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TEXAS REGISTER

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TEXAS DOCUMENTS

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Office of the Secretary of State

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, 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)

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

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. Strake, Jr.
Secretary of State

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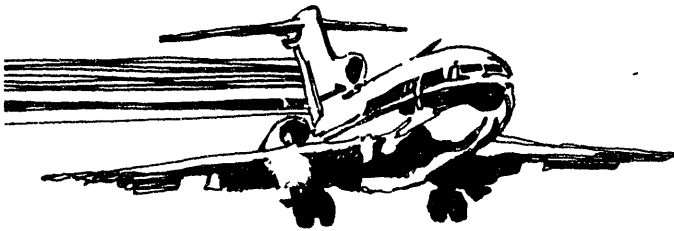
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Article 4399, Vernon's Texas Civil Statutes, requires the attorney general to give written opinions to certain public officials. The Texas Open Records Act, Article 6252-17a, Section 7, Vernon's Texas Civil Statutes, requires that a governmental body 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-520

Request from Chris Victor Semos, chairman, Committee on Business and Industry, Texas House of Representatives, Austin.

Summary of Request: Is Article 1066d, Vernon's Texas Civil Statutes, constitutional?

Doc. No. 810800

Summary of Request for Opinion RQ-524

Request from Woodrow W. Mize, P.E., executive director, Texas State Board of Registration for Professional Engineers, Austin.

Summary of Request:

(1) Is disciplinary Rule 5.4 a legal prohibition against competitive price bidding for engineering services in the private business sector, and enforceable by this board against its licensees?

(2) Are disciplinary Rules 5.4 and 5.6 legal prohibitions against competitive price bidding for engineering services in public works, and enforceable by this board against its licensees?

(3) As long as there are valid Texas and federal laws prohibiting the award of contracts for engineering services based on competitive bids, is this board prohibited from inquiring as to the method of awarding any particular engineering contract for the express consideration of having the contract voided if competitively priced bids from Texas licensed engineers are involved?

Doc. No. 810788

Summary of Request for Opinion RQ-525

Request from Robert O. Viterna, executive director, Texas Commission on Jail Standards, Austin.

Summary of Request: Is the Texas Commission on Law Enforcement Officer Standards and Education required to establish minimum standards for persons employed in city jails under contract with counties to house county prisoners?

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

Doc. No. 810789 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 "Non-codified."

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

NONCODIFIED

Texas Department of Human Resources

Child Welfare Services

Foster Care Placement Services 326.50.74

The Texas Department of Human Resources adopts, on an emergency basis, an amendment to Rule 326.50.74.157 concerning eligibility for various forms of foster care. With this amendment, the dates for placement and petition for termination of parental rights for the state paid foster care, Type Program 10, are being retroacted from January 1, 1980, to September 1, 1979. This emergency action is necessary in order to protect the health, safety, and welfare of children who were judicially removed from their homes between the months of August 1979 and January 1980 and placed in the department's protective foster care program. Failure to retroact these program eligibility dates will jeopardize the placement of these children as a result of inadequate funding to continue foster care placements thereby necessitating return of children to homes where the safety of the child may be endangered. Therefore, effective immediately, the eligibility requirement pertaining to date of placement for state paid foster care, Type Program 10, is changed. Children who were placed on or after September 1, 1979, are eligible if all other eligibility requirements are met. Previously, the child must have been placed and a petition to terminate parental rights filed after December 31, 1979.

In addition, the title to Rule .157 is being changed to omit reference to Type Program 08 only since the eligibility requirements of this rule apply to both Type Programs 08 and 10.

The amendment to Rule .157 is adopted under the authority of Title II of the Human Resources Code, with the approval of the Texas Board of Human Resources, to be effective immediately.

.157. Additional Eligibility Requirements [for Type Program 08 Only].

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

(i) Additional eligibility requirements for Type Program 10 only.

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

(4) The child must have been placed in foster care and the petition for termination filed *on or after September 1, 1979* [after December 31, 1979].

(j) (No change.)

Issued in Austin, Texas, on February 3, 1981.

Doc. No. 810795

Marlin W. Johnson

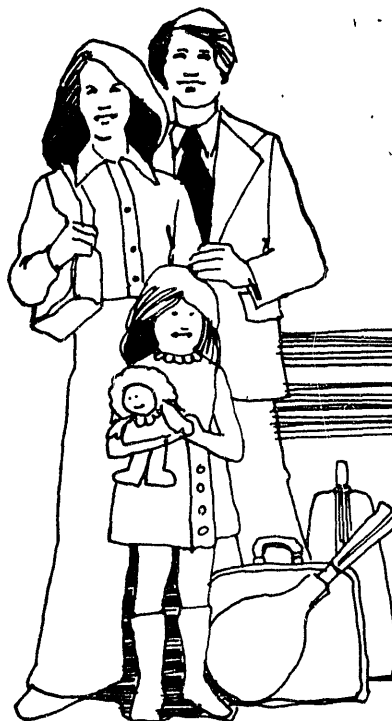
Acting Commissioner

Texas Department of Human Resources

Effective Date: February 3, 1981

Expiration Date: June 3, 1981

For further information, please call (512) 441-3355.



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.

CODIFIED

TITLE 22. EXAMINING BOARDS

Part XXI. Texas State Board of Examiners of Psychologists

Chapter 463. Applications

The Texas State Board of Examiners of Psychologists proposes to adopt new application §463.20 (400.02.00.020) of this title (relating to Time Period for Appealing a Decision). It was the determination of the board members that a time period was needed so that the application process could be monitored more closely and so that the information considered would be current. This procedure would put closure on application files and not allow them to remain pending for a number of years. Thirty days was chosen as an adequate amount of time for an applicant to notify the board of a decision to appeal, recognizing that the appeal process may take longer than 30 days.

The board also proposes to adopt new application §463.21 (.021) of this title (relating to Reference Letters). The members of the board want to reduce to writing a procedure that has been in existence since the board's inception. At least three letters of reference from psychologists are needed from each applicant before his or her application for certification can be considered. The letters provide information about the applicant in a work/experience or educational setting.

The board members do not anticipate that these new rules will have any fiscal implications for state or local government.

Public comment is invited and should be submitted in writing to Patti Bizzell, executive secretary, Texas State Board of Examiners of Psychologists, 5555 North Lamar, Building H, Suite 126, Austin, Texas 78751.

This new section is proposed under the authority of Article 4512c, Texas Civil Statutes.

§463.20 (400.02.00.020). *Time Period for Appealing a Decision.* Applicants will have 30 days from the date of board action to appeal any decision by the board concerning their application, after which time the application is null and void. To be considered again, a new application and filing fee must be submitted and the application will be considered as of the date of the new application.

Doc. No. 810779

This new section is proposed under the authority of Article 4512c, Texas Civil Statutes.

§463.21 (400.02.00.021). *Reference Letters.* Reference letters from at least three psychologists are required for the certification process.

Doc. No. 810780

Chapter 465. Rules of Practice

(Editor's note: The text of the following section proposed for repeal will not be published. The section may be examined in the offices of the Texas State Board of Examiners of Psychologists, 5555 North Lamar, Building H, Suite 126, Austin, or in the Texas Register Division office, 503E Sam Houston Building, Austin.)

The Texas State Board of Examiners of Psychologists proposes the repeal of §465.1 (400.03.00.001) of this title (relating to Title of Practice). The board has recently been reviewed by the Sunset Commission of the Texas Legislature and one of its recommendations was to allow the use of assumed names. Since this section specifically addressed this matter, it was necessary to modify the board's requirement to reflect the current trend for such usage. Section 465.6 (.006) of this title (relating to Incorporation of Practice) now states the requirements for use of assumed names by psychologists in both an individual practice setting and in a corporate structure. Section 465.18 (.018) of this title (relating to Use of Statements Regarding Services) addresses the matter of making false, deceptive, or misleading statements regarding any psychological services.

The board members have stated that this proposed repeal has no fiscal implications for state or local government.

Public comment is invited and should be submitted in writing to Patti Bizzell, executive secretary, Texas State Board of Examiners of Psychologists, 5555 North Lamar, Building H, Suite 126, Austin, Texas 78751.

This repeal is proposed under the authority of Article 4512c, Texas Civil Statutes.

