions.

Lynn Moak, deputy commissioner for research and information, has determined that for the first five-year period the proposed section is in effect there will be no fiscal implica-

tions for state or local government or small businesses as a result of enforcing or administering the section.

Mr. Moak and Oscar A. Rodriguez, staff services assistant, have determined that for each year of the first five years the proposed section is in effect the public benefit anticipated as a result of enforcing these amendments is the assurance that the academic credentials upon which Texas teacher certification is based are of the highest quality and that any possibility for substandard preparation is eliminated. 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 Oscar A. Rodriguez, Office of Policy Coordination, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9682. All requests for a public hearing on proposed section submitted in accordance with the Administrative Procedure and Texas Register Act must be received by the commissioner of education not more than 15 calendar days after notice of a proposed change in the section has been published in the *Texas Register*.

The amendment is proposed under the Texas Education Code, §13.032, which authorizes the State Board of Education to make rules concerning standards and procedures for the approval or disapproval of colleges and universities offering programs of teacher education.

*§137.505. Standard V. General Programs and Curriculum Characteristics.*

- (a) (No change.)
- (b) Quality indicators.
  - (1)-(7) (No change.)
  - (8) The institution shall have clearly defined written procedures for approving transfer work from other institutions. The only credits and degrees acceptable for teacher certification are those earned and conferred by institutions of higher education which were accredited or otherwise approved at such time by a state department of education, a recognized governmental entity, or a recognized regional accrediting organization.
  - (9) (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 September 10, 1988.

TRD-8809701 W. N. Kirby  
Commissioner of Education

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For further information, please call: (512) 463-9212



## Subchapter L. 1987 Standards for Approval of Institutions Offering Graduate Education Programs for Professional Certification

### • 19 TAC §137.537

The Texas Education Agency proposes amendments to §137.505 and §137.537, concerning approval standards for institutions offering teacher education programs. The proposed amendments would specify clearly that credits or degrees used for teacher certification must be from accredited institutions.

Lynn Moak, deputy commissioner for research and information, 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. Moak and Oscar A. Rodriguez, staff services assistant, have determined that for each year of the first five years the proposed section is in effect the public benefit anticipated as a result of enforcing the amendment will be the assurance that the academic credentials upon which Texas teacher certification is based are of the highest quality and that any possibility for substandard preparation is eliminated. 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 Oscar A. Rodriguez, Office of Policy Coordination, 1701 North Congress Avenue, Austin, Texas, 78701, (512) 463-9682. All requests for a public hearing on the proposed section submitted in accordance with the Administrative Procedure and Texas Register Act must be received by the commissioner of education not more than 15 calendar days after notice of a proposed change in the section has been published in the *Texas Register*.

The amendment is proposed under the Texas Education Code, §13.032, which authorizes the State Board of Education to make rules concerning standards and procedures for the approval or disapproval of colleges and universities offering programs of teacher education.

§137.537. *Standard VII. Graduate Student Development Services.*

(a) (No change.)

(b) Quality indicators.

(1)-(6) (No change.)

(7) The institution shall evaluate and accept transferred graduate credits in accordance with published institutional policies. The only credits and degrees acceptable for teacher certification are those earned and conferred by institutions of higher education which at such time were accredited or otherwise approved by a state department of education, a recognized governmental organization, or a recognized regional accrediting organization.

(8)-(10) (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 September 10, 1988.

TRD-8809720 W. N. Kirby  
Commissioner of Education

Proposed date of adoption: November 11, 1988

For further information, please call: (512) 463-9212

## Chapter 141. Teacher Certification

### Subchapter A. Certification of Teachers in General

#### • 19 TAC §141.3

The Texas Education Agency proposes an amendment to §141.3, concerning the certification of teachers. The proposed amendment would specify clearly that credits or degrees used for teacher certification must be from accredited institutions.

Lynn Moak, deputy commissioner for research and information, 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. Moak and Oscar A. Rodriguez, staff services assistant, also have determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section is the assurance that the academic credentials upon which Texas teacher certification is based are of the highest quality and that any possibility of substandard preparation is eliminated. 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 Oscar A. Rodriguez, Office of Policy Coordination, 1701 North Congress Avenue, Austin, Texas, 78701, (512) 463-9682. All requests for a public hearing on proposed section submitted in accordance with the Administrative Procedure and Texas Register Act must be received by the commissioner of education not more than 15 calendar days after notice of a proposed change in section has been published in the *Texas Register*.

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

§141.3. *General Requirements.*

(a) (No change.)

(b) The only credits and degrees acceptable for teacher certification are those earned and conferred by institutions of higher education which at such time were accredited or otherwise approved by a state department of education,

a recognized governmental organization, or a recognized regional accrediting organization. Out-of-state institutions which offer teacher education programs or courses in Texas must be approved by the Commission on Standards for the Teaching Profession in accordance with standards adopted by the State Board of Education. All credit hour requirements for certification are semester hours or their equivalent. Texas teacher certificates are issued to individuals who meet the requirements in subsection (a) of this section and who:

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

(c)-(j) (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 September 10, 1988.

TRD-8809702 W. N. Kirby  
Commissioner of Education

Proposed date of adoption: November 11, 1988

For further information, please call: (512) 463-9212

## Chapter 157. Hearings and Appeals

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

The Texas Education Agency proposes the repeal of §§157.1-157.22, 157.41-157.63, 157.71-157.76; new §§157.1-157.16; and amendment to §157.67 concerning hearings and appeals to the commissioner of education. The proposed changes would repeal redundant provisions already contained in statute and remove some procedural hurdles found in the current rules. Specific substantive changes would be to reduce the number of pleadings required to perfect an appeal, and make the failure to timely respond to a petition an admission of all well pled allegations.

Lynn Moak, deputy commissioner for research and information, has determined that for the first five-year period the proposed repeals 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 repeals.

Mr. Moak and Oscar A. Rodriguez, staff services assistant, have determined that for each year of the first five years the repeals are in effect the public benefit anticipated as a result of enforcing the repeals will be the alignment of agency practice with the overall practice before state courts and the simplification of the hearings process. There is no anticipated economic cost to individuals who



are required to comply with the repeals as proposed.

Comments on the proposal may be submitted to Oscar A. Rodriguez, Office of Policy Coordination, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9682. All requests for a public hearing on proposed repeals submitted in accordance with the Administrative Procedure and Texas Register Act must be received by the commissioner of education not more than 15 calendar days after notice of a proposed change in repeals has been published in the *Texas Register*.

## Subchapter A. Hearings and Appeals Generally

### • 19 §§157.1-157.22

The repeals are proposed under Texas Civil Statutes, Article 6252-13a, §4(a)(1), which require each state agency to adopt rules of practice setting forth the nature and requirements of hearing procedures.

§157.1. *Nature of Hearings and Appeals.*

§157.2. *Definitions.*

§157.3. *Object and Scope of this Chapter.*

§157.4. *Classification of Parties.*

§157.5. *Parties in Interest.*

§157.6. *Appearances.*

§157.7. *Conduct and Decorum.*

§157.8. *Communication With Parties in a Contested Case by Agency Personnel.*

§157.9. *Classification of Pleadings.*

§157.10. *Form and Content of Pleadings.*

§157.11. *Filing of Documents.*

§157.12. *Copies of Documents Sent to Other Parties.*

§157.13. *Motions.*

§157.14. *Incorporation by Reference of Agency Records.*

§157.15. *Amendments.*

§157.16. *Prehearing Conference.*

§157.17. *Location and Nature of Hearing.*

§157.18. *Transcripts.*

§157.19. *Motions for Postponement.*

§157.20. *Agreements Between the Parties.*

§157.21. *Computing Time; Extensions.*

§157.22. *Dismissal Without Hearing.*

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 September 10, 1988.

TRD-8809713 W. N. Kirby  
Commissioner of Education

Proposed date of adoption: November 11, 1988

For further information, please call: (512) 463-9212

### ◆ ◆ ◆ • 19 TAC §§157.1-157.16

The new sections are proposed under Texas Civil Statutes, Article 6252.13a, §4(a)(1), which require each state agency to adopt rules of practice setting forth the nature and requirements of hearing procedures.

§157.1. *Scope and Purpose.*

(a) This chapter shall govern the

proceedings in all contested cases before the commissioner of education pursuant to the Texas Education Code §11. 13. Contested cases as referred to herein shall be defined as appeals

(b) The purpose of this chapter is to adopt for all purposes the provisions of the Administrative Procedures and Texas Register Act, (Texas Civil Statutes, Article 6252 §13(a), the Texas Rules of Evidence and the Texas Rules of Civil Procedure. The Rules of Evidence and Civil Procedure will prevail except as modified by the Administrative Procedures and Texas Register Act and by these rules, which shall govern the procedure for the administration of all appeals before the State Commissioner of Education.

§157.2. *Hearing Officer.*

(a) The commissioner may designate and appoint a hearing officer to act on his behalf in conducting any hearing or proceeding held pursuant to this chapter and to prepare proposals for decision on such hearings.

(b) The hearing officer has the authority to administer oaths; call and examine witnesses; issue subpoenas, make rulings on motions, admissibility of evidence and amendments to pleadings; maintain decorum; to schedule and recess the proceedings from day to day; and to make any other orders as justice require.

(c) If the hearing officer is removed, dies, becomes disabled or withdraws from an appeal prior to the completion of duties the commissioner may designate a substitute hearing officer to complete the performance of duties without the necessity of repeating any previous proceedings.

§157.3. *Classification of Parties.*

(a) Designation of parties are as follows.

(1) *Petitioner*—The party upon whom the burden of proof on the whole case rests.

(2) *Respondent*—Any party named as such by the petitioner.

(3) *Intervenor*—A person who shows an administratively cognizable or justifiable interest in the appeal.

(b) Regardless of errors as to designations in the pleadings parties shall be accorded their true status in the appeal.

§157.4. *Appearances.* Any party allowed to appear may be represented by an attorney-at-law authorized to practice before the supreme court of the State of Texas. Any person may appear on his or her own behalf, or if a minor, by his or her next friend.

§157.5. *Conduct and Decorum.*

(a) All persons in attendance shall comport themselves with the same dignity, courtesy, and respect required by the district courts of the State of Texas.

(b) Counsel shall remain seated at all times, except when standing to address the hearing officer or when otherwise permitted to do so.

(c) All argument shall be made to the hearing officer alone. Sidebar remarks will be rigidly suppressed.

(d) Failure to observe the agency's rules may result in the commissioner refusing to allow that person to appear in any proceeding before the agency or making any other order that justice require.

§157.6. *Classification of Pleadings.* Pleadings filed with the commissioner shall include but not be limited to, petitions, answers, replies, exceptions, and motions. Regardless of any error in its designation, the pleading shall be accorded its true status in the appeal in which it is filed.

§157.7. *Form and Content of Documents.* All pleadings, briefs, and exhibits filed with the commissioner shall be legibly handwritten, typewritten, or printed upon paper 8 1/2 inches wide by 11 inches long. Electronic transmission of pleadings in proper form containing a facsimile of the signature of the attorney or Party filing the pleading is permissible.

§157.8. *Filing of Documents.*

(a) Any document shall be deemed filed only when actually received by the director of hearings and appeals, the assigned hearing officer, or the designated docket clerk.

(b) Documents may be filed by mail if sent by certified United States mail, return receipt requested. A document will be deemed timely filed if it was mailed one day prior to the filing deadline as evidenced by a legible postmark placed on the envelope by the United States Postal Service and the document was received by the director of hearings, the hearing officer, or the designated docket clerk by the close of business on the fourth calendar day following the filing deadline.

§157.9. *Petition for Review.*

(a) Petitioner shall file with the commissioner a petition for review within 45 calendar days after the decision order, or ruling complained of is communicated to petitioner.

(b) A petition for review shall contain the following:

(1) a description of the ruling, action, or failure to act complained of;

(2) the date of the ruling, action, or failure to act;

(3) a description of the action petitioner wants the commissioner to take on petitioner's behalf;

(4) a statement of the reason the petitioner is entitled to have the commissioner take action; and

(5) a statement of the facts of which petitioner is aware or which peti-

tioner believes to be true, which would lead to a reasonable conclusion that petitioner is entitled to the relief sought.

(c) Nothing in this section require that petitioner plead all evidence relied upon. However, all issues relied upon by petitioner must be raised in the petition for review and petitioner will be denied the opportunity to present evidence on issues not raised in the petition for review.

(d) The petition for review shall be served on respondent by personal delivery or by certified mail. A certificate evidencing service shall be included in the petition for review.

**§157.10. Answers.**

(a) Respondent shall file an answer within 30 calendar days after receiving notice from the commissioner that an appeal has been docketed.

(b) The answer shall specifically admit or deny each allegation in the Petition for review and shall set forth all affirmative defenses.

(c) All well-pled factual allegations will be deemed admitted unless respondent's answer, containing specific denials to each allegation, is filed within the time period prescribed in subsection (a) of this section. A general denial shall be insufficient to controvert factual allegations contained in the petition for review.

**§157.11. Service of Pleadings.** Copies of all pleadings must be sent to all parties of record in an appeal. Except in the case of the filing of a petition for review as set forth in §157.13 of this title (relating to Motions for Continuance), an affirmative statement that a copy of the pleading has been sent to all parties is sufficient.

**§157.12. Prehearing Conference.**

(a) In any appeal, the hearing officer or a party may move for the setting of a prehearing conference. The hearing officer will direct that the parties appear either in person or by telephone at a specific time for a conference prior to a hearing on the merits for the purposes of considering any of the following:

(1) the formulation or simplification of issues;

(2) admission of certain assertions of fact or stipulations;

(3) the procedure at the hearing on the merits;

(4) any limitation, where possible of the number of witnesses; and/or

(5) such other matters as may aid in the simplification of the proceeding or the disposition of matters in controversy, including the settlement of matters in dispute.

(b) Action taken at the conference shall be recorded in the manner directed by the hearing officer.

**§157.13. Motions for Continuance.** A mo-

tion for continuance shall state good cause and shall be filed in writing not less than 10 calendar days prior to the hearing date. Motions for continuance filed within 10 calendar days of the hearing date may be granted at the discretion of the hearing officer.

**§157.14. Dismissal Without a Hearing; Nonsuits.**

(a) The commissioner may, on his own motion or the motion of a party, dismiss an appeal without a hearing for the following reasons: compromise, unnecessary duplication of proceedings; res judicata; withdrawal; mootness; untimely filing; lack of jurisdiction; failure of a party requesting relief from the commissioner to set forth facts in the pleadings which would support a decision in that party's favor; failure to state a claim for which relief can be granted; or failure to prosecute.

(b) Petitioner may nonsuit the appeal at any time prior to the rendition of a proposal for decision. After a proposal is issued, nonsuit may be granted at the discretion of the commissioner.

**§157.15. Order of Procedure at Hearing.**

(a) Petitioner shall state briefly the nature of the claim or defense, what petitioner expects to prove, and the relief sought. Immediately thereafter respondent may make a similar statement, and intervenors and other parties will be afforded similar rights as determined by the hearing officer.

(b) Evidence shall then be introduced by petitioner.

(c) Unless such statement has already been made, respondent shall briefly state the nature of the claim or defense, what respondent expects to prove, and the relief sought.

(d) Evidence shall be introduced by respondent.

(e) The intervenor and other parties shall make their statement, unless they have already done so, and shall introduce their evidence.

(f) The parties may be allowed closing arguments at the discretion of the hearing officer.

(g) Unless the hearing officer, for good cause stated in the record, otherwise directs, the order of procedure shall be the order designated in subpeals (a)-(f) of this section.

(h) Parties shall provide four copies of each exhibit offered.

(i) In any appeal where a party is represented by more than one attorney, the hearing officer shall require the designation of a lead attorney.

**§157.16. Filing of Exceptions and Replies to Proposal for Decision.**

(a) Exceptions to the proposal for decision shall be filed within 30 calendar

days of the issuance of the proposal for decision.

(b) Replies to exceptions shall be filed within 50 calendar days of the issuance of the proposal for decision.

(c) Parties may extend these timelines once by mutual written agreement if the agreement is filed with the director of hearings and appeals or the designated docket clerk prior to the expiration of the timelines set forth in subpeals (a) and (b) of this section.

(d) All disagreements with the factual findings of the proposal for decision must be made in the parties' exceptions to the proposal for decision or be waived.

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 September 10, 1988.

TRD-8809709

W. N. Kirby

Commissioner of Education

Proposed date of adoption: November 11, 1988

For further information, please call: (512) 463-9212

◆ ◆ ◆  
**Subchapter B. Hearing of Appeals to the Commissioner**

**• 19 TAC §§157.41-157.63**

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

The repeals are proposed under Texas Civil Statutes, Article 6252-13a, §4(a)(1), which require each state agency to adopt rules of practice setting forth the nature and requirements of hearing procedures.

**§157.41. Procedure.**

**§157.42. Presiding Officer.**

**§157.43. Notice of Appeal.**

**§157.44. Petition for Review.**

**§157.45. Answers.**

**§157.46. Request for a More Definite and Detailed Statement.**

**§157.47. Orders of the Hearing Officer.**

**§157.48. Notice and Hearing Date.**

**§157.49. Briefs.**

**§157.50. Evidence.**

**§157.51. Documentary Evidence; Official Notice; Exhibits.**

**§157.52. Witnesses; Discovery; Depositions; Interrogatories.**

**§157.53. Summary Judgment.**

**§157.54. Subpoenas.**

**§157.55. Order of Procedure.**

**§157.56. Offer of Proof.**

**§157.57. Formal Exceptions.**

**§157.58. Corrections to the Transcript.**

**§157.59. Proposal for Decision.**

**§157.60. Filing of Exceptions and Replies in Response to a Proposal for Decision.**  
**§157.61. Decision.**

**§157.62. Motions for Rehearing.**  
**§157.63. Final Order.**

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 September 10, 1988.

TRD-8809717 W. N. Kirby  
Commissioner of Education

Proposed date of adoption: November 11, 1988

For further information, please call: (512) 463-9212

## Subchapter B. Specific Appeals to the Commissioner

### • 19 TAC §157.67

The amendment is proposed under Texas Civil Statutes, Article 6252-13a, §4(a)(1), which require each state agency to adopt rules of practice setting forth the nature and requirements of hearing procedures.

**§157.67. Hearings Held Pursuant to the Texas Proprietary School Act.**

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

(d) Other provisions.

(1) Petitions for Review, as described in §157.9 [§157.44] of this title (relating to Petition for Review), and answers, as described in §157.10 [§157.45] of this title (relating to Answers), are not required in cases brought under this section.

(2) Section [Section] 157.16 [157.59] of this title (relating to Proposals for Decision) and §157.60 of this title (relating to Filing of Exceptions and Replies in Response to a Proposal for Decision) is [are] not applicable to cases brought under this section.

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

Issued in Austin, Texas, on September 10, 1988.

TRD-8809711 W. N. Kirby  
Commissioner of Education

Proposed date of adoption: November 11, 1988

For further information, please call: (512) 463-9212

## Subchapter C. Appeals to the State Board of Education

### • 19 TAC §§157.71-157.76

*(Editor's note: The text of the following sections proposed for repeal will not be published. The sections may be examined in the offices of the*

*Texas Education Agency or in the Texas Register office, Room 503, Sam Houston Building, 201 East 14th Street, Austin.)*

The repeals are proposed under Texas Civil Statutes, Article 6252-13a, §4(a)(1), which require each state agency to adopt rules of practice setting forth the nature and requirements of hearing procedures.

**§157.71. Procedure for Appeal.**

**§157.72. Notice.**

**§157.73. Testimony and Evidence; Briefs; Issues.**

**§157.74. Dismissal.**

**§157.75. Decisions.**

**§157.76. Rehearing.**

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 September 10, 1988.

TRD-8809710 W. N. Kirby  
Commissioner of Education

Proposed date of adoption: November 11, 1988

For further information, please call: (512) 463-9212

## TITLE 22. EXAMINING BOARDS

### Part XXIII. Texas Real Estate Commission

#### Chapter 535. Provisions of the Real Estate License Act

##### • 22 TAC §535.165

The Texas Real Estate Commission proposes new §535.165, concerning disclosure of buyer or tenant agency by Texas real estate licensees. The new section would adopt by reference a mandatory disclosure form; a licensee representing a prospective buyer or tenant would be required to provide the form to a prospective seller or landlord upon face-to-face contact or upon the transmittal of written communication, whichever occurs first.

The new section would also obligate a licensee representing a prospective buyer or tenant to disclose that representation upon the first contact with a prospective seller or landlord and to retain a copy of the disclosure form signed by the seller or landlord or its representative. The new section would not apply to licensees acting as principals or to residential leases for one year or less where no sale is contemplated.

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

Mr. Moseley also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be the elimination of confusion as to which party a real estate licensee represents in a real estate transaction. The anticipated economic

cost to individuals who are required to comply with the section as proposed will be the cost of copies of the disclosure forms, estimated at \$5.00 per pad of 50 copies.

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

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

**§535.165. Disclosure of Buyer or Tenant Agency.**

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

(b) A real estate licensee representing a prospective buyer or tenant shall disclose to a prospective seller or landlord or its representative the licensee's relationship with the prospective buyer or tenant at the first contact regarding the transaction.

(c) The licensee shall provide the prospective seller or landlord, or its representative with a copy of the Agency Disclosure Form 2 upon the first of the following events:

(1) first face-to-face contact with prospective seller or landlord, or its representative; or

(2) first transmittal of written communication.

(d) The licensee shall retain a copy of Agency Disclosure Form 2 signed by the prospective seller or landlord or its representative in order to demonstrate compliance with this section.

(e) This section does not apply to a real estate licensee acting as a principal and not as an agent or to residential leases for one year or less where no sale is contemplated.

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

Issued in Austin, Texas, on September 14, 1988.

TRD-8809531 Mark A. Moseley  
Legal Counsel  
Texas Real Estate  
Commission

Earliest possible date of adoption: October 28, 1988

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

# TITLE 25. HEALTH SERVICES

## Part II. Texas Department of Mental Health and Mental Retardation

### Chapter 401. Systems Administration

#### Subchapter B. Interagency Agreements

##### • 25 TAC §401.45, §401.46

The Texas Department of Mental Health and Mental Retardation (TDMHMR) proposes new §401.45, concerning memorandum of understanding: coordination of services to disabled persons, which is being adopted by reference and §401.46, concerning memorandum of understanding: which is being adopted by reference, coordination of reviews of community center programs for the mentally disabled.

Section 401.45 is proposed pursuant to Senate Bill 298 passed by the 70th Texas Legislature, 1987, which requires the Texas Department of Human Services, Texas Department of Health, Texas Department of Mental Health and Mental Retardation, Texas Rehabilitation Commission, Texas Commission for the Blind, Texas Commission for the Deaf, and the Texas Education Agency to adopt by rule a memorandum of understanding to facilitate coordination of services to disabled persons. The memorandum of understanding clarifies the financial and service responsibilities of each agency in relation to disabled persons and addresses how each agency will share data relating to services delivered to disabled persons. Section 401.46 is proposed pursuant to Senate Bill 257 of the 70th Texas Legislature, which requires the TDMHMR to adopt by rule a memorandum of understanding with the Texas Commission on Alcohol and Drug Abuse, Texas Department of Health, Texas Department of Human Services, Texas Department of Aging, Texas Education Agency, Texas Rehabilitation Commission, and Texas State Board of Pharmacy concerning elimination of unnecessary or duplicative program reviews of community mental health and mental retardation centers unless such reviews are required to comply with federal funding requirements.

Sue Dillard, director, Office of Standards and Quality Assurance, has determined that for the first five-year period the proposed sections will be in effect, there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the sections.

Ms. Dillard also has determined that for each year of the first five years §401.45 is in effect, the public benefit anticipated will be the increased coordination of services to disabled persons and sharing of data related to service delivery. The anticipated public benefit of §401.46 is the assurance that reviews of community center programs serving the mentally disabled are not duplicative or unnecessary. There is no anticipated economic cost to individuals who are required to comply with the proposed sections.

Comments on the proposal may be submitted to Linda Logan, Rules Coordinator, TDMHMR, P. O. Box 12668, Austin, Texas 78711-2668, within 30 days of publication in the Texas Register.

The new sections are proposed under Texas Civil Statutes, Article 5547-202, which provide the Texas Board of Mental Health and Mental Retardation with rulemaking powers. §401.45. *Memorandum of Understanding: Coordination of Services to Disabled Persons.*

(a) TDMHMR adopts by reference as Exhibit B a joint memorandum of understanding with TDHS, TDH, TRC, the Texas Commission for the Blind, the Texas Commission for the Deaf, and TEA, concerning the coordination of services to disabled persons. The memorandum clarifies financial and service responsibilities of each agency in relation to disabled persons and addresses how each agency will share data relating to services to disabled persons.

(b) Copies of this memorandum of understanding are filed in the Office of Standards and Quality Assurance, TDMHMR, 909 West 45th Street, Austin, Texas 78756, and may be reviewed during regular business hours.

§401.46. *Memorandum of Understanding: Coordination of Reviews of Community Center Programs for the Mentally Disabled.*

(a) TDMHMR adopts by reference as Exhibit C a joint memorandum of understanding with TCADA, TDH, TDHS, TDOA, TEA, TRC, and TSBP concerning elimination of unnecessary or duplicative program reviews of community mental health and mental retardation centers, unless such reviews are required to comply with federal funding requirements.

(b) Copies of this memorandum of understanding are filed in the Office of Standards and Quality Assurance, TDMHMR, 909 West 45th Street, Austin, Texas 78756, and may be reviewed during regular business 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 September 20, 1988

TRD-8809677

Pattilou Dawkins  
Chairman, Texas Board of  
Mental Health and  
Mental Retardation  
Texas Department of  
Mental Health and  
Mental Retardation

Earliest possible date of adoption: October 28, 1988

For further information, please call: (512) 465-4670

◆ ◆ ◆  
Chapter 402. Client Assignment  
and Continuity of Services  
Subchapter F. Continuity of

## Services-Mental Retardation Campus-Based Components

### • 25 TAC §§402.201-402.222

The Texas Department of Mental Health and Mental Retardation (TDMHMR) proposes new §§402.201-402.222, concerning continuity of services--mental retardation campus-based components, which is adopted by reference. The new subchapter is proposed contemporaneously with the proposed repeal of the subchapters it would replace, which are Chapter 405, Subchapter J, concerning criteria for placement of residents in community intermediate care facilities; and Chapter 405, Subchapter BB, concerning admissions, transfers, furloughs, and discharges--state schools for the mentally retarded; and Chapter 405, Subchapter DD, concerning continuity of care.

The subchapter was previously proposed in the January 5, 1988, issue of the *Texas Register* (13 TexReg 101), and was withdrawn in July 1988. The subchapter as currently proposed responds to public comment received on the earlier proposal.

The new subchapter reflects changes in the organizational and functional procedures of the department consistent with board policy, the settlement of *Lelsz v Kavanagh*, legislation, and the TDMHMR Client Assignment and Registration System.

Sue Dillard, director, Office of Standards and Quality Assurance, has determined that for the first five-year period the proposed sections will be in effect there will be no significant fiscal implications for state or local government or small businesses as a result of enforcing or administering the sections. The department acknowledges that fiscal costs associated with the requirements may necessitate the reallocation of existing resources.

Ms. Dillard 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 or administering the sections will be use of procedures that ensure that client placements are appropriate. There is no anticipated economic cost to individuals who are required to comply with the proposed sections.

Comments on the proposal may be submitted to Linda Logan, Rules Coordinator, Texas Department of Mental Health and Mental Retardation, P. O. Box 12668, Austin, Texas 78711.

These new sections are proposed under Texas Civil Statutes, Article 5547-202, §2.11, which provide the Texas Board of Mental Health and Mental Retardation with rulemaking powers.

§402.201. *Purpose.*

(a) The purpose of this subchapter is to establish criteria and procedures for:

(1) admission of a client to the campus-based component of a mental retardation (MR) facility; and

(2) continuity of services activities related to MR campus-based components.

(b) Interstate transfer of a client from an MR campus-based component in Texas to a residential facility in another state is governed by Chapter 403, Subchapter H, Interstate Transfer. §402.202. Application.

(a) This subchapter applies to all MR campus-based components of the Texas Department of Mental Health and Mental Retardation (TDMHMR) as defined in this subchapter.

(b) This subchapter applies to mental retardation authorities (MRAs) in the provision of continuity of services activities.

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

**Absence**—A period of time during which a client is physically away from a campus-based assignment and a return is expected. This term includes: absence for community hospitalization, absence for home visit, absence—special therapeutic, absence for temporary transfer to another component, absence for trial placement (see definition of community placement), absence for other.

**Adaptive behavior**—The effectiveness or degree with which the individual meets the standards of personal independence and social responsibility expected of the person's age and cultural group. A table of descriptions and illustrations of expected behavior has been developed by the American Association on Mental Deficiency (AAMD) to guide in determining adaptive behavior level. (See AAMD's *Classification in Mental Retardation*, 1983.)

**Admission**—Assignment of a client to an MR campus-based component.

**Assignment**—The identification of the location at which a client is receiving services. Assignments track client movements throughout the TDMHMR service delivery system. Clients may have multiple assignments; however, a client may not have two concurrent residential assignments.

**CARE**—The TDMHMR Client Assignment and Registration System.

**Community-based facility**—Any community-based facility, including facility community services, that provides supervision and habilitative services and includes residential services, in which the client is engaged in programs designed to improve the client's capabilities to optimally function or to maintain the client's present level of functioning (e.g., geriatric facilities).

**Community MHMR center**—An entity organized pursuant to the Texas Mental Health and Mental Retardation Act, Texas Civil Statutes, Articles 5547-203, as amended, which provides mental retardation services. The term does not include facility community services.

**Community placement**—The movement of a client from an MR campus-based component to a community-based facility. For the purposes of this subchapter, the term will be used for initial movement from the MR campus-based component to the community-based facility if the return of the client is not expected; and for the movement of the client from an MR campus-based component to a community-based facility, following the initial movement, when reassignment to the MRA is accomplished. If the client is absent from the MR campus-based component for a trial community placement and return is expected (e.g., from a weekend visit to a group home), the absence is considered an absence for trial placement.

**Community support services**—A network of services to assist the client to remain in the community in lieu of or subsequent to placement in an MR campus-based component.

**Comprehensive diagnosis and evaluation (D & E)**—A study including a sequence of observations and examinations of a person leading to conclusions and recommendations formulated jointly, with dissenting opinions, if any, by a diagnostic and evaluation team. The study shall include, but not be restricted to, a social and medical history; medical, neurological, audiological, visual, educational, and appropriate psychological and sociological examinations; and an examination of the person's adaptive behavior.

**Continuity of services activities**—The activities designed to ensure coordination of services to the client, particularly between components within the TDMHMR system, to include: exchange of information pertinent to treatment/training, joint discharge planning, development of the community support plan, implementation of treatment recommendations and revisions, the obtaining of adequate resources to meet the client's needs, and other activities as outlined in the *TDMHMR Community Standards for Mental Retardation Services*.

**Discharge**—Discharge from an MR campus-based component when an MR client chooses to terminate association with TDMHMR or when an MR client is found to be ineligible for continued MR services.

**Developmental period**—The period of a person's life which begins at conception and extends to the age 18 years.

**Facility community services**—Community-based program of a facility.

**Guardian**—The person who, under court order, is the guardian of the person of another or is a limited guardian under the Texas Probate Code, §130A-O.

**Habilitation**—The process by which an individual is assisted to acquire and maintain those life skills which enable the person to cope more effectively with the demands of self and the environment and to raise the level of physical, mental, and social efficiency, and which is not limited to programs of formal, structured education and training.

**Individual program coordinator**—A single staff person as defined in the TDMHMR Community Standards for Mental Retardation Services representing the receiving community-based service (a community center or facility community service) and who:

(A) participates with staff of the MR campus-based component in joint planning regarding community-based services and the development of the community support plan;

(B) informs the facility treatment coordinator at the MR campus-based component of community resources and facilitates the coordination and development of community contacts and resources when necessary and practicable; and

(C) facilitates the delivery of services to the client as outlined in the *TDMHMR Community Standards for Mental Retardation Services* to include monitoring and coordination of the overall treatment plan and treatment recommendations.

**Interdisciplinary team (IDT)**—A group of persons as outlined in the *Interdisciplinary Team Staffing Procedures in Mental Retardation Programs: Guidelines and Recommendations* of TDMHMR.

**Involuntary admission**—The placement of a mentally retarded person pursuant to a court order in a TDMHMR MR campus-based component for services.

**Legally adequate consent**—Consent given by a person when each of the following conditions has been met:

(A) Legal capacity. The person giving the consent is of the minimum legal age and has not been adjudicated incompetent to manage his personal affairs by

an appropriate court of law (i.e., does not have a court-appointed guardian for this purpose).

(B) Comprehension of information. The person giving the consent has been informed of and comprehends the nature, purpose, consequences, risks, and benefits of and alternatives to the procedure, and the fact that withholding or withdrawal of consent shall not prejudice the future provision of care and services to the client.

(C) Voluntariness. The consent has been given voluntarily and free from coercion and undue influence.

Local service area—A geographic area composed of one or more Texas counties delimiting the population which may receive services from an MRA.

Mental retardation—A condition characterized by significantly subaverage general intellectual functioning existing concurrently with deficits in adaptive behavior and originating during the developmental period.

Mental retardation authority (MRA)—A component of the TDMHMR service delivery system designated by the department to direct, operate, facilitate, or coordinate MR services delivery for a local service area. Unless otherwise specified, MRA refers to the MRA serving the client's county of residence (see Exhibit A in §402.220 of this title, (relating to Exhibits)).

Mental retardation (MR) campus-based component—A program composed of residential services provided for clients on the grounds of a state school or state center providing long-term residential services.

Mental retardation services—Programs and assistance for persons with mental retardation which may include, but shall not be limited to, diagnosis and evaluation, education, special training, supervision, care, treatment, rehabilitation, residential care, and counseling, but shall not include those services or programs which have been explicitly delegated by law to other state agencies.

Parent—For the purpose of complying with §402.218 of this title (relating to Review Procedures Concerning Return to MR Campus-Based Component), parent includes:

(A) The natural or adoptive mother and father of a client, but does not include a parent as to whom the parent-child relationship has been legally terminated, and does not include the parent of a

client who is competent.

(B) A family member or advocate if there is one who acts in behalf of the client instead of the mother or father and is listed as the primary correspondent for the client, and does not include the family member or advocate of a client who is competent.

(C) A legally appointed guardian of the client.

(D) A legally appointed managing conservator of the client.

Resident of the state—

(A) A person who physically resides in Texas, who intends to remain in Texas indefinitely or who has no present intention to leave, and who is able to show that residence in any other state other than Texas has been abandoned;

(B) A person who has established residency in Texas, but is temporarily absent from the state;

(C) A minor whose parent or legal guardian is a resident of Texas;

(D) An adult whose legal guardian is a resident of Texas; or

(E) A military dependent who is a minor and whose parents' residence of record is Texas.

Register for MR campus-based component (RCBC)—A statewide listing of applicants who have been recommended by a certified D & E team or IDT for assignment to an MR campus-based component. The CARE system retains the date the client was initially placed on the register, the status (active or temporarily deferred), and the date the status was established or the last date the status changed.

Respite—The assignment to an MR campus-based component of a client to provide special assistance or relief to the client or the client's family for a brief period of time.

Service district—County or counties for which an MR campus-based component has responsibility to serve individuals residing in that area.

TDMHMR service system—All campus-based facilities and community-based services operated or contracted by TDMHMR.

Transfer/Reassignment—The movement of a client between MR campus-based components, or from an MR campus-based component to a community-based facility with the intent of permanent relocation and reassignment within the TDMHMR service delivery system.

§402.204. Admission Application Process. Except as provided in §402.208 of this title (relating to Requirements for Regular Admission), §402.209 of this title (relating to Requirements for Emergency Admission), and §402.210 of this title (relating to Requirements for Respite Admission), a person may be admitted or committed to an MR campus-based component only if an application package is completed.

(1) Any person may initiate an application for admission, but the application procedure must be completed by the competent adult applicant, the parent of a minor, a guardian, or by a court order of commitment. The application form is available from the MRA, which is responsible for facilitating and/or providing direct assistance in its completion.

(2) A completed application package must include:

(A) application forms, referred to in §402.220 of this title (relating to Exhibits) as Exhibit B (signed by the legally responsible party). All CARE forms will be entered into the CARE system;

(B) a statement by the person making application specifying the reasons placement is sought;

(C) a photograph of the applicant, which must be current within 90 days of receipt of the application package;

(D) a medical history form, including immunization record;

(E) a duplicate or copy of applicant's social security card;

(F) a copy of the applicant's birth certificate;

(G) a copy of legal documents concerning the custody of the applicant (e. g., copy of divorce papers, letters of guardianship, letters of managing conservatorship), if applicable;

(H) a copy of legal documents concerning mental retardation commitment, if applicable, or a legally adequate consent for admission;

(I) the applicant's education

records, to include admission, review and dismissal (ARD) reports, if applicable;

(J) a comprehensive diagnosis and evaluation (D & E) report which must be current within 90 days of receipt of the application package, and which concludes that the applicant is a person with mental retardation and is in need of MR campus-based services; and

(K) documentation by the D & E team outlining the determination that MR campus-based services are the least restrictive and most appropriate services for the client (as outlined in Chapter 402, Subchapter C, relating to Determination of Least Restrictive Environment--Mental Retardation Services), including the documentation that this determination is based on the consideration of relevant community-based resources.

*§402.205. Eligibility Determination for Admission to an MR Campus-Based Component.*

(a) Except as provided in §402.208 of this title (relating to Requirements for Regular Admission), §402.209 of this title (relating to Requirements for Emergency Admission), and §402.210 of this title (relating to Requirements for Respite Admission), a determination of eligibility for admission shall be made by the MRA and shall meet the following requirements. MR campus-based components will admit based on appropriateness and space availability. Any conflict which results in an inability to agree on an eligibility determination will be reviewed and resolved by the deputy commissioner for Mental Retardation Services or designee.

(1) The determination of eligibility will be based on a review of a complete, current application package to include the determination by the D & E team that MR campus-based services are the least restrictive and most appropriate for the client.

(2) The applicant must have a diagnosis of mental retardation as determined by a comprehensive D and E team.

(3) Ordinarily, only those applicants determined by a comprehensive D and E team to possess a measured IQ of more than three standard deviations below the mean of a standardized psychometric instrument, existing concurrently with an adaptive behavior level of II, III, or IV, are eligible for MR campus-based admission. The determination of eligibility for MR campus-based services for those persons who possess a measured IQ of two, but not more than three, standard deviations below the mean of a standardized psychometric instrument, existing concurrently with an adaptive behavior level of II, III, or IV, will be made only when the MRA provides documentation which outlines the determination by the D and E team of the least

restrictive environment (as outlined in Chapter 402, Subchapter G, the Determination of Least Restrictive Environment--Mental Retardation Services) and specifically addresses the consideration of relevant community-based services.

(4) There must be verification that the application is made to the MR campus-based component serving the county of residence of the competent adult applicant, the parent of a minor applicant, or the court-appointed guardian of the applicant. If there are compelling reasons for seeking placement elsewhere, programmatic justification for seeking such placement shall be documented in the record, and shall be submitted for approval to the deputy commissioner for Mental Retardation Services or designee.

(b) Immediately following review of the application package for applicants who are eligible for MR services, but who are determined to be not eligible for regular admission to an MR campus-based component, the MRA will ensure notification of the competent adult applicant, the parent of a minor applicant, the court-appointed guardian of the applicant, or the court of:

(1) the determination of ineligibility for regular admission to an MR campus-based component; and

(2) the determination of eligibility for other MR services, to include emergency and/or respite admissions when space is available and other community support services which are available to the applicant.

(c) Immediately following review of the application package for applicants recommended for admission to an MR campus-based component, the MRA will ensure the notification of the competent adult applicant, the parent of a minor applicant, the court-appointed guardian of the applicant, or the court of:

(1) the determination of eligibility for MR campus-based services;

(2) the nature of the register for assignment to an MR campus-based component and the process for placement on the register;

(3) the current space and program availability and whether or not a date for admission can be projected; and

(4) other services available to the applicant while awaiting placement.

