

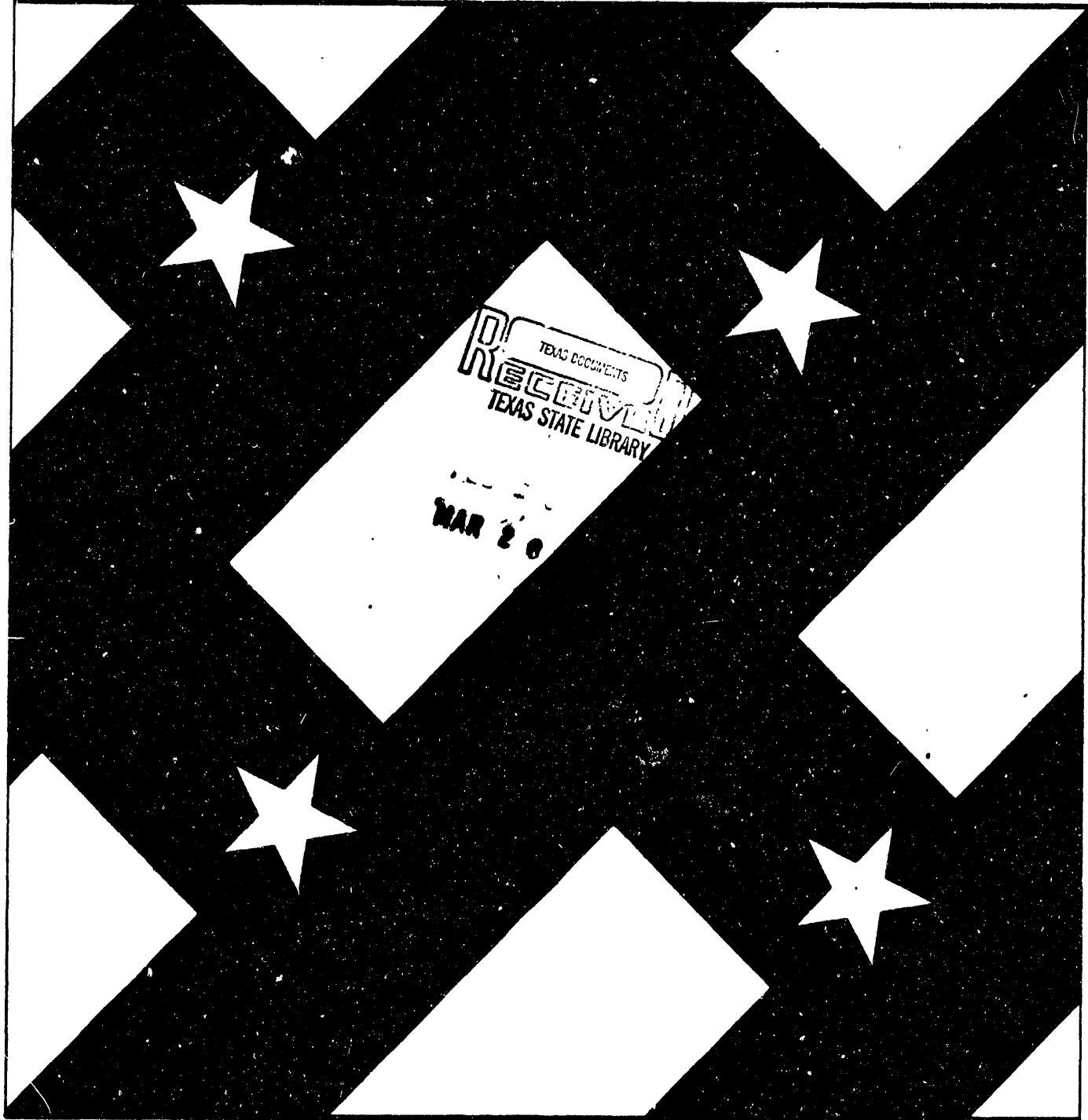
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Texas Register

Volume 10, Number 23, March 22, 1985

Pages 955 - 1008



Highlights

The **Texas Education Agency** adopts on an emergency basis and proposes for permanent adoption a new section concerning the teacher career ladder

Effective date - March 15 **pages 960, 970**

The **Texas Optometry Board** proposes

amendments concerning continuing education.

Earliest possible date of adoption - April 22

page 976

The **State Board of Veterinary Medical Examiners** proposes amendments concerning advertising Earliest possible date of adoption - April 22

page 977

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- Withdrawn Rules—rules withdrawn by state agencies from consideration for adoption, or automatically withdrawn by the *Texas Register* six months after proposal publication date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

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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."

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Texas Administrative Code

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

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

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

TAC stands for the *Texas Administrative Code*;

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



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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 March 12

Dairy Advisory Board

For terms to expire December 31, 1986:

Wilbur E. Blythe
217 Oakcrest Hill
Colleyville, Texas 76034

Dymple C. Cooksey
17203 Ranch Country Drive
Hockley, Texas 77447

Mr. Blythe and Cooksey are being appointed to this authority pursuant to the Texas Agricultural Code, §13.202, 62nd Legislature.

Texas Advisory Commission on Intergovernmental Relations

For a term to expire September 1, 1985:

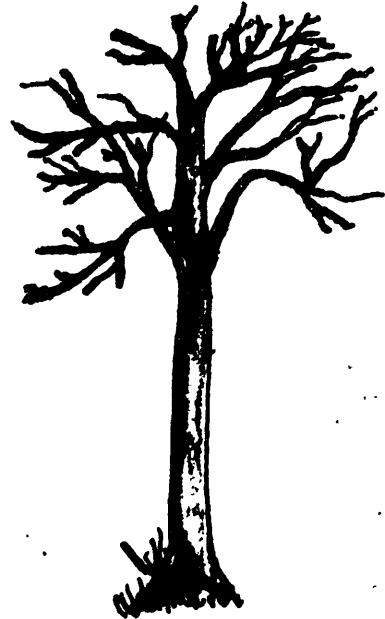
Dick Whittington
Regional Administrator
U.S. Environmental Protection
Agency
1201 Elm Street
Dallas, Texas 75270

Mr. Whittington is replacing William Nikolis of Dallas, who resigned.

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

TRD-852279

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.

Requests for Opinions

RQ-536. Request from Dale Hanna, Johnson County attorney, Cleburne, concerning the liability of a county for the hospital expenses of county nonresidents who commit an offense in a different county.

RQ-537. Request from James W. Smith, Jr., Frio County attorney, Pearsall, concerning whether a county departmental head may authorize a salary increase not approved by the commissioners court.

RQ-538. Request from Pablo Avila, Zavala County attorney, Crystal City, concerning the validity of personnel policies adopted by the Zavala County Commissioners Court.

RQ-539. Request from Vernon M. Arrell, commissioner, Texas Rehabilitation Commission, Austin, concerning whether Texas Civil Statutes, Article 4393c, requires the deposit in the state treasury of employee funds of the Texas Rehabilitation Commission and related questions.

TRD-852232

★ ★ ★

Opinions

JM-297 (RQ-468). Request from Tom Craddick, chairman, Natural Resources Committee, Texas House of Representatives, Austin, concerning jurisdiction over

rates charged to customers outside the boundaries of the Lakeway Municipal Utility District.

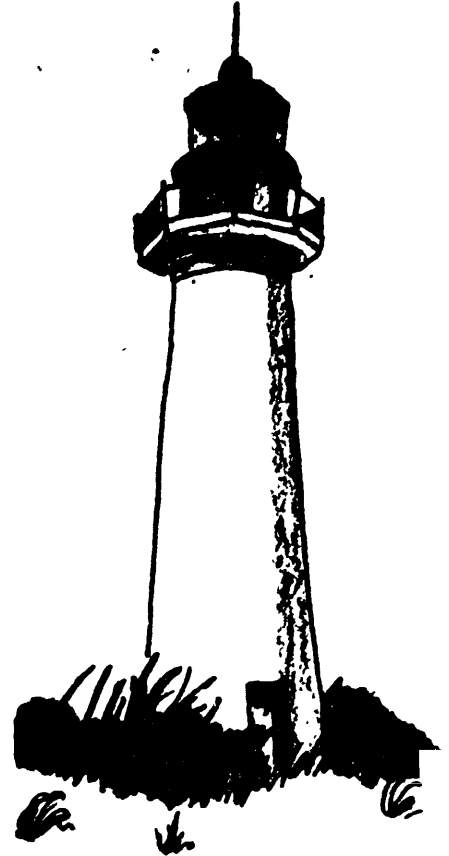
Summary of Opinion. The Lakeway Municipal Utility District is authorized pursuant to the Water Code, §54.519, to fix water rates charged to residents of the Village of Lakeway. In addition, the Texas Water Commission has jurisdiction, pursuant to the Water Code, §11.041 and §12.013, to review the rates charged by the district as to reasonableness.

JM-298 (RQ-428). Request from Fred J. Agnich, chairman, Committee on Environmental Affairs, Texas House of Representatives, Austin, concerning whether the State of Texas must sell commercial fishing licenses to a person residing in a state which does not offer equivalent licenses to Texas residents.

Summary of Opinion. The Parks and Wildlife Code, §47.002, provides for the sale of nonresident general commercial fisherman's licenses for the fees set out in subsection (c). The United States Constitution, Article IV, §2, the privileges and immunities clause, prohibits Texas from discriminating against residents of other states in the sale of commercial fishing licenses unless a substantial reason supports the discrimination. Retaliation against another state for apparent discrimination against Texas residents does not constitute the required substantial reason.

TRD-852233

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Emergency

Rules

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

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

TITLE 19. EDUCATION

Part II. Texas Education

Agency

Chapter 78. Occupational

Education and Technology

Subchapter D. Secondary School

Vocational Education

Vocational Program Approval

★ 19 TAC §78.63

The Texas Education Agency (TEA) adopts on an emergency basis amendments to §78.63, concerning requirements for new, additional, and continuing vocational program units. House Bill 72, 68th Legislature, 2nd Called Session, 1984, changed the funding system for vocational education from one based on personnel units to one based on full-time equivalent students. Under the old system, districts received additional state funds for vocational personnel units approved and employed for 11 or 12 months. Under the new funding system, this is no longer the case.

In an effort to reduce the paperwork burden on school districts, the current requirement for districts to submit a summer plan, justifying the need for 11- and 12-month vocational personnel, has been deleted from the rule.

The amendments are adopted on an emergency basis because the current rules now require summer plans to be submitted by April 1.

The amendments are adopted on an emergency basis under the Texas Education Code, §16.005, which authorizes the State Board of Education to make rules for the implementation of the Foundation School Program.

§78.63. Requirements for New, Additional, and Continuing Vocational Program Units.

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

(g) Vocational program units are approved for 10 months. Upon special request from the superintendent, program units may be approved for 11 or 12 months, in accordance with the table in subsection (a) of this section[, if justified by an approvable summer plan. Districts approved to operate vocational programs for employment peri-

ods in excess of 10 months shall submit a summer plan, on a form prescribed by the Central Education Agency, prior to April 1 each year]. Teachers assigned to these program units shall use the extended employment period in accordance with the standards in this subchapter. The extended employment period may include the participation in Central Education Agency-approved inservice workshops. [Failure to submit a summer plan or submission of an unapprovable summer plan will result in an appropriate reduction in the number of months for which the program unit was approved.]

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

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

TRD-852289

W. N. Kirby
Interim Commissioner of
Education

Effective date: March 13, 1985

Expiration date: July 11, 1985

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

★ ★ ★

Program Standards

★ 19 TAC §78.122

The Texas Education Agency (TEA) adopts on an emergency basis amendments to §78.122, concerning specific program requirements for secondary school vocational education programs.

House Bill 72, 68th Legislature, 2nd Called Session, 1984, changed the funding system for vocational education from one based on personnel units to one based on full-time equivalent students. Under the old system, districts received additional state funds for vocational personnel units approved and employed for 11 or 12 months. Under the new funding system, this is no longer the case.

In an effort to reduce the paperwork burden on school districts, the current requirement for districts to submit a summer plan justifying the need for 11- and 12-month vocational personnel has been deleted from §78.122. Teachers assigned to program units in excess of 10 months must use the extended employ-

ment period for activities directly related to and for the purpose of improving the instructional program involved.

The amendments are adopted on an emergency basis since the rules now require summer plans to be submitted by April 1.

The amendments are adopted on an emergency basis under the Texas Education Code, §16.005, which authorizes the State Board of Education to make rules for the implementation of the Foundation School Program.

§78.122. Specific Program Requirements.

(a) Agriculture.

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

(3) For each vocational agriculture program unit approved for more than 10 months, the district shall ensure that [a summer plan shall be submitted to the Central Education Agency on or before April 1 each year. The plan shall outline] the activities of the teacher include [including] supervising and instructing the students in the supervised occupational experience program, assisting students with the development of the supervised occupational experience program, visiting prospective students and parents concerning the supervised occupational experience program, and supervising and managing the school laboratory/farm.

(b) Consumer and homemaking education.

(1) (No change.)

(2) Consumer and homemaking program units approved for more than 10 months shall include a summer program. The summer program shall consist of organized group instruction and supervised extended learning experiences, and may include other activities conducted for prospective students. [Program units approved on this basis shall submit an approvable summer plan to the Central Education Agency on or before April 1 each year.]

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

(c) Preemployment laboratory and technical education program units.

(1) (No change.)

(2) [Districts approved to conduct preemployment laboratory programs for periods in excess of 10 months shall submit a summer plan to the Central Education Agency on or before April 1 each year.] Teachers assigned to [these] program units in excess of 10 months shall use the extend-

ed employment period for activities directly related to and for the purpose of improving the instructional program involved.

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

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

TRD-852270 W. N. Kirby
Interim Commissioner of
Education

Effective date: March 13, 1985
Expiration date: July 11, 1985
For further information, please call
(512) 475-7077.

★ ★ ★

Chapter 149. Education Personnel Development Subchapter D. Teacher Career Ladder

★ 19 TAC §149.71

The Texas Education Agency (TEA) adopts on an emergency basis new §149.71, concerning the teacher career ladder. The new section addresses the requirements for the teacher career ladder as mandated by House Bill 72, 68th Legislature, 2nd Called Session, 1984. An earlier section concerning the career ladder was proposed in the February 5, 1985, issue of the *Texas Register* (10 TexReg 361). However, because of substantive changes approved by the State Board of Education in March, the original proposal has been withdrawn.

There are two substantive differences between this section and the earlier proposal. Subsection (d)(3), concerning higher education course work and advanced academic training, has been changed to provide that higher education course work and advanced academic training earned after the bachelor's degree shall be creditable toward requirements for placement and maintenance on the career ladder. The previous section allowed credit only for such course work or training earned after initial certification.

Subsection (j) has been rewritten to clarify grounds upon which career ladder decisions may be appealed. Previous subsection (c)(1)(F), which stated that for the 1984-1985 school year such decisions were not subject to approval, does not appear in the new proposed rule.

The section is adopted on an emergency basis to give guidance to school districts as they make career ladder decisions for the remainder of the 1984-1985 school year and as they prepare for career ladder decision-making for the following school year.

The new section is adopted on an emergency basis under the Texas Education Code, §16.057, which provides the career ladder salary supplements; the Texas Education Code, §§13.301-13.322, which establishes the teacher career ladder; and the Texas Education Code, §16.005, which authorizes the State Board of Education to make rules for the implementation of the Foundation School Program.

§149.71. Assignment to the Teacher Career Ladder.

(a) General provisions. Each teacher shall be assigned to a position on the career ladder unless excluded under other provisions of this section. Assignment shall be based on performance, experience, job-related education, and/or advanced academic training, job assignments, and other requirements as specified in subsection (c) of this section. For the 1984-1985 school year, all teacher career ladder assignments and salary allotments shall be made in accordance with the guidelines for the teacher career ladder authorized by the State Board of Education and issued by the Central Education Agency in July 1984. Effective with the 1985-1986 school year, each teacher as defined in subsection (b) of this section shall be assigned to an appropriate level, maintained at an assigned level, and provided salary allotments for the teacher career ladder in accordance with the provisions of this section.

(b) Eligibility by job assignment. Eligibility for assignment to the teacher career ladder shall include a certified person who teaches or provides instructionally related services to students at least four hours each day or not less than 60% of the school day.

(1) Classroom teaching is defined as teaching in the regular classroom, the resource classroom, or other instructional settings (which include, but would not be limited to, those for itinerant teachers such as the home-bound, the hospitalized, or in cooperatives) where the teacher is primarily responsible for planning, delivering, evaluating, and reporting of student learning of the essential elements as required in Chapter 75 of this title (relating to Curriculum).

(2) Classroom teaching shall include teaching in any class for which credit is awarded to students, including physical education scheduled during the regular school day.

(3) Hours are defined for purposes of this subsection as regular class periods meeting the minimum time requirements of Chapter 75 of this title (relating to Curriculum).

(4) At the option of the local school district, the following instructionally related services may be counted as classroom teaching to meet the minimum teaching requirement for career ladder purposes:

(A) up to two hours of on-the-job supervision per day for the degree vocational cooperative education teacher

(B) one hour per day of supervising the occupational experience for the vocational agriculture/horticulture teacher or for the extended learning experience program for the consumer and homemaking teacher;

(C) one hour per day for purposes of traveling to the various teaching sites for the itinerant teacher;

(D) up to four hours per day or 20 hours per week for the placement of students in occupational settings, on-the-job supervision, and/or travel to occupational teaching sites for the vocational adjustments coordinator who works with a minimum of three students per day or 15 students per week; or

(E) one hour per day for purposes of serving as an instructional department head/chairperson or grade level chairperson/coordinator provided that the teacher teaches a minimum of three hours per day.

(5) At the option of the local school district, a teacher who is employed for only half time may be considered for the teacher career ladder provided that the teacher teaches a minimum of at least two hours each day.

(6) A person who is employed full time, but who does not teach in the classroom at least four hours or 60% of the regular school day as defined in paragraph (1) and paragraph (4) of this subsection, shall not be assigned to the teacher career ladder.

(7) Effective with the 1985-1986 school year, a person shall not be assigned to the teacher career ladder if that person is serving as:

- (A) a school nurse;
- (B) a vocational teacher, non-degreed;
- (C) an ROTC teacher, non-degreed;
- (D) a librarian;
- (E) a visiting teacher;
- (F) a psychological associate;
- (G) a physician;
- (H) an occupational or physical therapist;

(I) a guidance associate who teaches less than four hours per day or less than 60% of the school day in the classroom as defined in paragraph (1) of this subsection;

(J) any other special service assignment such as, but not limited to, counselors or educational diagnosticians and administrative/supervisory assignments such as, but not limited to, supervisors, principals, or superintendents.

(c) The selection process.

(1) For the 1984-1985 school year, a teacher may be assigned to level two if the teacher has the years of experience (without regard to experience at a particular career

ladder level) and job-related education (including higher education courses and/or advanced academic training for which the teacher retains credit under the Texas Education Code, §13.322), required to enter level two.

(A) The selection of eligible teachers to be placed on level two for the 1984-1985 school year shall be made by a committee or committees appointed by the school district. The selection shall be made in accordance with criteria described in subsection (f) of this section. This committee system is mandatory only for the 1984-1985 year.

(B) Each committee appointed by the local school board shall include one principal, one central office personnel administrator or the superintendent, and one other administrator who may be a principal.

(C) The three-member committee or committees of administrators shall designate two eligible teachers as level two teachers who shall then become members of the committee or committees for purposes of review of all remaining teachers.

(D) From the group of teachers who meet the minimum criteria for eligibility as described in subsection (f) of this section, the committee or committees shall select level two teachers by using past performance as a criterion.

(E) In school districts that do not employ three administrators, the superintendent and any other administrator, if any, shall select at least one, but not more than two level two teachers to serve on the selection committee. The committee shall consider all remaining teachers for placement on level two.

(2) A teacher may enter level two in the 1985-1986 or the 1986-1987 school year if the teacher has the years of experience (without regard to experience at a particular career ladder level), the education (including higher education courses and/or advanced academic training for which the teacher retains credit under the Texas Education Code, §13.322, and the performance appraisals required to enter level two. Assignments to level two in the 1985-1986 or the 1986-1987 school year shall be made in accordance with policies established by the local school board and may be (but are not required to be) recommended to the local board by the committee process as described in the selection process in paragraph (1) of this subsection.

(3) Texas Civil Statutes, Article 5996a and Article 5996d, concerning nepotism, do not apply to the selection of level two, three, and four teachers pursuant to the Texas Education Code, Chapter 13, Subchapter E, added by House Bill 72, 68th Legislature, 2nd Called Session, 1984.

(d) Higher education course work and advanced academic training.

(1) The local school district shall determine in accordance with the provisions of this subsection whether courses taken for

credit at accredited institutions of higher education or work obtained through programs of advanced academic training may be applied toward requirements for level placement and maintenance on the teacher career ladder. Effective September 1, 1985, higher education course work or advanced academic training must be related to the job assignment in one of the following ways:

(A) as instruction in the subject taught, a subject for which certification is held that is one of the elementary or secondary curriculum areas identified in Chapter 75 of this title (relating to Curriculum), a subject or area to be taught that has been designated by the State Board of Education or a local school district as an area or field of acute teacher shortage and for which the teacher has on file with the district a college/university plan for certification, or a teaching endorsement or delivery system approved by the State Board of Education in Chapter 137 of this title (relating to Teacher Education), such as kindergarten or other teaching endorsements and bilingual education or other delivery systems, which category must account for at least 50% of the course work or training unless specified otherwise in paragraph (2) of this subsection;

(B) as instruction for the student taught such as specialized instruction for the gifted and talented student, the handicapped student, the culturally different student, teaching-learning theories and strategies, and the evaluation and reporting of student achievement; or

(C) as instruction in specific classroom management, knowledge, skills, and applications such as discipline, individualized instruction, teacher excellence training, and the utilization of media and high technology in the classroom.

(2) A portion, the amount to be specified by the local district, of the higher education course work and/or advanced academic training must relate directly to the remediation of weaknesses or areas in need of improvement if identified in the teacher's appraisal for the preceding year(s). In the absence of needs identified through appraisal, career goals of the individual teacher and/or staff development goals of the local school district should be addressed with flexibility for emphasizing the need for depth and/or currency of both subject knowledge and teaching methods.

(3) Higher education course work and advanced academic training that is in accordance with this subsection and earned after the bachelors degree and prior to September 1 of each year shall be creditable toward requirements for level placement and maintenance on the teacher career ladder for the subsequent year.

(4) Education earned during a state-required inservice day for which the teacher is salaried may not be creditable as higher education course work or advanced

academic training for career ladder purposes.

(5) Higher education course work used for level placement or maintenance on the teacher career ladder must satisfy the requirements stated in paragraph (1) and paragraph (2) of this subsection and may carry lower division, upper division, or graduate level credit. No more than one-third of the course work may be in lower division courses unless the work is being taken in a subject or area that has been designated by the State Board of Education or a local school district as an area or field of acute teacher shortage as specified in subsection (d)(1)(A) of this section.

(6) All higher education course work creditable toward level placement or maintenance on the teacher career ladder must be awarded by a college or university that is accredited by a recognized accrediting agency.

(7) Credits for higher education course work or advanced academic training shall be creditable no more than once toward requirements for level advancement or placement on the teacher career ladder.

(8) It is the responsibility of each teacher to provide the local school district with official transcripts for higher education course work completed and written documentation acceptable to the local school district for advanced academic training which includes, but is not limited to, the name of the work, the date, and the number of clock hours for the work completed. It is the responsibility of the local school district to maintain documentation in support of career ladder level decisions made by the local school district.

(e) Use of stricter performance criteria. If the funds available for the support of the teacher career ladder are insufficient to fund the supplements as provided in the Texas Education Code, §16.057, a local school district may require stricter performance criteria for placing teachers on career ladder levels and for maintaining teachers on previously assigned levels.

(1) Local districts must specify in written policy the requirements for stricter performance.

(2) Criteria for stricter performance may be required in one or more of the following areas:

(A) a higher category of performance may be required for each of the years for placement on or maintenance of a career ladder level;

(B) a greater number of years with specified high performance such as "exceeding expectations" may be required for all of the years required for experience rather than just a portion; or

(C) a higher level of performance may be required within a category; for example, performance that needs improvement in only one major area rather than some major areas could be designated as "below expectation."

(f) Criteria for selection. For the 1984-1985 school year, all teachers classified in accordance with the Texas Education Code, §16.056, including nondegree teachers, shall be assigned to level one or level two on the teacher career ladder except for positions listed in subsection (b)(7) of this section. An individual being considered for career ladder level assignment or advancement shall satisfy the following requirements for the respective level.

(1) Level one placement shall require that a teacher:

(A) possess a provisional or professional teaching certificate as defined in §141.2(a) of this title (relating to Classes of Certificates), or a level one certificate or its equivalent as determined by the State Board of Education; and

(B) demonstrate at least "satisfactory" performance in every appraisal category for the year immediately preceding placement.

(2) Level two placement shall require that a teacher:

(A) possess a provisional or professional teaching certificate as defined in §141.2(a) of this title (relating to Classes of Certificates), or a level two certificate or its equivalent as determined by the State Board of Education;

(B) receive performance evaluations which reflect at least performance "exceeding expectations" during the year immediately preceding consideration for placement at level two and "satisfactory" performance during the other year or years, or performance evaluations as specified by the local district in accordance with subsection (e) of this section; and

(C) possess one of the following combinations of education and experience:

(i) Option I:

(I) a baccalaureate degree;

(II) three years of classroom teaching experience; and

(III) Nine semester hours of higher education course work, or 135 hours of advanced academic training (at least 45 hours of which must emphasize classroom management training if classroom management or discipline is identified as an area that needs improvement on the teacher's performance appraisal for the preceding year), or an equivalent combination so that one semester hour of higher education course work is equivalent to 15 hours of advanced academic training;

(ii) Option II:

(I) a master's degree in:

(-a-) a subject listed in Chapter 75 of this title (relating to Curriculum) as an elementary, secondary, or all-level subject to be taught;

(-b-) education (excluding degrees specifically designed for preparation for special service positions such as administrator, counselor, supervisor, etc.), with a concentration of at least 12 semester

hours in a subject or combination of subjects to be taught in the public schools; or

(-c-) an endorsement area or delivery system approved by the State Board of Education in Chapter 137 of this title (relating to Teacher Education), such as kindergarten or other endorsements and bilingual and special education delivery systems; and

(II) two years of classroom teaching experience.

(3) Level three placement shall require that a teacher:

(A) possess a level three certificate or its equivalent as approved by the State Board of Education;

(B) possess a baccalaureate degree and one of the following combinations of education, experience, and evaluation:

(i) Option I:

(I) five years of classroom teaching at level two;

(II) six semester hours of higher education course work, or 90 hours of advanced academic training (a portion of which must emphasize classroom management training only if classroom management or discipline is identified as an area that needs improvement on the teacher's performance appraisal for the preceding year), or an equivalent combination so that one semester hour of higher education course work is equivalent to 15 hours of advanced academic training; and

(III) performance evaluations during three of the four years immediately preceding consideration for placement at level three indicating performance "exceeding expectations" and at least "satisfactory" performance during the other year, or performance evaluations as specified by the local district in accordance with subsection (e) of this section; or

(ii) Option II:

(I) three years of classroom teaching at level two;

(II) three semester hours of higher education course work or 45 hours of advanced academic training (a portion of which must emphasize classroom management training only if classroom management or discipline is identified as an area that needs improvement on the teacher's performance appraisal for the preceding year), or an equivalent combination so that one semester hour of higher education course work is equivalent to 15 hours of advanced academic training; and

(III) performance evaluations during two of the three years immediately preceding consideration for placement at level three indicating "clearly outstanding" and at least "satisfactory" performance during the other year, or performance evaluations as specified by the local district in accordance with subsection (e) of this section.

