

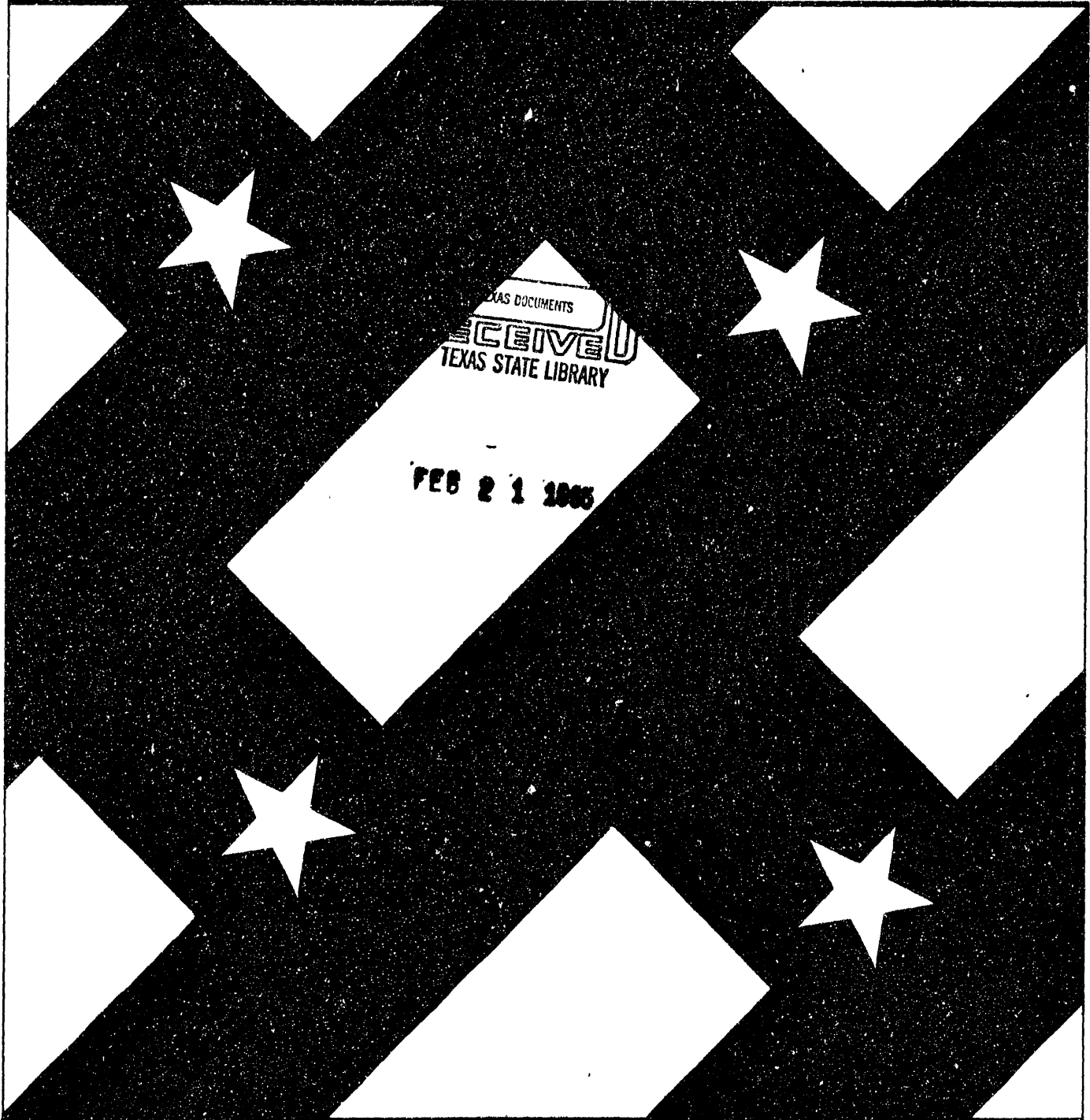
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# Texas Register

Volume 10, Number 14, February 19, 1985

Pages 611 - 644



## Highlights

The **Public Utility Commission of Texas** proposes amendments concerning arrangements between qualifying facilities and electric utilities  
 Earliest possible date of adoption - March 22 **page 615**

The **Texas Education Agency** proposes amendments and repeals in a chapter concerning proprietary schools and veterans education  
 Proposed date of adoption - April 13 **page 616**

The **Board of Nurse Examiners** proposes a new section concerning new programs  
 Earliest possible date of adoption - March 22 **page 624**

**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 1985 with the exception of June 25, July 9, August 30, December 3, and December 31, by the Office of the Secretary of State.

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- 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- Withdrawn Rules—rules withdrawn by state agencies from consideration for adoption, or automatically withdrawn by the *Texas Register* six months after proposal publication date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 "10 TexReg 2 issue date," while on the opposite page, page 3, in the lower right-hand corner, would be written "issue date 10 TexReg 3"

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

## Texas Administrative Code

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

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

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

TAC stands for the *Texas Administrative Code*.

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



## Texas Register Publications

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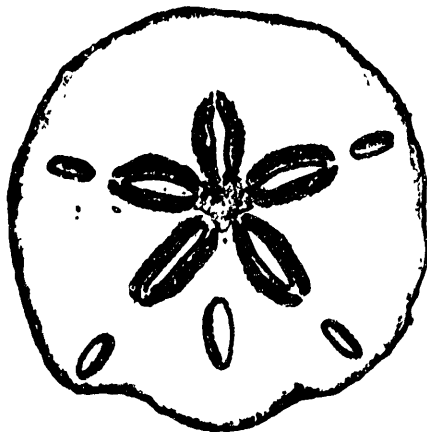
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# The Governor

As required by Texas Civil Statutes, Article 6252-13a, §6, the *Register* publishes executive orders issued by the Governor of Texas. Appointments and proclamations are also published. Appointments are published in chronological order. Additional information on documents submitted for publication by the Governor's Office can be obtained by calling (512) 475-3021.



*(Editor's note: The following appointments have been submitted by the governor to the Senate of the 69th Legislature, 1985, for confirmation.)*

## Appointments Submitted February 8

### Texas A&M University System

To the Board of Regents for terms to expire February 1, 1991:

L. Lowry Mays  
400 Geneseo Road  
San Antonio, Texas 78209

Mr. Mays is replacing Clyde Wells of Granbury, whose term expired.

John Mobley  
7206 West Rim  
Austin, Texas

Mr. Mobley is replacing Norman Moser of De Kalb, whose term expired.

Royce E. Wisenbaker  
519 West Third Street  
Tyler, Texas 75701

Mr. Wisenbaker is being reappointed.

Issued in Austin, Texas, on February 8, 1985.

TRD-851449

Mark White  
Governor of Texas

★ ★ ★

# Attorney General

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

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## Requests for Opinions

**RQ-507.** Request from Charles M. Hinton, Jr., Garland city attorney, concerning whether names and related data regarding candidates for a city manager's position are subject to disclosure under the Open Records Act, Texas Civil Statutes, Article 6252-17a.

**RQ-508.** Request from Leslie Benitez, general counsel, Office of the Governor, Austin, concerning whether information regarding competitive bidding under the Federal Jobs Training Partnership Act is available to the public under the Open Records Act, Texas Civil Statutes, Article 6252-17a.

**RQ-509.** Request from Gary C. Gilmer, Edwards County attorney, Rocksprings, concerning whether a commissioners court may create an enlarged school district under the Texas Education Code, §19.021.

**RQ-510.** Request from Alice Brown, interim superintendent, Round Rock In-

dependent School District, Round Rock, concerning whether names of applicants for Round Rock Independent School District superintendency are open records under Texas Civil Statutes, Article 6252-17a, §7(a).

**RQ-511.** Request from Neal E. Birmingham, Cass district attorney, Linden, concerning whether a county is required to contribute to the compensation of a criminal district attorney.

**RQ-512.** Request from Charles E. Galey, Lubbock, concerning whether copies of studies pertaining to the construction of a minor emergency center by a hospital district are available to the public under the Open Records Act, Texas Civil Statutes, Article 6252-17a.

**RQ-513.** Request from Oscar H. Mauzy, chairman, Senate Committee on Jurisprudence, Austin, concerning use of the hot check fund under the Code of Criminal Procedure, Article 53.08, by a district attorney, county attorney, or criminal district attorney.

**RQ-514.** Request from Gerald W. Schmidt, Gillespie County attorney, Fredericksburg, concerning whether an individual may serve simultaneously as constable and jailer.

**RQ-515.** Request from Charles F. Aycock, Parmer County attorney, Farwell, concerning whether a municipality may assess a \$6.00 per month surcharge to utility customers.

**RQ-516.** Request from Mike Driscoll, Harris County attorney, Houston, concerning the authority of a county and/or district clerk to affix a judge's signature to a judgment in a criminal case.

**RQ-517.** Request from Stephen C. Howard, Orange County attorney, Orange, concerning whether a county may enter into a binding agreement for solid waste disposal services and related questions.

TRD-851412

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# 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. Also, in the case of substantive rules, a public hearing must be granted if requested by at least 25 persons, a governmental subdivision or agency, or an association having at least 25 members

**Symbology in proposed amendments.** New language added to an existing 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

#### Quality of Service

#### ★ 16 TAC §23.66

The Public Utility Commission of Texas (PUC) proposes amendments to §23.66, concerning arrangements between qualifying facilities and electric utilities. The amendments provide guidelines regarding obligations to purchase and interconnection requirements between qualifying facilities and electric utilities.

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 quicker and more efficient integration of cogeneration with the electric utilities' supply options as a result of better guidelines regarding the obligations of the utilities to purchase from qualifying facilities and the interconnection requirements between the utilities and the qualifying facility. The anticipated economic cost to individuals who are required to comply with the rule as proposed is unknown

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 PUC 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.

#### §23.66. *Arrangements between Qualifying Facilities and Electric Utilities.*

(a)-(c) (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 of being notified by the qualifying facility that such energy and capacity are or will be available [after the facility notifies the utility that it is a qualifying facility], provided that the electric utility has sufficient interconnection facilities available. If an agreement to purchase energy and capacity is not reached within 90 days after the qualifying facility provides such notification, the agreement, if and when achieved, shall bear a retroactive effective date for the purchase of energy (and capacity) correspondent with the 90th day following such notice. 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 for distribution interconnection, or within 60 days for transmission interconnection, giving the qualifying facility a description of the additional facilities required and an estimated date for completion of the interconnection facilities. If an agreement to purchase energy and capacity is not reached upon completion of construction of the interconnection facilities or 90 days after notification by the qualifying facility that such energy and capacity are or will be available, the agreement, if and when achieved, shall bear a retroactive effective date for the purchase of energy and capacity correspondent with the time of interconnection or the 90th day, whichever is later. Nothing in this subsection shall be construed to require a utility to make payments to a qualifying facility prior to the time a qualifying facility is prepared to deliver power to the utility [within 90 days after the qualifying facility notifies the utility that it is a qualifying facility, the 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) (No change.)

(E) Subject to subparagraph (D) of this paragraph, a utility shall be required to contract for [purchases of] firm energy and capacity from qualifying [qualified] facilities, if such is offered, at a price less than or equal to the current avoided cost of a capacity addition at any time prior to completion of construction of any generating unit or other planned capacity addition. The price may be adjusted for differences in quality of firmness between the power offered by the qualifying facility and the power to be supplied by the generating unit or planned capacity addition [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 qualifying [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. Distribution utilities shall not be required to contract for capacity from a qualifying facility in excess of the capacity requirements for the wholesale delivery point(s) to which the qualifying facility is interconnected or to which the qualifying facility has independently arranged for wheeling of facility output.

(F) A utility shall purchase capacity from qualifying [qualified] facilities on the basis of avoided [evaluated] cost adjusted for [and] the quality of firmness of such capacity. If more capacity is offered by the qualifying [qualified] facilities to any one utility than is required by 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 qualifying [qualified] facilities according to the following order of priorities:

- (i) qualifying [qualified] facilities offering power produced from municipal solid waste or renewable fuel sources;
- (ii) qualified facilities offering power produced from solid fuel sources, whether directly or indirectly;
- (iii) all others;

(iii)(iv) within each category listed in clauses (i) and (ii) [(iii)] of this subparagraph, nothing in these rules [this subsection] shall prohibit an electric utility from accepting through negotiation the most favorable capacity proposal available based on a balanced consideration of expected price, terms and conditions of purchase, and diversification of contracts with qualifying facilities which provide firm capacity with regard to ownership, type of industry, technology, and fuel type [a price offered by qualified facilities that is lower than avoided cost]. Nothing in this priority system should be construed so as to permit capacity offered from qualifying facilities with a higher priority to displace or reduce the capacity currently being supplied, or to be provided, by qualifying facilities with lower priorities, with which contracts have been executed.

(G) In order to provide for an orderly consideration of the potential for purchased power from qualifying facilities to displace or defer a planned generation addition and/or provide for the orderly consideration of multiple and competing offers to supply capacity, a utility is allowed to set up timely and reasonable time periods, or "windows," for the solicitation of capacity offers.

(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 and/or capacity from such qualifying facility shall transmit the energy and/or capacity on a firm basis for the term of the power purchase contract to any other electric utility, provided that such transmittal is not in violation of federal law or other jurisdictional authority. No electric utility is required to enter into a transmission arrangement with any other electric utility if, solely by reason of such transmission arrangement, the electric utility would become part subject to regulation as a public utility under the Federal Power Act, Part II. If facilities are not available or adequate to transmit a qualifying facility's energy and/or capacity to a purchasing utility, the intermediate utility shall, at the request of the qualifying facility, expeditiously construct such additional facilities as may be required by the qualifying facility to wheel the energy and/or capacity. The cost of such construction shall be borne by the qualifying facility to the extent that construction was required to transmit its energy and/or capacity. The methods for determining and billing such construction costs shall be on a nondiscriminatory basis. Any electric utility to which such energy or capacity is transmitted shall purchase such energy and/or capacity under this paragraph as if the qualifying facility were supplying energy and/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 should be paid a reasonable transmission charge, including consideration of line losses by the qualifying facility. Charges for firm wheeling within the meaning of this section shall apply only to transmission from the qualifying facility to the purchasing utility. Such charges or a methodology for calculating such charges shall be determined by the commission in a generic docketed proceeding after notice and opportunity for hearing. In the interim, until the generic wheeling docket is decided, such charges shall not exceed the charges [and may be] calculated according to the methods of §23.67 of this title (relating to Wheeling Service for the Transmission of Firm Power). Energy losses or credits resulting from the transmission of the qualifying facility's power shall accrue to the qualifying facility based upon the estimated average annual loading of the transmission lines which will carry the qualifying facility energy and/or capacity to the purchasing utility. All utilities filing applications for the approval of wheeling tariffs with the Federal Energy Regulatory Commission (FERC), or any other federal agency having jurisdiction of wheeling tariffs, shall give notice to the Public Utility Commission of Texas (PUC) of such filing by providing the PUC with a duplicate copy of any and all documents filed with the FERC or a competent federal agency.

(5) (No change.)

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

(g) Tariffs setting out the methodologies [Rates] for the purchases of nonfirm power from a qualifying facility. Tariffs setting out the methodologies [methodology] for purchases of nonfirm power from a qualifying facility shall be filed with the commission based on one of the following two approaches:

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

(h)-(j) (No change.)

(k) Interconnection costs.

(1) Interconnection plan. Each utility shall establish and make available for inspection guidelines for assuring safe and reliable operation of interconnected qualifying facilities. It may also require the electrical characteristics and data and local interconnection design and protection requirements for the qualifying facility's proposed generation facilities [an interconnection plan from the qualifying facility] to facilitate the development of the utility's interconnection plan [qualifying facility/utility negotiations]. Upon receipt of the interconnection plan, the utility shall provide the qualifying facility with a cost proposal identifying the interconnection costs and a list

of [contract] issues to be addressed in the interconnection negotiations.

(2) (No change.)

(l)-(m) (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  
February 12, 1985.

TRD-851400

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

Earliest possible date of adoption:

March 22, 1985

For further information, please call  
(512) 453-0100

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## TITLE 19. EDUCATION

### Part II. Texas Education Agency

#### Chapter 69. Proprietary Schools and Veterans Education

##### Subchapter A. General Provisions

★ 19 TAC §69.2, §69.3

The Texas Education Agency (TEA) proposes amendments to §69.2, concerning the Proprietary School Advisory Commission, and §69.3, concerning guidelines for proprietary schools.

The Proprietary School Advisory Commission conducted a general review of the *Guidelines and Minimum Standards for Operation of Texas Proprietary Schools* during its meetings in 1984. The amendments which are being proposed are the product of that review.

It is proposed that a new subsection (e) be added to §69.2, stating the requirements for placing matters before the Proprietary School Advisory Commission for its consideration.

It is proposed that §69.3 be amended to delete references to Chapter 69, Subchapter B and Subchapter C, which are being proposed for repeal; to delete references to obsolete staff titles within the Central Education Agency; and to delete repetitive material in subsection (b).

Richard Bennett, associate commissioner for finance, 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.



Dr. Beverly J. Bardsley, policy development director, and Mr. Bennett have determined that for each year of the first five years the rules are in effect the public benefit anticipated as a result of enforcing the rules is greater clarity concerning placement of items on the agenda of the Proprietary School Advisory Commission. 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 Dr. Beverly J. Bardsley, Director for Policy Development, 201 East 11th Street, Austin, Texas 78701, (512) 475-7077. All requests for a public hearing on proposed sections submitted in accordance with the Administrative Procedure and Texas Register Act must be received by the commissioner of education not more than 15 calendar days after notice of a proposed change in rules has been published in the *Texas Register*.