(d) Following determination of eligibility, the MRA will retain the completed admission application package and documentation related to the determination of eligibility.

(e) Any client with mental retardation residing in a state hospital who no longer requires the mental health services provided by the hospital shall be discharged and reassigned as outlined in TDMHMR

guidelines.

(1) In addition, at the request of a receiving MR campus-based component, TDMHMR will designate an MR campus-based component admissions committee to conduct a review of a proposed admission to include a review of the client's records, including injury and incident reports, social and medical histories, progress notes, and other pertinent documents, and interviews with staff, as needed.

(2) The committee shall submit its recommendations to the deputy commissioner for Mental Retardation Services for final determination and approval for admission to an MR campus-based component. *§402.206. Register for MR Campus-Based Component (RCBC).*

(a) The register for MR campus-based component will be maintained through the CARE system and will consist of data for all applicants who are not currently assigned to an MR campus-based component and who are recommended for admission to MR campus-based component by a certified D and E team or an IDT. The register may be accessed at any time by any component within the TDMHMR system through the CARE system.

(b) All applicants listed on the RCBC are eligible for consideration for admission to any MR campus-based component which serves individuals of the specific age and functional level of the applicant. Consideration for admission shall be governed by the following factors:

(1) the determination that the applicant's county of residence is within the service district of the receiving MR campus-based component;

(2) the determination that the MR campus-based component to which the applicant will be admitted meets the requirements outlined in Chapter 402, Subchapter G, (Determination of the Least Restrictive Environment--Mental Retardation Services);

(3) a history of previous placement in an MR campus-based component if the applicant meets the criteria for eligibility as outlined in §402.205 of this title (relating to Eligibility Determination for Admission to an MR Campus-Based Component);

(4) current placement in a state hospital if the applicant is no longer in need of the mental health services in the hospital and meets the criteria for eligibility as outlined in §402.205 of this title (relating to Eligibility Determination for Admission to an MR Campus-Based Component);

(5) the date on which the applicant's name was entered on the RCBC.

(c) For each vacancy, the MR campus-based component will communicate the vacancy to the appropriate MRA(s). The MRA will access CARE to determine ap-

propriate applicants for space available. All appropriate applicants from the MR campus-based components service district will be reviewed.

(1) The MRAs will send admission application packages to the MR campus-based component within two weeks of notification of vacancy.

(2) The MR campus-based component will review packages within two weeks of receipt to determine if the available programs and services meet the needs of the applicants.

(d) Any conflict which results in an inability to agree on eligibility determination or appropriateness of space available will be reviewed and resolved by the deputy commissioner for mental retardation services or designee.

(e) For applicants selected by the MR campus-based component, it shall be the responsibility of the MR campus-based component to contact the MRA and communicate the decision. The MRA shall contact the applicant to communicate the decision and to inform the applicant that the applicant will be contacted by the MR campus-based component regarding scheduling of the admission to include preadmission activities.

(f) For applicants selected by the MR campus-based component, it shall be the responsibility of the MR campus-based component to schedule preadmission and admission activities and to communicate such scheduling to the MRA and the applicant.

(g) The MR campus-based component will notify the MRA of applicants not selected by the MR campus-based component for admission and there shall be no change in the applicant's status on the RCBC.

(h) At least annually, from the date the determination of eligibility was made, the MRA staff shall update the CARE forms within the admission application package for all applicants from the MRA's local service area and enter the updated information into the CARE system. This shall be accomplished through contact with each competent adult applicant, parent of a minor applicant, court-appointed guardian of the applicant, court, or other assisting agency.

(1) In updating the application package the following shall be determined:

(A) whether the applicant is still recommended for placement in an MR campus-based component. If the applicant is receiving services, this determination should be accomplished through review of the documentation in the annual review by the client's interdisciplinary team regarding currency of the client's D and E as required in §402.647 of this title (relating to Mini-

mum Components of a Comprehensive Diagnosis and Evaluation);

(B) whether there have been significant changes in the characteristics of the applicant, and if so, what they are; and

(C) whether home and/or community conditions have been altered to the extent that the status of the applicant on the RCBC should be changed.

(2) Failure of the competent adult applicant, parent of a minor applicant, court-appointed guardian of the applicant, or the court to reply within 90 days to the request to update the application shall result in a change accomplished by the MRA of the applicant's status to deferred temporarily/temporarily suspended pending update. Every possible effort, within legal limitations, shall be made to obtain updated information prior to changing an applicant's status to deferred temporarily/temporarily suspended pending update.

(3) If the applicant's status is deferred temporarily/temporarily suspended pending update, the MRA will attempt to contact the applicant at least quarterly for two consecutive years. If the applicant cannot be contacted for two consecutive years, status will be permanently deferred and the recommendation for admission to an MR campus-based component will be deleted through the CARE system. Permanently deferred status requires that future requests for admission to an MR campus-based component be initiated as a new request.

(i) The deputy commissioner for mental retardation services shall establish a system for monitoring the RCBC to ensure placements are made in accordance with related client rights and TDMHMR priorities.

§402.207. *General Requirements for Admission.*

(a) TDMHMR shall operate in compliance with the United States Civil Rights Act of 1964 as amended.

(b) Neither voluntary admission nor court commitment to an MR campus-based component shall be considered an adjudication of mental incompetency.

(c) MR campus-based components will admit persons based on a review of information provided by the MRA, a determination of appropriateness of the admission by the MR campus-based component, and the space available. The admission shall not cause the MR campus-based component to exceed its rated bed capacity for the dormitory of placement.

(d) The MRA will ensure the communication of all relevant client information to the MR campus-based component at the time of review for admission to the MR campus-based component and at the time of admission to the MR campus-based compo-

nent, as outlined in this subchapter and in the *TDMHMR Community Standards for Mental Retardation Services*.

(e) All admissions, readmissions, changes in admission status, and/or renewals of admissions require the prior review and approval of the deputy commissioner for mental retardation services or designee.

(f) All clients shall be screened by the MRA, prior to admission, to determine if a less restrictive community-based program is available and appropriate as outlined in Chapter 402, Subchapter G, (Determination of Least Restrictive Environment--Mental Retardation Services). When admission is the result of an involuntary commitment the screening may take place following the commitment procedure if arrangements with the court for screening prior to the proceedings have not been made.

(g) No person shall be admitted for services which can be appropriately provided in an available less restrictive environment.

(1) Mental retardation nonresidential services, including comprehensive diagnosis and evaluation services, may be provided without obtaining a legally adequate consent, if all reasonable effort to obtain a legally adequate consent has been demonstrated and documented prior to the provision of services as follows:

(A) when the client is a minor and has a parent or legally appointed guardian of his/her person or managing conservator, or is an adult with a legally appointed guardian of his/her person who cannot be located or does not respond to the request for consent;

(i) it is documented in the client record that a certified letter requesting consent has been sent to the last known address and has been returned undeliverable; or

(ii) it is documented in the client record that a certified letter requesting consent has been sent to the last known address and a receipt has been returned, and no response to the letter has been received for at least 14 days following the date of the receipt;

(B) When the client is an adult and has no legal guardian, all steps taken to establish a person who could give legally adequate consent are documented in the client record. It is also documented in the client record that a written procedure approved in writing by the superintendent or executive director to determine if the client is competent to give legally adequate consent has been implemented, and that on that basis it has been determined that the client is not competent to give legally adequate consent; or



(C) When the client is a minor and has no parent, guardian of the person, or managing conservator, there shall be documentation in the client record of all steps taken to establish a person who could give legally adequate consent.

(h) The process for determination of eligibility shall be completed as outlined in §402.205 of this title (relating to Eligibility Determination for Admission to an MR Campus-Based Component).

(i) The application process shall be completed as outlined in §402.204 of this title (relating to Admission Application Process).

(j) Following admission, at least annually the IDT will review the client's treatment/program plan to determine whether or not continued assignment to the MR campus-based component is in the client's best interest and whether the MR campus-based component continues to meet the requirements outlined in Chapter 402, Subchapter G, (Determination of the Least Restrictive Environment--Mental Retardation Services).

(1) The MRA will be invited to participate in such reviews.

(2) The client, parent of a minor, or legal guardian will also be invited to participate in such reviews and such participation shall be documented as well as the signature of all participants. Participants shall:

(A) assist in the updating of information regarding identified needs for services;

(B) assist in the program planning process;

(C) assist in updating information regarding appropriate community-based services; and

(D) assist in the development of a community support plan, if applicable.

(3) Annual staffings should be scheduled in coordination with the client, the client's family, and the MRA, to facilitate their participation. The MR campus-based component has the responsibility to invite and encourage the participation of the client, the client's family or legal guardian(s), and staff of the client's MRA in annual staffing reviews.  
*§402.208. Requirements for Regular Admission.*

(a) The following requirements shall be met for voluntary regular admission:

(1) The comprehensive D and E must be current within 90 days. If not, the MR campus-based component shall immediately request that the MRA initiate action

to have the comprehensive diagnosis and evaluation report updated. If the update determines that admission is no longer appropriate for the applicant, the MRA shall notify the MR campus-based component of the updated findings and shall update the CARE forms within the admission application package which are referred to in §402.220 of this title (relating to Exhibits) as Exhibit B. The MRA shall also notify the applicant of the updated findings and assist the applicant in obtaining other available services, as appropriate. If the update indicates continued recommendation for assignment to an MR campus-based component by the D and E team, the MRA will forward the updated reports to the MR campus-based component with the vacancy for continued consideration for admission as appropriate; and

(2) The MRA has ensured that the applicant, the parent of a minor, court-appointed guardian, or legal representative, as appropriate, has been counseled on the relative advantages, disadvantages, and temporary nature of the admission, has had an opportunity to tour the MR campus-based component, and is familiar with the services offered. This is documented in the client record.

(b) The following requirements shall be met for court-ordered commitment admissions.

(1) A comprehensive D and E must have been performed or updated within six months prior to the date of the court hearing, except as outlined in §402.209 of this title (relating to Requirements for Emergency Admission). The D and E should be performed in a community setting by the MRA whenever possible.

(2) On receipt of a juvenile court order committing a child alleged or found to have engaged in delinquent conduct or conduct indicating a need for supervision, and who is also determined by a comprehensive D and E team to exhibit a significantly subaverage general intellectual functioning of 2.5 or more standard deviations below the age group mean for the test used existing concurrently with deficits in adaptive behavior of levels I-IV, the child shall be committed to the jurisdiction of the Texas Department of Mental Health and Mental Retardation in accordance with the Texas Family Code, §55.03, for placement in a residential facility that offers programming and training appropriate to meet the needs of the child. Placement in a community-based program which would meet the needs of the child will be considered prior to admission to an MR campus-based component.

(3) Upon receipt of a county court order of protective custody of a person believed to have mental retardation who is likely to cause injury to self or others if not immediately assigned to a residential placement, the MRA shall:

(A) consider community-based programs to evaluate if such would meet the needs of the person, prior to consideration of placement in an MR campus-based component;

(B) facilitate the admission of the client to an MR campus-based component when space is available in accordance with §402.209 of this title (relating to Requirements for Emergency Admission);

(C) refer the court order to the deputy commissioner for Mental Retardation Services or designee for designation of an alternate MR campus-based component if the admission would cause the MR campus-based component to exceed the rated bed capacity of the dormitory placement; and

(D) facilitate the discharge of the person within 20 days from the date of admission if the court has not issued further orders, provided, however, that the superintendent shall make a determination that the person is not dangerous to self or others. If it is determined that the person is dangerous to self or others, the superintendent shall so advise the court that issued the order for protective custody prior to discharge.

(4) At the time that a client who was voluntarily admitted to an MR campus-based component as a minor approaches the age of majority and is determined to be in continued need of assignment to an MR campus-based component, the superintendent shall take action to ensure that at majority one of the following is accomplished.

(A) The superintendent shall obtain legally adequate consent for voluntary admission to the MR campus-based component from the client, if a competent adult, or from a person appointed by the court who has guardianship of the person of the client.

(B) The superintendent shall file or cause to be filed an application for court-commitment with the county clerk of the county in which the MR campus-based component is located. Such application for court-commitment shall be accompanied by a comprehensive D and E report performed or updated within six months prior to the date of the court hearing. The application must be executed under oath and shall set forth the following:

(i) the name, birthdate, sex, and residence address of the person;

(ii) the name and residence address of the person's parent or guardian;

(iii) a brief and specific statement of the facts explaining that con-

tinued services in an MR campus-based component are necessary and appropriate; and

(iv) a brief and specific statement explaining the inappropriateness of admission to less restrictive services.

(c) The following additional requirements shall be met for both voluntary admissions and court-ordered commitment admissions.

(1) The applicant, the parent of a minor applicant, or the court-appointed guardian of the person of the client, as appropriate, and the MR campus-based component shall develop and document in the client record a written statement signed by the representative of the MR campus-based component, the applicant, parent of a minor, or court-appointed guardian delineating the:

(A) specific skills or assistance needed;

(B) proposed goals of the placement;

(C) estimated time period necessary to achieve the goals of the placement; and

(D) participation of the client, the parent of a minor, or court-appointed full guardian, as appropriate, in the development of the individual program plan.

(2) The admission shall be on a time-specific basis.

(3) There is verification that the primary beneficiary of the placement is the proposed client.

*§402.209. Requirements for Emergency Admission.*

(a) Emergency admission requires that:

(1) following application by any person, the request for admission for emergency placement shall be completed by the MRA, and the competent adult applicant, parent of a minor, or court-appointed guardian. If an MR campus-based component directly receives a request for respite admission, the MR campus-based component will contact the MRA regarding the request. The MRA will determine the appropriateness of the request. The MR campus-based component may then facilitate the application process and incorporate into the documentation input from the MRA;

(2) the applicant, if competent, the parent of a minor, or the court-appointed guardian, as appropriate, and the MRA shall complete an application for respite or emergency admission, which is referred to in §402.220 of this title (relating to Exhibits) as Exhibit C; and

(3) the MRA shall include with the application the following documentation:

(A) persuasive documentary evidence that the applicant is a person with mental retardation;

(B) documentation that the person is in need of specific short-term services, care, treatment, or training, and there is substantial probability that the person will achieve the goals and objectives of the emergency placement within the time period allowed;

(C) verification that the primary beneficiary of the admission for emergency placement is the proposed client;

(D) an agreement with the client, parent of a minor, or legal guardian that the placement is for a specified period of time;

(E) completion of a comprehensive D and E within 90 days of the emergency admission. If a D and E cannot be accomplished or updated prior to admission, a comprehensive D and E is performed within 30 days following admission by the MR campus-based component. If it is found that the person is no longer eligible for admission, the person is to be discharged in accordance with §402.217 of this title (relating to Additional Requirements Specific to Type of Discharge); and

(F) documentation that the emergency admission has been reviewed and approved by the deputy commissioner for mental retardation services or designee.

(b) Emergency placements may be made for a maximum period of six months and are renewable in succession only once. Renewal requires:

(1) that compliance with the criteria and procedures in subsection (a) of this section is continued;

(2) that the superintendent determines that relief or assistance may be provided in the extension period; and

(3) that the parties to the original emergency admission consent to the extension.

(c) If the renewal is not permitted, the MR campus-based component shall notify the MRA and the client to be discharged or reassigned prior to the end of the initial emergency placement period.

(d) There is no limit to the number of emergency placements that a client may have, except that each placement must be made in accordance with provisions of subsections (a) and (b) of this section.

*§402.210. Requirements for Respite Admis-*

*sion.*

(a) Respite admission requires that:

(1) following application by any person, the request shall be completed by the MRA, and the competent adult applicant, parent of a minor, or court-appointed guardian. If an MR campus-based component directly receives a request for respite admission, the MR campus-based component will contact the MRA regarding the request. The MRA will determine the appropriateness of the request. The MR campus-based component may then facilitate the application process and incorporate into the documentation input from the MRA;

(2) the competent adult applicant, parent of a minor, or the guardian of the person, as appropriate, and the MRA shall complete an application for respite or emergency admission, which is referred to in §402.220 of this title (relating to Exhibits) as Exhibit C; and

(3) the MRA shall include with the application the following documentation:

(A) persuasive documentary evidence that the applicant is a person with mental retardation;

(B) the documented urgent need by the client and/or family/court-appointed guardian for assistance or relief;

(C) documentation stating the benefits to be obtained during the respite admission;

(D) documentation that there is substantial probability that the person will achieve the goals and objectives of the respite placement within the time period allowed;

(E) an agreement with the client, parent of a minor, or legal guardian that the placement is for a specified period of time; and

(F) documentation that the respite admission has been reviewed and approved by the deputy commissioner for mental retardation services or designee.

(b) Respite placement will be for a maximum period of 30 days and is renewable in succession only once. Renewal of respite placement requires:

(1) that compliance with the criteria and procedures in subsection (a) of this section is continued;

(2) that the superintendent determines that relief or assistance may be provided in the extension period; and

(3) that the parties to the origi-

nal respite admission consent to the extension.

(c) If the renewal is not permitted, the MR campus-based component shall notify the MRA and the client prior to discharge or reassignment and the client shall be immediately discharged at the end of the initial respite period.

(d) There is no limit to the number of respite placements a client may have, except that each placement must be made in accordance with provisions of subsections (a) and (b) of this section.

*§402.211. Reassignment Between MR Campus-based Components.*

(a) Requests for reassignment between MR campus-based components may be made by the client, if legally competent, the parent of a minor, the court-appointed guardian, or the client's interdisciplinary team. If a client is legally competent, but determined by the IDT not to be factually competent, the request for transfer from the client will be evaluated on an individual basis by the IDT.

(b) Reassignment between MR campus-based components requires that:

(1) the requirements as outlined in Chapter 402, Subchapter G, (Determination of the Least Restrictive Environment--MR Services) shall be met;

(2) a request for reassignment, which is referred to in §402.220 of this title (relating to Exhibits) as Exhibit D shall be completed by the client, if competent, parent of a minor, or court-appointed guardian, or the superintendent or designee, of the MR campus-based component where the client is currently placed; and

(3) the client and the client's parents or guardian shall be given at least 30 days' notice of the proposed reassignment, along with an invitation to participate in the interdisciplinary team meeting to consider the proposal, and shall be informed of the right to an administrative hearing for the purpose of contesting the proposed reassignment, in accordance with the Mentally Retarded Persons Act, Texas Civil Statutes, Article 5547-300, §42.

(c) If the decision to seek a reassignment is made, a reassignment package consisting of the following shall be prepared and forwarded to the destination MR campus-based component:

- (1) the request for reassignment;
- (2) a completed reassignment data form, which is referred to in §402.220 of this title (relating to Exhibits) as Exhibit E;
- (3) the client's current treatment/program plan;
- (4) documentation outlining the determination of least restrictive environment (see Chapter 402, Subchapter G, Determination of Least Restrictive

Environment--Mental Retardation Services);

(5) a copy of the most recent D and E; and

(6) the most recent monthly program review from the client's record.

(d) Upon receipt of the reassignment package, the destination MR campus-based component shall complete the reassignment data form and return it to the requesting MR campus-based component.

(e) If the destination facility can accept the client immediately, a reassignment date shall be established and necessary CARE forms shall be completed. The following records shall be duplicated to accompany the client to the destination MR campus-based component:

(1) original admission application packet see §402.204 of this title, (relating to Admission Application Process);

(2) photograph recent within one year;

(3) most recent health care information, including:

(A) dental records--initial assessment and current progress notes;

(B) medical consultation and medical evaluations within past year (including, but not limited to, X-ray, EEG, EKG) and any other significant medical consultations and medical evaluations;

(C) physical examination to include vision and hearing screening;

(D) immunization record;

(E) seizure record, if applicable;

(F) occupational therapy evaluation;

(G) physical therapy evaluation;

(H) nursing assessment, if present;

(I) weight and height record;

(J) medication, diet, and treatment record for most recent quarter;

(K) medical, medication, and dietary history; and

(L) laboratory results obtained during past 12 months;

(4) most recent diagnostic records forms;

(5) a copy of the original social history and social history summary;

(6) complete psychological current within three years plus any update psychological reports;

(7) most recent staffing and monthly reviews since most recent staffing;

(8) current treatment/program plan, current specific program objectives, and activity plans, and progress notes for most recent month;

(9) incident reports and observation notes for most recent quarter;

(10) discharge/reassignment program summary as outlined in §402.216 of this title (relating to General Requirements for Discharge or Reassignment);

(11) a copy of the birth certificate; and any legal documents concerning the custody of the applicant (e.g., copy of divorce papers, letters of guardianship, letters of managing conservatorship), if applicable; and

(12) complete personal belongings inventory.

(f) In addition to the records listed in subsection (e) of this section, the following shall accompany the client on the date of reassignment:

(1) an adequate supply of prescribed medications to ensure that the client continues to receive medications as prescribed; and

(2) all personal belongings of the client.

(g) No reassignment will be completed until the requirements as outlined in the Mentally Retarded Persons Act, Texas Civil Statutes, Article 5547-300, §42 are met.

(h) The client's original records shall be retained by the original MR campus-based component as a permanent record.

(i) Interfacility disagreement concerning reassignment will be referred to the deputy commissioner for Mental Retardation Services or designee for resolution. *§402.212. General Requirements for Absences and Community Placements.*

(a) The MR campus-based component will notify the MRA regarding absences other than home visits, receipt of short-term services (i.e., less than 30 days), or unauthorized departures when no permanent community alternative is being considered. The MRA will have the opportunity to have input regarding such client absences (i.e., will give input regarding any other options/alternatives). This input will be documented in the client record.

(b) Copies of all documents devel-

oped by the destination facility, if applicable, during the absence period shall be placed in the client's unit record or master file (whichever is appropriate) at the MR campus-based component from which the client is absent. Information shall also be released to the MRA at the MRA's request. This will be accomplished in accordance with Chapter 403, Subchapter K, (Client-Identifying Information).

(c) Any contracts, agreements, or memoranda of understanding developed at the initiation of a client absence or community placement shall stipulate:

(1) that the MR campus-based component from which the client is absent or receiving the community placement shall have free access to all documents developed during the absence period or the community placement until reassignment to an MRA is accomplished;

(2) that the MR campus-based component from which the client is absent or receiving the community placement shall have the authorization to reproduce, summarize, or otherwise reflect the content of such documentation; and

(3) that such reproductions, summarizations, or other reflections of the content shall be placed in the client's unit record or master file (whichever is appropriate) at the MR campus-based component from which the client is absent or receiving the community placement.

(d) Clients may be absent to receive services outside the local service area of the MRA. There may be occasion when a time-limited specific placement for a specialized service is not available through the MRA. In such cases, the following must occur.

(1) The MRA of the client's county of residence must ensure the delivery of the specifically designated service (i.e., through contract, memorandum of agreement, etc.).

(2) The MRA where the client will be served must be notified by the MRA of the client's county of residence prior to the absence. If there is any disagreement between the two MRAs, the assistant deputy commissioner(s) for the MRAs involved shall be contacted to resolve the discrepancy.

(3) The MRA of the client's county of residence shall submit a copy of a community support plan which stipulates the reason for such placement to the assistant deputy commissioner serving the client's county of residence and shall obtain approval for the plan.

(4) The client's individual treatment/program plan shall be reviewed at least annually to determine the client's need to continue to receive services outside the service area of the MRA of the client's county of residence.

*§402.213. Requirements For Specific Types*

*of Absences.*

(a) If the absence is for the purpose of providing emergency medical, dental, or psychiatric services or examinations:

(1) a physician shall determine that the client is in need of immediate services that are not available at the MR campus-based component and this is documented in the client record;

(2) arrangements or agreements have been concluded for obtaining the necessary services elsewhere;

(3) there is documented evidence in the client record that the objectives of the absence are likely to be met through provision of services outside the MR campus-based component;

(4) legally adequate consent, if required, has been obtained and is documented in the client record;

(5) the MR campus-based component granting the absence shall transport the client to the destination facility in an appropriately equipped vehicle;

(6) the following shall accompany the client for the destination facility:

(A) legally adequate consent form (copy), if required;

(B) medical history (copy);

(C) immunization record (copy);

(D) weight and height record (copy);

(E) seizure record (copy);

(F) treatment and diet orders (copy);

(G) examination and assessment reports for medical, psychological, and social factors (copy);

(H) reports of laboratory tests conducted within the previous 30 days plus any additional significant reports conducted within the past year, including X-ray, EEG, EKG, etc. (copy);

(I) an adequate supply of the client's prescribed medication to ensure that the client continues to receive medications as prescribed;

(J) an adequate supply of clean, suitable clothing, and other personal items as appropriate;

(K) other data requested by

the destination facility; and

(L) any other data which would be beneficial or pertinent to optimum treatment of the client or as required by TDMHMR guidelines or directives; and

(7) for any client absent from an MR campus-based component to a state hospital, requirements as outlined in Texas Civil Statutes, Article 5547-300, §46, shall be met.

(b) If the absence is an absence for trial placement or for the purpose of providing the client with specific habilitation, training, care, treatment, or programs for particular needs of the client other than those areas addressed in subsection (a) of this section:

(1) The IDT shall determine that the client's needs cannot be met or services are not available at the MR campus-based component. This determination is documented in the client record, to include:

(A) a determination that the client is in need of the programs or assistance offered, and possesses the necessary skills and abilities to benefit from the proposed absence; and

(B) a determination that the benefit to be derived from the absence exceeds the benefit that would be derived from continuation of the client's existing program plan without interruption.

(2) The requirements as outlined in §402.215 (relating to Community Placement: Reassignment from MR Campus-Based Component to MRA) must be met.

(c) The following shall accompany the client to the destination facility:

(1) an adequate supply of the client's prescribed medications to ensure that the client continues to receive medication as prescribed;

(2) an adequate supply of clean, suitable clothing and other personal items, as appropriate;

(3) all appropriate special instructions for the client or others, which shall be furnished both in writing and orally prior to or at the time of departure; and

(4) a copy of the client's current treatment/program plan, specific program objectives, most recent month's progress notes, and most recent monthly reviews.

(d) If the purpose of the absence is for the client to visit relatives, guardians, or friends:

(1) the client's treatment/program plan must specify that such absences are in the best interest of the client;

(2) there must be no legal restrictions prohibiting the type of absence

proposed;

(3) documentation shall be made in the client's record specifying responsibility for the client during the absence period, the length of absence period, and the nature of the absence, which shall be developed by the individual or agency assuming responsibility for the client and by the MR campus-based component, with the cooperation and agreement of the client, as appropriate; and

(4) the following shall accompany the client upon departure:

(A) an adequate supply of prescribed medications, to ensure that the client receives prescribed medications without interruption;

(B) an adequate supply of clean, suitable clothing and of personal items, as appropriate; and

(C) any special instructions for the client or others, which shall be furnished both orally and in writing before or at the time of departure.

**§402.214. Requirements for Community Placement.**

(a) Each client who receives a community placement will be reassigned to the MRA serving the client's county of residence at the initiation of the community placement (see §402.215 of this title (relating to Community Placement Reassignment from MR Campus-Based Component to MRA)). The MRA shall ensure satisfactory transition of the client through involvement of the MR campus-based component staff, as appropriate.

(b) The requirements outlined in Chapter 402, Subchapter G, governing Determination of Least Restrictive Environment--Mental Retardation Services, shall be met. In addition, the MRA shall ensure that community placements are reviewed with staff from the community placement at intervals of at least 30, 60, and 90 days following placement, each 180 days thereafter for one year, and annually thereafter, or more often if indicated, and shall document this review in the client record. The review shall include the following determinations:

(1) whether there are known factors precluding eventual success or attainment of goals of the placement;

(2) whether the client continues to be eligible for the placement;

(3) whether the clients' needs are appropriately met in the community placement; and

(4) whether the placement continues to be the least restrictive environment for the client.

(c) For school-aged children, a representative of the local independent school

district in which the placement is located will be notified by the MRA staff of the community placement staffing and will be given an opportunity to participate.

(d) For school-aged clients, the educational service center serving the relevant independent school district in which the placement is proposed will be notified by the MRA and will be given the opportunity to assist in coordinating educational services with the local independent school district.

(e) Community placements which do not exceed six clients per facility are preferred.

(f) The requirements outlined in Chapter 402, Subchapter H, governing Placement Appeals Procedures--Mental Retardation Services, shall be met.

(g) The client, parent, and/or guardian shall be offered the opportunity to participate in an onsite preplacement visit to the community-based facility/alternate residential placement and have input regarding such. All reasonable steps will be taken to enable the client, parent, and/or guardian to visit a community placement prior to a final placement decision, except when the medical condition of the client precludes such a visit.

(h) If the MRA provides the community-based residential service, the MRA will have established a method for ongoing evaluation of the provision of services in compliance with applicable *TDMHMR Community Standards for Mental Retardation Services* and/or any other criteria determined by TDMHMR to be applicable.

(i) The MRA shall establish a signed contract or memorandum of agreement prior to the community placement which includes the establishment of a method for ongoing evaluation of the provision of services in compliance with applicable *TDMHMR Community Standards for Mental Retardation Services* and/or any other criteria designated by TDMHMR to be applicable if the community-based residential service is provided by other than the MRA.

(j) All clients shall be offered a comprehensive community support plan, appropriate and existing community support services, and continuity of services activities, as outlined in the *TDMHMR Community Standards for Mental Retardation Services*. Following the decision to initiate a community placement, the MR campus-based component shall initiate the development of a community support plan to be developed jointly by the MR campus-based component; the MRA serving the client's county of residence; the MRA who serves the local service area in which the client will be placed, if different; the program in which the client is being placed, if different; and the client, parent of a minor, or legal

guardian, as appropriate.

(1) If circumstances preclude joint meetings, the named persons should have consensus on the plan via telephone prior to reassignment. Such consensus shall be documented by the MRA staff, and by the MR campus-based component in the community support plan. Such documentation should include the names of all persons who developed the plan.

(2) The community support plan shall comply with the requirements as outlined in the *TDMHMR Community Standards for Mental Retardation Services*, and include:

(A) a statement of the client's needs;

(B) a list of treatment goals and objectives to meet identified needs;

(C) strategies to achieve identified goals and objectives;

(D) the identification of and input from the individual program coordinator assigned to provide continuity of services activities (as outlined in the *TDMHMR Community Standards for Mental Retardation Services*) as well as the MR campus-based component client program coordinator;

(E) the amount of medication to be dispensed by the MR campus-based component, if applicable;

(F) documentation that the client, parent of a minor, or legal guardian has participated in the development of the community support plan, noting agreement or rejection of the plan, with signature(s) on the plan, if face-to-face; and

(G) signatures of all staff participating in the development of the plan.

(k) The MRA shall have conducted an onsite inspection of the community-based facility/alternate residential placement if not provided by the MRA to include a review of the adequacy of services and the availability of services to meet the requirements as outlined in Chapter 402, Subchapter G of this title (relating to Determination of the Least Restrictive Environment) prior to community placement.

(l) Prior to the time of community placement, the MR campus-based component will ensure and document the transmittal of information necessary to ensure optimum treatment by the MRA. If the MRA serving the area in which the client is placed is not the county of residence MRA, the placement must be approved by the deputy commissioner for Mental Retarda-

tion Services or designee. The MRA of the client's county of residence will document the transmittal of this information to the MRA serving the area to which the client is placed. This information shall include at least the following:

- (1) client-identifying data;
- (2) client legal status;
- (3) the determined disability;
- (4) pertinent medical/medication information;
- (5) behavioral data; and
- (6) other pertinent treatment information.

(m) The MRA will ensure and document the transmittal of information regarding the treatment needs of the client to the physician who will be providing care to the client in the community.

(n) For all clients receiving community placement, an individual program coordinator as outlined in TDMHMR Community Standards for Mental Retardation Services will be assigned to the client prior to the placement as outlined in §402.220 of this title (relating to Exhibits) as Exhibits F and G.

(o) Each client who receives a community placement will be screened for case management services. All clients who are determined to require case management services, to include all class members designated in *Lelsz v Kavanagh* and all prospective payment program clients, will be assigned a case manager by the MRA unless such assignment is waived by the deputy commissioner for mental retardation services, and this waiver is documented in the client record. The MRA will ensure continuity of services activities and case management, as appropriate, as outlined in of the *TDMHMR Community Standards for Mental Retardation Services*.

(p) At the time of a community placement, the following requirements will be met:

- (1) an adequate supply of prescribed medications will be provided to ensure that the client continues to receive medications, as prescribed;
- (2) the client's personal belongings will be prepared to be transported;
- (3) all necessary financial arrangements and agreements will be concluded;
- (4) all appropriate special instructions for the client or others will be furnished in writing and orally prior to or at the time of departure;
- (5) the following records will accompany the client unless the client is being placed in his or her home:

- (A) a copy of birth certifi-

cate, if required by the destination facility;

(B) copies of any legal documents, if required by the destination facility;

(C) a copy of the client's Social Security card;

(D) a photograph current within one year;

(E) a copy of the immunization record;

(F) a copy of the height and weight record;

(G) a copy of the seizure record;

(H) a copy of the treatment and diet record;

(I) a copy of the most recent medical and dental examination;

(J) copies of all laboratory tests conducted within the past 30 days and any additional significant reports made within the past year (including X-ray, EEG, and EKG);

(K) copies of the physician's progress reports;

(L) a copy of the social history, the most recent psychological examination, and the community support plan; and

(M) any other data requested by the the destination facility.

(6) The MRA will ensure that MR campus-based component staff and/or staff from the MRA accompany clients to the community placement, other than their homes, and shall remain there for a reasonable period of time to encourage a satisfactory first day transition.

(q) TDMHMR will establish guidelines for regional monitoring of placements which will be accomplished in addition to the monitoring accomplished by the MRA.

(r) All clients in MR campus-based components as of December 7, 1984, and clients on regular admissions subsequent to that date will not be separated from the TDMHMR service system unless the conditions as outlined in §402.216 of this title (relating to General Requirements for Discharge) and in §402.217 of this title (relating to Additional Requirements Specific to Type of Discharge) are met.

(s) For clients who receive a community placement outside the service district of the MR campus-based component where the client has resided through a regular admission, and whose county of residence is outside the service district of the MR campus-based component where the client has resided through a regular admission, the following will occur. One hundred and eighty days following the initiation of the community placement, the MR campus-based component to which the client would return should any emergency admission or any other type of admission be deemed appropriate (see §402.219 of this title (relating to Administrative Review Procedure for Return to MR Campus-based Component)) will be the MR campus-based component serving the client's county of residence. Exceptions shall be approved by the deputy commissioner for mental retardation services or designee.

*§402.215. Community Placement: Reassignment From MR Campus-Based Component to MRA.* All clients will be reassigned by the MR campus-based component to the MRA at the time the community placement occurs.

(1) This reassignment does not constitute a separation from the TDMHMR service delivery system.

(2) Requirements as outlined in §402.216 of this title (relating to General Requirements for Discharge or Reassignment) must be met.

(3) Requirements as outlined in the Mentally Retarded Persons Act, Texas Civil Statutes, Article 5547-300, §38, must be met.

(4) The MRA shall ensure services to include continuity of services and case management activities as outlined in the TDMHMR Community Standards for Mental Retardation Services, to include assignment of an individual program coordinator to the client prior to reassignment as outlined in §402.220 of this title (relating to Exhibits) as Exhibits F and G.

*§402.216. General Requirements for Discharge or Reassignment.*

(a) For the purposes of this subchapter, the death of a client will not be considered a discharge and shall be recorded in the client record and documented in accordance with Chapter 405, Subchapter K, (Client Deaths).

(b) The MR campus-based component shall contact the MRA regarding all discharges/reassignments prior to discharge/reassignment. For discharge due to client death, this communication will be accomplished at the time of discharge.

(c) No client may be discharged/reassigned from an MR campus-based component unless a discharge/reassignment summary which complies with the requirements as outlined in the TDMHMR Community Standards for Mental Retardation

Services has been prepared by the interdisciplinary team and includes at the following:

(1) a statement that the client, parent of a minor, or guardian, has been counseled on the relative advantages and disadvantages of the discharge/reassignment;

(2) the date of discharge/reassignment;

(3) the reason for discharge/reassignment;

(4) a summary of findings of most recent evaluations to include the most recent D and E;

(5) a summary of services received by the client since the time of admission;

(6) a summary of the course of treatment/program effectiveness;

(7) diagnoses at admission and discharge/reassignment;

(8) any referrals made or instructions given to the client at discharge/reassignment, to include a copy of the community support plan, if applicable, naming the services the client requires in the new environment and the agency(s) responsible for provision; and

(9) signatures of the interdisciplinary team members and representatives of each agency providing community support services, or documentation of communication with the agency(s) regarding the discharge/reassignment.

(d) For court-committed clients, the court that issued the commitment order shall be promptly notified of all discharges.

(e) Requirements as outlined in Subchapter G, (Determination of Least Restrictive Environment--Mental Retardation Services) must be met.  
*§402.217. Additional Requirements Specific to Type of Discharge.*

(a) Discharge due to ineligibility for continued MR services.

(1) The findings and recommendations of a comprehensive diagnosis and evaluation performed within six months prior to the discharge date must indicate that the client is not a person with mental retardation.

(2) At least 30 days' notice must be given to the client, parent, or guardian that:

(A) the discharge is proposed due to ineligibility; and

(B) the client, parent or guardian has the right to request an administrative hearing for the purpose of contesting the findings and recommendations of the comprehensive diagnosis and evaluation

team, and the right to an independent D and E as outlined in Chapter 405, Subchapter Z, (Comprehensive Diagnostic and Evaluation Centers). A copy of the D and E report must be enclosed with the notice. Communication of these rights will be documented in the client record.

(b) Voluntary withdrawal from MR campus-based component services.

(1) Detention.

(A) No client voluntarily admitted to a MR campus-based component maybe detained more than 96 hours after the legally competent client, parents, if a minor, or guardian has requested discharge, unless the superintendent of the MR campus-based component:

(i) determines that the condition of the client or other circumstances are such that the client cannot be discharged without endangering the safety of the client or the general public; and

(ii) files or causes to be filed an application for judicial commitment in the county court of the county in which the MR campus-based component is located.

(B) If judicial commitment is sought, the superintendent of the MR campus-based component shall determine whether an order of protective custody should also be sought pending the outcome of the commitment application, and if so, whether the MR campus-based component or some other facility is the most suitable place for the client to be detained.

(2) Discharge. If no judicial commitment is sought in accordance with paragraph (1) of this subsection after the legally competent client, parents if a minor, or guardian has requested discharge, then the client shall be discharged within 96 hours of the time such request is received. Prior to such discharge, the MR campus-based component shall:

(A) counsel with the client and, as appropriate, the parent of a minor, or guardian, on the relative advantages and disadvantages of the discharge; and

(B) offer community support planning and community support services to include, but not be limited to, referrals and possible reassignment to the MRA for additional support services.

*§402.218. Review Procedures Concerning Return to MR Campus-Based Component.*

(a) The department shall provide an administrative review procedure governing:

(1) appeal of the continuation of a community placement. Except when a factually and legally competent adult wishes to remain in a community-based fa-

cility, the client, parent, guardian, or other representative may request the client's return from a community-based facility to the MR campus-based component from which the client came or to the MR campus-based component to which the client has been reassigned see §402.214(s) of this title (relating to Requirements for Community Placement); and

(2) appeal of the IDT recommendation for return to an MR campus-based component from a community placement. Except when a factually and legally competent adult wishes to return to the MR campus-based component, the client, parent, guardian, or other representative may request that the client remain in a community placement.

(b) The appeal should be sent to the head of the MRA, who will forward a copy to the head of the MR campus-based component.

(1) The appeal should be in writing and should contain:

(A) the names and addresses of the parents of the client;

(B) a short and plain statement of the action the requestor desires;

(C) a short and plain statement of the factual reasons why the requested action should be taken;

(D) any statutes or rules with bearing on the request; and

(E) the name and address of the person making the request and his or her relationship to the client.

(2) If the client, parent, guardian, or other representative needs assistance in putting the appeal in writing, the client, parent, guardian, or other representative may contact the Office of Client Services and Rights Protection, Central Office, and help will be provided to put the appeal in written form.

(3) Within 10 days of receipt of the appeal, a representative of the MRA with input from the head of the MR campus-based component involved will contact the requestor and attempt to resolve the situation. Pending resolution of the matter, no action will be taken regarding the client's assignment.

