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# TEXAS REGISTER

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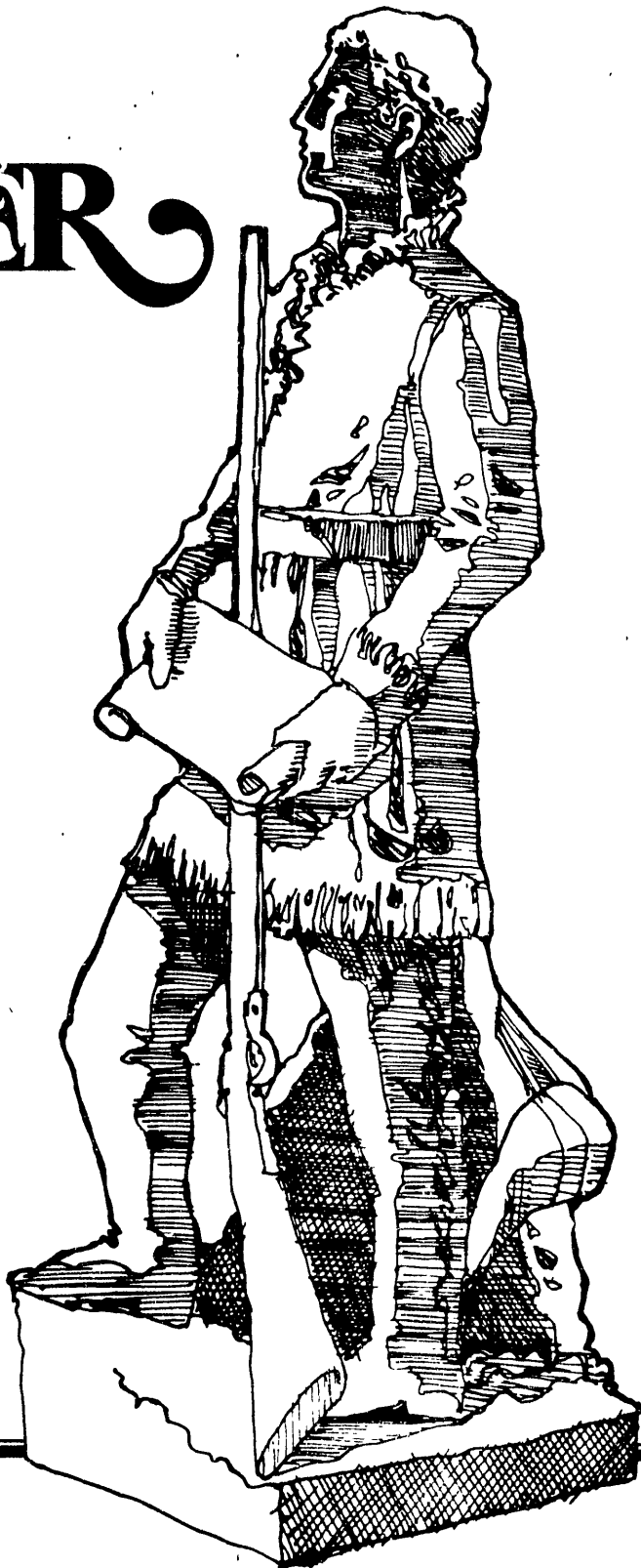
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Office of the Secretary of State

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TEXAS DOCUMENTS

The *Texas Register* is currently in the process of converting to the numbering system found in the *Texas Administrative Code* (TAC). To aid the reader in this conversion, both the 10-digit *Register* number and the new TAC number will be listed for agencies whose rules have been published in the TAC. Emergency, proposed, and adopted rules sections of the *Register* are divided into two classifications: codified and noncodified. Codified rules appear in title number order. Non-codified rules appear in alphabetical order as they have in the past. An "Index of TAC Titles Affected" appears at the end of this issue.

Titles 1, 4, 7, 10, 13, 16, 22, 25, 31, 34, 37, and 43 only of the TAC have now been published. Documents classified in the *Texas Register* to titles not yet published and certain documents affecting titles of the code have been accepted in the non-TAC format and may be renumbered or revised, or both, when initially codified in the TAC.

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

1 is the title (agencies grouped together by subject title which are arranged alphabetically)

TAC is the *Texas Administrative Code*

§27.15 is the section number (27 represents the chapter number and 15 represents the individual rule within the chapter)

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Latest Texas Code Reporter  
(Master Transmittal Sheet): No. 4, Jan. 81

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**HOW TO CITE:** Material published in the *Texas Register* is referenced by citing the volume in which a document appears, the words "TexReg," and the beginning page number on which that document was published. For example, a document published on page 2404 of Volume 4 is cited as follows: 4 TexReg 2404.

*Cover illustration represents Elisabet Ney's statue of Stephen F. Austin, which stands in the foyer of the State Capitol.*

# TEXAS REGISTER

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George W. Strube, Jr.  
Secretary of State

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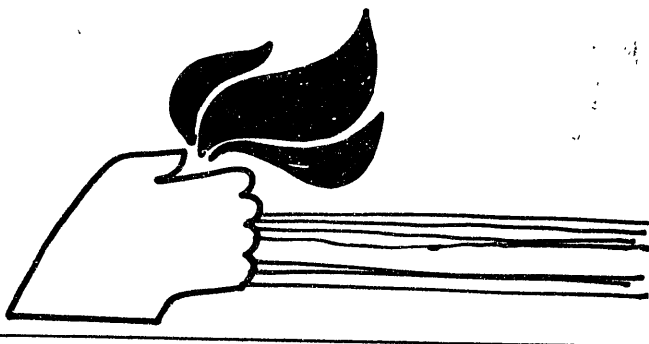
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Article 4399, Vernon's Texas Civil Statutes, requires the attorney general to give written opinions to certain public officials. The Texas Open Records Act, Article 6252-17a, Section 7, Vernon's Texas Civil Statutes, requires that a governmental body which receives a request for release of records seek a decision of the attorney general if the governmental body determines that the information may be withheld from public disclosure. Opinions and open records decisions issued under the authority of these two statutes, as well as the request for opinions and decisions, are required to be summarized in the *Texas Register*.

Copies of requests, opinions, and open records decisions may be obtained from the Opinion Committee, Attorney General's Office, Supreme Court Building, Austin, Texas 78701, telephone (512) 475-5445.



## Requests for Opinions

### Summary of Request for Opinion RQ-543

Request from Kyle S. Morrison, assistant city attorney, Wichita Falls.

**Summary of Request:** Are summons and complaints issued by police department to persons violating traffic regulations excepted from public disclosure by Sections 3(a)(3) and/or 3(a)(8) of the Open Records Act?

Doc. No. 811148

### Summary of Request for Opinion RQ-544

Request from James V. Sylvester, assistant attorney general, Consumer Protection and Antitrust Division, Austin.

**Summary of Request:** Is a closed antitrust investigation file held by Antitrust Division of the Attorney General's Office excepted from disclosure by Sections 3(a)(1), 3(a)(3), and 3(a)(11) of the Open Records Act?

Issued in Austin, Texas, on February 18, 1981.

Doc. No. 811149      Susan L. Garrison, Acting Chairwoman  
Opinion Committee  
Attorney General's Office

For further information, please call (512) 475-5445.

An agency may adopt emergency rules after determining what it considers to be an imminent peril to the public health, safety, or welfare. These rules may be effective immediately on filing with the secretary of state for no more than 120 days, renewable once for no more than 60 days. An agency must submit written reasons, published in the *Register*, for the emergency adoption of rules.

This section now contains two classifications: codified and noncodified. Agencies whose rules have been published in the *Texas Administrative Code* will appear under the heading "Codified." These rules will list the new TAC number, which will be followed immediately by the *Texas Register* 10-digit number. Agencies whose rules have not been published in the TAC will appear under the heading "Noncodified." The rules under the heading "Codified" will appear first, immediately followed by rules under the heading "Noncodified."

**Symbology**—Changes to existing material are indicated in *bold italics*. [Brackets] indicate deletion of existing material.

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## CODIFIED

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### TITLE 4. AGRICULTURE

#### Part I. Texas Department of Agriculture

#### Chapter 5. Quarantines

#### Mediterranean Fruit Fly Quarantine

The Texas Department of Agriculture adopts on an emergency basis §5.211 (176.22.20.001) to prevent the introduction of the Mediterranean fruit fly, *Ceratitidis capitata*, into the State of Texas. Due to the presence of this serious pest in the State of California or in any area in which it may become established, it is necessary to exclude from entry into Texas certain fruit hosts, soil, and products which may transport the Mediterranean fruit fly from California or any infested area. The established infestation of Mediterranean fruit fly in the State of California and the tremendous volume of host fruit moving in interstate commerce from California to Texas pose an extremely serious threat to Texas' agricultural industry.

This section is promulgated to provide a quarantine on the State of California or on any infested area and to specify conditions under which regulated articles may be certified as free of Mediterranean fruit fly when moved from the quarantined area to Texas. Article 135A-1 of Vernon's Annotated Civil Statutes, known as the General Pest Control Law of Texas, states in Section 6 that if a public emergency arises at any time in which there is a likelihood of the introduction into this state or dissemination within the state of any plant disease or insect pest dangerous to the interests of horticulture and agriculture within this state, the commissioner of agriculture is hereby authorized to immediately establish an emergency quarantine at the boundaries of this state or elsewhere within the state, and immediately make and en-

force such rules and regulations as may be deemed necessary to prevent the introduction of any dangerous insect pests or plant disease into this state, and to prevent the carrying of such dangerous insect pest or plant disease from one part of the state into another part of the state except under safeguards deemed adequate to prevent the dissemination of the pest; provided, however, that this emergency quarantine shall not remain in effect for more than 30 days from date of promulgation unless repromulgated and perpetuated by the commissioner after official hearing, as provided herein.

This emergency section is promulgated in accordance with the above provision of the General Pest Control Law. This section is promulgated to provide a quarantine on the State of California or on any infested area and to specify conditions under which regulated articles may be certified as free of Mediterranean fruit fly when moved from the quarantined area to Texas.

This section is adopted under the authority of Section 6, Article 135A-1, Vernon's Annotated Civil Statutes (General Pest Control Law), to become effective on March 1, 1981.

#### §5.211 (176.22.20.001). *Mediterranean Fruit Fly Quarantine.*

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

**Certificate**—An official document stipulating compliance with the requirements of the Texas Department of Agriculture.

**Common carrier**—An individual or corporation licensed to transport persons, goods, or messages for compensation.

**Host plant**—A plant or part thereof known or suspected of harboring or transporting Mediterranean fruit fly in any of its stages.

**Infested**—Actually harboring Mediterranean fruit fly in any of its stages or so exposed to infestation by Mediterranean fruit fly that it is reasonable to believe that an infestation could exist.

**Movement (movement, move)**—Shipped, deposited for transmission in the mail, otherwise offered for shipment, received for transportation, carried or otherwise transported, or moved or allowed to be moved by mail or otherwise.

**Mediterranean fruit fly**—The insect known as the Mediterranean fruit fly, *Ceratitidis capitata* (Wiedeman), in any state of its development.

**Person**—Any individual, partnership, corporation, company, society, association, or other organized group.

**Regulated area**—Any state or portion thereof designated by the Texas Department of Agriculture, the USDA, or the affected state as an area infested with or regulated due to the presence of Mediterranean fruit fly.

**Regulated articles**—Any article, including soil, capable of transporting or harboring Mediterranean fruit fly.

**Shipment or shipments**—The act or process of transferring or moving products from one point to another, or the products being transferred or moved.

**USDA**—United States Department of Agriculture, Animal and Plant Health Inspection Service (APHIS).

(b) Quarantined area. The entire State of California.

(c) Shipping requirements. All movements of regulated articles including host fruit and soil from a designated regulated area or from any infested area are prohibited entry into Texas, unless accompanied by an official certificate of

inspection or treatment issued by or under the authority of USDA or the appropriate official of the State of California. Such certificates shall denote compliance with the regulations of the Texas Department of Agriculture. In addition each box, bag, crate, or container of regulated articles must be stamped with the statement: "This product has been treated for compliance with the Mediterranean fruit fly quarantine of the State of Texas." Included are commercial shipments, shipment by common carrier, personal cargo in private vehicles and aircraft, and personal possessions of persons being transported by common carrier.

(d) Regulated articles. Any fruit, berries, or vegetables of the host plant included in the following host list and soil, both separate from or attached to plants or plant parts. The purpose of the list is to provide information as to the preferred hosts of Mediterranean fruit fly; however, it is not to be considered as all inclusive.

(e) Host list.

(1) All fruits, vegetables, or berries of the following plants:

Almond (*Prunus dulcis* (*P. amygdalus*))  
 Apple (*Malus sylvestria*)  
 Apricot (*Prunus armeniaca*)  
 Avocado (*Persea americana*)  
 Barbados cherry (*Malpighia glabra*)  
 Bell Pepper (*Capsicum frutescens*)  
 Calamondin orange (*Citrus mitis*)  
 Ceylon-gooseberry, Kei apple (*Dovyalis spp.*)  
 Cherries (sweet and sour) (*Prunus avium*, *Prunus cerasus*)  
 Citrus citron (*Citrus medica*)  
 Coffee (*Coffea arabica*)  
 Cucumber, muskmelon, melon, and other species of genus (*Cucumis spe.*)  
 Date (*Phoenix dactylifera*)  
 Fig (*Ficus carica*)  
 Grape (*Vitis vinifera*)  
 Grapefruit (*Citrus paradisi*)  
 Guava (*Psidium guajava*)  
 Japanese persimmon (*Diospyros kaki*)  
 Kumquat (*Fortunella japonica*)  
 Lemon (*Citrus limon*)  
 Litchi (*Litchi chinensis*)  
 Lime (*Citrus aurantiifolia*)  
 Logan (*Euphonia longana*)  
 Loquat (*Eriobotrya japonica*)  
 Mandarin orange (tangerine) (*Citrus reticulata*)  
 Mock orange (*Murraya exotica*)  
 Mango (*Mangifera indica*)  
 Mountain apple (*Syzygium mallaccense* (*Eugenia malaccensis*))  
 Natal plum (*Carissa macrocarpa* and *Terminalia chebula*)  
 Nectarine (*Prunus persica*)  
 Olive (*Olea europea*)  
 Opuntia cactus (*Opuntia spp.*)  
 Orange (*Citrus spp.*)  
 Papaya (*Carica papaya*)  
 Peach (*Prunus persica*)  
 Pear (*Pyrus communis*)  
 Pepper (*Capsicum annuum* and *Capsicum frutescens*)  
 Pineapple guava (*Feijoa sellowiana*)  
 Pummelo (shaddock) (*Citrus grandis*)

Pomiform guajava (*Psidium guajava pomiferum*)  
 Plum (*Prunus domestica*)  
 Pyriform guajava (*Psidium guajava pyriferum*)  
 Quince (*Cydonia oblonga*)  
 Rose apple (*Syzygium jambos* (*Eugenia jambos*))  
 Sour orange (*Citrus aurantium*)  
 Spanish cherry (Brazilian plum) (*Eugenia dombeyi* (*E. brasilienses*))  
 Strawberry guava (*Psidium cattleianum*)  
 Surinam cherry (*Eugenia uniflora*)  
 Sweet orange (*Citrus sinensis*)  
 Tomato (pink and red ripe) (*Lycopersicon esculentum*)  
 Tangerine (*Citrus spp.*)  
 White sapote (*Casimiroa edulis*)  
 Yellow oleander (bestill) (*Thevetia peruviana*)

(2) Except that the lists do not include any fruits, vegetables, or berries which have been canned or frozen below -17.8°C (0°F). Soil within the drip area of plants which produce the fruits, vegetables, or berries listed in this subparagraph; and any other product, article, or means of conveyance, of any character whatsoever, not covered by subparagraphs in this subparagraph when it is determined by an inspector that it presents a risk of spread of the Mediterranean fruit fly and the person in possession thereof has actual notice that the product, article, or means of conveyance is subject to the restrictions of this section.

(f) Certification treatment.

(1) Treatment for regulated articles shall be as follows:

(A) Avocado. Fumigation with methyl bromide at normal atmospheric pressure with 32 g/m<sup>3</sup> for 2-1/2 hours at 21°C (70°F) or above, followed by refrigeration for seven days at 7.22°C (45°F) or below. The seven-day period may include up to 24 hours precooling time. Time between fumigation and start of cooling not to exceed 24 hours, but must include at least 30 minutes aeration.

(B) Calamondin orange, citrus citron, grapefruit, kumquat, lemon, lime, mandarin orange, tangerine, orange, and pomelo. Fumigation with ethylene dibromide (EDB) at normal atmospheric pressure. Dosage as follows:

Fruit Load in Chamber	Dosage of EDB in g/m <sup>3</sup> for two hours	
	15.5°-20.5°C (60°-69°F)	21°C or above (70°F or above)
25% or less	10g	8g
More than 25% but less than 50%	12g	10g
50% or more	14g	12g

Required post treatment aeration. Forced circulation in the fumigation chamber for 1/2 hour following treatment and then placed in a well ventilated area.

(C) Tomato. Fumigation with methyl bromide at normal atmospheric pressure with 32 g/m<sup>3</sup> for 3-1/2 hours at 21°C (70°F) or above.

(D) Bell pepper, tomato, and zucchini squash. Heat the article by saturated water vapor at 44.44°C (112°F) until approximate center of article reaches 44.44°C (112°F) and maintain at 44.44°C (112°F) for 8-3/4 hours, then immediately cool.

(Note: Commodities should be tested by shipper at the 44.44°C (112°F) temperature to determine each commodity's tolerance to the treatment before commercial treatments are attempted. Pretreatment conditioning is optional. Such conditioning is the responsibility of the shipper and would be conducted in accordance with procedures the shipper believes necessary. It is common to perform pretreatment conditioning. For example, it is the practice to condition eggplant at 43.3°C (110°F) at 40% relative humidity for six to eight hours.)

(E) Apple, apricot, cherry, grape, peach, pear, and plum. Fumigation with 32 g/m<sup>3</sup> methyl bromide at 21°C (70°F) or above (chamber load not to exceed 80% of volume), and at normal atmospheric pressure followed by refrigeration, as set forth following this subparagraph.

Fumigation Exposure Time	Refrigeration
2 hours	4 days at 0.55°-2.7°C (33°-37°F) or 11 days at 3.33°-8.3°C (38°-47°F)
2-1/2 hours	4 days at 1.11°-4.44°C (38°-40°F) or 6 days at 5.0°-8.33°C (41°-47°F) or 10 days at 8.88°-13.33°C (48°-56°F)
3 hours	3 days at 6.11°-8.33°C (43°-47°F) or 6 days at 8.88°-13.33°C (48°-56°F)

Minimum concentrations for above fumigations: 25g minimum gas concentration at first 1/2 hour; 18g minimum gas concentration at two or 2-1/2 hours; 17g minimum gas concentration at three hours. Aerate all fruit at least two hours following fumigation. Time lapse between fumigation and start of cooling not to exceed 24 hours.

(Note: Some varieties of fruit may be injured by the three-hour exposure. Shippers should test treat before making commercial shipments.)

(F) Bell peppers. Fumigation with methyl bromide at normal atmospheric pressure with 32 g/m<sup>3</sup> for 2-1/2 hours at 21°C (70°F) or above.

(Note: Bell peppers have been found marginally tolerant to methyl bromide fumigation. Shelf life after treatment is reduced to between five to seven days. Injury may appear as pitting on the skin of the pepper, darkening of the seed and placental material, and internal decay resulting from killing of the stem and calyx.)

(G) Apple, apricot, Calamondin, orange, cherry, citrus citron, grape, grapefruit, mandarin orange, nectarine, peach, pear, plum, prune, sour orange, and sweet orange. Cold treat the article according to one of the following:

- (i) 10 days at 0°C (32°F) or below;
- (ii) 11 days at 0.55°C (33°F) or below;
- (iii) 12 days at 1.11°C (34°F) or below;
- (iv) 14 days at 1.66°C (35°F) or below; and
- (v) 16 days at 2.22°C (36°F) or below.

(H) Accepted treatments for regulated articles not listed above will be those methods published in the USDA-APHIS treatment manual.

(2) Soil and plants with soil attached.

(A) Soil and plants with soil attached may be certified by the state of origin if upon inspection it is determined

they are not under the drip line of a host plant and if the plant to be certified is not a host plant bearing fruit or which has borne fruit in the previous 60 days.

(B) Soil and plants with soil attached may be certified under the following treatment schedule:

(i) Hosts and nonhosts without fruit under the drip line of a host and hosts which are bearing or have born fruit within the previous 60 days.

(ii) Remove all host fruit.

(iii) Treat soil with Baytex as follows. Four and 1/2 ounces of Baytex formulation, 50% emulsifiable concentrate, mixed with 20 gallons of water per 1,000 square feet of soil surface. Spray the above mix evenly on the surface of the soil or on the soil around container-grown or balled plants.

(g) Inspection authority. The commissioner or his agent may enter upon the premises of any person who distributes, receives for distribution, processes, transports, or stores any regulated articles for the purpose of inspection for compliance of this order. The inspection will include examination of commodities, shipping and receiving records, and collection of samples when necessary.

(h) Penalties.

(1) Any regulated article from the quarantined area that is found in Texas without proof of proper treatment or certification may be required to be treated at the owner's expense, to be returned to the original shipper, or to be destroyed at the discretion of the commissioner of agriculture.

(2) Under provisions of the Pest Control Act, Article 135a-1 of Revised Civil Statutes of Texas, as amended, any person who shall violate any provision of this order shall be guilty of a misdemeanor, and upon conviction thereof be punished by a fine of not more than \$100, and each thing sold or transported and each act in violation hereof shall be considered a separate offense.

Issued in Austin, Texas, on February 19, 1981.

Doc. No. 811150

Reagan V. Brown  
Commissioner of Agriculture

Effective Date: March 1, 1981

Expiration Date: March 31, 1981

For further information, please call (512) 475-6467.



An agency may adopt a proposed rule no earlier than 30 days after publication in the *Register*, except where a federal statute or regulation requires implementation of a rule on shorter notice.

Upon request, an agency shall provide a statement of the reasons for and against adoption of a rule. Any interested person may request this statement from the agency before adoption or within 30 days afterward. The statement shall include the principal reasons for overruling objections to the agency's decision.

This section now contains two classifications: codified and noncodified. Agencies whose rules have been published in the *Texas Administrative Code* will appear under the heading "Codified." These rules will list the new TAC number, which will be followed immediately by the *Texas Register* 10-digit number. Agencies whose rules have not been published in the TAC will appear under the heading "Noncodified." The rules under the heading "Codified" will appear first, immediately followed by rules under the heading "Non-codified."

**Symbology**—Changes to existing material are indicated in **bold italics**. [Brackets] indicate deletion of existing material.

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## CODIFIED

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## TITLE 7. BANKING AND SECURITIES

### Part VI. Credit Union Department

#### Chapter 91. Credit Union Regulations

##### Change in Corporate Status

The Credit Union Department proposes to amend §91.71 (058.01.10.001) of this title (relating to Conversion). Section 91.71 (.001) of this title (relating to Conversion) as currently written is impractical since it is almost impossible to obtain a majority vote of a credit union's membership on any meeting agenda item. This is especially true for larger credit unions and those with diverse or widespread fields of membership such as associational, teachers, etc. Therefore, this section is proposed for amendment to provide for either meeting or mail ballots and to provide for a less stringent vote requirement to approve the conversion of charters.

The Credit Union Department's staff has determined that there are no fiscal implications for the state or local units of government.

Public comment should be submitted in writing to John P. Parsons, commissioner, Credit Union Department, 914 East Anderson Lane Austin, Texas 78752.

The following amendment is proposed under the authority of the Texas Credit Union Act, Articles 2461-1, et seq., Vernon's Texas Civil Statutes.

#### §91.71 (058.01.10.001). Conversion.

(a) State to federal.