(4) Level four placement shall require that a teacher:

(A) possess a master teacher certificate;

(B) demonstrate satisfactory performance on the master teacher examination; and

(C) possess a baccalaureate degree and one of the following combinations of education, experience, and evaluation:

(i) Option I:

(I) three years of classroom teaching experience at or above level three;

(II) complete six semester hours of higher education course work; or complete 90 hours of advanced academic training (a portion of which must emphasize classroom management training only if classroom management or discipline is identified as an area that needs improvement on the teacher's performance appraisal for the preceding year), or an equivalent combination so that one semester hour of higher education course work is equivalent to 15 hours of advanced academic training; and

(III) receive performance evaluations during two of the three years immediately preceding consideration for placement at level four indicating "clearly outstanding" performance and at least "satisfactory" performance during the other year; or performance evaluations as specified by the local district in accordance with subsection (e) of this section; or

(i) Option II:

(I) two years of classroom teaching at or above level three;

(II) three semester hours of higher education course work, or 45 hours of advanced academic training (a portion of which must emphasize classroom management training only if classroom management or discipline is identified as an area that needs improvement on the teacher's performance appraisal for the preceding year), or an equivalent combination so that one semester hour of higher education course work is equivalent to 15 hours of advanced academic training; and

(III) receive performance evaluations during the three years immediately preceding consideration for placement at level four indicating "clearly outstanding" performance, or performance evaluations as specified by the local district in accordance with subsection (e) of this section.

(g) Maintenance or reassignment of career ladder level.

(1) A teacher shall remain at career ladder level one until full eligibility requirements for a level two, or level three, or master teacher certificate as described in Chapter 141, of this title (relating to Teacher Certification), have been met and the teacher has been assigned to career ladder level two. A district may not renew the contract of a teacher who fails to achieve at least "satisfactory" performance during either of the first two years of experience at level one.

(2) A teacher shall remain at career level two until full eligibility requirements or a level three or master teacher certificate as described in Chapter 141 of this title (relating to Teacher Certification), and level three entry requirements have been met. A teacher shall be reassigned from career ladder level two to career ladder level one if the teacher's performance is "below expectations" during the preceding year, or fails to achieve performance evaluations as specified by the local district in accordance with subsection (e) of this section.

(3) A teacher shall remain at career ladder level three until full eligibility requirements for a master teacher certificate as described in Chapter 141 of this title (relating to Teacher Certification) and level four entry requirements have been met.

(A) A teacher shall be reassigned from career ladder level three to career ladder level two if the teacher demonstrates less than "exceeding expectations" performance at level three for two consecutive years, or fails to achieve performance evaluations as specified by the local district in accordance with subsection (e) of this section.

(B) A teacher shall be reassigned from career ladder level three to career ladder level one if the teacher demonstrates performance which is "below expectations" during the preceding year, or fails to achieve performance evaluations as specified by the local district in accordance with subsection (e) of this section.

(4) A teacher shall remain at career ladder level four unless the requirements stated in this subsection are no longer satisfied.

(A) A teacher shall be required:

(i) to demonstrate "clearly outstanding" performance during two of every three years and at least "satisfactory" performance during the other year and complete three semester hours of higher education course work or 45 hours of advanced academic training or an equivalent combination so that one semester hour of higher education course work is equivalent to 15 hours of advanced academic training, to demonstrate "clearly outstanding" performance during each of the three years, or to achieve performance evaluations as specified by the local district in accordance with subsection (e) of this section;

(ii) to teach in a classroom for not less than four hours or 60% of the school day in accordance with the provisions of subsection (b)(4) of this section; and

(iii) to perform at least two master teacher duties every three years.

(B) A teacher shall be reassigned from career ladder level four to career ladder level three if the teacher does not meet the requirements stated in this paragraph, or fails to achieve performance evaluations as specified by the local district in accordance with subsection (e) of this section.

(h) Out-of-state teachers entering the career ladder.

(1) A teacher who possesses a valid classroom teaching certificate issued by another state department of education or foreign country may enter the career ladder at any level assigned by the employing school district, at the commensurate salary step, under a probationary contract.

(2) At the end of the first year of teaching in Texas, the teacher must meet the requirements established in subsection (f) of this section with the exception of the requirement for the prior certificate held.

(A) In the event that such requirements are not met satisfactorily, the teacher shall be maintained at the level below assignment with no salary step increase.

(B) Failure to satisfactorily meet such requirements during the second year of teaching shall result in termination of contract.

(3) Upon satisfactory achievement of certification requirements, the district may recommend certification at the appropriate level as established in Chapter 141 of this title (relating to Teacher Certification).

(4) The employing school district shall have the authority to accept or reject the performance appraisal or appraisals based on service completed in other districts.

(i) Transfer between districts.

(1) A teacher is entitled to transfer a career ladder level assignment between districts.

(2) A teacher may waive entitlement to a particular career ladder level assignment when changing employment from one district to another.

(3) The employing district may recognize the performance appraisal of a district previously employing the teacher in determining a career ladder level assignment. Employing districts which choose not to recognize the performance evaluation of another district may establish by local policy a procedure for placing the teacher on the career ladder at a level not to exceed that previously held by the teacher in another district without regard to experience at a particular career ladder level.

(j) Finality of district decision.

(1) A decision of the district concerning a teacher's placement on the career ladder may be appealed only on the following grounds:

(A) that the decision was arbitrary and capricious (for the purpose of this section, "arbitrary and capricious" shall mean the use of criteria in determining career ladder placement which are not reasonably related to the purpose of assessing a teacher's professional merit); or

(B) that the decision was made in bad faith (for the purpose of this section, "bad faith" shall mean intentionally allowing any factor other than that mandated by statute, State Board of Education regula-

tion, or local policy to influence the placement of any teacher on the career ladder).

(2) If the local board of trustees delegates the duty of career ladder placement to a committee, any appeal from the committee's decision must be presented to the board of trustees prior to invoking the jurisdiction of the commissioner of education.

(k) Property right of teacher.

(1) A teacher who has earned a level one, level two, level three, or master teacher certificate in accordance with Chapter 141 of this title (relating to Teacher Certification) has a right to retain that certificate until it has expired or is duly suspended, revoked, or otherwise removed in accordance with law.

(2) Assignment to career ladder level one, level two, level three, or level four is neither a property right nor the equivalent of tenure.

(l) Career ladder salary supplement. The career ladder salary supplement shall be paid during the school year at a time and in a manner to be determined by the local school district in accordance with law and this section.

(1) Each teacher placed on level two, three, or four of a career ladder is entitled to the following annual supplement in addition to the minimum salary set by law:

- (A) Level 2—\$2,000;
- (B) Level 3—\$4,000; and
- (C) Level 4—\$6,000.

(2) If the district pays more than the state minimum salary prescribed by law, the teacher is entitled to the career ladder supplement in addition to the amount otherwise paid by the district for the teacher's step.

(3) If the allotment to the district that is designated for support of the career ladder will not fully fund the supplements for the teachers meeting the requirements, the district may:

(A) reduce the supplements to not less than the following:

- (i) Level 2—\$1,500;
- (ii) Level 3—\$3,000; and
- (iii) Level 4—\$4,500.

(B) provide for stricter performance criteria than that provided in law as a basis for career ladder level assignments in accordance with subsection (e) of this section; or

(C) take action under both subparagraph (A) and subparagraph (B) of this paragraph.

(4) In the event that funds designated as the allotment for career ladder salary supplements are deemed insufficient for placement and/or maintenance of all teachers meeting the state-mandated minimum criteria for selection and/or maintenance on the teacher career ladder, the local district may fund additional career ladder salary supplements from local or other funds permitted by law and State Board of

Education rules effective with the 1985-1986 school year, provided that the following requirements have been met:

(A) that funds available for any legal purpose in accordance with the Texas Education Code, §16.158, have been fully exhausted in the payment of teacher career ladder salary supplements; and

(B) that the local school district demonstrates its intent to utilize career ladder supplements as a means of identifying and rewarding excellence in teacher performance as opposed to a salary supplement for all teachers meeting the minimum requirements by establishing in written policy one or more requirements for stricter performance as specified in subsection (e) of this section.

(5) Monies received by the district from the state as the allotment for career ladder salary supplements may not be used to supplement the salary of an employee for directing curricular or extracurricular activities.

(6) The district must pay each teacher selected for a specific career ladder level the same amount of supplement for a particular career ladder level during that particular school year.

(7) Districts may reduce the amount of the career ladder supplement on a pro rata basis utilizing the number of days of employment, not the date when the award is made, when the teacher is employed for fewer than 183 days.

(8) Teachers employed for no less than halftime as defined in subsection (b)(5) of this section shall be paid no less than one-half of the designated salary supplement awarded by the local school district for that particular level for the specific school year or a proportionate amount consistent with the portion of the school day served.

Issued in Austin, Texas, on March 15, 1985.

TRD-852364 W. N. Kirby
Interim Commissioner of
Education

Effective date: March 15, 1985
Expiration date: July 13, 1985
For further information, please call
(512) 475-7077.

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★ 19 TAC §149.81

The Texas Education Agency adopts on an emergency basis new §149.81, concerning advanced academic training which will be creditable for career ladder advancement. The purpose of advanced academic training is to improve classroom instruction. Such training must be in addition to required inservice education.

The section allows school districts, colleges, universities, education service

centers, professional organizations, and the Central Education Agency to offer advanced academic training if the proposed workshops or classes are approved by the Central Education Agency. The section allows private firms to offer advanced academic training if the program is sponsored by one of the types of entities previously listed and is approved by the agency. The section requires all providers of advanced academic training to submit their programs to the Central Education Agency. The programs will be reviewed for approval within 30 days. All approved programs will be monitored at least once every three years. Programs must be at least six hours long, excluding lunch and breaks.

The new section is adopted on an emergency basis because local school districts and education service centers are making their final plans for summer workshops that will qualify for advanced academic training and need guidance as quickly as possible concerning approvable programs.

The new section is adopted on an emergency basis under the Texas Education Code, §13.315, which requires that advanced academic training which is creditable for career ladder purposes must be accredited by the State Board of Education.

§149.81. Advanced Academic Training.

(a) General provisions. Advanced academic training is staff development based upon diagnosed needs or professional goals. Priority shall be given to strengthening needs identified through the appraisal process. The purpose of advanced academic training is to improve classroom instruction. Such training shall be in addition to the required inservice education and must be highly structured to meet the requirements of the Texas Education Code, §13.315. Activities such as developing curriculum guides, peer observation, or travel will not qualify for advanced academic training. A teacher must have prior district approval for any training to be considered for advanced academic training.

(b) Program topics. The workshops or classes must address specific objectives and relate to one of the following:

(1) course or subject taught;

(2) subject for which certification is held that is one of the elementary or secondary curriculum areas identified in Chapter 75 of this title (relating to Curriculum);

(3) a subject or area to be taught that has been designated by the State Board of Education, or the local district, as an area or field of acute teacher shortage for which the teacher has on file with the district a college or university plan for certification;

(4) a teaching endorsement or delivery system approved by the State Board of Education;

(5) specialized instruction for the gifted and talented student, the handicapped student, or the culturally different student;

(6) teaching-learning theories and strategies;

(7) evaluation and reporting of student achievement;

(8) classroom management;

(9) individualized instruction;

(10) utilization of media and high technology in the classroom; and

(11) other professional development activities if identified by the district and if they meet the requirements of §149.71(d) of this title (relating to Assignment to the Teacher Career Ladder).

(c) Sponsors and presenters.

(1) Workshops or classes must be sponsored by either the school district, a college or university, an education service center, a professional organization, or the Central Education Agency. A program by a private firm must be sponsored by one of the entities in this subsection.

(2) Each presenter must have documented expertise in the topic of the workshop or class.

(3) If the presenter is a teacher, advanced academic training credit shall be earned by the presenter in the amount of the time for the first complete program presentation plus an equal amount of time for preparation.

(d) Minimum length of program. The minimum length of a program for which credit may be given for advanced academic training is six clock hours, excluding lunch, breaks, or travel time. Six clock hours shall earn six hours of advanced academic training credit. The minimum six hour program and programs of other lengths may be delivered in multiple sessions on different days.

(e) Records. The sponsor of the program must provide participants with a record of completion in a format prescribed by the commissioner of education. This record must be maintained by the district to document clock hour credits of advanced academic training.

(f) Program approval.

(1) Each program must be submitted to the Central Education Agency for approval. This submission shall be on forms provided by the agency.

(2) The agency will review and approve each program based upon criteria in this section.

(3) Within 30 days the program will be approved or returned. Providers of approved programs will receive documentation indicating the approved status.

(4) Approved programs will be reviewed by the Central Education Agency at least every three years with compliance audits scheduled at any time. All programs will maintain approved status unless notified by the agency.

(5) The program sponsor shall verify the approved qualifications of the presenter.

Issued in Austin, Texas, on March 14, 1985.

TRD-852320 W. N. Kirby
Interim Commissioner of
Education

Effective date: March 14, 1985
Expiration date: July 12, 1985
For further information, please call
(512) 475-7077.



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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 I. Railroad Commission of Texas Chapter 11. Surface Mining and Reclamation Division Subchapter D. Coal Mining ★ 16 TAC §11.221

The Railroad Commission of Texas, Surface Mining and Reclamation Division, proposes amendments to §11.221, which adopts by reference rules concerning lands unsuitable for mining (051.07.04-.069-.085), effluent limitations (051.07.04.340 and 051.07.04.510), prime farmland (051.07.04.008, 051.07.04.138, 051.07.04.184, 051.07.04.201, 051.07.04.620-.622, 051.07.04.624 and .625, and deleting 051.07.04.623), and notices of violations (051.07.04.681).

Amendments concerning lands unsuitable for mining are intended to simplify procedures and provide equitable and increased participation by petitioners and the public. Amendments to effluent limitations and prime farmland provisions are intended to achieve consistency, as much as is practicable, with rules of state and federal agencies having regulatory authority in these areas. The amendment dealing with notices of violations would allow the total time for abatement of violations to exceed 90 days in certain situations.

Ron Reeves, legal counsel, has determined that for the first five-year period the rule will be in effect there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the rule.

Mr. Reeves also has determined that for each year of the first five years the rule as proposed is in effect the public benefit anticipated as a result of enforcing the rule as proposed is the improvement of procedures by which determinations of unsuitability of lands for surface coal mining operations are made; to increase protection of water resources and croplands;

and to ensure that violations of surface coal mining regulations are abated in a timely manner while not imposing unreasonable time limitations. 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 J. Randel (Jerry) Hill, Director, Surface Mining and Reclamation Division, Railroad Commission of Texas, P.O. Drawer 12967, Austin, Texas 78711, (512) 475-8751. Comments will be accepted for 30 days after publication in the *Texas Register*.

The amendments are proposed under Texas Civil Statutes, Article 5920-11, §6, which provide the Railroad Commission of Texas with the authority to promulgate rules pertaining to surface coal mining and reclamation operations.

§11.221. State Program Regulations.

(a) The following rules contained in the document titled "State Program Submissions to Office of Surface Mining Reclamation and Enforcement, Department of Interior," as amended, prepared by the Railroad Commission of Texas and submitted to the Office of Surface Mining, are adopted by reference: Rules 051.07.04.001-.023, .069-.085, .100-.163, .170-.243, .300-.304, .306-.314, .317, .325-.328, .330-.422, .500-.591, .600, .610-.613, .620-.622, [.623], .624, .625, .650, .651, .660, .661, .670-.675, .680-.687, .690-.698, and .800-.817.

(b) (No change.)

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

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

TRD-852307

Walter Earl Lillie
Special Counsel
Railroad Commission of
Texas

Earliest possible date of adoption:

April 22, 1985

For further information, please call
(512) 445-1186.

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TITLE 19. EDUCATION Part II. Texas Education Agency Chapter 75. Curriculum Subchapter G. Other Provisions ★ 19 TAC §75.174

The Texas Education Agency proposes new §75.174, concerning remedial instruction. The Texas Education Code, §21.557, requires school districts to provide compensatory and remedial instruction for students. The districts are required to use the student performance data from the Texas Educational Assessment of Minimum Skills (TEAMS) tests and other achievement tests to design and implement appropriate programs. A significant amount of state compensatory education funds is allotted to districts to assist in providing remedial instruction. By law, each district will be required to submit an annual report describing how the instructional programs are provided by campus.

The proposed new section defines remedial instruction and describes a variety of options through which it may be provided. School districts have latitude to implement those approaches that are deemed most effective. The rules further provide direction to school districts regarding procedures to identify students to participate in the programs and set out specific standards for students who do not master the secondary exit level requirements in Grade 11 and Grade 12. Information regarding students who participate in remedial instruction and their performance that must be reported in the annual performance report is also specified.

The purpose of remedial instruction is to provide instruction in identified areas of deficiency and to give students additional time on task to master the essential elements for a course or subject area. Each district must have written procedures for the identification of students to participate in remedial programs. For students having difficulty with several subjects, priority should be given to English lan-

guage arts and mathematics. A district may require students to participate in remedial programs.

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. There is no anticipated effect on state government or small businesses. The anticipated effect on local government is the cost for a district which assigned personnel full time to the program. The average cost per professional full-time equivalent would be approximately \$20,900.

Dr. Beverly J. Bardsley, policy development director, 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 provision of remedial instruction to students who need assistance in mastering the essential curriculum elements specified for each subject and grade level. 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*.

This new section is proposed under the authority of the Texas Education Code, §21.557, which requires each school district to provide remedial instruction in accordance with standards adopted by the State Board of Education.

§75.174. Remedial Instruction.

(a) Definition of remedial instruction.

(1) Remedial instruction shall be provided by all school districts in accordance with this section. The purpose of a remedial program is to provide instruction in identified areas of deficiency and/or to provide additional time on task to enable a student to master the essential elements for a course or subject area.

(2) Remedial instruction and reteaching should also be an integral part of regular classroom instruction whenever the teacher determines that mastery of the essential elements has not been accomplished by the student.

(3) The remedial program may be conducted during the regular school day as well as during other times determined by the district. The remedial program shall in-

clude, but need not be limited to, whichever of the following provisions the district deems appropriate for the identified student:

(A) remedial courses in Chapter 75, Subchapter C, of this title (relating to Essential Elements, Grades Seven and Eight) and Chapter 75, Subchapter D, of this title (relating to Essential Elements Grades 9-12)—correlated language arts I-IV, fundamentals of mathematics, consumer mathematics, prealgebra, informal geometry, reading improvement, and English as a second language, (grades 7-12);

(B) local credit courses such as study skills and other locally developed remedial courses;

(C) tutorial programs;

(D) bilingual and English as a second language (ESL) programs that provide instruction in the essential elements by adjusting materials, pacing, and methodologies;

(E) summer school programs which provide remedial instruction in essential elements not previously mastered;

(F) alternative education programs, including alternatives to social promotion such as continuous progress programs;

(G) significantly lower student/teacher ratios in identified remedial classes or courses; and

(H) prekindergarten and kindergarten programs for students who do not speak or comprehend the English language or who come from a family whose annual income is at or below subsistence.

(4) In establishing the student/teacher ratios and length of instructional periods for the remedial program, the following factors shall be considered:

(A) level of student need;

(B) specific concepts or skills to be taught;

(C) grade level being served; and

(D) quality and type of remediation design.

(5) Each district shall provide for coordination of delivery and assessment procedures between the regular teacher and any special teacher who provides the remediation in addition to the instruction in the regular classroom.

(b) Eligibility and requirements for remedial instruction, grades 1-12.

(1) Each district shall have written procedures for the identification of students to participate in the remedial program. These procedures shall include, but need not be limited to, the following.

(A) Students at the applicable grade levels who fail to master any section of the Texas Educational Assessment of Minimum Skills (TEAMS), shall receive appropriate remediation in that subject area unless an analysis of all other assessment data strongly indicates otherwise.

(B) Students in grades 1-12 who score below a district-determined level on

specified sections of achievement tests; who consistently receive grades lower than 70 in English language arts, mathematics, social studies, or science; or who, based on teacher analysis, have not mastered the appropriate essential elements for those subject areas shall be considered for remedial instruction. Priority attention should be given to English language arts and mathematics if a student is having difficulty with multiple subject areas.

(2) A district may provide remedial services to any other student it determines would benefit from such services.

(3) A district may require students to participate in a remedial program.

(c) Establishment and operation of remedial instruction for students who do not master secondary exit-level assessment requirements, grades 11 and 12.

(1) Each district shall provide remedial instruction in English language arts to students who have not performed satisfactorily on that section of the exit-level assessment instrument and in mathematics to students who have not performed satisfactorily on that section.

(2) A district may provide remedial services to any other student it determines would benefit from such services.

(3) A district may recommend adjustments to a student's regular school schedule in order for the student to be enrolled in a remediation program or course if the student does not make a satisfactory score on each section of the exit-level test.

(4) A district may require students to participate in remedial programs.

(5) Each district shall develop policies for students enrolled in school which include, but need not be limited to, the following:

(A) conferences with parents of students who have not passed each section of the exit-level exam;

(B) personnel who provide remedial instruction;

(C) amount of time allocated to the various remedial instruction programs; and

(D) class size for remedial instruction.

(6) The content of the remediation program shall focus on the objectives that the student needs to master in order to pass the sections of the secondary exit-level assessment instrument as well as those mastered, as the student will be required to retake the entire section.

(d) Annual report provided by campus, grades 1-12.

(1) Each district shall submit a summary of the programs in remedial instruction, as part of the annual performance report, as directed by the commissioner of education. Reports shall include, but need not be limited to, the following:

(A) numbers of students in various remedial programs;

(B) subsequent performance of these students on TEAMS and other achievement tests, if applicable;

(C) drop-out rates of these students; and

(D) costs for providing remedial programs.

(2) The commissioner of education shall report these data to the State Board of Education annually.

(e) Funding.

(1) State compensatory education funds shall be used for the purpose of providing remedial programs under this section.

(2) Other state and local funds may be used for remedial programs.

(3) Federal funds may be used for remedial programs in accordance with law and regulation.

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 March 14, 1985

TRD-852321 W. N. Kirby
Interim Commissioner of
Education

Proposed date of adoption:

May 11, 1985

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

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Chapter 78. Occupational Education and Technology Subchapter D. Secondary School Vocational Education Vocational Program Approval

★ 19 TAC §78.63

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

The Texas Education Agency (TEA) proposes amendments to §78.63, concerning requirements for new, additional, and continuing vocational program units. House Bill 72, 68th Legislature, 2nd Called Session, 1984, changed the funding system for vocational education from one based on personnel units to one based on full-time equivalent students. Under the old system, districts received additional state funds for vocational personnel units approved and employed for 11 or 12 months. Under the new funding system, this is no longer the case.

In an effort to reduce the paperwork burden on school districts, it is proposed that

the current requirement for districts to submit a summer plan, justifying the need for 11- and 12-month vocational personnel, be deleted from the section.

The amendments are adopted on an emergency basis in this issue.

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, policy development director, 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 as proposed is a reduction in the amount of paperwork school districts must process. 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, §16.005, which authorizes the State Board of Education to make rules for the implementation of the Foundation School Program.

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

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

TRD-852271 W. N. Kirby
Interim Commissioner of
Education

Proposed date of adoption:

May 11, 1985

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

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Program Standards

★ 19 TAC §78.122

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

The Texas Education Agency (TEA) proposes amendments to §78.122, concerning specific program requirements for secondary school vocational education programs.

House Bill 72, 68th Legislature, 2nd Called Session, 1984, changed the funding system for vocational education from one based on personnel units to one based on full-time equivalent students. Under the old system, districts received additional state funds for vocational personnel units approved and employed for 11 or 12 months. Under the new funding system, this is no longer the case.

In an effort to reduce the paperwork burden on school districts, it is proposed that the current requirement for districts to submit a summer plan, justifying the need for 11- and 12-month vocational personnel, be deleted from the section.

Teachers assigned to program units in excess of 10 months must use the extended employment period for activities directly related to and for the purpose of improving the instructional program involved.

The amendments are adopted on an emergency basis in this issue.

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, policy development director, 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 as proposed is a reduction in the amount of paperwork school districts must process. 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, §16.005, which authorizes the State Board of Education to make rules for the implementation of the Foundation School Program.

This agency hereby certifies that the proposal has been reviewed by legal coun-

and found to be within the agency's authority to adopt.

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TRD-852272 W. N. Kirby
Interim Commissioner of
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(512) 475-7077.

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Chapter 137. Teacher Education Subchapter D. Institutional Review Process

★ 19 TAC §137.69

The Texas Education Agency (TEA) proposes amendments to §137.69, concerning the annual performance report of institutions approved for teacher education. The proposed amendments address the requirements for the annual performance report of institutions approved for teacher education as mandated by House Bill 72, 68th Legislature, 2nd Called Session, 1984. Data elements identified in the "Format for Annual Performance Report for Institutions that Prepare Teachers" as recommended in July 1984 by the Select Committee on Public Education and input from representatives of colleges and universities have been combined to design a comprehensive report of information regarding teacher education that is both necessary and desirable.

Each institution approved for teacher education must file an annual performance report with the Central Education Agency. Data required in the report include number of students admitted to the teacher education program, performance of students on required professional skills test, the number of students completing the program and their performance on the required exit test, and the number of students recommended to an employing school district.

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, policy development director, 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 as proposed is the availability of information needed for institutional and statewide review of

teacher education programs, leading to an improvement in the quality and effectiveness of such programs. 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, §13.034, which requires each teacher education program to submit to the State Board of Education an annual performance report containing elements specified by law and by the board.

§137.69. Annual Performance Report of Institutions Approved for Teacher Education [Reports].

(a) General provisions. Each institution approved for teacher education [institutions placed on the approval list] shall file an [make] annual performance report with [reports to] the Division of Teacher Education of the Central [Texas] Education Agency no later than October 1 following the conclusion of each academic year. For purposes of reporting under this section, the academic year shall be defined as September 1 through August 31. This provision shall become effective for the academic year 1985-1986 to the extent data are available. The Commission on Standards for the Teaching Profession may request additional information from institutions regarding compliance with the standards.

(b) Purposes of the report. The data elements included in the reporting instrument are designed to accomplish the following objectives:

(1) to acquire all data elements in accordance with the statutory requirements of the Texas Education Code, §13.034(b), and other requirements of the State Board of Education;

(2) to provide current information to the Division of Teacher Education for efficient statewide administration of the standards and procedures for approval of teacher education programs, as required in the Texas Education Code, §13.032(a); and

(3) to provide a uniform and comprehensive data base for institutional and statewide review of teacher education program performance factors.

(c) Data elements required. The report shall include institutional and teacher-education-specific information. Data elements shall include the following.

(1) Institutional.

(A) General:
(i) name of reporting institution;
(ii) institutional mailing address;
(iii) name of president;
(iv) name of chief academic officer;
(v) name of registrar;
(vi) name of head librarian;
and
(vii) the institution's criteria for admission.

(B) Administrative:

(i) name and signature of the administrative head of the professional education unit verifying the accuracy of the report;

(ii) name(s) of the dean(s) or head(s) of academic units involved in teacher preparation;

(iii) name of committee, council, or other entity responsible for internal review/approval of teacher education programs and its chairperson;

(iv) name, signature, and telephone number of the certification officer;

(v) name and telephone number of the director of field experiences;

(vi) name and telephone number of the contact person for teacher education if other than the administrative head of the professional education unit;

(vii) name and mailing address of the chairperson or contact person of each local cooperative teacher education center in which the institution participates; and

(viii) changes in persons in charge of professional education or persons in charge of programs during the past year.

(C) Financial:

(i) the annual library budget, exclusive of capital costs and maintenance, as a percent of the total educational and general budget;

(ii) the dollar amount, the number of full-time equivalent faculty (FTE), and the percent of the total educational and general budget designated to deliver the teacher education program; and

(iii) state funds, if any, used to support the delivery of the teacher education program.

(2) Teacher-education-specific.

(A) Programs:

(i) list of approved programs deleted or suspended, if any, by the institution during the past year;

(ii) list of programs that are anticipated to be submitted for approval within the next year; and

(iii) any changes within approved programs for which approval review was not requested during the past year.

(B) Admissions:

(i) the institution's criteria for admission to teacher education, including the grade point average, semester hours

completed, and other institutional requirements;

(ii) total number of students who applied for admission to teacher education and submitted scores for the state-mandated basic skills test; and

(iii) number and percent of admission applicants passing each portion and all portions of the state-mandated basic skills test.

(C) Students:

(i) the number and percentage of students admitted to teacher education programs who were in the top half of their high school graduating class;

(ii) number of students admitted to the teacher education program by certification sought;

(iii) number of students admitted to student teaching; and

(iv) the number and percent of total teacher education graduates who report employment in public or private schools.

(D) Certification:

(i) the total grade point average and/or other requirements necessary for the institution's recommendation for probationary (initial) certification;

(ii) the grade point average and/or other requirements within the teacher education program and within areas for which certification is sought necessary for the institution's recommendation for probationary (initial) certification; and

(iii) number and percent of students by certification sought who have completed the institution's program, have successfully achieved the necessary scores on state-mandated certification test(s), and have been recommended to an employing school district and the Central Education Agency for probationary status.