(c) If, after contact with the MRA, resolution cannot be attained, the client, parent, guardian, or other representative may request an administrative hearing by forwarding a copy of the appeal to the deputy commissioner for mental retardation services, who shall take action to provide an administrative hearing in accord with §402.288 of this title (relating to Appoint-

ment of a Hearing Officer); §402.289 of this title (relating to Access to Records); §402.290 of this title (relating to Prehearing Conference); §402.291 of this title (relating to Standard and Burden of Proof); §402.292 of this title (relating to Notice of Filing; Service of Notices; Certificate of Service); §402.293 of this title (relating to Representation of Parties); §402.294 of this title (relating to Notice of Hearing); §402.295 of this title (relating to Setting a Time and Place for the Administrative Hearing); §402.296 of this title (relating to Rules of Evidence; Official Notice; Witnesses; Transcription); and §402.297 of this title (relating to Final Decisions).

(d) In cases in which the client, parent, guardian, or other representative believes that the continued placement of the client in the community-based facility presents an existing or imminent danger to the life, health, or safety of the client or others, or has resulted in the continued deterioration of the client's ability to function in the residential setting, an emergency return review procedure shall be used instead of the administrative review and hearing procedure.

(1) The client, parent, guardian, or other representative should notify the head of the MRA of the region in which the community-based facility is located, the head of the MR campus-based component, and the head of the community-based facility where the client is currently residing, if applicable.

(2) Notification should be by telephone immediately after the parent, guardian, or other representative determines that the emergency provision should be used.

(3) The head of the MRA shall investigate the situation and make a decision concerning return within 24 hours of receipt of notification by the client, parent, guardian, or other representative. If the decision is not to return the client on an emergency basis, administrative review may be initiated by the client, parent, guardian, or other representative in accord with the procedures described in subsections (b) and (c) of this section.

(4) The decision of the head of the MRA shall be reviewed by the deputy commissioner for mental retardation services or designee within two days following the decision.

(e) Documentation. All appeals concerning return to MR campus-based components, administrative hearings, requests for emergency return, final dispositions, and other pertinent information shall be documented.

**§402.219. Quality Assurance Requirements.**

(a) All rules, policies, standards, and regulations established by TDMHMR, to include revisions to referenced rules, policies, standards, and regulations, shall be

met in the admission of clients to MR campus-based components and in the provision of continuity of services.

(b) *TDMHMR Interdisciplinary Team Staffing Procedures in Mental Retardation Programs: Guidelines and Recommendations*, adopted by reference in §402.220 of this title (relating to Exhibits) as Exhibit H, shall be met.

(c) All applicable external standards including, but not limited to, 42 Code of Federal Regulations 442, Subpart G, and the Texas Administrative Code, Title 40, Part I, Chapter 27, must be met.

**§402.220. Exhibits.** The following exhibits are herein adopted by reference and are available from the Texas Department of Mental Health and Mental Retardation, P. O. Box 12668, Capitol Station, Austin, Texas 78711:

(1) Exhibit A: Procedures and Criteria for Determining County of Residence.

(2) Exhibit B: Application for Admission.

(3) Exhibit C: Application for Respite or Emergency Admission.

(4) Exhibit D: Request for Reassignment.

(5) Exhibit E: Reassignment Data Form.

(6) Exhibit F: Criteria for Identifying Persons with Mental Retardation Most in Need of Case Management Services.

(7) Exhibit G: Clarification of Case Management for Persons Who Are Mentally Retarded.

(8) Exhibit H: *TDMHMR Interdisciplinary Team Staffing Procedures in Mental Retardation Programs: Guidelines and Recommendations*.

**§402.221. References.** Reference is made to the following statutes, departmental rules, and publications:

(1) Subchapter G of this chapter, (Determination of Least Restrictive Environment--Mental Retardation Services);

(2) Subchapter H of this chapter, (Placement Appeals Procedures--Mental Retardation Services);

(3) Subchapter H of Chapter 403, (Interstate Transfer);

(4) *Classification in Mental Retardation, American Association on Mental Deficiency*, 1983;

(5) Subchapter Z of Chapter 405, (Comprehensive Diagnostic and Evaluation Centers);

(6) Subchapter AA of Chapter 405, (Practice and Procedure with Respect to Administrative Hearings of the Department Arising Under the Mentally Retarded

Persons Act of 1977);

(7) Subchapter HH of Chapter 405, to (Restraint and Seclusion in Mental Retardation Facilities);

(8) Texas Civil Statutes, Articles 5547-201 et seq;

(9) the Texas Probate Code, §130A-O;

(10) the Texas Family Code, §55.03;

(11) the Mentally Retarded Persons Act, Texas Civil Statutes, Article 5547-300, §§38, 42, 46;

(12) the United States Civil Rights Act of 1964 as amended;

(13) Public Law 94-142;

(14) *TDMHMR Community Standards for Mental Retardation Services*, Texas Department of Mental Health and Mental Retardation, 1988, as amended; and

(15) the Texas Code of Criminal Procedures, §46.02.

**§402.222. Distribution.**

(a) This subchapter shall be distributed to members of the Texas Board of Mental Health and Mental Retardation; the medical director, deputy and assistant deputy commissioners, and management and program staff of Central Office; superintendents and directors of all TDMHMR facilities; and members of board of trustees and executive directors of all community mental health and mental retardation centers.

(b) The superintendents and directors of TDMHMR facilities and the executive directors of community mental health and mental retardation centers shall be responsible for the dissemination of the information contained in this subchapter to all appropriate staff. As the authorized agency official, I hereby certify that the proposed new sections have been reviewed by legal counsel and are within this agency's authority to adopt.

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 September 15, 1988.

TRD-8809526

Pattilou Dawkins  
Chairman, Texas Board of  
Mental Health and  
Mental Retardation  
Texas Department of  
Mental Health and  
Mental Retardation

Earliest possible date of adoption: October 28, 1988

For further information, please call: (512) 465-4670





## Chapter 403. Other Agencies and the Public

### Subchapter C. Determination of Rates for Support, Maintenance, and Treatment of Clients

#### • 25 TAC §403.74

The Texas Department of Mental Health and Mental Retardation (TDMHMR) proposes an amendment to §403.74, concerning determination of rates.

The amendment would provide for the continuation of the existing fee schedule pending further legislative clarification concerning modifications to the fee schedule pursuant to Senate Bill 257 of the 70th Texas Legislature, 1987. Senate Bill 257 amended Texas Civil Statutes, Article 5547-300, §61, and Article 3196a to require the department to establish by rule a sliding fee schedule for the payment

of the cost of support, maintenance, and treatment by parents of mentally retarded and mentally ill persons under 18 years of age who are residents of a department inpatient or residential care facility; that the fees be based on the parents' net taxable income and ability to pay; and that the sliding fee schedule be designed to recover, from parents who have sufficient income and ability to pay, the cost to the state of providing support, maintenance, and treatment to the clients

Jim Dalton, director, office of claims, has determined that for the first five-year period the section is in effect, there will be no fiscal implications as a result of continuing the existing fee schedule. There is no anticipated cost to local government or small businesses

Mr. Dalton 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 equitable collection of fees to support state programs. The anticipated economic cost to individuals who are required to comply with the section as proposed will remain unchanged as a result of continuing the fee schedule.

Comments on the proposal may be submitted to Linda Logan, Rules Coordinator, Texas Department of Mental Health and Mental Retardation, P O Box 12668, Austin Texas 78711-2668.

The amendment is proposed under Texas Civil Statutes, Article 5547-202, §2. 11, which provides the Texas Board of Mental Health and Mental Retardation with rulemaking powers.

#### §403.74. Determination of Rates.

(a) Assessment of rates for mental retardation services to parent of minor client. Rates assessed against parents of minor clients for support, maintenance, and treatment provided by department mental retardation facilities will not exceed \$170 per month and will be determined as follows: The parents of a mentally retarded person under 18 years of age who is a resident in a mental retardation facility operated by the department shall pay, if able to do so, the portions of the cost of support and maintenance of the mentally retarded person as may be applicable under the following formula:

If the amount shown as "Net Taxable Income" of the parents as reported on their latest current financial statement or on their latest federal income tax return at the election of the parent or guardian is:

The monthly payment per client shall not exceed:

Less than \$4,000	\$5
4,000-4,999	10
5,000-5,999	20
6,000-6,999	30
7,000-7,999	40
8,000-8,999	50
9,000-9,999	60
10,000-10,999	70
11,000-11,999	80
12,000-12,999	90
13,000-13,999	100
14,000-14,999	110
15,000-15,999	120
16,000-16,999	130
17,000-17,999	140
18,000-18,999	150
19,000-19,999	160
20,000-up	170

[Assessment of rates against parents of minor clients for mental retardation services. Rates assessed against parents of minor clients for support, maintenance, and treatment provided by department mental retardation facilities will not exceed \$170 per month and will be determined in accordance with the provisions of Texas Civil Statutes, Article 5547-300, §61 (referred to in §403.76 of this title relating to Exhibits, as Exhibit A) and this subchapter.]

(b)-(g) (No change.)

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

Issued in Austin, Texas, on September 15, 1988.

TRD-8809527      Pattilou Dawkins  
Chairman, Texas Board of  
Mental Health and  
Mental Retardation  
Texas Department of  
Mental Health and  
Mental Retardation

Earliest possible date of adoption: October 28, 1988

For further information, please call: (512) 465-4670

## Chapter 405. Client (Patient) Care

### Subchapter J. Criteria for Placement of Residents in Community Intermediate Care Facilities

#### • 25 TAC §§405.231-405.246

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

The Texas Department of Mental Health and Mental Retardation proposes the repeal of §§405.231-405.246, concerning criteria for placement of residents in community intermediate care facilities. The repeals are proposed contemporaneously with the proposal of new Chapter 402, Subchapter F concerning continuity of services--mental retardation campus-based components.

Sue Dillard, director, Office of Standards and Quality Assurance, has determined that for the first five-year period the proposed repeals will be in effect, there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the repeals.

Ms. Dillard also has determined that for each year of the first five years the repeals are in effect, the public benefit will be the deletion of outdated rules. There is no anticipated economic cost to individuals who are required to comply with the proposed repeals.

Comments on the proposal may be submitted

to Linda Logan, Rules Coordinator, Texas Department of Mental Health and Mental Retardation, P.O. Box 12668, Austin, Texas 78711.

The repeals are proposed under Texas Civil Statutes, Article 5547-202, §2. 11, which provide the Texas Board of Mental Health and Mental Retardation with rulemaking powers.

§405.231. Purpose.

§405.232. Application.

§405.233. Definitions.

§405.234. Placements of Mentally Retarded Persons in Licensed Noncertified Facilities.

§405.235. Placement of Mentally Retarded Persons in a Licensed Facility that is ICF or ICF-MR Certified.

§405.236. Written Contract with Licensed Facility Seeking ICF or ICF-MR Certification or with Licensed ICF or ICF-MR Certified Facility Required Prior to Placement of Any Client in the Facility; Contract Requirements.

§405.237. Selection of Clients for Placement in Intermediate Care Facilities.

§405.238. Referral of Clients to be Placed in Intermediate Care Facilities: Consultation with Client, Parents, and Guardian; Prereferral Staffing; Determination of Program Eligibility and Assigned Level of Care.

§405.239. Referral of Clients to be Placed in Intermediate Care Facilities: Interagency Team Staffing; Representatives to be Included in the Interagency Team Staffing; Material and Provisions Required to be Included in the Client Treatment/Training Plan.

§405.240. Furlough of Clients to Intermediate Care Facilities: Compliance with Department Rules Required; Restorative Services; Advanced Written Notice of Furlough Required; Department Personnel to Accompany Client to the Intermediate Care Facility.

§405.241. Monitoring the Progress of Clients Who Have Been Placed in Intermediate Care Facilities: On-Site Evaluation of Progress Made Under the Client Treatment/Training Plan; Conditions Required for the Return of a Furloughed Client to the Department Facility.

§405.242. Discharge of Clients Who Have Been Placed in Intermediate Care Facilities; Interagency Team Staffing, Review, and Recommendation; Available Options Other Than Discharge; Compliance with Department Rules Required.

§405.243. Exhibits.

§405.244. References.

§405.245. Distribution.

§405.246. Effective Date.

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

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Pattilou Dawkins  
Chairman, Texas Board of  
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Mental Retardation

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For further information, please call: (512) 465-4670

## Subchapter BB. Admissions, Transfers, Furloughs, and Discharges--State Schools for the Retarded

#### • 25 TAC §§405.691-405.724

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

The Texas Department of Mental Health and Mental Retardation proposes the repeal of §§405.691-405.724, concerning admissions, transfers, furloughs, and discharges of clients served in state schools for the retarded. The repeals are proposed contemporaneously with the proposal of new Chapter 402, Subchapter F of this title, concerning Continuity of Services--Mental Retardation Campus-Based Components.

Sue Dillard, director, Office of Standards and Quality Assurance, has determined that for the first five-year period the proposed repeals will be in effect, there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the repeals.

Ms. Dillard also has determined that for each year of the first five years the repeals are in effect, the public benefit will be the deletion of outdated rules. There is no anticipated economic cost to individuals who are required to comply with the proposed repeals.

Comments on the proposal may be submitted to Linda Logan, Rules Coordinator, Texas Department of Mental Health and Mental Retardation, P.O. Box 12668, Austin, Texas 78711.

The repeals are proposed under Texas Civil Statutes, Article 5547-202, §2. 11, which provides the Texas Board of Mental Health and Mental Retardation with rulemaking powers.

§405.691. Purpose.

§405.692. Application.

§405.693. Definitions.

§405.694. Admission or Commitment to a Residential Care Facility for Persons with Mental Retardation Application Process.

§405.695. Admission or Commitment to a Residential Care Facility for the Mentally Retarded: the Nature and Procedures of the Central Waiting List.

§405.696. Admission or Commitment to a Residential Care Facility for the Mentally Retarded: General Provisions.

§405.697. Commitment to a Residential

Care Facility for the Mentally Retarded: Special Provisions for Court Orders.  
 §405.698. Admission to a Residential Care Facility for the Mentally Retarded: Requirements for Regular Placement.  
 §405.699. Admission to a Residential Care Facility for the Mentally Retarded: Requirements for Emergency Placement.  
 §405.700. Admission to a Residential Care Facility for the Mentally Retarded: Requirements for Diagnosis and Evaluation Placement.  
 §405.701. Admission to a Residential Care Facility for the Mentally Retarded: Requirements for Respite Care Placement.  
 §405.702. Resident Transfers: Reasons for Transfer, General Provisions.  
 §405.703. Resident Transfers: Transfer of a Resident Between Residential Care Facilities for the Mentally Retarded.  
 §405.704. Resident Transfers: Transfer of a Court Committed Resident from a Residential Care Facility for the Mentally Retarded to a State Mental Hospital.  
 §405.705. Resident Transfers: Transfer of a Voluntarily Admitted Resident from a Residential Care Facility for the Mentally Retarded to a Residential Facility for the Mentally Ill.  
 §405.706. Resident Transfers: Transfer of a Resident (Patient) from a Residential Facility for the Mentally Retarded.  
 §405.707. Resident Transfers: Interstate Transfer of a Resident between Texas and Another State.  
 §405.708. Resident Furloughs: Reasons for Furlough.  
 §405.709. Resident Furloughs: General Provisions.  
 §405.710. Resident Furloughs: Special Criteria for Alternate Living Facilities.  
 §405.711. Resident Furloughs: Requirements for Trial Alternate Placements.  
 §405.712. Resident Furloughs: Requirements for Temporary Furloughs.  
 §405.713. Resident Furloughs: Requirements for Furlough for Specific Programs, Assistance, or Both.  
 §405.714. Resident Furloughs: Requirements for Short-Term Furloughs.  
 §405.715. Resident Discharges: General Provisions; Reasons for Discharge.  
 §405.716. Resident Discharges: Requirements for Discharge of a Resident into a Less Restrictive Environment.  
 §405.717. Resident Discharges: Requirements for Discharge of a Resident Due to Ineligibility for Continued Residential Care Services.  
 §405.718. Resident Discharges: Discharge of a Resident Because of a Voluntary Withdrawal from Mental Retardation Services.  
 §405.719. Resident Discharges: Requirements for the Discharge of a Resident Following Assumption of Responsibility by Another Agency.  
 §405.720. Resident Discharges: Requirements for the Discharge of a Resident that No Longer Needs Residential Care Services.  
 §405.721. Administrative Hearing.

§405.722. Exhibits.  
 §405.723. References.  
 §405.724. Distribution.

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 September 15, 1988.

TRD-8809529

Pattilou Dawkins  
 Chairman, Texas Board of  
 Mental Health and  
 Mental Retardation  
 Texas Department of  
 Mental Health and  
 Mental Retardation

Earliest possible date of adoption: October 28, 1988

For further information, please call (512) 465-4670

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## TITLE 28. INSURANCE

### Part II. Industrial Accident Board

#### Chapter 42. Medical Benefits

#### Subchapter A. General Medical Provisions

• 28 TAC §§42.28, 42.33, 42.78

The Industrial Accident Board proposes new §§42.28, 42.33, and 42.78, concerning medical benefits provided under the Workers' Compensation Act. The proposed sections address the carrier's obligation to confirm coverage when no bona fide liability dispute exists, general reporting requirements for health care providers, and reports required to be filed with the board by carriers.

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

Mr. McAnally also has determined that for each year of the first five years the sections are in effect the public benefit anticipated as a result of enforcing the sections will be heightened understanding by claimants, providers, and carriers of their rights and duties under the law, resulting in fewer disputes over reimbursement for health care services provided to injured workers, which will, in turn, accelerate delivery of, and payment of, such services. 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 Scott McAnally, Executive Director, Industrial Accident Board, 200 East Riverside, First Floor, Austin, Texas 78704-1287. Comments will be accepted in writing for 20 days after publication of this proposal in the *Texas Register*.

The new sections are proposed under Texas Civil Statutes, Article 8307, §4(a), which authorize the board to adopt rules necessary to administer the Workers' Compensation Act, and Article 8306, §7b, which specifically au-

thorizes the board to adopt rules to implement the guidelines for medical fees, charges, and treatment.

§42.28. *Confirmation of Coverage.* The carrier shall confirm medical benefits coverage upon the request of a health care provider when no bona fide dispute exists as to liability.

§42.33. *Health Care Providers' Reporting Requirements.*

(a) Providers shall prepare written reports according to the specifications set out in §42.35 and §42.40 of this title (relating to Required Reports: First Report; Required Reports: Progress Reports), and shall submit them to the carrier and the injured worker, or his or her representative, as provided in §42.30 of this subchapter (relating to Written Communications).

(b) All required reports shall contain the identifying information required by §42.30(d) of this subchapter (relating to Written Communications).

(c) A provider who fails to comply with the reporting requirements, when applicable, as determined by the board, shall lose his or her right to payment for treatment or services rendered under the Act, pursuant to Texas Civil Statutes, Article 8306, §7.

(d) The board may prescribe forms for reporting purposes.

§42.78. *Reports to Be Filed by the Carrier.* The carrier shall file current medical reports with the board under the following conditions:

(1) after the expiration of four weeks of disability;

(2) when filing a notice of controversion based on medical grounds;

(3) upon receipt of narrative reports submitted by the treating doctor pursuant to §42.40 of this subchapter (relating to Required Reports: Progress Reports);

(4) when filing an A-2 giving return to work date or release to return to work date;

(5) when filing an A-4 showing additional lost time;

(6) when requesting a prehearing conference;

(7) when filing a CSA;

(8) when filing an A-2 lump sum showing payment for permanent partial disability resulting from a specific injury; and

(9) when requested by the board.

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 September 20, 1988.

TRD-8809698

Scott McAnally

Executive Director  
Industrial Accident Board

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For further information, please call: (512) 448-7962

◆ ◆ ◆  
• 28 TAC §§42.85, 42.90, 42.95

The Industrial Accident Board proposes new §§42.85, 42.90, and 42.95, concerning medical benefits provided under the Worker's Compensation Act. The proposed sections address procedures for voluntary arbitration, procedures for filing a demand for surgery, and additional filing requirements when the claimant has incurred scars or deformities as a result of a work-related injury. These sections were originally adopted as, respectively, §§41.170, 41.140, and 41.150, and appeared in undesignated head "General Medical Provisions" of Chapter 41, Communications and General Medical Provisions. The board will adopt the repeal of the entire undesignated head.

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

Mr. McAnally also has determined that for each year of the first five years the sections are in effect the public benefit anticipated as a result of enforcing the sections will be heightened understanding by claimants, providers, and carriers of their rights and duties under the law, resulting in fewer disputes over reimbursement for health care services provided to injured workers, which will, in turn, accelerate delivery of, and payment for, such services. 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 Scott McAnally, Executive Director, Industrial Accident Board, 200 East Riverside, First Floor, Austin, Texas 78704-1287. Comments will be accepted in writing for 20 days after publication of this proposal in the *Texas Register*.

The new sections are proposed under Texas Civil Statutes, Article 8307, §4(a), which authorize the board to adopt rules necessary to administer the Workers' Compensation Act, and Article 8306, §7b, which specifically authorize the board to adopt rules to implement the guidelines for medical fees, charges, and treatment.

**§42.85. Voluntary Arbitration.** The board shall establish procedures for selection of voluntary arbitration panels to assist the board in regulating fees and charges submitted by health care providers to the full extent authorized by Texas Civil Statutes, Article 8306, §7.

(1) The executive director of the board shall prepare by-laws subject to the final approval of the board governing the operation and functions of the various voluntary arbitration panels.

(2) The executive director of the

board shall implement the procedures so adopted by the board. The executive director or designee shall supervise the arbitration panels established by the board, and shall serve as chairman of each panel. However, the executive director may from time to time designate the assistant executive director of the board or other person to act as chairman in his or her place.

(3) The procedures for selection of panels and the by-laws shall be available to all parties.

**§42.90. Demand for Surgical Operation.** Any written demand for a surgical operation under Texas Civil Statutes, Article 8306, §12e, or any application for reduction or suspension of compensation pursuant to Article 8307, §4, must be filed with the board at least seven calendar days prior to the date of hearing. However, where good cause for waiving strict compliance is approved by the board, parties may file demand for or tender of surgery on or before the scheduled date of hearing.

**§42.95. Scars and Deformities.** In all cases involving severe and disfiguring burns or lacerations, a descriptive medical report of the scars or deformity shall be submitted by either the carrier or the claimant. In all such cases involving scars to the face, arms, or hands, a color photograph taken after maximum healing has occurred must be submitted at or prior to any final board action on the claim.

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 September 20, 1988.

TRD-889649

Scott McAnally  
Executive Director  
Industrial Accident Board

Earliest possible date of adoption: October 28, 1988

For further information, please call: (512) 448-7962

◆ ◆ ◆  
Subchapter B. Medical Cost  
Evaluation

• 28 TAC §42.101

The Industrial Accident Board proposes new §42.101, concerning the purpose of the subchapter. This section was originally proposed as §42.130, and published in the July 19, 1988, issue of the *Texas Register* (13 TexReg 3566). The section is now renumbered in this proposal, and the original proposal has been withdrawn, with notice published elsewhere in this issue.

Scott McAnally, 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. McAnally 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 clarification of the intent of the board, following the mandate of the legislature, in promulgating fee guidelines for health care services covered under the Workers' Compensation Act.

Written comments on the proposed section may be submitted to Scott McAnally, Executive Director, Industrial Accident Board, 200 East Riverside, First Floor, Austin, Texas 78704-1287. Comments will be accepted in writing for 20 days after publication of this proposal in the *Texas Register*.

The new section is proposed under Texas Civil Statutes, Article 8307, §4(a), which authorize the board to adopt rules necessary to administer the Workers' Compensation Act, and Article 8306, §7b, which specifically authorize the board to adopt rules to implement the guidelines for medical fees, charges, and treatment.

**§42.101. Purpose.** The fee guidelines presumptively fair and reasonable charges for health care services and supplies which may be covered under the Act.

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 September 20, 1988

TRD-8809697

Scott McAnally  
Executive Director  
Industrial Accident Board

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For further information, please call: (512) 448-7962

◆ ◆ ◆  
Subchapter D. Dispute  
Resolution

• 28 TAC §42.307, §42.308

The Industrial Accident Board proposes new §42.307 and §42.308, concerning procedures for requesting board review and resolution of disputes arising over medical bills for services or goods provided under the workers' compensation act, and liability for payment for the review.

Scott McAnally, executive director, has determined that for each of the first five years the proposed sections are in effect, there will be no fiscal implications for state or local governments which self-insure. The cost of utilizing the board's review system (approximately \$150) will not necessarily be borne by the insurer; the section provides that liability for payment for the review may fall to the health care provider who has been found to overutilize the board's review system. Whatever cost the insurer does incur for the review is projected to be counterbalanced by the end result, i.e., resolution of the dispute by the board's determination of fair and reasonable charges for medical services, according to the fee guidelines promulgated by the board. Such resolution will result in reduced litigation costs for the governmental entities, and will, in some instances, reduce their liability for medical services and goods.

Mr. McAnally also has determined that there

will be no fiscal implications for health care providers as a result of enforcing or administering the sections, for the reasons cited above: liability for payment for the review will only fall to the health care provider who has been found to overutilize the board's review system; and any costs incurred for the review is projected to be counterbalanced by the end result, i.e., resolution of the dispute by the board's determination of fair and reasonable charges for medical services, according to the fee guidelines promulgated by the board. Such resolution will result in reduced litigation costs for the providers, and will, in some instances, increase the amount of payment the provider receives

Mr. McAnally also has determined that for each of the first five years the proposed sections are in effect, the public benefit anticipated as a result of enforcing the sections will be reduced costs to all parties due to consistent application of standards for fair and reasonable charges and speedy resolution of disputes over medical services and goods. Since, as noted, utilization of the review system is voluntary, there is no anticipated economic cost to individuals who are required to comply with the sections as proposed

Written comments on the proposed sections may be submitted to Scott McAnally, Executive Director, Industrial Accident Board, 200 East Riverside, First Floor, Austin, Texas 78704-1287. Comments will be accepted in writing for 20 days after publication of this proposal in the *Texas Register*

The new sections are proposed under Texas Civil Statutes, Article 8307, §4(a), which authorize the board to adopt rules necessary to administer the workers' compensation act, and Article 8306, §7b, which specifically authorize the board to adopt rules to implement the guidelines for medical fees, charges, and treatment

**§42.307. Procedure for Requesting Review and Resolution.**

(a) A request for review and resolution shall be made in writing to the administrator of the Medical Cost Evaluation Division. A copy shall be sent simultaneously to the other party.

(b) The request shall include the following:

(1) all identifying information required by §42.30(d) of this title (relating to Written Communications);

(2) the bill as originally submitted to the carrier;

(3) a copy of the carrier's medical audit summary sheet, or hospital audit summary sheet, as appropriate;

(4) all communications related to the dispute; and

(5) written documentation that all reasonable efforts to resolve the dispute have been exhausted.

(c) The other party shall file a response within 10 days of receiving the copy of the request for review and resolution. The response shall include, but shall not be limited to, the items set out in subsection (b) of this section.

(d) The board may request additional information from either party, and may compel production documents, if necessary.

**§42.308. Payment for the Review.**

(a) The board shall set reasonable fees for reviewing disputed medical bills.

(b) Upon completion of the review, the executive director or designee will bill the responsible party. Payment shall be made within 30 days of receiving the bill.

(c) The carrier shall be responsible to pay for the review, unless:

(1) the provider has been deemed to have overutilized the board's review system; and

(2) the dispute is resolved against the provider.

(d) The provider shall be deemed to have overutilized the board's review system if, within the 12 month period preceding the present request for review, two prior disputes over the same service or treatment were presented to the board for review and were ultimately resolved against the provider.

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 September 20, 1988.

TRD-8809696      Scott McAnally  
Executive Director  
Industrial Accident Board

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For further information, please call: (512) 448-7962



## TITLE 40. SOCIAL SERVICES AND ASSISTANCE

### Part V. Veterans Land Board

#### Chapter 175. General Rules of the Veterans Land Board

##### • 40 TAC §175.17

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

The Veterans Land Board proposes an amendment to §175.17, concerning fees and deposits. The amendment provides for the imposition of, and sets a \$15 returned check fee. An emergency proposal is being submitted simultaneously.

Mr. David Gloier, deputy commissioner of the Veterans Land Board, has determined that as a result of enforcing this amendment the Veterans Land Board will reduce the cost of processing returned checks by approximately \$4,500 per year during the first five years. There is no anticipated cost to local government or small businesses.

Mr. Gloier 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 during the first five years of enforcing this amendment, the Veterans Land Board should see a reduction in the number of returned checks that it has to process, while recouping a portion of the costs of processing returned checks. The anticipated economic cost to individuals who are required to comply with this amendment will be \$15 each fiscal year in 1988-1992.

Comments on the proposal may be submitted to Jim Phillips, General Counsel, Legal Services, Room 630, 1700 North Congress Avenue, Austin, Texas 78701.

The amendment is proposed under the Natural Resources Code, §161.061 and §161.063, which provides the Veterans Land Board with the authority to adopt rules that it considers necessary or advisable.

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 September 14, 1988

TRD-8809494      Garry Mauro  
Chairman  
Veterans Land Board

Earliest possible date of adoption: October 28, 1988

For further information, please call: (512) 463-5009



# Withdrawn Sections

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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*.

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## TITLE 28. INSURANCE Part II. Industrial Accident Board

### Chapter 42. Medical Benefits

#### Subchapter A. General Medical Provisions

- 28 TAC §§42.45, 42.50, 42.70

The Industrial Accident Board has withdrawn from consideration for permanent adoption proposed new sections which appeared in the July 19, 1988, issue of the *Texas Register* (13 TexReg 3566). The effective date of this withdrawal is September 20, 1988.

Issued in Austin, Texas, on September 20, 1988

TRD-8809695      Inez "Tippy" Foster  
Acting Liaison  
Industrial Accident Board

Effective date: September 20, 1988

For further information, please call: (512) 448-7960

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#### Subchapter B. Medical Cost Containment

- 28 TAC §§42.125, 42.130, 42.150, 42.170

The Industrial Accident Board has withdrawn from consideration for permanent adoption proposed new sections which appeared in the July 19, 1988, issue of the *Texas Register* (13 TexReg 3566). The effective date of this withdrawal is September 20, 1988.

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

TRD-8809694      Inez "Tippy" Foster  
Acting Liaison  
Industrial Accident Board

Effective date: September 20, 1988

For further information, please call: (512) 448-7960

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Name: Richard Averitt  
Grade: 10  
School: Texas School for the Deaf



# Adopted Sections

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

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

## TITLE 16. ECONOMIC REGULATION

### Part I. Railroad Commission of Texas

#### Chapter 5. Transportation Division

##### Subchapter W. Registration of Commercial Carriers

###### • 16 TAC §5.501

The Railroad Commission of Texas adopts an amendment to §5.501, with a minor change to the proposed text published in the August 9, 1988, issue of the *Texas Register*. This amendment, concerning the definition of a commercial motor vehicle, was proposed pursuant to a petition from the Texas Rural Water Association.

This amendment will exempt non-profit water supply and sewer service corporations from the commercial motor vehicle registration requirements. Vehicles operated by such corporations, meeting the requirements of the statutory provision creating such corporations, will not be required to register commercial motor vehicles with the Railroad Commission.

Comments were received in favor of the proposed section. No comments were received in opposition to the section. Comments were received from the Southwest Milam Water Supply Corporation, the Brooksmith Water Supply Corporation, and the Zephyr Water Supply Corporation.

The only change from proposed text published in the August 9, 1988, issue of the *Texas Register*, is a correction of a typographical error, which cited the incorrect statute which creates water supply corporations.

The amendment is adopted under Texas Civil Statutes, Article 911b, §4(a)(13), which provide the commission with the authority to define commercial motor vehicle.

###### §5.501. Definitions.

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

(c) Notwithstanding the provisions of subsection (a) and (b) of this section, the following are not subject to the provisions of this subchapter:

(1)-(7) (No change.)

(8) a non-profit water supply or sewer service corporation organized pursuant to the provisions of Texas Civil Statutes, Article 1434a.

(d) (No change.)

This agency hereby certifies that the section 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 September 19, 1988.

TRD-8809684

James E. (Jim) Nugent  
Chairman  
Railroad Commission of  
Texas

Effective date: October 11, 1988

Proposal publication date: August 9, 1988

For further information, please call (512) 463-7187

##### Subchapter Z. Base Rates, Deviations, and Suspensions

###### • 16 TAC §5.582

The Railroad Commission of Texas adopts an amendment to §5.582, without changes to the proposed text published in the May 24, 1988, issue of the *Texas Register*. This amendment was proposed pursuant to a petition from Lane Freight Lines, Inc.

The amendment will allow deviations of 15% on shipments of general commodities weighing less than 10,000 pounds which occupy the full visible capacity of the vehicle transporting the shipment. These shipments, handled similarly to truckload shipments weighing more than 10,000 pounds, will now be allowed to apply deviations generally applicable to other truckload shipments.

Comments were received both in favor of and in opposition to the proposed section. The comments in favor, by Ball Corporation and the American National Can Company, noted that such shipments are operationally no different than truckload shipments weighing more than 10,000 pounds. The comment in opposition, by the Common Carrier Motor Freight Association, Inc., stated that the commission could change the allowable deviation percentage only through a contested case proceeding, and that the entire deviation system should be allowed to mature before changes are made.

The commission disagrees with the comments filed in opposition to the section. First, the statutory requirement of notice and hearing was met in this instance by *Texas Register* notice and a hearing for the receipt of comments. Second, this relatively minor change in the new deviation system should not be delayed while a complete and full understanding of the new system is eventually reached.

The amendment is adopted under Texas Civil Statutes, Article 911b, §4(a)(4) and §4(a)(5),

which provide the commission with the authority to allow deviations from base rates and charges.

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 September 12, 1988.

TRD-8809566

James E. (Jim) Nugent  
Chairman  
Railroad Commission of  
Texas

Effective date: October 7, 1988

Proposal publication date: May 24, 1988

For further information, please call (512) 463-7187

#### Chapter 9. Liquefied Petroleum Gas Division

##### Subchapter A. General Applicability and Requirements

###### • 16 TAC §9.24

The Railroad Commission of Texas adopts an amendment to §9.24, without changes to the proposed text as published in the June 17, 1988, issue of the *Texas Register* (13 TexReg 3003). The amendment concerns insurance requirements for LP-Gas dealers licensed by the State of Texas.

The amendment to §9.24 increases the amount of motor vehicle liability insurance coverage an LP-Gas dealer is required to carry. Rather than the bodily injury and property damage coverages of \$100,000 bodily injury per person, \$300,000 bodily injury per occurrence, \$100,000 property damage, or \$300,000 combined single limit which were applicable under the old section, the overall limits are increased under the rule as amended. As adopted, §9.24 now requires all Category C, E, H, and J licensees to carry a minimum of \$500,000 combined single limit motor vehicle liability insurance for bodily injuries or death for all persons injured or killed in any accident, and loss or damage in any one accident to property of others.

The general public will benefit by the increased protection provided by the newly amended insurance requirements. While the cost of compliance with this section as amended will increase, particularly for small businesses, the increase is not expected to be great since most dealers currently have

coverage which equals or exceeds the newly required levels.

The only comment received was submitted by Texas LP-Gas Association. To ease the burden of compliance with the amended section, the Texas LP-Gas Association suggested that the amendment become effective on January 1, 1989. In accordance with this request, the commission adopts a January 1, 1989, effective date for the newly amended §9.24. While the Texas LP-Gas Association did not oppose the adoption of the amendment, they did express concern that the present insurance requirements do not adequately protect the public. As a result, the Texas LP-Gas Association encouraged the commission in the near future to consider adjusting the minimum requirements on all types of coverage required for all categories of licensees.

There were no comments submitted in opposition to the new amendment.

This amendment is adopted under the Texas Natural Resources Code, §113.051, which authorizes the Railroad Commission of Texas to promulgate rules and standards related to the Liquefied Petroleum Gas Industry and its operations which will protect or tend to protect the health, safety, and welfare of the general 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 September 19, 1988.

TRD 8809687 James E. (Jim) Nugent  
Chairman  
Railroad Commission of  
Texas

Effective date: January 1, 1989

Proposal publication date: June 17, 1988

For further information, please call (512) 463-7187

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**Chapter 13. Regulations for  
Compressed Natural Gas  
Fuel Systems**

**Subchapter E. Classification,  
Registration, and  
Examination**

• **16 TAC §13.84**

The Railroad Commission of Texas adopts an amendment to §13.84, without changes to the proposed text as published in the June 14, 1988, issue of the *Texas Register* (13 TexReg 2959). The amendment concerns motor vehicle liability insurance requirements for compressed natural gas (CNG) licensees.

The amendment reduces the amount of motor vehicle liability insurance coverage a CNG category three licensee is required to carry. Rather than a minimum \$250,000 bodily injury per person plus \$750,000 bodily injury per occurrence, plus \$150,000 property damage per occurrence, or \$900,000 combined single limits, which are applicable prior to the adoption of the amendment, the overall limits

are reduced by the section as amended. Under the new amendment to §13.84(a)(4), a CNG category three licensee or ultimate consumers who have purchased, leased, or obtained other rights in any vessel defined as a CNG transport by the Texas Natural Resources Code, Chapter 116, will now be required to carry motor vehicle liability insurance coverage of a minimum of \$500,000 combined single limit for bodily injuries or death of all persons injured or killed in any accident, and loss or damage in any one accident to property of others. This reduction in minimum coverage requirements now makes the motor vehicle liability insurance requirements of CNG licensees who are transporters identical to the motor vehicle liability insurance requirements for certified motor carriers licensed by the Transportation Division of the Railroad Commission. Additionally, the amendment as adopted now requires the same level of coverage as is required for comparable categories of LP-Gas licensees under a newly adopted amendment to 16 TAC §9.24.

The public will benefit from the amendment by the increased security from greater compliance with the more reasonable insurance requirement. There is no anticipated economic cost to individuals who are required to comply since the level of insurance coverage required to be carried by licensees has been lowered by the amendment to §13.84(a)(4).

No comments were received regarding adoption of the amendment.

The amendment is adopted pursuant to the Texas Natural Resources Code, §116.012, which authorizes the Railroad Commission of Texas to promulgate rules and standards relating to the Compressed Natural Gas Industry and its operations, which promote or tend to promote the health, safety, and welfare of the general 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 September 19, 1988.

TRD-8809686 James E. (Jim) Nugent  
Chairman  
Railroad Commission of  
Texas

Effective date: January 1, 1989

Proposal publication date: June 14, 1988

For further information, please call: (512) 463-7187

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**Part VI. Texas Motor  
Vehicle Commission**

**Chapter 107. Warranty  
Performance Obligations**

• **16 TAC §107.8**

The Texas Motor Vehicle Commission adopts an amendment to §107.8, with changes to the proposed text published in the July 15, 1988, issue of the *Texas Register* (13 TexReg 3500). Section 107.8(8) contains a portion of the proposed text of §107.8(4)(B). Section 107.8(4) also contains changes from the pro-

posed text.

The amendment provides a simplified and equitable formula for use in determining the amount of a reasonable allowance for an owner's use of a vehicle to be deducted from the repurchase price of the vehicle in lemon law cases where the repurchase of the vehicle has been ordered by the commission. An exception from the formula is provided for unusual and limited situations where a different allowance for use will be determined from a preponderance of clear and convincing evidence from the parties.

Section 107.8(4) is changed by the deletion of the proposed flat rate amounts for mileage driven and the substitution of a formula under which the amount of the allowance for use is based on the purchase price, the number of miles driven, and on the assumption that the average life of a vehicle is 100,000 miles. The first step of the calculation involves dividing the price of the vehicle by 100,000 to obtain the allowance for use per mile. That figure is then multiplied by the number of actual miles driven by the owner prior to the first report of the defect or condition forming the basis of the repurchase order. Secondly, the figure obtained as the allowance for use per mile is divided by 50% and then multiplied by the number of miles driven by the owner after the first report of the defect or condition that forms the basis of the repurchase order. The products obtained in the two calculations previously cited are then added together to determine the reasonable allowance for the owner's use of the vehicle. Now §107.8(8) incorporates in a separate paragraph a revision of a portion of the proposed text of §107.8(4)(B) concerning the allowance for substantial damage or adverse change in condition of a vehicle in connection with the repurchase of a vehicle under the lemon law.

