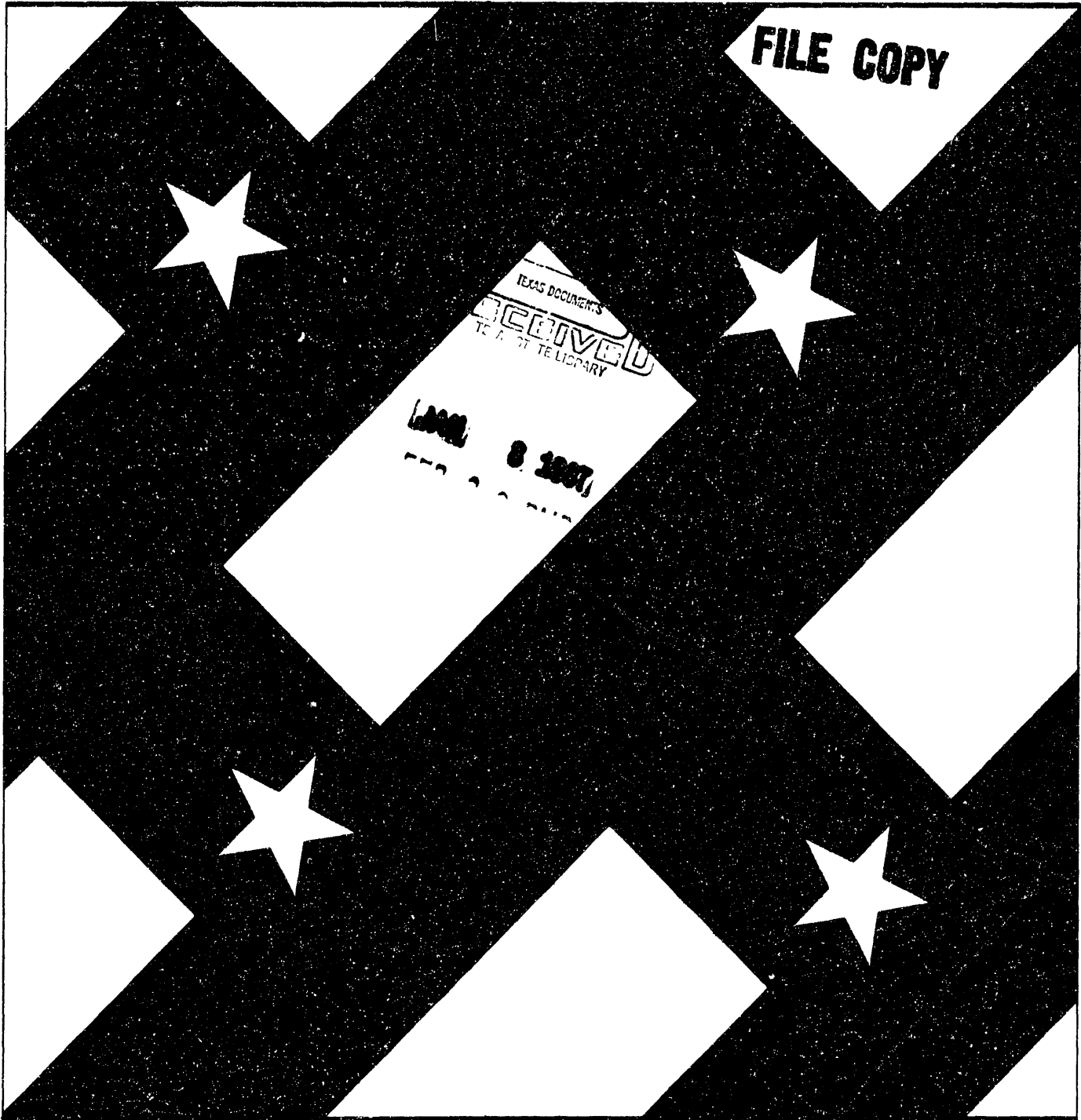


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# Texas Register

Volume 11, Number 87, November 25, 1986

Pages 4775-4811



## Highlights

The **Texas Department of Agriculture** proposes an amendment concerning annual license fees for pesticide dealer's licenses, examination fees, and annual license fees. Earliest possible date of adoption - December 26 . . . . . **page 4790**

The **Texas Department of Labor and Standards** proposes an amendment concerning

titling fees, providing for a quick title issuance fee, and a procedure for payment of titling fees to the department. Earliest possible date of adoption - February 26 . **page 4794**

The **Texas Department of Health** adopts new sections concerning the release of cancer data. Effective date of adoption - December 8 . . . . . **page 4796**

**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 1986 with the exception of June 24, September 2, December 2, and December 30 by the Office of the Secretary of State.

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- State Ethics Advisory Commission—summaries of requests for opinions and opinions
- Attorney General—summaries of requests for opinions, opinions, and open records decisions
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- 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- Withdrawn Rules—rules withdrawn by state agencies from consideration for adoption, or automatically withdrawn by the *Texas Register* six months after proposal publication date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
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- 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: "11 TexReg 2 issue date," while on the opposite page, page 3, in the lower right-hand corner, would be written "Issue date 11 TexReg 3."

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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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# The Governor

As required by Texas Civil Statutes, Article 6252-13a, §6, the *Register* publishes executive orders issued by the Governor of Texas. Appointments and proclamations are also published. Appointments are published in chronological order. Additional information on documents submitted for publication by the Governor's Office can be obtained by calling (512) 463-1814.

## Appointment Made November 7

### Texas Commission for the Deaf

For a term to continue at the pleasure of this governor:

Sidney J. Braquet  
742 East Six and One-Half Street  
Houston, Texas 77007.

Issued in Austin, Texas, on November 18, 1986.

TRD-8610900

Mark White  
Governor of Texas

★ ★ ★

## Appointment Made November 14

### Automated Information and Telecommunications Council

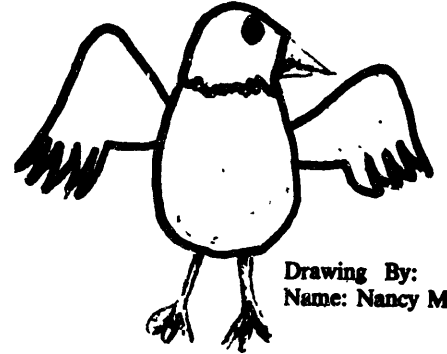
For a term to continue at the pleasure of this governor:

Gary L. Hammon  
8961 Tesoro Drive  
Suite 500  
San Antonio, Texas 78217.

Issued in Austin, Texas, on November 18, 1986.

TRD-8610900

Mark White  
Governor of Texas



Drawing By:  
Name: Nancy Mora

Grade: 3

School: Bradley Elementary, El Paso

## Executive Order MW-39A

WHEREAS, the Third Called Session of the Sixty-ninth Texas Legislature successfully completed a series of budget reduction, accounting and revenue measures which address the immediate budget deficit and cash flow problems of the State of Texas; and

WHEREAS, the actions taken by the Legislature establish revised fiscal year 1987 budgets for state agencies;

NOW, THEREFORE, I, Mark White, Governor of Texas, pursuant to my constitutional and statutory authority as the chief budget officer and chief planning officer of the state, do hereby rescind Executive Order MW-39 and the percentage spending reduction requirement as outlined in paragraph seven of MW-36.

However, because we expect our state government fiscal situation to continue to be tight, I am leaving in place the provisions of MW-36 relating to agency cost-saving measures. I direct all agencies and universities to maintain every effort to operate in the most efficient and effective manner possible and to seek out new opportunities to save funds.

This Executive Order shall be effective immediately, and shall remain in full force and effect until modified, amended or rescinded by me.

Given under my hand this 10th day of November, 1986.

TRD-8610901

Mark White  
Governor of Texas

## Executive Order MW-40

ORDER MW-40 ESTABLISHING PROCEDURES FOR THE 1986 ALLOCATION OF THE STATE CEILING ON PRIVATE ACTIVITY BONDS.

WHEREAS, P.L. 99-514, the Tax Reform Act of 1986 (the "Tax Act") imposes a volume ceiling on the aggregate principal amount of "private activity bonds" (as defined in the Tax Act) that may be issued within the State of Texas during any calendar year; and

WHEREAS, the state ceiling imposed by the Tax Act has an effective date of August 15, 1986 for calendar year 1986; and

WHEREAS, the state ceiling for Texas imposed by the Tax Act shall be an amount equal to \$75 multiplied by the state population; and

**WHEREAS**, the most recent estimate of the State's population released before the beginning of calendar year 1986 by the Bureau of the Census was 16,370,000; and

**WHEREAS**, the state ceiling for Texas imposed by the Tax Act for calendar year 1986 (effective August 15, 1986) is \$1,227,750,000; and

**WHEREAS**, Section 1301 of the Tax Act and Section 146(e) of the Internal Revenue Code of 1986 authorizes the Governor of a state to proclaim a formula for allocating the state ceiling among the governmental units (or other authorities) in such State having authority to issue private activity bonds, until the earlier of the last day of the first calendar year after 1986 during which the legislature of the state meets in regular session, or the effective date of any state legislation with respect to the allocation of the state ceiling; and

**WHEREAS**, the Texas State Legislature is next scheduled to meet in regular session in January 1987;

**NOW, THEREFORE**, I, Mark White, Governor of Texas do hereby proclaim that:

**Section 1.** For purposes of this Executive Order:

"Available" means any amount of the State ceiling set aside for reservations by an issuer upon compliance with the terms of this Executive Order.

"Bonds" means and includes all bonds, certificates, notes, and other obligations authorized to be issued by any issuer by any statute, city home-rule charter, or the Texas Constitution, and includes Mortgage Credit Certificates or the issuer's election to issue such certificates.

"Close" or "closing" means the issuance and delivery of bonds by an issuer in exchange for the required payment therefor.

"Code" means the Internal Revenue Code of 1986.

"Commission" means the Texas Economic Development Commission.

"Issuer" means and includes any department, board, authority, agency, subdivision, municipal corporation, political subdivision, body politic, or instrumentality of the State of Texas of every kind or type whatsoever, and any nonprofit corporation acting for or on behalf of any of the foregoing.

"Locally-voted issue" means an issue of bonds which has been authorized pursuant to a referendum approved by the voters of a political subdivision of the State of Texas.

"Private activity bond" has the meaning given that term under Section 141(a) of the Code.

"Qualified bond" has the meaning given that term under Section 141(d) of the Code.

"Related person" has the meaning given that term under Section 144(a)(3) of the Code.

"Reservation" means a reservation of a portion of the State ceiling for a specific bond issue.

"State-voted issue" means an issue of bonds which has been authorized pursuant to a statewide referendum approved by the voters of the State of Texas.

"State ceiling" means the amount of authority in the State to issue tax-exempt private activity bonds during calendar year 1986, as determined under the Code.

**Section 2.** For the 1986 calendar year, without regard to the allocation formula set forth in the Tax Act, the State ceiling is hereby allocated to the issuers that issue private activity bonds or other obligations containing a private use portion requiring an allocation. Except as provided by Section 3 hereunder, reservations are granted in the order of receipt by the Commission of an application for a reservation, as provided in Section 6(d) of this Executive Order, regardless of the amount of the issue.

**Section 3.** An application for a reservation that would cause a total of 10 percent or more of the State ceiling to be reserved for a single user and that user's related persons will be considered to be received by the Commission on the later of December 8 or the date that the application is actually submitted, and a portion of the State ceiling shall not be made available for that issue before December 8.

**Section 4.** (a) An application for a reservation hereunder may be filed by an issuer on or after November 10, 1986 and must be on a form prescribed by the Commission and signed by a member or officer of the issuer and must state:

(1) the maximum amount of the bonds in the issue requiring an allocation pursuant to Section 146 of the Code;

(2) the purpose of the bonds or a functional description of the project, including the identification of the user of the proceeds or project financed thereby;

(3) whether the bonds are qualified bonds;

(4) if the bonds are qualified bonds, the subparagraph of Section 141(d)(1) of the Code that applies, and if Section 141(d)(1)(A) of the Code applies, the paragraph of Section 142(a) of the Code that applies;

(5) if the bonds are not qualified bonds, the subparagraph of Section 141(b)(5) of the Code that applies, or in the case of transition rule projects the paragraph of the Tax Act that applies;

(6) a statement by the issuer (other than an issuer of a State-voted issue) that bonds are not being issued for the same stated purpose for which there exists available unexpended proceeds from a prior issue or issues of bonds issued by the same issuer, unless such issuer provides evidence that it has entered into a binding contract or binding contracts to expend the unexpended proceeds within 12 months after the date of receipt by the Commission of an application for a reservation; and

(7) other information that the Commission may require.

(b) An application for a reservation may not be submitted after 5:00 p.m. December 12, 1986.

(c) The Commission shall not reserve a portion of the State ceiling for an issuer (other than an issuer of a State-voted issue) to whom proceeds are available from other obligations issued by or on behalf of such issuer for the same stated purpose for which such issuer is applying for a reservation, except as otherwise provided for in Section 4(a)(6) above.

**Section 5.** A Reservation may not be assigned except between a governmental unit and an issuer authorized to issue private activity bonds on behalf of that governmental unit.

**Section 6.** (a) Except as provided below, not later than the 10th calendar day after an issuer's Reservation Date, the issuer shall submit to the Commission certified copies of the documents authorizing the issuance of the bonds and other information relating to the issuance of the bonds, including a statement of the items set forth in subparagraphs (2) and (6) of Section 4(a) hereof, evidence satisfactory to the Commission that any public hearing and public approval of the bonds as may be required by the Code has occurred, and a statement of the bonds':

- (1) principal amount;
- (2) interest rate or formula or method by which the interest rate is calculated;
- (3) maturity schedule; and
- (4) initial purchaser or purchasers.

(b) If the principal amount of the bonds authorized and delivered is less than 90 percent of the amount stated in the application for a reservation, or if the purpose of the bonds stated in the application for a reservation has changed, the reservation is automatically canceled. If the principal amount of the bonds delivered is at least 90 percent but less than 100 percent of the amount stated in the application for a reservation, the reservation is reduced to the principal amount of the bonds delivered.

(c) If the issuer does not timely submit the documents required by this section within the aforesaid 10-day period:

- (1) the issuer's reservation is automatically canceled;
- (2) the issuer may not submit an application for a reservation for the same project in calendar year 1986; and
- (3) the issuer is eligible for a carryforward designation for the project only as provided by Section 10(d) herein.

(d) The Reservation Date for an issue is the earliest date on which:

- (1) the application for a reservation has been accepted for filing by the Commission as provided herein; and
- (2) the issuer is notified by the Commission that a portion of the State ceiling is or becomes available to the issue.

**Section 7.** (a) Except as provided by subsection (b) of this section, the issuer shall deliver the bonds not later than the 45th calendar day after the Reservation Date as provided under Sections 4 and 6 of this Executive Order.

(b) Regardless of the deadline provided by subsection (a) of this section, the issuer shall deliver the bonds by 5:00 p.m. on December 23, 1986.

(c) If the issuer does not deliver the bonds within the aforesaid 45-day period, or if the issuer fails to deliver the documents referred to in subsection (d) of this section, the issuer's reservation is automatically canceled.

(d) Not later than the fifth business day after the day of delivery, the issuer shall submit to the Commission a Certificate of Delivery, as prescribed by the Commission, stating the date of delivery of the bonds and the principal amount of the bonds issued; provided, however, that said Certificate of Delivery must be received by the Commission no later than 5:00 p.m. on December 23, 1986.

(e) If for any reason other than provided by Section 6(c) of this Executive Order an issuer's reservation is canceled:

- (1) the issuer may not submit an application for a reservation for the same project during the 120-day period beginning on the Reservation Date of the canceled reservation and ending during calendar year 1987; and
- (2) the issuer is eligible for a carryforward designation for the project only as provided by Section 10(d) hereunder.

(f) The five business day period described in subsection (d) of this section may be extended by an additional five business days if the issuer submits to the Commission a written request for the extension; provided, that no such extension shall result in said period extending beyond December 23, 1986. The Commission may approve the request if it considers the request was made in good faith and is appropriate.

**Section 8.** The 1986 allocation for issuers of qualified mortgage bonds (as defined by the Code) shall be in accordance with that procedure for other bonds subject to this Executive Order, except as provided hereunder.

(a) The amount which may be reserved by a local housing finance corporation for the issuance of qualified mortgage bonds in calendar year 1986 and in calendar year 1987 shall be computed at fifty percent (50%) of the amount which could have been reserved by such local housing finance corporation according to the formula established under Section 5(b) of Article 12691-8; provided, however, that no local housing finance corporation shall receive an allocation of more than \$50,000,000.00, and no local housing finance corporation shall receive an allocation of less than \$15,000,000.00, unless such housing finance corporation elects to receive a smaller allocation

(b) "Tier One" local housing finance corporations for the calendar year 1987 allocation shall include those housing finance corporations that filed reservation requests with the Executive Director of the Texas Department of Community Affairs on January 27, 1986 and that did not receive a reservation in 1986 pursuant to this Executive Order. "Tier One" housing finance corporations for 1987 shall retain the same order of priority as that established for reservation requests filed with the Executive Director of the Texas Department of Community Affairs on January 27, 1986, except as provided below. "Tier Two" local housing finance corporations for 1987 shall include those local housing finance corporations representing populations on whose behalf no reservation requests were filed with the Executive Director of the Texas Department of Community Affairs on January 27, 1986, and which did not receive a reservation in 1986 pursuant to this Executive Order. "Tier Three"



local housing finance corporations for 1987 shall include those housing finance corporations that received reservations in 1986 pursuant to this Executive Order and which closed a bond issue for which a reservation was granted hereunder in 1986. "Tier Four" local housing finance corporations for 1987 shall include those housing finance corporations that received reservations in 1986 pursuant to this Executive Order and which did not close bond issues for which a reservation was hereunder in 1986. The order of priority of local housing finance corporations within "Tier Two", "Tier Three", and "Tier Four", respectively, for 1987 shall be determined by lot.

