

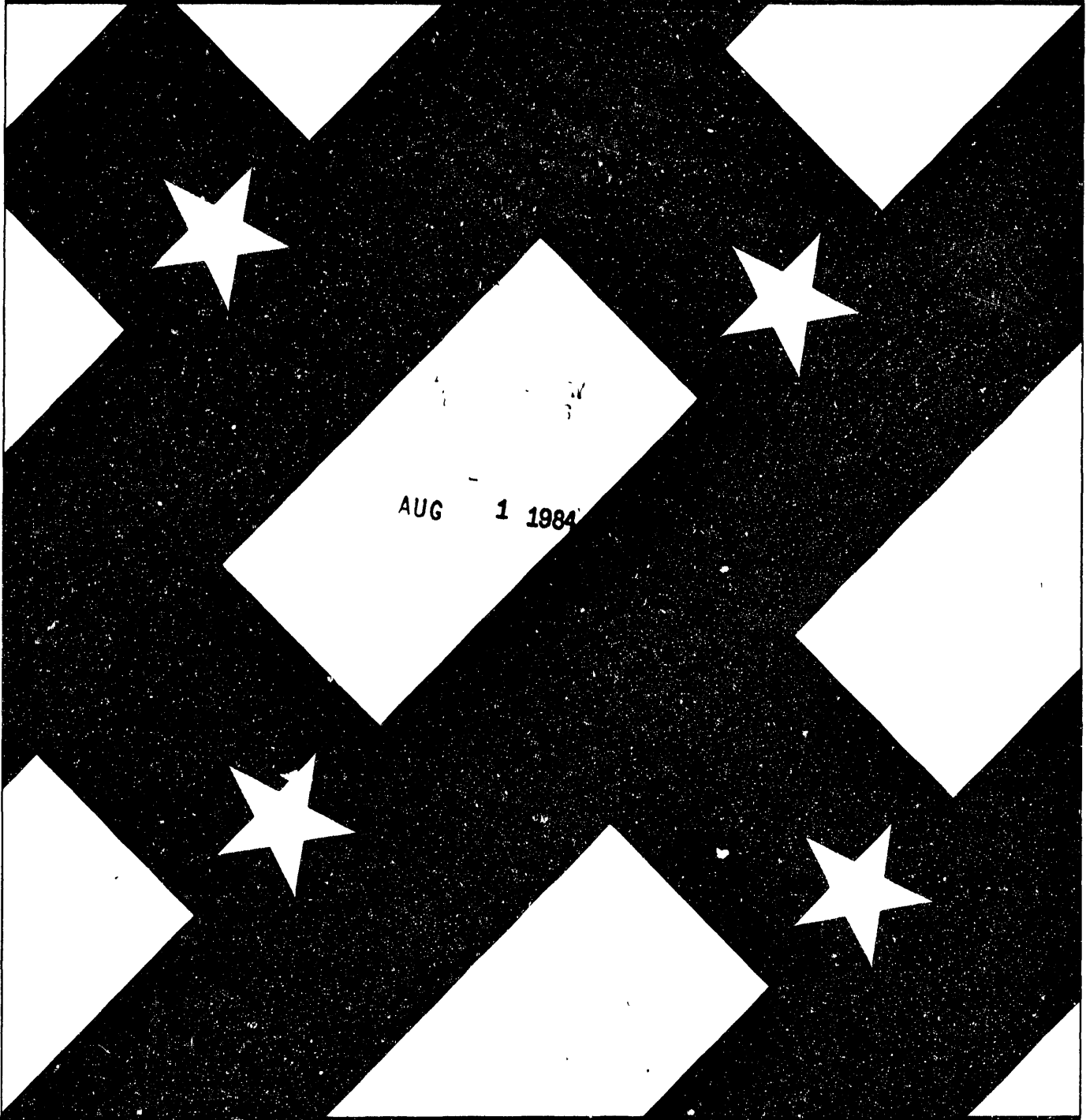
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Texas Register

Volume 9 Number 54 July 20, 1984

Pages 3889 3974



Highlights

The Public Utility Commission of Texas adopts on an emergency basis amendments concerning quality of service
 Effective date July 12 page 3899

The Texas Department of Labor and Standards adopts on an emergency basis a new section

concerning the regulation of air conditioning contractors
 Effective date - July 13 page 3902

The State Board of Morticians proposes new sections in a chapter concerning specific substantive rules. Earliest possible date of adoption - August 20 page 3906

**Office of
 the Secretary
 of State**

Texas Register

The *Texas Register* (ISN 0362-4781) is published twice each week at least 100 times a year. Issues will be published on every Tuesday and Friday in 1984 with the exception of January 28, July 10, November 27, and December 28, by the Office of the Secretary of State

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

- Governor—appointments, executive orders, and proclamations
- Secretary of State—summaries of opinions based on election laws
- State Ethics Advisory Commission—summaries of requests for opinions and opinions
- Attorney General—summaries of requests for opinions, opinions, and open records decisions
- Emergency Rules—rules adopted by state agencies on an emergency basis
- Proposed Rules—rules proposed for adoption
- Withdrawn Rules—rules withdrawn by state agencies from consideration for adoption, or automatically withdrawn by the *Texas Register* six months after proposal publication date
- Adopted Rules—rules adopted following a 30-day public comment period
- Open Meetings—notices of open meetings
- In Addition—miscellaneous information required to be published by statute or provided as a public service

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

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

In order that readers may cite material more easily, page numbers are now written as citations. Example: on page 2, in the lower left-hand corner of the page, would be written "9 TexReg 2 issue date," while on the opposite page, page 3, in the lower right-hand corner, would be written "issue date 9 TexReg 3."

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

Texas Administrative Code

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

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

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

TAC stands for the *Texas Administrative Code*,

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



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Contents

The Governor

- Appointment Made July 10
 - 3893 Industrial Accident Board
- Appointments Made July 11
 - 3893 Juvenile Justice and Delinquency Prevention Advisory Board
 - 3894 West Texas Region Community Development Block Grant Review Committee
 - 3894 State Executive Development Advisory Council
 - 3895 Southern Regional Education Board Legislative Advisory Council
 - 3895 Job Injury Interagency Council

The Attorney General

- Requests for Opinions
 - 3897 RQ-369
 - 3897 RQ-370
 - 3897 RQ-371
- Opinions
 - 3897 JM-178 (RQ-229)
 - 3897 JM-179 (RQ-366)
 - 3897 JM-180 (RQ-317)

Emergency Rules

- Public Utility Commission of Texas
 - 3898 Substantive Rules
- Texas Department of Labor and Standards
 - 3902 Air Conditioning Contractor License Law
- State Board of Insurance
 - 3903 Powers and Duties

Proposed Rules

- Public Utility Commission of Texas
 - 3904 Substantive Rules
- Texas Department of Labor and Standards
 - 3906 Air Conditioning Contractor License Law
- State Board of Morticians
 - 3906 Licensing and Enforcement—Specific Substantive Rules
- State Board of Insurance
 - 3909 Powers and Duties
 - 3910 Variable Annuities
 - 3917 Rating and Policy Forms
 - 3919 General Provisions
 - 3919 State Fire Marshal
 - 3919 Health Maintenance Organizations
- Comptroller of Public Accounts
 - 3921 Tax Administration

Withdrawn Rules

- Comptroller of Public Accounts
 - 3924 Tax Administration

Adopted Rules

- Office of the Secretary of State
 - 3925 Elections
- Public Utility Commission of Texas
 - 3925 Rules of Practice and Procedure
 - 3926 Substantive Rules
- State Board of Barber Examiners
 - 3942 Practice and Procedure
- State Board of Insurance
 - 3943 General Provisions
- Comptroller of Public Accounts
 - 3944 Tax Administration
- Texas Department of Human Resources
 - 3945 Aid to Families with Dependent Children

Open Meetings

- 3946 Texas Department of Agriculture
- 3946 Texas Committee on Purchases of Products and Services of Blind and Severely Disabled Persons
- 3946 Coordinating Board, Texas College and University System
- 3946 Texas Corn Producers Board
- 3947 Texas Education Agency
- 3947 Texas Employment Commission
- 3947 Good Neighbor Commission
- 3947 Office of the Governor
- 3948 Texas Department of Health
- 3948 Texas Health and Human Services Coordinating Council
- 3948 Texas Health Facilities Commission
- 3948 State Department of Highways and Public Transportation
- 3949 State Board of Insurance
- 3949 Commission on Jail Standards
- 3950 Texas Juvenile Probation Commission
- 3950 Board of Law Examiners
- 3950 Texas State Library and Archives Commission
- 3950 Texas Medical Disclosure Panel
- 3950 Board of Pardons and Paroles
- 3950 Texas Parks and Wildlife Department
- 3951 Texas State Board of Pharmacy
- 3951 Texas Public Building Authority
- 3951 Public Utility Commission of Texas
- 3952 Railroad Commission of Texas
- 3952 Office of the Secretary of State
- 3952 Stephen F. Austin University
- 3952 Texas Water Commission

3954 Texas Department of Water Resources
3954 Regional Agencies

The Legislature

Bills Submitted to the Governor

3957 HB 35—July 3
3957 HB 90—July 3
3957 HB 120—July 3
3957 SB 27—July 3
3957 HB 89—July 5
3957 HB 101—July 5
3957 HB 125—July 5
3957 HB 128—July 5
3957 SB 7—July 5
3957 SB 17—July 5
3957 SB 24—July 5
3957 SB 26—July 5
3957 SB 30—July 5
3957 SB 33—July 5
3957 SB 42—July 5
3957 SB 43—July 5
3957 SB 48—July 5
3957 SB 49—July 5
3957 SB 51—July 5
3957 SB 54—July 5
3958 HB 72—July 6
3958 HB 122—July 6
3958 SB 9—July 9
3958 SB 11—July 9
3958 SB 15—July 9
3958 SB 31—July 9
3958 SB 35—July 9
3958 SB 46—July 9
3958 SB 52—July 9
3958 HB 93—July 10
3958 HB 111—July 10

Bills Signed by the Governor

3958 HB 35—July 10
3958 HB 89—July 12
3958 HB 90—July 12
3958 HB 93—July 12
3958 HB 120—July 12
3958 HB 125—July 12
3958 SB 3—July 12
3958 SB 5—July 12
3958 SB 7—July 12
3958 SB 9—July 12
3958 SB 11—July 12
3959 SB 15—July 12
3959 SB 17—July 12
3959 SB 24—July 12
3959 SB 26—July 12
3959 SB 27—July 12
3959 SB 30—July 12
3959 SB 31—July 12
3959 SB 33—July 12
3959 SB 35—July 12

3959 SB 42—July 12
3959 SB 43—July 12
3959 SB 46—July 12
3959 SB 49—July 12
3959 SB 51—July 12
3959 SB 52—July 12
3959 SB 54—July 12
3959 HB 72—July 13
3959 HB 101—July 13
3959 HB 111—July 13
3959 HB 122—July 13
3959 HB 128—July 13

In Addition

Banking Department of Texas

3960 Application to Acquire Control of a State Bank

Office of Consumer Credit Commissioner

3960 Rate Ceilings

Edwards Underground Water District and the City of San Antonio

3961 Consultant Proposal Request

Texas Department of Health

3961 Licensing Actions for Radioactive Materials

3963 Public Hearings

3964 Request for Public Comments

Texas Health Facilities Commission

3965 Applications Accepted for Amendment, Declaratory Ruling, and Notices of Intent

3966 Applications for Petitions for Reissuance of Certificate of Need

Texas Housing Agency

3966 Public Hearing

Texas Department of Human Resources

3967 Consultant Proposal Request

State Board of Insurance

3967 Company Licensing

Legislative Budget Office

3968 Joint Budget Hearing Schedules

North Central Texas Council of Governments

3969 Consultant Proposal Request

Public Utility Commission of Texas

3970 Availability of Proposed Energy Extension Service Plan

Texas Rehabilitation Commission

3970 Request for Proposals

Texas Savings and Loan Department

3972 Application for Change of Control of an Association

Texas Sesquicentennial Commission

3972 Public Information

Texas Department of Water Resources

3972 Consultant Proposal Request

As required by Texas Civil Statutes, Article 6252-13a, §6, the *Register* publishes executive orders issued by the Governor of Texas. Appointments made and proclamations issued by the governor 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) 475-3021.

The Governor

Appointment Made July 10

Industrial Accident Board

To be chairman for a term to expire September 1, 1985:

Margaret M. Maisel
7510 Bridgewater
San Antonio, Texas 78209

Ms. Maisel is replacing Herbert Snow Harris, Jr., of Midland, who resigned.

Issued in Austin, Texas, on July 10, 1984.

TRD-847336 Mark White
Governor of Texas

Frank Evans
Associate Justice
First Court of Civil Appeals
1307 San Jacinto, 10th Floor
Houston, Texas 77002

Royce L. Garrett
Director of Admissions and Community Service
Lufkin State School
P.O. Drawer 1648
Lufkin, Texas 75901

William C. Martin III
District Judge
307th Judicial District
P.O. Box 8
Longview, Texas 75606

Calvin G. Crenshaw
Superintendent
Giddings State Home and School
Texas Youth Commission
P.O. Box 600
Giddings, Texas 78942

Mario J. Salazar
Director and Chief Probation Officer
Kleberg and Kenedy Counties
P.O. Box 1191
Kingsville, Texas 78363

Joe B. Evins
Judge
206th District Court
P.O. Box 215
Edinburg, Texas 78539

Robert Lee Smith
Assistant Director for Student Affairs
Corpus Christi Independent School District
P.O. Box 110
Corpus Christi, Texas 78403

Ben L. Garza, M.D.
Partner
Edinburg Medical Center
1200 South 10th Street
Edinburg, Texas 78539

Pamela Kemp Rice
Director
Emergency Shelter for Youth
2001 Huldy
Houston, Texas 77019

Appointments Made July 11

Juvenile Justice and Delinquency Prevention Advisory Board

To represent the private sector for terms to continue at the pleasure of this governor:

J. Xavier Banales
Executive Director
Rio Grande Girl Scout Council
3214 East Yandel
El Paso, Texas 79903

Jane Bingham
Program Coordinator
Rape Crisis Program of the Women's Center
1203 Lake Street, Suite 200
Fort Worth, Texas 76102

Marshall W. Cooper
Executive Director
Girls Town, USA
Whiteface, Texas 79379

Edwina C. Cox
Executive Director
The Bethlehem Foundation
2603A Idaho Street
Dallas, Texas 75216

Margaret E. Dunn
Program Director
Texas Juvenile Justice Center
Southwest Texas State University
San Marcos, Texas 78666

A. C. Sutton
1310 Virginia Boulevard
San Antonio, Texas 78203

Clara Pope Willoughby
800 West Avenue D, #4W
San Angelo, Texas 76903

Lidia Serrata Ledesma
302 East Constitution
Victoria, Texas 77901

To represent the public for terms to continue at the pleasure of this governor:

Esther Alvarez
Police Officer
Fort Worth Police Department
1000 Throckmorton
Fort Worth, Texas 76102

Mary Bacon
Judge
338th Judicial District
403 Caroline
Houston, Texas 77002

Olivia Besteiro
Resource Teacher
Brownsville Independent School District
1701 Stanford
Brownsville, Texas 78520

Earl Broadway
Probation Officer
216 North Fifth Street
Waco, Texas 76701

Members under 24 years of age:

Roy Lee Bailey
Route 4, Box 215 C-1
Winnsboro, Texas 75494

Amy McNaughton
4523 38th Street
Lubbock, Texas 79414

Elizabeth Molina
4907 Abendeen Circle
Austin, Texas 78745

Andre Maurice Owens
409 West Johanna
Austin, Texas 78704

Sonia Lynn Washington
P.O. Box 451
Brownsfield, Texas 71396

**West Texas Region Community
Development Block Grant Review
Committee**

For terms to continue at the pleasure of this governor:

Delbert Dyke
Mayor
P.O. Box 159
Alpine, Texas 79830

Mayor Dyke is replacing Mayor Paul Pierce of Alpine, who no longer qualifies.

Merle Lutrick
Alderman
P.O. Box 24
Dell City, Texas 79837

Alderman Lutrick is replacing Mayor Bobby Martinez of Marfa, who no longer qualifies.

Ernesto Gallego
County Commissioner
502 East Avenue I
Alpine, Texas 79830

Commissioner Gallego is replacing Ann Scudday of Fort Davis.

Manuel Molinar
Mayor Pro Tem
P.O. Box 583
Van Horn, Texas 79855

Mayor Pro Tem Molinar is replacing Mayor Carlos Rodarte of Van Horn.

**State Executive Development Advisory
Council**

For terms to continue at the pleasure of this governor:

Tina Allen
Executive Director
National Business League
P.O. Box 6036
Austin, Texas 78762

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Vice President of Human Resources
Microelectronics and Computer Corporation
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Echelon Building 1
Austin, Texas 78759

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Associate Director
Public Research Institute
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Drawer Y
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Texas Department of Human Resources
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Assistant Professor
Center for Studies in Business, Economics, and
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University of Texas-San Antonio
San Antonio, Texas 78285

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University of Texas-Austin
Austin, Texas 78712

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Texas Rehabilitation Commission
118 East Riverside Drive
Austin, Texas 78704

Marcus L. Yancey, Jr.
Deputy Engineer Director
State Department of Highways and Public
Transportation
11th and Brazos Streets
Austin, Texas 78701

L. G. (Les) Lesniak
Vice-President and Regional Manager
IBM
2727 LBJ Freeway
Dallas, Texas 75234

Larry Costello
Vice-President for Personnel
Frito-Lay
Dallas, Texas

Southern Regional Education Board Legislative Advisory Council

To be the Texas representatives to the council:

Carl Parker
1 Plaza Square
Port Arthur, Texas 77640

Chet Edwards
P.O. Box 345
Duncanville, Texas 75116

Kent Caperton
4301 Carter Creek Parkway
Suite 205
Bryan, Texas 77802

Bob Glasgow
211 North Belknap
Stephenville, Texas 76401

Ted Lyon
18601 LBJ, #521
Mesquite, Texas 75150

Wilhelmina R. Delco
P.O. Box 2910
Austin, Texas 78769

Bill Hammond
Allied Lakewood Bank Building
Suite 400
6301 Gaston Avenue
Dallas, Texas 75214

Bill Haley
110 Cora Street
Center, Texas 75935

Paul Ragsdale
1209 East Red Bird Lane
Dallas, Texas 75241

Stan Schlueter
P.O. Box 276
Killeen, Texas 76541

Job Injury Interagency Council

For terms to continue at the pleasure of this governor:

Vernon M. Arrell
Commissioner
Texas Rehabilitation Commission
118 East Riverside Drive
Austin, Texas 78704

Dr. Robert Bernstein
Commissioner
Texas Department of Health
1100 West 49th Street
Austin, Texas 78756

Ed Grisham
Chairman
Texas Employment Commission
TEC Building
101 East 15th Street
Austin, Texas 78778

Jim Hightower
Commissioner
Texas Department of Agriculture
P.O. Box 12847
Austin, Texas 78711

Jim Mattox
Attorney General
State of Texas
Supreme Court Building
P.O. Box 12548
Austin, Texas 78711

Lyndon L. Olson, Jr.
Chairman
State Board of Insurance
State Insurance Building
1110 San Jacinto Street
Austin, Texas 78701

To serve as chairman for a term to continue at the pleasure of this governor.

Allen Parker, Sr.
Commissioner
Texas Department of Labor and Standards
P.O. Box 12157
Austin, Texas 78711

Issued in Austin, Texas, on July 11, 1984.

TRD-847336 Mark White
Governor of Texas



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 may be held from public disclosure.

Requests for opinions, opinions, and open record decisions are summarized for publication in the *Register*.

Questions on particular submissions, or requests for copies of opinion requests should be addressed to Susan L. Garrison, Opinion Committee chairwoman, Office of the Attorney General, Supreme Court Building, Austin, Texas 78711, (512) 475-5445. Published opinions and open records decisions may be obtained by addressing a letter to the file room, fourth floor, P.O. Box 12548, Austin, Texas 78711-2548, or by telephoning (512) 475-3744. A single opinion is free; additional opinions are \$1.00 a copy.

The Attorney General

Requests for Opinions

RQ-369. Request from Chet Edwards, chairman, Senate Committee on Election Code Revision, Austin, concerning whether the legislature may require political parties to hold binding presidential primary elections.

TRD-847323

RQ-370. Request from Erwin Barton, House of Representatives, Austin, concerning whether the Texas Department of Human Resources may retroactively decrease the rate of compensation under a contract to provide intermediate care services to the mentally retarded.

TRD-847324

RQ-371. Request from Mike Driscoll, county attorney, Houston, concerning whether a district clerk must docket a transferred case before the filing fee is paid.

TRD-847325

Opinions

JM-178 (RQ-229). Request from Carl A. Parker, chairman, Senate Education Committee, Austin, concerning whether an officer of a banking institution who serves as a member of the board of a higher education authority is subject to Texas Civil Statutes, Article 988b.

Summary of Opinion. A member of the board of directors of a higher education authority is a public official within the meaning of Texas Civil Statutes, Article 988b. Such a board member with a substantial interest in a lending institution violates that Act by knowingly participating in a vote or decision of the board of directors if the member can reasonably foresee that such action will result in interest income to the lending institution from guaranteed student loans.

TRD-847326

JM-179 (RQ-366). Request from William P. Hobby, lieutenant governor of Texas, Austin, concerning whether a home-

rule city may provide for a four-year term for officials of single-member districts.

Summary of Opinion. A home-rule city is authorized by the Texas Constitution, Article XI, §11, to adopt four-year terms for municipal officials elected from single-member districts.

TRD-847327

JM-180 (RQ-317). Request from Fred M. Barker, Parker County attorney, Weatherford, concerning whether an auxiliary county courthouse is subject to city zoning ordinances.

Summary of Opinion. Parker County's use of land for an auxiliary courthouse within the municipal limits of the county seat is subject to the municipality's zoning ordinances only to the extent that such ordinances do not prevent the county from locating its auxiliary courthouse within the municipality. The county must comply with municipal regulations regarding the construction of its auxiliary courthouse.

TRD-847328

Emergency Rules

An agency may adopt a new or amended rule, or repeal an existing rule on an emergency basis, if it determines that such action is necessary for the public health, safety, or welfare of this state. The rule 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.

An agency must submit written reasons, published in the *Register*, for emergency action on a rule. The submission must also include a statement of the legal authority under which the emergency action is promulgated and the text of the emergency adoption. Following each published emergency document is certification information containing the effective and expiration dates of the action and a telephone number from which further information may be obtained.

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

TITLE 16. ECONOMIC REGULATION Part II. Public Utility Commission of Texas Chapter 23. Substantive Rules Rates

16 TAC §23.23

The Public Utility Commission of Texas adopts on an emergency basis amendments to §23.23, concerning rate design. It has been determined by the commissioners that due to the urgent need for development of statewide electric generation projections, emergency adoption of a rule which will help to reduce the need for new generation capacity through the encouragement of cogeneration is necessary to prevent imminent peril to the public welfare.

The amendments are adopted on an emergency basis under Texas Civil Statutes, Article 1446c, §16, which provide the Public Utility Commission of Texas with the authority to make and enforce rules reasonably required in the exercise of its powers and jurisdiction, and to make decisions with respect to administering the provisions of this Act.

§23.23. Rate Design.

(a) (No change.)

(b) Electric.

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

(4) **The provisions of this paragraph apply to all investor-owned electric utilities, river authorities, and all cooperative-owned electric utilities. Beginning with the September 1983 billing period of each utility, respectively, an electric utility which purchased electricity from qualifying cogeneration or small power production facilities pur-**

suant to a capacity contract may be allowed to include within its tariff a purchased power factor (PPF) clause which authorizes the utility to charge or credit its customers for the payments for capacity purchased and the associated costs of canceled or deferred construction, if any, resulting from firm capacity contracts with qualifying cogenerators and small power producers, the total of which shall not exceed the utility's avoided costs. The terms and conditions of such clause shall be approved by an order of the commission.

(A) Any difference between the actual costs to be recovered through the PPF and the PPF revenues recovered shall be credited or charged to the customers in the second succeeding billing month.

(B) If PPF revenue collections exceed PPF costs by 10% in any given month and the total PPF revenues have exceeded total PPF costs by 5.0% or more for the most recent 12-month period, the electric utility shall report to the commission the justification for excess collection.

(C) The utility shall maintain up-to-date monthly records of the costs to be recovered through the PPF. Such records shall show at each month's end the total estimated PPF cost for that month, the actual PPF cost on a cumulative basis, and the total dollar amount of revenues resulting from the PPF portion of customer rates. These records and the calculation of the PPF shall be reported to the commission on a most-current-month basis.

Issued in Austin, Texas, on July 10, 1984

TRD-847338

Rhonda Colbert Ryan
Secretary of the Commission
Public Utility Commission of
Texas

Effective date: July 12, 1984

Expiration date: November 9, 1984

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

Certification

16 TAC §23.31

The Public Utility Commission of Texas adopts on an emergency basis amendments to §23.31, concerning certification criteria. It has been determined by the commissioners that due to the urgent need for development of statewide electric generation projections, emergency adoption of a rule which will help reduce the need for new generation capacity through the encouragement of cogeneration is necessary to prevent imminent peril to the public welfare.

The amendments are adopted on an emergency basis under Texas Civil Statutes, Article 1446, §16, which provide the Public Utility Commission of Texas with the authority to make and enforce rules reasonably required in the exercise of its powers and jurisdiction, and to make decision with respect to administering the provisions of this Act.

§23.31. Certification Criteria.

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

(c) Certificates for new service areas. Except for certificates granted under subsection (b) of this section, the commission may grant applications and issue certificates only after finding that the certificate is necessary for the service, accommodation, convenience, or safety of the public. For an electric utility generating unit, the commission may grant an application only when it finds that available purchased power, cogeneration, conservation, or alternative energy sources will not be able economically to compete with the cost of construction of the new generating unit. The commission may issue the certificate as applied for, or refuse to issue it, or issue it for the construction of a portion only of the contemplated system or facility or extension thereof, or for the partial exercise only of the right or privilege. The commission may amend or revoke any certificate issued under this section upon a finding of fact that the public convenience and necessity requires such amendment or revocation.

(1) A certificate, or certificate amendment, is required for the following:

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

(F) a generator or small power producer which is making or plans to make retail sales of electricity to an end user.

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

(d)-(g) (No change.)

Issued in Austin, Texas, on July 10, 1984.

TRD-847339 Rhonda Colbert Ryan
Secretary of the Commission
Public Utility Commission of
Texas

Effective date: July 12, 1984

Expiration date: November 9, 1984

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

Quality of Service

16 TAC §23.66

The Public Utility Commission of Texas adopts on an emergency basis amendments to §23.66, concern-

ing arrangements between qualifying facilities and electric utilities. It has been determined by the commissioners that due to the urgent need for development of statewide electric generation projections, emergency adoption of a rule which will help to reduce the need for new generation capacity through the encouragement of cogeneration is necessary to prevent imminent peril to the public welfare.

The amendments are adopted on an emergency basis under Texas Civil Statutes, Article 1446c, §16, which provide the Public Utility Commission of Texas with the authority to make and enforce rules reasonably required in the exercise of its powers and jurisdiction, and to make decisions with respect to administering the provisions of this Act.

§23.66. Arrangements between Qualifying Facilities and Electric Utilities.

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

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

(11) Quality of firmness of a qualifying facility's power—The degree to which the capacity offered by the qualifying facility is an equivalent quality substitute for the utility's own generation or firm purchased power. The following factors should be considered in determining quality of firmness:

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

(D) the terms of any contract or other legally enforceable obligation, including the duration of the obligation, performance guarantees, termination notice requirements, and sanctions for noncompliance;

(E)-(F) (No change.)

(G) the individual and aggregate value of energy and capacity from qualifying facilities on the electric utility's system; [and]

(H) (No change.)

(I) reliability of primary and secondary fuel supplies used by the qualifying facility, and

(J) contribution to utility system stability.

(12)-(15) (No change.)

(b) (No change.)

(c) Availability of electric utility system cost data.

(1) Applicability. This subsection applies to electric utilities whose total sales of electric energy for purposes other than resale exceeded 500 million kilowatt-hours during any calendar year beginning after December 31, 1975, and before the immediately preceding calendar year. By September 30, 1984, and by December 31 every odd-numbered year thereafter [June 30, 1982, and at least every two years thereafter], each of these utilities shall file with the commission and shall maintain for public inspection the following data.

(A) The estimated avoided cost on the electric utility's system, solely with respect to the energy component, for various levels of purchases from qualifying facilities. Such levels of purchases shall be stated in blocks of 100 megawatts or not more than 10% of the system peak demand for systems of less than 1,000 megawatts. The avoided cost shall be stated on a cents-per-kilowatt-hour basis, during daily and seasonal peak and off-peak periods, by year, for the current calendar year and each of the next 10 [five] years.

(B) (No change.)

(C) **For the current year and each of the next 10 years**, the estimated capacity costs at completion of the planned capacity additions and planned capacity firm purchases, on the basis of dollars per kilowatt, and the associated energy costs of each unit, expressed in cents per kilowatt-hour. These costs shall be expressed in terms of individual generating units and of individual planned firm purchases. Accompanying each filing pursuant to this rule shall be a detailed explanation of how the data was determined; including sources and assumptions employed.

(2) (No change.)

(3) Special rules for small electric utilities. Each electric utility (other than any electric utility to which paragraph (1) [(2)] of this subsection applies) shall, upon request:

(A) provide comparable data to that required under paragraph (1) [(2)] of this subsection to enable qualifying facilities to estimate the electric utility's avoided costs; or

(B) (No change.)

(d) Electric utility obligations.

(1) Obligation to purchase from qualifying facilities.

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

(C) Each electric utility shall purchase energy and capacity from a qualifying facility with a design capacity of 100 kw or more within 90 days after the facility notifies the utility that it is a qualifying facility, provided that the electric utility has sufficient interconnection facilities available. If the electric utility determines that adequate interconnection facilities are not available, the electric utility shall inform the qualifying facility within 30 days after being notified, giving the qualifying facility a description of the additional facilities required and an estimated date for completion of the interconnection facilities. If an [subject] agreement to purchase energy and capacity is not reached within 90 days after the qualifying facility notifies the utility that it is a qualifying facility, the [same] agreement, if and when achieved, shall bear a retroactive effective date for the purchase of energy (and capacity) correspondent with the 90th day following notice by the qualifying facility of its qualifying facility status

(D) Nothing in this rule shall be interpreted to require a utility to contract for capacity from qualifying facilities in excess of its capacity requirements, as determined by the commission through its electric forecast responsibilities mandated by the PURA, §16(f).

(E) A utility shall be required to contract for purchases of firm energy and capacity from qualified facilities, if such is offered, at least five years prior to completion of construction of an avoidable unit or other planned capacity requirements and is encouraged to contract for firm purchases from qualified facilities prior to that time period. Capacity obtained from qualified facilities through a legally enforceable obligation shall be included in its generation expansion planning by a utility, as well as capacity from other purchased power contracts, commission-certified utility generating plants, and other capacity sources.

(F) A utility shall purchase capacity from qualified facilities on the basis of evaluated cost and the quality of firmness of such capacity. If more capacity is offered by qualified facilities to any one utility than the commission-approved forecast and generation expansion plan for that utility indicates a need for, the utility is required to purchase capacity and energy from qualified facilities according to the following order of priorities.

(i) qualified facilities offering power produced from waste or renewable fuel sources;

(ii) qualified facilities offering power produced from solid fuel sources, whether directly or indirectly;

(iii) all others.

(iv) within each category listed in clauses (i)-(iii) of this subparagraph, nothing in this subsection shall prohibit an electric utility from accepting through negotiation a price offered by qualified facilities that is lower than avoided cost.

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

(4) Transmission to other electric utilities. If a qualifying facility agrees, an electric utility that would otherwise be obligated to purchase energy or capacity from such qualifying facility shall [may] transmit the energy or capacity to any other electric utility, provided that such transmittal is not in violation of federal law or other jurisdictional authority. Any electric utility to which such energy or capacity is transmitted shall purchase such energy or capacity under this paragraph as if the qualifying facility were supplying energy or capacity directly to such electric utility. The rate for purchase by the electric utility to which such energy is transmitted shall be adjusted up or down to reflect the costs or savings resulting from variations in line losses from those that would have existed in the absence of purchases from a qualifying facility. The rate paid by the purchasing utility shall not include any charges for transmission; however, the transmitting utility shall be paid a reasonable transmission charge, including consideration of line losses, by the qualifying facility. Charges for wheeling within the meaning of this section shall apply only to transmission from the qualifying facility to the purchasing utility, and may be calculated according to §23.67 of this title (relating to Wheeling Service for Transmission of Firm Power.)

(5) (No change.)

(e) Rates for purchases from a qualifying facility.

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

(6) Payments by a utility to any qualifying facility, if in accordance with paragraphs (1)-(4) of this subsection, shall be considered reasonable and necessary operating expenses of that utility.

(f)-(g) (No change.)

(h) Rates for purchases of firm power from a qualifying facility.

(1) Rates for firm purchases from qualifying facilities shall be based upon the avoided cost of energy and capacity. Where the cost to be avoided is based on cancellation or deferral of a utility facility, any reasonable cost associated with such cancellation or deferral shall be recognized as part of the avoided cost calculation.

(2) Rates for purchases of energy and capacity from any qualifying facility shall be deemed to comply with this rule if the estimated net present value of the payments to the cogenerator do not exceed the net present

value of the projected revenue stream associated with the utility's next avoidable power plant adjusted for quality of firmness of capacity provided by qualifying facilities. [In determining the avoided cost of capacity, the utility's expected additional construction to meet projected load requirements and the quality of firmness of the qualifying facility's power shall be considered.]

(3) By September 30, 1984, and at least every two years thereafter, each electric utility shall file with the commission a standard offer for the purchase of firm energy and capacity from qualified facilities, the terms of which are to be subject to commission review and approval. The purpose of the standard offer is to assure that a good faith purchase offer is made available by the utility, and to provide prices, terms, and conditions applicable to purchase arrangements in which a contract is not otherwise negotiated between a utility and a qualified facility. Each standard offer shall contain at least the following: [Rates for firm purchases from qualifying facilities may be calculated using the differential revenue requirement approach or any other reasonable method of determining the avoided cost of energy and capacity associated with the purchase of firm power from qualifying facilities. Under the differential revenue requirement approach, the utility's avoided cost is the difference between the utility's revenue requirement (total cost of meeting a specified demand including a reasonable return), with and without qualifying facilities.]

(A) The net present value of the avoided capacity costs of the utility calculated according to the committed unit basis methodology. The committed unit basis methodology develops avoided capacity costs based on the estimated cost of a specific, avoidable generating unit or group of generating units in the utility's expansion plan. The following criteria shall be used in the calculation of avoided costs:

(i) cost of debt—most recent Moody's bond survey applicable to utility's bond rating;

(ii) cost of preferred stock—most recent Moody's bond survey applicable to utility's preferred stock rating;

(iii) cost of equity—that determined in the most recent rate case of the utility;

(iv) capital structure—that determined in the most recent rate case of the utility;

(v) AFUDC rate—that determined in the most recent rate case of the utility;

(vi) percent CWIP—the simple average of the percent CWIP allowed in the utility's rate base during its two most recent rate cases or 50%, whichever is less;

(vii) tax depreciation rate—the most recent accelerated depreciation rate for electric utilities as authorized by the Internal Revenue Service;

(viii) property taxes and insurance costs—those cases calculated at ratios allowed in the utility's most recent rate cases;

(ix) incremental federal income tax rate—the federal income tax rate for utilities allowed by the Internal Revenue Service;

(x) service life of planned projects in years—that service life as estimated according to the utility's plan;

(xi) estimated changes in plant output over life of project—that output as estimated by the utility according to its plan;

(xii) availability as defined by subsection (a)(11) of this section;

(xiii) inflation factor—the Gross National Product-implicit price deflator, most recent quarter, published by the Bureau of Economic Analysis, survey of current business;

(xiv) discount rate—the overall cost of capital determined in the most recent rate case of the utility;

(B) the net present value of the energy costs of the utility based upon the expected average market value of the type of fuel to be used in the unit or units specified in subsection (h)(3)(A) of this section; and

(C) terms and conditions for the purchase of electricity from qualified facilities.

(4) If a utility does not generate electric power or have any committed units in its generation expansion plan, then that utility is exempted from paragraph (3) of this subsection. Such a utility shall file instead a standard offer based on one of two options:

(A) a computation of its avoided costs according to the capacity and energy components of its avoidable firm power purchases, or

(B) the standard offer calculated, as in subsection (h)(3) of this section, of the utility which supplies power to the nongenerating utility.

(i) (No change.)

(j) Rates for sales to qualifying facilities.

(1) General rules.

(A) Rates for sales shall be just and reasonable and in the public interest, and shall not discriminate against any qualifying facility in comparison to rates for sales to other customers served by the electric utility. Rates for standby or other supplementary service shall be based on the amount of capacity contracted for between the wholesale supplier and the distribution utility, and shall not penalize distribution utilities which also purchase power from qualifying facilities. Special equipment or system modifications shall be required for distribution utilities purchasing from qualifying facilities only when the generating utility demonstrates a need therefor. Unless usage characteristics change significantly, a distribution utility may not arbitrarily be classified as a partial requirements customer by its wholesale supplier.

(B) (No change.)

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

(k)-(m) (No change.)

Issued in Austin, Texas, on July 10, 1984.

TRD-847340

Rhonda Colbert Ryan
Secretary of the Commission
Public Utility Commission of
Texas

Effective date: July 12, 1984

Expiration date: November 9, 1984

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



**Part IV. Texas Department of
Labor and Standards
Chapter 75. Air Conditioning
Contractor License Law
Air Conditioning Contractor License Law**

16 TAC §75.11

The Texas Department of Labor and Standards adopts on an emergency basis new §75.11, concerning the regulation of air conditioning contractors. The new section establishes written criteria to determine whether applicants for a license should be licensed by the department given their criminal history, if any. The section also seeks to ensure that the public receives credible and dependable service from the licensee. The new section is needed to further ensure that licensees who come in close contact with the public and who contract with government and business are properly screened by this department before a license is issued. The new section is being adopted on an emergency basis to protect the health, safety, and welfare of licensed air conditioning contractors and the general public.

The new section is adopted on an emergency basis pursuant to the authority vested in the commissioner of the Texas Department of Labor and Standards by Texas Civil Statutes, Article 8861, §3, to promulgate rules and regulations to carry out the provisions of this Act.

§75.11. Denial, Suspension, or Revocation of License: Criminal Background.

(a) The following criteria shall be utilized to determine whether an applicant shall be issued a license if that applicant states in his application for said license that he has previously been or is presently under conviction for a criminal offense:

- (1) the nature and seriousness of the crime;
- (2) the relationship of the crime to the purpose of requiring a license to engage in the occupation or industry;
- (3) the extent to which a license might offer an opportunity to engage in further criminal activity of the convicted same or similar type of criminal activity as that in which the applicant previously had been involved;
- (4) the relationship of the crime to the ability, capacity, or fitness required to perform the duties and discharge the functions and responsibilities of the licensed occupation or industry.

(b) In addition to the factors that may be considered in subsection (a) of this section the department, in determining the present fitness of a person who has been convicted of a crime, may consider the following:

- (1) the extended nature of the person's past criminal activity;
- (2) the age of the person at the time of the commission of the crime;
- (3) the amount of time that has elapsed since the person's last criminal activity;
- (4) the conduct and work activity of the person prior to and following the criminal activity;

(5) evidence of the person's rehabilitation or attempted rehabilitation effort while incarcerated or following release;

(6) other evidence of the person's present fitness, including letters of recommendation from prosecution, law enforcement, and correctional officers who prosecuted, arrested, or had custodial responsibility for the person; the sheriff and chief of police in the community where the person resides; and any other persons in contact with the convicted person.

