

3500.6  
R263  
4/15

FILE COPY

Volume 4, Number 15, February 23, 1979  
Pages 587 - 628

# TEXAS REGISTER

TEXAS STATE LIBRARY

FEB 26 1979

TEXAS DOCUMENTS

## In This Issue...

Parent advisory council for migrant education created by emergency rule of Texas Education Agency; effective date—February 14..... 592

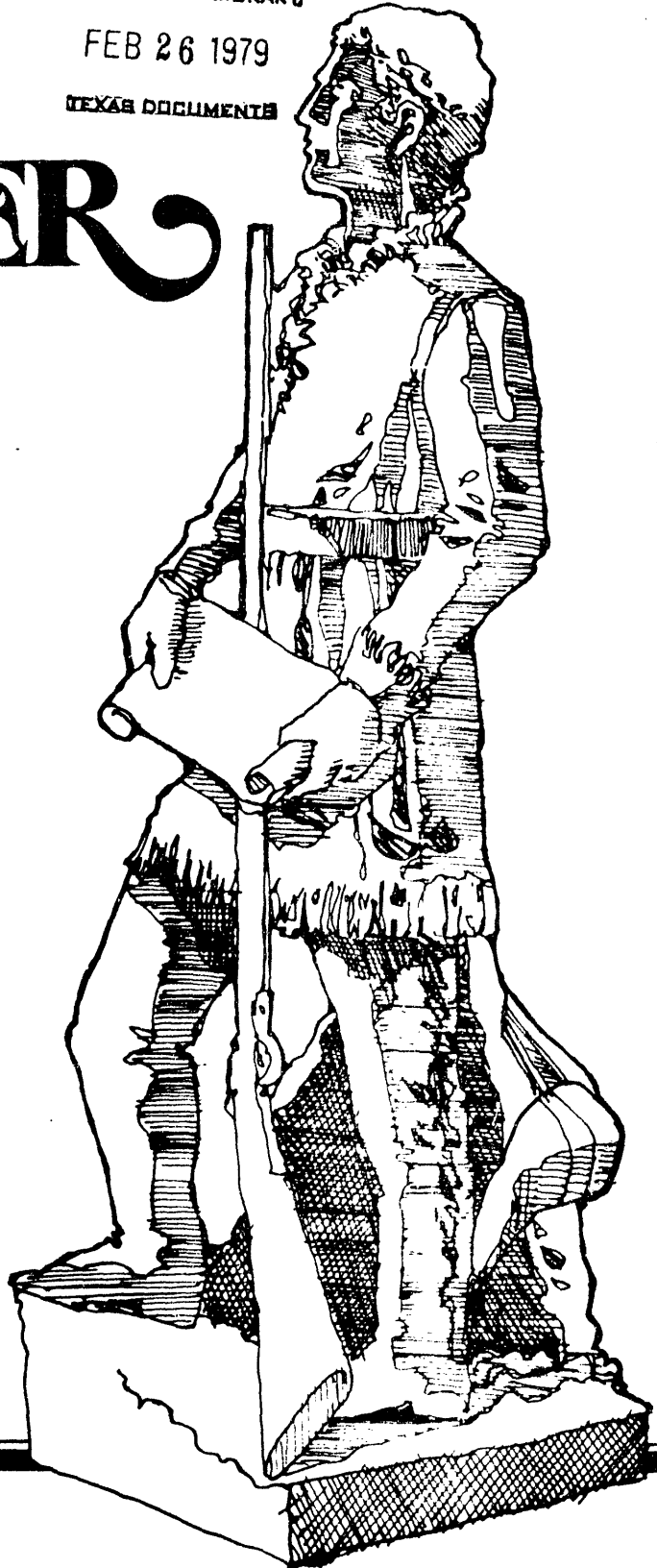
Rules on office of the commissioner proposed for March 26 adoption by Texas Education Agency..... 593

Proposed rule on full recovery of purchased gas costs submitted to Railroad Commission for adoption on March 26..... 599

Procedures for administrative hearings adopted by Department of Mental Health and Mental Retardation; effective date—March 7..... 600

Rules on procedure adopted by School Land Board; effective date—March 8..... 605

Legislative report..... 620



Office of the Secretary of State

# NOTES ON THE ISSUE

By emergency rule, the Texas Education Agency is creating the State Parent Advisory Council for Migrant Education. The council will advise the TEA on the state program for the education of migrant children and will review the state's application for the program's funding. A federal law requires that the application be reviewed by an advisory council before it is submitted to the U.S. Office of Education. The agency is adopting the rule on an emergency basis to enable nominations for membership on the council to be made at the March meeting of the State Board of Education. Members will then review the state's application for a grant of \$55.4 million for the 1979-80 fiscal year. Approximately 77,000 migrant children are involved in the state's migrant education program.

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

*Artwork Gary Thornton*

## TEXAS REGISTER

The *Texas Register* (ISSN 0362-4781) is published twice weekly, at least 100 times a year, except March 9, June 1, November 27, and December 28, by the Texas Register Division, Office of the Secretary of State, 201 East 14th Street, P.O. Box 12887, Austin, Texas 78711, telephone (512) 475-7886.

The *Register* contains executive orders of the governor, summaries of attorney general's opinions and summaries of requests for opinions, emergency rules, proposed rules, and adopted rules of state agencies, notices of open meetings, and miscellaneous notices of general interest to the public of Texas.

Subscriptions are \$25 for one year. Back issues, when available, are \$1 each.

Material in the *Texas Register* is the property of the State of Texas. However, it may be copied, reproduced, or republished by any person for any purpose whatsoever without permission of the Texas Register Division director provided no such republication shall bear the legend "Texas Register" or "Official" without the written permission of the director, Texas Register Division. Published under the Texas Civil Statutes, Article 6252-13a. Second-class postage is paid at Austin, Texas.

POSTMASTER: Please send Form 3579 changes to the Texas Register, P.O. Box 12887, Austin, Texas 78711.



*George W. Strake, Jr.  
Secretary of State*

### *Texas Register Division*

Bill Lalla, Director  
Linda Camp  
Mary Barrow  
Bobby Duncan

Pam Fridrich  
Magdalena Cortez  
Charlotte Scroggins  
Brenda Mills

Bill Pratt  
Becky Willard  
Vickie Wesson  
Deborah Marlatt

## The Governor

### Appointments

590 *State Securities Board*

## The Attorney General

### Requests for Opinions

591 *RQ-25 (concerning whether land devised to state by will should be part of Permanent School Fund)*

## Emergency Rules

### Texas Education Agency

592 *Adaptations for Special Populations*

## Proposed Rules

### Texas Education Agency

593 *State Commissioner of Education*  
598 *Adaptations for Special Populations*

### Railroad Commission of Texas

599 *Gas Utilities Division*

## Adopted Rules

### Texas Department of Mental Health and Mental Retardation

600 *Other Agencies and the Public*  
600 *Client (Patient) Care*

### School Land Board

605 *Procedure*

## Open Meetings

616 *State Board of Control*  
616 *Coordinating Board, Texas College and University System*  
616 *Office of the Governor*  
616 *State Department of Highways and Public Transportation*  
617 *Texas Department of Mental Health and Mental Retardation*

617 *Texas Parks and Wildlife Department*  
618 *Board of Polygraph Examiners*  
618 *Railroad Commission of Texas*  
618 *Texas State University System*  
618 *University Interscholastic League*  
619 *Texas Water Commission*  
619 *Texas Water Development Board*  
619 *Regional Agencies*

## The Legislature

### Legislative Report

620 *Human Services*  
620 *Taxes*  
620 *Criminal Justice*  
620 *State and Local Government*  
620 *Elections*  
620 *Consumer Affairs*

### House of Representatives

620 *Bills Introduced*

### Senate

622 *Bills Introduced*  
624 *Meetings*

### Legislative Information System of Texas

624 *Toll-Free Telephone Number*

## In Addition

### Texas Aeronautics Commission

625 *Correction of Error*

### Texas Air Control Board

625 *Applications for Construction Permits*

### Texas Department of Human Resources

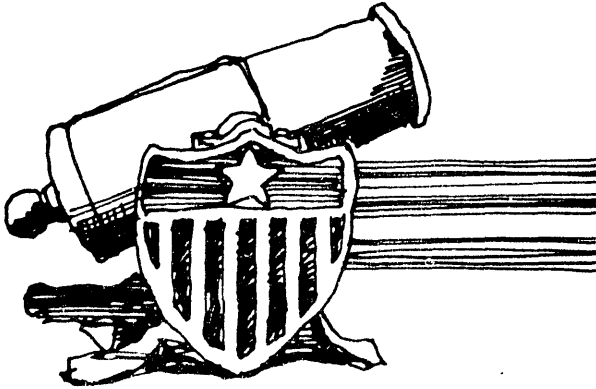
626 *Consultant Proposal Request*

### Railroad Commission of Texas

627 *Transportation Division*

### Texas Register

627 *Notice to Complimentary Subscribers*



## Appointments

### State Securities Board

The following appointment has been submitted to the Senate of the 66th Legislature, Regular Session, for confirmation:

*To be a member for a six-year term to expire January 16, 1985:*

John W. Turner  
4340 Versailles  
Dallas, Texas 75205

Mr. Turner of Dallas, Dallas County, is replacing David D. Allen of Houston, Harris County, whose term expired.

Issued in Austin, Texas, on February 12, 1979.

Doc. No. 790998      William P. Clements, Jr.  
Governor of Texas

For further information, please call (512) 475-4571.

## Requests for Opinions

### Summary of Request for Opinion RQ-25

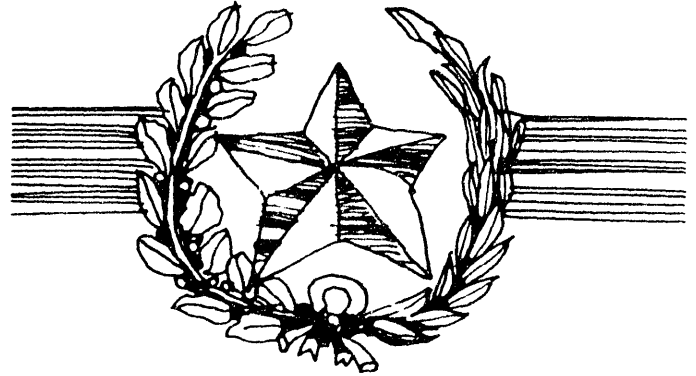
Request from Bob Armstrong, commissioner, General Land Office, Austin.

*Summary of Request:* Is land devised to the state by will part of the Permanent School Fund?

Issued in Austin, Texas, on February 13, 1979.

Doc. No. 790997      C. Robert Heath  
Opinion Committee Chairman  
Attorney General's Office

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



# EMERGENCY RULES

592

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.

**Numbering System**—Each rule is designated by a unique 10-digit number which is divided into four units by decimal points. The first unit (three digits) indicates the agency which promulgates the rule. The second unit (two digits) indicates the chapter of rules to which the rule belongs. The third unit (two digits) indicates the subchapter of rules, if any, within the chapter. The fourth unit (three digits) indicates the individual rule.

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

## Texas Education Agency Adaptations for Special Populations Migrant Education Program 226.35.66

The Texas Education Agency adopts Rule 226.35.66.040 on an emergency basis, effective for 120 days, unless either renewed for an additional 60 days or superseded by a permanent rule. The rule establishes a state-level parent advisory council for migrant education.

Public Law 95-561 requires that state applications for funds for migrant education must be reviewed by a state-level advisory council for migrant education before it is submitted to the United States Office of Education. Rule .040 establishes such an advisory committee. The rule is being adopted on an emergency basis so that nominations for the advisory council may be presented to the State Board of Education at the March meeting of the board. This will permit the advisory council to review the state's application for migrant funds for the coming fiscal year in compliance with Public Law 95-561.

This rule is promulgated under the authority of Section 11.25(f), Texas Education Code, and the Elementary and Secondary Education Act as amended by Public Law 95-561.

*.040. State Parent Advisory Council for Migrant Education.*

(a) Policy.

(1) A parent advisory council for migrant education shall be responsible for advising the Texas Education Agency in planning, implementing, and evaluating the state program designed to meet the educational needs of migrant children.

(2) Membership of the advisory council shall not exceed 15 members nor be less than eight members. The majority of members shall be parents of identified migrant students served in a migrant project. All members of council shall be knowledgeable of the needs of migratory children.

(3) Members of the council shall be appointed by the State Board of Education for a term of two years upon recommendation of the commissioner of education. Members shall be eligible for reappointment once.

(4) The council shall convene as necessary to carry out its responsibilities.

(b) Administrative procedure.

(1) Except as stated in the following procedures, the activities of the State Parent Advisory Council for Migrant Education shall be governed by State Board of Education Policies and Procedures Series 73.00, Advisory Groups.

(2) The commissioner of education shall solicit recommendations from local district-wide advisory councils for members to be nominated for the State Parent Advisory Council for Migrant Education.

(3) The state council shall meet no less than three times annually. In scheduling meetings, the chairman shall take into consideration the mobility patterns of migrants.

(4) A state council member who fails to attend two of the three regularly scheduled meetings in one calendar year shall automatically vacate membership on the council.

Reference: Section 142(a)(4) and Section 125(a), Public Law 95-561.

Issued in Austin, Texas, on February 14, 1979.

Doc. No. 790985

M. L. Brockett  
Commissioner of Education

Effective Date: February 14, 1979

Expiration Date: June 14, 1979

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

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.

An agency, on request, shall provide a statement of the reasons for and against adoption of a rule. Any interested person may request this statement before adoption or within 30 days afterward. The statement shall include the principal reasons for overruling considerations urged against the agency's decision.

**Numbering System**—Each rule is designated by a unique 10-digit number which is divided into four units by decimal points. The first unit (three digits) indicates the agency which promulgates the rule. The second unit (two digits) indicates the chapter of rules to which the rule belongs. The third unit (two digits) indicates the subchapter of rules, if any, within the chapter. The fourth unit (three digits) indicates the individual rule.

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

## Texas Education Agency State Commissioner of Education

### Office of the Commissioner 226.13.03.010

The Texas Education Agency proposes to amend Rule 226.13.03.010, concerning organizational units within the office of the commissioner of education. Most of the material in the present rule is being deleted as it concerns organizational units which are part of the State Department of Education rather than belonging directly to the office of the commissioner. Responsibilities of those organizational units which remain in the commissioner's office are set out in proposed Rules .020-.034.

The proposed change represents an updating of the Texas Education Agency's rules to reflect current agency structure. The agency does not anticipate that the proposed change will have state or local fiscal implications.

Public comment on the proposed amendment to Rule .010 is invited. Comments may be submitted by telephoning the office of Dr. J. B. Morgan, associate commissioner for Policies and Services, at (512) 475-7077, or by writing to him 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 11.52(a) and 11.62(a), Texas Education Code.

*.010. Organizational Units and Responsibilities in General.*

(a) Policy. Attached to the office of the commissioner of education shall be organizational units with [executive,] coordination[,] and agency services responsibilities. These include:| *the office of the general counsel and the Department of Policies and Services.*

- | (1) Investment Office;
- | (2) office of the deputy commissioner of education;
- | (3) Office of Planning;
- | (4) Office of Regional Education Services;
- | (5) Office of International and Bilingual Education;
- | (6) Office of Urban Education;
- | (7) Office of Internal Management;
- | (8) Publications Office;
- | (9) Business Office;
- | (10) office of the legal counselor;
- | (11) Division of Textbooks;
- | (12) Office of Personnel Administration and Staff Development;
- | (13) Management Information Center; and
- | (14) Division of Audits.]

*Responsibilities of each organizational unit shall be specified by the commissioner of education.*

(b) Administrative procedure.

(1) *The office of the general counsel and the Department of Policies and Services are attached to the office of the commissioner of education.*

(2) *The associate commissioner for Policies and Services is responsible for the Division of Dissemination and Publications, the Division of Personnel Administration and Staff Development, the Division of Information Analysis, and the Management Information Center.*

(3) *Responsibilities for each of the organizational units in the office of the commissioner of education are specified in Administrative Procedures 13.03.020 through 13.03.034.*

[All policies and administrative procedures for internal operations for the staff of the Texas Education Agency are located in Rules 226.16.01.010, 226.16.02.010, and 226.16.03.010 and apply to the personnel attached to the office of the commissioner of education. The functions of the organizational units attached to the office of the commissioner of education are as follows:

(a) Investment Office. The Investment Office administers the state responsibility for the investment of the Permanent School Fund. The functions of the Investment Office are to:

- | (1) provide the State Board of Education with complete information on the availability and relative attractiveness of eligible securities for the investment of the Permanent School Fund;
- | (2) carry into effect the orders of the board and handle all details of actually purchasing, paying for, obtaining delivery on, checking the securities purchases, and selling, delivering, and collecting for securities sold;
- | (3) maintain records necessary for the administration of the Permanent School Fund;
- | (4) collect maturing items of principal and interest on outstanding investments; and
- | (5) provide consultative services to school district officials on the administration of their bond programs.

(b) Deputy commissioner of education. The deputy commissioner of education is responsible to the commissioner of education and his functions are to:

- | (1) provide overall assistance to the commissioner and the State Board of Education in the discharge of their responsibilities and be directly responsible for coordinating and supervising all agency programs and operations;

(2) administer the internal management services of the agency;

(3) develop and control the agency budgets;

(4) serve as the liaison with the Governor's Office, legislature, other state departments, and federal agencies.

(5) coordinate research and assist with program development within the agency;

(6) maintain an efficient flow of work within and among organizational units of the agency;

(7) coordinate staff travel in accordance with the approved travel plan;

(8) control agency reports and contracts;

(9) administer publication services of the agency; and

(10) administer internal audits of the agency and annual audits of school district accounts.

(c) Office of Planning. The associate commissioner for Planning is responsible to the commissioner of education for the development of effective agency-wide planning and evaluating of educational programs, and for the improvement of these areas in cooperation with local, state, and federal agencies. The functions of the Office of Planning are to:

(1) provide leadership for continuous study and identification of educational needs, relate educational needs to public school programs, identify and describe educational goals of the state; establish priorities of needs, invent or adapt new approaches from results of research and from innovation for meeting these needs, and measure educational outcomes and feed the information into replanning and refining;

(2) maintain communication and cooperation concerning comprehensive educational planning among all divisions and programs within the agency;

(3) cooperate in educational research and demonstration projects; serve as liaison with research and development programs of colleges, school districts, state education departments in other states, federal agencies, professional associations, and other groups; evaluate the finding of these projects and programs in terms of the educational needs of Texas; and translate these findings into action programs for immediate use in the classroom; and

(4) disseminate information regarding educational progress, trends, and programs to the public school personnel and the general public.