The amendments are proposed under the Texas Education Code, §32.22, which authorizes the State Board of Education to adopt policies, regulations, and rules necessary for carrying out the provisions of the Texas Proprietary School Act, after consultation with the Proprietary School Advisory Commission.

#### §69.2. Proprietary School Advisory Commission.

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

(e) The administrator or administrator's designee, with the advice of the chairman of the Proprietary School Advisory Commission, shall prepare and submit to each member of the commission, prior to each meeting, a copy of the proposed agenda for the commission meeting.

(1) Members of the commission may request that items be placed on the agenda in either of the following ways.

(A) A request that an item be placed on the agenda for a subsequent meeting may be made at a meeting of the commission. The discussion of the request must be in accordance with Texas Civil Statutes, Article 6252-17, §3(A)(a), notice of meetings.

(B) A request may be submitted in writing to the administrator or to the administrator's designee. The request should include all documents and other supporting materials as appropriate related to the item which the requestor wishes to have considered by the commission.

(2) Requests from the public for items to be placed on the agenda shall be submitted in writing to the administrator or to the administrator's designee. The request should include all documents and other supporting materials as appropriate related to the item which the requestor wishes to have considered by the commission.

#### §69.3. Guidelines for Proprietary Schools.

(a) [Policy.] Guidelines for certifica-

tion and regulation of proprietary schools shall:

(1) (No change.)

(2) include general provision requirements and application procedures for certificates of approval and permits for representatives, [appeal procedures as described in Subchapter B of this chapter (relating to Hearings before the Commissioner of Education for Contested Cases Arising under the Texas Proprietary School Act), and Subchapter C of this chapter (relating to Appeals to the State Board of Education for Contested Cases Arising under the Texas Proprietary School Act),] and minimum standards under which approval is issued and retained; and

(3) (No change.)

(b) [Administrative procedure.] Guidelines for proprietary schools are developed by the staff of the Division of Proprietary Schools and Veterans Education under the general supervision of the [associate commissioner for field support services and the] administrator with the advice of the Proprietary School Advisory Commission. [The guidelines are submitted by the commissioner of education to the State Board of Education for approval and are distributed to all appropriate proprietary schools.]

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  
February 12, 1985

TRD-851386 W. N. Kirby  
Interim Commissioner of  
Education

Proposed date of adoption:

April 13, 1985

For further information, please call  
(512) 475-7077.

★ ★ ★

### Subchapter B. Hearings Before the Commissioner of Education for Contested Cases Arising under the Texas Proprietary School Act

★ 19 TAC §§69.21-69.68

*(Editor's note: The text of the following rules proposed for repeal will not be published. The rules may be examined in the offices of the Texas Education Agency, 201 East 11th Street, Austin, or in the Texas Register office, Room 503E, Sam Houston Building, 201 East 14th Street, Austin.)*

The Texas Education Agency (TEA) proposes the repeal of §§69.21-69.68, concerning hearings before the commission-

er of education for contested cases arising under the Texas Proprietary School Act.

The Texas Proprietary School Act was enacted in 1971 and provided specific time lines for appeals of denials and revocations of licenses. Subsequently, the Administrative Procedure and Texas Register Act set forth time lines for appeals in all other kinds of contested cases.

Since the time lines in the Texas Proprietary School Act were not repealed, new rules for hearings have been developed to remove any ambiguity and to make it clear that the time lines in the Proprietary School Act do apply in all proprietary school appeals. Proposed new §157.67 concerns hearings held pursuant to the Texas Proprietary School Act.

Because new §157.67 is being proposed for adoption, existing §§69.21-69.68 are proposed for repeal.

Richard Bennett, associate commissioner for finance, 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.

Dr. Beverly J. Bardsley, policy development director, and Mr. Bennett have 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 consolidation of rules concerning hearings and appeals in one chapter of the Texas Administrative Code, Title 19, and greater clarity in requirements for appeals under the Texas Proprietary School Act. There is no anticipated economic cost to individuals as a result of the repeal.

Comments on the proposal may be submitted to Dr. Beverly J. Bardsley, Director for Policy Development, 201 East 11th Street, Austin, Texas 78701, (512) 475-7077. All requests for a public hearing on proposed sections submitted in accordance with the Administrative Procedure and Texas Register Act must be received by the commissioner of education not more than 15 calendar days after notice of a proposed change in rules has been published in the *Texas Register*.

The repeal is proposed under the Texas Education Code, §32.22, which authorizes the State Board of Education to adopt policies, regulations, and rules necessary for carrying out the provisions of the Texas Proprietary School Act, after consultation with the Proprietary School Advisory Commission.

§69.21. Nature of Hearings and Appeals.

§69.22. Definitions.

§69.23. Object.

§69.24. Scope.

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- §69.28. *Classification of Parties.*
- §69.29. *Parties in Interest.*
- §69.30. *Appearances.*
- §69.31. *Hearing Officers.*
- §69.32. *Classification of Pleadings.*
- §69.33. *Form and Content of Pleadings.*
- §69.34. *Examination by a Hearing Officer.*
- §69.35. *Motions.*
- §69.36. *Amendments.*
- §69.37. *Incorporation by Reference of Agency Records.*
- §69.38. *Prehearing Conference.*
- §69.39. *Motions for Continuance.*
- §69.40. *Place and Nature of Hearings.*
- §69.41. *Joint Hearings.*
- §69.42. *Presiding Officer.*
- §69.43. *Request for Hearing.*
- §69.44. *Notice of Hearing.*
- §69.45. *Order of Procedure at Hearing.*
- §69.46. *Transcript.*
- §69.47. *Reporter.*
- §69.48. *Corrections to the Transcript.*
- §69.49. *Formal Exceptions.*
- §69.50. *Briefs.*
- §69.51. *Dismissal without Hearing.*
- §69.52. *Admissibility in General.*
- §69.53. *Documentary Evidence.*
- §69.54. *Official Notice.*
- §69.55. *Prepared Testimony.*
- §69.56. *Limitation on Number of Witnesses.*
- §69.57. *Exhibits.*
- §69.58. *Offer of Proof.*
- §69.59. *Depositions.*
- §69.60. *Interrogatories.*
- §69.61. *Admissions of Facts and of Genuineness of Documents.*
- §69.62. *Refusal to Make Discovery; Consequences.*
- §69.63. *Subpoenas.*
- §69.64. *Proposal for Decision.*
- §69.65. *Filing of Exceptions and Replies.*
- §69.66. *Form of Exceptions and Replies.*
- §69.67. *Orders.*
- §69.68. *Motions for Rehearing.*

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

Issued in Austin, Texas, on  
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TRD-851387      W. N. Kirby  
Interim Commissioner of  
Education

Proposed date of adoption:  
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For further information, please call  
(512) 475-7077.

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## Subchapter C. Appeals to the State Board of Education for Contested Cases Arising under the Texas Proprietary School Act

★ 19 TAC §§69.81-69.86

*(Editor's note: The text of the following rules proposed for repeal will not be published. The rules may be examined in the offices of the Texas Education Agency, 201 East 11th Street, Austin, or in the Texas Register office, Room 503E, Sam Houston Building, 201 East 14th Street, Austin.)*

The Texas Education Agency (TEA) proposes the repeal of §§69.81-69.86, concerning appeals to the State Board of Education for contested cases arising under the Texas Proprietary School Act.

Prior to the passage of House Bill, 68th Legislature, 2nd Called Session, 1984, the appellant in cases brought under the Texas Proprietary School Act was required to carry the appeal first to the administrator and then to the State Board of Education for further review if the matter was still in dispute before appealing to a court. The law now allows the administrator's decision to be appealed directly to a district court, and proposed new §157.67 conforms to the provisions of House Bill 72. Therefore, the provisions of §§69.81-69.86 are no longer applicable and have been proposed for repeal.

Richard Bennett, associate commissioner for finance, 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.

Dr. Beverly J. Bardsley, policy development director, and Mr. Bennett have determined that for each year of the first five years the repeal is in effect the public benefit anticipated as a result the repeal is the elimination of rules which are inconsistent with current law. There is no anticipated economic cost to individuals as a result of the repeal.

Comments on the proposal may be submitted to Dr. Beverly J. Bardsley, Director for Policy Development, 201 East 11th Street, Austin, Texas 78701, (512) 475-7077. All requests for a public hearing on proposed sections submitted in accordance with the Administrative Procedure and Texas Register Act must be received by the commissioner of education not more than 15 calendar days after notice of a proposed change in rules has been published in the *Texas Register*.

The repeal is proposed under the Texas Education Code, §32.22, which authorizes the State Board of Education to

adopt policies, regulations, and rules necessary for carrying out the provisions of the Texas Proprietary School Act, after consultation with the Proprietary School Advisory Commissioner.

- §69.81. *Procedure for Appeal.*
- §69.82. *Notice.*
- §69.83. *Testimony and Evidence.*
- §69.84. *Decisions.*
- §69.85. *Rehearing.*
- §69.86. *Administrative Finality.*

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

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

★ 19 TAC §§69.124, 69.125, 69.127

The Texas Education Agency (TEA) proposes amendments to §§69.124, 69.125, and 69.127, concerning guidelines and minimum standards for operation of Texas proprietary schools. The Proprietary School Advisory Commission conducted a general review of the *Guidelines and Minimum Standards for Operation of Texas Proprietary Schools* during its meetings in 1984. The proposed amendments are the result of that review.

The proposed amendment to §69.124(i) will require proprietary schools which grant or wish to grant associate of applied arts or science degrees to be nationally accredited or achieve such accreditation within two years of the effective date of the section.

Proposed amendments to §69.125 provide for issuance of certificates of approval by the administrator under the Texas Proprietary School Act rather than the director of the Division of Proprietary Schools. The application requesting approval for additional courses must include a synopsis of each subject to be taught, as well as the information previously required by the section. Courses must be approved before a school solicits stu-

dents, advertises, or conducts classes. Section 69.125(e)(2) is proposed for deletion since §§69.21-69.86, relating to hearings, are proposed for repeal.

Section 69.127(b)(1)(B)(vi) is deleted because there are no schools regulated under the Texas Proprietary School Act which offer courses for high school students.

The proposed amendment to §69.127(b)(2)(B) allows students applying for admission into a degree program the option of showing successful college level work in lieu of a high school diploma or a GED

The proposed amendment to §69.127(b)(2)(C) deletes the requirement that evaluation of students' previous education and training be accomplished during matriculation.

The proposed amendment to §69.127(b)(5)(E) would modify the student tuition refund requirements to allow schools to count all scheduled hours as earned, rather than only hours actually attended by students.

The proposed amendment to §69.127(b)(8)(A)(i) allows proprietary schools to suspend, rather than terminate, students whose progress is unsatisfactory.

The proposed amendment to §69.127(b)(8)(A)(iii) defines grading periods and requires a 2.0 grade point average on a 4.0 scale for graduation from proprietary school degree programs.

The proposed amendment to §69.127(b)(8)(B)(iii) provides a minimum standard for student attendance.

Proposed new §69.127(b)(8)(B)(vi) sets requirements for attendance and record keeping.

The proposed amendment to §69.127(b)(11)(B) clarifies the requirements for financial statements for a new school.

The proposed amendment to §69.127(b)(11)(D) changes the provisions under which schools can be exempted from the requirement to submit audited or reviewed financial statements and makes clear that interim financial statements must meet the same standards as those submitted at the end of a fiscal year. When this section originally was written, it was thought that schools which collected tuition in monthly or quarterly installments would not build up large refund liabilities which would cause problems should the schools close. This has not proved to be the case, and there is a need for more thorough financial information on such schools.

The proposed amendment to §69.127(b)(11)(G) will bring the required submission of financial statements for a change of ownership in line with the require-

ments for an original certificate of approval.

The proposed amendment to §69.127(b)(11)(H) makes it clear that accountants preparing financial statements for proprietary schools must be independent, must be licensed, and must prepare financial statements in accordance with generally accepted accounting principles.

The proposed amendment to §69.127(b)(12) requires schools with multiple locations to give the agency advance notice of the locations where classes will be held.

The proposed amendment to §69.127(b)(14) clarifies when students' names are to be added to a school's master student registration list and requires inclusion of full addresses and dates of birth.

Richard Bennett, associate commissioner for finance, 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

Dr. Beverly J. Bardsley, policy development director, and Mr. Bennett have determined that for each year of the first five years the rules are in effect the public benefit anticipated as a result of enforcing the rules is greater clarity in requirements and some simplification of application procedures. 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 Dr. Beverly J. Bardsley, Director for Policy Development, 201 East 11th Street, Austin, Texas 78701, (512) 475-7077. All requests for a public hearing on proposed sections submitted in accordance with the Administrative Procedure and Texas Register Act must be received by the commissioner of education not more than 15 calendar days after notice of a proposed change in rules has been published in the *Texas Register*

The amendments are proposed under the Texas Education Code, §32.22, which authorizes the State Board of Education to adopt policies, regulations, and rules necessary for carrying out the provisions of the Texas Proprietary School Act, after consultation with the Proprietary School Advisory Commission

#### §69.124. General Provisions.

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

(i) Schools desiring approval for issuance of an associate of applied science degree or associate of applied arts degree shall be accredited by an accrediting agency or association recognized by the United States commissioner of education prior to requesting degree-granting approval from

the Central Education Agency. Any nonaccredited school currently granting a degree shall have a two-year period from the effective date of this section in which to become accredited. If the school does not become accredited, the school's authority to grant associate degrees shall be removed.

#### §69.125. Certificates of Approval and Permits for Representatives.

(a) Requirements for issuance of certificate of approval. The administrator [director] may approve the applying school and issue a certificate of approval provided the applicant school is found upon investigation to have satisfactorily met the minimum standards for proprietary schools as set forth in this subchapter.

(b) (No change.)

(c) Additional courses. The holder of a certificate of approval may present an application for approval of additional courses to the director. These applications shall be submitted for approval prior to the effective implementation date.]

(e)(d) Application procedures for additional courses. Schools making application for approval of additional courses after the original approval has been granted shall submit a summary of course information (DPSVE-004) for each new course, a synopsis of each subject, and any relevant additions to the school catalogue such as a revised staff roster, personnel data forms, equipment inventory, floor plans, and class schedule. Courses must be approved prior to solicitation of students, advertising, or conducting classes.

(d)(e) Notification of issuance or denial of certificate of approval.

(1) The administrator [director], upon review and consideration of an application for a certificate of approval from each school, shall determine the applicant to be acceptable or unacceptable. The administrator [director] shall set forth in writing the approval or the reasons for denial of approval.

(2) An applicant whose certificate of approval is denied shall have the right of appeal under Subchapter B of this chapter (relating to Hearings before the Commission of Education for Contested Cases Arising under the Texas Proprietary School Act). Should the applicant fail to furnish additional evidence or exercise his right of appeal within 15 days after receipt of notice that the application is unacceptable the notice shall become final based on the evidence then of record.]

(e)(f) Revocation of certificate of approval.

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

#### §69.127. Minimum Standards for Operation of Proprietary Schools.

(a) (No change.)

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

(1) Personnel.

(A) (No change.)

(B) Instructors.

(I) Instructors shall have specific qualifications as follows.

(I)-(V) (No change.)

(VI) Instructors or teachers employed in programs offering high school level courses, grades 9-12, both business and academic, shall have at least a baccalaureate degree from an accredited college or university and a major of at least 24 semester hours in the area of assignment or a comparable combination of education and experience acceptable to the director.]

(VI)(VII) Instructors employed in paramedical programs such as medical assisting, dental assisting, medical technician, x-ray technician, and practical nursing programs shall have professional qualifications in the area to be taught, preferably with a degree from an accredited college or university, with at least two years recent occupational experience or a comparable amount of education and experience acceptable to the director. If the job objective for which the course is offered requires licensure or certification, the instructor must hold the license or certificate.

(VII)(VIII) Instructors employed in associate of applied arts or associate of applied science degree programs shall have a bachelor's degree and three years of work experience in the field in which they are to teach, or an associate of applied arts or associate of applied science degree and five years of work experience in the field in which they are to teach, or a comparable combination of education and experience acceptable to the director.

(VIII)(IX) Instructors employed in seminars or workshops shall have professional qualifications in the area to be taught, preferably with a degree from an accredited college or university, with at least two years recent professional experience or a comparable amount of education and experience acceptable to the director.

(ii) (No change.)

(2) Admission requirements.

(A) (No change.)

(B) Schools which offer an associate of applied arts or associate of applied science degree must require for admission into those programs a high school diploma or recognized equivalency certificate or evidence of successful completion of the equivalent of one full-time semester or quarter at an accredited college or university.

(C) The school must maintain a written record of the previous education and training of the applicant student which clearly indicates that appropriate credit has been given by the school for previous education and training. The new training period shall be shortened where warranted through use of appropriate skills or achievement tests and the student so notified. When the training period is shortened, the course cost shall be reduced accordingly. [This evalua-

tion of previous education shall be accomplished during matriculation.] With the exception of seminars and workshops as defined in §69.122 of this title (relating to Definitions), and individual subjects within an established curriculum, schools shall use Form DPSVE-010 or the equivalent which will become a part of the student's permanent record at the school. The subject matter involved in seminars and workshops is such that credit for previous education and training may not be required.

(D) (No change.)

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

(5) Cancellation and refund policy.

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

(E) Refund computations shall be based on scheduled hours of class attendance. Leaves of absence and school holidays shall not be counted as part of the elapsed time for the purpose of calculating a student's refund in accordance with this paragraph.

(F)(E) For correspondence courses such policy must provide that:

(i)-(vii) (No change.)