(c) It shall be the responsibility of the applicant to the extent possible to secure and provide to the licensing authority the recommendations of the prosecution, law enforcement, and correctional authorities as required by this rule.

(d) The applicant should also furnish proof in any form, as may be required by the licensing authority, that he has maintained a record of steady employment and has otherwise maintained a record of good conduct and has paid all outstanding court costs, supervision fees, fines, and restitution as may have been ordered in all criminal cases in which the applicant had been convicted.

(e) If the department suspends or revokes a valid license, or denies a person a license or the opportunity to be examined for a license in accordance with this rule because of the persons prior conviction of a crime and the relationship of the crime to the license, the department shall:

(1) notify the person in writing stating reasons for the suspension, revocation, denial, or disqualification;

(2) use the review procedure provided by Texas Civil Statutes, Article 6252-13c, and Article 6252-13d.

(f) The department will be concerned with those offenses defined as crimes of moral turpitude by statute or common law; Class A misdemeanors; first, second, and third degree felonies carrying fines and/or imprisonment or both.

Issued in Austin, Texas, on July 12, 1984.

TRD-847407

Allen Parker, Sr.
Commissioner
Texas Department of Labor and
Standards

Effective date: July 13, 1984

Expiration date: November 10, 1984

For further information, please call (512) 475-0155.



**TITLE 28. INSURANCE
Part I. State Board of Insurance**

(Editor's note: Because the State Board of Insurance's rules have not yet been published in the Texas Administrative Code (TAC), they do not have designated TAC numbers. For the time being, the rules will continue to be published under their Texas Register

numbers. However, the rules will be published under the agency's correct TAC title and part.)

Powers and Duties

Rules of Practice and Procedure Before the State Board of Insurance

059.01.04.051

The State Board of Insurance adopts on an emergency basis an amendment to Rule 059.01.04.051, concerning a procedure for appealing a final decision or order by the commissioner of insurance or state fire marshal to the State Board of Insurance. The board finds that an imminent peril to the public welfare requires that this rule be amended on an emergency basis. Through inadvertence, the intended last sentence of that rule was omitted from the rule as adopted by board Order 44909 dated May 29, 1984. That sentence provides that appeals of commissioner's or fire marshal's actions be made within 30 days of the action, except for good cause the board may allow an appeal subsequent to that date. This requirement has been a part of the board's rules for many years. The emergency status is necessary because the board believes it must retain the requirement to prevent certain persons or entities from having an indefinite period of time in which to appeal certain actions. Such a result would have an adverse impact on the finality of commissioner's and fire marshal's decisions. This could lead to a problem for persons or entities which must be able to depend on such decisions to conduct their business. It would also leave the board open to an appeal of commissioner's and fire marshal's actions which are very old. It is believed

that the possibility of a cloud on the finality of commissioner's and fire marshal's determination requires this emergency action.

This amendment is adopted on an emergency basis under authority of the Insurance Code, Article 1.04, and Texas Civil Statutes, Article 6252-13a, §4, pursuant to which the State Board of Insurance may adopt procedural rules necessary or appropriate for the board to carry out its statutory function.

.051. Appeal from Commissioner's or Fire Marshal's Final Decision or Order. Any party aggrieved by a final decision or order of the commissioner or the fire marshal in a contested case may appeal to the board after the decision or order complained of is final. To the extent not superseded by the Act, the procedures specified in the Insurance Code, Article 1.04(d), apply to appeals to the board from decisions of the commissioner and are adopted for appeals to the board from decisions of the fire marshal. **An appeal to the board for review of an action of the commissioner or the fire marshal shall be made within 30 days from the date that the writing evidencing the official action or order complained of is final and appealable, but for good cause shown, the board may allow an appeal after that date.**

Issued in Austin, Texas, on July 13, 1984.

TRD-847403

James W. Norman
Chief Clerk
State Board of Insurance

Effective date: July 13, 1984

Expiration date: November 10, 1984

For further information, please call (512) 475-2950.

Proposed Rules

Before an agency may permanently adopt a new or amended rule, or repeal an existing rule, a proposal detailing the action must be published in the *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 rule. A public hearing on the proposal may also be granted if such a procedure is requested by a governmental subdivision or agency, or by an association consisting of at least 25 members.

The proposal, as published in the *Register*, must include a brief explanation of the proposed action; a fiscal statement indicating effect on state and local government and small businesses; a statement explaining anticipated public benefits and possible economic costs to individuals required to comply with the rule; a request for public comments; a statement of statutory authority under which the proposed rule is to be adopted (and the agency's interpretation of the statutory authority); the text of the proposed action; and a certification statement. The certification information, which includes legal authority, the proposed date of adoption or the earliest possible date that the agency may file notice to adopt the proposal, and a telephone number to call for further information, follows each submission.

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

TITLE 16. ECONOMIC REGULATION Part II. Public Utility Commission of Texas Chapter 23. Substantive Rules Rates

16 TAC §23.23

(Editor's note: The Public Utility Commission of Texas proposes for permanent adoption the amendments it adopts on an emergency basis in this issue. The text of the amendments is published in the Emergency Rules section of this issue.)

The Public Utility Commission of Texas proposes amendments to §23.23, concerning rate design. If adopted as proposed, the amendments will apply to all investor-owned and cooperative-owned electric utilities. Utilities which purchased electricity from qualifying cogeneration or small power production facilities pursuant to a capacity contract may be allowed to include within their tariff a purchased power factor (PPF) clause for collection of payments for capacity purchased and the associated costs of canceled or deferred construction resulting from firm capacity contracts, the total of which shall not exceed the utility's avoided cost. The PPF clause is subject to commission approval, and the calculations shall be reported to the commission on a most-current-month basis.

Rhonda Colbert Ryan, secretary of the commission, has determined that for the first five-year period the rule 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 rule.

Ms. Ryan also has determined that for each year of the first five years the rule as proposed is in effect the public benefit anticipated as a result of enforcing the rule as proposed is increased economic activity in the state as a result of business and industry installing equipment for generating electricity and steam and producing revenue therefrom. There is no anticipated economic cost to individuals who are required to comply with the rule as proposed.

Comments on the proposal may be submitted to Rhonda Colbert Ryan, Secretary of the Commission, 7800 Shoal Creek Boulevard, Suite 450N, Austin, Texas 78757.

The amendments are proposed under Texas Civil Statutes, Article 1446c, §16, which provide the Public Utility Commission of Texas with the authority to make and enforce rules reasonably required in the exercise of its powers and jurisdiction and in administering the provisions of this 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 July 12, 1984.

TRD-847341

Rhonda Colbert Ryan
Secretary of the Commission
Public Utility Commission of
Texas

Earliest possible date of adoption:

August 20, 1984

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

Certification

16 TAC §23.31

(Editor's note: The Public Utility Commission of Texas proposes for permanent adoption the amendments it adopts on an emergency basis in this issue. The text of the amendments is published in the Emergency Rules section of this issue.)

The Public Utility Commission of Texas proposes amendments to §23.31, concerning certification criteria. If adopted as proposed, the amendments will allow the commission to grant an application for an electric utility generating unit only when it finds that available purchased power, cogeneration, conservation, or alternative energy sources will not be able to compete economically with the cost of construction for a new generating unit.

Rhonda Colbert Ryan, secretary of the commission, has determined that for the first five-year period the rule 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 rule.

Ms. Ryan also has determined that for each year of the first five years the rule as proposed is in effect the public benefit anticipated as a result of enforcing the rule as proposed is increased economic activity in the state as a result of business and industry installing equipment for generating electricity and steam and producing revenue therefrom. There is no anticipated economic cost to individuals who are required to comply with the rule as proposed.

Comments on the proposal may be submitted to Rhonda Colbert Ryan, Secretary of the Commission, 7800 Shoal Creek Boulevard, Suite 450N, Austin, Texas 78757.

The amendments are proposed under Texas Civil Statutes, Article 1446c, §16, which provide the Public Utility Commission of Texas with the authority to make and enforce rules reasonably required in the exercise of its powers and jurisdiction and in administering the provisions of this 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 July 12, 1984.

TRD-847342 Rhonda Colbert Ryan
Secretary of the Commission
Public Utility Commission of
Texas

Earliest possible date of adoption:
August 20, 1984

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

Quality of Service

16 TAC §23.66

(Editor's note: The Public Utility Commission of Texas proposes for permanent adoption the amendments it

adopts on an emergency basis in this issue. The text of the amendments is published in the Emergency Rules section of this issue.)

The Public Utility Commission of Texas proposes amendments to §23.66, concerning arrangements between qualifying facilities and electric utilities. If adopted as proposed, the amendments will require consideration of reliability of fuel supplies used and the overall contribution of such power to system stability. In subsection (d)(1), additional language concerning the obligation of utilities to purchase from qualifying facilities makes clear that nothing in the rule shall be interpreted to require a utility to contract for capacity in excess of its capacity requirements as determined by the commission. However, a utility must contract for purchases of firm energy offered at least five years prior to completion of construction of an avoidable unit or other planned capacity, and is encouraged to contract prior to that time. Capacity obtained through qualified facilities will be included in a utility's generation expansion planning. Capacity will be purchased on the basis of evaluated cost and the quality of firmness of such capacity weighted by a series of priorities set by the commission. Payments by a utility to a qualifying facility will be considered reasonable and necessary operating expenses of that utility. Rates for purchases of firm power shall be based upon avoided cost and capacity where any reasonable cost associated with cancellation or deferral of a facility shall be recognized as part of the avoided cost calculation. Utilities will be required to file, at least every two years after the initial filing, a standard offer for the purchase of firm energy and capacity subject to commission approval. Rates for standby or other supplementary service shall be based on the amount of capacity contracted for between the wholesale supplier and the distribution utility, and shall not penalize distribution utilities which also purchase power from qualifying facilities.

Rhonda Colbert Ryan, secretary of the commission, has determined that for the first five-year period the rule 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 rule.

Ms. Ryan also has determined that for each year of the first five years the rule as proposed is in effect the public benefit anticipated as a result of enforcing the rule as proposed is increased economic activity in the state as a result of business and industry installing equipment for generating electricity and steam and producing revenue therefrom. There is no anticipated economic cost to individuals who are required to comply with the rule as proposed.

Comments on the proposal may be submitted to Rhonda Colbert Ryan, Secretary of the Commission, 7800 Shoal Creek Boulevard, Suite 450N, Austin, Texas 78757.

The amendments are proposed under Texas Civil Statutes, Article 1446c, §16, which provide the Public Utility Commission of Texas with the authority to make and enforce rules reasonably required in the ex-

ercise of its powers and jurisdiction and in administering the provisions of this 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 July 12, 1984.

TRD-847343 Rhonda Colbert Ryan
Secretary of the Commission
Public Utility Commission of
Texas

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August 20, 1984
For further information, please call (512) 458-0100.

all action necessary to assure compliance with the intent and purpose of 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 July 12, 1984.

TRD-847408 Allen Parker, Sr.
Commissioner
Texas Department of Labor and
Standards

Earliest possible date of adoption:
August 20, 1984
For further information, please call (512) 475-0155.

**Part IV. Texas Department of
Labor and Standards
Chapter 75. Air Conditioning
Contractor License Law
Air Conditioning Contractor License Law
16 TAC §75.11**

(Editor's note: The Texas Department of Labor and Standards proposes for permanent adoption the new rule it adopts on an emergency basis in this issue. The text of the rule is published in the Emergency Rules section of this issue.)

The Texas Department of Labor and Standards proposes new §75.11, concerning the review procedure for persons applying for licenses with the department's division of air conditioning contractors when such applicants may be under indictment or have a previous criminal history.

Booker T. Morris III, general counsel, has determined that for the first five-year period the rule 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 rule.

Mr. Morris also has determined that for each year of the first five years the rule as proposed is in effect the public benefit anticipated as a result of enforcing the rule as proposed is a better system of issuing licenses and more confidence by the general public in who is being licensed by the department. There is no anticipated economic cost to individuals who are required to comply with the rule as proposed

Comments on the proposal may be submitted to Booker T. Morris III, General Counsel, P.O. Box 12157, Austin, Texas 78711.

The new section is proposed under Texas Civil Statutes, Article 8661, which provide the commissioner of the Texas Department of Labor and Standards with the authority to adopt rules and regulations and take

**TITLE 22. EXAMINING BOARDS
Part X. State Board of Morticians
Chapter 203. Licensing and
Enforcement—Specific
Substantive Rules**

22 TAC §203.1

The State Board of Morticians proposes an amendment to §203.1, concerning definitions.

John W. Shocklee, executive secretary, has determined that for the first five-year period the rule 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 rule.

Mr. Shocklee also has determined that for each year of the first five years the rule as proposed is in effect the public benefit anticipated as a result of enforcing the rule as proposed is the avoidance of duplication of matters which are covered under the statute and clarification of the intent of the statute and rules. There is no anticipated economic cost to individuals who are required to comply with the rule as proposed.

Comments on the proposal may be submitted to John W. Shocklee, Executive Secretary, State Board of Morticians, 1513 IH 35 South, Austin, Texas 78741, (512) 442-6721.

The amendment is proposed under Texas Civil Statutes, Article 458b, §5, which provide the State Board of Morticians with the authority to promulgate rules and regulations.

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

[Personal supervision—In Texas Civil Statutes, Article 4582b, §1-C, means that a licensed funeral director or embalmer must be present at the place and time of removal of body.]

Cash advance item—Any item of service or merchandise described to a purchaser as a "cash advance,

“accommodation,” “cash disbursement,” or similar term. A cash advance item is also any item obtained from a third party and paid for by the funeral provider on the purchaser’s behalf. Cash advance items may include, but are not limited to, the following items: cemetery or crematory services; pallbearers; public transportation; clergy honoraria; flowers; musicians or singers; nurses; obituary notices; gratuities; and death certificates.

Casket—A rigid container which is designed for the encasement of human remains and which is usually constructed of wood, metal, or like material and ornamented and lined with fabric.

Cremation—A heating process which incinerates human remains.

Crematory—Any person, partnership, or corporation that performs cremation.

Direct cremation—A disposition of human remains by cremation, without formal viewing, visitation, or ceremony with the body present.

Immediate burial—A disposition of human remains by burial, without formal viewing, visitation, or ceremony with the body present, except for graveside services.

Funeral provider—Any person, partnership, or corporation that sells or offers to sell funeral goods and funeral services to the public.

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 July 12, 1984.

TRD-847413 John W. Shocklee
 Executive Secretary
 State Board of Morticians

Earliest possible date of adoption:
August 20, 1984

For further information, please call (512) 442-6721.

22 TAC §§203.8, 203.9, 203.11, 203.115

The State Board of Morticians proposes new §§203.8, 203.9, 203.11, and 203.115, concerning telephone price disclosures, price disclosures, clarification of fraudulent or deceptive conduct in providing funeral services or merchandise, and comprehension of disclosures.

John W. Shocklee, executive secretary, has determined that for the first five-year period the rules 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 rules.

Mr. Shocklee also has determined that for each year of the first five years the rules as proposed are in effect the public benefit anticipated as a result of enforcing the rules as proposed is assurance of compliance whereby consumers will be able to obtain price information over the telephone and thereby shop more intelligently for funeral services and merchandise if they so desire. There is no anticipated economic cost to individuals who are required to comply with the rules as proposed.

Comments on the proposal may be submitted to John W. Shocklee, Executive Secretary, State Board of Morticians, 1513 IH 35 South, Austin, Texas 78741, (512) 442-6721.

The new sections are proposed under Texas Civil Statutes, Article 4582b, §5, which provide the State Board of Morticians with the authority to promulgate rules and regulations.

§203.8. Telephone Price Disclosures. To prevent unfair or deceptive acts or practices, funeral directors must:

(1) tell persons who call the funeral establishment and ask about the terms, conditions, or prices at which funeral goods or funeral services are offered, that price information is available over the telephone; and

(2) tell persons who ask by telephone about the funeral establishment’s offerings or prices any accurate information from the price lists which reasonably answers the question, and any other information which reasonably answers the question and which is readily available.

§203.9. Price Disclosure. The retail price list as defined in Texas Civil Statutes, Article 4582b, §1(S), must contain the retail prices, expressed either as a flat fee or as the price per hour, mile, or other information, of the following terms:

(1) forwarding of remains to another funeral establishment, together with a list of the services provided for any quoted price;

(2) receiving remains from another funeral establishment, together with a list of the services provided for any quoted price;

(3) the price range for the direct cremations offered by the funeral establishment, together with:

(A) a separate price for a direct cremation where the purchaser provides the container;

(B) separate prices for each direct cremation offered, including an unfinished wood box or alternative container; and

(C) a description of the services and container (where applicable) included in each price;

(4) the price range for the immediate burials offered by the funeral establishment, together with:

(A) a separate price for an immediate burial where the purchaser provides the casket;

(B) separate prices for each immediate burial offered, including a casket or alternative container; and

(C) a description of the services and container (where applicable) included in that price.

(5) acknowledgement cards;

(6) specifically itemized cash advance items.

(These prices must be given to the extent then known or reasonably ascertainable. If the prices are not known or reasonably ascertainable, a good faith estimate shall be given and a written statement of the actual charges shall be provided before the final bill is paid.)

§203.11. Clarification of Fraudulent or Deceptive Conduct in Providing Funeral Services or Merchandise.

(a) Embalming provisions.

(1) Deceptive acts or practices. In selling or offering to sell funeral goods or funeral services to the public, it is a deceptive act or practice for a funeral provider to:

(A) represent that state or local law requires that a deceased person be embalmed;

(B) fail to disclose that embalming is not required by law except in certain special cases.

(2) Preventive requirements. To prevent these deceptive acts or practices, funeral directors must:

(A) not represent that a deceased person is required to be embalmed for direct cremation, immediate burial, a funeral using a sealed casket, or if refrigeration is available and the funeral is without viewing or visitation and with a closed casket when state or local law does not require embalming; and

(B) place the following disclosure on the retail price list, in immediate conjunction with the price shown for embalming:

Except in special cases, embalming is not required by law. Embalming may be necessary, however, if you select certain funeral arrangements, such as funerals with viewing. If you do not want embalming, you usually have the right to choose an arrangement which does not require you to pay for it, such as direct cremation or immediate burial.

(b) Casket for cremation provisions.

(1) Deceptive acts or practices. In selling or offering to sell funeral goods or funeral services to the public, it is a deceptive act or practice for a funeral provider to:

(A) represent that state or local law requires a casket for direct cremation;

(B) represent that a casket (other than an unfinished wood box) is required for direct cremation.

(2) Preventive requirements. To prevent these unfair or deceptive acts or practices, funeral directors must place the following disclosure in immediate conjunction with the price range shown for direct cremation:

If you want to arrange a direct cremation, you can use an unfinished wood box or alternative container. Alternative containers can be made of materials like heavy cardboard or composition materials (with or without an outside covering), or purchases of canvas.

This disclosure only has to be placed on the retail price list if the funeral provider arranges direct cremations.

(c) Outer burial container provisions.

(1) Deceptive acts or practices. In selling or offering to sell funeral goods or funeral services to the public, it is a deceptive act or practice for a funeral provider to:

(A) represent that state or local laws or regulations or particular cemeteries require outer burial containers when such is not the case;

(B) fail to disclose to persons arranging funerals that state law does not require the purchase of an outer burial container.

(2) Preventive requirements. To prevent these deceptive acts or practices, funeral providers must place the following disclosure on the outer burial container price list. The prices of outer burial containers are listed on the retail price list, in immediate conjunction with those prices:

In most areas of the country, no state or local law makes you buy a container to surround the casket in the grave. However, many cemeteries ask that you have such a container so that the graves will not sink in. Either a burial vault or a grave liner will satisfy these requirements.

(d) General provisions on legal and cemetery requirements.

(1) Deceptive acts or practices. In selling or offering to sell funeral goods or funeral services to the public, it is a deceptive act or practice for funeral providers to present that federal, state, or local laws or particular cemeteries or crematories require the purchase of any funeral goods or funeral services when such is not the case.

(2) Preventive requirements. To prevent these deceptive acts or practices, funeral directors must identify and briefly describe in writing on the statement of funeral goods and services selected any legal, cemetery, or crematory requirement which the funeral director represents persons as compelling the purchase of funeral goods or funeral services for the funeral which that person is arranging.

(e) Provisions on preservative and protective value claims. In selling or offering to sell funeral goods or funeral services to the public, it is a deceptive act or practice for a funeral provider to:

(1) represent that funeral goods or funeral services will delay the natural decomposition of human remains for a long-term or indefinite time;

(2) represent that funeral goods have protective features or will protect the body from gravesite substances, when such is not the case.

(f) Cash advance provisions.

(1) Deceptive acts or practices. In selling or offering to sell funeral goods or funeral services to the public, it is a deceptive act or practice for a funeral director to:

(A) represent that the price charged for a cash advance item is the same as the cost to the funeral director for the item when such is not the case;

(B) fail to disclose to persons arranging funerals that the price being charged for a cash advance item is not the same as the cost to the funeral provider for the item when such is the case.

(2) Preventive requirements. To prevent these deceptive acts or practices, funeral directors must place the following sentence in the general price list, at the end of the cash advance disclosure: "We charge you for our services in buying these items," if the funeral provider makes a charge upon, or receives and retains a rebate, commission, or trade or volume discount upon a cash advance item.

(g) Casket for cremation provision.

(1) Unfair or deceptive acts or practices. In selling or offering to sell funeral goods or funeral services to the public, it is an unfair or deceptive act or practice for a funeral establishment or a crematory to require that a casket other than an unfinished wood box be purchased for direct cremation.

(2) Preventive requirements. To prevent this unfair or deceptive act or practice, funeral directors must make an unfinished wood box or alternative container available for direct cremations, if they arrange direct cremations.

(h) Other required purchases of funeral goods or funeral services.

(1) Unfair or deceptive acts or practices. In selling or offering to sell funeral goods or funeral services, it is an unfair or deceptive act or practice for a funeral provider to condition the furnishing or any funeral goods or funeral services to a person arranging a funeral upon the purchase of any other funeral good or service, ex-

cept as required by law or as otherwise permitted by this part.

(2) Preventive requirements.

(A) To prevent this unfair or deceptive act or practice, funeral providers must:

(i) place the following disclosure in the retail price list, immediately above the prices required:

The goods and services shown below are those we can provide to our customers. You may choose only the items you desire. If legal or other requirements mean you must buy any items you did not specifically ask for, we will explain the reason in writing on the statement we provide describing the funeral goods and services you selected.

Provided, however, if the charge for services of funeral director and staff cannot be declined by the purchaser, the statement shall include the sentence "However, any funeral arrangements you select will include a charge for our services" between the second and third sentences of the statement specified above herein; and

(ii) place the following disclosure on the statement of funeral services selected: "Charges are only for those items that are used. If we are required by law to use any items, we will explain the reasons in writing below."

(B) A funeral provider shall not violate this section by failing to comply with a request for combination of goods or services which would be impossible, impractical, or excessively burdensome to provide.

§203.115. Comprehension of Disclosures. To prevent unfair or deceptive acts or practices, funeral directors must make all disclosures required by those sections in a clear and conspicuous manner.

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 July 10, 1984

TRD-847301 John W. Shocklee
 Executive Secretary
 State Board of Morticians

Earliest possible date of adoption.
August 20, 1984

For further information, please call (512) 442-6721.

TITLE 28. INSURANCE

Part I. State Board of Insurance

(Editor's note: Because the State Board of Insurance's rules have not yet been published in the Texas Administrative Code (TAC), they do not have designated TAC numbers. For the time being, the rules will continue to be published under their Texas Register numbers. However, the rules will be published under the agency's correct TAC title and part.)

Powers and Duties

Rules of Practice and Procedure Before the State Board of Insurance

059.01.04.034, .035, .051, .068

The State Board of Insurance proposes amendments to Rules 059.01.04.034, .035, .051, and .068, concerning practice and procedure.

The only substantive change is in Rule 059.01.04.051. This rule sets forth a procedure for appealing a final decision or order of the commissioner of insurance to the State Board of Insurance. The amendment adds a sentence which provides that appeals of commissioner's actions be made within 30 days of the action, except that for good cause the board may allow an appeal subsequent to that date. This amendment preserves the prior procedure of the State Board of Insurance which also contained this provision. The provision was inadvertently deleted in amended Rule 059.01.04.051, which went into effect on July 13, 1984. However, the board has adopted the provision by emergency amendment, which was also effective on July 13, 1984.

The amendments to Rules 059.01.04.034, .035, and .068 are minor and editorial only. These amendments are not expected to cause any change in any ongoing procedure or requirement of the board.

James W. Norman, chief clerk, has determined that for the first five-year period the rules 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 rules.

Mr. Norman also has determined that for each year of the first five years the rules as proposed are in effect the public benefit anticipated as a result of enforcing the rules as proposed is clearer rules and a time limit on appeals of commissioner's orders, which will permit people to know when a commissioner's determination is final and unappealable. There is no anticipated economic cost to individuals who are required to comply with the rules as proposed.

Comments on the proposal may be submitted to James W. Norman, Chief Clerk, State Board of Insurance, 1110 San Jacinto Street, Austin, Texas 78786.

The amendments are proposed under the Insurance Code, Article 1.04, and Texas Civil Statutes, Article 6252-13a, §4, which provide the State Board of Insurance with the authority to enact procedural rules necessary and appropriate for it to carry out its statutory function.

.034. Written Depositions.

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

(e) Every person so deposing shall be first cautioned [questioned] and sworn to testify the truth, the whole truth, and nothing but the truth.

(f) (No change.)

(g) Regardless of whether cross-questions have been propounded, either party has the right to use the depositions on the hearing [trial].

(h) (No change.)

.035. Mileage and Witness Fees.

(a) A witness or deponent who is not a party and who is subpoenaed or otherwise compelled to attend any hearing or proceeding to give a deposition or to produce books, records, papers, or other objects that may be necessary and proper for the purposes of any proceeding under the authority of the Act is entitled to receive:

(1) mileage in the same amount per mile as the mileage travel allowance for state employees for going to and returning from the place of the hearing or the place where the deposition is [it] taken, if the place is more than 25 miles from the person's place of residence; and

(2) (No change.)

(b) (No change.)

.051. Appeal from Commissioner's or Fire Marshal's Final Decision or Order. Any party aggrieved by a final decision or order of the commissioner or the fire marshal in a contested case may appeal to the board after the decision or order complained of is final. To the extent not superseded by the Act, the procedures specified in the Insurance Code, Article 1.04(d), apply to appeals to the board from decisions of the commissioner and are adopted for appeals to the board from decisions of the fire marshal. **An appeal to the board for review of an action of the commissioner or the fire marshal shall be made within 30 days from the date that the writing evidencing the official action or order complained of is final and appealable, but for good cause shown, the board may allow for an appeal after that date.**

.068. Initiating Proceedings Before the Board.

(a) Proceedings before the board are divided into two classifications: matters over which it has original jurisdiction and matters over which it has appellate jurisdiction. The provisions of the Insurance Code, Article 1.04(b), vest original jurisdiction in the board to determine policy, promulgate rules, and promulgate or approve rates. Proceedings over which the board has original jurisdiction may be initiated as follows:

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

(4) any person desiring a **changed [change]** or new standard and uniform rate, rating plan, manual rule, classification plan, statistical plan, or policy or endorsement form for the lines of insurance regulated under the Insurance Code, Subchapter B, Chapter 5, or the Insurance Code, Article 5.53 or Article 5.53a, may petition the board in accordance with the procedure specified in the Insurance Code, Article 5.97, and any rules adopted under the Insurance Code, Article 5.98, applicable to such matter.

(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 July 13, 1984

TRD-847400 James W. Norman
Chief Clerk
State Board of Insurance

Earliest possible date of adoption:
August 20, 1984

For further information, please call (512) 475-2950.

Variable Annuities
Variable Annuities

059.03.75.001-.007

The State Board of Insurance proposes new Rules 059.03.75.001-.007, concerning variable annuity products. These rules are proposed to replace Rules 059.03.72.001-.004, which the board has previously proposed to be repealed. The rules are proposed pursuant to the Insurance Code, Article 3.75, §8. Article 3.75 was enacted by the 68th Legislature, 1983. It repeals the Insurance Code, Articles 3.39, Part III, 3.72, and 3.73. Article 3.39, Part III, and Article 3.72 apply to variable annuities; Article 3.73 applies to variable life insurance.

Article 3.75 was enacted to regulate life insurance and annuity products which vary according to the investment experience of a separate account. These rules are supplementary to Article 3.75. They replace rules previously adopted under Article 3.72.

Kay Simonton, Policy Approval Division manager, has determined that there will be no fiscal implications for state government since no additional people or equipment will be required to enforce or administer the proposed rules. There is no significant difference in fiscal effect for these rules as compared to present Rules 059.03.72.001-.004, which govern variable annuities and which are proposed to be repealed at the time these rules are adopted.

There are no expected fiscal implications for units of local government. The cost of compliance for small businesses from these rules will be the cost for insurers or agents which are small businesses. There is expected to be no significant difference in the cost of compliance for these rules as compared to the board's present rules respecting variable annuities which are being repealed simultaneously with the adoption of these rules. The one possible area of increased cost is submitting new forms. The degree to which this will be necessary will depend on the insurer's present policy forms and the products it intends to offer. Any additional cost is occasioned by Article 3.75 itself, but not by these rules.

Ms. Simonton also has determined that for each year of the first five years the rule as proposed is in effect the public benefit anticipated as a result of enforcing the rules as proposed are manifest. The rules are adopted to provide appropriate regulation of variable annuity contracts under the Insurance Code, Article 3.75, and are adapted to modern day products. The rules provide significant simplification of terms and benefits in variable annuity policies. They facilitate public understanding of such policies. They provide applicable nonforfeiture benefits or disclosure that cash surrender values are not available, if that is the case. Certain additional disclosure is required. The anticipated economic cost to individuals who are required to comply with the rules as proposed is not expected to be significantly different from present regulations. Accordingly, there should be no significant increase or decrease in the cost of compliance.

The one possible area of increased cost is submitting new forms. The degree to which this will be necessary will depend on the insurer's present policy forms and the products it intends to offer. Any additional cost is occasioned by Article 3.75 itself, but not by these rules.

Comments on the proposal may be submitted to Kay Simonton, Manager, Policy Approval Division, State Board of Insurance, 1110 San Jacinto, Austin, Texas 78786.

The new rules are proposed under the Insurance Code, Article 3.75, §8, which authorizes the State Board of Insurance to establish such rules, regulations, or limitations regarding variable annuity contracts

.001. Purpose and Scope. These rules are promulgated to regulate individual and group variable annuity policies and certificates issued or delivered for issue in this state.

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

Agent—Any person, corporation, partnership, or other legal entity which is licensed as a life insurance agent.

Commissioner—The commissioner of insurance of this state.

Flexible premium policy—Any variable annuity policy other than a scheduled premium variable annuity policy.

General account—All assets of the insurer other than assets in separate accounts established pursuant to the Insurance Code, Article 3.75, whether or not for variable annuities.

May—Is permissive.

Scheduled premium policy—Any variable annuity policy under which both the timing and amount of premium payments are fixed.

Separate account—A separate account established pursuant to the Insurance Code, Article 3.75.

Shall—Is mandatory.

Variable annuity policy—Any individual annuity policy or group annuity policy or certificate issued in connection with a group annuity master policy which provides for benefits which vary according to the investment experience of a separate account established and maintained by the insurer as to such policy, pursuant to the Insurance Code, Article 3.75. Annuity benefits may be payable in fixed or variable amounts, or both.

Net investment return—The rate of investment return to be credited to the variable annuity contract in accordance with the terms of the contract after deductions for tax charges, if any, and for asset charges either at a rate not in excess of that stated in the contract, or in the case of a contract issued by a nonprofit corporation under which the contractholder participates fully in the investment, mortality and expense experience of the account, in an amount not in excess of the actual expense not offset by other deductions. The net investment return to be credited to a contract shall be determined at least monthly.

.003. Qualifications of Insurer to Issue Variable Annuities. The following requirements are applicable to all insurers either seeking authority to issue variable annuities in this state or having the authority to issue variable annuity products in this state.

(1) Licensing and approval to do business in this state. An insurer shall not deliver or issue for delivery in this state any variable annuity unless:

(A) the insurer is licensed or organized to do a life insurance business in this state; and

(B) after notice and hearing, the commissioner has issued a separate certificate of authority authorizing the insurer to issue, deliver, and use variable annuity policies in this state. The commissioner shall grant such authority only after he or she has considered, among other things, the following:

(i) whether the plan of operation for the issuance of variable annuity policies is sound;

(ii) whether the general character, reputation, and experience of the management and those persons or firms proposed to supply consulting, investment, administrative, or custodial services to the insurer are such as to reasonably assure competent operation of the variable annuity business of the insurer in this state; and

(iii) whether the present and foreseeable future financial condition of the insurer and its method of operation in connection with the issuance of such policies is likely to render its operation hazardous to the public or its policyholders in this state. The commissioner shall consider, among other things:

(I) the history of operation and financial condition of the insurer;

(II) the qualifications, fitness, character, responsibility, reputation, and experience of the officers and directors and other management of the insurer and those persons or firms proposed to supply consulting, investment, administrative, or custodial services to the insurer;

(III) the applicable law and regulations under which the insurer is authorized in its state of domicile to issue variable annuity policies. The state of entry of an alien insurer shall be deemed its state of domicile for this purpose; and

(IV) if the insurer is a subsidiary of, or is affiliated by common management or ownership with another company, its relationship to such other company and the degree to which the requesting insurer, as well as the other company, meets the standards specified in this subparagraph.

(2) Filing for approval to do business in this state. Before any insurer shall deliver or issue for delivery any variable annuity policy in this state, it must file with the State Board of Insurance the following information and any other information specifically requested, for the consideration of the commissioner, on making the determination required by paragraph (1)(B) of this rule:

(A) copies of and a general description of the variable annuity policies it intends to issue;

(B) a general description of the methods of operation of the variable annuity business of the insurer, including methods of distribution of policies and the names of those persons or firms proposed to supply con-

sulting, investment, administrative, custodial, or distributive services to the insurer;

(C) with respect to any separate account maintained by an insurer for any variable annuity, a statement of the investment policy the insurer intends to follow for the investment of the assets held in such separate account, and a statement of procedures for changing such investment policy. The statement of investment policy shall include a description of the investment objectives intended for the separate account;

(D) a description of any investment advisory services contemplated as required by Rule 059.03.75.004 of these rules;

(E) a copy of the statutes and regulations of the state of domicile of a foreign or alien insurer under which it is authorized to issue variable annuity policies;

(F) biographical data not previously filed with the commissioner with respect to officers and directors of the insurer on the appropriate biographical form used in Texas; and

(G) a statement of the insurer's actuary describing the mortality and expense risks which the insurer will bear under the policy.

.004. Separate Accounts.

(a) Establishment of separate account. Any life insurance company issuing variable annuity policies shall establish one or more separate accounts pursuant to the Insurance Code, Article 3,75.

(1) If no law or other regulation provides for the custody of separate account assets, and if such insurer is not the custodian of such separate account assets, all contracts for custody of such assets shall be in writing and the commissioner shall have authority to review and disapprove of both the terms of any such contract and the proposed custodian prior to the transfer of custody.

(2) In connection with the handling of separate account assets, such insurer shall not, without prior written approval of the commissioner, employ in any material manner any person who:

(A) within the last 10 years has been convicted of any felony or a misdemeanor arising out of such person's conduct involving embezzlement, fraudulent conversion, or misappropriation of funds or securities or involving violation of the United States Code, Title 18, §§1341, 1342, or 1343; or

(B) within the last 10 years has been found by any state regulatory authority to have violated or has acknowledged violation of any provision of any state insurance law involving fraud, deceit, or knowing misrepresentation; or

(C) within the last 10 years has been found by federal or state regulatory authorities to have violated or has acknowledged violation of any provision of federal or state laws involving fraud, deceit, or knowing misrepresentation.

(3) All persons with access to the cash, securities, or other assets allocated to or held by the separate account shall be under bond in the amount of not less than \$100,000.

(b) Amounts in the separate account. The insurer shall maintain in each separate account assets with a value at least equal to the greater of the valuation reserves for

the variable portion of the variable annuity insurance policies or the benefit base for such policies.

(c) Investments by the separate account.

(1) No sale, exchange, or other transfer of assets may be made by an insurer or any of its affiliates between any of its separate accounts or between any other investment account and one or more of its separate accounts, unless:

(A) in case of a transfer into a separate account, such transfer is made solely to establish the account or to support the operation of the policies with respect to the separate account to which the transfer is made; and

(B) such transfer, whether into or from a separate account, is made by a transfer of cash; but other assets may be transferred if approved by the commissioner in advance.

(2) The separate account shall have sufficient net investment income and readily marketable assets to meet anticipated withdrawals under policies funded by the account.

(d) Limitations on ownership.

(1) A separate account shall not purchase or otherwise acquire the securities of any issuer, other than securities issued or guaranteed as to principal and interest by the United States, if immediately after such purchase or acquisition the value of such investment, together with prior investments of such account in such security valued as required by these rules, would exceed 10% of the value of the assets of the separate account. The commissioner may waive this limitation in writing if he or she believes such waiver will not render the operation of the separate account hazardous to the public or the policyholders in this state.

(2) No separate account shall purchase or otherwise acquire the voting securities of any issuer if, as a result of such acquisition, the insurer and its separate accounts in the aggregate will own more than 10% of the total issued and outstanding voting securities of such issuer. The commissioner may waive this limitation in writing if he or she believes such waiver will not render the operation of the separate account hazardous to the public or the policyholders in this state.

(3) The percentage limitations specified in paragraph (1) of this subsection shall not be construed to preclude the investment of the assets of separate accounts in shares of investment companies registered pursuant to the Investment Company Act of 1940 or other pools of investment assets if the investments and investment policies of such investment companies or asset pools comply substantially with the provisions of subsection (c) of this section and other applicable portions of this regulation.

(e) Valuation of separate account assets. Investments of the separate account shall be valued at their market value on the date of valuation, or at amortized cost if it approximates market value.

(f) Separate account investment policy. The investment policy of a separate account operated by a domestic insurer filed under Rule 059.03.75.003(2)(c) of these rules shall not be changed without first filing such change with the commissioner.

(1) Any change filed pursuant to this subsection shall be effective 60 days after the date it was filed with

the commissioner, unless the commissioner notifies the insurer before the end of such 60-day period of his or her disapproval of the proposed change. At any time the commissioner may, after notice and public hearing, disapprove any change that has become effective pursuant to this subsection.

(2) The commissioner may disapprove the change if he or she determines that the change would be detrimental to the interest of the policyholders participating in such separate account.

(g) Charges against separate accounts. The insurer must disclose in writing, prior to or contemporaneously with delivery of the policy, all charges that may be made against the separate account, including, but not limited to, the following:

(1) taxes or reserves for taxes attributable to investment gains and income of the separate account;

(2) actual cost of reasonable brokerage fees and similar direct acquisition and sale costs incurred in the purchase or sale of separate account assets;

(3) actuarially determined costs of insurance (tabular costs) and the release of separate account liabilities;

(4) charges for administrative expenses and investment management expenses, including internal costs attributable to the investment management of assets of the separate account;

(5) a charge, at a rate specified in the policy, for any mortality and expense guarantees;

(6) any amounts in excess of those required to be held in the separate account;

(7) charges for incidental insurance benefits.

(h) Standards of conduct. Every insurer seeking approval to enter into the variable annuity business in this state shall adopt by formal action of its board of directors a written statement specifying the standards of conduct of the insurer, its officers, directors, employees, and affiliates with respect to the purchase or sale of investments of separate accounts. Such standards of conduct shall be binding on the insurer and those to whom it refers. A code of ethics meeting the requirements of the Investment Company Act of 1940, §17, and applicable rules and regulations thereunder shall satisfy the provisions of this subsection.

(i) Conflicts of interest. Rules adopted under any provision of the Insurance Code or any regulation applicable to the officers and directors of insurance companies with respect to conflicts of interest shall also apply to members of any separate account's committee or other similar body.