Section 9. The Commission shall publish weekly in the *Texas Register* a statement of the amount of the State ceiling remaining unreserved, a list of the issues receiving a reservation since the last publication, including the amount for each reservation, and a list of issues that had previously received a reservation that have been issued and delivered and for which it has received a Certificate of Delivery since the last publication.

Section 10.

(a) The amount of the State ceiling that has not been reserved before December 13, 1986, and any amount previously reserved that becomes available on or after that date because of the cancellation of a reservation, may be designated as carryforward for specific projects. An issuer may submit an application for a carryforward designation at any time from November 10, 1986 until 5:00 p.m. on December 19, 1986, but an issuer who has filed an application for a reservation under Section 4 of this Executive Order may not submit an application for carryforward for the same project, except as provided for in Section 6(c) and 7(e) hereunder. No issuers may submit more than one application for carryforward. Issuers are eligible to receive a carryforward designation according to a system of priority classifications. Within each priority classification issuers are eligible to receive a designation of carryforward in the order of receipt of each application for a carryforward designation, to the extent that the State ceiling is not exceeded. No application for carryforward may exceed \$200 million.

(b) Priority classifications for 1986 carryforward are as follows:

(i) Priority 1 -- Issuers of State-voted issues.

(ii) Priority 2 -- Projects for which issuers of Locally-voted issues apply, in such cases where the bonds will be private activity bonds for which an allocation will be required in order for the bonds to be tax-exempt under relevant provisions of the Code, and in such cases where the excess private use of a governmental bond will require allocation in order that the bond can retain its tax-exempt status under provisions of the Code.

(iii) Priority 3 -- State agencies (other than issuers of State-voted issues) and political subdivisions whose Boards of Directors are constituted pursuant to Section 30a of Article XVI of the Texas Constitution.

(iv) Priority 4 -- All other political subdivisions which have authority to issue bonds. Projects for which carryforward is applied (A) must have an inducement resolution or other comparable preliminary approval prior to submission of an application for carryforward, and (B) must be owned by governmental unit (per relevant provisions of the Code).

(v) Priority 5 -- Issuers created to act on behalf of this State, or on behalf of one or more political subdivisions of this State, which are applying for carryforward for projects for which, (A) there was an inducement resolution or other comparable preliminary approval prior to submission of an application for carryforward, and (B) with respect to which either a binding contract to incur significant expenditures for construction, reconstruction, or rehabilitation was entered into prior to submission of an application for carryforward, (or were readily identifiable with and necessary to carry out a binding contract for the supply of property or services or the sale of output thereto or thereof), or significant expenditures were paid or incurred prior to submission of an application for carryforward. For purposes of this Section 10(b)(v), the term "significant expenditures" means expenditures greater than the lesser of \$1,000,000 or 10 percent of the reasonably anticipated cost of the project.

(vi) Priority 6 -- Issuers created to act on behalf of this State, or on behalf of one or more political subdivisions of this State, which are applying for carryforward for projects for which there was an inducement resolution or other comparable preliminary approval prior to submission of an application for carryforward.

(c) An application for a carryforward designation must be signed by the chairman or highest-ranking official of the governing body of the issuer. The application must contain the following:

(i) for Priority 1 --

(A) A statement identifying the issuer as an agency of the State, including its statutory authorization to issue bonds.

(B) A statement of authorized but unissued bond authority, as of the date of the application for carryforward relative to bonds approved in statewide referenda.

(C) A statement of the amount of carryforward requested.

(D) A description of the purpose for which the carryforward is requested (including the appropriate section reference to the Code which applies to the purpose).

(E) A statement of the reasonable expectation that the amount of carryforward requested will be issued for the stated purpose, an estimated issuing schedule, and a statement that carryforward will be utilized prior to seeking additional allocations for the same purpose.

(F) A statement that the issuer is apprised of and will perform such steps required for issuers carrying forward, specified in the Code.

(ii) for Priority 2 --

(A) A statement identifying the issuer as a political subdivision of the State, including its statutory authorization to issue bonds.

(B) A certified copy of the election proceedings in which the bonds for which the carryforward is requested were approved, and the total authorized but unissued bond authority as of the date of the request for carryforward.

(C) A statement of the amount of carryforward requested.

(D) A description of the purpose for which the carryforward is requested (including the appropriate section reference to the Code which applies to the purpose).

(E) A statement of the reasonable expectation that the amount of carryforward requested will be issued for the stated purpose, an estimated issuing schedule, and a statement that carryforward will be utilized prior to seeking additional allocations for the same purpose.

(F) A statement that the issuer is apprised of and will perform such steps required for issuers carrying forward, specified in the Code.

(iii) for Priority 3 --

(A) A statement identifying the issuer as an issuer whose Board of Directors is constituted under Section 30a of Article XVI of the Texas Constitution.

(B) A statement of the amount of carryforward requested.

(C) A description of the purpose for which the carryforward is requested (including the appropriate section reference to the Code which applies to the purpose).

(D) A statement of the reasonable expectation that the amount of carryforward requested will be issued for the stated purpose, an estimated issuing schedule, and a statement that carryforward will be utilized prior to seeking additional allocations for the same purpose.

(E) A statement that the issuer is apprised of and will perform such steps required for issuers carrying forward, specified in the Code.

(iv) for Priority 4 --

(A) A statement identifying the issuer.

(B) A certified copy of the inducement resolution or other comparable preliminary approval for the project for which carryforward is requested.

(C) A statement that the project will be owned and operated by a unit of government.

(D) A statement of the amount of carryforward requested.

(E) A description of the purpose for which the carryforward is requested (including the appropriate section reference to the Code which applies to the purpose).

(F) A statement of the reasonable expectation that the amount of carryforward requested will be issued for the stated purpose, an estimated issuing schedule, and a statement that carryforward will be utilized prior to seeking additional allocations for the same purpose.

(G) A statement that the issuer is apprised of and will perform such steps required for issuers carrying forward, specified in the Code.

(v) for Priority 5 --

(A) A statement identifying the issuer.

(B) A certified copy of the inducement resolution or other comparable preliminary approval for the project for which carryforward is requested.

(C) A statement of approval for the request for carryforward signed by the chief elected official or chairman of the sponsoring governmental unit.

(D) A statement of the amount of carryforward requested.

(E) A description of the purpose for which the carryforward is requested (including the appropriate section reference to the Code which applies to the purpose).

(F) A statement of the reasonable expectation that the amount of carryforward requested will be issued for the stated purpose, an estimated issuing schedule, and a statement that carryforward will be utilized prior to seeking additional allocations for the same purpose.

(G) Evidence that "significant expenditures" have been paid or contracted to be paid as of the date of the carryforward application.

(H) A statement that the issuer is apprised of and will perform such steps required for issuers carrying forward, specified in the Code.

(vi) for Priority 6 --

(A) A statement identifying the issuer.

(B) A certified copy of the inducement resolution or other comparable preliminary approval for the project for which carryforward is requested.

(C) A statement of approval for the request for carryforward signed by the chief elected official or chairman of the sponsoring governmental unit.

(D) A statement of the amount of carryforward requested.

(E) A description of the purpose for which the carryforward is requested (including the appropriate section reference to the Code which applies to the purpose).

(F) A statement of the reasonable expectation that the amount of carryforward requested will be issued for the stated purpose, an estimated issuing schedule, and a statement that carryforward will be utilized prior to seeking additional allocations for the same purpose.

(G) A statement that the issuer is apprised of and will perform such steps required for issuers carrying forward, specified in the Code.

(d) During a period specified in Section 6(c) or 7(e) hereunder, an issuer to which the section applies may not receive a carryforward designation unless all other eligible applicants have received a carryforward designation.

(e) An application may be withdrawn or amended by the issuer submitting to the Commission a notice of the withdrawal or amendment. If the application is amended, the application's place in the order of eligibility for a carryforward designation within a classification is determined by the date of the amendment rather than the date that the application was originally submitted.

Section 11. Any submission required to be made to the Commission hereunder must be delivered to the Commission at its Austin office during normal business hours. The Commission shall note on the face of the docu-

ment the date and time that it is delivered and provide the issuer with a receipt describing the document delivered and the date and time of delivery.

Section 12. This Executive Order shall remain in effect until modified, amended, or rescinded by met.

Given under my hand this 10th day of November, 1986.

Mark White  
Governor of Texas

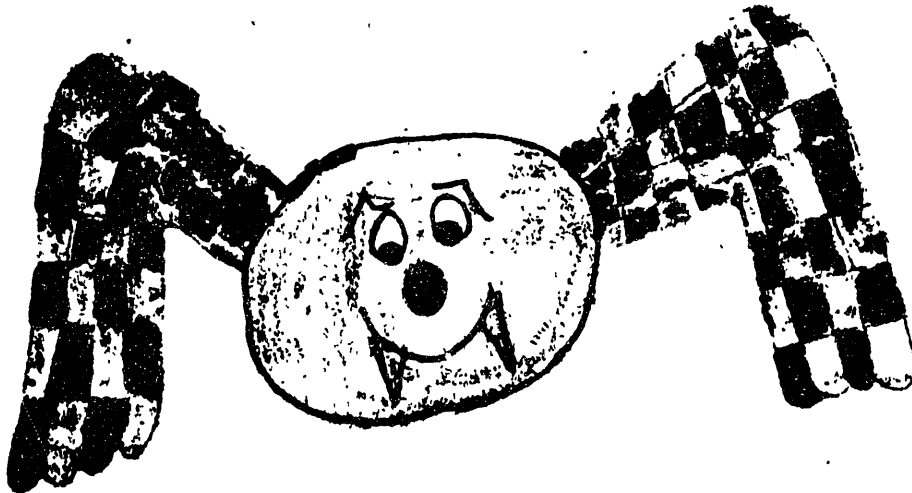
TRD-8610902



Javelina—wild hog that can be dangerous

Drawings By:  
Name: Nancy Mora  
Grade: 3  
School: Bradley Elementary, El Paso

Text By:  
Name: Lorri Chambers  
Grade: 3  
School: Bradley Elementary, El Paso



Tarantula—large hairy spider having painful but not highly venomous bites

# 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-926.** Request from Bob E. Bradley, executive director, Texas State Board of Public Accountancy, Austin, concerning whether the Open Records Act, Texas Civil Statutes, Article 6252-17a, authorizes the Texas State Board of Public Accountancy to withhold information pertaining to a pending complaint against a licensee.  
TRD-8610879

★ ★ ★

**RQ-927.** Request from O. P. (Bob) Bobbitt, Texas Department on Aging, Austin, concerning whether the provisions of Senate Bill 969, 69th Legislature, 1985, (amending the Texas Housing Agency Act and the Texas Finance Corporations Act), apply to bonds issued after January 1, 1986, for the purpose of refinancing previous bonds.  
TRD-8610880

★ ★ ★

**RQ-928.** Request from James E. Nugent, chairman, Railroad Commission of Texas, Austin, concerning confiscation of production-related equipment at abandoned well sites by agents of the Railroad Commission of Texas.  
TRD-8610881

★ ★ ★

**RQ-929.** Request from Marvin J. Titzman, executive director, Texas Surplus Property Agency, San Antonio, concerning whether members of the Texas Surplus Property Agency Board are eligible to participate in the Teacher Retirement System and/or the Employees Retirement System of Texas.  
TRD-8610882

★ ★ ★

## Opinions

**JM-574 (RQ-709).** Request from Larkin C. Eakin, Jr., Waller County attorney, Hempstead, concerning the sufficiency of the rollback petition under the Texas Tax Code, §26.07.

**Summary of Opinion.** A petition for a tax rollback election that consists in part of copies of signatures comprising a previously submitted and rejected petition does not comport with the requirement of the Texas Tax Code, §26.07, that such petition be signed by a requisite number of voters.  
TRD-8610883

★ ★ ★

**JM-575 (RQ-835).** Request from Bob Bullock, Comptroller of Public Accounts, Austin, concerning whether local funds maintained by colleges and universities are subject to appropriation, and related questions.

**Summary of Opinion.** The Open Records Act applies to information about local funds held by state colleges and universities. Whether particular information is available to the public or excepted from public disclosure must be determined on a case-by-case basis in accordance with the procedures established in Texas Civil Statutes, Article 6252-17a. Local funds maintained by universities and colleges and gifts and grants received by state agencies and maintained in local accounts are as a general rule subject to appropriation. However, federal grants and gifts received under the Texas Constitution, Article XVI, §6, by state agencies responsible for providing services to disabled persons may be spent without appropriation, unless the legislature provides by law that the money be expended only on appropriation.  
TRD-8610884

★ ★ ★

**JM-576 (RQ-904).** Request from Oscar H. Mauzy, chairman, Committee on Jurisprudence, Texas State Senate, Austin, concerning whether Texas Civil Statutes, Article 1269k, require a housing authority to hold a public hearing before it may authorize the acquisition of existing structures.

**Summary of Opinion.** Article 1269k, §13a, does not require a housing authority to hold a public hearing before it authorizes the acquisition of existing structures.  
TRD-8610885

TRD-8610885

# 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 1.

### ADMINISTRATION

#### Part V. State Purchasing and General Services Commission

##### Chapter 113. Central Purchasing Division

###### ★1 TAC §113.10

The State Purchasing and General Services Commission is renewing the effectiveness of the emergency adoption of amended §113.10 for a 60-day period effective December 10, 1986. The text of the amended §113.10 was originally published in the August 22, 1986, issue of the *Texas Register* (11 TexReg 3717).

Issued in Austin, Texas, on November 18, 1986.

TRD-8610907

John R. Neel  
General Counsel  
State Purchasing and  
General Services  
Commission

Effective date: December 10, 1986  
Expiration date: February 8, 1987  
For further information, please call  
(512) 463-3446.

★ ★ ★

## TITLE 16. ECONOMIC REGULATION

#### Part IV. Texas Department of Labor and Standards Chapter 69. Manufactured Housing Division

##### Titling

###### ★16 TAC §69.202

The Texas Department of Labor and Standards adopts on an emergency basis an amendment to §69.202, concerning fees for title documents.

The amendment provides the department with a procedure to process titles faster in some cases and provides a fee for the service.

Adoption on an emergency basis is necessary to put the system in place due to current request and excessive demand. Issuance of titles is vital to the manufactured housing industry.

The amendment is adopted on an emergency basis under Texas Civil Statutes, Article 5221f, which provide the commissioner of the department to adopt and promulgate rules, regulations, and administrative orders.

##### §69.202. Fees for Title Documents.

###### (a) Title Transaction Fees.

(1) There shall be a fee of \$15 for the issuance of a manufactured home document of title. Except as may otherwise be authorized, the fee shall be submitted in the form of a cashier's check or money order payable to the Department of Labor and Standards. The fee shall accompany the required documents and affidavits forwarded to the department at its principal office in Austin.

(2) There shall be an additional fee of \$15 for the issuance of a quick title. A quick title shall be defined as the processing of the title transfer documents within 72 hours. Title transfer documents must be hand delivered in good transfer order to the department's titling section in Austin for the issuance of a manufactured housing title on a quick title basis. No mail in's or express delivery or express mail service will be accepted for quick title transfer service.

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

Issued in Austin, Texas, on November 12, 1986.

TRD-8610831

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

Effective date: November 17, 1986  
Expiration date: March 17, 1987  
For further information, please call  
(512) 463-5520.

★ ★ ★

## TITLE 22. EXAMINING BOARDS

#### Part XXII. Texas State Board of Public Accountancy Chapter 501. Professional Conduct

##### Client Records

###### ★22 TAC §501.32

The Texas State Board of Public Accountancy adopts on an emergency basis the

repeal of §501.32, concerning records. This emergency is occasioned by the necessity of having all sections of Chapter 501 in effect on November 17, 1986, to allow for the mailing to all licensees, with their license renewal forms, of the new Chapter 501 of the rules of professional conduct. This would eliminate the necessity of a separate mailing to the some 40,000 plus licensees, and thus result in a significant savings to the board.

The repeal is adopted on an emergency basis under Texas Civil Statutes, Article 41a-1, §6(a) and §12, which provide the Texas State Board of Public Accountancy with the authority to promulgate rules of professional conduct relating to return of records.

Issued in Austin, Texas, on November 17, 1986.

TRD-8610862

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

Effective date: November 17, 1986  
Expiration date: March 17, 1987  
For further information, please call  
(512) 450-7066.

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The Texas State Board of Public Accountancy adopts on an emergency basis new §501.32, concerning records. This emergency is occasioned by the necessity of having all sections of Chapter 501 in effect on November 17, 1986, to allow for the mailing to all licensees, with their license renewal forms, of the new Chapter 501 of the rules of professional conduct. This would eliminate the necessity of a separate mailing to the some 40,000 plus licensees, and thus result in a significant savings to the board.

The new section is adopted on an emergency basis under Texas Civil Statutes, Article 41a-1, §6(a) and §12, which provide the Texas State Board of Public Accountancy with the authority to promulgate rules of professional conduct relating to return of records.