(G)(F) In lieu of the refund policy set forth in this section for programs of instruction not regularly offered to the general public, the State Board of Education may, for good cause shown, amend, modify, substitute and/or alter the terms of such policy because of the specialized nature and objective of the subject school's course of instruction.

(H)(G) For courses consisting of a combination of home study lessons and residence training, not more than \$100 will be retained by the school for those students who fail to enter residence training, unless the school submits affirmative evidence acceptable to the administrator disclosing the home study lessons are of such quality and content to reasonably assure that the students will achieve the stated objective without the residence training portion of the course.

(6)-(7) (No change.)

(8) Minimum progress and attendance standards.

(A) Progress. Appropriate standards must be implemented to ascertain the progress of the students enrolled.

(i) Progress standards must meet the following requirements

(I)-(IV) (No change.)

(V) The progress evaluation policy shall stipulate what is considered failing or unsatisfactory progress. A student who is failing or making unsatisfactory progress shall be placed on probation for the next grading period with the date of the action clearly indicated on the appropriate permanent records and the student advised of this action. Students on probation who have not regained a passing average at the end of the probationary period may be suspended for a maximum of 30 school days per academic year. The student's progress and other appropriate records shall clearly

indicate the reason for suspension and that the student has been advised of this action. If a student fails to return from suspension, the student shall be terminated, and any refunds due shall be consummated within 30 calendar days after the student fails to return. Students on probation who have not regained a passing average at the end of the probation period may be continued on probation at the discretion of the school director for another grading period, if the student has demonstrated improvement in comprehension and effort [shall be continued only if improvement is shown in comprehension and effort. Exceptions may be made upon the advice of the regular school counselor].

(ii) For schools offering associate of applied arts or associate of applied science degree programs, the progress standards must include:

(I) a progress evaluation system at least every semester or [.] quarter[, or other grading period];

(II) a requirement that the minimum grade point average (GPA) for graduation from all degree programs be a 2.0, based on a 4.0 scale;

(III)(II) a probationary period of one semester, quarter, or grading period following the end of the semester, or quarter[, or grading period] in which the student's grades became unsatisfactory; and

(IV)(III) conditions for suspension or termination at the end of the probationary period if the student's grades do not improve to a level specified by the school.

(B) Attendance.

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

(iii) A student shall be terminated when the student is absent in excess of 10 consecutive school days or in excess of 15% of total clock hours in the course, whichever occurs first. Students enrolled in short courses of 200 hours or less shall be terminated when absent in excess of 25% of the total clock hours in the course, or 10 consecutive school days, whichever occurs first. A student enrolled in associate of applied arts or associate of applied science degree programs shall be terminated when the student is absent in excess of 15% of the scheduled clock hours during a semester, quarter, or other approved grading period.

(iv)-(v) (No change.)

(vi) All schools must maintain a master record of attendance for each student which clearly indicates the number of scheduled hours each day and the hours of absence. The instructor's roll books must indicate a positive record of each student's attendance. Schools offering seminars, workshops, or other courses where students do not change instructors during the school day are not required to maintain a separate master record of attendance. [Refund computations shall be based on actual hours of

class attendance. Absences in excess of 10% of scheduled class attendance, leaves of absence, and school holidays shall not be counted as part of the elapsed time for the purpose of calculating a student's refund as outlined in paragraph (5) of this subsection.]

(9)-(10) (No change.)

(11) Financial stability.

(A) Financial stability required.

The school shall have sufficient finances to establish and carry out a satisfactory program of education on a continuing basis.

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

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

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

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

(i) [New] Schools shall submit audited financial statements which have been certified by an independent [the] public accountant or certified public accountant at the end of their first year of operation. Thereafter, schools shall submit annual financial statements, which have been reviewed, rather than audited, by an independent public accountant or certified public accountant. Exceptions to the requirement that the financial statements shall be reviewed by the accountant may be made for the following schools:

(I) (No change.)

(II) schools whose courses are less than one month in length. [which do not collect from more than 10 students at any given time a combination of more than one month's tuition and fees in advance, or, after the school retains \$50 of tuition and fees, more than:

[(a-) 10% of tuition and fees during the first week or one-tenth of the course, whichever is less;

[(b-) 25% of tuition and fees during the first quarter of the course;

[(c-) 50% of tuition and fees during the second quarter of the course;

or

[(d-) 75% of tuition and fees during the third quarter of the course.]

(ii) (No change.)

(E) Interim financial statements.

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

(F)(E) Federal audits. Schools which participate in federal financial aid programs must submit a copy of each audit of such programs at the same time the audit report is submitted to the Department of Education. If the school would otherwise submit compiled or reviewed annual financial statements as allowed under this minimum standard, and if the audit of the federal programs causes a question to arise as to the adequacy of the school's financial structure, the administrator may require an audit of the school, at the school's expense, certified by a public accountant or certified public accountant.

(G)(F) Change in ownership.

Prior to a change in ownership of a proprietary school, the purchaser [seller] must furnish the director an acceptable statements of financial position (balance sheet) which meets the requirements outlined in subparagraph (B) of this paragraph [of the school consistent with generally accepted accounting principles. If the most recent annual statements have been reviewed or audited, this balance sheet may be compiled. Otherwise, the balance sheet must be reviewed. The balance sheet must be accompanied by an audited list of any student tuition refunds payable and unearned tuition which has been audited by an independent certified public accountant or public accountant]. The purchaser shall furnish any other evidence deemed appropriate by the administrator to establish financial stability.

(H)(G) Other requirements.

All financial statements must identify the name of the independent public accountant or certified public accountant associated with the statements and be in accordance with generally accepted accounting principles. Compilations must be accompanied by the owner's affidavit that the statements are true and correct. Accountants from states other than Texas must give their state license number.

(12) Adequate space for instruction. The school shall provide adequate space for classroom instruction and laboratory experiences. Enrollment shall not exceed the design characteristics of the student

work stations. The facilities shall not be dangerously overcrowded or in substandard housing. Seminars and workshops without a fixed location, [and] itinerant schools, and schools with multiple locations must submit dates of course offerings, locations, and class schedules at least 30 days prior to teaching a class.

(13) (No change.)

(14) Records.

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

(D) Each school shall maintain

a master: student registration list consisting of at least the [following] information in this paragraph. An entry shall be made on this list for any person who signs an enrollment agreement, [or] makes a down payment to attend the school, or attends a class. The entry shall be made on the date the first of these events occurs. The order of these events may vary from school to school. The following information is required [both]:

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

(iii) address of student including city, state, and zip code;

(iv) (No change.)

(v) social security number;

[and]

(vi) date of birth; and

(vii)(vi) name of course.

(E) (No change.)

(15) (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.

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W. N. Kirby  
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(512) 475-7077.

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## Chapter 75. Curriculum Subchapter G. Other Provisions

### ★ 19 TAC §75.168

The Texas Education Agency proposes amendments to §75.168, concerning summer school programs. School districts which are required to offer bilingual or other special language programs must provide summer school programs for limited English proficient (LEP) students who will be eligible to be enrolled in kindergarten and the first grade in the fall. Such programs must be operated during the eight weeks preceding the opening of schools for the regular school term effective with the summer of 1985. In-

struction may be bilingual education or English as a second language; however, to ensure continuity of instruction, programs for students who will be in bilingual education in the fall must be bilingual education summer programs.

The proposed amendments require the program to be a minimum of three hours each day. Teachers are required to possess certification or endorsement in kindergarten, early childhood education, bilingual education, English as a second language, or elementary. Student progress must be reported to the parents and to each student's teacher at the beginning of the regular school term. The program is voluntary for students and districts are not required to provide transportation for the summer program.

Richard Bennett, associate commissioner for finance, has determined that for the first five-year period the rule will be in effect there will be fiscal implications as a result of enforcing or administering the rule. The anticipated effect on state government is an estimated additional cost of \$6 million each year in 1986-1989. There is no anticipated cost in 1985. The anticipated effect on local government is an estimated additional cost of \$6 million each year in 1986-1989. There is no anticipated cost in 1985. (Note: The program is to begin in the summer of 1985. The state amount reflects a request for the appropriated amount. The local amount reflects the estimated actual cost to local districts.) There is no anticipated effect on small businesses.

Dr. Beverly J. Bardsley, director for policy development, and Mr. Bennett have determined that for the first five-year period the rule will be in effect the public benefit anticipated as a result of enforcing the rule as proposed is better preparation for children of limited English speaking ability to help them succeed in the regular school program when they enter kindergarten or first grade. 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 Dr. Beverly J. Bardsley, Director for Policy Development, 201 East 11th Street, Austin, Texas 78701, (512) 475-7077. All requests for a public hearing on proposed sections submitted in accordance with the Administrative Procedure and Texas Register Act must be received by the commissioner of education not more than 15 calendar days after notice of a proposed change in rules has been published in the *Texas Register*.

The amendments are proposed under the Texas Education Code, §21.458, which

authorizes the State Board of Education to make rules for the operation of voluntary summer programs for children of limited English speaking ability who will enter kindergarten or grade one in the fall.

§75.168. *Summer School Programs.*

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

(c) Summer school programs for children of limited English proficiency who will be eligible for admission to kindergarten or first grade at the beginning of the next school year provided under the Texas Education Code, §21.458, shall be implemented in accordance with this section.

(1) Purpose of summer school programs.

(A) Limited English proficient (LEP) students shall have an opportunity to receive special instruction designed to prepare them to be successful in kindergarten and first grade.

(B) Instruction shall focus on language development essential elements appropriate to the level of the student. Such instruction shall be bilingual or English as a second language (ESL).

(2) Establishment of and eligibility for the program.

(A) Each district required to offer a bilingual or special language program in accordance with the Texas Education Code, §21.453, shall offer the summer program. Programs for students under this subsection who will be in bilingual education kindergarten and first grade programs shall be bilingual education.

(B) To be eligible for enrollment, a student must be eligible for admission to kindergarten or to the first grade at the beginning of the next school year, and must be limited English proficient.

(C) Limited English proficiency shall be determined by screening students using informal oral language inventories, oral proficiency instruments approved by the commissioner of education, or other appropriate instruments.

(3) Operation of the program.

(A) Enrollment in the program is optional with the parents of the student.

(B) The program shall be operated on a one half day basis, a minimum of three hours each day, for the eight weeks. The eight weeks shall be consecutive and shall immediately precede the first duty day for teaching personnel.

(C) The student/teacher ratio for the program district wide shall not exceed 18 to one.

(D) A district is not required to provide transportation for the summer program.

(E) Teachers shall possess certification or endorsement in kindergarten, early childhood education, bilingual, ESL, or elementary.

(F) Reporting of student progress during the eight-week term shall be de-

termined by the board of trustees. A summary of student progress shall be provided to parents at the conclusion of the program. This summary shall be provided to the student's teacher at the beginning of the next regular school term.

(G) A district may join with other districts in cooperative efforts to plan and implement programs.

(H) The summer school program shall not substitute for any other program required to be provided during the regular school term.

(4) Funding and records for programs.

(A) A district shall use state and local funds for program purposes. Federal bilingual, Chapter 1 migrant, or Chapter 1 regular funds may be used to supplement the program.

(B) A district shall maintain records of eligibility, attendance, and progress of students.

(5) Implementation of program. Programs shall be provided in the summer of 1985 and each summer thereafter.

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

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Interim Commissioner  
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For further information, please call  
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## Chapter 145: Professional Environment

### Subchapter C. Employment Assurances

#### ★ 19 TAC §145.44

The Texas Education Agency proposes amendments to §145.44, concerning preparation and planning time for teachers. The proposed amendments implement the new provisions of House Bill 72, 68th Legislature, 2nd Called Session, 1984, concerning preparation and planning time for teachers. Each teacher must have at least one period of 45 consecutive minutes free from supervision of students within seven hours of the start of classes for the school day. This period is to be used for parent-teacher conferences, reviewing students' homework, and preparation and planning. Subsection (b) addresses the scheduling of the planning period for teachers who

teach in more than one school. Subsection (c) addresses schools in which students are required to be in attendance for less than seven hours.

Richard Bennett, associate commissioner for finance, 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.

Dr. Beverly J. Bardsley, director for policy development, and Mr. Bennett have 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 is clarification of legal requirements concerning the 45-minute planning period for teachers. 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 Dr. Beverly J. Bardsley, director for Policy Development, 201 East 11th Street, Austin, Texas, 78701, (512) 475-7077. All requests for a public hearing on proposed sections submitted in accordance with the Administrative Procedure and Texas Register Act must be received by the commissioner of education not more than 15 calendar days after notice of a proposed change in rules has been published in the *Texas Register*.

The amendments are proposed under the Texas Education Code, §13.902, which provides that each teacher actively engaged in the instruction of children shall have at least one period within the seven hour school day for planning and preparation; the Texas Education Code, §16.005, which authorizes the State Board of Education to make rules for the administration of the Foundation School Program; and the Texas Education Code, §11.24(b), which authorizes the State Board of Education to make rules to carry out the duties placed on it or on the Central Education Agency by the legislature.

**§145.44. Preparation and Planning Time.**

(a) Each [classroom] teacher actively engaged in the instruction of children in the public schools of Texas shall have at least one period of 45 consecutive minutes free from supervision of students within the [a] scheduled school day for parent-teacher conferences, reviewing students' homework, and planning and preparation. During that time, a teacher shall not be required to participate in any other activity. Such 45 minute period must be provided:

(1) without regard to any other time free from supervision allotted to the teacher for other reasons;

(2) while classes are in session at the teacher's school; and

(3) within seven hours of the commencement of classes for the school day.

(b) Any teacher who teaches in more than one school must be provided the required 45 minute planning and preparation period within seven hours of the commencement of classes in the school in which the teacher's first teaching assignment of the day is scheduled.

(c) In schools in which the students are required to be in attendance less than seven hours, the teacher's planning and preparation period need not be while classes are in session at the school, but must fall entirely within seven hours of the commencement of the school day.

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  
February 12, 1985.

TRD-851391 W. N. Kirby  
Interim Commissioner of  
Education

Proposed date of adoption:  
April 15 1985  
For further information, please call  
(512) 475-7077.



**Chapter 157. Hearings and Appeals**  
**Subchapter B. Hearings of Appeals to the Commissioner**

★ 19 TAC §157.67

The Texas Education Agency proposes new §157.67, concerning hearings held pursuant to the Texas Proprietary School Act, which was enacted in 1971 and provides specific time lines for appeals of denials and revocations of licenses. Subsequently, the Administrative Procedure and Texas Register Act set forth time lines for appeals in all other kinds of contested cases.

Since the time lines in the Proprietary School Act were not repealed, new rules for hearings have been developed to remove any ambiguity and to make it clear that the time lines in the Proprietary School Act do apply in all proprietary school appeals. The Proprietary School Act allows for an appeal to its administrator within 15 days after a school receives official notice of denial or revocation of a license. The appeal must then be heard within 30 days, and the appellant must be notified of the administrator's decision with 10 days after the hearing.

Prior to the passage of House Bill 72, 68th Legislature, 2nd Called Session, 1984, the appellant was required to carry the appeal to the State Board of Education for further review if the matter was still in dispute before appealing to a court. The law now allows the administrator's decision to be appealed directly to a district court, and the proposed rules have been modified to conform to the provisions of House Bill 72.

The proposed new section is in complete conformity with the requirements of the Proprietary School Act and has been recommended for adoption by the Proprietary School Advisory Commission.

Richard Bennett, associate commissioner for finance, 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.

Dr. Beverly J. Bardsley, director for policy development, and Mr. Bennett have determined that for each year of the first five years the rule is in effect the public benefit anticipated as a result of enforcing the rule is removal of ambiguity concerning time lines and procedures for appeals under the Texas Proprietary School Act. 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 Dr. Beverly J. Bardsley, Director for Policy Development, 201 East 11th Street, Austin, Texas 78701, (512) 474-7077. All requests for a public hearing on proposed sections submitted in accordance with the Administrative Procedure and Texas Register Act must be received by the commissioner of education not more than 15 days after notice of a proposed change in rules has been published in the *Texas Register*.

The new section is proposed under the Texas Education Code, §32.22, which authorizes the State Board of Education to adopt policies, regulations, and rules necessary for carrying out the provisions of the Texas Proprietary School Act, after consultation with the Proprietary School Advisory Commission; and the Texas Education Code, Chapter 32, Subchapter E, which provides for appeals of decisions of the administrator under the Texas Proprietary School Act.

**§157.67. Hearings Held Pursuant to the Texas Proprietary School Act.**

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

(1) Administrator—The commissioner of education or a person knowledgeable in the administration of regulating proprietary schools designated by the commissioner to administer the provisions of the Texas Proprietary School Act.

(2) Applicant—A party seeking a certificate of approval, an exemption, or a representative's registration from an agency.

(3) Licensee—A party who is a holder of a certificate of approval or a representative permit issued by the agency.

(b) Applicability.

(1) This section shall apply in all appeals brought pursuant to the Texas Proprietary Act, Texas Education Code, Chapter 32. To the extent that this section conflicts with any other sections governing proceedings before the agency, the requirements in this section shall prevail.

(2) Should an applicant or licensee be dissatisfied with any of the following acts by the administrator, the applicant or licensee may request a hearing before the administrator:

(A) denial of a certificate of approval;

(B) revocation of a certificate of approval;

(C) conditions imposed upon the continued approval represented by the certificate;

(D) refusal to grant an exemption pursuant to the Texas Education Code, §32.12; or

(E) any other act by the administrator which in the interest of fairness ought to entitle the applicant, licensee, other person to a hearing.

(c) Time requirements.