(1) A credit union organized under the Texas Credit Union Act may convert to a federal credit union upon completion of the following requirements:

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

(E) *The conversion proposal is approved by a membership vote as follows:*

(i) *At a regular or special membership meeting—by an affirmative vote of 10% of the membership or a majority of those present, whichever is greater.*

(ii) *By mail ballot—by an affirmative vote of 10% of the membership or by a majority of those voting, whichever is greater.*

(iii) *Notice of meeting or mail ballot shall be mailed to all members at least 30 days prior to the meeting or vote tabulation date in the event of mail ballot. Such notice shall contain the primary reason or reasons for the desired conversion, and such notice may not be mailed until the credit union has requested and received preliminary approval of the proposed charter change or merger.*

(iv) *The commissioner may waive the vote of the membership if he deems such waiver to be in the best interest of the membership.*

[The conversion proposal is approved by a majority of members of the credit union, unless the requirement for membership approval is waived in writing by the commissioner.]

(F)-(G) (No change.)

(2) (No change.)

(b) (No change.)

Issued in Austin, Texas, on February 18, 1981.

Doc. No. 811115      John P. Parsons  
Commissioner  
Credit Union Department

Proposed Date of Adoption: March 30, 1981  
For further information, please call (512) 837-9236.

## TITLE 22. EXAMINING BOARDS

### Part XII. Board of Vocational Nurse Examiners

#### Chapter 231. Administration

##### General Practice and Procedure

The Board of Vocational Nurse Examiners proposes to adopt §231.49 (390.01.02.041). The section is proposed because the expense involved in returning overpayments far exceeds the amount of the overpayment.

The Board of Vocational Nurse Examiners has determined the proposed section will have no fiscal impact to the state or local government.

Public comment is invited and may be submitted by telephoning Waldeen D. Wilson at (512) 458-1203, or by writing to the Board of Vocational Nurse Examiners, 5555 North Lamar Boulevard, Commerce Park, Building H, Suite 131, Austin, Texas 78751.



This section is proposed pursuant to Vernon's Civil Statutes, Article 4528c.

§231.49 (390.01.02.041). *Overpayment.* Overpayment in amount not to exceed \$4.00 for sales, charges, and fees will not be returned.

Issued in Austin, Texas, on February 20, 1981.

Doc. No. 811188      Waldeen D. Wilson, R.N.  
Executive Secretary  
Board of Vocational Nurse Examiners

Proposed Date of Adoption: March 30, 1981

For further information, please call (512) 458-1203.

## TITLE 31. NATURAL RESOURCES AND CONSERVATION

### Part X. Texas Water Development Board

#### Chapter 335. Industrial Solid Waste

##### Subchapter U. Prohibition on Open Dumps

The Texas Department of Water Resources proposes to adopt new §§335.421-335.428 to Chapter 22 of the Texas Water Development Board rules, which concerns Industrial Solid Waste Management Regulations, in order to establish regulatory powers necessary to implement portions of the state solid waste management plan pursuant to Subtitle D of the Resource Conservation and Recovery Act of 1976 (RCRA), 42 United States Code 6901 et seq., as amended.

Subtitle D of RCRA provides for the development of solid waste management plans by state and regional authorities. Through the plan, the state identifies a general strategy for protecting public health and the environment from adverse effects associated with solid waste disposal, for encouraging resource recovery and resource conservation, and for dealing with other issues relevant to solid waste management. In addition, Subtitle D provides for an inventory of open dumps within the state, i.e., a listing of facilities which do not conform to the criteria set forth in 40 Code of Federal Regulations Part 257 which has been published in the *Federal Register*. The inventory is a planning tool which supports the state's planning efforts. As part of the inventory the state must identify problem facilities in order to satisfy Section 4003(3) of RCRA which requires that the state plan provide for the closing or upgrading of all existing open dumps within the state. Under Subtitle D, the state is responsible for conducting the inventory and compiling the list of facilities to be published by the U. S. Environmental Protection Agency in the *Federal Register*.

The department proposes these new sections in order to implement requirements related to the state plan contained in Subtitle D, including the open dump inventory. The sections include a prohibition on the open dumping of industrial solid waste and requirements concerning the evaluation of certain disposal facilities or practices according to the criteria set forth in 40 Code of Federal Regulations Part 257, the classification of facilities, and public participation.

The executive director of the department has determined that the new sections will have no additional fiscal impact to the state or local units of government. No local units of government have been consulted in this estimate.

Public comment is invited and may be submitted in writing to Dan Eden, planner, Solid Waste Section, Permits Division, Texas Department of Water Resources, P.O. Box 13087, Austin, Texas 78711, or Mary Reagan, attorney, general counsel's office, Texas Department of Water Resources, P.O. Box 13087, Austin, Texas 78711.

These sections are proposed under the authority of Section 4(c) of the Solid Waste Disposal Act, Article 4477-7, Revised Civil Statutes, and Sections 5.131 and 5.132, Texas Water Code.

§335.421 (156.22.50.001). *Purpose.* The purpose of this subchapter is to authorize the executive director to evaluate nonhazardous industrial solid waste land disposal facilities and practices in order to determine whether the facilities or practices constitute open dumps.

§335.422 (156.22.50.002). *Prohibitions.*

(a) Any solid waste management practice or disposal of industrial solid waste which constitutes the open dumping of industrial solid waste is prohibited, except in the case of any practice or disposal of industrial solid waste under a timetable or schedule for compliance established under Section 4005(c) of the Resource Conservation and Recovery Act of 1976 and §335.424 (156.22.50.004) of this title (relating to Classification of Facilities).

(b) Where a schedule for compliance has not been established by the executive director, no person may cause, suffer, allow, or permit any activity of disposal of industrial solid waste at a facility which has been classified as an open dump by the executive director.

§335.423 (156.22.50.003). *Criteria for Classification of Solid Waste Disposal Facilities and Practices.* Except to the extent that they are clearly inconsistent with the express provisions of the Solid Waste Disposal Act, Article 4477-7, Revised Civil Statutes, or the sections of the department, the regulations contained in 40 Code of Federal Regulations Part 257 and any amendments thereto are adopted by reference.

(Note: The executive director will maintain in the offices of the department a current set of the regulation contained in 40 Code of Federal Regulations Part 257.)

§335.424 (156.22.50.004). *Classification of Facilities.* The executive director may evaluate all existing solid waste disposal facilities, except those exempted under 40 Code of Federal Regulations 257.1, according to the criteria in 40 Code of Federal Regulations Part 257. The executive director shall classify as open dumps all facilities which fail to satisfy these criteria and shall prepare a list of those facilities. This list shall be submitted to the U. S. Environmental Protection Agency for inclusion in the open dump inventory under Section 4005 of the Resource Conservation and Recovery Act of 1976.

§335.425 (156.22.50.005). *Upgrading or Closing of Open Dumps.*

(a) All existing industrial solid waste disposal facilities which are classified as open dumps shall be upgraded or closed in accordance with measures specified by the depart-

ment so that the facility or practice no longer violates the criteria in 40 Code of Federal Regulations Part 257.

(b) The executive director may establish a timetable or schedule of compliance for any facility classified as an open dump where the facility owner or operator has demonstrated that other public or private alternatives to comply with the prohibition on open dumping have been considered and such alternatives to so comply cannot be utilized. The schedule of compliance shall specify a schedule of remedial measures and an enforceable sequence of actions leading to compliance within a reasonable time, not to exceed five years from the date of publication of the inventory under Section 4005 of the Resource Conservation and Recovery Act of 1976.

(c) Nothing in this section precludes the executive director from seeking any relief deemed necessary for violation of this subchapter, any provision of Article 4477-7, or any other rule of the department nor does this section establish any prerequisite for seeking that relief.

**§335.426 (156.22.50.006).** *List of Interested or Affected Persons.* The department shall maintain a current list of agencies, organizations, and individuals affected by or interested in the state plan developed pursuant to Subtitle D of the Resource Conservation and Recovery Act of 1976, which shall include any parties that request to be on the list, the owner or operator of each facility classified as an open dump, and any other parties which the department determines to be affected or interested in the plan.

**§335.427 (156.22.50.007).** *Notification of Classification by Department.*

(a) The department shall provide written notification of the availability of the results of any classifications pursuant to §335.424 (.004) of this title (relating to Classifications of Facilities) to all persons on the list required by §335.426 (.006) of this title (relating to List of Interested or Affected Persons) excluding owners or operators of classified facilities, at least 30 days prior to the initial submission of any classifications to the U. S. Environmental Protection Agency.

(b) Upon determination by the department that a facility or practice violates any of the criteria set forth in 40 Code of Federal Regulations Part 257 and should be in the open dump inventory under Section 4005(b) of the Resource Conservation and Recovery Act of 1976, the owner or operator of such facility shall be so notified in writing by the department at least 30 days prior to the initial submission of the classification to the U. S. Environmental Protection Agency. If the owner or operator wishes to contest that determination, he must so notify the department within 20 days of the date of the notification and include any information indicating that the facility does not violate any of the criteria classification set forth in 40 Code of Federal Regulations Part 257. If the owner or operator fails to respond to the notification, or if the department determines that the information provided by the owner or operator does not affect its initial determination, the department shall forward the name of the facility to the U. S. Environmental Protection Agency for publication in the *Federal Register*. The department may delete the name of a facility from the list to be forwarded to the U. S. Environmental Protection Agency if, in the opinion of the department, the information presented by the owner or operator pursuant to this subsection shows that the facility or practice does not violate any of the criteria set forth in 40 Code of Federal Regulations Part 257.

**§335.428 (156.22.50.008).** *Complaints.* To encourage public participation, the department shall respond to complaints and other information received from the public which relate to any facility evaluated under this subchapter.

Issued in Austin, Texas, on February 2, 1981.

Doc. No. 811140 M. Reginald Arnold II  
General Counsel  
Texas Department of Water Resources

Proposed Date of Adoption: March 30, 1981  
For further information, please call (512) 475-7836.

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## NONCODIFIED

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### Texas Education Agency

#### Pupil Services

#### Adoptions by Reference: General 226.34.90

The Texas Education Agency proposes to amend Rule 226.34.90.030, the adoption by reference of the Medical Examination Report for School Bus Drivers and Substitute School Bus Drivers Form. The medical examination report has been reviewed by the Medical Advisory Board, Texas State Department of Health, and by the Texas Education Agency staff. Two changes in the form are proposed: deletion of the requirement for an annual tuberculosis test in accordance with Article 4477-12, Vernon's Texas Civil Statutes, as amended by the 66th Legislature; and addition of reference to federal motor carrier safety regulations as authority for disqualifying drivers with certain physical impairments (see Section 1.E on the back of the form).

The Texas Education Agency anticipates that the proposed amendment will have no fiscal implications for the state or for local units of government.

Public comment is invited and may be submitted by telephoning the office of Dr. Beverly J. Bardsley, policy analyst, Department of Policies and Services, at (512) 475-7077, or by writing to her at 201 East 11th Street, Austin, Texas 78701. All requests for a public hearing on proposed rules submitted in accordance with the Administrative Procedure and Texas Register Act must be received by the commissioner of education not more than 15 calendar days after notice of a proposed change in rules has been published in the *Texas Register*.

This amendment is proposed under the authority of Sections 11.12 and 21.171, Texas Education Code.

*.030. Medical Examination Report for School Bus Drivers and Substitute School Bus Drivers.* The requirements for the medical examination report for school bus drivers are found on the form Medical Examination Report for School Bus Drivers and Substitute School Bus Drivers **as amended April 1981** which is adopted by reference as a rule of the Texas Education Agency. A copy is available for examination dur-

ing regular office hours, 8 a.m. to 5 p.m., except holidays, Saturdays, and Sundays, at the Texas Education Agency Building, 201 East 11th Street, Austin, Texas.

Issued in Austin, Texas, on February 20, 1981.

Doc. No. 811167 A. O. Bowen  
Commissioner of Education

Proposed Date of Adoption: April 11, 1981  
For further information, please call (512) 475-7077.

## Texas Department of Human Resources

The Texas Department of Human Resources proposes to amend and add to its rules concerning family care services and primary home care services. The two programs are inter-related in that their basic goal is to provide services for eligible adults who are functionally limited in the performance of daily activities. Such services include personal care, housekeeping, and meal preparation. The proposals are being made to reduce the number of standards, to clarify the roles and responsibilities of contractors and department staff, and to address the training needs of supervisors and attendants.

The department has determined that the proposed rules and amendments will have no fiscal implications for state or units of local government. The proposals do not restrict actual services offered and there is no impact on recipient caseloads.

A hearing to accept public comment on the family care and primary home care proposals will be held on Tuesday, March 17, 1981, at 9 a.m. in the DHR board room, 706 Banister Lane, Austin. Written comments are also invited and may be sent to Susan L. Johnson, administrator, Policy Development Support Division—038, Texas Department of Human Resources, P.O. Box 2960, Austin, Texas 78769, within 21 days of publication in this *Register*.

### Primary Home Care

#### Primary Home Care Overview 326.47.10

The following amendments are proposed under the authority of the Human Resources Code, Title II.

##### .002. Definitions.

- (a) (No change.)
- (b) Primary home care attendant. The primary home care attendant performs long-term, nontechnical medical observation and assists with the activities of daily living necessary because of a chronic condition complicated by functional limitations. *Attendants must be age 18 or older.* The focus of the attendant is to maintain the patient in his or her living environment and to prevent deterioration of physical function. Essential housekeeping is performed as a routine part of the service. Primary home care services are intended to prevent inappropriate institutionalization. The service must be ordered by a physician and must be provided under the supervision of a registered nurse.
- (c)-(g) (No change.)

(h) *Supervisor. A supervisor will be a licensed nurse or will have completed two years of full-time study at an accredited college or university.*

.003. *Program Objective.* The objective of the Primary Home Care Program is to provide *an in-home, nontechnical service, prescribed by a physician, consistent with the plan of care, and medically supervised,* [medically prescribed and supervised, in-home personal and housekeeping services] for eligible Medicaid recipients whose [chronic] health problems cause them to be functionally limited in the performance of *activities of daily living* [activities].

##### .004. Description of Covered Services.

- (a)-(b) (No change.)
- (c) Services may include the following:
  - (1) *Personal care—Assistance with activities related to the care of the recipient's physical body such as bathing, dressing, eating, exercising, grooming, routine hair and skin care, self-administered medication, toileting, and transfer/ambulation.* [Basic personal care and grooming such as dressing, bathing, and routine hair care.]
  - (2) *Housekeeping—Activities related to cleaning that are essential to the recipient's health and comfort by providing a healthy environment such as changing bed linens, house cleaning, and laundering.* [Assistance with bladder and/or bowel requirements, helping the recipient to and from the bathroom, or assisting the recipient with bedpan routines.]
  - (3) *Meal preparation—Activities related to the provision of food according to the recipient's needs and wishes such as planning menus, shopping, storing, preparing, and serving food.* [Reminding the recipient to take prescribed medications.]
  - (4) Assistance with food, nutrition, and diet activities.
  - (5) Performing household services (if related to medical needs) which are essential to the recipient's health and comfort in his or her home, and to ensure a healthy environment, such as changing bed linens, laundering, and house cleaning.
  - (6) Accompanying the recipient to obtain medical diagnosis and treatment.]

##### .005. Recipient Appeals.

- (a) The recipient shall have the right to appeal decisions, made by DHR or DHR's agents, which adversely affect his or her services, to the regional hearing officer.
- (b) *The contract agency will investigate and respond in writing to all written complaints received from DHR staff within 14 calendar days of receipt.*

Doc. No. 811195

### Standards for Participation 326.47.50.001, .004, .006, .007

The following amendments are proposed under the authority of the Human Resources Code, Title II.

##### .001. Prior Approval.

- (a) Providers must submit all requests for prior approval of services directly to the DHR regional office. Services are not to be performed before prior approval is received. The home health agency secures physician's orders and submits a service plan which includes these orders, the DHR caseworker's total authorized service hours, and recommended tasks. *The contract agency registered nurse*

*will contact the DHR regional nurse within 14 calendar days from the date of referral by the DHR case manager to advise the nurse of the status of the referral and/or request authorization to initiate services.* Each primary home care recipient service plan is evaluated by the DHR regional prior approval nurse to determine approval or denial. The prior approval nurse will confirm Title XIX eligibility before giving prior approval. The provider, the DHR caseworker, and the recipient are notified in writing of the approval or denial of requested services.

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

(f) The home health agency sends the written material necessary to substantiate the phone-approved service plan. This material is to be submitted within 30 days of the date of the phone approval. [The agency may request an extension of up to two weeks if written doctor's orders cannot be obtained within the 30-day time limit.]

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

#### .004. Registered Nurse Supervision.

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

[(d) The ratio of home health agency supervisors assigned to primary home care attendants will be 1 to 100.]

[(d) [(e)] The home health agency registered nurse instructs the primary home care attendant about essential observations of a recipient's health and conditions which should immediately be brought to the attention of either the nurse or the attending physician.

(e) [(f)] The home health agency registered nurse assigned to the recipient will make home visits at least every 60 days to assess the recipient's health condition, as well as the quality of primary home care services provided.

#### .006. Training.

(a) *Supervisors will meet with providers in the recipient's home on or before the initiation of services to instruct the attendant in delivering services according to the task assignment plan and to explain safety and emergency procedures. Attendants will not provide any personal care services until they have shown competence in this area to the satisfaction of their supervisor.* [Attendants.]

[(1) Attendants are required to successfully complete 13 hours of primary home care training. Four hours of attendant training must be completed before the attendant can independently deliver primary home care services to the recipient. Attendants must complete three additional hours of training within each of the second, third, and fourth quarters of their first year of employment.

[(2) Three hours of ongoing training per quarter will be required in each subsequent year of employment as a primary home care attendant.

[(3) The training for attendants must include the following:

- [(A) basic body functions and mechanics;
- [(B) personal care techniques and procedures;
- [(C) the aging process;
- [(D) meal planning;
- [(E) special diets;
- [(F) safety and emergency procedures;
- [(G) death and dying.

[(4) Attendants with documented past experience in providing in-home personal care services are required to participate in only two hours of training before independent

delivery of services can begin. These hours will be included in the 13 total hours of training to be delivered within the first year of employment as a primary home care attendant.]

(b) *Supervisors who are licensed nurses will have at least 14 hours training providing in-home services prior to assuming responsibilities that will include: basic principles of supervision, interpersonal skills for dealing with recipients and families, recipient characteristics and needs, and contract policies and procedures as they relate to DHR. Other supervisors will have at least 24 hours training providing in-home services prior to assuming responsibilities and evidence of competence in all areas of personal care. Initial training must include at least:*

- (1) *basic principles of supervision;*
- (2) *interpersonal skills for dealing with recipients and families;*
- (3) *recipient characteristics and needs;*
- (4) *contract policies and procedures as they relate to DHR;*
- (5) *basic nutritional and special dietary needs;*
- (6) *special skin care needs; and*
- (7) *first aid, safety, and emergency procedures.*

[Supervisors (Non-R.N.). Direct supervisors of primary home care attendants shall be required to have completed 13 hours of training (equal to a year's worth of attendant training) before assuming supervisory duties. Two years of prior experience in supervising delivery of direct care or completion of 30 semester hours at an accredited college or university may be substituted for the above training. Supervisors must participate in 12 hours per year of ongoing training (three hours each quarter).]

(c) *Supervisors will receive an additional six hours training per quarter. Continuing education units on the following topics may be substituted on a one-to-one basis. For supervisors who are licensed nurses, during a contract year the training will include at least: principles of supervision, interpersonal skills for dealing with recipients and families, recipient characteristics and needs, contract policies and procedures, and training skills. For other supervisors, during a contract year the training will include:*

- (1) *principles of supervision;*
- (2) *interpersonal skills for dealing with recipients and families;*
- (3) *recipient characteristics and needs;*
- (4) *contract policies and procedures as they relate to DHR;*
- (5) *training skills;*
- (6) *basic nutritional and special dietary needs;*
- (7) *special skin care needs; and*
- (8) *first aid, safety, and emergency procedures.*

[Supervisors (R.N.). While the attendant's direct supervisor does not have to be a registered nurse, the ultimate responsibility must rest with an R.N., and this must be obvious through the provider agency's organization chart. When direct supervision of attendants is the responsibility of a registered nurse, the supervisory training requirements shown above do not apply.]

#### .007. Record Keeping.

(a) *The contract agency will maintain accessible and available records in a central location for each*

**recipient that will contain at least:** [The primary home care attendant will verify that records reflect the tasks and hours of service given. The record should service two purposes:]

(1) **the authorization for services (and dated and signed physician's orders, both verbal and written);** [The record should contain the home health agency registered nurse's instructions to the attendant regarding the tasks to be performed. At each review, the registered nurse documents the visit, signs the record, and updates the instructions.]

(2) **names of supervisor(s) and attendant(s) responsible for providing direct services to the recipient;** [The record should contain the attendant's daily notes on: tasks performed; condition of the patient; and time of arrival and departure (including total number of hours).]

(3) **record of service delivery;**

(4) **record of all supervisory visits (to include the date, training given at that time, including safety and emergency procedures, attendant's ability to perform personal care tasks, and significant events or problems concerning the recipient and/or attendant);**

(5) **agency registered nurses' progress notes (indicating review of treatment plan, individual instructions given to the attendant, home visits conducted, and any significant changes in the recipient's condition); and**

(6) **record of termination.**

(b) (No change.)

Doc. No. 811196

### 326.47.50.010, .011

The following rules are proposed under the authority of the Human Resources Code, Title II.

#### .010. Service Delivery.

(a) The contract agency will begin delivery of services within seven calendar days from receipt of the primary home care letter to agency director or verbal authorization by the regional nurse.

(b) The contract agency will notify the DHR case manager of the status of all referrals within 21 calendar days from the date of referral.

(c) The contract agency will perform services in accordance with the service plan as authorized on the appropriate DHR forms.

(d) The contract agency will ensure that once services are initiated, no recipient shall be without services for more than 14 consecutive days in a quarter except when the recipient is not in the home or when an interruption is authorized in writing by the DHR case manager.

#### .011. Supervisor's Responsibilities.

(a) Supervisors will meet with providers in the recipient's home on or before the initiation of services to instruct the attendant in delivering services according to the task assignment plan and explain safety and emergency procedures, and to provide the client a written copy of complaint procedures and explain those procedures.

(b) Supervisors will conduct home visits for each recipient at least once every other month to determine if the attendant is performing tasks in accordance with the task assignment plan and to remedy areas of deficiency.

Doc. No. 811197

## Alternate Care for Aged, Blind, and Disabled Adults

### Protective Services for Adults 326.58.51

The following amendments are proposed under the authority of the Human Resources Code, Title II.

#### .021. Definitions of Program Terms.

(a)-(m) (No change.)

(n) Primary home care. The objective of primary home care is to provide **an in-home, nontechnical service, prescribed by a physician, consistent with the plan of care, and medically supervised,** [medically prescribed, and supervised in-home personal and housekeeping services] for eligible Medicaid recipients, whose [chronic] health problems cause them to be functionally limited in the performance of **activities of daily living** [activities]. Primary home care services are provided in the client's residence by a primary home care provider employed by a contract agency.

#### .038. Development of Service Plan.

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

(c) The service plan will be sent to a contract provider agency. The plan developed by the DHR worker may include specific tasks to be performed. The contract agency will carry out the plan indicated if there is availability of service. If the **Title XX** contract agency is operating at its full capacity and cannot provide authorized service to a client, the agency will return the referral to the DHR worker, who will place the client's name on a waiting list.

(d) (No change.)

Doc. No. 811198

### Home Care Program 326.58.52

The following amendments are proposed under the authority of the Human Resources Code, Title II.

#### .035. Ceilings on Budgetary Unit Costs.

(a) Listed below are the maximum ceilings in effect for the services listed including administration costs. No contract will be awarded for more than these ceilings except for start-up costs on contracts. Contracts may be awarded for less than these ceilings. When this occurs, the annual budgetary unit cost stated in the contract is the ceiling for that contract. Agencies that exceed the budgetary unit cost ceiling effective for that contract are subject to audit exceptions. The ceilings for the following services are:

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

(3) Family care agency—**to be established by the Texas Board of Human Resources** [\$4.09 per hour], not to exceed 15 hours per week per client.