##### §501.32. Records.

(a) Upon request, regardless of the status of the client's or former client's account, a licensee shall provide to the client or former client any accounting or other records belonging to, or obtained from or on behalf of, the client which the licensee removed from the client's premises or

ceived on behalf of the client, but the licensee may make and retain copies of such documents when they form the basis for work done by him. For a reasonable charge, a licensee shall furnish to his client or former client, upon request made within a reasonable time after original issuance of the document in question:

(1) a copy of a tax return of the client;

(2) a copy of any report or other document issued by the licensee to or for such client;

(3) a copy of the licensee's working papers, to the extent that such working papers include records which would ordinarily constitute part of the client's books and records and are not otherwise available to the client.

(b) Working papers developed by a licensee during the course of a professional engagement as a basis for, and in support of, an accounting, audit, consulting, tax, or other professional report prepared by the licensee for a client shall be and remain the property of the licensee or licensees who developed the working papers.

Issued in Austin, Texas, on November 17, 1986.

TRD-8610863

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

Effective date: November 17, 1986

Expiration date: March 17, 1987

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

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## TITLE 31. NATIONAL RESOURCE AND CONSERVATION Part II. Texas Parks and Wildlife Department

### Chapter 65. Wildlife

#### Subchapter H. Wildlife

##### Management Areas Hunting, Fishing, and Trapping

★31 TAC §§65.190, 65.195, 65.197,  
65.202

The Texas Parks and Wildlife Department adopts on an emergency basis amendments to §§65.190, 65.195, 65.197, and 65.202.

The Texas Parks and Wildlife Commission adopted the amendments in a regularly scheduled public hearing on November 6, 1986.

The commission finds that imminent peril to the public's wildlife resources through waste requires the adoption of emergency amendments to provide department-controlled public hunting for antlerless deer on the Tomas Wildlife Management Area in Duval County.

The amendments are adopted on an emergency basis under the Texas Parks and Wildlife Code, Chapter 81, Subchapter E, which provides the authority for the department to manage wildlife on its wildlife management areas.

**§65.190. Application.** The provisions of this subchapter apply to all of the wildlife resources in the following areas, except as restricted herein:

(1)-(25) (No change.)

(26) **Tomas Wildlife Management area in Duval county (for antlerless deer only during the period from January 5, 1987, through February 2, 1987).**

**§65.195. Archery.**

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

(f) **It is unlawful to hunt antlerless deer on the Tomas Wildlife Management**

**Area under a special permit with bow and arrow.**

**§65.197. Hunting Permits.**

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

(c) A special permit is required for the hunting of:

(1) deer and exotic mammals:

(A) during the regular season prescribed for deer on the Tomas, Gene Howe, Walter Buck, Gus Engeling, James E. Daughtrey, Matador, Kerr, Black Gap, Sierra Diablo, Chaparral, Honey Creek, Elephant Mountain, Keechi Creek, Alabama Creek, Bannister, Caddo, Moore Plantation, and Matagorda Island Wildlife Management Areas, Pat Mayse and Somerville Units of the Eastern Wildlife Management Area, and designated units of the State Park System;

(B) (No change.)

(2)-(9) (No change.)

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

**§65.202. Deer and Exotic Mammals.**

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

(c) Regular season—open season:

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

(3) **Tomas Wildlife Management Area (special permit): during the period January 5, 1987, through February 2, 1987;**

(4) [(3)] other areas: no open season.

(d) Bag and possession limit:

(1) on all areas, one deer or exotic mammal per person; sex, definition of antlered buck, and species to be determined at time of the hunt, except that on the Kerr Wildlife Management Area and designated units of the State Park System the bag limit shall be two deer (white-tailed or exotic) to include not more than one white-tailed deer, and on the Tomas Wildlife Management Area, the bag limit shall be one antlerless white-tailed deer.

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

Issued in Austin, Texas, on November 17, 1986.

TRD-8610848

Boyd M. Johnson

Effective date: November 28, 1986

Expiration date: February 2, 1987

For further information, please call  
(512) 479-4974.

# 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 1.

### ADMINISTRATION Part V. State Purchasing and General Services Commission

#### Chapter 113. Central Purchasing Division

##### Purchasing

###### ★ 1 TAC §113.10

The State Purchasing and General Services Commission proposes an amendment to §113.10, concerning spot purchases and emergency purchases.

The proposed amendment is designed to increase, from \$700 to \$1,500, spot purchasing authority delegated to state agencies, while at the same time assuring that appropriate competitive bidding procedures are followed by the agencies for both spot and emergency purchases. The amendment is proposed to permit agencies to more easily make critical acquisitions of supplies, materials, and equipment without experiencing delays encountered because of budget cutbacks experienced by the State Purchasing and General Services Commission.

These changes were earlier adopted on an emergency basis, which became effective on August 13, 1986.

John R. Neel, general counsel, has determined that for the first five-year period the proposed section will be in effect there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the section.

Mr. Neel also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be an increased ability of state agencies to make critical acquisitions of supplies, materials, and equipment in a more timely manner, while assuring that competitive bidding requirements are met.

There is no anticipated economic cost to individuals who are required to comply with the proposed section.

Comments on the proposal may be submitted to John R. Neel, General Counsel, State Purchasing and General Services

Commission, P.O. Box 13047, Austin, Texas, 78711-3047. Comments must be received no later than 30 days from the date of publication of the proposal in the *Texas Register*. In addition, a public hearing to receive either oral or written comments will be held at 9 a.m., Thursday, December 18, 1986, in Room 916, Lyndon B. Johnson State Building, 111 East 17th Street, Austin.

The amendment is proposed under Texas Civil Statutes, Article 601b, which provide the State Purchasing and General Services Commission with the authority to promulgate rules necessary to maintain an effective and efficient purchasing program for state agencies.

##### §113.10. *Delegated Purchases.*

(a) (No change.)

(b) Spot purchases. As further required by Texas Civil Statutes, Article 601b, §3.08, using state agencies are delegated the authority to make purchases in amounts that do not exceed \$1,500 [\$700] in accordance with the following conditions:

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

(3) [If the purchase exceeds \$250,] the agency must attempt to obtain at least [a minimum of] three informal [competitive] bids on all purchases in excess of \$250 and not over \$1,000. The agency must attempt to obtain at least three formal bids on all purchases in excess of \$1,000 [(which may be taken by telephone)]. All bids must be obtained from sources which normally offer for sale [stock] the merchandise being purchased.

(4) (No change.)

(c) Emergency purchases. Payment for emergency purchases of needed supplies, equipment, or services will be approved by this commission, provided an emergency exists and the purchase is made in accordance with the following conditions.

(1) At least three informal [oral] bids must be obtained whenever possible on all purchases in excess of \$250, and [but] not over \$1,000 [in excess of \$700]. At least three formal [written competitive] bids must be obtained whenever possible on all purchases in excess of \$1,000 [\$700]. A signed written bid must always be obtained from the source of the purchase except in the case of internal repairs for which bids are not obtainable. In that situation, written estimates should be obtained whenever possible.

(2)-(5) (No change.)  
(d)-(k) (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 November 18, 1986.

TRD-8610908

John R. Neel  
General Counsel  
State Purchasing and  
General Services  
Commission

Earliest possible date of adoption:

December 26, 1986

For further information, please call  
(512) 463-3446.

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## TITLE 4. AGRICULTURE Part I. Texas Department of Agriculture Chapter 7. Pesticides

### ★ 4 TAC §§7.8, 7.12, 7.13, 7.15

The Texas Department of Agriculture proposes amendments to §7.8, 7.12, 7.13, and 7.15, concerning annual license fees for pesticide dealer's licenses, examination fees for testing commercial and noncommercial pesticide applicator license applicants, and annual license fees for commercial and noncommercial pesticide applicator licenses.

Section 7.8 is amended to increase the annual license fee for pesticide dealer's licenses from \$25 to \$50. Section 7.12 is amended to increase the examination fee charged to administer the required tests to applicants for commercial or noncommercial pesticide applicator licenses from \$15 to \$20. Section 7.13 is amended to increase the annual license fee for commercial applicator licenses from \$100 to \$150. Section 7.15 is amended to increase the annual license fee for nongovernmental noncommercial applicator licenses from \$75 to \$100.

The proposed increases are within the statutory fee limits set forth in the Texas Agriculture Code, §§76.073, 76.106, 76.108, and 76.109, respectively, regarding dealer license fees, examination fees, and commercial and noncommercial applicator license fees.

Ellen Widess, director, Agricultural and Environmental Sciences, has determined that for the first five-year period the proposed sections will be in effect there will be fiscal implications for state government as a result of enforcing or administering the sections. The effect on state government for the first five-year period the sections will be in effect will be an estimated increase in revenue of \$125,000 annually for 1987-1991. The cost of compliance with the sections for small businesses will be an additional \$25 to obtain a pesticide dealer's license, an additional \$5.00 for commercial and noncommercial applicator testing in each pesticide applicator license use category or subcategory; an additional \$50 to obtain a commercial pesticide applicator's license; and an additional \$25 to obtain nongovernmental, noncommercial pesticide applicator's license. For the pesticide dealer's license fee increase, the approximate cost per employee to small businesses is \$8.33, and the approximate cost per employee to large businesses is \$4.17. For all other fee increases (applicator testing, commercial and nongovernmental, noncommercial applicator licenses), cost per employee for large and small businesses will not differ significantly. There will be no effect on local government.

Ms. Widess also has determined that for each year of the first five years the sections are in effect the public benefit anticipated as a result of enforcing the sections will be increased general revenue to the state, in accordance with the intent of the 69th Legislature, 1985. The possible economic cost to individuals who are required to comply with the sections as proposed will be as follows: for a pesticide dealer's license, an additional \$25 annually in 1987-1991; for the exam fee, applicator testing, an additional \$5.00 per test; for the commercial applicator license, an additional \$50 annually in 1987-1991; and for the nongovernmental, noncommercial applicator license, an additional \$25 annually in 1987-1991.

Comments on the proposal may be submitted to Dolores Alvarado Hibbs, P.O. Box 12847, Austin, Texas 78711.

The amendments are proposed under the Texas Agriculture Code, §§76.073, 76.103, 76.108, and 76.109, which provides the Texas Department of Agriculture with the authority to require payment of license and examination fees, as follows: a pesticide dealer's license fee of not more than \$100 an examination fee of not more than \$20 for applicator testing in each license use category, an annual commercial applicator's license fee of not more than \$150, and a nongovernmental, noncommercial applicator's license fee of not more than \$100.

**§7.8. Pesticide Dealers.**

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

(c) All applicants must submit a license fee of \$50 [\$25] for each license re-

quested. This fee will not be prorated. Dealers currently licensed under the Texas Herbicide Law, codified at Texas Agriculture Code, Chapter 75 (1981), will not be required to pay an additional fee as long as the herbicide license covers only one outlet. If the herbicide dealer's license is for more than one outlet, a license will be issued to one such outlet at no charge. Each additional outlet licensed must pay the pesticide dealer's license fee.

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

**§7.12. Classification of Commercial and Noncommercial Licenses.**

(a) (No change.)

(b) A fee of \$20 [\$15] shall be required for testing each applicant in each license use category, and must be paid before the test or tests are given.

**§7.13. Commercial Applicator License.**

(a) (No change.)

(b) Each application for an original or renewal commercial applicator's license must be accompanied by an annual license fee of \$150 [\$100].

(c) (No change.)

**§7.15. Noncommercial Applicator License.**

(a) (No change.)

(b) Nongovernmental applicants shall pay an annual license fee of \$100 [\$75] at the time of application. No fee will be charged for a license issued to employees of a governmental entity for applying pesticides as part of their official duties. Governmental employees who apply restricted-use or state-limited-use pesticides outside of their governmental employment must pay the \$100 [75] fee.

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 November 17, 1986.

TRD-8610864

Dolores Alvarado Hibbs,  
Director of Hearings  
Texas Department of  
Agriculture

Earliest possible date of adoption.

December 26, 1986

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

★ ★ ★

**Chapter 19. Seed Division**

**★4 TAC §19.4, §19.9**

The Texas Department of Agriculture proposes amendments to §19.4 and §19.9, concerning service testing fees and inspection fees on agricultural seed.

The amendment to §19.4 increases service testing fees and, in respect to the complete test (purity and germination), deletes language referring to chaffy grasses, native grasses, Bermudagrass, and ryegrass. These amendments are pro-

posed to increase general revenues, in accordance with the intent of the 69th Legislature, 1985, and to conform with new terminology and be able to include the complete testing of other grasses in the complete test category.

The amendment to §19.9 increases the costs of Texas tested seed labels from \$.02 to \$.03 for each 100-pound bag or fraction thereof, and increase the inspection fee from \$.04 to \$.06 for each 100 pounds of agricultural seed for those using the reporting system method of payment. These amendments are made to increase the general revenue in accordance with the intent of the 69th Legislature, 1985.

Kenneth Boatwright, director, Seed and Grain Warehouse Division, has determined that for the first five-year period the proposed sections will be in effect there will be fiscal implications for state government and small businesses as a result of enforcing or administering the sections. The effect on state government for the first five-year period the section will be in effect will be an estimated increase in revenue of \$70,000 each year in 1987-1991. The cost of compliance with the section for small businesses will be (dependent upon the number and type of samples tested, and/or requested by a business) an additional \$2.00 for moisture test; an additional \$3.00 for the tetrazolium or phenal test and for examination of 10 pound rice seed sample; an additional \$5.00 for each fecue endophyte test; an additional \$.01 for each Texas tested seed label, and an additional \$.02 for each 100 pounds of agricultural seed. The cost of compliance will be the same for small and large businesses, depending upon the number of samples and/or inspections. There will be no effect on local government.

Mr. Boatwright also has determined that for each year of the first five years the sections are in effect the public benefit anticipated as a result of enforcing the sections will be an increase in the general revenue in accordance with the intent of the 69th Legislature, 1985; and a bringing of the amount of fees collected closer to actual cost to the state for providing testing and inspections for seed certification. The possible economic cost to individuals who are required to comply with the section as proposed will be the cost of increased service testing fees and increased inspection fees on agricultural seed, to be determined by number of samples and/or inspections conducted, of \$70,000 each year in 1987-1991.

Comments on the proposal may be submitted to Kenneth Boatwright, Director, Seed and Grain Warehouse Division, P.O. Box 12847, Austin, Texas 78711.

The amendments are proposed under the Texas Agriculture Code §81.002, which provides the Texas Department of Agriculture with the authority to adopt rules as necessary for the efficient enforcement



of the Texas Agriculture Code, Chapter 61, §61.009, which gives the department the authority to fix by rule and collect fees for germination and purity testing, and §61.011, which gives the department the authority to set and collect a fee for agricultural seed inspection.

#### §19.4. Service Testing.

(a) The following schedule of tests and charges therefore shall be applicable to all service testing of agricultural seed, vegetable seed, and flower seed conducted by this department:

(1) standard germination test only, purity test only, or noxious weed examination only: \$4.00 each (except [chaffy] grasses, [native grasses,] mixtures, and seed containing high inert matter [,Bermudagrass and ryegrass]: \$8.00 each);

(2) complete test (purity and germination): \$7.00 each (except [chaffy grasses, native] grasses, mixtures, and seed containing high inert matter [,Bermudagrass and ryegrass]: \$12 each);

(3) vigor [germination] test (cold test method): \$8.00 each;

(4) tetrazolium or phenol test: \$11[\$8.00] each;

(5) examination of 10 pound rice seed sample for presence of red rice: \$11 [\$8.00] each;

(6) moisture test: \$6.00 [4.00] each; and

(7) fescue endophyte test: \$25 [\$20] each.

(b)(c) (No change.)

§19.9. *Inspection Fees on Agricultural Seed.* In addition to the requirements of the Act, §61.011, (relating to Agricultural Seed Inspection Fee and Permit), any person who sells, offers, exposes, or otherwise distributes for sale agricultural seed within the state for planting purposes shall pay an inspection fee thereon in accordance with the following.

(1) Texas tested seed label. When an inspection fee is paid by means of a Texas tested seed label, as provided by the Act, §61.011(b), (relating to Agricultural Seed Inspection Fee and Permit), the person who distributes, sells, offers for sale, or exposes for sale agricultural seed shall:

(A) purchase the Texas tested seed labels from the department at a cost not to exceed \$.03 [.02] for each 100-pound bag or fraction thereof; and

(B) (No change.)

(2) Reporting system. When an inspection fee is paid by means of the reporting system, as provided by the Act, §61.011(c), (relating to Agricultural Seed Inspection Fee and Permit), the following shall apply:

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

(C) The permittee shall pay an inspection fee of \$.06 [.04] for each 100 pounds of agricultural seed sold, offered for sale, exposed for sale, or otherwise distributed for sale for planting purposes within the state.

(D)-(G) (No change.)  
(3)-(4) (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 November 17, 1986.

TRD-8610904

Delores Alvarado Hibbs  
Director of Hearings  
Texas Department of  
Agriculture

Earliest possible date of adoption:

December 28, 1986

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

★ ★ ★

## Chapter 21. Seed Certification Standards

### General Requirements

#### ★4 TAC §§21.3, 21.6, 21.9, 21.11

The Texas Department of Agriculture proposes amendments to §§21.3, 21.6, 21.9, and 21.11, concerning general requirements for seed certification. The amendment to §21.3 deletes the requirement for the payment of a \$12 annual application fee. This amendment makes this section consistent with other amendments to this chapter which change the fee system to a per field basis.

The amendment to §21.6 increases the per field penalty fee for requests for certification after the deadline date established for each crop and the minimum reinspection fee for the reinspection of a rejected field from \$10 to \$20. The amendment increases general revenue funds in accordance with the intent of the 69th Legislature, 1985.

The amendment to §21.9 adds the requirement that certified seed must be certified in a facility approved by the department. This amendment clarified what is an existing requirement.