(d) Office of Regional Education Services. The assistant commissioner for Regional Education Services is responsible to the commissioner of education for the development and coordination of regional education service centers. The functions of the Office of Regional Education Services are to:

(1) direct the design of model programs to be implemented by the regional education service centers in response to identified needs and develop plans with the deputy commissioner of education and assistant associate commissioners for the use of funds to implement the programs, which include but are not limited to computer, media, and guidance services;

(2) identify and plan for the utilization of the resources of the agency, institutions of higher education, and cultural and other agencies in the development of regional education service centers;

(3) identify areas in which planning is needed for the implementation and development of the regional education services; and direct integration of such educational plan-

ning and resources into the state, regional, and local planning process;

(4) plan and supervise the agency program in administering the state responsibility under Title III, Elementary and Secondary Education Act of 1965; and

(5) identify the areas in which planning is needed for the implementation and development of the service components in the regional education service centers and identify resources needed in planning and directing these resources to appropriate planning activities both within the agency and the regional education service centers.

(e) Office of International and Bilingual Education. The assistant commissioner for International and Bilingual Education is responsible to the commissioner of education for the bilingual education programs in the public schools and the encouragement of personnel and curriculum exchanges between school districts and ministries of education from foreign countries. The functions of the Office of International and Bilingual Education are to:

(1) provide consultative services to assist public schools, teacher education institutions, regional education service centers, and other educational organizations in developing bilingual education programs;

(2) provide consultative services to assist in preparing project proposals for Elementary and Secondary Education Act of 1965, Title VII (the Bilingual Education Act); and

(3) act as liaison between ministries of education from foreign countries and school districts in international programs.

(f) Office of Urban Education. The assistant commissioner for Urban Education is responsible to the commissioner of education for providing leadership and coordination to meet the educational needs of urban areas.

(g) Office of Internal Management. The director of Internal Management is responsible to the deputy commissioner of education for coordinating and implementing internal operating procedures in accordance with the State Board of Education policies and administrative procedures. The functions of the Office of Internal Management are to:

(1) aid the deputy commissioner of education in planning, coordinating, directing, and controlling the resources of the agency;

(2) conduct continuous evaluation of procedures needed to facilitate effective internal operations;

(3) assist the various organizational units of the agency in the development of improved means of accomplishing their tasks;

(4) identify current and potential problem areas and exceptions to schedules and predetermined performance standards; and

(5) coordinate applications and reports on projects under Title V, Elementary and Secondary Education Act of 1965.

(h) Publications Office. The Publications Office is responsible to the deputy commissioner of education and performs administrative and editorial work with respect to Texas Education Agency publications. The major functions of the Publications Office are to:

(1) supervise the planning and reviewing of all publications submitted for duplication for compliance with established standards for tone, style, format, and policies of the State Board of Education and internal operating procedures;



(2) assign and supervise work detail of, and provide services for, duplicating, Varitype, and layout;

(3) control and coordinate flow of materials to the duplicating unit and maintain publication schedules;

(4) control distribution of agency publications in accordance with internal operating procedures;

(5) conduct special research and develop projects as directed by the commissioner and deputy commissioner of education; and

(6) maintain master file of agency bulletins.

(i) **Business Office.** The Business Office is responsible to the deputy commissioner of education for administering the fiscal responsibilities of the agency; developing, coordinating, and assisting organizational units of the agency in all financial matters; and assisting school districts in fiscal matters. The Business Office functions are to:

(1) provide technical assistance in budget development, revision, and analysis;

(2) provide for the review and approval of school depository bonds;

(3) produce financial reports required by state and federal agencies, the State Board of Education, the management of the agency, and other public and private agencies;

(4) maintain control of all cash received and disbursed for the agency;

(5) classify, control, and record all agency financial transactions;

(6) review all claims presented for payment, draw warrant requests, and transmit funds to appropriate depositories and vendors;

(7) provide consultative services to school districts officials on school financial matters;

(8) study, revise, and update the accounting and related systems; and

(9) provide centralized purchasing and agency-wide supply, mail, messenger, custodial, and duplicating services.

(j) **Legal counselor.** The legal counselor is responsible to the commissioner of education and the State Board of Education. The functions of the legal counselor are to:

(1) arrange hearings of appeals prosecuted to the commissioner of education and the State Board of Education and prepare decisions rendered.

(2) provide assistance and advice to other organizational units of the agency and to school districts officials, board members, and teaching personnel in the interpretation and administration of school laws;

(3) prepare official opinion requests and briefs incident thereto for submission to the Attorney General of Texas and serve as liaison officer between the Texas Education Agency and the Office of the Attorney General of Texas;

(4) prepare proposed legislative bills affecting schools and administration of concern to the agency; and

(5) review or assist in the preparation of school law bulletins, directives, and procedures or regulations issued by the agency.

(k) **Division of Textbooks.** The director of the Division of Textbooks is responsible to the commissioner of education for administering the state responsibility for the provision of textbooks to public schools through the State Textbook Program. The functions of the Division of Textbooks are to:

(1) maintain liaison with textbook publishers as to bidding, contracting, and contractual performance;

(2) purchase, handle, and distribute textbooks;

(3) provide services to the State Textbook Committee by preparation of information and reports and arranging contacts with publishers; and

(4) provide consultative services to school district officials in the administration, supply, care, and use of textbooks.

(l) **Office of Personnel Administration and Staff Development.** The director of Personnel Administration and Staff Development is responsible to the deputy commissioner of education. The functions of the Office of Personnel Administration and Staff Development are to:

(1) direct and monitor development and operation of a personnel program including recruitment, staff development training, personnel management, classification, utilization, personnel budget, and employee benefits;

(2) develop and implement programs for the professional improvement of all members of the agency staff;

(3) assist and advise agency management in formulating and administering operating plans and policies for such activities as position classification and wage administration, recruitment, testing, assignment, individual training, transfer, evaluation, promotion, demotion, termination, and retirement;

(4) maintain personnel records and analyze personnel reports and reporting procedures to determine accuracy, completeness, and effectiveness in furnishing information for planning purposes and administrative control; and

(5) plan and conduct studies and surveys to evaluate effectiveness of all personnel program elements.

(m) **Management Information Center.** The director of the Management Information Center is responsible to the deputy commissioner of education. The Management Information Center is responsible for meeting the management information needs of school districts, education service centers, and the agency, and its functions are to:

(1) provide assistance to school districts through regional education service centers in implementation of Bulletin 679, Financial Accounting Manual (see Rule 226.42.90.010);

(2) represent the Texas Education Agency on the Committee on Evaluation and Information Systems and related matters;

(3) coordinate all data acquisition activities of the Texas Education Agency;

(4) provide leadership for and administer the Reports Management System (see Rules 226.13.90.010 and 226.13.91.010);

(5) perform data control and quality checks on specified reports submitted to the Texas Education Agency by school districts;

(6) publish recurring reports of historical and projected data;

(7) provide educational statistics on request to agency organizational units and other authorized users;

(8) publish recurring directories of public and non-public schools; and

(9) coordinate computer services programs through the assistant commissioner for Regional Education Services by:

(9-1) administering the State Plan for a Program of Financial Assistance for Computer Services to Local School Districts by or through Regional Education Service Centers (see Rule 226.13.92.010);

{(9-2) providing overall leadership to the public elementary and secondary schools of the State of Texas in planning, coordination, operation, and evaluation of all computer services;

{(9-3) preparing the Computer Services Procedure Manual and the Network-System Plan (see Rule 226.13.93.010); and

{(9-4) providing planning, cost reduction studies, application development, and implementation assistance to regional computer centers;

{(10) evaluate current data processing methods and procedures, both manual and automated;

{(11) work in conjunction with agency staff members to design or redesign data processing methods and procedures to take advantage of computer capability;

{(12) prepare warrant requests and maintain detailed accounting records for payment of all funds, including the Foundation School Program, State Available, transportation, vocational travel, school lunch, federal assistance, and county administration;

{(13) work in conjunction with the Division of Finance to compute the preliminary and final allocations from the Foundation School Program Fund to the school districts in the state;

{(14) work in conjunction with the Division of Research to provide detailed statistical reports concerning professional personnel and pupil statistics;

{(15) work in conjunction with the Division of Teacher Education and Certification to produce actual Texas teacher certificates and related statistics;

{(16) work in conjunction with the Division of Textbooks to maintain detailed inventory records of textbooks in the various school depositories and prepare orders and shipping schedules for the publishers' depositories in Dallas; and

{(17) meet the computer services needs of all agency divisions.

{(n) Division of Audits. The director of the Division of Audits is responsible to the deputy commissioner of education. The functions of the Division of Audits are to:

{(1) perform internal audits of Texas Education Agency organizational units;

{(2) provide liaison with schools and education service centers by reviewing audit reports prepared by independent accountants and by offering technical assistance to assure properly integrated budgeting, accounting, and auditing procedures;

{(3) audit records of school districts relating to all programs under the Foundation School Program, which include but are not limited to: average daily attendance; professional personnel; transportation—formula capacity and fiscal records; vocational education—pupil membership and teacher travel; and special education;

{(4) audit records of child nutrition program operations;

{(5) audit records of the county administration funds;

{(6) audit records of county-wide day schools for the deaf;

{(7) audit records of federally assisted programs where the payments are made through other state agencies and the Texas Education Agency;

{(8) audit records relating to textbook accountability;

{(9) audit records establishing compliance with accreditation standards;

{(10) prepare and submit reports on these audits to appropriate organizational units of the agency;

{(11) provide technical advice and assistance on record keeping; and

{(12) perform special investigations.}

Doc. No. 790986

## 226.13.03.020-.034

The Texas Education Agency proposes to adopt Rules 226.13.03.020-.034, which describe functions of agency organizational units under the office of the commissioner of education. These units have coordination and agency service responsibilities and include the Department of Policies and Services and the office of the general counsel.

The proposed new rules represent an updating to reflect current agency structure. The agency does not anticipate that the proposed new rules will have state or local fiscal implications.

Public comment on the proposed adoption of Rules .020-.034 is invited. Comments may be submitted by telephoning the office of Dr. J. B. Morgan, associate commissioner of Policies and Services, at (512) 475-7077, or by writing to him 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*.

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

*.020. Office of the General Counsel.* The office of the general counsel is responsible directly to the commissioner of education and the State Board of Education. The major functions of the office of the general counsel are to:

(1) provide legal counsel and representation to the State Board of Education, commissioner of education, and State Department of Education in the performance of their responsibilities under state or federal statutes, court orders, regulations, policies, administrative procedures, operating procedures, or other directives, including state or federal administrative proceedings;

(2) administer appeals to the commissioner of education and State Board of Education under the Texas Education Code, hearings and contested cases under the Texas Administrative Procedure and Texas Register Act, and other legal proceedings conducted by the agency pursuant to statute, regulation, or court order;

(3) prepare official opinion requests for submission to the Attorney General of Texas, assist the Office of the Attorney General of Texas in litigation involving the Texas Education Agency, and conduct liaison between the Texas Education Agency and the Office of the Attorney General of Texas;

(4) assist in the preparation or review of proposed legislative bills affecting the Texas Education Agency or the public schools and in the preparation or review of school law bulletins, rules, regulations, procedures, or directives issued by the Texas Education Agency; and

(5) when not inconsistent with other responsibilities, provide assistance and advice in the interpretation and ad-

ministration of school laws at the request of education service centers, county school boards and officials, school district boards and officials, and teaching personnel.

*.030. Department of Policies and Services.* The associate commissioner for Policies and Services is responsible to the commissioner of education for providing leadership, supervision, and coordination of the agency divisions assigned to the department, and for providing assistance in the formulation of State Board of Education policies and related administrative procedures. The major functions of the Department of Policies and Services are to:

(1) draft new or revised State Board of Education policies, rules, and regulations necessary to promote educational progress and supply the board with all necessary and pertinent information to guide it in its deliberations; and

(2) supervise the design and implementation of systems to gather and analyze information to be used in the formulation of policy and/or legislation.

*.031. Division of Dissemination and Publications.* The director of the Division of Dissemination and Publications is responsible to the associate commissioner for Policies and Services. The major functions of the division are to:

(1) promote the spread of exemplary educational programs through the Demonstration Schools Network, Texas Diffusion Network activities, publications, and audiovisual presentations, and dissemination of information from research and other studies;

(2) discharge agency responsibilities for public information and internal communication;

(3) assist agency, education service center, and school district staffs to improve both internal and external communication; and

(4) provide graphic services, professional library services, duplications services, and audiovisual production and equipment loan services to agency staff. Some audiovisual loan and duplication services are available to regional service centers and local school districts.

*.032. Division of Personnel Administration and Staff Development.* The director of the Division of Personnel Administration and Staff Development is responsible to the associate commissioner for Policies and Services. The major functions of the Division of Personnel Administration and Staff Development are to:

(1) administer all aspects of a comprehensive personnel program for the agency—placement, testing, transfers, promotions, demotions, terminations, retirements, classification/reclassification, worker's compensation, accident reporting, personnel policies and procedures, performance appraisal, employee fringe benefits, standards of conduct, nepotism, public personnel information, grievances and appeals, and personnel counseling;

(2) administer the Texas Education Agency's Equal Employment Opportunity/Affirmative Action Plan; and

(3) assist and advise agency management in the development and implementation of effective education and training programs, including orientation and staff development programs.

*.033. Division of Information Analysis.* The director of the Division of Information Analysis is responsible to the associate commissioner for Policies and Services. The major functions of the Division of Information Analysis are to:

(1) assist in development and maintenance of educational finance-information analysis data base;

(2) identify limitations in the Texas Education Agency data base made apparent in other Information Analysis functions;

(3) develop and maintain computerized statistical analysis and projection models;

(4) coordinate, produce, analyze, and review information prepared for the legislature, the federal government, and other groups; and

(5) produce and publish statistical reports related to pupils, personnel, finances, and demographic characteristics of Texas public schools.

*.034. Management Information Center.* The Management Information Center is responsible to the associate commissioner for Policies and Services. The major functions of the Management Information Center are to:

(1) provide data collection assistance in surveys of local school districts.

(2) provide data collection and quality control services in order to meet agency information needs in a timely and accurate manner;

(3) conduct system analysis activities to identify agency-wide management information needs;

(4) design a system to meet the management information needs of the agency, including all data processing systems;

(5) design, program, and operate data processing systems on the agency computer facilities for use by agency divisions;

(6) work toward adoption of uniform definitions of data items to ensure accuracy and comparability of financial statistics by updating Bulletin 679 through annual changes in coordination with other agency divisions, school officials, and the public accounting profession.

(7) provide leadership and coordination for a system of cooperative school data processing services through the regional education service centers;

(8) administer a program of financial assistance for computer services to local school districts through education service centers;

(9) design, program, and install selected data processing systems in computer processing centers operated by the education service centers for use by local school districts;

(10) represent the Texas Education Agency on the Committee for Evaluation and Information Services to influence federal data acquisition plans; and

(11) coordinate the Reports Management System (RMS).

Issued in Austin, Texas, on February 14, 1979.

Doc. No. 790987

M. L. Brockette  
Commissioner of Education

Proposed Date of Adoption: March 26, 1979

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

## Adaptations for Special Populations

### Adult Education and Training in General

#### 226.35.41.010

The Texas Education Agency proposes to amend Rule 226.35.41.010, concerning adult education and training. The proposed change adds a provision that educational opportunities for adults shall include programs to meet "special needs of under-educated adults." The change is being proposed as part of a general review and updating of Texas Education Agency regulations and does not represent a redirection of the Adult Education Program.

The Texas Education Agency does not anticipate that the proposed change will have state or local fiscal implications.

Public comment on the proposed amendment to Rule .010 is invited. Comments may be submitted by telephoning the office of Dr. J. B. Morgan, associate commissioner for Policies and Services, at (512) 475-7077, or by writing to him 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 11.18(b) and 21.111, Texas Education Code.

#### .010. Educational Services for Adults.

##### (a) Policy.

(1) Statewide adult and continuing programs of education shall be provided to meet the educational needs which are not met by other public educational programs. The educational opportunities for adults shall include programs to meet *special needs of under-educated adults and* special or general needs of those who desire to obtain general or specific knowledge and the related skills for academic, vocational, avocational, or aesthetic undertakings.

(2) Bilingual education as a method of instruction may be provided for students who do not function satisfactorily in English whenever it is appropriate for their optimum development.

Reference: Sections 11.18, 21.111, and 21.902, Texas Education Code.

(b) Administrative procedure. The Statewide Adult and Continuing Education Program provides educational opportunities for adults who are over the age of compulsory school attendance or who are not required to be in regular attendance and do not have a high school education or the educational prerequisites for developing a saleable skill. Instruction, including bilingual instruction, is provided below the college credit level to adults through local education agencies in the areas of adult basic education for grades one through eight, adult education for grades 9-12, or general educational development preparation and adult skills training for all performance levels.

Doc. No. 790988

#### 226.35.41.020

The Texas Education Agency proposes to adopt Rule 226.35.41.020, concerning the Adult Education Advisory Committee. Section 11.18, Texas Education Code, provides that the State Board of Education may establish an adult education advisory committee. In November 1973, the board asked the Advisory Council for Technical-Vocational Education in Texas to serve as the Adult Education Advisory Committee. Proposed Rule .020 is presented in keeping with the State Board of Education's practice of having board policies to cover all official advisory committees.

The Advisory Council for Technical-Vocational Education has been serving as the Adult Education Advisory Committee since 1974. The Texas Education Agency finds, therefore, that the adoption of Rule .020 will have no fiscal implications at the state or local level.

Public comment on the proposed adoption of Rule .020 is invited. Comments may be submitted by telephoning the office of Dr. J. B. Morgan, associate commissioner for Policies and Services, at (512) 475-7077, or by writing to him at 201 East 11th Street, Austin, Texas 78701. All requests for a public hearing on proposed rules submitted in accordance with the Administrative Procedures 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 rule is proposed under the authority of Section 11.18, Texas Education Code.

#### .020. Adult Education Advisory Committee.

(a) Policy. The Advisory Council for Technical-Vocational Education in Texas shall serve as the Adult Education Advisory Committee. The council will advise the State Board of Education on needs, priorities, and standards for adult education programs.

Reference: Section 11.18, Texas Education Code.

(b) Administrative procedure. (Reserved for expansion.)

Doc. No. 790989

## Migrant Education Program 226.35.66

(Editor's note: The Texas Education Agency is proposing for permanent adoption the emergency rule it adopts in this issue. The text of the rule appears in the Emergency Rules section.)

The Texas Education Agency proposes to adopt Rule 226.35.66.040, establishing a state-level parent advisory council for migrant education. Public Law 95-561 requires that a state application for funds for migrant education must be reviewed by a state advisory council for migrant education before it is submitted to the United States Office of Education. The composition and functions of the council are set out in the proposed rule and are in accordance with Public Law 95-561.

The Texas Education Agency anticipates that the state cost of the proposed rule will be approximately \$7,200 each year for the next five years. The rule does not have local fiscal implications.

Public comment on the proposed adoption of Rule .040 is invited. Comments may be submitted by telephoning the office of Dr. J. B. Morgan, associate commissioner of Policies and Services, at (512) 475-7077, or by writing to him at 201 East 11th Street, Austin, Texas 78701. All requests for a public hearing on proposed rules 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 rule is proposed under the authority of Section 11.25(f), Texas Education Code, and the Elementary and Secondary Education Act as amended by Public Law 95-561.