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 March 13, 1985.

TRD-852273 W. N. Kirby
Interim Commissioner of
Education

Proposed date of adoption:

May 11, 1985

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

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Chapter 149. Education
Personnel Development
Subchapter D. Teacher Career
Ladder

★ 19 TAC §149.71

(Editor's note: The Texas Education Agency proposes for permanent adoption the

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

The Texas Education Agency (TEA) proposes new §149.71, concerning the teacher career ladder. The proposed new section addresses the requirements for the teacher career ladder as mandated by House Bill 72, 68th Legislature, 2nd Called Session, 1984. An earlier section concerning the career ladder was proposed in the February 5, 1985, issue of the *Texas Register* (10 TexReg 361). However, because of substantive changes approved by the State Board of Education in March, the original proposal has been withdrawn.

There are two substantive differences between this section and the earlier proposal. Subsection (d)(3), concerning higher education course work and advanced academic training, is changed to provide that higher education course work and advanced academic training earned after the bachelor's degree shall be creditable toward requirements for placement and maintenance on the career ladder. The previous section allowed credit only for such course work or training earned after initial certification.

Subsection (j) is rewritten to clarify grounds upon which career ladder decisions may be appealed. An earlier subsection (c)(1)(F), which stated that for the 1984-1985 school year such decisions were not subject to appeal, does not appear in the new proposed section.

The section as proposed provides additional clarification and direction for the local school districts as they further implement the teacher career ladder in the 1985-1986 school year and subsequent years. The proposed new section indicates that the planning and decisions on teacher career ladder assignments made by local school districts and/or selection committees for the 1984-1985 school year in accordance with guidelines issued by the State Board of Education in July 1984, are not to be rendered invalid by the new section.

The new section also establishes requirements for eligibility by job assignment, the selection process, higher education course work and advanced academic training, the use of stricter performance criteria, criteria for selection and maintenance on the career ladder, and the funding of allotments; and requires the placement of all nondegree teachers on the teacher career ladder at level one with no provision to attain level two advancement without the baccalaureate degree. However, there is no intent to make nondegree teachers ineligible for

employment after six years at level one placement.

Subsection (a) requires each teacher to be assigned to a position on the career ladder unless excluded by other provisions of the section. Assignment is to be based on performance, experience, job-related education and/or advanced academic training, job assignments, and other requirements as specified in subsection (e) of this section.

Subsection (b) concerns eligibility for assignment to the teacher career ladder. Certified persons shall be eligible if they teach or provide instructionally related services to students at least four hours each day or not less than 60% of the school day. Specifications for determining instructionally related services are included in the section.

Subsection (c) concerns the selection process for assignment to the teacher career ladder. For the 1984-1985 school year, a teacher may be assigned to level two if the teacher has the years of experience (without regard to experience at a particular career ladder level) and job-related education (including higher education courses and/or advanced academic training for which the teacher retains credit under the Texas Education Code, §13.322), and the performance appraisal required to enter level two.

A teacher may enter level two in the 1985-1986 school year or the 1986-1987 school year if the teacher has the years of experience (without regard to experience at a particular career ladder level), the education (including higher education courses and/or advanced academic training for which the teacher retains credit under the Texas Education Code, §13.322), and the performance appraisals required to enter level two.

Subsection (d) concerns higher education course work and advanced academic training. The local school district shall determine in accordance with the provisions of this subsection whether courses taken for credit at accredited institutions of higher education or work obtained through programs of advanced academic training may be applied toward requirements for level placement and maintenance on the teacher career ladder. This subsection describes (effective September 1, 1985) how the higher education course work or advanced academic training must be related to the job assignment.

Subsection (e) concerns the use of stricter performance criteria when funds available for the support of the teacher career ladder are insufficient to fund the supplements as provided in the Texas Education Code, §16.058. A local school district may require stricter performance criteria

for placing teachers on career ladder levels and for maintaining teachers on previously assigned levels.

Subsection (f) concerns the criteria for selection. This subsection describes the requirements which must be satisfied for career ladder level assignment or advancement for level one, level two, level three, and level four. For the 1984-1985 school year, all teachers classified in accordance with the Texas Education Code, §16.056, including nondegreed teachers, must be assigned to level one or level two on the teacher career ladder except for positions in subsection (b) of this section.

Subsection (g) concerns the maintenance or reassignment of career ladder level.

Subsection (h) concerns out-of-state teachers entering the career ladder. A teacher who possesses a valid classroom teaching certificate issued by another state department of education or foreign country may enter the career ladder at any level assigned by the employing school district, at the commensurate salary step, under a probationary contract. At the end of the first year of teaching in Texas, the teacher must meet the requirements established in subsection (f) of the rule with the exception of the requirement for the prior certificate held. Upon satisfactory achievement of certification requirements, the district may recommend certification at the appropriate level as established in Chapter 141. The employing school district shall have the authority to accept or reject the performance appraisal or appraisals based on service completed in other districts.

Subsection (i) provides for a teacher to transfer a career ladder level assignment between districts. A teacher may waive entitlement to a particular career ladder level assignment when changing employment from one district to another. The employing district may recognize the performance appraisal of a district previously employing the teacher in determining a career ladder level assignment.

Subsection (j) concerns the finality of a school district decision for the placement or reassignment to a career ladder level. A decision of the district which is alleged to be arbitrary or made in bad faith may be appealed to the commissioner of education.

Subsection (k) provides that a teacher who has earned a level one, level two, level three, or master teacher certificate in accordance with Chapter 141, has a right to retain that certificate until it has expired or is duly suspended, revoked, or otherwise removed in accordance with law. Assignment to career ladder level one, level two, level three, or level four

is neither a property right nor the equivalent of tenure.

Subsection (l) concerns the career ladder salary supplement. The career ladder salary supplement shall be paid during the school year at a time and in a manner to be determined by the local school district in accordance with law and this rule.

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 \$119,264,160 in 1985; \$87,365,550 in 1986; \$153,065,950 in 1987; \$191,332,437 in 1988; and \$239,165,540 in 1989. The estimated costs represent a portion of those funds appropriated for educational improvement which includes both salary enrichment and "other legal purposes." The figures for 1988 and 1989 are estimates based on a 25% increase. Local districts may expend additional funds, but no local expenditures are required by the rule. There is no anticipated economic effect on local government or small businesses.

Dr. Beverly J. Bardsley, policy development director, 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 the provision of additional clarification and direction for the local school districts as they implement further the teacher career ladder in the 1985-1986 school year and subsequent years. 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 new section is proposed under the Texas Education Code, §16.057, which provides for career ladder salary supplements; §13.301-13.322, which establish the teacher career ladder; and §16.005, which authorizes the State Board of Education to make rules for the implementation of the Foundation School Program.

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

Issued in Austin, Texas, on March 15, 1985.

TRD-852365

W. N. Kirby
Interim Commissioner of
Education

Proposed date of adoption:

May 11, 1985

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

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★ 19 TAC §149.81

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

The Texas Education Agency (TEA) proposes new §149.81, concerning advanced academic training which will be creditable for career ladder advancement. The purpose of advanced academic training is to improve classroom instruction. Such training must be in addition to required inservice education

The proposed new section allows school districts, colleges, universities, education service centers, professional organizations, and the Central Education Agency to offer advanced academic training if the proposed workshops or classes are approved by the Central Education Agency; allows private firms to offer advanced academic training if the program is sponsored by one of the types of entities previously listed and is approved by the agency; and requires all providers of advanced academic training to submit their programs to the Central Education Agency. The programs will be reviewed for approval within 30 days. All approved programs will be monitored at least once every three years. Programs must be at least six hours long, excluding lunch and breaks.

The proposed new section is adopted on an emergency basis in this issue.

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 effect on state government for the first five-year period the rule will be in effect is an estimated impact on the Central Education Agency which will require approximately 0.75 full-time equivalent, but will be absorbed within the current budget. There is no anticipated effect on local government or small businesses.

Dr. Beverly J. Bardsley, policy development director, and Mr. Bennett have de-

terminated 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 standards and a process for approval of the advanced academic training which is creditable for career ladder purposes. 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 new section is proposed under the Texas Education Code, §13.315, which requires that advanced academic training, which is creditable for career ladder purposes, must be accredited by the State Board of Education.

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 March 14, 1985

TRD-852322 W. N. Kirby
Interim Commissioner of
Education

Proposed date of adoption:
May 11, 1985
For further information, please call
(512) 475-7077.

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Chapter 157. Hearings and Appeals

Subchapter A. Hearings and Appeals Generally

★ 19 TAC §§157.1, 157.21, 157.22

The Texas Education Agency (TEA) proposes amendments to §157.1 and §157.21 and new §157.22, concerning hearings and appeals generally.

House Bill 72, 68th Legislature, 2nd Called Session, 1984, deleted those provisions of the Texas Education Code authorizing the State Board of Education to review quasijudicial decisions issued by the commissioner of education. The statute also amended the Texas Education Code, §11.13, to require that appeals by students to the commissioner be reviewed on a substantial evidence basis. The proposed amendments are intended

to make the agency's rules consistent with House Bill 72 in these aspects.

Section 157.1(c) is amended to add the words "or made directly appealable to court."

Section 157.21(d), which contains provisions concerning student discipline cases, is deleted. Provisions for them to be expedited are now contained in proposed new §157.68, concerning student appeals.

Proposed new §157.22 describes the circumstances under which the commissioner of education may dismiss a case without a hearing.

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 as proposed are in effect the public benefit anticipated as a result of enforcing the rules as proposed is that agency rules will be consistent with current law, and that the reasons for which the commissioner of education may dismiss a case without a hearing will be clarified. 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 and new section are proposed under Texas Civil Statutes, Article 6252-13a, §4(a)(1), which require each state agency to adopt rules of practice setting forth the nature and requirements of hearing procedures.

§157.1. Nature of Hearings and Appeals.

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

(c) The decisions of the commissioner of education shall be subject to review by or appeal to the State Board of Education except where the commissioner's decision is made final by law or made directly appealable to court.

§157.21. Computing Time; Extensions.

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

((d) Student discipline cases in which the student is not receiving educational ser-

vices pending the outcome of the appeal shall be subject to an expedited schedule.]

§157.22. Dismissal without Hearing.

The commissioner of education may dismiss a case without a hearing for the following reasons: failure to prosecute, unnecessary duplication of proceedings, *res judicata*, withdrawal, mootness, untimely filing, lack of jurisdiction, failure of a party requesting relief from the commissioner to set forth facts in its pleadings which would support a decision in that party's favor, and failure to state a cause of action upon which relief may 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 March 13, 1985.

TRD-852274 W. N. Kirby
Interim Commissioner of
Education

Proposed date of adoption:
May 11, 1985
For further information, please call
(512) 475-7077.

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Subchapter B. Hearings of Appeals to the Commissioner

★ 19 TAC §§157.41, 157.50, 157.52, 157.60, 157.62, 157.63, 157.68

The Texas Education Agency (TEA) proposes amendments to §§157.41, 157.50, 157.52, 157.60, 157.62, and 157.63 and new §157.68, concerning hearings of appeals to the commissioner of education.

House Bill 72, 68th Legislature, 2nd Called Session, 1984, deleted those provisions of the Texas Education Code authorizing the State Board of Education to review quasijudicial decisions issued by the commissioner of education. The statute also amended the Code, §11.13, to require that appeals by students to the commissioner be reviewed on a substantial evidence basis. The proposed amendments and new section are intended to make the agency's rules consistent with House Bill 72 in these respects.

Section 157.41 is amended to change the title from "Hearing Procedure" to "Procedure," and clarify that the rules as set forth under this subchapter shall apply to all proceedings before the commissioner except where made inapplicable by a conflicting provision of this subchapter.

Section 157.50, concerning evidence, is amended to add new subsection (b), which states that the burden shall be on the party requesting relief from the com-

missioner to prove its case by a preponderance of the evidence, except where a substantial evidence review is authorized by statute.

There are several proposed amendments to §157.52, concerning witnesses, discovery, depositions, and interrogatories. Subsection (c) is amended to delete the provision that the commissioner may strike the pleadings and enter a default judgment against any party who fails to answer interrogatories. This becomes one option in proposed new subsection (g). New subsection (f) and subsection (g) also are added. Subsection (f) provides that at any time after the respondent has made appearance in a contested case, a party may cause to be delivered to any party a written request for the admission by such party of the genuineness of any relevant documents described in and exhibited with the request, or of the truth of any relevant matters of fact set forth by the request. Subsection (g) sets out actions the commissioner may take if any party refuses to obey an order for discovery made under this subchapter.

Several amendments are proposed to §157.60, concerning filing of exceptions and replies in response to a proposal for decision. Subsection (a) is amended to provide that any replies to any exception must be filed within 15 days after the date on which the exceptions are filed. Previously, replies to exceptions were filed within 15 days after the date for filing of such exceptions. Subsection (c) is amended to provide that in the absence of good cause, no issue may be raised for the first time in a party's exceptions to the proposal for decision.

Section 157.62 concerns motions for rehearing. Subsection (b) is amended to provide that a motion for rehearing is a prerequisite to any appeal, since the commissioner is now the last level of administrative appeal. A provision is added to subsection (c) which states that if no action is taken by the commissioner within 45 days after the date of rendition of the final decision of order, the motion for rehearing is overruled by operation of law. The commissioner may, by written order, extend the period of time for filing the motion for rehearing and replies and the commissioner taking action, except that an extension may not extend the period for the commissioner's action on the motion for rehearing beyond 90 days after the date of rendition of the commissioner's final decision or order. Previously, the period was 60 days. Subsection (d) provides that in the absence of good cause, no issue may be raised in a motion for rehearing which was not raised in the moving party's exceptions to the proposal for decision, unless the disposition of that issue in the commissioner's decision differs from that in the proposal for decision.

Subsection (e) provides that the parties may, by agreement, with the approval of the commissioner, modify any of the time periods provided in this section.

Section 157.63 establishes the points at which orders of the commissioner of education become final.

Proposed new §157.68 concerns student appeals. This section applies in all appeals brought by students from actions or decisions of a local board of trustees. To the extent that this section conflicts with any other sections governing proceedings before the commissioner, the requirements of this section shall prevail.

In student appeal cases, the school district must file a record of appeal, including a certified transcript of the local hearing, with its answer. The commissioner's decision shall be based on a review of the record of appeal, unless the commissioner has ordered that additional evidence be taken. The commissioner may substitute his or her own judgment for that of the local board of trustees only when the local board's decision was arbitrary, capricious, unlawful, or not supported by substantial evidence.

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 as proposed are in effect the public benefit anticipated as a result of enforcing the rules as proposed is that agency rules will be consistent with current law. 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 and new section are proposed under Texas Civil Statutes, Article 6252-13a, §4(a)(1), which require each state agency to adopt rules of practice setting forth the nature and requirements of hearing procedures.

§157.41. [Hearing] Procedure. The rules as set forth under Subchapter A of this

chapter (relating to Hearings and Appeals Generally) shall apply to all proceedings before the commissioner, except where made inapplicable by a conflicting provision of this subchapter [govern the method and manner of appeals made to the commissioner].

§157.50. Evidence.

(a) In all contested cases, the rules of evidence shall apply, pursuant to Texas Civil Statutes, Article 6252-13a, §14.

(b) Except where a substantial evidence review is authorized by statute, the burden shall be on the party requesting relief from the commissioner to prove its case by a preponderance of the evidence.

§157.52. Witnesses; Discovery; Depositions; Interrogatories.

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

(e) Following a written request and the submission of proposed interrogatories by a party, the commissioner may allow a party to serve written interrogatories on any other party of record. The commissioner may limit the scope and number of interrogatories. In no event shall interrogatories require more than 30 separate answers. The interrogatories shall be answered separately and under oath. The party to whom the interrogatories are addressed shall file the answers to the interrogatories with the commissioner within 30 days following the receipt of the commissioner's order allowing the interrogatories, unless the commissioner shortens or extends the time. [The commissioner may strike the pleadings and enter a default judgment against any party who fails to answer interrogatories. Answers to interrogatories may be used in the same manner as in the district courts of this state.]

(f) At any time after the respondent has made appearance in a contested case, a party may cause to be delivered to any other party a written request for the admission by such party of the genuineness of any relevant documents described in and exhibited with the request or of the truth of any relevant matters of fact set forth by the request. The rules for said request shall be those described in Texas Rules of Civil Procedure, Rule 169.

(g) If any party refuses to obey an order for discovery made under this subchapter, the commissioner may make such orders in regard to the refusal as are just, including, among others, the following:

(1) an order that the character or description of the thing (or the contents of the paper) in controversy or any other designated facts shall be taken as established for the purposes of the action;

(2) an order refusing to allow the disobedient party to support or oppose designated claims or defenses, or prohibiting that party from introducing in evidence designated documents or things or items of testimony; or

(3) an order striking out pleadings or parts thereof, staying further proceedings

until the order is obeyed, dismissing the action or proceeding or any part thereof, or rendering a judgment by default against the disobedient party.

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

(a) Any exceptions by a party of record to the proposal for decision must be filed within 20 days after receipt of the proposal. Any replies to those exceptions must be filed within 15 days after the date on which the exceptions are filed [for filing of such exceptions]. A request for extension of time within which to file exceptions or replies shall be filed with the commissioner, and a copy thereof shall be served on all other parties of record by the party making such request.

(b) (No change.)

(c) In the absence of good cause, no issue may be raised for the first time in a [appealed to the State Board of Education which was not presented to the commissioner of education in the appealing] party's exceptions to the proposal for decision[, unless the disposition of that issue in the commissioner's decision differs from that in the proposal for decision. The State Board of Education will dismiss any appeal or portion thereof which is taken in violation of this provision].

§157.62. Motions for Rehearing.

(a) (No change.)

(b) Unless extension or reduction be granted under subsection (c) of this section, the times prescribed in this subsection shall control. If a party wishes to file a motion for rehearing, it must be filed with the commissioner within 15 days after the date of rendition of a final decision or order. Replies to a motion for rehearing, if any, must be filed with the commissioner within 25 days after the date of rendition of the final decision or order. A motion for [a] rehearing is [not] a prerequisite to any [an] appeal [before the State Board of Education].

(c) If no action is taken by the commissioner within 45 days after the date of rendition of the final decision or order, the motion for rehearing is overruled by operation of law. The commissioner may, by written order, extend the period of time for filing the motion for rehearing and replies and the commissioner taking action, except that an extension may not extend the period for the commissioner's action on the motion for rehearing beyond 90 [60] days after the date of rendition of the commissioner's final decision or order. If, after an extension, the commissioner has not acted on a motion for rehearing within 90 days after the date of rendition of the final decision or order, the motion for rehearing shall be overruled by operation of law. [The parties may, by agreement, with the approval of the commissioner reduce any of the time periods provided in this section.]

(d) In the absence of good cause, no issue may be raised in a motion for rehear-

ing which was not raised in the moving party's exceptions to the proposal for decision, unless the disposition of that issue in the commissioner's decision differs from that in the proposal for decision.

(e) The parties may, by agreement, with the approval of the commissioner modify any of the time periods provided in this section.

§157.63. Final Order.

(a) All orders of the commissioner shall take effect upon becoming final. An order becomes final for the purposes of this section:

(1) where an appeal to the State Board of Education is not authorized: [when the time for filing an appeal to the State Board of Education has lapsed with no appeal having been filed;]

(A) when the time for filing a motion for rehearing before the commissioner has lapsed with no such motion having been filed;

(B) when a motion for rehearing has been filed and overruled by the commissioner; or

(C) on any other date specified by the commissioner;

(2) where an appeal to the State Board of Education is authorized [if an appeal is taken, when the decision of the commissioner is affirmed and]:

(A) when the time for filing the appeal has lapsed with no appeal having been filed [the time for filing a motion for rehearing has lapsed with no such motion having been filed]; or

(B) if an appeal is taken, when the decision of the commissioner is affirmed; and [a motion for rehearing has been filed and overruled by the State Board of Education;]

(i) the time for filing a motion for rehearing has lapsed with no such motion having been filed; or

(ii) a motion for rehearing has been filed and overruled by the State Board of Education.

[(3) when the commissioner's decision is made final by law and:

[(A) the time for filing a motion for rehearing has lapsed with no such motion having been filed; or

[(B) a motion for rehearing has been filed and overruled by the commissioner; or

[(4) on any other date specified by the commissioner.]

(b) (No change.)

§157.68. Student Appeals.

(a) This section shall apply in all appeals brought by students from actions or decisions of a local board of trustees. To the extent that this section conflicts with any other sections governing proceedings before the commissioner, the requirements of this section shall prevail.

(b) In all cases, the school district must file a record of appeal with its answer.

The record of appeal must include all policies relevant to the appeal and any written correspondence between the district's representatives and the student (or the student's parents or representatives) concerning the matter being appealed, and a certified transcript of the local hearing on the matter. The school district shall provide the student with written notice when the record of appeal is prepared and shall make the record available to the student for inspection. The school district shall provide the student with copies of all items in the record other than the transcript. A copy of the transcript shall be provided to the student, for a reasonable charge, upon request.

(c) The commissioner's decision shall be based on a review of the record of appeal; however, on the motion of either party, the commissioner may order that additional evidence be taken to supplement the transcript if it appears that such party has evidence to offer which is material, relevant, and not unduly repetitious, which that party, for good cause, was unable to adduce at the local hearing.

(d) The record of appeal shall be considered complete and accurate and shall be admitted into evidence before the commissioner for all purposes unless, within 10 days of the date of filing the record, the student files objections to the record, which set forth specifically those items which are relevant and material and which have been erroneously omitted from the record or those portions of the record which are relevant and material but which have been inaccurately transcribed. The commissioner shall conduct a proceeding for the purpose of receiving evidence relevant to any such challenge to the record if it appears that the matter in dispute is material to the outcome of the appeal.

(e) If the record of appeal does not contain a certified transcript of the local hearing, the commissioner may, as the commissioner deems best, either reverse the school district's decision without a hearing, or conduct a hearing for the purpose of receiving evidence concerning all material fact issues in dispute.

(f) Upon either party's request, the commissioner shall afford both parties the opportunity to file briefs and present oral argument concerning the merits of the appeal.

(g) The commissioner may substitute the commissioner's judgment for that of the board of trustees only when the board's decision was arbitrary, capricious, unlawful, or not supported by substantial evidence.

(h) The commissioner may remand any appeal to the local board of trustees for further proceedings if the interests of justice so require.

(i) Cases in which the student's education is being disrupted in any manner pending the outcome of the appeal may be expedited.

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 March 13, 1985.

TRD-852275 W. N. Kirby
Interim Commissioner of
Education

Proposed date of adoption:
May 11, 1985

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

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Subchapter C. Appeals to the State Board of Education

★ 19 TAC §157.71, §157.73

The Texas Education Agency proposes amendments to §157.71 and §157.73, concerning appeals to the State Board of Education.

House Bill 72, 68th Legislature, 2nd Called Session, 1984, deleted those provisions of the Texas Education Code authorizing the State Board of Education to review quasi judicial decisions issued by the commissioner of education. The proposed changes are intended to make the agency's rules consistent with House Bill 72.

Section 157.71 concerns the procedure for an appeal. The proposed amendment to §157.71(a) provides that, where the commissioner's decision is not made final by law and is not made directly appealable to district court by statute, any party who has been aggrieved by the decision may appeal to the State Board of Education.

It is proposed that the title of §157.73 be changed from "Testimony and Evidence; Briefs; Proposed Findings, Conclusions and Orders" to "Testimony and Evidence; Briefs; Issues." Subsection (a) provides that appeals to the board shall be considered on the record made before the commissioner and any briefs filed by the parties. The proposed amendment deletes the provision that proposed findings of fact and conclusions of law shall be filed by the appealing party. This is adequately provided for in the Administrative Procedure and Texas Register Act. Proposed new subsection (b) specifies that no issue may be appealed to the State Board of Education which was not presented to the commissioner of education in the appealing party's motion for rehearing.

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 as proposed are in effect the public benefit anticipated as a result of enforcing the rule is that procedures for agency administrative hearings and appeals will be consistent with current law. 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, Policy Development Director, 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 Texas Civil Statutes, Article 6252-13a, §4(a)(1), which require each state agency to adopt rules of practice setting forth the nature and requirements of hearing procedures.

§157.71. Procedure for Appeal.

(a) Where the commissioner's decision is not made final by law and is not made directly appealable to district court by statute, any party who has been aggrieved by the [a] decision [of the commissioner] may appeal [that decision] to the State Board of Education [except where the commissioner's decision is made final by law]. The aggrieved party or petitioner must file a notice of appeal with the commissioner within 30 days after the date of the commissioner's decision, or if a motion for rehearing has been filed, within 30 days from the date the motion for rehearing is overruled by the commissioner or by operation of law.

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

§153.73. Testimony and Evidence; Briefs; Issues [Proposed Findings, Conclusions, and Orders].

(a) Appeals to the board shall be considered on the record made before the commissioner and any briefs filed by the parties. No new evidence or oral arguments will be heard. If the appealing party desires to submit a brief, it must be filed with the notice of appeal. Reply briefs must be filed within 15 days from the date the notice of appeal was filed with the commissioner. [Proposed findings of fact and conclusions of law shall be filed by the appealing party with the notice of appeal, along with a proposed order stating accurately the decision desired. The board may dismiss any appeal which does

not contain proposed findings of fact and conclusions of law and a proposed order stating accurately the decision desired.]

(b) No issue may be appealed to the State Board of Education which was not presented to the commissioner of education in the appealing party's motion 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 March 13, 1985.

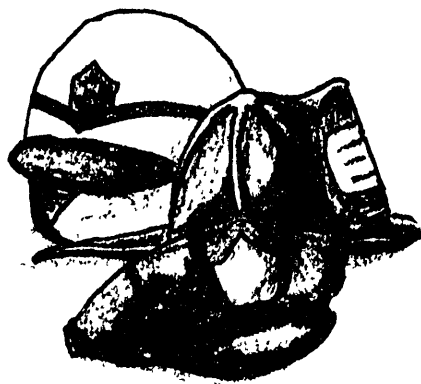
TRD-852276 W. N. Kirby
Interim Commissioner of
Education

Proposed date of adoption:

May 11, 1985

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

★ ★ ★



Chapter 169. Relationship with University Interscholastic League

★ 19 TAC §169.1

The Texas Education Agency proposes new §169.1, concerning review and implementation of rules relating to extracurricular activities. The new section delineates the responsibilities of the University Interscholastic League (UIL) and the Texas Education Agency (TEA) with respect to enforcement of UIL rules. The new section also defines the timelines for submission of UIL rules to the State Board of Education for consideration, provides for quarterly reports of complaints of violation of rules concerning extracurricular activities to the State Board of Education's Committee for Students, and requires regular distribution to school districts of technical assistance documents interpreting the rules.

Richard Bennett, associate commissioner for finance, has determined that for the first five-year period the rule will be in ef-

fect 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 \$2,000 each year in 1986-1990. The cost includes materials and postage for document printing and distribution. There is no anticipated economic effect on local government or small businesses.

Beverly J. Bardsley, policy development director, 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 as proposed is a clear delineation of the responsibilities of the UIL and the TEA in respect to enforcement of UIL rules and an orderly procedure for State Board of Education approval of UIL rules. There is no anticipated economic cost to individuals who are required to comply with the rule as proposed.

Comments on the proposal may be submitted to 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 the proposed section must be received by the commissioner of education no more than 15 calendar days after notice of the proposed change in rules has been published in the *Texas Register*.

The new section is proposed under the Texas Education Code, §21.921, which requires the University Interscholastic League rules to be submitted to the State Board of Education for approval, disapproval, or modification.

§169.1. Review and Implementation of Rules Relating to Extracurricular Activities.

(a) The State Board of Education shall review all rules and procedures submitted by the University Interscholastic League (UIL). It shall either approve, disapprove, or modify any rule or procedure submitted.

(b) The UIL shall investigate and resolve all complaints of violations of its rules or of those State Board of Education rules which relate to student participation in or practice for UIL activities. Such violations will be reported to the commissioner of education.

(c) University Interscholastic League rules and procedures may be submitted for review and approval by the State Board of Education at least twice a year. All proposals must be submitted to the commissioner of education at least 60 days before the board meeting at which action on them is to be scheduled.