§465.1 (400.03.00.001). *Title of Practice.*

Doc. No. 810781

Chapter 467. Announcements

(Editor's note: The text of the following sections proposed for repeal will not be published. The sections may be examined in the offices of the Texas State Board of Examiners of Psychologists, 5555 North Lamar, Building H, Suite 126, Austin, or in the Texas Register Division office, 503E Sam Houston Building, Austin.)

The Texas State Board of Examiners of Psychologists proposes the repeal of §§467.1-467.5 (400.04.00.001-.005) of this title (relating to Announcements). It was the determination of the board members to modify their position on the validity of these sections. In reaching this decision, they considered the recommendations of the Sunset Advisory Commission and the adoption of new ethical standards for psychologists. After reviewing information from both of these sources, it was decided that these sections were no longer relevant and should be deleted from the record.

The board members have stated that this proposed repeal has no fiscal implications for state or local government.

Public comment is invited and should be submitted in writing to Patti Bizzell, executive secretary, Texas State Board of Examiners of Psychologists, 5555 North Lamar, Building H, Suite 126, Austin, Texas 78751.

This repeal is proposed under the authority of Article 4512c, Texas Civil Statutes.

§467.1 (400.04.00.001). *Allowed Listings.*

§467.2 (400.04.00.002). *Health Service Provider.*

§467.3 (400.04.00.003). *Announcements of Opening or Relocation.*

§467.4 (400.04.00.004). *Extra-Legal Certification.*

§467.5 (400.04.00.005). *Listings in Yellow Pages.*

Issued in Austin, Texas, on January 29, 1981.

Doc. No. 8.0782 Paul Bizzell
Executive Secretary
Texas State Board of Examiners of
Psychologists

Proposed Date of Adoption: March 13, 1981

For further information, please call (512) 458-3295.

TITLE 34. PUBLIC FINANCE

Part I. Comptroller of Public Accounts

Chapter 3. Tax Administration

Subchapter O. Sales Tax Division—State Taxes

The Comptroller of Public Accounts proposes to amend §3.345 (026.02.20.065) of this title (relating to Solar Energy Devices). The section is being amended to delete devices used in the thermochemical production of methanol from the definition of "solar energy device." The change was mandated after a careful analysis of the statute showed that the methanol production units did not come within the statutory definition of "solar energy device."

Tax collections for state and local units of government and metropolitan transportation authorities associated with the subject section change are as follows:

Fiscal Year	Taxable Collections (In Millions)
1982	\$1.4
1983	\$1.6
1984	\$1.7
1985	\$1.8
1986	\$1.9

Source: Comptroller of Public Accounts revenue estimating staff.

Public comment is invited and should be submitted in writing to Jim Phillips, Drawer SS, Austin, Texas 78711.

This amendment is proposed under the authority of Texas Taxation—General Annotated, Article 20.11(A).

§3.345 (026.02.20.065). *Solar Energy Devices.*

(a) (No change.)

(b) Definition. A "solar energy device" is that portion of a system or series of mechanisms designed primarily to provide heating or cooling or to produce electrical or mechanical power or both by means of collecting and transferring solar-generated energy and includes mechanical or chemical devices having the capacity for storing solar-generated energy for use in heating or cooling or in the production of power. This definition of "solar energy device" includes the following:

(1)-(6) (No change.)

(7) Devices used in systems for the generation of fuels and useful energy, principally through combustion, fermentation to produce methane and alcohol, thermochemical production of methanol, and pyrolytic conversion of waste to low BTU gaseous fuels and oils.]

(c)-(f) (No change.)

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

Doc. No. 810766 Bob Bullock
Comptroller of Public Accounts

Proposed Date of Adoption: March 13, 1981

For further information, please call (512) 475-6953.



NONCODIFIED

State Board of Insurance

General Provisions

The State Board of Insurance proposes to adopt Rules 059.21.20.001-.012 to govern the replacement of life insurance policies. The proposed new rules are substantially the same as the National Association of Insurance Commissioners life insurance replacement model regulations. The rules will require insurers and agents to take steps to give policyholders reasonably complete, adequate, and accurate information respecting the merits of replacing a currently existing life insurance policy with a new one. The rules are also designed to reduce the opportunity for misrepresentation in the replacement of life insurance policies, to establish penalties for failure to comply with the rules, and to otherwise regulate the activities of insurers and agents respecting the replacement of existing life insurance policies.

Simultaneously with the proposal, the agency proposes the repeal of the present rules on replacement of life insurance policies. Those present rules are contained in Rules 059.21.21.004, .006, and .007, previously adopted in Board Orders 27700, 29908, and 30169, dated September 13, 1974, November 7, 1975, and December 31, 1975, respectively. The board believes the new rules will better serve the purpose of full disclosure. The board is also adding new Subchapter 20 to Chapter 21 of its rules to deal with replacement of life insurance.

The board expects no fiscal implications for the proposed rules or repeals (source: Life Actuarial Division).

The board requests comments on the proposed rules and repeals. Comments may be submitted in writing to Ted Becker, staff actuary (life), State Board of Insurance, 1110 San Jacinto, Austin, Texas 78786.

Replacement of Life Insurance 059.21.20

These rules are proposed under authority of Article 21.21, Section 13, of the Texas Insurance Code.

.001. Implementation. These rules are promulgated by the State Board of Insurance to implement Articles 21.07, Section 10(a)(8); 21.07-1, Section 12(a)(8); 21.20; and 21.21, Section 4(1) and (2), of the Texas Insurance Code. These rules do not change, alter, or amend any laws of the State of Texas prohibiting misrepresentation.

.002. Purpose. The purpose of these rules is:

(1) to regulate the activities of insurers and agents with respect to the replacement of existing life insurance;

(2) to protect the interests of life insurance policy owners by establishing minimum standards of conduct to be observed in the replacement or proposed replacement of existing life insurance by:

(A) assuring that the policy owner receives information with which a decision can be made in his or her own best interest;

(B) reducing the opportunity for misrepresentation and incomplete disclosures; and

(C) establishing penalties for failure to comply with the requirements of these rules.

.003. Definition of Replacement. "Replacement" means any transaction in which new life insurance is to be purchased and it is known or should be known to the proposing agent or to the proposing insurer, if there is no agent, that by reason of such transaction, existing life insurance has been or is to be:

(1) lapsed, forfeited, surrendered, or otherwise terminated;

(2) converted to reduced paid-up insurance, continued as extended term insurance, or otherwise reduced in value by the use of nonforfeiture benefits or other policy values;

(3) amended so as to effect either a reduction in benefits or in the term for which coverage would otherwise remain in force or for which benefits would be paid;

(4) reissued with any reduction in cash value; or

(5) pledged as collateral or subjected to borrowing, whether in a single loan or under a schedule of borrowing over a period of time for amounts in the aggregate exceeding 25% of the loan value set forth in the policy.

.004. Other Definitions.

(a) "Cash dividend" means the current illustrated dividend which can be applied toward payment of the gross premium.

(b) "Conservation" means any attempt by the existing insurer or its agent to continue existing life insurance in force when the existing insurer has received a Comparative Information form as required by Rule .007(3)(D) of these rules from a replacing insurer. A conservation effort does not include such routine administrative procedures like late payment reminders, late payment offers, or reinstatement offers.

(c) "Direct-response sales" means any sale of life insurance where the insurer does not utilize an agent in the sale or delivery of the policy.

(d) "Existing insurer" means the insurance company whose policy is or will be changed or terminated in such a manner as described within the definition of "replacement."

(e) "Existing life insurance" means any life insurance in force including life insurance under a binding or conditional receipt or a life insurance policy that is within an unconditional refund period, but excluding life insurance obtained through the exercise of a dividend option.

(f) "Generic name" means a short title which is descriptive of the premium and benefit patterns of a policy or a rider.

(g) "Replacing insurer" means the insurance company that issues a new policy which is a replacement of existing life insurance.

(h) "Sales proposal" means individualized, written sales aids of all kinds excluding Comparative Information forms and policy summaries which are used by an insurer, agent, or broker in comparing existing life insurance to proposed life insurance in order to recommend the replacement or conservation of existing life insurance. Sales aids of a generally descriptive nature which are maintained in the insurer's advertising compliance file are not considered as sales proposals within the meaning of this definition.