Issued in Austin, Texas, on February 14, 1979.

Doc. No. 790990 M L Brockett  
Commissioner of Education

Proposed Date of Adoption: April 14, 1979

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

## Railroad Commission of Texas

### Gas Utilities Division

#### Special Substantive Rules 051.04.03

The Gas Utilities Division of the Railroad Commission of Texas, on January 25, 1979, received from Lone Star Gas Company (Lone Star) an application for rulemaking to adopt a substantive rule providing for full recovery of purchased gas costs. Lone Star alleges an imminent peril to the public health, safety, and welfare because of the threat to the financial viability of gas utilities due to their inability to recover cost of gas purchased by them. The Railroad Commission of Texas, however, by order dated February 5, 1978, for the reasons stated herein, denied the request of Lone Star for implementation of the proposed rule as an emergency with immediate effect. The rule, as proposed by Lone Star, would allow all gas utilities within the original and appellate jurisdiction of the Railroad Commission of Texas to recover 100 percent of the cost of purchased gas from all sources. The Gas Utilities Division of the Railroad Commission of Texas proposes to publish the text of the rule submitted by Lone Star for public comment. It is further the desire of the commission to solicit public comment on the interrelationship between this proposed rule and proposed Gas Utilities Division Special Substantive Rule .028, BTU Content Adjustment, which was previously published for comment on July 26, 1977, in the *Texas Register* (2 TexReg 2834). Additional comments on Rule .028 itself are also sought.

The proposed rule has no fiscal implications for the state or local units of government (source: commission staff).

Public comment on proposed Rule .036 and proposed Rule .028 is invited. Persons should submit their comments in writing to Joseph J. Piotrowski, Jr., director, Gas Utilities Division, Railroad Commission of Texas, P.O. Drawer 12967, Austin, Texas 78711. Comments will be accepted until 30 days from the publication hereof.

The rule is proposed by Lone Star pursuant to Texas Revised Civil Statutes Annotated, Article 1446c (Supplement 1979), Subsections 2, 37, 38, 39, and 41(c)(3), and Article 6053 (1962).

#### .036. *Purchased Gas Cost Recovery.*

(a) Each gas utility whose rates and services are subject to the original or appellate jurisdiction of the Railroad Commission of Texas shall be permitted to include within its rates a purchased gas cost recovery provision, formulated to each particular utility's circumstance, which shall provide for the full recovery of all the cost of purchased gas through: (1) a contemporaneous matching of revenues obtained by rates with expenses as paid or accrued, and/or (2) a surcharge or credit added to the utility's rates calculated so as to fully recover the amount of accumulated unrecovered purchased gas cost (gas cost not otherwise fully recovered through rates) up to the end of the most recent billing period for which billing information is available, accumulated in a separate account, with an appropriate carrying charge. Such a surcharge or credit shall be sufficient to offset or fully reduce the amount of accumulated unrecovered purchased gas cost and carrying charges within a period of not less than one month nor more than six months, and such surcharge or credit shall be adjusted on a monthly basis.

(b) "Purchased gas cost recovery provision" means any mechanism, stated provision, or formula (formulae) that allows a gas utility to adjust its rates or charges, due to an increase or decrease in the utility's purchased gas cost above or below that portion of purchased gas cost otherwise included in its rates.

(c) "Purchased gas cost" shall include all expenses which fluctuate due to purchased gas volumes and/or prices. In matching revenues and expenses on a contemporaneous basis and in calculating a surcharge or credit, "purchased gas cost" shall include accruals of such purchased gas expenses as may be required by proper accounting practice. Estimates of purchased gas volumes and purchased gas prices which are expected to be reasonably accurate and are subject to correction and adjustment may be utilized in the calculation of "purchased gas cost." "Purchased gas cost" shall include corrections for errors, inaccuracies, disputes, or delays that have affected purchased gas cost as these matters become known or resolved.

Issued in Austin, Texas, on February 12, 1979.

Doc. No. 791007 Joseph J. Piotrowski, Jr., Director  
Gas Utilities Division  
Railroad Commission of Texas

Proposed Date of Adoption: March 26, 1979

For further information, please call (512) 475-2747.

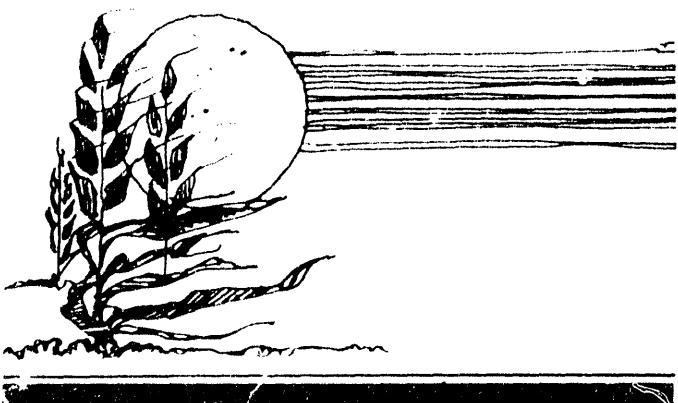
# ADOPTED RULES

600

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.

An agency, on request, shall provide a statement of the reasons for and against adoption of a rule. Any interested person may request this statement before adoption or within 30 days afterward. The statement shall include the principal reasons for overruling considerations urged against the agency's decision.

**Numbering System**—Each rule is designated by a unique 10-digit number which is divided into four units by decimal points. The first unit (three digits) indicates the agency which promulgates the rule. The second unit (two digits) indicates the chapter of rules to which the rule belongs. The third unit (two digits) indicates the subchapter of rules, if any, within the chapter. The fourth unit (three digits) indicates the individual rule.



## Texas Department of Mental Health and Mental Retardation

### Other Agencies and the Public

#### Community Mental Health and Mental Retardation Centers 302.03.01

Pursuant to the authority contained in Section 4.01 of Article 5547-204, Texas Civil Statutes, and Section 2.11(b) of Article 5547-202, Texas Civil Statutes, the Texas Department of Mental Health and Mental Retardation has amended Rule 302.03.01.003 to read as follows:

*.003 Awarding of Grants-in-Aid.*

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

(f) Supplemental state grants-in-aid shall be allocated to boards of trustees at the discretion of the board in accordance with the criteria contained in Exhibit "B" (revised December 1, 1978), which is attached hereto and becomes a part of this rule the same as if it were fully set out herein.

Doc. No. 790980

## Client (Patient) Care

### Practice and Procedure with Respect to Administrative Hearings of the Department Arising under the Mentally Retarded Persons Act of 1977 302.04.36

Pursuant to the authority contained in Section 2.11(b) of Article 5547-202, Texas Civil Statutes, and Section 60 of Article 5547-300, Texas Civil Statutes, the Texas Department of Mental Health and Mental Retardation has adopted Rules 302.04.36.001-.018 to read as follows:

*.001 Purpose.* The purpose of these rules governing practice and procedure with respect to all departmental administrative hearings arising under the provisions of the Mentally Retarded Persons Act of 1977, Article 5547-300, Vernon's Texas Civil Statutes, is

(1) to provide a simple, efficient, and uniform set of standards, practices, and procedures for all departmental administrative hearings arising under the provisions of the Mentally Retarded Persons Act of 1977, Article 5547-300, Vernon's Texas Civil Statutes, which will adequately protect the rights of all parties involved and will be consistent with the due process requirements of the Texas and federal constitutions; and

(2) to provide a procedure which will effect fair and expeditious determinations of administrative hearings governed by these rules and which will adequately protect the procedural rights of all parties.

*.002 Definitions.* In these rules:

(1) "Department" means the Texas Department of Mental Health and Mental Retardation. When the context of a rule requires or permits action by the department, such action means action taken by the commissioner or his duly authorized agent or representative.

(2) "Commissioner" means the commissioner of mental health and mental retardation.

(3) "Deputy commissioner" means the deputy commissioner for Mental Retardation Services of the Texas Department of Mental Health and Mental Retardation.

(4) "Facility" means a facility of the Texas Department of Mental Health and Mental Retardation which provides mental retardation services. The term does not include state mental hospitals.

(5) "Head of the facility" means the superintendent or director of a facility of the Texas Department of Mental Health and Mental Retardation which provides mental retardation services.

(6) "Hearing officer" means any person designated or appointed by the deputy commissioner for Mental Retardation Services of the Texas Department of Mental Health and Mental Retardation to conduct administrative hearings held pursuant to the Mentally Retarded Persons Act of 1977, Article 5547-300, Vernon's Texas Civil Statutes.

(7) "Party" means each person or agency named or admitted as a party pursuant to the Rules of the Commissioner of MH/MR and statutes under which the hearing is requested or held. A person who is entitled to request and who does request an administrative hearing pursuant to the Mentally Retarded Persons Act of 1977, Article 5547-300, Vernon's Texas Civil Statutes, is a party. The following will al-

ways be considered parties to an administrative hearing held pursuant to the Mentally Retarded Persons Act of 1977, Article 5547-300, Vernon's Texas Civil Statutes:

(A) the parents of a minor client or proposed minor client who are contesting the findings or recommendations of the diagnosis and evaluation team or who are contesting a proposed or denied transfer or discharge;

(B) the guardian of a client or proposed client who is contesting the findings or recommendations of the diagnosis and evaluation team or who is contesting a proposed or denied transfer or discharge;

(C) the client or proposed client;

(D) the head of the facility, in his official capacity; and

(E) the department.

(8) "Person" means any individual, partnership, corporation, association, governmental subdivision, or public or private organization of any character other than the department.

(9) "Pleadings" means written statements filed by parties concerning their respective positions, claims, and rights in administrative hearings.

(10) "Guardian of a client or proposed client" means:

(A) a plenary guardian of the person of a client or proposed client; or

(B) a limited guardian of the client or proposed client who is authorized to request a comprehensive diagnosis and evaluation of his or her ward or who is authorized to consent to the admission or withdrawal of his or her ward from mental retardation services of the department.

(11) "Comprehensive diagnosis and evaluation" means a study including a sequence of observations and examinations of a person leading to conclusions and recommendations formulated jointly, with dissenting opinions, if any, by a diagnosis and evaluation team. The study shall include but not be restricted to a social and medical history, and medical, neurological, audiological, visual, educational, appropriate psychological, and sociological examinations, and an examination of the person's adaptive behavior level. See Rules of the Commissioner of MH/MR Affecting Client (Patient) Care, Rules Governing Comprehensive Diagnostic and Evaluation Centers, 302.0435.003(4).

(12) "Transfer" means the transfer of a client from a departmental residential care facility for the mentally retarded to another departmental residential care facility for the mentally retarded.

(13) "Discharge" occurs when the client physically leaves the departmental residential care facility for the mentally retarded and is no longer considered a client of the departmental residential care facility for the mentally retarded for program purposes. Upon the discharge of a client, all responsibility for the care, treatment, and training of the client by the department is dissolved. The discharge does not abrogate the department's responsibility to offer appropriate alternative or follow-up supportive services pursuant to Section 44 of the Mentally Retarded Persons Act of 1977, Article 5547-300, Vernon's Texas Civil Statutes.

(14) "Parent" means the mother of a client or proposed client, a man as to whom the client or proposed client is legitimate, or an adoptive mother or father of the client or proposed client, but does not include a parent as to whom the parent-child relationship has been terminated. The term "parent" also means the managing conservator of the client or proposed client.

(15) "Act" means the Mentally Retarded Persons Act of 1977, Article 5547-300, Vernon's Texas Civil Statutes.

### .003. *Applicability and Scope of Rules*

(a) These rules shall apply in all administrative hearings held pursuant to the provisions of the act.

(b) These rules shall not be construed so as to enlarge, diminish, modify, or alter the jurisdiction, powers, or authority of the department or the substantive rights of any person.

(c) These rules shall be given a liberal construction in order that a just, fair, equitable, and impartial adjudication of the rights of the parties under the established principles of substantive law as determined by appropriate statutes or rules of this department may be attained with expedition and dispatch at the least expense to the department and all parties.

### .004. *Request for an Administrative Hearing*

(a) A request for an administrative hearing pursuant to the act shall be in writing, however, no particular form or style of request shall be required. The request may be submitted on a form provided by the department. The request shall be submitted to the head of the facility who shall transmit the request to the deputy commissioner.

(b) Notwithstanding the preceding Section (a) of this rule, a client or proposed client may make an oral request for an administrative hearing. If an employee of the facility receives such an oral request, the employee shall, within 24 hours, reduce the request to writing and shall submit the request to the head of the facility who shall transmit the request to the deputy commissioner.

(c) The written request for an administrative hearing should include the following:

(1) the names and addresses, if known, of the client or proposed client, the parents of the client or proposed client, and the guardian of the client or proposed client;

(2) a short and plain statement of the action the person requesting the administrative hearing wants the facility to take;

(3) a short and plain statement of the factual reasons why the requested action should be taken by the facility;

(4) any statute or rule upon which the person requesting the administrative hearing is relying; and

(5) the name and address of the person requesting the administrative hearing and his or her relationship to the client or proposed client.

If the person requesting the administrative hearing is unable to state these matters in detail at the time the request is made, the request may be limited to a statement of the action requested of the facility and the name and address of the person making the request and his or her relationship to the client or proposed client. Thereafter, on timely written request, a more definite statement must be furnished not less than five days prior to the date set for the hearing. Upon good cause, the hearing officer may render a final decision in favor of the facility if the person who requested the administrative hearing fails, after receiving a timely written request, to furnish a more definite statement not less than five days prior to the date set for the hearing.

(d) No filing fee shall be charged for the filing of a request for an administrative hearing pursuant to the act.

(e) A request for an administrative hearing to contest the findings or recommendations of a departmental diagnosis



and evaluation team must be made within 60 days after the written report and recommendations of the diagnosis and evaluation team are received by person or persons entitled to receive the report and recommendations. If the written report and recommendations of the departmental diagnosis and evaluation team are mailed to the person or persons entitled to receive it, it shall be deemed to have been received three days after it is placed, postage paid, in the United States mail. If the person or persons entitled to receive the report and recommendations can establish to the satisfaction of the hearing officer that the report and recommendations were not in fact received, then the 60 day limitation period shall not apply; provided, however, such 60 day limitation period will begin to run on the date of actual receipt of the report and recommendations.

(f) A request for an administrative hearing to contest a denied or proposed transfer or discharge must be made within 30 days after a written notice denying or proposing a transfer or discharge is received by the person or persons entitled to receive such notice. If the written notice is mailed to the person or persons entitled to receive it, it shall be deemed to have been received three days after it is placed, postage paid, in the United States mail. If the person or persons entitled to receive the notice of a denied or proposed transfer or discharge can establish to the satisfaction of the hearing officer that the notice was not in fact received, then the 30-day limitation period shall not apply, provided, however, such 30-day limitation period will begin to run on the date of actual receipt of the notice.

(g) No administrative hearing shall be held on a request received by the head of the facility after the time periods specified in the preceding Sections (e) and (f) of this rule have expired.

#### 005. *Who May Request an Administrative Hearing.*

(a) An administrative hearing to contest the findings or recommendations of a departmental diagnosis and evaluation team may be requested by the person, parent of a minor, or guardian of the person who requested the comprehensive diagnosis and evaluation. The legal representative of any person entitled to request an administrative hearing to contest the findings or recommendations of a departmental diagnosis and evaluation team may request such a hearing on behalf of the person he or she represents.

(b) An administrative hearing to contest a proposed or denied transfer or discharge may be requested by:

- (1) the client who is the subject of the proposed or denied transfer or discharge;
- (2) the parent of a minor client;
- (3) the guardian of the person of a client; or
- (4) the legal representative of any of the above-named persons.

#### 006. *Appointment of a Hearing Officer.*

(a) The deputy commissioner shall appoint a hearing officer to conduct an administrative hearing that has been requested in accordance with these rules. The hearing officer will be selected from a pool of hearing officers that has been previously selected by the deputy commissioner. The hearing officer will be selected in the manner most economical to the department with consideration being given to the distance which the hearing officer must travel and the amount of time required for the hearing officer to be absent from his place of permanent employment.

(b) No hearing officer will be appointed to conduct an administrative hearing at the facility where he or she is permanently employed.

(c) A hearing officer shall be disqualified from serving as such in any case in which he or she has a personal or professional interest in the mentally retarded person's case. A hearing officer shall also be disqualified from serving as such if he or she has participated in any aspect of the care and treatment of the mentally retarded person who is to be the subject of the administrative hearing.

(d) If the hearing officer dies, becomes disabled, or withdraws, or is removed from employment or the proceeding at any time before a final judgment is rendered in the proceeding, the deputy commissioner shall appoint another hearing officer who may perform any function remaining to be performed without the necessity of repeating the previous proceedings in the case.

(e) The hearing officer may designate one or more employees of the department with particular expertise and experience who are knowledgeable in the subject matter of the hearing to assist the hearing officer in the evaluation of evidence presented at the hearing.

(f) The hearing officer shall have the authority to administer oaths, to examine witnesses, and to rule upon the admissibility of evidence and amendments to pleadings. The hearing officer shall have the powers of subpoena granted under the Administrative Procedure and Texas Register Act, Article 6252-13a, Vernon's Texas Civil Statutes. The hearing officer may, on his or her own motion or on the written request of a party, issue a subpoena to require the attendance of witnesses and production of documents. No charge will be made for the issuance of a subpoena, but the cost of enforcing a subpoena shall be borne by the party who requested the subpoena. See Section 14(n) of the Administrative Procedure and Texas Register Act, Article 6252-13a, Vernon's Texas Civil Statutes.

#### 007. *Setting a Time and Place for the Administrative Hearing.*

(a) The hearing officer shall set a time and place for the administrative hearing. The hearing shall be held not less than 15 days nor more than 30 days from the date the request for the hearing is received by the head of the facility.

(b) The hearing shall be held at a time and place convenient to parties and witnesses. The location selected must be accessible to the handicapped. The department shall provide interpreters for hearing-impaired parties and witnesses, upon a request timely made by a party or his or her legal representative or upon order of the hearing officer.

(c) The hearing officer may subsequently postpone or continue the hearing date until a later date if, in his sound judgment and discretion, good cause requires a later date. Good cause includes but is not limited to a finding that a later date would result in a more just determination of the issues involved in the administrative hearing and that the welfare of any client or proposed client will not be endangered by reason of the postponement or continuance.

(d) The administrative hearing shall be open to the public unless the contestant or client or proposed client demands a hearing closed to the public. If a closed hearing has not been demanded, the hearing officer shall, at the beginning of the hearing, advise the contestant and proposed client or client of:



(1) his or her right to have the hearing closed to the public; and

(2) the likelihood that in a hearing open to the public, the identity, diagnosis, evaluation, or treatment of the proposed client or client may be disclosed to members of the general public.

The hearing officer shall then solicit the desires of the contestant or proposed client or client as to whether he or she wants the hearing opened or closed to the public. If the contestant or proposed client or client does not request a closed hearing, the hearing shall proceed, open to the public.

#### .008 Notice of Hearing

(a) The hearing officer shall serve written notice of the administrative hearing on all parties not less than 10 days before the hearing is to be held.