(d) The commissioner of education shall prepare a summarized report of complaint of violations arising under §97.113 of this title (relating to Student Absences for Extracurricular or Other Activities) which shall be presented quarterly to the

Committee for Students of the State Board of Education.

(e) A document containing the most commonly asked questions and their answers will be prepared by the commissioner of education and distributed quarterly to school districts.

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

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

TRD-852277 W. N. Kirby
Interim Commissioner of
Education

Proposed date of adoption:

May 11, 1985

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

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TITLE 22. EXAMINING BOARDS

Part XIV. Texas Optometry Board

Chapter 275. Continuing Education

★22 TAC §275.2

The Texas Optometry Board proposes amendments to §275.2, concerning general requirements of continuing education. This section allows for continuing education to be obtained through correspondence courses and in the area of practice management, and establishes a recommended maximum number of hours for correspondence courses and practice management instruction.

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 is in effect the public benefit anticipated as a result of enforcing the rule is that licensees will be made aware of the recommended maximum number of hours for continuing education credit by correspondence course and recommended maximum number of hours in the area of practice management instruction. Licensees must obtain 12 hours of continuing education for license renewal and may obtain the recommended number of not more than four hours in these areas, with the remainder being directly related to optometry education. 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 amendments are proposed under Texas Civil Statutes, Article 4552, §2.14, which provide the Texas Optometry Board with the authority to promulgate procedural and substantive rules.

§275.2. Required Education.

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

(e) Correspondence courses. A recommended maximum of four hours of credit per calendar year for correspondence courses sponsored and graded by accredited optometry colleges.

(f) Practice management courses. A recommended maximum of four hours of credit per calendar year for practice management courses.

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 March 12, 1985.

TRD-852259 Lois Ewald
Executive Director
Texas Optometry Board

Earliest possible date of adoption:

April 22, 1985

For further information, please call
(512) 835-1938.

★ ★ ★

Part XXIV. State Board of Veterinary Medical Examiners

Chapter 573. Rules of Professional Conduct

★22 TAC §573.2

The State Board of Veterinary Medical Examiners proposes an amendment to §573.2, concerning encroachment upon the practice of another veterinarian. This amendment eliminates the awkward language and condenses the meaning of the regulation.

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

Mr. Shipman 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 is the elimination of awkward language and condensation of the meaning of the regulation. 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 Roger D. Shipman, Executive Secretary, State Board of Veterinary Medical Examiners, 3810 Medical Parkway, Suite 119, Austin, Texas 78756, (512) 458-1183.

The amendment is proposed under Texas Civil Statutes, Article 7465a, §8(a), which provide the State Board of Veterinary Medical Examiners with the authority to adopt, alter, or amend rules of professional conduct appropriate to establish and maintain a high standard of integrity.

§573.2. *Avoidance of Encroachment upon the Practice of Another Veterinarian.* A veterinarian may not make any effort, direct or indirect, which in any manner is calculated to influence the sound professional judgment [way encroaches upon the practice] of another veterinarian [is a violation of these rules]. It is the right of any veterinarian, without fear or favor, to give proper advice to those seeking relief against unfaithful or neglectful veterinary services, generally after communication with the veterinarian of whom complaint is made.

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 28, 1985.

TRD-852283 Roger D. Shipman
Executive Secretary
State Board of
Veterinary Medical
Examiners

Earliest possible date of adoption:
April 22, 1985
For further information, please call
(512) 458-1183.

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★22 TAC §573.12

The State Board of Veterinary Medical Examiners proposes an amendment to §573.12, concerning prohibition of the display of college degrees, certificates, or titles not approved by the board. The amendment limits the scope of the regulation to conform with the Veterinary Licensing Act.

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

Mr. Shipman 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 limitation of the scope of the regulation to conform with the Veterinary Licensing 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 Roger D. Shipman, Executive Secretary, State Board of Veterinary Medical Examiners, 3810 Medical Parkway, Suite 119, Austin, Texas 78756, (512) 458-1183.

The amendment is proposed under Texas Civil Statutes, Article 7465a, §8(a), which provide the State Board of Veterinary Medical Examiners with the authority to adopt, alter, or amend rules of professional conduct appropriate to establish and maintain a high standard of integrity.

§573.12. *Display of Degree, Certificate, or Title from Approved Institutions Only.* A licensed veterinarian shall not use or display any college degree, certificate, or title pertaining to veterinary medicine granted by any institution not approved by the State Board of Veterinary Medical Examiners.

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 28, 1985.

TRD-852284 Roger D. Shipman
Executive Secretary
State Board of
Veterinary Medical
Examiners

Earliest possible date of adoption:
April 22, 1985
For further information, please call
(512) 458-1183.

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★22 TAC §573.26

(Editor's note: The text of the following rule proposed for repeal will not be published. The rule may be examined in the offices of the State Board of Veterinary Medical Examiners, 3810 Medical Parkway, Suite 119, Austin, or in the Texas Register office, Room 503E, Sam Houston Building, 201 East 14th Street, Austin.)

The State Board of Veterinary Medical Examiners proposes the repeal of §573.26, concerning corporate and assumed names. This section does not reflect current public policy concerning advertising.

Roger D. Shipman, 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.

Mr. Shipman also has determined that for each year of the first five years the repeal is in effect there is no public benefit anticipated as a result of the repeal. There is no anticipated economic cost to individuals as a result of the repeal.

Comments on the proposal may be submitted to Roger D. Shipman, Executive Secretary, State Board of Veterinary Medical Examiners, 3810 Medical Parkway, Suite 119, Austin, Texas 78756, (512) 458-1183.

The repeal is proposed under Texas Civil Statutes, Article 7465a, §8(a), which provide the State Board of Veterinary Medical Examiners with the authority to adopt, alter, or amend rules of professional conduct appropriate to establish and maintain a high standard of integrity.

§537.26. *Corporate and Assumed Name.*

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 28, 1985.

TRD-852375 Roger D. Shipman
Executive Secretary
State Board of
Veterinary Medical
Examiners

Earliest possible date of adoption:
April 22, 1985
For further information, please call
(512) 458-1183.

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★22 TAC §573.28

The State Board of Veterinary Medical Examiners proposes amendments to §573.28, concerning advertising. This section reflects changing public policy concerning advertising by the professions.

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

Mr. Shipman 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 the reflection of changing public policy concerning advertising by the professions. 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 Roger D. Shipman, Executive Secretary, State Board of Veterinary Medical Examiners, 3810 Medical Parkway, Suite 119, Austin, Texas 78756, (512) 458-1183.

The amendments are proposed under Texas Civil Statutes, Article 7465a, §8(a), which provide the State Board of Veterinary Medical Examiners with the authority to adopt, alter, or amend rules of professional conduct appropriate to establish and maintain a high standard of integrity.

§573.28. *Advertising.* A veterinarian may not engage in advertising that is false, deceptive, or misleading. A false, deceptive, or misleading statement or claim includes, without limitation, a statement or claim which:

[(a) Definitions. The following words and terms, when used in these sections, shall have the following meanings, unless the context clearly states otherwise:

(1) Advertising—Newspaper, magazine, and periodical announcements and listings; professional cards; professional announcement cards; office and other signs; letterheads; telephone and other directory listings; and any other form of communication designed to inform the general public about the availability, nature, or prices of products or services or to attract clients.

[(2) Solicitation—Advertising intentionally directed to specific individuals.

[(b) Prohibitions. A veterinarian shall not, on behalf of himself, his partner, his associate, or any other veterinarian:

[(1) seek to attract clients as a private practitioner by any form of solicitation through the exertion of undue influence, pressure for an immediate response, intimidation, or overreaching, or if any nonclient has given the veterinarian notice that he does not want to receive communications from the veterinarian; or

[(2) use or participate in the use of any form of advertising or solicitation which contains a false, deceptive, or misleading statement or claim.

[(c) Particular acts, statements, or situations constituting "false, deceptive, or misleading claim." A "false, deceptive, or misleading statement or claim" includes without limitation a statement or claim which:]

(1) (No change.)

[(2) contains a testimonial about or endorsement of a veterinarian or a combi-

nation of a veterinarian's name or photograph, and his identity as veterinarian as part of a testimonial, endorsement, or sales promotion of a veterinary or nonveterinary product or service, except that this prohibition does not apply to endorsements of valid, nonprofit charitable organizations whose purpose is to promote veterinary medicine and animal health;

[(3) refers to secret methods of treatment or special services which characterize the ways of a charlatan;]

[(2) [(4)] concerns illegal transactions;

[(5) is not identified as a paid advertisement or solicitation unless it is apparent from the context that it is a paid advertisement or solicitation;

[(6) contains statistical data or other information based on past performance or case reports;

[(7) contains a statement of opinion as to the quality of professional services or a representation regarding the quality of professional services which is not susceptible of verification to the public;]

(3) contains a statement of opinion of the quality of professional veterinary services or of veterinary facilities which is not subject to verification by the public and would tend to create a false impression of the qualities of the professional services or facilities;

[(4) [(8)] states or implies that a veterinarian is a certified or recognized specialist unless he is board-certified in such specialty;

[(5) [(9)] intends to create [is intended] or is likely to create an inflated or unjustified expectation;

[(6) [(10)] contains a material misrepresentation of fact;

[(7) [(11)] omits [to state] any material fact necessary which makes [to make] the statement [not] misleading in light of the circumstances under which it is made;

[(12) would result in the violation of any law or regulation or a contractual or other obligation of any person through whom the veterinarian seeks to communicate;]

[(8) [(13)] contains a representation or implication that is likely to cause an ordinary prudent member of the public [layperson] to misunderstand or be deceived by failure [or fails] to contain reasonable warnings [or disclaimers] necessary to make a representation or implication nondeceptive. [not deceptive; or

[(14) relates to professional fees other than:

[(A) a statement of the fixed fee charged for a specific professional service, provided that the description of such service would not be misunderstood or be deceptive and that the statement indicates whether additional fees may be incurred for related professional services which may be required in individual cases; or

[(B) a statement of the range of fees for specifically described professional services, provided that there is reasonable disclosure of all relevant variables and considerations affecting the fees so that the statement would not be misunderstood or be deceptive, including without limitation of indication whether additional fees may be incurred for related professional services which may be required in individual cases.]

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 March 15, 1985.

TRD-852376

Roger D. Shipman
Executive Secretary
State Board of
Veterinary Medical
Examiners

Earliest possible date of adoption:

April 22, 1985

For further information, please call
(512) 458-1183.

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TITLE 34. PUBLIC FINANCE

Part I. Comptroller of Public Accounts

Chapter 3. Tax Administration

Subchapter O. State Sales and Use Tax

★ 34 TAC §3.307

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

The Comptroller of Public Accounts proposes the repeal of §3.307, concerning florists. The section has been completely revised and is being proposed as a new section. Therefore, it is necessary for the current rule to be repealed.

Billy Hamilton, revenue estimating director, has determined that for the first five-year period the repeal will be in effect there will be no fiscal implications for state or local government. This rule is repealed under the Tax Code, Title 2, and no statement of the fiscal implications for small businesses is required.

Mr. Hamilton 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 new information

for the public regarding its tax responsibilities under changes made by the legislature. There is no anticipated economic cost to individuals as a result of the repeal.

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

This repeal is proposed 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.

§3.307. Florists.

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 March 18, 1985.

TRD-852377 Bob Bullock
Comptroller of Public
Accounts

Earliest possible date of adoption:
April 22, 1985
For further information, please call
(512) 475-1913.

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The Comptroller of Public Accounts proposes new §3.307, concerning florists. The new section is proposed to state more clearly the comptroller's position on sales tax as it applies to in-state, out-of-state, and wire-service deliveries of floral arrangements. Effective October 2, 1984, delivery charges became taxable. This is addressed in the new section. Also addressed are city and metropolitan transit authority (MTA) rules for florists.

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

Mr. Hamilton also has determined that for each year of the first five years the rule as proposed is in effect the public benefit anticipated as a result of enforcing the rule as proposed is the provision of new information regarding tax responsibilities under changes made by the legislature. 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 D. Carolyn Busch, Director, Tax Administration, P.O. Box 13528, Austin, Texas 78711.

The amendment is proposed 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.

§3.307. Florists.

(a) Sales tax is due on amounts charged by a Texas florist for taxable items delivered within Texas even though the florist taking the order instructs an unrelated florist to make delivery. The tax is not due on the amount received by an unrelated florist making the delivery.

(b) Sales tax is due on amounts charged by a Texas florist for taxable items purchased in Texas for delivery outside the state. Tax is due whether the items are delivered by the florist who took the order or by an unrelated florist outside Texas who is instructed to make delivery.

(c) Use tax is not due on amounts received by a Texas florist who makes deliveries in Texas at the instructions of an unrelated florist taking an order outside Texas.

(d) Delivery charges, whether charged by a florist taking an order or by an unrelated florist, are taxable even though stated separately from charges for taxable items.

(e) Sales tax is not due on separately stated charges for telephone calls or telegrams. Sales tax is not due on the purchase of wires, stems, vases, etc., which are later sold as part of a flower arrangement. See §3.300 of this title (relating to Manufacturing; Custom Manufacturing; Fabricating; and Processing).

(f) City sales tax is due to the city of a florist taking an order for a taxable item. City sales tax is not due to the city of an unrelated florist making delivery.

(g) If a florist has more than one place of business, city sales tax is due based upon the city where the place of business taking the order is located.

(h) City use tax is not due when a florist located outside a local taxing city takes an order and delivers the order into a local taxing city or instructs an unrelated florist to make delivery in a local taxing city. City use tax is not due on amounts received by Texas florists who make delivery in a local taxing city at the instructions of an unrelated florist taking an order either outside the state or outside a local taxing city.

(i) Metropolitan transit authority (MTA) sales tax is due if a florist inside an MTA takes an order for a taxable item even though delivery is outside the authority.

(j) Metropolitan transit authority use tax is not due if a florist located outside an authority delivers a taxable item inside an authority or instructs an unrelated florist to make delivery in an authority.

(k) Metropolitan transit authority sales tax is due to the authority in which a

florist is located even though delivery of a taxable item is inside another authority.

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 March 18, 1985.

TRD-852378 Bob Bullock
Comptroller of Public
Accounts

Earliest possible date of adoption:
April 22, 1985
For further information, please call
(512) 475-1913.

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TITLE 40. SOCIAL SERVICES AND ASSISTANCE
Part I. Texas Department of Human Resources
Chapter 33. Early and Periodic Screening, Diagnosis, and Treatment
Subchapter S. Dental Utilization Review

★40 TAC §33.334

The Texas Department of Human Resources (DHR) proposes an amendment to §33.334, concerning reporting utilization review findings to EPSDT dental providers.

The DHR is deleting the 30-day time limit for notifying providers about utilization review findings. In cases where the review findings are dependent upon the advice and recommendations of other professional dental or governmental organizations, the 30-day requirement is impractical. Also, administrative action taken by DHR may be the result of and after action taken by these other organizations.

David Hawes, programs budget and statistics director, has determined that there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the rule.

Mr. Hawes also has determined that for each year of the first five years the rule is in effect the anticipated public benefit is the elimination of organizational conflicts and expedition of procedures for handling cases of providers with questionable or unacceptable review findings. Recipients previously served or to be served by these providers will benefit. There is no anticipated economic cost to

individuals who are required to comply with the rule as proposed.

Comments on the proposal may be sent to Cathy Rossberg, Administrator, Policy Development Support Division—063, Texas Department of Human Resources, P.O. Box 2960, Austin, Texas 78769, mail code 153-E. For specific program-related questions, please contact Bridget Cook at (512) 450-4127.

The amendment is proposed under the Human Resources Code, Title 2, Chap-

ter 22 and Chapter 32, which authorizes the department to administer public assistance and medical programs.

§33.334. *Report of Findings.* The dental program utilization review staff must notify the provider in writing of the review findings [no later than 30 days after the review]. The provider must be notified of any administrative action to be taken by the department. This notification may occur after the action taken by other professional dental or governmental organizations.

This agency hereby certifies that the proposal has been reviewed by legal coun-

sel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on March 15, 1985.

TRD-852347

Marlin W. Johnston
Commissioner
Texas Department of
Human Resources

Earliest possible date of adoption:
April 22, 1985
For further information, please call
(512) 450-3766.

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Withdrawn

Rules An agency may withdraw proposed action or the remaining effectiveness of emergency action on a rule by filing a notice of withdrawal with the *Texas Register*. The notice is effective immediately upon filing. If a proposal is not adopted or withdrawn within six months after the date of publication in the *Register*, it will automatically be withdrawn by the *Texas Register* office and a notice of the withdrawal will appear in the *Register*.

TITLE 19. EDUCATION
Part II. Texas Education
Agency
Chapter 149. Education
Personnel Development
Subchapter D. Teacher Career
Ladder

★19 TAC §149.71

The Texas Education Agency has withdrawn from consideration for permanent adoption proposed new §149.71, concerning teacher career ladder. The text of the new section as proposed appeared in the February 5, 1985, issue of *Texas Register* (10 TexReg 361).

Issued in Austin, Texas, on March 15, 1985.

TRD-852366

Beverly J. Bardsley
Director for Policy
Development
Texas Education
Agency

Filed: March 15, 1985
For further information, please call
(512) 475-7077.

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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 I. Coordinating Board,
Texas College and
University System
Chapter 25. Administrative
Council
Subchapter C. Administration of
Retirement Annuity Programs
★ 19 TAC §25.78

The Coordinating Board, Texas College and University System adopts amendments to §25.78, without changes to the proposed text published in the January 25, 1985, issue of the *Texas Register* (10 TexReg 274).

The amendments ensure that employees of higher education receive more useful information each year on their accounts. The amendments update the annual reporting requirements to add information on custodial accounts, eliminate the annual report to the institution, require a quarterly confirmation of receipt of funds to be sent to each participant, and require reporting of each transfer to the participant upon its execution.

No comments were received regarding adoption of the amendments.

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

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

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

TRD-852260 James McWhorter
Executive Secretary
Coordinating Board,
Texas College and
University System

Effective date: April 3, 1985

Proposal publication date: January 25, 1985

For further information, please call
(512) 475-2033.



Part II. Texas Education
Agency
Chapter 97. Planning and
Accreditation
Subchapter D. Principles,
Standards, and Procedures for
the Accreditation of School
Districts
Additional Accreditation
Regulations
★ 19 TAC §97.113

The Texas Education Agency (TEA) adopts amendments to §97.113, with changes to the proposed text published in the December 21, 1984, issue of the *Texas Register* (9 TexReg 6413).

In subsection (a), the cross-reference to another section of the Texas Administrative Code (TAC) is updated.

Subsection (b) is amended to allow exceptions, not to exceed five days, to the 10-absence limitation for postdistrict competitions for the University Interscholastic League (UIL) and for other organizations approved by the commissioner of education. The proposed amendments allowed such exceptions for UIL activities only.

Subsection (c) is revised to reflect that, to be eligible to participate in extracurricular activities at the beginning of the school year, students in grades seven-

nine must have been promoted in accordance with board rules on promotion and alternatives to social promotion. For grades 10-12, the number of credits required at the beginning of the year is phased in over the next two years.

In subsection (e), the phrase "course grade average of at least 70 in each course" is amended to "course grade average for that six weeks of at least 70 in each course."

Subsection (n) is amended to clarify that the course grade average in question is for a six-week period.

Subsection (k) is revised to limit practice in extracurricular activities to eight hours per school week per activity. Beginning September 1, 1985, the section limits the scheduling of extracurricular activities to not more than one contest or performance per activity per student per school week. The proposed 20-hour limit per week on a combination of activities per student is not included in the adopted section.

Subsection (l) is amended to require notice of progress to the parent or guardian of a student whose grade is deemed borderline by the district at the end of the first three weeks of a grading period, as well as notice for students whose grades are lower than 70 at that point in the grading period.

Subsection (n) and subsection (o) are new, and address eligibility for the fourth six-weeks period of the 1984-1985 school year only. These two subsections were adopted on an emergency basis in January 1985, and the text shown here is identical to that of the emergency adoption.

The Texas Education Code, §21.920, directs the State Board of Education to limit participation in and practice for extracurricular activities during the school day and the school week.

Students who do not make a grade of 70 or better in their courses will be suspended from participation in extracurricular activities until the end of a six-weeks period in which the student achieved passing grades for all courses. Students may not be absent for a school-related or sanctioned activity from any class more

than 10 times per year, except for post-district competitions in UIL or other approved activities. Practice for extracurricular activities must be limited during the school week to eight hours per student per activity. Beginning September 1, 1985, districts may not schedule more than one contest or performance per activity per student per week. Districts must send notice of progress to parents or guardians of students who have grades below 70 or grades that are borderline at the third week of each six-weeks period.

W. Q. Richards, member of the board of the Paducah Independent School District (ISD), and representing the board and the local 4-H organization, commented that school intrusion into private and community life is not in the public interest or in the interest of the education community. The only legitimate school concern should be class attendance; and the activities of such organizations should be placed under the 10-day extracurricular limitation at local discretion only, and no other requirements in the rule should be applicable to activities sponsored by nonschool organizations. Mr. Richards also expressed concern about statewide approval of such organizations, since the quality of the programs might vary from one local area to another.

Organizations which require students to miss school must get the approval of the commissioner of education and must agree to abide by all the requirements of the rule if they want to be included in the 10 permissible absences per year. Organizations that have nonschool related activities do not need to seek the approval of the commissioner of education and would not be included in the 10-day rule.

The Vocational Agriculture Teachers Association of Texas and the Texas Music Educators Association requested that students who participate in postdistrict competition sponsored by organizations other than the UIL be eligible for the same exceptions to the 10-absence limitation that are allowed for students who participate in post-UIL district competition.

Subsection (b) is revised as requested by these organizations.

Public school superintendents, principals, and athletic coaches requested that the number of credits toward graduation which a student must have earned to be permitted to participate in extracurricular activities at the beginning of the school year be made consistent with the graduation requirements stated in 19 TAC Chapter 75.

Subsection (c)(4)-(6) is revised as requested by these persons.

Public school superintendents, principals, and athletic directors commented that the requirements in §97.113(k), which limited hours of practice for and participation in extracurricular activities during the school week, was too restrictive, required extensive changes in previously set schedules, and was too difficult to enforce. These school personnel requested that this part of the rule be stated more generally and that local districts be directed to adopt local policies for limiting practice and performance time during the school week.

A substitute for subsection (k) was adopted by the State Board of Education. The substitute was designed to be easier to administer and enforce and the effective date for that part of the rule requiring scheduling changes was moved back to September 1, 1985. The limit of eight hours practice time per activity per school week was retained by the board, but the requirement that performance time and travel time be counted against practice time was deleted.

The amendments are adopted under the Texas Education Code, §11.26(a)(5), which authorizes the State Board of Education to establish regulations for the accreditation of school districts; and the Texas Education Code, §21.920, which directs the State Board of Education by rule to limit participation in and practice for extracurricular activities during the school day and the school week.

§97.113. Student Absences for Extracurricular or Other Activities.

(a) School districts shall not schedule, nor permit students to participate in, any school-related or sanctioned activities on or off campus that would require, permit, or allow a student to be absent from class in any course more than 10 times during the 175-day school year (full-year course). Noninstructional school activities must be held outside of minimum 55-minute scheduled academic class periods in grades 9-12, 45-minute scheduled academic class periods in grade seven and grade eight, and six hours of academic class periods in grades four-six, or be included in one of the six allowable shortened schedules referred to in §105.71 of this title (relating to Days of Operation Required).

(b) A school district shall inform the commissioner of education of specific exceptions to the 10 absences limitation stated in subsection (a) of this section on behalf of individual students who are competing in University Interscholastic League (UIL)-sponsored activities. This exception must be based on circumstances which are unforeseen and which result from the students' earning the right to compete at post-UIL district levels. Exceptions shall not exceed a total of five additional absences per year. Participants in postdistrict competitions sponsored

by other organizations approved by the commissioner of education shall also be eligible for exceptions in accordance with this subsection. Exceptions will not be granted just to allow students who have not earned the right to compete at the postdistrict level to participate in more district-level activities than permitted under the 10 absences limitation.

(c) A student in grades 7-12 may participate in extracurricular activities on or off campus at the beginning of the school year only if the student has earned the cumulative number of credits in state-approved courses indicated in this subsection:

(1) beginning at the seventh grade year—have been promoted from the sixth grade to the seventh;

(2) beginning at the eighth grade year—have been promoted from the seventh grade to the eighth;

(3) beginning at the ninth grade year—have been promoted from the eighth grade to the ninth;

(4) beginning of the 10th grade year—at least five credits toward graduation;

(5) beginning of the 11th grade year—at least nine credits toward graduation for the 1985-1986 school year and 10 credits each year thereafter; and

(6) beginning of the 12th grade year—at least 13 credits toward graduation for the 1985-1986 school year, at least 14 credits for the 1986-1987 school year and 15 credits each year thereafter.

(d) In order to be eligible to participate in an extracurricular activity event for a six-weeks period following the initial six weeks period of a school year, a student must not have a recorded grade average lower than 70 on a scale of 0-100 in any course for that preceding six-weeks period.

(e) A student whose recorded six weeks grade average in any course is lower than 70 at the end of a six-weeks period shall be suspended from participation in any extracurricular activity event during succeeding six-weeks periods until the end of a six-weeks period during which such student achieves a course grade average for that six weeks of at least 70 in each course, except the campus principal may remove this suspension if the class is identified as an honors class under the criteria state in §75.152(d) of this title (relating to Advanced High School Program), or advanced class as follows:

(1) English language arts: English IV academic (comp.), English IV academic (British literature), world literature, creative/imaginative writing, research/technical writing, debate III, public speaking III;

(2) other languages: other languages III, advanced languages I-IV;

(3) social studies: advanced social science problems;

(4) fine arts: art IV, theatre arts IV, band IV, orchestra IV, choral music IV, stage band IV, and music theory I-II;

(5) mathematics: trigonometry, elementary analysis, analytic geometry, precalculus, linear algebra, calculus; and

(6) science: physics, physics II, chemistry II, biology II.

(f) For the 1984-1985 school year, suspensions shall begin with the second six-weeks period of the spring semester based on a student's earning a grade lower than 70 in any course taken during the first six weeks of the spring semester. Such suspension shall become effective seven days after the last day of the six-weeks period during which the grade lower than 70 was earned.

(g) A student who has been suspended from extracurricular activity events pursuant to subsection (e) and subsection (f) of this section shall also be suspended from out-of-school practice in such extracurricular activities until such suspension from participation has been lifted.

(h) At the end of any six-weeks period in which a student has attained a course grade average for that six weeks of 70 or more in each course taken, any suspension from participating in extracurricular activities and/or suspension of out-of-school practice of extracurricular activities shall be removed.

(i) All UIL-sponsored activities are sanctioned as school-related activities and therefore come under the provisions of this section. The governing boards at the highest state level of any other organizations requiring student participation which cause a student to miss a class during the school day must request approval, in writing, from the commissioner of education. If approval of the organization is granted and the local board of trustees concurs, student participation in the organization's activities will be subject to all provisions of this section. If approval is not granted, any absences incurred by the student will be considered unexcused.

(j) School districts shall develop a policy which implements this section, including a provision regulating the number of times a student may be absent pursuant to subsection (a) of this section during any one semester course.

(k) Limitations on practice and performance shall be as follows.

(1) School districts shall adopt policies limiting extracurricular activities from the beginning of the school week through the end of the school week (excluding holidays) by scheduling no more than one contest or performance per activity per student and by limiting practice outside the school day to a maximum of eight hours per school week per activity except as specified in paragraph (2) of this subsection. For schools with limited facilities, exceptions may be made to the one contest or performance per activity by the commissioner of education. The rule concerning scheduling one contest or performance per activity per student per school week shall be effective September 1, 1985.

(2) Tournaments and postseason competition, as well as contests postponed by weather or public disaster, may also be scheduled during the school week. This subsection shall apply only to the UIL and other organizations sanctioned by the Central Education Agency in accordance with subsection (i) of this section.

(l) At the end of the first three weeks of a grading period, the school district shall send 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. The district shall make such information available to sponsors of extracurricular activities in which the student participates. The notice should stipulate that the student will have the remainder of the six-weeks period to bring the grade up to 70 or above, and that the student will be suspended from extracurricular activities if the grade is not brought up to 70 or above by the end of the six-weeks period. The district may require any student who falls within this subsection to attend tutorial sessions.

(m) Definitions of "curricular," "cocurricular," and "extracurricular" activities shall be as follows.