Comments on the proposed new section were received from General Motors Corporation, Ford Motor Company, Chrysler Motors Corporation, American Suzuki Motor Company, Hyundai Motor America, Automobile Importers of America, Inc., Coachmen Industries, Inc., Classic Ferrari, Courtney Chevrolet, Inc., Preston Chrysler-Plymouth, Inc., Tradewinds Ford Imports, Inc., Mack Massey Motors, Inc., Davidson Motor Company, Inc., Spindletop Buick Company, and Victoria Mack Sales and Services, Inc. In general, these comments opposed the commission's flat rate allowance proposal and particularly the \$05 amount for mileage driven after the first report of the defect or condition that forms the basis of the repurchase order. Alternate proposals involving a formula which would take into consideration the purchase price of the vehicle were suggested by certain manufacturers. The commission agrees that a formula for determining a reasonable allowance for use which takes into account the purchase price of a vehicle, rather than the proposed flat rate amounts, would be a more reasonable and equitable method of calculating a reasonable allowance for use. However, the commission does not agree with the comments in opposition to a reduced amount for mileage driven after the first report of the defect or condition that forms the basis of the repurchase order, as the commission believes that the value of the use of an impaired vehicle to the owner is most certainly diminished and is less than the value of the unimpaired miles of use. The

proposed new section were changed to substitute a formula for calculating a reasonable allowance for the use of a vehicle in place of the originally proposed flat rate amounts, but retaining a reduction for the mileage driven after the first report of the defect or condition that forms the basis of the repurchase order.

Comments in support of the proposed new section were received from Philip Nowicki, Executive Director, Lemon Law Arbitration Program, Office of the Attorney General of Florida; Chris Andrews, Director, Aid for Lemon Owners; Bill B. Brooks and Jimmy Blanton, consumers with pending lemon law complaints. While the commission generally agrees with these comments, it is believed that the formula as adopted, with the reduction of the allowance for the impaired use mileage, will accomplish the goal of providing a basis for determining a reasonable allowance for the use of a vehicle, as required by the lemon law statute, which will be fair and equitable to consumers and to manufacturers as well. A comment was also received from Richard Bynum, a lemon law complainant, to the effect that no deduction for mileage after the first report of the defect should be allowed. The commission does not agree with this comment as the statute specifically provides that an allowance is to be made for such use.

The new section is adopted under Texas Civil Statutes, Article 4413(36), §6.07(e), which provides that the commission shall adopt rules for the enforcement and implementation of the Texas Motor Vehicle Commission Code, §6.07.

**§107.8. Decisions.** Any decisions by the commission and recommended decision by a hearing officer shall give effect to the presumptions provided in the Texas Motor Vehicle Commission Code, §6.07(d), where applicable.

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

(4) Except in cases involving unusual and extenuating circumstances, supported by a preponderance of clear and convincing evidence, a reasonable allowance for the owner's use of the vehicle shall be that amount obtained by adding the following:

(A) the product obtained by multiplying the purchase price of the vehicle, as defined in paragraph (3) of this subsection, by a fraction having as its denominator 100,000 and having as its numerator the number of miles that the vehicle traveled from the time of delivery to the owner to the first report of the defect or condition forming the basis of the repurchase order; and

(B) 50% of the product obtained by multiplying the purchase price by a fraction having as its denominator 100,000 and having as its numerator the number of miles that the vehicle traveled after the first report of the defect or condition forming the basis of the repurchase order. The number of miles during the period covered in this subparagraph shall be

determined from the date of the first report of the defect or condition forming the basis of the repurchase order through the date of the TMVC hearing.

(5)-(7) (No change.)

(8) If the vehicle is substantially damaged or there is an adverse change in its condition, beyond ordinary wear and tear, from the date of delivery to the owner to the date of repurchase, and the parties are unable to agree on an amount of an allowance for such damage or condition, either party shall have the right to request reconsideration by the commission of the repurchase price contained in the final order.

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 September 15, 1988.

TRD-8809692

Russell Harding  
Executive Director  
Texas Motor Vehicle  
Commission

Effective date: October 11, 1988

Proposal publication date: July 15, 1988

For further information, please call: (512) 476-3587

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**TITLE 19. EDUCATION**  
**Part II. Texas Education**  
**Agency**  
**Chapter 61. School Districts**  
**Subchapter F. Responsibilities**  
**and Powers for Operation**

• **19 TAC §61.174**

The Texas Education Agency adopts an amendment to §61.174, with changes to the proposed text as published in the June 28, 1988, issue of the *Texas Register* (13 TexReg 3275). The section concerns training for school board members. The amendment clarifies the deadline by which newly elected members must participate in an orientation session, requires newly appointed members to do so, and prohibits such training from occurring during a regular or called school board meeting unless the meeting was called for that purpose.

The amendment also increases the Central Education Agency oversight of the training programs, specify qualifications for program sponsors, set minimum standards for training sessions, and provide that noncompliance with this section will be reviewed and addressed by the accreditation division as a governance problem.

The changes are the addition of subsection (c)(4), which emphasizes that the role of the board member and the role of the superintendent be clearly defined in regard to the training for each standard taught. Subsection (m) has been combined with subsection (1) for clarity; there is no change in the wording. The following subsections have been appropri-

ately relettered. Also, subsection (1) was changed to clarify that not more than half of the required training delivered by a local school district may involve self-instructional materials provided by preapproved sponsors.

Comments on the amendments were received from the Texas Association of School Administrators, which supported the amendments, and the Texas Association of School Boards, which expressed concern that the 30-day notification period for program sponsorship might inhibit the immediate provision of training in districts with severe governance problems. The agency acknowledged that such emergencies do occasionally arise and that immediate provision of training would not be considered a violation of this rule in such instances.

The amendment is adopted under the Texas Education Code, §23.33, which authorizes the State Board of Education to make rules concerning training for school board members.

**§61.174. Training for School Board Members.**

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

(c) The training required in accordance with the Texas Education Code, §23.33, applies to each member of local school boards of trustees.

(1) All board members shall participate in a local district orientation session within 60 days before or after their election or appointment; and shall complete a minimum of 20 hours of training from approved sponsors to gain a working knowledge of all the statewide standards on duties of a school board member prior to the end of their first year of service.

(2) Board members, upon completion of the initial training required in paragraph (1) of this subsection, shall annually participate in an assessment of their training needs. The assessment should consider the statewide standards on duties of a school board member, the State Board of Education's designated priority topics, local student achievement information, compliance/accreditation reports, and local district issues as affected by the statewide standards. The results of this assessment will be used to establish a training plan to address the needs of individual school board members, as well as the local board as a whole. The training plan will identify the approved training activities each board member will complete during the year. At a minimum, local board members shall participate in six hours of training activities annually.

(3) No training shall take place during a school board meeting unless that meeting is called for the delivery of school board training.

(4) Training related to each of the statewide standards on duties of a school board member and other approved training activities shall include information that will enable the board member to understand the role and responsibility of the board, president, individual board members,

and the administrative role and responsibilities of the superintendent in regard to the standard presented.

(d) Each regional education service center shall apply to the Central Education Agency for approval to sponsor and provide programs to support the training required in subsection (c) of this section. Registration for the regional education service center training programs will be open to all interested persons, including current and prospective board members.

(e) (No change.)

(f) Private and professional organizations, school districts, government agencies, and colleges/universities may apply for approval to sponsor programs to support the training required in subsection (c) of this section to the Central Education Agency.

(g) Sponsor approval will be based upon the sponsor's ability to deliver quality programs which are comprehensive and in compliance with the State Board of Education approved statewide standards on duties of a school board member. Sponsors are encouraged to consider a variety of delivery systems for their training programs in order to meet the varying needs of school board members. Programs are to be at least one hour in length and may be delivered in segments of not less than 30 minutes.

(h) The sponsoring agency will provide verification of completion to the individual participant and to the participant's school district.

(i) Program instructors must have documented training and/or experience in the subject areas in which they are delivering instruction.

(j) Each education service center and other sponsors shall submit program dates to the Central Education Agency at least 30 days prior to delivery.

(k) Approved program sponsors will be reviewed by the Central Education Agency at least every five years, with audits scheduled at any time. The Central Education Agency may also request a program evaluation from the participating board members at any time. All sponsors will maintain approved status for five years unless notified by the agency.

(l) At least 50% of the required training in subsection (c) of this section should be designed and delivered in a group setting by persons not employed or affiliated with the board member's local school district. Not more than 50% of the required training that is delivered by the local district may utilize self-instructional materials provided by preapproved sponsors.

(m) Annually, at the meeting at which the call for election of board members is normally scheduled, the current president of each local board of trustees shall cause the minutes of the local board to reflect the board members who have and

have not completed the required training and shall make this information available to the local media.

(n) Noncompliance with school board member training requirements will be reviewed and dealt with by the accreditation division as a governance problem.

(o) Upon written request, the commissioner of education, in cases of extenuating circumstances, may grant an extension of time within which a local board member may complete the training requirement.

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 September 10, 1988.

TRD-8809714 W. N. Kirby  
Commissioner of Education

Effective date: October 12, 1988

Proposal publication date: June 28, 1988

For further information, please call: (512) 463-9212

## TITLE 22. EXAMINING BOARDS

### Part XXII. Texas State Board of Public Accountancy

#### Chapter 523. Continuing Professional Education

#### Continuing Professional Education Standards

##### • 22 TAC §523.21

The Texas State Board of Public Accountancy adopts the repeal of §523.21, without changes to the proposed text published in the May 27, 1988, issue of the *Texas Register* (13 TexReg 2592).

The repeal allows for the adoption of a new section that will provide a more informed selection of continuing education concepts to insure better overall qualifications of participants.

The repeal allows for the adoption of a new section that will insure potential participants in continuing education programs information regarding salient features of the programs.

No comments were received regarding adoption of the repeal.

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

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 September 16, 1988.

TRD-8809587

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

Effective date: October 7, 1988

Proposal publication date: May 27, 1988

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

The Texas State Board of Public Accountancy new §523.21, without changes to the proposed text published in the May 27, 1988, issue of the *Texas Register* (13 TexReg 2592).

The new section allows for a more informed selection of continuing education concepts to insure better overall qualifications of participants.

The new section insures that potential participants in continuing education programs are informed of the salient features of the program.

No comments were received regarding adoption of the new section.

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

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 September 16, 1988.

TRD-8809588 Bob E. Bradley  
Executive Director  
Texas State Board of  
Public Accountancy

Effective date: October 7, 1988

Proposal publication date: May 27, 1988

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

##### • 22 TAC §523.25

The Texas State Board of Public Accountancy adopts the repeal of §523.25, without changes to the proposed text published in the May 27, 1988, issue of the *Texas Register* (13 TexReg 2594).

The repeal allows for the adoption of a new section that will insure precise guidelines for program evaluation.

The repeal allows for the adoption of a new section that will provide guidelines and suggested procedures for continuing education sponsors, to include evaluation of instructors.

No comments were received regarding adoption of the repeal.

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

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 September 16, 1988.

TRD-8809589

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

Effective date: October 7, 1988

Proposal publication date: May 27, 1988

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

◆ ◆ ◆  
The Texas State Board of Public Accountancy adopts new §523.25, without changes to the proposed text published in the May 27, 1988, issue of the *Texas Register* (13 TexReg 2594).

The new section insures precise guidelines for program evaluation.

The new section provides guidelines and suggested procedures for continuing education sponsors, to include evaluation of instructors.

No comments were received regarding the new section.

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

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 September 16, 1988.

TRD-8809590

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

Effective date: October 7, 1988

Proposal publication date: May 27, 1988

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

◆ ◆ ◆  
• 22 TAC 523.26

The Texas State Board of Public Accountancy adopts the repeal of §523.26, without changes to the proposed text as published in the May 27, 1988, issue of the *Texas Register* (13 TexReg 2595).

The repeal of the section is required to allow for the adoption of a new section which will provide new guidelines.

The repeal will allow for the adoption of a new section.

No comments were received regarding adoption of the repeal.

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

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 September 13, 1988.

TRD-8809473

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

Effective date: October 5, 1988

Proposal publication date: May 27, 1988

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

◆ ◆ ◆  
The Texas State Board of Public Accountancy adopts new §523.26, without changes to the proposed text as published in the May 27, 1988, issue of the *Texas Register* (13 TexReg 2595).

The new section is required to insure proper measurement of continuing professional education attendance.

The new section provides guidelines for measurement of continuing professional education attendance.

No comments were received regarding adoption of the new section.

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

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 September 13, 1988.

TRD-8809474

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

Effective date: October 5, 1988

Proposal publication date: May 27, 1988

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

◆ ◆ ◆  
• 22 TAC §523.29

The Texas State Board of Public Accountancy adopts new §523.29, without changes to the proposed text published in the May 27, 1988, issue of the *Texas Register* (13 TexReg 2595).

The new section is required to establish a minimum for attendance at continuing professional education program.

The new section will insure that a minimum of 16 hours of the required continuing professional education will be obtained through program attendance.

No comments were received regarding the new section.

The new section is adopted under Texas Civil Statutes, Article 41a-1, §6(a), which provide the Texas State Board of Public Accountancy

with the authority to promulgate rules regarding formal continuing education minimum hours required as a participant.

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 September 16, 1988.

TRD-8809591

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

Effective date: October 7, 1988

Proposal publication date: May 27, 1988

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

◆ ◆ ◆  
Continuing Professional  
Education Reporting

• 22 TAC §523.41

The Texas State Board of Public Accountancy adopts the repeal of §523.41, without changes to the proposed text published in the May 27, 1988, issue of the *Texas Register* (13 TexReg 2595).

The section must be repealed to allow for the adoption of a new section with current guidelines.

The repeal allows for adoption of a new section.

No comments were received regarding the repeal.

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

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 September 16, 1988.

TRD-8809593

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

Effective date: October 7, 1988

Proposal publication date: May 27, 1988

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

◆ ◆ ◆  
The Texas State Board of Public Accountancy adopts new §523.41, without changes to the proposed text published in the May 27, 1988, issue of the *Texas Register* (13 TexReg 2595).

The section is required to provide appropriate guidelines for reporting of continuing professional education.

The section provides guidelines as to the standards of continuing professional education reporting by providers.

No comments were received regarding the new section.

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

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 September 16, 1988.

TRD-8809594      Bob E. Bradley  
Executive Director  
Texas State Board of  
Public Accountancy

Effective date: October 7, 1988

Proposal publication date: May 27, 1988

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

◆      ◆      ◆  
**Mandatory Continuing  
Education (CE) Program**

◆      ◆      ◆  
**• 22 TAC §523.62**

The Texas State Board of Public Accountancy adopts an amendment to §523.62, with changes to the proposed text published in the May 7, 1988, issue of the *Texas Register* (13 TexReg 2599).

The amendment is required to allow for the blanks in continuing professional education reporting to be valued at zero.

The amendment will allow staff to value blanks on continuing professional education report forms as zero.

No comments were received regarding adoption of the amendment.

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

**§523.62. Mandatory CE Reporting.**

(a) 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 cancelled after notice and hearing, as provided in the Public Accountancy Act of 1979, §21, as amended, Texas Civil Statutes, Article 41a-1, 1981 (relating to Revocation or Suspension of Certificate or 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 renewal notices are normally mailed in November of each year, and license notices are mailed to those who

receive certificates or 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 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 September 16, 1988.

TRD-8809592      Bob E. Bradley  
Executive Director  
Texas State Board of  
Public Accountancy

Effective date: October 7, 1988

Proposal publication date: May 27, 1988

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

◆      ◆      ◆  
**TITLE 28. INSURANCE  
Part I. State Board of  
Insurance**

**Chapter 5. Property and  
Casualty Insurance**

**Subchapter E. Texas  
Catastrophe Property  
Insurance Association**

**Plan of Operation**

◆      ◆      ◆  
**• 28 TAC §5.4001**

The State Board of Insurance adopts an amendment to §5.4001, with changes to the proposed text as published in the August 9, 1988, issue of the *Texas Register* (13 TexReg 3871).

Section 5.4001 concerns the plan of operation of the Texas Catastrophe Property Insurance Association (the plan). This amendment is necessary to provide a regulatory framework for construction standards which provide some protection against property loss. In order to state the correct effective date and to provide greater clarity, this adoption deletes the last sentence of the proposed text of the introductory language in §5.4001(e)(1) and substitutes the following language: "The requirements herein shall apply, on or after October 10, 1988, to new construction of, and additions or repairs to, structures located seaward of the Intracoastal Canal in areas previously exempt from the requirements of this paragraph. The property previously exempt was that property protected by a sea wall constructed by the Corp of Engineers."

The amendment provides support under the plan for applying the requirements of a construction code to all new construction, additions, or repairs occurring in areas located seaward of the Intracoastal Canal on or after October 10, 1988.

The Texas Catastrophe Property Insurance Association submitted comments generally for the proposed section; however, they did

suggest some modification of the section as proposed.

The commenters suggested that the proposed language did not make clear the exact nature of the change which this amendment is making to the plan. In response to the comments, the board has changed the introductory language in §5.4001(e)(1).

The amendment is adopted under the Insurance Code, Article 21.49, §5, which provides for approval by the State Board of Insurance of the plan of operation of the Texas Catastrophe Property Insurance Association for providing catastrophe coverage by property insurance.

**§5.4001. Plan of Operation.**

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

(e) Building codes.

(1) Code for windstorm-resisting construction applicable to the area seaward of the Intracoastal Canal. This code contains requirements for the construction of buildings to minimize damage to such buildings by severe windstorms which occur along the Gulf Coast. Where specific requirements for particular devices or methods of construction are specified, alternate methods or practices which are considered equal may be used. Such consideration is to be based on sound engineering practice and experience. The degree of protection against damage from windstorm provided by these requirements cannot be assured for tornadoes, but such compliance should be helpful to some degree reducing tornado damage. The requirements herein are applicable only to properties located seaward of the Intracoastal Canal on the Texas coastline (or seaward of the boundary authorized to be established by the State Board of Insurance by the Insurance Code, Article 21.49, as amended). The requirements herein shall apply, on or after October 10, 1988, to new construction of, and additions or repairs to, structures located seaward of the Intracoastal Canal in areas previously exempt from the requirements of this paragraph. The property previously exempt was that property protected by a sea wall constructed by the Corps of Engineers.

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

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

(f) (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 September 19, 1988.

TRD-8809624      Nicholas Murphy  
Chief Clerk  
State Board of Insurance

Effective date: October 10, 1988

Proposal publication date: August 9, 1988

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

**TITLE 40. SOCIAL SERVICES AND ASSISTANCE**

**Part I. Texas Department of Human Services**

**Chapter 11. Commodity Program**

**Emergency Food Assistance Program**

**• 40 TAC §11.6007**

The Texas Department of Human Services (DHS) adopts an amendment to §11.6007, concerning responsibilities of contracted agencies. The amendment allows persons to conduct activities unrelated to the Temporary Emergency Food Assistance Program at commodity distribution sites if the activities are clearly unrelated to the program and if they are not disruptive.

The justification for the amendment is to comply with a federal mandate that DHS ensures these activities do not disrupt distribution.

The section will function by clarifying contractor's responsibilities to prevent persons who are not involved in distribution from interfering with the program.

The section is adopted under the Human Resources Code, Title 2, Chapter 22, which provides the department with the authority to administer public assistance programs. The amendment is adopted under federal requirements effective June 28, 1988.

**§11.6007. Responsibilities of Contracted Agencies.** To qualify as a contractor for the Emergency Food Assistance Program, contractors must fulfill the following requirements:

(1)-(17) (No change.)

(18) Ensure that persons conducting activities unrelated to commodity distribution at distribution sites comply with the requirements in subparagraphs (A) and (B) of this section. If contractors and distribution sites do not ensure compliance with these requirements, DHS may immediately terminate them from the Temporary Emergency Food Assistance Program (TEFAP) or, if another contractor or distribution site is unavailable, delay termination and monitor their distribution for compliance. Contractors may appeal the termination according to DHS' appeal procedures.

(A) The person conducting the activity must make it clear that the activity is neither a part of TEFAP nor endorsed by the USDA and is not a condition for receiving commodities.

(B) The person conducting the activity must not disrupt commodity distribution.

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.

cy's legal authority.

Issued in Austin, Texas, on September 21, 1988

TRD-8809724

Marlin W. Johnston  
Commissioner  
Texas Department of  
Human Services

Effective date: June 28, 1988

Proposal publication date: N/A

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

**Chapter 12. Child Nutrition Programs**

**Child Care Food Program**

**• 40 TAC §12.22**

The Texas Department of Human Services (DHS) adopts an amendment to §12.22, without changes to the proposed text published in the August 9, 1988, issue of the *Texas Register* (13 TexReg 3872).

The justification for the amendment is to elect the option described in 7 Code of Federal Regulation §226.8(b) that allows DHS to use available funds to assist CCFP contractors to pay for required audits.

The section will function by improving program administration.

No comments were received regarding adoption of the amendment.

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

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

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

TRD-8809665

Marlin W. Johnston  
Commissioner  
Texas Department of  
Human Services

Effective date: October 10, 1988

Proposal publication date: August 9, 1988

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

**Subchapter G. Hospital Services**

**• 40 TAC §29.609**

The Texas Department of Human Services (DHS) adopts an amendment to §29.609, concerning additional reimbursement to disproportionate share hospitals, in its Purchased Health Services rule chapter. The amendment is adopted effective July 1, 1988, to comply with §4112 of the Omnibus Budget Reconciliation Act of 1987 as amended by the Medicare Catastrophic Coverage Act of 1988, §411(k). The amendment specifies that, to qualify for disproportionate share pay-

ments, hospitals must have at least two physicians with staff privileges at the hospital who have agreed to provide nonemergency obstetric services to Medicaid recipients. The two-physician requirement does not apply to hospitals whose inpatients are predominantly younger than 18 or that do not offer nonemergency obstetric services as of December 21, 1987.

The adoption is justified to comply with federal requirements.

The adoption will function by including the two-physician requirement as a condition for receiving disproportionate share payments.

The amendment is adopted under the Human Resources Code, Title 2, Chapter 22, which provides the department with the authority to administer public and medical assistance programs. The amendment is adopted effective June 28, 1988, to comply with federal requirements.

**§29.609. Additional Reimbursement to Disproportionate Share Hospitals.**

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

(d) Calculating a hospital's disproportionate patient percentage.

(1) (No change.)

(2) To qualify for disproportionate share payments, a hospital must have at least two physicians (M.D. or D.O.) who have staff privileges at the hospital and who have agreed to provide nonemergency obstetric services to Medicaid recipients. The two-physician requirement does not apply to hospitals whose inpatients are predominantly, as defined by the department, younger than 18 or that do not offer nonemergency obstetric services as of December 21, 1987.

(3) The department arrays each hospital's disproportionate patient percentage in descending order. The department selects hospitals that meet the two-physician requirement or one of the exceptions to the requirement, beginning with the hospital with the highest disproportionate patient percentage and continuing until at least 25% of the Medicaid participating hospitals have been selected. Those hospitals selected are defined by the department as disproportionate share hospitals.

(e) (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 September 21, 1988

TRD-8809725

Marlin W. Johnston  
Commissioner  
Texas Department of  
Human Services

Effective date: July 1, 1988

Proposal publication date: N/A

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

## Chapter 29. Purchased Health Services

### Subchapter S. Maternity Clinic Services

#### • 40 TAC §§29.1801-29.1804

The Texas Department of Human Services (DHS) adopts new §§29.1801-29.1804 concerning benefits and limitations, conditions for participation, reimbursement, and monitoring. Section 29.1801 is adopted with a change to the proposed text published in the July 15, 1988, issue of the *Texas Register* (13 TexReg 3506). Sections 29.1802-29.1804 are adopted without changes to the proposed text and will not be republished.

The new sections are justified as they will ensure the availability of an additional resource for prenatal care with early intervention services to reduce adverse pregnancy and birth outcomes and to allow for good infant development.

The new sections will function by adding maternity clinic services, including reimbursement policies and conditions for provider participation, as a covered service of the Texas Medical Assistance Program.

During the public comment period, the department received comments from the Texas Department of Health (TDH). The following is a summary of the comments received and the department's response to each comment.

TDH suggested that §29.1801 state that the physician must evaluate each patient and prescribe or approve each patient's plan of care.

The department must comply with provisions in the State Medicaid Manual issued by the Health Care Financing Administration. Because these provisions specify that the physician must see each patient, the department is not in a position to incorporate the suggested change.

TDH also suggested that §29.1801 specify that clinics must have the availability of non-stress test (NST), sonography, and amniocentesis on-site or at a place of referral and be able to refer high-risk patients.

Because the department agrees that clinics should have arrangements for referral for non-stress test (NST), sonography, and amniocentesis for high-risk patients, the department has added subsection (f) to §29.1801.

TDH further suggested that §29.1802 specify that other physicians who provide clinic services must adhere to the policies of the clinic and that those physicians who provide delivery services must have obstetric privileges in the hospital where they practice.

The department anticipates that some clinics, because of their size and the number of patients served, will have more than one physician who sees patients and assumes professional responsibility for services provided to those patients. The department believes that adherence to clinic policy is inherent in any employment or contractual agreement/formal arrangement between the clinic and the physician. The department further believes that it is unnecessary to specify that physicians who provide delivery services must have obstetric privileges in the hospital

where they practice. Physicians who choose to provide delivery services would normally have obstetric privileges in a hospital or other facility offering delivery services.

Although TDH also suggested several editorial changes, the department chooses to retain the language as proposed.

The following new sections are 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. §29.1801. *Benefits and Limitations.*

(a) Subject to the specifications, conditions, limitations, and requirements established by the department or its designee, maternity clinic services are those clinic services determined by a licensed physician (M.D. or D.O.) to be reasonable and medically necessary for the care of a pregnant female (patient) during the patient's prenatal period and subsequent 60-day postpartum period. The physician prescribing the services must be employed by or have a contractual agreement/formal arrangement with the clinic to assume professional responsibility for the services provided to the clinic's patients.

(b) The physician must see each patient and prescribe or approve each patient's plan of care. The physician must base the plan of care on a risk assessment completed by the physician or by licensed, professional clinic staff. The assessment must be based on findings obtained through a health history, laboratory/screening services, and a physical examination. The department or its designee establishes the criteria for assessing the patient's risk. The level of services provided to the patient must be commensurate with the risk assessment. Services must be available on-site or through referral or other formal arrangement to patients experiencing a normal pregnancy and to patients whose pregnancy places them at high risk.

(c) Covered services must be furnished on an outpatient basis by the physician or by licensed, professional clinic staff under the direction of the physician. The physician and professional clinic staff must be licensed by the state in which the services are rendered. Services provided by the professional clinic staff must be within the staff's scope of practice or licensure as defined by state law.

(d) Covered clinic services include, but are not necessarily limited to, risk assessment, medical services, laboratory/screening services, case coordination/outreach, nutritional counseling, psychosocial counseling, family planning counseling, and patient education regarding maternal and child health.

(e) Although the physician does not necessarily have to be present at the clinic when covered services are provided, the physician must assume professional responsibility for the services provided at the clinic and must ensure through approval of

the plan of care that the services are medically appropriate. The physician must spend as much time in the clinic as is necessary to ensure that patients are receiving services in a safe and efficient manner in accordance with accepted standards of medical practice.

(f) Clinics must have arrangements for referral of non-stress test (NST), sonography, and amniocentesis for high-risk patients.

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 September 21, 1988.

TRD-8809728

Marlin W. Johnston  
Commissioner  
Texas Department of  
Human Services

Effective date: October 17, 1988

Proposal publication date: July 15, 1988

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

## Chapter 79. Legal Services

### Subchapter Q. Contract Appeals

#### • 40 TAC §79.1603

The Texas Department of Human Services (DHS) adopts an amendment to §79.1603, without changes to the proposed text as published in the August 16, 1988, issue of the *Texas Register* (13 TexReg 4056).

The justification for the section is to comply with federal regulations, which require hearing decisions to be made within certain timeframes.

The section will function by adding hearing deadlines for the Child Care Food Program and Summer Food Service Program.

No comments were received regarding adoption of the amendment.

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

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

Issued in Austin, Texas, on September 20, 1988

TRD-8809534

Marlin W. Johnston  
Commissioner  
Texas Department of  
Human Services

Effective date: October 19, 1988

Proposal publication date: N/A

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



## Part V. Veterans Land Board

### Chapter 175. General Rules of the Veterans Land Board

#### • 40 TAC §175.18

The Veterans Land Board adopts an amendment to §175.18, with changes to the proposed text as published in the May 6, 1988, issue of the *Texas Register* (13 TexReg 2154). The text has been changed to show that as of February 28, 1989, the use of local real estate professionals to dispose of certain forfeited tracts will automatically end unless the board acts to extend the use of local real estate professionals.

The amendment provides flexibility to the staff of the board in disposing of the large number of forfeited tracts of land which the Veterans Land Board has in its inventory and prevents any loss of funds due to or by delaying a sale.

This amendment provides that the board shall set the terms and conditions of the resale of forfeited land, and provides that the chairman of the board shall be authorized to review bids when and as received, and accept the first acceptable bid on certain tracts. It also provides a mechanism for obtaining the assistance of local real estate professionals in the disposal of these tracts of land.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the authority of the Natural Resources Code, §161.061 and §161.063, which authorizes the Board to adopt rules that it considers necessary or advisable.

#### §175.18. Resale of Forfeited Land.

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

(1) bid—A bid is an offer to purchase a Type I or Type II tract submitted in the manner prescribed by the board.

(2) Highest bidder—The person who submits the best and highest bid which satisfies all the terms, conditions, and guidelines set by the board for any sale of any tract.

(3) Minimum bid amount—The minimum acceptable selling price set by the board for each Type I and Type II tract.

(4) Type I land tract—When a tract is forfeited and first ordered for sale or lease by the board, it is automatically classified as Type I land.

(5) Type II land tract—When Type I land has been made available for sale or lease and is not sold or leased by the board for any reason, it is automatically reclassified as Type II land at the moment the board determines that no acceptable bid was received.

(b) Costs of sale.

(1) All property taxes which are,

in the opinion of the board, lawfully due and owing on a Type I or Type II tract on the date it is resold by the board, may be paid from the proceeds of the issuance of bonds.

(2) All costs to the board associated with selling a Type I or Type II tract, including administrative expenses, road construction, surveying, legal fees, real estate commissions, advertising expenses, and other similar costs, may be paid from the proceeds of the issuance of bonds.

(c) Sale of forfeited tracts.

(1) Qualified purchasers.

(A) Type I tracts shall be first offered for sale or lease only to veterans who meet the eligibility requirements of §175.2 of this title (relating to Application Eligibility). Bids on Type I tracts shall be submitted to the board on or before the bid deadline set by the board. These bids shall be reviewed by the board and the board may, in its discretion, award any Type I tract to the highest bidder.

(B) Any Type I tract not awarded by the board on the bid deadline date shall be immediately reclassified as Type II land. Type II tracts may be offered for sale or lease to both nonveterans and eligible veterans. Bids on Type II tracts may be reviewed by the chairman who may, in his or her sole discretion, award any Type II tract to the highest bidder; provided, however, the provisions of this section concerning Type II land, insofar as the use of local real estate professionals to market tracts through the program is authorized, shall expire automatically at midnight, February 28, 1989, unless extended by the board.

(2) Terms of sale.

(A) The board may, in its sole discretion, set terms, conditions, and guidelines governing the sale of any tract.

(B) The board may combine or subdivide Type I or Type II land to form individual Type I or Type II tracts.

(C) Any tract formed by combining Type I and Type II land shall be classified as Type I until it has been offered for sale or lease and is not sold or leased by the board for any reason. Thereafter, it shall be reclassified as Type II land.

(3) Deposit. Each bidder shall be required to deposit, in cash, an amount designated by the board.

(4) Duration. The land shall be sold under contract of sale and purchase not to exceed 30 years in duration.

(5) Additional terms and conditions. Each contract of sale and purchase

shall conform to the provisions of the Natural Resources Code and shall be in such form, and contain such terms and conditions, as the chairman of the board may prescribe.

(6) Bid rejection. The board may reject any and all bids on Type I tracts. The chairman of the board may reject any and all bids on Type II tracts.

(7) Forfeiture. If a successful bidder refuses to execute a contract of sale and purchase, the money submitted with his bid may be forfeited and shall be deposited in the state treasury and credited to the fund.

(d) Bids.

(1) Minimal amount. The board shall, in its sole discretion, set the minimum amount for which offers will be accepted for each Type I and Type II tract. Any costs to the board associated with selling a Type I or Type II tract, including road construction, surveying, advertising, legal fees, property taxes, real estate commissions, advertising expenses, and other similar costs, may be made part of the minimum bid amount.

(2) Bid deadline.

(A) The board may set a specific time and date on or before which bids pertaining to any tract must be submitted. In such event, no bid shall be awarded by the board prior to that time.

(B) The board may elect to set no specific time and date on which bids pertaining to any tract must be submitted. In such event, the chairman of the board shall be authorized to review bids when and as received, and accept the first acceptable bid on any such tract.

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 September 14, 1988.

TRD-8809491

Garry Mauro  
Chairman  
Veterans Land Board

Effective date: October 11, 1988

Proposal publication date: May 6, 1988

For further information, please call: (512) 463-5009

### Chapter 179. Farm and Ranch Program

#### • 40 TAC §§179.1-179.3, 179.10, 179.19, 179.20, 179.21, 179.23

The Veterans Land Board adopts amendments to §§179.1-179.3, 179.10, 179.19,

179.20, 179.21, and new §179.23. Sections 179.3, 179.10, 179.19, and 179.21 are adopted with changes to the proposed text as published in the May 20, 1988 issue of the *Texas Register* (13 TexReg 2359). Sections 179.1, 179.2, and 179.23 are adopted without changes and will not be republished. The changes to §§179.3, 179.10, and 179.21 are grammatical in nature, while §179.19 has been changed to show that the loan service fee and loan commitment fee are refundable at the discretion of the board.

By adopting these amendments and new section the board will be able to fund loans for the Farm and Ranch Finance Program while, at the same time, providing for loan guarantees. These amendments also allow the board to recoup the cost of running this program, while streamlining the administrative aspects of the program.

The amendments and new section provide for the issuance of tax exempt and taxable bonds, eliminate the requirements of escrow accounts, increase the fees charged applicants, shorten the time period for forfeiting an account, and provide for Texas Department of Agriculture loan guarantees.

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

The amendments and new section are adopted under the authority of the Natural Resources Code, §161.037, which provides the Veterans Land Board with the authority to adopt rules that it considers necessary to administer the Farm and Ranch Finance Program.

#### §179.3. Application/Eligibility.

(a) Application to participate in the Farm and Ranch Finance Program must be made on forms furnished by the board. Such forms and other materials may be obtained from the Veterans Land Board, Stephen F. Austin Building, 1700 North Congress Avenue, Austin, Texas 78701. Persons desiring to purchase land under this program, or desiring to have a determination of his or her eligibility made, shall remit the appropriate application fee and request application materials.

(b) Upon receipt of a completed application, the board shall refer the application to the local committee for the county in which the land is located and for the county in which the applicant resides.

(1) For purposes of this chapter, the county judge for each county in Texas shall appoint a local committee consisting of two resident agricultural producers and an officer of a financial institution located in the county, and designate the chairman. The members of the local committee shall serve for a term of two years.

(2) The local committee shall review the application and determine both the eligibility of the applicant and the value of the land, in accordance with these general rules, and without regard to race, color, religion, or national origin of the applicant.

(c) To participate in the program an applicant must meet the following eligibility requirements:

- (1) be at least 18 years of age;
- (2) be a citizen of the United States;
- (3) have been a Texas resident for not less than five years immediately preceding the application;

(A) for purposes of this chapter, Texas resident means a person domiciled in the State of Texas for the preceding five years with the intention to remain;

(B) in order to assist the local committee in determining whether the applicant qualifies as a Texas resident, each applicant should include with the application packet one or more of the following:

- (i) Texas driver's license or identification card issued by the Texas Department of Public Safety;
- (ii) Texas voter registration card;
- (iii) Texas motor vehicle registration;
- (iv) receipts for the payment of mortgage, rent, or utilities, showing the applicant's name and address;
- (v) Texas property tax receipts;
- (vi) payroll checks or other employment records containing the applicant's name and address; or
- (vii) other documentation that the board deems applicable;

(4) be a member of a household which derived at least 35% of its gross income from farming or ranching for the preceding three years;

(A) for purposes of this chapter household means those individuals who are legally bona fide residents of the applicant's home;

(B) income from farming and ranching means agricultural income and includes proceeds derived from stock, dairy, poultry, fruit, fur bearing animals, truck farms, plantations, ranches, nurseries, timber, ranges, aquaculture, vitaculture, greenhouses, or other similar structures used primarily for the raising of agricultural or horticultural commodities, and orchards, and including on the land, activities and functions contributing to the production of food and fiber. Also included are proceeds received by agricultural professionals and managers who are indirectly involved with the production of food or fiber by virtue of their professional advice to producers. Proceeds from other activities, as recommended by the local committee and approved by the board, may also be included.

(C) gross income requirements from farming and ranching may be documented by the following:

- (i) local committee review and recommendations; and
- (ii) any other documentation the board deems appropriate.

(5) have a net worth of less than \$250,000 for purposes of this section, this requirement may be satisfied by the following:

(A) completion and submission of the financial statement in the application material and endorsed by the applicant's primary financial institution used for financial transactions;

(B) local committee review and recommendation; or

(C) any other documentation the board deems appropriate.

(6) be an applicant for the purchase of not less than 50 acres with a maximum loan request of \$100,000, less a 5.0% cash down payment. Down payments may be increased by request of the applicant, local committee, or by decision of the board.

(7) In addition to the foregoing state requirements, individuals who are to receive a program loan from tax exempt bond proceeds must also meet requirements set forth in the Code.

(d) An applicant must provide the board information on the proposed use for the land to be acquired. The information provided should contain sufficient details on anticipated income and cash flow analysis for the local committee and the board to evaluate the soundness of the investment, as well as the applicant's ability to pay the contract indebtedness, to the extent that anticipated income may not always be realized. The local committee will make a recommendation to the board concerning the intended use, income, and cash flow projections of the land.

(e) A credit report will be attached to each application if the local committee so desires or requests.

(f) For applicants applying for loans to purchase land, the board may require a cosigner to the contract of sale and purchase.

(g) As soon as practicable after receipt of an application recommended by the local committee, the board shall approve or deny the application and notify the applicant.

(h) A person may participate in the program one time only. Such participation may be by way of an original contract, or by successfully bidding in a forfeited land

sale.

(i) If an eligible applicant dies after having filed an application and contract of sale with the board, but before the application and contract of sale have been completed, the surviving spouse may complete the transaction. For the purposes of the Farm and Ranch Finance Program, the surviving spouse shall be deemed an applicant.

(j) Applications and contracts must be signed by the applicant. An attorney in fact may not sign these documents for the applicant.

(k) No application shall be approved to purchase land under the program:

(1) which provides for or recognizes a second or subordinate lien as a part of the original purchase price for any tract; or

(2) where there is evidence that the benefits derived from the use of the land will not pass to the purchaser.

(l) The chairman of the board may reject an application and/or declare the contract breached if:

(1) the applicant or seller fails to perform any contractual obligation within a reasonable length of time;

(2) there is a failure to convey marketable title; or

(3) there exists any other good and sufficient reason, as determined by the chairman of the board.

(m) If for any reason an application is not processed to completion, the down payment will be refunded to the applicant, together with the unused portion of any fees that have been deposited with the board.

(n) Each application will be considered as a wholly separate transaction, independent of any other agreement, transaction, or contingency. The board will not consider an application which contains a provision making it contingent upon the success or completion of another agreement or transaction.

#### *§179.10. Contract of Sale and Purchase.*

(a) The contract of sale and purchase will be prepared by the board. It is to be executed by both the applicant (hereinafter referred to as the purchaser) and the chairman of the board.

(b) The contract of sale and purchase must provide that using land (other than incidental use) acquired under this chapter for a purpose other than agriculture subjects the contract of sale and purchase to be due and payable in full.