(j) Investment advisory services to a separate account. An insurer shall not enter into a contract under which any person undertakes, for a fee, to regularly furnish investment advice to such insurer with respect to its separate accounts maintained for variable annuity policies unless:

(1) the person providing such advice is registered as an investment adviser under the Investment Advisor Act of 1940; or

(2) the person providing such advice is an investment manager under the Employee Retirement Income Security Act of 1974, with respect to the assets of each employee benefit plan allocated to the separate account; or

(3) the insurer has filed with the commissioner and continues to file annually the following information and statements concerning the proposed adviser:

(A) the name and form of organization, and its principal place of business;

(B) the names and addresses of its partners, officers, directors, and persons performing similar functions or, if such an investment advisor be an individual, the name and address of such individual;

(C) a written standard of conduct complying in substance with the requirements of subsection (h) of this rule which has been adopted by the investment advisor and is applicable to the investment advisor, its officers, directors, and affiliates;

(D) a statement provided by the proposed advisor as to whether the advisor or any person associated therewith:

(i) has been convicted within 10 years of any felony or misdemeanor arising out of such person's conduct as an employee, salesman, officer or director of an insurance company, a banker, an insurance agent, a securities broker, or an investment advisor involving embezzlement, fraudulent conversion, or misappropriation of funds or securities, or involving the violation of the United States Code, Title 18, §§1341, 1342, or 1343;

(ii) has been permanently or temporarily enjoined by an order, judgment, or decree of any court of competent jurisdiction from acting as an investment advisor, underwriter, broker, or dealer, or as an affiliated person or as an employee of any investment company, bank, or insurance company, or from engaging in or continuing any conduct or practice in connection with any such activity;

(iii) has been found by federal or state regulatory authorities to have willfully violated or have acknowledged willful violation of any provision of federal or state securities laws or state insurance laws or of any rule or regulation under such laws; or

(iv) has been censured, denied an investment advisor registration, had a registration as an investment advisor revoked or suspended, or been barred or suspended from being associated with an investment advisor by order of federal or state regulatory authorities; and

(4) such investment advisory contract as specified in paragraph (4) of this subsection shall be in writing and provide that it is subject to review and termination by the commissioner at any time, and that it may be terminated by the insurer without penalty to the insurer or the separate account upon no more than 60 days written notice to the investment advisor. The commissioner may, after notice and opportunity for hearing, by order require such investment advisory contract to be terminated if he or she deems continued operation thereunder to be hazardous to the public or the insurer's policyholders.

.005. *Policy Requirements.* The commissioner shall not approve any variable annuity policy filed pursuant to these rules unless it conforms to the requirements of this rule.

(1) Filing of variable annuity policies. All variable annuity policies, all riders, endorsements, applications and other documents which are attached to and made a part of the policy and which relate to the variable nature of the policy, shall be filed with the commis-

sioner and approved, as applicable, by him or her prior to delivery or issuance for delivery in this state.

(A) Each variable annuity policy and related forms shall be filed according to Rules 059.03.43.001-.008 (Board Order 40701) of this title (relating to Preparation and Submission of Individual Life Insurance and Annuity Forms).

(B) The commissioner may approve variable annuity policies and related forms with provisions the commissioner deems to be not less favorable to the policyholder, certificateholder, and the beneficiary than those required by these rules.

(2) Mandatory policy provisions. Every variable annuity policy shall contain at least the following.

(A) The cover page or page corresponding to the cover page of each policy shall contain:

(i) a prominent statement that the benefits under the contract are on a variable basis, and

(ii) a prominent statement that the dollar amounts will vary to reflect the investment experience of a separate account or separate accounts.

(B) A full description of the investment increment factors to be used in computing dollar amounts of variable benefits or variable contractual payments of values thereunder, and may guarantee that expense and/or mortality results shall not adversely affect such dollar amounts. In the case of an individual variable annuity contract under which the expense and mortality results may adversely affect the dollar amount of benefits, the expense and mortality factors shall be stipulated in the contract. In computing the dollar amount of variable benefits or other contractual payments or values under an individual variable annuity contract:

(i) the annual net investment increment assumption shall not exceed 5.0% except with the approval of the commissioner;

(ii) to the extent that the level of benefits may be affected by future mortality results, the mortality factor shall be determined from the Annuity Mortality Table for 1949, Ultimate, or any modification of that table not having a higher mortality rate at any age, or, if approved by the commissioner, from another table.

(C) A provision designating the separate account to be used and stating that the portion of the assets of any such separate account equal to the reserves and other contract liabilities with respect to such account shall not be chargeable with liabilities arising out of any other business the company may conduct.

(D) As appropriate, a provision for a grace period.

(i) For individual variable annuities which provide for the payment of periodic stipulated payments, a grace period of 31 days within which any stipulated payment to the insurer falling due after the first may be made, during which period of grace the contract shall continue in force. The contract may include a statement of the basis for determining the date as of which any such payment received during the period of grace shall be applied to produce the values under the contract arising therefrom.

(ii) For group variable annuities, a provision that the policyholder or premium payor is entitled to a grace period of 31 days for the payment of any premium due except the first, during which grace period the death

benefit coverage shall continue in force, unless the policyholder or premium payor shall have given the insurer written notice of discontinuance in advance of the date of discontinuance and in accordance with the terms of the policy. The policy may provide that the policyholder or premium payor shall be liable to the insurer for the payment of pro rata premium for the time the policy was in force during such grace period.

(E) A provision that, at any time within two years from the date of default, in making periodic stipulated payments to the insurer during the life of the annuitant and unless the cash surrender value has been paid, the contract may be reinstated upon payment to the insurer of such overdue payments as required by contract, and of all indebtedness to the insurer on the contract, including interest. The contract may include a statement of the basis for determining the date as of which the amount to cover such overdue payments and any indebtedness shall be applied to produce the values under the contract arising therefrom.

(F) A unique definition of any cash surrender values available under the contract.

(G) A provision for nonforfeiture benefits as defined in paragraph (3) of this rule.

(H) A provision defining the documents which make up the entire contract.

(I) An identification of the owner of the contract.

(J) A provision stating that the company shall mail to the contractholder at least once each year after the first at his or her last address known to the company a statement reporting the investments held in the separate account.

(K) For individual variable annuities, a provision that the company shall mail to the contractholder at least once in each contract year, after the first at his or her last address known to the company, a statement reporting the status of the policy as of a date not more than four months previous to the date of mailing. In the case of an annuity contract under which payments have not yet commenced, the statement shall contain:

(i) the number of accumulation units credited to such contract and the dollar value of a unit, or

(ii) the value of the contractholder's account.

(3) Reserves and nonforfeiture benefits.

(A) The reserve liability for variable annuities shall be established pursuant to the Insurance Code, Article 3.28, in accordance with actuarial procedures that recognize the variable nature of the benefits provided and any mortality guarantees.

(B) This paragraph shall not apply to any

(i) reinsurance,

(ii) group annuity contract purchases in connection with one or more retirement plan or plans of deferred compensation established or maintained by or for one or more employers (including partnerships or sole proprietorships), employee organizations, or any combination thereof, or other than plans providing individual retirement accounts or individual retirement annuities under the Internal Revenue Code, §408, as now or hereafter amended,

(iii) premium deposit fund,

(iv) investment annuity,
 (v) immediate annuity,
 (vi) deferred annuity contract after annuity payments have commenced,
 (vii) reversionary annuity, or to any
 (viii) contract which is to be delivered outside this state through an agent or other representative of the company issuing the contract.

(C) To the extent that any variable annuity contract provides benefits which do not vary in accordance with the investment performance of a separate account before the annuity commencement date, such contract shall contain provisions which satisfy the requirements of the Insurance Code, Article 3.44b, and shall not otherwise be subject to this rule.

(D) No variable annuity contract, except as stated in subparagraphs (A) and (B) of this paragraph, shall be delivered or issued for delivery in this state unless it contains in substance the following provisions, or corresponding provisions which in the opinion of the commissioner are at least as favorable to the contractholder, upon cessation of payment of considerations under the contract.

(i) That upon cessation of payment of considerations under a contract, the company will grant a paid-up annuity benefit on a plan described in the contract that complies with subparagraph (G) of this paragraph. Such description shall include a statement of the mortality table, if any, and guaranteed or assumed interest rates used in calculating annuity payments.

(ii) If a contract provides for a lump sum settlement at maturity, or at any other time, that upon surrender of the contract at or prior to the commencement of any annuity payments, the company will pay in lieu of any paid-up annuity benefit a cash surrender benefit as described in the contract that complies with subparagraph (H) of this paragraph. The contract may provide that the company reserves the right, at its option, to defer the determination and payment of any cash surrender benefit for any period during which the New York Stock Exchange is closed for trading (except for normal holiday closing) or when the Securities and Exchange Commission has determined that a state of emergency exists which may make such determination and payment impractical.

(iii) A statement that any paid-up annuity, cash surrender, or death benefits that may be available under the contract are not less than the minimum benefits required by any statute of the state in which the contract is delivered and an explanation of the manner in which such benefits are altered by the existence of any additional amounts credited by the company to the contract, any indebtedness to the company on the contract, or any prior withdrawals from or partial surrenders of the contract.

(E) The minimum values as specified in this rule of any paid-up annuity, cash surrender, or death benefits available under a variable annuity contract shall be based upon nonforfeiture amounts meeting the requirements of this paragraph. The minimum nonforfeiture amount on any date prior to the annuity commencement date shall be an amount equal to the percentages of net considerations (as specified in this subparagraph) increased (or decreased) by the net investment return allo-

cated to the percentages of net considerations, which amount shall be reduced to reflect the effect of:

(i) any partial withdrawals from or partial surrenders of the contract;

(ii) the amount of any indebtedness on the contract, including interest due and accrued;

(iii) an annual contract charge not less than zero and equal to:

(I) the lesser of \$30 and 2.0% of the end of year contract value less;

(II) the amount of any annual contract charge deducted from any gross considerations credited to the contract during such contract year; and

(iv) a transaction charge of \$10 for each transfer to another separate account or to another investment division within the same separate account.

(F) The percentages of net considerations used to define the minimum nonforfeiture amount in subparagraph (E) of this paragraph shall meet the requirements of this subparagraph.

(i) With respect to contracts providing for periodic considerations, the net considerations for a given contract year used to define the minimum nonforfeiture amount shall be an amount not less than zero and shall be equal to the corresponding gross considerations credited to the contract during that contract year less an annual contract charge of \$30 and less a collection charge of one dollar and \$1.25 per consideration credited to the contract during that contract year. The percentages of net considerations shall be 65% for the first contract year and 87.5% for the second and later contract years. Notwithstanding the provisions of the preceding sentence, the percentage shall be 65% of the portion of the total net consideration for any renewal contract year which exceeds by not more than two times the sum of those portions of the net considerations in all prior contract years for which the percentage was 65%.

(ii) With respect to contracts providing for a single consideration, the net consideration used to define the minimum nonforfeiture amount shall be the gross consideration less a contract charge of \$75.

(G) Demonstration that a contract's nonforfeiture amounts comply with this paragraph shall be based on the following assumptions:

(i) values should be tested at the ends of each of the first 20 contract years;

(ii) a net investment return of 7.0% per year should be used;

(iii) if the contract provides for transfers to another separate account or to another investment division within the same separate account, one transfer per contract year should be assumed;

(iv) with respect to contracts providing for periodic considerations, monthly considerations of \$100 should be assumed for each of the first 240 months;

(v) with respect to contracts providing for a single consideration, a \$10,000 single consideration should be assumed; and

(vi) if the contract provides for allocation of considerations to both fixed and variable accounts, 100% of the considerations should be assumed to be allocated to the variable account.

(H) Any paid-up annuity benefit available under a variable annuity contract shall be such that its

present value on the annuity commencement date is at least equal to the minimum nonforfeiture amount on the date. Such present value shall be computed using the mortality table, if any, and the guaranteed or assumed interest rates used in calculating the annuity payments.

(I) For variable annuity contracts which provide cash surrender benefits, the cash surrender benefit at any time prior to the annuity commencement date shall not be less than the minimum nonforfeiture amount next computed after the request for surrender is received by the company. The death benefit under such contracts shall be at least equal to the cash surrender benefit.

(J) Any variable annuity contract which does not provide cash surrender benefits or does not provide death benefits at least equal to the minimum nonforfeiture amount prior to the annuity commencement date shall include a statement in a prominent place in the contract that such benefits are not provided.

(K) Notwithstanding the requirements of this rule, a variable annuity contract may provide under the situations specified in clause (i) or clause (ii) of this subparagraph that the company, at its option, may cancel the annuity and pay the contractholder its accumulated value and by such payment be released of any further obligation under such contract:

(i) if at the time the annuity becomes payable the accumulated value is less than \$2,000, or would provide an income the initial amount of which is less than \$20 per month; or

(ii) if prior to the time the annuity becomes payable under a periodic payment variable annuity contract no considerations have been received under the contract for a period of two full years, and both

(I) the total considerations paid prior to such period, reduced to reflect any partial withdrawals from or partial surrenders of the contract, and

(II) the accumulated value, amount to less than \$2,000.

(L) For any variable annuity contract which provides, within the same contract by rider or supplemental contract provision, both annuity benefits and life insurance benefits that are in excess of the greater of cash surrender benefits or a return of the gross considerations with interest, the minimum nonforfeiture benefits shall be equal to the sum of the minimum nonforfeiture benefits for the annuity portion and the minimum nonforfeiture benefits, if any, for the life insurance portion computed as if each portion were a separate contract. Notwithstanding the provisions of subparagraph (D) of this paragraph, additional benefits payable:

(i) in the event of total and permanent disability,

(ii) as reversionary annuity or deferred reversionary annuity benefits, or

(iii) as other policy benefits additional to life insurance, endowment, and annuity benefits, and considerations for all such additional benefits, that may be required by this rule, the inclusion of such additional benefits shall be disregarded in ascertaining the minimum nonforfeiture amounts, paid-up annuity, cash surrender, and death benefits shall not be required in any paid-up benefits, unless such additional benefits separately would

require minimum nonforfeiture amounts, paid-up annuity, cash surrender, and death benefits.

(4) Applications. The application for a variable annuity policy shall contain:

(A) a prominent statement that the benefits may increase or decrease in accordance with the experience of a separate account, and

(B) the portion of the premium allocable on the date of issue to any fixed dollar benefits and the portion allocable on the date of issue to the variable benefits.

.006. Qualifications of Agents to Sell Variable Annuities.

(a) Qualifications to sell variable annuities.

(1) No person shall sell or offer for sale within this state a variable annuity policy or do or perform any act or thing in the sale, negotiation, making, or consummating of any variable annuity policy other than for himself, unless such person shall have a valid and current certificate from the State Board of Insurance authorizing such person to act within this state as a variable annuity agent.

(2) Any examination administered by the commissioner for the purpose of determining the eligibility of any person for licensing as a variable annuity agent shall, after the effective date of this regulation, include such questions concerning the history, purpose, regulation, and sale of variable annuities as the commissioner deems appropriate.

(b) Reports of disciplinary actions. Any person qualified in this state under this rule to sell or offer to sell variable annuities shall immediately report to the commissioner:

(1) any suspension or revocation of his or her agent's license in any other state or territory of the United States;

(2) the imposition of any disciplinary sanction, including suspension or expulsion from membership, suspension, or revocation of or denial of registration, imposed upon him or her by any national securities exchange or national securities association, or any federal, state, or territorial agency with jurisdiction over securities or variable annuities;

(3) any judgment or injunction entered against him or her on the basis of conduct deemed to have involved fraud, deceit, misrepresentation, or violation of any insurance or securities law or regulation.

(c) Refusal to qualify agent to sell variable annuities, and suspension, revocation, or nonrenewal of qualifications. The commissioner may reject any application or suspend or revoke or refuse to renew any agent's qualification under this rule to sell or offer to sell variable insurance upon any ground that would bar such applicant or such agent from being licensed to sell other life insurance contracts in this state. The rules governing any proceeding relating to the suspension or revocation of an agent's license shall also govern any proceeding for suspension or revocation of an agent's qualification to sell or offer to sell variable annuities.

.007. Separability. If any provision of these rules or the application thereof to any person or circumstance is for any reason held to be invalid, the remainder of these

rules and the application of such provision to other persons or circumstances shall not be affected thereby.

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 July 13, 1984.

TRD-847422 James W. Norman
Chief Clerk
State Board of Insurance

Earliest possible date of adoption:
August 20, 1984

For further information, please call (512) 475-2950.

to the board's authority to repeal any rule it has previously adopted.

.001. Fireworks.

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 July 13, 1984.

TRD-847397 James W. Norman
Chief Clerk
State Board of Insurance

Earliest possible date of adoption:
August 20, 1984

For further information, please call (512) 475-2950.

Rating and Policy Forms Duty of Fire Marshal

059.05.43.001

(Editor's note: The text of the following rule proposed for repeal will not be published. The rule may be examined in the offices of the State Board of Insurance, 1110 San Jacinto Street, Austin, or in the Texas Register office, Room 503E, Sam Houston Building, 201 East 14th Street, Austin.)

The State Board of Insurance proposes the repeal of Rule 059.05.43.001, which adopts by reference certain rules pertaining to the storage and sales of fireworks. This rule is being replaced by Rules 059.41.92.501-.506, which set out substantively the same rules in regular *Texas Register* format. There will be no change in board practices or requirements resulting from the simultaneous repeal of Rule 059.05.43.001 and its replacement with Rules 059.41.92.501-.506.

Ernest A. Emerson, state fire marshal, has determined that for the first five-year period the repeal will be in effect there will be no fiscal implications for state or local government or small businesses as a result of the repeal.

Mr. Emerson also has determined that for each year of the first five years the repeal as proposed is in effect the public benefit anticipated as a result of the repeal is the elimination of an adoption by reference to allow the adoption of rules relating to the storage and sale of fireworks in regular rule form. There is no anticipated economic cost to individuals as a result of the repeal.

Comments on the proposal may be submitted to Louis V. di Donato, General Counsel, State Fire Marshal's Office, State Board of Insurance, 1110 San Jacinto Street, Austin, Texas 78786.

The repeal is proposed under the Insurance Code, Article 1.04, and Texas Civil Statutes, Article 9205, which provide the State Board of Insurance with the authority to adopt rules necessary and appropriate to fulfill its duties in licensing and regulating the possession, use, and sale of fireworks in Texas, and pursuant

059.05.43.002

(Editor's note: The text of the following rule proposed for repeal will not be published. The rule may be examined in the offices of the State Board of Insurance, 1100 San Jacinto Street, Austin, or in the Texas Register office, Room 503E, Sam Houston Building, 201 East 14th Street, Austin.)

The State Board of Insurance proposes the repeal of Rule 059.05.43.002, which adopts by reference certain rules pertaining to the safe storage, handling, and use of flammable liquids at retail service stations. This rule is being replaced by Rules 059.41.92.601-.619, which set out substantively the same rules in regular *Texas Register* format. There will be no change in board practices or requirements resulting from the simultaneous repeal of Rule 059.05.43.002 and its replacement with Rules 059.41.92.601-.619.

Ernest A. Emerson, state fire marshal, has determined that for the first five-year period the repeal will be in effect there will be no fiscal implications for state or local government or small businesses as a result of the repeal.

Mr. Emerson also has determined that for each year of the first five years the repeal as proposed is in effect the public benefit anticipated as a result of the repeal is the elimination of an adoption by reference to allow the adoption of rules relating to the safe storage, handling, and use of flammable liquids at retail service stations in regular rule form. There is no anticipated economic cost to individuals as a result of the repeal.

Comments on the proposal may be submitted to Louis V. di Donato, General Counsel, State Fire Marshal's Office, State Board of Insurance, 1110 San Jacinto Street, Austin, Texas 78786.

The repeal is proposed under the Insurance Code, Article 1.04, and Texas Civil Statutes, Article 9201, which provide the State Board of Insurance with the authority to formulate, adopt, and promulgate rules necessary and appropriate to fulfill its duties in licensing and regulating the safe storage, handling, and use of flammable liquids at retail service stations in

Texas, and pursuant to the board's authority to repeal any rule it has previously adopted.

.002. Flammable Liquids.

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 July 13, 1984.

TRD-847396 James W. Norman
Chief Clerk
State Board of Insurance

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For further information, please call (512) 475-2950.

mobile service units in Texas, and pursuant to the board's authority to repeal any rule it has previously adopted.

.003. Mobile Service Units.

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 July 13, 1984.

TRD-847395 James W. Norman
Chief Clerk
State Board of Insurance

Earliest possible date of adoption:
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For further information, please call (512) 475-2950.

059.05.43.003

(Editor's note: The text of the following rule proposed for repeal will not be published. The rule may be examined in the offices of the State Board of Insurance, 1110 San Jacinto Street, Austin, or in the Texas Register office, Room 503E, Sam Houston Building, 201 East 14th Street, Austin.)

The State Board of Insurance proposes the repeal of Rule 059.05.43.003, which adopts by reference certain rules pertaining to the safe movement and operation of mobile service units. This rule is being replaced by Rules 059.41.92.701-.711, which set out substantively the same rules in regular *Texas Register* format. There will be no change in board practices or requirements resulting from the simultaneous repeal of Rule 059.05.43.003 and its replacement with Rules 059.41.92.701-.711.

Ernest A. Emerson, state fire marshal, has determined that for the first five-year period the repeal will be in effect there will be no fiscal implications for state or local government or small businesses as a result of the repeal.

Mr. Emerson also has determined that for each year of the first five years the repeal as proposed is in effect the public benefit anticipated as a result of the repeal is the elimination of an adoption by reference to allow the adoption of rules relating to the safe movement and operation of mobile service units in regular rule form. There is no anticipated economic cost to individuals as a result of the repeal.

Comments on the proposal may be submitted to Louis V. di Donato, General Counsel, State Fire Marshal's Office, State Board of Insurance, 1110 San Jacinto Street, Austin, Texas 78786.

The repeal is proposed under authority of the Insurance Code, Article 1.04, and Texas Civil Statutes, Article 9201, which provide the State Board of Insurance with the authority to formulate, adopt, and promulgate rules necessary and appropriate to fulfill its duties in regulating the safe movement and operation of mo-

059.05.43.005

(Editor's note: The text of the following rule proposed for repeal will not be published. The rule may be examined in the offices of the State Board of Insurance, 1110 San Jacinto Street, Austin, or in the Texas Register office, Room 503E, Sam Houston Building, 201 East 14th Street, Austin.)

The State Board of Insurance proposes the repeal of Rule 059.05.43.005, which adopts by reference certain rules pertaining to the licensing and servicing of portable and fixed fire extinguisher systems. This rule is being replaced by Rules 059.41.92.100-.107, .109-.113, .115, .116, .118-.122, and .124-.127, which reflect complete reorganization and editorial change. The board is of the opinion that current Rule 059.05.43.005 lacks necessary flexibility, clarity, and definition for the proper administration and exercise of its functions, powers, and duties set forth in the Insurance Code, Article 5.43-1. There will be no substantial change in board practices or requirements resulting from the simultaneous repeal of Rule 059.05.43.005 and its replacement with Rules 059.41.92.100-.107, .109-.113, .115, .116, .118-.122, and .124-.127.

Ernest A. Emerson, state fire marshal, has determined that for the first five-year period the repeal will be in effect there will be no fiscal implications for state or local government or small businesses as a result of the repeal.

Mr. Emerson also has determined that for each year of the first five years the repeal as proposed is in effect the public benefit anticipated as a result of the repeal is the elimination of an adoption by reference to allow the adoption of more clear and definitive rules relating to the licensing and servicing of the portable and fixed fire extinguisher system industry in regular rule form. There is no anticipated economic cost to individuals as a result of the repeal.

Comments on the proposal may be submitted to Louis V. di Donato, General Counsel, State Fire Marshal's Office, State Board of Insurance, 1110 San Jacinto Street, Austin, Texas 78786.

The repeal is proposed under the Insurance Code, Article 1.04 and Article 5.43-1, which provides the State Board of Insurance with the authority to formulate, adopt, and promulgate rules necessary and appropriate to fulfill its duties in regulating and licensing the portable and fixed fire extinguisher system industry in Texas, and pursuant to the board's authority to repeal any rule it has previously adopted.

.005. Fire Extinguisher 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 July 13, 1984.

TRD-847394 James W. Norman
 Chief Clerk
 State Board of Insurance

Earliest possible date of adoption.

August 20, 1984

For further information, please call (512) 475-2950.

The repeal is proposed under authority of the Insurance Code, Article 21.39-13, pursuant to which the State Board of Insurance may promulgate such reasonable rules as are necessary to carry out the provisions of that article; and pursuant to the board's authority to repeal any rule it has previously adopted.

.201. Securities Held Under a Custodial Agreement in the Name of Nominee in Accordance with Article 21.39-B of the Texas Insurance Code, 1951, as Amended.

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 July 13, 1984.

TRD-847421 James W. Norman
 Chief Clerk
 State Board of Insurance

Earliest possible date of adoption:

August 20, 1984

For further information, please call (512) 475-2950.

General Provisions Examination Division

059.21.39.201

(Editor's note: The text of the following rule proposed for repeal will not be published. The rule may be examined in the offices of the State Board of Insurance, 1110 San Jacinto Street, Austin, or in the Texas Register office, Room 503E, Sam Houston Building, 201 East 14th Street, Austin.)

The State Board of Insurance proposes the repeal of Rule 059.21.39.201, concerning securities belonging to an insurance company and held under a custodial agreement, a trust agreement, and securities and funds held under custodial or trust agreements held in the name of nominee by a bank or trust company to carry out the provisions of the Insurance Code, Article 21.39-B. Changes in Article 21.39-B render the rule obsolete. No present board practice or requirement is expected to change as a result of this repeal.

R. B. Ashworth, deputy insurance commissioner, Corporate and Financial Affairs Group, has determined that for the first five-year period the repeal will be in effect there will be no fiscal implications for state or local government or small businesses as a result of this repeal.

Mr. Ashworth also has determined that for each year of the first five years the repeal is in effect the public benefit anticipated as a result of the repeal is the removal of a rule which is no longer consonant with statutory law. There is no anticipated economic cost to individuals as a result of the repeal.

Comments on the proposal may be submitted to R. B. Ashworth, Deputy Insurance Commissioner, Corporate and Financial Affairs Group, State Board of Insurance, 1110 San Jacinto Street, Austin, Texas 78786.

State Fire Marshal

The following proposals submitted by the State Board of Insurance will be serialized beginning in the July 24, 1984, issue of the *Texas Register*. Earliest possible date of adoption for the documents is August 20, 1984.

Fire Extinguisher Rules
059.41.43.100-107, .109-.113, .115, .116,
.118-122, .124-127
(new)

Fireworks Rules
059.41.92.501-507
(new)

Flammable Liquids
059.41.92.601-620
(new)

Health Maintenance Organizations Name Reservation Procedures

059.51.02.002

The State Board of Insurance proposes amendments to Rule 059.51.02.002, concerning name reservation procedures for health maintenance organizations. A reference to a fee for a name reservation is deleted because no fee is prescribed by statutory law; the rule is otherwise clarified. No present board practice or requirement is changed as a result of this amendment.

Joan Kennedy, insurance technician VI, has determined that for the first five-year period the rule 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 rule.

Ms. Kennedy also has determined that for each year of the first five years the rule as proposed is in effect

the public benefit anticipated as a result of enforcing the rule as proposed is a clearer rule which is conformed to relevant statutory law. There is no anticipated economic cost to individuals who are required to comply with the rule as proposed.

Comments on the proposal may be submitted to Joan Kennedy, Insurance Technician VI, State Board of Insurance, 1110 San Jacinto Street, Austin, Texas 78786.

The amendments are proposed under the Texas Health Maintenance Organization Act, §23, pursuant to which the State Board of Insurance may promulgate reasonable rules as are necessary and proper to carry out the purposes of that Act.

.002. *[Fee and] Information Required.* The reservation of name form (HMO Form 1) must be submitted and **accepted** [approved] prior to submission of the application for a certificate of authority.

(1) (No change.)

(2) An organization's name reservation must be **accepted** [approved] by the State Board of Insurance before the basic organizational document is filed with the Office of the Secretary of State. The same exact name must be used with both state agencies.

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 July 13, 1984.

TRD-847398 James W. Norman
 Chief Clerk
 State Board of Insurance

Earliest possible date of adoption:
August 20, 1984

For further information, please call (512) 475-2950.

Licensing and Regulation of Agents

059.51.05.006

The State Board of Insurance proposes an amendment to Rule 059.51.05.006, concerning written examinations for the licensing and regulation of health maintenance organization agents. Paragraph (1) of the rule is amended to provide that questions for the examination will also be taken from rules adopted by the Texas Department of Health and from certain additional board rules, such as advertising, which are also applicable to entities other than health maintenance organization agents. These changes reflect actual board practices. No present board practice or requirement is changed as a result of this amendment.

Joan Kennedy, insurance technician VI, has determined that for the first five-year period the rule 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 rule.

Ms. Kennedy also has determined that for each year of the first five years the rule as proposed is in effect

the public benefit anticipated as a result of enforcing the rule as proposed is rules which require an examination for licensure covering all relevant law. There is no anticipated economic cost to individuals who are required to comply with the rule as proposed.

Comments on the proposal may be submitted to Joan Kennedy, Insurance Technician VI, State Board of Insurance, 1110 San Jacinto Street, Austin, Texas 78786.

The amendment is proposed under the Texas Health Maintenance Organization Act, §15(g), pursuant to which the State Board of Insurance may, after notice and hearing, promulgate such reasonable rules as are necessary to provide for the licensing of health maintenance organization agents.

.006. *Written Examination.* The commissioner is authorized to issue the applicant a license after the applicant has passed a written examination approved by the commissioner, unless the applicant is exempt from examination requirements as provided in Rule 059.51.05.003.

(1) The examination shall cover the Texas Health Maintenance Organization (HMO) Act, rules and regulations for health maintenance organizations issued by the State Board of Insurance and by the Texas Department of Health, pertinent sections of the Texas Insurance Code and the rules adopted thereunder, and general history and information about HMOs.

(2)-(6) (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 July 13, 1984.

TRD-847401 James W. Norman
 Chief Clerk
 State Board of Insurance

Earliest possible date of adoption:
August 20, 1984

For further information, please call (512) 475-2950.

Advertising and Sales Material

059.51.07.002

The State Board of Insurance proposes an amendment to Rule 059.51.07.002, concerning advertising and sales material for health maintenance organizations. The change states that health maintenance organizations are subject to the Insurance Code, Article 21.21-2. This simply tracks the provisions of the Texas Health Maintenance Organization Act, §14. This amendment causes no change in board procedures or requirements.

Joan Kennedy, insurance technician VI, has determined that for the first five-year period the rule 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 rule.

Ms. Kennedy also has determined that for each year of the first five years the rule as proposed is in effect the public benefit anticipated as a result of enforcing the rule as proposed is a rule which is conformed to relevant statutory provisions. There is no anticipated economic cost to individuals who are required to comply with the rule as proposed.

Comments on the proposal may be submitted to Joan Kennedy, Insurance Technician VI, State Board of Insurance, 1110 San Jacinto Street, Austin, Texas 78786.

The amendment is proposed under the Texas Health Maintenance Organization Act, §22, pursuant to which the State Board of Insurance may, after notice and hearing, promulgate such reasonable rules and regulations as are necessary and proper to carry out the purposes of that Act.

.002. Health Maintenance Organizations Are Subject to [Texas] the Insurance Code, Articles [Article] 21.21 and 21.21-2, and Related Rules. Health maintenance organizations must comply with all advertising guidelines and rules promulgated pursuant to the Texas Insurance Code, Article 21.21, by the State Board of Insurance in the same manner as for insurance 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 July 13, 1984.

TRD-847399 James W. Norman
Chief Clerk
State Board of Insurance

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TITLE 34. PUBLIC FINANCE

Part I. Comptroller of Public Accounts

Chapter 3. Tax Administration

Subchapter L. Fuels Tax Division

34 TAC §3.180

(Editor's note: The text of the following rule proposed for repeal will not be published. The rule may be examined in the offices of the Comptroller of Public Accounts, Room 806, 111 East 17th Street, Austin, or in the Texas Register office, Room 503E, Sam Houston Building, 201 East 14th Street, Austin.)

The Comptroller of Public Accounts proposes the repeal of §3.180, concerning signed statement sales, so that a revised section may be adopted simultaneously. This is a nonsubstantive revision of this section.

Billy Hamilton, revenue estimating director, has determined that for the first five-year period the repeal

will be in effect there will be no fiscal implications for state or local government as a result of the repeal. This section is promulgated under the authority of the Tax Code, Title 2; therefore, no analysis of the effect on small businesses is required.

Mr. Hamilton also has determined that for each year of the first five years the repeal as proposed is in effect the public benefit anticipated as a result of the repeal is clarification, shortening, and simplification of the rule, making it more understandable and thereby promoting compliance. There is no anticipated economic cost to individuals as a result of the repeal.

Comments on the proposal may be submitted to Carolyn Busch, P.O. Box 13528, Austin, Texas 78711.

This repeal is proposed under the Tax Code, §111.002, which provides that the comptroller may prescribe, adopt, and enforce rules relating to the enforcement and administration of the Code.

§3.180. Signed Statement Sales.

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 July 16, 1984.

TRD-847425 Bob Bullock
Comptroller of Public Accounts

Earliest possible date of adoption:
August 20, 1984

For further information, please call (512) 475-1931.

The Comptroller of Public Accounts proposes new §3.180, concerning a signed statement for purchasing diesel fuel tax-free, to replace the current section, which is being repealed simultaneously. This is a nonsubstantive revision of this section. It has been rewritten for clarity, brevity, and simplicity as part of a continuing effort to increase compliance with the tax laws by making those laws accessible to and understandable by the public.

Billy Hamilton, revenue estimating director, has determined that for the first five-year period the rule will be in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the rule. This section is promulgated under the authority of the Tax Code, Title 2; therefore, no analysis of the effect on small businesses is required.

Mr. Hamilton also has determined that for each year of the first five years the rule as proposed is in effect the public benefit anticipated as a result of enforcing the rule as proposed is clarification, shortening, and simplification of the section, making it more understandable and thereby promoting compliance. There is no anticipated economic cost to individuals who are required to comply with the rule as proposed.

Comments on the proposal may be submitted to Carolyn Busch, P.O. Box 13528, Austin, Texas 78711.

Withdrawn Rules

An agency may withdraw proposed action or the remaining effectiveness of emergency action on a rule by filing a notice of withdrawal with the *Texas Register*. The notice is generally effective immediately upon filing.

If a proposal is not adopted or withdrawn within six months after the date of publication in the *Register*, it will automatically be withdrawn by the *Texas Register* office. Notice of the withdrawal will appear in the next regularly scheduled issue of the *Register*. The effective date of the automatic withdrawal will appear immediately following the published notice.

No further action may be taken on a proposal which has been automatically withdrawn. However, this does not preclude a new proposal of an identical or similar rule following normal rulemaking procedures.

TITLE 34. PUBLIC FINANCE Part I. Comptroller of Public Accounts

Chapter 3. Tax Administration Subchapter L. Fuels Tax Division:

34 TAC §3.185

Pursuant to Texas Civil Statutes, Article 6252-13a, §5(b), and 1 TAC §91.24(b), the proposed amendments to §3.185 submitted by the Comptroller of Public Accounts has been automatically withdrawn, effective July 16, 1984. The proposed amendments appeared in the January 13, 1984, issue of the *Texas Register* (9 TexReg 326).

TRD-847423

Filed: July 16, 1984



An agency may take final action on a rule 30 days after a proposal has been published in the *Register*. The rule 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.

The document, as published in the *Register*, must indicate whether the rule is adopted with or without changes to the proposal. The notice must also include paragraphs which: explain the legal justification for the rule; how the rule will function; contain comments received on the proposal; list parties submitting comments for and against the rule; explain why the agency disagreed with suggested changes; and contain the agency's interpretation of the statute under which the rule was adopted.

If an agency adopts the rule without any changes to the proposed text, only the preamble of the notice and statement of legal authority will be published. The text of the rule, as appropriate, will be published only if final action is taken with alterations to the proposal. The certification information, following the submission, contains the effective date of the final action, the proposal's publication date, and a telephone number to call for further information.

Adopted Rules

TITLE 1. ADMINISTRATION Part IV. Office of the Secretary of State

Chapter 81. Elections Conducting Elections

1 TAC §81.112, §81.113

The Office of the Secretary of State adopts new §81.112 and §81.113, without changes to the proposed text published in the February 28, 1984, issue of the *Texas Register* (9 TexReg 1187).

These new sections bring state law into compliance with recent enactments of the federal government. Section 81.112 provides that if a voter's qualifications to vote are challenged, the voter must be permitted to vote if he establishes by oath and affidavit that he is a qualified voter. Section 81.113 permits a voter entitled to assistance in voting to receive assistance from any person except the voter's employer, an agent of his employer, or an officer or agent of the voter's union.

No comments were received regarding adoption of the new sections.

The new sections are adopted under the Texas Election Code, Article 1.03, which requires the Office of the Secretary of State to maintain uniformity in the application, operation, and interpretation of the elec-

tion laws. (Texas Election Code Annotated, Article 1.03 (Vernon Supp. 1984)).

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 July 6, 1984.

TRD-847412 John W. Fainter, Jr.
Secretary of State

Effective date. August 3, 1984
Proposal publication date. February 28, 1984
For further information, please call (512) 475-2015.

TITLE 16. ECONOMIC REGULATION Part II. Public Utility Commission of Texas Chapter 21. Rules of Practice and Procedure Docketing and Notice

16 TAC §21.22

The Public Utility Commission of Texas adopts an amendment to §21.22, without changes to the proposed text published in the May 25, 1984, issue of the *Texas Register* (9 TexReg 2849).

The amendment saves consumers approximately \$1 million in mailing costs that would otherwise be incurred in providing notice of rate setting proceedings. This exemption is reasonable since other adequate methods of notice are required and because it will avoid confusion to consumers that might be caused by receiving notice of an AT&T rate setting proceeding in a Bell Telephone mailing.

The amendment exempts local exchange telephone carriers from subsection (b)(2) when applications for changes in interexchange telephone service rates are filed.

United States Telephone stated that this is the first step in the deregulation of AT&T in Texas, and that if the Public Utility Commission of Texas has not decided its policy on this as yet, it should delete this proposal. AT&T supports the interexchange carrier exemption in subsection (b)(2).

AT&T commented in favor of the amendment. U.S. Telephone commented against the amendment.

The agency had no comment on the opinions expressed regarding adoption of the amendments.

The amendments are adopted under Texas Civil Statutes, Article 1446c, §16, which provide the Public Utility Commission of Texas with the authority to make and enforce rules reasonably required in the exercise of its powers and jurisdiction, and to make decisions with respect to administering the provisions of this Act.

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

Issued in Austin, Texas, on July 12, 1984

TRD-847344 Rhonda Colbert Ryan
Secretary of the Commission
Public Utility Commission of
Texas

Effective date: August 2, 1984
Proposal publication date: May 25, 1984
For further information, please call (512) 458-0100.

Chapter 23. Substantive Rules General Rules

16 TAC §23.3

The Public Utility Commission of Texas adopts an amendment to §23.3, with changes to the proposed text published in the May 15, 1984, issue of the *Texas Register* (9 TexReg 2668).

The section assures that electric utilities are utilizing, developing, and implementing viable energy efficiency programs that encourage efficient use of nonrenewable energy supplies and the further development of renewable energy resources. The commission used the word "optimum" in place of "maximum" to describe more accurately efficient conversion of renewable resources to electrical energy.

The section, as adopted, defines the term "energy efficiency" and helps promote the efficient allocation and use of existing and planned generation facilities and nonrenewable energy resources, while encouraging the development of alternative renewable energy resources.

It was pointed out by several utilities that a savings in KWH or KW as measured at the customer's meter might be misleading, since conversion from gas to more efficient electric appliances might actually increase KWH consumption for the end-user but still be more economically feasible and efficient overall. Central Power and Light pointed out that the word "maximum" in relation to conversion of renewable resources to electrical energy implies that cost is no object. The commission agreed and modified the language, changing the word "maximum" to "optimum."