(1) Curricular activities occur within the regular school day and constitute the delivery of instruction as specified in Chapter 75 of this title (relating to Curriculum).

(2) Cocurricular activities are an extension of classroom instruction in which participation is by the entire class or a significant portion thereof. They relate directly to and enhance student learning of essential elements through participation, demonstration, illustration, and observation. Cocurricular activities are included in the teacher's instructional plan and are conducted by or supervised by a classroom teacher or other educational professional such as a librarian, school nurse, counselor, or administrator. Subsection (e) of this section shall not prevent students from participating in after-school cocurricular activities. Absences for participation in cocurricular activities that require a student to miss a class other than the sponsoring class or course shall be counted under the 10-day rule.

(3) Extracurricular activities are school-sponsored activities which are not directly related to instruction of the essential elements, but they may have an indirect relation to some areas of the curriculum. They offer worthwhile and significant contributions to a student's personal, physical, and social development. Participation in extracurricular activities is a privilege and not a right, and students must meet specific requirements in order to participate. Activities may include, but are not limited to, performance, contests, demonstrations, displays, and club activities.

(n) For the fourth six-weeks period in the 1984-1985 school year only, a student may participate in extracurricular or other

activities on or off campus that require absences from one or more classes only if:

(1) the student has and maintains a 70 average or better in at least four of the courses in which that student is enrolled for the prior and current semester;

(2) that student does not miss any class in which the student does not have and maintain at least a 70 average; and

(3) only courses approved for state graduation credit by the State Board of Education may be counted toward the number in which the student must have and maintain a 70 average or better. Courses in physical education or competitive athletics may not be counted.

(o) For the fourth six-week period in the 1984-1985 school year only, students shall be eligible to participate in UIL activities in accordance with current UIL rules and this subsection.

(1) The student is eligible to participate in a league varsity contest as a representative of a participant school if he or she meets current UIL requirements and the following:

(A) the student has attended more than one-half of the preceding semester and passed at least four one-half credit courses, including at least three separate courses, as required by the UIL constitution and contest rules, §411, as it was in effect for the fall semester of the 1984-1985 school year;

(B) the student is passing at least four one-half credit courses or the equivalent, including at least three separate courses, as required by the UIL constitution and contest rules, §412, as it was in effect for the fall semester of the 1984-1985 school year.

(2) To determine if a student is passing at least four one-half credit courses, the student's work from the beginning of the semester to seven days before the contest (or 30 days before a music contest) in which the student intends to participate must be considered.

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 March 15, 1985.

TRD-852368

W. N. Kirby
Interim Commissioner of
Education

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

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**Chapter 105. Foundation
School Program
Subchapter D. School Year**

★ 19 TAC §105.71

The Texas Education Agency adopts amendments to §105.71, with changes to the proposed text published in the January 25, 1985, issue of the *Texas Register* (10 TexReg 281).

Subsection (a)(1)(F) is amended to allow school districts to shorten class periods to 35, rather than 45, minutes. There are no other changes to the text.

The section concerns the days of operation required by school districts and incorporates material which previously was contained in §105.51 and §117.1, both of which have been repealed. The section also incorporates provisions of House Bill 72, 68th Legislature, 2nd Called Session, 1984, which requires that classes not start before September 1 each year.

The section specifies that if districts offer two semesters, the semesters must be 86 to 89 days long. For districts which offer three semesters, the semesters must be approximately 58 days each.

Subsection (a)(1)(F) authorizes local school boards to shorten the school day for any reason acceptable to the board, not only for school-related activities. Any class period may not be shortened to less than 35 minutes in grades 9-12. This procedure is to be used no more than six times per year and is to be so noted in the minutes of the local school board of trustees. Districts which have scheduled class periods longer than 55 minutes may shorten periods to 55 minutes at local district discretion, without being subject to the six-times-per-year limit. School boards may authorize shortened sessions during the first four weeks of the school year at the first grade level, at local district discretion. Local boards can designate not more than three days as "senior days" for the 1984-1985 school year.

In addition to the 175 instructional days, for professional and paraprofessional personnel, a total of not less than eight days must be allowed for inservice training and for preparation related to the instructional program of the district. Two preparation days must immediately precede the opening of schools for the regular term, and one preparation day must immediately follow the end of each semester. Teachers cannot be required to participate in training or other activities outside the classrooms on preparation days.

§105.71. Days of Operation Required.

(a) Regular school program.

(1) Instructional program.

(A) All school districts shall operate on the basis of a semester system, with the schools being in operation two or three semesters during each school year, providing not less than 175 days of instruction for students.

(i) If a district offers two semesters, each semester must consist of from 86 to 89 days.

(ii) If a district offers three semesters, the three semesters must consist of approximately 58 days each.

(B) All school districts shall provide not less than 175 days of instruction for students.

(C) The first day of instruction each school year shall not be earlier than September 1.

(D) The school calendar shall be arranged so that the minimum hours of instruction required by Chapter 75 of this title (relating to Curriculum) are met.

(E) The last two days of each semester may be set aside for the purpose of giving final examinations in grades where classroom instruction is on a departmentalized basis provided a formalized examination schedule is established.

(F) With the approval of the local school board of trustees, a school may operate on an abbreviated day (not to be confused with half-day sessions). Where it is determined by the local board, in order to meet all classroom assignments, the local board may shorten each class period for any reason acceptable to the local board of trustees. Any class period may not be shortened to less than 35 minutes in grades 9-12. This procedure is to be used no more than six times per year and is to be so noted in the minutes of the local school board of trustees. Districts which have scheduled class periods longer than 55 minutes may shorten periods to 55 minutes at local district discretion, without being subject to the six times per year limit.

(G) During the first four weeks of the school year, school boards may authorize shortened, but not less than half-day sessions for the first grade students to provide ample time for these students to make necessary adjustments to the school environment.

(H) Upon action by the board of trustees, recorded in the minutes, no more than three days of actual instruction for the 1984-1985 school term may be set aside for senior days.

(2) Inservice training and preparation program.

(A) In addition to the 175 instructional days, for professional and paraprofessional personnel, a total of not less than eight days shall be allowed for inservice training and for preparation related to the instructional program of the district.

(B) Two preparation days must immediately precede the opening of schools for the regular term, and one preparation

day must immediately follow the end of each semester. Teachers may not be required to participate in training or other activities outside the classrooms on preparation days.

(C) Inservice training shall be provided in accordance with Subchapter B of Chapter 149 of this title (relating to Inservice Education).

(3) Reduction in required number of days of operation in cases of disaster.

(A) The commissioner of education may approve the operation of schools for less than the number of days of instruction and inservice training and preparation otherwise required when disasters, floods, extreme weather conditions, fuel curtailments, or other calamities have caused the closing of the school.

(B) When schools are forced to close because of circumstances beyond the control of the school administrator, every effort must be made to reschedule the school calendar to comply with required days of operations. When such rescheduling would cause extreme hardships on students and faculty, the school administrator may request the commissioner of education to waive the statutory requirements for operations. The letter requesting this waiver shall clearly outline the efforts made to comply with the requirements and the hardships caused by complying with the statutory operational requirements. Each case will be judged based on the letter submitted by the school administrator. When waivers are granted the school district, correspondence granting the waiver should be appended to the superintendent's annual report.

(b) Special programs. Special programs may be approved by the commissioner of education to operate a specific number of days as required by the program.

(c) Holidays. All days of attendance or duty in this section are in addition to and do not include any holidays adopted by the local board of school trustees.

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 March 15, 1985.

TRD-852387

W. N. Kirby
Interim Commissioner
of Education

Effective date: April 5, 1985
Proposal publication date: January 25, 1985
For further information, please call
(512) 475-7077.

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Subchapter T. Requirements for Program Participation

★ 19 TAC §105.392

The Texas Education Agency adopts amendments to §105.392, with changes to the proposed text published in the January 25, 1985, issue of the *Texas Register* (10 TexReg 282).

In subsection (c)(B)(ii), the words "an additional two years" have been added and the proposed "five years" deleted, to clarify that the maximum waiver period is five years. There are no other changes in the text.

This amended section implements the new requirements in House Bill 72, 68th Legislature, 2nd Called Session, 1984, concerning student/teacher ratios.

Beginning with the 1985-1986 school year, the maximum class size for grades kindergarten, one, and two is 22 students. Beginning with the 1988-1989 school year, the maximum class size will be 22 students in grade three and grade four as well. The section provides for a waiver of this requirement in cases where lack of personnel or lack of facilities make compliance a hardship. However, the section requires each district requesting a waiver to submit a plan which indicates how the district intends to come into compliance with the law. Requests for renewal of a waiver must be accompanied by a progress report on the district's implementation of the plan for coming into compliance.

The section requires that, in general, districts plan to come into compliance within three years. In exceptional circumstances, the commissioner of education may approve a district plan to come into compliance within an additional two years.

No comments were received regarding adoption of the amendments.

The amendments are adopted under the Texas Education Code, §16.054, which establishes minimum class sizes for grades kindergarten through four, and which authorizes the commissioner of education to grant waivers to these class size requirements.

§105.392. Student/Teacher Ratios.

(a) General requirements. Each school district must employ a sufficient number of certified teachers to maintain an average ratio of not less than one teacher for each 20 students in average daily attendance. Teachers paid from federal funds shall not be counted in computing the average student/teacher ratio. Other professional personnel, such as counselors, supervisors, resource specialists, etc., will not be counted unless they are actually assigned to part-time teaching duties. The school dis-

trict must determine the number of contact hours which these persons spend in teaching and develop a total of full-time equivalents. The number of full-time teachers plus the number of equivalents from part-time teachers is used in determining the average ratio.

(b) Maximum class size.

(1) In accordance with the Texas Education Code, §16.054, beginning with the 1985-1986 school year a school district may not enroll more than 22 students in any one class at any one time in grades kindergarten, one, or two.

(2) Beginning with the 1988-1989 school year, a district may not enroll more than 22 students in any one class at any one time in grades three or four.

(3) Paragraph (1) and paragraph (2) of this subsection are applicable to the following classes: language arts, mathematics, social studies, science, and health.

(4) The limitations in this subsection shall not apply during the last 12 weeks of each school year.

(c) Waiver of maximum class size requirements.

(1) The commissioner of education may waive the class size requirements in subsection (b) of this section.

(2) When requesting a waiver a district must comply with the following requirements.

(A) The district must demonstrate to the commissioner of education that:

(i) the district has no acceptable qualified applicant and all reasonable efforts to locate personnel have been made; or

(ii) the district has no suitable classroom space available and all reasonable efforts to obtain additional classrooms have been made. This review of additional space shall include all campuses and the possible conversion of existing space from other uses.

(B) The district must submit a plan showing the steps the district will take to correct the shortage of teachers or facilities and indicating the time by which the district intends to come into compliance with the class size requirements in the Texas Education Code, §16.054.

(i) In general, district plans should enable the district to be in full compliance with class size requirements within three years.

(ii) In exceptional circumstances, the commissioner of education may approve a district plan to come into compliance within an additional two years.

(3) Waivers may be granted for no more than one semester at a time. After a district's initial waiver has been granted, and the district's plan for coming into compliance has been approved, districts may request a renewal of the waiver each semester by submitting assurances that the imple-

mentation of the district's approved plan is proceeding as scheduled.

(4) Requests for waivers shall be submitted at a time and in a form prescribed by the commissioner of education.

(5) On occasion, movement of students within or into the district may cause an individual class on a campus to exceed the maximum class size permitted by law. Districts in which such a situation occurs need not request a waiver, provided the class in question does not exceed 24 students, and provided no more than one class at a grade level on any campus is affected.

(6) The commissioner of education shall report to the State Board of Education each district which has been granted a waiver and the reason for which it was granted.

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 March 14, 1985.

TRD-852323

W. N. Kirby
Interim Commissioner
of Education

Effective date: April 4, 1985

Proposal publication date: January 25, 1985

For further information, please call
(512) 476-7077.

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★ 19 TAC §105.393

The Texas Education Agency adopts the repeal of §105.393, without changes to the proposal published in the January 25, 1985, issue of the *Texas Register* (10 TexReg 283).

The section concerned minimum staffing patterns. House Bill 72, 68th Legislature, 2nd Called Session, 1984, replaced the personnel unit allocation system for funding the Foundation School Program with a system based on per student base allocations. The requirements in this section for the placement of administrative personnel at certain pay grades no longer are applicable after passage of House Bill 72. The requirements for use of specified percentages of personnel units at the elementary level also no longer are applicable. Therefore, the section is repealed.

Low pupil/teacher ratios in the elementary grades are mandated by House Bill 72, and these new requirements are addressed in the amendments to §105.392.

No comments were received regarding adoption of the repeal.

The repeal is adopted under the Texas Education Code, §16.005, which autho-

rizes the State Board of Education to make rules for the administration of the Foundation School Program.

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

Issued in Austin, Texas, on March 14, 1985.

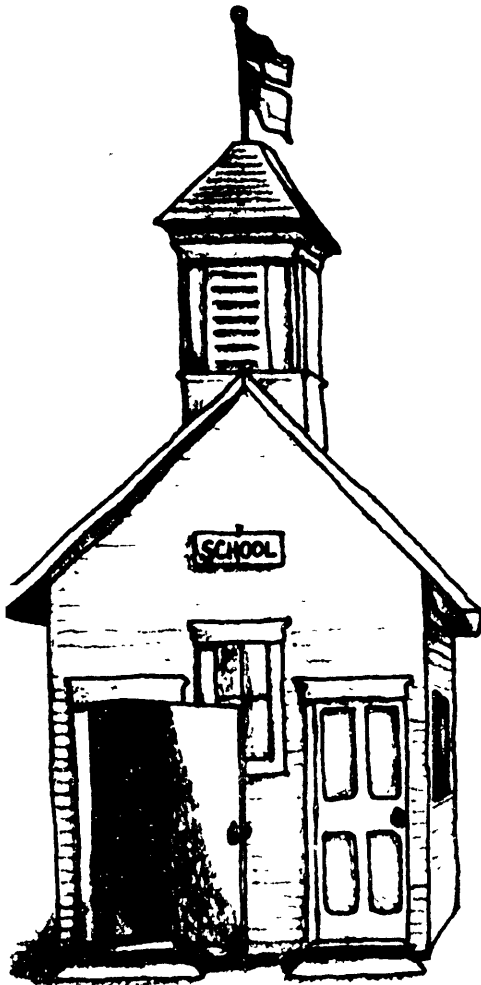
TRD-852324

W N. Kirby
Interim Commissioner of
Education

Effective date: April 4, 1985

Proposal publication date: January 25, 1985

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



Chapter 149. Education Personnel Development Subchapter C. Appraisal of Certified Personnel

★ 19 TAC §149.41

The Texas Education Agency adopts new §149.41, with changes to the proposed

text published in the January 25, 1985, issue of the *Texas Register* (10 TexReg 286).

In subsection (c), the words "for teachers" are added at the end of the first sentence. New subsection (d) is added to clarify that for certified personnel exempted from the career ladder, one appraisal conducted by one appraiser is required.

House Bill 72, 68th Legislature, 2nd Called Session, 1984, requires that all teachers and administrators in local school districts be appraised in the performance of their duties. The law requires the State Board of Education to develop and adopt an appraisal process and criteria on which to appraise teachers for career ladder level assignment purposes.

The new section requires all certified teachers and administrators to be appraised in the performance of their duties. In the 1984-1985 school year, at least one appraisal conducted by two appraisers is required for teachers. Beginning in school year 1985-1986, two appraisals are required, each conducted by two appraisers.

Subsection (d) clarifies that for certified personnel exempted from the career ladder, one appraisal conducted by one appraiser is required.

Subsection (e) requires at least one conference each year to be conducted by the appraiser(s) for each teacher or administrator appraised.

In the 1984-1985 school year, the Central Education Agency will make available suggested interim procedures and guidelines and sample appraisal instruments. However, since the sample instruments have not been validated, it will be the responsibility of each school district to select, in consultation with local teachers, the instruments most appropriate for the district.

It is the policy of the Texas Education Agency to establish and maintain an educational personnel development program to meet particular personnel needs of the state. Opportunities for professional growth targeted to identified needs will result in better qualified staff for all schools in the state. The implementation of the appraisal system has three main purposes: to improve the quality of instruction, to provide direction to staff for professional growth, and to provide information to serve as the basis for sound and defensible career ladder and employment decisions.

No comments were received regarding adoption of the new section.

The new section is adopted under the Texas Education Code, §13.302, which requires the State Board of Education to

adopt an appraisal process and criteria on which to appraise the performance of teachers for career ladder level assignment purposes; and the Texas Education Code, §13.303, which requires each school district to use the appraisal process and performance criteria developed by the State Board of Education in appraising teachers for career ladder level assignment purposes.

§149.41. Appraisal Requirements.

(a) Each teacher and administrator shall be appraised in the performance of his or her duties. This requirement shall apply to all certified personnel, as classified in the Texas Education Code, §16.056, Texas public education compensation plan, including the nondegreed teacher.

(b) The results of the annual appraisal of teachers shall be used for career ladder level assignment purposes.

(c) For school year 1984-1985, at least one appraisal conducted by two appraisers is required for teachers. Beginning in school year 1985-1986, there shall be no fewer than two appraisals during the year, each conducted by two appraisers, except as provided in the Texas Education Code, §13.303(c).

(1) For teacher appraisal, each appraiser shall conduct at least one classroom observation and complete a written record of that observation. At least two observations shall be summarized into each appraisal. All of the appraisals shall be summarized by the appraisers into one final report on the individual's annual performance. This report shall become a part of the individual's personnel file.

(2) It shall not be necessary for both (or all) appraisers to evaluate each individual on each item.

(d) Notwithstanding subsection (c) of this section, for certified personnel exempted from the career ladder under §149.71 (b)(7) of this title (relating to Assignment to the Teacher Career Ladder), at least one appraisal conducted by one appraiser is required.

(e) At least one conference each year shall be conducted by the appraiser(s) for each teacher or administrator appraised. The conference shall be diagnostic and prescriptive as provided in the Texas Education Code, §13.302(f).

(1) One appraiser may conduct the conference provided that the written records, completed by both appraisers and pertinent to the individual being appraised, are available for discussion during the conference, and that ratings do not fall below satisfactory in any category.

(2) If ratings fall to a level that would preclude maintenance or advancement on the career ladder, then, at the written request of the teacher, both appraisers shall be present at the conference with written records pertinent to the appraisal.

(f) For the 1984-1985 school year, and until the State Board of Education adopts an appraisal process, each school

district shall appraise staff using the evaluation instruments adopted by the local board of trustees. Each evaluator shall be trained in the appropriate use of those instruments. For teacher appraisals, those evaluation instruments shall use the performance categories as defined in the Texas Education Code, §13.304.

(g) For the 1984-1985 school year, and until the State Board of Education adopts an appraisal system, the Central Education Agency shall provide suggested interim procedures and implementation guidelines. The agency shall also make available sample instruments. Since the sample instruments have not been validated by the agency, it shall be the responsibility of each school district to select, in consultation with local teachers, the appraisal instruments deemed to be the most appropriate for 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 March 13, 1985.

TRD-852278 W. N. Kirby
Interim Commissioner of
Education

Effective date: April 3, 1985
Proposal publication date: January 25, 1985
For further information, please call
(512) 475-7077.

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TITLE 22. EXAMINING BOARDS Part XXIV. State Board of Veterinary Medical Examiners Chapter 573. Rules of Professional Conduct

★22 TAC §573.33

The State Board of Veterinary Medical Examiners adopts new §573.33, without changes to the proposed text published in the January 15, 1985, issue of the *Texas Register* (10 TexReg 160).

The new section incorporates the Veterinary Licensing Act with the Dangerous Drug Act provisions and the Controlled Substances Act provisions. The new section prohibits veterinarians from dispensing dangerous drugs or controlled substances for other than veterinary medical purposes.

No comments were received regarding adoption of the new section.

The new section is adopted under Texas Civil Statutes, Article 7465a, §8(a),

which provides the State Board of Veterinary Medical Examiners with the authority to adopt, alter, or amend rules of professional conduct appropriate to establish and maintain a high standard of integrity.

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-852287 Roger D. Shipman
Executive Secretary
State Board of
Veterinary Medical
Examiners

Effective date: April 4, 1985
Proposal publication date: January 15, 1985
For further information, please call
(512) 458-1183.

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TITLE 37. PUBLIC SAFETY AND CORRECTIONS

Part I. Texas Department of Public Safety

Chapter 3. Traffic Law Enforcement

Texas Registered Vehicles Not Requiring Inspection

★37 TAC §3.91

The Texas Department of Public Safety adopts new §3.91, without changes to the proposed text published in the February 5, 1985, issue of the *Texas Register* (10 TexReg 387).

Owners of imported motor vehicles are granted vehicle inspection reciprocity with member countries of the NATO Agreement of 1953. This section exempts motor vehicles imported into the United States from a foreign country by members of a military force or civilian component that is a party to the NATO Agreement of 1953 from the Texas vehicle inspection requirements. Imported private vehicles may have Texas registration and be operated by members or their dependents.

No comments were received regarding adoption of the new section.

The new section is adopted under Texas Civil Statutes, Article 6701d, Article XV, §142(c), which authorize the Texas Department of Public Safety to adopt rules necessary for the administration and enforcement of the Act, Article XV.

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 March 11, 1985.

TRD-852261 James B. Adams
Director
Texas Department of
Public Safety

Effective date: April 3, 1985
Proposal publication date: February 5, 1985
For further information, please call
(512) 465-2000.

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TITLE 40. SOCIAL SERVICES AND ASSISTANCE

Part I. Texas Department of Human Resources

Chapter 71. Public Information Disclosure of Information

★40 TAC §71.3

The Texas Department of Human Resources adopts amendments to §71.3, concerning the release of information to law enforcement officials. The amendments are based on federal regulations that specify the conditions for the release of food stamp case information. The department's Office of the Inspector General handles the inquiries.

The amendments are adopted under the Human Resources Code, Title 2, Chapter 22, which authorizes the department to administer public assistance programs. The amendments are adopted under federal requirements, effective April 1, 1985.

§71.3. *General Principle*.

(a) (No change.)
(b) Disclosure of information concerning applicants and recipients is allowed for purposes directly connected with:

(1)-(3) (No change.)
(4) law enforcement requests.

(A) Office of the Inspector General (OIG) investigators may release a current address of an AFDC client who is a fugitive felon to a state, local, or federal law enforcement officer requesting the information. A fugitive felon is any person for whom a felony arrest warrant (as defined in the Texas Penal Code) charging that person with a felony has been issued. The information may be released only under the following circumstances:

(i) the officer must provide the client's name and social security number;

(ii) the client must be a fugitive felon (as defined by the state);

(iii) the felon's location or apprehension is within the officer's official duties; and

(iv) the officer requests the information in the proper exercise of those duties.

(B) OIG investigators may release food stamp case record information to local, state, or federal law enforcement officials if the officials:

(i) are investigating an alleged violation of the Food Stamp Act;

(ii) make the request in writing; and

(iii) identify who is being investigated and the reason for the investigation.

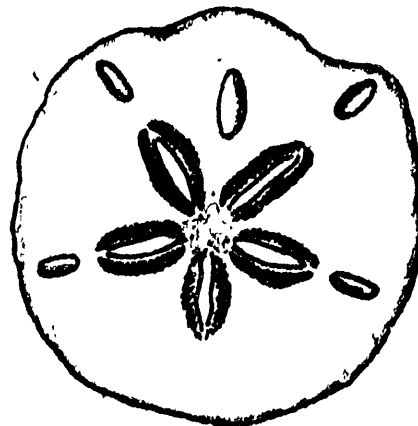
(c)-(d) (No change.)

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

Issued in Austin, Texas, on March 18, 1985.

TRD-852370 Marlin W. Johnston
Commissioner
Texas Department of
Human Resources

Effective date: April 1, 1985
Proposal publication date: N/A
For further information, please call
(512) 450-3768.



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State Board of Insurance Exempt Filings

State Board of Insurance Notifications Pursuant to the Insurance Code, Chapter 5, Subchapter L

(Editor's note: As required by the Insurance Code, Article 5.96 and Article 5.97, the Register publishes notices of actions taken by the State Board of Insurance pursuant to Chapter 5, Subchapter L, of the Code. Board action taken under these articles is not subject to the Administrative Procedure and Texas Register Act, and the final actions printed in this section have not been previously published as proposals.)

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

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

The State Board of Insurance has approved a filing by the Insurance Services Office, Inc., proposing a Small Business Boiler and Machinery Broad Form Program consisting of rules, rates, and a form. This program is designed to provide coverage for any commercial or institutional risk having a property value of \$5 million or less, excluding any cold storage plant, laundry, processing, or manufacturing risk (other than dry cleaners), power plant, sewage plant, water plant, or electric substation.

This filing is approved to become effective May 1, 1985, under the following rule of application: These changes are applicable to all small business boiler and machinery broad form policies effective on or after May 1, 1985. No policy effective prior to May 1, 1985, shall be endorsed or canceled and rewritten to take advantage of or to avoid the application of these changes except at the request of the insured and using the cancellation procedures applying on the date of such request.

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

Issued in Austin, Texas, on March 14, 1985.

TRD-852381 James W. Norman
Chief Clerk
State Board of
Insurance

Effective date: May 1, 1985
For further information, please call
(512) 475-2950.

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The State Board of Insurance has adopted amendments to the *Texas Automobile Manual* and standard provisions for automobile policies (June 1, 1981 edition).

The amendments adopted in the endorsement supplement to the *Texas Automobile Manual* involves the addition of a new 572. Texas personal auto policy-amendatory endorsement, the revision of

four existing endorsements, 568, 569, TX-03-15C, and TX-03-16C, and the redesignation of those endorsements to 568A, 569A, TX-03-15D, and TX-03-16D.

The amendment to the standard provisions for automobile policies (June 1, 1981, edition), involves the addition of a new 572. Texas personal auto policy-amendatory endorsement.

The effect of the changes and new endorsement is elimination of the \$1,000 limitation for property damage liability for loss to nonowned private passenger, trailer, pickup, panel truck, or van vehicles when the property damage loss was due solely to the liability assumed under a rental contract.

These amendments are effective May 1, 1985.

This notice is made pursuant to the Insurance Code, Article 5.96, which exempts it from the requirements of the Administrative Procedure and Texas Register Act.

Issued in Austin, Texas, on March 14, 1985.

TRD-852380 James W. Norman
Chief Clerk
State Board of
Insurance

Effective date: May 1, 1985
For further information, please call
(512) 475-2950.

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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 Department of Agriculture

Tuesday, March 26, 1985, 8 a.m. The Texas Agricultural Development Board of the Texas Department of Agriculture will meet in the conference room, ninth floor, Stephen F. Austin Building, 1700 North Congress, Austin. According to the agenda summary, the board will consider the minutes, determine project eligibility for the proposed agricultural bond project (producer requirement), and discuss the status of other agricultural bond projects.

Contact: Salvador Valdez, P.O. Box 12847, Austin, Texas 78711, (512) 475-1043.

Filed: March 15, 1985, 3:52 p.m.
TRD-852358

Wednesday, March 27, 1985, 9 a.m. The Texas Department of Agriculture will meet in Suite C, 5501 IH 40 West, Amarillo. According to the agenda, the department will conduct an administrative hearing to review the possible violation of the Texas Agriculture Code, §76.116(a)(1), by W. B. Betts, doing business as W. B. Betts Aerial Spraying, holder of a commercial applicator's license.

Contact: Dolores Alvarado Hibbs, P.O. Box 12847, Austin, Texas 78711, (512) 475-6686.

Filed: March 14, 1985, 3:44 p.m.
TRD-852311

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Texas Air Control Board

Thursday, March 28, 1985, 9:30 a.m. The Ad Hoc Permit Fee Review Committee of the Texas Air Control Board will meet in Room 332, 6330 Highway 290 East, Austin. According to the agenda, the committee will consider a staff recommendation for a fee

system to recover cost of issuing and enforcing permits.

Contact: Paul M. Shinkawa, 6330 Highway 290 East, Austin, Texas 78723, (512) 451-5711, ext. 354.

Filed: March 18, 1985, 1:59 p.m.
TRD-852408

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Automated Information Systems Advisory Council

Tuesday, April 2, 1985, 9 a.m. The Board of the Automated Information Systems Advisory Council will meet in the commissioners conference room, basement, 510 South Congress Avenue, Austin. Items on the agenda include approval of the previous meeting minutes, procurement proposals, House Bill 2375 (the Automated Information and Telecommunications Council), and the computer store. The board also will meet in executive session to consider personnel policies.