(c) The board will specify the terms of the contract for each transaction. Those applicants who represent to the board that they will not have monthly income may request quarterly, semiannual or annual payments. Based on how a borrower will receive income, and with local committee

and board approval, payment schedules may be set on a quarterly, semiannual, or annual basis. These borrowers will also be required to submit cash flow statements to the board on March 1 of each year that will justify continuing payments on other than a monthly basis.

(d) Each contract of sale and purchase shall bear a rate of interest designated by the board and shall not exceed 30 years in duration.

(e) If the tract contains improvements or is located in an underground irrigation water area, the chairman may require accelerated installments for the purpose of protecting the board's investment.

(f) Installment payments on a purchaser's contract of sale and purchase shall be due and payable on the installment dates specified in the contract. Unless otherwise authorized by the board in accordance with subsection (c) of this section, all installments shall be due and payable on the first of each month.

(g) A purchaser is entitled to pay any or all installments remaining unpaid on any installment date; provided, however, the board is authorized to set and charge a pre-payment fee, to be set by the board. When making an advance payment, the purchaser should provide the board with written instruction as to the nature of the payment (i.e., whether it is an additional payment against principal or an advance installment payment for a future installment date). Making an additional payment against principal will not relieve the purchaser of his obligation to make regular installment payments as they become due.

(h) All taxes on property subject to contract of sale and purchase state, school, water district, city, or any other tax) shall be kept current. Evidence of their payment shall be submitted to the board by May 1 of each year. Failure to pay any taxes that are due and owing shall be grounds for forfeiture of an account.

(i) If there are any material errors in the contract, the chairman may execute a correction contract. This instrument will then be provided to the purchaser for his signature.

#### *§179.19. Fees and Deposits.*

(a) In addition to the fees cited in this chapter, the board is authorized and required to collect the following fees when they are applicable:

(1) application fee—\$75;

(2) appraisal fee—\$250;

(3) loan service fee—1.0% of the loan amount which is payable at the time the buyer and seller execute the contract of sale and purchase and is nonrefundable provided, however, in the event there is no closing, the board may elect to refund such fee if it determines that the failure of the transaction to close was beyond the control

of the buyer and/or seller and that the failure to refund such fee would be manifestly unjust;

(4) loan commitment fee—1.0% of the loan amount which is payable at the time the buyer and seller execute the contract of sale and purchase and is nonrefundable; provided, however, in the event there is no closing, the board may elect to refund such fee if it determines that the failure of the transaction to close was beyond the control of the seller and/or buyer and that the failure to refund such fee would be manifestly unjust;

(5) contract of sale and purchase transfer fee for each transfer—\$140;

(6) mineral lease service fee for each lease executed by the purchasers—\$100;

(7) reappraisal fee, when required by the board—\$150;

(8) fee for servicing and filing each easement—\$40;

(9) fee for homesite, severance deed or pay-in-full deed—\$80;

(10) fee for reinstatement of a forfeited account:

(A) if forfeited for the first time—\$25 for each month (or any portion thereof) the account has been in a forfeited status;

(B) if forfeited for the second time—\$50 for each month (or any portion thereof) the account has been in a forfeited status.

#### *§179.20. Resale of Forfeited Land.*

(a) Land revested in the Farm and Ranch Program Fund by forfeiture of a contract may be resold to the highest bidder in a forfeited land sale. The board shall set terms, conditions, and guidelines governing the sale and shall make these available to any perspective bidder for a reasonable fee. These terms shall include, but are not limited to the following.

(1) The first time a tract is offered for sale it may only be resold to a qualified applicant who meets the eligibility requirements of §179.3 of this title (relating to Application/Eligibility).

(2) Any tract not purchased the first time it is offered for sale may be resold to any bidder approved by the board.

(3) Each bidder shall be required to deposit, in cash, an amount designated by the board.

(4) The land may be sold under contract of sale and the purchase and shall not exceed 30 years in duration.

(5) Each contract of sale and purchase shall conform to the provisions of the Natural Resources Code and shall be in

such form, and contain such terms and conditions, as the chairman of the board may prescribe.

(6) The board may reject any and all bids.

(7) If a successful bidder refuses to execute a contract of sale and purchase, the money submitted with his bid is forfeited and shall be deposited in the state treasury and credited to the fund.

(b) The foregoing notwithstanding, any land forfeited from a purchaser under the program may be purchased by the board for the benefit of the Veterans Land Fund for sale in accordance with the Natural Resources Code, Chapter 161.

*§179.21. Delinquencies and Forfeiture Procedures.*

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

(1) **Account**—The loan account a borrower holds with the Veterans Land Board. The account includes the amount of the unpaid principal balance of the loan, any delinquent amount, and the contracts, forms, and other information relating to a borrower's loan with the board.

(2) **Borrower**—The person presently obligated to make the loan installment payments set forth in the contract. The borrower may be the original purchaser, a purchaser at a forfeited land sale, or the last board-approved assignee of the original purchaser.

(3) **Contract**—The contract of sale and purchase between the board and a borrower.

(4) **Current**—The account is in good standing with no payments delinquent.

(5) **Delinquent amount**—The total amount needed to bring an account current. This delinquent amount includes all past due installments plus all accrued penalty interest. The delinquent amount does not include the reinstatement penalty.

(6) **Forfeiture**—The action by which the board declares a borrower to be in breach of his or her contract by virtue of failing to perform a material term of the contract, including, but not limited to, timely payment of the loan installments. Once a contract is forfeited, a borrower no longer has any rights under the terms of the contract.

(7) **Installment**—The amount of the periodic loan payment specified by the contract.

(8) **Partial payment agreement**—A written agreement with the account holder of a schedule of partial payments to be made to clear the delinquent amount prior to the date of the next installment due date.

(9) **Penalty interest**—The interest which accrues on a loan installment which has become delinquent.

(10) **Reinstatement penalty**—The amount charged to a borrower (whose contract has been forfeited by the board) in order to reinstate the contract. The reinstatement penalty includes the costs of notifying the borrower of delinquencies, forfeiture and forfeiture procedures, and all other costs of processing the reinstatement of a forfeited contract. The reinstatement penalty is in addition to the amount necessary to bring the account current.

(b) **Partial payment agreements (PPA's)** may be granted at any time prior to the date the account is forfeited, providing the account meets the following requirements. The option of including more than two installments in the partial payment agreement will be made on a case by case basis.

(1) The account is not currently on a partial payment agreement.

(2) The account has not been on a partial payment agreement in the past 12 months.

(c) When a scheduled loan installment is not received in the board's offices, in Austin, within five days of the due date stated in the contract, the installment becomes delinquent and shall accrue penalty interest at the rate of 1 and 1/2 percentage points above the contract interest rate; provided, however, such penalty interest rate shall not exceed the maximum rate prescribed by law applicable to these loans. The account shall continue in a delinquent status until the full amount of the installment, plus accrued penalty interest, has been received by the board.

(1) If an account remains in a delinquent status for 45 or more consecutive days, it shall become eligible for forfeiture by the board.

(A) Within 15 days of an installment becoming delinquent, the board shall send a delinquency notice to the borrower advising that the installment is delinquent and requesting payment.

(B) If payment of the delinquent amount is not received within 30 days of the date the delinquency notice was sent to the borrower, the board may, at any time thereafter, notify the borrower in writing of a date by which payment must be received. This notice of impending forfeiture shall advise the borrower that if forfeiture occurs all payments made by the borrower shall be lost. This notice shall clearly indicate that no further notice of impending forfeiture will be given the borrower and will specify the reason the contract is subject to forfeiture. This notice will be sent by mail to the last known address of the original purchaser, spouse or heirs.

(2) The contract is also subject to forfeiture if the provisions of the Natural Resources Code, Chapter 163, the contract, or the rules of the board are not satisfied. The board must give 30 days written notice to the borrower, or the last board approved assignees of the original purchaser, if any, and must specify the reason why the contract is subject to forfeiture. This notice will be sent by mail to the last known addresses of these parties. If the reason for forfeiture is cured or corrected within 30 days, the board shall not declare a forfeiture. If a contract is subject to forfeiture for any of the above reasons, or because the purchaser has assigned the contract to anyone without obtaining the board's approval and without using the board's forms, the board may, at its option, require that the account be paid in full, including penalties and interest which the board may deem appropriate, within 60 days of the last notice. Title to the tract will then be deeded to the borrower.

(3) The board is the sole judge of forfeiture of any contract.

(d) The board may consider forfeiting a contract at any meeting. The board shall indicate on its meeting agenda that the forfeiture of contracts shall be considered.

(1) A forfeiture shall be effective at the time the board meets and adopts a resolution directing its chairman to endorse on the wrapper that contains the papers of the sale, or on the purchase contract filed in the General Land Office, the word "forfeited" (or words of similar import), the date of the action, and to officially sign the document. At that time, the land and all payments previously made are forfeited.

(2) Notice of the board's action in forfeiting the contract shall be mailed to the county clerk of the county in which the land is located.

(3) The borrower shall be notified by registered mail sent to his last known address that the contract has been forfeited and that he must vacate the premises within 45 days of the date of the letter.

(4) If deemed necessary, the board shall request the attorney general to institute legal proceedings to enforce the forfeiture, to recover the full amount due at the time the forfeiture occurred, or to protect any other right to the land. The liability of the original purchaser or board approved assignees are joint and several, but the original purchaser is primarily liable for payment of the money under the contract.

(5) When the forfeiture is effective, the full title to the land shall revert in the board. Any interest in the mineral estate which the board acquired at purchase shall likewise revert in the board. The board shall recognize, and continue in force and effect, any outstanding valid oil, gas, or mineral lease and collect all rentals, royalties, or other amounts payable under the lease. The

board may also lease the land on terms it considers proper.

(A) A lease for agricultural and grazing purposes is subject to cancellation upon the resale of the property.

(B) The board may execute oil, gas, and mineral leases by following the same procedures provided for the School Land Board in the lease of public school land.

(6) If a contract has been forfeited and the title to the land revested in the board, it may be reinstated under the following circumstances.

(A) The original purchaser and all board approved assignees have a right to reinstate the contract at any time before the date on which the board meets and orders the land to be advertised for resale or for lease for mineral development.

(i) A contract holder wishing to exercise a right of reinstatement shall submit to the board payment of the delinquent amount (including penalty interest), the reinstatement penalty (including costs incident to the reinstatement), and evidence that there are no delinquent taxes due and owing as of the date and time of reinstatement. An individual who fails to make such a timely submission shall lose his or her right of reinstatement.

(ii) If there is only one person who has a right of reinstatement (there having been no board approved assignments of the contract), the chairman of the board is authorized to reinstate the contract at any time before the board meets to order the tract advertised for sale upon receipt of payment of the monies and documents described in clause (i) of this subparagraph.

(iii) If more than one person appears to have a right of reinstatement for the same tract of land, the chairman shall not be authorized to reinstate the contract prior to the date and time the board meets to order the tract advertised for sale. In this event, all persons wishing to exercise a right of reinstatement to the same tract must each submit to the board the monies and documents described in clause (i) of this subparagraph. When the board meets to order the tract advertised for sale, it shall review the submissions of all persons wishing to exercise a right of reinstatement. If, in the judgment of the board, any submission is incomplete, the party making such submission shall be deemed to have failed to exercise his or her right of reinstatement. Any monies and documents submitted by such persons shall be returned. If there are still two or more persons who satisfy the requirements to reinstate the same contract, the board shall decide, in its discretion, who may exercise the right to reinstate. Such determinations shall be made on a case-by-case basis.

(B) After the tract has been ordered advertised for sale, there is no right of reinstatement. However, the borrower, the original purchaser, or board approved assignee may petition the board to permit reinstatement. In this event, reinstatement may only be approved by the board at a regular meeting, and under the following conditions.

(i) Reinstatement may only be permitted if the board has not accepted a bid for the tract and the rights of third parties have not vested. The board in its discretion, may set conditions which must be satisfied before reinstatement will be permitted under this subsection. If the board permits reinstatement, the chairman shall be authorized by the board to make A

written agreement with the party seeking reinstatement setting forth all conditions for reinstatement, including a date by which these conditions must be satisfied. The conditions shall include, but are not limited to, the following: payment of the delinquent amount (including penalty interest); payment of the reinstatement penalty (including costs incident to the reinstatement); and submission of tax certificates evidencing that there are no delinquent taxes on the land. When the board determines that all conditions set forth in the agreement have been satisfied, it shall reinstate the contract.

(ii) The failure of the party seeking reinstatement to satisfy all conditions of the agreement before the date specified therein shall set aside the agreement and the board's offer to reinstate the contract shall be revoked.

(iii) The board shall be the sole judge of whether the conditions of the agreement have been satisfied.

(C) A contract shall not be reinstated until all conditions for reinstatement have been satisfied. Preferably all conditions will be satisfied simultaneously, however, under no circumstances will the board accept payment of the delinquent amount until all other conditions for reinstatement have been satisfied.

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 September 14, 1988.

TRD-8809492

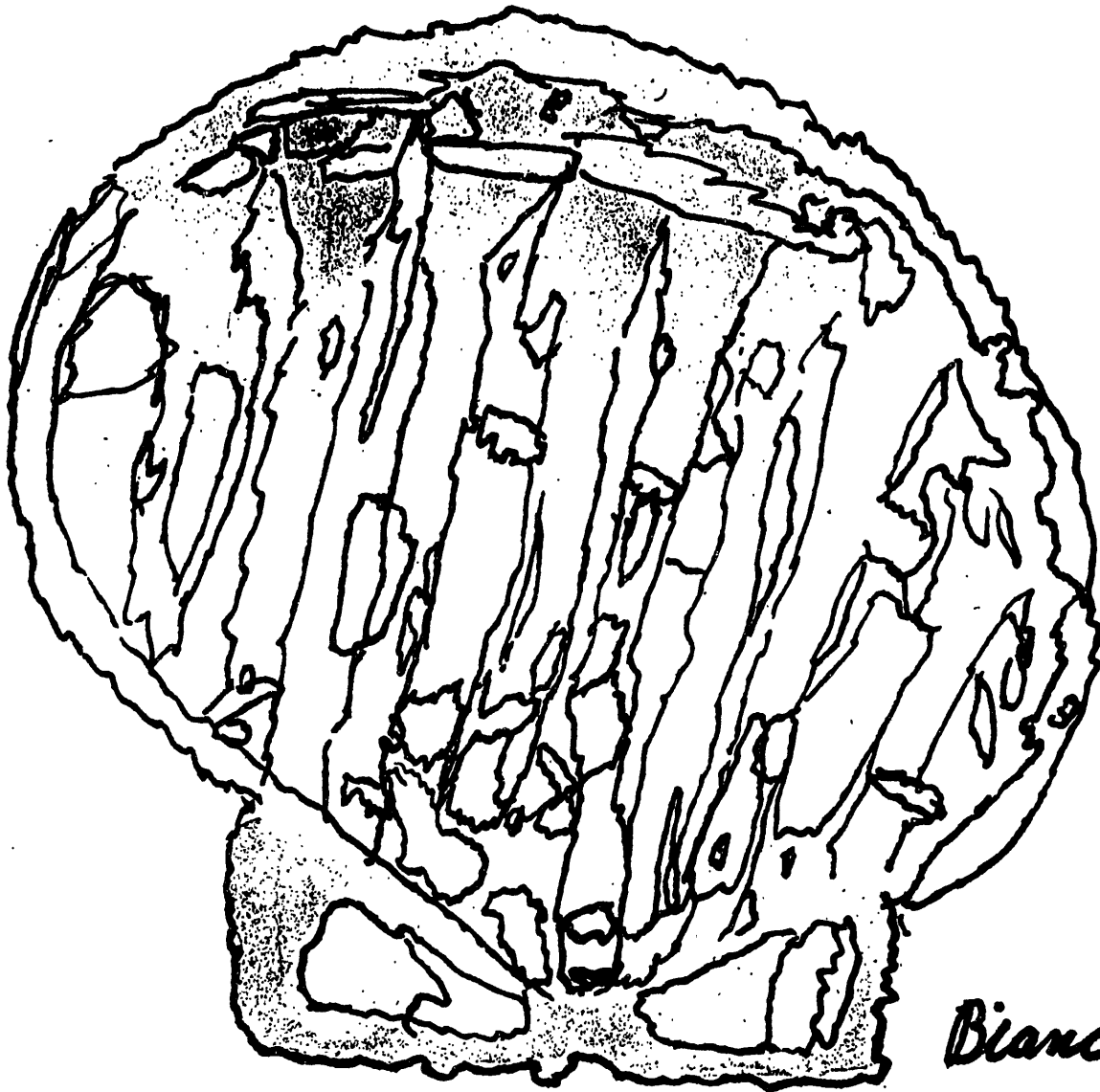
Garry Mauro  
Chairman  
Veterans Land Board

Effective date: October 11, 1988

Proposal publication date: May 20, 1988

For further information, please call: (512) 463-5009





*Bianca Heinz*

Name: Bianca Heinz  
Grade: 4  
School: Pope Elementary, Arlington

# Open Meetings

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

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

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

**Friday, October 7, 1988, 10 a.m.** The Advisory Committee on Probation Department Management of the Texas Adult Probation Commission will meet in Suite 600, Building B, 8100 Cameron Road, Austin. According to the agenda, the committee will approve minutes of the previous meeting; hear subcommittee reports; discuss scope of responsibilities; review draft standards; approve fiscal year 1989 committee budget; and consider other business.

**Contact:** Virginia Grote, 8100 Cameron Road, Suite 600, Building B, Austin, Texas 78753, (512) 834-8188.

**Filed:** September 21, 1988, 2:50 p.m.

TRD-8809742

## Texas Department of Agriculture

**Monday, September 19, 1988, 1:30 p.m.** The Texas Department of Agriculture met in emergency session on the Second Floor Conference Room, Texas Department of Agriculture, 611 South Congress Avenue, Austin. According to the agenda, the department drew up terms of office; discussed committee mission and goals; current imported fire ant research; and determined future plans for committee assignments. The emergency status was necessary as this is a newly appointed board, and immediate action was needed to discuss the issuance of funds for research projects.

**Contact:** Roger Mulder, P.O. Box 12847, Austin, Texas 78711, (512) 463-7535.

**Filed:** September 16, 1988, 11:58 a.m.

TRD-8809560

**Tuesday, October 4, 1988, 10 a.m.** The Texas Department of Agriculture will meet in the Ninth Floor Conference Room, Stephen F. Austin Building, Austin. According to the agenda, the department will review alleged violation of Texas Pesticide Laws and Regulations by Jim B. Prater, holder of commercial applicator license.

**Contact:** Robert A. Caine, P.O. Box 12847, Austin, Texas 78711, (512) 463-7583.

**Filed:** September 20, 1988, 2:38 p.m.

TRD-8809672

## Texas Council on Alzheimer's Disease and Related Disorders

**Thursday, October 6, 1988, 3:15 p.m.** The Texas Council on Alzheimer's Disease and Related Disorders will meet in LaMansion Del Rio, 112 College Street (Riverwalk), San Antonio. According to the agenda summary, the council will approve minutes of the previous meeting; consider status of the annual report, statewide Alzheimer's Conference, and emerging concepts in Alzheimer's care; hear committee reports; consider medical research, education and information transfer, and direct services; and hold general discussion (public input).

**Contact:** Morris H. Craig, West 4<sup>th</sup> Street, Austin, Texas 78756, (512) 458-7323.

**Filed:** September 20, 1988, 2:41 p.m.

TRD-8809670

## Texas Animal Health Commission

**Tuesday, September 27, 1988, 4 p.m.** The Finance Committee of the Texas Animal Health Commission will meet in the First Floor Conference Room, 210 Barton Springs Road, Austin. According to the agenda, the committee will discuss reduction in federal funding and impact on agency operating budget.

**Contact:** Jo Anne Cooper, P.O. Box 12966, Austin, Texas 78704, (512) 479-6697.

**Filed:** September 19, 1988, 9:56 a.m.

TRD-8809616

**Wednesday, September 28, 1988, 9 a.m.** The Texas Animal Health Commission will meet in the First Floor Conference Room,

210 Barton Springs Road, Austin. According to the agenda summary, the commission will approve minutes of the June 14, 1988, meeting and actions of the executive director; consider awards to TAHC employees; hear report of TAHC Finance Committee; consider second submission of 1990-1991 budget request and discussion of the 1989 operating budget; discuss importation of wildlife into west Texas; hear report on brucellosis program in Texas; consider proposing repeal of §35.5 and proposing amendments to §35.1 and §35.2 concerning brucellosis; and hear report on information activities.

**Contact:** Jo Anne Conner, 20 Barton Springs Road, Austin, Texas 78704, (512) 479-6697.

**Filed:** September 20, 1988, 8:20 a.m.

TRD-8809653

## State Banking Board

**Monday, September 26, 1988, 9:30 a.m.** The State Banking Board met at the State Banking Department, 2601 North Lamar Boulevard, Austin. According to the agenda, the board approved previous minutes; considered rule relating to substitute members of banking board; conversion application; interim applications; change of domicile applications; reviewed applications approved, but not yet open and other pending applications; and met in executive session to discuss pending litigation.

**Contact:** Ann Graham, 2601 North Lamar Boulevard, Austin, Texas 78705, (512) 479-1200.

**Filed:** September 16, 1988, 2:12 p.m.

TRD-8809564

## State Bar of Texas

**Thursday, September 22, 1988, 1 p.m.** The Executive Committee of the State Bar of Texas submitted an emergency revised agenda for a meeting held at the Midland Hilton, Midland. According to the agenda, the committee considered establishing pol-

icy regarding personnel attendance at ABA and other out-of-state meetings. The emergency status was necessary due to administrative oversight with an item that was posted for executive session and should not have been.

Contact: Paula Welch, 1414 Colorado Street, Austin, Texas 78701, (512) 463-1451.

Filed: September 19, 1988, 3:40 p.m.

TRD-8809644

**Friday and Saturday, September 23 and 24, 1988, 9 a.m.** The Board of Directors of the State Bar of Texas will meet in the Midland Hilton Hotel, Midland. According to the agenda summary, the board will hear reports of the chairman of the board, president, executive director, general counsel, president-elect, immediate past president, immediate past chairman, and TYLA president; consider recommendations from Committee on Court Costs, Efficiency and Delay; hear report from Committee on History and Traditions of the Bar; consider business law section for amendment to bylaws; hear reports from Audit and Finance Committee and Committee on Legislation in the Public Interest; consider state bar key person program; hear reports from supreme court liaison, court of criminal appeals liaison, federal judicial liaison, judicial section liaison, comments of public members, and Texas lawyers care mid-year report.

Contact: Paula Welch, 1414 Colorado Street, Austin, Texas 78701, (512) 463-1451.

Filed: September 15, 1988, 4:09 p.m.

TRD-8809545

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

**Friday, September 30, 1988, 10 a.m.** The Texas Committee on Purchases of Products and Services of Blind and Severely Disabled Persons will meet in the Boardroom, Third Floor, Texas Rehabilitation Commission, 118 East Riverside Drive, Austin. According to the agenda summary, the committee will approve minutes of the July 29, 1988, meeting; discuss and review TIBH's fiscal year 1989 programs and budget; and discuss and act on TIBH's fiscal year 1989 commission rate, new services, renewal services, new products, and product changes and revisions.

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

Filed: September 21, 1988, 9:39 a.m.

TRD-8809732

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**Texas Bond Review Board**

**Monday, September 19, 1988, 3 p.m.** The Texas Bond Review Board met in emergency session in the Lieutenant Governor's Committee Room, Capitol Building, Austin. According to the agenda, the board considered application concerning Texas Department of Corrections-refinancing of trusty camp construction and other business. The emergency status was necessary to allow staff persons adequate time to review application prior to regular monthly board meeting.

Contact: Tom K. Pollard, Room 700, Sam Houston Building, Austin, Texas (512) 463-1741.

Filed: September 16, 1988, 11 a.m.

TRD-8809557

**Tuesday, September 20, 1988, 10 a.m.** The Texas Bond Review Board made an emergency revision to the agenda for a meeting held in the Senate Chamber, State Capitol, Austin. According to the agenda, the board considered Texas Department of Corrections-refinancing of trusty camp construction. The emergency status was necessary to allow board action on an unexpected application received after filing deadline.

Contact: Tom K. Pollard, Room 700, Austin, Texas (512) 463-1741.

Filed: September 16, 1988, 10:59 a.m.

TRD-8809558

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**Texas Cancer Council**

**Friday, October 21, 1988, 10 a.m.** The Regional Public Hearing for the Texas Cancer Council was held at the Scottish Rite Hospital Auditorium, 2222 Welborn, Dallas. According to the agenda, the council will inform the public about the Texas Cancer Plan and the activities of the Texas Cancer Council, will identify local team workers and task force members for regional activities, and determine future needs and goals of the plan, particularly local needs; receive public input on the problem of cancer in Texas; and receive recommendations for combatting the problem.

Contact: D.L. Moore, 105 West Riverside Drive, Suite 112, Austin, Texas 78711, (512) 463-3190.

Filed: September 21, 1988, 3:39 p.m.

TRD-8809758

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**Texas Department of  
Commerce**

**Monday, October 3, 1988, 9:30 a.m.** The Texas Literacy Council of the Texas Department of Commerce will meet in the Old Supreme Court Conference Room 310, State Capitol, Austin. According to the

agenda summary, the council will approve minutes of the previous meeting; hear public comment, presentations by James Ledbetter and Barbara Crosby, report by Literacy Training Workshop; consider briefing, literacy council budget request; and round table discussion to update, improve, and plan several different topics by council members and literacy council staff.

Contact: Martha Alworth, 8317 Cross Park Drive, Austin, Texas (512) 834-6291.

Filed: September 21, 1988, 9:12 a.m.

TRD-8809728

**Wednesday, October 5, 1988, 10 a.m.** The State Community Development Review Committee for the Texas Department of Commerce will meet in Room 101, John H. Reagan Building, Austin. According to the agenda, the committee will hear comments on the Texas Community Development Program, and consider funding recommendations for the Texas Capital Fund.

Contact: Ruth Cedillo, (512) 320-9507.

Filed: September 21, 1988, 3:37 p.m.

TRD-8809756

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**Texas Department of  
Corrections**

**Thursday, September 29, 1988, 8:15 a.m.** The Texas Department of Corrections will meet in Room 103, 815 11th Street, Huntsville (conference call; telephone accessible). According to the agenda, the department will consider refinancing of trusty camps and naming of new prison units.

Contact: James A. Lynaugh, P.O. Box 99, Huntsville, Texas 77342-0099, (409) 294-2101.

Filed: September 21, 1988, 2:57 p.m.

TRD-8809743

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**Texas Cosmetology  
Commission**

**Monday, October 3, 1988, 9 a.m.** The Legislative Committee for the Texas Cosmetology Commission will meet at the Austin Hilton, 6000 Middle Fiskville Road, Austin. According to the agenda, the committee will hear opening remarks from the chairperson, Evelyn Hunter, present reports, and discuss needed statutory changes.

Contact: Janis Rebold, 1111 Rio Grande, Austin, Texas 78701, (512) 463-3183.

Filed: September 19, 1988, 1:21 p.m.

TRD-8809620

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**Texas School for the Deaf**

**Friday, September 23, 1988, 8 a.m.** The



Governing Board Orientation of the Texas School for the Deaf met in the Boardroom, 1102 South Congress Avenue, Austin. According to the agenda summary, the board considered overview of training, orientation to TSD, site visits, and governing board roles and issues.

Contact: Sheila O'Leary, 1102 South Congress Avenue, Austin, Texas, (521) 440-5335.

Filed: September 15, 1988, 2:28 p.m.

TRD-8809532

Friday, September 23, 1988, 5 p.m. The Governing Board met in the Boardroom, 1102 South Congress Avenue, Austin. According to the agenda, the board approved minutes of the August 20, 1988, meeting; heard individuals from audience wishing to make report; considered business requiring board action concerning approval of consultant contracts, biennium budget, October meeting time and options, and business for information purposes; and heard comments by members.

Contact: Sheila O'Leary, 1102 South Congress Avenue, Austin, Texas 78764.

Filed: September 15, 2:28 p.m.

TRD-8809533

## Texas Education Agency

Tuesday, September 27, 1988, 9 a.m. The Proprietary School Advisory Commission for the Texas Education Agency will meet for an emergency agenda revision in Room 1-111, William B. Travis Building, 1701 North Congress Avenue, Austin. According to the agenda, the commission will discuss status report to the State Board of Education. The meeting has been scheduled to begin at 9 a.m. rather than 10 a.m. The emergency status is necessary as the agency finds it is of urgent public necessity for this item to be added since this item will be presented to the SBOE at its October meeting, and input from the commission concerning this item is requested.

Contact: Joe L. Price, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9475.

Filed: September 21, 1988, 3:32 p.m.

TRD-8809754

Tuesday, September 27, 1988, 10 a.m. The Proprietary School Advisory Commission for the Texas Education Agency will meet in Room 1-111, William B. Travis Building, 1701 North Congress Avenue, Austin. According to the agenda, the commission will discuss proposed rules on degree granting status, and discuss credit and clock hours.

Contact: Joe L. Price, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9475.

Filed: September 16, 1988, 4:51 p.m.

TRD-8809611

Tuesday, September 27, 1988, 10 a.m. The Price Differential Index Advisory Committee for the Texas Education Agency will meet in Room 1-109, William B. Travis Building, 1701 North Congress Avenue, Austin. According to the agenda, the committee will meet with the commissioner of education to discuss alternatives on the price differential index proposal.

Contact: Joe Wisnoski, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9704.

Filed: September 16, 1988, 4:51 p.m.

TRD-8809610

Friday, September 30, 1988, 8:30 a.m. The Commissioner's Advisory Committee on Research and Evaluation of the TEA will meet in Room 1-104, William B. Travis Building, 1701 North Congress Avenue, Austin. According to the agenda, the committee will approve minutes of the April 29, 1988, meeting; consider status of program evaluation reports and recommendations for compensatory, bilingual/English as a second language and gifted and talented programs, update of planned research activities of the Division of Program Evaluation, and update of new and ongoing research and evaluation activities at the TEA; discuss research agenda of the TEA; and consider subcommittee meeting and report concerning endorsement of outside research requests.

Contact: David Stamman, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9524.

Filed: September 20, 1988, 4:52 p.m.

TRD-8809707

Friday, September 30, 1988, 9 a.m. The Teachers' Professional Practices Commission of Texas of the Texas Education Agency will meet in Room 1-110, William B. Travis Building, 1701 North Congress Avenue, Austin. According to the agenda summary, the commission will approve minutes of the May 25, 1988, meeting; hear report on procedure for adoption of revised code of ethics; consider jurisdiction concerning *Scrivner v. Peralta*; hear director's report; consider election of vice-chairperson; and discuss future hearing and next meeting date.

Contact: Edward M. Vodicka, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9337.

Filed: September 20, 1988, 4:52 p.m.

TRD-8809708

Friday and Saturday, October 14 and 15, 1988, 10 a.m. and 8:30 a.m., respectively. The State Parent Advisory Council for Migrant Education for the Texas Education Agency will meet at the Embassy Suites, 300 South Congress Avenue, Austin. Ac-

ording to the agenda, the council will review minutes and motions, discuss visiting migrant programs, hear state plan recommendations, members' discussion of migrant programs that work, discuss funding formula for migrant programs, certificate of eligibility report, update of summer migrant programs, discuss Texas Educational Assessment of Minimum Skills results-overall and migrant, discuss issues on dropouts, and discuss the state evaluation of migrant programs.

Contact: Frank Contreras, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9067.

Filed: September 21, 1988, 3:32 p.m.

TRD-8809753

## Advisory Commission on State Emergency Communications

Wednesday, September 28, 1988, 2 p.m. The Administration Committee of the Advisory Commission on State Emergency Communications will meet in Room 102, John H. Reagan Building, Austin. According to the agenda, the committee will discuss ACSEC organizational structure; review job descriptions; discuss ACSEC meeting scheduled and meeting format; discuss Texas land information network conference; consider new business; and hear public comments.

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

Filed: September 20, 1988, 4:49 p.m.

TRD-8809700

Thursday, September 29, 1988, 2 p.m. The Administration Committee of the Advisory Commission on State Emergency Communications will meet in Room 102, John H. Reagan Building, Austin. According to the agenda, the committee will discuss ACSEC organizational structure; review job descriptions; discuss ACSEC meeting schedules and meeting format; discuss Texas land information network conference; consider new business; and hear public comments.

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

Filed: September 20, 1988, 3:29 p.m.

TRD-8809688

## Employees Retirement System of Texas

Tuesday, September 27, 1988, 9 a.m. The Board of Trustees for the Employees Retirement System of Texas will meet in Room 401, ERS Building, 18th and Brazos Streets, Austin. According to the agenda,

the board will review and approve board minutes; consider and act on investment advisor recommendations on investment of system's funds, on proposed legislation concerning post retirement annuity adjustments and retirement benefit formula enhancement, request for proposals to conduct 1987-1988 audit of insurance carrier's operations regarding Texas Employees Uniform Group Insurance Program; hear appeals of Jose Ochoa and Irene Marion; hear status report on state auditor's management letter; hear executive director's report; meet in executive session, and consider action resulting from executive session; and set next trustee meeting date.

Contact: James T. Herod, 18th and Braozs Streets, Austin, Texas 78701, (512) 476-6431.

Filed: September 16, 1988, 8:59 a.m.

TRD-8809554

### Texas Employment Commission

Wednesday, September 28, 1988, 8:30 a.m. The Texas Employment Commission will meet in Room 644, TEC Building, 101 East 15th Street, Austin. According to the agenda summary, the commission will consider and adopt revised appeals policy and precedent manual, internal procedures of office of commission appeals, tax liability cases on docket 39 and higher level appeals in unemployment compensation cases listed on commission dockets 39, 39a, and 39b. The commission will also meet in executive session to discuss Fidel B. Ibarra, Jr., et al. v. TEC, et al.

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

Filed: September 20, 1988, 3:05 p.m.

TRD-8809678

### Governor's Office

Wednesday, September 28, 1988, 1 p.m. The Texas Criminal Justice Task Force of the Governor's Office will meet in the Commissioners Courtroom, Fifth Floor, Tarrant County Administration Building, 100 East Weatherford, Fort Worth. According to the agenda, the task force will receive testimony from the general public, law enforcement officials, local public officials, related task forces, and criminal justice associations on recommendations for improving the state's criminal justice system.

Contact: Sherry Smith, P.O. Box 13561, Austin, Texas 78711, (512) 463-1788.

Filed: September 15, 1988, 3:17 p.m.

TRD-8809541

Thursday, September 29, 1988, 9 a.m. The Texas Criminal Justice Task Force of

the Governor's Office will meet in the Dallas County Commissioners Courtroom, 411 Elm Street, Dallas. According to the agenda, the task force will receive testimony from the general public, law enforcement officials, local public officials, related task forces, and criminal justice associations on recommendations for improving the state's criminal justice system.

Contact: Sherry Smith, P.O. Box 13561, Austin, Texas 78711, (512) 463-1788.

Filed: September 15, 1988, 3:17 p.m.

TRD-8809542

### Governor's Committee on Water

Friday, September 30, 1988, 9 a.m. The Resources Management of the Governor's Committee on Water will meet in Room 105, John H. Reagan Building, Austin. According to the agenda, the committee will review proposed recommendations for committee's report and consider other business.

Contact: Ralph Boeker, Jr., P.O. Box 12428, Austin, Texas 78711, (512) 463-1778.

Filed: September 22, 1988, 8:37 a.m.

TRD-8809762

### Texas Department of Health

Friday, October 7, 1988, 1 p.m. The Advisory Council on Massage Therapy of the Texas Department of Health will meet in Room T-507, 1100 West 49th Street, Austin. According to the agenda summary, the council will approve minutes of the April 13, 1988, meeting; hear school committee report concerning action on recommended curricula; discuss possible amendments to existing rules relating to massage therapy registration S141; consider election of officers and other matters relating to the registration and regulation of massage therapists not requiring advisory council action.

Contact: Becky Berryhill, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7512.

Filed: September 20, 1988, 2:42 p.m.

TRD-8809669

### Texas Statewide Health Coordinating Council

Friday, September 30, 1988, 8:30 a.m. The State Health Plan Development Committee of the Texas Statewide Health Coordinating Council will meet in the Longhorn Room, Guest Quarters Suite Hotel, 303 West 15th Street, Austin. According to the agenda, the committee will review changes to and action on the 1989-1990 Texas state health plan.

Contact: Carol S. Daniels, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7261.

Filed: September 20, 1988, 2:42 p.m.

TRD-8809668

Friday, September 30, 1988, 10:30 a.m. The Texas Statewide Health Coordinating Council will meet in the Longhorn Room, Guest Quarters Suite Hotel, 303 West 15th Street, Austin. According to the agenda summary, the council will approve minutes of the August 11, 1988, meeting; hear report by bureau chief and report on federal health legislation; approve 1989-1990 Texas state health plan; discuss legislative forum on health issues; and select next meeting date.

Contact: Carol S. Daniels, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7261.

Filed: September 20, 1988, 2:43 p.m.

TRD-8809667

### Texas Historical Commission

Tuesday, October 4, 1988, 1 p.m. The State Marker Committee for the Texas Historical Commission will meet in the Carrington-Covert House Library, 1511 Colorado Street, Austin. According to the agenda, the committee will hear announcements, consider policies for documentations and rush orders, discuss appeals for the Merritt Building and Stephen Williams, new markers for the Buffalo Soldiers and Indian Hot Springs, and Wisener Field, and RTHL alterations on the Pillot Building, Culberson Home, and Scarborough House.

Contact: Frances Rickard, P.O. Box 12276, Austin, Texas 78711, (512) 463-6100.

Filed: September 21, 1988, 2:15 p.m.

TRD-8809740

### Industrial Accident Board

Monday, September 19, 1988, 11:30 a.m. The Industrial Accident Board met in emergency session in Room 101-A, First Floor, Bevington A. Reed Building, 200 East Riverside Drive, Austin. According to the agenda, the board discussed in executive session Texas Hospital Association vs. Industrial Accident Board. The emergency status was necessary because of litigation.

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

Filed: September 19, 1988, 9:22 a.m.

TRD-8809615

Monday, September 26, 1988, 9:30 a.m. The Industrial Accident Board met in Room 107, First Floor, Bevington A. Reed Building, 200 East Riverside Drive, Austin. Ac-

ording to the agenda, the board approved board minutes; reviewed and considered Texas Employers' Insurance Association request for reconsideration of Board Rule 28 TAC §53.63, suspension of weekly compensation; discussed and considered 1990-1991 LAR (second submission) to include reviewed and consideration of 1989 operating budget; reviewed board files (this portion closed 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: September 21, 1988, 4:19 p.m.

TRD-8809759

## State Board of Insurance

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

**Tuesday, September 17, 1988, 9 a.m.** The Commissioner's Hearing Section will meet in Room 342 to consider Docket 10014-Whether disciplinary action should be taken against John E. Griffith, III, Greenville, who holds a Group I, legal reserve life insurance agent's license issued by the board.

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

Filed: September 19, 1988, 3:24 p.m.

TRD-8809639

**Wednesday, September 28, 1988, 9 a.m.** The Commissioner's Hearing Section will meet in Room 353 to consider Docket 10048-Application of Logic, Inc. to acquire control of American First Life Insurance Company, American First Life Insurance Company's intent to issue an extraordinary dividend to its parent, First Assurance Company of Texas; and proposal of First Life Insurance Company to enter into a reinsurance agreement with First Assurance Company of Texas.

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

Filed: September 19, 1988, 3:23 p.m.

TRD-8809637

**Wednesday, September 28, 1988, 9 a.m.** The Commissioner's Hearing Section will meet in Room 342, to consider Docket 10052-Application of Reassurance Acquisition Corporation, General Electric Corporation, and Conseco, Inc. to acquire control of First of Groves Life Insurance Company, a Texas corporation.

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

Filed: September 19, 1988, 3:24 p.m.

TRD-8809640

**Thursday, September 29, 1988, 11 a.m.** The board will meet in Room 414, to consider final action on new 28 TAC §§7.1601-7.1622, new 28 TAC §§15.10, 15.11, 15.15, and 15.23, amendments to §§15.5, 15.7-15.9, 15.12-15.14, 15.21 and 15.26, and repeal of §§15.10, 15.11, 15.15, and 15.23; consider extension of emergency effectiveness of repeal of 28 TAC §§5.9005-5.9007, amendments to §§5.9001-5.9004, and new §§5.9005-5.9008; and consider board orders on several different matters.