The amendments to §§21.11 and 21.13 increase the cost of certificate labels and the fee for interagency certification of seed from \$50 to \$75 per lot. These amendments are made to increase the general revenue funds in accordance with the intent of the 69th Legislature, 1985.

Kenneth Boatwright, director, Seed and Grain Warehouse Division, has determined that for the first five-year period the proposed sections will be in effect there will be fiscal implications for state government and small businesses as a result of enforcing or administering the sections. The effect on state government for the first five-year period the section will be in effect will be an estimated increase in revenue of \$53,000 each year in 1987-1991. The cost of compliance with the section for small businesses will be (dependent upon the number of requests) an additional

\$10 per reinspection of a field previously rejected; an additional \$10 per late request for certification and an additional \$25 per lot for interagency certification (dependent upon the number of certification labels used); an additional \$.01 per foundation, registered, or certified label. The cost of compliance for large businesses will be the same as for small businesses, depending upon the number of labels purchased and the number of requests for reinspection, late inspection, or interagency certification. There will be no effect on local government.

Mr. Boatwright also has determined that for each year of the first five years the sections are in effect the public benefit anticipated as a result of enforcing the sections will be an increase in the general revenue funds, in accordance with the intent of the 69th Legislature, 1985; and a bringing of the amount collected closer to actual costs to the state to inspect seed for purposes of certification. The possible economic cost to individuals who are required to comply with the section as proposed for additional penalty fee, for additional reinspection fee, for increase in cost of labels, and for increase in cost of interagency certification will be \$53,000 each year in 1987-1991.

Comments on the proposal may be submitted to Kenneth Boatwright, Director, Seed and Grain Warehouse Division, P.O. Box 12847, Austin, Texas 78711.

The amendments are proposed under the Agriculture Code, §12.001 and §12.016, which provides the Texas Department of Agriculture with the authority to adopt rules as necessary to enforce the Texas Agriculture Code; and §62.008, which authorizes the department, for purposes of seed certification, to fix and collect a fee in an amount necessary to cover costs of inspection and labels.

#### §21.3. Approval of Applicant Under Certification.

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

(c) When an applicant has satisfied the State Seed and Plant Board as to qualifications and ability to produce certified seed [and has paid the \$12 annual application fee to the Texas Department of Agriculture] and all other requirements for certification have been met, the State Seed and Plant Board shall issue a certificate evidencing the fact that the applicant is fully licensed as a registered plant breeder or certified seed grower.

#### §21.6. Application for Field Inspection.

(a) (No change.)

(b) A penalty fee \$20 [\$10] will be assessed and must be paid for each field on which certification is requested after the deadline date established for each specific crop. Applications will not be accepted if it can be determined by the certifying agency that the crop is too far advanced in development to allow satisfactory inspection.

(c)-(e) (No change.)

(f) The applicant may request rein-

spection of a rejected field provided the cause for rejection can be corrected and provided she/he again submits an inspection fee for the acreage involved, thereby bringing the total inspection fee to twice that stated in the commodity standards. In no case will the reinspection fee be less than \$20 [\$10]. Request for reinspection of a rejected field will not be accepted if it can be determined that the inspector will not be able to visit the field in sufficient time before harvest to make a satisfactory inspection.

**§21.9. Harvesting, Processing, and Storing.**

(a) Care must be exercised in harvesting to avoid mixing of the variety in harvesting equipment and in the transporting vehicle. The applicant must see that this equipment is thoroughly cleaned in order to safeguard the purity of the seed. Identity of the seed must be maintained at all times. **Certified seed must be conditioned by a conditioning plant that has been approved by the Texas Department of Agriculture.**

(b)-(h) (No change.)

**§21.11. Labels.**

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

(h) The cost of certification labels shall be:

(1) foundation, registered and certified labels \$.06 [\$.03] each;

(2) Organization for Economic Cooperation and Development (OECD) certified labels \$.06 [\$.03] each;

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

**§21.13. Interagency Certification.**

(a) (No change.)

(b) A \$75 [\$50] fee will be assessed and must be paid for each lot of seed on which interagency certification is requested.

(c)-(d) (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 November 17, 1986.

TRD-8610905

Dolores Alvarado Hibbs  
Director of Hearings  
Texas Department of  
Agriculture

Earliest possible date of adoption:  
December 28, 1986

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

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**Acreage Inspection Fees for Certification**

**★4 TAC §21.31**

The Texas Department of Agriculture proposes an amendment to §21.31, concerning acreage inspection fees for seed certification.

The amendment increases inspection fees, combines three classes of seed into one category for purposes of this section, deletes existing footnotes, and adds standard fees for late payment of fees, reinspection of a field, interagency certification, and for each production field applied on for certification. The amendment simplifies department accounting procedures and allows for the more efficient use of staff in this area. The increase to existing fees are made to increase general revenue funds, in accordance with the intent of the 69th Legislature, 1985. The standard fees which are added to the fee chart are existing fees established under §21.6, concerning seed certification standards.

Kenneth Boatwright, director, Seed and Grain Warehouse Division, has determined that for the first five-year period the proposed section will be in effect there will be fiscal implications for state government and small businesses as a result of enforcing or administering the section. The effect on state government for the first five-year period the section will be in effect will be an estimated increase in revenue of \$36,000 each year in 1987-1991. The cost of compliance with the section

for small businesses will be dependent upon the commodity produced and the number of acres to be inspected. The cost for larger businesses will depend upon the commodity produced and the number of acres to be inspected. There will be no effect on local government.

Mr. Boatwright also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be the simplification of accounting procedures for the department and more efficient use of staff in this area, and an increase in general revenue funds, in accordance with the intent of the 69th Legislature, 1985. In addition, the amendment brings the amount of fees collected closer to actual costs to the state for conducting inspections. The possible economic cost to individuals who are required to comply with the section as proposed will be an increase in acreage inspection fees, depending upon the commodity produced and the amount of acreage inspected, of \$36,000 each year in 1987-1991.

Comments on the proposal may be submitted to Kenneth Boatwright, Director, Seed and Grain Warehouse Division, P.O. Box 12847, Austin, Texas 78711.

The amendment is proposed under the Texas Agriculture Code, §12.001 and §12.016, which provides the Texas Department of Agriculture with the authority to adopt rules to enforce the Texas Agriculture Code, and §62.008 which authorizes the department, for purposes of seed certification, to fix and collect a fee in an amount necessary to cover the costs of inspection and labels.

**§21.31. Inspection Fees for Certification.** The following inspection fees for certification chart, as amended, designates fees per acre for various crop kinds as required for seed certification for genetic identity only. Copies may be obtained from Seed Division, Texas Department of Agriculture, P.O. Box 12847, Austin, Texas 78711, (512) 463-7614.

**ACREAGE INSPECTION FEES FOR CERTIFICATION**

Table 1

	ALL CLASSES [Foundation	Registered	Certified]
[1/]Agrotricum	\$ .40 [.30]	[\$ .30]	[\$ .30]
[2/]Alfalfa	.80 [.60]	[.60]	[.60]
Buckwheat	.40 [.30]	[.30]	[.30]
Cantaloupe	4.00 [3.00]	[3.00]	[2.40]
Clover (all kinds)	.80 [.60]	[.60]	[.60]
[3/]Corn	2.50 [1.80]	[---]	[1.80]
Cotton	.18 [.25]	[.20]	[.12]
Cowpea, field bean, & flat pea	.80 [.90]	[.60]	[.60]
[4/]Flax	1.00 [.90]	[.90]	[.90]
[5/]Forest tree seed	4.00 [---]	[---]	[2.40]
[6/]Forest tree seedlings	42.00 [---]	[---]	[42.00]
[7/]Grass (seeded)	3.20 [2.40]	[2.40]	[2.40]

[8/] Grass (vegetatively propagated)	10.00[14.40]	[14.40]	[14.40]
Guar	2.50[2.40]	[2.40]	[1.80]
Illinois Bundleflower	2.50[2.40]	[2.40]	[2.40]
Millet (foxtail & pearl)	.80[1.20]	[1.00]	[.60]
Millet (gahi & hybrids)	2.10[1.80]	[---]	[1.50]
Okra	2.50[2.40]	[2.40]	[1.80]
[9/] Peanut	.60[.45]	[.45]	[.45]
[10/] Small grain	.40[.30]	[.30]	[.30]
Rice	2.50[2.40]	[2.40]	[1.80]
Sorghum (open-pollinated)	.70[.75]	[.60]	[.50]
[11/] Sorghum (commercial hybrids)	2.10[---]	[---]	[1.50]
[12/] Sorghum (A, B, & R Lines)	6.00	[---]	[---]
Soybean	.45[.55]	[.45]	[.30]
Sugar Cane	4.00[3.00]	[---]	[2.40]
[11/] Sunflower (commercial hybrids)	2.00[---]	[---]	[1.50]
Sunflower (A & R Lines)	6.00	[---]	[---]
Watermelon	4.40[4.20]	[4.20]	[3.60]

**\$10.00 FEE FOR EACH PRODUCTION FIELD APPLIED ON FOR CERTIFICATION**

LATE FEE: \$20.00 PER FIELD

REINSPECTION FEE: NOT LESS THAN \$20.00 PER FIELD

INTERAGENCY CERTIFICATION: \$75.00 PER LOT

- 1/Thirty (30) cents per acre for the first 50 acres in one field and twelve (12) cents for each additional acre in one field.
- 2/Sixty (60) cents per acre for the first 50 acres in one field and thirty (30) cents for each additional acre in one field.
- 3/One (1) dollar and eighty (80) cents per acre for the first 50 acres in one field and ninety (90) cents for each additional acre in one field.
- 4/Ninety (90) cents per acre for the first 50 acres in one field and sixty (60) cents for each additional acre in one field.
- 5/Two (2) dollars and forty (40) cents per acre for the first 25 acres per county and one (1) dollar and twenty (20) cents for each additional acre per county.
- 6/Forty-two (42) dollars for each nursery site.
- 7/Two (2) dollars and forty (40) cents per acre for the first 50 acres in one field and two (2) dollars and five (5) cents for each additional acre in one field.  
Fee required only once a year at time of application, regardless of number of inspections or harvests made.
- 8/Pre-planting inspection...Fourteen (14) dollars and forty (40) cents for any acreage up to and including the first three acres and two (2) dollars and forty (40) cents for each acre in excess of three acres.  
Sprig inspection...Fourteen (14) dollars and forty (40) cents for any acreage up to and including the first three acres and two (2) dollars and forty (40) cents for each acre in excess of three acres. Fee required only once a year at time of application, regardless of number of inspections or harvests made.
- 9/Forty-Five (45) cents per acre for the first 50 acres in one field and eighteen (18) cents for each additional acre in one field.
- 10/Thirty (30) cents per acre for the first 50 acres in one field and twelve (12) cents for each additional acre in one field.
- 11/One (1) dollar and fifty (50) cents per acre for the first 50 acres in one field, one (1) dollar and twenty (20) for each additional acre up to and including 100 acres in one field, ninety (90) cents for each additional acre in excess

of 100 acres in one field.

12/Six (6) dollars per acre for the first 5 acres in one field, three (3) dollars for each additional acre up to and including 10 acres in one field, one (1) dollar and eighty (80) cents for each additional acre in excess of 10 acres in one field.]

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 November 17, 1986

TRD-8610906

Dolores Alvarado Hibbs  
Director of Hearings  
Texas Department of  
Agriculture

Earliest possible date of adoption:  
December 28, 1986

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

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## TITLE 16. ECONOMIC REGULATION

### Part IV. Texas Department of Labor and Standards Chapter 69. Manufactured Housing Division

#### Titling

#### ★ 16 TAC §69.202

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

The Texas Department of Labor and Standards proposes an amendment to §69.202, concerning titling fees, providing for a quick title issuance fee, and providing for a procedure for payment of titling fees to the department.

Booker T. Morris III, general counsel, has determined that for the first five-year period the proposed section will be in effect there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the section.

Mr. Morris also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be quicker access to title transaction if the consumer or business has a desire for rapid turn around. The possible economic cost to individuals who are required to comply with the rule as proposed will be minimal.

Comments on the proposal may be submitted to John P. Steele, Director, Manufactured Housing Division, 920 Colorado Street, Austin, Texas 78701.

The amendment is proposed under Texas Civil Statutes, Article 5221f, which provide the commissioner of the Texas Department of Labor and Standards with the authority to promulgate rules and regulations necessary to effectuate the purposes of the Act.

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

Issued in Austin, Texas, on November 12, 1986.

TRD-8610830

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

Earliest possible date of adoption:  
December 28, 1986

For further information, please call  
(512) 463-5520.

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## TITLE 25. HEALTH SERVICES

### Part I. Texas Department of Health

#### Chapter 1. Texas Board of Health

#### Formal Hearing Procedures

#### ★ 25 TAC §1.29

The Texas Department of Health proposes an amendment to §1.29, concerning the hearing procedure. Subsection (h) covers assessing the cost of a court reporter and the record of the hearing and is proposed for amendment to include the provision that a contract or agreement may be arranged with a court reporter to include the per diem and/or appearance fee of the court reporter in the cost of a transcript.

Hal Nelson, chief, Office of General Counsel, has determined that there will be no fiscal implications as a result of enforcing or administering the section. The effect on state government for the first five-year period the section will be in effect will be an estimated reduction in cost of \$5,000 each year from 1987-1991. If a hearing decision of the agency is appealed, the fees of the court reporter may be assessed to the appealing party and included in the cost of the transcript. The effect on local government for the first five-year period the section will be in effect will be an estimated additional cost when a local government

is a party to an agency administrative hearing. If the local government appeals the agency hearing decision, the cost to the local government for the fees of the court reporter will be in the range of approximately \$100—\$200 for each full day of a hearing. The cost of compliance with the section for small businesses will only occur in those instances when a small business which is a party to an agency hearing and which appeals the hearing decision may be assessed the cost of the fees of the court reporter to be included in the cost of a transcript.

Mr. Nelson also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section as proposed will be to clarify the fees which the department will pay to court reporters involved in formal hearings before the department. There is no anticipated economic cost to individuals who are required to comply with the proposed section.

Comments on the proposal may be submitted to Mr. Hal L. Nelson, Chief, Office of General Counsel, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756. Comments will be accepted for 30 days after publication of this proposal in the *Texas Register*.

The amendment is proposed under Texas Civil Statutes, Article 4414b, §1.05, which authorize the Texas Board of Health to adopt rules covering its duties and procedures, and Article 6252-13a, §4, which authorize the board to adopt rules of practice setting forth the nature and requirements of all formal and informal procedures available.

#### §1.29. *The Hearing Procedure.*

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

(h) Assessing the cost of a court reporter and the record of the hearing.

(1) In the event a court reporter is utilized in the making of the record of the proceedings, the agency may either [shall] bear the cost of the per diem and/or [or other] appearance fee for such reporter or, by contract or agreement with such reporter, arrange for such fee(s) to be included in the cost of any transcript prepared by the reporter.

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

(i)-(k) (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 November 16, 1986

Proposed date of adoption  
January 31, 1987  
For further information, please call  
(512) 458-7236

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## Chapter 119. Health Maintenance Organizations

### ★ 25 TAC §119.3

The Texas Department of Health proposes an amendment to §119.3, concerning the organization of health maintenance organizations. The amendment to subsection (b) requires enrolled members to live inside the health maintenance organization's service area at the time of enrollment. Assurances are provided for continued enrollment opportunities to those members who move permanently outside the service area.

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

Mr. Seale also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be to enable members to remain in health maintenance organizations although the members move out of the geographic service area. There is no anticipated economic cost to individuals who are required to comply with the proposed section.

Comments on the proposal may be submitted to Carroll W. Gregory, M.P.H., HMO Program Administrator, Health Facility Licensure and Certification Division, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7528. Comments will be received for 30 days from the date of publication of the proposed amendment.

The amendment is proposed under the authority of the Texas Health Maintenance Organizations Act, Texas Civil Statutes, §20A., which authorizes the Texas Board of Health to adopt rules concerning health maintenance organizations.

#### §119.3. Organization.

- (a) (No change.)
- (b) A governing body, person, or persons legally responsible for the operation of the HMO shall:
  - (1)-(12) (No change.)
  - (13) assure members reside inside the service area at the time of initial enrollment with an HMO;

(14) assure members are covered under the provisions of the HMO as long as they remain members of the employer group and continue to meet the eligibility requirements of the contract;

(15) assure members and their dependents have the option to remain covered under the provisions of the plan after exiting the service area;

(16) assure members clearly understand they must return to the HMO service area in order to secure full benefit services. Otherwise, benefit coverage extends only to the policy provisions for emergency care outside the service area;

(17) assure the HMO shall comply with the requirements of Public Law 99-272 and the Consolidated Omnibus Budget Reconciliation Act of 1986 (COBRA).

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 November 16, 1986.

TRD-8610913

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

Proposed date of adoption:  
January 31, 1987  
For further information, please call  
(512) 458-7528.

# Adopted

**Rules** An agency may take final action on a rule 30 days after a proposal has been published in the *Texas 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 25. HEALTH SERVICES

### Part I. Texas Department of Health

#### Chapter 91. Cancer

The Texas Department of Health adopts an amendment to §91.1 and new §91.6 and §91.7. New §91.6 and §91.7 are adopted with changes to the proposed text published in the August 26, 1986, issue of the *Texas Register* (11 TexReg 3780). The amendment to §91.1 is adopted without changes and will not be republished. These sections concern the release of cancer data.

The sections are adopted for the promotion of accuracy in the reporting of cancer data for improved epidemiological studies and the strict handling of confidential personal data.