.005. Exemptions. Unless otherwise specifically included, these rules do not apply to:

- (1) annuities;
- (2) individual credit life insurance;
- (3) group life insurance, group credit life insurance, and life insurance policies issued in connection with a pension, profit sharing or other benefit plan qualifying for tax deductibility of premiums; provided, however, that as to any plan described in this subsection, full and complete disclosure of all material facts shall be given to the administrator of any plan to be replaced;
- (4) variable life insurance under which the death benefits and cash values vary in accordance with unit values of investments held in a separate account;
- (5) an application to the existing insurer that issued the existing life insurance and a contractual change or conversion privilege is being exercised;
- (6) existing life insurance that is a nonconvertible term life insurance policy which will expire in five years or less and cannot be renewed; or
- (7) proposed life insurance that is to replace life insurance under a binding or conditional receipt issued by the same company.

.006. Duties of Agents.

- (a) Each agent shall submit to the replacing insurer with or as part of each application for life insurance:
 - (1) a statement signed by the applicant as to whether or not such insurance will replace existing life insurance; and
 - (2) a signed statement as to whether or not the agent knows replacement is or may be involved in the transaction.
- (b) Where a replacement is involved, the agent shall:
 - (1) Present to the applicant, not later than at the time of taking the application, a "notice regarding replacement of life insurance" in the form as described in Exhibit A or B, whichever is applicable, or in form substantially similar to and including all the information contained in Exhibit A or B. The notice must be signed by and left with the applicant.
 - (2) Present to the applicant, not later than at the time of taking the application, a Comparative Information form as described in Exhibit D (or substantially equivalent forms to and containing all the information contained in Exhibit D). If more than one existing life insurance policy is to be replaced, a separate Comparative Information form is to be provided for each such policy or separate information is to be provided in the Comparative Information form for each such policy, and a summary of all the separate policy information to the extent possible must be included. The agent must include in the Comparative Information form all of the information required to be in that form, except that information concerning the existing life insurance policy that cannot be obtained from that policy itself. The Comparative Information form must be signed by the agent and the applicant and a copy left with the applicant.
 - (3) Leave with the applicant the original or a copy of all sales proposals used for presentation to the applicant.
 - (4) Submit to the replacing insurer with the application a copy of the "notice regarding replacement of life insurance" signed by the applicant, a copy of the Comparative Information form signed by the agent and the applicant, and a copy of all sales proposals used for presentation to the applicant.
- (c) Each agent who uses a sales proposal when conserving existing life insurance shall:

- (1) leave with the applicant the original or a copy of all sales proposals used in the conservation effort; and
- (2) submit to the existing insurer a copy of all sales proposals used in the conservation effort.

.007. Duties of Replacing Insurers. Each replacing insurer shall:

- (1) Inform its field representatives of the requirements of these rules.
- (2) Require with or as part of each completed application for life insurance:
 - (A) a statement signed by the applicant as to whether or not such insurance will replace existing life insurance; and
 - (B) a statement signed by the agent as to whether or not he or she knows replacement is or may be involved in the transaction.
- (3) Where a replacement is involved:
 - (A) Require from the agent with the application for life insurance a copy of the "notice regarding replacement of life insurance" signed by the applicant, a copy of the Comparative Information form signed by the agent and the applicant, and a copy of all sales proposals used for presentation to the applicant.
 - (B) Verify the substantial accuracy of information concerning the proposed policy furnished to the applicant in the Comparative Information form. If the information concerning that policy is not substantially accurate, the replacing insurer must obtain a Comparative Information form signed by the agent and the applicant which includes substantially accurate information before it can begin to process the application for the proposed policy.
 - (C) Unless otherwise modified by the provisions of Rule .007(3)(E) or (F), furnish the applicant with a policy summary at or prior to the time of policy delivery. For the purpose of these rules, a policy summary means a written statement describing the elements of the policy including but not limited to:
 - (i) The name and address of the insurance agent, or if no agent is involved, a statement of the procedure to be followed in order to receive responses to inquiries regarding the policy summary.
 - (ii) The full name and home office or administrative office address of the company in which the life insurance policy is to be or has been written.
 - (iii) The generic name of the basic policy and each rider.
 - (iv) The following amounts, where applicable, for the first five policy years, the 10th and 20th policy years, and at least one age from 60-65 or maturity, whichever is earlier:
 - (I) the annual premium for the basic policy;
 - (II) the annual premium for each optional rider;
 - (III) guaranteed amount payable upon death, at the beginning of the policy year regardless of the cause of death other than suicide, or other specifically enumerated exclusions, which is provided under the basic policy and each rider shown separately;
 - (IV) total guaranteed cash surrender values at the end of the year with values shown separately for the basic policy and each rider;
 - (V) cash dividends payable to the end of the year with values shown separately for the basic policy and

each rider (dividends need not be displayed beyond the 20th policy year);

(VI) guaranteed endowment amounts payable under the policy which are not included under guaranteed each surrender values above.

(v) A policy summary which includes dividends shall also include a statement that dividends are based on the company's current dividend scale and are not guaranteed.

(vi) The effective policy loan annual percentage interest rate, if the policy contains such a loan provision, specifying whether this rate is applied in advance or in arrears. If the policy loan interest rate is variable, the policy summary is to include the maximum annual percentage rate.

(vii) The date on which the policy summary is prepared.

(viii) A statement to the effect that the presentation does not recognize that because of interest a dollar in the future has less value than a dollar today, unless the policy summary includes index figures which recognize the time value of money. If index figures are included in the policy summary, the applicant must receive written notification at the time the policy summary is delivered that such figures should only be used for comparing the relative costs of a similar policy.

(ix) The policy summary must consist of a separate document. All information required to be disclosed must be set out in such a manner as to not minimize or render any portion thereof obscure. Any amounts which remain level for two or more years of the policy may be represented by a single number if it is clearly indicated what amounts are applicable for each policy year. Amounts in paragraph (3)(C)(v) of this rule shall be listed in total, not on a per thousand nor per unit basis. If more than one insured is covered under one policy or rider, guaranteed death benefits shall be displayed separately for each insured or for each class of insureds if death benefits do not differ within the class. Zero amounts shall be displayed as "0" and may not be displayed as a blank space.

(D) Send to the existing insurer a Rule .007(3)(A) verified Comparative Information form as required by Rule .007(3)(A) and (B) within three working days of the date the application and a substantially accurate Comparative Information form are received at its home or regional office, or the date its policy is issued, whichever is sooner.

(E) Delay, if it is not also the existing insurer, the issue of its policy for 20 days after it sends the existing insurer a copy of the policy summary, unless it provides in its "notice regarding replacement of life insurance" and in either its policy or in a separate written notice that is delivered with the policy that the applicant has a right to an unconditional refund of all premiums paid, which right may be exercised within a period of 20 days commencing from the date of delivery of the policy, and it sends the policy summary required by this rule to the existing insurer within three working days of the date its policy is issued, in which event the replacing insurer may issue its policy immediately.

(F) Provide, if it is also the existing insurer, the policy owner a policy summary for the new policy prepared in accordance with Rule .007(3)(C), prior to accepting the applicant's initial premium or premium deposit, unless the replacing insurer provides in its "notice regarding replacement of life insurance" and in either its policy or in a separate written notice that is delivered with the policy that the applicant has a right to an unconditional refund of all premiums paid, which right may be exercised within a period of 20 days com-

mencing from the date of delivery of the policy, in which event, the replacing insurer must furnish the policy summary at or prior to delivery of the policy.

(G) Maintain copies of the "notice regarding replacement of life insurance," the verified Comparative Information form, the policy summary, and all sales proposals used, and a replacement register, cross-indexed, by replacing agent and existing insurer to be replaced, for at least three years or until the conclusion of the next succeeding regular examination by the insurance department of its state of domicile, whichever is later.

.008. Duties of Insurers with Respect to Direct-Response Sales. Each insurer shall:

(1) Inform its responsible personnel of the requirements of these rules.

(2) Require with or as part of each completed application for life insurance a statement signed by the applicant as to whether or not such insurance will replace existing life insurance.

(3) Where no replacement is proposed by an insurer in the solicitation of a direct-response sale and a replacement is involved, at the time the policy is mailed to the applicant include a "notice regarding replacement of life insurance" in a form substantially as described in Exhibit C.

(4) Where a replacement is proposed by an insurer in the solicitation of a direct-response sale and a replacement is involved:

(A) Request from the applicant with or as part of the application a list of all existing life insurance to be replaced. Such existing life insurance shall be identified by name of insurer.