(4) Primary home care—**to be established by the Texas Board of Human Resources** [\$5.05 per hour], not to exceed 20 hours per week per client.

Doc. No. 811199

## Health-Related Services 326.58.54

The following amendments are proposed under the authority of the Human Resources Code, Title II.

### .020. Family Care Services Description.

(a) **The objective of family care is to provide services for eligible adults functionally limited in the performance of daily activities.** Family care services are provided through purchase of service agreements with individual providers or certified home health agencies. Under either type of agreement, family care services should be provided by a person having the capacity for a family-like relationship with the client. [Family care services consist of the following activities: performance of household tasks, provision of personal care, and protective supervision. Services may also include support services such as transportation and information and referral.]

(b) (No change.)

### .021. Family Care Task Descriptions.

(a) **Personal care—Assistance with activities related to the care of the client's physical body such as bathing, dressing, eating, exercising, grooming, routine hair and skin care, self-administered medication, toileting, and transfer/ambulation.** [in dressing, eating, grooming, bathing, toileting, transferring/ambulation, exercising, and self-administered medications.]

(b) **Housekeeping—Activities related to cleaning that are essential to the client's health and comfort by providing a healthy environment such as changing bed linens, house cleaning, and laundering.** [Household tasks—Bedmaking, laundry services, light housekeeping, and other similar services related to the care of aged or infirm persons.]

(c) **Medically necessary supervision—Overseeing the activities of and/or looking in on a client who, because of disability, needs some assistance to protect himself or herself from physical harm. (Available only with physician's orders.)** [Protective supervision—Overseeing the activities of and/or looking in on the person who, because of failing eyesight, general frailty, or illness, needs some assistance in protecting himself or herself from physical harm.]

(d) **Escort [Transportation]—Arranging for transportation and/or accompanying the client on trips necessary to obtain services essential for activities of daily living [to a doctor, shopping, or other errands].**

(e) **Meal preparation—Activities related to the provision of food according to the client's needs and wishes such as planning menus, shopping, storing, preparing, and serving food.** [Planning menus with regard for the client's dietary needs and wishes; and shopping for and preparing food.]

Doc. No. 811200

## Title XIX Primary Home Care 326.58.57

The following amendments are proposed under the authority of the Human Resources Code, Title II.

### .001. Definition and Description.

(a) The objective of the Primary Home Care Program is to provide **an in-home, nontechnical service, prescribed by a physician, consistent with the plan of care, and medically supervised,** [medically prescribed and supervised, in-home personal and housekeeping services] for eligible Medicaid recipients whose [chronic] health problems cause them to be functionally limited in the performance of **activities of daily living [activities].** Primary home care services are provided in the recipient's residence by a primary home care attendant employed by the contract agency. **The attendant must be age 18 or older.** The attendant cannot be any individual with a duty to support the recipient. The Texas Family Code defines an individual with a duty to support as a spouse or the parent of a minor child.

(b)-(c) (No change.)

(d) The services available through primary home care are:

(1) **Personal care—Assistance with activities related to the care of the recipient's physical body such as bathing, dressing, eating, exercising, grooming, routine hair and skin care, self-administered medication, toileting, and transfer/ambulation.** [Basic personal care and grooming, such as dressing, bathing, and routine hair care.]

(2) **Housekeeping—Activities related to cleaning that are essential to the recipient's health and comfort by providing a healthy environment such as changing bed linens, house cleaning, and laundering.** [Assisting with bladder or bowel requirements, helping the recipient to and from the bathroom, or assisting the recipient with bedpan routines.]

(3) **Meal preparation—Activities related to the provision of food according to the recipient's needs and wishes such as planning menus, shopping, storing, preparing, and serving food.** [Reminding the recipient to take prescribed medications.]

[(4) Assisting with food, nutrition, and diet activities.

[(5) Performing household services (if related to medical needs) which are essential to the recipient's health and comfort in his or her home, and to ensure a healthy environment, such as changing bed linens, laundering, and house cleaning.

[(6) Accompanying the client to obtain medical diagnosis and treatment.]

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

Doc. No. 811201

## Purchased Social Services

### Standards 326.64.90

The following amendments are proposed under the authority of the Human Resources Code, Title II.

.023. **Standards for Agencies Contracting to Provide Family Care Services for Aged, Blind, or Disabled Adults.**

(a) **The contract agency will begin delivery of services within 14 calendar days from the date of referral as documented on the Client Intake and Service Authorization/Referral Form.**

(b) The contract agency will notify the DHR case manager as to the status of all referrals via the Authorization/Referral Form within 21 calendar days from the date of referral.

(c) The contract agency will perform services in accordance with the service plan as authorized on the appropriate forms.

(d) The contract agency will ensure that once services are initiated no client shall be without services for more than 14 consecutive days in a quarter except when the client is not in the home or when an interruption is authorized in writing by the DHR case manager.

(e) The contract agency will maintain accessible and available records in a central location for each client that will contain at least:

- (1) the authorization for services;
- (2) registration/termination of the client on SSMS;
- (3) names of all supervisors and providers responsible for providing direct services to the client;
- (4) record of service delivery;
- (5) record of all supervisory visits (to include the date, training given at that time, including safety and emergency procedures, provider's ability to perform personal care tasks, and significant events concerning the client and/or provider); and
- (6) record of termination or closure.

(f) Supervisors will meet with providers in the client's home on or before the initiation of services to instruct the provider in delivering services according to the task assignment plan, and teach safety and emergency procedures, and to provide the client a written copy of complaint procedures, and explain those procedures.

(g) Supervisors will conduct home visits for each client at least once every other month to determine if the provider is performing tasks in accordance with the task assignment plan and to remedy areas of deficiency.

(h) The contract agency will investigate and respond in writing to all written complaints received from DHR staff within 14 calendar days of receipt.

(i) Providers will not provide any personal care services until they have shown competence in this area to the satisfaction of their supervisor.

(j) Supervisors will be licensed nurses or have completed two years full-time study at an accredited college or university.

(k) Supervisors who are licensed nurses will have at least 14 hours training providing in-home services prior to assuming responsibilities that will include:

- (1) basic principles of supervision;
- (2) interpersonal skills for dealing with clients and families;
- (3) client characteristics and needs; and
- (4) contract policies and procedures as they relate to DHR.

(l) Other supervisors will have at least 24 hours training providing in-home services prior to assuming responsibilities and evidence of competence in all areas of personal care. Initial training must include at least:

- (1) basic principles of supervision;
- (2) interpersonal skills for dealing with clients and families;
- (3) client characteristics and needs;
- (4) contract policies and procedures as they relate to DHR;
- (5) basic nutritional and special dietary needs;
- (6) special skin care needs; and
- (7) first aid, safety, and emergency procedures.

(m) Supervisors will receive an additional six hours training per quarter. Continuing education units for the following topics may be substituted on a one-to-one basis. For supervisors who are licensed nurses, during a contract year the training will include:

- (1) principles of supervision;
- (2) interpersonal skills for dealing with clients and families;
- (3) client characteristics and needs;
- (4) contract policies and procedures as they relate to DHR; and
- (5) training skills.

(n) For other supervisors, during a contract year the training will include:

- (1) principles of supervision;
  - (2) interpersonal skills for dealing with clients and families;
  - (3) client characteristics and needs;
  - (4) contract policies and procedures as they relate to DHR;
  - (5) training skills;
  - (6) basic nutritional and special dietary needs;
  - (7) special skin care needs; and
  - (8) first aid, safety, and emergency procedures.
- (o) Providers must be age 18 or older.

(a) Staff qualifications.

[(1) There will be a paid executive director.  
 [(2) The executive director will be responsible for the operation of the program.

[(3) The executive director will have graduated from an accredited high school or have attained a general educational development (GED).

[(4) The executive director will have graduated from an accredited four-year college or university and will have no less than one year of experience in working with people in a human services organization and/or in managing a social services related program; one additional year of experience may be substituted for two years of the required college so that no college credit is required with three years of experience.

[(5) The supervisor will have graduated from an accredited high school or will have attained a general educational development (GED).

[(6) The provider will be able to communicate with the client and with the client's family.

[(7) The provider will be able to perform the required tasks.

[(8) Staff with communicable disease or illness will not provide services directly to clients.

(b) Service implementation.

[(1) Department staff and/or contract agency supervisory staff will prepare a task assignment plan; if the plan is prepared by contract agency supervisory staff, it will be completed within 10 working days from the date of the referral of the client to the agency.

[(2) Staff will notify by phone or in writing the client's physician, if he or she has a physician, and any other provider of service about the plan of service to be provided to the client prior to the initiation of service.

[(3) The contract agency will have at least one supervisor for every 100 providers.

[(4) Supervisory staff will accompany the provider to the client's home prior to or on the first home visit at which the provider is to initiate service.

[(5) Each supervisor will visit each provider at a client's home at least once every two months at the time the service is being provided.

[(6) In the event a provider no longer continues to provide service to a client, staff will arrange for the provision of service by a new provider within 10 working days from the date the previous provider ceased to provide service.

**[(c) Staff development.**

[(1) The contract agency will provide each supervisor with a minimum of 28 hours of training in the following during the first three months of employment: service plan development and implementation; orientation to community resources; basic principles of supervision and personnel management; contract agency purpose, functions, policies, procedures, and forms; department policies and procedures; job description; client characteristics/needs; and safety and emergency procedures.

[(2) The contract agency will provide a minimum of four hours of training to providers during the first three months of employment which will include but not be limited to the following: personnel policies; job description; client characteristics/needs; contract agency purpose and functions; and safety and emergency procedures.

[(3) The contract agency will provide a minimum of three hours of ongoing training to providers during each consecutive three-month period after the first three months of employment which will include but not be limited to the following: basic nutritional needs; positioning; client mobility; special dietary needs; special skin care needs; reality orientation/remotivation; death and dying; and safety and emergency procedures.]

Issued in Austin, Texas, on February 23, 1981.

Doc. No. 811202      Marlin W. Johnston  
Acting Commissioner  
Texas Department of Human Resources

Proposed Date of Adoption: March 30, 1981  
For further information, please call (512) 441-3355.

## State Board of Insurance

### Rating and Policy Forms

#### Fixing Rate of Automobile Insurance 059.05.01

The State Board of Insurance proposes to amend effective June 1, 1981, Rule 059.05.01.005 which adopts by reference the rules governing the Insuring of Automobiles and Standard Endorsements II (Texas Automobile Manual).

The State Board of Insurance proposes to amend Rule 126—Leasing or Rental Concerns on pages 71 and 72 of the Texas Automobile Manual to include rating provisions for con-

tingent physical damage insurance for vehicles leased to others for one year or more by a leasing or rental concern. This new coverage is designed to protect the leasing firm in situations where vehicles are leased to others under a written leasing agreement, which requires the lessee to provide physical damage insurance to protect the lessor and such lessee, provided insurance is not valid or collectible at the time of a loss.

The State Board of Insurance also proposes to amend pages 136 and 137 of the endorsement supplement to the Texas Automobile Manual to include a new Endorsement TX-10-84 (Leasing and Rental Concerns—Contingent Physical Damage Insurance) to implement the proposed amendment and coverage.

The proposed amendment has no known fiscal effects for the state or for units of local government (source: State Board of Insurance staff).

Public comment is invited and may be submitted in writing to D. E. O'Brien, director, State Board of Insurance, 1110 San Jacinto, Austin, Texas 78786.

This amendment is proposed under the authority of Articles 5.01 and 5.06 of the Texas Insurance Code.

.005. *Insuring of Automobiles and Standard Endorsements II.* The State Board of Insurance adopts by reference the rules contained in the Insuring of Automobiles and Standard Endorsements II as amended *June 1, 1981* [January 1, 1981]. This document is published by and available from the Texas Automobile Insurance Service Office, One La Costa, Suite 130, 1016 La Posada Drive, Austin, Texas 78752, or the State Board of Insurance, 1110 San Jacinto, Austin, Texas 78786.

Issued in Austin, Texas, on February 19, 1981.

Doc. No. 811189      Pat Wagner  
Chief Clerk  
State Board of Insurance

Proposed Date of Adoption: March 30, 1981  
For further information, please call (512) 475-3486.





An agency may adopt a proposed rule no earlier than 30 days after publication in the *Register*, and the adoption may go into effect no sooner than 20 days after filing, except where a federal statute or regulation requires implementation of a rule on shorter notice.

Upon request, an agency shall provide a statement of the reasons for and against adoption of a rule. Any interested person may request this statement from the agency before adoption or within 30 days afterward. The statement shall include the principal reasons for overruling objections to the agency's decision.

This section now contains two classifications: codified and noncodified. Agencies whose rules have been published in the *Texas Administrative Code* will appear under the heading "Codified." These rules will list the new TAC number, which will be followed immediately by the *Texas Register* 10-digit number. Agencies whose rules have not been published in the TAC will appear under the heading "Noncodified." The rules under the heading "Codified" will appear first, immediately followed by rules under the heading "Noncodified."

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## CODIFIED

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### TITLE 22. EXAMINING BOARDS

#### Part XII. Board of Vocational Nurse Examiners

##### Chapter 235. Licensing

###### Application for Licensure

The Board of Vocational Nurse Examiners has withdrawn from consideration for adoption proposed amendments to §§235.5 and 235.11 (390.03.01.005 and .011) of this title (relating to Application for Licensure). The text of the amended sections as proposed was published in the December 19, 1980, issue of the *Texas Register* (5 TexReg 4981).

Issued in Austin, Texas, on February 18, 1981.

Doc. No. 811139      Waldeen D. Wilson, R.N.  
Executive Secretary  
Board of Vocational Nurse Examiners

Filed: February 19, 1981, 9:20 a.m.  
For further information, please call (512) 458-1203.

### TITLE 31. NATURAL RESOURCES AND CONSERVATION

#### Part III. Texas Air Control Board

##### Chapter 101. General

This section is promulgated under the authority of Article 4477-5, Vernon's Texas Civil Statutes.

**§101.23. Alternate Emission Reduction ("Bubble") Policy.** An owner or operator of any facility that is affected by any control requirement of TACB Regulations I, II, III, V, VII, and IX adopted on or after March 30, 1979, may, prior to compliance with such requirement, request the executive director to approve control of emissions from an alternate facility or from alternate facilities located on the affected property and owned or operated by or under the control of the owner or operator of the affected facility in lieu of compliance with the requirement as prescribed in the regulation provided the alternate proposed controls are not required by any TACB rule, regulation, permit condition, board order or court order. The executive director shall approve control of emissions from alternate facilities if the applicant demonstrates that the alternate controls will yield, by the date specified in the rule, emission reductions that are substantially equivalent to the emissions reductions which would otherwise be required in terms of their quantity, character, air quality impacts including health and welfare effects, and area affected. Facilities which receive the executive director's approval of an alternate emissions control plan will be deemed to have complied with the otherwise applicable TACB rule. However, the executive director may, after notice and opportunity for public hearing, revoke the credit or authority for alternate controls if he determines that any of the prerequisites for approval of the alternate controls are no longer met or if further emission reductions are needed to meet the intent of the Texas Clean Air Act.

Issued in Austin, Texas, on February 13, 1981.

Doc. No. 811165      Bill Stewart, P.E.  
Executive Director  
Texas Air Control Board

Effective Date: March 13, 1981  
Proposal Publication Date: November 11, 1980  
For further information, please call (512) 451-5711, ext. 354.

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## NONCODIFIED

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### Texas Committee on the Purchase of Blind-Made Products and Services

#### Rules and Procedures 343.01.00

The State Commission for the Blind has adopted revised Rules 343.01.00.001-.006 and .008-.015, and new Rules .007 and .016, for advancing the policy of the State of Texas of assisting and encouraging handicapped individuals to achieve maximum personal independence by engaging in remunerative employment. A pilot program for the purchase of blind-made products and services authorized by Chapter 93 of the Texas Human Resources Code specifies that agencies and departments of the State of Texas and its political subdivisions purchase from nonprofit agencies for the blind those products and services that can be manufactured and supplied in accordance with applicable specifications. This pilot program is patterned after a related federal program, authorized since 1938 at 41 United States Code 46. The ob-

jective of this program is to provide employment opportunities to multihandicapped blind individuals, many of whom are confronted with the prospect of becoming residents of state institutions in the absence of such a program.

These amendments and new rules were developed pursuant to amended legislation. The rules now better define the manner in which the committee determines the fair market price of suitable products and services, provides for exceptions and exclusions to the mandatory purchasing requirements, and allows for other changes related to the procurement of products or services from private agencies for the blind. The rules continue to allow nonprofit agencies that serve individuals with severe disabilities other than blindness to participate in the pilot program. The rules as adopted contain minor editorial and style changes from the proposed rules which were previously filed.

The following amendments and new rules are adopted under the authority of Section 93.010 of the Texas Human Resources Code.

#### *.001. General.*

(a) The purpose of the pilot program for the purchase of blind-made products and services is to further the State or Texas' policy of encouraging and assisting handicapped citizens to achieve maximum personal independence by engaging in useful and productive activities to furnish products and services to state and local governments and to reduce institutionalization. The pilot program will also provide job opportunities needed by multihandicapped blind persons and enable research, demonstration, and development of approaches through which the program may be extended to disability groups other than the blind.

(b) All suitable products or services approved by the committee in accordance with applicable specifications by or for any state agency or political subdivision shall be procured from such nonprofit workshops for the blind where such products or services are available within the period specified at the fair market price determined by the committee unless otherwise excluded or excepted by Rules .007 or .016.

#### *.002. Definitions.*

(a) "State purchasing agency" when used in these rules shall refer to the Texas State Purchasing and General Services Commission.

(b) "Committee" when used in these rules shall refer to the Texas Committee on the Purchase of Blind-Made Products and Services as described in Section 93.002 of the Texas Human Resources Code.

(c) "Commission" when used in these rules shall refer to the Texas State Commission for the Blind.

(d) "Fair market price" when used in these rules shall refer to that price determined by the committee pursuant to Rule .005 to be applicable to all suitable products and services provided by workshops and offered for sale to the various agencies and departments of the government of the State of Texas and of the political subdivisions of the state in accordance with the provisions of Section 93.004 of the Texas Human Resources Code.

(e) "Workshop" when used in these rules shall refer to a public or private nonprofit sheltered workshop organized under the laws of the State of Texas and recognized by the relevant vocational rehabilitation agency of the state as capable of contributing to the purposes of Chapter 93 of the Texas Human Resources Code and these rules. A list of

workshops qualifying as such under the Act and, in fact, offering suitable products and services for sale shall be maintained by the committee (see Rule .013 for additional eligibility criteria).

(f) "Suitable products and services" when used in these rules shall refer to products or services selected by the committee for placement in the catalog (see Rule .014) for sale to the state and its political subdivisions and capable of being timely produced and delivered by a workshop (see Rule .006 for a description of the selection process).

(g) "Central nonprofit agency" when used in these rules shall refer to that organization designated by the committee to perform certain of those functions listed in Rules .004 and .008.

#### *.003. Organization of the Committee.*

(a) The governor, with the advice and consent of the senate, shall appoint the members of the committee in accordance with the provisions of Section 93.002 of the Texas Human Resources Code.

(b) Reimbursement for expenses actually incurred in the performance of services in connection with the work of the committee may be authorized by the executive director of the commission.

(c) The chairman of the committee shall be selected by the governor and shall serve until the end of the term for which appointed.

(d) Regular meetings of the committee shall be held in each calendar quarter at the call of the chairman or his committee member designee unless, in the opinion of the chairman or his committee member designee, the amount of business to be conducted is insufficient to call a regular meeting during a particular quarter.

(e) Special meetings may be set at the call of the chairman or his committee member designee for any purpose except for hearings on suspension of a workshop (see Rule .010).

#### *.004. Duties and Responsibilities of the Committee.* The duties and responsibilities of the committee are:

(1) determination of a fair market price (see Rule .005);

(2) selection of suitable products and services (see Rule .006);

(3) appointment of a central nonprofit agency (see Rule .008);

(4) suspension and reinstatement of a workshop (see Rule .009); and

(5) preparation and distribution of a catalog of suitable products and services (see Rule .014).

#### *.005. Determination of a Fair Market Price.*

(a) The committee shall determine a fair market price for all suitable products and services provided by workshops hereunder and offered for sale to the various agencies and departments of state government and of the political subdivisions thereof.

(b) The workshop offering the product or service shall submit all relevant cost and overhead data requested by the committee.

(c) In determining the fair market price of products or services offered for sale, the committee shall give due consideration to the following type of factors:

(1) to the extent applicable, the amounts being paid for similar articles in similar quantities by federal agencies

purchasing the products or services under the authorized federal program of like effect;

(2) the amounts which private business would pay for similar products or services in similar quantities if purchasing from a reputable corporation engaged in the business of selling similar products or services;

(3) to the extent applicable, the amount paid by the state in any recent purchases or similar products or services in similar quantities, making due allowance for general inflationary or deflationary trends;

(4) the actual costs of manufacturing the product or service at a sheltered workshop offering employment services to blind or other severely handicapped individuals, with adequate weight to be given to legal and moral imperatives to pay blind or other severely handicapped workers equitable wages; and

(5) the usual, customary, and reasonable costs of manufacturing, marketing, and distribution.

(d) The fair market price for a product or service, determined after consideration of relevant factors of the foregoing type, may not be excessive or unreasonable; however, the fair market price may include a reasonable charge for overhead and profit.

(e) The committee shall revise the fair market price whenever marketing conditions or conditions of manufacture reflect that a significant change has occurred.

(f) The committee may delegate the fair market price analysis to one or more of its members for recommendation of a fair market price; however, the determination of the fair market price shall be the duty of the full committee (see Rule .004).

#### *.006. Selection of Suitable Products and Services.*

(a) The committee from time to time shall conduct feasibility studies to determine what products and services can be included within the program. These studies shall include inquiries into the needs of the state and into the manufacturing and delivery capabilities of the various workshops included within the program. It shall be the duty of the state purchasing agency to determine and develop all necessary specifications for proposed products and services for sale to the state.

(b) The committee shall review all applications for selection received from a workshop. In conducting this review, the committee shall:

(1) Satisfy itself that the proposed product or service offered for sale to any office, department, institution, or agency of the state shall be manufactured or produced according to specifications developed by the state purchasing agency. If the state purchasing agency has not adopted specifications for a particular product, the production shall be based on commercial or federal specifications in current use by industry for the manufacture of the product for sale to the state;

(2) Be advised by the state purchasing agency whether or not the proposed product or service meets or exceeds the specifications. All products or services selected for sale to the state must have the prior approval of the state purchasing agency as meeting or exceeding specifications;

(3) Determine the applicant's capability of supplying and delivering the product or service in the quantity normally purchased;

(4) Decide whether or not the product or service to be selected is needed by the state. In making this determina-

tion, the committee shall consult the state purchasing agency as to what the state's need has been for the particular product or service; and

(5) Determine alternate sources of supply for the product or service in question from among other workshops.

(c) The committee shall select a product or service as suitable for purchase by the state only after findings in all matters under review in subsection (b) of this rule.

(d) The committee shall set a fair market price for any product or service selected by majority vote of the committee in accordance with Rule .005.

(e) All applicants shall be advised that no purchase order may be issued to a workshop nor payment made to them for any delivered product or service that does not meet specifications.

(f) No product or service shall be selected by the committee under this Act for sale to the state which is already being supplied to state agencies by the Texas Department of Corrections under the authority of Section 9 of Article 6203c, Vernon's Texas Civil Statutes. In this regard, the committee shall coordinate its selection responsibilities with the Texas Department of Corrections toward the effective realization of the objectives of both agencies of the state and may authorize cooperation between a workshop and the Texas Department of Corrections.