(b) The notice of the administrative hearing shall include:

(1) a statement of the time, place, and nature of the hearing;

(2) a statement of the legal authority and jurisdiction under which the hearing is to be held;

(3) a short and plain statement of the matters asserted;

(4) a copy of the request for the hearing;

(5) a reference to the particular sections of the statutes and rules involved; and

(6) a copy of these rules and a statement of the parties' rights in the hearing, which is attached to these rules as Exhibit A—.04.36.008.

(c) The written notice of the administrative hearing shall be served upon each party personally or by certified mail, return receipt requested.

#### .009 Representation of Parties

(a) The client or proposed client and the party who has requested the administrative hearing shall have the right to be present at the hearing and to be accompanied and represented by any person of their choosing including legal counsel and lay representatives. A client or proposed client may be represented independently of his or her parent or guardian.

(b) The department and the head of the facility may be represented by a departmental attorney.

(c) The hearing officer may request a departmental attorney to advise him or her in the proper conduct of the administrative hearing.

(d) Designation of representatives shall be communicated to the hearing officer and shall be recorded and filed with the pleadings and other documents pertaining to the administrative hearing.

(e) The facility may assist the client or proposed client in obtaining representation. The facility may refer the client or proposed client to the public responsibility committee for the facility, the local association for retarded citizens, the Parents Association for the Retarded of Texas, the Texas Association for Retarded Citizens, the Public Law 94-103 Advocacy and Protective Services System, and the local legal aid society for assistance in obtaining representation. If a client or proposed client requests an administrative hearing and cannot obtain representation, the facility may appoint a person who is willing to serve as the representative for the client or proposed client. The facility may request that a member of the public responsibility committee for the facility represent

the client or proposed client or may appoint an employee of the facility who is willing to serve as the representative of the client or proposed client.

#### .010 Access to Records

(a) A person who has requested an administrative hearing pursuant to these rules, the client or proposed client, and the legal representatives of such persons shall have reasonable access at a reasonable time prior to the hearing to any records concerning the client or the proposed client on which the proposed action is based. Copies of such records will be provided at the cost of 55 cents for the first page and 15 cents for all other pages.

(b) Access to the records referred to in Section (a) of this rule shall be authorized by the head of the facility upon the request of a party entitled under these rules to access or upon the request of such party's legal representative. The hearing officer shall have the authority, if necessary, to order the head of the facility to provide access to such records to a party or the party's legal representative.

#### .011 Prehearing Conference

(a) The hearing officer may, upon his or her own motion or upon the motion of any party, direct the parties and their legal representatives to appear at a specified time and place for a conference prior to the hearing for the purpose of formulating issues and considering the following:

(1) the simplification of issues;

(2) the possibility of admissions of certain assertions of fact or of stipulations concerning the use in evidence by any party of matters of public record;

(3) the procedures to be used in the hearing;

(4) the limitation, where appropriate, of the number of witnesses;

(5) the taking of depositions in accordance with the provisions of the Administrative Procedure and Texas Register Act, Article 6252-13a, Vernon's Texas Civil Statutes, and

(6) such other matters as may aid in the simplification of the proceedings and disposition of the matters in controversy.

(b) At the prehearing conference, the hearing officer shall determine whether the client or proposed client is represented and may assist an unrepresented client or proposed client in obtaining representation. The hearing officer shall also inform the parties and their representatives of the nature of the proceedings and the manner in which the administrative hearing will be conducted.

(c) With the consent of all parties, the prehearing conference may be conducted by conference telephone call.

(d) Actions taken at the prehearing conference shall be recorded in an order by the hearing officer.

#### .012 Notice of Filing, Service of Notice, Certificate of Service

(a) Whenever any person or the facility or department files any pleading or motion other than the initial request for an administrative hearing, the person or the facility or department shall serve a copy of such pleading or motion on the other parties or their representatives.

(b) All notices required by these rules shall be served personally or by certified mail, return receipt requested. The willful failure of any party to make such service shall be grounds for the entry of an order by the hearing officer striking the pleadings of such party.

(c) A certificate by the party or his or her representative who is required to serve a notice or copy of a pleading or motion stating that it has been served on the other parties shall be prima facie evidence of such service. The following form of certificate will be sufficient for this purpose:

I certify that I have this — day of —, 19—, served copies of the forgoing upon all other parties to this proceeding by (here state the manner of service).

(signature of party or representative)

*.013. Rules of Evidence, Official Notice, Witnesses; Transcription.*

(a) In administrative hearings held pursuant to these rules, irrelevant, immaterial, or unduly repetitious evidence shall be excluded. The rules of evidence as applied in nonjury civil cases in the district courts of the State of Texas shall be followed. When necessary to ascertain facts not reasonably susceptible of proof under those rules, evidence not admissible thereunder may be admitted, except where precluded by statute, if it is of a type commonly relied upon by reasonably prudent men in the conduct of their affairs. The hearing officer shall give effect to the rules of privilege recognized by law. Subject to these requirements, if a hearing will be expedited and the interests of the parties will not be prejudiced substantially, any part of the evidence may be received in written form.

(b) In connection with any administrative hearing held pursuant to these rules and the act, the hearing officer may take official notice of all facts judicially cognizable. In addition, notice may be taken of generally recognized facts within the area of the department's specialized knowledge. Parties shall be notified either before or during the hearing, or by reference in preliminary reports or otherwise, of the material officially noticed, including staff memoranda or data, and they must be afforded an opportunity to contest the material so noticed.

(c) Any interested person may appear at the administrative hearing and give oral or written testimony. The hearing officer shall have the authority to limit the number of witnesses whose testimony is merely cumulative.

(d) The proceedings, or any part of them, shall be transcribed on the written request of any party. The facility may pay the cost of the transcript or assess the cost to one or more parties.

*.014. Applicable Rules of the Department; General Administrative Procedures.*

(a) Insofar as they do not conflict with these rules or the act, Rules 302.03.19.005-.006, .008-.009, .012-.015, .018, .020(b), .023, .025-.026, .028, and .030-.032 of the Rules of the Commissioner of MH/MR Affecting Other Agencies and the Public, Rules Governing Practice and Procedure with Respect to Administrative Hearings of the Department in Contested Cases, 302.03.19, shall apply to and govern administrative hearings conducted pursuant to these rules and the act; provided, however, any action which may be or is required to be taken by the department, the commissioner, an examiner, or a hearing office under the rules enumerated above may be taken by the hearing officer in an administrative hearing held pursuant to these rules and the act. In addition, any document which may be or is required to be filed with the department, the commissioner, an examiner, or a hearing office under the rules enumerated above shall be filed with

the hearing officer in an administrative hearing held pursuant to these rules and the act.

(b) Administrative hearings held pursuant to these rules and the act shall be conducted in accordance with the provisions of the act and in accordance with the provisions of the Administrative Procedure and Texas Register Act, Article 6252-13a, Vernon's Texas Civil Statutes, to the extent such provisions are not in conflict with the act.

*.015. Final Decisions and Orders*

(a) A final decision or order must be in writing and stated in the record. It must include separately stated findings of fact and conclusions involved. Findings of fact as set forth in statutory language must be accompanied by a concise and explicit statement of the underlying facts supporting such findings.

(b) Parties may submit proposed findings of fact, unless precluded by other rules or statute from so doing, and a decision shall include a ruling on each proposed finding.

(c) The hearing officer shall render the final decision. The final decision must be rendered within 60 days after the date the administrative hearing is finally closed.

(d) Parties shall be notified either personally or by certified mail, return receipt requested, of any decision or order. A copy of the decision or order shall be personally delivered or mailed by certified mail, return receipt requested, to all parties or their legal representatives.

(e) The decision of the hearing officer shall be final within 30 days after the date of the decision unless a party files an appeal for judicial review within such time.

(f) The parties may, by agreement with the approval of the hearing officer, provide for the modification of the times provided for in this rule; provided, however, that the time provided for in Section (e) of this rule may not be modified by agreement of the parties.

*.016. Appeal to County Court*

(a) The decision of the hearing officer shall be final and there shall be no other administrative appeal in an administrative hearing held pursuant to these rules and the act. Any party to the administrative hearing shall have the right to appeal without the necessity of filing a motion for rehearing with the hearing officer.

(b) An appeal of the decision of the hearing officer is instituted by filing a petition within 30 days after the date the decision complained of is rendered. The petition must be filed in the county court of Travis County or in the county court of the county in which the client or proposed client resides.

(c) The filing of an appeal suspends the decision of the hearing officer and no party may take any action based on such decision.

(d) The appeal in the county court will be by trial de novo and will be given a preference setting over all other cases.

*.017. References.* Reference is made to the following statutes and Rules of the Commissioner of MH/MR:

(1) the Mentally Retarded Persons Act of 1977, Article 5547-300, Vernon's Texas Civil Statutes;

(2) the Administrative Procedure and Texas Register Act, Article 6252-13a, Vernon's Texas Civil Statutes;

(3) Rules of the Commissioner of MH/MR Affecting Other Agencies and the Public, Rules Governing Practice

and Procedure with Respect to Administrative Hearings of the Department in Contested Cases, 302.03.19.001-.036.

*.018. Distribution.*

(a) These rules governing practice and procedure with respect to administrative hearings of the department arising under the Mentally Retarded Persons Act of 1977 shall be distributed to:

(1) all members of the Texas Board of Mental Health and Mental Retardation.

(2) assistant commissioners, deputy commissioners, directors, and section chiefs of Central Office.

(3) superintendents and directors of all department facilities; and

(4) those persons designated or appointed as hearing officers.

(b) A copy of these rules shall be provided upon request to any client of the department or to the legal representative of such client

Issued in Austin, Texas, on February 14, 1979.

Doc No 790981      John J. Kavanagh, M.D.  
Commissioner  
Texas Department of Mental Health and  
Mental Retardation

Effective Date March 7, 1979

For further information, please call (512) 454-3761

## School Land Board Procedure

### Definitions and General Rules 135.50.10

The School Land Board has adopted Rules 135.50.10.001-.008. Although no comments were received on these rules as proposed, the board has made stylistic changes.

These rules are promulgated under the authority of Sections 32.062 and 33.064 of the Texas Natural Resources Code (1978).

*.001. Purpose and Scope of Rules.*

(a) Purpose of rules. The purpose of this chapter is to provide orderly and efficient procedures for administration of matters committed by law to the School Land Board's jurisdiction.

(b) Scope of rules. This chapter governs procedure for instituting, conducting, and determining those matters within the board's jurisdiction. The rules in this chapter shall not be construed to enlarge, diminish, or alter the jurisdiction, powers, or authority of the board or the substantive rights of any person. The board may make exceptions to these rules for good cause. The procedures prescribed in these rules supplement any applicable procedures required by statute.

(c) Conflict. The board may modify these general rules by other rules specifically adapting them to particular types of matters.

*.002. Definitions.* As used in this chapter, the following terms have the following meanings:

(1) Applicant. A person who by written application seeks board action.

(2) Board. The School Land Board.

(3) Chief clerk. The chief clerk of the General Land Office.

(4) Commissioner. The commissioner of the General Land Office.

(5) Examiner. A person designated by the board to conduct a hearing.

(6) Hearing. A proceeding conducted to receive evidence and argument on a matter before the board.

(7) Hearing examiner. An examiner who is not a member of the board.

(8) Intervenor. A person other than an applicant or respondent who, upon showing a justiciable interest in a matter before the board, is permitted to become a party to a proceeding.

(9) Nonparty participant. A person other than a party who is admitted to participant status and who according to board procedure supports or opposes, in part or whole, an application submitted to the board.

(10) Party. A person who, having a justiciable interest in a matter before the board, is admitted to full participation in a proceeding concerning that matter.

(11) Person. A natural person or a partnership, corporation, association, agency, or governmental or private organization of any character.

(12) Pleading. A written allegation by a party or applicant of his claims in the form of an application, complaint, exception, reply, motion, or answer.

(13) Proceeding. A conference, meeting, hearing, investigation, inquiry, or other fact-finding or decision-making procedure, including the dismissal of a complaint. It may be rulemaking or adjudicative.

(14) Register. The *Texas Register*.

(15) Respondent. A person against whom a complaint has been filed with the board.

(16) Rule. A statement of general applicability by which the board implements, interprets, or prescribes law or policy, or describes the procedure or practice requirements of the board. The term includes the amendment or repeal of a prior rule but does not include statements which concern only the internal management or organization of the board and do not affect private rights.

(17) Staff. The employees of the General Land Office, other than hearing examiners, who serve as the staff of the board in any proceeding.

*.003. Filing Documents*

(a) Filing with chief clerk. All documents relating to a proceeding pending or to be instituted before the board shall be filed with the chief clerk. For the sole purpose of determining the date of filing, a document shall be deemed filed only when actually received, accompanied by the filing fee, if any, required by statute or board rule. This rule does not govern the board's determination as to the substantive adequacy or completeness of an application.

(1) If a document is sent to the chief clerk by first class United States mail in an envelope or wrapper properly addressed and stamped and is deposited in the mail two days or more before the last day for filing, it shall be deemed filed in time if received not more than five days after the last day for filing. A legible postmark affixed by the United States Postal Service is prima facie evidence of the date of mailing.

(2) For purpose of any responsive document (e.g., a reply to exceptions, responsive brief, or reply to motion) for which the time period for filing commences with the filing of

another document, the initiating document shall be deemed filed when it is actually received by the chief clerk, whether on, before, or after the last day for filing it.

(b) Extension of time. Unless a statute provides otherwise, the board may extend the time for filing a pleading:

(1) upon its own motion, or

(2) upon a written motion which is duly filed by a party within the applicable period of time for the filing of the pleading and which shows:

(A) that there is good cause to extend the time, and

(B) that the need for an extension is not caused by the movant's neglect, indifference, or lack of diligence.

(c) Service of documents. Unless the board specifies otherwise, a party filing a document relating to a proceeding pending or to be instituted shall deliver a copy of the document in person or by mail to each party to the proceeding or to his authorized representative, and shall, as required by Rule 135.50.30.033, certify to the board the fact and date of such service.

(d) Office address of board. The board offices are located at the office of the commissioner of the General Land Office in Austin, Texas. Office hours are 8 a.m. to 5 p.m., Monday through Friday. Offices are closed on Saturdays, Sundays, and state observed holidays.

**004. Computing Time.** An interval of time prescribed or allowed by these rules, by decision of the board, or by any applicable statute, begins on the day after the act, event, or default in question and, in the case of an interval of *n* days, concludes on the close of business on the *n*th day after the act, event, or default, unless the *n*th day of the interval falls on a Saturday, Sunday, or state-observed holiday, in which case the interval concludes at the end of the next day after the *n*th day which is neither a Saturday, Sunday, nor state-observed holiday.

**005. Agreements to Be in Writing.** The board will not consider an agreement between or among parties or their representatives affecting any pending matter unless it is either (a) reduced to writing, signed by each party or his authorized representative, and filed as part of the record; or (b) announced at the hearing in which it was reached and entered into the record of the hearing.

**006. Conduct and Decorum.** Each party, witness, and attorney or other representative shall, in all proceedings before the board, conduct himself with dignity, courtesy, and respect for the board, the examiners, and all other participants. A party, witness, attorney, or other representative violating this rule may be excluded by the board from a hearing and is subject to such other lawful disciplinary action as the board may prescribe.

**007. Procedures Not Otherwise Provided.** If, in connection with any hearing, the board determines that there are no statutes or other applicable rules resolving a particular procedural question before it, the board will direct the parties to follow procedures consistent with the purpose of these rules.

**008. Severability.** If any provision of a rule or its application is held invalid, the invalidity does not affect other provisions or applications of the rule which can be given effect without the invalid provision or application, and to this end the provisions of the rules are severable.

Doc. No. 79100C

## Rulemaking Procedures 135.50.20

The School Land Board has adopted Rules 135.50.20.001-010. Although no comments were received on these rules as proposed, the board has made stylistic changes.

These rules are promulgated under the authority of Sections 32.062 and 33.064 of the Texas Natural Resources Code (1978).

### .001. Notice

(a) Except as provided in Rule .010, before adopting a rule, the board shall give 30 days' notice of its intended action in each of the following ways:

(1) The board shall publish notice in the *Register*. The notice becomes effective as notice on the date of the *Register* issue in which it is first published.

(2) The board shall deliver notice to the lieutenant governor and to the speaker of the house.

(3) The board shall mail notice to each person who has made timely written request to the board for advance notice of its rulemaking proceedings. However, failure to mail the notice does not invalidate any action.

(b) The notice required under this rule includes each of the following:

(1) a brief explanation of the proposed rule;

(2) the text of the proposed rule, except any portion omitted as provided in Section 6(c) of the Administrative Procedure and Texas Register Act, prepared in a manner to indicate the words to be added or deleted from the current text, if any;

(3) a statement of the statutory or other authority for promulgating the rule;

(4) a statement of the fiscal implications of the proposed rule to the state and to the units of local government of the state, including the total probable cost of enforcing or administering the rule and the amount of revenue that will need to be raised, or will be lost or spent, as a consequence of the rule, each year for the first five years; or stating that the proposed rule has no fiscal implications for the state or for units of local government;

(5) a request for comments on the proposed rule from any interested person; and

(6) any other statement required by law.

### .002. Opportunity for Comment and Public Hearing.

(a) Before adopting any rule, the board will afford each interested person an opportunity to submit data, views, and arguments, orally or in writing.

(b) In the event the board has announced its intention to adopt a substantive rule, opportunity for public hearing must be granted if requested by at least 25 persons, by a governmental agency, or by an association having at least 25 members.

(c) Notice of a public hearing shall be given according to Rule .001(a) and by giving notice of the hearing to the Capitol press corps. The board, or any member of the board, or a hearing examiner may preside at the hearing.

### .003. Consideration of Comments

(a) The board shall fully consider all written and oral submissions concerning a proposed rule.

(b) The board shall, if so requested by an interested person either before adoption of a rule or within 30 days after its adoption, issue a concise statement of the principal

reasons for and against its adoption and of the reasons for overruling the considerations urged against its adoption.

**.004. *Petition for Adoption of Rules.*** Any person may petition the board to adopt a rule.

**.005. *Form of Petition***

(a) A petition to adopt a rule shall be typewritten and double-spaced. The petition must present the following information in the following sequence:

- (1) name of the petitioner and of the petitioner's representative, if any;
- (2) date of submission;
- (3) identification of the statutory authority under which the proposed rule could issue;
- (4) description of the desired effect of the proposed rule; and
- (5) text of the proposed rule.

(b) The board may disregard a petition not complying with this rule.

**.006. *Submission and Disposition.***

(a) A petition to adopt a rule shall be filed with the chief clerk in quadruplicate.

(b) Upon receiving the petition, the chief clerk shall determine whether it is complete. If it is not complete, the chief clerk shall, within five days, notify the petitioner in writing of each deficiency, and no further action may be taken on the petition until it is refiled according to the applicable rules.