No comments favoring the amendments were received. El Paso Electric, Gulf States Utilities, and Houston Lighting and Power commented against the amendments.

The agency had no comment on the opinions expressed regarding adoption of the amendments.

The amendments are adopted under Texas Civil Statutes, Article 1446c, §16, which provide the Public Utility Commission of Texas with the authority to make and enforce rules reasonably required in the exercise of its powers and jurisdiction, and to make decisions with respect to administering the provisions of this Act.

§23.3. Definitions.

Energy efficiency—Management of energy resources through efficacy in the utilization of electrical energy through: end-user conservation (a single device, measure, or practice, or a grouping thereof, to save kwh or kw and that can be measured at the customer meter); utility-controlled options such as optimization of existing and planned generation, transmission, and distribution facilities through direct load management (reduction in peak demand on an electric utility system by direct control of electric devices), cogeneration (reduction in additions to electric utility planned generation expansion as a result of using firm and reliable capacity from an industrial company), peak shaving (reduction in peak demand on an electric utility system by the storage of energy produced during an off-peak period and then utilizing it to serve loads during the peak period), small power production (reduction in additions to electric utility planned generation additions by the installation of dependable, long-life generating plants utilizing direct conversion of renewable resources of electric energy), power plant productivity improvement (reduction in additions to electric utility planned generation expansion as a result of improvements in the productivity of existing or new generating units), and power plant efficiency improvement (reduction in the utilization of natural resources in their conversion to electrical energy as a result of improvements in the efficiency

of existing and new generating units); and optimum conversion of renewable resources to electrical energy.

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 July 12, 1984

TRD-847345 Rhonda Colbert Ryan
Secretary of the Commission
Public Utility Commission of
Texas

Effective date: August 2, 1984

Proposal publication date: May 15, 1984

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

16 TAC §23.4

The Public Utility Commission of Texas adopts new §23.4, without changes to the proposed text published in the May 15, 1984, issue of the *Texas Register* (9 TexReg 2669).

The section increases consumers' awareness of their right to fair and impartial treatment in obtaining utility service. As adopted, this section states that no utility may discriminate against a consumer because of race, nationality, color, religion, sex, or marital status.

No comments were received regarding adoption of the new section.

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

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

Issued in Austin, Texas, on July 12, 1984

TRD-847346 Rhonda Colbert Ryan
Secretary of the Commission
Public Utility Commission of
Texas

Effective date: August 2, 1984

Proposal publication date: May 15, 1984

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

Rates

16 TAC §23.22

The Public Utility Commission of Texas adopts new §23.22, with changes to the proposed text published in the May 15, 1984, issue of the *Texas Register* (9 TexReg 2669).

As adopted, the new section helps assure that electric utilities are utilizing, developing, and implementing

viable energy efficiency programs that are cost effective, thereby encouraging efficient use of nonrenewable energy supplies and the further development of renewable energy resources. Subsection (b)(1), which required the filing of a work plan within 90 days of adoption, was deleted, paragraphs (2)-(6) were renumbered accordingly, and a new paragraph (6) was added which gives utilities the option of filing a detailed work plan in advance of its energy efficiency plan. Other minor wording changes were made for greater clarity.

Utilities will be required to develop quantified energy efficiency goals and more closely monitor the cost benefit of energy efficiency programs and activities for use in justification of major rate changes and/or certificates of convenience and necessity for generation facilities.

Houston Lighting & Power asked for a clearer definition of "detailed work plan." It wanted to know whether it was the same as the energy efficiency plan referred to in subsection (b)(2). Several utilities asked why the work plan would be filed 90 days after the new section is finalized since the plan is not due until December, and asked for an extension in filing time of 30 days. Concerning subsection (b)(2), the Office of the Public Utility Counsel suggested the addition of the requirement that utilities describe programs considered but not selected and the rationale for these decisions. Concerning subsection (b)(3), Gulf States Utilities suggested that the filing date be changed from every two years to every three years, since utilities must update the plans during major rate and certification proceedings anyway. Central Power & Light suggested that only major energy efficiency programs over \$100,000 be approved in the initial plan. The Office of Public Utility Counsel suggested that cost benefit analysis should be broken down to program participants, nonparticipants, and all ratepayers. This suggestion was made since some programs help individuals but not ratepayers as a whole, and the Public Utility Commission of Texas should have this information before making a decision.

Concerning subsection (b)(5), several utilities indicated that the cost benefit analysis information would be extremely burdensome for small utilities and that either the 20,000 mark should be raised or a different plan instituted for small utilities. The Office of the Public Utility Counsel supported the cost benefit analysis and did not accept the assertion that it was impossible or excessively expensive to conduct such cost benefit analysis. Concerning subsection (b)(6)(B), the Office of the Public Utility Counsel suggested the addition of the word "projected" at the beginning of the sentence, since savings are not known. Several utilities indicated difficulty with subsection (c), stating that it was not fair for them to have to implement a program and then have to wait until a rate or certification proceeding before being told that their costs can be recovered. There was also some concern that it was, perhaps, not proper to consider the energy efficiency plan in certification proceedings, since the energy efficiency plan is about previously achieved

goals and certification is a projection of future increased usage.

The Office of the Public Utility Counsel suggested an addition to subsection (c)(3). The new language would require utilities to indicate to what degree they were able to reduce reliance on less efficient generation facilities, as well as their ability to offset the need for new generating facilities as required by the Public Utility Regulatory Act, §54(d)(1) and §54(e)(2).

The Office of the Public Utility Counsel commented in favor of the new section. Central Power & Light, the South Plains Electric Cooperative, Gulf States Utilities, Houston Lighting & Power, the Brazos Electric Power Cooperative, TexLa, the Southwestern Electric Power Company, and the Association of Texas Electric Cooperatives commented against the new section.

The Public Utility Commission of Texas did not rebut all of the many comments received; however, it did adopt some of the suggestions. The revisions caused by these suggestions are indicated in the justification for the new section.

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

§23.22. Energy Efficiency Plan.

(a) All electric utilities serving more than 20,000 customers shall file energy efficiency plans consistent with the provisions of this section and the definition of energy efficiency. Those who provide wholesale service must comply with all sections of this rule except subsection (b)(5)-(7) of this section.

(b) Each utility shall file with the commission filing clerk three copies of the following:

(1) an initial one-year energy efficiency plan for calendar year 1985, due December 31, 1984. Subsequent energy efficiency plans will be due on odd-numbered years, starting December 31, 1985. A utility may amend or modify its energy efficiency plan as needed. For each program and activity utility-controlled option and end-user conservation program (not including information and demonstration programs), a quantified and verifiable energy efficiency goal for each of the succeeding two years (except in the initial one-year plan), with an indication of the objectives and expected contribution of each program and option, detailed documentation of all assumptions and criteria employed in the selection, evaluation, and prioritization of the complete set of programs, including the rationale for selecting the chosen set; and, except in the initial plan, an analysis of the extent to which previous goals have been achieved in toto and the relative contribution of each program and option;

(2) a cost-benefit analysis for each existing utility-controlled option, due by December 31, 1984, and on December 31 in odd-numbered years thereafter, and containing:

(A) a description of the option, including the rationale for the program, identification of the target au-

dience, if any, and estimated customer penetration rate, if applicable;

(B) any cost-benefit analysis performed prior to implementation;

(C) a description of expenditures to date; and

(D) a current cost-benefit analysis;

(3) for each proposed utility-controlled option, a cost-benefit analysis, due by December 31, 1984, and on December 31 in odd-numbered years thereafter, and containing:

(A) a description of the plan;

(B) a projected cost-benefit analysis for participants, nonparticipants, and residents as a whole; and

(C) an implementation schedule;

(4) for each existing end-user conservation program (including audit programs, but not including information and demonstration programs, such as energy hotlines, weatherization clinics, energy efficient demonstration houses, etc.), the following information, due by December 31, 1984, and on December 31 in odd-numbered years thereafter:

(A) description of the program;

(B) kw peak demand reduction and kwh savings per participating customer (specify peak periods assumed) on forms provided by the commission;

(C) total participating customers per year and cumulative for subsequent 10 years;

(D) program nonrecurring costs (e.g., customer rebates) per customer and assumed escalation rates;

(E) program recurring costs per customer per year and assumed escalation rates;

(F) detailed documentation of all assumptions employed in the calculations in this paragraph; and

(G) other data as requested by commission staff on forms provided by the commission;

(5) for each proposed end-user conservation program (including audit programs, but not including information and demonstration programs, such as energy hotlines, weatherization clinics, energy efficient demonstration houses, etc.), the following information, due by December 31, 1984, and on December 31 in odd-numbered years thereafter:

(A) description of the program;

(B) projected kw peak demand reduction and kwh savings per participating customer (specify peak periods assumed);

(C) projected total participating customers per year and cumulative for subsequent 10 years;

(D) projected program nonrecurring costs (e.g., customer rebates) per customer and assumed escalation rates;

(E) projected program recurring costs per customer per year and assumed escalation rates;

(F) detailed documentation of all assumptions employed in the calculation of information required by this paragraph; and

(G) other data as requested by commission staff on forms provided by the commission;

(6) at its option, each utility may submit a detailed work plan, describing the planning process to be followed in developing its energy efficiency plan, including the schedule for the implementation of its plan. This

work plan would be submitted in advance of the energy efficiency plan, for review by commission staff;

(7) full descriptions of any information/demonstration programs, including rationale, target audience, qualitative assessments of success to date, and program improvement plans, if any, due by December 31, 1984, and on December 31 in odd-numbered years thereafter;

(8) each plan shall also contain a detailed description of the specific accounts to be used and the cost-accounting system to be employed in order to ensure that all costs associated with any individual program or option described are accurately and separately identified.

(c) In the filing of an application for a major rate change or certificate of public convenience and necessity for generation facilities, a utility shall include the following:

(1) the most recent energy efficiency plan;

(2) testimony which shall specifically indicate the extent to which the goals of the utility's energy efficiency plan have been reached as of the date of filing. This testimony shall indicate the status of all programs and studies which are being undertaken pursuant to the energy efficiency goals laid out in subsection (b)(2) of this section and all costs expended and benefits achieved to date; and

(3) testimony which shall indicate to what extent the utility's achievements through its energy efficiency plan have offset the need for new generating facilities, or permitted the utility to reduce reliance on less efficient generation facilities, as required by the Public Utility Regulatory Act, §54(d)(1) and §54(e)(2).

(d) The following treatment may be applied to appropriate utility-controlled options or conservation programs:

(1) recovery of part of the expenses as part of cost of service;

(2) recovery of all of the expenses as part of cost of service;

(3) adjustment in the rate of return or return on equity; or

(4) capitalization or other treatment allowing a return on conservation expenditures.

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 July 12, 1984

TRD-847347 Rhonda Colbert Ryan
Secretary of the Commission
Public Utility Commission of
Texas

Effective date: August 2, 1984

Proposal publication date: May 15, 1984

For further information, please call (512) 485-0100.

Customer Service and Protection

16 TAC §23.41

The Public Utility Commission of Texas adopts amendments to §23.41, with changes to the proposed text published in the May 15, 1984, issue of the *Texas Register* (9 TexReg 2671).

The section as adopted increases consumers' awareness of their rights and options when dealing with utilities. The commission made clear that beginning on or before six months from the date of adoption, each utility shall mail to all existing residential telephone or electric utility customers the information packet as set forth in subsection (a)(5) of this section.

The section requires all telephone and electric utilities to provide existing residential customers, within six months from the date of adoption, with information on their rights as a customer. The section better informs customers on their right to a supervisory review, information on financial assistance, and special services such as readers or notices in braille, if available, and the telephone number of the teletypewriter for the deaf at the commission. Utilities are also encouraged to take special action, when necessary, to inform customers with physical disabilities and those who care for such customers of their rights.

A large number of consumer groups, private citizens, and interested business people indicated general support for the amendments as proposed, stating the need for rules which lessen unnecessary terminations and protect life and health. The Texas-New Mexico Power Company felt the intent of the section could be satisfied by an annual message on regular billing forms indicating that information packets are available. This is the method the Texas-New Mexico Power Company has used in the past and it feels that it has worked well at substantially reduced costs. The Southwestern Electric Service Company complained that compliance with the amendments as proposed would cost \$14,500, which would flow to rate base directly. As an alternative to mailing notices, the company suggested publishing public notice in private area newspapers advising customers that information is available at local offices and by mail. The El Paso Electric Company asked if the language in subsection (a)(5) is applicable to both residential and commercial customers or just to residential customers. It requested that the commission revise and make clear to whom this subsection applies. The Southwestern Electric Power Company had several areas of concern. It stated that since it uses postcard billing, the pamphlet would have to be mailed separately at great expense. The company also indicated that costs would be high for constant revision of information in the pamphlet, and it questioned the value and the efficiency of such a program. The Sam Houston Electric Cooperative indicated that its cost would be approximately \$25,000 per mailing of consumer rights information. It requested that such information be provided to new customers initially, followed by an annual notification of its availability. Texas Electric Cooperatives, Inc., felt the present section was adequate and that the revision was unnecessary. It also stated that it was purposeless to exempt a utility from publication of the information in Spanish while at the same time requiring that the utility have copies of the information available in Spanish in its office. Central Power & Light stated that the amendments as proposed would greatly increase its mailing costs. Its figures indicated \$100,000 per mailing. It felt this cost was un-

necessary and burdensome since the information was already available in an adequate form. The Office of the Public Utility Counsel supports the periodic mailing of customer rights pamphlets to all customers, the exemption of companies from providing the pamphlet in Spanish, and the requirement to add to the pamphlet information on financial assistance programs. The Southwestern Electric Power Company asked that the language be revised so that customers have the right to request information concerning alternative payment plans but not an automatic right to an alternative payment plan. Its feeling was that the language as proposed indicated that everyone was qualified for an alternative payment plan without restriction.

The following groups and individuals commented in favor of the amendments: Texas Impact; Texas Family Planning Association; East Texas Human Development Corporation; Austin Resource for Independent Living; Belton Crusaders; state legislator Senfronia Thompson; Project Elders, El Paso; Community Services, Inc., Corsicana; Community Action, Inc., of Hays, Caldwell, and Blanco Counties; El Paso Council on Aging; Senior Citizens of Marion County; Consumers's Union; Edna McDonald; and the Office of Public Utility Counsel.

The following groups commented against the amendments: Texas-New Mexico Power Company; Southwestern Electric Service Company; El Paso Electric Company; Southwestern Electric Power Company; Sam Houston Electric Cooperative; Texas Electric Cooperatives, Inc.; Central Power & Light; Houston Lighting & Power; TexLa; West Texas Utilities; Contel; AT&T; Southwestern Public Service Company; and Kaufman Electric.

The Public Utility Commission of Texas indicated its belief that the amendments as proposed were necessary, that the costs associated with implementing the program were reasonable, and that the benefits from implementing the section as amended would far outweigh the inconvenience to utility companies.

The amendments are adopted under Texas Civil Statutes, Article 1446c, §16, which provide the Public Utility Commission of Texas with the authority to make and enforce rules reasonably required in the exercise of its powers and jurisdiction, and to make decisions with respect to administering the provisions of this Act.

§23.41. Customer Relations.

(a) Information to customers. Each utility shall:

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

(5) Beginning on or before six months from the date of adoption of this rule, each utility shall mail to all existing residential telephone or electric utility customers, and thereafter provide to all new residential telephone or electric utility customers, at the time service is initiated, a pamphlet or information packet containing the information required by this section. The information shall additionally be mailed to all customers on at least a biennial basis at no charge to the customer. The pamph-

let or packet shall be titled *Your Rights as a Customer*. The information shall be written in plain, nontechnical language, using personal pronouns where appropriate. This information shall be provided in English and Spanish as necessary to adequately inform the customer; however, the commission may exempt the utility from the requirement that the information be provided in Spanish upon application and a showing that 10% or fewer of its customers are exclusively Spanish speaking, and that the utility will notify all customers, through a statement in both English and Spanish, in the pamphlet or packet, that the information is available in Spanish from the utility, both by mail and at the utility's offices.

(A)-(F) (No change.)

(G) information on alternative payment plans offered by the utility, including, but not limited to, deferred payment plans, level billing programs, average payment plans, as well as a statement that a customer has the right to request these alternative payment plans;

(H) (No change.)

(I) the customer's right to a supervisory review under §23.46(j) and right to file a complaint with the local municipal regulatory authority and/or the commission, as may be applicable, regarding any matter concerning the utility's service. The commission's address and telephone number shall accompany this information;

(J)-(L) (No change.)

(M) a statement that funded financial assistance may be available for persons in need of assistance with their electric utility payments, and that additional information may be obtained by contacting the local office of the utility, Texas Department of Human Resources, Texas Department of Community Affairs, or the Public Utility Commission of Texas. The central office telephone number (toll-free number, if available) and address for each state agency shall also be provided;

(N) a statement that utility services are provided without discrimination as to a customer's race, nationality, color, religion, sex, or marital status, and a summary of the company's policy regarding the provision of credit history based upon the credit history of a customer's former spouse;

(O) notice of any special services such as readers or notices in braille, if available, and the telephone number of the teletypewriter for the deaf at the commission.

(6) Telephone utilities shall either provide customers with the pamphlets or information packets as set forth in paragraph (5) of this subsection or, if the telephone utility provides the customer with the same information in the telephone directories provided each customer pursuant to §23.61(b) of this title (relating to Telephone Utilities), the utility shall provide a printed statement on the bill, or a billing insert identifying the location of the information in paragraph (5) of this subsection. The statement shall be published every six months.

(7) Where necessary, a toll-free telephone number or the equivalent (such as WATS or collect calls) will be provided for telephone or electric customers for repair service or billing inquiries.

(8) Utilities shall encourage customers with physical disabilities, and those who care for such customers, to identify themselves to the utility so that special action

can be taken to inform these persons of their rights, where necessary and appropriate to the person's circumstance.

(b) (No change.)

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

Issued in Austin, Texas, on July 12, 1984.

TRD-847348 Rhonda Colbert Ryan
Secretary of the Commission
Public Utility Commission of
Texas

Effective date: August 2, 1984
Proposal publication date: May 15, 1984
For further information, please call (512) 458-0100.

16 TAC §23.42

The Public Utility Commission of Texas adopts an amendment to §23.42, without changes to the proposed text published in the May 15, 1984, issue of the *Texas Register* (9 TexReg 2672).

The amendment provides greater flexibility for utility customers when a representative of the utility has determined that evasion of payment has occurred and refuses to provide services. The amendment states that a customer may request a supervisory review if the utility determines that evasion has occurred and refuses to provide service.

The Office of the Public Utility Counsel commented in favor of the section as amended. The agency had no comment on the opinions expressed regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 1446c, §16, which provide the Public Utility Commission of Texas with the authority to make and enforce rules reasonably required in the exercise of its powers and jurisdiction, and to make decisions with respect to administering the provisions of this Act.

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

Issued in Austin, Texas, on July 12, 1984.

TRD-847349 Rhonda Colbert Ryan
Secretary of the Commission
Public Utility Commission of
Texas

Effective date: August 2, 1984
Proposal publication date: May 15, 1984
For further information, please call (512) 458-0100.

16 TAC §23.43

The Public Utility Commission of Texas adopts new §23.43, with changes to the proposed text published in the May 15, 1984, issue of the *Texas Register* (9 TexReg 2673).

The new section gives consumers more time to pay additional deposits when required, and in some instances to avoid additional deposits by prompt payment. Language was added to subsection (a)(3)(A) encouraging utility service applicants to obtain a letter of credit history from their previous utility, and utilities are encouraged to provide such information with final bills.

The new section gives a customer the option of paying a bill in full within 10 days, rather than paying an additional deposit if actual usage is three times estimated usage (or three times the average usage of the most recent three bills) and current usage exceeds \$150 and 150% of the security held during the first 12 months of service. If a commercial customer's bill is at least twice the amount of the estimated bill, and a suspension notice has been issued within the previous 12-month period, a new deposit may be required within 15 days (rather than seven days) after issuance of written notice of termination and requested additional deposit. If a residential customer's bill is at least twice estimated billings after two billing periods and notice has been issued within the previous 12 months, a new deposit may be required within 15 days (rather than seven days) after issuance of written notice. However, in lieu of additional deposit, the customer may elect to pay the current bill by the due date of the bill, provided the customer has not exercised this option in the previous 12 months.

AT&T suggested that local exchange carriers be allowed to base deposit requirements upon a customer's total telephone bill, both local and toll. El Paso Electric indicated that in subsection (a)(4) there was a need to delete the words "initial" and "residential" to clarify the differences between this situation, and that in subsection (a)(3)(A) such deposits may be necessary from both commercial and residential customers.

Texas-New Mexico Power Company and Wise Electric Cooperative agreed that there was a consensus in the ad hoc committee that telephone and electric utilities had different problems. They felt the present rules have worked well for electric utilities. The new rule, they felt, should apply only to telephone utilities. The one-sixth average of annual usage is the major problem for the electric companies. A consumer can consume more than one-sixth of annual average usage in one month in the cooling season. Also, they had difficulty with the option of allowing the customer to pay the bill in full in lieu of additional deposit, since that would mean that the following month the utility would once again be without a deposit.

United Telephone requested that the commission retain the language currently in effect which requires the company to use estimated, not established, annual billing. The company also indicated that three billing periods is too much of a financial risk for companies to face. The company indicated that the provision to allow a customer to pay a current usage in lieu of additional deposit does not reduce future risk. United also believes five working days to pay the additional deposit is preferable to 10 days.

El Paso Electric felt subsection (b) and subsection (c) needed to be written separately for telephone and electric utilities. The Lower Colorado River Authority (LCRA) felt that by allowing a customer to pay the bill in lieu of an additional deposit, the utility would be facing the situation where they would never be able to collect an additional deposit. It is LCRA's belief that the customer should only be allowed to use the "in lieu of" provision once every 12 months. Sam Houston Electric Cooperative felt that subsection (c)(1)(A) is too complex to explain to the average applicant and that it will raise uncollectibles. It was the cooperative's suggestion that the commission keep the present language.

Gulf States commented that the final result will be that no utility will be allowed to collect additional deposits. Swisher Electric Cooperative felt that allowing a consumer 65 or older to be delinquent in subsection (c)(2) makes a second-class citizen of our older population. The cooperative further stated that age does not affect ability to pay. Houston Lighting and Power felt that allowing a customer to pay the bill in lieu of an additional deposit negates the purpose of an additional deposit.

Contel opposed the section, indicating that it would increase bad debt. The attorney general of Texas commented on subsection (c)(3)(A), indicating that the interest on customer deposits should be revised to require interest to be compounded monthly or annually using a floating interest rate based on U.S. Treasury notes. The attorney general also addressed the problem of unclaimed deposits, suggesting the commission revise the section to require that these be placed in a fund to provide for utility bill crisis intervention programs. Johnson County Electric Cooperative supported the commission's proposal that both spouses are equally responsible for credit record. WTU wanted to encourage customers moving to another service area to obtain their credit history before making application to the new utility, and suggested this language be added to subsection (a)(3)(A). The commission agreed with this comment and modified the section accordingly.

Johnson County Electric Cooperative, the Office of the Public Utility Counsel, and Consumer's Union commented in favor of the new section. TexLa, Southwestern Electric Service, West Texas Utilities, Houston Lighting and Power, Southwestern Bell, Contel, Central Power and Light, Swisher Electric Cooperative, Sam Houston Electric Cooperative, Southwestern Electric Power Company, Lower Colorado River Authority, El Paso Electric, United Telephone, Wise Electric Cooperative, Texas-New Mexico Power Company, AT&T, and the Office of the Attorney General of Texas commented against the new section.

The commission had no comments on the opinions expressed regarding adoption of the new section.

The new section is adopted under Texas Civil Statutes, Article 1446c, §16, which provide the Public Utility Commission of Texas with the authority to make and enforce rules reasonably required in the ex-

ercise of its powers and jurisdiction, and to make decisions with respect to administering the provisions of this Act.

§23.43. Applicant and Customer Deposit.

(a) Establishment of credit for permanent residential applicants.

(1) Each utility may require a residential applicant for service to satisfactorily establish credit, but such establishment of credit shall not relieve the customer from complying with rules for prompt payment of bills. Credit history shall be applied equally for a reasonable period of time to a spouse or former spouse who shared the service. Credit history maintained by one must be applied equally to the other without modification and without additional qualifications not required of the other.

(2) For purposes of this section, applicant is to be defined as a person who applied for service for the first time or reapplies at a new or existing location after discontinuance of service. Customer is defined as someone who is currently receiving service.

(3) Subject to these rules, a residential applicant shall not be required to pay a deposit:

(A) if the residential applicant has been a customer of any utility for the same kind of service within the last two years and is not delinquent in payment of any such utility service account, and during the last 12 consecutive months of service did not have more than one occasion in which a bill for such utility service was paid after becoming delinquent and never had service disconnected for nonpayment; applicants are encouraged to obtain a letter of credit history from their previous utility, and utilities are encouraged to provide such information with final bills.

(B) if the residential applicant demonstrates a satisfactory credit rating by appropriate means, including, but not limited to, the production of generally acceptable credit cards, letters of credit reference, the names of credit references which may be quickly and inexpensively contacted by the utility, or ownership of substantial equity; or

(C) if the residential applicant furnishes in writing a satisfactory guarantee to secure payment of bills for the service required;

(i) unless otherwise agreed to by the guarantor, the guarantee shall be for the amount of deposit the utility would normally seek on the applicant's account. The amount of guarantee shall be clearly indicated on any documents or letters of guarantee signed by the guarantor;

(ii) when the customer has paid bills for service for 12 consecutive residential billings without having service disconnected for nonpayment of bills and without having more than two occasions in which a bill was delinquent, and when the customer is not delinquent in the payment of current bills, the utility shall void and return any documents or letters of guarantee placed with the utility to the guarantor.

(4) An initial deposit may not be required from residential customers unless the customer has more than one occasion during the last 12 consecutive months of service in which a bill for utility service was paid after becoming delinquent or if the customer's service was disconnected for nonpayment. A deposit required pursuant

to this section shall not exceed an amount equivalent to one-sixth of annual billings. The customer may furnish in writing a satisfactory guarantee to secure payment of bills in lieu of a cash deposit.

(5) At the time a deposit is required, every electric and telephone utility shall provide applicants for, and customers of, commercial, industrial, or residential service written information about deposits separate from the information on deposits required in §23.41(a)(5) of this title (relating to Customer Relations). This information shall contain:

(A) the circumstances under which a utility may require a deposit or an additional deposit;

(B) how a deposit is calculated;

(C) the amount of interest paid on a deposit and how this interest is calculated; and

(D) the time frame and requirement for return of the deposit to the customer.

(b) Commercial and industrial service. In the case of commercial or industrial service, if the credit of an applicant for service has not been established satisfactorily to the utility, the applicant may be required to make a deposit.

(c) Amount of deposit and interest for permanent residential, commercial, and industrial service and exemption from deposit.

(1) The required deposit shall not exceed an amount equivalent to one-sixth of the estimated annual billings.

(A) During the first 12 months of service, if actual usage is three times estimated usage (or three times average usage of most recent three bills) and current usage exceeds \$150 and 150% of the security held, a new deposit requirement may be calculated and an additional deposit may be required to be made within 10 days after issuance of written notice of termination and requested additional deposit, or, in lieu of additional deposit, the customer may elect to pay the current usage within 10 days after issuance of written notice of termination and requested additional deposit.

(B) If actual billings of a commercial customer are at least twice the amount of the estimated billings and a suspension notice has been issued on a bill within the previous 12-month period, a new deposit may be required to be made within 15 days after issuance of written notice of termination and requested additional deposit. If actual billings of a residential customer are at least twice the amount of the estimated billings after two billing periods and a suspension notice has been issued on a bill within the previous 12-month period, a new deposit may be required to be made within 15 days after issuance of written notice of termination and requested additional deposit. In lieu of additional deposit, the customer may elect to pay the current bill by the due date of the bill, provided the customer has not exercised this option in the previous 12 months.

(2) All applicants for permanent residential service who are 65 years of age or older will be considered as having established credit if such applicant does not have an outstanding account balance with the utility or another utility for the same utility service which accrued within the last two years. No cash deposit shall be required of such applicant under these conditions.

(3) Each utility which requires deposits to be made by its customers shall pay a minimum interest on such deposits at an annual rate at least equal to 6.0%. If refund of deposit is made within 30 days of receipt of deposit, no interest payment is required. If the utility retains the deposit more than 30 days, payment of interest shall be made retroactive to the date of deposit.

(A) Payment of the interest to the customer shall be annually if requested by the customer, or at the time the deposit is returned or credited to the customer's account.

(B) The deposit shall cease to draw interest on the date it is returned or credited to the customer's account.

(4) Determining amount of deposit. In determining the amount of any deposit permitted by these rules, no revenue from estimated telephone directory advertising may be used.

(d) Deposits for temporary or seasonal service and for weekend residences. The utility may require a deposit sufficient to reasonably protect it against the assumed risk for temporary or seasonal service, provided such policy is applied in a uniform and nondiscriminatory manner. The utility may require a deposit for weekend residences sufficient to reasonably protect it against the assumed risk, provided such policy is applied in a uniform and nondiscriminatory manner. These deposits shall be returned according to guidelines set out in subsection (h) of this section.

(e) Complaint by applicant or customer. Each utility shall direct its personnel engaged in initial contact with an applicant or customer for service, seeking to establish or reestablish credit under the provisions of these sections, to inform the customer, if dissatisfaction is expressed with the utility's decision, of the customer's right to file a complaint with the commission thereon.

(f) Reestablishment of credit. Every applicant who previously has been a customer of the utility and whose service has been discontinued for nonpayment of bills or meter tampering or bypassing of meter shall be required, before service is rendered, to pay all amounts due the utility or execute a deferred payment agreement, if offered, and reestablish credit as provided in subsection (a) of this section. The burden shall be on the utility to prove the amount of utility service received but not paid for and the reasonableness of any charges for such unpaid service, as well as all other elements of any bill required to be paid as a condition of service restoration.

(g) Records of deposits.

(1) The utility shall keep records to show:

(A) the name and address of each depositor;

(B) the amount and date of the deposit; and

(C) each transaction concerning the deposit.

(2) The utility shall issue a receipt of deposit to each applicant from whom a deposit is received and shall provide means whereby a depositor may establish claim if the receipt is lost.

(3) A record of each unclaimed deposit must be maintained for at least four years, during which time the utility shall make a reasonable effort to return the deposit.

(h) Refund of deposit.

(1) If service is not connected, or after disconnection of service, the utility shall promptly and auto-

matically refund the customer's deposit plus accrued interest or the balance, if any, in excess of the unpaid bills for service furnished. A transfer of service from one premise to another within the service area of the utility shall not be deemed a disconnection within the meaning of these sections, and no additional deposit may be demanded unless permitted by these sections.

(2) When the customer has paid bills for service for 12 consecutive residential billings or for 24 consecutive commercial or industrial billings without having service disconnected for nonpayment of bill and without having more than two occasions in which a bill was delinquent, and when the customer is not delinquent in the payment of the current bills, the utility shall promptly and automatically refund the deposit plus accrued interest to the customer in the form of cash or credit to a customer's bill, or void the guarantee. If the customer does not meet these refund criteria, the deposit and interest may be retained in accordance with subsection (c) of this section.

(i) Upon sale or transfer of utility or company. Upon the sale or transfer of any public utility or operating units thereof, the seller shall file with the commission, under oath, in addition to other information, a list showing the names and addresses of all customers served by such utility or unit who have to their credit a deposit, the date such deposit was made, the amount thereof, and the unpaid interest thereon.

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 July 12, 1984

TRD-847350 Rhonda Colbert Ryan
Secretary of the Commission
Public Utility Commission of
Texas

Effective date August 2, 1984

Proposal publication date: May 15, 1984

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

16 TAC §23.45

The Public Utility Commission of Texas adopts amendments to §23.45, with changes to the proposed text published in the May 15, 1984, issue of the *Texas Register* (9 TexReg 2675).

Nationwide, power thefts cost private investor-owned utilities 1.0% to 2.5% of their gross revenues a year, or up to \$1 billion. In the last few years, there has been a notable increase in both commercial and residential meter tampering. Power thefts in Texas utilities are following the national trend. The costs of these thefts must be borne by the other customers of the utilities in the form of higher rates. These amendments should assist the utilities in reducing meter tampering, which in turn will benefit all ratepayers who will not have to bear the costs of these thefts. The amendments also help to inform utility customers of their right to request deferred payment plans.

The commission voted to add language clarifying meter tampering, bypass, and diversion by the customer citing Chapter 23, §23.47(f). It also modified subsection (i) by stating that the utility must inform customers of all available alternative payment assistance programs provided by the utility. Subsection (k) was limited to apply to electric, water, or sewer utilities; and a typo in subparagraph (5)(C) was corrected ("change" became "charge").

The amendments address alternative payment plans, charges, or fees by an agency of the federal government, and backbilling in cases of meter tampering, bypass, or diversion by the customer. Deferred payment plans shall be offered upon request to any residential customer who has expressed an inability to pay all of the bill if the customer has not been issued more than two termination notices during the preceding 12 months. Not more than 1/3 of the outstanding bill may be required initially. If the customer's economic or financial circumstances change substantially during the deferred payment agreement, the utility may renegotiate the plan with the customer. However, a utility is not required to enter into a deferred payment agreement with a customer lacking sufficient credit or payment history when that customer has had service from the present utility for no more than three months. A new subsection (h) has been added concerning notification of alternative payment programs or payment assistance. New subsection (i) states that any fee or charge set by an agency of the federal government shall be shown on the bill as a separate item. And finally, a new subsection (j) has been added dealing with the reasonableness of billing methodology by a utility for adjusted bills due to meter tampering. Estimated bills may be based on previous usage for the last 24 consecutive months or lesser history if not served at that site for 24 months; a customer's usage at that location after service diversion has been corrected; or by direct or comparable appliance load studies. In cases of tampered meters or service diversion where the amount of unmetered consumption can be calculated after industry-recognized testing procedures, bills may be calculated for the entire period of meter tampering or service diversion. A utility may charge for all labor, material, and equipment necessary to repair or replace all equipment damaged due to meter tampering or bypassing. However, a utility may not charge any additional penalty or make any additional charge for meter tampering or bypassing or other service diversion unless expressly approved by tariff or a court of law of competent jurisdiction.

The Texas-New Mexico Power Company complained that the proposal left the utility with an unsigned agreement when arrangements were made by phone (see subsection (c)(7)). It believes that an unsigned agreement has no validity. United Telephone recommended that only one termination notice be allowed before participation in a deferred payment plan. United believes its uncollectables will substantially increase with two termination notices being allowed. United believes that the deferred payment agreement should be worked out between the utility and the customer and not written in the rules. Gulf States commented

that offering of a deferred payment plan to customers who express an inability to pay their bills would result in a tremendous increase in extended payments to customers. In many cases, a three-month deferred payment plan is not necessary for the customer to make full payments. A one- or two-week period is often sufficient for the customer to bring his or her account up-to-date. Gulf felt that the section as amended would also result in substantially increased bad debt losses due to the extended payment period. The addition of the requirement that the customer contact the utility prior to the expiration date of the termination notice would protect both the customer and the utility. The customer would be assured that there would be no discontinuance of service because administrative procedures can be immediately commenced in the office to cancel the termination. The utility would be able to centralize all procedures pertaining to deferred payment plans in the customer accounting department. Houston Lighting and Power feels that if it is to be restricted to an initial payment of only 1/3 of the total amount due on a bill, utilities should be allowed to require larger initial deposits. Southwestern Bell requested that the commission change "deferred payment agreement" to "deferred payment plan." TexLa complained that the section as amended completely removes the requirement for customers to make a good faith effort to pay, opening the program to abuse. It also felt the need for a time period as to when a customer must contact the utility about a deferred payment plan. TexLa recommended 16 days.

Texas Electric Cooperatives, Inc., supported the commission's revisions. The Office of the Public Utility Counsel also supported these revisions. In subsection (f), concerning overbilling and underbilling, U.S. Telephone requested that the commission make clear that this subsection does not apply to bypassing of telephones, since the term "bypass" in the telephone industry means something quite different from the term when used in relation to electric meter tampering. Houston Lighting and Power complained that subsection (i), concerning notification of alternative payment programs, would cost it an additional \$790,000 a year for added staff necessary to comply with the rule. SWEPCO commended the commission for enhancing its ability to deal with meter tamperers. There was wide support in the electrical industry for the meter tampering provisions of subsection (k). The South Plains Electric Cooperative was against offering deferred payment plans to customers who merely express an inability to pay. In its view, deferring 1/3 of the bill would only compound the problem, since bills do not get easier to pay as they get larger. South Plains does not feel that the burden for social programs should lie with the utility.

The Southwestern Electric Power Company; Texas Electric Cooperatives, Inc.; TexLa; South Plains Electric Cooperative; and the Office of the Public Utility Counsel commented in favor of the rule. The Texas-New Mexico Power Company; Johnson County Electric Cooperative; Sam Houston Electric Cooperative; Gulf States; Houston Lighting and Power; Contel,

Southwestern Bell; and U.S. Telephone commented against the rule.

The agency has no comment on the opinions expressed regarding adoption of the amendments.

The amendments are adopted under Texas Civil Statutes, Article 1446c, §16, which provide the Public Utility Commission of Texas with the authority to make and enforce rules reasonably required in the exercise of its powers and jurisdiction, and to make decisions with respect to administering the provisions of this Act.

§23.45. Billing.

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

(c) **Deferred payment plan.** The utility shall offer, upon request, a deferred payment plan to any residential customer who has expressed an inability to pay all of his or her bill, if that customer has not been issued more than two termination notices at any time during the preceding 12 months. In all other cases, the utility is encouraged to offer a deferred payment plan to residential customers.

(1) Every deferred payment plan entered into due to the customer's inability to pay the outstanding bill in full shall provide that service will not be discontinued if the customer pays current bills and a reasonable amount of the outstanding bill and agrees to pay the balance in reasonable installments until the bill is paid. A payment of not more than one-third of the total deferred amount may be required as a reasonable amount under this paragraph.

(2) (No change.)

(3) A deferred payment plan offered by a utility, if reduced to writing, shall state, immediately preceding the space provided for the customer's signature and in boldface print at least two sizes larger than any other used thereon, that:

If you are not satisfied with this contract, or if agreement was made by telephone and you feel this contract does not reflect your understanding of that agreement, contact the utility immediately and do not sign this contract.

If you do not contact the utility, or if you sign this agreement, you give up your right to dispute the amount due under the agreement, except for the utility's failure or refusal to comply with the terms of this agreement.

(4) (No change.)

(5) If a customer for utility service has not fulfilled the terms of a deferred payment agreement, the utility shall have the right to disconnect pursuant to disconnection rules in this chapter, and under such circumstances may, but shall not be required to, offer subsequent negotiation of a deferred payment agreement prior to disconnection.

(6) (No change.)

(7) A deferred payment arrangement may be made by visiting the utility's business office or contacting the utility by telephone. If the customer visits the utility's business office, the utility may ask the customer to sign the deferred payment agreement. The utility must provide the customer with a copy of the signed agreement. If the agreement is made over the telephone, the utility shall send a copy of the agreement to the customer.

(8) If the customer's economic or financial circumstances change substantially during the time of the

deferred payment agreement, the utility may renegotiate the deferred payment agreement with the customer, taking into account the changed economic and financial circumstances of the customer.

(9) A utility is not required to enter into a deferred payment agreement with any customer who is lacking sufficient credit or a satisfactory history of payment for previous service when that customer has had service from the present utility for no more than three months.

(d)-(e) (No change.)