(g) A product manufactured for sale to a political subdivision of this state or an office or department thereof shall be manufactured or produced according to specifications developed by the purchaser. The provisions of Rule .007 shall also apply to procurements by political subdivisions; however, those political subdivisions shall make the determinations regarding reasonable requirements and compliance which are required of the state purchasing agency in that rule. All uses of the exceptions provision shall be reported to the committee in the same manner as that provided in Rule .007, and no office or department of a political subdivision may evade the intent of this subsection by slight variations from specifications adopted in accordance with this subsection, when the products or services produced or provided in accordance with this Act are reasonably adapted to the actual needs of that office or department.

#### *.007. Exceptions.*

(a) Exceptions from the operation of the mandatory provisions of Rule .006(b)(1) may be made in any case where:

(1) under the rules of the state purchasing agency, the product or service so produced or provided does not meet the reasonable requirements of the office, department, institution, or agency; or

(2) the requisitions made cannot be reasonably complied with through provision of blind-made products or services.

(b) Each month the state purchasing agency shall provide the committee with a list of all items purchased under the exception provided by subsection (a) of this rule. The committee shall adopt the form in which the list is to be provided and may require the list to include the date of requisition, the type of product or service requested, the reason for purchase under the exception, and any other information that the committee considers relevant to a determination of why the product or service was not purchased in accordance with Rule .007(b)(1).

(c) No office, department, institution, or agency may evade the intent of this subsection by slight variations from

standards adopted by the state purchasing agency when the products or services produced or provided by the blind, in accordance with established standards, are reasonably adapted to the actual needs of the office, department, institution, or agency.

**.008. Central Nonprofit Agency.**

(a) The committee shall designate a central nonprofit agency to assist workshops in submitting applications for the selection of suitable products and services, in facilitating the distribution of orders among qualified workshops, and in assisting the committee in carrying out certain specified responsibilities.

(b) Payment, if any, for such assistance shall be by agreement with the individual workshop. The committee may establish rates for marketing services to be charged the workshop by the central nonprofit agency.

(c) Purchase orders shall be issued by the state purchasing agency for suitable products and services directly to a workshop with copies to a central nonprofit agency, but no vouchers from that agency will be approved for payment by the state purchasing agency. The state purchasing agency will consult with the central nonprofit agency on questions of allocation before issuing a purchase order to any workshop (see also Rule .001).

(d) If such assistance is authorized in the designation, the committee may instruct the central nonprofit agency to assist it in carrying out certain specified committee responsibilities.

**.009. Suspension and Reinstatement of a Workshop.**

(a) The committee, after notice and hearing in accordance with Rule .010, may suspend a workshop from its right to receive purchase orders from the state purchasing agency for suitable products and services under any or all of the following circumstances:

(1) failure of delivered products and services to meet or exceed specifications;

(2) failure to deliver ordered products and services as required in the specifications;

(3) violation of Rule .013.

(b) The committee may reinstate a workshop after a suspension under subsection (a) of this rule only if the committee makes an affirmative finding on each of the following:

(1) that the workshop has reimbursed the state or its subdivisions for any and all damages suffered by reason of any of the failures giving rise to suspension set out in subsection (a) of this rule;

(2) that the workshop has made the necessary corrections to avoid the failures in the future;

(3) that the rehabilitation agency directly responsible for recognizing the workshop in question has renewed, restored, or continued its recognition.

**.010. Notice and Hearing Required Prior to Suspension.** The committee will follow the requirements of Article 6252-13a, Vernon's Texas Civil Statutes, as they relate to notice and hearing in contested cases before the committee. However, hearings on suspension shall be held only during regular meetings of the committee.

**.011. Alternate Sources of Supply.** In the event a workshop fails to deliver ordered products and services meeting specifications, the state purchasing agency may:

(1) issue a new purchase order to another workshop capable of meeting specifications and delivery requirements; or

(2) if no other workshop is available, purchase the needed products and services under the normal state purchasing agency purchasing procedures.

**.012. Issuance of Purchase Orders.**

(a) State agencies will submit a request to the state purchasing agency which will issue a purchase order to a workshop or workshops identified by the central nonprofit agency (see Rule .008) as capable of performing to the required specifications. The workshop will invoice the using agency in accordance with applicable state procedures established by law for the payment of merchandise received. The using agency will prepare appropriate vouchers and submit them with the attached invoices to the state purchasing agency for approval. Prompt payment will be made to the workshop performing under contract.

(b) Political subdivisions will order directly from the central nonprofit agency, be invoiced by it, and will make prompt payments to it.

**.013. Value Added.** It is the intent of the committee that the workshops providing services or products to state agencies and political subdivisions should purchase raw materials or components through competitive bidding whenever possible and should make an appreciable contribution to the reforming of raw materials, the assembly of components, packaging of other products manufactured at rehabilitation facilities, or a combination thereof. A workshop may not act merely as a receiving and shipping facility. In addition, in order to be eligible to provide suitable products and services under these rules, it is the intent of the committee that a workshop must establish and maintain at least 75% handicapped direct labor hours in its operations. Violation of any portion of this rule may result in suspension.

**.014. Catalog.** A list of suitable products shall be published in the *Texas Register* at least semiannually, and shall contain but not be limited to the following information:

(1) The delivery schedule will be determined by the committee and published in the catalog for each suitable product listed therein.

(2) All orders will be shipped F.O.B. destination. The committee, when determining a fair market price, shall also determine minimum order quantities below which using agencies will be charged for direct freight costs. (Example: All orders shipped F.O.B. destination, plus freight on orders under \$100.)

(3) Products must be properly packaged for shipping. Special packaging when required will be subject to price adjustment.

**.015. Inspections.** The state purchasing agency, at its option, may monitor workshop manufacturing activities for compliance with specifications under existing contracts.

**.016. Exclusions.** There are excluded from the application of these rules those political subdivisions of the state that are not required to take affirmative action under Title V of the Federal Rehabilitation Act of 1973 in regard to employment and other matters relating to the handicapped due to the existence of any contract or subcontract in excess of \$2,500 for the procurement of personal property and nonpersonal ser-

vices with any department of the federal government or prime contractor of any department of the federal government.

Issued in Austin, Texas, on February 17, 1981.

Doc. No. 811166      Evans N. Wentz  
Executive Director  
State Commission for the Blind

Effective Date: March 13, 1981

Proposal Publication Date: September 16, 1980

For further information, please call (512) 475-3874.

## Texas Education Agency

### Texas Education Agency in General

#### Composition and Purpose 226.11.01

The Texas Education Agency amends Rule 226.11.01.020 concerning the structure, duties, and responsibilities of the organizational units of the Texas Education Agency. Rules setting out detailed information on the responsibilities of each agency division have been repealed. These will be updated and transferred to the agency's internal operating procedures manual. References to the repealed rules have been deleted from Rule .020.

This rule is amended under the authority of Section 11.62(a), Texas Education Code.

#### *.020. Structure, Duties, and Responsibilities of the Organizational Units.*

(a) Maintaining an organizational structure of the Texas Education Agency shall be the responsibility of the commissioner of education. Revision of the organizational structure shall be approved by the State Board of Education.

(b) The functional responsibilities of the organizational units of the Texas Education Agency shall be determined by the commissioner of education.

Doc. No. 811168

## State Commissioner of Education

### Office of the Commissioner of Education 226.13.03

The Texas Education Agency repeals Rules 226.13.03.010, .020, and .030-.034 which describe functions of the agency organizational units under the office of the commissioner of education. Information on functions of Texas Education Agency organizational units attached directly to the office of the commissioner of education has been transferred to the agency's internal operating procedures manual.

Notice of the proposed repeal of Rules .010, .020, and .030-.034 was published in the November 21, 1980, issue of the *Texas Register* (5 TexReg 4691).

These rules are repealed under the authority of Sections 11.52(a) and 11.62(a), Texas Education Code.

Doc. No. 811169

## State Department of Education

### Organization and Function 226.14.02

The Texas Education Agency amends Rules 226.14.02.010 and .020. The amended rules delete an outdated description of the organizational structure of the agency.

These amendments are adopted under the authority of Section 11.62, Texas Education Code.

*.010. Policy.* Subject to approval of the State Board of Education, the State Department of Education shall be organized by the commissioner of education into appropriate departments, each administered by an associate commissioner, with subordinate organizational units as needed.

*.020 General Functions of the Departments.* The general functions of the State Department of Education are to:

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

Doc. No. 811170

### Functions of the Organizational Units of the State Department of Education 226.14.03

The Texas Education Agency repeals Rules 226.14.03.010, .020, .030-.034, .040-.043, .050-.054, .060-.065, .070-.073, .080-.084, .090, .091, .100-.103, .110-.114, .120-.123, and .130-.134. The rules describe the major functions of each division within the Texas Education Agency. The material concerns only the internal management of the agency and has been moved from the agency's rules to its internal operating procedures manual.

Notice of the proposed repeal of Rules .010, .020, .030-.034, .040-.043, .050-.054, .060-.065, .070-.073, .080-.084, .090, .091, .100-.103, .110-.114, .120-.123, and .130-.134 was published in the November 21, 1980, issue of the *Texas Register* (5 TexReg 4692).

These rules are repealed under the authority of Section 11.62(a), Texas Education Code.

Doc. No. 811171

## County Schools

### Relationship of the Texas Education Agency to County Schools 226.22.01

The Texas Education Agency repeals Rule 226.22.01.010 concerning the relationship of the Texas Education Agency to county schools. The material in the rule is adequately addressed by statute.

Notice of the proposed repeal of Rule .010 was published in the November 21, 1980, issue of the *Texas Register* (5 TexReg 4693).

The rule is repealed under the authority of Section 11.02(a), Texas Education Code.

Doc. No. 811172

## Classification of County Superintendents 226.22.02

The Texas Education Agency repeals Rule 226.22.02.010 concerning the classification of county superintendents. The rule duplicates Sections 17.46 and 17.47 of the Texas Education Code adding no further interpretation or clarification of the statutes. Section 17.43 of the Texas Education Code to which the rule also refers has been repealed.

Notice of the proposed repeal of Rule .010 was published in the November 21, 1980, issue of the *Texas Register* (5 TexReg 4693).

This rule is repealed under the authority of Section 11.02(a), Texas Education Code.

Doc. No. 811173

## Administration of County Schools 226.22.03

The Texas Education Agency repeals Rules 226.22.03.010, .020, and .030 concerning the administration of county schools. The material in Rules .010, .020, and .030 is adequately addressed either in state statutes or in other agency rules, particularly Rule 226.13.90.020, the adoption by reference of Bulletin 742, Data Submission to the Texas Education Agency.

Notice of the proposed repeal of Rules .010, .020, and .030 was published in the November 21, 1980, issue of the *Texas Register* (5 TexReg 4693).

These rules are repealed under the authority of Sections 11.02, 11.26, and 17.29 of the Texas Education Code.

Issued in Austin, Texas, on February 20, 1981.

Doc. No. 811174      A. O. Bowen  
Commissioner of Education

Effective Date: March 13, 1981  
Proposal Publication Date: November 21, 1980  
For further information, please call (512) 475-7077.

## Adaptations for Special Populations

### General Educational Development 226.35.44.010, .021, .030

The Texas Education Agency amends Rules 226.35.44.010, .021, and .030 concerning the General Educational Development (GED) Program. The amended rules provide that anyone who is eligible to be tested in the program is also eligible to receive the certificate of high school equivalency provided he or she achieves the minimum required test score and follows proper application procedures as outlined in the rules.

Rules .010 and .021 are adopted with no change from the text as proposed. However, proposed Rule .030 originally contained the requirement that 17-year olds had to have been withdrawn from school for one calendar year before they could be tested. Adopted Rule .030 now provides that 17-year olds who have been withdrawn from school are eligible to be tested with parental or guardian consent.

These amendments are adopted under the authority of Section 11.35, Texas Education Code.

**.010. Policy.** The Texas Education Agency shall be the only agency in Texas authorized to issue a certificate of high school equivalency on the basis of the general educational development (GED) tests. Tests shall be administered by authorized contracted testing centers in accordance with applicable state law, regulations of the American Council on Education, and the State Board of Education.

#### **.021. Official Testing Centers.**

(a) Official testing centers are established by annual contract at an accredited high school or institution of higher learning upon authorization of the Texas Education Agency. The chief administrative officer of a school or institution desiring to provide the GED testing service to residents in the community requests authorization to do so from the Texas Education Agency. If the need for a testing center in the location exists, the appropriate agency official, in writing, informs the American Council on Education that the establishment of an official testing center is authorized at that particular institution. The center will be sent four copies of an annual contract by the American Council on Education, together with order forms and other material relating to the operation of the testing center. The contract forms must be signed by the chief administrative officer of the school or institution. The administrative officer of a school district must designate a certified counselor and the officer of an institution of higher education must designate a professional person with a background in testing and counseling to serve as chief examiner. The chief administrative officer must obtain prior authorization from the Texas Education Agency to change the chief examiner or the location of a testing center.

(b) The authorization to function as an official testing center may be withdrawn by the Texas Education Agency when a center has failed to maintain the integrity of the testing program.

(c) Official testing centers may charge a fee for test administration. The amount of the fee shall be determined by the administration or by the board of the school district or institution.

**.030. Eligibility for a Texas Certificate of High School Equivalency.** The requirements which applicants for the certificate of high school equivalency shall meet are as follows:

(1) Residence—Must be a resident of the state or a member of the United States Armed Forces stationed at a Texas installation when tested.

(2) Age—Must be 18 years old. A 17-year old is eligible with parental or guardian consent.

(3) Educational status—Must be officially withdrawn from school and must not have received a high school diploma.

(4) Minimum test scores—Must achieve a standard score of 40 or above on each of the five parts of the test or achieve an average standard score of 45 on all five parts of the test.

Doc. No. 811175

**226.35.44.020**

The Texas Education Agency repeals Rule 226.35.44.020 concerning eligibility to be tested. This rule is now covered in new Rule .030.

Notice of the proposed repeal of Rule .020 was published in the November 4, 1980, issue of the *Texas Register* (5 TexReg 4303).

This rule is repealed under the authority of Section 11.35, Texas Education Code.

Doc. No. 811176

**226.35.44.040, .050**

The Texas Education Agency adopts new Rules 226.35.44.040 and .050 concerning procedures for issuance of the GED certificate and the designation of the state administrator for the General Educational Development Program.

These rules are adopted under the authority of Section 11.35, Texas Education Code.

**.040. Issuance of Certificate.**

(a) The applicant requests that the testing center send the official test report to the Texas Education Agency. Test scores shall be accepted as official only when reported directly by official testing centers, the Defense Activity for Nontraditional Education Support, directors of Veterans Administration hospitals, and in special cases by the General Educational Development Testing Service

(b) Following review for eligibility and approval, certificates are issued directly to clients. No fee is assessed for issuance or reissuance of certificates. A permanent file is maintained for all issued certificates.

**.050. State Administrator** The associate commissioner for professional development and instructional services is the designated state administrator of the General Educational Development (GED) Testing and Certificate of High School Equivalency Programs.

Issued in Austin, Texas, on February 20, 1981.

Doc No 811177      A O Bowen  
                                 Commissioner of Education

Effective Date: March 13, 1981

Proposal Publication Date: November 4, 1980

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

**Advisory Groups****Official Advisory Groups and Procedures for Their Appointment 226.73.01**

The Texas Education Agency amends Rules 226.73.01.010, .020, .030, .040, and .050 concerning official advisory groups and procedures for their appointment. The subsection headings "(a) Policy" and "(b) Administrative procedure" have been deleted and the sections have been renumbered where appropriate. Amended Rule .030 requires that names and biographical information on proposed advisory group mem-

bers be submitted in writing to the State Board of Education member in whose congressional district the proposed advisory group member resides.

The rules are adopted with one editorial change from the text as proposed. In Rule .050, the word "be" was added to the phrase "be made by board resolution."

These amendments are adopted under the authority of Section 11.25(f), Texas Education Code.

**.010. Policy.**

(a) Official advisory groups are commissions, councils, or committees whose individual membership or participation is approved by the State Board of Education, the commissioner of education, or as designated by specific statute.

(b) The general purpose for using an advisory group shall be to provide the State Board of Education, the commissioner of education, or the staff of the local education agency advice and counsel on matters of Texas Education Agency responsibility from specialists, practitioners in school districts, institutions of higher education, related agencies of government, and citizens who have broad knowledge of education needs.

**.020. General Requirements.**

(a) Each official advisory group recommended to the State Board of Education for approval, except as otherwise provided by applicable law, shall:

(1) have a specifically defined purpose and set of objectives;

(2) represent the public with respect to a range of school sizes and regional service center areas and have not more than one member from a congressional district unless the composition imposes membership related to a specific office held or other agency representation;

(3) have a maximum of 15 members unless unusual needs as determined by the board require larger representation.

(b) No State Board of Education member shall serve on State Board of Education advisory councils, committees, or commissions unless specifically authorized by statute

(c) Every two years in the interim between legislative sessions the State Board of Education shall evaluate all official advisory committees to determine whether a need exists for the continuation of the advisory committee activities.

(d) Minutes of meetings of all official advisory groups shall be filed with the commissioner of education

**.030. Appointment of Members.** Each advisory group member shall be a person selected because of his or her individual ability to offer sound and constructive advice. Only in cases where unusual justification exists will members of advisory groups be appointed ex officio. Unless otherwise prescribed by statute, the following provisions shall apply:

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

(3) No appointments to an advisory group shall be recommended by the commissioner of education without consultation with the State Board of Education member representing the congressional district in which the candidate resides. At least 20 days prior to State Board of Education consideration of nominees, the appropriate associate commissioner shall submit the proposed advisory group member's name and biographical information in writing to the board member in whose congressional district the proposed member resides. Board members shall be contacted at least 15 days prior to State Board of Education consideration of nominees.

Objection to a proposed advisory commission member by a State Board of Education member shall be in writing.

**.040. Compensation.** The only compensation paid to individual members of an official advisory group shall be reimbursement for actual expenses incurred. Necessary expenses for the operation of advisory groups shall be included in the Texas Education Agency operating budget and shall be subject to applicable budget controls.

**.050. Exceptions.** The board may permit exceptions to the provisions of this policy as deemed necessary. Such exceptions shall be stated in the policy authorizing a specific advisory group or be made by board resolution.

Issued in Austin, Texas, on February 20, 1981.

Doc. No. 811178      A O Bowen  
Commissioner of Education

Effective Date, March 13, 1981

Proposal Publication Date November 21, 1980

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

## State Board of Insurance

### Board Powers and Duties

#### Surplus Lines Insurance 059.01.14

The State Board of Insurance adopts amendments to Rules 059.01.14.001-.036, the rules and regulations for surplus lines insurance.

The amendments are adopted under the authority of Texas Insurance Code Annotated, Articles 1.04 and 1.14-2.

**.001. Section 1.01. (Reserved for Future Expansion.)**

**.002. Section 1.02. (Reserved for Future Expansion.)**

**.003. Section 1.03. Permanent Rules.** These rules and regulations are a part of the general and permanent rules and regulations of the State Board of Insurance.

**.004. Section 1.04. (Reserved for Future Expansion.)**

**.005. Section 1.05. (Reserved for Future Expansion.)**

**.006. Section 1.06. Effective Date of Rules and Regulations and Partial Repeal of Prior Board Orders.**

(a) This board order shall become effective upon formal adoption by the State Board of Insurance consistent with the requirements of Texas Revised Civil Statutes Annotated, Article 6252-13a.

(b) Board Order 10315, dated December 20, 1967, adopted temporary rules and forms pending the adoption of permanent rules, regulations, and forms for the purpose of aiding the operation and the application of the Unauthorized Insurance Law and the Surplus Lines Law, Texas Insurance Code of 1951, as amended, Articles 1.14-1 and 1.14-2, respectively. Board Order 10594, dated February 29, 1968, adopted temporary rules and a form in respect of the tax on independently procured insurance to implement Texas Insurance Code of 1951, as amended, Article 1.14-1, Section 12; Board Order 10594 was adopted in augmentation of Board Order 10315. Board Order 27815, adopted October 15, 1974, represents the current surplus lines rules prior to this amendment. Board Orders 10315, 10594, and 27815 are, to the extent that

they are in conflict with this board order and only to that extent, repealed on the effective date of this board order.

(c) The surplus lines rules adopted by this board order shall not be applied retroactively to any circumstance or to any transaction which existed or happened prior to the effective date of these rules, but these rules shall apply to all transactions taking place on or after the effective date of this order and to all circumstances which continue to come into existence on or after the effective date of this order.

(d) The State Board of Insurance's rules and regulations which were applicable to the licensing, regulation, and supervision of surplus lines agents and applicable to the regulation and taxation of the surplus lines insurance transaction and which were in effect prior to the effective date of these rules shall apply in the adjudication of acts committed prior to the effective date of this order.

#### **.007. Section 1.07 Amendments**

(a) These rules and regulations will remain open for the purpose of amendments, corrections, and additions, the board having determined that the complexities of this subject are of such nature as to make impossible in one order the expression and solution of all the matters and questions relating to the subject.

(b) When such changes or subsequent changes are made, the effective date will be as provided in Texas Civil Statutes, Article 6252-13a, Section 10, unless the statutes require otherwise or the board shall otherwise provide. This section is applicable only to the amendment of the provision of the rules, not to interpretation nor applications made in respect of such provisions.

**.008. Section 2. (Reserved for Future Expansion.)**

**.009. Section 3. (Reserved for Future Expansion.)**

**.010. Section 4. (Reserved for Future Expansion.)**

**.011. Section 5.01. Qualifications Required of Surplus Lines License Applicant** Because of the importance and trust involved in performing surplus lines insurance placement, the commissioner must be satisfied that each licensee is capable of discharging and is likely to faithfully discharge to the citizens of this state the high degree of responsibility demanded of a surplus lines agent. No applicant may be licensed as a surplus lines agent unless the applicant has satisfied the state board in respect to the following

(1) that the applicant is at the time of licensing authorized as an agent under the provisions of either Article 21.14 (Local Recording Agents) and Article 21.07-3 (Managing General Agents),

(2) that the applicant is deemed by the commissioner to be competent and trustworthy with respect to handling surplus lines insurance, and who maintains an office at one or more designated locations in this state;

(3) that the applicant has the facilities necessary for the accumulation and preservation of the records required to be kept by a surplus lines agent under the provisions of Article 1.14-2 and these rules and regulations.

(4) that the applicant has the facilities necessary for the collection, maintenance, reporting, and remitting to the state board of the gross premium tax in accordance with Article 1.14-2 and these rules and regulations;

(5) that the applicant possesses the knowledge and experience in the placement of insurance with licensed insurers sufficient to determine the eligibility of insurance for



procurement in an unauthorized insurer under the conditions of Articles 1.14-1 and 1.14-2 and these rules and regulations;

(6) that the applicant possesses the knowledge and experience in the field of insurance sufficient to collect and analyze financial and other data necessary to determine the eligibility of unauthorized insurer as a surplus lines insurer under the provisions of Articles 1.14-1 and 1.14-2, and these rules and regulations.

*.012. Section 5.02. Licensing of Surplus Lines Agents.*

(a) Application procedure for issuance of surplus lines agent's license. Before any surplus lines agent's license shall be issued and before each renewal thereof, the following requirements must be completed by applicant seeking a surplus lines license:

(1) Appropriate written application shall be filed by the applicant upon one of the following forms:

(A) F-SBI-SL-2A—Surplus Lines License Application for Individual or Partnership.

(B) F-SBI-SL-2B—Corporate Application for Surplus Lines License.

(2) Submit a fee of \$25 for each license in check or money order made payable to the State Board of Insurance. No diminution of the license fee shall occur as to any license effective after January 1 of any year.

(3) Submit together with the appropriate application forms a surety bond executed on Form F-SBI-SL-3 in the amount of \$50,000 or alternatively offer documentary proof of financial solvency as required in Article 1.14-2, Section 2(2), and as hereinafter set forth in Rule .013 of these rules and regulations.

(b) Renewal of license. Every surplus lines license issued to an agent shall be valid for a term expiring on the 31st day of December next following the date of issuance unless an original application to qualify for the renewal of any such license shall be filed prior to expiration date with the commissioner together with a fee of \$25 and evidence of financial solvency for the renewal term of the license in accordance with Rule .013 of these rules and regulations.