The Texas Board of Health is authorized to compile and publish statistical and other studies derived from the patient data collected and to provide in an accessible form information useful to physicians, other medical personnel, and the general public. The changes to the section establish guidelines for the release of statistical and personal data from the information collected by the Cancer Registry Division.

Concerning §91.6(a), a commenter suggested that the reference to statistical cancer morbidity and mortality data be expanded to read "statistical cancer morbidity and mortality data previously analyzed and printed are available upon written or oral request. All other requests for statistical cancer morbidity and mortality data requiring programming and computer retrieval shall be in writing and directed to:". The agency agrees that this change clarifies the intent of the rules and has modified subsection (a) accordingly.

Concerning §91.6(f), a commenter suggested that there may be multiple products produced utilizing the requested data. The agency agrees and has modified subsection (f) accordingly.

Concerning §91.6(g) and (h), a commenter suggested that the fee schedules outlined in the section may change over time, necessitating further amendment to the sec-

tion. The agency agrees and has omitted the references to set fees in subsections (g) and (h).

Concerning §91.7, a commenter suggested that this section addresses two separate issues: requests for personal cancer data and the release of that data. The agency agrees and has divided this section into two major subsections and has modified the section title.

Concerning §91.7(c), a commenter suggested that the provisions for this subsection have already been addressed elsewhere in the section. The agency agrees and has omitted this subsection.

Concerning §91.7(d), renumbered as (b)(1), a commenter suggested that this section be clarified to indicate that the data provided back to the reporting entities is merely feedback of the specific records previously reported by the respective entity in an updated, edited, and convenient format. The commenter also recommended that the word "will" be replaced with "may" in the first sentence of old subsection (d) and new subsection (b)(1) to indicate that the division would have an option rather than an obligation to provide the data to the respective reporting institution, since some institutions may not want or use them. The agency agrees and has modified subsection (d), renumbered as subsection (b)(1), accordingly.

Concerning §91.7(h), renumbered as (b)(5), a commenter suggested that the statement specifying the information to be covered in a court order for release of personal cancer data be omitted since the department cannot dictate content of a court order. The agency agrees and has omitted the statement in subsection (h) renumbered (b)(5).

Concerning §91.7(b)(6)-(8), a commenter suggested that guidelines for the release of personal cancer data to public and private agencies as well as other entities be included as separate paragraphs. The agency agrees that the additional information will clarify the intent of the rules and has added subsection (b)(6)-(8) accordingly.

In addition, the department has made some editorial changes in §91.7(e)-(g), renumbered as (b)(2)-(4) as well as in §91.7(a).

No comments were received from agen-

cies, organizations, or associations. All comments received were from individuals. All of the commenters were in favor of the sections but offered suggestions and comments as outlined in the summary of comments.

#### Cancer Registry

##### ★ 25 TAC §91.1

The amendment is adopted under the Texas Cancer Control Act, Texas Civil Statutes, Article 4477-40, §5, which provides the Texas Board of Health with the authority to adopt rules concerning the release of cancer data.

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 November 17, 1986.

TRD-8610871

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

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For further information, please call  
(512) 458-7265.

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##### ★ 25 TAC §91.6, §91.7

The new sections are adopted under the Texas Cancer Control Act, Texas Civil Statutes, Article 4477-40, §5, which provides the Texas Board of Health with the authority to adopt rules concerning the release of cancer data.

§91.6. *Requests for Statistical Cancer Morbidity and Mortality Data.*

(a) Statistical cancer morbidity and mortality data previously analyzed and printed are available upon written or oral request. All other requests for statistical cancer morbidity and mortality data requiring programming and computer retrieval shall be in writing and directed to: Cancer Registry Division, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756

(b) To ensure that the proper data are provided, the written request shall include, but is not limited to, the following information:

(1) name and address of the agency, institution, or firm requesting the information;

(2) name, degree(s), title, address, and telephone number of the person requesting the information;

(3) specific purpose of the project utilizing the data and expected results;

(4) type of data needed and for what years (e.g., Brewster County, 1976-1984);

(5) name and address of person(s) to whom data and billings are to be sent; and

(6) signature of the appropriate administrative officer of the agency, institution, or firm requesting the data.

(c) The department's obligation to furnish the requested data is subject to the availability and accuracy of collected data.

(d) The department reserves the right to review and comment on all report drafts utilizing the requested data prior to publishing and release.

(e) All reports utilizing the requested data must credit the department as the source of the data.

(f) The department shall receive a copy of any final product utilizing the requested data.

(g) The department may charge for requested data in accordance with department policy at the time of the request.

(h) Publications prepared by the Cancer Registry Division from its data for general distribution may be subject to a set fee per copy to offset in part or entirely the cost of printing.

#### §91.7. Requests and Release of Personal Cancer Data.

(a) Requests for data.

(1) Requests for personal cancer data shall be in writing and directed to: Texas Department of Health, Committee for Requests for Personal Data, Bureau of Vital Statistics, 1100 West 49th Street, Austin, Texas 78756.

(2) Written requests for personal data shall include the following information and assurances:

(A) name and address of agency, institution, or firm sponsoring the project;

(B) name, degree(s), title, address, and phone number of person who will direct the project;

(C) name and address of agency, institution, or firm funding the project (if other than that shown in subparagraph (A) of this paragraph);

(D) names, degree(s), and titles of other persons who will have supervisory responsibilities in the project;

(E) specific purpose of project;

(F) type of data needed and for what years (e.g., mortality, 1975-1979);

(G) action planned;

(H) results expected;

(I) assurances that the following conditions regarding the release of the requested data shall be met:

(i) the data shall be treated as strictly confidential;

(ii) the data shall not be used for any purpose other than that specifically set forth in this subsection and shall not be used for any secondary purpose;

(iii) the data shall not be made available to any other individual, agency, institution, or firm;

(iv) appropriate controls shall be maintained to prevent unauthorized access to the data;

(v) no follow back of any type shall be made to any individual, institution, or agency without written authorization by the Texas Department of Health;

(vi) any data released by a project shall be restricted to aggregate data and shall not identify any individual or institution;

(vii) the Texas Department of Health shall be given credit as the source of the data;

(viii) a copy of the results of the project shall be furnished to the Texas Department of Health; and

(ix) if computer tapes are requested, such tapes, after serving the purpose set forth in this subsection, shall be returned to the Texas Department of Health unless purchase of the tapes is requested and approved in advance of their preparation. Further, retained work tapes shall be erased unless specific authority is requested and granted for their retention and future use;

(J) name and address of person(s) to whom data and billings are to be sent must be provided;

(K) the request must be signed by the appropriate administrative officer of the sponsoring agency, institution, or firm.

(b) Release of data.

(1) The division may provide reports containing personal data back to the respective reporting institutions, physicians, and laboratories from records previously submitted to the division from each respective reporting entity for the purposes of case management and administrative studies. These reports will not be released to any other entity.

(2) The division may release personal data to other bureaus of the department, provided that the disclosure is required or authorized by law. All communications of this nature shall be clearly labeled "Confidential" and will follow established departmental internal protocols and procedures.

(3) The division may release personal data to TDH Cancer Registry Program personnel headquartered in public health regions to facilitate the collection, editing, and analysis of cancer registry data for that respective geographic area. Personal cancer data may be released to Public Health Regions Cancer Registry Program personnel in accordance with the standard guidelines for release of personal data as outlined in subsection (a) of this section.

(4) The division may release person-

al data to TDH Cancer Registry Program personnel headquartered in local health departments to facilitate the collection, editing, and analysis of cancer registry data for that respective geographic area. Personal cancer data may be released to Local Health Departments Cancer Registry Program personnel in accordance with the standard guidelines for release of personal data as outlined in subsection (a) of this section.

(5) The division shall release personal data as a result of a court order. Such actions must be coordinated through the department's Office of General Counsel.

(6) The division may release personal cancer data to state, federal, local, and other public agencies and organizations in accordance with the standard guidelines for release of personal data as outlined in subsection (a) of this section.

(7) The division may release personal cancer data to private agencies, organizations, and associations in accordance with the standard guidelines for release of personal data as outlined in subsection (a) of this section.

(8) The division may release personal cancer data to any other individuals or entities for reasons deemed necessary by the board to carry out the intent of the Cancer Control Act and in accordance with the standard guidelines for release of personal data as outlined in subsection (a) of this section.

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

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For further information, please call

(512) 458-7265.

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## Chapter 145. Long-Term Care Subchapter EE. Procedures on Long-Term Care Facilities

### ★ 25 TAC §145.93

The Texas Department of Health adopts new §145.93, with changes to the proposed text published in the August 26, 1986, issue of the *Texas Register* (11 TexReg 3781).

The new section provides for the charging of fees for certain architectural services provided by the agency. These services help sponsors of construction projects to meet applicable and necessary standards of operation. The collection of fees helps defray the costs to the state for providing these services.

The new section implements the charging of fees for the review of construction plans for long term care facilities, for inspections of construction of long term care facilities, and for feasibility inspections of existing buildings to determine construction requirements necessary for licensure or other program participation.

One commenter said it appears that a facility could be charged separate fees for the various architectural plan stages and for various inspections, thereby resulting in excessive costs; therefore, there should be a cap on the services. The department has accepted the comment in part. Clarifying language is added in new subsection (h) to state that the plan review fees shown in the schedule cover the review of plans in all the stages of development. The department has not accepted that part of the comment pertaining to a cap. As specifically indicated, the schedule is based on number of beds involved or project costs, where flat fees are not called for; therefore, the department believes the fee schedule is fair to both small and large facilities.

One commenter said that any facility which has submitted a plan review or has an on-going project at the time of final adoption of this section should be exempt from fee charges. The department has accepted the recommendation in part. Wording is added through new subsection (f) which calls for plans submitted after the effective date to be subject to fee; however, where a project is under construction as of the effective date, there will be no construction inspection fees.

One commenter stated that the wording in the proposed section stating that fees are to cover the costs to the department for providing the services is incorrect when compared to the wording of Texas Civil Statutes, Article 4414c. The commenter is correct, and wording is changed under subsection (e) to reflect that the fees are designed not to exceed the costs to the department. In originally preparing the schedule of fees, less than full cost reimbursement was calculated.

One commenter stated that some wording should be provided to follow Texas Civil Statutes, Article 4414c, wherein the fee schedule should take into account the person's ability to pay the entire amount of the fee and services may not be denied because of a person's inability to pay. The department believes that the projects calling for fee are not projects under hardship situations; therefore, the department has not included this recommendation in the writing of the adoption. There remains the provision that when the department finds in a licensed facility a violation of standards and when plans are submitted for the purpose of showing how the corrections will be made, there will be no fee; and there will similarly be no fee for a construction visit made pursuant thereto.

One commenter said that since facilities

will be required to pay fees, the department should provide services in a timely manner; it was recommended that plan reviews be completed and comments submitted within 21 days of the department's receipt of the plan. The department has no way to assure that the state can employ staff or maintain staff sufficiently to guarantee any particular time-frame; therefore, no wording speaking to this issue is provided in this section.

One commenter said the limit for minor additions or remodeling (regarding nursing homes) should be increased from \$15,000 to \$50,000. The department agrees with this recommendation and changes are made accordingly. For consistency with the increased limit, the department has increased the stated fee amount for the minor additions or remodeling category. For further consistency, the department has similarly increased the amounts in corresponding categories for the other categories of facilities.

One commenter said the intent of feasibility inspections is not clear. To provide clarity, the department wording is added to that subject.

One commenter recommended that only when a structural change is made of \$100,000 or more that there be a plan review fee. The department does not agree with this recommendation since many minor projects would be of less than \$100,000 value and should be part of the fee system.

One commenter stated that it is not uncommon for a facility to carry out remodeling and repairs over the course of a year, thereby generating several fees, such as for repainting and wallpapering. The department never intended that such building upgrading or repairs would in themselves involve a fee; therefore, wording is provided in new subsections (j) and (k) to define remodeling and general maintenance and repairs.

One commenter indicated that a facility should not be required to pay for construction inspections that the facility does not anticipate. This comment has been accepted in part. Wording is changed in what is now new subsection (n) to provide that should the facility request construction inspections beyond those called for in the schedule, the appropriate additional fees shall be submitted; however, if the department elects to make additional construction inspections, there will be no charge for such inspections.

Comments were received from the Texas Health Care Association and Beverly Enterprises. The Texas Health Care Association did not express being for or against the new section, but did indicate concerns with the new section. Beverly Enterprises registered as being against the new section.

The new section is adopted under Texas Civil Statutes, Article 4414c, §2, which pro-

vide the Texas Board of Health with the authority to promulgate rules and charge fees to persons who receive public health services from the department.

#### *§145.93. Fees for Plan Reviews and Building Inspections.*

(a) All institutions or facilities licensed by the department under Texas Civil Statutes, Article 4442c, and under Title 6, Human Resources Code, Chapter 103, must comply with minimum licensing standards promulgated for the types of facilities licensed.

(b) Licensing standards §§145.11-145.24 of this title (relating to Minimum Licensing Standards for Nursing Homes), §§145.31-145.44 of this title (relating to Minimum Licensing Standards for Custodial Care Homes), §§145.51-145.70 of this title (relating to Minimum Standards for Maternity Homes), §§145.181-145.183 of this title (relating to Minimum Licensing Standards for Personal Care Homes), §§145.231-145.244 of this title (relating to Architectural Manual for Facilities Serving the Mentally Retarded), and §§145.191-145.195 of this title (relating to Minimum Licensing Standards for Adult Day Care and Adult Day Health Care Facilities) require that sponsors of construction projects submit to the department architectural plans for the construction projects. The department provides a service to these sponsors in the review of plans in various stages of development, including schematics, sketches, conceptual drawings, preliminary plans, near-final plans, final plans with specifications, addenda, and change orders. In the review of plans, the department endeavors to assure that if buildings are constructed or renovated in accordance with the plans, the project completion will meet licensure requirements (and Medicare/Medicaid requirements where plan reviews include those requirements also).

(c) During construction of a project, representatives of the department perform construction inspections to assure that construction is being accomplished in accordance with approved plans, licensing requirements, and other requirements as applicable. Most construction projects require a preliminary inspection and a final inspection.

(d) Representatives of the department provide feasibility inspections of existing buildings, licensed or unlicensed, to determine construction or renovation requirements for licensure and for meeting other program standards as may be applicable.

(e) Texas Civil Statutes, Article 4414c, authorizes the department to charge fees for providing services mentioned in this section. Pursuant to this authority, the department establishes the fees as shown in the fee schedule in subsection (o) of this section, to cover plan review services, construction inspection services, and feasibility inspection services. The fees are designed not to exceed the costs to the department to provide these services.



(f) All plans submitted after the effective date of this section are subject to plan review fee. A project which is under construction as of the effective date of this section will not require construction inspection fees.

(g) When the department finds in a licensed facility a violation of standards and when plans are submitted for the purpose of showing how the violation will be corrected, there will be no fee for such plan review. There will similarly be no fee for a construction visit made pursuant thereto.

(h) The plan review fees shown in the schedule cover the review of plans in all the stages of development.

(i) In determining the costs of additions or remodeling, only the direct construction costs need to be considered, i.e., construction contract amount plus any addition costs by contractor or owner during construction. Costs do not include land acquisition, architectural/engineering fees,

financing, legal fees, fund raising fees, furnishings, or moveable equipment.

(j) Remodeling is the construction, removal, or relocation of walls and partitions, or construction of foundations, floors, or ceiling-roof assemblies, including expanding of safety systems (i.e. sprinkler systems, fire alarm systems), that will change the existing plan and use areas of the facility.

(k) General maintenance and repairs of existing material and equipment, repainting, applications of new floor, wall, or ceiling finishes, or similar projects are not included as remodeling, unless as a part of new construction. The department must be provided flame spread documentation for new materials applied as finishes.

(l) Fees are due for payment as follows.

(1) When plan development has reached the preliminary plan stage and preliminary plans are submitted for review, 30% of the plan review fee must accompany the

plans. Before final plans are reviewed, the full fee, if preliminary plans were not submitted, or the balance of the plan review fee must be paid.

(2) Construction inspection fees for new facilities and for additions or remodeling of existing licensed facilities are due for payment before the facility is licensed or otherwise accepted by the department under licensure.

(3) Feasibility inspection fees are due for payment prior to the inspection being made.

(m) Payment of fees shall be by check or money order made payable to the Texas Department of Health.

(n) Should the facility or institution request construction inspections beyond those called for in the schedule, the appropriate additional fees shall be submitted. If the department elects to make additional construction inspections, there will be no charge for such inspections.

(o) The fee schedule is as follows:

### Plan reviews

Nursing homes  
Custodial care homes  
Facilities serving the mentally retarded  
(based on health care occupancy type facility)  
Personal care homes  
(based on health care occupancy type facility).

#### All new facilities

Single story	\$9 per bed, min. \$450
Multiple story	\$11 per bed, min. \$550

#### Major additions or remodeling (\$50,000 or more)

Single story	1% of project cost, or \$9 per bed, whichever is greater, but not to exceed \$1,000
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Multiple story	1% of project cost or \$11 per bed, whichever is greater, but not to exceed \$1,200
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#### Minor additions or remodeling (under \$50,000)

\$200

Personal care homes  
(based on other than health care occupancy  
type facility)  
Facilities serving the mentally retarded  
(based on other than health care occupancy type facility)  
Maternity homes.