Contact: Charlotte D. Craig, 510 South Congress Avenue, Austin, Texas 78704, (512) 475-2362 or STS 822-2362.

Filed: March 18, 1985, 1:28 p.m.
TRD-852394

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State Board of Barber Examiners

Tuesday, April 2, 1985, 8 a.m. The State Board of Barber Examiners will meet in Room C-275, 1300 East Anderson Lane, Austin. According to the agenda, the board will consider the previous meeting minutes, interview out-of-state applicants, sign teacher certificates, and consider letters and

reports by the executive director. The board also will meet in executive session.

Contact: Jo King McCrorey, 1300 East Anderson Lane, Room C-275, Austin, Texas 78752, (512) 835-2040.

Filed: March 18, 1985, 9:46 a.m.
TRD-852382

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Texas Commission for the Deaf

Saturday, March 23, 1985, 8:30 a.m. The Board for Evaluation of Interpreters of the Texas Commission for the Deaf will meet in Room 212, 510 South Congress Avenue, Austin. Items on the agenda include action on the previous meeting minutes; discussion of revisions, additions, and deletions to the board's general rules of practice and procedure; a report on the Recertification Committee by Jon Ryan; a schedule of evaluation dates by Elizabeth Criswell; and the chairperson's report. The board also will meet in executive session to review alternate evaluation materials, certification applications, and evaluations and hear a report on evaluation criteria by LeWana Clark.

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

Filed: March 15, 1985, 9:01 a.m.
TRD-852327

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Texas School for the Deaf

Friday, March 22, 1985, 5:30 p.m. The Governing Board of the Texas School for the Deaf will meet in the boardroom, Administration Building, 1102 South Congress

Avenue, Austin. Items on the agenda include approval of the February 16 and March 8, 1985, minutes; business requiring board action; consultant contracts; textbook adoption; the 1985-1986 school calendar; professional contracts; approval of Steering Committee members; a first reading of Policy DOAB concerning term contracts, reduction in force; personnel action; business for information purposes; a health services report; a budget update; and reports from individuals in the audience and board members. The board also will meet in executive session.

Contact: Sheila O'Leary, 1102 South Congress Avenue, Austin, Texas 78704, (512) 442-7821, ext. 303.

Filed: March 14, 1985, 3:39 p.m.
TRD-852310

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Texas Employment Commission

Monday, March 18, 1985, 2:30 p.m. The Texas Employment Commission (TEC) met in emergency session in Room 644, TEC Building, 15th Street and Congress Avenue, Austin. According to the agenda summary, the commission met in executive session regarding pending litigation, including *Linda W. Kinney v. TEC, et al*, and the Joiner Merit System appeal. The emergency status was necessary because of a pending trial setting of April 1, 1985.

Contact: C. Ed Davis, TEC Building, Room 660, 15th Street and Congress Avenue, Austin, Texas, (512) 397-4400.

Filed: March 18, 1985, 11:11 a.m.
TRD-852385

Tuesday, March 26, 1985, 9 a.m. The Texas Employment Commission (TEC) will meet in Room 644, TEC Building, 15th Street and Congress Avenue, Austin. According to the agenda summary, the commission will discuss internal procedures of commission appeals, consider and act on higher level appeals in unemployment compensation cases on commission Docket 13, and set the date of the next meeting.

Contact: Courtenay Browning, TEC Building, 15th Street and Congress Avenue, Austin, Texas, (512) 397-4415.

Filed: March 18, 1985, 1:53 p.m.
TRD-852405

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Finance Commission of Texas

Friday, March 22, 1985, 2 p.m. The Banking Section of the Finance Commission of

Texas will meet at the Ennis State Bank, 815 North Avenue, Ennis. Items on the agenda include review of proposed banking statutes, an update on the condition of the state banking system, recent departmental activities, departmental operations and personnel, and other matters.

Contact: Jorge Gutierrez, 2601 North Lamar Boulevard, Austin, Texas, (512) 475-4451.

Filed: March 14, 1985, 3:37 p.m.
TRD-852309

Emergency revision to the previous agenda:

The section will meet at 10 a.m. instead of 2 p.m. as indicated previously. The emergency status was necessary because of the flight schedules of the members.

Contact: Jorge Gutierrez, 815 West Ennis Avenue, Ennis, Texas, (512) 475-4451.

Filed: March 18, 1985, 4:34 p.m.
TRD-852418

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Texas Department of Health

Saturday, March 16, 1985, 9 a.m. The Texas Board of Health of the Texas Department of Health (TDH) made an emergency addition to the agenda of a meeting held in the Dogwood Room, third floor, Hyatt Regency Hotel, 1200 Louisiana Street, Houston. The addition concerned consideration of support of the Texas Rehabilitation Commission request for a statewide demographic survey. The emergency status was necessary because the legislature was considering the commission's request and was awaiting notice of the board's position on the request.

Contact: Kris Lloyd, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7484.

Filed: March 15, 1985, 4:15 p.m.
TRD-852361

Saturday, March 23, 1985, 9:30 a.m. The Crippled Children's Services General Advisory Committee of the TDH will meet in the conference room, second floor, 1101 East Anderson Lane, Austin. According to the agenda summary, the committee will consider applications from physicians and hospitals desiring to participate in the Crippled Children's Services Program, proposed limitations of program coverable medical conditions, and development of final recommendations on the medical scope of the program.

Contact: James P. Rambin, 1100 West 49th Street, Austin, Texas 78756, (512) 465-2666.

Filed: March 15, 1985, 4:15 p.m.
TRD-852360

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Tuesday, March 26, 1985, 10 a.m. The Home Health Services Advisory Council of the Texas Department of Health will meet in Room G-107, 1100 West 49th Street, Austin. According to the agenda, the council will discuss proposed legislation concerning the home health services-licensure law.

Contact: Dr. Juanita Carrell, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7245.

Filed: March 18, 1985, 4:13 p.m.
TRD-852413

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State Board of Insurance

Friday, March 15, 1985, 10 a.m. The State Board of Insurance met in emergency session in Room 414, 1110 San Jacinto Street, Austin. According to the agenda, the board considered a filing by the Texas Hospital Insurance Exchange for changes in the rates, rules, and coverage of its Hospital Professional Liability Program. The emergency status was necessary because of the statutory time limitations for action on filings of this nature.

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

Filed: March 14, 1985, 11:13 a.m.
TRD-852295

Tuesday, March 26, 1985, 9 a.m. The Commissioner's Hearing Section of the State Board of Insurance will meet in Room 342, 1110 San Jacinto Street, Austin. According to the agenda, the section will conduct a public hearing in Docket 7989—application for original charter of Texas Livestock Marketing Insurance, Inc., Marlin.

Contact: J. C. Thomas, 1110 San Jacinto Street, Austin, Texas 78786, (512) 475-4353.

Filed: March 18, 1985, 1:26 p.m.
TRD-852395

Tuesday, March 26, 1985, 10 a.m. The State Board of Insurance will meet in Room 414, 1110 San Jacinto, Austin. According to the agenda summary, the board will consider a joint motion for dismissal of the appeal of Hughston Insurance Agency, Inc., from action of the Texas Catastrophe Property Insurance Association (TCPIA); motions for rehearing in the appeals of Mary P. Hurter and David P. Ritter from actions of the TCPIA; proposals for a decision in the appeals of Jarvis Steed and Myria Jane McCarter from actions of the TCPIA, final action on the amendment to Rule 059.21.49.006, as published at 10 TexReg 325; proposed action on new Rule 059.60.06.009 and amendments to Rules 059.05.03.001 and 059.05.53.102; board orders on several different matters; the fire marshal's report on personnel; and the commissioner's report concerning personnel matters; litigation;

credit accident and health policies regarding outstanding balance/revolving accounts; and determination of what constitutes expenses on the 1984 annual statement for farm mutuals.

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

Filed: March 18, 1985, 4:16 p.m.
TRD-852415

The Commissioner's Hearing Section of the State Board of Insurance will conduct public hearings at 1110 San Jacinto Street, Austin. Days, times, rooms, and dockets follow.

Tuesday, March 26, 1985, 1:30 p.m. In Room 342, Docket 7967—whether disciplinary action should be taken against Lloyds Texas, Dallas, which holds a certificate of authority.

Contact: John Brady, 1110 San Jacinto Street, Austin, Texas 78786, (512) 475-2287.

Filed: March 18, 1985, 1:26 p.m.
TRD-852396

Tuesday, March 26, 1985, 3 p.m. In Room 342, Docket 7968—whether disciplinary action should be taken against Mutual Benefit Life Insurance Company, Newark, New Jersey, which holds a certificate of authority.

Contact: J. C. Thomas, 1110 San Jacinto Street, Austin, Texas 78786, (512) 475-4353.

Filed: March 18, 1985, 1:26 p.m.
TRD-852397

Wednesday, March 27, 1985, 9 a.m. In Room 353, Docket 7946—whether disciplinary action should be taken against Robert Williams McFail, Fort Worth, who holds a Group I legal reserve life insurance agent's license.

Contact: J. C. Thomas, 1110 San Jacinto Street, Austin, Texas 78786, (512) 475-4353.

Filed: March 18, 1985, 1:27 p.m.
TRD-852398

Wednesday, March 27, 1985, 1:30 p.m. In Room 353, Docket 7988—application of Betty Jo Davidson, Midland, for a Group II life, health, and accident insurance agent's license.

Contact: J. C. Thomas, 1110 San Jacinto Street, Austin, Texas 78786, (512) 475-4353.

Filed: March 18, 1985, 1:27 p.m.
TRD-852399

Thursday, March 28, 1985, 9 a.m. In Room 342, Docket 7927—whether disciplinary action should be taken against Carl Roger Daniel, Tyler, who holds a Group II health and accident insurance agent's license.

Contact: J. C. Thomas, 1110 San Jacinto Street, Austin, Texas 78786, (512) 475-4353.

Filed: March 18, 1985, 1:27 p.m.
TRD-852400

Thursday, March 28, 1985, 1:30 p.m. In Room 342, Docket 7990—approval of the restated articles of agreement with amendments providing for substitution of the attorney-in-fact and increasing the guaranty fund of Universal Underwriters Lloyds, Dallas.

Contact: John Brady, 1110 San Jacinto Street, Austin, Texas 78786, (512) 475-2287.

Filed: March 18, 1985, 1:27 p.m.
TRD-852401

Friday, March 29, 1985, 9 a.m. In Room 342, Docket 7930—whether disciplinary action should be taken against Federal Insurance Company, Short Hills, New Jersey, which holds a certificate of authority.

Contact: John Brady, 1110 San Jacinto Street, Austin, Texas 78786, (512) 475-2287.

Filed: March 18, 1985, 1:27 p.m.
TRD-852402

Friday, March 29, 1985, 1:30 p.m. In Room 342, Docket 7969—whether disciplinary action should be taken against National Automobile and Casualty Insurance Company, Pasadena, California, which holds a certificate of authority.

Contact: John Brady, 1110 San Jacinto Street, Austin, Texas 78786, (512) 475-2287.

Filed: March 18, 1985, 1:27 p.m.
TRD-852403

Monday, April 1, 1985, 9 a.m. In Room 353, Docket 7938—whether Signal Insurance Lloyds Company, Austin, has complied with Commissioner Order 85-0325, dated March 31, 1985.

Contact: J. C. Thomas, 1110 San Jacinto Street, Austin, Texas 78786, (512) 475-4353.

Filed: March 18, 1985, 1:27 p.m.
TRD-852404

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Commission on Jail Standards

Wednesday, March 27, 1985, 9 a.m. The Commission on Jail Standards will meet in Room 100, Employees Retirement Building, 18th and Brazos Streets, Austin. According to the agenda summary, the commission will read and approve the January 23, 1985, meeting minutes; hear the director's report; consider old business concerning Bowie, Cameron, Midland, and Waller Counties; consider a change to the standards concerning 28-inch detention doors, sprinklers for low-risk jails, and mental health; and consider new business concerning Dallas County and Nacogdoches County, and applications for variances for Nueces County

and Sherman County. The commission also will meet in executive session.

Contact: Robert O. Viterna, 411 West 13th Street, Suite 900, Austin, Texas 78711, (512) 475-2716.

Filed: March 15, 1985, 2:09 p.m.
TRD-852349

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Texas Lay Midwifery Board

Friday, March 29, 1985, 10 a.m. The Texas Lay Midwifery Board will meet in Room T-407, 1110 West 49th Street, Austin. According to the agenda summary, the board will read the February 21, 1985, minutes; discuss the public hearing on March 19, 1985, regarding the Lay Midwifery Manual and discuss comments on the manual; review a report of the subcommittee on instructors; and discuss the date of the next meeting.

Contact: Joceline Alexander, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7700.

Filed: March 18, 1985, 4:13 p.m.
TRD-852414

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Texas Low-Level Radioactive Waste Disposal Authority

Friday, March 22, 1985. A committee of the Texas Low-Level Radioactive Waste Disposal Authority and the full authority will meet via telephone conference call originating in Suite 175, 1300-C East Anderson Lane, Austin. Times and agendas follow.

9 a.m. The Budget Committee will consider a revised schedule and budget.

10 a.m. The authority will consider a revised schedule and budget and approval of an engineering contract for evaluation of state-owned land.

Contact: L. R. Jacobi, Jr., 1300-C East Anderson Lane, Suite 175, Austin, Texas 78752, (512) 835-6795.

Filed: March 14, 1985, 2:24 p.m.
TRD-852305, 852306

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Texas Department of Mental Health and Mental Retardation

Sunday, March 24, 1985, 10:30 a.m. The Texas Board of Mental Health and Mental Retardation of the Texas Department of Mental Health and Mental Retardation will meet in Boardroom 1 and Boardroom 2, La Mansion Del Norte, 37 Northeast Loop

410, San Antonio. According to the agenda, the board will consider the duties of the commissioner.

Contact: Gary E. Miller, M.D., P.O. Box 12668, Austin, Texas, (512) 465-4588.

Filed: March 15, 1985, 4:13 p.m.
TRD-852359

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North Texas State University

Friday, March 15, 1985, 9 a.m. The Board of Regents of the Texas College of Osteopathic Medicine of North Texas State University (NTSU) met in emergency session in the boardroom, NTSU, Denton. According to the agenda, the board met in executive session pursuant to Texas Civil Statutes, Article 6252-17, §2, paragraph (e), legal, and paragraph (f), real estate, to consider a parking garage. The emergency status was necessary because NTSU has been negotiating a contract in this matter and it is in the best interest of the State of Texas that board approval be gained so that construction can begin immediately.

Contact: Jan Dobbs, P.O. Box 13737, Denton, Texas 76203, (817) 565-2198.

Filed: March 14, 1985, 4:36 p.m.
TRD-852319

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Board of Pardons and Paroles

Monday-Friday, March 25-29, 1985, 1:30 p.m. daily Monday-Thursday and 11 a.m. Friday. A three-member panel of the Board of Pardons and Paroles will meet at 8610 Shoal Creek Boulevard, Austin. According to the agenda summary, the panel will receive, review, and consider information and reports concerning prisoners/inmates and administrative releasees subject to the board's jurisdiction and initiate and carry through with appropriate action.

Contact: Mike Roach, 8610 Shoal Creek Boulevard, Austin, Texas, (512) 459-2713.

Filed: March 15, 1985, 10:22 a.m.
TRD-852345

Tuesday, March 26, 1985, 9:30 a.m. The Board of Pardons and Paroles will meet at 8610 Shoal Creek Boulevard, Austin. According to the agenda summary, the board will consider and act on the minutes, early mandatory release criteria, the parole process, a committee report regarding full board panel review and consideration of cases, legislation, an attorney grievance complaint, Hearing Committee recommen-

dations, and the Association of Paroling Authorities.

Contact: Gladys Sommers, 8610 Shoal Creek Boulevard, Austin, Texas 78758, (512) 459-2704.

Filed: March 15, 1985, 4:39 p.m.
TRD-852363

Tuesday, March 26, 1985, 1:30 p.m. The Board of Pardons and Paroles will meet at 8610 Shoal Creek Boulevard, Austin. According to the agenda, the board will consider executive clemency recommendations and related actions, other than out-of-country conditional pardons, including full pardons/restoration of civil rights of citizenship; emergency medical reprieves; commutations of sentence; and other reprieves, remissions, and executive clemency actions.

Contact: Gladys Sommers, 8610 Shoal Creek Boulevard, Austin, Texas, (512) 459-2704.

Filed: March 15, 1985, 10:22 a.m.
TRD-852346

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State Board of Plumbing Examiners

Tuesday, March 26, 1985, 9:30 a.m. The State Board of Plumbing Examiners will meet at 929 East 41st Street, Austin. Items on the agenda include the previous meeting minutes; review of a financial report, a report on the budget status; an examination backlog status report; a computer status report; discussion of hardship cases; discussion of the license display envelope, discussion of the board's rule on an appliance dealer exemption; review of pending legislation; discussion of participation in the Oklahoma state plumbing inspectors meeting; consideration of the purchase of two automobiles; a report of negotiations with the manufactured housing industry, and discussion on a roster.

Contact: Lynn Brown, 929 East 41st Street, Austin, Texas 78765, (512) 458-2145.

Filed: March 14, 1985, 2:02 p.m.
TRD-852304

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Polygraph Examiners Board

Wednesday-Saturday, April 10-13, 1985, 9 a.m. daily. The Polygraph Examiners Board will meet at the Marriott Hotel, 6121 IH 35 North, Austin. Items on the agenda include the certification of grades on the March exam, approval of the January meeting minutes; review of applications of in-

ternship/Section 12, interview of failing interns, a presentation of investigative reports, a review of all agreed board orders, consideration of reciprocal agreements with other licensing states, questions from various examiners, and action upon any other polygraph business.

Contact: Candy Moore, 5805 North Lamar Boulevard, Austin, Texas 78765, (512) 465-2058.

Filed: March 18, 1985, 1:58 p.m.
TRD-852409

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Public Utility Commission of Texas

Thursday, March 21, 1985, 9 a.m. The Hearings Division of the Public Utility Commission of Texas made an emergency addition to the agenda of a meeting held in Suite 450N, 7800 Shoal Creek Boulevard, Austin. The addition concerned an appeal of an interim order in Docket 6055—notice of intent by Southwestern Public Service Company for a certificate of convenience and necessity application for a proposed generating station within Lubbock County. The emergency status was necessary because a hearing on the merits is scheduled for April 9, 1985.

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

Filed: March 15, 1985, 2:55 p.m.
TRD-852353

The Hearings Division of the Public Utility Commission of Texas will conduct public hearings in Suite 450N, 7800 Shoal Creek Boulevard, Austin. Days, times, and dockets follow.

Friday, April 5, 1985, 10 a.m. An informal meeting in Docket 6122—customer protest in the matter of a \$43(h) rate increase by Martin Water Company in McLennan County

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

Filed: March 15, 1985, 2:55 p.m.
TRD-852355

Friday, April 5, 1985, 1:30 p.m. A prehearing conference in Docket 6149—application of Vacation Village Sewer Company for a tariff change.

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

Filed: March 15, 1985, 2:55 p.m.
TRD-852356

Wednesday, April 10, 1985, 10 a.m. A rescheduled hearing on the merits in Docket

6054—application of McLennan County Electric Cooperative, Inc., for authority to change rates. The hearing originally was scheduled for 10 a.m. on April 9, 1985, as published at 10 TexReg 423.

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

Filed: March 19, 1985, 9:31 a.m.
TRD-852420

Friday, April 12, 1985, 10 a.m. A prehearing in Docket 5894—application of San Marcos Telephone to transfer current paging assets to San Marcos Telecom, Inc.

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

Filed: March 14, 1985, 3:44 p.m.
TRD-852312

Friday, April 19, 1985, 10 a.m. An informal meeting in Docket 6173—customer protest in the matter of a §43(h) rate increase by Scenic Oaks Water Supply.

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

Filed: March 18, 1985, 9:48 a.m.
TRD-852383

Tuesday, April 30, 1985, 10 a.m. A hearing on the merits in Docket 5633—application of Westcreek Utility Company, Inc., for certificates of convenience and necessity in Bexar County.

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

Filed: March 15, 1985, 9:01 a.m.
TRD-852326

Monday, May 13, 1985, 10 a.m. A hearing on the merits in Docket 5071—application of the City of Pharr for a certificate of convenience and necessity in Hidalgo County.

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

Filed: March 15, 1985, 2:55 p.m.
TRD-852354

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Railroad Commission of Texas

Monday, March 18, 1985, 9 a.m. The Transportation Division of the Railroad Commission of Texas submitted an emergency revised agenda for a meeting held at 1124 IH 35 South, Austin. According to the revised agenda, the commission considered Docket 004520A1N—application of Merchants Delivery Service, Inc., for a new common carrier authority. The emergency status was necessary because the matter was

properly posted for conference on March 11, 1985, and was passed.

Contact: Michael A. James, 1124 IH 35 South, Austin, Texas 78704, (512) 445-1330.

Filed: March 15, 1985, 11:24 a.m.
TRD-852336

Monday, March 25, 1985, 9 a.m. The Railroad Commission of Texas will meet in Room 309, 1124 IH 35 South, Austin. The commission will consider and act on division agendas as follows.

The Administrative Services Division director's report on division administration, budget, procedures, and personnel matters.

Contact: Roger Dillon, P.O. Drawer 12967, Austin, Texas 78711, (512) 445-1211.

Filed: March 15, 1985, 11:24 a.m.
TRD-852337

The Automatic Data Processing Division director's report on division administration, budget, procedures, equipment acquisitions, and personnel matters.

Contact: Bob Kmetz, P.O. Drawer 12967, Austin, Texas 78711, (512) 445-1204.

Filed: March 15, 1985, 11:25 a.m.
TRD-852332

The Flight Division director's report on division administration, budget, procedures, and personnel matters.

Contact: Ken Fossler, 1124 IH 35 South, Austin, Texas 78704, (512) 445-1103.

Filed: March 15, 1985, 11:26 a.m.
TRD-852330

Various matters falling within the Gas Utilities Division's regulatory jurisdiction.

Contact: Lucia Sturdevant, P.O. Drawer 12967, Austin, Texas 78711, (512) 475-0461.

Filed: March 15, 1985, 11:26 a.m.
TRD-852331

The Office of Information Services director's report on division administration, budget, procedures, and personnel matters.

Contact: Brian W. Schaible, P.O. Drawer 12967, Austin, Texas 78711.

Filed: March 15, 1985, 11:25 a.m.
TRD-852333

The LP-Gas Division director's report on division administration, budget, procedures, and personnel matters, and consider for action the hearings examiner's proposal for decision regarding the registration of Hartford Steam Boiler Inspection and Insurance Company, Docket 313.

Contact: Thomas D. Petru, P.O. Drawer 12967, Austin, Texas 78711.

Filed: March 15, 1985, 11:23 a.m.
TRD-852342

Addition to the previous agenda:

The commission also will consider for action the proposal for decision in Docket 308 and Docket 310, regarding an exception requested by Enderby Gas Company and by Petrolane, Inc.

Contact: Thomas D. Petru, P.O. Drawer 12967, Austin, Texas 78711, (512) 475-1301.

Filed: March 15, 1985, 4:08 p.m.
TRD-852362

Monday, April 1, 1985, 9 a.m. The Oil and Gas Division of the Railroad Commission of Texas will meet in Room 309, 1124 IH 35 South, Austin. According to the agenda, the division will consider a motion for oral argument in oil and gas Docket 10-77, 314; consider the application of Phillips Petroleum Company to amend special field rules applicable to: the Panhandle (Osborne); Panhandle, Carson County; Panhandle, Collingsworth County; Panhandle, Gray County; Panhandle, Hutchinson County; Panhandle, Moore County; Panhandle, Potter County; Panhandle, Wheeler County; Panhandle, East; Panhandle, West; Panhandle, East (Albany Dolomite, lower) fields. **Contact:** Patrick Thompson, P.O. Drawer 12967, Austin, Texas, (512) 445-1286.

Filed: March 19, 1985, 8:55 a.m.
TRD-852419

Various matters falling within the Oil and Gas Division's regulatory jurisdiction.

Contact: Liz Nauert, P.O. Drawer 12967, Austin, Texas 78711, (512) 445-1307.

Filed: March 15, 1985, 11:24 a.m.
TRD-852339

Additions to the previous agenda:

Consideration of category determinations under the Natural Gas Policy Act of 1978, §§102(c)(1)(B), 102(c)(1)(C), 103, 107, and 108.

Contact: Madalyn J. Girvin, P.O. Drawer 12967, Austin, Texas 78711, (512) 445-1209.

Filed: March 15, 1985, 11:23 a.m.
TRD-852341

Consideration of Oil and Gas Docket 4-84,616—Venus Oil Company, to consider an exception to SWR 10 to downhole commingle its Gallagher 'B' lease, Well 1, Baldwin (2400) and Baldwin (2500) fields, Nueces County; consideration of Oil and Gas Docket 7C-84,574—application of F. W. Burger, Inc., to consider temporary field rules for the G. N. K. (Canyon Sand, 4000) field, Tom Green County; consideration of Oil and Gas Docket 8-83,266—motion of the commission to determine the effectiveness of the temporary field rules for the Jess Burner (Delaware 3800) field, Reeves County; consideration of Oil and Gas Docket 10-84,573—application of Diamond Shamrock Exploration Company to

consider an exception to statewide Rule 10 to permit downhole commingling of production from the Ellis Ranch (Cleveland) and Ellis Ranch (Des Moines) fields in its Edna Herndon *et al* 'B' 5, Ochiltree County.

Contact: Doug Johnson, P.O. Drawer 12967, Austin, Texas 78711, (512) 445-1180.

Filed: March 15, 1985, 11:24 a.m.
TRD-852338

The Personnel Division director's report on division administration, budget, procedures, and personnel matters.

Contact: Mark K. Bogan, P.O. Drawer 12967, Austin, Texas 78711, (512) 445-1120.

Filed: March 15, 1985, 11:25 a.m.
TRD-852334

The Office of Research and Statistical Analysis director's report on division administration, budget, procedures, and personnel matters.

Contact: Gail Gemberling, P.O. Drawer 12967, Austin, Texas 78711.

Filed: March 15, 1985, 11:25 a.m.
TRD-852335

The Office of the Special Counsel director's report relating to pending litigation, state and federal legislation, and other budget, administrative, and personnel matters.

Contact: Walter Earl Lillie, 1124 IH 35 South, Austin, Texas 78704, (512) 445-1186.

Filed: March 15, 1985, 11:26 a.m.
TRD-852329

The Surface Mining and Reclamation Division director's report on division administration, budget, procedures, and personnel matters and to consider the acceptance of incremental bonds for the surface coal mining operation of the Sabine Mining Company at its South Hallsville Mine under Permit 13.

Contact: J. Randel (Jerry) Hill, 105 West Riverside Drive, Austin, Texas, (512) 475-8751.

Filed: March 15, 1985, 11:22 a.m.
TRD-852343

Various matters falling within the Transportation Division's regulatory jurisdiction.

Contact: Michael A. James, P.O. Box 12967, Austin, Texas 78711, (512) 445-1330.

Filed: March 15, 1985, 11:24 a.m.
TRD-852340

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Texas Savings and Loan Department

Tuesday, March 26, 1985, 9 a.m. The Texas Savings and Loan Department will meet at

1004 Lavaca Street, Austin. According to the agenda, the department will conduct a hearing on remand to address the deficiencies indicated by the court regarding the application for a savings and loan association charter at 6132 Highway 290 West, Austin (Oak Hill), Travis County, by including in the record any admissible evidence of payments in cash by individual subscribers as required by Texas Civil Statutes, Article 852a, §2.03.

Contact: Russell R. Oliver, 1004 Lavaca Street, Austin, Texas, (512) 475-7991.

Filed: March 15, 1985, 2:16 p.m.
TRD-852350

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University of Texas System

Tuesday, March 20, 1985, 2 p.m. The Intercollegiate Athletics Council for Men of the University of Texas at Austin of the University of Texas System met in Room 240, Belmont Hall, San Jacinto Boulevard between 21st and 23rd Streets, Austin. According to the agenda summary, the council considered approval of the November 10, 1984, minutes; items from an executive session; approval of budgets and budget changes; a report on the status of the Athletics Complex fund raising; approved letter awards; items administratively approved from previous council meetings; old business; new business; approval of team schedules and schedule changes; construction; and approval of athletics ticket policies and policy changes. The council also met in executive session to discuss personnel matters and potential litigation pursuant to Texas Civil Statutes, Article 6252-17, §2(g).