(c) When a petition for adoption of a rule has been determined complete, the chief clerk shall forward a copy of it to each member of the board. The board shall, within 60 days after the chief clerk determines a petition complete, either initiate rulemaking proceedings or deny the petition in writing, stating the reason for denial.

**.008. *Effective Date of Rules.*** Each rule adopted by the board becomes effective 20 days after it is filed with the secretary of state unless a different effective date is required or permitted by state or federal law and is specified in the rule in accordance with the requirements of Section 10 of the Administrative Procedure and Texas Register Act.

**.009. *Filing with Secretary of State.*** Rules adopted by the board shall be filed according to the requirements of Section 10 of the Administrative Procedure and Texas Register Act.

**.010. *Emergency Rules***

(a) If the board finds that imminent peril to the public health, safety, or welfare requires adoption of a rule on fewer than 30 days' notice and states in writing its reasons for that finding, it may proceed without prior notice or hearing, or on any abbreviated notice and hearing that it finds practicable, to adopt an emergency rule.

(b) An emergency rule may be effective for a period not exceeding 120 days, renewable once for a period not exceeding 60 days, but the adoption of an identical rule under Rules .001-.009 is not precluded.

(c) An emergency rule, a copy of the board's written finding of imminent peril to the public health, safety, or welfare, and a brief written statement of the board's reasons for making the finding shall be filed in the Office of the Secretary of State for publication in the *Register*.

(d) An emergency rule becomes effective immediately on filing with the secretary of state, or on a stated date less than 20 days thereafter, if the board finds that this effective

date is necessitated by imminent peril to the public health, safety, or welfare, and files such finding and the reasons therefor with the rule.

(e) The board shall take appropriate measures to make emergency rules known to persons who may be affected by them.

Doc No 791001

## Coastal Public Lands Management Program Hearings 135.50.25

The School Land Board has adopted Rules 135.50.25.001-.005. Although no comments were received on these rules as proposed, the board has made stylistic changes.

These rules are promulgated under the authority of Sections 32.062 and 33.064 of the Texas Natural Resources Code (1978).

**.001. *Scope.*** This subchapter applies to public hearings called by the board under the authority of Texas Natural Resources Code, Section 33.055.

**.002. *Purpose.*** The purpose of the rules in this subchapter is to provide a meaningful opportunity for public review of and comment on any management program for coastal public lands or any portion or amendment of such a program.

**.003. *Notice***

(a) The board will give 45 days' notice in each of the following ways of a hearing held under this subchapter:

(1) by causing notice of the hearing to be published in the *Register*;

(2) by mailing notice of the hearing to each person who has made a proper and timely written request to the board for notice of hearings of this type; and

(3) by distributing notice of the hearing to the Capitol press corps.

(b) The board may use, in addition to the requirements of Section (a), any other means of notice reasonably calculated to give notice to the interested public of the hearing.

(c) The notice required under this rule must include each of the following:

(1) the place, date, and time of the hearing;

(2) a brief statement of the matter to be considered, including the board's statutory authority to consider it;

(3) an offer to provide copies of materials describing the matter before the board or notice of where such materials may be inspected;

(4) a request for comments on the matter before the board.

**.004. *Distribution of Materials.***

(a) A copy of materials (e.g., documents, maps, charts, plans) authoritatively stating the matter before the board shall be distributed to each of the following, 45 days prior to a hearing under this subchapter:

(1) a public library in the county seat of each affected county or a similar public place if the county seat has no public library;

(2) the county judge's office in each affected county;

(3) the Legislative Reference Library in Austin, Texas; and

(4) the State Library.

(b) The board will, insofar as practicable, make copies of materials available to interested persons 45 days before the hearing.

*005 Consideration of Comments.* The board shall consider comments on a matter before the board under this subchapter in accordance with Rule 135.50.20.003.

Doc No 791002

## Adjudicative Procedures 135.50.30

The School Land Board has adopted Rules 135.50.30.001-131. Although no comments were received on these rules as proposed, the board has made stylistic changes, has renumbered the rules, and has strengthened notice provisions.

These rules are promulgated under the authority of Sections 32.062 and 33.064 of the Texas Natural Resources Code (1978).

*001 Scope of Subchapter.* This subchapter contains a set of adjudicative procedures which may be adopted and modified in other subchapters of this chapter for use in deciding the particular types of matters covered by those other subchapters. The rules of this subchapter are not self-implementing and do not apply to any matter before the board unless specifically applied by another subchapter of the board's rules.

*002 Informal Disposition.* Unless precluded by law or objected to by a party, informal disposition may be made of any proceeding conducted under these rules. Informal disposition includes disposition by stipulation, agreed settlement, consent order, and default.

### *021 Classification of Participants.*

(a) Applicants, respondents, and intervenors shall be classified as parties to proceedings before the board. A party to a proceeding has the right to present a direct case, cross-examine each witness, submit legal arguments, and otherwise participate fully in the proceeding.

(b) All other participants are classified as nonparty participants. A nonparty participant may, subject to Rule 025, present views and may, at the discretion of the examiner and subject to other rules, otherwise participate.

*023 Alignment of Parties.* Each party shall be aligned according to the nature of the proceeding and the party's relationship to it.

### *025 Party Designations and Appearances.*

(a) The staff of the board is always a party to a proceeding before the board.

(b) Any person having a justiciable interest in a proceeding may be admitted as a party and may appear in the proceeding subject to the following limitations:

(1) A person seeking to appear as a party to a proceeding must file his request to be named a party at or before the conference set for designation of parties.

(2) A request to be named a party shall clearly and specifically set out:

(A) the name and address of the person making the request,

(B) the pending matter to which it pertains,

(C) the person's interest in the proceeding, and  
(D) the action or outcome the person seeks.

(3) Any person seeking to appear as a party to a proceeding must give notice by serving a copy of his pleadings upon each other party to the proceeding, as required in Rule .035.

(4) The examiner may require hearing participants of a similar class to select one person to represent them in a proceeding.

(c) A person not wishing to appear as a party or not entitled to be admitted as a party, but wishing to show support or opposition, may appear as a nonparty participant by giving notice to all parties in accordance with Rule .047.

*.027 Representative Appearance.* Except when a party appears as a member of a class of affected persons, any party may represent himself or appear and be represented by any person of his choosing.

*.029 Classification of Pleadings.* Pleadings filed with the board include applications, answers, complaints, exceptions, replies, and motions. Regardless of error in designation, a pleading shall be accorded its true status in the proceeding in which it is filed.

### *.031 Form and Content of Pleadings.*

(a) Pleadings and briefs shall be typewritten or printed in black type on 8-1/2 by 11 inch white paper with one-inch margins. Exhibits, unless prepared according to other board rules pertaining to maps, plats, or the like, shall be folded to the same size. Unless printed, the impression shall be on one side of the paper only and shall be double spaced, except that footnotes and quotations in excess of a few lines may be single spaced. Reproductions may be by any process, provided all copies are sharp and optically stable. The original copy of each pleading shall be signed in ink by the pleader or his authorized representative.

(b) When official forms for board proceedings are developed, the chief clerk will furnish them on request. A pleading for which an official form has been developed must contain the information and other matter designated in that official form and must conform substantially to that official form.

(c) A pleading for which no official form is prescribed must contain

(1) the name of the person supporting or opposing board action;

(2) the business phone number and the address, including the city, if any, and county of the pleader and the phone number and address of his authorized representative, if any;

(3) the jurisdiction of the board over the subject matter;

(4) a concise statement of the facts relied upon by pleader;

(5) a prayer stating the type of action or order desired by the pleader;

(6) the name and address of each person whom the pleader knows or believes would be affected if the prayer were granted;

(7) any other matter required by statute or other board rule; and

(8) a certificate of service, if required by Rule .033.

*.033 Filing.* An original and four copies of each pleading must be filed with the chief clerk. Each copy filed must in-

clude a certification that a copy has been served on each party of record, stating the name of each party served and the date and manner of service. If a filing fee is applicable, the filing fee must accompany the pleading.

*.035. Service of Pleadings* The party filing a pleading shall mail or deliver a copy of it to every other party of record. If a party is being represented by an attorney or other representative authorized under these rules to make appearance, service must be made upon that attorney or representative, instead of upon the party. The knowing failure of a party to make this service shall be grounds for the entry of an order striking the pleading from the record.

*.037. Determination of Completeness of Initial Pleadings*

(a) The board shall determine the completeness of each pleading filed to initiate a proceeding within five days of its filing. If the board determines that the pleading is not complete in all material respects, the board shall within 10 days of the filing give notice of the specific deficiencies to the pleading party and each party, if any, upon whom the pleading party has served a copy of the pleading. If the pleading is determined to be complete on its face, the board shall, within 10 days of the filing, so notify the pleading party and each party, if any, upon whom the pleading party has served a copy of the pleading.

(b) No further action may be taken by the board on a pleading filed with the board to initiate a proceeding, nor may any time period for action other than determination of completeness and notice of completeness or deficiency begin to run until the board has determined the pleading complete on its face.

(c) The board delegates to the commissioner the authority to:

(1) determine, according to board rules, the completeness or deficiencies of an application or pleading filed to institute a proceeding.

(2) give notice, in the name of the board, as to the completeness or deficiencies of an application or other pleading.

*.039. Exceptions to Pleadings* Any objection to a defect, omission, or fault in the form or content of a pleading must be specifically stated in a motion or an exception presented no later than the prehearing conference, if one is held, and no later than 15 days before the date of the hearing if a prehearing conference is not held. A party who fails to timely file such motion or exception waives his objection.

*.041. Amended Pleadings* A pleading may be amended at any time upon motion if it does not unfairly surprise an opposing party. The examiner may allow a pleading amendment which surprises an opposing party if the examiner determines that no harm will result. A nonparty participant or intervenor may at any time adopt as his pleading, by amendment, any matter proposed in another pleading.

*.043. Incorporation of Records by Reference* A pleading may adopt and incorporate by specific reference any part of any document or entry in the official files and records of the board or the General Land Office. This rule does not relieve the pleader of the necessity of alleging in detail, if required, facts necessary to sustain his burden of proof imposed by law.

*.045. Lost Records and Papers.*

(a) When a paper or record in the board's custody is lost or destroyed, the parties may, with the approval of the board,

agree in writing on a brief statement of the matters contained therein.

(b) The board may enter an order that a copy be substituted for a lost or destroyed original paper or record if:

(1) any person makes a written, sworn motion to the board stating the loss or destruction of such record or paper, accompanied by a certified copy of the original, if obtainable, or by a substantial copy of it, if not; and

(2) upon hearing, the board is satisfied that it is an exact or substantial copy of the original.

(c) Such a substituted copy, when filed with the chief clerk as a part of the record, has the force and effect of the original.

*.047. Notice of Nonparty Participation*

(a) One who is not a party and who desires to support or oppose any matter pending before the board shall file his written statement with the board at least 15 days before the hearing date. At the time of filing, he shall serve a copy on each designated party and file proof of service with the board. The board may authorize late filing on a showing of good cause and extenuating circumstances. Such a statement must:

(1) show the name and address of the nonparty participant;

(2) identify the pending matter to which it pertains;

(3) state the basis of participant's interest and allege any relevant facts and conclusions;

(4) propose any amendment or adjustment to the application which, if made, would result in withdrawal of the statement.

(b) A nonparty statement may be dismissed if it does not substantially comply with this rule.

*.049. Docketing and Numbering Causes*

(a) When an application or pleading intended to institute a proceeding has been received by the chief clerk and has been preliminarily determined complete, the chief clerk shall docket the matter as a pending proceeding, number it in accordance with the established docket numbering system of the board, assign an examiner (unless the matter is to be heard originally by the board), issue a call for participants and see that the board's responsibility to give notice of the application or pleading is met.

(b) The board may institute a hearing on its own motion by causing the general counsel of the General Land Office, or his designee, to file an appropriate pleading with the chief clerk.

*.051. Notice of Hearing and Call for Participants*

(a) Within five days after determining an application (or other pleading intended to initiate a proceeding) complete, the board shall submit for publication in the *Register* notice of a hearing on the application and a call for participants in the hearing.

(b) The notice of hearing and call for participants shall be given in an issue of the *Register* dated not fewer than 15 days before the date of the conference at which parties are to be designated.

(c) The hearing on the application shall be held no sooner than 15 days after the conference at which parties are to be designated.

(d) The notice of hearing and call for participants shall include the following:

(1) a statement of the date, time, and place of the

conference at which parties to the proceeding will be designated and a statement of the date, time, and place of the hearing on the application:

(2) a short, plain statement of the matters asserted by the application, the geographic area to which the application pertains, the board action which is sought, and the telephone number and address of a board employee who may be consulted for further information on the application;

(3) a statement of the legal authority and jurisdiction of the board to entertain the application;

(4) a statement that to become a party in the proceeding one must be so designated by the board, and that a person wishing to be so designated must present a written request to that effect in the proper form to the board at or before the conference held by the board for that purpose;

(5) a statement that limited nonparty participation may be allowed under other board rules.

(e) *Proof of notice by newspaper publication*

(1) To the extent and in the manner required by law or other board rule, the board shall give notice of proceedings by appropriate newspaper publication. When notice is given by publication, the publisher of the notice shall furnish a copy of the published notice and a sworn affidavit of its publication to the board on or before the hearing date, stating the date or dates on which the notice was published and the pertinent counties in which the newspaper is of general circulation. The affidavit is prima facie evidence of publication.

(2) When the applicant is required by these rules or otherwise to publish notice of a proceeding, failure to furnish the board with a copy of the notice and the publisher's sworn affidavit, as set out in Section (e)(1) above, as evidence of publication of notice, either at or before the public hearing thereof, may be deemed evidence of abandonment of the application. If, at the public hearing, the affidavit of publication is not produced, the hearing may be postponed and action withheld pending receipt of the affidavit. The application may be dismissed if the affidavit of publication is not received within a reasonable time.

(f) The board shall maintain a mailing list of all persons who request personal notice of public hearings or other proceedings of the board. The board shall mail notice of each proceeding to each person on such list at the address provided to the board. The annual renewal of each such request is a condition of continuing each name and address on the mailing list. This notice requirement stands in addition to any others required by law or rules of the board.

**.053. Revised Notice.** If the board determines that a material error has been made in a notice or that a material change has been made in an application after notice has been issued, the board shall issue a revised notice. If the material change or error affecting the content of the notice does not come to the attention of the board in sufficient time to correct notice given by newspaper publication, the board will adjust the time limitations provided in its rules and will reschedule the hearing if necessary. The party who has caused the change or error requiring revised notice shall bear the resulting expense.

**.055. Written Motions.** Any motion relating to a pending proceeding shall, unless made during a prehearing conference or a hearing, be written and shall set forth the relief sought and the specific reasons and grounds for relief. If

based upon matters which do not appear of record, it shall be supported by affidavit. Each written motion shall be filed with the examiner or the chief clerk, as appropriate.

**.057. Prefiling Prepared Testimony and Exhibits**

(a) Prepared testimony consists of any document which is intended to be offered as evidence and adopted as sworn testimony by a witness who prepared the document or supervised its preparation.

(b) A person who intends to offer prepared testimony at a hearing shall prefile the testimony with the chief clerk not more than eight or less than five days prior to the hearing for consideration and review by the examiner prior to the hearing and shall serve a copy of the prepared testimony on each other party to the proceeding and each other person who has filed a nonparty statement or written request not less than 15 days prior to the hearing. The examiner may authorize the late filing of prepared testimony upon a showing of good cause and extenuating circumstances.

(c) A person who desires to receive prepared testimony submitted in compliance with this rule shall file a written statement in compliance with Rule .047 or shall file a written request with the board not less than 15 days prior to the hearing. A person is not made a party to a proceeding by the filing of such a statement or request.

**.059. Examiner**

(a) Hearings and prehearing proceedings may be conducted by one or more members of the board or a hearing examiner. In a hearing conducted by one or more members of the board, the commissioner or his designee shall serve as presiding examiner. In a hearing conducted by a hearing examiner, the hearing examiner is presiding examiner. The presiding examiner's authority includes all authority which may be delegated to a hearing examiner.

(b) The presiding examiner has authority to admit parties, authorize the taking of depositions, issue subpoenas to compel the attendance of witnesses and the production of papers and documents, administer oaths, receive evidence, rule on the admissibility of evidence and amendments to pleadings, examine witnesses, set reasonable times within which a party may present evidence and within which a witness may testify, permit and limit oral argument, issue interim orders, recess a hearing from day to day and place to place, propose findings of fact and conclusions of law, propose orders and decisions, and do all other things necessary to a fair and proper hearing.

(c) If the board for any reason removes a hearing examiner or if an examiner is unable to continue presiding at any time before final decision, the board may appoint another examiner to preside and to perform any function remaining to be performed, without the necessity of repeating any previous proceeding.

**.061. Designation and Use of Hearing Examiners.**

(a) The board delegates to the commissioner authority to designate which, if any, of the proceedings docketed for hearing shall be heard originally by a hearing examiner rather than by the board.

(b) Each docketed proceeding shall be routinely set for original hearing by the board unless, within five days of docketing a proceeding, the commissioner directs the chief clerk to set the proceeding for original hearing by a hearing examiner.



(c) The board may designate special hearing examiners on a temporary basis to hear complex proceedings, to assist in training hearing examiners, or to expedite clearing the board's docket.

*.063. Qualifications of Hearing Examiners.*

(a) Each hearing examiner must be an attorney licensed to practice before the Supreme Court of the State of Texas.

(b) No person who has participated in a matter in any capacity other than that of hearing examiner for the board may serve as a hearing examiner in the same matter.

(c) No person may serve as hearing examiner in a matter in the outcome of which he has an economic interest. A person is deemed to have an economic interest in a matter if he or any of his immediate family, dependents, business partners, or clients have an economic interest in a matter.

*.065. Prehearing Conference.*

(a) Upon written notice, the examiner assigned to a proceeding may, on his own motion or on the motion of a party, direct the parties or their representatives to appear at a specified time and place for a prehearing conference to formulate issues and consider any of the following:

- (1) simplifying issues;
  - (2) amending the pleadings;
  - (3) making admissions of fact or stipulations to avoid the unnecessary introduction of proof;
  - (4) designating parties;
  - (5) setting the order of procedure at a hearing;
  - (6) identifying and limiting the number of witnesses;
- and
- (7) resolving other matters which may expedite or simplify the disposition of the controversy, including settling issues in dispute.

(b) The examiner shall record the action taken at the conference unless the parties enter into a written agreement as to such action, as permitted in Rule 135.50.10.005.

(c) The examiner conducting a prehearing conference may enter appropriate orders concerning prehearing discovery, stipulations of uncontested matters, presentation of evidence, and scope of inquiry.

*.067. Motion to Consolidate.*

(a) A party may move to consolidate two or more applications or other proceedings. A motion to consolidate must be in writing, signed by the movant or his representative, and filed with the board prior to the date set for hearing.

(b) The board may not consolidate proceedings or hear them jointly without the consent of all parties to each affected proceeding, unless the board finds both (1) that the proceedings involve common questions of law or fact and (2) that separate hearings would result in unwarranted expense, delay, or substantial injustice. The board may hold special hearings on separate issues.