(B) If the applicant furnishes the names of the existing insurers, then the replacing direct-response insurer shall mail the applicant a "notice regarding replacement of life insurance" in a form substantially as described in Exhibit C within three working days after receipt of the application and shall comply with all of the provisions of Rule .007(3)(C), (E), (F), and (G), except that it need not meet the requirements of these rules concerning Comparative Information forms and need not maintain a replacement register required by Rule .007(3)(G).

(C) If the applicant does not furnish the names of the existing insurers, then the replacing direct-response insurer shall at the time the policy is mailed to the applicant include a "notice regarding replacement of life insurance" in a form substantially as described in Exhibit C.

.009. Duties of the Existing Insurer. Each existing insurer shall inform its responsible personnel of the requirements of these rules. Each existing insurer, or such insurer's agent, that undertakes a conservation effort shall:

(1) Within 20 days from the date the Comparative Information form required by Rule .007(3)(D) is received, either furnish the policy owner with the Comparative Information form received from the replacing insurer and include in it all of the information concerning the existing life insurance that was not completed and correct any information that was inaccurately completed by the replacing agent or furnish the policy owner with a policy summary for the existing life insurance. Such policy summary shall include all of the information required in Rule .007(3)(C), except that information relating to premiums, cash values, death benefits, and dividends, if any, shall be computed from the current policy year of the existing life insurance. The policy sum-

mary shall include the amount of any outstanding policy indebtedness, the sum of any dividend accumulations or additions, and may include any other information that is not in violation of any rule or statute.

(2) Furnish the replacing insurer with a copy of the fully completed Comparative Information form or the policy summary for the existing life insurance within three working days of the date that the fully completed Comparative Information form or the policy summary is sent by the existing insurer to either its agent or directly to the policy owner.

(3) Maintain a file containing the following:

(A) Comparative Information forms required by Rule .007(3)(D) and policy summaries required by Rule .007(3)(E) received from replacing insurers; and

(B) Copies of fully completed Comparative Information forms or policy summaries prepared pursuant to Rule .009(1) and all sales proposals used to conserve the existing life insurance. This material shall be indexed by replacing insurer and held for three years or until the conclusion of the next regular examination conducted by the insurance department of its domicile, whichever is later.

.010. Penalties.

(a) Any insurer, agent, representative, officer, or employee of such insurer failing to comply with the require-

ments of these rules is subject to such penalties as may be appropriate under the insurance laws of this state.

(b) These rules do not prohibit the use of additional material other than that which is required that is not in violation of these rules or any other statute or rule of this state.

(c) Policy owners have the right to replace existing life insurance after indicating in or as part of the applications for life insurance that such is not their intention; however, patterns of such action by policy owners who purchase the replacing policies from the same agent are deemed prima facie evidence of the agent's knowledge that replacement was intended in connection with the sale of those policies, and such patterns of action are prima facie evidence of the agent's intent to violate these rules.

.011. Separability. If any provision of these rules shall be held invalid, the remainder of these rules shall not be affected thereby.

.012. Exhibits. Exhibits A-D which are set out as follows are being adopted by reference. Copies of these exhibits may be obtained from the State Board of Insurance, 1110 San Jacinto, Austin, Texas 78786.

(Editor's note: See Exhibits A-D, pages 608-613)

Doc. No. 810794

EXHIBIT A

(To be used where the existing and proposed policies
are written by different companies.)

(Name, address and telephone number of the insurance company)

Important Notice Regarding Replacement of Life Insurance

Our agent is recommending to you that you purchase a life insurance policy from us. In connection with this purchase, you have indicated either as a result of his recommendation or at your own initiative, that you may terminate or change your existing policy issued by another insurance company or that you may obtain a loan from that company against your policy to pay premiums on the proposed policy. Any of these actions is a replacement of life insurance. This notice must be given to you, along with a form including preliminary information comparing the proposed policy with your existing policy to be replaced. Please read this notice and the Comparative Information Form carefully.

Whether it is to your advantage to replace your existing insurance coverage, only you can decide. It is in your best interest, however, to have adequate information before a decision to replace your present coverage becomes final so that you may understand the essential features of the proposed policy and of your existing insurance coverage.

To this end, we are required to give you a Policy Summary including complete information on the proposed policy no later than when that policy is delivered to you. In addition, we are required to notify the insurance company that issued your existing policy. That company may then furnish you additional information concerning your existing policy. You may want to contact that company or its agent for further information and advice or discuss your purchase with other advisors. The information you receive will be of value to you in reaching a final decision.

If either the proposed policy or the existing insurance you intend to replace is a participating policy, you should be aware that dividends may materially reduce the cost of insurance and are an important factor to consider. Dividends, however, are not guaranteed.

You should also recognize that a policy which has been in existence for a period of time may have certain advantages to you over a new policy. If the policy coverages are basically similar, the premiums for a new policy may be higher because rates increase as your age increases. Under your existing policy, the period of time during which the issuing company could contest the policy because of a material misstatement or omission on your application, or deny coverage for death caused by suicide, may have expired or may expire earlier than it will under the proposed policy. Your existing policy may have options which are not available under the policy being proposed to you or may not come into effect under the proposed policy until a later time during your life. Also, your proposed policy's cash values and dividends, if any, may grow slower initially because the company will incur the cost of issuing your new policy. On the other hand, the proposed policy may offer advantages which are more important to you.

If you are considering borrowing against your existing policy to pay the premiums on the proposed policy, you should understand that in the event of your death, the amount of any unpaid loan, including unpaid interest, will be deducted from the benefits of your existing policy thereby reducing your total insurance coverage.

After we have received your application and notified the other insurance company you will have twenty days from the date the proposed policy is delivered to you to cancel the policy issued on your application and receive back all payments you made to us.

(ALTERNATE PARAGRAPH IF 20-DAY MONEY-BACK GUARANTEE IS NOT PROVIDED.)

We are required by state regulation to delay the issuance of the policy for which you are making application for twenty days from the date on which we send your existing insurer notification that their policy will be replaced.

Caution

If, after studying the information made available to you, you decide to replace the existing life insurance with our life insurance policy, you are urged not to take action to terminate or alter your existing life insurance coverage until after you have been issued the new policy, examined it and have found it to be acceptable to you. If you should terminate or otherwise materially alter your existing coverage and fail to qualify for the life insurance for which you have applied, you may find yourself unable to purchase other life insurance or able to purchase it only at substantially higher rates.

I have received and read a copy of this Replacement Notice.

(Signed) _____ Date _____

Applicant

EXHIBIT B

(To be used where the existing and proposed policies are written by the same company.)

(Name, address and telephone number of the insurance company)

Important Notice Regarding Replacement of Life Insurance

Our agent is recommending that you purchase a life insurance policy from us. In connection with this purchase, you have indicated either as a result of his recommendation or at your own initiative, that you may terminate or change your existing policy issued by our company or that you may obtain a loan from our company against your existing policy to pay premiums on the proposed policy. Any of these actions is a replacement of life insurance. This notice must be given to you, along with a Comparative Information Form which includes preliminary information comparing the proposed policy with your existing policy to be replaced. Please read this notice and the Comparative Information Form carefully.

Whether it is to your advantage to replace your existing insurance coverage, only you can decide. It is in your best interest, however, to have adequate information before a decision to replace your present coverage becomes final so that you may understand the essential features of the proposed policy and of your existing insurance coverage.

To this end, we are required to give you a Policy Summary including complete information on the proposed policy no later than when the policy is delivered to you. In addition, we will, at your request, furnish you additional information concerning your existing policy. You may want to discuss your purchase with other advisors. The information you receive will be of value to you in reaching a final decision.

If either the proposed policy or the existing insurance you intend to replace is a participating policy you should be aware that dividends may materially reduce the cost of insurance and are an important factor to consider. Dividends, however, are not guaranteed.

You should also recognize that a policy which has been in existence for a period of time may have certain advantages to you over a new policy. If the policy coverages are basically similar, the premiums for a new policy may be higher because rates increase as your age increases. Under your existing policy, the period of

time during which our company could contest the policy because of a material misstatement or omission on your application, or deny coverage for death caused by suicide, may have expired or may expire earlier than it will under the proposed policy. Your existing policy may have options which are not available under the policy being proposed to you or may not come into effect under the proposed policy until a later time during your life. Also, your proposed policy's cash values and dividends, if any, may grow slower initially because the company will incur the cost of issuing your new policy. On the other hand, the proposed policy may offer advantages which are more important to you.