(1) Request for hearing. Should a party be dissatisfied with any of the actions of the administrator as described in subsection (b) of this section, the party may, by certified mail or personal service, request a hearing with the administrator within 15 days after receipt of notice of said action.

(2) Notice of hearing. Upon receipt of the request for a hearing, the administrator shall set a time and place for the hearing and shall send notice to the party of said time and place. The hearing shall be held within 30 days from the receipt of the request for a hearing.

(3) Notice of decision. Within 10 days after the hearing, the administrator shall send a notice of decision to the party bringing the appeal.

(d) Other provisions.

(1) Petitions for review, as described in §157.44 of this title (relating to Petition for Review), and answers as described in §157.45 of this title (relating to Answers), are not required in cases brought under this section.

(2) Section 157.59 of this title (relating to Proposal for Decision) and §157.60 of this title (relating to Filing of Exceptions

and Replies in Response to a Proposal for Decision) are not applicable to cases brought under this section.

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

Issued in Austin, Texas, on  
February 12, 1985.

TRD-851392 W. N. Kirby  
Interim Commissioner of  
Education

Proposed date of adoption:  
April 13, 1985  
For further information, please call  
(512) 475-7077.



## TITLE 22. EXAMINING BOARD

### Part XI. Board of Nurse Examiners

#### Chapter 215. Nurse Education

##### ★ 22 TAC §215.2

*(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 Board of Nurse Examiners, Suite 225, Building C, 1300 East Anderson Lane, Austin, or in the Texas Register office, Room 503E, Sam Houston Building, 201 East 14th Street, Austin.)*

The Board of Nurse Examiners proposes the repeal of §215.2, concerning new programs. The section is being repealed to adopt a new section that will provide more specific information regarding the establishment of new programs.

Margaret L. Rowland, R. N., executive secretary, 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.

Ms. Rowland 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 deletion of the existing rule to allow the adoption of a new, more explicit rule which will be more detailed as to the requirements an institution must meet for approval of a new nursing program. There is no anticipated economic cost to individuals as a result of the repeal.

Comments on the proposal may be submitted to Margaret Rowland, Executive Secretary, Board of Nurse Examiners,

1300 East Anderson Lane, Building C, Suite 225, Austin, Texas 78752, (512) 835-4880.

The repeal is proposed under Texas Civil Statutes, Article 4514, §1, and Texas Civil Statutes, Article 4518, §1, which provide the Board of Nurse Examiners with the authority to make and enforce all rules and regulations necessary for the performances of its duties and conducting of proceedings before it, to establish standards of professional conduct for all persons licensed under the provisions of this law in keeping with its purpose and objectives, to regulate the practice of professional nursing and to determine whether or not an act constitutes the practice of professional nursing, not inconsistent with this Act. Such rules and regulations shall not be inconsistent with the provisions of this law. It shall be the duty of the Board of Nurse Examiners to prescribe and publish the minimum requirements and standards for a course of study in programs which prepare professional nurse practitioners

##### §215.2. New Programs.

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

Issued in Austin, Texas, on February 6, 1985.

TRD-851450 Margaret L. Rowland,  
Executive Secretary  
Board of Nurse  
Examiners

Earliest possible date of adoption:  
March 22, 1985  
For further information, please call  
(512) 835-4880



The Board of Nurse Examiners proposes new §215.2, concerning new programs. This new section provides more specific information regarding the establishment of new nursing programs.

Margaret L. Rowland, R. N., 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.

Ms. Rowland 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 more explicit information as to the requirements an institution must meet for approval of a new nursing program. Possible action of the board at various phases of the proposal



process are explained. 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 Margaret Rowland, Executive Secretary, Suite 225, Building C, 1300 East Anderson Lane, Austin, Texas 78752, (512) 835-4880.

The new section is proposed under Texas Civil Statutes, Article 4514, §1, and Texas Civil Statutes, Article 4518, §1, which provide the Board of Nurse Examiners with the authority to make and enforce all rules and regulations necessary for the performance of its duties and conducting of proceedings before it, to establish standards of professional conduct for all persons licensed under the provisions of this law in keeping with its purpose and objectives, to regulate the practice of professional nursing and to determine whether or not an act constitutes the practice of professional nursing, not inconsistent with this Act. Such rules and regulations shall not be inconsistent with the provisions of this law. It shall be the duty of the Board of Nurse Examiners to prescribe and publish the minimum requirements and standards for a course of study in programs which prepare professional nurse practitioners.

#### §215.2. *New Programs.*

(a) Phase I—development of a new program.

(1) An institution wishing to establish a nursing program shall advise the board of its intent in writing.

(2) The institution shall submit a proposal to the board at least three weeks prior to the board meeting at which the request for the new program is to be considered.

(3) Eleven copies of the proposal are required. One copy is to be sent to each board member, and two copies are to be sent to the office of the board.

(4) The proposal shall include the following information:

(A) mission of the educational institution;

(B) accreditation status of the educational institution;

(C) type of nursing program;

(D) documentation of the need for the nursing program in Texas with rationale for why the program should be established;

(E) potential effect on other nursing programs in the area;

(F) organizational structure of the educational institution showing the relationship of the proposed nursing program within the organization;

(G) tentative timetable;

(H) tentative budget plans, including evidence of financial resources ade-

quate for planning, implementing, and continuing the nursing program;

(I) source of a potential qualified director and faculty;

(J) source of anticipated student population;

(K) description of support staff for the proposed program;

(L) description of physical facilities; and

(M) description of available clinical resources.

(5) The proposal will be reviewed at a regularly scheduled board meeting. The board may deny further consideration of the proposal or may authorize a site visit and a public hearing.

(6) Following the site visit and public hearing, the board may approve, defer action, or deny the request.

(A) Approval of the proposal to establish a nursing program will be given when the educational institution has submitted evidence that the nursing program will be based upon sound educational principles, that valid rationale has been documented for the establishment of the nursing program, that existing nursing programs would not be adversely effected, and that the educational institution is prepared to meet the board's requirements as stated in §§215.1-215.21 of this title (relating to Definitions; New Programs; Accreditation; Closing a Program; Change of Control; Philosophy and Objectives; Administration and Organization; Faculty Qualifications—Diploma and Associate Degree Programs; Faculty Qualifications—Baccalaureate Degree Programs; Change of Director; Faculty Policies; Faculty Organization, Faculty Development and Evaluation; Curriculum; Curriculum Changes and Expansion of Nursing Program; Students; Educational Resources and Facilities; Clinical Resources; Records and Reports; Pass Rate of Graduates on the National Council Licensure Examination for Registered Nurses; and Total Program Evaluation).

(B) If approved, the institution will be notified to proceed with the development of the nursing program as described in Phase II and III.

(C) If deferred, the institution will be notified of the reason for deferral.

(D) If denied, the institution will be notified of the reason for denial.

(b) Phase II—planning stage.

(1) Following approval, a minimum of one year of planning is needed for the development of the program.

(2) The following timetable is required:

(A) at least nine months prior to anticipated admission of students, appoint a qualified director and employ a secretarial staff;

(B) at least six months prior to anticipated admission of students, appoint qualified faculty, adequate in number to de-

velop the curriculum for the first year of operation; and

(C) at least two regularly scheduled board meetings prior to the anticipated admission of students, submit application for initial accreditation according to §§215.1-215.21 of this title (relating to Definitions; New Programs; Accreditation; Closing a Program; Change of Control; Philosophy and Objectives; Administration and Organization; Faculty Qualifications—Diploma and Associate Degree Programs; Faculty Qualifications—Baccalaureate Degree Programs; Change of Director; Faculty Policies; Faculty Organization; Faculty Development and Evaluation; Curriculum; Curriculum Changes and Expansion of Nursing Program; Students; Educational Resources; Records and Reports; Pass Rate of Graduates on the National Council Licensure Examination for Registered Nurses; and Total Program Evaluation).

(c) Phase III—application for initial accreditation.

(1) Initial accreditation must be granted prior to admission of students.

(2) Eleven copies of the application are required. One copy is to be sent to each board member, and two copies are to be sent to the office of the board.

(3) The board shall review the application and supporting evidence at a regularly scheduled meeting. If the program is based upon sound educational principles and is in compliance with §§215.1-215.21 of this title (relating to Definitions; New Programs; Accreditation; Closing a Program; Change of Control; Philosophy and Objectives; Administration and Organization; Faculty Qualifications—Diploma and Associate Degree Programs; Faculty Qualifications—Baccalaureate Degree Programs; Change of Director; Faculty Policies; Faculty Organization; Faculty Development and Evaluation; Curriculum; Curriculum Changes and Expansion of Nursing Program; Students; Educational Resources and Facilities; Clinical Resources; Records and Reports; Pass Rate of Graduates on the National Council Licensure Examination for Registered Nurses; and Total Program Evaluation), then initial accreditation shall be granted.

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 February 6, 1985.

TRD-851451

Margaret L. Rowland  
Executive Secretary  
Board of Nurse  
Examiners

Earliest possible date of adoption:  
March 22, 1985  
For further information, please call  
(512) 835-4880.

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## Part XIV. Texas Optometry Board

### Chapter 271. Examinations

#### ★ 22 TAC §271.5

The Texas Optometry Board proposes amendments to §271.5, concerning licensure by endorsement. This section establishes a fee for application for licensure by endorsement and provides for the fee to be applied toward examination, if the applicant does not qualify for licensure by endorsement.

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

Ms. Ewald also has determined that for each year of the first five years the rule is in effect the public benefit anticipated as a result of enforcing the rule is that applicants seeking licensure by endorsement will be fully informed regarding the requirements of licensure by endorsement, including the required fee. Only those applicants satisfying the statutory requirements will be allowed to obtain licensure by endorsement, thereby assuring the safety and welfare of the people of Texas. 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 Lois Ewald, Executive Director, Texas Optometry Board, 1300 East Anderson Lane, Suite C-240, Austin, Texas 78752

The amendment is proposed under Texas Civil Statutes, Article 4552, §2.14, which provide the Texas Optometry Board with the authority to promulgate procedural and substantive rules.

#### §271.5. Endorsements.

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

(h) The examination fee for licensure by endorsement shall be \$55. Any applicant who does not qualify for licensure by endorsement may request that the fee be applied toward the initial examination, provided the examination is taken within one year. No fee for licensure by endorsement will be returned to any applicant after his application has been reviewed by the board.

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

Issued in Austin, Texas, on February 8, 1985.

TRD-851452 Lois Ewald  
Executive Director  
Texas Optometry Board

Earliest possible date of adoption:

March 22, 1985

For further information, please call  
(512) 836-1938.

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### Chapter 273. General Rules

#### ★ 22 TAC §273.4

The Texas Optometry Board proposes new §273.4, concerning the setting of fees, as authorized by law. This new section establishes those fees for examination, initial license, license renewal, duplicate license, and late penalty on renewals.

Lois Ewald, executive 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 or small businesses as a result of enforcing or administering the rule.

Ms. Ewald also has determined that for each year of the first five years the rule as proposed is in effect there is no public benefit anticipated as a result of enforcing the rule as proposed. The anticipated economic cost to individuals who are required to comply with the rule as proposed is an appropriate fee in accordance with the established fees set forth in this section.

Comments on the proposal may be submitted to Lois Ewald, Executive Director, Texas Optometry Board, 1300 East Anderson Lane, Suite C-240, Austin, Texas 78752.

The new section is proposed under Texas Civil Statutes, Article 4552, §2.14, which provide the Texas Optometry Board with the authority to promulgate procedural and substantive rules.

#### §273.4. Fees (Not Refundable).

(a) Examination fee (first)—\$5.

(b) Examination fee (second)—\$20.

(c) Examination fee (third and subsequent)—\$55.

(d) License—\$25.

(e) License renewal—\$100

(f) Duplicate license (lost or destroyed)—\$10.

(g) Late fees (for all renewals), one to 180 days—\$27.50, 181 days to less than three years—\$55.

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 February 8, 1985.

TRD-851312 Lois Ewald  
Executive Director  
Texas Optometry Board

Earliest possible date of adoption:

March 22, 1985

For further information, please call  
(512) 836-1938

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## TITLE 25. HEALTH SERVICES

### Part I. Texas Department of Health

#### Chapter 157. Emergency Medical Care

#### Emergency Medical Services

#### ★ 25 TAC §157.63, §157.64

The Texas Department of Health proposes amendments to §157.63 and §157.64, concerning certification of emergency medical services (EMS) personnel and recertification of EMS personnel.

Stephen Seale, chief accountant III, 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. Seale 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 is the establishment of critical component grading of the department's written examinations for certification and recertification of EMS personnel. 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 Charles H. Gregory, M.D., Chief, Bureau of Emergency Management, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756-3199.

Comments will be accepted for 90 days after publication in the *Texas Register*. In addition, a public hearing on these rules will be held at 10 a.m. on Thursday, April 18, 1985, in the auditorium, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756-3199.

The amendments are proposed under Texas Civil Statutes, Article 4447o, §3.02, which provides the Texas Board of Health with the authority to adopt rules to implement the EMS Act.

**§157.63. Certification.**

(a) A candidate shall:

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

(6) achieve a passing grade of 70 on the department's written examination and in addition, achieve a passing grade of 70 on the critical components of the examination.

(b)-(e) (No change.)

**§157.64. Recertification.**

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

(c) A certificant shall meet the following requirements for recertification:

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

(3) achieve a passing grade of 70 on the department's written examination and in addition, achieve a passing grade of 70 on the critical components of the examination;

(4) (No change.)

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

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

Issued in Austin, Texas, on  
1985.

TRD-851414      Robert A. MacLean  
Deputy Commissioner  
Professional Services  
Texas Department of  
Health

Proposed date of adoption:  
May 31, 1985

For further information, please call  
(512) 465-2801.

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**TITLE 40. SOCIAL  
SERVICES AND  
ASSISTANCE**

**Part I. Texas Department of  
Human Resources  
Chapter 79. Legal Services  
Subchapter F. Contract  
Administration**

★40 TAC §79.506, §79.507

The Texas Department of Human Resources proposes new §79.506 and

§79.507, concerning methods for auditing contractors, in its legal services rule chapter. These audit methods and procedures are used for sampling and extrapolating audit and review findings and providing means for reviewing payments that have been made to providers.

David Hawes, programs budget and statistics director, has determined that for the first five-year period the rules are in effect there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the rules.

Mr. Hawes also has determined that for each year of the first five years the rules as proposed are in effect the anticipated public benefit is that providers will be given public notice that sampling and extrapolation audit methods may be used in payments made to them. Notification of audit methods should alleviate some of the confusion about the department's right to ask for repayment based on audit findings. There is no anticipated economic cost to individuals required to comply with the rules.

Comments on the proposal may be sent to Cathy Rossberg, Administrator, Policy Development Support Division-967, Texas Department of Human Resources 153-E, P.O. Box 2960, Austin, Texas 78769, within 30 days of publication in this Register.

The new sections are proposed under the Human Resources Code, Title 2, Chapter 22, which authorizes the department to administer public assistance programs.

**§79.506. Methods for Auditing Contractors.**

(a) All services for which charges are made to the department are subject to review and audit. During a review or audit, the provider must furnish the department or its authorized representative with information regarding claims for payment. The burden of proving entitlement to payments is the responsibility of the provider. If an audit or review reveals improper payments were made, or that the provider's records do not support the payments that were made according to federal, state, and local laws and rules, department procedures, and the provisions of the contract, the provider must make restitution.

(b) Department procedure for auditing or reviewing providers may involve the use of sampling and extrapolation. In this

procedure, the department selects a statistically valid sample of the cases or claims for which the provider received payment for the audit period in question and audits the provider's records for those cases or claims. All improper payments or units of service in the sample are then totalled and extrapolated to all of the cases or claims for which the provider has been paid during the audit period. After being notified and given the opportunity for a hearing according to the procedures in §79.1603 of this title (relating to Right to Appeal), the provider is required to pay the department for the mean average of the entire extrapolated amount of improper payments calculated under this procedure.

**§79.507. Recoupment of Improper Payments.**

(a) The department recovers improper payments when it is verified that overpayments, which resulted from improper billing or accounting practices, have been made to a provider. The determination of impropriety is based on federal, state, and local laws and rules, department procedures, provisions of the contract, or as evidenced by statistical data on program utilization compiled from paid claims.

(b) The provider is notified in writing of the types of discrepancies, the method of computing the reasonable dollar amount which is to be refunded, and any other actions the department may take.

(c) The provider may request that the department conduct an audit of 100% of the records and may also request a presentation of the results at an appeal hearing with the department. When a provider requests a 100% audit, he must agree to pay the cost related to performing the additional audit work at current department costs.

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  
February 13, 1985.

TRD-851413      Marlin W. Johnston  
Commissioner  
Texas Department of  
Human Resources

Earliest possible date of adoption:  
March 22, 1985

For further information, please call  
(512) 460-3786.

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# Adopted Rules

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.

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. If an agency adopts the rule with changes to the proposed text, the proposal will be republished with the changes.

## TITLE 19. EDUCATION

### Part II. Texas Education

#### Agency

#### Chapter 75. Curriculum

#### Subchapter H. Promotion and Alternatives to Social Promotion

##### ★ 19 TAC §§75.191-75.194

The Texas Education Agency adopts new §75.191 and §75.192, with changes to the proposed text published in the December 21, 1984, issue of the *Texas Register* (9 TexReg 6410). New §75.193 and §75.194 are adopted without changes and will not be republished.

In §75.191(a), the provision allowing local districts to use numerical grades, letter grades, or indications of excellent, satisfactory, unsatisfactory, or needs improvement has been moved to make it clear that this applies for grades one through six.