(c) Certificates of license.

(1) The commissioner of insurance will execute and issue a numbered certificate of license as evidence of the issuance of a surplus lines agent's license to an applicant qualified by law and is qualified under these rules. The license shall be subject to the terms and conditions of the license as stated on the prescribed certificate of license form.

(2) Form F-SBI-SL-1—Surplus Lines License Certificate is hereby adopted. Copies of this form may be obtained from the State Board of Insurance, 1110 San Jacinto, Austin, Texas 78786.

*.013. Section 5.03 Proof of Agent's Financial Solvency.*

(a) Alternatives of proof of financial solvency. Each surplus lines licensee as a condition precedent for being licensed and as a condition for continuing his license in force shall offer proof of financial solvency and demonstrate capacity in respect of responsibility to insureds under policies of surplus lines insurance under one of the following alternatives:

(1) Prior to the issuance or renewal of a surplus lines license, the applicant may file with the commissioner a surety bond on Form F-SBI-SL-3 in the penal sum of not less than \$50,000 aggregate liability. The surety on the bond may be an unauthorized insurer that is acceptable to the commissioner. The surety bond shall be maintained for as long as

the licensee continues under this alternative. No less than 30 days written notice of bond termination must be given to the licensee and must be filed with the commissioner.

(2) Prior to the issuance or renewal of a surplus lines license, the applicant may prove that his surplus lines agency has net assets in excess of \$100,000 which are free and clear of all encumbrances and are not considered part of the applicant's residence or business homestead or are not otherwise exempt from attachment under state or federal laws. The commissioner may require a hearing of record conducted in Austin, Texas, in the State Insurance Building to determine the applicant's financial solvency.

(b) Commitment to bind. A binding commitment on the part of the surety to issue a bond pursuant to this rule within a period of not more than 30 days shall be sufficient in connection with any application of license.

*.014. Section 5.04. Suspension or Refusal of Surplus Lines Agent's License.*

(a) Basis for suspension or refusal of surplus lines license. The commissioner may suspend or refuse to renew the license of a surplus lines agent upon any one or more of the following grounds:

(1) failure to allow the commissioner to examine the agency's accounts and records or removal of the accounts and records of his surplus lines business from this state during the period when such accounts and records are required to be maintained under Section 15, Article 1.14-2, and these rules and regulations;

(2) failure to make and file all affidavits and reports when due as required by Article 1.14-2, Sections 6 and 16, and these rules and regulations;

(3) failure to properly maintain a gross premium tax trust account or failure to pay the tax on surplus lines gross premium or failure to file tax reports as provided for in Article 1.14-2, Section 12;

(4) failure to procure and maintain a surety bond or other proof of financial solvency in accordance with Article 1.14-2, Section 2(2);

(5) suspension or refusal to renew or continue the licensee as a local recording agent in accordance with Article 21.14, or a managing general agent in accordance with Article 21.07-3;

(6) failure to maintain the qualifications for a surplus lines agent's license; or

(7) violation of the provisions of the Insurance Code or these rules and regulations.

(b) Administrative procedure. In a proceeding to suspend or for refusal to renew the license of a surplus lines agent, the commissioner shall follow the same procedures as are applicable for the refusal or suspension of the underlying license of local recording agents under Article 21.14, Sections 16, 17, 18, and 19, or managing general agents under Article 21.07-3, Sections 12, 13, 14, and 15, as applicable.

(c) Minimum period of suspension. No surplus lines agent whose license has been suspended shall again be relicensed until fines or delinquent taxes owing by him have been paid.

*.015. Section 5.05 Conduct of Agent's Business.*

(a) A surplus lines agent doing a surplus lines insurance business as an individual agent shall have his surplus lines certificate for individual agent issued in the name of the surplus lines agent doing business as the

assumed name of the agency, e.g., "John Doe, doing business as Goliath Surplus Lines Agency."

(b) An insurance agency doing business as a partnership or corporation may have the issuance of its surplus lines license evidenced by a single certificate license provided that such agency has the qualifications and has been issued a license pursuant to Article 21.14 (Local Recording Agents) or Article 21.07-3 (Managing General Agents). The license shall be issued in the same name of the agency as indicated on the underlying license issued under Article 21.14 or 21.07-3.

(c) No individual surplus lines agent shall exercise his surplus lines license in any firm name unless the certificate of license states both the firm name and the name of each licensee; and further provided that a surplus lines agent licensee is prohibited from exercising his license under any firm name other than that stated on the certificate of license. Every act done in the procedure of effecting a surplus lines insurance contract under an assumed name in accordance with this subsection shall also clearly disclose the real name of the surplus lines agent licensee acting under such firm name or the name of the representative of surplus lines agency, partnership, or corporation.

(d) No individual, partnership, or corporation may be issued a surplus lines license certificate in a name that:

(1) is the same as or is so similar to the name or assumed name of any insurance company or agency licensed to do business in this state as to be likely to mislead the public, or

(2) implies or is susceptible to the interpretation that it is an insurance company which assumes risks of insurance.

(e) No surplus lines agent or agency shall shift, transfer, delegate, or assign his responsibility to a person or persons not licensed as a surplus lines agent.

(f) A surplus lines agent may exercise underwriting authority on behalf of a nonadmitted insurer provided that the surplus lines agent shall possess, available for review, a current written agreement from each such nonadmitted insurer setting forth the identity of the insurer and the scope of the underwriting authority granted and reserving the duty of final underwriting review by the insurer. Underwriting authority may include the rating and acceptance of risks, binding of coverage, issuance of formal evidence of coverage, and the authority to cancel coverage.

(g) A surplus lines agent may exercise claims authority on behalf of a nonadmitted insurer provided that the surplus lines agent shall possess, available for review, a current written agreement from each such nonadmitted insurer granting such authority and provided that all claims adjustments shall be performed by a Texas licensed adjuster. Claims authority may include without being limited to the investigation, adjustment, supervision, and payment of claims including payment from the surplus lines agents' funds, provided that the agent is promptly reimbursed by the insurer for such payments and that the payments do not relieve the nonadmitted insurer of an obligation to the insured should it continue to exist. Payment of claims may also be made by the surplus lines agent directly from funds of the nonadmitted insurer provided that the surplus lines agent possesses, available for review, a current written agreement wherein the insurer authorizes such direct payments.

**.016. Section 6.01. Eligibility Requirements for Surplus Lines Insurance.** No insurance coverage shall be eligible for

surplus lines unless the full amount of insurance required is not procurable, after a diligent effort has been made to do so, from among the insurers licensed to transact and actually writing that kind and class of insurance in this state, and the amount of insurance eligible for surplus lines shall only be the amount in excess of the amount so procurable from licensed insurers.

**.017. Section 6.02. Eligibility Requirements of Surplus Lines Insurers.** An insurance company is not eligible to write surplus lines insurance in this state under the following circumstances:

(1) it does not have capital and surplus or its equivalent that is adequate in relation to its premium writings and the exposure of risks it assumes;

(2) it is not of good repute and does not provide reasonably prompt service to its policyholders in the payment of just losses and claims;

(3) if the management is not of good repute or is incompetent or untrustworthy or so lacking in insurance company managerial experience as to make its proposed operation hazardous to the insurance-buying public;

(4) if the State Board of Insurance has good reason to believe that it is affiliated directly or indirectly through ownership, control, reinsurance transactions, or other insurance or business relations, with any person whose business operations are or have been detrimental to policyholders, shareholders, investors, creditors, or to the public;

(5) if it is admitted to do business in this state for any purpose, except in accordance with the provisions of Article 8.24.

**.018. Section 6.03. Duty of "Reasonable Effort" by Surplus Lines Agents To Ascertain Financial Condition of Unauthorized Insurer.**

(a) Before placing insurance with an unauthorized insurer, a surplus lines agent shall personally make a reasonable inquiry into the financial condition and operating history of an unauthorized insurer in order that the interest of Texas policyholders and citizens may be protected.

(b) During the course of placing business with an unauthorized insurer, either foreign or alien, each surplus lines agent shall be under a continuous duty to apprise himself that such insurer maintains a condition of solvency and sound financial strength, and that the insurer processes claims and pays losses expeditiously.

(c) Whenever any reasonable doubt arises as to the capacity, competence, stability, claim practices, or good faith of an unauthorized insurer with whom a surplus lines agent has placed insurance on behalf of an insurer, the agent is under a further duty to inform the commissioner on a confidential basis of such reasonable doubt.

**.019. Section 6.04. Suitability of Unauthorized Insurers.**

(a) The surplus lines agent has the duty to place surplus lines insurance on Texas risks only with an unauthorized insurer:

(1) that possesses financial solvency adequate to its business;

(2) that has a surplus to policyholders which is reasonable in relation to its outstanding liabilities;

(3) that is of good repute and is competently managed; and

(4) that provides reasonably prompt claim service to policyholders.

(b) The State Board of Insurance and the commissioner have no duty or responsibility under the Insurance Code or these rules and regulations to determine the actual financial conditions or claim practices of any unauthorized insurer. However, the suitability of each unauthorized insurer underwriting or proposing to underwrite surplus lines risks in Texas is subject to the continuous scrutiny and discretion of the State Board of Insurance.

**.020. Section 6.05. Special Circumstances in the Placement of Surplus Lines Insurance.** In order to establish the suitability of any unauthorized insurer for writing surplus lines insurance, the commissioner may request information from the surplus lines agent concerning an unauthorized insurer. The information requested may include but is not limited to recent financial statements, domestic trust agreements, powers of attorney, and biographies of the owners and the management.

**.021. Section 7.01. Uniformity of Reporting Forms.**

(a) Information and memorandums required under Article 1.14-2, and required by these rules and regulations shall be submitted on the following forms. These forms are made a part of these rules and regulations in order to establish uniformity of records and to facilitate the orderly processing of required information.

- (1) Application for license for surplus lines license:
  - (A) Surplus Lines License Application for Individual or Partnership—Form F-SBI-SL-2A.
  - (B) Corporate Application for Surplus Lines License—Form F-SBI-SL-2B.
- (2) Surplus Lines Agent Bond—Form F-SBI-SL-3.
- (3) Surplus Lines Insurance Affidavit—Form F-SBI-SL-4.
- (4) Surplus Lines Agent's Semiannual Tax Report—Form F-SBI-SL-5.
- (5) Annual Report of Surplus Lines Agent—Form F-SBI-SL-6.

(b) Copies of these forms may be obtained from the State Board of Insurance, 1110 San Jacinto, Austin, Texas 78786, and surplus lines agents are authorized to reproduce these forms using their own facilities.

**.022. Section 7.02. Surplus Lines Insurance Affidavit.**

(a) The agent shall execute a Surplus Lines Insurance Affidavit (Form F-SBI-4) for each insurance contract or renewal to be issued. Such affidavit shall be executed in accordance with the instructions thereon and shall be notarized by a notary public.

(b) If the annual premiums paid by the insured for such surplus lines coverage exceed \$25,000, the insured may execute the Surplus Lines Insurance Affidavit in lieu of the surplus lines agent.

(c) The Surplus Lines Insurance Affidavit (Form F-SBI-SL-4) shall be filed with the State Board of Insurance on a monthly basis within 30 days after the end of the month in which the insurance was effectuated. It is not required that the agent file an exact copy of the policy issued or other documents otherwise required to be filed pursuant to Section 6, Article 1.14-2, if the agent completes the equivalent information section as contained in the Surplus Lines Insurance Affidavit. An agent, however, may be required at the discretion of the commissioner to file an exact copy of the policy issued to the insured or to file any other documents required to be filed by Section 6, Article 1.14-2 on any risk placed by

the agent with any unauthorized insurer. In the event that the commissioner shall request such exact copies of the policy or other document pertaining to the surplus lines risk, the agent shall file the same within 10 days of the receipt of notice of the request for such filings or such later date as the commissioner may allow based upon good cause shown by the agent's written request for an extension of filing time.

**.023. Section 7.03. Surplus Lines Agent's Semiannual Tax Report.** The surplus lines agents shall file semiannually with the State Board of Insurance Form F-SBI-SL-5 (Surplus Lines Agent's Semiannual Tax Report) in accordance with Rule .036 of these rules and regulations.

**.024. Section 7.04. Surplus Lines Agent's Annual Report.** Each surplus lines agent shall file a notarized annual report on Form F-SBI-SL-6 with the State Board of Insurance on or before March 1 of each calendar year. The information to be reflected in this report will pertain only to the surplus lines insurance activities of the agent from January 1 to December 31 of the preceding calendar year.

**.025. Section 7.05. Correct Execution Required for Filing.** No report required to be filed under Article 1.14-2 or these rules and regulations shall be deemed to have been filed with the state board unless the forms are completely and correctly executed in accordance with Article 1.14-2 and these rules and regulations.

**.026. Section 8.01. General.**

(a) Records required. In order to provide for uniformity and to make possible a complete and accurate examination of the surplus lines agent's records by the State Board of Insurance, the following insurance and accounting records must be established and maintained by each surplus lines agent:

- (1) a policy register;
- (2) a contract file;
- (3) general books of account;
- (4) such other insurance and accounting records as are necessary to properly and promptly service policyholders in this state and provide required information to the State Board of Insurance.

(b) Segregation of records. The surplus lines agent may maintain his surplus lines records and accounts in any manner it deems suitable which is consistent with the provisions of Article 1.14-2 and these rules and regulations provided however, the records system employed by the agency will facilitate the prompt location of any particular contract file.

(c) Examination of records. The surplus lines agency records and accounts required to be kept by Article 1.14-2 and these rules and regulations shall at all times be open to examination by the state board without notice and shall be so kept available and open to the state board for three years next following expiration or termination of the insurance contract.

**.028. Section 8.02. Control Number.**

(a) All surplus lines agents shall immediately upon the procurement of insurance in an unauthorized insurer record the policy number, hereinafter referred to as the "control number," in a policy record book for the purpose of evidencing the chronological order in which each surplus lines insurance contract is effected, and shall record the name of the insured corresponding thereto.

(b) All records required to be kept by the surplus lines agent pertinent to a specific risk shall be inscribed with the same control number; i.e., daily reports, certificates of insurance, affidavits, endorsements, etc.

(c) Strict chronological sequence is required in the assignment of control numbers, and in the instance of voided or unused control numbers, explanation of disposition thereof is required to be recorded in the control number register. For example, in the instance of a spoiled contract after being assigned a control number, the control register will contain a notation that the contract is "spoiled" and any other information to document the nonuse of the assigned control number.

**.029. Section 8.03. Contract File.** Each surplus lines agent shall keep in his office a file, hereinafter referred to as a contract file which shall contain a full and true record of each individual surplus lines contract, including a copy of the daily report, if any, and showing such of the following items as may be applicable:

- (1) amount of insurance and perils insured against;
- (2) brief general description of the property insured and where located;
- (3) gross premium paid, if any;
- (4) return premium paid, if any;
- (5) rate of premium charged upon the several items of property;
- (6) effective dates of the contract, and the terms thereof;
- (7) name and post office address of the insured;
- (8) name and home office address of the insurer or Lloyd's broker;
- (9) amount collected from the insured;
- (10) record of losses or claims filed and payments made;
- (11) correspondence relating to the subject of insurance received by or written by the surplus lines agent relating to the specific insurance coverage of that contract file.

**.030. Section 8.04. Agency Accounting Records.**

(a) Each surplus lines agent or agency shall maintain general books of accounting which shall include a general ledger, a general journal, and a cash records book, and such items as the agent or the state board deem necessary to reflect the financial solvency of the agency.

(b) The general books of accounting shall show a month-end summary of operations, a fiscal or calendar year-to-date summary of operations, and shall be maintained in accordance with generally accepted insurance accounting principles.

**.031. Section 9.01. Minimum Content of Contracts.**

(a) Every new or renewal insurance contract, policy, certificate, cover note, or other confirmation of insurance procured and delivered as a surplus lines coverage pursuant to Article 1.14-2 shall contain as a minimum the following information:

- (1) description of subject of the insurance;
- (2) location of subject of the insurance;
- (3) coverage and risk insured against;
- (4) conditions and term of the insurance coverage;
- (5) premium and rate charge;
- (6) premium taxes to be collected by the surplus lines agent;

- (7) name and address of the insured;
- (8) name and address of the insured or Lloyd's broker;
- (9) a statement designating the name and address of the person to whom the commissioner of insurance shall mail service of process in accordance with Articles 1.14-1 and 1.14-2;
- (10) name and address of the surplus lines agent who procured the insurance.

(b) Each above-mentioned document shall have stamped conspicuously in ink or affixed upon it the following words:

This insurance contract is with an insurer not licensed to transact insurance in this state and is issued and delivered as a surplus lines coverage pursuant to the Texas insurance statutes. Article 1.14-2, Texas Insurance Code, requires payment of 3.85% tax on gross premium.

**.032. Section 9.02. Furnishing Evidence of Insurance.**

(a) A surplus lines agent must promptly provide the insured with written evidence of insurance containing complete terms, conditions, and exclusions pertaining to the coverage so as to protect all parties against misunderstanding. If temporary confirmation of insurance coverage is required by the insured or is given by the surplus lines agent, such temporary confirmation shall be replaced as promptly as possible with a policy or certificate stating the complete terms, conditions, and exclusions of the insurance:

(b) If after the delivery to the insured or his agent of any document evidencing insurance coverage there is any change as to the identity of the insurers or the portion of the direct risk assumed by the insurer as stated in the above-mentioned original documents, or in any other material change as to the insurance coverage, the surplus lines agent shall promptly mail to the insured or his agent a substitute certificate, cover note, confirmation, or endorsement for the original, such document accurately showing the current status of the coverage and the insurers responsible thereunder.

**.033. Section 9.03. Policy Forms.** Policy or contract forms and the contract terms thereof shall not be eligible unless:

- (1) the use is reasonably necessary for the principal purposes of the coverage;
- (2) the use would not be contrary to the purposes of the coverage;
- (3) the use would not be contrary to the purposes of Article 1.14-1 and Article 1.14-2 with respect to the reasonable protection of authorized insurers from unfair competition by unauthorized insurers.

**.034. Section 10.01. Collection of Tax.**

(a) The premium charged for surplus lines insurance coverage is subject to a 3.85% tax of all gross premiums charged for such insurance.

(b) If a surplus lines policy covers risks or exposures only partially in this state, the tax payable shall be computed on the portions of the premium which are properly allocable to the risks or exposures located in this state.

(1) Acceptable apportionment standards are as follows:

- (A) (PA)—percentage of physical assets in Texas;
- (B) (EP)—percentage of employee payroll in Texas;
- (C) (S)—percentage of sales in Texas;

(D) (TC)—percentage of taxable capital for franchise tax purposes in Texas;

(E) (T)—percentage of times insured's conduct or property is exposed to coverage in Texas;

(F) (X)—any other method of equitable apportionment with description of such method.

(2) The surplus lines agent, with the assent of the insured, shall in the case of such apportionment, select one of the above methods which most equitably allocates the portion of premiums applicable to the State of Texas on those policies covering risks or exposures only partially in Texas.

(c) All surplus lines insurance premium taxes shall be computed on the total gross premium due on the policy as of the date that coverage under the policy becomes effective except in respect to the following specific situations:

(1) A policy issued for a term in excess of one year, with a fixed premium being payable annually, shall be taxed on the first year's premium at the rate of 3.85% as of the date of policy issuance. The tax on premiums payable for subsequent years shall be computed and collected as of the date such subsequent premiums become due and payable, which date shall be deemed for taxation purposes to be the policy anniversary date.

(2) Premium deposits made on policies providing for retrospective premium adjustments shall be deemed to be premiums paid for such policy as of the date of issuance and taxed accordingly.

(3) Retrospective premium adjustments, made pursuant to the terms of any surplus lines policy and requiring the payment of additional premiums by the insured shall be taxed as of the date such additional premiums become payable. Retrospective premium adjustments that require the return of a portion of premium or premium deposit shall be effected by the surplus lines agents through a tax refund as hereinafter set forth.

*.035. Section 10.02. Surplus Lines Insurance Premium Tax Trust Funds.*

(a) All surplus lines insurance premium taxes, as soon as they are collected by the surplus lines agents, are trust funds in his hands and all such funds are the property of this state. Such tax monies as collected by the agent are held in trust for the benefit of the state, and the agent is a trustee for the state for all taxes collected.

(b) Such funds shall be maintained by the surplus lines agent in a separate demand deposit account or savings account of a bank or savings and loan institution that is supervised by either a state or federal regulatory institution which provides at least a \$20,000 depositor's insurance on all accounts with the FDIC or other federal agency. Upon the payment by the insured of the premium tax monies to the surplus lines agent, the agent shall deposit the monies in the premium tax account promptly.

(c) The surplus lines insurance premium tax trust account shall be maintained exclusively for the deposit and withdrawal of premium receipt taxes and shall not be mingled with any other funds, either business or private.

(d) The demand deposit account maintained by the agent for the deposit of tax monies shall be entitled "(name of agent or agency)—Tax Trust Account."

(e) The surplus lines agent shall establish the surplus lines insurance premium tax trust account with an institution as described in this subsection only upon the following conditions and pursuant to the agreement with the bank or savings and loan association:

(1) that the monies deposited in such account are the sole property of the State of Texas and are being held in trust for the State of Texas with the surplus lines agent acting as trustee and agent of the State of Texas;

(2) that a quarterly balance accounting will be made and forwarded to the surplus lines agent by the bank or savings and loan association and a copy thereof will be sent to the State Board of Insurance directly from such bank or savings and loan association upon request;

(3) that withdrawal of monies from such account shall be made only by the individual licensed surplus lines agent or a partner of a surplus lines agency that is a partnership or an officer of a surplus lines agency that is incorporated.

(f) Any interest earned by tax trust monies after payment by the insured and prior to remittance to the state board or prior to return to the insured, is the property of the state.

(g) Withdrawals from the account of tax trust monies shall be made only for the following purposes:

(1) remitting to the state board tax monies collected and interest earned thereon;

(2) returning to the insured unearned tax monies.

*.036. Section 10.03. Semiannual Tax Report.*

(a) The surplus lines agent shall file semiannually under oath with the State Board of Insurance Form F-SBI-SL-5 (Surplus Lines Agent Semiannual Tax Report) together with the payment of such tax within 30 days from the first day of January and July of each year.

(b) The reporting periods for purposes of accounting for the premium tax shall cover the period of January 1 through June 30 and July 1 through December 31 of each year.

(c) Payment to the State of Texas by the surplus lines agent of the gross premium tax receipts, shall be made by a check drawn on the demand account maintained by the agent which comprises the premium tax trust fund. The check shall be made payable to the State Board of Insurance.

(D) The surplus lines agent is required to file the semiannual tax report with the State Board of Insurance regardless of whether he conducted any surplus lines insurance transactions during the reporting period as required by Board Order 27817.

Issued in Austin, Texas, on February 23, 1981.

Doc. No. 811194 Pat Wagner  
Chief Clerk  
State Board of Insurance

Effective Date: March 15, 1981  
Proposal Publication Date: November 25, 1980  
For further information, please call (512) 475-4509.

The Open Meetings Act (Article 6252-17, Texas Civil Statutes) requires that an agency with statewide jurisdiction have notice posted for at least seven days before the day of a meeting. A political subdivision covering all or part of four or more counties, or an institution of higher education, must have notice posted for at least 72 hours before the scheduled meeting time. Notice of an emergency meeting or an emergency addition or amendment to an agenda must be posted for at least two hours before the meeting is convened. Although some notices may be received and filed too late for publication before the meetings are held, all filed notices will be published in the *Register*. Each notice published includes an agenda or a summary of the agenda as furnished for publication by the agency and the date and time of filing. Notices are posted on the bulletin board outside the offices of the secretary of state on the first floor in the East Wing of the State Capitol. These notices may contain more detailed agendas than space allows to be published in the *Register*.

## Texas Department of Agriculture

**Wednesday, March 18, 1981, 10 a.m.** The Agricultural and Environmental Sciences Division of the Texas Department of Agriculture will conduct a public hearing on the first floor of the Employees Retirement System Building, 18th and Brazos, Austin, on the rules of the Mediterranean fruit fly quarantine.