New facilities  
Major additions or remodeling  
(\$10,000 or more)

4 - 8 beds	\$50
9 - 16 beds	\$100
17 and over beds	\$8 per bed, min. \$200

**Minor additions or remodeling  
(under \$10,000)**

4 - 16 beds	\$50
17 and over beds	\$100

**Adult day care and adult day health care facilities**

**New construction, major additions**

\$10 per licensed person  
capacity, max \$300

Minor additions or remodeling  
(under \$5000) \$100

Construction inspections

Preliminary inspections, each \$2 per bed, min. \$50  
Final inspections, each \$5 per bed, min. \$50  
(including one follow-up if  
necessary)

Feasibility inspections

Feasibility inspections, each \$3 per bed, min. \$75

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.

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Health

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For further information, please call  
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**Chapter 289. Occupational  
Health and Radiation  
Control**

**Texas Regulations for Control of  
Radiation**

★ 25 TAC §§289.111, 289.113,  
289.114, 289.121-289.125

The Texas Department of Health adopts amendments to §§289.111, 289.113, 289.114, and 289.121-289.125, with changes to the proposed text published in the August 26, 1986, issue of the *Texas Register* (11 Tex-Reg 3783)

The rule provides establishment of the licensing state concept, which provides

uniform regulation of naturally occurring and accelerator-produced radioactive material (NARM). Several additions to the rule ensure compatibility with the Nuclear Regulatory Commission.

Sections 289.111, 289.113, 289.114, and 289.121-289.125, adopt by reference the following parts, respectively: Part 11, General Provisions; Part 21, Standards for Protection Against Radiation; Part 22, Notices, Instructions, and Reports to Workers; Inspections; Part 41, Licensing of Radioactive Material; Part 42, Registration of Radiation Machines and Services; Part 43, Licensing of Uranium Recovery Facilities; Part 44, Licensing of Radioactive Waste Processing and Storage Facilities; and Part 45, Licensing Requirements for Near-Surface Land Disposal of Radioactive Waste. Major changes to these include: addition of the licensing state concept with regard to the regulation of NARM; addition of rules concerning control of radiation exposures received by transient workers; clarification of provisions for exempt quantities and exempt concentrations; addition of notification requirement for licensees/registrants declaring bankruptcy; and addition of rules concerning surveillance of licensed material and radiation machines in unrestricted areas.

A total of six comments were received in writing or heard at the hearing on the amendments, held September 18, 1986. As a result of the comments received, the

agency has made several minor changes to the proposed changes to the various parts. The only changes made to the sections are the effective dates included in subsection (a) of each section. The following is a summary of the comments received and the resulting agency responses.

One commenter stated that the requirements of 21.101(a) and 21.102(a) are only manageable when dealing with an individual who works for two or more licensees/registrants consecutively and not concurrently. This rule is a compatibility item with the U.S. Nuclear Regulatory Commission and is currently in effect in the 22 non-agreement states and in the majority of the agreement states. The licensee/registrant may determine how implementation/record keeping will be accomplished with multiple work sites. The agency made no change to the rule as a result of the comment.

One commenter asked if the last sentence in 22.13(f) could be modified to read that the report be provided within 60 days of the time of termination to allow time for processing and reporting by the monitoring company. This rule is an item of compatibility with the U.S. Nuclear Regulatory Commission. An employee must be provided with an immediate estimate of dose upon termination which must then be followed by a documented report of dose. The agency made no change to the rule as a result of the comment.

Several commenters suggested that rather than using a minimum dose limit, 21.102(a)(1) should specify "under such circumstances that the individual is required to be monitored for exposure." The agency thinks that the rule adequately specifies under what conditions personnel monitoring is required. The agency made no change to the rule as a result of the comment.

Several commenters expressed support of the licensing state concept.

The following groups or associations made comments on the amendments: Hillcrest Baptist Medical Center, The University of Texas Medical Branch, and South Texas Chapter Health Physics Society. None of the commenters were against the amendments in their entirety; however, questions were raised, concerns expressed, and recommendations made concerning the amendments.

The amendments are adopted under Texas Civil Statutes, Article 4590f, §4(d)(3), which provide the Texas Department of Health with the authority to formulate, adopt, and promulgate rules that provide for licensing and registration relating to control, transport, and routing of radioactive material within the State of Texas.

**§289.111 General Provisions.**

(a) The Texas Department of Health adopts by reference Part 11, General Provisions, of the department's document titled *Texas Regulations for Control of Radiation*, as amended in January 1987.

(b) (No change.)

**§289.113. Standards for Protection Against Radiation.**

(a) The Texas Department of Health adopts by reference Part 21, *Standards for Protection Against Radiation*, of the department's document titled *Texas Regulations for Control of Radiation*, as amended in January 1987.

(b) (No change.)

**§289.114. Notices, Instructions, and Reports to Workers; Inspections.**

(a) The Texas Department of Health adopts by reference Part 22, Notices, Instructions, and Reports to Workers; Inspections, of the department's document titled *Texas Regulations for Control of Radiation*, as amended in January 1987.

(b) (No change.)

**§289.121. Licensing of Radioactive Material.**

(a) The Texas Department of Health adopts by reference Part 41, Licensing of Radioactive Material, of the department's document titled *Texas Regulations for Control of Radiation*, as amended in January 1987.

(b) (No change.)

**§289.122. Registration of Radiation Machines and Services.**

(a) The Texas Department of Health adopts by reference Part 42, Registration of

Radiation Machines and Services, of the department's document titled *Texas Regulations for Control of Radiation*, as amended in January 1987.

(b) (No change.)

**§289.123. Licensing of Uranium Recovery Facilities.**

(a) The Texas Department of Health adopts by reference Part 43, Licensing of Uranium Recovery Facilities, of the department's document titled *Texas Regulations for Control of Radiation*, as amended in January 1987.

(b) (No change.)

**§289.124. Licensing of Radioactive Waste Processing and Storage Facilities.**

(a) The Texas Department of Health adopts by reference Part 44, Licensing of Radioactive Waste Processing and Storage Facilities, of the department's document titled *Texas Regulations for Control of Radiation*, as amended in January 1987.

(b) (No change.)

**§289.125. Licensing Requirements for Near-Surface Land Disposal of Radioactive Waste.**

(a) The Texas Department of Health adopts by reference Part 45, Licensing Requirements for Near-Surface Land Disposal of Radioactive Waste, of the department's document titled *Texas Regulations for Control of Radiation*, as amended in January 1987.

(b) (No change.)

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

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For further information, please call  
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**★ 25 TAC §289.126**

The Texas Department of Health adopts an amendment to §289.126, with changes to the proposed text published in the August 26, 1986, issue of the *Texas Register* (11 TexReg 3785).

Legislative changes in the Appropriations Bill, 69th Legislature, 1985, affect the method of recovering costs for department operations. The bill requires that a greater portion of the department's budget for radiation control be obtained from fees and a lesser portion from the General Revenue Fund. Amendments to rules regarding fees for all categories of registrants and licensees except uranium re-

covery facilities were amended in April 1986. The fees for uranium recovery facilities have been revised to better reflect the actual costs of regulation of a facility for the year in which the costs are incurred and to recover 83% of the costs to the agency for regulating those licensees.

Section 289.126, which adopts by reference Part 12, entitled "Fees for Certificates of Registration, Radioactive Material(s) Licenses, Emergency Planning and Implementation, and Other Regulatory Services," will be amended by the revision of the method of determination and the amounts of fees for uranium recovery facilities. A new §12.22 is added which delineates fees for uranium facilities by year and type of operation. Annual fee adjustments for additional noncontiguous sites and for irrigation or surface discharge and one-time fee adjustments for certain major additions to the licensees were also placed into the fee schedule. Interpretive rules and definitions pertaining only to uranium facility fees are added to this section.

Other minor amendments were made to the definitions section, 12.2 to 12.11 concerning procedures for the payment of fees, and to 12.31, which contains the schedule of annual fees for certificates of registration, to clarify the method of charging for certain types of registrants.

A total of two comments were received in writing or heard at the hearing on proposed amendments to Part 12 held on September 18, 1986. Some staff comments of an editorial nature were also received. As a result of the comments received, the department has made only minor editorial changes to the proposed changes to Part 12. The only change made to §289.126 was the date included in subsection (a). The following is a summary of the comments received and the resulting agency responses.

One commenter was concerned that the amount of work performed by the agency in producing environmental assessments of uranium recovery facilities, and upon which part of the fees for those categories were based, was in excess of the amount required to be performed by statute. Because of this, the commenter felt that the fees sought were excessive. The statute under which the Radiation Control Program operates requires environmental activities at uranium recovery facilities involving data collection, analysis, and review. While the environmental assessment document is not required to contain all the data gathered, the agency still must collect, analyze, and review the data. The development of the assessment document following this is a small portion of the costs incurred by the staff. The department made no changes as a result of the comment.

Other comments received from commenters and staff which addressed grammatical and typographical errors were

answered. The minor editorial changes as a result of these comments did not affect the substance of the section.

The following groups or associations made comments on the amendment: USX Corporation and Intercontinental Energy Corporation. None of the commenters were against the amendment in its entirety. The commenters were opposed to the implementation of certain portions of the amendment. Also questions were raised, concerns expressed, and recommendations made concerning the amendment.

The amendment is adopted under Texas Civil Statutes, Article 4590f, §§4(d)(3), 17, and 18, which provide the Texas Department of Health with the authority to formulate, adopt, and promulgate rules which provide for licensing and registration relating to control, transport, and routing of radioactive material within the State of Texas; to prescribe and collect a fee for each license and registration; and to prescribe and collect annual fees for emergency planning and implementation and environmental surveillance activities from each fixed nuclear facility that utilizes special nuclear material.

§289.126. Fees for Certificates of Registration, Radioactive Material(s) Licenses, Emergency Planning and Implementation, and Other Regulatory Services.

(a) The Texas Department of Health adopts by reference Part 12, Fees for Certificates of Registration, Radioactive Material(s) Licenses, Emergency Planning and Implementation, and Other Regulatory Services, of the department's document titled *Texas Regulations for Control of Radiation*, as amended in January 1987.

(b) (No change.)

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

Issued in Austin, Texas, on November 16, 1986

TRD-8610911 Robert A. MacLean  
Deputy Commissioner  
Professional Services  
Texas Department of  
Health

Effective date: January 1, 1987  
Proposal publication date: August 26, 1986  
For further information, please call  
(512) 835-7000.

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## TITLE 40. SOCIAL SERVICES AND ASSISTANCE

### Part I. Texas Department of Human Services Chapter 27. ICF-MR

The Texas Department of Human Services adopts the repeal of §27.3007, new

§27.3007, and an amendment to §27.3008, without changes to the proposed text published in the August 15, 1986, issue of the *Texas Register* (11 TexReg 3637).

New §27.3007 and the amendment to §27.3008 are justified because they enhance continuity of care for residents of intermediate care facilities for the mentally retarded who move from one living arrangement to another.

New §27.3007 will function by specifying the requirements facilities must meet to discharge residents who are absent from the facilities' care and treatment services for 24 hours or more. The amendment to §27.3008 will function by deleting requirements made obsolete by new §27.3007.

No comments were received regarding adoption of the amendment, new section, and repeal.

### Subchapter EE. Admission and Release

#### ★40 TAC §27.3007

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

#### §27.3007. Release from the ICF-MR.

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 November 19, 1986.

TRD-8610918 Marlin W. Johnston  
Commissioner  
Texas Department of  
Human Services

Effective date: December 19, 1986  
Proposal publication date: August 15, 1986  
For further information, please call  
(512) 450-3766.

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The new section is adopted under the Human Resources Code, Title 2, Chapters 22 and 32, which authorizes the department to administer public and medical assistance programs.

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

Issued in Austin, Texas, on November 19, 1986

TRD-8610917 Marlin W. Johnston  
Commissioner  
Texas Department of  
Human Services

Effective date: December 19, 1986  
Proposal publication date: August 15, 1986  
For further information, please call  
(512) 450-3766.

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#### ★40 TAC §27.3008

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

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

Issued in Austin, Texas, on November 19, 1986.

TRD-8610919 Marlin W. Johnston  
Commissioner  
Texas Department of  
Human Services

Effective date: December 19, 1986  
Proposal publication date: August 15, 1986  
For further information, please call  
(512) 450-3766.

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### Part IX. Texas Department on Aging Chapter 255. State Delivery Systems Designation of Area Agencies on Aging

#### ★40. TAC §255.1

The Texas Department on Aging (TDoA) adopts an amendment to §255.1, without changes to the proposed text published in the October 17, 1986, issue of the *Texas Register* (11 TexReg 4297).

This amendment adds definitions for a unit of general purpose government and right of first refusal, and broadens the scope of the definition of the Texas Department on Aging.

This amendment provides a clearer understanding of the scope of the TDoA regarding programs for the elderly of Texas, the Older Americans Act (OAA) in identifying priorities assigned to local units of government when designating area agencies on aging, and the definition of a "unit of general purpose local government," as defined by the OAA.

There were no comments received regarding adoption of the amendment.

The amendment is adopted under the Human Resources Code, Chapter 101, which provides the Texas Department on Aging with the authority to promulgate rules governing the operation of the department.

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 November 18, 1986

TRD-8610894 O. P. (Bob) Bobbitt  
Executive Director  
Texas Department on  
Aging

Effective date: December 9, 1986  
Proposal publication date: November 17, 1986  
For further information, please call  
(512) 444-2727.

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## Chapter 259. Policies and Procedures

### Statutes and Regulations

#### ★40. TAC §259.6

The Texas Department on Aging adopts an amendment to §259.6, without changes to the proposed text published in the October 14, 1986, issue of the *Texas Register* (11 TexReg 4274).

The amendment corrects sentence structure and spelling of certain words to more clearly reflect the intent of the section.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Human Resources Code, Chapter 101, which provides the Texas Department on Aging with the authority to promulgate rules governing the operation of the department.

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 November 18, 1986.

TRD-8610895

O. P. (Bob) Bobbitt  
Executive Director  
Texas Department on  
Aging

Effective date: December 9, 1986  
Proposal publication date: October 14, 1986  
For further information, please call:  
(512) 444-2727.

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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 on Aging

**Thursday, December 11, 1986, 10 a.m.** The Texas Board on Aging and the State Citizens Advisory Council of the Texas Department on Aging will meet jointly in the Third Floor Conference Room, 1949 IH 35, Austin. According to the agenda, the board and council will approve the minutes of the Citizens Advisory Council meeting of August 7, 1986, and the Texas Board on Aging meeting of September 18, 1986; hear the fiscal report, program reports, the report from the Texas Association of Regional Councils; consider the business/industry focusing on maturity conference; and hear the executive director's remarks.

**Contact:** Daniel N. Stewart, P.O. Box 12786, Austin, Texas 78711, (512) 444-2727.

**Filed:** November 18, 1986, 11:16 a.m.  
TRD-8610893

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## Texas Department of Agriculture

**Monday, December 8, 1986, 8:30 a.m.** The Texas Department of Agriculture will meet on the 10th Floor, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. According to the agenda summary, the department will receive comments regarding proposed changes concerning fees charged by the department for examinations given to commercial and noncommercial pesticide applicators, annual license fees for commercial and noncommercial pesticide applicators and pesticide and herbicide dealers; annual fees for nursery floral certificates, fees for service testing of seed samples, fees for seed certification inspections, and fees for registration of scales with a capacity of less than 4,999 pounds.

**Contact:** Delores Alvarado Hibbs, P.O. Box 12847, Austin, Texas 78711, (512) 475-6346.

**Filed:** November 18, 1986, 3:42 p.m.  
TRD-8610903

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## Apprenticeship and Training Advisory Committee

**Thursday, December 11, 1986, 1:00 p.m., and Friday, December 12, 1986, 8:30 a.m.** The Apprenticeship and Training Advisory Committee will meet at the Austin Airport Hilton and Towers, 6000 Middle Fiskville Road, Austin. According to the agenda, the committee heard reports from the committee chairperson, the director of division of employment and training, New Zealand vocational training council, apprenticeship lessons from abroad, transfer of apprenticeship training to the Coordinating Board, the Texas College and University System, presentation of a film entitled "Hispanic Heritage: New Horizons", subcommittee reports concerning: by-laws, finance and budget, resources, and planning. The committee will also consider tasks and program of work for the committee, and discuss briefing documents..

**Contact:** James Woodman, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9294.

**Filed:** November 19, 1986, 3:56 p.m.  
TRD-8610946

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## Texas Board of Architectural Examiners

**Thursday, November 20, 1986, 11 a.m.** The Texas Board of Architectural Examiners met in emergency session in Suite 107, 8213 Shoal Creek Boulevard, Austin. According to the agenda, the board motioned for rehearing. The emergency status was necessary to remain in compliance with statutory time limits concerning action on the motion for rehearing of final decision on violation of the Architects Registration Law in accordance with the Administrative Procedure and Texas Register Act.

**Contact:** Robert H. Norris, 8213 Shoal Creek Boulevard, Suite 107, Austin, Texas 78758, (512) 458-1363.

**Filed:** November 19, 1986, 2:12 p.m.  
TRD-8610951

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## Texas Cancer Council

**Monday, December 1, 1986, 9:30 a.m.** The Texas Cancer Council will meet at House Appropriations Room 309, State Capitol, 1200 Congress, Austin. According to the agenda summary, the council will consider legislative appropriations request; hear the council financial report; discuss the valley health promotion proposal; consider advisory commission on intergovernmental relations proposal; the Texas Cancer Plan; hear report on outstanding fiscal year 1986 contracts; consider fiscal year 1987 contract modification requests; implementation of the Texas Cancer Plan; discuss proposed new contracts; discuss the Physician Oncology Education Program, Nurse Oncology Education Program, fiscal support services, the Texas Breast Cancer Screening Project, Regional Cancer Networks Program, and the cancer study communication network; stimulate "American College of Surgeons" cancer; consider the program in Texas hospitals; discuss cancer education skills development labs, Texas cancer plan marketing and support services, public education outreach/coordination program, and hear letter of support for research projects.