*.069. Place and Nature of Hearings.* All hearings in every proceeding must be open to the public. Each hearing shall be held in Austin, Texas, unless the law requires otherwise, or unless, for good cause stated in its minutes, the board designates another place.

*.071. Postponement and Continuance.*

(a) A motion for postponement must be in writing, must set forth the specific grounds on which it is sought, and must be filed with the board before the date set for hearing.

If the examiner grants a motion for postponement, notice of postponement must issue.

(b) After a matter has proceeded to a hearing, the presiding examiner may grant a continuance on either an oral or a written motion, without issuing new notice, by announcing at the hearing before recessing it the date, time, and place for the hearing to reconvene. If the examiner continues a hearing without publicly announcing at the recessed hearing the date, time, and place for its reconvening, the board must mail notice at least 10 days before the further setting to parties present at the hearing and to all other persons who the board has reason to believe should be notified.

*.073. Order of Procedure.*

(a) The presiding examiner shall open the hearing, make a concise statement of its scope and purposes, and announce that a record of the hearing is being made.

(b) Once the hearing has begun, parties or their representatives may be off the record only when the examiner permits. If a discussion off the record is pertinent, the presiding examiner will summarize the discussion for the record.

(c) All appearances by parties and their representatives and by persons who may testify must be entered on the record.

(d) The examiner shall then receive motions and afford each party of record an opportunity to make an opening statement.

(e) Each party of record is entitled to present a direct case and to cross-examine opposition witnesses. The party with the burden of proof, usually the applicant, is entitled to open and close, except that if the proceeding has been initiated by the board or if several proceedings are heard on a consolidated record, the presiding examiner shall designate who may open and close and at what stage intervenors may offer evidence.

(f) All witnesses to be called shall be sworn, and, after opening statements, if any, the party with the burden, or such other party as the examiner has designated under the preceding paragraph, may proceed with his direct case. Opposing parties may then cross-examine witnesses.

(g) All other parties may then present their cases and be subjected to cross-examination. Unless the order of their presentations has already been agreed on, the presiding examiner may entertain motions from the parties on order of procedure and shall determine how best to proceed.

(h) The presiding examiner may allow nonparty participants to cross-examine parties and witnesses when it appears this may lead to significantly fuller disclosure of facts without unduly delaying the hearing or burdening the record.

(i) At the conclusion of all evidence and cross-examination, the presiding examiner shall allow closing statements.

(j) Before writing his report and proposal for decision, the presiding examiner may call upon any party for further relevant and material evidence on any issue. He shall not consider such evidence or allow it into the record without giving each party an opportunity to inspect and rebut it.

(k) Upon written notice or notice stated into the record, the presiding examiner may direct the parties or their representatives to appear for a conference to consider any matter which may expedite the hearing and serve the interests of justice. The action taken at the conference must be reduced to writing, and the writing shall be signed by the parties and made part of the record in the proceeding.

*.075. Reporters and Transcripts.*

(a) For any proceeding in which any party requests a reporter, the board shall engage an official reporter to make and transcribe a stenographic record of the hearing and to file it with the chief clerk. The board may allocate the cost of the reporter and transcript among the parties.

(b) For all other proceedings, a high-quality, durable cassette tape recording shall be made in such a manner that no proceedings occurring between the end of one tape cassette and the start of the next are lost from the record. The board shall preserve the cassettes in its custody and shall take all necessary steps to index them usefully, store them securely, and protect them against abuse, accidental damage or erasure, and all physical hazards. The board shall allow any person to purchase a copy of any such tape, to hear on board premises a copy of the board's master copy, or to make a duplicate, on the requestor's equipment, of a copy of the board's master copy. The board may make a reasonable charge for this service.

(c) If no reporter was requested before a hearing but a transcript is requested after the hearing has closed, the board may assess costs of preparing such a transcript to the requesting party.

(d) A participant may challenge errors made in transcribing a hearing by noting them in writing and suggesting corrections within 10 days after the transcript is filed, or later, if the examiner permits. The participant claiming errors shall serve a copy of his suggested corrections upon each party of record, the official reporter, and the examiner. If proposed corrections are not objected to within 12 days after being offered, the presiding examiner may direct that the suggested corrections be made and the manner of making them. If parties disagree on suggested corrections, the presiding examiner, with the aid of argument and testimony from the parties, shall determine whether to change the record and, if so, how.

*.077. The Record.* The record in an adjudicative hearing includes:

- (1) all pleadings, motions, intermediate rulings, and interim orders;
- (2) all evidence received or considered;
- (3) a statement of all matters officially noticed;
- (4) questions, offers of proof, objections, and rulings on objections;
- (5) proposed findings and exceptions;
- (6) any proposal for decision, opinion, or report by the examiner conducting the hearing;
- (7) all memoranda and data submitted by staff to the examiner of the board or considered by the examiner or the board in connection with the proceeding; and
- (8) summaries of any conferences held before or during the hearing.

*.079. Witnesses to Be Sworn.* All testimony shall be given under oath administered by the presiding examiner.

*.081. Witnesses Limited.* The examiner may limit the number of witnesses whose testimony is merely cumulative.

*.083. Rules of Evidence.*

(a) The examiner shall exclude all irrelevant, immaterial, or unduly repetitious evidence.

(b) The presiding examiner shall follow the rules of evidence as applied in nonjury civil cases in Texas district courts. When necessary to ascertain facts not reasonably

susceptible of proof under those rules, the presiding examiner may admit evidence not admissible under them (unless precluded by statute) if it is of a type commonly relied on by reasonably prudent persons in the conduct of their affairs. The rules of privilege recognized by Texas law shall be applied in board proceedings.

(c) A party may object to an evidentiary offer and his objection shall be noted in the record.

(d) No evidence which is beyond the scope of the allegations in a proceeding may be admitted.

*.085. Formal Exceptions.* Formal exceptions to rulings of the presiding examiner during a hearing are unnecessary. It is sufficient that the party, at the time a ruling is made or sought, makes known to the presiding examiner the action which he desires.

*.087. Offer of Proof.*

(a) When the presiding examiner rules to exclude evidence, the party offering it may make an offer of proof by dictating or submitting in writing the substance of the proposed evidence before the closing of the hearing. That offer of proof suffices to preserve the point for review by the board.

(b) The presiding examiner may ask a witness or offered witness those questions he deems necessary to satisfy himself that the witness would testify as represented in the offer of proof.

(c) An alleged error in sustaining an objection to questions asked on cross-examination may be preserved without making an offer of proof.

*.089. Official Notice.*

(a) The board may take official notice of judicially cognizable facts and of facts generally recognized within the area of the board's specialized knowledge.

(b) Parties shall be notified before final decision of the specific facts noticed, including any facts or other data in staff memoranda, and they shall be afforded an opportunity to contest the material so noticed.

(c) The special skills and knowledge of the board and its staff may be utilized in evaluating the evidence.

*.091. Documentary Evidence.*

(a) The presiding examiner may receive documentary evidence in the form of copies or excerpts if the original is not readily available. On request, parties shall be given an opportunity to compare the copy with the original when possible.

(b) When many similar documents are offered, the examiner may limit those admitted to a number which are representative and may require that the relevant data be abstracted from the documents and presented as an exhibit. When so requiring, the examiner shall give all parties or their representatives an opportunity to examine the documents from which the abstracts are made.

*.093. Admissibility of Prepared Testimony and Exhibits.* When it will expedite a hearing without substantially prejudicing the interests of a party, the examiner may receive evidence in written form. The prepared, written testimony of a witness upon direct examination, either in narrative or question and answer form, may be incorporated into the record as if read or received as an exhibit, upon the witness's being sworn and identifying the writing as a true and accurate record of what his testimony would be if he were to testify orally. The witness is subject to clarifying questions and to

cross-examination in accord with Rule .073, and his prepared testimony is subject to a motion to strike either in whole or in part.

*.095. Exhibits.*

(a) Form of exhibits. Documentary exhibits must be of a size which will not unduly encumber board records. Whenever practicable, exhibits must conform to the requirements of Rule .031. The first sheet of the exhibit must briefly state what the exhibit purports to show. Exhibits may include only facts relevant and material to the issues of the proceeding. Maps or drawings must be so rolled or folded as not to encumber the record. Exhibits not conforming to this rule may be excluded.

(b) Tender and service. The offering party shall tender to the examiner for identification the original of each exhibit offered. The offering party shall furnish one copy to the examiner and one copy to each party of record or his representative. Documents and maps received in evidence may not be withdrawn except with the approval of the presiding examiner.

(c) Excluded exhibits. If an exhibit has been offered, objected to, and excluded, the presiding examiner shall determine whether or not the party offering the exhibit withdraws the offer and, if so, permit the return of the exhibit to him. If the excluded exhibit is not withdrawn, it shall be numbered for identification, endorsed by the presiding examiner with his ruling, and included in the record to preserve the exception.

(d) Late exhibits. A party may not file an exhibit after the hearing closes, unless the examiner specifically directs, in which event the party shall, before filing the exhibit, serve a copy of it on all other parties.

*.097. Subpoenas.*

(a) Following written request by a party or on its own motion, the board may issue a subpoena addressed to a sheriff or any constable to require the attendance of witnesses and the production of books, records, papers, or other objects as may be necessary and proper for the purposes of a proceeding. A board member or a hearing examiner may issue a subpoena in the name of the board.

(b) A motion for a subpoena to compel the production of books, records, papers, or other objects shall be addressed to the appropriate person, shall be verified, and shall specify as nearly as may be the books, records, papers, or other objects desired and the material and relevant facts to be proved by them.

(c) The party requesting a subpoena shall deposit with the chief clerk a sum sufficient to ensure payment of the witness's reasonable and necessary travel expenses and the necessary witness fee.

*.099. Depositions.* Section 14 of the Administrative Procedure and Texas Register Act governs the taking and use of depositions. Rule 169 of the Texas Rules of Civil Procedure governs requests for admissions of fact and genuineness of documents.

*.101. Interim Orders.* Prior to a final order of the board, a party may seek from a presiding examiner relief by a written interim order. An interim order is not subject to exceptions or motion for rehearing, but a party aggrieved by an interim order may file an appeal from the presiding examiner's ruling to the board within three days of the issuance of the order.

The board shall rule on the interim order at its next meeting, and, pending ruling thereon, the interim order is stayed.

*.103. Briefs.*

(a) Briefs must conform, where practicable, to the requirements for formal pleadings set out in these rules. The points involved shall be concisely stated, the evidence in support of each point shall be summarized, and the argument and authorities shall be concisely and logically organized and directed to each point.

(b) The examiner may request briefs before or after he files the examiner's report and proposal for decision required in Rule .105(b).

*.105. Proposal for Decision and Examiner's Report.*

(a) Decision not adverse to a party. If a majority of the board has neither heard nor read the record of a proceeding and if the proposed decision is not adverse to any party to the proceeding, the examiner may propose to the board a decision which need not contain findings of fact or conclusions of law.

(b) Decision adverse to a party.

(1) If a majority of the board has neither heard the case nor read the record of a proceeding, the board may not make a decision adverse to a party until a proposal for decision has been served on the parties and an opportunity has been given each party adversely affected to file exceptions and present briefs to the board.

(2) The proposal for decision, if adverse to a party, must be prepared by the examiner or by one who has read the record and must contain a statement of the reasons for the proposed decision and a statement of each finding of fact and conclusion of law necessary to the proposed decision. The examiner may request that any party draft and submit a proposal for decision including proposed findings of fact and conclusions of law separately stated. In making such a request, the examiner will indicate to all parties the general nature of the intended proposal for final decision to be drafted. When the presiding examiner wishes to use the special skills of the board staff in evaluating the evidence received or record made, he may request in writing to the chief clerk the assignment of appropriate personnel who have not participated in the review or processing of the matter. The presiding examiner may communicate with any board or General Land Office employee assigned under this rule.

(3) The proposal for decision shall be circulated among the parties. If any party files an exception or presents a brief, an opportunity must be afforded to all other parties to file replies to the exception or brief. The proposal for decision may be amended pursuant to exceptions, replies, or briefs submitted by the parties without again being served on the parties.

(c) Regardless of whether Section (a) or Section (b) of this rule is followed, the proposal for decision must be accompanied by an examiner's report. This report must contain a statement of the nature of the case and a discussion of the issues, the evidence, and the applicable law.

*.107. Countersignature by Chief Clerk.* The chief clerk shall countersign every examiner's report and proposal for decision.

*.109. Filing of Exceptions and Replies.*

(a) Unless the examiner has set a different period of time, a party may file exceptions to the examiner's report or the proposal for decision or both within 15 days after the examiner's report and proposal for decision are served.

(b) A party may file replies to these exceptions within 15 days after the exceptions are filed unless the examiner has set a different period of time.

(c) Any request to enlarge or shorten the time for filing exceptions or replies must be filed with the examiner and a copy served on all parties by the requesting party. The examiner shall promptly notify the parties of his decision on the request. Additional time may be allowed only when the interests of justice require.

*.111. Form of Exceptions and Replies.* Exceptions and replies to exceptions shall conform as nearly as practicable to the rules for pleadings. Specific exceptions shall be concisely stated. The evidence relied upon shall be pointed out with particularity, and that evidence and any arguments relied upon shall be grouped under the exceptions to which they relate.

*.113. Oral Argument before the Board.* A party may request, and the board may allow, oral argument before the board before final board determination. A request for oral argument may be incorporated in the exceptions, in a reply to exceptions, or in a separate pleading.

*.115. Pleading before Final Decision.* The board may permit or request parties to file briefs and proposed findings of fact within such time after the hearing and before final decision as the board may specify. A party doing so shall file four copies with the board and serve a copy on each other party, certifying to the board that such service has been made.

*.117. Final Decision or Order.* After the time for filing exceptions and replies to exceptions has expired or when all timely exceptions and replies to exceptions have actually been filed, the board shall consider the examiner's report and the proposal for decision. The board may adopt the proposal for decision, modify and adopt it, reject it and issue a board decision, or remand the matter to the examiner. The board shall render its final decision or issue its final order within 60 days after the hearing closes, except, that in a contested case not heard by a majority of the board, the board may prescribe a longer time within which it will render its final decision or issue its final order. Any such extension must be announced at the conclusion of the hearing.

*.119. Form, Content, and Service.* A final decision or order of the board adverse to one or more parties must be written and signed by at least two board members. Such final decision must include findings of fact and conclusions of law separately stated. Findings of fact, if set forth in statutory language, must be accompanied by a concise and explicit statement of the underlying facts supporting the findings. Findings of fact must be based exclusively on the evidence and on matters officially noticed. If a party submits proposed findings of fact, the decision must include a ruling on each proposed finding. The chief clerk shall mail or deliver a copy of the decision or order to each party and his authorized representative.

*.121. Effective Date of Decision or Order.* A final decision or final order is effective on the date of board action, unless

otherwise stated in the decision or order. The date of board action must be incorporated in the body of each final decision and order.

*.123. Administrative Finality.* Board action becomes final when the first of the following events occurs:

(1) the time period for filing a motion for rehearing after a final decision or order expires without a motion for rehearing having been filed;

(2) the board denies a motion for rehearing on a final decision or order, either expressly or by operation of law; or

(3) the board renders a final decision or issues a final order which includes a statement that no motion for rehearing will be necessary because an imminent peril to the public health, safety, or welfare requires immediate effect be given to the decision or order.

*.125. Rehearing.*

(a) A motion for rehearing is prerequisite to appeal, except as provided in Rule .123. A motion for rehearing must be made within 15 days after the final decision or order. Any reply to a motion for rehearing must be filed with the board within 25 days after the final decision or order. A party filing a motion for rehearing or a reply to a motion for rehearing shall serve a copy on each party concurrently with the filing.

(b) The board shall act on the motion within 45 days after the final decision or order. If the board does not act within this 45-day period, the motion for rehearing is overruled by operation of law 45 days after the final decision or order.

(c) The board may by written order extend the time for filing motions and replies and for taking board action, except that this extension may not extend the period for board action beyond 90 days after the date of the final decision or order. In the event of an extension, a motion for rehearing is overruled by operation of law on the date fixed by the order or, in the absence of a fixed date, 90 days from the date of the final decision or order.

*.127. Emergency Orders.* If the board finds that an imminent peril to the public health, safety, or welfare requires the immediate finality of a decision or orders in a contested case, it shall recite that finding in the decision or order in addition to reciting that the decision or order is final from the date rendered, in which event the decision or order is final and appealable from the date rendered and a motion for rehearing is not prerequisite to appeal.

*.129. Show Cause Orders and Complaints.* The board, either upon its own motion or upon receipt of written complaint, may, at any time after notice to all interested parties, cite any person within its jurisdiction to appear before it in a public hearing and require that person to show cause why he should not comply with a rule, regulation, agreement, general order, or statute committed to the board's administration which that person is allegedly violating.

*.131. Ex Parte Communications.* Except as provided in Rule .105(b) and unless required for the disposition of ex parte matters authorized by law, no member of the board and no employee of the board or the General Land Office assigned to propose a decision or assigned to propose or make findings of fact or conclusions of law in a case covered by these rules may communicate, directly or indirectly, in connection with any issue of fact or law with any person or party or any representative of either, except on notice and opportunity for all

parties to participate. Notwithstanding the preceding sentence, a member of the board may communicate with another member of the board.

Doc. No. 791003

### Proceedings under the Coastal Public Lands Management Act 135.50.40

The School Land Board has adopted Rules 135.50.40.001-.003. Although no comments were received on these rules as proposed, the board has made stylistic changes.

These rules are promulgated under the authority of Section 33.064 of the Texas Natural Resources Code (1978).

*.001. Scope of Subchapter.* This subchapter governs board proceedings in regard to the following: the registration of structures under the terms of Chapter 33, Texas Natural Resources Code; applications for the granting of interests in coastal public lands under Chapter 33, Texas Natural Resources Code; complaints brought to the board in regard to specific uses of coastal public lands; and complaints or inquiries brought on the board's own motion as to specific acts affecting coastal public lands.

*.002. Rules of Subchapter 30 Applied.* Subject to the limitation of Rule .003, the rules set out in Subchapter 30 of this chapter govern board proceedings in subject matters within the scope of this subchapter.

*.003. Time Limit.* Within 90 days after an application to acquire rights in coastal public lands has been filed and determined complete, the board shall determine whether or not to grant the request exactly as made.

Doc. No. 791004

### Proceedings under Texas Water Code, Sections 61.116 and .117, 135.50.41

The School Land Board has adopted Rules 135.50.41.001-.007. Although no comments were received on these rules as proposed, the board has made stylistic changes.

These rules are promulgated under the authority of Sections 32.062 and 33.064 of the Texas Natural Resources Code (1978).

*.001. Scope of Subchapter.* This subchapter governs leasing of state-owned lands to navigation districts and board approval of subleases by navigation districts under Texas Water Code, Sections 61.116 and 61.117.

*.002. Rules of Subchapter 30 Applied.* Except as provided otherwise in this subchapter, the rules in Subchapter 30 of this chapter govern board proceedings in subject matters within the scope of this subchapter.