(f) Overbilling and underbilling. If billings for utility service are found to differ from the utility's lawful rates for the services being purchased by the customer, or if the utility fails to bill the customer for such service, a billing adjustment shall be calculated by the utility. If the customer is due a refund, an adjustment shall be made for the entire period of the overcharges. If the customer was undercharged, the utility may backbill the customer for the amount which was underbilled. The backbilling is not to exceed six months unless the utility can produce records to identify and justify the additional amount of backbilling or unless such undercharge is a result of meter tampering, bypass, or diversion by the customer as defined in §23.47(f) of this chapter (relating to Meters). However, the utility may not disconnect service if the customer fails to pay charges arising from an underbilling more than six months prior to the date the utility initially notified the customer of the amount of the undercharge and the total additional amount due unless such undercharge is a result of meter tampering, bypassing, or diversion by the customer as defined in §23.47(f) of this chapter (relating to Meters). If the underbilling is \$25 or more, the utility shall offer to such customer a deferred payment plan option for the same length of time as that of the underbilling. In cases of meter tampering, bypass, or diversion, a utility may, but is not required to, offer a customer a deferred payment plan.

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

(i) Notification of alternative payment programs or payment assistance. Anytime a customer contacts a utility to discuss their inability to pay a bill or indicate that they are in need of assistance with their bill payment, the utility or utility representative shall inform the customer of all available alternative payment and payment assistance programs available from the utility, such as deferred payment plans, disconnection moratoriums for the ill, and energy assistance programs, as applicable, and of the eligibility requirements and procedure for applying for each.

(j) Any fee or charge set by an agency of the federal government shall be shown on the bill as a separate item, clearly stating the name of the federal agency and concisely stating the nature of the fee or charge.

(k) Adjusted bills due to meter tampering. There shall be a presumption of reasonableness of billing methodology by an electric or water utility with regard to a case of meter tampering, bypassing, or other service diversion if any of the following methods of calculating such bills are used:

(1) estimated bills based upon service consumed by that customer at that location under similar conditions during periods preceding the initiation of meter tampering or service diversion. Such estimated bills shall be based

on at least 24 consecutive months of comparable usage history of that customer, when available, or lesser history if the customer has not been served at that site for 24 months;

(2) estimated bills based upon that customer's usage at that location after the service diversion has been corrected;

(3) where a customer will allow the electric utility to perform a load study of the customer's appliances, heating/cooling equipment, etc., in use during the period of meter tampering, by estimated bills using the total for the projected loads of those appliances, heating/cooling equipment, etc., using nationally recognized appliance load studies published by the Edison Electrical Institute or the manufacturer's information for each appliance or other item of electrical equipment, or, where available, comparable load study data obtained by the utility sub-metering appliance operation in its service area;

(4) in cases of a tampered meter where the amount of actual unmetered consumption can be calculated after testing the meter using industry-recognized testing procedures, bills may be calculated for the consumption over the entire period of meter tampering;

(5) in cases of meter bypassing or other service diversion, where the amount of actual unmetered consumption can be calculated by industry-recognized testing procedures, bills may be calculated for the consumption over the entire period of meter bypassing or other service diversion;

(A) paragraph (1) of this subsection does not prohibit utilities from using other methods of calculating bills for unmetered electricity or water when the usage of other methods can be shown to be more appropriate in the case in question;

(B) a utility may charge for all labor, material, and equipment necessary to repair or replace all equipment damaged due to meter tampering or bypassing or other service diversion, and other costs necessary to correct service diversion where there is no equipment damage, including incidents where service is reconnected without authority. An itemized bill of such charges must be provided to the customer;

(C) a utility may not charge any additional penalty or make any other additional charge for meter tampering or bypassing or other service diversion unless such penalty has been expressly approved by the commission and filed in the utility's tariff, or such other additional charge has been approved by order of the commission or court of law of competent jurisdiction.

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 July 12, 1984.

TRD-847351

Rhonda Colbert Ryan
Secretary of the Commission
Public Utility Commission of
Texas

Effective date: August 2, 1984

Proposal publication date: May 15, 1984

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

16 TAC §23.46

The Public Utility Commission of Texas adopts amendments to §23.46, with changes to the proposed text published in the May 15, 1984, issue of the *Texas Register* (9 TexReg 2677).

The section requires utilities to provide more complete information on alternative payment programs, deferred payment programs, or special programs to individuals in need of financial assistance or the ill and disabled. The section also protects customers against disconnect during periods of extreme weather; language defining extreme weather limits was modified. Customers will be better informed as to their rights during the resolution of disputes with a utility, and tenants of master metered apartment complexes will now receive notice of potential termination of service with six days, rather than three days as in the original proposal, on nonpayment of the bill and at least four days prior to disconnection. This notice will now include information on the reason for disconnection as well as the date for scheduled disconnection.

As adopted, the section extends the notice for disconnection due to delinquent bills from seven to 10 days. Notice would include information on payment assistance or special programs such as deferred payment plans, disconnection moratoriums for the ill, or energy assistance programs. Disconnect without notice will be extended to cases of tampering with electric or water utility meters or equipment or in cases of bypass. Where reasonable, given the nature of hazardous conditions, written statement providing notice of disconnection and the reason therefor shall be posted at the place of common entry or upon the front door of each affected residential unit as soon as possible after disconnection of service. Subsection (g) now allows an attending physician, as defined in this section, to call or contact a utility within 16 days of issuance of a customer's bill if it has been determined that discontinuance of service will result in some person residing at that residence becoming seriously ill or more seriously ill if service is discontinued. A written statement must be received by the utility from the physician as defined in subsection (g) within 26 days of the issuance of the utility bill.

Subsection (h) prohibits disconnection to energy assistance grantees if the utility is notified by an agency for administration of energy assistance funds that payment, or partial payment is forthcoming. Subsection (i) prohibits disconnection during extreme weather. Subsection (j), concerning resolution of disputes, informs customers of their right to a supervisory review by the utility before disconnection can occur. It also requires utilities to inform customers of their right to file a complaint or request a hearing before the appropriate municipal authority or the Public Utility Commission. And finally, subsection (k), concerning disconnection of master metered apartments, will require that a utility send notice of any potential disconnection of tenants of the apartment complex within six days after the bill has been sent if payment is not received. The utility will post a minimum of five

notices in conspicuous areas of the apartment complex stating:

Notice to residents of (name and address of apartment complex) electric utility utility service to this apartment complex is scheduled for disconnection on (date), because _____.

There was widespread concern by utilities that the extended time frame for payments, as well as the extended notice for disconnect, would cause an increase in uncollectibles for utilities. They generally felt the current rule was adequate and that the proposal should be opposed.

Subsection (c), concerning disconnection without notice, was widely accepted by the utilities, and letters commending the commission's proposal were abundant. There was general concern in subsection (g) that the term "health care provider" was too broad as proposed. The Public Utility Commission agreed with this and modified the definition of physician and health care provider.

The Office of the Public Utility Counsel supported the original proposal indicating the importance of adding health care providers other than physicians, since many poor people have no doctors. Texas-New Mexico Power Company indicated that they have never had a problem with disconnection in extreme weather, and it does not believe that the rule as written will work. Wise Electric Cooperative indicated that its service area has extreme weather in both summer and winter months, and it feels that under this provision they would rarely ever be allowed to terminate anyone. Janet E. McClure stated that 98° was too high and that 32° was too low. She felt that older people should have special provisions concerning the definition of extreme weather. Sam Houston Electric Cooperative felt that the rules already provide adequate protection for those with bona fide problems. Texas Electric Cooperatives, Inc., felt that this revision was neither necessary nor workable. The cooperative currently has voluntary programs and feels that they are adequate. TexLa indicated that the meaning of the rule as proposed was unclear and it requested modification. Southwestern Public Service Company indicated that a single temperature threshold applicable to all parts of the state could not be equitable, since temperature alone is not an absolute measure of comfort level. It proposed to eliminate the provision entirely. The Office of the Public Utility Counsel supported the provisions as proposed and urged for their adoption.

Several utilities had difficulty with subsection (j), concerning the resolution of disputes. It was their view that a supervisory review could be used to delay a payment for disconnection.

There were several comments by utilities concerning subsection (k), regarding disconnection of master meter departments. There was a general feeling that the utility should have no responsibility for nonconsumers and that any action by the utility would bring up the question of liability. Houston Lighting and

Power supported the proposal but suggested that in regard to the requirement to post notices on the premises that they be allowed to make only a reasonable attempt to post notice since notices are often removed by third parties or the utility may be denied access. TexLa was concerned with invasion of privacy of the owner

The Texas Apartment Association (TAA) felt the definition of master meter department was too narrow in that it limited itself to apartments of five or more units. It suggested it apply to two or more units. The TAA also felt that mortgage and lien holders should be notified when a notice of termination is made. The TAA thought posting a notice of disconnect four days before disconnect is too short. Tenants need a full 30 days. In its proposal, notice would go to every tenant and the utility would be required to file an affidavit with the Public Utility Commission of Texas that sufficient notice was given to tenants. Utilities would also be required to retract any notice to tenants done in error. The Dallas Tenants Association thinks the proposal is a good first step, but it isn't a solution for the tenant who has already paid his rent and finds he has no utilities. A provision should be made to continue utility service while the landlord is forced to pay the utility bill. South Plains Electric Cooperative strongly objected to the utility having to post five notices. It feels the apartment owner should be required to post notice.

The Dallas Tenants Association and the Office of the Public Utility Counsel commented in favor of the rule. Southwestern Electric Public Service Company, Gulf States, Johnson County Electric Cooperative, Houston Lighting and Power, TexLa, West Texas Utilities, Kaufman County Electric Cooperative, Texas-New Mexico Power Company, Texas Apartment Association, South Plains Electric Cooperative, and Swisher Electric Cooperative commented against the rule.

The commission did not attempt to rebut all comments made. However, it did take into consideration several suggestions for modification of the rule, and these are outlined in the justification for the rule.

The amendments are adopted under Texas Civil Statutes, Article 1446c, §16, which provide the Public Utility Commission of Texas with the authority to make and enforce rules reasonably required in the exercise of its powers and jurisdiction, and to make decisions with respect to administering the provisions of this Act

§23.46. Discontinuance of Service.

(a) Disconnection for delinquent bills. A customer's utility service may be disconnected if a bill has not been paid or a deferred payment agreement entered into within 26 days from the date of issuance of a bill and if proper notice has been given. Proper notice shall consist of a separate mailing or hand delivery at least 10 days prior to a stated date of disconnection, with the words "termination notice" or similar language prominently displayed on the notice. The information included in the notice shall be provided in English and Spanish as necessary to adequately inform the customer. Attached

to or on the face of the termination notice for electric bills shall appear a statement notifying the customer that if they are in need of assistance with the payment of their bill, or are ill and unable to pay their bill, they may be eligible for payment assistance or special payment programs, such as deferred payment plans, disconnection moratoriums for the ill, or energy assistance programs, and to contact the local office of the utility for information on the available programs. Attached to or on the face of the termination notice for telephone, water, and sewer bills shall appear a statement notifying the customer that if they are in need of assistance with payment of their bill, or are ill and unable to pay their bill, they may be eligible for alternative payment programs, such as deferred payment plans, and to contact the local office of the utility for more information. If mailed, the cut-off day may not fall on a holiday or weekend, but shall fall on the next working day after the 10th day. Payment at a utility's authorized payment agency is considered payment to the utility. The company shall not issue late notices or disconnect notices to the customer earlier than the first day the bill becomes delinquent, so that a reasonable length of time is allowed to ascertain receipt of payment by mail or at the utility's authorized payment agency.

(b) Disconnection with notice. Utility service may be disconnected after proper notice for any of the following reasons:

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

(c) Disconnection without notice. Utility service may be disconnected without notice where a known dangerous condition exists for as long as the condition exists or where service is connected without authority by a person who has not made application for service or who has reconnected service without authority following termination of service for nonpayment or in instances of tampering with the utility company's meter or equipment, bypassing the same, or other instances of diversion as defined in §23.47 of this title (relating to Meters). Where reasonable, given the nature of the hazardous condition, a written statement providing notice of disconnection and the reason therefor shall be posted at the place of common entry or upon the front door of each affected residential unit as soon as possible after service has been disconnected.

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

(g) Disconnection for ill and disabled. No electric public utility may discontinue service to a delinquent residential customer permanently residing in an individually metered dwelling unit when that customer establishes that discontinuance of service will result in some person residing at that residence becoming seriously ill or more seriously ill if service is discontinued. Each time a customer seeks to avoid termination of service under this rule, the customer must have the attending physician (for purposes of this rule, the term "physician" shall mean any public health official, including, but not limited to, medical doctors, doctors of osteopathy, nurse practitioners, registered nurses, and any other similar public health official) call or contact the utility within 16 days of issuance of the bill. A written statement must be received by the utility from the physician within 26 days of the issuance of the utility bill. The prohibition against service ter-

mination provided by this rule shall last 63 days from the issuance of the utility bill or such lesser period as may be agreed upon by the utility and the customer or physician. The customer who makes such request shall enter into a deferred payment plan.

(h) Disconnection to energy assistance grantees. No electric public utility may terminate service to a delinquent residential customer for a billing period in which the customer has applied for and been granted energy assistance funds if any agency for administration of these funds has notified the utility, prior to the date of disconnection, of approval of an award sufficient to cover the bill, or a portion of the bill, so that the customer can successfully enter into deferred payment plan for the balance of the bill.

(i) Disconnection during extreme weather. On a day when the previous day's average temperature has exceeded 92°F, or the previous day's highest temperature did not exceed 32°F, and the temperature is predicted to remain at those levels for the next 24 hours, according to the nearest national weather service reports, a utility cannot disconnect a customer until the utility ascertains whether a life threatening condition exists in the customer's household, or would exist, because of the severe weather conditions.

(j) Resolution of disputes. Any customer or applicant for service requesting the opportunity to dispute any action or determination of a utility under the customer service rules of the commission (§§23.41-23.48 of this title (relating to Customer Service and Protection)) shall be given an opportunity for a supervisory review by the utility. If the utility is unable to provide a supervisory review immediately following the customer's request for such review, arrangements for the review shall be made for the earliest possible date. Service shall not be disconnected pending completion of the review. If the customer chooses not to participate in such review or to make arrangements for such review to take place within five days after requesting it, the company may disconnect service, providing notice has been issued under standard disconnect procedures. Any customer who is dissatisfied with the review by the public utility must be informed of their right to file a complaint and/or request a hearing before the appropriate municipal regulatory body or the Public Utility Commission of Texas, whichever is applicable. The results of the supervisory review must be provided in writing to the customer within 10 days of the review, if requested.

(k) Disconnection of master-metered apartments. When a bill for utility services is delinquent for a master-metered apartment complex (defined as a submetered or nonsubmetered building in which a single meter serves five or more residential dwelling units), the following shall apply.

(1) The utility shall send a notice to the customer as required in subsection (a) of this section. At the time such notice is issued, the utility shall also inform the customer that notice of possible disconnection will be provided to the tenants of the apartment complex in three days if payment is not rendered before that time.

(2) At least six days after providing notice to the customer and at least four days prior to disconnect, the utility shall post a minimum of five notices in conspicu-

ous areas in the corridors or other public places of the apartment complex. Language in the notice shall be prominently displayed and shall read:

Notice to residents of (name and address of apartment complex) electric utility service to this apartment complex is scheduled for disconnection on (date), because (reason for disconnection).

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 July 12, 1984

TRD-847352 Rhonda Colbert Ryan
Secretary of the Commission
Public Utility Commission of
Texas

Effective date: August 2, 1984

Proposal publication date: May 15, 1984

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

16 TAC §23.47

The Public Utility Commission of Texas adopts an amendment to §23.47, with changes to the proposed text published in the May 15, 1984, issue of the *Texas Register* (9 TexReg 2679).

As adopted, the section defines meter tampering, bypass, and diversion for purposes of disconnection, and places the burden of proof on the utility by setting the standards for evidence required before action can be taken.

This section reduces the occurrence of meter tampering, or power thefts, which now cost investor-owned utilities up to \$1 billion a year. The section enhances the ability of utilities to identify meter tamperers, to stop such acts, and to recover money stolen. The cost of these thefts must be passed along to other ratepayers; therefore, this section should reduce the costs of such thefts to utility customers.

The section, as adopted, defines meter tampering, bypass, or diversion as tampering with an electric, water, or sewer utility's meter or equipment, bypassing the same, or other instances of diversion. The burden of proof of meter tampering, bypass, or diversion is on the utility. Photographic evidence or a court finding accompanied by a sworn affidavit must be made by the utility when any action is initiated.

Several electric utilities voiced their opposition to the use of photographic evidence since they consider it impractical. Their suggestion was the use of sworn affidavits by law officials. Ray Besing and U.S. Telephone requested the commission make clear that this provision does not apply to telephones.

Texas-New Mexico Power Company, Wise Electric Cooperative, Ray Besing, Sam Houston Electric Cooperative, Gulf States, Houston Lighting and Power, U.S. Telephone, TexLa, West Texas Utilities, and Kaufman County Electric Cooperative commented against the adoption of the amendment.

The commission felt there were some valid suggestions made concerning the use of photographic evidence and suggested that photographic evidence or any other reliable and credible evidence may be used. However, any evidence must be accompanied by a sworn affidavit by the utility when any action regarding meter tampering as provided for in this section is initiated

The amendment is adopted under Texas Civil Statutes, Article 1446c, §16, which provide the Public Utility Commission of Texas with the authority to make and enforce rules reasonably required in the exercise of its powers and jurisdiction and in administering the provisions of this Act

§23.47. Meters.

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

(f) For purposes of these sections, meter tampering, bypass, or diversion shall be defined as tampering with an electric, water, or sewer utility company's meter or equipment, bypassing the same, or other instances of diversion, such as physically disorienting the meter, objects attached to the meter to divert service or to bypass, insertion of objects into the meter, and other electrical and mechanical means of tampering with, bypassing, or diverting electrical service. The burden of proof of meter tampering, bypass, or diversion is on the utility. Photographic evidence or any other reliable and credible evidence may be used; however, any evidence must be accompanied by a sworn affidavit by the utility when any action regarding meter tampering as provided for in these sections is initiated. A court finding of meter-tampering may be used instead of photographic or other evidence, if applicable.

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 July 12, 1984

TRD-847353 Rhonda Colbert Ryan
Secretary of the Commission
Public Utility Commission of
Texas

Effective date August 2, 1984

Proposal publication date: May 15, 1984

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

Quality of Service

16 TAC §23.65

The Public Utility Commission of Texas adopts amendments to §23.65, with changes to the proposed text published in the May 25, 1984, issue of the *Texas Register* (9 TexReg 2849).

The section provides protection to consumers in apartment complexes with electric submetering by defining and outlining the standards for billing, disconnect, and

complaint procedures. The section now incorporates several changes. Language was added to subsection (c)(1)(D) that will keep submetered billings from being buried or rolled into other bills, while still allowing the landlord to issue a single bill. In subsection (c)(1)(E), the term "common facilities" was clarified. Subsection (c)(1)(F) was modified to set limits on late fees and reconnect fees. The commission returned to the original language of subsection (c)(1)(G) to provide an equitable method of allocating demand charges. Language was added to subsection (d)(1) to include the office or street address where a tenant can go during normal working hours to make arrangements for payment and reconnection. And finally, in subsection (e)(5), original language was reinstated to provide criteria for establishing charges when a meter is found not to be registering

The section sets standards on billing, disconnection, and complaint procedures for consumers in apartment complexes which utilize electric submetering. All rental agreements will clearly state that the dwelling unit is submetered, that electrical consumption for all common areas is the responsibility of the apartment owner and not the tenant, and that any disputes concerning computation or accuracy of a bill will be between the tenant and apartment owner. An electrical bill may not be included as part of the rental payment or any other service. The due date of the bill shall not be less than seven days after issuance. In case of under- or over-billing, the apartment owner shall calculate an adjustment according to commission rules. Utility service may only be disconnected for nonpayment of utility bills. Service shall not be disconnected on or immediately preceding a day when personnel of the apartment house are not available to make collections or reconnect service.

Interested parties met and discussed differences concerning their original comments on the amendments. After this discussion, a general consensus was reached requesting the changes that were finally adopted. Dorothy Masterson of the Dallas Tenant's Association and Ginny Ballard of the Austin Tenant's Council did, however, voice opposition to the late charge and reconnect fees in subsection (c)(1)(F).

Those making comments in favor of the amendments were the Texas Apartment Association, Inc.; Dallas Tenant's Association, and Austin Tenant's Council. Those commenting against the amendments were Ms. Ballard and Ms. Masterson

The section as proposed stated "this rule prohibits late penalties, deposits, or reconnect charges—unless otherwise provided for by these rules" However, no further provision for these items was made. The commission has attempted to address this problem by setting reasonable standards to determine late fees and reconnect charges.

The amendments are adopted under Texas Civil Statutes, Article 1446c, §16, which provide the Public Utility Commission of Texas with the authority to make and enforce rules reasonably required in the exercise of its powers and jurisdiction, and to make de-

cisions with respect to administering the provisions of this Act.

§23.65. Electric Submetering.

(a)-(b) (No change)

(c) **Billing.** All rental agreements between the apartment owner and the tenants shall clearly state that the dwelling unit is submetered, that the bills will be issued thereon, that electrical consumption for all common areas and common facilities will be the responsibility of the apartment owner and not of the tenant, and that any disputes relating to the computation of the tenant's bill and the accuracy of the submetering device will be between the tenant and the apartment owner. Each apartment owner shall provide a tenant, at the time the lease is signed, a copy of this section or a narrative summary as approved by the commission to assure that the tenant is informed of his rights and the apartment owner's responsibilities under this section of the substantive rules.

(1) **Rendering and form of bill.**

(A) Bills shall be rendered for the same billing period as that of the utility, generally monthly, unless service is rendered for less than that period. Bills shall be rendered as promptly as possible following the reading of the submeters. The submeters shall be read within three days of the scheduled reading date of the utility's master meter.

(B) The unit of measurement shall be a kilowatt-hour (kwh).

(C) The apartment owner shall be responsible for determining that the energy billed to any dwelling unit shall be only for energy consumed and metered within that unit.

(D) Submetered billings shall not be included as part of the rental payment or as part of billings for any other service to the tenant. A separate billing must be issued or, if issued on a multi-item bill, submetered billing information must be separate and distinct from any other charges on the bill and conform to information required in subparagraph (H) of this paragraph. The submetered bill must clearly state "submetered electricity."

(E) The bill shall reflect only submetered usage. Electrical consumption for all common facilities will be the responsibility of the apartment owner and not of the tenant. Allocation of central systems for air conditioning, heating, and hot water are not prohibited by these rules.

(F) The apartment owner shall not impose any extra charges on the tenant over and above those charges which are billed by the utility to the apartment owner. The bill may not include a deposit, late penalty, reconnect charge, or any other charges unless otherwise provided for by these rules.

(i) A one-time penalty not to exceed 5 0% may be made on delinquent accounts. If such penalty is applied, the bill shall indicate the amount due if paid by the due date and the amount due if the late penalty is incurred. No late penalty may be applied unless agreed to by the tenant in a written lease which states the exact dollar or percentage amount of such late penalty.

(ii) A reconnect fee may be applied if service to the tenant is disconnected for nonpayment of submetered bills in accordance with subsection (d)(1) of this

section. Such reconnect fee shall be calculated based on the average actual cost to the landlord for the expenses associated with the reconnection, but under no circumstance shall exceed \$10. No reconnect charge may be applied unless agreed to by the tenant in a written lease which states the exact dollar amount of such reconnect charge.

(G) The tenant's bills shall be calculated in the following manner: after the apartment electric bill is received from the utility, the apartment owner shall divide the net total charges for electrical consumption, plus applicable tax, by the total number of kilowatt-hours to obtain an average cost per kilowatt-hour. This average kilowatt-hour cost shall then be multiplied by each tenant's kilowatt-hour consumption to obtain the charge to the tenant. The computation of the average cost per kilowatt-hour shall not include any penalties charged by the utility to the apartment owner for disconnect, reconnect, late payment, or other similar service charges.

(H) The tenant's bill shall show all of the following information:

(i) the date and reading of the submeter at the beginning and at the end of the period for which the bill is rendered;

(ii) the number of kilowatt-hours metered;

(iii) the computed rate per kilowatt-hour;

(iv) the total amount due for electricity used;

(v) a clear and unambiguous statement that the bill is not from the electric utility, which shall be named in the statement;

(vi) the name and address of the tenant to whom the bill is applicable;

(vii) the name of the firm rendering the submetering bill and the name or title, address, and telephone number of the person or persons to be contacted in case of a billing dispute;

(viii) the date by which the tenant must pay the bill;

(ix) the name, address, and telephone number of the party to whom payment is to be made.

(2) **Due date.** The due date of the bill shall not be less than seven days after issuance. A bill for submetered electrical service is delinquent if not received by the party indicated on the bill by the due date. The postmark date, if any, on the envelope of the bill or on the bill itself shall constitute proof of the date of issuance. An issuance date on the bill shall constitute proof of the date of issuance if there is no postmark on the envelope or bill. If the due date falls on a holiday or weekend, the due date for payment purposes shall be the next work day after the due date.

(3) **Disputed bills.** In the event of a dispute between the tenant and the apartment owner regarding any bill, the apartment owner shall forthwith make such investigation as shall be required by the particular case, and report the results thereof to the tenant. The investigation and report shall be completed within 30 days from the date the tenant notified the apartment owner of the dispute.

(4) **Tenant access to records.** The tenants of any dwelling unit in an apartment house whose electrical consumption is submetered shall be allowed by the apartment owner to review and copy the master billing for the cur-

rent month's billing period and for the 12 preceding months, and all submeter readings of the entire apartment house for the current month and for the 12 preceding months.

(5) Estimated bills. Estimated bills shall not be rendered unless the meter has been tampered with or is out of order, and in such case the bill shall be distinctly marked as such.

(6) Overbilling and underbilling. If submetered billings are found to be in error, the apartment owner shall calculate a billing adjustment. If the tenant is due a refund, an adjustment shall be made for the entire period of the overcharges. If the tenant was undercharged, the apartment owner may backbill the tenant for the amount which was underbilled. The backbilling is not to exceed six months unless the owner can produce records to identify and justify the additional amount of backbilling. If the underbilling is \$25 or more, the apartment owner shall offer to such tenant a deferred payment plan option, for the same length of time as that of the underbilling. However, the apartment owner may not disconnect service if the tenant fails to pay charges arising from an underbilling more than six months prior to the date the tenant was initially notified of the amount of the undercharges and the total additional amount due. Furthermore, adjustments for usage by a previous tenant may not be backbilled to the current tenant.

(d) Discontinuance of service.

(1) Disconnection for delinquent bills. Utility service may only be disconnected for nonpayment of utility bills. A tenant's electric utility service may be disconnected if a bill has not been paid within 12 days from the date of issuance and proper notice has been given. Proper notice shall consist of a separate mailing or hand delivery at least five days prior to a stated date of disconnection, with the words "termination notice" or similar language prominently displayed on the notice. The notice shall include the office or street address where a tenant can go during normal working hours to make arrangements for payment of the bill and for reconnection of electric service.

(2) Disconnection on holidays or weekends. Unless a dangerous condition exists, or unless the tenant requests disconnection, service shall not be disconnected on a day, or on a day immediately preceding a day, when personnel of the apartment house are not available for the purpose of making collections and reconnecting service.

(e) Submeters.

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

(5) Bill adjustment due to submeter error. If any submeter is found not to be within the accuracy standards for self-contained watt-hour meters as established by the latest edition of *American National Standards Institute, Incorporated, Standard C12*, proper correction shall be made of previous readings. An adjusted bill shall be rendered in accordance with subsection (c)(6) of this section. If a submeter is found not to register for any period, unless bypassed or tampered with, the apartment owner may make a charge for units used, but not metered, for a period not to exceed one month, based on amounts used under similar conditions during periods preceding or sub-

sequent thereto, or during the corresponding period in previous years.

(6)-(13) (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 July 12, 1984.

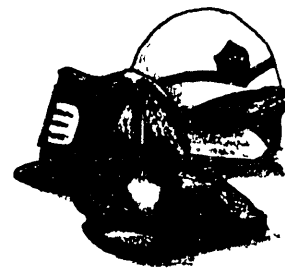
TRD-847354

Rhonda Colbert Ryan
Secretary of the Commission
Public Utility Commission of
Texas

Effective date: August 2, 1984

Proposal publication date: May 25, 1984

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



TITLE 22. EXAMINING BOARDS Part II. State Board of Barber Examiners

Chapter 51. Practice and Procedure Barber Colleges, Schools, and Students 22 TAC §51.26

The State Board of Barber Examiners adopts amendments to §51.26, without changes to the proposed text published in the June 1, 1984, issue of the *Texas Register* (9 TexReg 2960).

The amendments to the student progress report were made so that the barbering services performed to the public will be done by persons properly taught and trained in the profession, and so that students will receive the instruction and training for which they enroll and pay tuition.

School owners/managers who do not have qualified teachers and instructors on duty as required will know that hours given on progress reports will be withheld until students have been given proper instruction to make up for their inadequate training. Hours may be reinstated when the condition has been corrected. Comments were received from two school owners objecting to the rule by saying that the barber law should be enforced as it is

James Watson, West Texas Barber College, Amarillo; and G. L. Patterson, Lewis Barber College, San Antonio, commented against the rule.

In regard to the comments received, the board members feel that the law should be broadened to incor-

porate more severe measures to gain compliance. The addition protects the students' investment.

The amendments are adopted under Texas Civil Statutes, Articles 8401-8407 and 8407a, §28(a), which provide the State Board of Barber Examiners with the authority to make and enforce all rules and regulations necessary for the performance of its duties.

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 July 12, 1984.

TRD-847329 Jo King McCrorey
Executive Director
State Board of Barber Examiners

Effective date: August 2, 1984
Proposal publication date: June 1, 1984
For further information, please call (512) 835-2040.

TITLE 28. INSURANCE

Part I. State Board of Insurance

(Editor's note: Because the State Board of Insurance's rules have not yet been published in the Texas Administrative Code (TAC), they do not have designated TAC numbers. For the time being, the rules will continue to be published under their Texas Register numbers. However, the rules will be published under the agency's correct TAC title and part.)

General Provisions

Miscellaneous II

059.21.49.006

The State Board of Insurance adopts amendments to Rule 059.21.49.006, without changes to the proposed text published in the May 29, 1984, issue of the *Texas Register* (9 TexReg 2900). Rule 059.21.49.006 is the plan of operation of the Texas Catastrophe Property Insurance Association.

The amendments change subsection (c)(2)(B) and subsection (c)(2)(B)(i) to provide that participation by member insurers in assessments of the association for policies with inception dates on and after January 1, 1984, may not be more than 170% of the company's percentage of statewide windstorm and hail premiums modified by applicable offset factors. Heretofore, maximum participation has been 190%. The 190% participation will continue for policies with inception dates before January 1, 1984. This will lower the upper limit for participation in assessments by the association of member companies which do not receive substantial credit for voluntarily written business in the catastrophe area. According to the board of directors of the association, certain member companies writing a substantial amount of insurance which is similar to insurance written through the association and is in areas

other than the catastrophe area are having difficulty in voluntarily writing sufficient business in the catastrophe area to significantly reduce their participation in the liability of the association. There is concern that this might cause member companies to reduce the amount of such insurance written outside the catastrophe area as a means of reducing participation in the liabilities of the association. Such a result would not be in the public interest.

No comments were received regarding adoption of the amendments.

The amendments are adopted under authority of the Insurance Code, Article 21.49, §5, pursuant to which the State Board of Insurance may approve changes in the association's plan of operation.

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 July 11, 1984

TRD-847303 James W. Norman
Chief Clerk
State Board of Insurance

Effective date: August 1, 1984
Proposal publication date: May 29, 1984
For further information, please call (512) 475-2950.

The State Board of Insurance adopts amendments to Rule 059.21.49.006, without changes to the proposed text published in the June 5, 1984, issue of the *Texas Register* (9 TexReg 3002).

Rule 059.21.49.006 is the plan of operation of the Texas Catastrophe Property Insurance Association (hereinafter referred to as the association). The amendments add a new clause (iii) to subsection (c)(2)(B) and changes to subsection (c)(2)(C).

The amendment which adds clause (iii) to subsection (c)(2)(B) does three things. First, it provides that the State Board of Insurance furnish certain information to the association respecting the net direct premiums of all member companies written on property in this state during the preceding calendar year. Second, it provides that within a reasonable time after receipt of such information, the association shall give notice to each member company of the amount of such net direct premium, including the net direct premiums for similar insurance voluntarily written in the catastrophe area upon which each company's percentage of participation in the association will be determined. The notice states that the association's determination must be appealed within 30 days of the decision. Third, it provides for the association to determine the percentage of participation in the association by each member company and also states that the notification is a determination of the association which must be appealed within 30 days. The reason for this change is to cause determinations by the association respecting participation to be finalized, while at the same time informing each member company of its right to ap-

peal such determinations within the time prescribed by statutory law. It is hoped that this will obviate the necessity of repeated recalculations of each company's participation and assessment. This process is expensive and time-consuming for the association and for member companies.

The amendment to subsection (c)(2)(C) provides that a company's notification of assessment is a determination of the association insofar as the amount of assessment for each company is concerned and that the company has 30 days to appeal that determination. Any prior action of the association in making a determination for which notice was properly given under clause (iii) of subsection (c)(2)(B) is specifically excepted from the right of appeal of an assessment. This provision will cause companies to be notified of their right of appeal and will further contribute to a final determination of matters by the association in a timely and orderly fashion. It is the board's opinion that the amendment should be adopted as proposed.

No comments were received regarding adoption of the amendments.

The amendments are adopted under authority of the Insurance Code, Article 21.49, §5, pursuant to which the board may approve changes in the association's plan of operation.

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 July 13, 1984.

TRD-847402 James W. Norman
 Chief Clerk
 State Board of Insurance

Effective date: August 3, 1984
Proposal publication date: June 5, 1984
For further information, please call (512) 475-2950

**TITLE 34. PUBLIC FINANCE
Part I. Comptroller of Public
Accounts
Chapter 3. Tax Administration
Subchapter L. Fuels Tax Division
34 TAC §3.191**

The Comptroller of Public Accounts adopts the repeal of §3.191, concerning gasoline and alcohol mixture credit, without changes to the proposal published in the March 9, 1984, issue of the *Texas Register* (9 TexReg 1414). This section is being repealed so that a substantially revised rule on the same subject may be adopted.

No comments were received regarding adoption of the repeal.

This repeal is adopted under the authority of the Tax Code, §111.002, which provides that the comptroller

may prescribe, adopt, and enforce rules relating to the enforcement and administration of the Code.

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 July 16, 1984.

TRD-847429 Bob Bullock
 Comptroller of Public Accounts

Effective date: August 6, 1984
Proposal publication date: March 9, 1984
For further information, please call (512) 475-1931.

The Comptroller of Public Accounts adopts new §3.191, concerning gasoline and alcohol mixture credit, with changes to the proposed text published in the March 9, 1984, issue of the *Texas Register* (9 TexReg 1415). The change consists of correcting a typographical error in subsection (b)(2). The new section reflects amendments to the Tax Code made by the legislature in House Bill 2436 during the 1983 session. The credit is limited to \$2,712,500 per calendar quarter. The comptroller must estimate and publish the rates at which credit should be allowed to limit reimbursement to the statutory maximum. Credit is allowed in proportion to the amount of credit allowed in other states for alcohol produced in Texas. A tax credit may also be claimed on gasoline purchased for mixture with alcohol if the mixture is exempt. A credit may be taken on a distributor's monthly Texas gasoline distribution report.

No comments were received regarding adoption of the new section.

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

§3.191. Gasoline and Alcohol Mixture Credit.

(a) Definition. First sale or use—the first taxable sale or use made by permitted distributors in accordance with the Tax Code, §153.101 and §153.104.

(b) Tax credit claim.

(1) A distributor may claim credit on:

(A) the first sale or use of a qualified mixture;

or

(B) the gasoline used for mixing with ethyl alcohol if the mixture itself is qualified.

(2) A gasoline-alcohol mixture that contains alcohol produced or distilled in another state is eligible for a credit on its first sale or use in Texas only if it is produced in a state which allows a credit for Texas-produced alcohol or gasoline-alcohol mixtures as provided in the Tax Code, §153.123.

(3) The maximum allowable credit per gallon subject to a tax credit claim will be determined by the Comptroller of Public Accounts and published in the *Texas Register* at least 30 days preceding each calendar quarter.

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. Although some notices may be received too late for publication before the meeting is held, all those filed are published in the *Register*. Notices concerning state agencies, colleges, and universities must contain the date, time, and location of the meeting, and an agenda or agenda summary. Published notices concerning county agencies include only the date, time, and location of the meeting. These notices are published alphabetically under the heading "Regional Agencies" according to the date on which they are filed.

Any of the governmental entities named above must have notice of an emergency meeting, or 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. However, notices of emergency additions or revisions to a regional agency's agenda will not be published since the original agenda for the agency was not published.

All notices are posted on the bulletin board outside the Office of the Secretary of State on the first floor of the East Wing in the State Capitol. These notices may contain more detailed agendas than space allows to be published in the *Register*.

Texas Department of Agriculture

Monday, July 30, 1984, 3 p.m. The Texas Department of Agriculture will meet in Room 930A, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. According to the agenda, the department will conduct an administrative hearing in the matter of R. B. Todd v. Bray Farms, Bud's Salads, and American Pre-Pack, for a possible violation of the Texas Agriculture Code, §101.013.

Contact: Patrick D. Redman, P.O. Box 12847, Austin, Texas 78711.

Filed: July 16, 1984, 10:24 a.m.
TRD-847440

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

Thursday, July 26, 1984, 10 a.m. The Texas Committee on Purchases of Products and Services of Blind and Severely Disabled Persons will meet in Suite 400, 314 West 11th Street, Austin. Items on the agenda include acceptance of minutes, a sales and set aside

update, new products and services, price revisions, and new business.

Contact: Gib DeTerroil, P.O. Box 13435, Houston, Texas 77019, (713) 527-9561.

Filed: July 17, 1984, 7:52 a.m.
TRD-847473

Coordinating Board, Texas College and University System

Thursday, July 19, 1984, 11:30 a.m. The Financial Planning Committee of the Coordinating Board, Texas College and University System made an emergency addition to the agenda of a meeting held in the board room, Bevington A. Reed Building, 200 East Riverside Drive, Austin. The addition concerned the consideration of the issuance of additional student loan bonds. The emergency status was necessary to consider the effects of the Deficit Reduction Act of 1984, which was recently brought to the committee's attention.

Contact: Kenneth H. Ashworth, P.O. Box 12788, Austin, Texas 78711, (512) 475-4361.

Filed: July 17, 1984, 9:26 a.m.
TRD-847468

Friday, July 20, 1984, 9 a.m. The Coordinating Board, Texas College and University System made an emergency addition to the agenda of a meeting to be held in the board room, Bevington A. Reed Building, 200 East Riverside Drive, Austin. The addition concerns the consideration of the issuance of additional student loan bonds. The emergency status is necessary to consider the effects of the Deficit Reduction Act of 1984, which was recently brought to the board's attention.

Contact: Kenneth H. Ashworth, P.O. Box 12788, Austin, Texas 78711, (512) 475-4361.

Filed: July 17, 1984, 9:26 a.m.
TRD-847469

Texas Corn Producers Board

Thursday, July 26, 1984, 9:30 a.m. The Texas Corn Producers Board of the Texas Department of Agriculture will meet at 218 East Bedford, Dimmit. Items on the agenda include vacancies on the board, the U.S. Feed Grain Council annual meeting, chemical clearances, a report from the field

representative, and reports on the TCPB-TPMAI trip to Mexico City.

Contact: Carl I. King, 218 East Bedford, Dimmitt, Texas 79027, (806) 647-4224.

Filed: July 16, 1984, 2:26 p.m.
TRD-847463

Texas Education Agency

Friday, July 13, 1984. Committees of the State Board of Education of the Texas Education Agency (TEA) made emergency additions to the agendas of meetings held at the TEA North Building, 1200 East Anderson Lane, Austin. Times, rooms, committees, and additional agenda items follow.