**Contact:** Owen McCrory, M. D. Anderson Hospital, Houston, Texas 77030, (713) 792-2203.

**Filed:** November 19, 1986, 4:08 p.m.  
TRD-8610967

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## Texas Department of Community Affairs

**Wednesday, December 3, 1986, 9 a.m.** The Advisory Council of the Texas Department of Community Affairs (TDCA) will meet at 8317 Cross Park Drive, Austin. According

to the agenda, the council will hear the executive director's report along with reports concerning status of TDCA budget request, special economic development program, and major TDCA programs.

**Contact:** Mr. Micheal Alien, 8317 Cross Park Drive, Austin, Texas 78754-5124, (512) 834-6010.

**Filed:** November 19, 1986, 10:41 a.m.  
TRD-8610923

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### Texas Conservation Foundation

**Sunday November 23, 1986, 1:30 p.m.** The board meeting of the Texas Conservation Foundation made an emergency revision to the agenda to a meeting held in the Senate Chambers, State Capitol. According to the agenda, the board considered action on a donation of land in Orange County. The board will also be assembling for the Sunset Advisory Commission Meeting. The emergency meeting was rescheduled from November 23 at 1 p.m. The emergency status was necessary because of information on Orange County land donation was not available earlier and it is necessary to consider this donation within the present calendar year.

**Contact:** Alicia M. Reban, Room 611, Stephen F. Austin Building, Austin, Texas 78711, (512) 463-2196.

**Filed:** November 19, 1986, 2:37 p.m.  
TRD-8610953

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### Texas Economic Development Commission

**Friday, November 21, 1986, 7a.m., and 8:30 a.m.** The Board of Commissioners of the Texas Economic Development Commission made an emergency revision to the agenda at the Hyatt Regency Hotel, 123 Losoya (on the Riverwalk), San Antonio. The revision concerned San Antonio area briefing, the TIDC report, executive director's report, action on prior minutes and financial statements, discussion of quarterly department reports, briefing and possible action on TEXCAP project guidelines and fees, action on the commission rules regarding the TSBIDC bond programs, action on emergency and proposed rules for IRB program due to federal tax law changes, action on guidelines for TSBIDC general bond program, action on amendments to bylaws of TSBIDC, action on unit resolution for Mita Copystar America, Inc., action on unit resolution for Moulding Products, Inc., CAPITAL Program update, Tax Reform Act of 1986 update, approval of tenant for Luling under the Rural Loan Act, the TEXCEL program briefing, and results of the special legislative session.

**Contact:** Alexa Richter, 410 East Fifth Street, Austin, Texas 78711, (512) 472-5059.

**Filed:** November 18, 1986, 4:15 p.m.  
TRD-8610910

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### Texas Employment Commission

**Thursday, November 20, 1986, 8:30 a.m.** The Texas Employment Commission met in emergency session in Room 644 of the TEC Building, 101 East 15th Street, Austin. According to the agenda summary, the commission discussed with the Attorney General's office developments in the case of *Tullis v. Grisham, et al.* The emergency status was necessary due to the immediacy of the trial setting and consequent need to formalize resolution of issues.

**Contact:** C. Ed Davis, 101 East 15th Street, Austin, Texas 78778, (512) 463-2291.

**Filed:** November 19, 1986, 9:35 a.m.  
TRD-8610920

**Tuesday, November 25, 1986, 8:30 a.m.** The Texas Employment Commission will meet in executive session in Room 644, TEC Building, 101 East 15th Street, Austin. According to the agenda summary, the commission will consider internal procedures of commission appeals and action on tax liability cases and higher level appeals in unemployment compensation cases listed on Commission Docket 47. The emergency status is necessary because of the need to meet federal time requirements. The meeting is rescheduled from November 26, 1986, 8:30 a.m.

**Contact:** Courtenay Browning, 101 East 15th Street, Austin, Texas 78778, (512) 463-2226.

**Filed:** November 19, 1986, 9:35 a.m.  
TRD-8610921

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### Office of the Governor

**Monday, November 24, 1986, 10:00 a.m.** The Task Force on Border Economic Development of the office of the Governor met in emergency session in Room 101, John H. Reagan Building, 105 West 15th Street, Austin. According to the agenda, the task force discussed proposed recommendations and the draft final report. The emergency status was necessary due to the death of the committee clerk.

**Contact:** Tom Adams, 201 East 14th Street, Austin, Texas 78711, (512) 463-1827.

**Filed:** November 19, 1986, 10:36 a.m.  
TRD-8610922

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### Texas Department of Human Services

**Thursday-Friday, November 4-5, 1986, 1:30 p.m.** The Advisory Council for Social Work Certification of the Texas Department of

Human Services will meet in Room 3W, third floor, West Tower, 701 West 51st Street, Austin. According to the agenda, the council will approve minutes; hear a report from the assistant commissioner for licensing; review proposed rule revisions and comments; hear subcommittee reports; discuss the peer counseling proposal; and hear the staff report.

**Contact:** Michael Doughty, P.O. Box 2960, Austin, Texas, (512) 450-3255.

**Filed:** November 18, 1986, 3:59 p.m.  
TRD-8610909

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### State Board of Insurance

**Thursday, November 20, 1986, 9:30 a.m.** The State Board of Insurance met in emergency session in Room 414, State Insurance Building, 1110 San Jacinto Street, Austin. According to the agenda summary, the board considered personnel matters of the fire marshal, research and information services, and commissioner along with pending and contemplated litigation. The emergency status was necessary because of matters which needed to be decided at the earliest possible time.

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

**Filed:** November 19, 1986, 11:47 a.m.  
TRD-8610942

**Wednesday, December 3, 1986, 9:00 a.m.** The State Board of Insurance will meet at Room 101, John H. Reagan Building, 15th Street and Congress Avenue, Austin. According to the agenda summary, the board will hold a public hearing to consider private passenger and commercial automobile insurance manual rules, rating plans, classification plans and endorsement forms and consider the revision of private passenger and commercial automobile insurance rates and rating plans.

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

**Filed:** November 19, 1986, 11:46 a.m.  
TRD-8610943

**Thursday, December 4, 1986, 9 a.m.** The State Board of Insurance will meet in Room 414, State Insurance Building, 1110 San Jacinto Street, Austin. According to the agenda, the board will hold a public hearing to consider a petition by the Texas Medical Liability Insurance Underwriting Association (JUA) to charge the Texas JUA policyholder stabilization reserve fund and assess policyholders and members.

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

**Filed:** November 19, 1986, 11:46 a.m.  
TRD-8610944

## Texas Commission on Jail Standards

**Wednesday, December 3, 1986, 9 a.m.** The Texas Commission on Jail Standards will meet in Room 100, 18th and Brazos Streets, Employees Retirement System Building, Austin. According to the agenda, the commission will read and approve minutes of the September 24, 1986, meeting; hear the directors report; consider old business for Bastrop/Caldwell County, Denton, El Paso, Guadalupe, Jones, Johnson, Smith, Tarrant, Waller, Willacy, and Williamson Counties; consider new business for Bee, Eastland, Ellis, Floyd, Lamar, Limestone, and Maverick Counties and keys; and discuss applications for variance for Bosque, Crane, Harris, Rockwall, Travis, Nacogdoches, and Panola Counties. The commission also will meet in executive session.

**Contact:** Robert O. Viterna, 611 South Congress, Suite 200, Austin, Texas, (512) 463-5505

TRD-8610947

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## North Texas State University/Texas College of Osteopathic Medicine

**Friday, November 21, 1986, 9 a.m.** The Board of Regents of the North Texas State University/Texas College of Osteopathic Medicine met on the third floor, Rare Book Room, Med Ed Building III, TCOM, Fort Worth. According to the agenda, NTSU/TCOM board met in executive session to consider legal issues; personnel implications of Select Committee recommendations; acquisition of property; personnel implications of medical services; and the Research and Development Plan. TCOM approved minutes, considered a policy on academic consulting, discussed distinguished research professorships, the sportsmedicine affiliation agreement, personnel, advisory council appointments, and heard the gift report. NTSU approved minutes, considered distinguished research professorships, professor emeritus recommendations, heard the faculty workload report, the small class report, the gift report, discussed personnel, considered centennial scholarships, the purchase of real property, discussed the repair/replacement of roofs on five buildings, the replacement of windows on three buildings, cogeneration, and held an election of officers. The emergency status was necessary due to recent personnel developments making it imperative that the board be able to consider in executive session the Medial Services, Research and Development Plan.

**Contact:** Jan Dobbs, P.O. Box 13737, North Texas Station, Denton, Texas 76203, (817) 565-2198.

**Filed:** November 19, 1986, 9:12 a.m.  
TRD-8610915

## Texas State Board of Public Accountancy

**Friday-Saturday, November 21-22, 1986, 1 p.m.** The Texas State Board of Public Accountancy met in Suite 340, 1033 La Posada, Austin. According to the emergency revised agenda, the board adopted substantive Rule 523.63. The emergency revision was necessary as the time period elapsed in which final action may be taken on the rule.

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

**Filed:** November 18, 1986, 1:48 p.m.  
TRD-8610987

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## Public Utility Commission of Texas

The Hearings Division of the Public Utility Commission of Texas will meet in Suite 450N, 7800 Shoal Creek Boulevard, Austin. Days, times, and agendas follow

**Monday, December 1, 1986, 2 p.m.** There will be an open meeting in which the commissioners will set the rate of interest on deposits held by utilities for calendar year 1987, pursuant to Texas Civil Statutes, Article 1440a.

**Contact:** Phillip A. Holder, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

**Filed:** November 19, 1986, 2:32 p.m.  
TRD-8610952

**Tuesday, December 2, 1986, 10 a.m.** A prehearing conference in Docket 7160—application of Southwestern Bell Telephone Company for authority to implement rates and regulations for Intrastate Interim 800 service.

**Contact:** Phillip A. Holder, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

**Filed:** November 19, 1986, 2:31 p.m.  
TRD-8610954

**Monday, December 15, 1986, 10 a.m.** A prehearing conference in Docket 6184—inquiry of the Public Utility Commission of Texas concerning economic viability of Unit II of the South Texas Electric Generating Station.

**Contact:** Phillip A. Holder, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

**Filed:** November 19, 1986, 2:32 p.m.  
TRD-8610955

**Monday, January 5, 1987, 10 a.m.** A rescheduled hearing on merits in Docket 6184—inquiry of the Public Utility Commission of Texas concerning the economic viability of Unit II of the South Texas Electric Generating Station. The meeting was rescheduled from December 9, 1986.

**Contact:** Phillip A. Holder, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

**Filed:** November 19, 1986, 2:32 p.m.  
TRD-8610956

**Monday February 9, 1987, 10 a.m.** A hearing on the merits in Docket 7160—application of Southwestern Bell Telephone Company for authority to implement rates and regulations for Intrastate Interim 800 service.

**Contact:** Phillip A. Holder, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

**Filed:** November 19, 1986, 2:32 p.m.  
TRD-8610957

**Tuesday, February 17, 1987, 10:00 a.m.** A hearing on the merits in Docket 7179—application of Taylor Telephone Cooperative, Inc., to detariff inside wire and customer premises equipment.

**Contact:** Phillip A. Holder, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

**Filed:** November 18, 1986, 2:31 p.m.  
TRD-8610899

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## University System of South Texas

**Wednesday, November 19, 1986, 9:30 a.m.** The Board of Directors Planning Committee of the University System of South Texas met in emergency session in the boardroom, System Office, two miles west on Highway 141, Kingsville. According to the agenda, the committee held discussions and recommendations on a regional comprehensive university for the University System of South Texas. The emergency session was necessary to consider alternatives proposed by the Select Committee on Higher Education which affect the University System of South Texas.

**Contact:** Frederick D. C. Bigelow, P.O. Box 1238, Kingsville, Texas 78363, (512) 595-2208.

**Filed:** November 18, 1986, 1:58 p.m.  
TRD-8610898

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## Texas A&M University

Committees of the Board of Regents of Texas A&M University (TAMU) met in the MSC Annex, Texas A&M University, College Station. Days, times, committees, and agendas follow.

**Friday, November 21, 1986, 1:15 p.m.** The Executive Committee ratified the extension of the credit agreement; approved the adjusted fiscal year 1987 salaries; considered appropriations from the permanent university fund bond proceeds, appointments and



promotions, terminations, the acceptance of gifts, grants, loans, and bequests, budget and fiscal changes and personnel actions, the appointment to the Board of Consultants of the Center for Education and Research in Free Enterprise; authorized the appointment to a nonelective position outside the Texas A&M University System; considered appointments to the Board of Visitors, personnel matters, the establishment of the Texas A&M University Institute of Biosciences and Technology, Texas Medical Center in Houston, and appointment of the deputy chancellor for Bio-Technology Development and a director of the Texas A&M University Institute of Biosciences and Technology, Texas Medical Center in Houston; named the facilities and roads; considered land and investment matters, litigation, and the authorization to execute the license agreement.

**Contact:** Vickie E. Burt, Texas A&M University, College Station, Texas 77843, (409) 845-9603.

**Filed:** November 18, 1986, 10:35 a.m.  
TRD-8610887

**Friday, November 21, 1986, 1:30 p.m.** The Committee for Academic Campuses established an institute for Pacific Asia, TAMU; granted the title of director emeritus, TAMU; accepted a memorandum of understanding between parties creating a center for environmental research, TAMU; established the field trip fees, TAMU; established a David Bullock Harris professorship, TAMU; increased the membership of the Board of Consultants of the Center for Education and Research in Free Enterprise, TAMU; approved the academic reorganization plan, Prairie View A&M University; granted the title of professor emeritus, Talleton State University.

**Contact:** Vickie E. Burt, Texas A&M University, College Station, Texas 77843, (409) 845-9603.

**Filed:** November 18, 1986, 10:35 a.m.  
TRD-8610888

**Friday, November 21, 1986, 2 p.m.** The Planning and Building Committee cancelled unexpended balances of appropriations; heard the report of contract actions by the chancellor, the report of construction project appropriations/authorizations by the chancellor, the report of contract actions by the deputy chancellors or presidents; initiated the major construction projects; acted on bids; and considered appropriations for designs.

**Contact:** Vickie E. Burt, Texas A&M University, College Station, Texas 77843, (409) 845-9603.

**Filed:** November 18, 1986, 10:34 a.m.  
TRD-8610889

**Sunday, November 23, 1986, 1:30 p.m.** The Committee for Service Units executed license agreements for Onion Combine and Pepper

Harvester with Sort Rite International Texas Agricultural Experiment Station; granted the title of resident director of research and professor emeritus, Texas Agricultural Experiment Station; granted title of county extension agent emeritus, Texas Agricultural Service; executed surface valve right-of-way easement, Texas Agricultural extension service; and considered the purchase of facility, Texas Agricultural Experiment Station.

**Contact:** Vickie E. Burt, Texas A&M University, College Station, Texas 77843, (409) 845-9603.

**Filed:** November 18, 1986, 10:34 a.m.  
TRD-8610890

**Monday, November 24, 1986, 10:30 a.m.** The Board of Regents considered construction matters for the Texas A&M University System; granted emeritus titles; authorized the execution of license agreements; authorized easements; established institutes and centers; accepted the memorandum of understanding; established the field trip fees; established a professorship, increased membership of the Board of Consultants; approved the academic reorganization plan; ratified the extension of credit agreement; approved the adjusted fiscal year 1987 salaries; considered the appropriation of funds from the permanent university fund bond proceeds, appointments and promotions, terminations, gifts, grants, loans, and bequests, budget and fiscal changes, and personnel actions; considered appointments to the boards, the reappointment to nonelective position, purchase of a facility, personnel matters, naming of facilities and roads, land and investment matters, and litigation.

**Contact:** Vickie E. Burt, Texas A&M University, College Station, Texas 77843, (409) 845-9603.

**Filed:** November 18, 1986, 10:34 a.m.  
TRD-8610891

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### Texas Water Commission

**Tuesday, November 25, 1986, 10 a.m.** The Texas Water Commission made an emergency addition to the agenda for a meeting to be held in Room 118, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. The addition concerns Docket 7044-C—application of O. J. Erlund, doing business as Hill Country Utility Company to amend Certificate of Convenience and Necessity 11710 in Kerr and Bandera Counties. The emergency status is necessary because the applicant has been providing free service to the customers pending final action.

**Contact:** Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, (512) 463-7898.

**Filed:** November 19, 1986, 3:07 p.m.  
TRD-8610958

**Tuesday, January 13, 1987, 10 a.m.** The Office of Hearings Examiner of the Texas

Water Commission will meet in Room 512, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. According to the agenda, the office will consider Docket 7086-R—application for a rate increase filed by Country Terrace Water Company, Inc.

**Contact:** Charmaine Rhodes, P.O. Box 13087, Austin, Texas 78711, (512) 463-7875.

**Filed:** November 19, 1986, 3:07 p.m.  
TRD-8610959

**Tuesday, January 13, 1987, 10 a.m.** The Texas Water Commission made a revision to the agenda for a meeting to be held in Room 118, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. The revision concerns Phillips Coal Company No. 5106 who seeks a permit to construct and maintain a dam on an unnamed tributary of Bee Branch, tributary of Walnut Creek, tributary of the Little Brazos River, tributary of the Brazos River, Brazos River Basin, to temporarily retain storm runoff and to retain sediments at the applicant's lignite mine Robertson County.