*.005. Circulation of Application.*

(a) Upon determining an application complete, the board shall circulate the application and proposed lease to the member agencies of the Natural Resources Council and other appropriate state agencies for a 30-day review and comment period. The period will be extended for an additional 30 days if the chief executive officer of any such agency files

with the board a written request for such an extension before the initial period expires.

(b) The board shall collect the comments received and within five days after the comment period ends provide a copy to each party to the proceeding.

*.006. Local Hearing.* The board shall hold a public hearing on a proposed application in a county in which the state land which is the subject of the application and proposed lease is located.

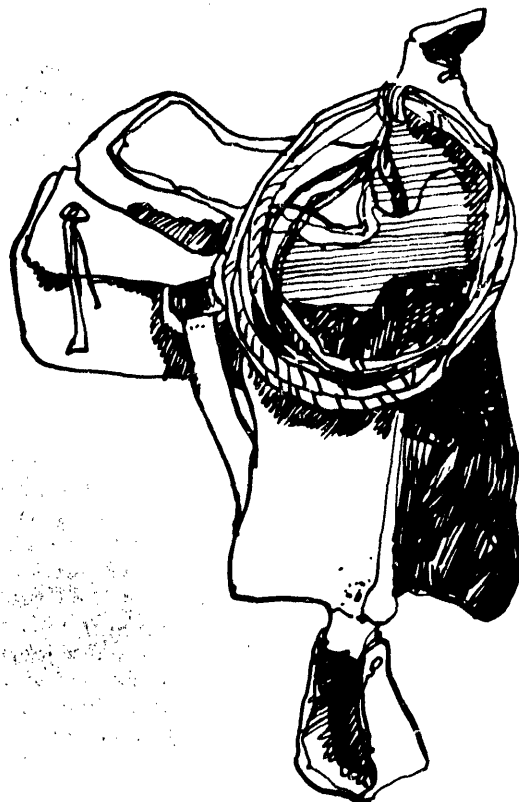
*.007. Publication of Notice by Applicant.* In addition to any other notice requirement imposed upon the board or an applicant, the applicant shall cause notice of the hearing to be published on at least three days, not less than two weeks nor more than four weeks before the hearing, in the daily newspaper having the greatest circulation in each county in which the state land which is the subject of the application is located.

Issued in Austin, Texas, on February 6, 1979.

Doc. No. 791005      Bob Armstrong  
Chairman  
School Land Board

Effective Date: March 8, 1979

For further information, please call (512) 475-5661.



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*.

## State Board of Control

**Friday, February 23, 1979, 10 a.m.** The State Board of Control has filed an emergency amendment to the agenda of a meeting to be held in Room 916 of the LBJ Building, 111 East 17th Street, Austin. As summarized on the agenda, the emergency amendment was made to add the following topics for the board's consideration: review of a master plan for the Capitol Complex, Systems Division, State Auditor's Office, report on Alcoholic Beverage Commission's need for computer services, report on hearing before the House State Affairs Substantive Committee on Appropriative Matters, a review of proposed riders in the House version of Senate Bill 28 (appropriations bill), and a presentation by Xerox. The agenda has also been amended to delete the topic of auctioneering services to be bid on a competitive basis.

Additional information may be obtained from Homer A. Foerster, P.O. Box 13047, Austin, Texas 78711, telephone (512) 475-2211.

Filed: February 16, 1979, 11:32 a.m.  
Doc. No. 791035

## Coordinating Board, Texas College and University System

**Friday, February 23, 1979, 2 p.m.** The Allied Health Advisory Committee of the Coordinating Board, Texas College and University System, will meet in the San Antonio Room, Sheraton-Crest Hotel, 1st and Congress, Austin. The committee will appoint six subcommittees to study and prepare recommendations for each of the areas of concern identified within the field of allied health education.

For more information, contact Kenneth H. Ashworth, P.O. Box 12788, Austin, Texas 78711, telephone (512) 475-4361.

Filed: February 15, 1979, 2:27 p.m.  
Doc. No. 791010

**Thursday, March 8, 1979, 1:30 p.m.** The Campus Planning and Physical Facilities Development Committee of the Coordinating Board, Texas College and University System, will meet at the College of Nursing Building, University of Texas at El Paso, 1101 North Campbell Street, El Paso. The committee will consider requests for endorsement of construction and rehabilitation projects at Texas A&M University Agriculture and Extension centers at Stephenville, Overton, and McGregor, and the University of Texas at El Paso.

For more information, contact Kenneth H. Ashworth, P.O. Box 12788, Austin, Texas 78711, telephone (512) 475-4361.

Filed: February 15, 1979, 2:27 p.m.  
Doc. No. 791011

**Friday, March 9, 1979, 10 a.m.** The Student Services Committee of the Coordinating Board, Texas College and University System, will meet at the College of Nursing Building, University of Texas at El Paso, 1101 North Campbell Street, El Paso. The committee will consider reallocating federal funds received through the State Student Incentive Grants Program for fiscal year 1979.

For more information, contact Kenneth H. Ashworth, P.O. Box 12788, Austin, Texas 78711, telephone (512) 475-4361.

Filed: February 15, 1979, 2:27 p.m.  
Doc. No. 791012

## Office of the Governor

**Friday, February 23, 1979, 10 a.m.** The Governor's Committee on Aging has filed an emergency addition to its meeting scheduled in the fourth floor conference room, 411 West 13th Street, Austin. The agenda was amended to add the Killeen School Nutrition Project grant application for refunding for the committee's consideration.

For more information, contact Vernon McDaniel, P.O. Box 12786, Austin, Texas 78711, telephone (512) 475-2717.

Filed: February 16, 1979, 9:27 a.m.  
Doc. No. 791026

## State Department of Highways and Public Transportation

**Tuesday, February 27, 1979, 1:30 p.m.** The State Highway and Public Transportation Commission of the State Department of Highways and Public Transportation will meet in Room 145 of the department's district office, 4615 Northwest Loop 410 (intersection of Loop 410 and Callaghan Road), San Antonio. As summarized on the agenda, the commission will execute contract awards and routine minute orders, consider presentations from previous public hearing dockets as necessary, and review staff reports relating to planning and construction programs and projects. The agenda is available in the second floor office of the minute clerk in the State Highway Building in Austin.

For more information, contact the office of the engineer-director, Room 203, State Highway Building, 11th and Brazos Streets, Austin, Texas 78701, telephone (512) 475-3525.

Filed: February 16, 1979, 9:49 a.m.  
Doc. No. 791028



## Texas Department of Mental Health and Mental Retardation

**Friday, February 23, 1979, 9 a.m.** The Business Committee of the Texas Board of Mental Health and Mental Retardation will meet at the Central Office, 909 West 45th Street, Austin. The summarized agenda includes the naming of an all-faiths chapel at Kerrville State Hospital, approval of projects and allocations of unexpended construction balances at Austin and Corpus Christi State Schools and Wichita Falls State Hospital, and quarterly budget additions and revisions.

For more information, contact John J. Kavanagh, M.D., P.O. Box 12668, Austin, Texas 78711, telephone (512) 454-3761.

Filed: February 15, 1979, 3:53 p.m.  
Doc. No. 791018

**Friday, February 23, 1979, 9:30 a.m.** The Program Committee of the Texas Board of Mental Health and Mental Retardation will meet at the Central Office, 909 West 45th Street, Austin. The agenda includes approval of supplemental grants-in-aid to boards of trustees operating community MH/MR centers for Fiscal Year 1979.

Additional information may be obtained from John J. Kavanagh, P.O. Box 12668, Austin, Texas 78711, telephone (512) 454-3761.

Filed: February 15, 1979, 3:53 p.m.  
Doc. No. 791016

**Friday, February 23, 1979, 10 a.m.** The Executive Committee of the Texas Board of Mental Health and Mental Retardation will meet at the Central Office, 909 West 45th Street, Austin. The summarized agenda includes appointments to the Medical Advisory Committee and the Advisory Committee on Community Mental Health and Mental Retardation Centers, an economic management and policy consideration matter, and the Butt Foundation report.

For more information, contact John J. Kavanagh, M.D., P.O. Box 12668, Austin, Texas 78711, telephone (512) 454-3761.

Filed: February 15, 1979, 3:54 p.m.  
Doc. No. 791015

**Friday, February 23, 1979, 1:30 p.m.** The Texas Board of Mental Health and Mental Retardation will meet at the Central Office, 909 West 45th Street, Austin. The summarized agenda includes the following topics: status reports on the departmental budget request for the 1980-81 biennium; legislation relating to the department; State Mental Health Advisory Council briefing; naming of all-faiths chapel at Kerrville State Hospital; approval of projects and allocation of unexpended construction balances at Austin and Corpus Christi State Schools and Wichita Falls State Hospital; quarterly budget additions and revisions; approval of grants-in-aid to community mental health and mental retardation centers' boards of trustees; appointments to the Medical Advisory Committee and the Advisory Committee on Community Mental Health and Mental Retardation Centers; an economic management and policy consideration matter; the Butt Foundation report; and duties of the commissioner.

For more information, contact John J. Kavanagh, M.D., P.O. Box 12668, Austin, Texas 78711, telephone (512) 454-3761.

Filed: February 15, 1979, 3:54 p.m.  
Doc. No. 791014

## Texas Parks and Wildlife Department

**Wednesday, February 21, 1979, 10 a.m., and Thursday, February 22, 1979, 9 a.m.** An emergency addition was made to the agenda of the meeting of the Texas Parks and Wildlife Commission of the Texas Parks and Wildlife Department. The commission met in Building B of the department headquarters complex, 4200 Smith School Road, Austin. The addition was made to include Item 19, the land acquisition project for Bastrop County.

For more information, contact Maurine Ray, 4200 Smith School Road, Austin, Texas 78744, telephone (512) 475-4954.

Filed: February 16, 1979, 8:28 a.m.  
Doc. No. 791021



## Board of Polygraph Examiners

**Thursday-Saturday, April 5-7, 1979, 9 a.m. daily.** The Board of Polygraph Examiners will meet in the Chart Room of the Flagship Hotel, 25th and Seawall Boulevard, Galveston. The summarized agenda includes the following: approval of intern applications; consideration of reciprocity agreements; hearing of complaints against licensed examiners; hearing of complaint by a licensed examiner; discussion of additional training for examiners; discussion of alleged deceptive advertising in violation of law; possible administrative hearing against a licensed examiner; items held in abeyance from previous meeting for additional information and/or ruling by attorney general; and other business authorized for consideration by the chairman.

For more information, contact R. D. Gates, 111 West Laurel, Suite 115, San Antonio, Texas 78212, telephone (512) 227-6100.

Filed: February 16, 1979, 10:22 a.m.  
Doc. No. 791029

## Railroad Commission of Texas

**Monday, February 26, 1979, 9 a.m.** The Gas Utilities Division of the Railroad Commission of Texas will meet in the Ernest O. Thompson Building, 10th and Colorado Streets, Austin, to consider the following items, as summarized: Gas Utilities Dockets 1906, 1887, and 1896; word processing matters; and director's report. An executive session will also be held.

Additional information may be obtained from Joy Wood, P.O. Box 12967, Austin, Texas 78711, telephone (512) 475-2747.

Filed: February 16, 1979, 11:23 a.m.  
Doc. No. 791039

**Monday, February 26, 1979, 9 a.m.** The Oil and Gas Division of the Railroad Commission of Texas will meet in the Ernest O. Thompson Building, 10th and Colorado Streets, Austin, to consider, as summarized, category determinations under Sections 102(c)(1)(B), 102(C)(1)(C), 103, 107, and 108 of the Natural Gas Policy Act of 1978.

Additional information may be obtained from Linda D. Carr, P.O. Box 12967, Austin, Texas 78711, telephone (512) 475-3003.

Filed: February 16, 1979, 11:24 a.m.  
Doc. No. 791036

**Monday, February 26, 1979, 9 a.m.** The Oil and Gas Division of the Railroad Commission of Texas will meet in the Ernest O. Thompson Building, 10th and Colorado Streets, Austin. As summarized, the agenda will include: massive name change, temporary transfer of allowable during emergency conditions, determine validity of wells, unitization and secondary recovery, Rule 37 cases, proper pluggings,

SWR 14(B)(2), gas field rules, suspend allocation formula, new oil and gas discoveries, request for 90-day temporary gas classification, exception to SWR 13(c), exceptions to SWR 11, SWR 8(c), permission to flare gas, consideration of commission's EPA grant application, consideration of advisory committee's report of Rule 051.09.99.001, Determination of Gas Market Demand, and director's report. An executive session will also be held.

Additional information may be obtained from Jan Burris, P.O. Box 12967, Austin, Texas 78711, telephone (512) 475-3003.

Filed: February 16, 1979, 11:23 a.m.  
Doc. No. 791037

**Monday, February 26, 1979, 9 a.m.** The Transportation Division of the Railroad Commission of Texas will meet in the 10th floor conference room, Ernest O. Thompson Building, 10th and Colorado Streets, Austin. The summarized agenda includes consideration of the following applications: amend authority, rail rate, sell authority, truck rate, bus rate, consolidate authority, divide authority, lease authority, new authority, reinstatement, transfer authority, and voluntary suspension.

Additional information may be obtained from John Soule, P.O. Drawer 12967, Austin, Texas 78711, telephone (512) 475-4738.

Filed: February 16, 1979, 11:23 a.m.  
Doc. No. 791038

## Texas State University System

**Monday, February 19, 1979, 2 p.m.** The Board of Regents of the Texas State University System met in emergency session at the board office, 505 Sam Houston Building, Austin, to consider the following items, as summarized: an agreement for telephone services for Sam Houston State University; an agreement for telephone services for Sul Ross State University; and personnel matters (executive session).

Additional information may be obtained from Lamar G. Urbanovsky, 505 Sam Houston Building, Austin, Texas 78701, telephone (512) 475-3876.

Filed: February 15, 1979, 2:16 p.m.  
Doc. No. 791008

## University Interscholastic League

**Friday, February 16, 1979, 2 p.m.** The State Executive Committee of the University Interscholastic League met in emergency session in Room 102, Sid Richardson Hall, University of Texas at Austin. The purpose of the meeting, according to the summarized agenda, was to interpret Article VIII, Section 21 of the Constitution, and contest rules. The emergency meeting was necessary because the district basketball race was required to be completed by Saturday. If



the State Executive Committee ruled that an out-of-state transfer student is not bound by Article VIII, Section 21, the team that the district disqualified on February 15 could not have been named the winner of that district on the following Saturday night. If such a ruling was not made, the district teams would have held a play-off to determine a winner on Friday night and Saturday.

Additional information may be obtained from Bailey Marshall, P.O. Box 8028, Austin, Texas 78712, telephone (512) 471-5883.

Filed: February 15, 1979, 4:40 p.m.  
Doc. No. 791017

## Texas Water Commission

**Thursday, March 1, 1979, 10 a.m.** The Texas Water Commission will conduct a hearing in the meeting room, Lower Neches Valley Authority, 7850 Eastex Freeway, Beaumont, to consider an application by the City of Beaumont. As summarized, the applicant seeks an amendment to Permit No. 10501-20 to authorize an increase of its maximum allowable daily sewage discharge from 60 million gallons per day to 93 million gallons per day.

Additional information may be obtained from Phillip Paine, P.O. Box 13087, Austin, Texas 78711, telephone (512) 475-1468.

Filed: February 15, 1978, 2:16 p.m.  
Doc. No. 791009

## Texas Water Development Board

**Tuesday, February 20, 1979, 8:30 a.m.** The Texas Water Development Board made an emergency addition to the agenda of a meeting held in Room 118, Stephen F. Austin Building, 1700 North Congress, Austin. As summarized, the board considered authorizing the executive director to enter into a receivable contract with Camp, Dresser, and McKee, Inc., prime contractor of the Economic Development Administration's High Plains Ogallala Aquifer Study, and to use the \$30,000 receivable funds to contract with university staff personnel to complete Phase I of the state-level research studies of this Ogallala study.

Additional information may be obtained from Harvey Davis, P.O. Box 13087, Austin, Texas 78711, telephone (512) 475-3187.

Filed: February 15, 1979, 4:50 p.m.  
Doc. No. 791019

## Regional Agencies

### Meetings Filed February 16, 1979

**The Deep East Texas Regional MH/MR Services**, Board of Trustees, will meet in the conference room, Day Treatment/Administration Facility, 4101 South Medford, Lufkin, on February 27, 1979, at 5 p.m. Further information may be obtained from Wayne Lawrence, 4101 South Medford, Lufkin, Texas 75901, telephone (713) 639-1141.

**The Middle Rio Grande Development Council**, A-95 Project Review Committee, will meet in the city council chambers, City Hall, Uvalde, on February 28, 1979, at 2 p.m. Further information may be obtained from Elia G. Santos, P.O. Box 1461, Del Rio, Texas 78840.

**The North Texas Municipal Water District**, Board of Directors, will meet in the administrative offices, Central Plant, Highway 78 East, Wylie, on February 27, 1979, at 4 p.m. Further information may be obtained from Carl W. Riehn, P.O. Drawer C, Wylie, Texas 75098, telephone (214) 442-2217, extension 26.

**The Nueces River Authority**, Board of Directors, will meet at the City Water Board, 1001 East Market Street, San Antonio, on February 27, 1979, at 11 a.m. Further information may be obtained from Con Mims, P.O. Box 349, Uvalde, Texas 78801, telephone (512) 278-6810.

**The South Texas Development Council**, Government Application Review Committee, met at the Zapata Civic Center, Zapata, on February 22, 1979, at 10 a.m. Further information may be obtained from Julie Saldana, P.O. Box 2187, Laredo, Texas 78041.

**The South Texas Health Systems Agency**, Nominating Committee of the Lower Rio Grande Valley Subarea Advisory Council, will meet at the Rodeway Inn, Expressway and Mile 2-W, Mercedes, on February 27, 1979, at 6:30 p.m. The Lower Rio Grande Valley Subarea Advisory Council, will meet at the same location on February 27 at 7:30 p.m. Further information on the meetings may be obtained from Fidel Pizana, Texas A&I University, Station 1, Box 2378, Kingsville, Texas 78363, telephone (512) 595-5545.

Doc. No. 791030

## Legislative Report

The legislative coverage in the *Register* will include notices on the introduction of each of the approximately 4,000 bills expected during the 140-day session, along with committee referrals. The legislative report will focus on proposed bills and resolutions which, if passed, will have a major impact on issues of concern to citizens on a statewide basis. Organized according to content, the coverage includes legislation regarding energy, environment, education, human services (health and welfare), insurance, economic development, taxes, criminal justice, state and local government, elections, constitutional revision, and consumer affairs. Also to appear in this section will be notices of committee meetings and a bill status list which will indicate the latest action on bills covered in the report.

### Human Services

Two bills dealing with workers' compensation laws were referred to subcommittee by the Senate Jurisprudence Committee on February 10. SB 239, regarding state funding for school districts' unemployment and workers' compensation, and SB 240, allowing application of workers' compensation laws to ranch and farm laborers, were referred to the Workers Compensation Subcommittee.