Information may be obtained from David Ivie, P.O. Box 12847, Austin, Texas 78701, (512) 475-4457.

Filed: February 23, 1981, 8:58 a.m.  
Doc. No. 811215

## State Board of Barber Examiners

**Tuesday, March 10, 1981, 8 a.m.** The State Board of Barber Examiners will meet in Room H-111, 5555 North Lamar, Austin. According to the agenda, the board will consider minutes of previous meeting; sign teacher's licenses, school permits; interview out-of-state applicants; consider letters to board members; hear reports by executive secretary; and meet in executive session.

Information may be obtained from Mary Jo McCrorey, 5555 North Lamar, Room H-111, Austin, Texas 78751, (512) 458-2241.

Filed: February 23, 1981, 10:02 a.m.  
Doc. No. 811214

## State Board of Canvassers

**Friday, February 27, 1981, 4 p.m.** The State Board of Canvassers will meet in the Office of the Secretary of State in the State Capitol, Austin. According to the agenda, the board will canvass returns for a special runoff election for state senator, District 27 (unexpired term).

Information may be obtained from Austin Bray, 915 Sam Houston Building, Austin, Texas 78711, (512) 475-3091.

Filed: February 19, 1981, 12:08 p.m.  
Doc. No. 811143

## Texas Department of Community Affairs

**Friday, March 6, 1981, 10 a.m.** The Policy Advisory Council for Weatherization Assistance for Low-Income Persons of the Texas Department of Community Affairs will meet in the fourth floor executive conference room of the Texas Department of Community Affairs Building, 210 Barton Springs Road, Austin. According to the agenda, the council will make introductions and consider the following items: status report of fiscal year 1980 Weatherization Program; overview of labor problems; descriptions of two of the local programs; Policy Advisory Council members discussing how changing economic conditions will impact this program; and other business.

Information may be obtained from John A. Geistweidt, 210 Barton Springs Road, Austin, Texas 78704, (512) 475-6601.

Filed: February 20, 1981, 10:02 a.m.  
Doc. No. 811152

## Texas Commission for the Deaf

**Friday and Saturday, February 27 and 28, 1981, 9-4 p.m. daily.** The Board for the Evaluation of Interpreters of the Texas Commission for the Deaf will meet in emergency session in Room 106, 510 South Congress Avenue, Austin. According to the agenda summary, the board will consider the following: minutes; levels of skills; rules of operation; job description of media person; grievance procedures; forms; areas to be tested; report from subcommittees on testing procedures; code of ethics; and date and site of next meeting.

Information may be obtained from Fred R. Tammen, Texas Commission for the Deaf, P.O. Box 12904, Austin, Texas 78711, (512) 475-2492.

Filed: February 24, 1981, 8:30 a.m.  
Doc. No. 811241

## State Board of Dental Examiners

**Sunday, February 22, 1981, 8:30 a.m.** The State Board of Dental Examiners held an emergency meeting at the Shamrock Hilton Hotel, Houston, to conduct disciplinary hearings and hear license reinstatement requests. The board also discussed the following: gold materials used on exams; appointments to hygiene advisory committee; Dental Laboratory Advisory Board rules; Campbell Soup Dental Group; computer records; "agreed board order" and hearing officers; faculty private practice information; state-employed hygienists screening children; Senate Bills 254 and 355; permanent adoption of Rule 382.19.11.004; and rules on CPR, advertising, and x-ray labs. In addition, the board heard reports on the following: acceptance of license for cancellation; anesthesia and anesthetic agents; auditor's report, general business and reports, and recognizing and listening to members of the public. An executive session was also convened to discuss litigation suits. The emergency status was necessary because the board had to continue its meeting through February 22, 1981, in order to complete all items on the agenda.

Information may be obtained from Donald B. Wilson, 7th and Brazos, 718 Southwest Tower, Austin, Texas 78701, (512) 476-2443.

Filed: February 20, 1981, 2:24 p.m.  
Doc. No. 811190

## Texas Education Agency

**Wednesday, March 4, 1981, 7:30 p.m.** The State Advisory Committee for Career Education of the Texas Education Agency will meet at the Austin Hilton Inn, 6000 Middle Fiskville Road, Austin. According to the agenda, the committee will review the program of the governor's symposium on career education, and consider sub-committee assignments.

Information may be obtained from Walter Rambo, 201 East 11th Street, Austin, Texas 78701, (512) 475-6838.

Filed: February 20, 1981, 10:53 a.m.  
Doc. No. 811157

## Texas Health Facilities Commission

**Friday, March 6, 1981, 9:30 a.m.** The Texas Health Facilities Commission will meet in Suite 305 of the Jefferson Building, 1600 West 38th Street, Austin, to consider the following applications:

### Certificate of Need

Hermann Hospital, Houston  
AH80-0728-030 and AH80-0918-024  
The University of Texas Medical Branch, Galveston  
AH80-1010-007  
Southmore Medical Center, Pasadena  
AH80-1030-013  
St. Paul Hospital, Dallas  
AH80-1201-001

### Motions for Reconsideration/Rehearing

McAllen Community Hospital, McAllen  
AH80-0516-022  
Hidalgo Medical Center Hospital, McAllen  
AH80-0328-033  
Surgical Center of Corpus Christi and Knolle  
Center, Inc., Corpus Christi  
AS80-0630-015

### Declaratory Ruling

Bryan Oaks, Denton  
AN81-0106-006  
PruCare of Austin, Austin  
AO81-0108-016

### Exemption Certificate

Memorial Hospital, Garland, Garland  
AH80-1229-049  
Scott and White Memorial Hospital, Temple  
AH81-0112-024  
St. Luke's Episcopal Hospital, Houston  
AH81-0112-026  
Crosbyton Clinic Hospital, Crosbyton  
AH80-1229-047

### Amendment of Certificate of Need

Robert B. Green Clinic, San Antonio  
AH79-1031-011A (010981)

Information may be obtained from John R. Neel, P.O. Box 15023, Austin, Texas 78761, (512) 475-6940.

Filed: February 23, 1981, 9:33 a.m.  
Doc. No. 811212

## University of Houston

**Monday, March 2, 1981, 8 a.m.** The Broadcasting, Development, and Public Affairs Committee of the University of Houston Board of Regents will meet in the board room, 220 Ezekiel Cullen Building, University of Houston—Central Campus. According to the agenda, the board will discuss and/or approve the KUHT-TV quarterly report, the public affairs and development reports, and other business.

Information may be obtained from Deborah Selden, 4800 Calhoun, Houston, Texas 77004, (713) 749-7545.

Filed: February 23, 1981, 10:05 a.m.  
Doc. No. 811204

**Monday, March 2, 1981, 9 a.m.** The Facilities and Building Committee of the University of Houston Board of Regents will meet in the board room, 220 Ezekiel Cullen Building, University of Houston—Central Campus. According to the agenda, the board will discuss and/or approve the following items: Central Campus—coastal center right of entry and improvements; Clear Lake Campus—easements; Downtown Campus—ratification of right of entry for construction easements; all components—construction status report, December 1980; information item—multiple use agreement with State Highway Department to use highway right of way for recreation use by the Downtown Campus; extended community—Phase II; other business.

Information may be obtained from Deborah Selden, 4800 Calhoun, Houston, Texas 77004, (713) 749-7545.

Filed: February 23, 1981, 10:05 a.m.  
Doc. No. 811205

**Monday, March 2, 1981, 1:30 p.m.** The University of Houston Board of Regents will meet in the board room, 220 Ezekiel Cullen Building, University of Houston—Central Campus. According to the agenda summary, the board will conduct an executive session and then discuss and/or approve the following items and reports from the following committees: Audit Committee; Student, Alumni, and Athletic Affairs Committee; Campuses, Faculty, and Academic Affairs Committee; Broadcasting, Development, and Public Affairs Committee—KUHT-TV quarterly report; Budget and Finance Committee; Investment Committee—investment changes, addition to endowment fund securities; and the Facilities and Building Committee; and the president's report.

Information may be obtained from Deborah Selden, 4800 Calhoun, Houston, Texas 77004, (713) 749-7545.

Filed: February 23, 1981, 10:05 a.m.  
Doc. No. 811206

## State Board of Insurance

**Monday, February 23, 1981, 10:30 a.m.** The Commissioner's Hearing Section of the State Board of Insurance conducted an emergency public hearing in Room 342, 1110 San Jacinto, Austin, in Docket 6307—application for certificate of authority filed by U.G. Life Insurance Company, Dallas. The emergency hearing was necessary because of time constraints.

Information may be obtained from J. C. Thomas, 1110 San Jacinto, Austin, Texas 78786, (512) 475-4353.

Filed: February 19, 1981, 3:29 p.m.  
Doc. No. 811144

**Wednesday, March 4, 1981, 9 a.m.** The Commissioner's Hearing Section of the State Board of Insurance will conduct a public hearing in Room 342, 1110 San Jacinto, Austin, in Docket 6303—application for original charter of Consolidated Bankers Life Insurance Company of Texas, Austin.

Information may be obtained from J. C. Thomas, 1110 San Jacinto, Austin, Texas 78786, (512) 475-4353.

Filed: February 23, 1981, 2:23 p.m.  
Doc. No. 811225

**Wednesday, March 4, 1981, 10 a.m.** The Commissioner's Hearing Section of the State Board of Insurance will conduct a public hearing in Room 342, 1110 San Jacinto Street, Austin, in Docket 6304—application for original charter of Financial Fidelity Life Insurance Company of Texas, Austin.

Information may be obtained from J. C. Thomas, 1110 San Jacinto Street, Austin, Texas 78786, (512) 475-4353.

Filed: February 23, 1981, 2:23 p.m.  
Doc. No. 811226

**Wednesday, March 4, 1981, 1:30 p.m.** The Commissioner's Hearing Section of the State Board of Insurance will conduct a public hearing in Room 342, 1110 San Jacinto Street, Austin, in Docket 6295 to consider whether the certificate of authority of Life Insurance Company of New Hampshire should be suspended or revoked.

Information may be obtained from J. C. Thomas, 1110 San Jacinto Street, Austin, Texas 78786, (512) 475-4353.

Filed: February 23, 1981, 2:22 p.m.  
Doc. No. 811227

**Thursday, March 5, 1981, 1:30 p.m.** The Commissioner's Hearing Section of the State Board of Insurance will conduct a public hearing in Room 342, 1110 San Jacinto Street, Austin, in Docket 6305—application for original charter of Liberty American Life Insurance Company, Lubbock.

Information may be obtained from J. C. Thomas, 1110 San Jacinto Street, Austin, Texas 78786, (512) 475-4353.

Filed: February 23, 1981, 2:22 p.m.  
Doc. No. 811228

**Tuesday, March 10, 1981, 9:30 a.m.** The Commissioner's Hearing Section of the State Board of Insurance will conduct a rescheduled hearing in Room 342, 1110 San Jacinto Street, Austin, in Docket 6285—application for original charter of International Indemnity Company of Texas. This meeting was rescheduled from February 19, 1981.

Information may be obtained from J. C. Thomas, 1110 San Jacinto Street, Austin, Texas 78786, (512) 475-4353.

Filed: February 23, 1981, 2:22 p.m.  
Doc. No. 811229

## Texas Commission on Jail Standards

**Wednesday, February 25, 1981, 8:30 a.m.** The Texas Commission on Jail Standards made an emergency addition to the agenda of a meeting held in Suite 206 of the Law Center, 1414 Colorado, Austin, to review Burnet County Jail. The commission reviewed the Burnet County Jail situation based on the previous issuance of a remedial order.

Information may be obtained from Robert O. Viterna, P.O. Box 12985, Suite 900, Executive Office Building, Austin, Texas 78711, (512) 475-2716.

Filed: February 23, 1981, 12:41 p.m.  
Doc. No. 811207

## Lamar University

**Saturday, March 21, 1981, 10 a.m.** The Lamar University Board of Regents will meet in the Spindletop Room, Mary and John Gray Library, main campus, Lamar University, Beaumont. According to the agenda, the board will meet in executive session to consider the University Development Program.

Information may be obtained from Andrew J. Johnson, P.O. Box 10014, Lamar University Station, Beaumont, Texas 77710, (713) 838-7533.

Filed: February 20, 1981, 2:15 p.m.  
Doc. No. 811187

## Texas Municipal Retirement System

**Saturday, March 14, 1981, 9 a.m.** The Board of Trustees of the Texas Municipal Retirement System will meet in the main auditorium, 1200 IH 35 North, Austin. According to the agenda summary, the board will consider and act on the following items: minutes of December meeting; applications for service retirements, disability retirements, and supplemental death benefits payments; financial statements, investment reports, and other reports of the director, actuary, and legal counsel; transfer of inactive accounts; proposal for decision in the case of Joe Deutsch, and hear oral argument—Docket 1980-CL10; legislative report; investment report by Reed Parker, investment advisor, Duff-Phelps, Inc.; and other business.

Information may be obtained from Jimmie L. Mormon, P.O. Box 2225, 1200 IH 35 North, Austin, Texas 78768, (512) 476-7577.

Filed: February 20, 1981, 3:45 p.m.  
Doc. No. 811191

## Board of Pardons and Paroles

**Monday-Friday, March 9-13, 1981, 9 a.m. daily.** The Board of Pardons and Paroles will meet in Room 711. Stephen



F. Austin Building, Austin. According to the agenda, the board will review cases of inmates for parole consideration; act on emergency reprieve requests and other acts of executive clemency; review reports regarding persons on parole; review procedures affecting the day-to-day operation of support staff; review and initiate needed rule changes relating to general operation, executive clemency, parole, and all hearings conducted by this agency; and take action upon gubernatorial directives.

Information may be obtained from Ken Casner, 711 Stephen F. Austin Building, Austin, Texas, (512) 475-3363.

Filed: February 24, 1981, 8:36 a.m.  
Doc. No. 811242

## State Pension Review Board

**Monday, March 2, 1981, 8:30 a.m.** The Legislative Advisory Committee of the State Pension Review Board will meet in Room G35B of the State Capitol Building. According to the agenda, the committee will meet in a regularly scheduled weekly work session to discuss upcoming legislation.

Information may be obtained from Lynda Baker, 105 West 15th Street, Reagan Building, Room 200, Austin, Texas, (512) 475-8332.

Filed: February 20, 1981, 10 a.m.  
Doc. No. 811151

**Monday, March 9, 1981, 8:30 a.m.** The Legislative Advisory Committee of the State Pension Review Board will meet in Room G35B, at the State Capitol, to conduct a regularly scheduled weekly work session to discuss upcoming legislation.

Information may be obtained from Lynda Baker, Room 200 John H. Reagan Building, 105 West 15th Street, Austin, Texas, (512) 475-8332.

Filed: February 24, 1981, 9:21 a.m.  
Doc. No. 811244

## Public Utility Commission of Texas

**Wednesday, February 25, 1981, 9 a.m.** The Public Utility Commission of Texas made an emergency addition to the agenda of a meeting held in Suite 450N, 7800 Shoal Creek Boulevard, Austin. The addition concerned the issuance of a final order in Docket 3633—application of Nob Hill Water for a certificate of convenience and necessity within Hunt County on an emergency basis to meet Veterans Administration loan deadline.

Information may be obtained from Philip F. Ricketts, 7800 Shoal Creek Boulevard, Suite 450N, Austin, Texas 78757, (512) 458-0100.

Filed: February 19, 1981, 3:55 p.m.  
Doc. No. 811146

**Tuesday, March 3, 1981.** The Hearings Division of the Public Utility Commission of Texas will conduct prehearing conferences in Suite 450N, 7800 Shoal Creek Boulevard, Austin, at the following times:

**9 a.m.** Docket 3674—appeals of Community Public Service Company from the ratemaking ordinances of the Cities of Pecos, et al.

**10 a.m.** Docket 3706—application of Gulf Utility Company to increase water and sewer rates in Galveston County.

Information may be obtained from Philip F. Ricketts, 7800 Shoal Creek Boulevard, Suite 450N, Austin, Texas 78757, (512) 458-0100.

Filed: February 19, 1981, 3:55 p.m.  
Doc. Nos. 811147 and 811224

**Wednesday, March 4, 1981, 9:30 a.m.** The Hearings Division of the Public Utility Commission of Texas has rescheduled a prehearing conference to be held in Suite 450N, 7800 Shoal Creek Boulevard, Austin, in Docket 3697—application of Chilton Water Works for authority to increase rates within Falls County. This conference was previously scheduled for February 25, 1981.

Information may be obtained from Philip F. Ricketts, 7800 Shoal Creek Boulevard, Suite 450N, Austin, Texas 78757, (512) 458-0100.

Filed: February 20, 1981, 2:14 p.m.  
Doc. No. 811185

**Friday, March 6, 1981, 10:30 a.m.** The Hearings Division of the Public Utility Commission of Texas will conduct a prehearing conference in Suite 450N, 7800 Shoal Creek Boulevard, Austin, in Docket 3546—application of Gulf Water Benefaction Company for authority to increase rates by imposing a surcharge within Harris County (water).

Information may be obtained from Philip F. Ricketts, 7800 Shoal Creek Boulevard, Suite 450N, Austin, Texas 78757, (512) 458-0100.

Filed: February 23, 1981, 10:04 a.m.  
Doc. No. 811213

**Wednesday, March 11, 1981.** The Hearing Division of the Public Utility Commission of Texas will conduct prehearing conferences in Suite 450N, 7800 Shoal Creek Boulevard, Austin, at the following times:

**10 a.m.** Docket 3735—application of Siesta Shores Water Works for a rate increase within Zapata County.

**1:30 p.m.** Docket 3704—application of Park Water System for a water rate increase and for a certificate of convenience and necessity within Bell County.

Information may be obtained from Philip F. Ricketts, 7800 Shoal Creek Boulevard, Suite 450N, Austin, Texas 78757, (512) 458-0100.

Filed: February 20, 1981, 10:01 a.m.  
Doc. Nos. 811221 and 811153

**Monday, March 16, 1981, 10:30 a.m.** The Hearings Division of the Public Utility Commission of Texas is rescheduling a hearing on the merits of Docket 3588 to be held in Suite

450N, 7800 Shoal Creek Boulevard, Austin, concerning the appeal of S.S.S. Water Systems, Inc., from the rate order of the City of Granit Shoals. This hearing was previously scheduled for March 9, 1981.

Information may be obtained from Philip F. Ricketts, 7800 Shoal Creek Boulevard, Suite 450N, Austin, Texas 78757, (512) 458-0100.

Filed: February 20, 1981, 10:02 a.m.  
Doc. No. 811154

**Tuesday, March 17, 1981, 10 a.m.** The Hearings Division of the Public Utility Commission of Texas will meet in Suite 450N, 7800 Shoal Creek Boulevard, Austin, to conduct a hearing on the merits of Docket 3338—application of Denman's Water Company, Inc., for a certificate of convenience and necessity within Bell County.

Information may be obtained from Philip F. Ricketts, 7800 Shoal Creek Boulevard, Suite 450N, Austin, Texas 78757, (512) 458-0100.

Filed: February 20, 1981, 2:14 p.m.  
Doc. No. 811186

**Wednesday, April 8, 1981, 9 a.m.** The Hearings Division of the Public Utility Commission of Texas will meet in Suite 450N, 7800 Shoal Creek Boulevard, Austin, to conduct a hearing on the merits of Docket 3677—application of Lamar County Electric Cooperative Association for authority to increase rates within Lamar, Red River, Delta, and Fannin Counties.

Information may be obtained from Philip F. Ricketts, 7800 Shoal Creek Boulevard, Suite 450N, Austin, Texas 78757, (512) 458-0100.

Filed: February 20, 1981, 10:02 a.m.  
Doc. No. 811155

**Wednesday, April 29, 1981, 9 a.m.** The Hearings Division of the Public Utility Commission of Texas will meet in Suite 450N, 7800 Shoal Creek Boulevard, Austin, to conduct a hearing on the merits of Docket 3711—application of Midwest Electric Cooperative, Inc., for a rate increase.

Information may be obtained from Philip F. Ricketts, 7800 Shoal Creek Boulevard, Suite 450N, Austin, Texas 78757, (512) 458-0100.

Filed: February 23, 1981, 2:05 p.m.  
Doc. No. 811222

## Railroad Commission of Texas

**Tuesday, March 3, 1981, 9 a.m.** The Railroad Commission of Texas will meet in the third floor conference room, 1124 IH 35 South, Austin. Following the regular agenda, the commission will go into executive session to discuss personnel actions for all divisions and to consult with its legal staff on prospective and pending litigation pursuant to Sections 2g and 2e of the Act, respectively.

Information may be obtained from Carla S. Doyme, 1124 IH 35 South, Austin, Texas 78711, (512) 445-1186.

Filed: February 20, 1981, 12:02 p.m.  
Doc. No. 811179

**Tuesday, March 3, 1981, 9 a.m.** The Gas Utilities Division of the Railroad Commission of Texas will meet in Room 107, 1124 IH 35 South, Austin. According to the agenda summary, the division will consider Gas Utilities Dockets 2913, 2919, 2689, and the director's report.

Information may be obtained from Lucia Sturdevant, P.O. Drawer 12967, Austin, Texas 78711, (512) 445-1126.

Filed: February 20, 1981, noon.  
Doc. No. 811180

**Tuesday, March 3, 1981, 9 a.m.** The Oil and Gas Division of the Railroad Commission of Texas will meet in the first floor auditorium, 1124 IH 35 South. According to the agenda summary, the division will consider various matters falling within the Railroad Commission's oil and gas regulatory jurisdiction.

Information may be obtained from Jan Burris, P.O. Drawer 12967, Austin, Texas 78711, (512) 445-1307.

Filed: February 20, 1981, 12:01 p.m.  
Doc. No. 811181

**Tuesday, March 3, 1981, 9 a.m.** The Oil and Gas Division of the Railroad Commission of Texas is making an addition to the agenda of a meeting to be held in the first floor auditorium, 1124 IH 35 South, Austin. The addition concerns category determinations under Sections 102(c)(1)(B), 102(c)(1)(C), 103, 107, and 108 of the Natural Gas Policy Act of 1978.

Information may be obtained from Madalyn J. Girvin, P.O. Drawer 12967, Austin, Texas 78711, (512) 445-1273.

Filed: February 20, 1981, 12:01 p.m.  
Doc. No. 811182

**Tuesday, March 3, 1981, 9 a.m.** The Surface Mining Division of the Railroad Commission of Texas will meet in the first floor auditorium, 1124 IH 35 South, Austin. According to the agenda, the division will consider Docket 027—request by Anaconda Copper Company (Rhode Ranch Uranium Mine) for approval of its application to self-bond and for permit issuance. The permit area covers 8,909 acres and is located approximately 25 miles southwest of George West in McMullen County. The division will also hear the director's report.

Information may be obtained from J. Randel (Jerry) Hill, P.O. Drawer 12967, Austin, Texas 78711, (512) 475-0206.

Filed: February 20, 1981, noon.  
Doc. No. 811183

**Tuesday, March 3, 1981, 9 a.m.** The Transportation Division of the Railroad Commission of Texas will meet at 1124 IH 35 South, Austin. According to the agenda, the division will consider various matters falling within the Railroad Commission's transportation regulatory jurisdiction.

Information may be obtained from Owen T. Kinney, P.O. Drawer 12967, Austin, Texas 78711

Filed: February 20, 1981, 12:01 p.m.  
Doc. No. 811184

## School Land Board

**Tuesday, March 3, 1981, 10 a.m.** The School Land Board will meet in Conference Room 831 of the Stephen F. Austin Building, 1700 North Congress Avenue, Austin. According to the agenda, the board will consider the following items: pooling applications; pooling agreement amendment; pooling agreement ratification; coastal public lands—easement applications; cabin permit transfer requests; cabin permit terminations; coastal public lands report—cabin permit renewals; and consideration of proposed land trade, Guy Stovall, Jr., Brewster County.

Information may be obtained from Linda Fisher, 1700 North Congress Avenue, Stephen F. Austin Building, Room 835, Austin, Texas 78701, (512) 475-2071.