In §75.191(a) and (b), and §75.192(a), the words or any combination thereof have been added after the list of indications, such as excellent or satisfactory, to make it clear that districts need not use all four.

New §75.191(g) has been added to provide that school districts notify parents or guardians of students who have a grade below 70 or whose grade average is deemed borderline by the district at the end of the first three weeks of a grading period.

New §75.191(h) has been added to clarify the applicability of the section to students of limited English speaking ability and requires districts to make every effort to assess such students' mastery of subject matter independently from their language skills.

In §75.192(a) and (b), language has been added to clarify that the rules in those subsections are effective beginning September 1, 1985.

House Bill 72, 68th Legislature, 2nd Called Session, 1984, added §21.721 to the Texas Education Code, which prohibits school districts from granting social promotions and directs the State

Board of Education to adopt rules concerning promotion and alternatives to social promotion.

Section 75.191, concerns grading and reporting requirements. Under this section, school districts are to determine student academic achievement using a numerical score on a scale of 0-100. This does not apply to kindergarten or pre-kindergarten. School districts shall develop procedures for determining student progress and reporting to parents of students at the kindergarten and pre-kindergarten level. Grades in all subjects or courses are to be reported to parents and students at the end of each six-week period. The report shall include the number of times the student has been absent. School districts may report grades to parents as numerical scores or may convert to letter grades. If districts choose to report letter grades, the conversion chart in the section shall be used beginning no later than September 1, 1985.

Section 75.192 concerns promotion and course credit. This section contains guide lines for promotions in elementary, middle school, or junior high school, and grades 9-12.

Section 75.193 concerns grade level advancement and course credit. For the 1984-1985 school year, school districts shall use numerical scores as required by law. The determination of the numerical score shall be based on policies and procedures established by the school district board of trustees. Variations in procedures and academic achievement level expectation for awarding grades to handicapped students shall be determined by the Admission, Review, and Dismissal Committee and included in the student's individual education plan.

Section 75.194, permits students to take courses beyond graduation requirements on a pass/fail basis. This section encourages students to take advanced courses in addition to the total number of units required for graduation.

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

The new sections are adopted under the Texas Education Code, §21.721, which

provides that a district may not grant social promotions and that students may be promoted only on the basis of academic achievement and which directs the State Board of Education to adopt rules prescribing alternatives to social promotion for students who cannot be promoted because of poor academic achievement.

##### §75.191. Grading and Reporting Requirements.

(a) School districts shall determine student academic achievement using a numerical score on a scale of 0-100. For grades one-six, numerical scores shall be established for the subjects of language arts, mathematics, science, and social studies. Grades for health, fine arts, and physical education may be determined by local district policy using numerical grades, letter grades, or indications of excellent, satisfactory, unsatisfactory, or needs improvement, or any combination thereof. For grades 7-12, numerical scores shall be used for courses listed in 19 TAC Chapter 75, Subchapter C and Subchapter D of this title (relating to Curriculum).

(b) School districts shall develop procedures for determining student progress and reporting to parents for students at the kindergarten and prekindergarten level. The provisions of subsection (a) of this section are not applicable to kindergarten or prekindergarten. A board of trustees may, at its option, use grading designations of excellent, satisfactory, improvement needed, and unsatisfactory or any combination thereof for reporting purposes for students in grade one for all of such grade or any portion thereof.

(c) Grades in all subjects or courses shall be reported to parents and students at the end of each six-week period. The report shall include the number of times the student has been absent.

(d) School districts may report grades to parents as numerical scores or may convert to letter grades. If districts choose to report letter grades, the following conversion table shall be used beginning no later than September 1, 1985:

- (1) 90-100 = A;
- (2) 80-89 = B;
- (3) 75-79 = C;
- (4) 70-74 = D; and

(5) 69-below = actual number grade earned. A school district may, at its discretion, record a 50 for any numerical grade earned that is lower than 50.

(e) For districts that choose to report letter grades to parents, the total numerical scores shall be used in determining promotion, course credit, and maintenance of a grade of 70 for participation in extracurricular and other activities. Numerical scores shall be used on all academic achievement records (transcripts) and maintained in the permanent records

(f) School districts that elect to report letter grades to parents may use  $\pm$  and  $-$  with such grades. Districts may also develop procedures for assigning and using grade points at their discretion.

(g) At the end of the first three weeks of a grading period, the school district shall provide notice of progress to the parent or guardian of a student whose grade average in any class is lower than 70 or whose grade average is deemed borderline by the district.

(h) In assessing students who are limited English proficient for mastery of the essential elements, districts shall make every effort to allow students to demonstrate knowledge or competency independent of their English language skills. These efforts shall include, but not be limited to, assessment in the primary language, assessment utilizing ESL methodologies, and nonverbal assessment with multiple varied instruments.

#### §75.192. Promotion and Course Credit.

(a) Elementary grades. Beginning September 1, 1985, to be promoted from one grade level to the next, a student shall attain for the year an overall average of 70 or above which is derived by averaging the final numerical grade for language arts, mathematics, social studies, and science. In addition, a student shall attain an average of 70 or above in language arts and in mathematics. Grades for health, fine arts, and physical education may be determined by local district policy using numerical grades, letter grades, or indications of excellent, satisfactory, unsatisfactory, or needs improvement, or any combination thereof.

(b) Middle school or junior high school. Beginning September 1, 1985, to be promoted from one grade level to the next, a student shall attain an overall average of 70 or above for the year in all courses taken. In addition, students shall attain an average of 70 or above in three of the following subjects: language arts (including reading improvement if it is required to be taken), mathematics, social studies, and science. Districts are encouraged not to require a student to repeat any course in which an average of 70 or above was maintained for the year. Campus assignment shall be at the discretion of the district in the event the student neither passes nor fails all courses in the eighth grade.

(c) Grades 9-12. To receive credit for a course, a student must maintain an average of 70 or above. Districts may award credit semester by semester for a full year (one unit) course.

(d) Summer programs.

(1) Each school district may offer a summer program, for whatever length of time necessary, for its students to satisfy the subject course requirements of any subject or course not successfully completed during the preceding school year in grades 1-12. Such program may be for the equivalent of a semester, or only one or more six weeks thereof, and may be only in the subject or subjects not successfully completed in grades 7-12. The summer program may be offered at any campus determined by the school district, as provided in §75.168(a)(2) of this title (relating to Summer School Programs), §75.163 of this title (relating to Correspondence Courses), or a combination thereof. Offering of a summer program is recommended, but is left solely at the option of the district.

(2) The parent or guardian of each student who has not successfully completed a subject or course for any semester shall be notified by the school district as soon as practical of the summer program, if any, available which may permit such student to complete successfully the subjects or courses not successfully completed during the regular school term.

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  
February 12, 1985.

TRD-851393      W.N. Kirby  
Interim Commissioner  
of Education

Effective date: March 5, 1985  
Proposal publication date: December 21, 1984  
For further information, please call  
(512) 475-7077.

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## Chapter 81. Instructional Resources

### Subchapter D. State Textbook Program

#### ★ 19 TAC §81.63

The Texas Education Agency (TEA) adopts amendments to §81.63, with changes to the proposed text published in the December 21, 1984, issue of the *Texas Register* (9 TexReg 6412).

In response to written comments from the Association for American Publishers, subsection (b) has been rewritten to clarify that complimentary supplementary materials may be submitted with text-

books or teachers' editions only when such materials have been called for in the textbook proclamation. No such materials shall be provided for classroom use. Teachers' editions shall be provided at no charge in a format determined by the publishers but one which does not exceed two parts.

The penalty for violation has been altered to prohibit participation in subsequent adoptions for a period not to exceed three years, rather than removal from the current recommended list.

Subsection (a) also has been amended to clarify that when materials are offered for sale, they must be made available at a price consistent with nationally established prices.

This section concerns materials available for use with textbooks. This section has been amended in the hope that the problems concerning complimentary supplementary materials during the previous textbook adoption cycle can be avoided in future textbook adoptions.

Materials in any medium which a publisher intends to make available for sale to schools, whether or not designed for use with an adopted textbook, are not considered to be part of the textbook and need not be submitted or adopted in accordance with the sections in this subchapter. Such materials shall not contain any textual material or other subject matter previously deleted, rejected, or disapproved by the State Textbook Committee or the State Board of Education. Supplementary materials may be submitted with textbooks only when such materials have been specifically requested and described in the proclamation calling for textbooks. Publishers shall not provide supplementary materials for classroom use. Violation of the rule shall be just cause for banning a publisher from participation in subsequent adoptions for a period not to exceed three years.

The Association of American Publishers commended the board and the agency for addressing the issue of complimentary materials offered to school districts, and offered substitute language for subsections (a)(2), (b), and (c).

The proposed subsection (a)(2) clarifies that samples of supplementary materials offered for sale may be provided only to local textbook committees for evaluation purposes to enable the committees to evaluate the total program.

The substitute for subsection (b) clarifies that complimentary supplementary pupil materials shall not be provided for classroom use and permits the format for teachers' editions to be determined by the publishers, within limits set in the rule.

The substitute for subsection (c) changes the penalty for violation of the rule from removal of a publisher's book from the recommended list to refusal to allow the publisher to participate in subsequent adoptions for a period not to exceed three years.

The agency agreed with the comments made by the Association of American Publishers, and the section as adopted includes all changes recommended by the association.

These amendments are adopted under the Texas Education Code, §12.16(b), which authorizes the State Board of Education to make rules concerning the selection of textbooks.

**§81.63. Materials Available for Use with Textbooks.**

(a) Materials available for sale.

(1) Materials in any medium which a publisher intends to make available for sale to schools, whether or not designed for use with an adopted textbook, are not considered to be part of the textbook and need not be submitted or adopted in accordance with the rules in this subchapter. Such materials shall not contain any textual material or other subject matter previously deleted, rejected, or disapproved by the State Textbook Committee or the State Board of Education. These materials should be made available to local districts at a price that is consistent with nationally established prices.

(2) Samples of supplementary materials may be provided only to local textbook committees for evaluation purposes to enable the committees to evaluate the total program.

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

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

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

(c) Violations. Violation of this rule shall be just cause for the State Board of Education to refuse to allow a publisher to participate in subsequent adoptions for a period not to exceed three years.

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  
February 11, 1985

TRD-851354 W N Kirby  
Interim Commissioner of  
Education

Effective date: March 4, 1985  
Proposal publication date: December 21, 1984  
For further information, please call  
(512) 475-7077.



## Chapter 105. Foundation School Program

### Subchapter W. Price Differential Index

#### ★ 19 TAC §§105.461-105.465

The Texas Education Agency adopts new §105.464, with changes to the proposed text published in the December 18, 1984, issue of the *Texas Register* (9 Tex-Reg 6362). New §§105.461-105.463 and 105.465 are adopted without changes and will not be republished.

The last phrase in §105.464 should read: "and PDI is the adjusted price differential index applicable to the district." The proposed new sections published omitted the word "price."

The Texas Education Code, §16.179, requires the State Board of Education to adopt not later than the 30th day before the first day of each regular session of the legislature an econometric model for the price differential index (PDI), a price differential index, and the formula under which the PDI shall be applied to the basic allotment to school districts under the Foundation School Program. The purpose of the PDI is to allow the allocation of Foundation School Program funds to recognize differences among districts in the purchasing power of the dollars allocated.

A Price Differential Index Advisory Committee, consisting of school district business and financial managers, and representatives from the Legislative Budget Board, the governor's budget office, the comptroller's office, and the Bureau of Business Research, the University of Texas at Austin, developed and recommended to the board an econometric model designed to estimate the cost of factors beyond the control of school districts. Because of the time constraints under which the study was done, to meet the deadline for State Board of Education action set by House Bill 72, the model developed by the committee concentrated on teacher salary costs which represent almost 60% of total general fund operating costs of school districts. Construction of a PDI for other educational costs will be included in future efforts because of the strict timetable and the limitations of available data. These new sections were adopted on an emergency basis in December, and they are now being adopted on a permanent basis.

New §105.461, concerning specifications for the econometric model, contains specifications for the econometric model on which the PDI is based, including the data elements to be used, the creation of index values for teachers, and a formula for computing the unadjusted price differential index value. This is the model recommended by the PDI Advisory Committee.

Section 105.462 is the adoption by reference of a table containing data values for unadjusted price differential index factors. This table shows the unadjusted index value for each school district, based on the econometric model in §105.461. The section also includes a provision for the correction of any data values, should the need for such correction be shown prior to September 1, 1985.

Section 105.463 describes the method for determining each school district's price differential index. Districts are ranked based on their unadjusted PDI. The unadjusted index for every district is divided by the value of the district at the fifth percentile of districts. A floor of 1.0% is given to this bottom 5.0% of districts. A maximum index is set to the value of the district at the top 1.0% of districts. This cap is given to each district in that top 1.0% of districts to keep the cost of the PDI at an average level of 14.25% of the base allotment, the selection of this floor and this ceiling means that the PDI can be applied to 76% of the \$1,350 base.

Section 105.464 contains the formula for determining each district's adjusted basic per student allotment under the Foundation School Program. It applies the PDI to 76% of the \$1,350 base. This section takes the place of the formula in the Texas Education Code, §16.102(b)-(e). The formula adopted by the State Board of Education does not include the provisions which were in the Texas Education Code, §16.102(e), which provided the maximum PDI for districts in counties with large numbers of state employees.

Section 105.465 is the adoption by reference of a table showing the adjusted PDI and adjusted basic allotment for each school district. By law, the index in these sections is effective for the 1986-1987 biennium. However, the State Board of Education will ask the legislature to authorize the board to review the PDI, based on additional information, with a view toward possible modification of the index for the second year of the biennium. Without legislative authorization, no such modification can take place. No modification is contemplated for the first year of the biennium. Any modification made by the board would not increase

the state total of funds distributed through the PDI.

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

The new sections are adopted under the Texas Education Code, §16.177(b), which requires the State Board of Education by rule to prescribe the specifications of the econometric model on which the price differential index is based; and the Texas Education Code, §16.179, which requires the State Board of Education to adopt a price differential index based on the information from the econometric model and the formula under which the index is applied to the basic allotment under the Foundation School Program.

§105.464. *Determining the Adjusted Basic Allotment.* The commissioner shall adjust each district's basic allotment by applying the following formula:

$$ABA = (BA \times 76) \times PDI \pm .24$$

where:

ABA is the adjusted basic allotment;

BA is the basic allotment; and

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

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  
February 11, 1985.

TRD-851355 W. N. Kirby  
Interim Commissioner  
of Education

Effective date: March 4, 1985  
Proposal publication date: December 18, 1984  
For further information, please call  
(512) 475-7077.

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## TITLE 22. EXAMINING BOARDS

### Part XII. Board of Vocational Nurse Examiners

#### Chapter 231. Administration General Practice and Procedure

##### ★22 TAC §231.41

The Board of Vocational Nurse Examiners adopts the amendment to §231.41, without changes to the proposed text published in the January 11, 1985, issue of the *Texas Register* (10 TexReg 127).

The adoption of the new fee structure will provide funds for the escalated costs

of data processing. Increased fees will provide for additional revenue in fiscal year 1986 and will become effective September 1, 1985.

No comments were received regarding the adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 4528c, §5(g), which provides the Board of Vocational Nurse Examiners with the authority to make such rules and regulations as may be necessary to govern its procedures and to carry in effect the purposes of the law.

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  
February 11, 1985.

TRD-851361 Joyce A. Hammer  
Executive Director  
Board of Vocational  
Nurse Examiners

Effective date: September 1, 1985  
Proposal publication date: January 11, 1985  
For further information, please call  
(512) 835-2071.

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## Part XIV. Texas Optometry Board

### Chapter 275. Continuing Education

##### ★22 TAC §275.1

The Texas Optometry Board adopts amendments to §275.1, without changes to the proposed text published in the December 25, 1984, issue of the *Texas Register* (9 TexReg 6459).

The amendments establish criteria for approval of continuing education courses. Such criteria will enhance the type of continuing education being offered to optometrist licensees. The amendments inform providers of continuing education, as well as optometrist/licensees of the criteria for approval of continuing education.

No comments were received regarding adoption of the amendments.

The amendments are adopted under Texas Civil Statutes, Article 4552, §2.14, which authorize the Texas Optometry Board to promulgate procedural and substantive rules.

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 February 8, 1985.

TRD-851317 Lois Ewald  
Executive Director  
Texas Optometry Board

Effective date: March 4, 1985  
Proposal publication date: December 25, 1984  
For further information, please call  
(512) 835-1938.

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##### ★22 TAC §275.2

The Texas Optometry Board adopts an amendment to §275.2, without changes to the proposed text published in the December 25, 1984, issue of the *Texas Register* (9 TexReg 6460).

The amendment provides for continuing education credit through correspondence, and establishes a maximum number of four hours through that process to be applied to the 12-hour requirement. Optometrists cannot renew their licenses to practice optometry without fulfilling a requirement of 12 hours of continuing education.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 4552, §2.14, which authorize the Texas Optometry Board to promulgate procedural and substantive rules.

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 February 8, 1985.

TRD-851318 Lois Ewald  
Executive Director  
Texas Optometry Board

Effective date: March 4, 1985  
Proposal publication date: December 25, 1984  
For further information, please call  
(512) 835-1938.

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## TITLE 34. PUBLIC FINANCE

### Part I. Comptroller of Public Accounts

#### Chapter 3. Tax Administration Subchapter P. Local Sales and Use Tax

##### ★34 TAC §3.376

The Comptroller of Public Accounts adopts amendments to §3.376, without changes to the proposed text published

in the January 11, 1985, issue of the *Texas Register* (10 TexReg 129).