If you are considering borrowing against your existing policy to pay the premiums on the proposed policy, you should understand that in the event of your death, the amount of any unpaid loan, including unpaid interest, will be deducted from the benefits of your existing policy thereby reducing your total insurance coverage.

(ADDITIONAL PARAGRAPH IF TWENTY-DAY MONEY-BACK GUARANTEE IS PROVIDED.)

After we have issued your policy, you will have twenty days from the date the new policy is delivered to you to cancel the policy issued on your application and receive back all payments you made to us.

Caution

If, after studying the information made available to you, you do decide to replace the existing life insurance with our company with a new life insurance policy issued by our company, you are urged not to take action to terminate or alter your existing life insurance coverage until after you have been issued the new policy, examined it and have found it acceptable to you. If you should terminate or otherwise materially alter your existing coverage and fail to qualify for the life insurance for which you have applied, you may find yourself unable to purchase other life insurance or able to purchase it only at substantially higher rates.

I have received and read a copy of this Replacement Notice.

(Signed) _____ Date _____
Applicant

EXHIBIT C

(Name, address and telephone number
of the insurance company)

Important Notice Regarding Replacement of Life Insurance

You have indicated that you intend to replace an existing life insurance policy or policies in connection with the purchase of our life insurance policy. As a result, we are required to send you this notice. Please read it carefully.

Whether it is to your advantage to replace your existing insurance coverage, only you can decide. It is in your best interest, however, to have adequate information before a decision to replace your present coverage becomes final so that you may understand the essential features of the proposed policy and your existing insurance coverage.

You may want to contact your existing life insurance company or its agent for additional information and advice or discuss your purchase with other advisors. The information you receive should be of value to you in reaching a final decision.

If either the proposed policy or the existing insurance you intend to replace is a participating policy, you should be aware that dividends may materially reduce the cost of insurance and are an important factor to consider. Dividends, however, are not guaranteed.

You should recognize that a policy which has been in existence for a period of time may have certain advantages to you over a new policy. If the policy coverages are basically similar, the premiums for a new policy may be higher because rates increase as your age increases. Under your existing policy, the period of time during which the issuing company could [contest the policy because of a material misrepresentation or omission concerning the medical information requested in your application, or]* deny coverage for death caused by suicide, may have expired or may expire earlier than it will under the proposed policy. Your existing policy may have options which are not available under the policy being proposed to you or may not come into effect under the proposed policy until a later time during your life. Also, your proposed policy's cash values and dividends, if any, may grow slower initially because the company will incur the cost of issuing your new policy. On the other hand, the proposed policy may offer advantages which are more important to you.

If you are considering borrowing against your existing policy to pay the premiums on the proposed policy, you should understand that in the event of your death, the amount of any unpaid loan, including unpaid interest, will be deducted from the benefits of your existing policy thereby reducing your total insurance coverage.

(ADDITIONAL PARAGRAPH IF DIRECT-RESPONSE INSURER'S SOLICITATION PROPOSED REPLACEMENT, AND A TWENTY-DAY MONEY-BACK GUARANTEE IS PROVIDED BY THE INSURER.)

After we have issued your policy, you will have twenty days from the date the new policy is received by you to notify us you are cancelling the policy issued on your application and you will receive back all payments you made to us.

You are urged not to take action to terminate or alter your existing life insurance coverage until you have been issued the new policy, examined it and have found it acceptable to you.

EXHIBIT D

(Name, address and telephone number of insurance company)

Comparative Information Form

Name of Proposed Insured _____ Address _____ Date of Birth _____

<u>GENERAL INFORMATION</u>	<u>EXISTING LIFE INSURANCE</u>	<u>PROPOSED LIFE INSURANCE</u>
Name of Company	_____	_____
Policy Number	_____	_____
Basic Policy Generic Name	_____	_____
Name of Basic Policy	_____	_____
Rider 1; Generic Name	_____	_____
Rider 2; Generic Name	_____	_____
Rider 3; Generic Name	_____	_____
Issue Age	_____	_____
Date of Issue	_____	_____
Contestable Period Expires	_____	_____
Suicide Clause Expires	_____	_____

* Note: Use bracketed language only when the application asks health questions.

<u>PREMIUM DATA/DEATH BENEFITS</u>	<u>PREMIUM MODE:___ AMOUNT</u>	<u>AGE PAYABLE TO</u>	<u>DEATH BENEFIT</u>	<u>AGE BENEFIT CEASES</u>	<u>PREMIUM MODE:___ AMOUNT</u>	<u>AGE PAYABLE TO</u>	<u>DEATH BENEFIT</u>	<u>AGE BENEFIT CEASES</u>
Basic Policy	\$		\$		\$		\$	
Rider 1	\$		\$		\$		\$	
Rider 2	\$		\$		\$		\$	
Rider 3	\$		\$		\$		\$	
Accidental Death Benefit	\$		\$		\$		\$	
Option to Purchase Additional Insurance	\$		\$	(Option Ages: _____)	\$		\$	(Option Ages: _____)
Waiver of Premium Benefit	\$		\$xxx		\$		\$xxx	
Disability Income Benefit	\$		\$xxx	(Monthly Income: _____)	\$		\$xxx	(Monthly Income: _____)
Total Current Premium	\$				\$			

<u>CASH VALUES/DIVIDENDS</u>	<u>*GUARANTEED CASH VALUE</u>	<u>*DIVIDENDS</u>	<u>*GUARANTEED CASH VALUE</u>	<u>*DIVIDENDS</u>
Currently (last policy anniversary)	\$	\$	\$	\$
1 year hence	\$	\$	\$	\$
5 years hence	\$	\$	\$	\$
10 years hence	\$	\$	\$	\$
At Age 65	\$	\$	\$	\$

- * Current Death Benefit of Div. Adds \$
- * Current Cash Value of Div. Adds \$
- * Current Accum. Div. \$
- * Current Policy Loan \$
- Maximum Policy Loan Interest Rate _____% Maximum Policy Loan Interest Rate _____%

* Dividends are based on the current (19__) scale. * Dividends are based on the current (19__) scale.

* Dividends, policy loan and certain guaranteed cash value information concerning your existing insurance may not be known to our agent. Dividends are not guaranteed. However, they may materially reduce the cost of insurance and are an important factor to consider. Thus, if dividends or other figures have been omitted from this Comparative Information Form, you should not reach a final decision to replace your existing insurance until you have them. You may obtain the omitted figures from the company that issued your existing policy. We will notify that company of your intent to replace your existing policy.

Agent's Statement

1. The primary reasons for my recommending the proposed replacement of existing life insurance by new life insurance are: *

2. My recommendations as to the existing life insurance is that it be:

____ Not Changed ____ Lapsed ____ Surrendered ____ Reduced Paid-Up ____ Extended Term

Other (Exp/ain) _____

Borrowed Upon (Explain and state the amount to be borrowed) _____

3. The existing life insurance does not meet the insured/buyer's needs for insurance because:*

* Specific reasons must be given. For example, if you believe the existing life insurance cannot meet the insured/buyer's needs, you must specify why you think it does not.

Instructional Notes for Agent

1. Existing life insurance must be identified by name of insurer and the policy number. In the event that a policy number has not been assigned by the existing insurer, alternative identification information such as an application or receipt number must be shown.
2. If the premium for the basic policy or any rider or benefit changes, indicate the changes; attach schedule, if necessary.
3. If the death benefit for the basic policy or any rider or benefit changes, indicate the changes; attach schedules, if necessary.
4. If the premium for benefits is not separable from the premium for the basic policy, insert "Included" in Basic Policy Premium.
5. If more than one existing life insurance policy is to be replaced, a separate Comparative Information Form is to be provided for each such policy, or separate information is to be provided in one Comparative Information Form for each such policy, and a summary of all the separate policy information must also be included to the extent possible.

Agent's Certification

I hereby certify that prior to taking an application for a policy, I have provided the applicant with the Notice Regarding Replacement of Life Insurance and that the information in this Comparative Information Form is true and correct to the best of my knowledge and belief.

(Signature of Agent)

(Date)

I have received and read a copy of this Comparative Information Form.