Filed: February 23, 1981, 2:16 p.m.  
Doc. No. 811220

## University of Texas

**Thursday, February 26, 1981, 9:30 a.m.** The Committee on Endowment Lands in Dallas and Collin Counties of the University of Texas Board of Regents met in emergency session in Room 1.604, 2201 Waterview Drive, U.T. Dallas Administration Building, Dallas. The committee considered the feasibility of a request for an extension to Starwood Development Corp., of Dallas, of its option to purchase 43,1132 acres of Endowment Land in Collin County. The reason for the emergency status was that the Starwood Development Corp. had just made this request and the latest practicable date the committee could meet to consider this request was Thursday, February 26, 1981.

Information may be obtained from Betty Anne Thedford, P.O. Box N, U.T. Station, Austin, Texas 78712, (512) 471-1265.

Filed: February 23, 1981, 2:29 p.m.  
Doc. No. 811223

## Texas Southern University

**Wednesday, March 4, 1981, 9:30 a.m.** The Finance Committee of the Board of Regents of Texas Southern University will meet at Texas Southern University, 3100 Cleburne, Houston, to consider monthly financial reports from the administration.

Information may be obtained from Everett O. Bell, Texas Southern University, Houston, Texas, (713) 529-8911.

Filed: February 23, 1981, 10:07 a.m.  
Doc. No. 811208

**Wednesday, March 4, 1981, 11 a.m.** The Faculty and Curriculum Committee of the Board of Regents of Texas Southern University will meet at Texas Southern University, 3100 Cleburne, Houston, to receive enrollment and curricula data from the administration.

Information may be obtained from Everett O. Bell, Texas Southern University, Houston, Texas, (713) 529-8911.

Filed: February 23, 1981, 10:07 a.m.  
Doc. No. 811209

**Wednesday, March 4, 1981, 2 p.m.** The Building and Grounds Committee of the Board of Regents of Texas Southern University will meet at the Texas Southern University, 3100 Cleburne, Houston, for the approval of contracts for payment, acquisition of real estate, and the awarding of contracts.

Filed: February 23, 1981, 10:07 a.m.  
Doc. No. 811210

**Thursday, March 5, 1981, 10 a.m.** The Texas Southern University Board of Regents will meet in Student Life Center, Room 20, Texas Southern University, 3100 Cleburne, Houston, to consider fiscal and curriculum reports from the administration and approval of short-term investments as recommended by the Finance Committee.

Information may be obtained from Everett O. Bell, Texas Southern University, Houston, Texas, (713) 529-8911.

Filed: February 23, 1981, 10:07 a.m.  
Doc. No. 811211

## Texas Water Commission

**Monday, February 23, 1981, 10 a.m.** The Texas Water Commission made an emergency addition to the agenda of a meeting held in Room 118 of the Stephen F. Austin Building, 1700 North Congress Avenue, Austin. The addition concerns the filing and setting of hearing dates for petitions of creations of various municipal utility districts. Inasmuch as confirmation elections can only be scheduled four times a year, it was necessary that the commission consider the referenced petitions for the filing and setting of hearing dates as soon as possible to meet the April election deadline.

Information may be obtained from Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, (512) 475-4514.

Filed: February 20, 1981, 11:04 a.m.  
Doc. No. 811158

**Tuesday, March 3, 1981, 10 a.m.** The Texas Water Commission is making an addition to the agenda of a meeting held in Room 118 of the Stephen F. Austin Building, 1700 North Congress Avenue, Austin. The addition concerns applications for final decision by Ludwig J. Zernicek and Lillian G. Zernicek, Brazos-Colorado Basin in Matagorda County and Dr. I. V. Epstein, Guadalupe River Basin in Gonzales County.

Information may be obtained from Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, (512) 475-4514.

Filed: February 20, 1981, 11:05 a.m.  
Doc. No. 811159

**Thursday, March 12, 1981, 10 a.m.** The Texas Water Commission will conduct hearings in Room 118 of the Stephen F. Austin Building, 1700 North Congress Avenue, Austin, to consider petitions for organization of the following: First Colony Municipal Utility District 7 containing 207.913 acres; First Colony Municipal Utility District 5 containing 587.488 acres; First Colony Municipal Utility District 6 containing 411.074 acres; First Colony Municipal Utility District 2 containing 365.357 acres; and First Colony Municipal Utility District 4 containing 727.693 acres.

Information may be obtained from Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, (512) 475-4514.

Filed: February 23, 1981, 3:10 p.m.  
Doc. Nos. 811230-811234

**Tuesday, March 17, 1981, 10 a.m.** The Texas Water Commission will conduct a hearing in Room 118 of the Stephen F. Austin Building, 2700 North Congress Avenue, Austin, on petition for organization of Montgomery County Municipal Utility District 46 containing 257.0724 acres.

Information may be obtained from Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, (512) 475-4514.

Filed: February 23, 1981, 3:11 p.m.  
Doc. No. 811235

**Wednesday, March 18, 1981, 10 a.m.** The Texas Water Commission will conduct hearings in Room 118 of the Stephen F. Austin Building, 1700 North Congress Avenue, Austin, to consider petitions for organization of the following: North Austin Growth Corridor Municipal Utility District 1 containing 918.645 acres and Rancho Isabella Municipal Utility District containing 427.77 acres.

Information may be obtained from Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, (512) 475-4514.

Filed: February 23, 1981, 3:12 p.m.  
Doc. Nos. 811236 and 811237

**Thursday, April 2, 1981, 10 a.m.** The Texas Water Commission will meet in Room 618 of the Stephen F. Austin Building, 1700 North Congress Avenue, Austin. According to the agenda summary, the commission will consider an application by Mobay Chemical Corp. seeking approval of preliminary plans for the construction of certain improvements on Cedar Bayou, a tributary of Galveston Bay, in Chambers and Harris Counties.

Information may be obtained from Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, (512) 475-4514.

Filed: February 20, 1981, 11:05 a.m.  
Doc. No. 811160

## Texas Water Well Drillers Board

**Tuesday, March 3, 1981, 9:30 a.m.** The Texas Water Well Drillers Board will meet in the executive conference room, fifth floor, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. According to the agenda summary, the board will consider the following items: approval of minutes of January 12, 1981, meeting; complaints for formal public hearings for Arturo Barrera, Gordon Peter Brien, Leo C.

Davison, Danny R. Glass, Wayne Hood and Western Well and Pump, Inc., Darwin D. Hook and Layne Western, Inc., Layne Western, Inc., and Tom Lawson; certification of applicants for registration; registration of drillers and water well drillers examinations since last board meeting; investigator's activities; staff reports; and final adoption of new standards of conduct proposed under the Water Well Drillers Act.

Information may be obtained from Jack Overton, P.E., P.O. Box 13087, Austin, Texas 78711, (512) 475-3191.

Filed: February 20, 1981, 11:04 a.m.  
Doc. No. 811161

**Tuesday, March 3, 1981, 1:30 p.m.** The Texas Water Well Drillers Board will meet in the executive conference room, fifth floor, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. According to the agenda summary, the board will consider whether to suspend or revoke the registration of William C. Rhodes, doing business as Dusty Rhodes Water Wells, Inc., New Waverly.

Information may be obtained from James Haley, P.O. Box 13087, Austin, Texas 78711, (512) 475-6943.

Filed: February 20, 1981, 11:03 a.m.  
Doc. No. 811162

## Regional Agencies

### Meetings Filed February 19, 1981

**The Amarillo MH/MR Center**, Executive Committee of the Board of Trustees, will meet in the Psychiatric Pavilion (G-14), 7201 Evans Street, Amarillo on February 24, 1981, at noon. The Board of Trustees, met at the same place and day, at 1 p.m. Information may be obtained from Claire Rigler, P.O. Box 3250, Amarillo, Texas 79106, (806) 353-7235.

**The Capital Area Rural Transportation System**, Board of Directors, will hold an emergency meeting in the conference room, 2520 IH 35 South, Austin, on March 20, 1981, at 2 p.m. Information may be obtained from Gayle M. Sundeen, 1000 North Lamar, Austin, (512) 474-0315.

**The Coastal Bend Council of Governments** will meet in the central jury room of the county courthouse, 901 Leopard, Corpus Christi, on February 27, 1981, at 2 p.m. The Executive Board will meet at the Nueces Club, Guaranty Bank Building, Corpus Christi, on the same day, at noon. Information may be obtained from John Buckner, P.O. Box 9909, Corpus Christi, Texas 78408, (512) 883-5743.

**The Lubbock Regional Mental Health and Mental Retardation Center**, Board of Trustees, met at 3800 Avenue H, Lubbock, on February 24, 1981, at 4:30 p.m. Information may be obtained from Gene Menefee, 1210 Texas Avenue, Lubbock, Texas, (806) 763-4213.

**The Trinity River Authority of Texas**, Board of Directors, met in the First Liberty National Bank Civic Room, 1900 Sam Houston, Liberty, on February 25, 1981, at 10:30 a.m. Information may be obtained from Geri Elliott, P.O. Box 60, Arlington, Texas 76010, (817) 467-4343.

Doc. No. 811138

## Meetings Filed February 20, 1981

**The Alamo Area Council of Governments, Alamo Consortium and Area Judges of the Alamo Consortium**, met in Room 532 of the Three Americas Building, San Antonio, on February 25, 1981, at noon. The Executive Committee met at the same location, on the same day, at 1:30 p.m. Information may be obtained from Al J. Notzon III, 400 Three Americas Building, San Antonio, Texas 78205, (512) 225-5201.

**The East Texas CETA Consortium**, Board of Directors, rescheduled a meeting which was held in the conference room, 3800 Stone Road, Kilgore, on February 25, 1981, at 2 p.m. Information may be obtained from Wendell Holcombe, 3800 Stone Road, Kilgore, Texas 75662, (214) 984-8641.

**The Education Service Center, Region XIII**, Board of Directors, met in Conference Room 101, 7703 North Lamar, Austin, on February 23, 1981, at 7 p.m. Information may be obtained from Dr. Joe Parks, 7703 North Lamar, Austin, Texas, (512) 458-9131.

**The Houston-Galveston Area Council** met in the large conference room, 3701 West Alabama, Houston, on February 24, 1981, 9:30 p.m. Information may be obtained from Jack Steele, 3701 West Alabama, Houston, Texas, (713) 627-3200.

**The Northeast Texas Health Systems Agency**, Executive Committee, will meet in the Marshall Civic Center, 2501 East Boulevard South, Marshall, on March 3, 1981, at 7 p.m. Information may be obtained from Bayard S. Galbraith, 505 East Travis Street, Suite 201, Marshall, Texas 75670, (214) 938-8331.

**The Nueces River Authority**, Board of Directors, met at the City Water Board offices, 1001 Market Street, San Antonio, on February 26, 1981, at 11 a.m. Information may be obtained from Con Mims, P.O. Box 349, Uvalde, Texas 78801, (512) 278-6810.

**The Rusk County Appraisal District**, Board of Directors, met in the administrative offices, 107 North Van Buren, Henderson, on February 26, 1981, at 1:30 p.m. Information may be obtained from Melvin R. Cooper, P.O. Box 7, Henderson, Texas 75652, (214) 657-9697.

**The South Texas Health Systems Agency**, Coastal Bend Subarea Health Advisory Council, will meet at the Greenwood Senior Community Center, 4040 Greenwood Road, Corpus Christi, on March 4, 1981, at 7 p.m. Information may be obtained from Helen Fisher, Box 2378, Kingsville, Texas 78363, (512) 595-5545.

Doc. No. 811156

## Meetings Filed February 23, 1981

**The Austin-Travis County MH/MR Center**, Board of Trustees, met in the board room, 1430 Collier Street, Austin, on February 26, 1981, at 7:30 p.m. Information may be obtained from Becky Howard, 1430 Collier Street, Austin, Texas 78704, (512) 447-4141.

**The Bell County Appraisal District** will meet on the second floor, commissioners' courtroom, Bell County Courthouse, Belton, on March 4, 1981, at 7 p.m. Information may be obtained from Tolly Moore, P.O. Box 390, Belton, Texas 76513, (817) 939-3521, ext. 294.

**The Brazos Higher Education Service Corporation, Inc.**, Board of Directors, held an emergency meeting on the third floor of Pat Neff Hall, Baylor University, Waco, on February 25, 1981, at 11 a.m. Information may be obtained from Murray Watson, Jr., 716 Lake Air Drive, Waco, Texas 76710, (817) 772-7900.

**The Deep East Texas Regional MH/MR Services**, Board of Trustees, held an emergency meeting in the Ward R. Burke Community Room—Day Treatment/Administration Facility, Lufkin, on February 24, 1981, at 5:30 p.m. Information may be obtained from Wayne Lawrence, Ph.D., 4101 South Medford Drive, Lufkin, Texas 75901, (713) 639-1141.

**The Gregg County Appraisal District** will meet in the board room of the Spring Hill Administration Building, Highway 300 North, Longview, on March 3, 1981, at 6 p.m. Information may be obtained from William T. Carroll, P.O. Box 6700, 415 North Center, Suite 5, Longview, Texas 75608, (214) 757-8214.

**The Lower Rio Grande Valley Development Council**, Board of Directors, met at the Harlingen Chamber of Commerce, 311 East Tyler, Harlingen, on February 26, 1981, at 1 p.m. Information may be obtained from Robert A. Chandler, First National Bank Building, Suite 207, McAllen, Texas 78501, (512) 682-3481.

**The Panhandle Regional Planning Commission**, Board of Directors, met in the PRPC conference room, first floor of the Amarillo Building, 3rd and Polk Streets, Amarillo, on February 26, 1981, at 1:30 p.m. Information may be obtained from Polly Jennings, P.O. Box 9257, Amarillo, Texas 79105, (806) 372-3381.

**The Parmer County Appraisal District** will meet in the board room, Parmer County Tax Appraisal Office, 3rd Street, Bovina, on March 2, 1981, at 8 p.m. Information may be obtained from Patsy Nance, RPA, Box 56, Bovina, Texas 79009, (806) 238-1405.

**The Region V Education Service Center**, Board of Directors, met in the board room, 2295 Delaware Street, Beaumont, on February 26, 1981, at 1:15 p.m. Information may be obtained from Fred Waddell, 2295 Delaware Street, Beaumont, Texas, (713) 835-5212.

**The Region IX Education Service Center**, Board of Directors, held an emergency meeting at 301 Loop 11, Wichita Falls, Texas, on February 26, 1981, at 9 a.m. Information may be obtained from H. M. Fullerton, 301 Loop 11, Wichita Falls, Texas 76305, (817) 322-6928.

**The Region XI CETA Consortium**, McLennan County Non-Urban Administration Unit, met in the HOTCOG meeting room, 320 Franklin, Waco, on February 26, 1981, at 10 a.m. Information may be obtained from Catherine Terrell, 310 Franklin, Waco, Texas 76701, (817) 756-1851.

**The South Texas Development Council**, Advisory Committee on Aging, will meet in the conference room, 600 South Sandman, Laredo, on March 18, 1981, at 2 p.m. Information may be obtained from Kathy Henderson, P.O. Box 2187, Laredo, Texas 78041, (512) 722-3995.

**The Wheeler County Tax Appraisal District** will meet at the district's office, Wheeler County Courthouse Square,

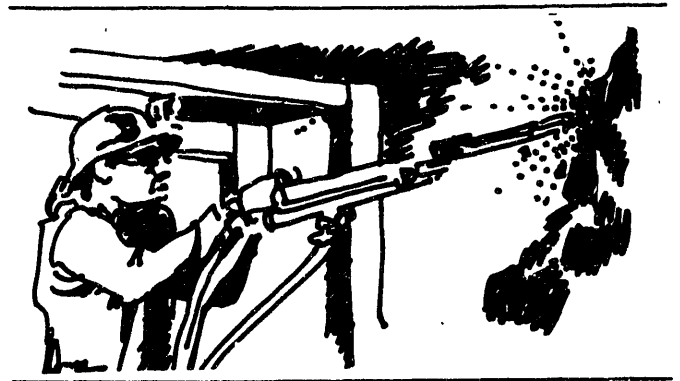
Wheeler, on March 2, 1981, at 2 p.m. Information may be obtained from Charles Buzzard, Box 349, Wheeler, Texas, (806) 826-5900.

Doc. No. 811193

**Meetings Filed February 24, 1981**

*The Hansford County Appraisal District* will meet in the Spearman High School auditorium, 403 11th Street, Spearman, on March 3, 1981, at 2 p.m. Information may be obtained from Jimmy Shieldknight, P.O. Box 517, Spearman, Texas, (806) 659-3731.

Doc. No. 811243



## Texas Air Control Board

### Applications for Construction Permits

Notice is given by the Texas Air Control Board of applications for construction permits received during the period of February 9-13, 1981.

Information relative to these applications, including projected emissions and the opportunity to comment or to request a hearing, may be obtained by contacting the office of the executive director at the Central Office of the Texas Air Control Board, 6330 Highway 290 East, Austin, Texas 78723.

A copy of all material submitted by the applicant is available for public inspection at the Central Office of the Texas Air Control Board at the address stated above and at the regional office for the air quality control region within which the proposed facility will be located.

Listed are the name of the applicant and the city in which the facility is located; type of facility; location of the facility (if available); permit number; and type of application—new source or modification.

### Week Ending February 13, 1981

Lordsbridge Investment Corp., Plano; concrete batch plant; 4700 Plano Parkway; 6411B; new source

Liquid Energy Corp., Falfurrias; cryogenic gas processing plant; Falfurrias plant; 8709; new source

Cameron Iron Works, Inc., Sealy; paint spray booth; Sealy Plant; 8708; new source

Enterprise Products Plant, Mont Belvieu; seminole fracionater; location unavailable; 8707; new source

Issued in Austin, Texas, on February 19, 1981.

Doc. No. 811163      Ramon Dasch  
                                  Director of Hearings  
                                  Texas Air Control Board

Filed: February 20, 1981, 10:04 a.m.  
 For further information, please call (512) 451-5711, ext. 354.

## Banking Department of Texas

### Applications to Purchase Control of State Banks

Article 342-401a, Vernon's Texas Civil Statutes, requires any person who intends to buy control of a state bank to file an application with the banking commissioner for the commissioner's approval to purchase control of a particular bank. A hearing may be held if the application is denied by the commissioner.

On February 17, 1981, the banking commissioner received an application to acquire control of Bank of the West, Lubbock, by Roger Chapman of Houston; B. M. Rankin, Jr., Gerald J. Ford, Bill D. Saxon, James R. Sowell, Robert Nichols, all of Dallas; James W. Glanville of Darien, Connecticut; James R. Moffett of Gretna, Louisiana; James H. Stone of New Orleans, Louisiana; Tom Nichols of Denver City; Larry D. Willard of Post; and Ward W. Woods of New York, New York.

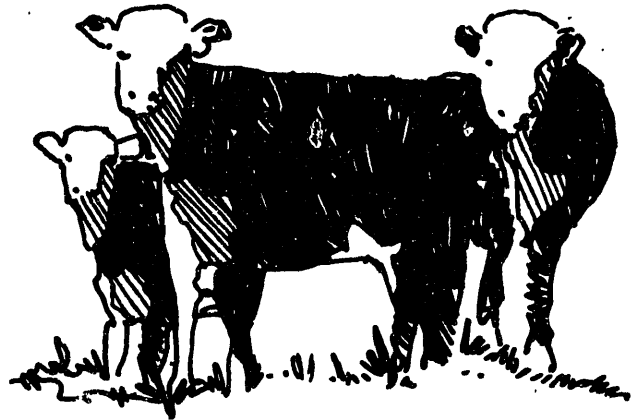
On February 17, 1981, the banking commissioner received an application to acquire control of Azle State Bank, Azle, by Robert H. Holmes of Highland Park; Robert J. Schumacher of Fort Worth; James C. Parker of Rifle, Colorado; Claude B. Prestidge of Dallas; W. E. Rector of Fort Worth; Charles A. Shelton of Kingwood; Jerry Smith of Azle; William C. Hall of Lake City, Colorado.

Additional information may be obtained from Robert E. Stewart, 2601 North Lamar, Austin, Texas 78705, telephone (512) 475-4451.

Issued in Austin, Texas, on February 17, 1981.

Doc. No. 811116 &      Robert E. Stewart  
                                  811125              Banking Commissioner

Filed: February 18, 1981, 10:52 a.m.  
 For further information, please call (512) 475-4451.



## Texas Department of Community Affairs

### Request for Proposal

**Notice of Invitation for Proposals.** The Texas Department of Community Affairs (TDCA), a prime sponsor under the auspices of the Comprehensive Employment and Training Act, announces a request for proposal (RFP) to perform the services described herein. TDCA is seeking applicants to implement a Governor's Statewide Entrepreneurship Conference and Minority Business Trade Fair. The conference will focus on bringing together successful entrepreneurs and small business people for the purpose of promoting entrepreneurship, business growth, job creation, and private sector utilization of employment and training programs and will include a comprehensive series of business improvement seminars (topics such as accounting and cash flow, sources of finance, business planning, improving management skills, government programs, tax credits, and related regulations). A minority business trade fair is also planned as an adjunct event for participation and displays by major corporations and by minority- and female-owned businesses.

**Qualifications Desired by TDCA.** Offerors must evidence their capability to accomplish the requested services. Offerors may be requested to include specific items and documents which attest to the applicant's capability to provide the desired services. Offerors may be requested to include documentation of their legal authority to contract with TDCA to provide these services. Every proposal shall include a list of all persons employed by or offered employment by the offeror who at the time the proposal is submitted has been an employee of TDCA within the six months prior to its submission.

**Deadline for Submission.** The RFP will close as of 5 p.m. March 20, 1981, except for those proposals received post marked on or before March 18, 1981.

**Provision for Instructional Meeting.** A meeting will be held to discuss and distribute request for proposal instructions on March 4, 1981, at 1:30 p.m. in the first floor auditorium of the TDCA building, 210 Barton Springs Road, Austin. A summation of the project format which is the basis for this RFP is as follows:

(1) Plan and coordinate conference activities which may include but may not be limited to: arranging and coordinating conference and trade fair, exhibits, booths, and food/beverage service; coordinating conference registration and lodging arrangements; developing and coordinating agenda, activities, and business seminars; arranging for conference speakers; designing and printing materials (registration forms, packets, brochures); and processing conference and trade fair fees.

(2) Develop and implement a comprehensive marketing plan to attract the participation of corporations and minority/women-owned businesses. Activities should include advertising, direct mail, news releases, and answering inquiries. Promotion must address the dual purpose, entrepreneurship seminars, and the minority trade fair as separate yet related activities.

(3) Develop business seminars for conference participants which would address issues related to business development (tax credits, use of computers in small business, import, public private sector relationships, marketing, finance, etc.).

(4) Work with steering committees established to assist in the planning, organizing, and promotion of the conference.

**Additional Information; Period of Contract; Total Value.** Additional information regarding the project format will be set forth in the request for proposal instructions. Additional information may also be presented during the instructional meeting. The period of performance of services shall begin on or about April 1, 1981, and shall extend through September 30, 1981, at the option of TDCA. The contract amount shall not exceed \$80,000.

**General Information.** TDCA reserves the right to accept or reject any (or all) proposals submitted. TDCA is under no legal requirement to execute a resulting contract on the basis of this advertisement, and intends the material provided herein only as a means of identifying the various contractor alternatives and the general cost of the services desired by TDCA. TDCA intends to use responses hereto as a basis for further negotiation of specific project details with potential contractors. In the event that TDCA selects a contractor to provide the delivery of service provided herein, TDCA will base its choice on demonstrated competence and qualifications and the reasonableness of the fee for services. The re-

quest does not commit TDCA to pay for any costs incurred prior to execution of a contract and is subject to availability of funds from the United States Department of Labor for this procurement. Issuance of this material in no way obligates TDCA to award a contract or to pay any costs incurred in the preparation of a response hereto. TDCA specifically reserves the right to vary all provisions set forth herein at any time prior to execution of a contract where TDCA deems such variances to be in the best interest of the State of Texas, and to otherwise act as it determines in its sole discretion.