**Contact:** Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, (512) 463-7898.

**Filed:** November 19, 1986, 3:07 p.m.  
TRD-8610960

**Thursday, January 15, 1987, 10 a.m.** The Office of Hearings Examiner of the Texas Water Commission will meet in Room 618, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. According to the agenda, the office will consider Docket 7092-R—application for a rate increase filed by Holiday Water Services, Inc.

**Contact:** Cynthia G. Hayes, P.O. Box 13087, Austin, Texas 78711, (512) 463-7875.

**Filed:** November 19, 1986, 3:07 p.m.  
TRD-8610961

**Tuesday, January 20, 1987, 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 Application 5108 of Nash Phillips/Copus, Inc., who seeks a permit to maintain an existing reservoir on North Mesquite Creek, tributary of East Fork Trinity River, tributary of Trinity River, Trinity River Basin, of recreational use within a housing subdivision in Dallas County.

**Contact:** Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, (512) 463-7898.

**Filed:** November 19, 1986, 3:08 p.m.  
TRD-8610962

**Tuesday, January 20, 1987, 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 Application 14-1570 of Kimble County Water Control and Improvement District, Junction, who seeks to amend Certificate of Ad-

judication 14-1570 to authorize the diversion of water per year for municipal use within the City of Junction, Colorado River Basin, for recreational purposes, Kimble County.

**Contact:** Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, (512) 463-7898.

**Filed:** November 19, 1986, 3:08 p.m.  
TRD-8610963

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### **Regional Agencies Meetings Filed November 18**

**The Central Texas Mental Health and Mental Retardation Center**, Board of Trustees, met at 408 Mulberry Drive, Brownwood, on November 24, 1986, at 4:30 p.m. Information may be obtained from Don Jones, P.O. Box 250, Brownwood, Texas 76804, (915) 646-9574, ext. 102.

**The Lubbock Regional Mental Health and Mental Retardation Center**, Board of Trustees, met at 3800 Avenue H, Lubbock, on November 24, 1986, at noon. Information may be obtained from Gene Menefee, 1210 Texas Avenue, Lubbock, Texas 79401, (806) 763-4213.

**The Red River Authority of Texas**, Board of Directors, met in Room 215, Activity Center, 1001 Indiana, Wichita Falls, on November 20, 1986, at 9:30 a.m. Information may be obtained from Ronald J. Glenn, 520 Hamilton Building, Wichita Falls, Texas 76301, (817) 723-8697.  
TRD-8610192

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### **Meetings Filed November 19**

**The Brazos Higher Education Authority, Inc.**, Board of Directors, met in emergency revision at the City Club of Waco, MBank Building, on November 21, 1986, at 11:30 a.m. The Board of Directors will meet at 2600 Washington Avenue on November 25, 1986, at 11 a.m. Information may be obtained from Murray Watson, 2600 Washington Avenue, Waco, Texas 76710, (817) 753-0913

**The Brazos Student Finance Corporation**, Board of Directors, met in emergency session at the City Club of Waco, MBank Building, Waco, on November 21, 1986, at noon. The Board of Directors will also meet at 2600 Washington Avenue, Waco, on November 25, 1986, at noon. Information may be obtained from Murray Watson, 2600 Washington Avenue, Waco, Texas 76710, (817) 753-0913.

**The Gonzales County Appraisal District**, Board of Directors, will meet at 928 St. Paul Street, Gonzales, on November 25, 1986, at 5 p.m. Information may be obtained from Glenda Strackben, P.O. Box 867, Gonzales, Texas 78629, (512) 672-2879.

**The Leon County Central Appraisal District**, Board of Directors, met at the appraisal district office, Centerville, on November 24, 1986, at 7 p.m. Information may be obtained from Tom G. Holmes, P.O. Box 536, Centerville, Texas 75833, (214) 536-2252.

**The Lone Star Municipal Power Agency**, met at Huntsville City Hall, 1212 Avenue M, Huntsville, on November 24, 1986, at 5:30 p.m. Information may be obtained from Cathy Locke, P.O. Box 9960, College Station, Texas 77840.

**The Lower Rio Grande Valley Development Council**, Board of Directors, will meet at the Harlingen Chamber of Commerce, 311 East Tyler, Harlingen, on November 25, 1986, at

1:30 p.m. Information may be obtained from Robert A. Chandler, Suite 707, 1701 West Highway 83, McAllen, Texas 78501, (512) 682-3481.

**The Panhandle Ground Water Conservation District No. 3**, Board of Directors, met at 300 South Omohundro, White Deer, on November 24, 1986, at 7:30 p.m. Information may be obtained from Richard S. Bowers, P.O. Box 637, White Deer, Texas 79097, (806) 883-2501.

**The Sabine Valley Regional Mental Health and Mental Retardation Center**, Board of Trustees, will meet at Highway 80 West at Sun Camp Road, Longview, on November 25, 1986, at 7 p.m. Information may be obtained from Ronald R. Cookston, P.O. Box 6800, Longview, Texas 75608, (214) 297-2191.

TRD-8610916

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### **Meetings Filed November 20**

**The Brown County Appraisal District**, Board of Directors, will meet at 403 Fisk Avenue, Brownwood, on December 1, 1986, at 7 p.m. Information may be obtained from Alvis Sewalt, 403 Fisk Avenue, Brownwood, Texas 76801, (915) 463-5676.

**The Martin County Appraisal District**, Appraisal Review Board, will meet at 708 West St. Anna Street, Stanton, on November 25, 1986, at 11 a.m. Information may be obtained from Elaine Stanley, P.O. Box 1349, Stanton, Texas 79782, (915) 756-2828.

TRD-8610970

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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.

## State Banking Board Notice of Hearing Cancellation

As no opposition has been noted in the application for domicile change by United Bank-Northwest, Houston, the hearing previously scheduled for November 21, 1986, has been canceled.

Issued in Austin, Texas, on November 14, 1986.

TRD-8610859 William F. Airldridge  
Director of Corporate Activities  
Banking Department of Texas

Filed: November 17, 1986

For further information, please call (512) 479-1200.

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## Texas Department of Community Affairs

### Announcement of Contract Awards

The Texas Department of Community Affairs announces that the following units of local government have been selected as contract recipients for planning/capacity building under the Texas Community Development Program established pursuant to Texas Civil Statutes, Article 4413 (201) §4A, for the first semi-competition of 1986: Encinal—\$14,500; Graford—\$17,000; Mason—\$23,800; Caddo Mills—\$14,600; Presidio—\$12,500; Poteet—\$24,000; Rocksprings—\$25,000; Edcouch—\$21,800; Walnut Springs—\$13,600; Spofford—\$12,750; Italy—\$11,800; Josephine—\$14,000; Brewster County—\$11,100; Maypearl—\$9,600; Edna—\$15,00; Bardwell—\$18,000; Palacios—\$25,000; Sanger—\$29,100; Bridgeport—\$17,000; Brownell—\$12,950; Eastvale—\$14,600; and Hidalgo—\$10,900.

A contract is not effective until executed by the unit of general local government and the executive director of TDCA.

Issued in Austin, Texas, on November 17, 1986.

TRD-8610866 Douglas C. Brown  
General Counsel  
Texas Department of Community  
Affairs

Filed: November 17, 1986

For further information, please call (512) 834-6060.

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## Consultant Contract Award

**Contractor.** The Texas Department of Community Affairs announces that the National Alliance of Business has been awarded a contract, under the provisions of Texas

Civil Statutes, Article 6252-11c, for the period of November 10, 1986, -December 31, 1987. The contract is for the purpose of providing curriculum development and training for local program operators and staff in courses related to the administration of the Job Training Partnership Act (JTPA) in the State of Texas. The consultant proposal request was published in the May 27, 1986, issue of the *Texas Register* (11 TexReg 2486).

**Description of services.** The services to be provided by the National Alliance of Business shall include, but not be limited, the following: to identify and/or secure services of curriculum writers and trainers to research, develop, and teach classes to improve specific JTPA technical skills; to identify and/or secure speakers and trainers to participate in conferences to share information on JTPA policy and current issues; to deliver train-the-trainer and effective presentation skills training to teachers of classes and conference presenters; to review and critique training events by observing classes and conferences and conducting participant and supervisor follow-up.

**Business address.** The business address of the National Alliance of Business is 9400 North Central Expressway, Lock Box 167, Dallas, Texas 75231.

**Contract amount.** The total cost of services to be performed under the contract with National Alliance of Business is presently estimated to be \$600,000.

**Project reports.** Reports to be generated under this contract shall be submitted to TDCA upon completion.

Issued in Austin, Texas, on November 12, 1986

TRD-8610834 Douglas C. Brown  
General Counsel  
Texas Department of Community  
Affairs

Filed: November 17, 1986

For further information, please call (512) 834-6060.

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## Texas Economic Development Commission

### Private Activity Bond Allocation Report

Private activity bonds (PABs) that were induced on or after June 19, 1984, are subject to a ceiling, as stipulated in the Federal Deficit Reduction Act of 1984. This cap is equal to \$75 per capita (effective August 15, 1986), or approximately \$1.2 billion for the State of Texas effective August 15, 1986.

Executive Order MW-40 states that the procedure for allocating this ceiling will be on a first-come, first-served basis, with the Texas Economic Development Commission (TEDC) being the tracking agency for the program. The

information that follows is a summary report of the allocation activity for the week of August 15-November 14, 1986.

Total unresolved principal amount of private activity bonds authorized to be allocated (\$1,227,750,000) as per the Federal Deficit Reduction Act of 1984 through November 14, 1986: \$766,750,000

Comprehensive listing of bond issues which have received a reservation date as per Executive Order MW-40 from August 15-November 14, 1986; listed in order of issuer, user, description, and amount:

Matagorda County Navigation District Number One; Central Power and Light; H2O Pollution Control/Solid Waste Disposal; \$60 million

Brazos River Authority; Texas Utilities Electric Company; H2O Pollution Control/Solid Waste Disposal; \$100 million

Matagorda County Navigation District Number One; Houston Lighting and Power; H2O Pollution Control/Solid Waste Disposal; \$56 million

Brazos River Authority; Houston Lighting and Power; Air and H2O Pollution Control/Solid Waste Disposal; \$15 million

West Texas Higher Education Authority, Inc.; West Texas Higher Education Authority, Inc.; Student Loans; \$110 million

Texas Housing Agency; will be qualified purchasers of single family residences; housing; \$120 million

Total \$ amount of reservations—August 15-November 14, 1986: \$461 million.

Total principal amount of Private Activity Bonds issued from August 15 through November 14, 1986: none

Comprehensive listing of bonds issued as per Executive Order MW-40 from August 15 through November 14, 1986: none.

The allocations were granted by the Texas Economic Development Commission in accordance with the procedures set forth in Executive Order MW-40, signed by Governor Mark White on November 10, 1986, and effective as of August 15, 1986.

Issued in Austin, Texas, on November 18, 1986.

TRD-8610886 David V Brandon  
Executive Director  
Texas Economic Development  
Commission

Filed: November 18, 1986  
For further information, please call (512) 472-5059.

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## Texas Department of Human Services Consultant Proposal Request

In accordance with Texas Civil Statutes, Article 6252-11c, the Texas Department of Human Services (TDHS) is requesting proposals for consulting services

**Description.** The services to be provided are consultation and programming of the employment enhancement and the personnel components of the MAPPER based family self-support automation/streamlining project.

The contractor will assist TDHS in analyzing the family self-support employment assessment system and the day care provider agreement billing/client eligibility systems.

The primary work of the consultant will be programming in MAPPER the screens, writing the data bases, and programming output reports associated with the following components of the family self-support automated system:

- (1) employment assessment;
- (2) day care/eligibility billing; and
- (3) direct delivery personnel tracking and assessment.

The contractor will be responsible for working with several divisions of TDHS including, but not limited to, the Office of Information Systems (OIS), the Family Self-support Division (FSS), and Region 10 staff from Beaumont and Nacogdoches, Texas.

**Limitations.** The effective dates of the contract will be January 1, 1987, through December 31, 1987, and funding will not exceed \$30,000.

**Contact person.** The contact person is Judy S. Templin, Mail Code 244-1, Contract Manager/Developer, P. O. Box 767, Nacogdoches, Texas 75963-0767, (409) 569-7931, ext. 335.

**Evaluation and Selection.** Procedures to be used to evaluate offers will include review and scoring of the following criteria: following criteria:

- (a) applicant's previous relevant experience;
- (b) applicant's plan for provision of the procured service, including projected time frames for completion;
- (c) proposed cost; and
- (d) applicant's accessibility to TDHS staff in Austin and in Region 10.

Final selection will be based upon the department's evaluation of this criteria.

This proposed consultation is a continuation of a current project and the department intends to contract with the current provider unless a substantially better offer is received.

**Closing date.** The last day to receive offers is December 6, 1986.

Issued in Austin, Texas, on November 18, 1986.

TRD-8610886 Marlin W Johnston  
Commissioner  
Texas Department of Human Services

Filed: November 18, 1986  
For further information, please call (512) 450-3766.

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## Correction of Error

A proposed rule submitted by the Texas Department of Human Services contained an error as published in the November 14, 1986, issue of the *Texas Register*.

On page 4677, subsection (b)(5) should read: "(5) State and local revenue—Total annual revenue for inpatient care received by a hospital from cities, counties, hospital districts, and units of state government, excluding Title XIX funds."



# Texas Department of Labor and Standards

## Administrative Order

Pursuant to the authority vested in the commissioner of the Texas Department of Labor and Standards by Texas Civil Statutes, Article 5221a-7, §7, the filing fee and renewal fee for persons seeking certificates of authority for personnel employment services, has been set at \$100 (Act of the 69th Legislature, 1985, Chapter 239, §36, page 2041).

Issued in Austin, Texas, on November 14, 1986.

TRD-8610829 Allen Parker, Sr.  
Commissioner  
Texas Department of Labor and Standards

Filed: November 17, 1986

For further information, please call (512) 463-3127.



## Texas Water Commission Applications for Waste Disposal Permits

Notice is given by the Texas Water Commission of public notices of waste disposal permit applications issued during the period of November 10-14, 1986.

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

Information concerning any aspect of these applications may be obtained by contacting the Texas Water Commission, P.O. Box 13087, Austin, Texas 78711, (512) 463-7905.

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

### Period of November 10-14, 1986

Harris County, Houston; wastewater treatment plant; south of Lake Houston in Alexander Deussen Park approximate 1/3 of the way up from the south boundary and in the approximate middle of the park in Harris County; 12213-01; renewal

Harris County FWSD No. 58, Crosby; sewage treatment plant; approximately 250 feet south of Indian Shores Road on the east side of Buffalo Trail in the Indian Shores Subdivision in Harris County; 10668-01; renewal

Denny's Inc., Houston; wastewater treatment facilities; at 15815 East Texas Freeway (U.S. Highway 59) and

approximately 150 feet north of Bender Road in the City of Houston, Harris County; 11055-01; renewal

Gulf Chemical and Metallurgical Company, Freeport; wastewater treatment facilities; at 302 Midway Road in the City of Freeport, Brazoria County; 01861; amend ment

Leal Petroleum Corporation, Nixon; crude oil processing facility; two miles west of the City of Nixon on the south side of U.S. Highway 87 in Wilson County; 02497; renewal

Ashland-Katy Company; wastewater treatment facilities; on the north side of Greens Bayou approximately 1/4 mile south of Greens Road, approximately one mile east of Hardy Street, north of the City of Houston in Harris County; 11073-01; renewal

Gatx Terminals Corporation, Galena Park Terminal; public bulk liquid petroleum products terminal; between Federal Road and Main Street in the City of Galena Park, Harris County; 00413; renewal

Fairgreen Utility Company, Houston; sewage treatment plant; approximately 1.2 miles west of U.S. Highway 59, on the south side of Greens Bayou in Harris County; 11791-01; renewal

Crest Sanitary Corporation, Humble; wastewater treatment plant; southwest of the intersection of Old Humble Road and Laramie Street and adjacent to Old Humble Road in the northern portion of Harris County; 11158-01; renewal

Phillip C. Robins, Quinlan; wastewater treatment plant; approximately 1,000 feet southwest of the intersection of FM Roads 751 and 429 and 500 feet west of FM Road 429 in Hunt County, 13310-01 new

Adelphi Community Cooperative, Quinlan; wastewater treatment facilities; five miles south of Quinlan on State Highway 34 at a point approximately one mile east of State Highway 34 on an unnamed county road in Hunt County; 12227-01; renewal

City of Mount Vernon; wastewater treatment facilities; approximately 1,500 feet east of State Highway 37 and 1,500 feet north of U.S. Highway 67 in Franklin County; 11122-02; renewal

City of Megargel; wastewater treatment facilities; approximately 4,000 feet north of the intersection of State Highway 114 and FM Road 210 in Archer County; 12389-01; renewal

Redfish Bay Terminal, Inc., Aransas Pass; petroleum and marine supply and service terminal; at the intersection of Ocean Drive and Mooney Street in the City of Aransas Pass, San Patricio County; 02535; renewal

Hamlet I. Davis, III, Baytown; wastewater treatment plant; approximately 5,600 feet southwest of the intersection of U.S. Highway 190 and FM Road 980 approximately 400 feet west of FM Road 980 in San Jacinto County; 13332-01; new

Cameron Park Ltd., Austin; wastewater treatment facilities; approximately 1/2 mile north of the intersection of Gregg Lane and Cameron Road in Northern Travis County; 13323-01; new

Issued in Austin, Texas, on November 17, 1986.

TRD-8610874a Mary Ann Hefner  
Chief Clerk  
Texas Water Commission

Filed: November 17, 1986

For further information, please call (512) 463-7898.