(Signature of Applicant)

(Date)

Unfair Competition and Unfair Practices
059.21.21

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

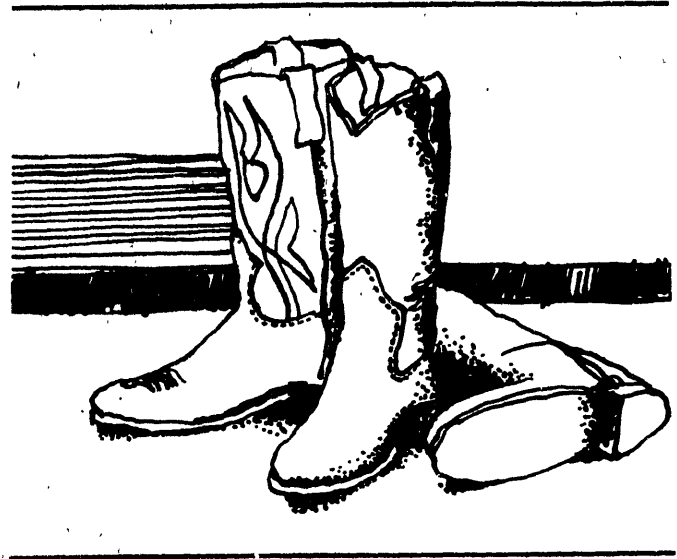
This repeal is proposed under authority of Article 21.21, Section 13, of the Texas Insurance Code.

- .004. *Replacement of Life Insurance I.*
- .006. *Replacement of Life Insurance II.*
- .007. *Replacement of Life Insurance III.*

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

Doc. No. 810801 Pat Wagner
 Chief Clerk
 State Board of Insurance

Proposed Date of Adoption: March 13, 1981
For further information, please call (512) 475-3325.



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 "Non-codified."



NONCODIFIED

State Board of Insurance

Title Insurance

Policy Forms and Premiums 059.09.07

The State Board of Insurance amends Rule 059.09.07.001, which adopts by reference the Basic Manual of Rules, Rates, and Forms for the Writing of Title Insurance in the State of Texas, by amending Rate Rule R-1 (Exhibit A) and by amending Rate Rule R-11 (Exhibit B). Exhibits A and B are attached hereto and incorporated herein by reference. The board adopts these amendments because of prior changes in the rate rules. Rate Rule R-15 has been deleted and should not be referred to in Rate Rule R-1. Rate Rule R-11 needed to be renumbered because of changes in Procedural Rule P-9 which were effective July 1, 1980.

These amendments are adopted pursuant to the authority of Article 9.07 of the Texas Insurance Code.

.001. *Basic Manual of Rules, Rates, and Forms for the Writing of Title Insurance in the State of Texas.* The State Board of Insurance adopts by reference the Basic Manual of Rules, Rates, and Forms for the Writing of Title Insurance in the State of Texas as amended in December 1980. This document is published by Hart Graphics, P.O. Box 968, Austin, Texas 78767, and is available there and from the State Board of Insurance, 1110 San Jacinto, Austin, Texas 78786.

Issued in Austin, Texas, on January 30, 1981.

Doc. No. 810790 Pat Wagner
 Chief Clerk
 State Board of Insurance

Effective Date: February 24, 1981

Proposal Publication Date: December 19, 1980

For further information, please call (512) 475-2957.

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 Commission on Alcoholism

Saturday, February 21, 1981, 9 a.m. The Texas Commission on Alcoholism will meet in the eighth floor conference room, Sam Houston Building, Austin. According to the agenda, the commission will consider the following: approval of minutes; review and approval of state plan; budget update; licensing report; Advisory Council update; status report on NIAAA applications; update on architectural barriers initiatives; and executive director's report.

Information may be obtained from Becky Davis, Sam Houston Building, eighth floor, Austin, Texas, (512) 475-2577.

Filed: February 3, 1981, 11:16 a.m.
Doc. No. 810793

East Texas State University

Friday, February 6, 1981, 9 a.m. The Board of Regents of East Texas State University submitted an emergency revised agenda for a meeting held in the Board of Regents conference room at East Texas State University, Commerce. According to the revised agenda, the board met in executive session to discuss selection of a president and approve the East Texas State University 1981 summer budget. Due to the resignation of the president, this revised agenda is considered an emergency and of urgent public necessity.

Information may be obtained from Charles Morrow, East Texas State University, Commerce, Texas 75428, (214) 886-5024.

Filed: February 5, 1981, 9:51 a.m.
Doc. No. 810820

Texas Education Agency

Friday, February 13, 1981, 8:30 a.m. The Committee for Policy, Budget, and Finance of the State Board of Education will meet in the second floor conference room, 158 East Riverside Drive, Austin. According to the agenda summary,

the committee will consider proposed legislative recommendations; the organizational structure of the Texas Education Agency; Office of Commissioner of Education; organization of State Department of Education; functions of units of State Department of Education; official advisory groups institutional review process; State Textbook Program; principles, standards, and procedures for accreditation of school districts; application of Title IV funds; Office of Technical Assistance for Desegregation; termination of participation on ECS's Migrant Education Task Force.

Information may be obtained from A. O. Bowen, 201 East 11th Street, Austin, Texas 78701, (512) 475-3271.

Filed: February 4, 1981, 9 a.m.
Doc. No. 810803

Friday, February 13, 1981, 8:30 a.m. The Committee for Programs and Personnel Development of the State Board of Education, will meet in the board room, 150 East Riverside Drive, Austin. Items on the agenda include the following: membership in associations; medical examination report for school bus drivers; appointment to Advisory Committee on Comprehensive School Health Program; appointment to Apprenticeship and Training Advisory Committee; appointment to Commission on Standards for the Teaching Profession; 11th annual report of Advisory Council for Technical-Vocational Education in Texas; proposed legislative recommendations; draft of Proclamation 57 for 1981 textbook adoption.

Information may be obtained from A. O. Bowen, 201 East 11th Street, Austin, Texas 78701, (512) 475-3271.

Filed: February 4, 1981, 9 a.m.
Doc. No. 810804

Friday, February 13, 1981, 2 p.m. The Committee for Priorities, Accountability, and Accreditation of the State Board of Education will meet in the board room, 150 East Riverside Drive, Austin. According to the agenda, the committee will consider general educational development; county schools; principles, standards, and procedures for the accreditation of school districts; report on management and service audits for regional education service centers.

Information may be obtained from A. O. Bowen, 201 East 11th Street, Austin, Texas 78701, (512) 475-3271.

Filed: February 4, 1981, 9 a.m.
Doc. No. 810805

Friday, February 13, 1981, 2 p.m. The Committee for Special Schools, Athletics, and Special Projects of the State Board of Education will meet in the second floor conference room, 150 East Riverside Drive, Austin. Items on the agenda include the following: state audit report—Texas Schools for the Blind and for the Deaf and central services, fiscal year ending August 31, 1979, and schools' response; discussion of format that would lead to examination of the cost of private schools for the handicapped and exploration of possibility of use of state facilities; final report of recommendations and governance of the University Interscholastic League; briefing of the transfer rule.

Information may be obtained from A. O. Bowen, 201 East 11th Street, Austin, Texas 78701, (512) 475-3271.

Filed: February 4, 1981, 9 a.m.
Doc. No. 810806

Friday, February 13, 1981, 2 p.m. The Committee for Investment of the Permanent School Fund of the State Board of Education will meet in the second floor conference room, 158 East Riverside Drive, Austin. According to the agenda summary, the board will consider Investment Advisory Committee report; securities transactions; investment portfolio; recommended investment program for February; estimated funds available for February program; recommended addition to the approved list of corporations for security purchases for the State Permanent School fund; recommended addition to approved list of brokers; investment officer report.

Information may be obtained from A. O. Bowen, 201 East 11th Street, Austin, Texas 78701, (512) 475-3271.

Filed: February 4, 1981, 9 a.m.
Doc. No. 810807

Saturday, February 14, 1981, 8:30 a.m. The State Board of Education will meet in the board room, 150 East Riverside Drive, Austin. Items on the agenda summary include the following: appeals on decisions of the commissioner of education; agency administration; Good Neighbor scholarships; appointment of trustee, Fort Sam Houston Independent School District; membership in associations; medical examination report for regular and substitute school bus drivers; recommendations for appointment to Advisory Committee on Comprehensive School Health Program; recommendation for appointment to Apprenticeship and Training Advisory Committee; recommendations for appointment to Commission on Standards for the Teaching Profession; 11th annual report of the Advisory Council for Technical-Vocational Education in Texas; the organizational structure and the duties and responsibilities of the organizational units of the Texas Education Agency; Office of Commissioner of Education; organization and function of the State Department of Education; official advisory groups and procedures for their appointments; the institutional review process; State Textbook Program in general; principles, standards, and procedures for the accreditation of school districts; application for federal funds under Title IV of Public Law 95-561; request for authorization to submit an application for a grant to continue operation of the Office of the Technical Assistance for Desegregation; recommendation to terminate participation on the Education Commission of the States' Task Force on Migrant Education; proposed legislative recommendations; general educational development; county schools; state audit report—Texas Schools for the Blind and for the Deaf and central services, fiscal year ending August 31, 1979, and schools responses; recommended addition to approved list of corporations and for security purchases for the State Permanent School Fund; investment of available funds; change of date for June meeting of the State Board of Education from June 13 to June 20, 1981.