8:30 a.m. In Room 101-E, the Committee for Rules, Budget, and Finance considered requirements for pupil attendance accounting for state funding purposes, special education, an appointment to the Price Differential Index Advisory Committee, authorization to issue requests for proposals for the Texas Assessment of Basic Skills Program, and explanations and interpretations of House Bill 72. The emergency status was necessary to enable the board to act on these items as a result of legislation passed by the 68th Legislature, First Called Session.

8:30 a.m. In Room 214, the Committee for Special Populations considered a request for authorization to submit an application for assistance under the Emergency Immigration Act of 1984 for the 1984-1985 school year and a petition for the adoption of a rule. The emergency status was necessary to meet deadlines in the Administrative Procedure and Texas Register Act for the agency's response to a petition and to meet federal application deadline requirements.

10:30 a.m. In the Joe Kelly Butler Boardroom, the Committee of the Whole considered authorization to issue requests for proposals for the Texas Assessment of Basic Skills Program and explanations and interpretations of House Bill 72. The emergency status was necessary to implement new requirements in House Bill 72, enacted by the 68th Legislature, First Called Session, and to meet time deadlines in the bill.

2 p.m. In Room 214, the Committee for Teacher Preparation, Support Services, and Litigation/Appeals considered an amendment to 19 TAC §141.433, concerning fees for testing, and new 19 TAC §149.3, concerning education aid for teachers, including the designation of areas and fields of acute teacher shortage. The emergency status was necessary to enable the board to act on these items as a result of legislation

passed by the 68th Legislature, First Called Session, and to react to fee changes by the Educational Testing Service.

Contact: Raymon L. Bynum, 201 East 11th Street, Austin, Texas 78701, (512) 475-3271.

Filed: July 12, 1984, 1:30 p.m.
TRD-847318-847321

Saturday, July 14, 1984, 8:30 a.m. The State Board of Education of the Texas Education Agency made emergency additions to the agenda of a meeting held in the Joe Kelly Butler Boardroom, TEA North Building, 1200 East Anderson Lane, Austin. The additions concerned the appointment of a trustee to the Fort Sam Houston Independent School District; a request for authorization to submit an application for assistance under the Emergency Immigration Act of 1984 for the 1984-1985 school year; fees for testing; requirements for pupil attendance accounting for state funding purposes; special education; an appointment to the Price Differential Index Advisory Committee; authorization to issue requests for proposals for the Texas Assessment of Basic Skills Program; explanations and interpretations of House Bill 72; a petition for the adoption of a rule; education aid for teachers, including the designation of areas and fields of acute teacher shortage; and scheduling of the August 4, 1984, meeting. The emergency status was necessary because the board needed to take action on these items as a result of legislation passed by the 68th Legislature, First Called Session.

Contact: Raymon L. Bynum, 201 East 11th Street, Austin, Texas 78701, (512) 475-3271.

Filed: July 12, 1984, 1:30 p.m.
TRD-847322

Saturday, July 21, 1984, 9 a.m. The State Board of Education of the Texas Education Agency (TEA) will meet in the Joe Kelly Butler Board Room, TEA North Building, 1200 East Anderson Lane, Austin. According to the agenda, the board will consider the rules needed for the implementation of House Bill 72, 68th Legislature, Called Session, and other actions which need to be in place for the 1984-1985 school year.

Contact: Raymon L. Bynum, 201 East 11th Street, Austin, Texas 78701, (512) 475-3271.

Filed: July 13, 1984, 3:53 p.m.
TRD-847411

Texas Employment Commission

Monday, July 16, 1984, 1 p.m. The Texas Employment Commission (TEC) met in

emergency session in Room 644, TEC Building, 15th Street and Congress Avenue, Austin. According to the agenda, the commission considered the position of agency administrator and appropriate action thereon and any action resulting from an executive session concerning the agency administrator. The commission met in executive session pursuant to Texas Civil Statutes, Article 6252-17, §2(g), regarding the agency administrator. The emergency status was necessary because there was a concern for the length of the proposed process for selecting a new agency administrator, which was scheduled to begin with the distribution of the job posting announcement for that position.

Contact: Pat Vistein, TEC Building, 15th Street and Congress Avenue, Austin, Texas, (512) 397-4505

Filed: July 16, 1984, 10:24 a.m.
TRD-847436

Tuesday, July 24, 1984, 8:30 a.m. The Texas Employment Commission will meet in Room 644, TEC Building, 15th Street and Congress Avenue, Austin. According to the agenda summary, the commission will discuss the budget with the Legislative Budget Board examiners, consider prior meeting notes and internal procedures of the Office of Commission Appeals; consider and act on higher level appeals in unemployment compensation cases on Docket 30; and set the date of the next meeting.

Contact: Courtenay Browning, TEC Building, Room 608, 15th Street and Congress Avenue, Austin, Texas, (512) 397-4415.

Filed: July 16, 1984, 11:17 a.m.
TRD-847442

Good Neighbor Commission

Monday, July 16, 1984, noon. The Annual Award Committee of the Good Neighbor Commission met in emergency session in the conference room, Political Science Department, Southern Methodist University, Dallas. According to the agenda, the committee reviewed criteria, the nomination form, and the list of organizations that participate in the selection process. The emergency status was necessary because committee members could not adjust their schedules to meet at any other reasonable time.

Contact: Lauro Cruz, P O Box 12007, Austin, Texas 78711, (512) 475-3581

Filed: July 13, 1984, 1:38 p.m.
TRD-847389

Texas Register

Office of the Governor

Tuesday, July 17, 1984, 10 a.m. The Waste Reduction Committee of the Governor's Task Force on Hazardous Waste Management of the Office of the Governor met in emergency session in Room 205D, Sam Houston Building, 201 East 14th Street, Austin. According to the agenda, the committee reviewed and refined current recommendations, reviewed and revised the discussion sections of the committee report, and considered additional recommendations for the implementation of current recommendations. The emergency status was necessary to continue the meeting from a previous date.

Contact: Robert D. Smith, Sam Houston Building, Room 204, 201 East 14th Street, Austin, Texas, (512) 475-4444.

Filed: July 13, 1984, 10:34 a.m.
TRD-847371

Texas Department of Health

Saturday, July 21, 1984, 9:30 a.m. The Texas Board of Health of the Texas Department of Health will meet in Room T-610, 1100 West 49th Street, Austin. According to the agenda summary, the board will approve the June 16, 1984, minutes; hear the commissioner's report, the Legislative Committee report on the department's preliminary legislative package, the Environmental Health Committee report on recommendations regarding water and sewage facilities in unincorporated areas, and the Budget Committee report on approval of the 1985 operating budgets for the state chest hospitals; appoint the hospital licensing director; approve a commendatory resolution for Baudilia Naranjo and signature authorizations for South Texas Hospital expenditures; consider emergency and proposed rules for obtaining approval of pre-professional experience and internship programs for the licensure of dietitians and proposed rules relating to the Early Childhood Intervention Program, contracts, and hearing procedures; consider the final adoption of rules concerning violations, complaints, and subsequent board actions relating to the licensure of dietitians, rules concerning the practice of lay midwifery, amendments to emergency medical services rules for block grant funding, and amendments and additions to the rules for the control of communicable diseases; delegate authority to the commissioner to approve regional directors as local health authorities; hear announcements and comments requiring no board action; and set the meeting

date for August 1984. The board also will meet in executive session.

Contact: Gary A. Fuchs, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7484.

Filed: July 13, 1984, 4:06 p.m.
TRD-847417

Wednesday, July 25, 1984, 2 p.m. The Advisory Board of Athletic Trainers of the Texas Department of Health will meet at the Convention Center, 100 Washington, Waco. According to the agenda summary, the board will approve the previous meeting minutes; consider individual hearings/cases regarding disapproved applications, a special request from a physical therapist to apprentice as an athletic trainer, requests for extensions of a continuing education period, and other matters relating to the licensure of athletic trainers; and take action on delinquent renewals and on delinquent continuing education.

Contact: Maurice B. Shaw, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7538.

Filed: July 13, 1984, 4:07 p.m.
TRD-847415

Texas Health and Human Services Coordinating Council

Friday, July 27, 1984, 9:30 a.m. The Service Information and Analysis Committee of the Texas Health and Human Services Coordinating Council will meet in Room 304, 1117 Trinity Street, Austin. Items on the agenda include approval of the previous meeting minutes, status reports on the SIMS update and population projections, appointments to the Long-Range Data Needs Advisory Group, a preliminary report on defining health and human services, panels on population projections and needs assessment, and new business.

Contact: Beck Runte, P.O. Box 12428, Austin, Texas 78711, (512) 475-1306.

Filed: July 16, 1984, 3:14 p.m.
TRD-847456

Texas Health Facilities Commission

Thursday, July 26, 1984, 1:30 p.m. The Texas Health Facilities Commission will meet in Suite 305, Jefferson Building, 1600 West 38th Street, Austin. According to the agenda summary, the commission will consider the following applications.

Certificater of Need

Humana Hospital Clear Lake, Webster
AH83-1102-284
St. John Surgical Center, Nassau Bay
AS83-1214-428
Electra Memorial Hospital, Electra
AH84-0412-223
South Austin Community Hospital,
Austin
AH84-0202-071
Cross Health Care Center, Inc., Clute
AN84-328-109

Amendment of Certificate of Need Order

Heartland of San Antonio, San Antonio
AN82-1029-147A(022184)

Motions for Rehearing/Reconsideration

Forest Central Surgicenter, Dallas
AS83-0706-024
North Texas Day Surgery Center, Inc.,
Dallas
AS83-0927-180

Contact: John R. Neel, P.O. Box 50049,
Austin, Texas 78763.

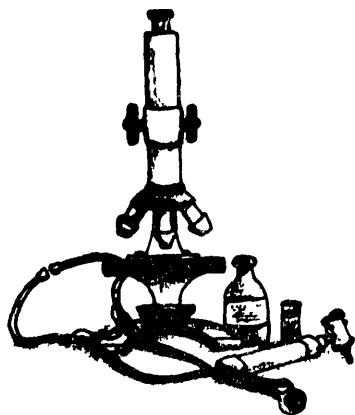
Filed: July 16, 1984, 9:19 a.m.
TRD-847431

State Department of Highways and Public Transportation

Tuesday and Wednesday, July 24 and 25, 1984, 9 a.m. daily. The State Highway and Public Transportation Commission of the State Department of Highways and Public Transportation will meet in Room 101 and Room 207, Dewitt C. Greer Building, 11th and Brazos Streets, Austin. According to the agenda summary, the commission will hear presentations in Room 101 by the public for various highway, bridge, and FM road requests in Dallas, Ellis, Travis, and Tarrant Counties. The docket is available in the second floor commission office of the Dewitt C. Greer Building. Upon completion of the public hearings, the commission will meet in Room 207 to execute contract awards and routine minute orders, consider decisions on presentations from the public hearing dockets, and review staff reports relative to planning and construction programs and projects. The agenda is available in the second floor office of the minute clerk in the Dewitt C. Greer Building.

Contact: Lois Jean Turner, Dewitt C. Greer Building, Room 203, 11th and Brazos Streets, Austin, Texas, (512) 475-3525.

Filed: July 16, 1984, 11:39 a.m.
TRD-847450



State Board of Insurance

Tuesday, July 24, 1984, 10 a.m. The State Board of Insurance will meet in Room 414, 1110 San Jacinto Street, Austin. Items on the agenda summary include a decision on the appeal of Frank E. Neisler and Joan C. Neisler from action of the Texas Catastrophe Property Insurance Association, a commissioner's report including personnel matters, a fire marshal's report including personnel matters, and board orders on several different matters as itemized on the complete agenda.

Contact: Pat Wagner, 1110 San Jacinto Street, Austin, Texas 78786, (512) 475-2950.

Filed: July 16, 1984, 3:46 p.m.
TRD-847461

Tuesday, July 24, 1984, 1:30 p.m. The Commissioner's Hearing Section of the State Board of Insurance will meet in Room 342, 1110 San Jacinto Street, Austin. According to the agenda, the section will consider Docket 7706—application for original charter of First Independent Bankshares Life Insurance Company, Abilene.

Contact: Tom I. McFarling, 1110 San Jacinto Street, Austin, Texas 78786, (512) 475-1076.

Filed: July 16, 1984, 11:01 a.m.
TRD-847445

Tuesday, July 24, 1984, 2 p.m. The State Board of Insurance will meet in Room 414, 1110 San Jacinto Street, Austin. Items on the agenda summary include a public hearing to consider adoption of amendments to Rule 059.21.49.006; consideration of rules on the replacement of life insurance, final adoption of a complaint notice procedure under the Insurance Code, Article 1.35; rules respecting managing general agents, Rule 059.21.28.002; Rule 059.21.28.003, amendments to the health maintenance organization rules; plans of operation of the

Texas Property and Casualty Insurance Guaranty Association, the Life, Accident, Health, and Hospital Service Insurance Guaranty Association, and the Texas Life, Health, and Accident Guaranty Association; the repeal of a rule to which the Insurance Code, Article 5.96 and Article 5.97, is applicable from the board's rules filed under the Administrative Procedure and Texas Register Act; the repeal of Rules 059.10.01.001-.101 and the proposal of new rules; new rules respecting variable annuity and variable life insurance agents and universal life insurance policies; and final action on amendment to Rules 059.01.14.011 and .015 and Rule 059.01.16.003.

Contact: Pat Wagner, 1110 San Jacinto Street, Austin, Texas 78786, (512) 475-2950, 475-2950.

Filed: July 16, 1984, 3:46 p.m.
TRD-847460

Wednesday, July 25, 1984, 9 a.m. The Commissioner's Hearing Section of the State Board of Insurance will meet in Room 342, 1110 San Jacinto Street, Austin. According to the agenda, the section will consider Docket 7704—application of Providentmutual Variable Life Insurance Company, Philadelphia, Pennsylvania, for variable life authority.

Contact: J. C. Thomas, 1110 San Jacinto Street, Austin, Texas 78786, (512) 475-4353.

Filed: July 16, 1984, 11:01 a.m.
TRD-847446

Wednesday, July 25, 1984, 9 a.m. The Commissioner's Hearing Section of the State Board of Insurance will meet in Room 353, 1110 San Jacinto Street, Austin. According to the agenda, the section will consider Docket 7711—whether the surplus lines agent's license held by Seaboard Underwriters, Inc., Houston, should be canceled or revoked.

Contact: John Brady, 1110 San Jacinto Street, Austin, Texas 78786, (512) 475-2287.

Filed: July 16, 1984, 11:01 a.m.
TRD-847447

Wednesday, July 25, 1984, 9 a.m. The State Board of Insurance will meet in Room 414, 1110 San Jacinto Street, Austin. According to the agenda, the board will conduct a public hearing to consider the appeal of the Corporation of the Great Southwest, Great Southwest Life Insurance Company, *et al* from commissioner's Order 84-1305.

Contact: Pat Wagner, 1110 San Jacinto Street, Austin, Texas 78786, (512) 475-2950.

Filed: July 16, 1984, 3:46 p.m.
TRD-847459

Wednesday, July 25, 1984, 1:30 p.m. The Commissioner's Hearing Section of the State Board of Insurance will meet in Room 342, 1110 San Jacinto Street, Austin. According to the agenda, the section will consider Docket 7710—whether the application of John Thomas English, Dallas, for a Group I legal reserve life insurance agent's license should be granted.

Contact: Tom I. McFarling, 1110 San Jacinto Street, Austin, Texas 78786, (512) 475-1076.

Filed: July 16, 1984, 11:01 a.m.
TRD-847448

Thursday, July 26, 1984, 9 a.m. The State Board of Insurance submitted a revised agenda for a rescheduled meeting to be held in Room 414, 1110 San Jacinto Street, Austin. According to the agenda, the board will conduct a public hearing to consider revision of the fire and allied lines, commercial multiperil, homeowners, and ranch owners rates and certain rules applicable to the Texas Catastrophe Property Insurance Association, and will review the fire premiums and losses by classification. The meeting originally was scheduled for 9 a.m. on July 18, 1984.

Contact: Pat Wagner, 1110 San Jacinto Street, Austin, Texas 78786, (512) 475-2950.

Filed: July 16, 1984, 3:46 p.m.
TRD-847458

Monday, July 30, 1984, 9 a.m. The Commissioner's Hearing Section of the State Board of Insurance will meet in Room 342, 1110 San Jacinto Street, Austin. According to the agenda, the section will consider Docket 7700—application of Quaker State Oil Refining Corporation, a Delaware corporation, to acquire control of Heritage Life Insurance Company of Texas, Richardson.

Contact: Tom I. McFarling, 1110 San Jacinto Street, Austin, Texas 78786, (512) 475-1076.

Filed: July 16, 1984, 11:01 a.m.
TRD-847449

Commission on Jail Standards

Wednesday, July 25, 1984, 9 a.m. The Commission on Jail Standards will meet in Room 206, Texas Law Center, 1414 Colorado Street, Austin. According to the agenda summary, the commission will read and approve the May 23, 1984, minutes; hear the director's report; consider old business concerning Blanco, Carson, Collingsworth, Cul-

Texas Register

bersen, Dawson, Galveston, Hays, Hemphill, Kendall, Nolan, Palo Pinto, Randall, and Waller Counties; and consider new business concerning Bexar, San Saba, and Val Verde Counties and an IDS application for variance for Bowie, Galveston, and Tarrant Counties. The commission also will meet in executive session.

Contact: Robert O. Viterna, 411 West 13th Street, Suite 900, Austin, Texas, (512) 475-2716.

Filed: July 17, 1984, 9:27 a.m.
TRD-847470

Texas Juvenile Probation Commission

Friday, August 10, 1984, 10 a.m. The Texas Juvenile Probation Commission will meet at the Jefferson County Juvenile Probation Department, 215 Franklin, Beaumont. According to the agenda, the commission will approve the June 1, 1984, minutes, 1984 budget transfers, and proposed legislation for the 69th session; and hear the director's report, a status report on the Foster Family Home Program, and reports from local departments.

Contact: Bill Anderson or Judy Culpepper, P.O. Box 13547, Austin, Texas 78711, (512) 443-2001.

Filed: July 13, 1984, 9:57 a.m.
TRD-847361

Board of Law Examiners

Sunday-Tuesday, July 22-24, 1984, 1 p.m. Sunday and 8:30 a.m. daily Monday and Tuesday. The Board of Law Examiners will meet on Sunday at the Marriott Hotel, 6121 IH 35 North, Austin, and on Monday and Tuesday at the Texas Law Center, 1414 Colorado Street, Austin. Items on the agenda include the June 1984 meeting minutes; a review of the fiscal year 1984 budget and consideration of the fiscal year 1985 proposed budget; discussion of the appointment of district committees, residency requirements, the test in reinstatement cases, legislation, and the July 1984 bar exam; and questions of eligibility and a special request.

Contact: Wayne E. Denton, Texas Law Center, Suite 505, 1414 Colorado Street, Austin, Texas 78701, (512) 475-4137.

Filed: July 13, 1984, 12:29 p.m.
TRD-847372

Texas State Library and Archives Commission

Monday, July 30, 1984, 10 a.m. The Library Services and Construction Act (LSCA) Advisory Council of the Texas State Library and Archives Commission will meet in Room 202, Lorenzo de Zavala Archives and Library Building, 12th and Brazos Streets, Austin. According to the agenda, the council will approve the 1985 LSCA annual program, basic state plan, and long-range plan.

Contact: Patricia Smith, P.O. Box 12927, Austin, Texas 78711, (512) 475-4119.

Filed: July 16, 1984, 10:25 a.m.
TRD-847441

Texas Medical Disclosure Panel

Saturday, July 21, 1984, 9:30 a.m. The Texas Medical Disclosure Panel will meet in Conference Room T-507, 1100 West 49th Street, Austin. According to the agenda summary, the panel will swear in a new member; install officers; review the September 24, 1983, meeting minutes; receive testimony for psychotherapeutic procedures and for nuclear and therapeutic procedures; and adopt rules published in the *Texas Register*.

Contact: Carroll W. Gregory, M.P.H., 1100 West 49th Street, Austin, Texas 78756, (512) 458-7528.

Filed: July 13, 1984, 4:06 p.m.
TRD-847416

Board of Pardons and Paroles

Monday-Friday, July 23-27, 1984, 1:30 p.m. daily Monday-Thursday and 11 a.m. Friday. A three-member panel of the Board of Pardons and Paroles will meet at 8610 Shoal Creek Boulevard, Austin. According to the agenda summary, the panel will receive, review, and consider information and reports concerning prisoners/inmates and administrative releasees subject to the board's jurisdiction and initiate and carry through with appropriate action.

Contact: Mike Roach, 8610 Shoal Creek Boulevard, Austin, Texas, (512) 459-2713.

Filed: July 13, 1984, 10:19 a.m.
TRD-847369

Tuesday, July 24, 1984, 1:30 p.m. The Board of Pardons and Paroles will meet at 8610 Shoal Creek Boulevard, Austin. Ac-

ording to the agenda, the board 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 sentence, and other reprieves, remissions, and executive clemency actions.

Contact: Gladys Sommers, 8610 Shoal Creek Boulevard, Austin, Texas, (512) 459-2704.

Filed: July 13, 1984, 10:19 a.m.
TRD-847370

Texas Parks and Wildlife Department

Tuesday, July 24, 1984, 7:30 p.m. The Texas Parks and Wildlife Commission of the Texas Parks and Wildlife Department will meet at 2219 Westlake Drive, Austin. Members plan to have dinner. Although this function is primarily a social event and no formal action is planned, the commission may discuss items on the public hearing agenda scheduled for 9 a.m. on July 25, 1984.

Contact: Charles D. Travis, 4200 Smith School Road, Austin, Texas 78744, (512) 479-4802.

Filed: July 16, 1984, 1:56 p.m.
TRD-847452

Wednesday, July 25, 1984, 9 a.m. The Texas Parks and Wildlife Commission of the Texas Parks and Wildlife Department will meet in Building B, 4200 Smith School Road, Austin. Items on the agenda include approval of the June 13, 1984, public hearing court reporter minutes; presentation of retirement certificates and service plaques; early season migratory game bird proclamation for 1984-1985; permanent inarking of oyster leases; 1985 nongame print, stamp, and decal; alligator harvest contract for the J. D. Murphree Wildlife Management Area; amending open season days for migratory birds at Sea Rim State Park; an electric line easement request on the Buescher-Bastrop Park Road right-of-way in Bastrop County; termination of the concession contract at the Queen Isabella State Fishing Pier; a concession contract at the San Jacinto Battleground State Historical Park; interpretive development for Washington-on-the-Brazos State Historical Park in Washington County; a preservation plan and program for the Port Isabel Lighthouse State Historic Structure in Cameron County; across-the-board recommendations by the Sunset Advisory Commission; and land ac-

quisition for Franklin Mountains State Park in El Paso County.

Contact: Charles D. Travis, 4200 Smith School Road, Austin, Texas 78744, (512) 479-4802.

Filed: July 16, 1984, 1:57 p.m.
TRD-847453

Wednesday, July 25, 1984, 9 a.m. The Texas Parks and Wildlife Commission of the Texas Parks and Wildlife Department will meet in Building B, 4200 Smith School Road, Austin. According to the agenda, the commission will discuss law enforcement programs.

Contact: Charles D. Travis, 4200 Smith School Road, Austin, Texas 78744, (512) 479-4802.

Filed: July 16, 1984, 1:57 p.m.
TRD-847454

Wednesday, July 25, 1984, noon. The Texas Parks and Wildlife Commission of the Texas Parks and Wildlife Department will meet in Building B, 4200 Smith School Road, Austin. According to the agenda, the commission will meet in executive session to discuss potential acquisitions, settlement of pending litigation matters, and personnel matters.

Contact: Charles D. Travis, 4200 Smith School Road, Austin, Texas 78744, (512) 479-4802.

Filed: July 16, 1984, 1:57 p.m.
TRD-847455

Texas State Board of Pharmacy

Wednesday-Friday, July 25-27, 1984, 1 p.m. Wednesday and 8:30 a.m. daily Thursday and Friday. The Texas State Board of Pharmacy will meet in Buccaneer Room I and Buccaneer Room II, La Quinta Royal, 601 North Water Street, Corpus Christi. According to the agenda summary, the board will discuss approval of the March 20, 1984, and May 14, 1984, minutes, strategic management and planning for business and government and future issues and forecasts for pharmacy practice, and the Committee on Strategic Planning; review and approve Texas colleges of pharmacy internship programs, ACPE-accredited colleges of pharmacy, and fiscal year 1985 goals and objectives; consider a presentation of the fiscal year 1985 calendar of events; hear reports on the fiscal year 1984 third quarter report, the fiscal year 1986-1987 budget, the MBO status report, the Division of Investigation reorganization, Compliance Division

resident staff positions, and adjudication procedures; conduct a rules discussion and take action on the final adoption of 22 TAC §§291.95, 283.4, 283.6, 283.8, 283.11, 291.17, 291.33, 291.74, 291.75, 291.95, 291.32, 291.36, 303.1, 283.14, 295.5, and 295.7, and proposed §291.35(a); and consider old and new business, including proposed agreed boards, a report on the Texas Department of Public Safety's rules concerning the Controlled Substances Act, the NABP annual meeting, a report on minor emergency centers, discussion and a report from the Texas Pharmaceutical Association Supportive Personnel Committee and Home Health Care Committee, and the election of offices for fiscal year 1985.

Contact: Fred S. Brinkley, Jr., R.Ph. 211 East Seventh Street, Suite 1121, Austin, Texas 78701, (512) 478-9827.

Filed: July 13, 1984, 9:47 a.m.
TRD-847362

Tuesday, August 14, 1984, 9 a.m. The Texas State Board of Pharmacy will meet in Room 117, Sam Houston Building, 201 East 14th Street, Austin. According to the agenda, the board will administer the Texas jurisprudence examination and conduct reciprocity hearings for licensure as pharmacists.

Contact: Fred S. Brinkley, Jr., R.Ph. 211 East Seventh Street, Suite 1121, Austin, Texas 78701, (512) 478-9827.

Filed: July 13, 1984, 9:46 a.m.
TRD-847364

Tuesday and Wednesday, September 25 and 26, 1984, 7:45 a.m. and 8 a.m. respectively. The Texas State Board of Pharmacy will meet in the Lester E. Palmer Auditorium, 400 South First Street, Austin. According to the agenda, the board will conduct examinations for the licensure of pharmacists, administer the Texas jurisprudence examination, and conduct reciprocity hearings for licensure as pharmacists.

Contact: Fred S. Brinkley, Jr., R.Ph. 211 East Seventh Street, Suite 1121, Austin, Texas 78701, (512) 478-9827.

Filed: July 13, 1984, 9:46 a.m.
TRD-847363

Texas Public Building Authority

Tuesday, July 24, 1984, 10 a.m. The Texas Public Building Authority will meet in Room 310, Old Supreme Court Building, Austin. Items on the agenda include approval of the June 27, 1984, minutes; an

oath of office by board members; reconfirmation of all previous board actions; reports, including an update on the Texas Employment Commission and Texas Youth Commission/Texas Rehabilitation Commission project, a budget review, the prospectus working group, a certification letter from the attorney general, and the remodeling project; discussion of a financial strategy as it relates to bond development; a discussion on any decisions made in executive session, and the setting of the time and place of the next meeting. The authority also will meet in executive session to consider pending litigation and personnel matters.

Contact: Gayle Baker, Sam Houston Building, Room 1008, 201 East 14th Street, Austin, Texas 78701, (512) 475-0290.

Filed: July 13, 1984, 1:31 p.m.
TRD-847387



Public Utility Commission of Texas

Tuesday, July 24, 1984, 1:30 p.m. The Hearings Division of the Public Utility Commission of Texas will meet in rescheduled session in Suite 450N, 7800 Shoal Creek Boulevard, Austin. According to the agenda, the division will conduct a prehearing conference in Docket 5562—application of Crowley Two Acres Water System to amend its certificate of convenience and necessity to include the Ball Manor Estates subdivision within Johnson County; and Docket 5787—application of Crowley Two Acres Water System to amend its certificate of convenience and necessity to include 12 additional subdivisions within Johnson County. The meeting was originally scheduled for July 6, 1984.

Contact: Rhonda Colbert Ryan, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: July 13, 1984, 3:45 p.m.
TRD-847409

The Hearings Division of the Public Utility Commission of Texas will meet in Suite 450N, 7800 Shoal Creek Boulevard, Austin. Days, times, and dockets follow.

Wednesday, July 25, 1984, 3:30 p.m. A regional hearing to receive public comments

Texas Register

in Docket 5547—application of Southwestern Bell Telephone Company for approval of optional local residence service tariffs.

Contact: Rhonda Colbert Ryan, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100

Filed: July 13, 1984, 9 45 a.m.
TRD-847367

Thursday, July 26, 1984, 10 a.m. A hearing in Docket 5648—petition of Doris M. Shiflet to terminate water service.

Contact: Rhonda Colbert Ryan, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100

Filed: July 12, 1984, 2.25 p.m.
TRD-847330

Friday, July 27, 1984, 1:30 p.m. A prehearing conference in Docket 5788—application of C Lee Henderson to discontinue water service

Contact: Rhonda Colbert Ryan, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100

Filed: July 12, 1984, 3:03 p.m.
TRD-847333

Thursday, August 30, 1984, 9 a.m. A rescheduled hearing in Docket 5770—complaint of Mrs. Bill Davis against Sam Houston Electric Cooperative, Inc., regarding a billing dispute. The hearing originally was scheduled for July 12, 1984, as published at 9 TexReg 3707

Contact: Rhonda Colbert Ryan, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100

Filed: July 12, 1984, 2 25 p.m.
TRD-847331

Monday, September 10, 1984, 10 a.m. A hearing in Docket 5759—application of Ingram Water Supply for a rate increase within Kerr County

Contact: Rhonda Colbert Ryan, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100

Filed: July 12, 1984, 3 18 p.m.
TRD-847332

Thursday, September 20, 1984, 10 a.m. A hearing in Docket 5701—application of Mustang Water Supply Corporation for a certificate of convenience and necessity within Denton County

Contact: Rhonda Colbert Ryan, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100

Filed: July 13, 1984, 9 45 a.m.
TRD-847365

Monday, October 15, 1984, 10 a.m. A hearing in Docket 5638—application of Northeast Services for a water and sewer certificate of convenience and necessity within Hidalgo County.

Contact: Rhonda Colbert Ryan, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: July 13, 1984, 9:45 a.m.
TRD-847366

Railroad Commission of Texas

Monday, July 16, 1984, 9 a.m. The Oil and Gas Division of the Railroad Commission of Texas made emergency additions to the agenda of a meeting held in Room 309, 1124 IH 35 South. Austin. The additions concerned consideration of oil and gas Docket 94,060—TXO Production Corporation, Rule 37, Lance "A" lease, Well 3, Ellis Ranch (Cleveland), Farnsworth-Connor (Des Moines) and wildcat fields, Ochiltree County; and oil and gas Docket 8-81,618—proper plugging of BCT and Associates, Inc., Brown Heirs lease (04699), Wells 5, 6, 8, 9W, 11, and 13, Pecos Valley (high gravity) field, Ward County. The emergency status was necessary because these items were properly noticed for the meeting of July 9, 1984, and were passed.

Contact: Sandra Joseph or David Coffey, P. O. Drawer 12967, Austin, Texas 78711, (512) 445-1293 or 445-1585 respectively.

Filed: July 13, 1984, 10:29 a.m.
TRD-847474

Office of the Secretary of State

Monday, July 23, 1984, 10 a.m. The Advisory Task Force of the Office of the Secretary of State will meet in Room 310, State Capitol, Austin. According to the agenda, the task force will consider an overview of the May 5, 1984, primary and June 2, 1984, runoff elections and enhancements to the system for November 6, 1984, by Melva Demmer, special assistant for Data Services, hear a presentation on the election monitor system from Karen C. Gladney, Elections Division director, and conduct an open discussion.

Contact: Kim Tolar, Sam Houston Building, 201 East 14th Street, Austin, Texas 78701.

Filed: July 13, 1984, 3:49 p.m.
TRD-847410

Stephen F. Austin State University

Monday, July 23, 1984, 9 a.m. The Board of Regents of Stephen F. Austin State University will meet at the Henderson Clay Products Lodge, Huxley Bay. According to the agenda summary, the board will consider personnel items and renewal of bank depository contracts and approve parking regulations, fiscal year 1983 budget adjustments, and a legislative request.

Contact: William R. Johnson, Box 6078, Nacogdoches, Texas 75962, (409) 569-2201.

Filed: July 13, 1984, 9:47 a.m.
TRD-847359

Texas Water Commission

The Texas Water Commission will meet in Room 118, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. Days, times, and agendas follow.

Wednesday, August 1, 1984, 2 p.m. The commission will conduct a hearing on the assessment of costs for Rio Grande Watermaster Operations for the purpose of considering the assessment of costs for Watermaster operations on the Rio Grande from Falcon Reservoir Dam and below for the period beginning with fiscal year 1985, which begins on September 1, 1984.

Thursday, August 21, 1984, 2 p.m. The commission will consider the application by the City of Conroe for proposed Permit 10008-03, to authorize the discharge of treated domestic effluent at a volume not to exceed four million gallons per day from the proposed Conroe South Regional Wastewater Treatment Plant, Montgomery County, San Jacinto River Basin.

Contact: Mary Ann Hefner, P.O. 13087, Austin, Texas 78711, (512) 475-4514.

Filed: July 13, 1984, 11.36 a.m.
TRD-847376, 847377

Wednesday, August 29, 1984, 10 a.m. The Texas Water Commission will meet in the council chambers, 215 East McKinney, Denton. According to the agenda summary, the commission will consider the application of Neil Davis, 108½ West Virginia Street, McKinney, Texas 75069, to the Texas Department of Water Resources for proposed Permit 12899-01 to authorize a discharge of treated domestic wastewater effluent at a volume not to exceed an average flow of 100,000 gallons per day from the proposed Clemons Park Wastewater

Treatment Plant, which is to serve a proposed mobile home park.

Contact: James K. Rourke, P.O. Box 13087, Austin, Texas, (512) 475-1317

Filed: July 13, 1984, 11:37 a.m.
TRD-847375

The Texas Water Commission will meet in Room 618, Stephen F. Austin Building, 1700 North Congress Avenue, Austin, Days, times, and agendas follow.

Thursday, August 30, 1984, 10 a.m. The commission will consider the application of Allan R Klein, 14307 Chadbourne, Houston, Texas 77079, to the Texas Department of Water Resources for renewal of Permit 11456-01, which authorizes a discharge of treated domestic wastewater effluent at a volume not to exceed an average flow of 90,000 gallons per day from the not yet constructed Commander's Point Sewage Treatment Plant, which is approximately one-fourth mile northwest of Mansfield Dam on Lake Travis and 350 feet east of the intersection of FM Road 620 and Commander's Point Drive in Travis County. The effluent is to be discharged into a submerged pipe into Lake Travis in Segment 1404 of the Colorado River Basin. The expiration date of the existing permit was July 17, 1983. The executive director of the department has recommended that the application for renewal be denied.

Contact: Gwendolyn H Webb, P.O. Box 13087, Austin, Texas 78711, (512) 475-1317.

Filed: July 16, 1984, 2:29 p.m.
TRD-847451

Friday, August 31, 1984, 10 a.m. The commission will conduct a hearing on Application 4463 of Pat Abate, seeking a permit to divert and use 475-acre-feet of water per year directly from the Brazos River, Brazos River Basin, for irrigation use in Falls County.

Contact: Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, (512) 475-4514

Filed: July 13, 1984, 11:38 a.m.
TRD-847374

Addition to the previous agenda:

A hearing on Application 4462 of Tony Lombardo and wife, Providence Lombardo, seeking a permit to divert and use 345-acre-feet of water per annum directly from the Brazos River, Brazos River Basin, for irrigation use in Falls County.

Contact: Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, (512) 475-4514.

Filed: July 13, 1984, 11:38 a.m.
TRD-847373

Wednesday, September 5, 1984, 9:30 a.m. The Texas Water Commission will meet in the classroom, Rolling Hills Water Treatment Plant, 2500 Southeast Loop 820, Fort Worth. According to the agenda summary, the commission will consider the application of the City of Keene, 100 North Mockingbird, Keene, Texas 76059, to the Texas Department of Water Resources for the renewal of Permit 10611-01, which authorizes a discharge of treated domestic wastewater effluent at a volume not to exceed an average flow of 355,000 gallons per day from the wastewater treatment plant which is located immediately east of FM Road 2280 (North Old Betsy Road) and approximately 2,000 feet north of Oakdale Street in Johnson County. The effluent is discharged into Turkey Creek; thence into Lake Alvarado; thence into the North Fork of Chambers Creek; thence into Chambers Creek in Segment 0814 of the Trinity River Basin.

Contact: Douglas P. Roberts, P.O. Box 13087, Austin, Texas 78711, (512) 475-1468.

Filed: July 13, 1984, 11:38 a.m.
TRD-847388

Addition to the previous agenda:

Application of Hyde-Way, Inc., P.O. Box 456, Justin, Texas 76247, to the Texas Department of Water Resources for proposed Permit 12941-01 to authorize a discharge of treated domestic sewage effluent at a volume not to exceed an average flow of 48,000 gallons per day from a wastewater treatment plant which is to serve existing airport hangars, proposed hangars, a proposed mobile home park, and a proposed restaurant and office.

Contact: Douglas P Roberts, P O Box 13087, Austin, Texas 78711, (512) 475-1468.

Filed: July 13, 1984, 11:39 a.m.
TRD-847386

Thursday, September 6, 1984, 9:30 a.m. The Texas Water Commission will meet in the auditorium, Bank of the Southwest, 910 Travis Street, Houston According to the agenda summary, the commission will consider the application of G Karbalai, 1915 South Shepherd, Houston, Texas 77019, to the Texas Department of Water Resources for proposed Permit 12869-01 to authorize a discharge of treated domestic sewage effluent at a volume not to exceed an average flow of 25,000 gallons per day from the East Mount Houston Sewage Treatment Plant, which is to serve an existing mobile home

park currently utilizing malfunctioning septic tank systems.

Contact: James R. Larkins, P.O. Box 13087, Austin, Texas 78711, (512) 475-2711.

Filed: July 13, 1984, 11:39 a.m.
TRD-847385

Addition to the previous agenda:

Application of George Johnson, 20333 FM Road 149, Suite 201, Houston, Texas 77070, to the Texas Department of Water Resources for proposed Permit 12892-01 to authorize a discharge of treated domestic wastewater effluent at a volume not to exceed an average flow of 60,000 gallons per day from a proposed wastewater treatment plant which is to serve the needs of a proposed mobile home park.

Contact: James R. Larkins, P.O. Box 13087, Austin, Texas 78711, (512) 475-2711.

Filed: July 13, 1984, 11:40 a.m.
TRD-847384

The Texas Water Commission will meet at the Stephen F. Austin Building, 1700 North Congress Avenue, Austin. Days, times, rooms, and agendas follow.

Monday, September 10, 1984, 10 a.m. In Room 124A, the commission will consider the application of the Del Mar Conservation District, seeking to amend Certificate of Adjudication 23-2709, to change the purpose of use of 365-acre-feet of Class B irrigation right to municipal use; to change the point of diversion on the Rio Grande, Rio Grande Basin, in Webb County, to change the place of use; and to sever the diversion rate from being held in combination with Certificates of Adjudication 23-2707 and 23-2708.