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

Filed: September 21, 1988, 3:07 p.m.

TRD-8809749

**Thursday, September 29, 1988, 1:30 p.m.** The board will meet in Room 414, to consider motion to stay revocation of license and appeal by Janie Delores Bradford of commissioner's order 88-0406 and public hearing thereon concerning disciplinary action against Janie Delores Bradford and concerning licenses as a legal reserve life insurance agent and as a local recording agent and revocation of those licenses.

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

Filed: September 21, 1988, 3:07 p.m.

TRD-8809748

**Thursday, September 29, 1988, 1:30 p.m.** The board will meet in Room 414, to consider motion to stay revocation of license and appeal by Gregory D. Bradford of commissioner's order 88-0620 and public hearing thereon concerning disciplinary action against Gregory D. Bradford and concerning a license as a legal reserve life insurance agent and revocation of that license.

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

Filed: September 21, 1988, 3:08 p.m.

TRD-8809751

**Friday, September 30, 1988, 10 a.m.** The board will meet in Room 414, to consider decision on request by Service Lloyds Insurance Company for certification by the board that the company is not engaged in the writing of workers' compensation insurance for members of the public generally, and for determination that Service Lloyds Insurance Company be exempt from the provisions of the Insurance Code, Article 5.76 (hearing held 9-13-88); and decision on appeal by Savers Annuity Insurance Company from commissioner's order 88-0240 concerning policy form SAI-310a and disapproval of that form (hearing held 8-31-88).

Contact: Pat Wagner, 1110 San Jacinto

Street, Austin, Texas, 78701-1998, (512) 463-6328.

Filed: September 21, 1988, 3:09 p.m.

TRD-8890747

**Monday, October 3, 1988, 9 a.m.** The Commissioner's Hearing Section will meet in Room 353, to consider Docket 10047-Application of Trifin B.V., a Netherlands corporation, to acquire control of Fireman's Fund Insurance Company, Dallas.

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

Filed: September 19, 1988, 3:24 p.m.

TRD-8809638

**Wednesday, October 26, 1988, 10 a.m.** the board will meet in Room 101, John H. Reagan Building, 105 West 15th Street, Austin. According to the agenda summary, the board will consider amendments to §9.1 of Title 28 of TAC and to the Basic Manual of Rules, Rates and Forms for the Writing of Title Insurance in the State of Texas.

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

Filed: September 21, 1988, 3:09 p.m.

TRD-8809746

## Texas Commission on Jail Standards

**Wednesday, September 28, 1988, 9 a.m.** The Texas Commission on Jail Standards will meet in Room 100, Employees Retirement Building, Austin. According to the agenda, the commission will read and approve minutes of July 20, 1988, meeting; hear directors report; discuss old business, regarding Archer, Clay, Hidalgo, Lamar, Montague, Nueces, Tarrant, and Williamson Counties; conditional certification; Corrections Concepts, Inc.; new business, regarding Bexar, Cameron, Hays, Nacogdoches, and Reeves Counties; application for variance(s) for Andrews, Gray, Harris, Lampasas, Midland, Nueces, and Tarrant Counties; and meet in executive session.

Contact: Robert O. Viterna, 611 South Congress Avenue, Suite 200, Austin, Texas 78704, (512) 463-5505.

Filed: September 15, 1988, 11:33 a.m.

TRD-8809499

## Texas Board of Land Surveying

**Friday and Saturday, September 30 and October 1, 1988, 9:30 a.m. and 8 a.m., respectively.** The Texas Board of Land Surveying will meet in Suite 304, 7703 North Lamar Boulevard, Austin. According

to the agenda, the board will approve minutes of the previous meeting; hear committee reports; finalize the October 1988 examination; discuss correspondence and proposed changes to the Land Surveying Act.

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

Filed: September 20, 1988, 2:38 p.m.

TRD-8809673

### Legislative Budget Board

Thursday, October 20, 1988, 9 a.m. The Legislative Budget Board will meet in Room 310, State Capitol, Austin, rescheduled from September 30, 1988. According to the agenda, the board will solicit testimony regarding the proposed items of information and the methodology used in making the calculations for the limitation on the rate of growth of appropriations in the 1990-1991 biennium from state tax revenues not dedicated by the Texas Constitution. The limitation is authorized by the Texas Constitution, Article VIII, §22. The procedure for setting the limitation is set forth in the Texas Government Code, §316. The hearing is required by §316.004.

Contact: Homer Scaee, Room 207-A, Room 207-A, State Capitol, Austin, Texas 78711, (512) 463-1166.

Filed: September 19, 1988, 4:51 p.m.

TRD-8809651

Friday, September 30, 1988, 9 a.m. The Legislative Budget Board will meet in Room 310, State Capitol, Austin. According to the agenda, the board will consider governor's budget execution proposals and review fiscal outlook for 1990-1991 biennium.

Contact: Jim Oliver, Room 207-A, State Capitol, Austin, Texas 78711, (512) 463-1166.

Filed: September 19, 1988, 4:51 p.m.

TRD-8809650

### Texas State Board of Medical Examiners

Thursday, October 6, 1988, 9 a.m. The District Review Committee #2 of the Texas State Board of Medical Examiners will meet at 1101 Camino LaCosta, Austin. According to the agenda summary, the committee will review medical multiple liability cases; and meet in executive session under authority of Article 6252-17, as related to Article 4495b, 2.07, 3.05(d), 4.05(d), 5.06(e)(1) and Attorney General Opinion 1974, H-484.

Contact: Jean Davis, P.O. Box 13562, Austin, Texas 78711, (512) 452-1078.

Filed: September 20, 1988, 9:28 a.m.

TRD-8809654

### Interagency Council for Mentally Retarded, Developmentally Disabled and Mentally Ill Offenders

Friday, October 30, 1988, 10 a.m. The Interagency Council for Mentally Retarded, Developmentally Disabled and Mentally Ill Offenders will meet at the Texas Adult Probation Commission, Suite 600, Building B, 8100 Cameron Road, Austin. According to the agenda, the council will approve minutes, hear committee reports, discuss 1990-1991 appropriations request and the death penalty resolution. New business will include a status report on three research studies.

Contact: Cher Roquemore, 2818 San Gabriel, Austin, Texas 78705, (512) 477-9914.

Filed: September 19, 1988, 2:42 p.m.

TRD-8809623

### Texas National Research Laboratory Commission

Wednesday, September 28, 1988, 4:30 p.m. The Texas National Research Laboratory Commission will meet in Room 214 and the Old Supreme Courtroom, Room 310, State Capitol, Austin. According to the agenda summary, the commission will approve minutes of the July 13, 1988, meeting; hear the chairman's report, executive director's report, commission special reports, and counselor's reports; and consider old and new business.

Contact: Ken Welch, Building 130, Room 1.130, 10100 Burnet Road, Austin, Texas, (512) 471-8153.

Filed: September 19, 1988, 12:10 p.m.

TRD-8809618, 8809501

### Board of Pardons and Paroles

Monday-Friday, September 26-30, 1988, 1:30 p.m. daily, except 11 a.m. on Friday. The Board of Pardons and Paroles will meet at 8610 Shoal Creek Boulevard, Austin. According to the agenda summary, the board will receive, review, and consider information and reports concerning prisoners/inmates and administrative releasees 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: September 16, 1988, 10:30 a.m.

TRD-8809556

Tuesday, September 27, 1988, 1:30 p.m. The Board of Pardons and Paroles will consider executive clemency recommendations and related actions (other than out of country conditional pardons), including: full pardons/restoration of civil rights of citizenship; emergency medical reprieves; commutations of sentences; and other reprieves, remissions, and executive clemency actions.

Contact: Juanita Llamas, 8610 Shoal Creek Boulevard, Austin, Texas 78758, (512) 459-2749.

Filed: September 16, 1988, 10:30 p.m.

TRD-8809555

Wednesday, September 28, 1988, 9:30 a.m. The Board of Pardons and Paroles will meet at 8610 Shoal Creek Boulevard, Austin. According to the agenda, the board will discuss Information Resource Management Council report, family information coordinator title, recommendations for new legislation, review of bid and contracting procedures for halfway house or other residential facilities, electronic monitoring equipment contract, reasons for overriding pablo scale, prior proposal, parole in absentia DUII procedure, and inmate furlough policy.

Contact: Juanita Llamas, 8610 Shoal Creek Boulevard, Austin, Texas 78711, (512) 459-2749.

Filed: September 20, 1988, 4:21 p.m.

TRD-8898583

### Texas Parks and Wildlife Department

Thursday, September 29, 1988, 11 a.m. The Texas Parks and Wildlife Commission of the Texas Parks and Wildlife Department will meet in Complex B, 4200 Smith School Road, Austin. According to the agenda, the commission will reconsider late season migratory game bird proclamation for 1988-1989.

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

Filed: September 20, 1988, 2:47 p.m.

TRD-8809671

### Polygraph Examiners Board

Thursday and Friday, October 6 and 7, 1988 9 a.m. daily. The Polygraph Examiners Board will meet in the Fourth Floor Conference Room, Lamar Crest Towers,

7701 North Lamar Boulevard, Austin. According to the agenda, the board will approve minutes of the July 1988 meeting; review 1988 fiscal year agency activities; consider establishment of 1989 license renewal fees and renewal procedures, update of Employee Polygraph Protection Act of 1988; hold administrative hearings concerning complaints BC1-01-FY89, BC-02-FY89, C3-01-FY88, and C3-02-FY88; and consider any other polygraph related business that may come before the board.

Contact: Deborah Speicher, P.O. Box 4087, Austin, Texas 78773, (512) 465-2058.

Filed: September 22, 1988, 9:26 a.m.

TRD-8809790

## Texas State Board of Public Accountancy

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

Friday, September 23, 1988, 9 a.m. The board held conferences on complaints 88-06-02L, 87-12-20L, 87-12-17L, 88-01-47L, and 88-03-16L.

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

Friday, September 23, 1988, 9 a.m. The Technical Standards Review heard status report for August; considered recommendations regarding specific complaints-licensees, complaints 88-06-30L and 88-06-07L; considered discussion items, anonymous complaint, violation of rules, complaints 87-02-02L, 87-03-06L, 87-07-52L, 87-07-53L, 87-07-56L, and standard agenda items, reviewed backlog of complaints and a new system to monitor status of peer review cases, and discussion by committee members and staff.

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

Filed: September 15, 1988, 11:32 a.m.

TRD-8809507

## Texas Department of Public Safety

Thursday, September 29, 1988, 10 a.m. The Public Safety Commission for the Texas Department of Public Safety will meet in the Commission Room, DPS Headquarters, 5805 North Lamar Boulevard, Austin. According to the agenda, the commission will approve minutes; consider budget matters; personnel matters; real estate matters; pending and contemplated litigation; and miscellaneous and other unfinished business.

ished business.

Contact: Joe E. Milner, 5805 North Lamar Boulevard, Austin, Texas 78759, (512) 465-2000, ext. 3700.

Filed: September 19, 1988, 12:37 p.m.

TRD-8809619

Monday, October 3, 1988, 1:30 p.m. The State Emergency Management Council of the Division of Emergency Management will meet in the Emergency Operations Center, 5805 North Lamar Boulevard, Austin. According to the agenda summary, the council will consider emergency notification and plan review procedures; hear Title III activities report; consider Title III regional recommendations and LEPC changes; hear report from Rules and Training Subcommittees; and consider other council business.

Contact: Michael L. Scott, 5805 North Lamar Boulevard, Austin, Texas (512) 465-2138.

Filed: September 21, 1988, 10:21 a.m.

TRD-8809735

## Public Utility Commission of Texas

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

Monday, September 26, 1988, 10 a.m. The Hearings Division will consider Docket 8218-Inquiry of the commission into the WATS prorate credit.

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

Filed: September 15, 1988, 2:45 p.m.

TRD-8809536

Wednesday, September 28, 1988, 1:30 p.m. The Administrative Section will review and evaluate the agency's 1989 operating budget and its 1990-1991 legislative appropriations request. This meeting may be reconvened at 9 a.m. on Thursday, September 29, and Friday, September 30, if necessary.

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

Filed: September 20, 1988, 3:04 p.m.

TRD-8809680

Monday, October 10, 1988, 10 a.m. The Hearings Division will consider Docket 8336-Application of Southwestern Bell Telephone Company for approval of amendment of universal emergency number service (911) tariff.

Contact: Phillip A. Holder, 7800 Shoal Creek Boulevard, Austin, Texas 78757,

(512) 458-0100.

Filed: September 20, 1988, 3:05 p.m.

TRD-8809679

Tuesday, October 11, 1988, 1:30 p.m. The Hearings Division will consider Docket 6995-Petition of Lower Colorado River Authority et al. for determination of wheeling impact of the transmission of bulk power from Oklahoma Unit 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: September 19, 1988, 2:47 p.m.

TRD-8809625

Monday, October 17, 1988, 10 a.m. The Hearings Division will consider Docket 7708-Application of GTE Southwest, Inc. for waiver of PUC substantive rule 23.68 and for approval of extended amortization of embedded CPE.

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

Filed: September 19, 1988, 2:48 p.m.

TRD-8809626

Monday, November 14, 1988, 10 a.m. The Hearings Division will consider Docket 8283-Application of Cap Rock Electric Cooperative, Inc. to change rates.

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

Filed: September 16, 1988, 2:09 p.m.

TRD-8809562

Tuesday, December 6, 1988, 10 a.m. The Hearings Division will consider Docket 8220-Application of Contel of Texas, Inc. to provide digital centrex service.

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

Filed: September 16, 1988, 2:08 p.m.

TRD-8809563

Monday, December 12, 1988, 10 a.m. The Hearings Division will consider Docket 8325-Application of Mid-South Electric Cooperative Association for authority to change rates.

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

Filed: September 21, 1988, 3:12 p.m.

TRD-8809750

## Railroad Commission of Texas

Monday, September 26, 1988, 9 a.m. The

Railroad Commission of Texas will meet in the 12th Floor Conference Room, William B. Travis Building, 1701 North Congress Avenue, Austin. Agendas follow.

The Administrative Services Division will consider and act on the division director's report on division administration, budget, procedure, and personnel matters.

Contact: Roger Dillon, P.O. Drawer 12970, Austin, Texas 78711, (512) 463-7777.

Filed: September 16, 1988, 2:11 p.m.

TRD-8809570

The Automatic Data Processing Division will consider and act on the division director's report on division administration, budget, procedures, equipment acquisitions, and personnel matters.

Contact: Bob Kmetz, P.O. Drawer 12970, Austin, Texas 78711, (512) 463-7251.

Filed: September 16, 1988, 2:11 p.m.

TRD-8809568

The commission will consider and act on the executive director's report on commission budget and fiscal matters, administrative and procedural matters, personnel and staffing, state and federal legislation, and contracts and grants. Consider reorganization of various commission divisions; consolidation of positions; and appointment, reassignment and/or termination of various positions, including division directors.

Contact: C. Tom Clowe, P.O. Drawer 12970, Austin, Texas 78711, (512) 463-7274.

Filed: September 16, 1988, 2:11 p.m.

TRD-8809578

The Flight Division will consider and act on the division director's report on division administration, budget, procedures and personnel matters.

Contact: Ken Fossler, P.O. Drawer 12970, Austin, Texas 78711, (512) 463-7087.

Filed: September 16, 1988, 2:11 p.m.

TRD-8809567

The Gas Utilities Division will consider various matters within the regulatory jurisdiction of the Railroad Commission of Texas. In addition, the commission will consider items previously posted for open meeting and at such meeting verbally postponed or continued to this date. With regard to any item, the commission may take various actions, including, but not limited to, scheduling an item in its entirety or for particular action at a future time or date.

Contact: Vicki Dimego, P.O. Drawer 12970, Austin, Texas 78711, (512) 463-7009.

Filed: September 16, 1988, 2:11 p.m.

TRD-8809573

The Office of Information Services will

consider and act on the division director's report on division administration, budget, procedures, and personnel matters.

Contact: Brian W. Schaible, P.O. Drawer 12970, Austin, Texas 78753, (512) 463-7010.

Filed: September 16, 1988, 2:11 p.m.

TRD-8809576

The Investigation Division will consider and act on the division director's report on division administration, investigations, budget, and personnel matters.

Contact: Mary Anne Wiley, P.O. Drawer 12970, Austin, Texas 78711, (512) 463-6828.

Filed: September 16, 1988, 2:11 p.m.

TRD-8809580

The Legal Division will consider and act on the Legal Division's report on division administration, budget, procedures, and personnel matters; proposed and pending litigation, including but not limited to discussion and/or action on the following: FERC Orders 500, 500A-C, and related litigation in the D.C., Fifth, Third, and Seventh Circuits; consider proposal for public comment of new general rules of practice and procedure for the commission and simultaneous repeal of the current general rules of practice and procedure, 16 TAC §§1.1-1.36; and consider petitions for rulemaking to the Federal Energy Regulatory Commission concerning natural gas market expansion.

Contact: Tom Clowe, P.O. Drawer 12970, Austin, Texas 78711, (512) 463-6931.

Filed: September 16, 1988, 2:11 p.m.

TRD-8809571

LP-Gas Division will consider and act on division director's report on division administration, budget, procedures, and personnel matters; and consider final adoption of 16 TAC §13.84 pertaining to insurance requirements for persons licensed by the Compressed Natural Gas Section of the commission and consider final adoption of 16 TAC §9.24 pertaining to insurance requirements for LP Gas dealers licensed by the state.

Contact: Thomas D. Petru, P.O. Drawer 12970, Austin, Texas 78711, (512) 463-6931.

Filed: September 16, 1988, 2:11 p.m.

TRD-8809571

The Oil and Gas Division will consider various matters within the regulatory jurisdiction of the commission. In addition, the commission will consider items previously posted for open meeting and at such meeting verbally postponed or continued to this date. With regard to any item, the commission may take various actions, including but not limited to scheduling an item in its entirety or for particular action at a future

time of date.

Contact: Sonia O'Neal, P.O. Drawer 12970, Austin, Texas 78711, (512) 463-6848.

Filed: September 16, 1988, 2:11 p.m.

TRD-8809574

The Oil and Gas Division will consider category determinations under the Natural Gas Policy Act of 1978, §§102(c)(1)(B), 102(c)(1)(C), 103, 107, and 108.

Contact: Margie L. Osborn, P.O. Drawer 12970, Austin, Texas 78711, (512) 463-6755.

Filed: September 16, 1988, 2:11 p.m.

TRD-8809581

The Personnel Division will consider and act on the division director's report on division administration, budget, procedures, and personnel matters.

Contact: Mark Bogan, P.O. Drawer 12970, Austin, Texas 78711, (512) 463-6981.

Filed: September 16, 1988, 2:11 p.m.

TRD-8809577

The Office of Research and Statistical Analysis will consider and act on the division director's report on division administration, budget, procedures, and personnel matters.

Contact: Gail Gemberling, P.O. Drawer 12970, Austin, Texas 78711, (512) 463-6976.

Filed: September 16, 1988, 2:11 p.m.

TRD-8809579

The Surface Mining Division will consider various matters within the regulatory jurisdiction of the commission. In addition, the commission will consider items previously posted for open meeting and at such meeting verbally postponed or continued to this date. With regard to any item, the commission may take various actions, including but not limited to scheduling an item in its entirety or for particular action at a future time of date.

Contact: Jerry Hill, P.O. Drawer 12970, Austin, Texas 78711, (512) 463-6900.

Filed: September 16, 1988, 2:11 p.m.

TRD-8809569

The Transportation Division will consider various matters within the regulatory jurisdiction of the commission. In addition, the commission will consider items previously posted for open meeting and at such meeting verbally postponed or continued to this date. With regard to any item, the commission may take various actions, including but not limited to scheduling an item in its entirety or for particular action at a future time or date.

Contact: Robert F. Biard, P.O. Drawer 12970, Austin, Texas 78711, (512) 463-

7122.

Filed: September 16, 1988, 2:11 p.m.

TRD-8809575

◆ ◆ ◆  
**Teacher Retirement System  
of Texas**

**Thursday, October 6, 1988, 10 a.m.** The Board of Trustees for the Teacher Retirement System of Texas will meet in the Conference Room, Tarrant County Junior College, 828 Harwood Road, Hurst. According to the agenda, the board will hear report of committee to nominate officers; approve minutes; review investments for quarter and year ending August 31, 1988; review discussion and recommendations of IAC meeting; consider resolution authorizing certain TRS staff members to sign documents relating to investments of the Teacher Retirement Fund and of the Texas Public School Retired Employees Group Insurance Program; hear report of executive secretary, and general counsel, concerning litigation and other legal matters; certification of estimate of state contributions for the 1990-1991 biennium; certificate of estimate of state contributions for the Retired School Employees Group Insurance Fund for the 1990-1991 biennium; hear report of member benefits division; and meet in executive session to discuss personnel.

Contact: Mary Godzik, 1001 Trinity, Austin, Texas 78711, (512) 397-6400.

Filed: September 22, 1988, 9:49 a.m.

TRD-8809795

◆ ◆ ◆  
**Texas County and District  
Retirement System**

**Thursday, September 29, 1988, 9 a.m.** The Board of Trustees of the Texas County and District Retirement System will meet at Four Seasons Hotel, 98 San Jacinto Boulevard, Austin. According to the agenda summary, the board will approve minutes of the June 9, 1988, meeting; consider and pass on applications for service retirement benefits and disability retirement benefits; review and act on reports from director, actuary, legal counsel, and investment counsel; and set date of December meeting.

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

Filed: September 21, 1988, 10:05 a.m.

TRD-8809734

◆ ◆ ◆  
**Texas Rice Producers Board**

**Wednesday, September 28, 1988, 10 a.m.** The Texas Department of Agriculture for the Texas Rice Producers Board will meet

at the Harris County Extension Service Building, Two Abercrombie Drive, Houston. According to the agenda, the department will consider minutes; financial review; ARI refund issue; officer election; bylaw review; review collection performance; rice foundation initiatives for Ag Chemical registration; and discuss other business.

Contact: Curtis Leonhardt, 6699 Rookin, Houston, Texas 77074, (713) 270-6699.

Filed: September 19, 1988, 2:38 p.m.

TRD-8809622

◆ ◆ ◆  
**Texas Savings and Loan  
Department**

**Tuesday, September 27, 1988, 9 a.m.** The Texas Savings and Loan Department will meet in Suite 201, 2601 North Lamar Boulevard, Austin. Agendas follow.

The department will accumulate a record of evidence in regard to the application of Capitol City Savings Association, Austin, Travis County, for a loan office to be located at 9001 Airport Freeway, Fort Worth, Tarrant County, from which record the commissioner will determine whether to grant or deny the application.

Contact: Laura M. Hale, 2601 North Lamar Boulevard, Suite 201, Austin, Texas 78705, (512) 479-1250.

Filed: September 16, 1988, 4:21 p.m.

TRD-8809601

The department will accumulate a record of evidence in regard to the application of Capitol City Savings Association, Austin, Travis County, for a loan office to be located at: 2800 Hulen, Suite 209, Fort Worth, Tarrant County, from which record the commissioner will determine whether to grant or deny the application.

Contact: Laura M. Hale, 2601 North Lamar Boulevard, Suite 201, Austin, Texas 78705, (512) 479-1250.

Filed: September 16, 1988, 4:21 p.m.

TRD-8809602

The department will accumulate a record of evidence in regard to the application of Capitol City Savings Association, Austin, Travis County, for a loan office to be located at: 3122 West Parker Road, Plano, Collin County, from which record the commissioner will determine whether to grant or deny the application.

Contact: Laura M. Hale, 2601 North Lamar Boulevard, Suite 201, Austin, Texas 78705, (512) 479-1250.

Filed: September 16, 1988, 4:21 p.m.

TRD-8809603

The department will accumulate a record of evidence in regard to the application of

Capitol City Savings Association, Austin, Travis County, for a loan office to be located at: 1930 Rosemeade Parkway, Rosemeade Center, Suite 104, Carrollton, Denton County, from which record the commissioner will determine whether to grant or deny the application.

Contact: Laura M. Hale, 2601 North Lamar Boulevard, Suite 201, Austin, Texas 78705, (512) 479-1250.

Filed: September 16, 1988, 4:21 p.m.

TRD-8809604

The department will accumulate a record of evidence in regard to the application of Capitol City Savings Association, Austin, Travis County, for a loan office to be located at: 9220 Skillman Street, Dallas, Dallas County, from which record the commissioner will determine whether to grant or deny the application.

Contact: Laura M. Hale, 2601 North Lamar Boulevard, Suite 201, Austin, Texas 78705, (512) 479-1250.

Filed: September 16, 1988, 4:21 p.m.

TRD-8809605

The department will accumulate a record of evidence in regard to the application of Capitol City Savings Association, Austin, Travis County, for a loan office to be located at 12700 Preston Road, Suite 200, Dallas, Dallas County, from which record the commissioner will determine whether to grant or deny the application.

Contact: Laura M. Hale, 2601 North Lamar Boulevard, Suite 201, Austin, Texas 78705, (512) 479-1250.

Filed: September 16, 1988, 4:21 p.m.

TRD-8809606

The department will accumulate a record of evidence in regard to the application of Capitol City Savings Association, Austin, Travis County, for a loan office to be located at: 1008 West Pioneer Parkway, Arlington, Tarrant County, from which record the commissioner will determine whether to grant or deny the application.

Contact: Laura M. Hale, 2601 North Lamar Boulevard, Suite 201, Austin, Texas 78705, (512) 479-1250.

Filed: September 16, 1988, 4:21 p.m.

TRD-8809608

**Wednesday, September 28, 1988, 9 a.m.** The Texas Savings and Loan Department will meet at 2601 North Lamar Boulevard, Suite 201, Austin. According to the agenda summary, the department will accumulate a record of evidence in regard to the application of Standard Savings Association, Houston, Harris County, to relocate the home office from 4702 Old Spanish Trail to 4310 Dowling, Houston, Harris County, from which record the commissioner will determine whether to grant or deny the application.

Contact: Laura M. Hale, 2601 North Lamar Boulevard, Suite 201, Austin, Texas 78705, (512) 479-1250.

Filed: September 16, 1988, 4:21 p.m.

TRD-8809607

## Texas Senate

Friday, September 23, 1988, 9 a.m. The Joint Special Interim Committee on High School Dropouts for the Texas Senate met at the San Antonio Museum of Art, 200 West Jones Avenue, San Antonio. According to the agenda, the committee heard opening remarks, speakers, and public forum.

Contact: Machree Gibson, P.O. Box 12068, Austin, Texas 78711, (512) 463-0114.

Filed: September 15, 1988, 4:31 p.m.

TRD-8809552

Wednesday, October 5, 1988, 9 a.m. The Health and Human Services Committee of the Texas Senate will meet in the Centro Room, San Antonio Convention Center, Market and Alamo Streets, San Antonio. According to the agenda, the committee will hold hearings to identify weaknesses in the Child Protective Services programs of the Texas Department of Human Services, and to develop potential solutions for improving the state's response to abused and neglected children. Persons wishing to share comments/suggestions with the committee who cannot attend the hearing can send written testimony to P.O. Box 12068, Austin, Texas 78711. Copies of all written testimony will be distributed to each member, and will be made part of the official record.

Contact: Linda Christofilis, (512) 463-0360.

Filed: September 21, 1988, 11:37 a.m.

TRD-8809739

## Texas A&M University System

Various committees for the Texas A&M University System, Board of Regents, met at the MSC Annex, Texas A&M University, College Station, unless otherwise noted. Dates, times, and agendas follow.

Sunday, September 18, 1988, 2 p.m. The Planning and Building Committee cancelled unexpended balances of appropriations, heard report of contract actions by the chancellor, heard report of construction project appropriations and authorizations by chancellor, heard report of contract actions by presidents, initiated of major construction projects, acted on bids, considered appropriation and authority for the chancellor to award contracts, appropriated designs, and

presented rail planning study and feasibility study for Woodbine Building completion.

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

Filed: September 16, 1988, 4:29 p.m.

TRD-8809502

Sunday, September 18, 1988, 2:45 p.m. The Committee for Service Units authorized license agreements and right-of-way easements, granted emeritus titles, and authorized chartering of technology transfer company.

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

Filed: September 16, 1988, 4:29 p.m.

TRD-8809503

Sunday, September 18, 1988, 3 p.m. The Committee for Academic Campuses considered granting emeritus titles, adopted resolutions, revised admission policy, clarified identification card fee, and received reports relating to food services and enrollments.

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

Filed: September 16, 1988, 4:29 p.m.

TRD-8809504

Sunday, September 18, 1988, 3:15 p.m., and reconvene Monday, September 19, 1988, at 9 a.m. The Executive Committee accepted gifts, loans and bequests, budget and fiscal transfers, salary increases and new positions, appropriations from unappropriated sources, extension of lease agreement, appropriated funds, discussed appointments and promotions, terminations, academic tenure, administration of government classified contracts, established guidelines pertaining to technology transfer, employment of personnel beyond mandatory retirement age, named facilities, authorized purchase of land for Wilbarger and Brazos Counties, authorized and appropriated funds for the settlement of a lawsuit, adopted resolution relating to the Texas Growth Fund, and received reports relating to MIS project, telecommunication project, and research park.

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

Filed: September 16, 1988, 4:29 p.m.

TRD-8809506

Monday, September 19, 1988, 3 p.m. The board considered construction matters, discussed titles, easements and right-of-ways, license agreements, Chartering Technology Transfer Company, adopted resolutions, revised admissions policy, fees, accepted gifts, grants, loans, and bequests, budget and fiscal transfers, salary increases and new positions, appropriated funds, consid-

ered appointments and promotions, terminations, academic tenure, administration of government classified contracts, established guidelines pertaining to technology transfer, employed personnel beyond retirement age, named facilities, authorized purchase of land for Wilbarger and Brazos Counties, authorized and appropriated fund for the settlement of a lawsuit, adopted resolution relating to the Texas Growth Fund; and received reports relating to Offshore Technology Center and Transportation Research Center.

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

Filed: September 16, 1988, 4:29 p.m.

TRD-8809505

Wednesday, September 21, 1988, 9:30 a.m. Via telephone conference, the Board of Regents for Texas A&M University System met at the MSC Annex, Texas A&M University, College Station. According to the agenda, the board acted on bids, authorized purchase of land, Brazos County, and appropriated settlement of a lawsuit. (The threat of severe weather forced cancellation of regular called meeting, and these items required immediate consideration).

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

Filed: September 16, 1988, 4:29 p.m.

TRD-8809609

## Texas Tech University

Thursday, September 22, 1988, 8 a.m. The Presidential Search Committee of the Board of Regents met in the Green Room, University Center, Campus, Lubbock. According to the agenda, the committee approved minutes of the August 5, 1988, meeting. The committee also met in executive session to discuss and evaluate individuals under consideration for the presidency of Texas Tech University and Texas Tech University Health Sciences Center.

Contact: Freda Pierce, P.O. Box 4039, Lubbock, Texas 79409, (806) 742-2161.

Filed: September 15, 1988, 11:46 a.m.

TRD-8809515

Thursday and Friday, September 22 and 23, 1988, 8 a.m. and 8:30 a.m., respectively. The Board of Regents of Texas Tech University met in the Board Suite, Administration Building, Campus, Lubbock. Agendas follow.

The Committee of the Whole considered reorganization plan for administration structure, system and procedures for long range planning, and acceptance of presidents resignation; discussed appraisal-proctor estate grazing lease, braddock estate properties,



Amarillo Clinic Building (purchase), contracts between TTUHSC-teaching hospitals, personnel matters, and contemplated litigation.

Contact: Freda Pierce, P.O. Box 4039, Lubbock, Texas 79409, (806) 742-2161.

Filed: September 15, 1988, 11:46 a.m.

TRD-8809518

The Development Committee approved minutes of March 24, 1988, meeting; considered acceptance of gifts-in-kind with value in excess of \$10,000 and reappointed members of board of directors of TTU foundation; and heard reports.

Contact: Freda Pierce, P.O. Box 4039, Lubbock, Texas 79409, (806) 742-2161.

Filed: September 15, 1988, 11:46 a.m.

TRD-8809513

The Research Committee approved minutes of the August 5, 1988, meeting; heard report on erosion resistant materials for space propulsion by Dr. Lynn Hatfield; and heard reports.

Contact: Freda Pierce, P.O. Box 4039, Lubbock, Texas 79409, (806) 742-2161.

Filed: September 15, 1988, 11:46 a.m.

TRD-8809516

The Public Affairs and University Relations Committee approved minutes of the May 13, 1988, meeting, heard report on recent coverage of Texas Tech by Cable News Network, and heard reports.

Contact: Freda Pierce, P.O. Box 4039, Lubbock, Texas 79409, (806) 742-2161.

Filed: September 15, 1988, 11:46 a.m.

TRD-8809517

The Finance and Administration Committee approved minutes of the August 4, 1988, meeting; considered budget adjustments, revision of traffic and parking regulations, authorized bids for pizza service in residence halls, authorized contracts with Lubbock Power and Light to install electrical transmission lines from cogeneration facility underground to Erskine Avenue, ratify commission of peace officers, authorized for interim resident to conduct business and approve expenditures; and heard reports and reports from staff on group health insurance.

Contact: Freda Pierce, P.O. Box 4039, Lubbock, Texas 79409, (806) 742-2161.

Filed: September 15, 1988, 11:46 a.m.

TRD-8809519

The Campus and Building Committee approved minutes of the August 4, 1988, meeting; considered receipt of bids for physical plant renovation and for phase I renovation of holding tanks at Central Heating and Cooling Plant 1, awarded construction contract for business administration elevator controls, established project budgets

for cost of additional fixed and movable equipment that is part of electrical engineering building renovation and for emergency asbestos abatement project in four residence halls, ratified completion dates; and heard reports.

Contact: Freda Pierce, P.O. Box 4039, Lubbock, Texas 79409, (806) 742-2161.

Filed: September 15, 1988, 11:46 a.m.

TRD-8809520

The Academic and Student Affairs Committee approved minutes of the August 5, 1988, meeting; considered new undergraduate admission standards, ratified leaves of absence and establishment of institute for biotechnology and the wind engineering research center, and appointed acting dean of college of home economics; heard report on general education curriculum and Texas Academic Skills Program (TASP), preliminary report of image task force, and reports; considered granting of emeritus status; and heard reports.

Contact: Freda Pierce, P.O. Box 4039, Lubbock, Texas 79409, (806) 742-2161.

Filed: September 15, 1988, 11:46 a.m.

TRD-8809523

Friday, September 23, 1988, 10 a.m. The Board of Regents met in the Board Suite, Administration Building, Campus, Lubbock. According to the agenda summary, the board approved minutes of the previous meeting; heard reports on academic and student affairs, finance and administration, campus and building, development, and committee of the whole.

Contact: Freda Pierce, P.O. Box 4039, Lubbock, Texas 79409, (806) 742-2161.

Filed: September 15, 1988, 11:46 a.m.

TRD-8809524

## Texas Tech University Health Sciences Center

Thursday, September 22, 1988, 8 a.m. The Presidential Search Committee of the Board of Regents met in the Green Room, University Center, Campus, Lubbock. According to the agenda, the committee approved minutes of the August 5, 1988, meeting. The committee also met in executive session to discuss and evaluate individuals under consideration for the presidency of Texas Tech University and Texas Tech University Health Sciences Center.

Contact: Freda Pierce, P.O. Box 4039, Lubbock, Texas 79409, (806) 742-2161.

Filed: September 15, 1988, 11:46 a.m.

TRD-8809512

Thursday and Friday, September 22 and 23, 1988, 8 a.m. and 8:30 a.m., respectively. The Board of Regents met in Room 2B152, Administration Building, Campus, Lubbock. Agendas follow.

The Development Committee approved minutes of the March 24, 1988, meeting; considered completion and execution of certification form attached to 5/11/88 agreement outlining terms and conditions of \$40,000 grant to Amarillo by Don-and Sybil Harrington Foundation; and heard reports.

Contact: Freda Pierce, P.O. Box 4039, Lubbock, Texas 79409, (806) 742-2161.

Filed: September 15, 1988, 11:46 a.m.

TRD-8809522

The Research Committee approved minutes of the August 5, 1988, meeting; and heard reports.

Contact: Freda Pierce, P.O. Box 4039, Lubbock, Texas 79409, (806) 742-2161.

Filed: September 15, 1988, 11:46 a.m.

TRD-8809514

The Public Affairs and University Relations Committee approved minutes of the May 13, 1988, meeting; and considered report on recent coverage of Texas Tech by Cable New Network and heard reports.

Contact: Freda Pierce, P.O. Box 4039, Lubbock, Texas 79409, (806) 742-2161.

Filed: September 15, 1988, 11:46 a.m.

TRD-8809511

The Campus and Building Committee approved minutes of the August 4, 1988, meeting; considered naming of El Paso Clinical Education Building; appointed project architect for design and construction of phase II for Odessa Regional Academic Health Center; and heard reports.

Contact: Freda Pierce, P.O. Box 4039, Lubbock, Texas 79409, (806) 742-2161.

Filed: September 15, 1988, 11:46 a.m.

TRD-8809509

The Finance and Administration Committee approved minutes of the August 4, 1988, meeting; considered budget adjustments, revised traffic and parking regulations, approved addendums to affiliation agreements with El Paso County Hospital District for physician services in emergency rooms and for resident services and with Medical center Hospital-Odessa for residents and other services, approved master coordinating agreement with Amarillo Hospital District for space, residents, and other items; approved agreements for pathology services to El Paso County hospital District, El Paso Del Norte Area Health Education Center, West Texas Rural Health Education Center, Texas Department of Health for Maternal and Infant Health Services Improvement Act Program with Odessa, Lubbock, and El Paso; authorized contract with Lubbock Power and Light to install electrical transmission lines from cogeneration facility to Erskine Avenue, ratified delegation of authority, commissioning of peace officers and delegation of authority for interim president to conduct business and approved

expenditures; and heard reports and report on group health insurance.

Contact: Freda Pierce, P.O. Box 4039, Lubbock, Texas 79409, (806) 742-2161.

Filed: September 15, 1988, 11:46 a.m.

TRD-8809508

The Academic, Clinical, and Student Affairs Committee approved minutes of the August 4, 1988, meeting; considered ratifying faculty development leave and leave of absence and granting of emeritus status; heard reports of federal licensing exam (FLEX), library relationship with private sector, family medicine, rural hospitals, collaboration agreement between UT-SA and TTUHSC Schools of Nursing for graduate education; discussed change of name of department of Medical Technology to Department of Clinical Laboratory Sciences; and heard reports.

Contact: Freda Pierce, P.O. Box 4039, Lubbock, Texas 79409, (806) 742-2161.

Filed: September 15, 1988, 11:46 a.m.

TRD-8809498

The Committee of the Whole reorganized plan for administrative structure, system and procedure for long range planning, accepted presidents resignation; discussed appraisal-proctor estate grazing lease, braddock estate properties, Amarillo Clinic Building (purchase), contracts between TTUHSC and teaching hospitals, personnel matters, and contemplated litigation.

Contact: Freda Pierce, P.O. Box 4039, Lubbock, Texas 79409, (806) 742-2161.

Filed: September 15, 1988, 11:46 a.m.

TRD-8809510

Friday, September 23, 1988, 10:50 a.m. The Board of Regents met in the Board Suite, Administration Building, Campus, Lubbock. According to the agenda summary, the board approved minutes of the previous meeting; and heard reports concerning academic, clinical, and student affairs, finance and administration, campus and building, development, and committee of the whole.

Contact: Freda Pierce, P.O. Box 4039, Lubbock, Texas 79409, (806) 742-2161.

Filed: September 15, 1988, 11:46 a.m.

TRD-8809500

## University System of South Texas

Tuesday, October 4, 1988, 10 a.m. The Board of Directors of the University System of South Texas will meet in the Boardroom, two miles west on Highway 141, Kingsville. According to the agenda summary, the board will approve minutes of the July 14, 1988, meeting; consider resolution of appreciation to Mary Haas, increased cost

of renovation of College Hall at Texas A&I University, funds for joint programs between Texas A&M University System and the University System of South Texas; hear report of A&M/USST feasibility study, report from Board Fringe Benefits Committee; and consider time and place of next meeting.