Contact: Haila Kauffman, P.O. Box 7399, Austin, Texas 78712, (512) 471-1331.

Filed: March 14, 1985, 10:34 a.m.
TRD-852293

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Veterans Affairs Commission

Friday, April 19, 1985, 10 a.m. The Veterans Affairs Commission will meet on the sixth floor, E. O. Thompson Building, 10th and Colorado Streets, Austin. According to the agenda, the commission will consider reports on its activities and make decisions relative to general administrative matters pertaining the Texas' veterans' programs.

Contact: Aubrey L. Bullard, P.O. Box 12277, Austin, Texas 78711, (512) 475-4185.

Filed: March 15, 1985, 9:01 a.m.
TRD-852328

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Texas Water Commission

Friday, March 15, 1985, 10 a.m. The Texas Water Commission met in emergency session in Room 124A, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. According to the agenda, the commission considered an application by the City of San Marcos for an emergency order to discharge 1/5 million gallons per day of partially treated domestic wastewater from its Wastewater Treatment Plant 1 to the Blanco River, Guadalupe River Basin, and a request by Baylor-Parkside Lodge of Dallas-Fort Worth for authorization to construct, operate, and dispose of effluent by irrigation on 2.33 acres of pasture land in the drainage area of the Trinity River Basin, Denton County. The emergency status was necessary because the commission needed to consider the San Marcos application before the end of the spring break session and because, in the case of the Baylor-Parkside Lodge, the applicant had stated that the delay in commencing operations would cause economic loss.

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

Filed: March 14, 1985, 4:02 p.m.
TRD-852318

Tuesday, March 26, 1985, 10 a.m. The Texas Water Commission will meet in Room 118, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. According to the agenda, the commission will consider water district bond issues, release from escrow, use of surplus funds, the setting of creation hearings, water quality proposed permits, amendments and renewals, a weather modification matter, and the filing and setting of hearing dates.

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

Filed: March 14, 1985, 10:55 a.m.
TRD-852296

Thursday, April 18, 1985, 10 a.m. The Texas Water Commission will meet in Room 124A, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. According to the agenda summary, the commission will consider an application of the Tyler Independent School District (Hazel Owens Elementary School), in care of Jimmy Alan Hall, Bickerstaff, Heath, and Smiley, Suite 1419, United Bank Tower, 400

West 15th Street, Austin, Texas 78701-1646, to the Texas Department of Water Resources for a temporary order to authorize the construction of a 13,500 gallon-per-day extended aeration-activated sludge wastewater treatment plant located approximately 700 feet west-southwest of the intersection of Smith County Road 178 and FM Road 2813 and approximately 4,400 feet generally west of the community of Gresham in Smith County.

Contact: John Vay, P.O. Box 13087, Austin, Texas 78711, (512) 475-7845.

Filed: March 15, 1985, 2:28 p.m.
TRD-852352

Monday, April 22, 1985, 10 a.m. The Texas Water Commission will meet in Room 124A, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. According to the agenda, the commission will conduct a hearing on the application of Roscoe Eckert and Joan Eckert for a permit to divert and use 60 acre-feet of water per annum from an existing 123 acre-foot capacity exempt Soil Conservation Service floodwater retarding dam and reservoir on an unnamed tributary of Deep Creek, tributary of the Colorado River, Colorado River Basin, for irrigation purposes in McCullough County.

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

Filed: March 14, 1985, 10:56 a.m.
TRD-852297

Tuesday, April 23, 1985, 1 p.m. The Texas Water Commission will meet in Room 118, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. According to the agenda, the commission will conduct a hearing on Application 1345A of the Lower Colorado River Authority for a contractual amendment to Permit 1259 seeking authorization to allow the Colorado River Municipal Water District to divert and use not to exceed 113,000 acre-feet of water per annum for municipal purposes, with not to exceed 25,000 acre-feet per annum for industrial purposes, upstream from Lake Buchanan, at the proposed Stacy Reservoir, Colorado River, Colorado River Basin, in Coleman, Concho, and Runnels Counties.

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

Filed: March 14, 1985, 10:56 a.m.
TRD-852298

Wednesday, April 24, 1985, 9:30 a.m. The Texas Water Commission will meet in the council chambers, second floor, city hall, 505 West Davis, Conroe. According to the agenda summary, the commission will consider an application by Alamo Manufacturing Company, a wholly owned subsidiary of Phillips Investment Company, a subsidiary of Phillips Petroleum Company, Conroe Plant, 14 Phillips Building, Bartlesville, Oklahoma 74004, to the Texas Department

of Water Resources for an amendment to Permit 02745 to authorize an increase in the treated wastewater effluent discharged from a plant that manufactures drilling mud additives from a volume not to exceed an average flow of 12,000 gallons per day to 16,000 gallons per day. The maximum discharge is to be increased from 16,000 gallons per day to 20,000 gallons per day. The proposed amendment also would add sanitary wastewater to the permitted wastestream and increase certain specific parameters.

Contact: Mary Speirer, P.O. Box 13087, Austin, Texas 78711, (512) 475-1468.

Filed: March 14, 1985, 10:56 a.m.
TRD-852299

Thursday, April 25, 1985, 9 a.m. The Texas Water Commission will meet in Room 119, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. According to the agenda summary, the commission will consider the application of Kandy Morine Development, Inc., 4501 Spicewood Springs Road, Suite 101, Austin, Texas 78759, to the Texas Department of Water Resources for proposed Permit 13086-01 to authorize a discharge of treated domestic wastewater effluent at a volume not to exceed an average flow of 540,000 gallons per day from the proposed Bear Creek Wastewater Treatment Plant which is to serve a proposed subdivision of single-family and multifamily residences and light commercial units.

Contact: James R. Larkins, P.O. Box 13087, Austin, Texas 78711, (512) 475-2711.

Filed: March 14, 1985, 3:43 p.m.
TRD-852313

Thursday, April 25, 1985, 9:30 a.m. The Texas Water Commission will meet in the city council room, second floor, city hall, 212 North Bonner, Tyler. According to the agenda summary, the commission will consider the following applications.

Application of Tall Timbers Estates Utility Company, Inc., 3410 South Southwest Loop 323, Tyler, Texas 75701, to the Texas Department of Water Resources for proposed Permit 13000-01 to authorize a discharge of treated domestic sewage effluent at a volume not to exceed an average flow of 70,000 gallons per day from a proposed sewage treatment plant which is to serve the needs of a proposed residential development

Contact: William G. Newchurch, P.O. Box 13087, Austin, Texas 78711, (512) 475-1418.

Filed: March 14, 1985, 3:44 p.m.
TRD-852314

Application of Marathon Utilities, Inc., 1217 South Chilton, Tyler, Texas 75701, to the Texas Department of Water Resources for proposed Permit 13035-01 to authorize a discharge of treated domestic wastewater effluent at a volume not to exceed an average flow of 35,000 gallons per day from the proposed Lakewood Garden Sewage Treat-

ment Plant which is to serve the domestic needs of residents of a small housing development.

Contact: William G. Newchurch, P.O. Box 13087, Austin, Texas 78711, (512) 475-1418.

Filed: March 14, 1985, 3:43 p.m.
TRD-852315

Friday, April 26, 1985, 10 a.m. The Texas Water Commission will meet in Room 124A, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. According to the agenda, the commission will consider the following applications.

Application 4545 of Marlin R. Rowland and Margaret Kowlana for a permit to divert and use 70 acre-feet of water from the North Llano River, tributary of the Llano River, tributary of the Colorado River, Colorado River Basin, for irrigation purposes in Kimble County.

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

Filed: March 14, 1985, 10:56 a.m.
TRD-852300

Application 4546 of George McCauley Munson and Martha Munson for a permit to divert and use 1,800 acre-feet of water per annum from Oyster Creek, tributary of the Intracoastal Waterway, San Jacinto-Brazos Coastal Basin, for irrigation purposes in Brazoria County.

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

Filed: March 14, 1985, 10:57 a.m.
TRD-852301

Monday, April 29, 1985, 10 a.m. The Texas Water Commission will meet in Room 618, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. According to the agenda, the commission will conduct a hearing on Application 2312D of the Brazos River Authority for an amendment to Permit 1111, as amended, Brazos River Basin, Hood County.

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

Filed: March 14, 1985, 10:57 a.m.
TRD-852302

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Regional Agencies Meetings Filed March 14

The Austin-Travis County Mental Health and Mental Retardation Center, Board of Trustees, Personnel Committee, met in the boardroom, 1430 Collier Street, Austin, on March 20, 1985, at 7:30 a.m. Information may be obtained from Gay F. Chase, 1430 Collier Street, Austin, Texas 78704, (512) 447-4141, ext. 249.

The Cass County Appraisal District, Board of Directors, rescheduled a meeting held at 208 West Houston Street, Linden, on March 19, 1985, at 10 a.m. Information may be obtained from Janelle Clements, P.O. Box 167, Linden, Texas 75563, (214) 756-7545

The Deep East Texas Community Development Program, Regional Community Development Committee, will meet in the Community Room, Texas Power and Light Company, 204 East Burke, Lufkin, on March 26, 1985, at 9 a.m. Information may be obtained from Rhonda Ruckel, 274 East Lamar, Jasper, Texas 75951, (409) 384-5704.

The Region VI Education Service Center, Regional Joint Committee, will meet at the Hilltop Lakes, Normangee, on March 26, 1985, at 11:45 a.m. Information may be obtained from M. W. Schlotter, 3332 Montgomery Road, Huntsville, Texas 77340, (409) 295-9161

The Edwards County Appraisal District, Appraisal Review Board, met in emergency session at the new county office building, Rocksprings, on March 18, 1985, at 8:30 a.m. Information may be obtained from Sondra Madden, P.O. Box 378, Rocksprings, Texas 78880, (512) 683-2337.

The Grayson Appraisal District, Board of Directors, met at 205 North Travis, Sherman, on March 20, 1985, at noon. Information may be obtained from Sandra Bollier, 124 South Crockett, Sherman, Texas 75090, (214) 893-9673.

The Hale County Appraisal District, Board of Directors, met at 302 West Eighth, Plainview, on March 19, 1985, at 7:30 p.m. Information may be obtained from Linda Jaynes, P.O. Box 29, Plainview, Texas 79072, (806) 293-4226.

The Jack County Appraisal District, Board of Directors, met at the Los Creek Office Building, 216—D South Main, Jacksboro, on March 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 Lower Colorado River Authority, Committee on Planning and Public Policy, met at 3700 Lake Austin Boulevard, Austin, on March 19, 1985, at 9 a.m. The following committees also met at the same location on March 20, 1985, at the times indicated:

**Audit and Budget Committee—8 a.m.
Energy Operations Committee—8:30 a.m.
Finance and Administration Committee—10 a.m.
Natural Resources Committee—1 p.m.**

The Board of Directors met at the same location on March 21, 1985, at 9 a.m. Infor-

mation may be obtained from Elof H. Soderberg, P.O. Box 220, Austin, Texas 78767, (512) 473-3200.

The Pecan Valley Mental Health and Mental Retardation Region, Board of Trustees, met at the work activity center, 102 Charles Street, Granbury, on March 20, 1985, at 8 a.m. Information may be obtained from Dr. Theresa Mulloy, P.O. Box 973, Stephenville, Texas 76401, (817) 965-7806.

The Tarrant Appraisal District, Appraisal Review Board, met in Suite 300, 1701 River Run, Fort Worth, on March 20, 1985, at 8:30 a.m. Information may be obtained from Dick Curry, 1701 River Run, Suite 200, Fort Worth, Texas 76107, (214) 332-3151.

TRD-852303

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Meetings Filed March 15

The Central Texas Council of Governments, Criminal Justice Advisory Board, will meet at 302 East Central, Belton, on March 26, 1985, at 2 p.m. Information may be obtained from Lindell R. Bishop, P.O. Box 729, Belton, Texas 76513, (817) 939-1801. The Executive Committee will meet at the same location on March 28, 1985, at 11 a.m. Information may be obtained from Walton B. Reedy, P.O. Box 729, Belton, Texas 76513, (817) 939-1803.

The Concho Valley Council of Governments, Health Planning Advisory Committee, met at 5002 Knickerbocker Road, San Angelo, on March 20, 1985, at 7 p.m. Information may be obtained from Robert R. Weaver, P.O. Box 60050, San Angelo, Texas 76906, (915) 944-9666.

The Heart of Texas Region Mental Health and Mental Retardation Center, Board of Trustees, met at 110 South 12th Street, Waco, on March 20, 1985, at 11:30 a.m. Information may be obtained from Jan Baty, P.O. Box 1277, Waco, Texas 76703, (817) 752-3451.

The Houston-Galveston Area Council, Board of Directors, met at 3555 Timmons, Houston, on March 19, 1985, at 9:30 a.m. Information may be obtained from Geraldine McCray, P.O. Box 22777, Houston, Texas 77027, (713) 627-3200.

The West Central Texas Council of Governments, Criminal Justice Advisory Committee, met at 1025 East North 10th Street, Abilene, on March 21, 1985, at 1 p.m. The Executive Committee will meet at the same location on March 27, 1985, at 12:45 p.m. Information may be obtained from Les Wilkerson or Brad Helbert respectively,

P.O. Box 3195, Abilene, Texas 79604, (915) 672-8544.

TRD-852325

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Meetings Filed March 18

The Central Plains Mental Health and Mental Retardation Center, Board of Trustees, will meet at 2601 Dimmitt Road, Plainview, on March 28, 1985, at 7 p.m. Information may be obtained from Rick Van Hersh, 2700 Yonkers, Plainview, Texas 79072, (806) 296-2726

The Coastal Bend Council of Governments, Executive Board, will meet in the Blue Room, second floor, Town Club, 701 North Water, Corpus Christi, on March 22, 1985, at 11:45 a.m. The Membership Committee, will meet at 901 Leopard, Corpus Christi, on the same day, at 2 p.m. Information may be obtained from John P. Buckner, P.O. Box 9909, Corpus Christi, Texas 78408, (512) 883-5743.

The Comal Appraisal District, Board of Directors, met in emergency session at 644 North Loop 337, New Braunfels, on March 18, 1985, at 7:30 p.m. Information may be obtained from Glenn L. Brucks, P.O. Box 1222, New Braunfels, Texas 78130, (512) 625-8597.

The Dallas Area Rapid Transit, Budget and Finance Committee, met in emergency session at 601 Pacific Avenue, Dallas, on March 18, 1985, at 4 p.m. Information may be obtained from Nancy McKethan, 601 Pacific Avenue, Dallas, Texas 75202, (214) 748-3278.

The Region II Education Service Center, Board of Directors, will meet in the administrative conference room, 209 North Water, Corpus Christi, on April 9, 1985, at 6:30 p.m. Information may be obtained from Gerald V. Cook, 209 North Water, Corpus Christi, Texas 78401, (512) 883-9288.

The Central Appraisal District of Johnson County, Board of Directors, will meet at 109 North Main Street, Cleburne, on March 27, 1985, at 7:30 p.m. Information may be obtained from Don Gilmore, 109 North Main Street, Cleburne, Texas 76031, (817) 645-3986.

The Liberty County Central Appraisal District, Board of Directors, will meet at 1820 Sam Houston, Liberty, on March 27, 1985, at 9:30 a.m. Information may be obtained from Sherry Greak, P.O. Box 712, Liberty, Texas 77575, (409) 336-6771.

The North Texas Municipal Water District, Board of Directors, will meet in the ad-

ministrative offices, 505 East Brown Street, Wylie, on March 28, 1985, at 4 p.m. Information may be obtained from Carl W. Riehn, P.O. Drawer C, Wylie, Texas 75098, (214) 442-5405.

The Parmer County Tax Appraisal Office, Board of Directors, will meet at 305 Third Street, Bovina, on April 1, 1985, at 7:30 p.m. Information may be obtained from Ron Procter, P.O. Box 56, Bovina, Texas 79009, (806) 238-1405.

The Sabine River Authority of Texas, Board of Directors, will meet at Homer Bryce Lodge, Toledo Bend Reservoir, one mile east of FM Road 3172, Huxley, on March 29, 1985, at 9 a.m. Information may be obtained from Sam F. Collins, P.O. Box 579, Orange, Texas 77630, (409) 883-2531.

The South Plains Association of Governments, Executive Committee, will meet at 3424 Avenue H, Lubbock, on March 25,

1985, at 2 p.m. Information may be obtained from Jerry D. Casstevens, P.O. Box 2787, Lubbock, Texas 79408, (806) 762-8721.

The Tyler County Tax Appraisal District, Board of Directors, met at 103 Pecan, Woodville, on March 19, 1985, at 4 p.m. Information may be obtained from Mary F. Mann, P.O. Drawer 9, Woodville, Texas 75979, (409) 283-3736.
TRD-852384

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Meetings Filed March 19

The Capitol Area Planning Council, Governor's Regional Review Committee, will meet in Suite 100, 2520 IH 35 South, Austin, on March 29, 1985, at 9 a.m. In-

formation may be obtained from Sarah Bailey, 2520 IH 35 South, Suite 100, Austin, Texas 78704, (512) 443-7653.

The Golden Crescent Regional Planning Commission, Board of Directors, will meet in the Americana Room, Interfirst Bank, 1908 North Laurent, Victoria, on March 27, 1985, at 5 p.m. Information may be obtained from Patrick J. Kennedy, P.O. Box 2028, Victoria, Texas 77902, (512) 578-1587.

The Leon County Central Appraisal District, Board of Directors, will meet in the county courthouse, Centerville, on March 25, 1985, at 7:30 p.m. Information may be obtained from Tom G. Holmes, P.O. Box 536, Centerville, Texas 75833, (214) 536-2911.

TRD-852421

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The Legislature

For the purpose of public information, the *Register* publishes a listing of the bills that have been submitted to the governor during each legislative session and the status of these bills. A bill will be listed after the bill has passed both the House and the Senate and again when the Governor acts upon it.

Bills Signed by the Governor

March 13

SB 2 Relating to the calculation and use of the small school district adjusted allotment under the Foundation School Program.

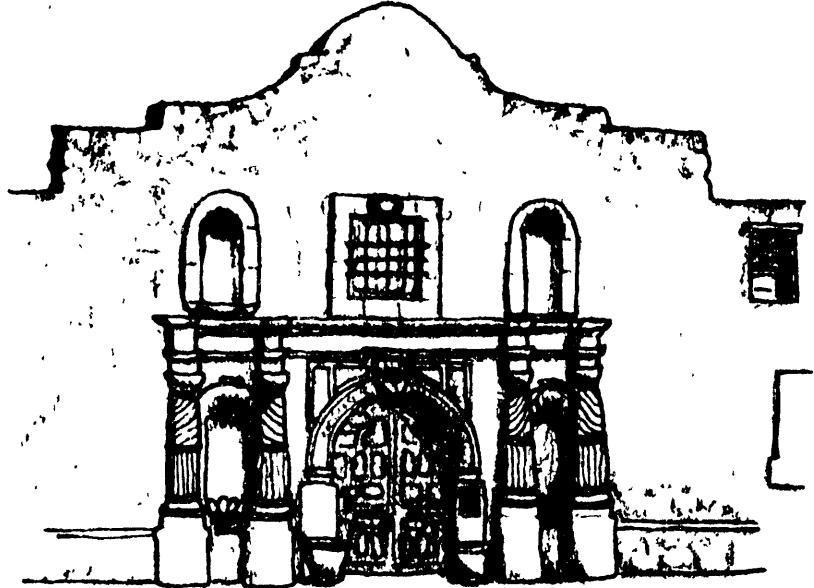
Effective date: Immediately

March 14

SB 53 Relating to the establishment, powers, and duties of the Texas Cancer Council and the duties and powers of the Texas Department of Health in relation to the council.

Effective date: September 1, 1985

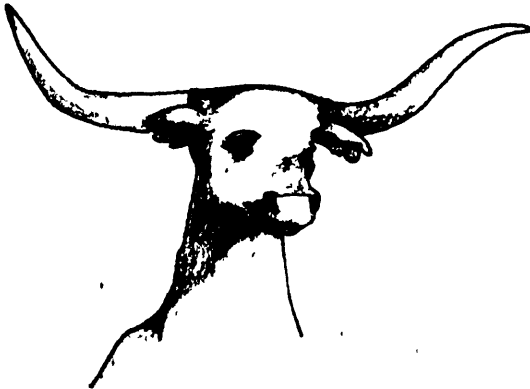
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In Addition

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



Texas Air Control Board Applications for Construction Permits

The Texas Air Control Board gives notice of applications for construction permits received during the period of February 18-22, 1985.

Information relative to the following applications, including projected emissions and the opportunity to comment or to request a hearing, may be obtained by contacting the office of the executive director at the central office of the Texas Air Control Board, 6330 Highway 290 East, Austin, Texas 78723.

A copy of all material submitted by the applicant is available for public inspection at the central office of the Texas Air Control Board at the previously mentioned address and at the regional office for the air quality control region within which the proposed facility will be located.

Listed are the names of the applicants and the cities in which the facilities are located; type of facilities; location of the facilities (if available); permit numbers; and type of application—new source or modification.

Koch Refining Company, Corpus Christi; special chemicals plant; Suntide Road; 9615; new source

Ike Jackson and Sons, New Caney; trench burner; 935 U.S. Highway 59 South, Montgomery County; 4321C; modification

National Pipe and Tube Acquiring Company, Liberty; pipe coating; 319 Independence Drive, Liberty County, 4030A; modification

National Pipe and Tube Acquiring Company, Liberty; painting and drying of pipe couplings; 319 Independence Drive, Liberty County; 4029A; modification.

Nalco Chemical Company, Sugar Land; specialty chemicals unit; 7701 Highway 90A, Fort Bend County; 9616; new source

Texaco Refining and Marketing, Inc., Port Arthur; number three FCCU CO boiler; north end of Houston Avenue, Jefferson County; 9617; new source

Amoco Production, Sundown; gas turbine; Sundown, Hockley County; 9618; new source

Metro-Pour Concrete, Inc., Rockwall; concrete batch plant; 2010 Cristy Lane, Rockwall County; 7267A; modification

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

TRD-852289 Paul M. Shinkawa
Director of Hearings
Texas Air Control Board

Filed: March 14, 1985
For further information, please call (512) 451-5711,
ext. 354.



The Texas Air Control Board gives notice of applications for construction permits received during the period of February 25-28, 1985.

Information relative to the following applications, including projected emissions and the opportunity to comment or to request a hearing, may be obtained by contacting the office of the executive director at the central office of the Texas Air Control Board, 6330 Highway 290 East, Austin, Texas 78723.

A copy of all material submitted by the applicant is available for public inspection at the central office of the Texas Air Control Board at the previously mentioned address, and at the regional office for the air quality control region within which the proposed facility will be located.

Listed are the names of the applicants and the cities in which the facilities are located; type of facilities; location of the facilities (if available); permit numbers; and type of application—new source or modification.

Downing Brothers, Inc., Bryan; hot mix asphalt; ¼ mile west of FM Road 2818, Brazos County; 9619; new source

City of Carthage; resource recovery facility; LaSalle Parkway, Panola County; 9620; new source

Duininck Brothers and Gilcrist, Bridgeport; bituminous hot mix plant drum mix; four miles north of Bridgeport, Wise County; 9621; new source

Bexar Asphalt Company, San Antonio; hot mix asphalt; 4303 FM Road 1604, Bexar County; 209M; modification

Pioneer Aggregates, Division of Pioneer Concrete of Texas, Weatherford; rock crusher;

Weatherford, Parker County; 560A; modification

Resource Recovery International, Avinger; PCB incinerator; Avinger, Marion County; 9622; new source

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

TRD-852290 Paul M. Shinkawa
Director of Hearings
Texas Air Control Board

Filed: March 14, 1985
For further information, please call (512) 451-5711,
ext. 354.

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The Texas Air Control Board gives notice of applications for construction permits received during the period of February 25-28, 1985.

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Listed are the names of the applicants and the cities in which the facilities are located; type of facilities; location of the facilities (if available); permit numbers; and type of application—new source or modification.

Sherwood Medical Company, Commerce; sterilization facility; 400 Maple, Hunt County; 9623; new source

Liquid Energy Corporation, Bridgeport; compressor station; Bridgeport, Wise County; 9624; new source

Inexco Oil Company, Canton; Ava Cox 1 well test; Canton, Van Zandt County; 9625; new source

Akzo Chemical America, Pasadena; catalyst plant phase 2 facility; 13,000 Baypark Road, Harris County; 9626; new source

Anzon America, Inc., Laredo; antimony smelting; North Laredo, Webb County; 9627; new source

Southwest Asphalt Materials, Inc., Milano; hot mix asphalt; Milano, Milam County; 6291B; modification

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

TRD-852291 Paul M. Shinkawa
Director of Hearings
Texas Air Control Board

Filed: March 14, 1985
For further information, please call (512) 451-5711,
ext. 354.

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Banking Department of Texas Public Hearing

As no opposition was noted in the domicile change for Commerce Bank of Plano, Plano (in organization), the hearing previously scheduled for Thursday, March 21, 1985, was canceled. This application was scheduled for board action on March 19, 1985.

Issued in Austin, Texas, on March 12, 1985

TRD-852234 James L. Sexton
Commissioner
Banking Department of Texas

Filed: March 13, 1985
For further information, please call (512) 475-4451.

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Texas Department of Community Affairs Amendment to Consultant Contract Award

On January 1, 1985, pursuant to the provisions of Texas Civil Statutes, Article 6252-11c, a consultant contract was awarded by the Texas Department of Community Affairs (TDCA) to National Alliance of Business to provide training and to develop a technical assistance guide on performance-based contracting under the Job Training Partnership Act (JTPA). Notice is given of the intent to modify the existing contract after 10 days from the date of this publication. The notice of consultant contract award appeared in the January 18, 1985, issue of the *Texas Register* (10 TexReg 221).

The proposed modification requires the contractor to present one additional workshop on performance-based contracting for TDCA personnel and contractor/subcontractor staffs.

The complete name and business address of the consultant is National Alliance of Business, Three Northpark, Suite 205, 8000 North Central Expressway, Dallas, Texas 75231.

As proposed, this modification will increase the amount of the original award by \$4,775. The ending date of the contract remains the same. The original consultant proposal request appeared in the March 30, 1984, issue of the *Texas Register* (9 TexReg 1822).

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

TRD-852280 Douglas C. Brown
General Counsel
Texas Department of Community
Affairs

Filed: March 13, 1985
For further information, please call (512) 443-4100,
ext. 210.

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Request for Proposals

The Texas Department of Community Affairs (TDCA), under the authority of its enabling act, Texas Civil Statutes, Article 4413(201), and as the state agency designated

to administer the drug abuse component of the alcohol and drug abuse and mental health services block grant (42 United States Code §300x *et seq.*), announces a request for proposals (RFP) from its Drug Abuse Prevention Division (DAPD) for the delivery of drug program services.

Proposals will be accepted for the delivery of drug program services including any or all modes within any or all categories of a comprehensive continuum of care. Categories and their respective populations and service modes are as follows.

Prevention. This includes primary prevention targeted at nonusers and experimental users through drug information, education, and alternatives; and intervention targeted at high-risk individuals and recreational and habitual users through alternatives, peer support groups, and individual and family sessions.

Treatment. This is targeted at chronic and dependent users through detoxification, individual/group therapy, and support services provided within either outpatient or residential settings.

Funding priority will be given to initiating and providing new drug program services for females and to maintaining the current statewide capacity for residential treatment services.

Services should be proposed for a two-year period beginning October 1, 1985. Offerors must propose a total cost according to instructions specified in the proposal instruction package (PIP). Although the TDCA will contract and award funds for a 12 month period only, the TDCA expressly reserves the right to negotiate and execute amendments to any resulting contracts to extend the period of performance beyond the initial one-year period.

The amount of the 12-month contract and the required contractor's share for the respective service categories are as follows.

Prevention/Intervention. For new offerors, the maximum contract amount is \$75,000, which includes a minimum 25% of the total cost contributed as contractor's share. Offerors currently contracting for the delivery of prevention/intervention services should propose funding at the current level unless the scope of work will be significantly changed, with a contractor's share of 25% of the total cost or maintenance of effort, whichever is greater.