Information may be obtained from A. O. Bowen, 201 East 11th Street, Austin, Texas 78701, (512) 475-3271.

Filed: February 4, 1981, 8:59 a.m.
Doc. No. 810808

Texas Health Facilities Commission

Friday, February 13, 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

Gasperd's Nursing Care Center, Inc., Port Arthur
AN80-0509-019
Metrocare, Euless
A080-0924-020

Amendment of Certificate of Need Order

Buena Salud Health Systems, Inc., Del Rio
A079-1119-025A (120380)
Brookhaven Medical Center, Farmers Branch
AH80-0221-005A (121680)
Baytown Nursing Home, Baytown
AN79-0613-007A (121880)

Exemption Certificates

Stephenville Hospital, Inc., Stephenville
AH80-1219-003
Apple Tree Inn, Richardson
AN80-1126-028
Champ Fraylor Memorial Hospital, Port Lavaca
AH80-1218-027
Home for the Aged—Christian Care Center Division,
Mesquite
AN80-1208-008
Spohn Hospital, Corpus Christi
AH80-1216-022
Hurst-Euless-Bedford Hospital, Bedford
AH80-1216-020

Declaratory Ruling

PruCare of Austin, Austin
A080-1222-020

Information may be obtained from Linda E. Zatópek, P.O. Box 15023, Austin, Texas 78761, (512) 475-6940.

Filed: February 4, 1981, 9:46 a.m.
Doc. No. 810809

Texas Housing Agency

Wednesday and Thursday, February 11 and 12, 1981, 2:30 p.m. and 8 p.m. Wednesday, and 9 a.m. Thursday. The Texas Housing Agency Board of Directors will meet in the Coach Room at the Stagecoach Inn, Salado. According to the agenda, the board will evaluate and recommend actions concerning agency administrative procedures including but not limited to conduct of board meetings; select and evaluate consultants, matters concerning bond issuance activities and scheduling, single family program design, personnel policies, budget development, communications with other governmental entities and the public; conduct orientation on Texas State Government Effectiveness Program; discuss long-range planning goals; and elect officers.

Information may be obtained from Earline Jewett, P.O. Box 13941, Austin, Texas 78711, (512) 475-0812.

Filed: February 3, 1981, 3:05 p.m.
Doc. No. 810796

State Board of Insurance

Thursday, February 5, 1981, 11 a.m. The State Board of Insurance held an emergency meeting in Room 408, 1110 San Jacinto, Austin, to consider proposed legislation and the SCR 21 report. The emergency meeting was warranted because of the deadline required for filing of bills and the SCR 21 report.

Information may be obtained from Pat Wagner, 1110 San Jacinto, Austin, Texas 78786, (512) 475-2950.

Filed: February 4, 1981, 11:14 a.m.
Doc. No. 810616

Wednesday, February 18, 1981, 9 a.m. The State Board of Insurance will conduct a public hearing in Room 342, 1110 San Jacinto Street, Austin, to consider appeals from Commissioner's Order 80-3010 concerning the application of Reliance Insurance Company for an exemption pursuant to Section 5(g)(3), Article 21.49-1, of the Texas Insurance Code.

Information may be obtained from Pat Wagner, 1110 San Jacinto, Austin, Texas 78786, (512) 475-2950.

Filed: February 4, 1981, 10:21 a.m.
Doc. No. 810814

Merit System Council

Friday, February 13, 1981, 9:30 a.m. The Merit System Council will meet in Room 507 of the Brown Building, 8th and Colorado Streets, Austin, to conduct an appeal hearing.

Information may be obtained from Leo F. Brockmann, P.O. Box 1389, Austin, Texas 78767, (512) 477-9665.

Filed: February 4, 1981, 10:18 a.m.
Doc. No. 810813

Texas Board of Licensure for Nursing Home Administrators

Tuesday, February 17, 1981, 9 a.m. The Texas Board of Licensure for Nursing Home Administrators will meet in Suite 202 (the board room), 7333 U.S. Highway 290 East, Austin. Items on the agenda summary include: approval of minutes from October 21, 1980, and January 9, 1981, board meetings; personal appearances; discussion with agencies cosponsoring seminars for continuing education credits; reports on Texas Department of Health and Texas Department of Human Resources; budget, committee, investigation, and legislative reports; petitions for inactive status; and rule waiver requests.

Information may be obtained from Royce L. Ashcraft, 7333 U.S. Highway 290 East, Suite 202 (board room), Austin, Texas, (512) 926-9530.

Filed: February 3, 1981, 3:04 p.m.
Doc. No. 810798

State Pension Review Board

Tuesday, February 3, 1981, 1:30 p.m. The Legislative Advisory Committee of the State Pension Review Board held an

emergency meeting in Room G35B in the Capitol, to review C.S.H.B. 461, in order to prepare an impact statement. The emergency meeting was necessary due to timing of bill to come before House floor.

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

Filed: February 3, 1981, 10:54 a.m.
Doc. No. 810791

Public Utility Commission of Texas

Wednesday, February 11, 1981, 1:30 p.m. The Public Utility Commission of Texas will conduct an emergency prehearing conference in Suite 450N, 7800 Shoal Creek Boulevard, Austin, to consider Docket 3684—application of Southwest Water Services, Inc., for a rate increase (water). The emergency meeting is warranted to enable the commission staff and intervenors to process the case under the statutory time frame.

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

Filed: February 4, 1981, 10:20 a.m.
Doc. No. 810812

Friday, February 13, 1981, 9 a.m. The Hearings Division of the Public Utility Commission of Texas will conduct a prehearing in Suite 450N, 7800 Shoal Creek Boulevard, Austin, in Docket 3702—application of DeWitt County 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 3, 1981, 3:05 p.m.
Doc. No. 810797

Tuesday, February 24, 1981, 9 a.m. The Hearings Division of the Public Utility Commission of Texas will conduct a rescheduled hearing in Suite 450N, 7800 Shoal Creek Boulevard, Austin, in Docket 3578—application of Fayette Electric Cooperative, Inc., for a rate increase. This hearing was previously scheduled for Wednesday, 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 4, 1981, 2:28 p.m.
Doc. No. 810817

Wednesday, April 1, 1981, 9 a.m. The Hearings Division of the Public Utility Commission of Texas will conduct a hearing in Suite 450N, 7800 Shoal Creek Boulevard, Austin, in Docket 3656—application of Mid-South 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 4, 1981, 2:28 p.m.
Doc. No. 810818

Regional Agencies

Meetings Filed February 4, 1981

The Hansford County Appraisal District will meet at the Pittman-Shieldknight Building, 511 West 11th Street, Spearman, on February 11, 1981, at 4 p.m. Information may be obtained from Jimmy Shieldknight, P.O. Box 517, Spearman, Texas 79081, (806) 659-3731.

The Red River Authority of Texas, Board of Directors, will meet in Room 215, Activity Center, 1001 Indiana, Wichita Falls, on February 12, 1981, at 10 a.m. Information may be obtained from Fred Parkey, 302 Hamilton Building, Wichita Falls, Texas, (817) 723-8697.

The South Texas Health Systems Agency, Plan Development Committee, Lower Rio Grande Valley Subarea Advisory Council, will meet at the Rodeway Inn, Expressway and Mile 2-W, Mercedes, on February 10, 1981, at 7 p.m. Information may be obtained from Fidel Pizana, Station 1, Box 2378, Kingsville, Texas 78363, (512) 595-5545. The Bylaws Committee/South Texas Subarea Advisory Council, and the Nominating Committee/South Texas Subarea Advisory Council, will meet at the Ramada Inn, North IH 35, Laredo, on February 11, 1981, at 6:30 p.m. The South Texas Subarea Advisory Council will also meet at the same location but at 7 p.m. Information on these meetings may be obtained from Jorge Elizondo, Station 1, Box 2378, Kingsville, Texas 78363, (512) 595-5545.