Contact: Frederick Bigelow, P.O. Box 1238, Kingsville, Texas 78363, (512) 595-2208.

Filed: September 20, 1988, 2:35 p.m.

TRD-8809675

## The University of Texas at Austin

Wednesday, September 21, 1988, 3 p.m. The Intercollegiate Athletics for Women of the University of Texas at Austin met in Room 606, Belmont Hall, UT Campus, 21st Street and San Jacinto Boulevard, Austin. According to the agenda summary, the university approved minutes of the previous meeting; heard announcements/information reports; and considered old and new business. The university also met in executive session.

Contact: Donna A. Lopiano, (512) 471-7693.

Filed: September 15, 1988, 3:10 p.m.

TRD-8809537

## Texas Water Commission

The Texas Water Commission will meet in the Stephen F. Austin Building, 1700 North Congress Avenue, Austin, unless otherwise noted. Dates, times, rooms, and agendas follow.

Tuesday, September 27, 1988, 9 a.m. The commission will consider tax and revenue bonds, contract revenue bonds, certificates of convenience and necessity, proposed permits, amendments, renewals, water use permits, certificates of adjudication, enforcement orders, approving the waste load evaluation for Wichita River in the Red River Basin, construction of a wastewater treatment facility, contracts, appropriations, and a motion for rehearing.

Contact: Beverly De La Zerda, P.O. Box 13087, Austin, Texas 78711, (512) 463-7909.

Filed: September 15, 1988, 4:01 p.m.

TRD-8809544

Tuesday, September 27, 1988, 9 a.m. The commission will meet in Room 118, to consider an application filed by Encycle/Texas, Inc. for a proposed permit (HW-50221-001).

Contact: Beverly De La Zerda, P.O. Box 13087, Austin, Texas 78711, (512) 463-

7909.

Filed: September 19, 1988, 4:07 p.m.

TRD-8809647

Tuesday, September 27, 1988, 2 p.m. The commission will meet in Room 123, to consider executive director's report on agency administration, policy, budget procedures, and personnel matters.

Contact: Beverly De La Zerda, P.O. Box 13087, Austin, Texas 78711, (512) 463-7909.

Filed: September 15, 1988, 4:03 p.m.

TRD-8809546

Monday, October 3, 1988, 10 a.m. The commission will meet in Room 118, to consider application of Toby Smith Water Company, Inc. for the sale and transfer of its facilities and certificate of convenience and necessity (CCN 11466); application to transfer wastewater discharge Permit 10575-03 from the City of Mount Pleasant to Pilgrim Pride Corporation; report and petition for order assessing penalties and requiring certain action of Lockheed Missiles and Space Company (SWR 33716); and report and petition for order assessing administrative penalties and requiring certain actions of Maintech International, Inc. (SWR 31618).

Contact: Beverly De La Zerda, P.O. Box 13087, Austin, Texas 78711, (512) 463-7909.

Filed: September 15, 1988, 4:03 p.m.

TRD-8809547

Monday, October 3, 1988, 11 a.m. The commission will meet in Room 118, to consider executive directors' report of substantial noncompliance, and order finding substantial noncompliance, and requiring certain actions of the City of Eustace (Permit 11132-01); and executive director's report of substantial noncompliance, and order finding no further action is necessary of Bethlehem Steel Corporation (Permit 00838-003).

Contact: Beverly De La Zerda, P.O. Box 13087, Austin, Texas 78711, (512) 463-7909.

Filed: September 15, 1988, 4:02 p.m.

TRD-8809543

Thursday, October 6, 1988, 9 a.m. The Texas Water Commission will meet in Room 118, to consider Chapter 26 violations by the City of Corpus Christi (Permit 10401-030); order requiring certain action of Kelly Air Force Base (SWR 31750); order assessing administrative penalties and requiring certain actions of Drew Chemical Corporation (SWR 32135); and order assessing administrative penalties and requiring certain actions of Texaco Chemical Company (SWR 31907).

Contact: Beverly De La Zerda, P.O. Box 13087, Austin, Texas 78711, (512) 463-

7909.

Filed: September 16, 1988, 4 p.m.

TRD-8809597

**Thursday, October 6, 1988, 10 a.m.** The commission will meet in Room 123, to hear the executive director's report on agency administration, policy, budget procedures, and personnel matters.

Contact: Beverly De La Zerda, P.O. Box 13087, Austin, Texas 78711, (512) 463-7909.

Filed: September 16, 1988, 4 p.m.

TRD-8809598

**Thursday, October 13, 1988, 9 a.m.** The commission will meet in Room 118, to consider application by Channel Oaks Water System for an increase in retail water rates (Docket 7322-G); permit renewal by San Miguel Electric Cooperative, Inc. (Permit 02601); order assessing administrative penalties and requiring certain actions of Petty Industrial Coasters (Solid Waste Registration 38066); and an order on an application by Gulf Coast Waste Disposal Authority for a permit (Proposed Permit HW50133-001).

Contact: Beverly De La Zerda, P.O. Box 13087, Austin, Texas 78711, (512) 463-7909.

Filed: September 19, 1988, 4:06 p.m.

TRD-8809648

**Thursday, October 13, 1988, 10 a.m.** The commission will meet in Room 118, to consider amendment to Permit 10654-02 by the City of Marble Falls; order on Permit 11797-01 for Transfield Corporation; order on Permit 10160-01 on the City of Devine; and order assessing administrative penalties on Texas Fibers, a division of Leggett and Platt, Inc.

Contact: Beverly De La Zerda, P.O. Box 13087, Austin, Texas 78711, (512) 463-7909.

Filed: September 19, 1988, 4:05 p.m.

TRD-8809649

**Tuesday, November 1, 1988, 10 a.m.** The Office of Hearings Examiner will meet in the Wharton Community/Civic Center, 1924 North Fulton Street, Wharton. According to the agenda summary, the office consider application by United Resource Recovery, Inc., 6901 Corporate Drive, Suite 215, Houston, Texas 77036 for four disposal well permits that would authorize the drilling and maintenance of four disposal caverns in the Boling Salt Dome for the disposal by injection of nonhazardous and hazardous, Class I and Class II solid wastes. The proposed cavern disposal wells are located in the Stephen F. Austin Survey A-2 in Wharton County.

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

Filed: September 15, 1988, 4:04 p.m.

TRD-8809551

**Wednesday, November 9, 1988, 9 a.m.** The commission will meet in Room 118, to consider petition for creation of Harris County Municipal Utility District 346, containing 140.97 acres of land.

Contact: Karen A. Phillips, P.O. Box 13087, Austin, Texas 78711, (512) 463-7898.

Filed: September 16, 1988, 3:58 p.m.

TRD-8809599

**Wednesday, November 9, 1988, 9 a.m.** The commission will meet in Room 118, to consider petition for creation of Harris County Municipal Utility District 345, containing 196.26 acres of land.

Contact: Karen A. Phillips, P.O. Box 1308, Austin, Texas 78711, (512) 463-7898.

Filed: September 16, 1988, 3:57 p.m.

TRD-8809600

**Wednesday, November 9, 1988, 9 a.m.** The commission will meet in Room 118, to consider petition for creation of Harris County Municipal Utility District 347, containing 228.28 acres of land.

Contact: Karen A. Phillips, P.O. Box 13087, Austin, Texas 78711, (512) 463-7898.

Filed: September 16, 1988, 3:58 p.m.

TRD-8809596

**Wednesday, November 30, 1988, 9 a.m.** The commission will meet in Room 118, to consider petition for creation of Northeast Medina Municipal Utility District 3, containing 806.74 acres of land.

Contact: Karen A. Phillips, P.O. Box 13087, Austin, Texas 78711, (512) 463-7898.

Filed: September 15, 1988, 4:06 p.m.

TRD-8809549

**Wednesday, November 30, 1988, 9 a.m.** The commission will meet in Room 118, to consider petition for creation of Northeast Medina Municipal Utility District #2, containing 923.37 acres of land.

Contact: Karen A. Phillips, P.O. Box 13087, Austin, Texas 78711, (512) 463-7898.

Filed: September 15, 1988, 4:05 p.m.

TRD-8809550

**Wednesday, November 30, 1988, 9 a.m.** The commission will meet in Room 118, to consider petition for creation of Northeast Medina Municipal Utility District #1, containing 823.36 acres of land.

Contact: Karen A. Phillips, P.O. Box 13087, Austin, Texas 78711, (512) 463-7898.

Filed: September 15, 1988, 4:06 p.m.

TRD-8809548

## Texas Water Development Board

**Monday, September 26, 1988, 1:30 p.m.** The Texas Water Development Board met in emergency session in Room 118, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. According to the agenda summary, the board approved minutes of the August 18, 1988, meeting; heard DFM report and amended private activity loan conditions; considered extension of loan commitments for village of Briarcliff, Matagorda County WC&ID #5, Fort Bend F.C.W.S.C., and City of Mission; considered allowing the San Jacinto River Authority to make a one-time lump sum principal repayment, adjusting debt service schedule for Palo Duro River Authority; considered financial assistance for cities of Houston, and Woodville, San Leon MUD, Trinity River Authority, and Victoria County WC&ID #2, priority locations for flood protection and regional water supply and wastewater planning in fiscal year 1989; considered Fort Bend County MUD #13's water conservation and drought contingency plan and a contract and operating agreement with TSC for support services for fiscal year 1989. The emergency status was necessary because immediate action necessary on items which were scheduled for the September 15, 1988, board meeting which was cancelled because of Hurricane Gilbert.

Contact: M. Reginald Arnold II, P.O. Box 13231, Austin, Texas 78711, (512) 463-7847.

Filed: September 21, 1988, 2:31 p.m.

TRD-8809741

## Regional Meetings

### Meetings Filed September 15, 1988

**The Austin-Travis County Mental Health and Mental Retardation Center, Finance and Control Committee, met in Suite 501, 611 South Congress Avenue, Austin, on September 21, 1988, at noon.** The Board of Trustees met at the same location on September 22, 1988, at 7 a.m. Information may be obtained from Sharon Taylor, (512) 447-4141.

**The Bosque County Appraisal District, Appraisal Review Board, met at the Appraisal District Office, 104 West Morgan, Meridian, on September 20, 21, and 23, 1988, at 9 a.m.** Information may be obtained from Billye McGehee, P.O. Box 393, Meridian, Texas 76665, (812) 435-2305.

**The Deep East Texas Regional Mental Health and Mental Retardation Center, Board of Trustees, will meet in the Ward R.**

Burke Community Room, Administration Facility, 4101 South Medford Drive, Lufkin, on September 30, 1988, at 4 p.m. Information may be obtained from Jim McDermott, 4101 South Medford Drive, Lufkin, Texas 75901, (409) 639-1141.

The Mental Health and Mental Retardation Regional Center of East Texas, Board of Trustees, met in the Boardroom, 2323 West Front, Tyler, on September 22, 1988, at 4 p.m. Information may be obtained from Richard J. DeSanto, P.O. Box 4730, Tyler, Texas 75712, (214) 597-1351.

The Education Service Center, Region VIII, Board of Directors, met at the Education Service Center, Region VIII, F.M. Road 1734, Mount Pleasant, on September 22, 1988, at 7 p.m. Information may be obtained from Scott Ferguson, Education Service Center, F.M. Road 1734, Mount Pleasant, Texas 75455.

The Edwards Underground Water District, Reconvened Board of Directors, met at 1615 North St. Mary's Street, San Antonio, on September 20, 1988, at 10 a.m. Information may be obtained from Thomas P. Fox, 1615 North St. Mary's Street, San Antonio, Texas 78215, (512) 222-2204.

The Ellis County Appraisal District, met at 406 Sycamore Street, Waxahachie, on September 19, 1988, at 4 p.m. Information may be obtained from Russell A. Garrison, P.O. Box 878, Waxahachie, Texas 75165, (214) 937-3552.

The Hockley County Appraisal District, Board of Directors, met in emergency session at 1103-C Houston Street, Levelland, on September 19, 1988, at 7 p.m. Information may be obtained from Nick Williams, P.O. Box 1090, Levelland, Texas 79336, (806) 894-9654.

The North Central Texas Council of Governments, Executive Board, met on the Second Floor, Centerpoint Two, 616 Six Flags Drive, Arlington, on September 22, 1988, at 12:45 p.m. Information may be obtained from Edwina J. Shires, P.O. Drawer COG, Arlington, Texas 76005-5888, (817) 640-3300.

TRD-8809497

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Meetings Filed September 16,  
1988

The Austin-Travis County Mental Health and Mental Retardation Center, Personnel Committee, met in Suite 440, 611 South Congress Avenue, Austin, on September 20, 1988, at 8:15 a.m. Information may be obtained from Sharon Taylor, 611 South Congress Avenue, Austin, Texas 78704, (512) 447-4141.

The Mental Health and Mental Retardation Authority of Brazos Valley, Board of Trustees, met in the Brazos Center, 3232 Briarcrest Drive, Bryan, on September 22,

1988, at 1:30 p.m. Information may be obtained from Leon Bawcom, (409) 822-6467.

The Burnet County Appraisal District, Appraisal Review Board, met at 215 South Pierce Street, Burnet, on September 20, 1988, at 2 p.m. Information may be obtained from Amy Shrader, P.O. Drawer E, Burnet, Texas 78611.

The Dallas Area Rapid Transit, Citizens Attitudinal Survey Committee, met in Conference Room 7A, 601 Pacific Avenue, Dallas, on September 19, 1988, at 1:30 p.m. The Mobility Impaired Committee, Budget and Finance Authority, and Planning and Development Committee met in the Boardroom, 601 Pacific Avenue, Dallas, on September 20, 1988, at 1 p.m., 2 p.m., and 4 p.m., respectively. Information may be obtained from Nancy McKethan, 601 Pacific Avenue, Dallas, Texas 75202, (214) 658-6237.

The Ellis County Appraisal District, met at 406 Sycamore Street, Waxahachie, on September 19, 1988, at 4 p.m. Information may be obtained from Russell A. Garrison, P.O. Box 878, Waxahachie, Texas 75165, (214) 937-3552.

The Hays County Appraisal District, Board of Directors, met at the Appraisal District, 632 "A" East Hopkins, San Marcos, on September 22, 1988, at 3:30 p.m. Information may be obtained from Lynnell Sedlar, 632 "A" East Hopkins, San Marcos, Texas 78666, (512) 754-7400.

The Heart of Texas Council of Governments, Executive Committee, met at the HOTCOG Conference Room, 320 Franklin Avenue, Waco, on September 22, 1988, at 10 a.m. Information may be obtained from Mary McDow, 320 Franklin Avenue, Waco, Texas 76701-2297, (817) 756-6631.

The Lamar County Appraisal District, Regular Board, met at the District Office, 1523 Lamar Avenue, Paris, on September 20, 1988, at 5 p.m. Information may be obtained from Rodney Anderson, 1523 Lamar Avenue, Paris, Texas 75460, (214) 785-7822.

The Liberty County Central Appraisal District, Board of Directors, will meet at 1820 Sam Houston, Liberty, on September 28, 1988, at 9:30 a.m. Information may be obtained from Sherry Greak, P.O. Box 10016, Liberty, Texas 77575.

The Lower Colorado River Authority, Planning and Public Policy Committee/Natural Resources, met at 3700 Lake Austin Boulevard, Austin, on September 20, 1988, at 1 p.m. The Audit and Budget Committee, Board of Directors, Energy Operations Committee, Finance and Administration Committee, Natural Resources Committee, and Planning and Public Policy Committee, met at the same location, on September 21, 1988, at 9 a.m. Information may be obtained from Thomas G. Mason, P.O. Box 220, Austin, Texas 78767, (512) 473-3283.

The North Central Texas Council of Governments, Executive Board, met for an agenda revision on the Second Floor, Centerpoint Two, 616 Six Flags Drive, Arlington, on September 22, 1988, at 12:45 p.m. Information may be obtained from Edwina J. Shires, P.O. Drawer COG, Arlington, Texas 76005-5888, (817) 640-3300.

The San Antonio River Authority, Board of Directors, met at the SARA General Office, 100 East Guenther Street, San Antonio, on September 21, 1988, at 2 p.m. Information may be obtained from Fred N. Pfeiffer, 100 East Guenther Street, San Antonio, Texas 78283-0027, (512) 227-1373.

TRD-8809553

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Meetings Filed September 19,  
1988

The Central Plains Mental Health and Mental Retardation Center, Board of Trustees, will meet at 208 South Columbia, Plainview, on September 27, 1988, at 6:30 p.m. Information may be obtained from Rick Van Hersh, 2700 Yonkers, Plainview, Texas 79072, (806) 293-2636.

The Coastal Bend Council of Governments, Executive Board, met on the Seventh Floor, Boardwalk Room, Sheraton Marina, 300 North Shoreline, Corpus Christi, on September 23, 1988, at noon. The Membership also will meet on that date, at 2 p.m. in the Central Jury Room, Nueces County Courthouse, 901 Leopard, Corpus Christi. Information may be obtained from John P. Buckner, P.O. Box 9909, Corpus Christi, Texas 78469, (512) 883-5743.

The Education Service Center, Board of Directors, met in Conference Room B, Education Service Center, 1601 South Cleveland, Amarillo, on September 26, 1988, at 4 p.m. Information may be obtained from Kenneth M. Laycock, (806) 376-5521.

The Lower Rio Grande Valley Development Council, Board of Directors, met at the Harlingen Chamber of Commerce, 311 East Tyler, Harlingen, on September 22, 1988, at 1:30 p.m. Information may be obtained from Robert A. Chandler, 4900 North 23rd Street, McAllen, Texas 78501, (512) 682-3481.

The Middle Rio Grande Development Council, Texas Review and Comment System Committee, met at Fort Clark Springs, Highway 90 West, Brackettville, on September 22, 1988, at 10:30 a.m. Information may be obtained from Dora T. Flores, P.O. Box 1199, Carrizo Springs, Texas 78834, (512) 876-3533.

The North Texas Private Industry Council, will meet in Room 215, Activities Center, 10th and Indiana, Wichita Falls, on September 28, 1988, at 12:15 p.m. Information may be obtained from Art Frerich, CertainTeed Corporation, (817) 691-0020.

**The Panhandle Regional Planning Commission**, Board of Directors, met in the San Antonio Room, Amarillo Sheraton Hotel, 3100 I-40 West, Amarillo, on September 22, 1988, at 11 a.m. Information may be obtained from Pamela Nielsen, (806) 372-3381.

**The Sabine River Compact Administration**, will meet at the Westin Hotel Galleria, 13340 Dallas Parkway, Dallas, on October 31, 1988, at 9:30 a.m. Information may be obtained from Max J. Forbes, Jr.

**The San Antonio-Bexar County Metropolitan Planning Organization**, Steering Committee, met at City Hall, San Antonio, on September 26, 1988, at 1:30 p.m. Information may be obtained from David F. Pearson, Room 101, Bexar County Courthouse, San Antonio, Texas 78205, (512) 227-8651.

TRD-8809614

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**Meetings Filed September 20,  
1988**

**The Central Texas MHMR Center**, Board of Trustees, met at 408 Mulberry Drive, Brownwood, on September 26, 1988, at 5 p.m. Information may be obtained from Nelda Andrews, P.O. Box 250, Brownwood, Texas 76804, (915) 646-6574, ext. 102.

**The Houston-Galveston Area Council**, Projects Review Committee, met in the Board of Directors Conference Room, Fourth Floor, 3555 Timmons, Houston, on September 20, 1988, at 9 a.m. Information may be obtained from Rowena Ballas, (713) 627-3200.

**The San Antonio River Industrial Development Authority**, Board of Directors, met at 100 East Guenther Street, San Antonio, on September 26, 1988, at 10 a.m. Information may be obtained from Fred N. Pfeiffer, 100 East Guenther Street, San Antonio, Texas 78283, (512) 227-1373.

**The San Patricio County Appraisal District**, Appraisal Review Board, met at 1146 East Market, Sinton, on September 26, 1988, at 10 a.m. Information may be obtained from Kathryn Vermillion, P.O. Box 938, Sinton, Texas 78387, (512) 364-5402.

TRD-889652

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**Meetings Filed September 21,  
1988**

**The Ark-Tex Council of Governments**, Board of Directors, will meet in the Holiday Hotel Restaurant, I-30 and Highway 271 bypass, Mount Pleasant, on September 29, 1988 at 5:30 p.m. Information may be obtained from Betty Parrish, P.O. Box 5307, Texarkana, Texas 75505, (214) 832-8636.

**The Houston-Galveston Area Council**, Texas Community Development Program Regional Review Committee Workshop, met in the Fourth Floor Boardroom, 3555 Timmons, Houston, on September 26, 1988, at 9 a.m. Information may be obtained from Rowena Ballas, 3555 Timmons, Houston, Texas 77227-2777, (713) 627-3200.

**The Lamb County Appraisal District**, Appraisal Review Board, will meet in the Board Meeting Room, 330 Phelps Avenue, Littlefield, on September 29, 1988, at 7:30 p.m. Information may be obtained from Murlene J. Godfrey, P.O. Box 552, 330 Phelps Avenue, Littlefield, Texas 79339-0552, (806) 385-6474.

**The Lower Colorado River Authority**, Board of Trustees, met for an emergency agenda revision at 3700 Lake Austin Boulevard, Austin, on September 22, 1988, at 9 a.m. Information may be obtained from Thomas G. Mason, P.O. Box 220, Austin, Texas 78767, (512) 473-3283.

**The Lubbock Regional MHMR Center**, Board of Trustees, met in the Dining Room, American State Bank, 1401 Avenue Q, Lubbock, on September 26, 1988, at noon. Information may be obtained from Gene Menefee, 1210 Texas Avenue, Lubbock, Texas, (806) 766-0202.

**The Pecan Valley Mental Health Mental Retardation Region**, Board of Trustees, will meet at the Clinical Office, 104 Charles Street, Granbury, on September 28, 1988, at 8 a.m. Information may be obtained from Theresa Mulloy, P. O. Box 973, Stephenville, Texas 76401, (817) 965-7806.

**The San Jacinto River Authority**, Board of Directors, will meet at the Lake Conroe Office Building, Highway 105 West, Conroe, on September 28, 1988, at 1 p.m. Information may be obtained from Jack K. Ayer, P.O. Box 329, Conroe, Texas 77305, (409) 488-1111.

**The Tarrant Appraisal District**, Appraisal Review Board, met for an emergency agenda revision at 2309 Gravel Road, Fort Worth, on September 22, 1988, at 8:30 a.m. Information may be obtained from Linda R. Freeman, 2309 Gravel Road, Fort Worth, Texas 76118, (817) 284-8884.

**The Tyler County Appraisal District**, Board of Review, will meet at 86 West Bluff, Woodville, on September 29, 1988, at 10 a.m. Information may be obtained from Mary F. Mann, P.O. Drawer 9, Woodville, Texas 75979, (409) 283-3736.

TRD-8809723

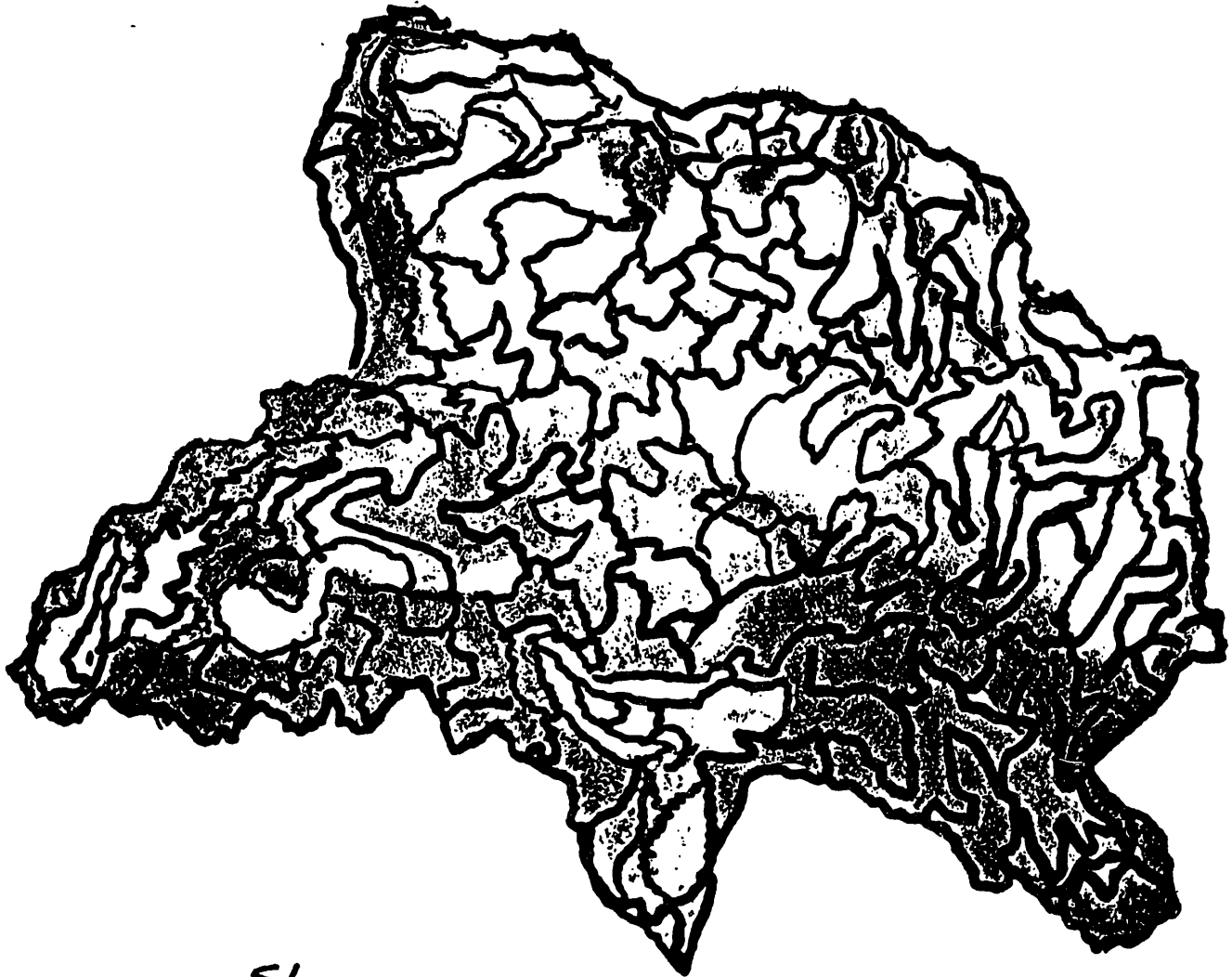
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**Meetings Filed September 22,  
1988**

**The Jack County Appraisal District**, Board of Directors, met at the Los Creek Office Building, 216-D South Main, Jacksboro, on September 26, 1988, at 6 p.m. Information may be obtained from Doris G. Ray or Linda Williams, 216-D South Main, Jacksboro, Texas 76056, (817) 567-6301.

**The Texas Panhandle Mental Health Authority**, Board of Trustees, will meet in the Kilgore Atrium, 1200 Wallace Boulevard, Amarillo, on September 28, 1988, at 11:30 a.m. Information may be obtained from Claire Rigler, P.O. Box 3250, Amarillo, Texas 79106, (806) 353-7235.

TRD-8809765





Shane

Name: Shane Warriner  
Grade: 4  
School: Pope Elementary, Arlington

# In Addition

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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.

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## Texas Air Control Board

### Notice of Contested Case Hearing

An examiner for the Texas Air Control Board (TACB) will conduct a contested case hearing on the appeal of revisions and an amendment of TACB Operating Permit R-9337, which were issued to Texas TX Marine Transportation, Inc., the immediate predecessor of the current permit holder, Tex Trac, Inc. (the company), by the TACB executive director on May 13, 1988. TACB Operating Permit R-9337 authorizes the operation of a petroleum coke bulk handling facility in Harris County on the east bank of Sims Bayou, immediately upstream of its confluence with the Houston Ship Channel. The May 13, 1988, revisions include requirements that the company control stockpile emissions by installing a quantity of water sprinklers proportional to the area of petroleum coke which is stockpiled; clean up petroleum coke which has spilled during railcar unloading with front end loaders and deposit it into the conveyor hopper; clean up petroleum coke which has accumulated in low drainage areas around the rails; conveyor, and pump sumps with front end loaders and deposit it into storage; use feeder mechanisms with long tines on the loading hoppers which receive the petroleum coke; and use concrete or asphaltic concrete in the construction of the truck wash facility. The May 13, 1988, amendment requires the company to use a water fog ring on the barge loading chute and requires that the end of the barge loading chute be fully extended to within six feet of the bottom of the barge when loading commences, and thereafter, a maximum freefall distance of two chute diameters must be maintained.

**Time and Place of Hearing.** The examiner has set the hearing to begin at 10:30 a.m. on October 25, 1988, at the TACB Central Office, Room 240, 6330 Highway 290 East, Austin. No one may participate in the hearing without meeting the requirements set forth in the paragraphs that follow.

**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 trial in one of the district courts of this state.

**What Must be Proven:** In order for the issuance of the May 13, 1988, revisions and amendment to be sustained on appeal, the preponderance of the evidence taken at the hearing must demonstrate that all the requirements of the TACB and the Texas Clean Air Act, Texas Civil Statutes, Article 4477-5 (the Act), for the issuance of the May 13, 1988, revisions and amendment have been satisfied.

**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 company and the TACB staff.

**Deadlines 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 Bill Ehret 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 September 20, 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 decision on party status at the prehearing conference. If there is any objection at the prehearing conference of the granting of party status to any person or organization that has requested it, that 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.

**Prehearing Conference:** The examiner has scheduled a prehearing conference on October 5, 1988, at 1 p.m., at the TACB Central Office, Room 240, 6330 Highway 290 East, Austin. At this conference, in addition to making a 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 continuances 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 and 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 to confirm the setting, since continuances are granted from time to time.

Any person 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 5555 West Loop, Suite 300, Bellaire, Texas 77401, the TACB central office located at 6330 Highway 290 East, Austin, Texas 78723, and at the office or the Houston Bureau of Air Quality Control, 7411 Park Place, Houston, Texas 77087.

**Legal Authority:** This hearing is called and will be conducted under the authority of the Act §§3.15, 3.16, 3.17, and 3.27 and TACB procedural rules 103.31, 103.41, and 103.81.

Issued in Austin, Texas on August 26, 1988.

TRD-8809733

Allen Eli Bell  
Executive Director  
Texas Air Control Board

Filed: September 21, 1988

For further information, please call (512) 451-5711, ext. 354

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**State Banking Board**

**Notice of Hearing**

As no opposition has been noted in the application for Texas National Bank, Odessa, to convert to a state charter under the name of Texas Bank, Odessa, the hearing previously scheduled for Thursday, September 22, 1988, has been cancelled.

Issued in Austin, Texas on September 13, 1988.

TRD-8809471

William F. Aldridge  
Director of Corporate Activities  
Texas Department of Banking

Filed: September 14, 1988

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

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**Texas Department of Commerce**

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

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

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

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

and the amount for all other bonds requiring an allocation is \$347,541,700.

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

The information that follows is a weekly report of the allocation activity for the period, September 5, 1988-September 9, 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 September 9, 1988: \$212,783,300.

Total amount of state ceiling remaining unreserved for the \$208,525,000 subceiling for state-voted issues under the Act as of September 9, 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 September 9, 1988: \$226,700.

Total amount of the \$834,100,000 state ceiling remaining unreserved as of September 9, 1988: \$421,535,000.

Comprehensive listing of bond issues which have received a reservation date pursuant to the Act from September 5, 1988-September 9, 1988: none.

Comprehensive listing of bonds issued and delivered as pursuant to the Act from September 5, 1988-September 9, 1988: Texas Housing Agency, Eligible Borrowers; Qualified Mortgage Bonds; \$170,000.

Issued in Austin, Texas, on September 13, 1988.

TRD-8809465

J. William Lauderback  
Executive Director  
Texas Department of Commerce

Filed: September 14, 1988

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

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

**Notices of Rate Ceilings**

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



<u>Type of Rate Ceilings</u>	<u>Effective Period (Dates are Inclusive)</u>	<u>Consumer<sup>(3)</sup>/Agri- cultural/Commercial<sup>(4)</sup> thru \$250,000</u>	<u>Commercial<sup>(4)</sup> over \$250,000</u>
Indicated (Weekly) Rate - Art. 1.04(a)(1)	09/12/88-09/18/88	18.00%	18.00%
Monthly Rate <sup>(1)</sup> Art. 1.04(c)	09/01/88-09/30/88	18.00%	18.00%
Standard Quarterly Rate - Art. 1.04(a)(2)	10/01/88-12/31/88	18.00%	18.00%
Retail Credit Card Quarterly Rate - Art. 1.11 <sup>(3)</sup>	10/01/88-12/31/88	18.00%	N.A.
Lender Credit Card Quar- terly Rate - Art. 15.02(d) <sup>(3)</sup>	10/01/88-12/31/88	14.13%	N.A.
Standard Annual Rate - Art. 1.04(a)(2) <sup>(2)</sup>	10/01/88-12/31/88	18.00%	18.00%
Retail Credit Card Annual Rate - Art. 1.11 <sup>(3)</sup>	10/01/88-12/31/88	18.00%	N.A.
Annual Rate Applicable to Pre-July 1, 1983 Retail Credit Card and Lender Credit Card Balances with Annual Implementation Dates from:	10/01/88-12/31/88	18.00%	N.A.
Judgment Rate - Art. 1.05, Section 2	09/01/88-09/30/88	10.00%	10.00%

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

Issued in Austin, Texas, on September 6, 1988.

TRD-8809730

Al Endsley  
Consumer Credit Commissioner

Filed: September 21, 1988

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

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

<u>Type of Rate Ceilings</u>	<u>Effective Period (Dates are Inclusive)</u>	<u>Consumer<sup>(3)</sup>/Agri- cultural/Commercial<sup>(4)</sup> thru \$250,000</u>	<u>Commercial<sup>(4)</sup> over \$250,000</u>
Indicated (Weekly) Rate - Art. 1.04(a)(1)	09/26/88-10/02/88	18.00%	18.00%
Monthly Rate <sup>(1)</sup> Art. 1.04(c)	09/01/88-09/30/88	18.00%	18.00%
Standard Quarterly Rate - Art. 1.04(a)(2)	10/01/88-12/31/88	18.00%	18.00%
Retail Credit Card Quarterly Rate - Art. 1.11 <sup>(3)</sup>	10/01/88-12/31/88	18.00%	N.A.
Lender Credit Card Quar- terly Rate - Art. 15.02(d) <sup>(3)</sup>	10/01/88-12/31/88	14.13%	N.A.
Standard Annual Rate - Art. 1.04(a)(2) <sup>(2)</sup>	10/01/88-12/31/88	18.00%	18.00%
Retail Credit Card Annual Rate - Art. 1.11 <sup>(3)</sup>	10/01/88-12/31/88	18.00%	N.A.
Annual Rate Applicable to Pre-July 1, 1983 Retail Credit Card and Lender Credit Card Balances with Annual Implementation Dates from:	10/01/88-12/31/88	18.00%	N.A.
Judgment Rate - Art. 1.05, Section 2	10/01/88-10/31/88	10.00%	10.00%

(1) For variable rate commercial transactions only.

(2) Only for open-end credit as defined in Art. 5069-1.01(f) V.T.C.S.

(3) Credit for personal, family or household use.

(4) Credit for business, commercial, investment or other similar purpose.

Issued in Austin, Texas, on September 6, 1988.

TRD-8809731 Al Endsley  
Consumer Credit Commissioner

Filed: September 21, 1988

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



### Office of the Governor Budget Execution Proposals

As authorized by Texas Government Code §317.002(b)(2) (House Bill 7, 70th Legislature, Second Called Session), budget execution authority is hereby proposed for the following action.

Funds were appropriated to the Board of Pardons and Paroles for the fiscal year ending August 31, 1988, by the Texas Legislature pursuant to Senate Bill 1, 70th Legislature, Second Called Session. Certain of those funds were proposed to be utilized for the renovation and/or operation of a jail facility in Bexar County pursuant to a budget execution proposal published in the July 29, 1988, issue of the *Texas Register* and were, pursuant to a Legislative Budget Board Contingent Order, adopted by the Legislative Budget Board on August 10, 1988, and approved by Governor William P. Clements, Jr. on August 11, 1988, distributed to such agency for the fiscal year ending August 31, 1989. I propose to give to the Board of Pardons and Paroles the authority to spend or obligate the expenditure of such funds to allow it to expand the capacity of its Pre-Parole Transfer Program in order to accelerate the release of inmates who qualify for such program, such purpose being a different or additional purpose than that for which such funds were originally appropriated.

I find an emergency exists in that counties throughout the State of Texas currently face severe conditions of overcrowding in their jails.

Accordingly, I propose that the following appropriations out of the General Revenue Fund 001 to the Board of Pardons and Paroles for the fiscal year ending August 31, 1989:

Board of Pardons and Paroles: 5. Parole Supervision  
\$1,239,660

shall be distributed in the following line item for the Board of Pardons and Paroles for the fiscal year ending August 31, 1989:

Board of Pardons and Paroles: 6. Special Community Services..... \$1,239,660.

Issued in Austin, Texas on September 19, 1988.

TRD-8809659 William P. Clements, Jr.  
Governor

Filed: September 20, 1988

For further information, please call (512) 463-1778



As authorized by Texas Government Code, §317.002(b)(2) and §317.002(b)(1) (House Bill Number 7, 70th Legislature, Second Called Session), budget execution authority is hereby proposed for the following actions:

(1) Funds were appropriated to the Office of the Governor for the fiscal year ending August 31, 1988, by the Texas Legislature pursuant to Senate Bill Number 1, 70th Legislature, Second Called Session. Certain of those funds

were not expended during such fiscal year and, pursuant to Item 2 of the appropriations to the Office of the Governor in Senate Bill Number 1, were reappropriated for the same purpose for the fiscal year beginning September 1, 1988. I propose to give to the Office of the Governor the authority to spend or obligate the expenditure of such funds for the purpose discussed in paragraph (2), being a different or additional purpose than that for which such funds were originally appropriated.

(2) Funds were appropriated to the Board of Pardons and Paroles and the Texas Adult Probation Commission for the fiscal year ending August 31, 1988, by the Texas Legislature pursuant to Senate Bill Number 1, 70th Legislature, Second Called Session. Certain of those funds were proposed to be utilized for the renovation and/or operation of a jail facility in Bexar County pursuant to a budget execution proposal published in the July 29, 1988, issue of the *Texas Register* and were, pursuant to a Legislative Budget Board Contingent Order adopted by the Legislative Budget Board on August 10, 1988, and approved by Governor William P. Clements, Jr. on August 11, 1988, distributed to such agencies for the fiscal year ending August 31, 1989. I propose to transfer such funds to the Office of the Governor for the fiscal year ending August 31, 1989, and give to the Office of the Governor authority to spend or obligate the expenditure of such funds, together with the funds discussed in paragraph (1), for the purpose of allowing the Criminal Justice Division of the Office of the Governor to award a grant of such funds to the Central Texas Correctional Development Corporation to renovate the building that formerly housed the Bexar County Jail and operate the renovated structure as a facility to house parole violators.

I find an emergency exists in that counties throughout the State of Texas currently face severe conditions of overcrowding in their jails.

Accordingly, I propose that the following appropriations out of the General Revenue Fund Number 001 to the following agencies for the fiscal year ending August 31, 1989:

Office of the Governor  
8. Deficiency and Emergency Grants.....\$2,744,916  
Board of Pardons and Paroles  
5. Parole Supervision.....\$2,098,592  
Adult Probation Commission  
3. State Aid  
a. Per Capita State Aid .....\$1,561,748

shall be distributed in the following line item for the Office of the Governor for the fiscal year ending August 31, 1989:

Office of the Governor  
6. Criminal Justice Planning Division Administration and Grant to State Agencies and Local Entities\$6,405,256

Issued in Austin, Texas on September 19, 1988.

TRD-8809660 William P. Clements  
Governor

Filed: September 20, 1988

For further information, please call (512) 463-1778



## Texas Department of Health

### Correction of Error

The Texas Department of Health submitted an adopted amendment which contained an error as submitted by the department in the August 19, 1988, issue of the *Texas Register* (13 TexReg 4129).