Treatment Slots to Determine the Contract Amount for Successful Offerors. A treatment slot is the capacity to provide treatment to one active client for one year. The cost of maintaining the proposed number of slots should be the basis for the proposed budget. A minimum of 40% of the total cost will be required as contractor's share for new offerors. Offerors currently contracting for the delivery of treatment services will be required to contribute 40% of the total cost or maintenance of effort, whichever is greater.

New Services for Females. The contract amount is dependent upon the nature of the project being proposed. A minimum of 15% of the total cost will be required as the contractor's share.

The federal portion of funds available under this RFP may not be used to provide inpatient hospital services; make cash payments to intended recipients of services; purchase or improve land, purchase, construct, or permanently improve (other than minor remodeling) any building or other facility, or purchase major medical equipment; satisfy any requirement for the expenditure

of nonfederal funds as a condition for the receipt of federal funds; or provide financial assistance to any entity other than a public or nonprofit private entity.

To be eligible, offerors must be public or private nonprofit community-based organizations; be able to document a minimum of one year's experience in delivering a drug program or related human services to the proposed target population(s) within the same geographic area where proposed services are to be delivered; and evidence the capability to accomplish the services being requested through this RFP. Proposals must include specific items and documents as described in the PIP. Offerors will be required to establish legal authority to contract with the TDCA by submitting certification of eligibility documents as specified in the PIP. The TDCA will base its selection on factors such as offeror's experience, offeror's capability of managing and delivering the services proposed, including programmatic and fiscal soundness, the extent to which proposed services correspond to desired services and meet the needs of the target populations, the extent to which proposed services correspond to stated funding priorities, e.g., services for females, technical quality of the proposal, and fiscal considerations such as availability of matching funds to be contributed by offeror and cost-efficiency.

Program proposals submitted in response to this RFP are subject to review and comment under the Texas Review and Comment System (TRACS). Under TRACS, the 24 Texas regional councils of government are designated regional review agencies (RRAs) within their respective state planning regions. The RRAs will serve as the primary contact points for local applicants. The Office of the Governor has been designated as the statewide review agency and the state single point of contact (SPOC) for those programs with statewide impact or affecting more than one planning region.

Proposals must be submitted to the appropriate RRA or SPOC prior to their submission to the TDCA. Offerors must adhere to the TRACS review schedule and submission deadline as detailed in the PIP. Proposals will not be considered by the TDCA unless TRACS procedures are followed, a state application identifier number has been assigned to the offeror's proposal, and such proposal is timely submitted to the TDCA as specified in the following paragraph.

Final submission of proposals will not be accepted by the TDCA after 5 p.m. on June 24, 1985. Proposals received after June 24, 1985, will be accepted only if postmarked on or before June 20, 1985. Three copies of the proposal, including TRACS comments or waiver, should be mailed to the TDCA/DAPD at either of the addresses provided at the end of this RFP. Proposals hand-carried may be delivered to either of the two addresses by 5 p.m. on June 24, 1985.

The TDCA reserves the right to accept or reject any or all proposals submitted under this RFP and after submission to negotiate modifications to improve the quality or cost-effectiveness of any proposal. The TDCA is under no legal requirement to execute a resulting contract, if any, on the basis of this advertisement, and intends the material provided herein only as a means of identifying the services desired by the TDCA and announcing the availability of funding to support those services. This RFP does not commit the TDCA to pay for any costs incurred prior to the execution of a contract. The TDCA specifically reserves the right to vary all provisions or terms set forth herein at any time prior to the execution of a con-

tract where the TDCA deems such variances to be in the best interest of the State of Texas.

A bidders' conference is tentatively scheduled for April 4, 1985, at the Wyndham Southpark Hotel in Austin, at which time the clarification of requirements and scope of services will be provided. Apart from such clarification, no technical assistance will be provided by the TDCA in the preparation of a proposal in response to this RFP.

Detailed information regarding the proposal format and instructions and forms necessary for the preparation and submission of a proposal are set forth in the PIP, which will be available upon request, at the Drug Abuse Prevention Division, Texas Department of Community Affairs, 611 South Congress Avenue, Suite 200, Austin, Texas 78704, (512) 475-2311, or 2015 IH 35 South, Austin, Texas 78741, (512) 443-4100.

Issued in Austin, Texas, on March 22, 1985.

TRD-852369 Douglas C. Brown
General Counsel
Texas Department of Community
Affairs

Filed: March 18, 1985

For further information, please call (512) 443-4100.

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Office of Consumer Credit Commissioner

Rate Ceilings

The consumer credit commissioner of Texas has ascertained the following rate ceilings by use of the formulas and methods described in Texas Civil Statutes, Title 79, Articles 1.04, 1.05, 1.11, and 15.02, as amended (Texas Civil Statutes, Articles 5069-1.04, 1.05, 1.11, and 15.02).

Type of Rate Ceilings Effective Period (Dates are Inclusive)	Consumer ⁽³⁾ /Agricul- tural/Commercial ⁽⁴⁾ thru \$250,000	Commercial ⁽⁴⁾ over \$250,000
Indicated (Weekly) Rate—Article 1.04(a)(1) 03/25/85-03/31/85	18.00%	18.00%
Monthly Rate— Article 1.04(c) ⁽¹⁾ 03/01/85-03/31/85	18.00%	18.00%
Standard Quarterly Rate—Article 1.04(a)(2) 04/01/85-06/30/85	18.00%	18.00%
Retail Credit Card Quarterly Rate— Article 1.11 ⁽³⁾ 04/01/85-06/30/85	18.00%	N/A
Lender Credit Card Quarterly Rate— Article 15.02(d) ⁽³⁾ 04/01/85-06/30/85	16.42%	N/A
Standard Annual Rate— Article 1.04(a)(2) ⁽²⁾ 04/01/85-06/30/85	18.00%	18.00%
Retail Credit Card Annual Rate— Article 1.11 ⁽³⁾ 04/01/85-06/30/85	18.00%	N/A

Type of Rate Ceilings
Effective Period
(Dates are Inclusive)

Consumer⁽³⁾/Agricul-
tural/Commercial⁽⁴⁾
thru \$250,000

Commercial⁽⁴⁾
over
\$250,000

Annual Rate Applica-
ble to Pre-July 1, 1983,
Retail Credit Card and
Lender Credit Card
Balances with Annual
Implementation Dates
from

04/01/85-06/30/85

19.27%

N/A

Judgment Rate—
Article 1.05, §2

04/01/85-04/31/85

10.00%

10.00%

(1) For variable rate commercial transactions only

(2) Only for open-end credit as defined in Texas Civil Statutes, Article 5069-1.01(f).

(3) Credit for personal, family, or household use

(4) Credit for business, commercial investment, or other similar purpose

Issued in Austin, Texas, on March 18, 1985.

TRD-852379 Sam Kelley
Consumer Credit
Commissioner

Filed: March 18, 1985

For further information, please call (512) 475-2111.

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Texas Health Facilities Commission

Applications Accepted for Amendment, Declaratory Ruling, Notices of Intent, and Petition for Reissuance of Certificate of Need

Notice is hereby given by the Texas Health Facilities Commission of applications accepted as of the date of this publication. In the following list, the applicant is listed first, file number second, the relief sought third, and a description of the project fourth. DR indicates declaratory ruling; AMD indicates amendment of previously issued commission order; CN indicates certificate of need; PFR indicates petition for reissuance; NIE indicates notice of intent to acquire major medical equipment; NIEH indicates notice of intent to acquire existing health care facilities; NIR indicates notice of intent regarding a research project; NIE/HMO indicates notice of intent for exemption of HMO-related project; and EC indicates exemption certificate.

Should any person wish to become a party or interested person to the applications, that person must file a proper request to become a party or interested person to the applications 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 applications 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.

Harold W. Nash, Arlington
AN85-0131-079

NIEH—Request for a declaratory ruling that a certificate of need is not required for Harold W. Nash to acquire by purchase Fisher County Nursing Home, an existing 35-bed IFC nursing facility located in Rotan, from Golden Horizon Care Centers.

Roby Associates, a California limited partnership, Dallas
AN85-0131-075

NIEH—Request for a declaratory ruling that a certificate of need is not required for Roby Associates, a California limited partnership, to acquire by purchase Fisher County Nursing Home, an existing 35-bed ICF nursing facility located in Rotan, from Harold W. Nash.

L & L Equities, Inc., a Texas corporation, Dallas
AN85-0131-077

NIEH—Request for a declaratory ruling that a certificate of need is not required for L & L Equities, Inc., to acquire by lease Fisher County Nursing Home, an existing 35-bed ICF nursing facility located in Rotan, from Roby Associates, a California limited partnership.

Harold W. Nash, Arlington
AN85-0131-080

NIEH—Request for a declaratory ruling that a certificate of need is not required for Harold W. Nash to acquire by purchase Golden Haven Home, an existing 34-bed ICF nursing facility located in Roby, from Golden Horizon Care Centers.

Roby Associates, a California limited partnership, Dallas
AN85-0131-076

NIEH—Request for a declaratory ruling that a certificate of need is not required for Roby Associates to acquire by purchase Golden Haven Home, an existing 34-bed ICF nursing facility located in Roby, from Harold W. Nash.

L & L Equities, Inc., a Texas corporation, Dallas
AN85-0131-078

NIEH—Request for a declaratory ruling that a certificate of need is not required for L & L Equities, Inc. to acquire by lease Golden Haven Home, an existing 34-bed ICF nursing facility located in Roby, from Roby Associates, a California limited partnership.

Continental Home Health Services, Inc., a Nevada corporation, Arlington
AN85-0131-081

NIEH—Request for a declaratory ruling that a certificate of need is not required for Continental Home Health Services, Inc., to acquire by sublease Park Place Nursing Home, an existing 108-bed nursing facility with 52 ICF and 56 skilled beds located in Palestine, from Britannia Health Care Facility, Inc.

MGH Medical, Inc., doing business as Humana Hospital Metropolitan, San Antonio
AH82-1118-197A(030885)

CN/AMD—Request for an extension of the completion deadline from December 31, 1984, to April 1, 1985, in Certificate of Need AH82-1118-197,

which authorized the certificate holder to provide the new services of cardiac catheterization and open heart surgery, and to relocate the physical therapy department and other ancillary services through the renovation of 4,181 square feet.

Humana of Texas, Inc., doing business as Medical City Dallas Hospital and Medical City, Ltd., Dallas

AH80-0905-029A(030885);

CN/AMD—Request for an extension of the completion deadline from February 28, 1985, to May 31, 1985, and an increase in the project cost from \$37,738,068 to \$39,915,500 in Certificate of Need AH80-0905-029, which authorized the certificate holder to conduct a construction and renovation project which will involve the construction of a new seven-floor building addition containing 173,405 square feet and the renovation of 45,330 square feet in the existing facility

Jewell Enterprises, Inc., Arlington
AN85-0311-159

NIEH—Request for a declaratory ruling that a certificate of need is not required for Jewell Enterprises, Inc., to acquire by purchase Camlu Care Center of Woodlawn Hills, an existing 186-bed nursing facility with 161 ICF and 25 skilled beds located in San Antonio, from Triple C of Texas. Upon acquisition, the name of the facility will be changed to Woodlawn Hills Nursing Center.

Mill Creek Properties, Inc., Arlington
AN85-0311-162

NIEH—Request for a declaratory ruling that a certificate of need is not required for Mill Creek Properties, Inc., to acquire by lease Camlu Care Center of Woodlawn Hills, an existing 186-bed facility with 161 ICF and 25 skilled beds located in San Antonio, from Jewell Enterprises, Inc. Upon acquisition, the name of the facility will be changed to Woodlawn Hills Nursing Center.

Jewell Enterprises, Inc., Arlington
AN85-0311-160

NIEH—Request for a declaratory ruling that a certificate of need is not required for Jewell Enterprises, Inc., to acquire by purchase Camlu Care Center of Oak Hills, an existing 192-bed ICF nursing facility located in San Antonio, from Triple C of Texas. Upon acquisition, the name of the facility will be changed to Oak Hills Nursing Center.

Mill Creek Properties, Inc., Arlington
AN85-0311-163

NIEH—Request for a declaratory ruling that a certificate of need is not required for Mill Creek Properties, Inc., to acquire by lease Camlu Care Center of Oak Hills, an existing 192-bed ICF nursing facility located in San Antonio, from Jewell Enterprises, Inc. Upon acquisition, the name of the facility will be changed to Oak Hills Nursing Center.

Kenedy Associates, a California limited partnership, Long Beach, California
AN85-0308-156

NIEH—Request for a declaratory ruling that a certificate of need is not required for Kenedy Associates, a California limited partnership, to acquire by purchase Restful Acres Nursing Home, an existing 60-bed ICF nursing facility located in Kenedy, from Restful Acres Nursing Home, Inc.

L & L Equities, Inc., a Texas corporation,
Arlington
AN85-0308-155

NIEH—Request for a declaratory ruling that a certificate of need is not required for L & L Equities, Inc., to acquire by lease Restful Acres Nursing Home, an existing 60-bed ICF nursing facility located in Kenedy, from Kenedy Associates, a California limited partnership.

Kenedy Associates, a California limited partnership, Long Beach, California
AN85-0308-157

NIEH—Request for a declaratory ruling that a certificate of need is not required for Kenedy Associates, a California limited partnership, to acquire by purchase Green's Rest Home, an existing 59-bed ICF nursing facility located in Kenedy, from Abb M. Green, Jr., and Pearl J. Green.

L & L Equities, Inc., a Texas corporation,
Arlington
AN85-0308-158

NIEH—Request for a declaratory ruling that a certificate of need is not required for L & L Equities, Inc., to acquire by lease Green's Rest Home, an existing 59-bed ICF nursing facility located in Kenedy, from Kenedy Associates, a California limited partnership.

Preston and Florence Gray for Heritage Manor
Care Center of Hondo,
Hondo

AN82-1116-919A(031285)

CN/AMD—Request for an extension of the completion deadline from February 1, 1985, to June 1, 1985, in Certificate of Need AN82-1116-191, as amended by AN82-1116-191A(112183), AN82-1116-191A(012484), and AN82-1116-191A(100984), which authorized the certificate holder to reclassify 34 intermediate care beds to skilled care beds in the 118-bed facility.

Issued in Austin, Texas, on March 18, 1985.

TRD-852374 John R. Neel
 General Counsel
 Texas Health Facilities
 Commission

Filed: March 18, 1985

For further information, please call (512) 475-8940.

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Texas House of Representatives Consultant Proposal Requests

In accordance with Texas Civil Statutes, Article 6252-11c, the Texas House of Representatives invites all interested parties to submit proposals to provide consultant services to this agency. The House of Representatives intends to award the contract to Nicolai von Kreisler, 800 Southwest Tower, Austin, Texas 78701, unless a better and more satisfactory offer is received. This contract is a continuation of a previous consulting arrangement.

Description of Services. The purpose of the proposed contract is to study the security and banking laws of the State of Texas and to develop recommendations for the improvement of those laws.

Contact Person. Persons wishing to notify the House of Representatives of their intent to make a proposal

should contact Joyce Faykus, P.O. Box 2910, Austin, Texas 78769, (512) 475-2935.

Closing Date. The closing date for receipt of offers to provide these services is April 26, 1985.

Selection Criteria. Proposals presented will be judged on the firm's demonstrated knowledge and experience in the area of securities and banking. The contract award will not necessarily be made to the lowest bidder, but to the lowest and best bidder in relation to the evaluation criteria. All proposals should be in writing.

Issued in Austin, Texas, on March 14, 1985.

TRD-852316 David E. Balmforth
 Chief Accountant
 Texas House of Representatives

Filed: March 14, 1985

For further information, please call (512) 475-2935.

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In accordance with Texas Civil Statutes, Article 6252-11c, the Texas House of Representatives invites all interested parties to submit proposals to provide consultant services to this agency. The House of Representatives intends to award the contract to William S. Rose, 2501 North Lamar Boulevard, Austin, Texas 78705, unless a better and more satisfactory offer is received. This contract is a continuation of a previous consulting arrangement.

Description of Services. The purpose of the proposed contract is to study the feasibility of the future water supply in Texas and to develop proposals to meet the future water needs of the State of Texas.

Contact Person. Persons wishing to notify the House of Representatives of their intent to make a proposal should contact Joyce Faykus, P.O. Box 2910, Austin, Texas 78769, (512) 475-2935.

Closing Date. The closing date for receipt of offers to provide these services is April 26, 1985.

Selection Criteria. Proposals presented will be judged on the firm's demonstrated knowledge, competence, experience, and on the reasonableness of the proposed fee for the services. The contract award will not necessarily be made to the lowest bidder, but to the lowest and best bidder in relation to the evaluation criteria. All proposals should be in writing.

Issued in Austin, Texas, on March 14, 1985.

TRD-852317 David E. Balmforth
 Chief Accountant
 Texas House of Representatives

Filed: March 14, 1985

For further information, please call (512) 475-2935.

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Texas Department of Human Resources Consultant Proposal Request

In accordance with Texas Civil Statutes, Article 6252-11c, the Texas Department of Human Resources (DHR) is requesting proposals for consulting services.

Description of Services. The service to be provided is a Fall 1985 conference focusing on the issues of family violence, particularly as related to spouse abuse.

The primary purpose of the conference is orientation and continuing education for family violence service providers. The conference must offer content to meet the educational needs of family violence service providers ranging from new providers to those with extensive experience and highly developed service delivery programs. The conference is to include at least one keynote address and multiple workshops. The conference may be a two- or three-day conference and must be a minimum of 14 hours of actual training (keynote and workshops).

The contractor will complete an assessment of the training need of potential, new, and established providers of family violence services. This assessment will be the basis for final determination of conference content. Using the information from the assessment, the contractor must plan the conference in conjunction with a conference planning committee on which the department has representation.

The contractor will be responsible for developing and distributing program brochures; conference publicity; coordination of the conference including securing a site, speaker, and audio-visual equipment; ensuring that any handouts are printed and available; coordination of conference topics with other conferences aimed at similar audiences; gaining involvement of individuals in the field of family violence and spouse abuse as workshop leaders; and encouraging conference attendance by family violence service providers, DHR staff involved with the program, and other volunteers and professionals involved in family violence.

The contractor will be responsible for compiling an evaluation of the contract based upon input from participants.

Limitations of Contract. The contract period will be May 20, 1985-November 30, 1985, and funding will not exceed \$20,000.

Contact Person. The contact person is Kate Redfern—Mail Code 538-W, Program Specialist, Texas Department of Human Resources, P.O. Box 2960, Austin, Texas 78769, (512) 450-3297.

Evaluation and Selection Criteria. Procedures to be used to evaluate offers will include evaluation of previous relevant experience, the plan for provision of procured services, and the cost. Final selection will be based upon the department's evaluation of these criteria.

This proposed contract is a continuation of a current program and the department intends to contract with the current provider unless a substantially better offer is received.

Closing Date. Closing date for receipt of offers is April 15, 1985.

Issued in Austin, Texas, on March 18, 1985.

TRD-862371 Marlin W. Johnston
Commissioner
Texas Department of
Human Resources

Filed: March 18, 1985
For further information, please call (512) 450-3766.

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Corrections of Error

A request for proposals by the Texas Department of Human Resources contained an error as published in the March 15, 1985, issue of the *Texas Register* (10 TexReg 897). The correct telephone number to contact Joe Pa-pick regarding information on the request for proposals is 450-3309.

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The consultant contract award published in the December 25, 1984, issue of the *Texas Register* (9 TexReg 6487) contained an error as submitted. The amount of the contract awarded Gerald Rogers, 5812 Radiant, Amarillo, Texas, should have been \$54,100. All other information was correct as published.

Issued in Austin, Texas, on March 22, 1985.

TRD-852348 Marlin W. Johnston
Commissioner
Texas Department of
Human Resources

Filed: March 16, 1985
For further information, please call (512) 450-3766.

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Public Hearing

In response to a request from Sid Rich, representing the Texas Nursing Home Association, the Texas Department of Human Resources will conduct a hearing to accept comments on proposed new rules in its legal services rule chapter, concerning methods for auditing contractors. The proposals were published in the February 19, 1985, issue of the *Texas Register* (10 TexReg 627).

The hearing will begin at 9 a.m. on March 29, 1985, in the public hearing room, first floor, East Tower, 701 West 51st Street, Austin.

Issued in Austin, Texas, on March 18, 1985.

TRD-852372 Marlin W. Johnston
Commissioner
Texas Department of
Human Resources

Filed: March 18, 1985
For further information, please call (512) 450-3766.

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The Prosecutor Council Consultant Proposal Request

Pursuant to Texas Civil Statutes, Article 6252-11c, The Prosecutor Council invites the offer of services on a consulting basis to help present a professional development course for prosecutors, which is more fully described as follows.

Course Description. The curriculum should be directed at prosecutors with one-three years' experience. Emphasis should be placed on the skills needed to handle a criminal case from intake through trial. Maximum utilization

should be made of workshop and discussion group formats.

Duties of the Contractor. It will be the responsibility of the contractor to arrange the meeting facilities. The contractor will be responsible for all physical arrangements; obtaining and compensating speakers; printing handout materials; and the operating of the school, including registration and preregistration.

Duties of the Council. It will be the responsibility of the council to send out the notice of the school and to present the subjects reserved to it as listed in the course description, including obtaining speakers and printing handout materials

Additional Information. In addition to the cost to the council, the proposal also should include the dates and location for the school and the cost of lodging and meals.

Contact Person. Further information concerning this offer and an outline of the topics and material to be covered may be obtained from Andy Shuval, Executive Director, The Prosecutor Council, P.O. Box 13555, Austin, Texas 78711, (512) 475-6825.

Closing Date. The deadline for receipt of application to The Prosecutor Council is 5 p.m. on April 19, 1985.

Method of Selection. The Prosecutor Council will award the contract on the basis of past experience in performing the services requested, familiarity with the operation of prosecutor's offices, and demonstrated ability to provide the services in a timely manner. The Prosecutor Council believes that the Texas District and County Attorneys Association (TDCAA) meets the previously stated criteria. It has provided the requested services in the past to the council and has the necessary track record in providing professional development courses. The contract will be awarded to the TDCAA unless a better proposal is submitted. All proposals should be submitted in writing. Proposals will be evaluated by The Prosecutor Council and further information may be requested. The award of the contract will be by The Prosecutor Council.

Issued in Austin, Texas, on March 15, 1985.

TRD-852373 Andy Shuval
 Executive Director
 The Prosecutor Council

Filed: March 18, 1985

For further information, please call (512) 475-6825.

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Railroad Commission of Texas Request for Proposals

The Railroad Commission of Texas, Surface Mining and Reclamation Division (SMRD), 105 West Riverside Drive, Room 215, Austin, invites offers for consulting engineering services. This request is exempted from the advertising and reporting requirements of Texas Civil Statutes, Article 6252-11c, which does not apply to the employment of registered professional engineers.

The commission is the designated state agency for implementation and enforcement of the Surface Control and Reclamation Act of 1977 (30 United States Code §1201), and as such it is the recipient of abandoned mine land reclamation funds to be applied towards the reclaiming of abandoned mine areas within the State of Texas. The commission presently is engaged in a project to seal the

openings of abandoned mine shafts located in the vicinity of Terlingua in Brewster County. The project requires the design, specifications, and drawings for two types of steel and steel-reinforced concrete caps and one steel cap to be placed across the openings of 11 open shafts which present a severe safety hazard to unsuspecting tourists and the general public. In addition, a concrete cover must be designed for one shaft which has been backfilled, but is located in the bottom of an arroyo and is subject to rapid water flow during peak rainfall events.

Services Required. The consultant engineer or engineering firm will be required to render the following professional services.

(1) Preliminary phase. The consultant must perform a detailed inspection of the shafts to confirm dimensions of the openings and the surrounding soil structure. Estimated dimensions and suggested types of covers for each shaft are provided in Attachment 1, with locations of the shafts depicted in Exhibit A; and advise the commission of the feasibility of sealing the shaft openings with the types of caps described in Attachment 2, and recommend alternative designs which may be more practical. The commission shall decide the type and design of caps to be utilized.

(2) Design phase. The consultant must prepare, in coordination with the commission, technical specifications, drawings, and cost estimates for surface caps to seal the 12 designated mine shafts and deliver final specifications, drawings, and cost estimates to the commission within 60 days of executing a contract. The commission is responsible for contracting for and oversight of the resulting construction work.

(3) Construction phase. The consultant must provide sufficient representatives to conduct on-site observations of the progress and quality of the executed work to determine in general if the work is proceeding in accordance with the contract documents. In performing this service, the engineer will not be responsible for the techniques and sequences of construction or the safety precautions incident thereto, and he will not be responsible for the contractors' failure to perform the construction work in accordance with the contract documents, but will observe such work to determine if the materials and work meet the provisions of the technical specifications and other contract documents. During visits to the construction site, and on the basis of the engineer's on-site observations as an experienced and qualified design professional, he will keep the commission informed of the extent of the progress of the work, and advise the commission of material and substantial defects and deficiencies in the work of contractors and may disapprove work as failing to conform to the contract documents. The consultant also will meet with and advise the commission and issue all instructions of the commission to the contractor and prepare routine change orders as required and approved by the commission; conduct in conjunction with the commission a final inspection of the project for conformance with the design concept of the project and compliance with the information given by the contract documents, and approve in writing final payment to the contractor; and revise contract drawings to show the work as actually constructed, and furnish the commission with three sets of drawings that have been revised to conform to construction records after construction is completed.

Response to the Request. Instructions to bidders are provided in Attachment 3. In responding to this request, please submit three copies of a proposal in three parts as follows.

(1) Background. The bidder will provide a history of the structural engineering experience of the engineer or

firm, particularly involving the design of structures spanning void areas.

(2) **Technical proposal and cost estimates.** The bidder will submit a description of the work tasks to be undertaken and a schedule for completion, together with estimated costs by work tasks, including the type and number of personnel to be used, hourly wage for each job classification, plus overhead, and an estimate of actual reasonable expenses for transportation and lodging.

(3) **Staffing.** The bidder will submit resumes, including Texas professional engineer registration where applicable, of key personnel who would be assigned to the project; provide estimates of the degree of their participation; and state their office locations.

Starting Date. The contract for these services will begin upon approval by the commission and the signing of the contract by all parties.

Deadline for Submission of Proposals. This proposal request will close at 5 p.m. on April 17, 1985. A prebid conference will be held at the Chisos mine site (approximately 1/2 mile north of Highway 170, at 9 a.m. on April 3, 1985. Persons interested in obtaining further information should plan to attend. Proposals should be sent to the Railroad Commission of Texas, Surface Mining and Reclamation Division, Abandoned Mine Lands Section, 105 West Riverside Drive, P.O. Box 12967, Austin, Texas 78711, Attention: Special Projects Coordinator.

General Information. The commission reserves the right to accept or reject any or all proposals submitted. In the event the commission selects a contractor to provide the delivery of services described herein, its choice will be based on demonstrated competence, qualifications, and the reasonableness of the fee for services. No proposal may be withdrawn until expiration of 30 days from the date proposals are opened.

Issued in Austin, Texas, on March 14, 1985.

TRD-852357 Walter Earl Lillie
Special Counsel
Railroad Commission of Texas

Filed: March 15, 1985
For further information, please call (512) 475-8781.

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Texas Savings and Loan Department Application to Establish Remote Service Units

Application has been filed with the savings and loan commissioner of Texas by San Antonio Savings Association, San Antonio, for approval to establish and operate remote service units at the following locations: 2115 North St. Mary's (Super S Foods), Beeville, Bee County; 907 North Main (Super S Foods), Bandera, Bandera County; Route 1, Box AB (Super S Foods), Pleasanton, Atascosa County; and 100 East Colonial Parkway (Super S Foods), Devine, Medina County.

The applicant association asserts that security of the association's funds and that of its account holders will be maintained, and the proposed service will be a substantial convenience to the public.

Anyone desiring to protest the application must file a written protest with the commissioner within 10 days following this notice. The commissioner may dispense with a hearing.

This application is filed pursuant to 7 TAC §§53.11-53.16 of the rules and regulations for savings and loan associations. Such rules are on file with the Office of the Secretary of State, Texas Register, or may be seen at the department's offices at 1004 Lavaca, Austin.

Issued in Austin, Texas, on March 12, 1985

TRD-852351 L. L. Bowman III
Commissioner
Texas Savings and Loan
Department

Filed: March 15, 1985
For further information, please call (512) 475-7991.

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