Additions to the previous agenda:

Application of the Del Mar Conservation District, seeking to amend Certificate of Adjudication 23-2729, to change the purpose of use of 258-acre-feet of Class B irrigation rights to municipal use, to change the point of diversion on the Rio Grande, Rio Grande Basin, and to change the place of use in Webb County

Application of the Del Mar Conservation District, seeking to amend Certificate of Adjudication 23-2731, to change the purpose of use of 1,323-acre-feet of Class B irrigation rights to municipal use, change the point of diversion from the Rio Grande, Rio Grande Basin, and to change the place of use and sever the diversion rate from being held in combination with Certificate of Adjudication 23-2730 in Webb County

Texas Register

Friday, September 14, 1984, 10 a.m. In Room 618, the commission will consider the application of the City of Dallas, seeking to amend Certificate of Adjudication 8-2457, to convert 568-acre-feet of water right from municipal to irrigation purposes from the Old Channel of the Elm Fork Trinity River, tributary of the Trinity River, Trinity River Basin, Dallas County, because of executed water supply contracts with Brook-hollow Country Club, City of Carrollton, and the Dallas Parks and Recreation Department. The city requests that the amendment be conditioned so that the diversion for irrigation use under each contract will last for only the term of each contract and then revert to municipal use.

Monday, September 17, 1984, 10 a.m. In Room 124A, the commission will consider Application 3847A of Bent Tree Country Club, Inc., seeking to amend Permit 3574, to correctly state the location of Reservoir 4; to authorize the diversion and use of purchased water from Reservoir 4 at a maximum rate of 2.2 cfs for irrigation use in Dallas County and Collin County, to describe the midpoint of the dam for Reservoir 2 and to authorize the diversion and use of purchased water from Reservoir 2 at a maximum rate of 2.4 cfs for irrigation use; to add a diversion point on White Rock Creek, tributary of the Trinity River, Trinity River Basin; and to authorize the diversion and use of purchased water from this diversion point at a maximum rate of 2.7 cfs for irrigation use in Dallas County and Collin County

Addition to the previous agenda:

Application of the River Inn Association of Unit Owners, Inc., seeking an amendment to Certificate of Adjudication 18-1956A, for authorization to divert and use a total of 10 acre-feet of water per annum for municipal purposes and to increase the maximum diversion rate to 50 gpm (0.11 cfs) from a reservoir on the South Fork Guadalupe River, tributary of the Guadalupe River, Guadalupe River Basin, in Kerr County.

Contact: Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, (512) 475-4514.

Filed: July 13, 1984, 11:40 a.m.
TRD-847383, 847382, 847381,
847380, 847379, 847378

Texas Department of Water Resources

Thursday, August 30, 1984, 9 a.m. The Texas Department of Water Resources will

meet in Room 118, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. According to the agenda summary, the department will conduct a public hearing concerning the proposed federal fiscal year 1985 project priority list for the Municipal Facilities Construction Grant Program.

Contact: Bob Klinker, P.O. Box 13087, Austin, Texas 78711, (512) 475-2004.

Filed: July 13, 1984, 9:47 a.m.
TRD-847360

Regional Agencies Meetings Filed July 12

The Alamo Area Council of Governments, Executive Committee, will meet in Suite 420, 118 Broadway, San Antonio, on July 25, 1984, at 1:30 p.m. Information may be obtained from Al J. Notzon III, 118 Broadway, Suite 400, San Antonio, Texas 78205, (512) 225-5201.

The Amarillo Mental Health and Mental Retardation Center, Board of Trustees Executive Committee, met in Room G-15, Psychiatric Pavilion, 7201 Evans Street, Amarillo, on July 19, 1984, at noon. The Board of Trustees met in Room J-13 at the same location on the same day at 1 p.m. Information may be obtained from Claire Rigler, P.O. Box 3250, Amarillo, Texas 79106, (806) 353-7235.

The Comal County Appraisal District, Board of Directors, met at 644 North Loop 337, New Braunfels, on July 16, 1984, at 7:30 p.m. Information may be obtained from Glenn L. Brucks, P.O. Box 1222, New Braunfels, Texas 78130, (512) 625-8597.

The Texas Community Development Program, Regional Review Committee, met at the Rodeway Inn, Highway 59, Lufkin, on July 19, 1984, at 8:30 a.m. Information may be obtained from Rhonda Ruckel, P.O. Drawer 1170, Jasper, Texas, (409) 384-5704.

The Dallas Area Rapid Transit Authority, Service Plan/Work Program, met in emergency session at 601 Pacific Avenue, Dallas, on July 13, 1984, at 3:30 p.m. The Board met at the same location on July 17, 1984, at 6:30 p.m. Information may be obtained from Nancy McKethan 601 Pacific Avenue, Dallas, Texas 75202, (214) 748-3278.

The Hays County Central Appraisal District, Board of Review, met at the County

Courthouse Annex, San Marcos, on July 19, 1984, at 9 a.m. Information may be obtained from Lynnell Sedlar, Hays County Courthouse Annex, third floor, San Marcos, Texas 78666, (512) 396-4777.

The Hockley County Appraisal District, Board of Directors, met at 913 Austin Street, Levelland, on July 16, 1984, at 7 p.m. Information may be obtained from Keith Toomire, P.O. Box 1090, Levelland, Texas 79336, (806) 894-9654.

The Lower Colorado River Authority, Audit and Budget Committee, met at 3700 Lake Austin Boulevard, Austin, on July 18, 1984, at 8 a.m. The following committees met at the same location on the same day at the following times:

Finance and Administration Committee—9 a.m.

Energy Operations Committee—10:30 a.m.

Natural Resources Committee—1 p.m.

The Board of Directors met at the same location on July 19, 1984, at 9 a.m. Information may be obtained from Elof H. Soderberg, P.O. Box 220, Austin, Texas 78767, (512) 473-3200.

The Pecan Valley Mental Health and Mental Retardation Region, Board of Trustees, met at the outpatient clinic, 104 Charles Street, Granbury, on July 18, 1984, at 8 a.m. Information may be obtained from Dr. Theresa Mulloy, P.O. Box 973, Stephenville, Texas 76401, (817) 965-7806.

The Scurry County Appraisal District, Board of Directors, met at 2612 College Avenue, Snyder, on July 17, 1984, at 8 p.m. Information may be obtained from L. R. Peveler, 2612 College Avenue, Snyder, Texas 79549, (915) 573-8549.

TRD-847317

Meetings Filed July 13

The Atascosa County Appraisal District, Board of Directors, met at 1010 Zanderson, Jourdanton, on July 19, 1984, at 1:30 p.m. Information may be obtained from Vernon A. Warren, 1010 Zanderson, Jourdanton, Texas, (512) 769-2730.

The Austin-Travis County Mental Health and Mental Retardation Center, Board of Trustees Personnel Committee, met in the board room, 1430 Collier Street, Austin, on July 19, 1984, at 4:30 p.m. Information may be obtained from Sharon Taylor, 1430

Collier Street, Austin, Texas 78704, (512) 447-4141.

The Cherokee County Appraisal District, Board of Directors, met at 107 East Sixth Street, Rusk, on July 19, 1984, at 2:30 p.m. Information may be obtained from S. R. Danner, P.O. Box 494, Rusk, Texas 75785.

The Coryell County Appraisal District, Appraisal Review Board, met at 105 North Seventh, Gatesville, on July 18, 1984, at 9 a.m. Information may be obtained from Darrell Lisenbe, P.O. Box 142, Gatesville, Texas 76528, (817) 865-6593.

The Dallas Area Rapid Transit Authority, Budget and Finance Committee, met at 601 Pacific Avenue, Dallas, on July 16, 1984, at 4 p.m. The Special Needs Committee met at the same location on July 17, 1984, at 4:30 p.m. Information may be obtained from Nancy McKeihan, 601 Pacific Avenue, Dallas, Texas 75202, (214) 748-3278.

The Region VIII Education Service Center, Board of Directors, met in emergency session at K-Bob's Restaurant, Highway 271 South, Mount Pleasant, on July 17, 1984, at 7 p.m. Information may be obtained from Scott Ferguson, 100 North Riddle, Mount Pleasant, Texas 75455, (214) 572-8551.

The Gillespie County Appraisal Review Board, Board of Directors, will meet in the assembly room, City Hall, Fredericksburg, on July 30, 1984, at 8:30 a.m. Information may be obtained from Ray Roarick, P O Box 429, Fredericksburg, Texas 78624, (512) 997-2074.

The Heart of Texas Council of Governments, Executive Committee, met in the conference room, 320 Franklin Avenue, Waco, on July 19, 1984, at 6 p.m. Information may be obtained from Anita Tharpe, 925 Columbus, Waco, Texas 76701, (817) 754-5421, ext 78

The Jack County Appraisal District, Board of Directors, met at the Los Creek Office Building, 258 South Main, Jacksboro, on July 17, 1984, at 7 p.m. Information may be obtained from Doris G Ray or Linda Williams, 258 South Main, Jacksboro, Texas 76056, (817) 567-6301

The Limestone County Appraisal District, Board of Directors, met at the county courthouse, Groesbeck, on July 11, 1984, at 7 p.m. Information may be obtained from Clydene Hyden, P.O. Drawer 831, Groesbeck, Texas 76642, (817) 729-3009.

The Lower Colorado River Authority, Energy Operations Committee met at 3700 Lake Austin Boulevard, Austin, on July 18, 1984, at 10:30 a.m. The Natural Resources Committee met at the same location on the same day at 1 p.m. The Board of Directors met at the same location on July 19, 1984, at 9 a.m. Information may be obtained from Elof H. Soderberg, P.O. Box 220, Austin, Texas 78767, (512) 473-3200.

The Middle Rio Grande Development Council-Area Agency on Aging, Area Advisory Council on Aging, met in the reading room, Uvalde Civic Center, Uvalde, on July 17, 1984, at 10 a.m. Information may be obtained from Estella Hernandez, P.O. Box 702, Carrizo Springs, Texas 78834.

The Swisher County Appraisal District, Board of Directors, met at 130 North Armstrong, Tulia, on July 19, 1984, at 8 p.m. Information may be obtained from Rose Lee Powell, 104 North Armstrong, Tulia, Texas 79088, (806) 995-4118

The Wheeler County Appraisal District, Board of Review, will meet in the commissioners court room, Wheeler County courthouse, Wheeler, on July 20, 1984, at 9 a.m. Information may be obtained from Marilyn Copeland, P O. Box 349, Wheeler, Texas 79096, (806) 826-5900.

TRD-847358

Meetings Filed July 16

The Amarillo Mental Health and Mental Retardation Regional Center, Budget Finance Committee, met in emergency session in the conference room, J-13, Psychiatric Pavilion, Amarillo, on July 17, 1984, at noon. Information may be obtained from Claire Rigler, P.O. Box 3250, Amarillo, Texas 79106, (806) 353-7235

The Bastrop County Appraisal District, Board of Directors, met at 1200 Cedar Street, Bastrop, on July 19, 1984, at 7:30 p.m. Information may be obtained from Clifton L. Kessler, 1200 Cedar Street, Bastrop, Texas 78602, (512) 321-3925

The Central Texas Council of Governments, Central Texas Private Industry Council, will meet at 302 East Central, Belton, on July 25, 1984, at 1:30 p.m. Information may be obtained from Walton B Reedy, P O Box 729, Belton, Texas 76513

The Deep East Texas Regional Mental Health and Mental Retardation Services, Board of Trustees, will meet in the Ward R. Burke Community Room, Administration Facility, 4101 South Medford Drive,

Lufkin, on July 24, 1984, at 5:30 p.m. Information may be obtained from Jim McDermott, 4101 South Medford Drive, Lufkin, Texas 75901, (409) 639-1141.

The Hansford County Appraisal District, Board, will meet at 13 West Kenneth Avenue, Spearman, on July 24, 1984, at 9 a.m. Information may be obtained from Alice Peddy, Box 567, Spearman, Texas 79081, (806) 659-5575.

The Texas Municipal Power Agency, Board of Directors, met in the administration building, Gibbons Creek Steam Electric Station, 2½ miles north of Carlos on FM Road 244, on July 19, 1984, at 1:30 p.m. Information may be obtained from Jim Bailey, P.O. Box 7000, Bryan, Texas 77805.

The Northeast Texas Municipal Water District, Board of Directors, will meet at 1003 Linda Drive, Daingerfield, on July 23, 1984, at 7 p.m. Information may be obtained from Homer Tanner, P.O. Box 680, Daingerfield, Texas 75683, (214) 645-2241.

The Central Appraisal District of Rockwall County, Appraisal Review Board, met in emergency session at 106 North San Jacinto, Rockwall, on July 17, 1984, at 9 a.m. Information may be obtained from Eugene "Bo" Daffin, 106 North San Jacinto, Rockwall, Texas 75087.

The San Jacinto River Authority, Board of Directors, will meet at the Lake Conroe Office Building, Highway 105 West, Conroe, on July 24, 1984, at 1:15 p.m. Information may be obtained from Jack K. Ayer, P.O. Box 329, Conroe, Texas 77305, (409) 588-1111.

The Tarrant Appraisal District, Board of Directors, will meet in Suite 200, 1701 River Run, Fort Worth, on July 26, 1984, at 10 a.m. Information may be obtained from Cecil Mae Perrin, 1701 River Run, Suite 200, Fort Worth, Texas 76107, (817) 332-8522

The Tyler County Appraisal District, Board of Directors, will meet at 1004 West Bluff, Woodville, on July 23, 1984, at 4 p.m. Information may be obtained from Mary F. Mann, P O. Drawer 9, Woodville, Texas 75979, (409) 283-3736.

The Upper Leon River Municipal Water District, Board of Directors, will meet in the general office, filter plant, Proctor Lake, on July 26, 1984, at 6:30 p.m. Information may be obtained from Zollie Skaggs, Box 67, Comanche, Texas, (817) 879-2258.

TRD-847439

**Texas
Register**

Meeting Filed July 17

The Lampasas County Appraisal District will meet at 403 East Second, Lampasas, on July 20, 1984, at 3 p m. Information may be obtained from Dana Ripley, P O. Box 175, Lampasas, Texas 76550, (512) 556-8058

TRD-847465



For the purpose of public information, the *Register* publishes a listing of the bills that have been submitted to the governor and the status of these bills

A bill will be listed after the bill has passed both the House and the Senate and again when the Governor acts upon the bill

The Legislature



Bills Submitted to the Governor

July 3

HB 35 Relating to bidding procedures under the state employees group insurance program.

Sponsor: Madla

HB 90 Relating to the creation of a criminal offense of leaving a child unattended in a motor vehicle

Sponsor: Polumbo

HB 120 Relating to financing the construction, improvement, and maintenance of farm-to-market roads

Sponsor: Cain

SB 27 Relating to the receipt, allocation, and management of state revenue and to the times of payment of the corporate franchise tax, creating the public junior college reimbursement fund and the medical and dental college reimbursement fund.

Sponsor: Jones

July 5

HB 89 Relating to the audit and operation of the State Department of Highways and Public Transportation.

Sponsor: Schlueter

HB 101 Relating to the assessment of damages in certain eminent domain proceedings

Sponsor: Cain

HB 125 Relating to the creation, administration, actions, powers, and dissolution of transportation corporations by the State Highway and Public Transportation Commission to carry out certain public purposes of the commission

Sponsor: Emmett

HB 128 Relating to the effective date of certain parts of House Bill 122, Article 1, 68th Legislature, second called session, 1984

Sponsor: Schlueter

SB 7 Relating to time periods for the filing of reports and the payment of contributions for social security for public employees.

Sponsor: Farabee

SB 17 Relating to the creation of emergency communication districts in certain counties in which a 911 telephone number is used as the primary emergency telephone number; providing for the imposition and collection of fees.

Sponsor: Parmer

SB 24 Relating to a revision and reenactment of the laws concerning roads, bridges, and subdivisions under the jurisdiction of counties, road districts, and other political subdivisions, providing for the creation of road districts

Sponsor: McFarland

SB 26 Relating to the terms of court of the 356th District Court

Sponsor: Blake

SB 30 Relating to authorizing participation in cooperative associations by health-related institutions that are federally funded.

Sponsor: Brooks

SB 33 Relating to the creation, administration, powers, duties, operations, financing, and dissolution of road utility districts, to conveyance of completed facilities to certain governmental entities

Sponsor: Sharp

SB 42 Relating to the jurisdiction of the County Court of Dallas County at Law 1.

Sponsor: Lyon

SB 43 Relating to creation and duties of the office of district attorney of the 355th, 349th, 75th, 253rd, and 344th District Courts.

Sponsor: Glasgow

SB 48 Relating to certain transactions involving business machines.

Sponsor: Whitmire

SB 49 Relating to conforming the Property Code and related statutes to the laws from which that Code is derived and to laws enacted after the date of enactment of all or part of that Code or laws

Sponsor: McFarland

SB 51 Relating to the counting of straight-ticket ballots.

Sponsor: Edwards

SB 54 Relating to seeking and allocating credits from the federal government for the overpayment of social security taxes.

Sponsor: Caperton

July 6

HB 72 Relating to the public school system, including administration, finance, personnel, students, and programs, and teacher retirement.

Sponsor: Haley

HB 122 Relating to raising revenue to support state and local government and to the imposition, application, rates, collection, administration, and enforcement of and the allocation and use of revenue from various state taxes and fees.

Sponsor: Schlueter, *et al*

July 9

SB 9 Relating to an appropriation to the Texas Low-Level Radioactive Waste Disposal Authority for site development and construction.

Sponsor: Traeger

SB 11 Relating to the creation, membership, terms, compensation, staff, and powers and duties of the Texas Public Building Authority, to the purchase and use of certain property in the possession of the Texas Employment Commission

Sponsor: Jones

SB 15 Relating to the adjustment of appropriations to public junior colleges for insurance premiums for active and retired employees and authorizing use of funds necessary to make the adjustment.

Sponsor: Farabee

SB 31 Relating to appropriations to the Texas Department of Mental Health and Mental Retardation and transfers of funds to improve staff-to-patient ratios in state mental hospitals and to make certain state contributions for employees.

Sponsor: Farabee

SB 35 Relating to the provision of telecommunication services by the State Purchasing and General Services Commission and to the creation of a legislative oversight committee; requiring a report on replacement of long distance service.

Sponsor: Blake

SB 46 Making an appropriation of funds in the municipal court judges and personnel training fund to the Criminal Justice Planning Division in the Governor's Office and to court costs for the criminal justice planning fund.

Sponsor: Caperton

SB 52 Relating to eligibility for appointment to and payment of dues to the Southern States Energy Board and use of previous appropriations for such payment.

Sponsor: Santiesteban

July 10

HB 93 Relating to appropriations to the Texas Department of Corrections for operation of the department and

authorizing transfers of amounts previously appropriated to the department.

Sponsor: Hightower

HB 111 Relating to appropriations to the State Department of Highways and Public Transportation for the fiscal year ending August 31, 1985, for highway maintenance and construction.

Sponsor: Rudd

Bills Signed by the Governor

July 10

HB 35 Relating to bidding procedures under the state employees group insurance program.

Effective Date: October 2, 1984

July 12

HB 89 Relating to the audit and operation of the State Department of Highways and Public Transportation.

Effective Date: Immediately

HB 90 Relating to the creation of a criminal offense of leaving a child unattended in a motor vehicle.

Effective Date: October 2, 1984

HB 93 Relating to appropriations to the Texas Department of Corrections for operation of the department and authorizing transfers of amounts previously appropriated to the department.

Effective Date: Immediately

HB 120 Relating to financing the construction, improvement, and maintenance of farm-to-market roads.

Effective Date: October 2, 1984

HB 125 Relating to the creation, administration, actions, powers, and dissolution of transportation corporations by the State Highway and Public Transportation Commission to carry out certain public purposes of the commission.

Effective Date: October 2, 1984

SB 3 Relating to child passenger safety seat systems.

Effective Date: October 31, 1984

SB 5 Relating to an increase in the benefits to certain annuities of the Employees Retirement System of Texas.

Effective Date: September 1, 1984

SB 7 Relating to time periods for the filing of reports and the payment of contributions for social security for public employees

Effective Date: Immediately

SB 9 Relating to an appropriation to the Texas Low-Level Radioactive Waste Disposal Authority for site development and construction.

Effective Date: Immediately

SB 11 Relating to the creation, membership, terms, compensation, staff, and powers and duties of the Texas

Public Building Authority; to the purchase and use of certain property in the possession of the Texas Employment Commission

Effective Date. Immediately

SB 15 Relating to the adjustment of appropriations to public junior colleges for insurance premiums for active and retired employees and authorizing use of funds necessary to make the adjustment.

Effective Date. Immediately

SB 17 Relating to the creation of emergency communication districts in certain counties in which a 911 telephone number is used as the primary emergency telephone number; providing for the imposition and collection of fees

Effective Date. Immediately

SB 24 Relating to a revision and reenactment of the laws concerning roads, bridges, and subdivisions under the jurisdiction of counties, road districts, and other political subdivisions; providing for the creation of road districts.

Effective Date. Immediately

SB 26 Relating to the terms of court of the 356th District Court

Effective Date. January 1, 1985

SB 27 Relating to the receipt, allocation, and management of state revenue and to the times of payment of the corporate franchise tax; creating the public junior college reimbursement fund and the medical and dental college reimbursement fund.

Effective Date: September 1, 1984

SB 30 Relating to authorizing participation in cooperative associations by health-related institutions that are federally funded

Effective Date. Immediately

SB 31 Relating to appropriations to the Texas Department of Mental Health and Mental Retardation and transfers of funds to improve staff-to-patient ratios in state mental hospitals and to make certain state contributions for employees

Effective Date. Immediately

SB 33 Relating to the creation, administration, powers, duties, operations, financing, and dissolution of road utility districts, to conveyance of completed facilities to certain governmental entities

Effective Date. October 2, 1984

SB 35 Relating to the provision of telecommunication services by the State Purchasing and General Services Commission and to the creation of a legislative oversight committee, requiring a report on replacement of long distance service

Effective Date. Immediately

SB 42 Relating to the jurisdiction of the County Court of Dallas County at Law 1

Effective Date: Immediately

SB 43 Relating to creation and duties of the office of district attorney of the 355th, 349th, 75th, 253rd, and 344th District Courts.

Effective Date. Immediately

SB 46 Making an appropriation of funds in the municipal court judges and personnel training fund to the Criminal Justice Planning Division in the Governor's Office and to court costs for the criminal justice planning fund

Effective Date. Immediately

SB 49 Relating to conforming the Property Code and related statutes to the laws from which that Code is derived and to laws enacted after the date of enactment of all or part of that Code or laws.

Effective Date. October 2, 1984

SB 51 Relating to the counting of straight-ticket ballots.

Effective Date. October 2, 1984

SB 52 Relating to eligibility for appointment to and payment of dues to the Southern States Energy Board and use of previous appropriations for such payment

Effective Date. October 2, 1984

SB 54 Relating to seeking and allocating credits from the federal government for the overpayment of social security taxes.

Effective Date: Immediately

July 13

HB 72 Relating to the public school system, including administration, finance, personnel, students, and programs, and teacher retirement.

Effective Date. 1984-1985 school year, unless otherwise specified

HB 101 Relating to the assessment of damages in certain eminent domain proceedings

Effective Date. October 2, 1984

HB 111 Relating to appropriations to the State Department of Highways and Public Transportation for the fiscal year ending August 31, 1985, for highway maintenance and construction

Effective Date. September 1, 1984

HB 122 Relating to raising revenue to support state and local government and to the imposition, application, rates, collection, administration and enforcement of, and the allocation and use of revenue from various state taxes and fees

Effective Date. October 2, 1984

HB 128 Relating to the effective date of certain parts of House Bill 122, Article 1, 68th Legislature, second called session, 1984

Effective Date. Immediately

In Addition

The *Register* is required by statute to publish applications to purchase control of state banks (filed by the banking commissioner), notices of rate ceilings (filed by the consumer credit commissioner), changes in interest rate and applications to install remote service units (filed by Texas Savings and Loan commissioner), and consultant proposal requests and awards (filed by state agencies, regional councils of government, and the Texas State Library and Archives Commission)

In order to aid agencies in communicating information quickly and effectively, other information of general interest to the public is published as space allows. This often includes applications for construction permits (filed by the Texas Air Control Board), applications for amendment, declaratory ruling, and notices of intent (filed by the Texas Health Facilities Commission), applications for waste disposal permits (filed by the Texas Water Commission), and notices of public hearing.

Banking Department of Texas Application to Acquire Control of a State Bank

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

On July 12, 1984, the banking commissioner received an application to acquire control of Rochester Bancshares, Inc., Rochester, by Donald W. Johnson, Wall

Additional information may be obtained from William F. Aldridge, 2601 North Lamar Boulevard, Austin, Texas 78705, (512) 475-4451.

Issued in Austin, Texas, on July 12, 1984

TRD-847434 William F. Aldridge
Director of Corporate Activities
Banking Department of Texas

Filed: July 16, 1984
For further information, please call (512) 475-4451.



Office of Consumer Credit Commissioner 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).

Type of Rate Ceilings Effective Period (Dates are Inclusive)	Consumer ⁽³⁾ Agricultural/Commercial ⁽⁴⁾ thru \$250,000	Commercial ⁽⁴⁾ over \$250,000
Indicated (Weekly) Rate—Article 1.04(a)(1) 07/23/84-07/29/84	21.25%	21.25%
Monthly Rate— Article 1.04(c) ⁽¹⁾ 07/01/84-07/31/84	21.13%	21.13%
Standard Quarterly Rate—Article 1.04(a)(2) 07/01/84-09/30/84	19.90%	19.90%
Retail Credit Card Quarterly Rate— Article 1.11 ⁽³⁾ 07/01/84-09/30/84	19.90%	N/A
Lender Credit Card Quarterly Rate—Article 15.02(d) ⁽³⁾ 07/01/84-09/30/84	19.90%	N/A
Standard Annual Rate—Article 1.04(a)(2) ⁽²⁾ 07/01/84-09/30/84	19.90%	19.90%
Retail Credit Card Annual Rate—Article 1.11 ⁽³⁾ 07/01/84-09/30/84	19.90%	N/A

Type of Rate Ceilings Effective Period (Dates are Inclusive)	Consumer ⁽³⁾ Agricultural/Commercial ⁽⁴⁾ thru \$250,000	Commercial ⁽⁴⁾ over \$250,000
Annual Rate Applicable to Pre-July 1, 1983, Retail Credit Card and Lender Credit Card Balances with Annual Implementation Dates from 07/01/84-09/30/84	18.65%	N/A
Judgment Rate—Article 1 05, §2 08/01/84-08/31/84	10.99%	10.99%

- (1) For variable rate commercial transactions only
- (2) Only for open-end credit as defined in Texas Civil Statutes, Article 5069-1 01(f)
- (3) Credit for personal, family, or household use
- (4) Credit for business, commercial, investment, or other similar purpose

Issued in Austin, Texas, on July 16, 1984

TRD-847424 Sam Kelley
Consumer Credit Commissioner

Filed: July 16, 1984
For further information, please call (512) 475-2111.

Edwards Underground Water District and the City of San Antonio Consultant Proposal Request

This request for proposals (RFP) is filed pursuant to Texas Civil Statutes, Article 6252-11c.

The Edwards Underground Water District and the City of San Antonio, as joint sponsors, are soliciting proposals from qualified consultants to perform a comprehensive water resource study. The consultant selected must have the following minimal qualifications: extensive professional consulting experience in water resource analysis, and the capability of assembling a team of either in-house or subcontracted professionals to address all tasks of the proposed study.

This study has been authorized by the sponsors for the purpose of providing an analysis of water resource alternatives and issues. Numerous water resource studies for the Edwards Aquifer region have been prepared in the past, but for various reasons management approaches developed in these studies have not been implemented. The current effort should result in a report with sufficient technical support to facilitate water resources decisions consistent with the sponsors' goals for economic development, cost effectiveness, and environmental integrity. The report should encourage long-term confidence in these decisions.

Major tasks that comprise the work efforts for the study are:

(1) projections of water demands for the region through the year 2040;

(2) analysis of the sources of water supply available to the region, including opportunities for integrated systems operations;

(3) evaluation of the roles of end-use efficiency and conservation in meeting demands;

(4) formulation and analysis of alternatives to meet the water demands; and

(5) identification of the steps necessary for implementation of a regional water resource plan.

The study is expected to begin in early fall of 1984 and take approximately 12 to 15 months. Anticipated available funding for the project is \$400,000-\$600,000.

Consultants wishing to submit proposals should request a copy of the request for proposals from Rebecca Q. Cedillo, Department of Planning, City of San Antonio, P.O. Box 9066, San Antonio, Texas 78285, (512) 299-7876.

A cashier's check for \$100 must accompany each request for the RFP. The check will be returned to proposers submitting proposals but not selected. There will be a pre-proposal conference at 2 p.m. on July 27, 1984, in Room 25A, Henry B. Gonzalez Convention Center (Market at Alamo Streets), San Antonio. Proposals must be received by Wednesday, August 29, 1984.

A contract will be awarded after evaluation of the various proposals by the Technical Advisory Committee and after approval by the San Antonio City Council and the board of directors of the district. The contract will become binding upon the execution and delivery of a signed counterpart of the contract by the city and the district to the contractor. The city and the district reserve the right to waive formalities, to award the contract on a basis other than low price, and to reject any and all proposals.

Issued in San Antonio, Texas, on July 10, 1984

TRD-847314 Thomas P. Fox
General Manager
Edwards Underground Water District

Filed: July 12, 1984
For further information, please call (512) 222-2204

Texas Department of Health Licensing Actions for Radioactive Materials

The Texas Department of Health has taken actions regarding licenses for the possession and use of radioactive materials as listed in the following table. The sub-heading labeled "Location" indicates the city in which the radioactive material may be possessed and/or used. The location listing "Throughout Texas" indicates that the radioactive material may be used on a temporary basis at job sites throughout the state.

NEW LICENSES ISSUED:

Location	Name	License #	City	Amend-ment #	Date of Action
Austin	Mobile Medical Services	06-3666	Austin	0	06/08/84

Texas Register

Beaumont	Cramer & Gilstrap & Associates	10-3670	Beaumont	0	06/04/84	San Antonio	Severance Reference Laboratory	09-2417	San Antonio	11	05/31/84
Dallas	Mallinckrodt, Inc	05-3580	St Louis, MO	0	06/05/84	Temple	Scott and White Memorial Hospital	06-331	Temple	30	05/31/84
Houston	Triton Biosciences, Inc	11-3640	Houston	0	06/11/84	Throughout Texas	Southwestern Laboratories	07-1363	Texarkana	8	06/12/84
Houston	The University of Texas Health Science Center	11-3685	Houston	0	06/11/84	Throughout Texas	Ground Technology, Inc	11-3151	Houston	1	06/12/84
Houston	Park Plaza Hospital	11-3612	Houston	0	06/04/84	Throughout Texas	Lubbock Labs	02-1558	Lubbock	8	06/04/84
Pasadena	Pasadena Radiation Therapy Center	11-3634	Pasadena	0	05/31/84	Throughout Texas	Aero Perforating, Inc	04-2591	Tye	6	06/13/84
San Antonio	Humana Women's Hospital South Texas	09-3656	San Antonio	0	06/08/84	Throughout Texas	Houston Inspectors	11-3482	Houston	1	06/13/84
Throughout Texas	Killeen Independent School District	06-3578	Killeen	0	06/12/84	Throughout Texas	Houston Inspection Services, Inc	04-2633	Eastland	15	06/12/84
Throughout Texas	M & M Wireline Services, Inc	06-3604	San Marcos	0	06/12/84	Throughout Texas	AMF Tuboscope, Inc	11 287	Houston	54	06/12/84
Throughout Texas	Elias Brothers, Inc	03-3579	El Paso	0	06/07/84	Throughout Texas	BJ-Hughes, Inc	11 736	Houston	41	06/12/84
Throughout Texas	Permian Non-Destructive Testing	12-3683	Odessa	0	06/15/84	Throughout Texas	Tracer Service, Inc	07-3526	Kilgore	3	06/12/84
Throughout Texas	Inspect, Inc	11-3599	Houston	0	05/31/84	Throughout Texas	Southwestern Laboratories	11-2173	Texas City	10	06/12/84
Woodville	S & T Fabricators, Inc	10-3652	Woodville	0	06/07/84	Throughout Texas	Southwestern Laboratories	05-359	Dallas	32	06/12/84

AMENDMENTS TO EXISTING LICENSES ISSUED:

Location	Name	License #	City	Amendment #	Date of Action	Location	Name	License #	City	Amendment #	Date of Action
Arlington	Bio-Diagnostics, Inc	05-3406	Arlington	2	06/06/84	Throughout Texas	Davis Great Guns Logging, Inc	12-2708	Midland	4	06/07/84
Austin	Austin Radiological Association	06-545	Austin	49	06/12/84	Throughout Texas	U S Petro Services, Inc	11-2865	Channelview	12	06/07/84
Austin	St David's Community Hospital	06-740	Austin	35	05/31/84	Throughout Texas	Gray Wireline Service	02-3541	Levelland	1	06/07/84
Baytown	Exxon Chemical Company	11-3335	Baytown	3	06/05/84	Throughout Texas	The Superior Oil Company	11-1528	Houston	7	06/07/84
Bruni	Tenneco Uranium, Inc	09-3024	Bruni	7	06/05/84	Throughout Texas	Nuclear Measurement Services Co	05-2889	Dallas	3	06/05/84
Cameron	Cameron Community Hospital	06-3249	Cameron	2	06/06/84	Throughout Texas	Gearhart Industries, Inc	05-3284	Alvarado	6	06/14/84
Cleveland	Charter Community Hospital	11-2055	Cleveland	9	06/04/84	Throughout Texas	Royal Wireline, Inc	08-3110	Corpus Christi	3	06/05/84
Corpus Christi	Memorial Medical Center	08-265	Corpus Christi	34	06/04/84	Throughout Texas	Four Way Logging and Perforating Inc	04-2940	Colorado City	5	06/05/84
Corpus Christi	Memorial Medical Center	08-267	Corpus Christi	15	06/04/84	Throughout Texas	Dowell Schlumberger Incorporated	00-764	Tulsa, OK	39	06/05/84
Dallas	Southwestern Laboratories	05-2719	Dallas	4	06/12/84	Throughout Texas	Shell Development Company	11 2116	Houston	12	06/05/84
Dallas	General Electric Medical Systems	05-2800	Dallas	4	06/06/84	Throughout Texas	Unaspect, Inc	07-2799	Longview	7	05/23/84
Dallas	Medical City Dallas Hospital	05-2199	Dallas	5	06/06/84	Throughout Texas	Mississippi X Ray Service, Inc	11 3246	Baytown	10	06/07/84
El Paso	The University of Texas at El Paso	03-159	El Paso	16	06/06/84	Throughout Texas	Goolsby Testing Laboratories, Inc	11 3115	Humble	6	06/04/84
Fort Worth	Trinity Division General Portland, Inc	05-1698	Fort Worth	8	06/05/84	Throughout Texas	Coastal Inspection Service Company	10-810	Orange	29	06/04/84
Friendswood	Iso-Tex Diagnostics	11-2999	Friendswood	3	06/06/84	Throughout Texas	Southwestern Laboratories	12-1934	Midland	6	06/05/84
Harlingen	Valley Baptist Medical Center	08-154	Harlingen	16	06/08/84	Tyler	The University of Texas Health Center at Tyler	07-1796	Tyler	19	06/06/84
Hondo	Medina Memorial Hospital	09-3323	Hondo	1	06/06/84	Waco	Baylor University	06-1136	Waco	12	06/12/84
Houston	DRILCO	11-2362	Houston	7	05/29/84	Webster	Guif Nuclear, Inc	11-1654	Webster	48	06/11/84
Houston	Getty Oil Company	11-2758	Houston	5	06/12/84	Wichita Falls	Wichita General Hospital	04-350	Wichita Falls	24	05/31/84
Laredo	Mercy Hospital of Laredo	08-1306	Laredo	24	06/04/84	Wichita Falls	Wichita General Hospital	04-403	Wichita Falls	14	05/31/84
Longview	Longview Regional Hospital	07-2882	Longview	4	06/06/84						
Midland	Parkview Hospital	12-3386	Midland	3	06/04/84						
New Braunfels	The McKenna Memorial Hospital, Inc	09-2429	New Braunfels	7	06/06/84						
Odessa	El Paso Products Company	12-547	Odessa	19	06/13/84						
Paris	McCuston Regional Medical Center	07-2457	Paris	3	06/06/84						
Rockdale	Aluminium Company of America	06-2609	Rockdale	6	06/13/84						
Rockdale	Aluminium Company of America	06-2609	Rockdale	7	06/15/84						

RENEWALS OF EXISTING LICENSES ISSUED:

Location	Name	License #	City	Amendment #	Date of Action
Throughout Texas	P & S Perforators	08-2396	Victoria	4	06/05/84

TERMINATIONS OF LICENSES ISSUED:

Location	Name	License #	City	Amendment #	Date of Action
Bruni	Urex, Inc	08-3141	Riverton, WY	1	06/14/84

Houston Wyatt Division 11-635 Houston 38 06/12/84
U S Industries,
Inc

In issuing new licenses and amending and renewing existing licenses, the Texas Department of Health, Bureau of Radiation Control, has determined that the applicants are qualified by reason of training and experience to use the material in question for the purposes requested in accordance with *Texas Regulations for the Control of Radiation* in such a manner as to minimize danger to public health and safety or property and the environment; the applicants' proposed equipment, facilities, and procedures are adequate to minimize danger to public health and safety or property and the environment; the issuance of license(s) will not be inimical to the health and safety of the public or the environment, and the applicants satisfy any applicable special requirements in the *Texas Regulations for the Control of Radiation*

This notice affords the opportunity for a hearing on written request of a licensee, applicant, or "person affected" within 30 days of the date of publication of this notice. A "person affected" is defined as a person who is resident of a county, or a county adjacent to the county, in which the radioactive materials are or will be located, including any person who is doing business or who has a legal interest in land in the county or adjacent county, and any local government in the county, and who can demonstrate that he has suffered or will suffer actual injury or economic damage due to emissions of radiation. A licensee, applicant, or "person affected" may request a hearing by writing David K Lacker, Chief, Bureau of Radiation Control (Director, Radiation Control Program), 1100 West 49th Street, Austin, Texas 78756.

Any request for a hearing must contain the name and address of the person who considers himself affected by agency action, identify the subject license, specify the reasons why the person considers himself affected, and state the relief sought. If the person is represented by an agent, the name and address of the agent must be stated.

Copies of these documents and supporting materials are available for inspection and copying at the office of the Bureau of Radiation Control, Texas Department of Health, 1212 East Anderson Lane, Austin, Texas, from 8 a.m. to 5 p.m. Monday through Friday (except holidays)

Issued in Austin, Texas, on July 12, 1984

TRD-847419 Robert A MacLean, M D
Deputy Commissioner
Professional Services
Texas Department of Health

Filed July 10, 1984

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

Public Hearings

A public hearing to gather information about ways to reduce the impact of cancer on Texans has been called for July 26, 1984, in Temple

Members of the Legislative Task Force on Cancer in Texas, created last February by House Speaker Gib Lewis,

are seeking advice and recommendations from citizens and representatives of interested groups on how to address and solve the problems faced by Texans with cancer.

The Central/Southwest Texas Subcommittee of the task force will conduct a hearing from 1:30-5 p.m. on Thursday, July 26, 1984, in the backstage theatre, Fine Arts Building, Temple Junior College, 2600 South First Street, Temple.

The subcommittee is chaired by Dean Max Sherman of the LBJ School of Public Affairs in Austin, and information from the hearing will be used to help the 69th and 70th Texas Legislatures establish priorities for reducing the burden of cancer on Texans.

The subcommittee will direct its attention especially to the following issues: the availability of cancer treatment services to all elements of Texas society; transportation problems affecting access to services; cancer prevention and health promotion services; the statewide Cancer Registry Program; and the availability of services to assist in the rehabilitation of cancer patients

It is requested that individuals limit their testimony to 10 minutes and provide a typed copy of their statements for future reference

For further information, contact Charles R Webb, Jr., M D., Legislative Task Force on Cancer in Texas, P.O. Box 190, Temple, Texas 76503, (817) 778-6744.

Issued in Austin, Texas, on July 10, 1984

TRD-847315 Robert A MacLean, M D
Deputy Commissioner
Professional Services
Texas Department of Health

Filed July 12, 1984

For further information, please call (817) 778-6744.