Doc. No. 810815

Meetings Filed February 5, 1981

The Harris County Appraisal District, Board of Directors, met at 1750 Seamist, Houston, on February 9, 1981, at 3 p.m. Information may be obtained from Searcy German, 1750 Seamist, Houston, Texas 77008, (713) 861-2530.

Doc. No. 810821



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 January 26-30, 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 January 30, 1981

Frisco Concrete, Inc., Dallas; ready-mix concrete batch plant; 1349 Empire Central; 7965A; source not available

D. P. Frost Construction Co., Inc., Marquez; rock crusher; Carrington site; 8261B; modification

J. L. Davis, operator, Floresville; gas sweetening facility; Dewees; 8346A; modification

Diamond Shamrock Corp., Sunray; refinery expansion; Highways 119 and 721; 8695; new source

Alenco, division of Redman Building Products, Bryan; painting aluminum extrusions; 615 Carson Street; 8696; new source

Western Company of North America, White Settlement; paint spray booths; 7700 Wyatt Drive; 8697; new source

Henkel Corp., Kenedy; guar derivative plant expansion; 1 Mill Street; 8698; new source

Southwest Petrochem, Inc., Donna; for the operation of crude unit; South 11th Street (Rancho Refinery); 8699; new source

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

Doc. No. 810787 Ramon Dasch
 Director of Hearings
 Texas Air Control Board

Filed: February 3, 1981, 9:30 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

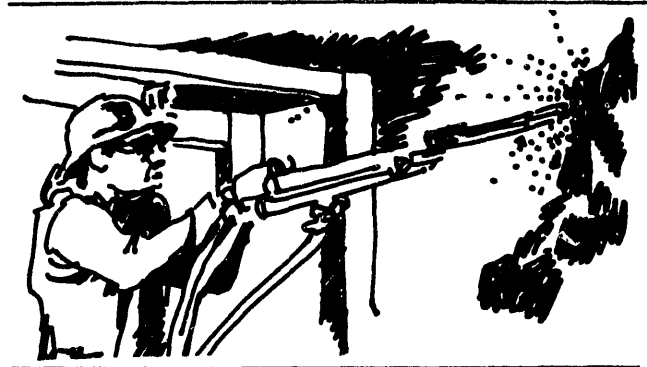
application with the banking commissioner for the commissioner's approval to purchase control of a particular bank. A hearing may be held if the application is denied by the commissioner.

On February 2, 1981, the banking commissioner received an application to acquire control of Texas Independence Bank, Pasadena, by Ralph Cothran of San Leon, Donald L. Cecil and Richard L. Wagoner of Pearland, R. B. Stanton of Pasadena, and Gene H. Bingham, W. A. Silvey, Jr., Charles Foster, Romeo F. Laurel, and Errol Slaton all of Houston. 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 2, 1981.

Doc. No. 810799 Robert E. Stewart
 Banking Commissioner

Filed: February 3, 1981, 3:05 p.m.
 For further information, please call (512) 475-4451.



Texas Energy and Natural Resources Advisory Council

Consultant Contract Award

In compliance with Article 6252-11c, Vernon's Annotated Texas Statutes, the Texas Energy and Natural Resources Advisory Council furnishes this notice of contract award. The consultant proposal request appeared at 5 TexReg 4045.

Description of Study. Project 80-C-7-2 is to demonstrate the technical and economic feasibility of the indirect evaporative cooling retrofit concept on a typical commercial system and a typical residential system through the following tasks:

- (1) develop a general test plan and define instrumentation requirements;
- (2) select a typical commercial building (about 10 to 15 tons of cooling capacity) and a typical residence (about three to five tons) for the test sites;
- (3) design the retrofit cooler installation, carefully matching the evaporative cooler to the condensing unit at the test site;
- (4) specify and procure the instrumentation and recording systems;
- (5) install the indirect evaporative coolers at the test sites and begin test cycle;

(6) record data for a partial cooling season and analyze the data for specific weather and site test conditions;

(7) document the results in an interim report, which is a preliminary draft of the final report, in as much detail as may be possible at the time.

Name of Contractor: Total Value: Contract Period. The contractor is Richard P. Bywaters and Associates, 8609 Northwest Plaza Drive, P.O. Box 25111, Dallas, Texas 75225. The total value of the contract is \$33,810. The beginning date of the contract is January 27, 1981, and the ending date of the contract is August 31, 1981.

Reports. Progress reports are due the 10th of each month; an interim report is due August 31, 1981.

Issued in Austin, Texas, on February 3, 1981.

Doc. No. 810811 Roy R. Ray, Jr., Director
Technology Development Division
Texas Energy and Natural Resources
Advisory Council

Filed: February 4, 1981, 10 a.m.
For further information, please call (512) 475-0414.

Contract Awards

The Texas Energy and Natural Resources Advisory Council furnishes this notice of contract award. The consultant proposal request appeared at 5 TexReg 3077. This notice of contract award does not come under Article 6252-11c, Vernon's Annotated Texas Statutes, but is furnished as public information.

Description of Project. Project 80-L-7-2 is a study of trace elements, primarily metals, in Texas lignites. One important goal is to furnish a data base which establishes the total concentrations of trace elements existent in the major Texas lignite deposits and in the ash produced by their combustion.

Contractor: Total Value: Period of Contract. The contractor is Texas A&M University, Center for Energy and Mineral Resources, College Station, Texas 77843. The total value of the contract is \$34,914. The beginning date of the contract is January 15, 1981, and the ending date of the contract is August 31, 1981.

Due Dates for Reports. Progress reports are due on the 10th of each month; a draft interim report is due on August 1, 1981, and a final interim report is due August 31, 1981.

Doc. No. 810777

The Texas Energy and Natural Resources Advisory Council furnishes this notice of contract award. The consultant proposal request appeared at 5 TexReg 3932. This notice of contract award does not come under Article 6252-11c, Vernon's Annotated Texas Statutes, but is furnished as public information.

Description of Project. Project 80-B-6-6A and B is a joint project between Texas A&M University and Texas Tech University to test the energy production feasibility of four plant species at four sites across the western half of Texas.

Contractor: Total Value: Period of Contract. The contractors are Texas A&M University, College Station, Texas 77843, and Texas Tech University, Lubbock, Texas 79409. The total value of the contract is \$33,333. The beginning date of the contract is January 15, 1981, and the ending date of the contract is August 31, 1981.

Due Dates for Reports. A progress report is due April 30, 1981; draft final report is due August 1, 1981; and a final report is due August 31, 1981.

Issued in Austin, Texas, on January 29, 1981.

Doc. No. 810778 Roy R. Ray, Jr., Director
Technology Development Division
Texas Energy and Natural Resources
Advisory Council

Filed: February 2, 1981, 4:12 p.m.
For further information, please call (512) 475-0414.

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 2 and 3, 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 of 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.

Diagnostic Clinic of Houston, Houston (2/3/80)
 AS81-0120-064
 EC—Request to acquire two additional hemodialysis units for the existing facility

Tidelands General Hospital, Channelview (2/3/80)
 AH81-0130-013
 EC—Request to expand existing nuclear medicine services through contract with Gulf Coast Diagnostics, Inc., who will furnish and place a portable scintillation camera in-house at the hospital (no remodeling necessary)

Issued in Austin, Texas, on February 4, 1981.

Doc. No. 810810 Linda E. Zaipek
 Assistant General Counsel
 Texas Health Facilities Commission

Filed: February 4, 1981, 9:45 a.m.
 For further information, please call (512) 475-6940.

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.

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Notice of Schedule Variation

In view of the observance of George Washington's birthday on Monday, February 16, deadlines for submission of documents for publication in the issue of the *Texas Register* dated February 20, 1981, have been changed. As previously scheduled, deadlines for submission of documents for publication in the February 20 issue are 10 a.m. Friday, February 13 (all copy except notices of open meetings), and 10 a.m. Tuesday, February 17 (open meeting notices). The regular deadline schedule will resume with the issue of the *Register* dated February 24, 1981.

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*.

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TITLE 40. SOCIAL SERVICES AND ASSISTANCE
TITLE 43. TRANSPORTATION

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