**Person to Contact.** For further information regarding this notice, please contact Pat Herron, administrative assistant, Manpower Services Division, at (512) 475-6216.

Issued in Austin, Texas, on February 19, 1981.

Doc. No. 811164      Jeanne Marcus  
                                  General Counsel  
                                  Texas Department of Community Affairs

Filed: February 20, 1981, 11 a.m.  
 For further information, please call (512) 475-6903.

## Texas Department of Health Correction of Error

Proposed Rules 301.54.13.001-.005 submitted by the Texas Department of Health and published in the February 13, 1981, issue of the *Texas Register* (6 TexReg 629) contained an error as published. Rule .004(a)(6)(D)(i) should read as follows:

(i) The National Building Code, 1976 edition, recommended by the American Insurance Association, 85 John Street, New York, New York 10038, using the occupancy child day care centers. The following subparagraphs of the designated sections are not applicable: 332.1, General, (b) and (d); 332.10, Floor Coverings and Interior Finish (entire section); 332.11, Hazardous Areas, (c) and (d); 332.13, Automatic Sprinkler Systems, (b); 332.17, Electrical Receptacles, (a).

## Texas Health Facilities Commission Applications for Declaratory Ruling, Exemption Certificate, and Transfer and Amendment of Certificate

Notice is hereby given by the Texas Health Facilities Commission of application (including a general project description) for declaratory ruling, exemption certificate, transfer of certificate, and amendment of certificate accepted during the period of February 18-20, 1981.

Should any person wish to become a formal party to any of the above-stated applications, that person must file a request to become a party to the application with the chairman of the commission within 25 days after the application is accepted. The first day for calculating this 25-day period is the first calendar day following the date of acceptance of the application. The 25th day will expire at 5 p.m. on the 25th consecutive day after the date said application is accepted. If the 25th day is a Saturday, Sunday, or state holiday, the last day shall be extended to 5 p.m. of the next day that is not a Saturday, Sunday, or state holiday. A request to become a party should be mailed to the chairman of the commission, P.O. Box



15023, Austin, Texas 78761, and must be received at the commission no later than 5 p.m. of the last day allowed for filing of a request to become a party.

The contents and form of a request to become a party to an application for a declaratory ruling, exemption certificate, transfer of certificate, or amendment of certificate must meet the minimum criteria set out in Rule 315.20.01.050. Failure of a party to supply the minimum necessary information in the correct form will result in a defective request to become a party and such application will be considered uncontested.

The fact that an application is uncontested will not mean that it will be approved. The application will be approved only if the commission determines that it qualifies under the criteria of Sections 3.02 or 3.03 or Article 4418(h), Texas Revised Civil Statutes, and Rules 315.17.04.010-.030, Rules 315.17.05.010-.030, Rules 315.18.04.010-.030, and Rules 315.18.05.010-.030.

In the following list, the applicant and date of acceptance are listed first, the file number second, the relief sought third, and description of the project fourth. EC indicates exemption certificate, DR indicates declaratory ruling, TR indicates transfer of ownership of certificate, AMD indicates amendment of certificate, and CN indicates certificate of need.

Citizens General Hospital, Houston (2/20/81)  
AH81-0217-029

EC—Request to lease 3,000 square feet of space in a building adjacent to the hospital for use by the medical staff and for storage of files, records, and miscellaneous

Westgate Hospital and Medical Center, Denton  
(2/20/81)  
AH81-0217-013

EC—Request to acquire a cardiac monitoring system for the critical care unit

St. Luke's Episcopal Hospital and Texas  
Children's Hospital, Houston (2/19/81)  
AH81-0213-013

EC—Request to lease additional office space on the 12th and 18th floors of the Medical Office Towers in order to relocate certain administrative functions

Lockhart Hospital, Inc., Lockhart (2/19/81)  
AH80-0121-024A (021381)

AMD/EC—Request to extend the completion deadline in Exemption Certificate AH80-0121-024 which authorized the acquisition of an audiovisual television monitoring system for two beds

Doctors Hospital, Corpus Christi (2/19/81)  
AH81-0120-020

DR—That neither a certificate of need nor an exemption certificate is required for the liquidation of Doctors Building Hospital, Inc., the owner and operator of Doctors Hospital in Corpus Christi

Issued in Austin, Texas, on February 23, 1981.

Doc. No. 811203      John R. Neel  
                                 General Counsel  
                                 Texas Health Facilities Commission

Filed: February 23, 1981, 9:33 a.m.  
For further information, please call (512) 475-6940.

## Texas Department of Human Resources

### Medicare/Medicaid Hospice Demonstration Project

In October 1980, the Texas Department of Human Resources was the recipient of a Health and Human Services, Health Care Financing Administration, award for a Medicare/Medicaid hospice demonstration project. The award is for a period of two years. The project sites are St. Benedicts in San Antonio and the Visiting Nurses' Association in Dallas. Both project sites were selected by the Health Care Financing Administration office prior to the award of the project. The hospice demonstration project will begin in March 1981.

The goal of the project is to explore the potential of hospice care as an alternative to services for the care of the terminally ill and to determine the overall cost of hospice care. In order to be eligible for the project, individuals must be Medicaid-eligible with a six-month prognosis to live; give written consent and obtain consent of physician and guardian; and have a responsible person/guardian available 24 hours a day.

Issued in Austin, Texas, on February 18, 1981.

Doc. No. 811121      Marlin W. Johnston  
                                 Acting Commissioner  
                                 Texas Department of Human Resources

Filed: February 18, 1981, 2:17 p.m.  
For further information, please call (512) 441-3355.

## Legislative Information System of Texas

### Toll-Free Telephone Number

The Texas Senate and House of Representatives are providing information on the activities of the 67th Legislature through a toll-free statewide WATS line to the Legislative Information System of Texas (LIST).

Information available includes bill status, schedules and agendas of committee meetings and hearings, and lists of bills by author, committee, and subject.

The LIST statewide toll-free telephone number is **1-800-252-9693** for calls from outside the Austin area. For calls originating in Austin, the telephone number is (512) 475-3026.

## Texas State Library and Archives Commission

### Consultant Contract Award

**Description of Service.** Pursuant to Article 6252-11c, Texas Civil Statutes, the Texas State Library and Archives Commission announces that Marketing, Advertising Design Productions has been awarded a contract for the period of February 10 through May 29, 1981, for the development of a multimedia educational information project to increase the public's awareness of library services available to them. The

firm will provide on or before May 29 the following: three 30-second TV messages; one 10-second tag; display ads; 250 repro proofs; four posters; two 30-second radio messages in English and two in Spanish; four 10-second radio scripts. Upon receipt, the Texas State Library will disperse these items to the 10 regional library systems in the state for their use.

**Contractor's Address; Contract Value.** Marketing, Advertising Design Productions is located at 719 West 6th Street, Austin, Texas 78701. The total value of the contract is \$21,300.

The consultant proposal request appeared in the December 5, 1980, issue of the *Texas Register* (5 TexReg 4865).

Issued in Austin, Texas, on February 18, 1981.

Doc. No. 811142      William D. Gooch  
                                  Assistant State Librarian  
                                  Texas State Library and Archives  
                                  Commission

Filed: February 19, 1981, 9:21 a.m.

For further information, please call (512) 475-6656.

## North Central Texas Council of Governments

### Consultant Proposal Request

**Contact Person.** James M. Ivey, community affairs specialist, North Central Texas Council of Governments, P.O. Drawer COG, Arlington, Texas 76011.

**Due Date.** Proposals are due March 27, 1981, 4:45 p.m., in the office of James E. Wiesehuegel, assistant general manager for administration, Dallas Transit System, 101 North Peak Street, Dallas, Texas 75226.

**Background.** The purpose of this study is to develop a plan for improving the ability of the Dallas Transit System (DTS) to recruit and adequately train qualified personnel. The study will review the appropriateness of the DTS schedule of wages and salaries and develop recommendations for strengthening the compensation package as it relates to the ability of the system to recruit and retain qualified personnel throughout all levels of system activities. The study will also review the screening methods used to select applicants for employment or promotion and will recommend improvements.

A second phase of the study will thoroughly review the current DTS training programs and practices, identify needed improvements, and develop a plan for implementing those improvements. The study will produce a comprehensive set of recommendations covering the DTS Wage and Salary Program and its administration, other aspects of employee recruitment and the training, both initial and continuing, of all employees. The work program for this study has been divided into two phases and sixteen tasks as outlined below:

#### Phase I

**Task 1.** The consultant will review current policies, procedures, and practices used by DTS in recruiting, hiring, and promoting personnel. The consultant will review the DTS Personnel Policies and Employee Benefits Manual and the DTS Wage and Salary Manual.

**Task 2.** The consultant will review the current policies and practices governing the Wage and Salary Program and the procedures used to prepare job descriptions to establish salary grades and to evaluate employee performance for merit increases. The end product will be a technical memorandum outlining the strengths and weaknesses of the program.

**Task 3.** The consultant will explore various sources of information in collecting data relative to the appropriateness of the scale of the DTS Wage and Salary Program.

**Task 4.** Working with the DTS Wage and Salary Committee, the consultant will develop a series of formal statements which represent the goals and objectives of the Dallas Transit System with respect to its Wage and Benefits Program. The consultant will seek to identify priorities and factors which affect the priorities. The consultant will also develop a methodology for the evaluation of the existing situation and any alternative recommendation which may be prepared. A system of scoring alternative recommendations is suggested.

**Task 5.** Based on the goals and objectives developed in Task 4, the consultant will develop a series of at least three alternative management/organizational scenarios, detailing the methodology of maintaining a reasonable differential between positions, while providing for management flexibility to reward individual performance. The consultant will use the ranking system developed in Task 4 to compare these alternative plans.

**Task 6.** Based on input from the Wage and Salary Committee and the Employee Relations Committee of the Transit Board, the consultant will refine the preferred alternative from Task 5 into a revised Wage and Salary Program. The program will include a series of policy statements conforming to the goals and objectives defined in Task 4, a set of procedures for implementing the program and guidelines for periodically updating the program. An interim technical report will document the revised Wage and Salary Program. The delivery of the interim technical report will conclude Phase I of the study.

#### Phase II

**Task 1.** The consultant will review the total spectrum of training activities undertaken by the Dallas Transit System. Training programs should be evaluated as they apply to three general branches of the DTS organization: transportation, maintenance, and administration.

**Task 2.** Based on the results of Task 1, the consultant will evaluate the effectiveness of DTS training programs, identifying strengths and weaknesses.

**Task 3.** The consultant will identify various training programs which are available to the transit industry and will compile information about the spectrum of available training programs in order to relate these programs to DTS needs.

**Task 4.** Using the needs statement developed in Task 2, the consultant will identify those existing programs which will meet specific DTS needs. The consultant will also identify those DTS needs which will require the development of new or significantly modified training programs.

**Task 5.** The consultant will conduct a work session with DTS management and the Employee Relations Committee of the Transit Board to review the results of Tasks 2, 3, and 4 and to receive direction for the development of a DTS training program, as well as the development of goals and objectives for the program.

**Task 6.** The consultant will develop a comprehensive outline of a training program designed to meet specifically identified DTS needs and overcome shortcomings of the existing DTS training programs.

**Task 7.** The consultant will recommend appropriate training aids and equipment and will estimate the cost of acquiring needed equipment and aids. The consultant will identify the need for full-time training personnel and for qualified on-the-job instructors.

**Task 8.** The consultant will develop a time-staged plan for the orderly introduction of the revised Wage and Salary Program and the introduction of new training programs and procedures.

**Task 9.** The consultant will prepare a draft final report fully documenting the study and all recommendations.

**Task 10.** Following approval by the DTS study director, the consultant will deliver 50 copies of the final report along with one reproducible copy.

**Contract Award Procedures.** The recommendation for the selection of a firm or agency for the DTS recruitment and training study will be accomplished by a Consultant Selection Committee. The contract award procedures which follow are not totally inclusive or mutually exclusive of other procedures which, in the opinion of the Consultant Selection Committee, require inclusion in order to achieve the best results possible within the scope of services requested. If the recommendation by the Consultant Selection Committee is approved by the Executive Board of NCTCOG, the NCTCOG Executive Board will award a contract to the firm or agency which is considered to be best able to perform the work set forth in the said contract.

(a) **Evaluation criteria.** Objective measurement of the criteria will be conducted and the methodology for measurement will be determined depending on its suitability and relationship to the scope of services requested.

- (1) Record of performance in related fields.
- (2) Staff experience.
- (3) Ability to meet specific time frames.
- (4) Demonstrated knowledge of work to be performed.
- (5) Project management.
- (6) Firm's Affirmative Action Policy and Plan.
- (7) Written proposal.
- (8) Oral presentation (if requested).

(b) **Evaluation methodology.**

(1) Written proposal evaluated by Consultant Selection Committee.

(2) Oral presentation (if requested) evaluated by Consultant Selection Committee.

(c) **Contract award.**

(1) Review of Consultant Selection Committee's recommendation by NCTCOG Executive Board to contract with consultant, and if approved,

- (2) Award of contract by NCTCOG Executive Board.

The North Central Texas Council of Governments, in accordance with Title VI of the Civil Rights Act of 1964, 78 Statute 252, 42 United States Code 2000d to 2000d-4, and Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally Assisted Programs of the Department of Transportation issued pursuant to such act, hereby notifies all bidders that it will affirmatively ensure that in regard to any contract entered into pursuant to this advertisement, minority business enterprises will be afforded full opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, sex, or national origin in consideration of an award.

Respondents must be willing to abide by all the applicable regulations of the Urban Mass Transportation Administration, U.S. Department of Transportation, including inspection and audit.

The ability of the North Central Texas Council of Governments to enter into a contract for performance of the proposed program will be dependent on the timely receipt of funds from the Urban Mass Transportation Administration.

The North Central Texas Council of Governments reserves the right to reject in total or part any and/or all proposals should it be advantageous to do so. Since the maximum amount available for this project is approximately \$60,000, projected cost will be an item of evaluation. An Office of Management and Budget Optional Form 60 Contract Pricing Proposal will be required for negotiation of reasonable costs.

The contractor will comply with all federal and state laws and regulations applicable to subcontractors including but not limited to equal employment opportunity, Davis-Bacon Act, and records management.

Issued in Arlington, Texas, on February 17, 1981.

Doc. No. 811141 William J. Pitstick  
Executive Director  
North Central Texas Council  
of Governments

Filed: February 19, 1981, 9:33 a.m.

For further information, please call (817) 640-3300.

## Panhandle Regional Planning Commission

### Consultant Proposal Request

**Notice of Invitation of Proposals.** In accordance with CETA legislation and CETA *Federal Register* for subcontractors and Article 1011(m) Vernon's Annotated Civil Statutes, CETA's main purpose is to provide economically disadvantaged, the unemployed, and the underemployed with the assistance they need to compete for and secure jobs, challenging their fullest capabilities, in brief—manpower programs. Manpower programs cover testing, counseling, skill training in the classroom or on the job, and in basic education. They cover supportive aid such as child care and arrangements for transportation to job and training sites. They include restructuring job development, work experience, and public employment. Part 48.96 of the *Federal Register*, Volume 41, No. 124, Friday, June 25, 1976, states in part that:

Each grantee shall conduct at least once every two years an independent audit of each contractor or subgrantee providing activities and services amounting to a cost of \$100,000 or more during one grant year. Audits of those subgrantees or subcontractors providing activities and services under \$100,000 may be conducted on a sample basis as coordinated with and approved by the original administrator for audit. The samples selected shall include at least 25 percent of the awards of less than \$100,000 during a two-year period. The auditing of contractors and subgrantees on a sample basis in no way lessens the Prime Sponsor's responsibility to ensure that program activities and related costs incurred by contractors and subgrantees are in compliance with federal requirements.

The audit must comply with relevant guidelines and requirements issued by state and federal agencies including the CETA audit manual. According to the manual, the audits will be performed in accordance with the U. S. Department of Labor audit guide designed to assist public accounting firms to understand special requirements for audit coverage of the Comprehensive Employment and Training Act contracts and subgrants. The guide contains a minimum of requirements for audit coverage of the contracts less than \$100,000 and more than \$100,000. The guide suggests the use of statistical sampling when appropriate and the submission of specific financial data. The firm is expected to take any further action necessary in order to render an opinion as required by the guide. The Comprehensive Employment and Training Act audit guide, fiscal and compliance Titles I and II with agenda, should be carefully reviewed before an offer is made.

If a contractor or subgrantee has had its accounting system reviewed, a copy of the survey report will be made available to the firm before an audit is made. Likewise, if any prior audits have been conducted, the reports will be made available to the firm before an audit is made. In addition, the audit must also comply with the audit guidelines found in the Uniform Auditing and Program Management System developed by the Texas Governor's Office. Further, the auditor should have a working knowledge of OMB Circular A-102 and FMC 73-2 which promulgates standards for subgrantees financial management systems and audits. Finally, the audit must be conducted with Standards for Audit of Governmental Organizations, Programs, Activities.

**Dates of Interest.** The period to be audited is fiscal year 1979 for PRPC's subcontractors. In addition to be considered, proposals must be received in the office of PRPC no later than 5 p.m. March 13, 1981.

**Qualifications for Selection of the Auditor.** Information of the firm's background and experience of auditing; programs financed by the federal government; state, county, and local government activities; nonprofit organizations; and commercial entities are necessary for selection.

Proposals should contain resumes of team members to be assigned to this project by the auditor. These resumes should further specify the role to be played by each member during the conduct of the audit. Emphasis should be placed on prior auditing experience relative to state or federal grants or sub-

contractors. A description is needed of the partner(s) and manager(s) to be assigned to the engagement, including their resumes. Failure of the firm to assign individuals included in the team description may be cause for termination of the contract. Information is required as to the size and organizational structure of the firm. The firm's ability to provide 50 copies of the auditor's report, the financial statement and schedules, the management letter, and the report on internal accounting control weaknesses. The partner in charge of the audit shall attend up to three public meetings as directed by PRPC at which the audit report will be discussed. The firm shall make available its working papers to the Department of Labor, General Accounting Office, upon request and in accordance with federal and state grant provisions, and ability of the firm to contain the cost of the audit and to meet the June 30, 1981, deadline.

Proposals should state a maximum fee that the firm will charge PRPC for the audit and hourly rates for each level of staff if PRPC authorizes the firm to expand the scope of the engagement.

Proposals should also provide for the printing, typing, and delivery of 50 copies of the completed audit reports no later than June 30, 1981. Each proposal should have a maximum charge including typing and a maximum charge not including typing of the audit.

**General Scope.** The auditor will be responsible for the completion of the following tasks: selection of the contractors to be audited with contractor amounts less than \$100,000 and an on-site comprehensive audit of sample contractors. These contracts total \$405,747. Comprehensive financial audit of subcontractors with contracts in excess of \$100,000—contracts total \$598,922. Records documenting eligibility of participants are maintained by PRPC and will be audited at the office of PRPC.

**Decision Authority.** The decision authority for this proposal will be the Panhandle Employment and Training Alliance with the successful proposals being selected at its March meeting.

**Contact Person.** For the purposes of obtaining a proposal package, contact Carl G. Tippin, internal auditor, PRPC, P.O. Box 9257, Amarillo, Texas 79105, (806) 372-3381. After obtaining a proposal package, firms desiring to submit proposals should address proposals to George Louder, executive director, Panhandle Regional Planning Commission, P.O. Box 9257, Amarillo, Texas 79105.

The request for consulting services is filed under the provisions of Article 6252-11c.

Issued in Amarillo, Texas, on February 19, 1981.

Doc. No. 811192      Carl G. Tippin  
Internal Auditor  
Panhandle Regional Planning  
Commission

Filed: February 20, 1981, 4:03 p.m.

For further information, please call (806) 372-3381.

## Office of the Secretary of State

### Texas Register

#### Notice to Complimentary Subscribers

The Texas Register Division is currently updating its listing of complimentary subscribers. If you are now receiving or are eligible to receive a complimentary subscription, please contact this office before March 1, 1981.

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Please refer any questions regarding subscriptions to Dee Wright at (512) 475-7886.

#### Notice of Schedule Variation

In view of the observance of Texas Independence Day on Monday, March 2, deadlines for submission of documents for publication in the issue of the *Texas Register* dated March 6, 1981, have been changed. As previously scheduled, deadlines for submission of documents for publication in the March 6 issue are 10 a.m. Friday, February 27 (all copy except notices of open meetings), and 10 a.m. Tuesday, March 3 (open meeting notices). The regular deadline schedule will resume with the issue of the *Register* dated March 10, 1981.



## March, April, and May Publication Schedule for the *Texas Register*

Listed below are the deadline dates for the March, April, and May issues of the *Texas Register*. Because of printing schedules, material received after the deadline for an issue cannot be published until the next issue. Generally, deadlines for a Tuesday edition of the *Register* are Wednesday and Thursday of the week preceding publication, and deadlines for a Friday edition are Monday and Tuesday of the week of publication. An asterisk beside a publication date indicates that the deadlines have been moved because of state holidays. Please note that the issue published on April 28 will be an index; no other material will be published in this issue.

FOR ISSUE PUBLISHED ON:	ALL COPY EXCEPT NOTICES OF OPEN MEETINGS BY 10 A.M. ON:	ALL NOTICES OF OPEN MEETINGS BY 10 A.M. ON:
Tuesday, March 3 *Friday, March 6 Tuesday, March 10 Friday, March 13 Tuesday, March 17 Friday, March 20 Tuesday, March 24 Friday, March 27 Tuesday, March 31	Wednesday, February 25 Friday, February 27 Wednesday, March 4 Monday, March 9 Wednesday, March 11 Monday, March 16 Wednesday, March 18 Monday, March 23 Wednesday, March 25	Thursday, February 26 Tuesday, March 3 Thursday, March 5 Tuesday, March 10 Thursday, March 12 Tuesday, March 17 Thursday, March 19 Tuesday, March 24 Thursday, March 26
Friday, April 3 Tuesday, April 7 Friday, April 10 Tuesday, April 14 Friday, April 17 Tuesday, April 21 *Friday, April 24 Tuesday, April 28	Monday, March 30 Wednesday, April 1 Monday, April 6 Wednesday, April 8 Monday, April 13 Wednesday, April 15 Friday, April 17	Tuesday, March 31 Thursday, April 2 Tuesday, April 7 Thursday, April 9 Tuesday, April 14 Thursday, April 16 Monday, April 20
	1ST QUARTERLY INDEX	
Friday, May 1 Tuesday, May 5 Friday, May 8 Tuesday, May 12 Friday, May 15 Tuesday, May 19 Friday, May 22 Tuesday, May 26 *Friday, May 29	Monday, April 27 Wednesday, April 29 Monday, May 4 Wednesday, May 6 Monday, May 11 Wednesday, May 13 Monday, May 18 Wednesday, May 20 Friday, May 22	Tuesday, April 28 Thursday, April 30 Tuesday, May 5 Thursday, May 7 Tuesday, May 12 Thursday, May 14 Tuesday, May 19 Thursday, May 21 Tuesday, May 26

The following state holidays fall within the period of this publication schedule:

Monday, March 2 ..... Texas Independence Day  
Tuesday, April 21 ..... San Jacinto Day  
Monday, May 25 ..... Memorial Day

The Texas Register Division will, as all other state agencies, observe these holidays and will not process or file notices of meetings or other documents.

## TAC Titles Affected in This Issue

The following is a list of the chapters of each title of the *Texas Administrative Code* affected by documents published in this issue of the *Register*. The listings are arranged in the same order as the table of contents of the *Texas Administrative Code*.

### TITLE 4. AGRICULTURE

#### Part I. Texas Department of Agriculture

4 TAC §5.211 (176.22.20.001)..... 751

### TITLE 7. BANKING AND SECURITIES

#### Part VI. Credit Union Department

7 TAC §91.71 (058.01.10.001)..... 754

### TITLE 19. EDUCATION

#### Part II. Texas Education Agency

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### TITLE 22. EXAMINING BOARDS

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