Effective October 2, 1984, when the state tax rate increased, the comptroller's department allowed a broader exemption for prior contracts than is currently allowed by §3.376. The amendments bring the local rule in line with the way the state increase was handled by allowing an exemption for contracts to sell as well as third-party contracts.

No comments were received regarding adoption of the amendments.

The amendments are adopted under the authority of the Texas Tax Code, §111.002, which provides that the comptroller may prescribe, adopt, and enforce rules relating to the administration and enforcement of the sales tax.

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  
February 13, 1985.

TRD-851405      Bob Bullock  
                            Comptroller of Public  
                            Accounts

Effective date: March 6, 1985  
Proposal publication date: January 11, 1985  
For further information, please call  
(512) 475-1913

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★ 34 TAC §3.379

The Comptroller of Public Accounts adopts amendments to §3.379, without changes to the proposed text published in the January 11, 1985, issue of the *Texas Register* (10 TexReg 131)

The amendments are necessary to reflect changes made by the legislature concerning the taxability of tangible personal property used or consumed in performing contracts for improvements to realty for the federal government. Consumable supplies and equipment purchased for use in performing these contracts but not incorporated into the property being improved are no longer exempt effective October 2, 1984.

No comments were received regarding adoption of the amendments.

The amendments are adopted under the authority of the Texas Tax Code, §111.002, which provides that the comptroller may prescribe, adopt, and enforce rules relating to the administration and enforcement of the sales tax.

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  
February 13, 1985.

TRD-851406      Bob Bullock  
                            Comptroller of Public  
                            Accounts

Effective date: March 6, 1985  
Proposal publication date: January 11, 1985  
For further information, please call  
(512) 475-1913.

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**Subchapter R. Metropolitan  
Transit Authority Sales and  
Use Tax**

★ 34 TAC §3.426

The Comptroller of Public Accounts adopts amendments to §3.426, without changes to the proposed text published in the January 11, 1985, issue of the *Texas Register* (10 TexReg 131).

Effective October 2, 1984, when the state tax rate increased, the comptroller allowed a broader exemption for prior contracts than is currently allowed by §3.426. The amendments bring the MTA rule in line with the way the state increase was handled by allowing an exemption for contracts to sell as well as third-party contracts.

No comments were received regarding adoption of the amendments.

The amendments are adopted under the Texas Tax Code, §111.002, which provides that the comptroller may prescribe, adopt, and enforce rules relating to the administration and enforcement of the sales tax.

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  
February 13, 1985.

TRD-851407      Bob Bullock  
                            Comptroller of Public  
                            Accounts

Effective date: March 6, 1985  
Proposal publication date: January 11, 1985  
For further information, please call  
(512) 475-1913.

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★ 34 TAC §3.429

The Comptroller of Public Accounts adopts amendments to §3.429, without changes to the proposed text published in the January 11, 1985, issue of the *Texas Register* (10 TexReg 132).

The amendments are necessary to reflect changes made by the legislature concerning the taxability of tangible personal property used or consumed in performing contracts for improvements to realty for the federal government. Consumable supplies and equipment purchased for use in performing these contracts but not incorporated into the property being improved are no longer exempt.

No comments were received regarding adoption of the amendments.

The amendments are adopted under the Texas Tax Code, §111.002, which provides that the comptroller may prescribe, adopt, and enforce rules relating to the administration and enforcement of the sales tax.

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  
February 13, 1985

TRD-851408      Bob Bullock  
                            Comptroller of Public  
                            Accounts

Effective date: March 6, 1985  
Proposal publication date: January 11, 1985  
For further information, please call  
(512) 475-1913.

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# Open Meetings

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

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

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

## Texas Alcoholic Beverage Commission

**Monday, February 25, 1985, 10:30 a.m.** The Texas Alcoholic Beverage Commission will meet in Suite 210, Jefferson Building, 1600 West 38th Street, Austin. According to the agenda, the commission will approve the January 1985 minutes, consider the administrator's and staffs' reports of agency activity, and approve an affidavit of destruction of tested alcoholic beverages.

**Contact:** W. S. McBeath, P.O. Box 13127, Austin, Texas 78711, (512) 458-2500.

**Filed:** February 12, 1985, 12:53 p.m.  
TRD-851377

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## Texas Commission on the Arts

**Tuesday, February 19, 1985, 2 p.m.** The Texas Commission on the Arts will meet in emergency session in the Austin Room, La Mansion Hotel, 6505 IH 35 North, Austin. Items on the agenda summary include a public hearing, a consent agenda, items for individual consideration, and informational items. The commission also will meet in executive session pursuant to Texas Civil Statutes, Article 6252m, §(g), to consider the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of a public officer or employee, if necessary. The emergency status is necessary because of the absence of the executive director.

**Contact:** Richard E. Huff, P.O. Box 13406, Austin, Texas 78711, (512) 475-6593.

**Filed:** February 12, 1985, 1:35 p.m.  
TRD-851378

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## Texas State Commission for the Blind

**Monday, February 25, 1985, 1 p.m.** The Board of Directors of the Texas State Commission for the Blind will meet at the Hil-

ton Inn, 1800 Highway 26 East, Grapevine. According to the agenda, the board will approve the January 8, 1985, minutes; approve anticipated capital purchases; and discuss and act on the agency budget. The board also will meet in executive session pursuant to Texas Civil Statutes; Article 6252-17, §2(g) and (e), to discuss personnel and pending legal matters.

**Contact:** Jean Wakefield, 314 West 11th Street, Austin, Texas 78711, (512) 475-6810.

**Filed:** February 12, 1985, 2:53 p.m.  
TRD-851394

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## Texas Department of Corrections

**Friday and Saturday, February 15 and 16, 1985, 8 a.m. daily.** The Board of the Texas Department of Corrections met in emergency session in Suite 125, One Hillcrest Green Building, 12700 Hillcrest Road, Dallas. According to the agenda, the board met in executive session to consider the Ruiz case and other litigation matters, in accordance with Texas Civil Statutes, Article 6252-17, §2(e). The emergency status was necessary because the items requiring board action were delivered within the seven-day posting period.

**Contact:** R. K. Procnier, P.O. Box 99, Huntsville, Texas 77340, (409) 295-6371, ext. 160.

**Filed:** February 14, 1985, 9:15 a.m.  
TRD-851447, 851448

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## Texas Commission for the Deaf

**Saturday, February 23, 1985, 9 a.m.** The Texas Commission for the Deaf will meet at 510 South Congress Avenue, Austin. Items on the agenda include action on the previous meeting minutes, a report from the Board for Evaluation of Interpreters, a legislative update, director and staff reports, public comments, and the chairman's re-

port. The commission also will meet in executive session to discuss personnel matters.

**Contact:** Fred R. Tammen, 510 South Congress Avenue, Suite 300, Austin, Texas 78704, (512) 475-2492.

**Filed:** February 14, 1985, 9:15 a.m.  
TRD-851441

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## Texas Education Agency

**Thursday, February 21, 1985, 10 a.m.** The Advisory Committee for Accountable Costs of the Texas Education Agency (TEA) will meet in Room 101-E, TEA North Building, 1200 East Anderson Lane, Austin. Items on the agenda summary include discussion of agency recommendations and concerns; analysis of program weights, i.e., statewide results, district location, district wealth, type of district, and size of district; special education co-ops, i.e., examination of average cost per full-time equivalent and a review of co-op cost figures submitted to staff; a report from agency staff on federal funding restrictions and their impact on utilization of state funds; results of an impact survey, i.e., class size reduction, pre-kindergarten/kindergarten programs and tutorial programs; and development of recommendations for the study report.

**Contact:** Tom Krueck, 201 East 11th Street, Austin, Texas 78701, (512) 475-2275.

**Filed:** February 13, 1985, 2:41 p.m.  
TRD-851434

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## Office of the Governor

**Thursday and Friday, February 21 and 22, 1985, 8:30 a.m. daily.** The State Job Training Coordinating Council of the Office of Economic Development of the Office of the Governor will meet at the Americana Hotel, 200 Main Street, Fort Worth. Items on the agenda summary include meetings of the

Private Sector Committee, Oversight Committee, Planning and Youth Committee, and Policy Development Committee, including discussion of the proposed Texas Illiteracy Reduction Program and the administrative and staff support to the state council; discussion and recommendation of a policy to the governor concerning employment and training in Texas.

**Contact:** Doug Duke, P.O. Box 13561, Austin, Texas 78711, (512) 475-1147.

**Filed:** February 13, 1985, 11:25 a.m.  
TRD-851419

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### Texas Health and Human Services Coordinating Council

**Friday, February 22, 1985, 10:45 a.m.** The Studies Subcommittee of the Texas Health and Human Services Coordinating Council will meet in the Senate reception room, State Capitol, Austin. Items on the agenda include approval of minutes, consideration of recommendations on rate setting for contract care, consideration of an executive summary on prevention and early intervention, and a legislative update.

**Contact:** Lynn H. Leverty, Ph.D., P.O. Box 12428, Austin, Texas 78711, (512) 475-1306.

**Filed:** February 13, 1985, 3:15 p.m.  
TRD-851436

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### Texas Department of Health

**Friday, February 22, 1985, 9:30 a.m.** The Children's Vision Screening Advisory Committee of the Texas Department of Health will meet in Room T-407, 1100 West 49th Street, Austin. Items on the agenda include review and comment on vision screening program statistics and materials; review and make recommendations for screener training manuals and materials, for changes in report forms, and on the addition of mandatory screening at the first grade level; and a planning session.

**Contact:** Douglas K. Ozias, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7420.

**Filed:** February 12, 1985, 4:13 p.m.  
TRD-851399

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### Texas Health Facilities Commission

**Thursday, February 21, 1985, 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.

#### Certificates of Need

Linden Municipal Hospital, Linden

AH84-1113-715

Memorial Hospital Southwest, Houston

AH84-0404-209

Pasadena Radiation Therapy Center, Pasadena

AO84-0713-460

Eagle Lake Community Hospital Eagle Lake

AH84-1101-700

St. Luke's Lutheran Hospital, San Antonio

AH84-1130-762

Electra Nursing Center, Electra

AN84-0327-186

Brazosport Eye Facility, Inc., Lake Jackson

AS84-1005-649

St. Joseph's Hospital, Inc., Paris

AH84-0928-613

Youens Memorial Hospital, Weimer

AH84-1127-750

Providence Memorial Hospital, El Paso

AH84-1023-676

#### Amendment of Certificate of Need Order

The University of Texas System Cancer

Center, M. D. Anderson Hospital and

Tumor Institute, Houston

AH84-0120-042A(110584)

#### Petition for Reissuance

The Baptist Hospital of Southeast Texas,

Inc., Beaumont

AH84-0111-024R(122784)

#### Notices of Intent

Louisiana Nursing Homes, Inc.,

Shreveport, Louisiana

AN85-0111-019

AN85-0111-020

AN85-0111-021

AN85-0111-022

AN85-0111-024

AN85-0111-025

AN85-0111-026

AN85-0111-027

AN85-0111-028

AN85-0111-029

AN85-0111-018

AN85-0111-023

Southmark Heritage of Texas, Inc.,

Dallas

AN85-0111-031

AN85-0111-032

AN85-0111-033

AN85-0111-034

AN85-0111-036

AN85-0111-037

AN85-0111-038

AN85-0111-039

AN85-0111-040

AN85-0111-041

AN85-0111-030

AN85-0111-035

Continental Medical, Inc., or Affiliate,

Atlanta, Georgia

AH84-1206-776

AH84-1206-777

AH84-1207-784

Amarillo Continued Care Facilities, Inc.,

New York, New York

AN85-0114-043

#### Consideration of Pending Litigation

Healthscan of Garland, Garland

E82-1213-019

Los Ebanos Surgicenter, Brownsville

E84-0604-001

Elmendorf, Brossman, *et al*, Computer

Diagnostics, Bryan

E83-1007-025

Following the consideration of applications, the commission will consider extension of the emergency effectiveness of amendments to 25 TAC §507.5, the adoption of proposed 25 TAC §527.33, and adoption of proposed amendments to 25 TAC §§507.5, 507.9, 507.11, 515.111, and 509.99.

**Contact:** John R. Neel, P.O. Box 50049, Austin, Texas 78763.

**Filed:** February 13, 1985, 9:01 a.m.  
TRD-851410

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### Texas Board of Examiners in the Fitting and Dispensing of Hearing Aids

**Friday and Saturday, February 22 and 23, 1985, 8 a.m. and 9 a.m., respectively.** The Texas Board of Examiners in the Fitting and Dispensing of Hearing Aids will meet at the Austin South Park Plaza Hotel, 3401 IH 35 South, Austin. According to the agenda, the board will conduct state exams on Friday. On Saturday, the board will approve the October 6, 1984, minutes, discuss board action on the examination; make committee appointments; hear a discussion by George Warner on investigations by board members; consider an interpretation of an exemption, Article 4566, §19(3), by George Warner; discuss "One to One Communicators"; and hear committee reports, the executive director's report, the president's report, and a report on future meeting dates. The board also will meet in executive session to discuss pending litigation.

**Contact:** Wanda F. Stewart, 510 South Congress Avenue, Suite 104, Austin, Texas 78704, (512) 475-3429.

**Filed:** February 12, 1985, 11:12 a.m.  
TRD-851375

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### Texas Historical Commission

**Tuesday, February 19, 1985, 10 a.m.** The State Preservation Permanent Advisory Committee of the Texas Historical Commission will meet in emergency session at the Carrington-Covert House, 1511 Colorado Street, Austin. Items on the agenda include the Goddess of Liberty statue, the 1986-1987 Capitol Preservation Board budget, the Accession and Loans Committee, fund raising, the San Saba Massacre painting, the curator of the capitol, and Sesqui-centennial Park. The emergency status is necessary due to the precarious condition of the Goddess of Liberty statue.

**Contact:** Cindy Laguna Dally, 1511 Colorado Street, Austin, Texas (512) 475-475-3092.

**Filed:** January 12, 1985, 3:39 p.m.  
TRD-851396

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### State Board of Insurance

**Friday, February 22, 1985, 9 a.m.** The State Board of Insurance will meet in the Hearing Room, DeWitt Greer Building, 11th and Brazos Streets, Austin. According to the agenda, the board will conduct a public hearing to consider proposed Rules 059.05 .26 103 and .104, published in the January 18, 1985, issue of the *Texas Register* (10 TexReg 200), which deal in large part with the situation of rate-regulated insurers under the Insurance Code, Chapter 5, Subchapter C, circumventing or avoiding the effect of mandatory rating laws through the use of, control of, or any sort of arrangement with nonrate-regulated insurers such as lloyds and reciprocal exchanges; a cancellation of deviations heretofore approved for property and/or automobile insurance; setting a limit on the percentage deviation from manual rates that will be approved by the State Board of Insurance in the future; and adopting or proposing guidelines on either an emergency or regular rule-making basis to be used in considering such deviations in the future.

**Contact:** Pat Wagner, 1110 San Jacinto Street, Austin, Texas 78786, (512) 475-2950.

**Filed:** February 13, 1985, 9:31 a.m.  
TRD-851416

**Monday, February 25, 1985, 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 by Bankers Protective Life Insurance Company of the commissioner's decision set out in his letter of January 30, 1985, to sustain the conservator's directive contained in a letter of January 9, 1985.

**Contact:** Pat Wagner, 1110 San Jacinto Street, Austin, Texas 78786, (512) 475-2950.

**Filed:** February 13, 1985, 9:32 a.m.  
TRD-851417

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### Texas Department of Labor and Standards

**Thursday, February 21, 1985, 9 a.m.** The Manufactured Housing Division of the Texas Department of Labor and Standards will meet in Suite 313, 5353 Maple Avenue, Dallas. According to the agenda, the division will conduct informal hearings of various consumer complaints in regard to manufactured homes which do not comply with Texas Civil Statutes, Article 5221f.

**Contact:** Eric Tubbs, P.O. Box 12157, Austin, Texas 78711, (512) 475-5712.

**Filed:** February 12, 1985, 10:32 a.m.  
TRD-851372

**Tuesday, February 26, 1985, 9 a.m.** The Manufactured Housing Division of the Texas Department of Labor and Standards will meet at 1314B Clossner, Edinburg. According to the agenda, the division will conduct informal hearings of various consumer complaints in regard to manufactured homes which do not comply with Texas Civil Statutes, Article 5221f.

**Contact:** Eric Tubbs, P.O. Box 12157, Austin, Texas 78711, (512) 475-5712.

**Filed:** February 12, 1985, 10:32 a.m.  
TRD-851373

**Tuesday, March 5, 1985, 9 a.m.** The Boiler Division of the Texas Department of Labor and Standards will meet in Room 105, E. O. Thompson Building, 920 Colorado Street, Austin. According to the agenda, the division will conduct a public hearing to review the scope of 16 TAC §75.8(2), which exempts maintenance personnel from being licensed by the department; and review interpretation of 16 TAC §75.8(4), which exempts plumbers from licensing requirements unless they engage in air conditioning contracting, in which case they must be licensed.

**Contact:** Booker T. Morris III, P.O. Box 12157, Austin, Texas 78711, (512) 475-0155.

**Filed:** February 12, 1985, 10:33 a.m.  
TRD-851374

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### Legislative Council

**Friday and Saturday, February 22 and 23, 1985, 10 a.m. and 9 a.m. respectively.** The Legislative Oversight Committee on Mental Health and Mental Retardation of the Legislative Council will meet at the Child Study Center, 1300 West Lancaster, Fort Worth. Items on the agenda include approval of the

previous meeting minutes; briefings on special need groups, such as ED/mentally retarded, mentally retarded offenders, and others, and interagency issues; subcommittee reports; and a discussion of an outline of the final report on mental retardation.