The Texas Department of Health will conduct a public hearing on Application 1697 of the City of Deer Park to operate a proposed municipal solid waste transfer station to be located approximately 0.5 mile south of the junction of State Highway 225 and Underwood Road on the northwest side of the junction of "X" Street and Underwood Road in the City of Deer Park in Harris County.

The hearing will be held at 10 a.m. on Tuesday, August 14, 1984, in the council chambers, city hall, San Augustine Street, Deer Park.

Issued in Austin, Texas, on July 12, 1984

TRD-847420 Robert A MacLean
Deputy Commissioner
Professional Services
Texas Department of Health

Filed: July 16, 1984

For further information, please call (512) 458-7271.



Request for Public Comments

Under authority of the Omnibus Budget Reconciliation Act of 1981, the Texas Department of Health is making application to the U S Public Health Service for funds to continue the maternal and child health services and preventive health and health services block grants during federal fiscal year 1985.

The department has completed the federal fiscal year 1985 intended use of funds reports for each of the block grants as required by the previously mentioned Act. Public comment taken from the testimony received at the 10 public hearings held in each of the department's public health regions has been included in these reports. The reports consist of statements of compliance and assurance, program need, goals, objectives, activities/services, reports/data, criteria for fund distribution, and federal fiscal year 1984 accomplishments.

These reports are available for public review and comment from any person (including any federal, state, local, or other public agencies) and may be viewed at the Texas Department of Health and at the following regional offices.

Texas Department of Health
1100 West 49th Street
Austin, Texas 78756
(512) 458-7640

Public Health Region 1
Old Health Center Building
300 Victory Drive
Canyon, Texas 79016
(806) 655-7151

Public Health Region 2 and Region 12
4709 66th Street
Lubbock, Texas 79414
(806) 797-4331

Public Health Region 3
2300 East Yandell
El Paso, Texas 79903
(915) 533-4972

Public Health Region 4
Commerce Plaza Office Building
1290 South Wilks, Suite 100
Abilene, Texas 79605
(915) 695-7170

Public Health Region 5
701 Directors Drive
Arlington, Texas 76011
(817) 460-3032

Public Health Region 6
2408 South 37th Street
Temple, Texas 76503
(817) 778-6744

Public Health Region 7 and Region 10
1517 West Front Street
Tyler, Texas 75702
(214) 595-3585

Public Health Region 8
1401 South Rangerville Road
Harlingen, Texas 78550
(512) 423-0130

Public Health Region 9
Old Memorial Hospital
Garner Field Road
Uvalde, Texas 78801
(512) 278-7173

Public Health Region 11
1110 Avenue G
Rosenberg, Texas 77471
(713) 342-8685

In addition, the reports may be viewed at the following local health departments

Angelina County and Cities
Health District
915 Ellis Avenue
Lufkin, Texas 75901
(713) 632-1372

Corpus Christi-Nueces County
Department of Public Health
1702 Horne Road
Corpus Christi, Texas 78416
(512) 855-4051

Grayson County Health Department
521 West Houston
Sherman, Texas 75090
(214) 893-0131

Harris County Health Department
2501 Dunstan
Houston, Texas 77005
(713) 526-1841

Laredo-Webb County Health Department
2600 Cedar Street
Laredo, Texas 78041
(512) 723-2051

San Angelo-Tom Green County Health
Department
City Hall
San Angelo, Texas 76902
(915) 655-9121

San Antonio Metropolitan Health District
332 West Commerce Street
San Antonio, Texas 78285
(512) 299-8781

Texarkana-Bowie County Family Health
Center
902 West 12th Street
Texarkana, Texas 75502
(214) 792-8211

Victoria County Health Department
107 West River Street
Victoria, Texas 77901
(512) 578-6281

Wichita Falls-Wichita County Health
Department
1700 Third Street

Wichita Falls, Texas 76301
(817) 322-9702

Comments regarding these block grants may be sent to Terry Bleier, Chief, Office of Grants and Contract Development, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756.

Issued in Austin, Texas, on July 13, 1984.

TRD-847414 Robert A. MacLean, M.D.
Deputy Commissioner
Professional Services
Texas Department of Health

Filed July 13, 1984

For further information, please call (512) 458-7640.

Texas Health Facilities Commission Applications Accepted for Amendment, Declaratory Ruling, and Notices of Intent

Notice is hereby given by the Texas Health Facilities Commission of applications accepted as of the date of this publication. In the following list, the applicant is listed first, file number second, the relief sought third, and a description of the project fourth. DR indicates declaratory ruling; AMD indicates amendment of previously issued commission order, CN indicates certificate of need; PFR indicates petition for reissuance, NIE indicates notice of intent to acquire major medical equipment; NIEH indicates notice of intent to acquire existing health care facilities; NIR indicates notice of intent regarding a research project, NIE/HMO indicates notice of intent for exemption of HMO-related project; and EC indicates exemption certificate.

Should any person wish to become a party to any of the previously stated applications, that person must file a proper request to become a party to the application within 15 days after the date of this publication of notice. If the 15th day is a Saturday, Sunday, state or federal holiday, the last day shall be extended to 5 p.m. of the next day that is not a Saturday, Sunday, state or federal holiday. A request to become a party should be mailed to the chair of the commission at P O Box 50049, Austin, Texas 78763, and must be received at the commission no later than 5 p.m. on the last day allowed for filing of a request to become a party.

The contents and form of a request to become a party to any of these applications must meet the criteria set out in 25 TAC §515.9. Failure of a party to supply the necessary information in the correct form may result in a defective request to become a party.

Southwest Texas Methodist Hospital, San Antonio
AH83-0610-616A(070284)
CN/AMD—Request for an extension of the completion deadline from October 16, 1984, to April 30, 1985, and an increase in the project cost from

\$850,000 to \$1.2 million in Certificate of Need AH83-0610-616, which authorized the certificate holder to expand the dietary department from 7,255 square feet to 12,451 square feet through the renovation of 5,196 square feet of existing storage space.

Imaging Clinic of Plano, Plano
AS84-0703-438

NIE—Request for a declaratory ruling that a certificate of need is not required for Imaging Clinic of Plano to acquire a radiographic x-ray system and processors and a nuclear magnetic resonance unit. The equipment will be located in a building located at the intersection of West Park Boulevard and Ohio Drive, Plano, and will be used to provide services to outpatients, and to inpatients on a temporary basis as provided by commission rules.

American Health Centers, Inc., Nashville,
Tennessee
AN84-0703-437

NIEH—Request for a declaratory ruling that a certificate of need is not required for American Health Centers, Inc., to acquire by lease Autumn Hills Convalescent Center-Hermann Park Manor, an existing 185-bed nursing facility with 125 ICF and 60 skilled nursing beds located in Houston, from Lumberman's Investment Corporation, a Texas corporation.

Louisiana Nursing Homes, Inc., Shreveport,
Louisiana
AN84-0703-440

NIEH—Request for a declaratory ruling that a certificate of need is not required for Louisiana Nursing Homes, Inc., to acquire by lease Southview Nursing Center, an existing 120-bed ICF nursing facility located in Tyler, from First Care, Inc.

City of Austin for St. John's Public Health
Center
AO80-1229-061A(070284)

CN/AMD—Request for an extension of the completion deadline from June 1, 1984, to March 1, 1985, in Certificate of Need AO80-1229-061, as amended by AO80-1229-061A(061482) and AO80-1229-061A(030983), which authorized the certificate holder to construct a 3,500-square foot building for the purpose of consolidating the health services of three existing neighborhood health centers.

Louisiana Nursing Homes, Inc., Shreveport,
Louisiana
AN84-0703-441

NIEH—Request for a declaratory ruling that a certificate of need is not required for Louisiana Nursing Homes, Inc., to acquire by lease Northview Nursing Center, an existing 100-bed ICF nursing facility located in Tyler, from First Care, Inc.

Louisiana Nursing Homes, Inc., Shreveport,
Louisiana
AN84-0703-439

NIEH—Request for a declaratory ruling that a certificate of need is not required for Louisiana Nurs-

ing Homes, Inc., to acquire by lease Winnwood Nursing Home, an existing 60-bed ICF nursing facility located in Winnsboro, from First Care, Inc.

Southwest Texas Diagnostic Clinic, Inc., San Antonio
AS84-0703-430

NIE—Request for a declaratory ruling that a certificate of need is not required for Southwest Texas Diagnostic Clinic, Inc., to acquire by purchase two 600 MA three-phase generators, a real time-3000 ultrasound machine, a nuclear medicine max-camera 400A, dark room equipment, and a CT/T 8800 system. The equipment will be located in a building at 88 Briggs, San Antonio, and will be used to provide services to outpatients and to inpatients on a temporary basis as defined by commission rules.

Humana of Texas, Inc., for Humana Hospital-Baytown (formerly known as Baytown Medical Center), Baytown

AH82-0127-020A(062984)

CN/AMD—Request for an extension of the completion deadline from March 13, 1985, to August 31, 1985, in Certificate of Need AH82-0127-020, which authorized the certificate holder to construct a major construction and renovation project involving the construction of a 35,100-square foot patient wing and the renovation of 28,500 square feet.

Medical Center Diagnostic Limited Partnership, a to-be formed Delaware limited partnership, Houston

AS84-0703-442

DR—Request for a declaratory ruling that a certificate of need is not required for Medical Center Diagnostic Limited Partnership to establish an outpatient diagnostic cardiology laboratory in approximately 1,447 net usable square feet of lease space on the second floor of the Travis Centre Professional Building, located on the corner of Travis Street and Southgate Boulevard, Houston.

Issued in Austin, Texas, on July 16, 1984

TRD-847433

John R. Neel
General Counsel
Texas Health Facilities
Commission

Filed: July 16, 1984

For further information, please call (512) 475-6940.

Applications for Petitions for Reissuance of Certificate of Need

Notice is hereby given by the Texas Health Facilities Commission of applications (including a general project description) for petition of reissuance of certificate of need which have been filed with the commission.

The commission may require a hearing on a petition for reissuance of certificate of need when it is determined that

good cause exists for such a hearing. A request for a hearing on a petition for reissuance of certificate of need must be submitted to the commission within 15 days after publication of notice and show reason why a hearing should be held. Requests for a hearing are to be mailed to the chairman of the commission, P.O. Box 50049, Austin, Texas 78763, and must be postmarked no later than the day prior to the last day allowed for filing requests for hearing.

The petition will be approved only if the commission determines that it qualifies under the criteria of Texas Civil Statutes, Article 4418h, §3.13, and 25 TAC §§509.81-509.85 and §§513.51-513.53.

In the following list, the applicant is listed first, the file number second, and the relief sought and description of the project third.

Stevens Convalescent Center, Inc.,
Hallettsville

AN83-0624-650(062984)

PFR—Petition for reissuance of Certificate of Need AN83-0624-650, which authorized the certificate holder to provide skilled nursing services through the reclassification of 59 ICF-III beds to skilled.

The Heritage Nursing Homes, Ltd., doing
business as The Woodlands Nursing Center,
The Woodlands

AN83-0426-402R(052584)

PFR—Petition for reissuance of Certificate of Need AN83-0426-402, which authorized the certificate holder to construct, equip, and operate a 181-bed nursing facility to be located in The Woodlands.

Issued in Austin, Texas, on July 16, 1983

TRD-847432

John R. Neel
General Counsel
Texas Health Facilities
Commission

Filed: July 16, 1983

For further information, please call (512) 475-6940.

Texas Housing Agency Public Hearing

The Texas Housing Agency (THA) will conduct a public hearing concerning public approval for the issuance of industrial development bonds for residential real property. In accordance with federal law, the THA intends to seek public approval from the attorney general, the governor, or other applicable elected representative or designated official of the State of Texas for the issuance of a series of multifamily residential development revenue bonds (the bonds), in an amount not expected to exceed the following approximate amount

The bonds, pursuant to the statutory authority of the THA, are being proposed to provide financing for sanitary, decent, and safe dwelling accommodations for persons and families of low income and families of moderate

income. If issued, the bonds will constitute limited obligations of the THA. Neither the State of Texas nor any political subdivision, other than the THA, will be liable for the bonds. The bonds will not constitute a debt of the State of Texas.

The executive administrator or deputy administrator of the THA will hold public hearings on the residential projects proposed to be financed by the bonds. The hearing will be held at 3 p.m. on Thursday, July 26, 1984, at the Holiday Inn, 711 East Camp Wisdom, Duncanville, (214) 298-8911. The proposed residential project and description is as follows.

\$5.5 million for the benefit of Allan Zidell, doing business as Zidell Properties and Construction Company, to provide financing for a multifamily rental residential development consisting of approximately 240 units to be located on approximately 3.77 acres on the south side of the IH 20 service road, with its eastern border beginning approximately 142 feet west of the intersection of the IH 20 service road and the U.S. Highway 67 service road in Dallas, Dallas County.

All interested persons are invited to attend the hearing to express their views on the project and the issuance of the bonds. For details, contact Stan Kantrowitz, General Counsel, Texas Housing Agency, 411 West 13th Street, Suite 700, Austin, Texas 78701, (512) 475-0812 or (800) 792-1119.

Persons who intend to appear at the hearing and express views are encouraged to contact Mr. Kantrowitz before the hearing. Any interested persons unable to attend the hearing may submit their views in writing to Mr. Kantrowitz before the hearing. All written comments will be made available for review by all parties attending the public hearing.

Issued in Austin, Texas, on July 13, 1984

TRD-847418 Stan Kantrowitz
General Counsel
Texas Housing Agency

Filed: July 13, 1984
For further information, please call (512) 475-0812
or (800) 792-1119.

Texas Department of Human Resources Consultant Proposal Request

Under the provisions of Texas Civil Statutes, Article 6252-11c, the Texas Department of Human Resources (DHR) invites all interested parties to submit proposals for consultant services.

Description of Services. The purpose of the proposed contract is to provide the necessary examination of questioned documents to determine their authenticity in commercial or civil cases. Tasks to be performed include questioned document examination and preparation of a written report of findings for each case acceptable to DHR. The function of the questioned document reports

is to provide evidence in support of intentional program violation claims involving the Food Stamp Program.

Procedure for Selecting Consultant Services. DHR deputy inspector general of the Investigation Division selects and awards the contract on the basis of demonstrated competence and qualifications through, but not limited to, reasonableness of cost, history of similar work experience, ability to complete the work in the designated time frame, ability to deliver and receive work in person at DHR's state office in Austin, and membership in the American Academy of Forensic Science and the American Board of Forensic Document Examiners.

Contract Term. The contract begins on September 1, 1984, and ends on August 31, 1986. Payments under the contract are not planned to exceed \$18,000 per fiscal year and \$36,000 for the entire contract term. Actual payments may decrease based on need.

Contact Person. For additional information or to notify DHR of intent to submit a proposal, contact William A. Dabbert, Senior Investigator, Texas Department of Human Resources 180-A, P.O. Box 2960, Austin, Texas, 78769, 512-835-0440, ext. 2384.

Closing Date. All bids must be actually received and date stamped by DHR not later than 5 p.m., August 10, 1984.

Intent to Continue Current Contract Unless Presented a Better Offer. The consulting service desired by DHR continues a service previously performed by a private consultant. The DHR intends to award the contract for services to that consultant unless a better offer is submitted.

Issued in Austin, Texas, on July 13, 1984

TRD-847390 Marlin W. Johnston
Commissioner
Texas Department of Human Resources

Filed: July 13, 1984
For further information, please call (512) 441-3355,
ext. 2037

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 Bond Investors Guaranty Company, a foreign casualty insurance company. The home office is in New York, New York.

(2) Application for admission to do business in Texas of Universal Security Insurance Company, a foreign fire and casualty insurance company. The home office is in Skokie, Illinois.

(3) Application for incorporation of Share Health Plan of Texas, Inc., a health maintenance organization company. The home office is in Austin.

(4) Application for incorporation of United Medical Plan of Texas, Inc., a health maintenance organization company. The home office is in Houston.

(5) Application for a name change by JDH Life Insurance Company, a domestic life insurance company. The home office is in Dallas. The proposed new name is WOB Life Insurance Company.

(6) Application for admission to do business in Texas of Pioneer Life Insurance Company of America, a foreign life insurance company. The home office is in Lansdowne, Pennsylvania

(7) Application for admission to do business in Texas of Equitable General Insurance Company of Oklahoma, a foreign fire and casualty insurance company. The home office is in Oklahoma City, Oklahoma

(8) Application for admission to do business in Texas of The North Atlantic Life Insurance Company of America, a foreign life insurance company. The home office is in Jericho, New York

(9) Application for a name change by Chubb/Colonial Life Insurance Company, a foreign life insurance company. The home office is in Dover, Delaware. The proposed new name is North American Security Life Insurance Company

(10) Application for incorporation of Protective National Insurance Company of Texas, to be a domestic fire and casualty insurance company. The home office is to be in Austin.

(11) Application for admission to do business in Texas of Lancer Insurance Company, a foreign fire and casualty insurance company. The home office is in Wilmington, Delaware

Issued in Austin, Texas, on July 11, 1984

TRD-847334 James W. Norman
Chief Clerk
State Board of Insurance

Filed: July 12, 1984

For further information, please call (512) 475-2950.



Legislative Budget Office Joint Budget Hearing Schedules

The Executive and Legislative Budget Offices will conduct a joint public hearing for the period of July 16-20, 1984, concerning appropriations requests for the 1986-1987 biennium. Individuals planning to attend should confirm the date, time, and location of the hearing, since experience has shown that some rescheduling always occurs.

Agency	Date	Place
Coastal and Marine Council	2 p m - July 20	Room 304, John H Reagan Building 105 West 15th Street, Austin

Issued in Austin, Texas, on July 12, 1984

TRD-847355 Larry Kopp
Assistant Director for Budgets
Legislative Budget Office

Filed: July 13, 1984

For further information, please call (512) 475-6565.

The Executive and Legislative Budget Offices will conduct joint budget hearings for the period of July 23-27, 1984, concerning appropriations requests for the 1986-1987 biennium. Individuals planning to attend should confirm the dates, times, and locations of the hearings, since experience has shown that some rescheduling always occurs.

Agency	Date	Place
Texas Employment Commission	8 30 a m - July 24	Room 644, Texas Employment Commission Building, 15th Street and Congress Avenue, Austin
Governor's Commission on Physical Fitness	9 30 a m - July 24	Room 304, John H Reagan Building, 105 West 15th Street, Austin
Criminal Justice Policy Council	11 a m - July 24	Room 304, John H Reagan Building, 105 West 15th Street, Austin
Texas State Library and Archives Commission	8 30 a m - July 25	Room 213, State Capitol, Austin
University of Texas System—System Administration/Available University Fund	9 a m - July 25	Conference Room, Second Floor, Ashbel Smith Hall, 201 West Seventh Street, Austin
Texas Sesquicentennial Commission	9 a m - July 25	Room 503-G, Sam Houston Building, 201 East 14th Street, Austin
University of Texas at Austin	9 30 a m - July 25	Conference Room, Second Floor, Ashbel Smith Hall, 201 West Seventh Street, Austin
Texas State Board of Dental Examiners	10 30 a m - July 25	Room 304, John H Reagan Building, 105 West 15th Street, Austin
University of Texas at El Paso	1 30 p m - July 25	Conference Room, Second Floor, Ashbel Smith Hall, 201 West Seventh Street, Austin
University of Texas of the Permian Basin	3 p m - July 25	Conference Room, Second Floor, Ashbel Smith Hall, 201 West Seventh Street, Austin

Texas State Board of Registration for Professional Engineers	9 30 a m - July 26	Room 503-G, Sam Houston Building, 201 East 14th Street, Austin
Texas State Board of Plumbing Examiners	9 30 a m - July 26	Room 304, John H Reagan Building, 105 West 15th Street, Austin
Texas Board of Licensure for Nursing Home Administrators	10 30 a m - July 26	Room 213, State Capitol, Austin
Coordinating Board, Texas College and University System	11 a m - July 26	Room 209, Bevington Reed Building, 200 East Riverside Drive, Austin
Texas Economic Development Commission	1 30 p m - July 26	Room 221, Anson Jones Building, Austin
Southwest Texas State University	2 30 p m - July 26	Room 505, Sam Houston Building, 201 East 14th Street, Austin
University of Texas at San Antonio	8 30 a m - July 27	Conference Room, Fourth Floor, O Henry Hall, 601 Colorado Street, Austin
Commission on Fire Protection Personnel Standards and Education	9 a m - July 27	Room 503-G, Sam Houston Building, 201 East 14th Street, Austin
Office of Public Utility Counsel	9 a m - July 27	Room 213, State Capitol, Austin
University of Texas Institute of Texan Cultures at San Antonio	9 30 a m - July 27	Conference Room, Fourth Floor, O Henry Hall, 601 Colorado Street, Austin
Texas Board of Examiners in the Fitting and Dispensing of Hearing Aids	10 a m - July 27	Room 304, John H Reagan Building, 105 West 15th Street, Austin
University of Texas Health Science Center at San Antonio	10 30 a m - July 27	Conference Room, Fourth Floor, O Henry Hall, 601 Colorado Street, Austin
Firemen's Pension Commission	10 30 a m - July 27	Room 503-G, Sam Houston Building, 201 East 14th Street, Austin
University of Texas Health Science Center at Houston	11 30 a m - July 27	Conference Room, Fourth Floor, O Henry Hall, 601 Colorado Street, Austin

Issued in Austin, Texas, on July 12, 1984

TRD 847356 Larry Kopp
Assistant Director for Budgets
Legislative Budget Office

Filed July 13, 1984
For further information, please call (512) 475-6565.



North Central Texas Council of Governments Consultant Proposal Request

This request by the North Central Texas Council of Governments (NCTCOG) for consultant services is filed under the provisions of Texas Civil Statutes, Article 6252-11c.

Background. It is the intent of the NCTCOG and the Dallas Area Rapid Transit Authority (DART) to select

a consultant to complete a program analysis and plan development to improve and monitor the DART HandiRides. The contract to be awarded will be for a sum of no more than \$100,000.

The work program for this project has been divided into four tasks:

- (1) review of the existing HandiRides service,
- (2) review of similar handicapped transportation programs in the United States;
- (3) development of a preliminary HandiRides program plan; and
- (4) delivery of a final HandiRides program plan.

Each consultant should respond in detail to each of the work tasks by describing the work proposed for each task in terms of methodology to be used, meetings perceived to be necessary, descriptions of the interrelationships of the work tasks, and description of each work task product.

Copies of the request for proposal providing detailed information on this project are available on request from Martin Minkoff, Transportation Planner, North Central Texas Council of Governments, P O. Drawer COG, Arlington, Texas 76005-5888

Due Date. The due date for replies to this consultant proposal request is 5 p.m. on Monday, August 6, 1984, in the office of Martin Minkoff, Transportation and Energy Department, North Central Texas Council of Governments, P O. Drawer COG, 616 Six Flags Drive, Suite 200, Arlington, Texas 76005-5888, (817) 461-3300.

Contract Award Procedures. The recommendation for the selection of a firm or agency for a program analysis and plan development to improve and monitor the DART Handicapped Transportation Program will be accomplished by a consultant selection committee. The contract award procedures which follow are not totally inclusive or mutually exclusive of other procedures which, in the opinion of the consultant selection committee, require inclusion to achieve the best results possible within the scope of services requested. If the recommendation of the consultant selection committee is approved by the executive board of the NCTCOG, the board will award a contract to the firm or agency which is considered best able to perform the work set forth in the previously mentioned contract.

Evaluation criteria. A proposal is sought that is comprehensive and imaginative. All proposals will be evaluated according to the following criteria:

- (a) project understanding,
- (b) scope of services,
- (c) firm qualifications,
- (d) proposed staff qualifications;
- (e) study schedule,
- (f) budget;
- (g) oral presentation (if requested); and
- (h) firm's affirmative action policy and plan.

Evaluation methodology

- (a) Written proposal evaluated by consultant selection committee; and
- (b) oral presentation (if requested) evaluated by consultant selection committee

Contract award

(a) Review of consultant selection committee's recommendation by the NCTCOG executive board to contract with the consultant, and, if approved,

(b) award of contract by the NCTCOG executive board

The NCTCOG, in accordance with the Civil Rights Act of 1964, Title VI, 78 Statute 252, 42 United States Code 2000d-2000d-4, and Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally Assisted Programs of the U S Department of Transportation issued pursuant to such Act, hereby notifies all bidders that it will affirmatively ensure that in regard to any contract entered into pursuant to this advertisement, minority business enterprises will be afforded full opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, sex, or national origin in consideration of an award

Respondents must be willing to abide by all the applicable regulations of the Urban Mass Transportation Administration, U S Department of Transportation, including inspection and audit

The ability of the NCTCOG to enter into a contract for performance of the proposed program will be dependent on the timely receipt of funds from the Urban Mass Transportation Administration

The NCTCOG reserves the right to reject, in total or part, any and/or all proposals should it be advantageous to do so.

Since the maximum amount available for this project is \$100,000, projected cost will be an item of evaluation. An Office of Management and Budget Optional Form 60, Contract Pricing Proposal, will be required for negotiation of reasonable costs

Respondents should indicate proprietary interests where applicable

The contract will comply with all federal and state laws and regulations applicable to subcontractors, including, but not limited to, equal employment opportunity, the Davis-Bacon Act, and records management

Issued in Arlington, Texas, on July 11, 1984

TRD-847404 William J Pitstick
Executive Director
North Central Texas Council of
Governments

Filed: July 13, 1984
For further information, please call (817) 461-3300



Public Utility Commission of Texas Availability of Proposed Energy Extension Service Plan

The Texas Energy Extension Service (EES) Plan for 1984-1985 has been developed by the Public Utility Commission of Texas (PUC) and is available for review and comment by interested persons within the state. The PUC will be the administering agency for the Texas EES through August 31, 1985.

The EES was formed in June 1977 when the U S Congress enacted the National Energy Extension Service Act (Public Law 95-39, Title V). The Act directed states to design a program using existing organizations to provide small energy users with personalized technical assistance and information on energy conservation matters. The proposed state plan essentially continues programs currently under way and is designed to provide services that complement and supplement but do not duplicate other energy conservation efforts of the state and private sector.

Copies of the state plan are available on request by writing or calling Christina E. Roitsch, Public Utility Commission of Texas, 7800 Shoal Creek Boulevard, Suite 400N, Austin, Texas 78757, (512) 458-0315. Public comments will be received in writing at the same address until August 10, 1984.

Issued in Austin, Texas, on July 11, 1984

TRD-847335 Rhonda Colbert Ryan
Secretary of the Commission
Public Utility Commission of
Texas

Filed: July 12, 1984
For further information, please call (512) 458-0231.

Texas Rehabilitation Commission Request for Proposals

Joellen Simmons, Developmental Disabilities Program executive director, has announced the availability of funds for grant projects to be awarded through the Texas Rehabilitation Commission on behalf of the Texas Planning Council for Developmental Disabilities for fiscal year 1985. This announcement represents the annual grant program of the Developmental Disabilities Program. The goal of the grant program is to improve the statewide system of services for Texans with developmental disabilities.

Priority Service Areas. Notices of grant award for projects will be announced in February 1985 for budget periods to begin March 1, 1985. Funded projects will address the areas of alternative community living arrangement services and nonvocational social-developmental services.

Alternative community living arrangement services assist persons with developmental disabilities in maintaining suitable residential arrangements in the community, including necessary support services. Nonvocational social-developmental services assist persons in performing daily living and work activities.

Project Activities to Be Funded. Alternative community living arrangement services

(1) Alternative community living arrangements—To provide community living arrangement services for persons with severe physical and/or mental disabilities, including (although not limited to) persons with chronic mental illness, autism, cerebral palsy, severe or profound mental retardation, and other multihandicapping conditions

(2) Attendant care project—To identify available funding resources for attendant care services and barriers to obtaining such services through a conference

(3) Respite care project—To sponsor a statewide conference for consumers, providers, and potential providers that highlights program models and strategies for funding respite care services

(4) Living arrangement services in underserved/underserved areas of Texas—To provide alternative community living arrangement services, with necessary support services, to persons with developmental disabilities living in underserved or unserved areas of the state, particularly in west or south Texas or other unserved areas.

(5) Alternative community living arrangement services technical assistance project—To provide technical assistance to service providers or potential service providers in local communities which enables expansion or initiation of alternative community living arrangement services for persons with developmental disabilities. Funded projects will document which service systems or providers are assisted through technical assistance activities and verify which services are initiated or expanded

(6) Living arrangements resource guide—To develop a resource guide which identifies all available resources that provide funding for alternative community residential services

(7) Intermediate community services program evaluator—To develop research methodology and conduct a program evaluation of the Intermediate Community Services Program developed through the Medicare §1915(c) waiver. Applicants must provide evidence of the organization's or agency's qualifications and expertise to carry out the project

Nonvocational social-developmental services

(1) Independent living skills services for persons in transition—To provide independent living skills training to persons with developmental disabilities to increase and support their independence and integration into a community environment

(2) Peer group support programs—To develop peer group support programs for persons with developmental disabilities and/or their families

(3) Recreation and leisure services—To provide technical assistance and training to personnel providing recreation and leisure services to individuals with developmental disabilities, with emphasis on services in community programs. Funded projects will document which service systems or providers are assisted through technical assistance activities and verify which services are initiated or expanded

(4) Nonvocational social-developmental services technical assistance project—To provide technical assistance to service providers or potential service providers in local communities that support expansion or initiation of non-

vocational social-developmental services for persons with developmental disabilities. Funded projects will document which service systems or providers are assisted through technical assistance activities and verify which services are initiated or expanded.

Who Is Eligible? Public agencies, nonprofit organizations, and institutions of higher education are eligible to apply for projects

Projects must address services for persons with developmental disabilities. Developmental disabilities, as defined by Public Law 95-602, are severe, chronic, mental and/or physical impairments which occur before the age of 22, are likely to continue indefinitely, and limit three or more of the following life activities: self-care, receptive and expressive language, learning, mobility, self-direction, capacity for independent living, and economic self-sufficiency. Persons who have developmental disabilities require services which are of lifelong or extended duration and are individually planned and coordinated

Application Process. Persons interested in submitting proposals must write to the Texas Planning Council for Developmental Disabilities to request an application kit and request for proposals for alternative community living arrangement services and/or nonvocational social-developmental services. All proposals must address the activities outlined previously. Unsolicited proposals for other activity areas or planning grants will not be accepted for fiscal year 1985.

Texas Review and Comment System (TRACS). Applicants are responsible for complying with provisions of TRACS, a program for state and regional review of applications for federal grants. Applicants are required to submit completed proposals to the appropriate TRACS office by August 20, 1984. Applicants are encouraged to submit a notification of intent to apply for grants by August 6, 1984. A directory of regional and state TRACS offices is included in the application kit available from the Developmental Disabilities Program office, and applicants are encouraged to contact their regional TRACS office as early as possible for information and guidance

Letters for application kits and requests for proposals should be sent to Robbie Davis, Planner, Texas Planning Council for Developmental Disabilities, 118 East Riverside Drive, Austin, Texas 78704. Hand-delivered proposals will be accepted until 5 p.m. on September 18, 1984, in Room 163, 118 East Riverside Drive, Austin. Proposals submitted by mail must be postmarked no later than September 18, 1984

Please note: Continuation projects currently receiving developmental disabilities funds should not submit plans for continuation budget periods at this time. These projects will receive separate instructions from the program at a later date

Issued in Austin, Texas on July 10, 1984

TRD-847337 Vernon H. Newman
General Counsel
Texas Rehabilitation Commission

Filed July 12, 1984
For further information, please call (512) 445-8126

Texas Savings and Loan Department Application for Change of Control of an Association

Texas Civil Statutes, Article 852a, §11 20, require any person who intends to acquire control of a state-chartered savings and loan association to file an application with the savings and loan commissioner for approval of the transaction. A hearing may be held if the application is denied by the commissioner

On June 28, 1984, the savings and loan commissioner received an application for approval of the acquisition of control of Commerce Savings Association, Dallas, by Gerald H Stool of Dallas

Any inquiries may be directed to the Texas Savings and Loan Department, 1004 Lavaca Street, Austin, Texas 78701, (512) 475-7991

Issued in Austin, Texas on July 12, 1984

TRD-847357 Russell R. Oliver
 General Counsel
 Texas Savings and Loan
 Department

Filed: July 13, 1984
For further information, please call (512) 475-7991.

Texas Sesquicentennial Commission Public Information

The Texas Sesquicentennial Commission is requesting proposals from manufacturers interested in producing and distributing commemorative products for the celebration of Texas' 150th anniversary of independence in 1986

Based upon such criteria as product quality, adherence to the theme of the Sesquicentennial, and its track record for marketing and production, a single manufacturer will be chosen for each of some 25 categories. The categories include a medallion, flag, "patriot kit" for schoolchildren, spur, belt buckle, boots, hat, ring, map, metal object, fine art print, ceramic object, pistol, rifle, knife, art poster, reproductions of early Texas currency and other artifacts, and Texana, an open category for uniquely Texan objects not fitting into another category, to be suggested by applicants

The items will be distributed through officially-sanctioned Texas Independence Communities and Texas Independence Associations, which are allowed to sell the products to help finance their Sesquicentennial projects

Interested manufacturers may contact the Texas Sesquicentennial Commission for a copy of the specifications for bid submittal at P O Box 1986, Austin, Texas 78767, before 5 p m on August 31, 1984

All proposals submitted must conform to commission specifications. Incomplete applications will not be considered

Texas Department of Water Resources Consultant Proposal Request

Pursuant to Texas Civil Statutes, Article 6252-11c, §6(d), the Texas Department of Water Resources (TDWR) announces that it intends to extend the services of Espey, Huston & Associates, Inc (EH&A), P.O. Box 519, Austin, Texas 78767, to perform remedial action design and engineering (construction supervision) activities for the Highlands Acid Pit abandoned hazardous waste site, unless a better proposal for such services is submitted. Such services were provided to the department pursuant to Contract 14-30033 dated March 10, 1983. This project is to be conducted by the TDWR through a cooperative agreement with the U S Environmental Protection Agency (EPA) and pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), referred to as "superfund," and the Texas Water Code, Chapter 26 Subchapter H

By a letter dated February 8, 1982, the governor of Texas designated the TDWR as the lead agency for superfund activity in the state. Recipients of superfund remedial action cooperative agreements may use a consultant procured to conduct any or all of the remedial investigation (RI), feasibility study (FS), or design to perform follow-on RI, FS, design, or engineering activities without going through the public notice (33 510) and evaluation procedures (33 515) in 40 Code of Federal Regulations Part 33. The TDWR followed all of the requirements in Part 33 (including the public notice and evaluation required in 40 Code of Federal Regulations §33 510 and §33 515) for the initial procurement of EH&A.

The TDWR has determined that using a consulting firm (EH&A) procured to conduct the RI/FS to perform design and engineering activities without going through the public notice and evaluation procedures in 40 Code of Federal Regulations Part 33 is consistent with state law. Accordingly, contingent upon the availability of funds, and consistent with the terms and conditions of cooperative agreement CX 810576-01 and all applicable state and federal law, the TDWR intends to award a contract for consulting services to EH&A, unless a better proposal for such services is submitted, for the extension of the services performed under Contract 14-30033.

Scope of Work. The consultant will be responsible for all services and equipment necessary to conduct the site design and engineering management phases of the project

(a) Engineering design. The consultant will produce the design requirements necessary to adequately define and execute the remedial alternative defined as extensive excavation with off-site disposal in the report titled *Remedial Action Feasibility Study Highlands Acid Pit*, by EH&A

(1) Data development. Assemble and review all available data

(2) Develop detailed design specifications and bid documents. This part of the project is the refinement of data into specific design requirements and bid documents.

(b) Construction engineering management.

(1) **Recommend contractor** The consultant shall aid the TDWR in the advertisement, receipt, tabulation, and review of bids from potential contractors

(2) **Project management** As a part of the construction field activity, the consultant shall provide adequate manpower and equipment resources on the site to ensure that

(A) the site safety plan is being practiced,

(B) consistent with the safety plan, that the contractor and all subcontractor work practices, methods, and materials employed at the site are equivalent to the bid document, and

(C) perform quality assurance and quality control practices

(c) Upon completion of construction activity and contingent upon adequate monitoring data for the one-year O & M period following construction, the consultant shall provide certification of closure in accordance with the design specifications

Budget and Schedule. The maximum budget anticipated for the contract is \$404,100, with \$170,000 allocated for design, \$220,000 for construction engineering management, and \$14,100 for operation and maintenance for one year. Approximately 10% of each amount should be considered as contingency funds. The following schedule is anticipated

(a) It is anticipated that the contract will be awarded about 30 days following the date of this publication

(b) The contractor will submit a worker safety plan, a chain-of-custody procedure, and a quality assurance program for TDWR approval after the award of a contract. The department approval of these items must be received before work may begin on-site

(c) A draft design bid package will be delivered 10 weeks after the award of a contract

(d) A final design bid package will be delivered 20 weeks after the award of a contract

(e) An advertisement for bids will be published 25 weeks after the award of a contract

(f) A tabulation of bids received and a recommendation will be delivered 32 weeks after the award of a contract

(g) Monthly progress reports will be submitted by the 15th of each month for the preceding month

(h) Actual field engineering construction management will begin 35 weeks after award of a contract and end 65 weeks after award of a contract

(i) A final report and engineering certification of site closure will be delivered 117 weeks after the award of a contract. The decision to proceed with construction is subject to approval following state and EPA review of the design package

Proposal Guidelines.

(a) **Submittal information** Five copies of the proposal must be received at the following address before 5 p.m. on the 21st calendar day following the date of this publication, or on the first working day thereafter if the 21st

calendar day is not a working day. Submit proposals to Charles R. Faulds, Texas Department of Water Resources, Enforcement and Field Operations Division, P O Box 13087, Austin, Texas 78711. Upon submittal, the proposals shall become the property of the State of Texas. The contents of the proposals shall be considered a part of the public record unless otherwise identified by the consultant. The submittal of confidential or proprietary information should be under separate cover on or before the due date. Confidential submittals should be limited and must include an explanation of the basis for confidentiality.

(1) **Contents** The proposal should contain a summary of the essential elements of the proposal; related experience and qualifications, management plan, including identification of personnel and anticipated schedule for the proposed study, financial information of the company, and an explanation of why the consultant's offer is better, what advantages would accrue to the state in selecting the consultant in lieu of EH&A, and how the consultant is to obtain a commensurate degree of familiarity with the Highlands Acid Pit without impacting either the budget or schedule for this project.

Evaluation Criteria. The following evaluation criteria will be used to determine if a consultant submittal would be better than continuing with EH&A for this project. Specific points have not been assigned to the evaluation sections

(a) Demonstrated technical competence of the consultant based on previous related experience, financial stability of the organization, and available facilities and equipment,

(b) competence, related experience, and availability of personnel assigned to the project,

(c) management and manpower plan, and

(d) at the state's option, candidates may be required to submit "best and final" technical approaches, clarification, additional information and/or a personal presentation

Cost will be a consideration of award in that if a reasonable cost, as determined by the State of Texas, cannot be negotiated with the selected candidate, that candidate will be bypassed. The evaluation of proposals and selection of a consultant in lieu of EH&A will be made by the executive director of the TDWR, whose decision shall be final. The TDWR reserves the right to reject any and all proposals and to resubmit invitation for proposals with respect to this project, for good cause as determined by the executive director.

Issued in Austin, Texas, on July 9, 1984

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Susan Plettman
General Counsel
Texas Department of Water
Resources

Filed July 12, 1984

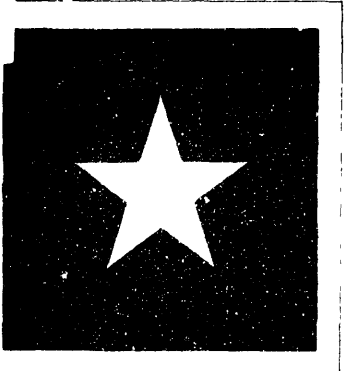
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