In the preamble to §31.1 the second sentence to the fourth paragraph should read: "Under federal and state enabling legislation (The Child Nutrition Act of 1966, as amended, 42 USCA 1786, the Omnibus Hunger Act of 1985, and Acts 1985, 69th Legislature, Chapter 150, Title II), the WIC program is 96% federally funded and 4% state funded, and governed by federal regulations."

The department also submitted proposed sections which contained errors as submitted by the department in the August 30, 1988, issue of the *Texas Register* (13 TexReg 4293).

In the preamble to §145.21: The third sentence of the first paragraph should read: "The amendment will amend subsection (e) to allow facilities licensed under Texas Civil Statutes, Article 4442c, the right and privilege to maintain a supply of controlled drugs in an emergency drug kit to be used for residents' emergency medication needs."

In §141.21: Subclause (e)(1)(D)(ii)(IV) should read: "(IV) the controlled drugs selected by the facility under this clause shall not exceed a sum total of eight doses for the overall quantity maintained by the facility."

In §145.303: The last sentence of subclause (b)(1)(C)(i)(II) should read: "This fee shall be submitted in the form of a check or money order payable to the department."

Subclause (b)(1)(C)(ii)(I) should read: "(I) approval from the Architectural section of the licensing agency, based upon drawings reviewed prior to conversion or construction and final inspection; and"

In §145.304: Clause (a)(6)(C)(iii) should read: "(iii) a minimum of one bathing unit is required in adult day health care facilities."

Clause (a)(6)(D)(iii) should read: "(iii) a minimum of one water closet/lavatory for each 15 clients in adult day health care facilities; and"

In the preamble to §325.731: The last paragraph should read: "This new section is proposed under authority of Texas Civil Statutes, Article 4477-7, §§3(a), 4(c), and 3(i), which provide the Texas Board of Health with authority to adopt rules for management of municipal solid waste and which require the Texas Department of Health to adopt by rule any Memorandum of Understanding; 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."

In §325.731: The title to the section should read: "§325.731. *Adoption by Reference.*"

the last sentence of subsection (a) should read: "The memorandum contains the agencies' interpretation of their regulatory jurisdiction over activities related to sludge generated by municipal wastewater treatment plants."

The department submitted miscellaneous items which contained an error as submitted by the department in the July 8, 1988, issue of the *Texas Register* (13 TexReg 3427).

Under "Intent to Revoke General License Acknowledge-

ments" (13 TexReg 3430) the eighth paragraph should read: "Comes now the Division of Compliance and Inspection, Bureau of Radiation Control, Texas Department of Health (the agency), through its division director, and makes the following complaint against Louis J. Cole, M.D., 1155 East 42nd Street, Odessa, Texas 79762 (the licensee), holder of general license acknowledgement number 12-863."

## Texas Higher Education Coordinating Board

### Notice of Meeting

The Teacher Education Advisory Committee will meet on Tuesday, September 20, 1988, at 1:30 p.m. The meeting will be held in Room 255 at the Coordinating Board located at 200 East Riverside Drive, Austin. For additional information, contact Cristina De La Fuente at the Coordinating Board at (512) 462-6485.

Issued in Austin, Texas on September 14, 1988.

TRD-8809655

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

Filed: September 20, 1988

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

## Texas Department of Human Services

### Notice of Availability of Intended Use Report

The Texas Department of Human Services (DHS) has prepared the Intended Use Report for the Title XX Social Services Block Grant for program 1989. The report described department services funded through this federal source and includes a distribution of funds section which provides financial information on the allocation of funds to all department social services.

Public comment was sought in the development of the intended use report. In September, October, and November 1987, twelve public hearings were held across the state. These hearings were held to receive suggestions from the public early in the process of preparing the department's 1989 operating plan and legislative appropriations request (LAR) for fiscal year 1990-1991. More than 200 people, speaking as individuals or representing organizations, offered testimony. Testimony was received on all department programs, including block grant programs. Members of citizen advisory committees conducted the hearings. Citizen advisory committees considered the testimony from the hearings and made recommendations to the department. Department staff considered the public comments in preparing a proposed 1989 operating plan and 1990-1991 LAR. On June 28, 1988, the proposed intended use report was made available to the public for review and comment. The department received and responded to requests for copies of the report. On June 1, 1988, the Texas Board of Human Services met to review the proposed plans, including the use of block grant funds. Thirty-nine people offered testimony on department programs at the board meeting.

Services to Families and Children:

Child Day Care—Several commenters urged increased funding and expansion of services.

Family Planning—Several commenters emphasized the cost-effectiveness of family planning services; urged increased emphasis and funding for pregnancy prevention activities; noted that reimbursement rates for family planning services are low; and requested that the teen co-pay rule be revised.

Protective Services for Abused and Neglected Children—Commenters urged increased staffing and funding and increased scope of services.

Family Violence—Several commenters stressed the need for increased funds to expand shelters and services, and help shelters gain access to affordable housing, transportation, child care, and medical care for clients.

Licensing—Several commenters requested increased regulation of registered family homes by DHS.

#### Services to Aged and Disabled:

Adult Protective Services—Several commenters recommended increased staffing and funding for these services.

Community Care Services—Commenters recommended increased funding for attendant care services; expansion of the in-home and family support pilot; increased funding for in-home care programs and other services to the elderly; and revision of ICF-MR eligibility to cover all clients with developmental disabilities.

Response to Comments: Decisions regarding distribution of funds to the various programs continues to be a function of legislative mandates, appropriations, assessment of need, the department's strategic plan, and input from advisory committees and the public. In the event that state and federal funds are totally or partially unavailable, necessary reductions in services will be made.

Distribution of the Report: Free copies of the Intended Use Report for the Title XX Social Services Block Grant for program year 1989 are available to the public. To obtain a copy, write to Cathy Rossberg, Administrator, Policy Development Support Division, Mail Code 222-E, Texas Department of Human Services, P.O. Box 2960, Austin, Texas 78769.

Issued in Austin, Texas on September 20, 1988.

TRD-8809663      Marlin W. Johnston  
Commissioner  
Texas Department of Human Services

Filed: September 20, 1988

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

### Notice of Public Hearing

The Texas Department of Human Services (TDHS) will conduct a public hearing to accept comments on proposed amendments to the County Indigent Health Care Program in its County Indigent Health Care Chapter. Proposed amendments were published in the June 28, 1988, issue of the *Texas Register* (13 TexReg 3297). The department is especially interested in receiving comments on the proposed rule amendments to §14.103, concerning household determinations, and §14.204, concerning services and payment liability, limitations, and options. The hearing will begin at 2 p.m., Monday, October 10, 1988, in the department's public hearing room, first floor, East Tower, 701 West 51st Street, Austin.

Issued in Austin, Texas on September 20, 1988.

TRD-8809662      Marlin W. Johnston  
Commissioner  
Texas Department of Human Services

Filed: September 20, 1988

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

### State Board of Insurance Company Licensing

The following applications have been filed with the State Board of Insurance and are under consideration:

1. Application for admission to do business in Texas of A.U. Life Insurance Company of Arizona, a foreign life insurance company. The home office is in Goddard, Kansas.
2. Application for admission to do business in Texas of Advanta Property and Casualty Insurance Company (assumed name for Advanta Insurance Company), a foreign casualty insurance company. The home office is in Phoenix, Arizona.
3. Application for a name change by Nail-Haggard Life Insurance Company, a domestic life insurance company. The home office is in Daingerfield, Texas. The proposed new name is United Assurance Life Insurance Company.
4. Application for incorporation of All Life Insurance Company, a domestic life insurance company. The home office is in McAllen.

Issued in Austin, Texas, on September 13, 1988.

TRD-8809585      Nicholas Murphy  
Chief Clerk  
State Board of Insurance

Filed: September 16, 1988

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

### Notice of Public Hearing

Notice is hereby given that a hearing under Docket 1606 will be held before the State Board of Insurance on Wednesday, October 26, 1988, at 10 a.m. and continuing there after each day at times designated by the chairman until conclusion. The purpose of the hearing is consideration of amendments to 28 TAC §9.1 and to the *Basic Manual of Rules, Rates, and Forms for the Writing of Title Insurance in the State of Texas*, sometimes referred to as the "Basic Manual." The hearing will take place in Room 101 of the John H. Reagan State Office Building, at 105 West 15th Street in Austin.

The State Board of Insurance has jurisdiction over the promulgation of rules and premium rates, over amendments to or promulgation of approved forms, and over other matters to be considered in the writing of title insurance in the State of Texas pursuant to the Insurance Code, Articles 1.02, 1.04, 9.07, and 9.21.

The rulemaking provisions of the Administrative Procedure and Texas Register Act (Texas Civil Statutes, Article 6252-13a) and the Rules of Practice and Procedure before the State Board of Insurance (28 TAC Chapter 1, Subchapter A) set forth the nature and requirements of procedures available for the consideration of the proposed rules to be presented to the state Board of Insurance at the public hearing, except that the contested case provisions of that statute and those rules of practice and procedure shall apply to the extent that testimony and data are received concerning possible action affecting rates in connection with the adoption or amendment of any rule.

Reference is further made to the Insurance Code, Chapter 9, and to the Basic Manual to the extent that specific provisions are applicable to any proposed rule, rate, or other matter asserted.

Matters for consideration at the hearing will include the following agenda items:

STATE BOARD OF INSURANCE  
Docket No. 1606  
October 26 & 27, 1988

- | Item  | Matter for Consideration   |
|-------|--|
| 88-4  | Submission on behalf of American Title Insurance Company requesting the promulgation of a new Rate Rule R-21 entitled "Application Premium", to be found in Section III - Rate Rules, Basic Manual of Rules, Rates and Forms for the Writing of Title Insurance in the State of Texas (hereinafter referred to the Basic Manual).                  |
| 88-5  | Submission on behalf of the Texas Land Title Association requesting the promulgation of a new Rate Rule R-21 entitled "Application Premium", to be found in Section III - Rate Rules, Basic Manual.  |
| 88-6  | Submission on behalf of the Texas Land Title Association requesting the amendment of Rate Rule R-11 entitled "Mortgagee Policy Endorsement", to be found in Section III - Rate Rules, Basic Manual.  |
| 88-7  | Submission on behalf of the Texas Land Title Association requesting the amendment of Rate Rule R-13 entitled "Mortgagee Title Policy Binder on Interim Construction Loan", to be found in Section III - Rate Rules, Basic Manual.  |
| 88-8  | Submission on behalf of the Texas Land Title Association requesting the amendment of Rate Rule R-5 entitled "Simultaneous Issuance of Owner and Mortgagee Policies", to be found in Section III - Rate Rules, Basic Manual.  |
| 88-9  | Submission on behalf of Stewart Title Guaranty Company requesting the promulgation of new Rate Rule R-22 pertaining to the Issuance of Multiple Owner Policies on Same Land to be found in Section III - Rate Rules, Basic Manual.   |
| 88-10 | Submission on behalf of Stewart Title Guaranty Company requesting the promulgation of new Rate Rule R-23 pertaining to the Issuance of Simultaneous Owners Policies on the Fee and Leasehold Estates, to be found in Section III - Rate Rules, Basic Manual.   |
| 88-11 | Submission on behalf of the Texas Land Title Association requesting the amendment of Procedural Rule P-27 entitled "Disbursement From Trust Fund Accounts", to be found in Section IV - Procedural Rules, Basic Manual.  |
| 88-12 | Submission on behalf of the Texas Land Title Association requesting the amendment of Procedural Rule P-9 entitled "Endorsement of Owner or Mortgagee Policies", to be found in Section IV - Procedural Rules, Basic Manual.  |
| 88-13 | Submission on behalf of the Texas Land Title Association requesting the amendment of "Endorsement Instruction" No. IV entitled "Use for Partial Release, Release of Additional Collateral, Modification of Agreement, Reinstatement Agreement and/or Release from Personal Liabilities", to be found in Section II - Insuring Forms, Basic Manual. |
| 88-14 | Submission on behalf of the Texas Land Title Association requesting the promulgation of a new Procedural Rule P-28 entitled "General Requirements for Continuing Education", to be found in Section IV - Procedural Rule, Basic Manual.  |



- 88-15 Submission on behalf of the Independent Title Association of Texas, Inc. requesting the promulgation of a new Procedural Rule P-24 pertaining to the Safeguard and Segregation of all Premiums or Other Monies Belonging to a Title Insurance Company, to be found in Section IV - Procedural Rules, Basic Manual.
- 88-16 Submission on behalf of the Independent Title Association of Texas, inc. requesting the promulgation of a new Form T-36 entitled "Listing of Title Insurance Companies/Capital Surplus", to be found in Section II - Insuring Forms, Basic Manual.
- 88-17 Submission on behalf of the Independent Title Association of Texas, Inc. requesting the amendment of the "Insured Closing Service" letter, to be found in Section II - Insuring Forms, Basic Manual.
- 88-18 Submission on behalf of Stewart Title Guaranty Company requesting the promulgation of a new Owner Policy of Title Insurance in replacement of the current Owner Policy of Title Insurance, to be found in Section II - Insuring Forms, Basic Manual.
- 88-19 Submission on behalf of Stewart Title Guaranty Company requesting the promulgation of a new Endorsement Form T-38 entitled "Texas Owner Policy Coverage Endorsement", to be found in Section II - Insuring Forms, Basic Manual. And the request for promulgation of a new Procedural Rule P-9a(4) which provides for the issuance of said Endorsement Form T-38 to be found in Section IV - Procedural Rules, Basic Manual.
- 88-20 Submission on behalf of Stewart Title Guaranty Company requesting the promulgation of a new Mortgagee Policy of Title Insurance in replacement of the current Mortgagee Policy of Title Insurance, to be found in Section II - Insuring Forms, Basic Manual.
- 88-21 Submission on behalf of Stewart Title Guaranty Company requesting the promulgation of a new Endorsement Form T-39 entitled "Texas Mortgagee Policy Coverage Endorsement" to be found in Section II - Insuring Forms, Basic Manual and requesting the promulgation of a new Procedural Rule P-9b(10) which provides for the issuance of the new Endorsement Form T-39 to be found in Section IV - Procedural Rules, Basic Manual.
- 88-22 Submission on behalf of Stewart Title Guaranty Company requesting the promulgation of a new Procedural Rule P-29 pertaining to the Water and Tidelands Exception, to be found in Section IV - Procedural Rules, Basic Manual.
- 88-23 Submission on behalf of Stewart Title Guaranty Company requesting the promulgation of a new Procedural Rule P-30 pertaining to the Arbitration Provision on the Mortgagee Title Policy, to be found in Section IV - Procedural Rules, Basic Manual.
- 88-24 Submission on behalf of Stewart Title Guaranty Company requesting the promulgation of a new Procedural Rule P-31 pertaining to the Community, Homestead and Survivorship Rights Exception in the Owner Policy, to be found Section IV - Procedural Rules, Basic Manual.

- 88-25 Submission on behalf of Stewart Title Guaranty Company requesting the promulgation of a new Endorsement Form T-40 Condominium Endorsement (Owner Policy), to be found in Section II - Insuring Forms, Basic Manual, and requesting the promulgation of a new Procedural Rule P-9a(5) (which provides for issuance of new Endorsement Form T-40), to be found in Section IV - Procedural Rules, Basic Manual, and requesting the promulgation of a new Rate Rule R-24 (providing for the collection of a premium for new Endorsement Form T-40), to be found in Section III - Rate Rules, Basic Manual.
- 88-26 Submission on behalf of Stewart Title Guaranty Company requesting the promulgation of a new Endorsement Form T-41 Condominium Endorsement (Mortgagee Policy), to be found in Section II - Insuring Forms, Basic Manual and requesting the promulgation of a new Procedural Rule P-9b(11) (which provides for the issuance of new Endorsement Form T-41), to be found in Section IV - Procedural Rules, Basic Manual and requesting the promulgation of a new Rate Rule R-11f (which provides for the collection of a premium for new Endorsement Form T-41), to be found in Section III - Rate Rules, Basic Manual.
- 88-27 Submission on behalf Stewart Title Guaranty Company requesting the promulgation of a new Endorsement Form T-42 Planned Unit Development Endorsement, to be found in Section II - Insuring Forms, Basic Manual and requesting the promulgation of a new Procedural Rule P-9b(12) (which provides for the issuance of new Endorsement Form T-42), to be found in Section IV - Procedural Rules, Basic Manual and requesting the promulgation of new Rate Rule R-11g (which provides for the collection of premium for the new Endorsement Form T-42), to be found in Section III - Rate Rules, Basic Manual.
- 88-28 Submission on behalf of Stewart Title Guaranty Company requesting the promulgation of a new Endorsement Form T-43 Variable Rate Mortgage - Negative Amortization Endorsement, to be found in Section II - Insuring Forms, Basic Manual and requesting the amendment of Procedural Rule P-9b(6) (which provides for Issuance of new Endorsement Form T-43), to be found in Section IV - Procedural Rules, Basic Manual.
- 88-29 Submission on behalf of Stewart Title Guaranty Company requesting the promulgation of a new Endorsement Form T-44 Mineral Development Endorsement, to be found in Section II - Insuring Forms, Basic Manual and requesting the promulgation of a new Procedural Rule P-9b(13) (which provides for issuance of new Endorsement Form T-44), to be found in Section IV - Procedural Rules, Basic Manual and requesting the promulgation of a new Rate Rule R-25 (which provides for the collection of a premium for new Endorsement Form T-44), to be found in Section III - Rate Rules, Basic Manual.

- 88-30 Submission on behalf of Stewart Title Guaranty Company requesting the promulgation of a new Endorsement Form T-45 Contiguity Endorsement, to be found in Section II - Insuring Forms, Basic Manual. Two Procedural Rules and Rate Rules are requested in order to implement this endorsement; therefore, a request is made for the promulgation of new Procedural Rule P-9a(6) (Owner Policy) and a new Procedural Rule P-9b(14) (Mortgagee Policy) (which provides for issuance of new Endorsement Form T-45), to be found in Section IV - Procedural Rules, Basic Manual and requesting the promulgation of a new Rate Rule R-26 (Owner Policy) and new Rate Rule R-11h (Mortgagee Policy) (which provides for collection of premium for new Endorsement Form T-45), to be found in Section III - Rate Rules, Basic Manual.
- 88-31 Submission on behalf of Stewart Title Guaranty Company requesting the promulgation of a new Endorsement Form T-46 Zoning Endorsement - Unimproved Property and Endorsement Form T-47 Zoning Endorsement - Completed Structure, to be found in Section II - Insuring Forms, Basic Manual. Two Procedural Rules and two Rate Rules are requested; therefore, a request is made for promulgation of new Procedural Rule P-9a(7), (Owner Policy) and new Procedural Rule P-9b(15) (Mortgagee Policy) (providing for the issuance of new Endorsement Form T-46 and T-47), to be found in Section IV - Procedural Rules, Basic Manual and a request is also made for the promulgation of new Rate Rules R-27 (Owner Policy) and R-11i (Mortgagee Policy) (which provide for the collection of premium for new Endorsement Form T-46 and T-47), to be found in Section III - Rate Rules, Basic Manual.
- 88-32 Submission on behalf of Stewart Title Guaranty Company requesting the promulgation of a new Endorsement Form T-48 Nonimputation Endorsement, to be found in Section II - Insuring Forms, Basic Manual. Two Procedural Rules and two Rate Rules are requested; therefore, a request is made for promulgation of a new Procedural Rule P-9a(8), (Owner Policy) and new Procedural Rule P-9b(16) (Mortgagee Policy) (which provide for issuance of new Endorsement Form T-48), to be found in Section IV - Procedural Rules, Basic Manual. A request is also made for promulgation of new Rate Rule R-28 (Owner Policy) and new Rate Rule R-11j (Mortgagee Policy) (which provide for collection of premium for new Endorsement Form T-48), to be found in Section III - Rate Rules, Basic Manual.
- 88-33 Submission on behalf of Stewart Title Guaranty Company requesting the amendment of the commitment for title insurance found in Section II - Insuring Forms, Basic Manual.
- 88-34 Submission on behalf of Stewart Title Guaranty Company requesting the promulgation of a new Form T-31 Endorsement Manufactured Housing Endorsement in replacement of the current form T-31 Endorsement, to be found in Section II - Insuring Forms, Basic Manual.

- 88-35 Submission on behalf of Stewart Title Guaranty Company requesting the amendment of the Mortgagee Title Policy Binder on Interim Construction Loan, to be found in Section II - Insuring Forms, Basic Manual.
- 88-36 Submission on behalf of Stewart Title Guaranty Company requesting the amendment of the Lease Hold Owner Policy Endorsement, to be found in Section II - Insuring Forms, Basic Manual.
- 88-37 Submission on behalf of Stewart Title Guaranty Company requesting the amendment of the Leasehold Mortgagee Policy Endorsement, to be found in Section II - Insuring Forms, Basic Manual.
- 88-38 Submission on behalf of Stewart Title Guaranty Company requesting the amendment of Endorsement Form T-34 entitled "Increased Value Endorsement", found in Section II - Insuring Forms, Basic Manual.
- 88-39 Submission on behalf of Barton R. Bentley, Jack E. Fields and Robert E. Wilson, Attorneys requesting the amendment of the Owner Policy of Title Insurance pertaining to the Proportionate Liability Clause, to be found in Section II - Insuring Forms, Basic Manual.
- 88-40 Submission on behalf of Barton R. Bentley, Jack E. Fields and Robert E. Wilson, Attorneys requesting the amendment of the Owner Policy of Title Insurance pertaining to Coverage Limitations, to be found in Section II - Insuring Forms, Basic Manual.
- 88-41 Submission on behalf of Barton R. Bentley, Jack E. Fields and Robert E. Wilson, Attorneys requesting the amendment of Item 7 of the Conditions and Stipulations Section of the Mortgagee Policy of Title Insurance, to be found in Section II - Insuring Forms, Basic Manual.
- 88-42 Submission on behalf of Barton R. Bentley, Jack E. Fields and Robert E. Wilson, Attorneys requesting the promulgation of a new Endorsement Form P-36 entitled "Waiver of Subrogation Endorsement", to be found in Section II - Insuring Forms, Basic Manual and requesting the promulgation of a new Procedural Rule P-9a(4) (which provides for the issuance of new Endorsement Form T-36), to be found in Section IV - Procedural Rules, Basic Manual. A request is also made for a new Rate Rule R-3(e) (which provides for the collection of a premium for new Endorsement Form T-36), to be found in Section III - Rate Rules, Basic Manual.
- 88-43 Submission on behalf of the Staff of the State Board of Insurance requesting the promulgation of new Rules G.1. entitled "Policy Guaranty Fee" and G.2. entitled "Audit and Review of Agent and Insurer Escrow and Trust Accounts Remittance Form" to be found in Section VII - Administrative Rules, Basic Manual.
- 88-44 Submission on behalf of the Staff of the State Board of Insurance requesting the promulgation of new Form T-61 entitled "Policy Guaranty Remittance Form" to be found in Section V - Exhibits and Forms, Basic Manual.
- 88-45 Submission on behalf of Attorney for Texas Mortgage Bankers Association requesting the amendment of the "Insured Closing Service" letter, to be found in Section II - Insuring Forms, Basic Manual.

Copies of the full text of submission for agenda items set forth in this notice are available for inspection in the offices of the Title Section of the State Board of Insurance.

Additional statements, briefs, arguments, and statistical information may be submitted at the hearing.

Please direct inquiries regarding this hearing to Stephen A. Hester, Jr., Assistant Director for Title Insurance, State Board of Insurance, 1110 San Jacinto Boulevard, Austin, Texas 78701-1998, or telephone (512) 322-3470.

Issued in Austin, Texas on September 21, 1988.

TRD-8809727 Nicholas Murphy  
Chief Clerk  
State Board of Insurance

Filed: September 21, 1988

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

### Texas Parks and Wildlife Department Correction of Error

The Texas Parks and Wildlife Department submitted adopted sections which contained errors as submitted by the department in the August 5, 1988, issue of the *Texas Register* (13 TexReg 3825).

In the preamble to adopted new §§57.111-57.117: The last sentence to the second paragraph should read: "The changes are briefly described as follows: the blue tilapia and hybrids of the blue tilapia and Mozambique tilapia may be cultured, under permit, for use for human food, or as live forage in permitted aquaculture facilities; the Mozambique tilapia may be cultured, under permit, for use for human food and live forage in private ponds; neither of the tilapia species or their hybrids can be used alive in public waters; the requirement for tilapia producers to notify department officials at least 24 hours before transporting live tilapia is replaced with a requirement to label all tilapia hauling vehicles with the wording "Live Tilapia," the requirement is deleted for licensed retail fish dealers to possess a tilapia permit to sell live blue and Mozambique tilapia to customers; the requirement for a tilapia invoice to accompany each box or container of tilapia is replaced with the requirement for the invoice to accompany each shipment of tilapia; minor changes were made to clarify scientific names of fish in the partially and totally restricted fish list; the Tilapia Culture Permit was renamed a Tilapia Permit; the Interstate/Intrastate Texas Tilapia Transport Invoice was renamed as a Texas Tilapia Transport Invoice; the requirement for water to be passed through a 1-mm bar mesh was deleted; the permittee must provide documentation necessary to identify tilapia; the requirement for specific security measures at tilapia aquaculture facilities was replaced by a requirement for security measures to be approved by the department; and the requirement that water quality standards for discharges from tilapia aquaculture facilities meet state and federal criteria was deleted."

The first sentence of the sixth paragraph should read: "Those Groups or Associations who made comments against the rules are: Bait Dealers of Texas, Arms Fish & Bait Company, Texas Aquaculture Association Fish Farms of Texas, Inc., Texas Agricultural Extension Service, Texas Cichlid Association, and Soil Conservation Service."

The eighth paragraph should read: "Groups or associations

who spoke for the rules are: Sportsmen Clubs of Texas, Texas Black Bass Unlimited, the University of Texas, Central Texas Bass Club Association, Universal Bass Club, Nacogdoches Bass & Boat Club, Texas Organization for Endangered Species, and the University of Oklahoma."

### Texas State Board of Public Accountancy Consultant Contract Award

Pursuant to Texas Civil Statutes, Article 6252-11c, the Texas State Board of Public Accountancy announces that it has entered into a consulting contract to re-engage August Schneiderheinz, CPA, 843 Linda Lou, San Antonio, Texas 78223.

The consultant proposal request was originally published in the May 22, 1987, issue of the *Texas Register* (12 TexReg 1676), and Mr. Schneiderheinz was engaged as a result of that request.

The consultant will be required to abridge a feasibility study of the current computer system and recommend future computer requirements, in addition to abridging a five-year plan in accordance with the substantive rules of the Automated Information and Telecommunications Council, §201.1. The study will include an updated analysis of the current and projected needs of the board and will identify additional/replacement computer equipment required to meet these needs, maximizing utilization of current computer resources.

The effective date of the contract is September 1, 1988, and the ending date is August 31, 1989. The total cost of the consultant contract is at the same terms and conditions as the prior contract and is not to exceed \$20,000.

Issued in Austin, Texas on September 16, 1988.

TRD-8809629 Bob E. Bradley  
Executive Director  
Texas State Board of Public Accountancy

Filed: September 16, 1988

For further information, please call (512) 451-0241

### State Purchasing and General Services Commission/Texas Public Finance Authority Correction of Error

The State Purchasing and General Services Commission submitted an open meeting notice which contained errors as published in the September 20, 1988, issue of the *Texas Register* (13 TexReg 4692).

The meeting for Friday, September 23, 1988, at 2 p.m. should read as follows: "Friday, September 23, 1988, 2 p.m. The State Purchasing and General Service Commission and the Texas Public Finance Authority will meet in Conference Room 402, Central Services Building, 1711 San Jacinto, Austin. According to the agenda, the commission and the authority will meet in executive session to discuss the status of the potential purchase of real property pursuant to the provisions of Texas Civil Statutes, Article 601b, §5.34.

Contact: John R. Neel, 1711 San Jacinto, Austin, Texas, (512) 463-3446.

Filed: September 15, 1988, 9:57 a.m.

TRD-8809489

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**Notice of Request for Proposals**

Notice is hereby given to all interested parties that pursuant to Texas Civil Statutes, Article 601b, the State Purchasing and General Services Commission is soliciting proposals for the potential purchase of an existing building in Austin, containing a minimum of 35,000 gross square feet of warehouse space, with associated land and parking spaces. The commission will evaluate the proposals received in accordance with the criteria outlined in the request for proposals and may negotiate with any or all offerors in an effort to purchase space as an alternative to construction of new space to meet the state's needs.

The request for proposals containing all requirements necessary for an appropriate response may be obtained on and after September 26, 1988, from: State Purchasing and General Services Commission; Space Management Section; Central Services Building, Room 204; 1711 San Jacinto; P.O. Box 13047; Austin, Texas 78711-3047; Attention: Ms. Melissa Moss.

All proposals must be submitted in a sealed envelope and must be received by the commission no later than 3 p.m. on October 14, 1988.

Issued in Austin, Texas on September 20, 1988.

TRD-8809721      John R. Neel  
                            General Counsel  
                            State Purchasing and General Services  
  Commission

Filed: September 20, 1988

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

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**Texas Racing Commission**  
**Request for Letter of Intent**

On September 12, 1988, the Texas Racing Commission adopted a resolution requesting all persons who plan to apply for a license to operate a racetrack with pari-mutuel wagering to file a letter of intent with the commission. The letter of intent should state the name, address, and telephone number of the applicant, the type or class of racetrack, and the county in which the racetrack is to be located. Although the resolution refers only to pari-mutuel racetrack license applications, the commission expressed the desire to receive letters of intent regarding applicants for nonpari-mutuel racetrack licenses as well. The commission stated that the failure to file a letter of intent in no way will affect as person's eligibility to apply for or be issued a license to operate a racetrack in Texas. In the resolution, the commission requests that all letters of intent be filed not later than October 31, 1988.

Forms for the letter of intent are available at the Texas Racing Commission Offices, located at 400 West 15th Street, Suite 625, Austin. For more information, contact Lisa Gonzales, Texas Racing Commission, P.O. Box 12080, Austin, Texas 78711, (512) 476-7223.

Issued in Austin, Texas on September 20, 1988.

TRD-8809657      Paula Cochran Carter  
                            Legal Counsel  
                            Texas Racing Commission

Filed: September 20, 1988

For further information, please call (512) 476-7223

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**Railroad Commission of Texas**  
**Correction of Error**

The Railroad Commission of Texas submitted an adopted amendment which contained an error as published in the July 26, 1988, issue of the *Texas Register* (13 TexReg 3696).

In §3.102, subparagraph (f)(2)(C) should read: "(C) that no well drilled into the formation is expected to produce, without stimulation, more than five barrels of crude oil per day; and"

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**LP-Gas Advisory Committee Meeting**

The LP-Gas Division of the Railroad Commission of Texas announces a meeting of the LP-Gas Advisory Committee to be held on Tuesday, October 11, 1988, 9:30 a. m., Room 8-101, William B. Travis Building, 1701 North Congress Avenue, Austin.

Issued in Austin, Texas on September 16, 1988.

TRD-8809565      Robert F. Blard  
                            Staff Attorney, Legal Division  
                            Railroad Commission of Texas

Filed: September 16, 1988

For further information, please call (512) 463-7187

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**Texas Savings and Loan Department**  
**Notice of Application to Establish**  
**Remote Service Units**

Notice is hereby given that application has been filed with the savings and loan commissioner of Texas by: San Antonio Savings Association, for approval to establish and operate remote service units at the following locations: Diamond Shamrock #1000, 3939 Callaghan Road, San Antonio, Bexar County; and Central Park Mall, North West Loop 410, San Antonio, Bexar County.

The application association asserts that the security of the association's funds and that of its account holders will be maintained and the proposed service will be a substantial convenience to the public.

Anyone desiring to protest the above application must file a written protest with the commissioner within 10 days following publication. The commissioner may dispense with a hearing on this application.

This application is filed pursuant to §§53.11-53.16 for the Texas Savings and Loan Department. These sections are on file with the Secretary of State, Texas Register Division, or may be seen at the department's offices in the Finance Commission Building, 2601 North Lamar Boulevard, Suite 201, Austin.

Issued in Austin, Texas on September 19, 1988.

TRD-8809617      James L. Pledger  
                            Commissioner  
                            Texas Savings and Loan Department

Filed: September 19, 1988

For further information, please call: (512) 479-1250

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**Office of the Secretary of State**  
**Consultant Contract Award**

In accordance with Texas Civil Statutes, Article 6252-11c, §6(b), the Secretary of State files this report announcing the award of a contract for consultant service to Staats, Falkenberg and Partners, Inc., 919 Congress Avenue, Suite 800, Austin, Texas 78767. The consultant proposal request was published in the June 3, 1988, issue of the *Texas Register* (13 TexReg 2772).

Staats, Falkenberg, and Partners, Inc. is to develop a concept and a plan for the coordination and execution of a television and radio public information campaign for voter registration and voter participation. The total value of the contract is \$91,873. The contract period begins on July 27, 1988, and ends November 30, 1988. A work plan will be submitted on or before July 31, 1988. Task reports are due on or before August 15, 1988, and August 31, 1988.

Issued in Austin, Texas on July 27, 1988.

TRD-8809689 Christopher S. Shields  
Executive Assistant  
Office of the Secretary of State

Filed: August 3, 1988

For further information, please call (512) 463-5719

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**Texas Water Commission**  
**Notice of Application For Waste**  
**Disposal Permit**

Notice is given by the Texas Water Commission of public notices of waste disposal permit applications issued during the period of September 12-16, 1988.

No public hearing will be held on these applications unless an affected person has requested a public hearing. Any such request for a public hearing shall be in writing and contain the name, mailing address, and phone number of the person making the request; and a brief description of how the requester, or persons represented by the requester, would be adversely affected by the granting of the application. If the commission determines that the request sets out an issue which is relevant to the waste discharge permit decision, or that a public hearing would serve the public interest, the commission shall conduct a public hearing, after the issuance of proper and timely notice of the hearing. If no sufficient request for hearing is received within 30 days of the date of publication of notice concerning the applications, the permit will be submitted to the commission for final decision on the application.

Information concerning any aspect of these applications may be obtained by contacting the Texas Water Commission, P.O. Box 13087, Capitol Station, Austin, Texas 78711, (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.

Gad Zeevi, doing business as Lexel Establishment, Houston; wastewater treatment plant; located approximately 700 feet northwest of the intersection of Kirby Road and NASA Road 1 in Harris County; renewal; 12545-01.

Cypress-Klein Utility District, Houston; wastewater treatment facilities; located on Cypresswood Boulevard approximately 1,500 feet north of Cypress Creek and 3,500 feet north of the intersection of Stuebner-Airline Road and Strack Road in Harris County; renewal; 11366-01 (amended).

Fort Worth Pipe Corporation, Conroe; steel pipe manufacturing plant; located on the south side of and adjacent to the Atchison, Topeka and Santa Fe Railroad, at a point approximately one mile east of the intersection of State Highway 105 and FM Road 3083 and approximately two miles east of the City of Conroe, Montgomery County; renewal; 02365.

City of Corsicana; wastewater treatment plant; located on the north side of State Highway 31, approximately 1,500 feet east of Interstate Highway 45 in the City of Corsicana, Navarro County; renewal; 10402-02.

Texas Winery Products, Inc., Lubbock; aerated lagoons and holding pond system; located nine miles south of the City of Lubbock, on United States Highway 87 and approximately 1/4 mile east of the Town of Woodrow on Woodrow Road in Lubbock County; new; 03034.

Nueces County Water Control and Improvement District Number 4, Port Aransas; wastewater treatment facilities; located on Mustang Island, on the west side of Park Road 53, approximately 6.25 miles southwest of the intersection of Avenue G and Park Road 53, in the City of Port Aransas in Nueces County; renewal; 10846-02.

Texas Utilities Electric Company, Dallas; Steam Electric Station; located on the east shore of Monticello Reservoir, which is located approximately one mile south of FM Road 127 and five miles southwest of the City of Mount Pleasant, Titus County; renewal; 01528.

Crystal Oil Company, Longview Refining Division, Shreveport; petroleum refinery; located at 600 Premier Road in the City of Longview, Gregg County; renewal; 00572.

Newell Cooper, Dublin; dairy; located approximately 3 1/2 miles southwest of the intersection of FM Roads 847 and 914 in Erath County; new; 02989.

Lower Neches Valley Authority, Beaumont; wastewater treatment plant; located on Smith Island, adjacent to the Neches River, approximately two and one-half miles east of the intersection of United States Highway 90 and State Highway 380, Jefferson County, renewal; 01727.

Camfield Municipal Utility District, Houston; wastewater treatment facilities; located approximately 3,500 feet east of Jackrabbit Road and 4,500 feet north of FM Road 529 in Harris County; renewal; 12304-01.

Champ Clark, doing business as Champ's Utility Service, Conroe; wastewater treatment plant; located at 10717 Country Meadow Lane approximately 150 feet west of the intersection of Country Meadow Lane and Huffsmith-Kohrville Road and 2.3 miles south-southeast of the City of Tomball in northwest Harris County; renewal; 12730-01.

Northwest Harris County Municipal Utility District Number 29, Houston; wastewater treatment facilities; located approximately 4,600 feet east-southeast of the intersection of United States Highway 290 and FM Road 1960 and 800 feet west of Addicks-Fairbanks Road in western Harris County; renewal; 12795-01.

Mayde Creek Municipal Utility District, Houston; wastewater treatment facilities; located approximately 1.5 miles south of Clay Road and one mile west of Barker-Cypress Road in Harris County; renewal; 11969-01.

Franklin Savings Association, Austin; sewage treatment plant; located approximately 1,000 feet south of the intersection of West 18th Street and East T.C. Jester Boulevard, on the west bank of White Oak Bayou in the City of Houston; in Harris County; renewal; 12713-01.

Harris County Water Control and Improvement District Number 116, Houston; wastewater treatment facilities; located at 5335 Strack Road, approximately 4,900 feet west of the intersection of Strack Road and Stuebner-Airline Road in Harris County; renewal; 10955-01.

Carl Barbour, Jr., Ed Gamett and Bill Marlin, Houston; wastewater treatment facility; located in the 6800 block of Jetero Boulevard in the City of Houston in Harris County; renewal; 02658.

Osteen Vaughn, Grangerland; coin operated laundromat; located at the intersection of Gulf Coast Road and FM Road 3083 in the Town of Grangerland, Montgomery County; renewal; 02662.

City of Stephenville; wastewater treatment facilities; located approximately 1.5 miles southeast of the intersection of United States Highways 377 and 67 and FM Road 914, approximately 1,500 feet west-southwest of the intersection of United States Highway 281 and State Highway 108 in Erath County; renewal; 10290-01.

Fort Bend County Municipal Utility District Number 46, Houston; wastewater treatment plant; located approximately five miles southeast of United States Highway 59 and State Highway 6 and south of the intersection of State Highway 6 and Senior Road in the Missouri City, Fort Bend County; renewal; 12782-01.

Texas Global Enterprises, Inc., Weslaco; wastewater treatment plant; located immediately east of the Midvalley

Airport, at a site which is adjacent to the intersection of Mile 3 1/2 West Road and Mile 8 1/2 North Road, Hidalgo County; renewal; 02126.

Brazoria County, Angleton; Brazoria County Detention Facility; located along the south side of County Road 45 between State Highway 288 and State Highway 35 in Brazoria County; renewal; 12818-01.

Doyle Hickerson, Pflugerville; wastewater treatment plant; located approximately 5,800 feet northwest of the intersection of Pflugerville Loop and FM Road 1825 and on the east bank of Gilleland Creek in Travis County; renewal; 11931-01.

Phillips 66 Company, Borger; storage processing, and disposal facility for Class I hazardous industrial solid waste; located in Hutchinson County on a 2,500 acre tract of land approximately two miles north of the City of Borger along State Highway Spur 119; amendment; HW-50078-000.

Military Highway Water Supply Corporation, Progreso; wastewater treatment plant; located approximately 2.5 miles northeast of the intersection of FM Road 1015 and United States Highway 281 in Hidalgo County; new; 13462-01.

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

TRD-8809690

Karen A. Phillips  
Chief Clerk  
Texas Water Commission

Filed: September 20, 1988

For further information, please call (512) 463-7906

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