**Contact:** Karen F. Hale, P.O. Box 12128, Austin, Texas 78711, (512) 476-0611.

**Filed:** February 13, 1985, 3:55 p.m.  
TRD-851440

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### Texas State Board of Medical Examiners

**Wednesday, February 13, 2 p.m.** The Legislative Committee of the Texas State Board of Medical Examiners met in emergency session via conference call originating from Gulfway Drive, Winnie. According to the agenda, the committee discussed pending legislation affecting the board and the practice of medicine. The board also met in executive session under authority of Texas Civil Statutes, Article 6252-17, as related to Article 4495b, §4.05(d), §5.06(e)(1), and Attorney General Opinion H-484, 1974. The emergency status was necessary because information had just become available which needed the committee's attention. The matters will be referred to in a subsequent meeting.

**Contact:** Jean Davis, 1101 Camino LaCosta, Austin, Texas 78701, (512) 452-1078.

**Filed:** February 12, 1985, 4:23 p.m.  
TRD-851401

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### Polygraph Examiners Board

**Thursday and Friday, March 7 and 8, 1985, 9 a.m.** The Polygraph Examiners Board will meet at the Texas Department of Public Safety, 5805 Lamar Boulevard North, Austin. According to the agenda, the board will conduct Phase 3 oral interviews of the licensing examination, grade the licensing examination, and consider any other polygraph related business which may come before it.

**Contact:** Candy Moore, P.O. Box 4087, Austin, Texas 78773, (512) 465-2058.

**Filed:** February 14, 1985, 9:14 a.m.  
TRD-851442

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### Texas State Board of Public Accountancy

**Thursday and Friday, February 21 and 22, 1985, 8:30 a.m. daily.** The Texas State

Board of Public Accountancy will meet in Suite 340, 1033 La Posada, Austin. According to the agenda summary, the board will conduct committee meetings and reports, hearings, informal conferences, and other business.

Contact: Bob E. Bradley, 1033 La Posada, Suite 340, Austin, Texas 78752, (512) 451-0241.

Filed: February 13, 1985, 3:11 p.m.  
TRD-851435

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### Texas Department of Public Safety

Thursday, February 21, 1985, 10 a.m. The Public Safety Commission of the Texas Department of Public Safety will meet at 5805 North Lamar Boulevard, Austin. Items on the agenda include approval of the minutes, budget matters, personnel matters, and other unfinished business.

Contact: James B. Adams, 5805 North Lamar Boulevard, Austin, Texas, (512) 465-2000, ext. 3700.

Filed: February 13, 1985, 8:13 a.m.  
TRD-851403

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### Public Utility Commission of Texas

Friday, February 15, 1985, 9 a.m. The Hearings Division of the Public Utility Commission of Texas (PUC) made an emergency addition to the agenda of a meeting held in Suite 450N, 7800 Shoal Creek Boulevard, Austin. The addition concerned interim appeals in Docket 6095—application of AT&T Communications for a rate increase. The emergency status was necessary because the subject matter of the appeals was crucially related to the statutory timetable in the Public Utility Regulatory Act, §43.

Contact: Rhonda Colbert Ryan, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: February 12, 1985, 3:38 p.m.  
TRD-851395

The Hearings Division of the PUC will meet in Suite 450N, 7800 Shoal Creek Boulevard, Austin. Days, times, and dockets follow.

Thursday, February 28, 1985, 1 p.m. An informal hearing in Docket 6121—application of Demi-John Island Water System for a \$43(h) rate increase within Brazoria County.

Contact: Rhonda Colbert Ryan, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: February 13, 1985, 3:07 p.m.  
TRD-851438

Tuesday, April 23, 1985, 9 a.m. A hearing in Docket 6075—application of Cherokee County Electric Cooperative Association for a systemwide rate increase.

Contact: Rhonda Colbert Ryan, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: February 13, 1985, 3:07 p.m.  
TRD-851439

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### State Committee of Examiners for Speech-Language Pathology and Audiology

Wednesday, February 27, 1985, 9 a.m. The State Committee of Examiners for Speech-Language Pathology and Audiology will meet in Room T-407, Texas Department of Health, 1100 West 49th Street, Austin. According to the agenda summary, the committee will approve the September 27 and 28, 1984, minutes and consider a new format for the minutes, formal hearings findings relating to the applications for licensure as audiologists of Ollie B. Livingston and Richard R. Davila, correspondence addressed to the committee, matters having to do with ethical proscriptions in particular regard to the exchange of gifts of value as acknowledgement to referral sources, and other matters relating to licensing and regulation of audiologists and speech-language pathologists which require no committee action, a discussion by the Office of General Counsel concerning the role of the committee in making final decisions as a result of formal hearings, matters relating to budgeting and planning for implementation of a newsletter, budgeting and planning a cover for committee rules, budget planning for the revision of licenses, subcommittee reports, the financial report, the executive secretary's report, and the setting of the next meeting date.

Contact: June Robertson, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7502.

Filed: February 12, 1985, 4:14 p.m.  
TRD-851398

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### Texas Water Commission

Tuesday, February 19, 1985, 10 a.m. The Texas Water Commission made an emergency addition to the agenda of a meeting to be held in Room 118, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. The addition concerns the petition for creation of Williamson-Travis Counties Municipal Utility District 1 for the resetting

of a hearing date. The emergency status is necessary due to inadvertent errors in the notice of hearing publication, which caused the applicant to request the resetting for hearing as soon as possible.

Contact: Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, (512) 475-4514.

Filed: February 12, 1985, 11:13 a.m.  
TRD-851376

The Texas Water Commission will meet in Room 118, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. Days, times, and agendas follow.

Tuesday, February 26, 1985, 2 p.m. Adjudication of claims of water rights in the Clear Fork Segment of the Brazos River Basin and the adjudication of claims in the Sulphur River Basin.

Contact: Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, (512) 475-4514.

Filed: February 13, 1985, 1:29 p.m.  
TRD-851420

Wednesday, March 6, 1985, 2 p.m. Application of the City of Presidio for proposed Water Quality Permit 12955-01 to authorize a discharge of 350,000 gallons per day of treated domestic sewage, Presidio County, Rio Grande Basin.

Contact: Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, (512) 475-4514.

Filed: February 13, 1985, 1:29 p.m.  
TRD-851421

Wednesday, March 13, 1985, 10 a.m. Application of Jack Frey Properties, Inc., for proposed Water Quality Permit 12995-01 to authorize an average discharge of 150,000 gallons per day of treated domestic wastewater to serve the Village of New Kentucky, Harris County, San Jacinto River Basin.

Contact: Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, (512) 475-4514.

Filed: February 13, 1985, 1:29 p.m.  
TRD-851422

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### Texas Department of Water Resources

Thursday, February 21, 1985, 1:30 p.m. The Texas Water Development Board of the Texas Department of Water Resources will meet in the La Condesa Room, Hilton Palacio Del Rio Hotel, San Antonio. According to the agenda summary, the board will consider approval of the minutes; the development fund manager's report; a request of the City of Cisco to amend the bond ordinance for the \$1.3 million City of Cisco utility system revenue bonds held by the board to provide for the accumulation of a reserve fund; financial assistance to the City of Jewett and the City of Eastvale; a

construction grant increase in the amount of \$63,986 for the City of Rotan; an amendment to 31 TAC §371.192, which prescribes a fee schedule for the Upper Neches River Municipal Water Authority for regulation of private sewage facilities in a designated area around Lake Palestine; adoption of proposed new 31 TAC §341.140 and amended 31 TAC §§301.71, 303.111, 303.154, and 303.155, relating to the reuse of appropriated water; and a briefing on the status of legislation.

**Contact:** Charles E. Nemir, P.O. Box 13087, Austin, Texas 78711, (512) 475-3187.

**Filed:** February 13, 1985, 3:22 p.m.  
TRD-851437

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### **Regional Agencies Meetings Filed February 12**

**The Dallas Area Rapid Transit Authority, Board,** submitted an emergency revised agenda for a meeting held at 601 Pacific Avenue, Dallas, on February 12, 1985, at 6:30 p.m. Information may be obtained from Nancy McKethan, 601 Pacific Avenue, Dallas, Texas 75202, (214) 748-3278.

**The Region VII Education Service Center, Board of Directors,** will meet at the Holiday Inn, Highway 259 South, Henderson, on February 28, 1985, at 7 p.m. Information may be obtained from Don J. Peters, 818 East Main Street, Kilgore, Texas 75662, (214) 984-3071.

TRD-851381

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### **Meetings Filed February 13**

**The Austin-Travis County Mental Health and Mental Retardation Center, Operations and Planning Committee,** will meet in the boardroom, 1430 Collier Street, Austin, on February 19, 1985, at 7:30 a.m. Information may be obtained from Sharon Taylor, 1430 Collier Street, Austin, Texas 78704, (512) 447-4141.

**The Bexar Appraisal District, Board of Directors,** met at 535 South Main, San Antonio, on February 18, 1985, at 5 p.m. Information may be obtained from Bill Burnette, 535 South Main, San Antonio, Texas 78204, (512) 224-8511.

**The Brazos Higher Education Authority, Inc., Board of Directors,** met in emergency session at 2600 Washington Avenue, Waco, on February 14, 1985, at 11 a.m. Information may be obtained from Murray Watson,

Jr., 2600 Washington Avenue, Waco, Texas 76710, (817) 753-0913.

**The Cass County Appraisal District, Board of Review,** will meet at 208 West Houston Street, Linden, on February 21, 1985, at 10 a.m. Information may be obtained from Janelle Clements, P.O. Box 167, Linden, Texas 75563, (214) 756-7545.

**The Dallas Area Rapid Transit Authority, Service Plan/Work Program,** met in emergency session at 601 Pacific Avenue, Dallas, on February 15, 1985, at 9 a.m. Information may be obtained from Nancy McKethan, 601 Pacific Avenue, Dallas, Texas 75202, (214) 748-3278.

**The Region XV Education Service Center, Board of Directors,** will meet at 612 South Irene Street, San Angelo, on February 21, 1985, at 1:30 p.m. Information may be obtained from Clyde Warren, P.O. Box 5199, San Angelo, Texas 76902, (915) 658-6571.

**The Region XVI Education Service Center, Board of Directors,** will meet in the Amarillo Club Petroleum Room, Texas American Bank Building, Tyler at Seventh, Amarillo, on February 21, 1985, at 12:45 p.m. Information may be obtained from Dr. Kenneth M. Laycock, 1601 South Cleveland, Amarillo, Texas 79120, (806) 376-5521.

**The Edwards County Appraisal District, Appraisal Review Board,** will meet at the new county office building, Rocksprings, on February 26, 1985, at 8 a.m. Information may be obtained from Sondra Madden, P.O. Box 378, Rocksprings, Texas 78880, (512) 683-2337.

**The Guadalupe-Blanco River Authority, Board of Directors,** will meet at 933 East Court Street, Seguin, on February 20, 1985, at 9 a.m. Information may be obtained from John H. Specht, P.O. Box 271, Seguin, Texas 78156-0271, (512) 379-5822.

**The Jack County Appraisal District, Board of Directors,** will meet at the Los Creek Office Building, 216-D South Main, Jacksboro, on February 19, 1985, 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 Appraisal District of Jones County, Board of Directors,** will meet at 1137 East Court Plaza, Anson, on February 21, 1985, at 9 a.m. Information may be obtained from John Steele, P.O. Box 348, Anson, Texas 79501, (915) 823-2422.

**The Lower Neches Valley Authority, Board of Directors,** will meet at 7850 Eastex Freeway, Beaumont, on February 19, 1985, at

10:30 a.m. Information may be obtained from J. D. Nixon, P.O. Drawer 3464, Beaumont, Texas 77704, (409) 892-4011.

**The Trinity River Authority of Texas, Utility Services Committee,** met at 5300 South Collins Street, Arlington, on February 18, 1985, at 10 a.m. The Administration Committee will meet at the same location on February 19, 1985, at 10:30 a.m. Information may be obtained from Jack C. Worsham, 5300 South Collins, Arlington, Texas 76004-0060, (817) 467-4343.

**The West Texas Council of Governments, Board of Directors,** made an emergency addition to the agenda of a meeting held in the conference room, eighth floor, Two Civic Center Plaza, El Paso, on February 15, 1985, at 9:30 a.m. M.S.T. Information may be obtained from Cecile C. Gamez, Two Civic Center Plaza, El Paso, Texas 79999, (915) 541-4689.

TRD-851418

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### **Meetings Filed February 14**

**The Region XX Education Service Center, Board of Directors,** will meet in the boardroom, conference center, 1314 Hines Avenue, San Antonio, on February 27, 1985, at 3 p.m. Information may be obtained from Dr. Judy M. Castleberry, 1314 Hines Avenue, San Antonio, Texas 78208. (512) 271-7611.

**The Limestone County Appraisal District, Board of Directors,** will meet at the Limestone County Courthouse, Groesbeck, on February 20, 1985, at 5 p.m. Information may be obtained from Clydene Hyden, P.O. Drawer 831, Groesbeck, Texas 76642, (817) 729-3009.

**The Mills County Appraisal District** will meet at the Mills County courthouse, Goldthwaite, on February 21, 1985, at 6:30 p.m. Information may be obtained from Doran E. Lemke, P.O. Box 565, Goldthwaite, Texas 76844.

**The San Jacinto River Authority, Board of Directors,** will meet in the La Vista Room, Hilton Hotel, San Antonio, on February 21, 1985, at 4:30 p.m. Information may be obtained from Jack K. Ayer, P.O. Box 329, Conroe, Texas 77301, (409) 588-1111.

TRD-851443

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# In Addition

The Register is required by statute to publish certain documents, including applications to purchase control of state banks, notices of rate ceilings, changes in interest rate and applications to install remote service units, and consultant proposal requests and awards

To aid agencies in communicating information quickly and effectively, other information of general interest to the public is published as space allows.

## 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 February 11, 1985, the banking commissioner received an application to acquire control of Columbia Bancshares, Inc., West Columbia, by Gary Woods of San Antonio.

Additional information may be obtained from William F. Aldridge, 2601 North Lamar Boulevard, Austin, Texas 78705, (512) 475-4451.

Issued in Austin, Texas, on February 11, 1985.

TRD-851382 William F. Aldridge  
Director of Corporate  
Activities  
Banking Department of  
Texas

Filed: February 12, 1985  
For further information, please call (512) 475-4451.

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## Cancellation of Public Hearings

As no opposition has been noted in the application for domicile change by First Bank and Trust, Bryan, the hearing previously scheduled for Wednesday, February 20, 1985, has been canceled. This application will be scheduled for action by the State Banking Board on February 19, 1985.

Issued in Austin, Texas, on February 11, 1985.

TRD-851383 James L. Sexton  
Commissioner  
Banking Department of  
Texas

Filed: February 11, 1985  
For further information, please call (512) 475-4451.

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As no opposition has been noted in the application for domicile change by Bank of the West, Lubbock, the hearing previously scheduled for Tuesday, February 19, 1985, has been canceled. This application will be scheduled for action by the State Banking Board on February 19, 1985.

Issued in Austin, Texas, on February 11, 1985.

TRD-851384 James L. Sexton  
Commissioner  
Banking Department of  
Texas

Filed: February 11, 1985  
For further information, please call (512) 475-4451.

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## Texas Department of Community Affairs Request for Proposals

In accordance with the Job Training Partnership Act (JTPA), Public Law 97-300, the Texas Department of Community Affairs (TDCA) announces a request for program proposals (RFP) to provide employment and training programs for Vietnam-era, disabled, and recently separated veterans under the JTPA, Title IV-C. The goal of the Texas Veterans' Employment and Training Program is to increase the long-term employment stability and earned incomes of participating veterans. This goal will be met by providing high quality, intensive labor exchange services, and on-the-job training in permanent high paying jobs for Vietnam-era, disabled, and recently separated veterans. A total of \$1.01 million will be available for the Texas Veterans' Employment and Training Program.

Selected deliverers will be expected to assume responsibility for the delivery of services effective upon contract award.

Detailed information regarding the project format is set forth in the RFP instructions which will be available on or after February 22, 1985, at the Texas Department of Community Affairs, Training and Employment Development Division, Planning and Coordination Section, 2015 IH 35 South, P.O. Box 13166, Austin, Texas 78711.

The deadline for receipt of proposals in response to this RFP is Friday, March 22, 1985.

The TDCA reserves the right to accept or reject any or all proposals submitted. The TDCA is under no legal requirement to execute a resulting contract on the basis of this advertisement and intends the material provided only as a means of identifying the various contractor alternatives. The TDCA intends to use responses as a basis for further negotiation of specific project details with potential contractors. The TDCA will base its choice on demonstrated competence, qualifications, and evidence of superior conformance with criteria.

This RFP does not commit the TDCA to pay any costs incurred prior to execution of a contract. Issuance of this material in no way obligates the TDCA to award a contract or to pay any costs incurred in the preparation of a response. The TDCA specifically reserves the right to

vary all provisions set forth at any time prior to execution of a contract where the TDCA deems it to be in the best interest of the State of Texas.

For further information regarding this notice or to obtain copies of the RFP instructions, please contact Enrique Barrera or Arturo Gil, Texas Department of Community Affairs, Training and Employment Development Division, 2015 IH 35 South, P.O. Box 13166, Austin, Texas 78711, (512) 443-4100, ext. 266 or ext. 283.

Issued in Austin, Texas, on February 13, 1985.

TRD-851411 Douglas C Brown  
General Counsel  
Texas Department of Community  
Affairs

Filed: February 13, 1985  
For further information, please call (512) 443-4100.

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### Coordinating Board, Texas College and University System Consultant Contract Award

In accordance with Texas Civil Statutes, Article 6252-11c, the Coordinating Board, Texas College and University System has entered into a private consultant contract with De Colores Productions, Inc., to produce a series of eight educational public service announcements (PSAs) aimed at black students for the purpose of encouraging their completion of high school and pursuit of a postsecondary education. The consultant proposal request was published in the January 1, 1985, issue of the *Texas Register* (10 TexReg 55).

The terms of the contract are from February 1-May 1, 1985, for a fixed price of \$19,300.

The PSAs, the end product of the contract, will be distributed to the appropriate television markets in the state and will be ready for distribution to television stations by May 1, 1985.

Issued in Austin, Texas, on February 8, 1985.

TRD-851385 Kenneth H. Ashworth  
Commissioner of Higher Education  
Coordinating Board, Texas College  
and University System

Filed: February 12, 1985  
For further information, please call (512) 475-2033.

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### Texas Economic Development Commission Private Activity Bond Allocation Report

Private activity bonds (PABs) which were induced on or after June 19, 1984, are subject to a cap, as stipulated in the Federal Deficit Reduction Act of 1984. This cap is equal to \$150 per capita or approximately \$2.3 billion for the State of Texas for calendar year 1985.

Executive Order MW-27A states that the procedure for allocating this cap will be on a first-come, first-served basis, with the Texas Economic Development Commis-

sion (TEDC) being the tracking agency for the program. The information that follows is a summary report of the allocation activity for the week of February 4-8, 1985, as is required by MW-27A.

Total allocated principal amount of private activity bonds authorized to be allocated by MW-27A through February 8, 1985:

\$8,643,296

Comprehensive listing of bond issues which have received a reservation date as per MW-27A during the week of February 4-8, 1985:

<u>Issuer</u>	<u>User</u>	<u>Amount</u>
Muleshoe Industrial Development Corporation	Dent Farm Supply, Inc.	\$375,000
City of San Antonio Industrial Development Authority	San Antonio Business and Technology Center	\$6.1 million

Comprehensive listing of bonds issued as per MW-27A during the week of February 4-8, 1985:

<u>Issuer</u>	<u>User</u>	<u>Amount</u>
Muleshoe Industrial Development Corporation	Dent Farm Supply, Inc.	\$375,000

Issued in Austin, Texas, on February 13, 1985.

TRD-851379 Harden H. Weidemann  
Executive Director  
Texas Economic Development  
Commission

Filed: February 12, 1985  
For further information, please call (512) 472-5059.

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### Texas Education Agency Consultant Contract Award

This notice is filed pursuant to the provisions of Texas Civil Statutes, Article 6252-11c.

**Description.** After publication of a consultant proposal request in the November 16, 1984, issue of the *Texas Register* (9 TexReg 5945), and after publication of an extension of the deadline for the receipt of a consultant proposal in the December 14, 1984, issue of the *Texas Register* (9 TexReg 6349), the Texas Education Agency (TEA) executed a contract with Moak Consulting Services, 1108 Lavaca Street, Suite 400, Austin, Texas 78701, to perform a series of research studies for TEA presentation to the 69th Legislature. These studies will be performed through a combination of TEA staff, school district personnel, and other resources. The studies will include the following areas.

- (1) development and monitoring of the four-year plan for meeting the goals and needs of public education, in accordance with the Texas Education Code, §11.26(b);
- (2) status of the curriculum for public education developed to implement the requirements of the Texas Education Code, §21.101;
- (3) state plans for special education and for vocational education;
- (4) the price differential index, study of index and determination of the regular program formula;

(5) accountable cost study required by the Texas Education Code, §16.021;

(6) special program costs of vocational education, special education, bilingual education, and compensatory education;

(7) financial equity study;

(8) financial simulation study; and

(9) information systems study.

The contractor will provide coordination services for these nine studies and may be selected to complete one or more of the studies. Coordination services will include the development of the overall plan for the development of the studies, review of staff proposals for the conduct of the studies, review of the results of the studies, and the provision of analyses concerning the recommendations to the commissioner of education and the State Board of Education.

**Cost.** The total amount of the contract is \$82,500.

**Dates.** The beginning date of the contract was December 18, 1984, and the ending date is August 31, 1985.

**Due Dates of Documents.** No later than February 1, 1985, Moak Consulting Services will present to the commissioner of education a coordinated plan for the accomplishment of each of the nine studies which will identify the major outcomes of each study, estimated time frames, and relationship to legislative concerns. After modification, if necessary, and adoption of the work plan by the commissioner of education, Moak Consulting Services will assist the various study areas in the finalization of work plans for the balance of fiscal year 1985.

Moak Consulting Services will undertake to assist the staff in the presentation of staff materials and recommendations to the commissioner of education, the State Board of Education, the legislature, and other appropriate officials. In addition, Moak Consulting Services will prepare a comprehensive summary report involving the coordinated results of each of the studies no later than April 1, 1985.

By no later than August 1, 1985, Moak Consulting Services will prepare an evaluation of the studies, legislative reaction to the studies, and proposed research activities in the study areas for the 1986-1987 biennium.

Moak Consulting Services will monitor and review the State Board of Education recommendations during the 69th Legislature and will assist in the development of legislative alternatives where necessary.

Issued in Austin, Texas, on February 7, 1985.

TRD-851358      W. N. Kirby  
Interim Commissioner of Education

Filed: February 11, 1985  
For further information, please call (512) 475-7077.

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## Texas Department of Health Intent to Revoke a Certificate of Registration

The Bureau of Radiation Control, Texas Department of Health, is seeking the revocation of Certificate of Registration 11-08746, issued to Occupational Medical Services, for the following reasons.

The agency determined that the registrant is no longer located at 8181 Commerce Park Drive, Houston, Texas 77036. The registrant has not notified the agency of a change of address and no forwarding address is available.

All attempts by the agency to contact the registrant by telephone, by certified mail, and by inspection have been unsuccessful. Therefore, the Texas Department of Health, Bureau of Radiation Control, recommends that the certificate of registration issued to Occupational Medical Services be revoked immediately.

In accordance with the *Texas Regulations for the Control of Radiation*, Part 13.8, this notice affords the opportunity for a hearing to show cause why the certificate of registration should not be revoked. A written request for a hearing must be received within 30 days from the date of publication of this notice to be valid. Such written request must be filed with David K. Lacker, Director, Radiation Control Program, 1100 West 49th Street, Austin, Texas 78756-3189. Should no request for a public hearing be timely filed, the certificate of registration will be revoked 14 days after the end of the 30-day period of notice.

Issued in Austin, Texas, on February 8, 1985.

TRD-851327      Robert A. MacLean, M.D.  
Deputy Commissioner  
Professional Services  
Texas Department of Health

Filed: February 11, 1985  
For further information, please call (512) 835-7000.

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## Schedule for Development and Review of Block Grant Funds

Under the Omnibus Budget Reconciliation Act of 1981 (Public Law 97-35), the State of Texas became the recipient of the preventive health and health services and maternal and child health services block grants. The Texas Department of Health was the agency designated to administer these block grants. Provisions in the Act require the chief executive officer of each state to annually furnish the secretary of Health and Human Services a description of the intended use of block grant funds in advance of each federal fiscal year. This description is to be made public within each state in such a manner as to facilitate comments and complaints about the quality of services funded by the block grants.

Programs consolidated into the preventive health and health services block grant include Preventive Health and Health Incentive (314d), Hypertension Control, Fluoridation, Home Health, Health Education-Risk Reduction, Emergency Medical Services System, Sexual Assault prevention and Crisis Services, and Rodent Control.

The preventive health and health services block grant award for federal fiscal year 1984 was \$3,644,709 and of this amount \$185,541 had to be spent for sexual assault prevention and crisis services. The funding level for federal fiscal year 1985 is \$3,731,711 and again \$216,464 must be spent on sexual assault prevention and crisis services.

Program consolidated into the maternal and child health services block grant include Maternal and Child Health Services, Crippled Children Services, services through the Supplemental Security Income Disabled Children's program, and other special projects that are now a part of



the generalized maternal and child health services. The federal funding for federal fiscal year 1984 was \$17,337,348. In addition, \$5,367,6 was provided by the Jobs Bill for maternal and child health services in public health regions, local health departments, and community health centers' clinics to be spent in 1983 and 1984. The federal funding level for federal fiscal year 1985 is \$20,770,056 which includes funding for a portion of programs begun with the jobs bill funds in the 1985 base maternal and child health services block grant.

The Texas Department of Health's schedule for the development and review of federal fiscal year 1986 intended use of funds reports for the maternal and child services and preventive health and health services block grants is as follows:

**February 1985**— Publish information describing the manner in which 1986 intended use of funds reports for each block grant is developed and when this is done, get approval of method of allocation of block grant funds from the Board of Health.

**March 1985**— Hold preliminary planning conferences and public hearings in each of the public health regions (PHR):

Date	PHR/City	Time
March 6, 1985	PHR 1, Canyon	1 p.m.
March 21, 1985	PHR 2/12, Lubbock	9 a.m.
March 4, 1985	PHR 3, El Paso	1 p.m.
March 19, 1985	PHR 4, Abilene	1 p.m.
March 19, 1985	PHR 5, Arlington	4 p.m.
March 5, 1985	PHR 6, Austin	4 p.m.
March 5, 1985	PHR 7/10, Tyler	1 p.m.
March 11, 1985	PHR 8, Harlingen	4 p.m.
March 21, 1985	PHR 9, San Antonio	4 p.m.
March 6, 1985	PHR 11, Houston	1 p.m.

**April 1985**— Summarize and consider impact of public comments received at the preliminary planning conferences and public hearings in the regions, get approval of allocations from the Board of Health, prepare a draft 1986 intended use of funds report for each block grant and notify public of its availability, consult with state advisory or coordinating councils that have responsibility for similar programs.

**May 1985**— Prepare a 1986 intended use of funds report for each block grant.

**June 1985**— Notify public of availability of 1986 intended use of funds report for each block grant, summary of public comments received and responses to comments.

**July 1985**— Prepare the final 1986 intended use of funds report for each block grant and forward to the governor, state legislature and federal government.

**Note:** Agencies shall continuously conduct public information activities to inform recipients of availability of services/benefits, their rules and eligibility requirements, and complaint procedures.

Written comments may be submitted to Terry Bleier, Chief, Office of Grants and Contract Development, 11 West 49th Street, Austin, Texas 78756.

Issued in Austin, Texas, on February 13, 1985

TRD-851415 Robert A. MacLean, M D  
Deputy Commissioner  
Professional Services  
Texas Department of Health

Filed: February 13, 1985  
For further information, please call (512) 458-7640.

## Texas Health Facilities Commission

### Application Accepted for Amendment, Declaratory Ruling, Notice of Intent, and Petition for Reissuance of Certificate of Need

Notice is hereby given by the Texas Health Facilities Commission of an application 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 or interested person to the application, that person must file a proper request to become a party or interested person to the application within 10 days after the date of this publication of notice. If the 10th day is a Saturday, Sunday, or state holiday, the last day shall be extended to 5 p.m. of the next day that is not a Saturday, Sunday, or state holiday. A request to become a party or interested person 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 or interested person.

The contents and form of a request to become a party or interested person to the application must meet the criteria set out in 25 TAC §515.9. Failure of a party or interested person to supply the necessary information in the correct form may result in a defective request to become a party or interested person.

Doctor's Nursing Center Foundation, Dallas  
AN80-1028-002A(011885)

CN/AMD—Notice of an amended amendment application. Request for an extension of the completion deadline from February 28, 1985, to September 1, 1985, in Certificate of Need AN80-1028-002, as amended by AN80-1028-002A(030184), which authorized the certificate holder to construct and operate a 65,000-square-foot, one-story addition to the present 52,000-square-foot facility for the addition of 70 private pay and 55 skilled nursing beds, and the replacement of 40 existing beds.

Issued in Austin, Texas, on February 13, 1985.

TRD-851409 John R. Neel  
General Counsel  
Texas Health Facilities  
Commission

Filed: February 13, 1985  
For further information, please call (512) 475-6940.

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## Texas Historical Commission Consultant Contract Award

The Texas Historical Commission, under the provisions of Texas Civil Statutes, Article 6252-11c, announces a contract for consulting services. The consultant proposal request appeared in the October 5, 1984, issue of the *Texas Register* (9 TexReg 5179).

The consultant is Schlaes & Co., 405 North Wabash Avenue, Chicago, Illinois 60611. The consultant will develop and submit the *Analysis of the Economic Impact of Federal Tax Incentives for Historic Structures in Texas* report. The contract for this project began on January 4, 1985, and ends March 31, 1985. The contract amount is \$17,000.

Issued in Austin, Texas, on February 12, 1985.

TRD-851397 Curtis Tunnell  
Executive Director  
Texas Historical Commission

Filed: February 12, 1985  
For further information, please call (512) 475-3092.

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## Houston-Galveston Area Council Consultant Proposal Request

This request for consultant services is filed pursuant to Texas Civil Statutes, Article 6252-11c.

The Houston-Galveston Area Council is requesting proposals for the update of regional travel forecasting models. This work program will update the tools used to forecast future year travel demands in the Houston-Galveston region, provide staff training and assistance, and update the region's 20-year travel forecast. The total amount allocated for this cost plus fixed fee contract is \$500,000.

The proposals will be allocated based upon comprehension of study requirements and important characteristics of approach and methodology; qualifications of personnel assigned; management of task budget; and previous related work experience

A detailed scope of work and guidelines for the proposal's content can be obtained by contacting Alan Clark, Chief Transportation Planner, Houston-Galveston Area Council, P.O. Box 22777, Houston, Texas 77227-9972, (713) 627-3200. The submittal deadline for proposals is March 22, 1985.

Issued in Houston, Texas, on February 11, 1985.

TRD-851362 Jack Steele  
Executive Director  
Houston-Galveston Area Council

Filed: February 12, 1985  
For further information, please call (713) 627-3200.

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## Texas Department of Human Resources Consultant Contract Award

In accordance with Texas Civil Statutes, Article 6252-11c, the Texas Department of Human Resources (DHR) furnishes this notice of a consultant contract award. The no-

tice of request for proposals was published in the October 9, 1984, issue of the *Texas Register* (9 TexReg 5218).

**Description of Services.** The purpose of the contract is to provide expertise to the case consultation team in DHR's Region 04. The consultant's expertise will be used to ensure that the formulated plans for children in care are measurable, have time frames, and are realistic. The consultant will also provide input to the worker and supervisor on techniques for implementing case plans.

**Name of Consultant.** The consultant selected is Ralph Kantor, 4318 Mary Lou, Abilene, Texas 79606.

**Total Value and Terms of the Contract.** The contract began January 1, 1985, and ends December 31, 1985. Payment for services under this contract will not exceed \$20,000.

**Due Dates.** Reports are due as needed within the time frames stated in the contract.

Issued in Austin, Texas, on February 11, 1985.

TRD-851305 Marlin W Johnston  
Commissioner  
Texas Department of  
Human Resources

Filed: February 11, 1985  
For further information, please call (512) 450-3766.

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## Texas Water Commission Applications for Waste Disposal Permits

Notice is given by the Texas Water Commission of public notices of waste disposal permit applications issued during the period of February 4-8, 1985.

No public hearing will be held on these applications unless an affected person has requested a public hearing. Any such request for a public hearing shall be in writing and contain the name, mailing address, and phone number of the person making the request; and a brief description of how the requester, or persons represented by the requester, would be adversely affected by the granting of the application. If the commission determines that the request sets out an issue which is relevant to the waste discharge permit decision, or that a public hearing would serve the public interest, the commission shall conduct a public hearing, after the issuance of proper and timely notice of the hearing. If no sufficient request for hearing is received within 30 days of the date of publication of notice concerning the applications, the permit will be submitted to the commission for final decision on the application.

Information concerning any aspect of these applications may be obtained by contacting the Texas Water Commission, P.O. Box 13087, Austin, Texas 78711, (512) 475-2678.

Listed is the name of the applicant and the city in which each facility is located; type of facility; location of the facility; permit number; and type of application—new permit, amendment, or renewal.

Period of February 4-8, 1985

Thousand Trails, Inc., Columbus; sewage treatment plant; approximately 1.25 miles southwest of the intersection of FM Road 1890 and State Highway 71 in Colorado County; 13070-01; new permit

**Thousand Trails, Inc., Lake Hills; adjacent to Lake Medina on the northern shore of Spettel Cove and approximately 2.25 miles southwest of the intersection of Park Road 37 and FM Road 1283 in Bandera County; 13074-01; new permit**

**City of Abilene; wastewater treatment plant; approximately two miles northwest of the intersection of Jones, Shackelford, and Callahan Counties in Jones County; 10334-04; amendment**

**City of Laredo; sewage treatment plant; on the banks of the Rio Grande, between Marcella Avenue and Springfield Avenue, south of Willow Street in the City of Laredo in Webb County; 10681-02; amendment**

**City of Big Sandy; wastewater treatment plant; approximately ¼ mile south of the Big Sandy city limits,**

**about 1¼ miles east of State Highway 155 in Upshur County; 10628-02; amendment**

**Malayil C. Varghese, La Porte; wastewater treatment plant; 1.4 miles east of Highway 146, bounded on the north by IH 10 and on the south by a Chambers County drainage ditch in Chambers County; 13033-01; new permit**

**Issued in Austin, Texas, on February 8, 1985.**

**TRD-851328      Mary Ann Hefner  
                         Chief Clerk  
                         Texas Water Commission**

**Filed: February 11, 1985**

**For further information, please call (512) 475-4514.**

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