### Taxes

Another bill (SB 569) exempting intangible property from ad valorem taxation was introduced and referred to the Senate Finance Committee. HB 503, providing limitations on reevaluations of property for ad valorem taxation, was referred to subcommittee by the House Intergovernmental Affairs Committee on February 13.

### Criminal Justice

Another bill (HB 1033) providing enhanced penalties for violent crimes against women, children, and elderly persons was introduced and referred to the Criminal Jurisprudence Committee. SB 71, also providing for such enhanced penalties, was considered in public hearing by the Criminal Matters Subcommittee on February 13.

Three other Senate bills were referred to the Criminal Matters Subcommittee on February 14: SB 394, regarding bodily injury to a child; SB 366, providing for use of oral statements by an accused under certain conditions; and SB 73, prohibiting use of insanity as a defense. SB 72, allowing judges, rather than juries, to determine sentencing, was considered by the Criminal Matters Subcommittee in public hearing on February 13.

Four bills setting penalties for the violation of a prisoner's civil rights by a peace officer or other custodian of prisoners are under consideration. SB 546 (Jurisprudence) was referred to the Criminal Matters Subcommittee on February 15. House Bills 274, 342, and 371 are being considered by the Criminal Jurisprudence Committee.

## State and Local Government

The Senate passed a bill (SB 256) on February 15 expanding the civil jurisdiction of county courts at law. Two other bills concerning the courts' jurisdiction are also being considered. HB 596 was referred to subcommittee by the Judicial Affairs Committee on February 13. SB 427 was reported favorably from the Jurisprudence Committee without amendments on February 14.

Two bills (HB 606 and HB 714) regarding the organization of the State Bar were considered by a subcommittee of the Government Organization Committee on February 14 and February 8, respectively. A bill (HB 340) creating the Texas Juvenile Standards Commission was referred to subcommittee by the Security and Sanctions Committee on February 14. SB 27, making changes to the Texas Prosecutors Coordinating Council, was considered in public hearing by the Criminal Matters Subcommittee on February 13. HB 713, making changes in the Texas Cosmetology Commission, was referred to subcommittee by the Government Organization Committee on February 12.

Regarding state government administration, one bill received a public hearing and another bill was introduced. HB 651, limiting the rate of growth of legislative appropriations, was considered in public hearing by the Ways and Means Committee on February 14. HB 1038 (State Affairs) was introduced to create the Administrative Rules Review Committee as a legislative joint committee to review all proposed and certain existing agency rules.

## Elections

SJR 10, providing for nonpartisan election of judges, was considered in public hearing by the State Affairs Committee on February 14. HB 1018 (Elections) was introduced to allow political parties holding a general primary election to simultaneously elect delegates to their national convention and express a preference for presidential candidates. Several other bills are under consideration regarding primary elections, political party conventions, and presidential preference primaries: HB 114, HB 220, HB 297, HB 411, HB 647, SB 20, SB 30, and SB 37.

## Consumer Affairs

SB 320, making railroad companies liable for erection and maintenance of warning signs and devices at railroad crossings, was referred to the Jurisprudence Subcommittee on Civil Matters on February 14.

## House of Representatives

### Bills Introduced

### Committee Referrals

The following are bills filed for action during the 66th Legislative Session. Each bill is followed in parentheses by the committee to which it has been assigned. In the following list, the bill number appears first, the author(s) second, and

the subject of the bill. HB indicates house bill; HJR indicates house joint resolution; HCR indicates house concurrent resolution; and HR indicates house simple resolution.

For copies of bills, call Bill Distribution (512) 475-2073.

HR 47 W. T. Hall—Commending Dr. James Muro. (Rules)

HR 48 W. T. Hall—Welcoming Cody Earl Kubiak.

HCR 61 Head—Memorializing Congress to eliminate disparities in Medicare and Medicaid allowances for rural and urban areas.

HCR 62 Delco—Inviting Jean Childs Young to address a joint session of the Texas House of Representatives and Senate in the hall of the House on March 5, 1979. (Rules)

HCR 63 G. Thompson—In memory of Kelly Kent. (Rules)

HCR 64 Price—Supporting the United Nations proclamation declaring the year 1979 as the International Year of the Child. (Rules)

HCR 65 McFarland—Inviting Governor Clements to address the House and Senate in joint session on February 21, 1979.

HCR 66 Clayton—In memory of former Speaker Homer Leonard.

HB 1018 Wright—Relating to presidential primary elections. (Elections)

HB 1019 Schlueter—Relating to administration of medication to students by certain school employees. (Public Education)

HB 1020 Sullivant—Relating to the lease of state park land. (Environmental Affairs)

HB 1021 Allred—Relating to the classification of certain alien students as residents for purposes of tuition at institutions of higher education. (Higher Education)

HB 1022 Rangel—Relating to the applicability of the Uniform Wildlife Regulatory Act to the wildlife resources in Kleberg County. (Environmental Affairs)

HB 1023 Close—Relating to the duties of the secretary of state and county clerks in matters pertaining to notaries public. (State Affairs)

HB 1024 Atkinson and Peveto—Relating to public school education. (Public Education)

HB 1025 Atkinson and Peveto—Relating to public school education. (Public Education)

HB 1026 Florence and Finnell—Relating to the disposition of funds from the collection of vehicle license fees by counties in Texas. (Ways and Means)

HB 1027 Nabers—Relating to the transfer of certain public school students. (Public Education)

HB 1028 Nabers—Relating to the antitrust immunity of motor carriers, motor bus companies, railroads, and their associations. (Transportation)

HB 1029 Hartung—Relating to choice of recovery under uninsured and underinsured motorist coverage. (Insurance)

HB 1030 Presnal—Relating to the distribution of certain fiscal reports of public institutions of higher education. (Appropriations)

HB 1031 Presnal—Relating to creation of the 272nd Judicial District, composed of Brazos County. (Judicial Affairs)

HB 1032 Schlueter—Relating to the definition of principal balance. (Financial Institutions)

HB 1033 Berlanga—Relating to the punishment for violent crimes committed against women, children, and elderly persons. (Criminal Jurisprudence)

HB 1034 Ezzell—Relating to qualifications for the executive director and the director of mental retardation of a community mental health and mental retardation center. (Health Services)

HB 1035 Ezzell—Relating to qualifications for the office of commissioner of mental health and mental retardation. (Health Services)

HB 1036 Lator—Relating to the election and membership of the governing body in certain cities. (Regions, Compacts, and Districts)

HB 1037 Rudd—Relating to bonds of the Terry Memorial Hospital District of Terry County. (Intergovernmental Affairs)

HB 1038 Jackson and Schlueter—Relating to legislative review of administrative review. (State Affairs)

HB 1039 Willis, et al.—Relating to coordination of child protection services. (State Affairs)

HB 1040 Mankins—Relating to deposit premiums paid for workers' compensation insurance, property liability insurance, and property damage insurance. (Employment Practices)

HB 1041 Mankins—Relating to the unemployment compensation benefit amount for total unemployment. (Employment Practices)

HB 1042 Mankins—Relating to the authority to create municipal courts of record in the city of Longview and prescribing appeals from the municipal courts of record. (Judicial Affairs)

HB 1043 Rains—Relating to an exemption from the Private Investigators and Private Security Agencies Act of licensed electricians who install smoke or fire detectors in residences. (State Affairs)

HB 1044 Uribe—Relating to Pan American University at Brownsville. (Higher Education)

HB 1045 Uribe—Relating to the right of a municipally owned retail public utility to provide service to an area within the municipal limits. (State Affairs)

HB 1046 Uribe—Relating to purchase, sale, and lease of land and facilities of certain navigation districts. (Natural Resources)

HB 1047 Uribe—Relating to refunding bonds, notes, and other indebtedness of certain navigation districts. (Natural Resources)

HB 1048 Schlueter—Relating to the time period in which a retailer may accept sales and use tax resale or exemption certificates. (Ways and Means)

HB 1049 Smith—Relating to creation of the office of budget officer in certain counties. (Intergovernmental Affairs)

HB 1050 F. Green—Relating to the sale of eggs. (Agriculture and Livestock)

HB 1051 Davis—Relating to the disposition of funds collected or received by certain state agencies. (Financial Institutions)

HB 1052 Cary, Barrientos, and Webber—Relating to prevention and redress of discrimination in employment, public accommodations, credit transactions, and real property transactions. (State Affairs)

HB 1053 Untermeyer—Relating to the authority of a political subdivision to impose or increase certain taxes and the consequent duty to reduce or eliminate property taxes. (Ways and Means)

HB 1054 Coody—Relating to municipal annexation and disannexation. (Intergovernmental Affairs)

HB 1055 Keller—Relating to abolition of certain water control and improvement districts. (Intergovernmental Affairs)

HB 1056 Keller—Relating to officers who may take possession of abandoned vehicles. (Intergovernmental Affairs)

HB 1057 Blanton—Relating to transfer of public school students. (Public Education)

HB 1058 Blanton—Relating to elections for consolidation of school districts. (Public Education)

HB 1059 Craddick—Relating to lease of public school and Gulf land. (Natural Resources)

HB 1060 Davis, et al.—Relating to implementation of the Tax Relief Amendment to the Texas constitution. (Ways and Means)

HB 1061 Von Dohlen, et al.—Relating to the expiration, staff, functions, and revenue of the Good Neighbor Commission of Texas. (Government Organization)

HB 1062 Blythe—Relating to consolidation of balance sheets for purposes of determining insurance company reserves. (Insurance)

HB 1063 Ceverha—Relating to regulation of the performance of abortions. (Health Services)

HB 1064 Lee—Relating to the election of members of the board of trustees for certain school districts from single-member districts. (Regions, Compacts, and Districts)

HB 1065 Henderson—Relating to charges by the Parks and Wildlife Department for park services for blind, disabled, and elderly persons. (Environmental Affairs)

HB 1066 Henderson—Relating to the covering of vehicles hauling loose materials. (Transportation)

HB 1067 Henderson—Relating to competitive bids for work on highways in the state highway system. (Transportation)

HB 1068 Henderson—Relating to purchase or condemnation of property for purposes of the state highway program. (Transportation)

HB 1069 Harrison, Gonzales, and Wieting—Relating to the conveyance of certain state-owned land by the University System of South Texas in exchange for certain land belonging to Texas A&I Development Foundation, Inc. (State Affairs)

HB 1070 Benedict—Relating to state payments to survivors of probation or parole officers killed while performing official duties. (State Affairs)

HB 1071 Benedict—Relating to the conveyance of certain state-owned land by the Texas Board of Corrections for use by the Brazoria County Airport in exchange for certain other land. (State Affairs)

HB 1072 Jay Gibson—Relating to the compensation of the judges of the 70th, 161st, and 244th Judicial Districts. (Judicial Affairs)

HB 1073 Hernandez, et al.—Relating to notice of cancellation of voter registration. (Elections)

HB 1074 Hernandez—Relating to providing minimum compensation for inmates engaged in work while incarcerated in the Texas Department of Corrections. (Security and Sanctions)

HB 1075 Lalor—Relating to contracts for services between the Texas Department of Human Resources and shelter centers that provide shelter and services to victims of family violence. (Human Services)

HB 1076 Lalor—Relating to court orders for the protection of members of a family or a household. (Judicial Affairs)

HB 1077 Cartwright—Relating to mutual trust investment companies. (Financial Institutions)

HB 1078 Cartwright—Relating to the report to the governor by the State Board of Insurance. (Insurance)

HB 1079 Smith—Amending the Insurance Code, providing for payment of that portion of the expenses of administration incurred in the processing and payment of claims against the receivership or conservatorship estate as a "covered claim" under certain circumstances. (Insurance)

HB 1080 Hernandez—Relating to the exercise by attorneys at law of authority now exercised by notaries public. (State Affairs)

HB 1081 Leonard—Relating to credits on and reductions of certain homeowners and renters insurance premiums. (Insurance)

HB 1082 Polumbo—Authorizing incorporated cities or towns to be self insured for peace officers and fire fighters in their employ against liability to third persons arising out of the operation, maintenance, or use of any motor vehicle owned or leased by a city or town. (Intergovernmental Affairs)

HB 1083 Hernandez—Relating to the offense of theft, clarifying ambiguities and inconsistencies. (Criminal Jurisprudence)

HB 1084 Hernandez—Relating to conduct which is lewd, immoral or offensive to public decency or which is vulgar, indecent or profane. (Liquor Regulation)

HB 1085 Hernandez—Relating to new trials granted on the basis of insufficiency of the evidence. (Criminal Jurisprudence)

HB 1086 Hernandez—Relating to the procedure to be followed by a trial court whenever the record is supplemented or modified in any respect in order that it may speak the truth, and to the attendance of the defendant at a hearing on such matters. (Criminal Jurisprudence)

HB 1087 Von Dohlen, et al.—Relating to the provision of textbooks for nonpublic school students. (Public Education)

HB 1088 Brown—Relating to payments in lieu of taxes by municipally owned utilities. (State Affairs)

HB 1089 Head—Making an appropriation to the State Rural Medical Education Board. (Appropriations)

HB 1090 Keller—Relating to the appointment and compensation of official court reporters in certain counties. (Intergovernmental Affairs)

HB 1091 Keller—Relating to compensation for a transcription by a court reporter for an indigent defendant. (Intergovernmental Affairs)

HB 1092 Keller—Relating to the compensation of a court reporter when absent and replaced by a deputy reporter. (Intergovernmental Affairs)

HB 1093 Hendricks—Relating to methods of proving character in criminal cases. (Criminal Jurisprudence)

HB 1094 Hendricks—Relating to the time period during which the state may amend its motion to revoke probation. (Criminal Jurisprudence)

HB 1095 Hendricks—Relating to the order of proceeding in criminal trial where prior convictions are alleged for jurisdictional purposes that affect the jurisdiction of the court. (Criminal Jurisprudence)

HB 1096 Von Dohlen—Relating to controlled substances. (Criminal Jurisprudence)

HJR 84 Schlueter—Proposing a constitutional amendment to limit the number of consecutive terms that a person may be elected governor, lieutenant governor, or attorney general. (Constitutional Amendments)

HJR 85 Untermeyer—Proposing a constitutional amendment to permit the legislature to allow political subdivisions to impose taxes other than property taxes and requiring the limitation or elimination of existing taxes on property. (Constitutional Amendments)

## Senate Bills Introduced Committee Referrals

The following are bills and resolutions filed for action during the 66th Legislative Session. Each bill and resolution is followed in parentheses by the committee to which it has been assigned. In the following list, the bill number appears first, the author(s) second, and the subject of the bill. SB indicates senate bill; SJR indicates senate joint resolution; SCR indicates senate concurrent resolution; and SR indicates senate resolution.

For copies of bills, call Senate Bill Distribution (512) 475-2520.

SR 133 Howard—Extending congratulations to Sam M. Walton.

SR 134 Schwartz—Extending welcome to Robert M. Cohen.

- SR 135 Jones of Harris—Extending welcome to Houston Technical Institute students.
- SR 136 Schwartz—Memorial resolution for Joseph John Piperi.
- SR 137 Schwartz—Memorial resolution for Ardy E. Blakely, Sr.
- SCR 27 Traeger—Supporting the efforts in Congress to abolish the national speed limit of 55 miles per hour. (State Affairs)
- SCR 28 Mengden—Memorializing the President and Congress to launch an all-out energy production and conservation effort in the United States.
- SB 557 Jones of Harris—Relating to changes in the primary nomination filing fee schedule. (State Affairs)
- SB 558 Mengden—Relating to the regulation of sexually oriented conduct in on-premise alcoholic beverage establishments. (State Affairs)
- SB 559 Mengden—Relating to county regulation of certain businesses where nudity is practiced. (Intergovernmental Relations)
- SB 560 Price—Relating to salary and benefits for certain officers of the Department of Public Safety. (Finance)
- SB 561 Price—Relating to county authority to own or care for a cemetery. (Intergovernmental Relations)
- SB 562 Blake—Relating to a university center student fee for Stephen F. Austin State University. (Education)
- SB 563 Blake—Making appropriations to pay the additional cost of purchased utilities at certain institutions of higher education. (Finance)
- SB 564 Traeger—Relating to the time period in which a retailer may accept sales and use tax resale or exemption certificates. (Finance)
- SB 565 Doggett—Relating to creation of the office of budget officer in certain counties. (Intergovernmental Relations)
- SB 566 Andujar—Relating to a state historical collection at Texas Woman's University. (Education)
- SB 567 Vale—Relating to discrimination in employment because of age. (State Affairs)
- SB 568 Short—Relating to the per diem and mileage expenses of soil and water conservation district directors. (Natural Resources)
- SB 569 Jones of Taylor—Relating to exemption of certain intangible property from ad valorem taxation. (Finance)
- SB 570 Santiesteban—Relating to the office of bailiff of each district court and statutory county court. (Intergovernmental Relations)
- SB 571 Parker—Relating to the period of duration of certain corporations. (State Affairs)
- SB 572 Jones of Harris—Relating to the creation of the 274th Judicial District, composed of Fort Bend County. (Intergovernmental Relations)
- SB 573 Farabee—Relating to the membership of the Texas Judicial Council. (Jurisprudence)
- SB 574 Doggett—Relating to creation of the 268th Judicial District, composed of Travis County. (Intergovernmental Relations)
- SB 575 Schwartz—Relating to the definition of medical staff or students. (Jurisprudence)
- SB 576 Brooks, Ogg, Jones of Harris—Relating to the establishment of a coeducational institution of higher education to be located in the city of Houston, to be known as the University of Houston-Downtown College. (Education)
- SB 577 Schwartz—Relating to the powers and duties of the Parks and Wildlife Commission and the Parks and Wildlife Department, certain funds used by the Parks and Wildlife Department, and certain criminal penalties. (Natural Resources)
- SB 578 Schwartz—Relating to the regulatory duties of the Parks and Wildlife Commission. (Natural Resources)
- SB 579 Schwartz—Relating to fees for commercial fishing licenses. (Natural Resources)
- SB 580 Schwartz—Relating to the authority of the Parks and Wildlife Commission to set the fee for the issuance of certain licenses. (Natural Resources)
- SB 581 Howard, et al.—Relating to the ratification and implementation of the Red River Compact. (Intergovernmental Relations)
- SB 582 Farabee—Relating to the imposition, levy, and collection of local sales and use tax by certain cities and certain metropolitan rapid transit authorities. (Finance)
- SB 583 Farabee—Relating to hunting turkey in Foard County. (Natural Resources)
- SB 584 Doggett—Relating to the optional use of the franchise tax short form return. (Finance)
- SB 585 Short—Relating to the allocation to and use by school districts of certain sales and use tax revenue. (Finance)
- SB 586 McKnight—Relating to hazardous duty pay for law-enforcement personnel of certain state agencies. (State Affairs)
- SB 587 Braecklein—Relating to health services for persons with cystic fibrosis. (Human Resources)
- SB 588 Braecklein—Relating to fees allowed to sheriffs and constables. (Intergovernmental Relations)
- SB 589 Farabee—Making a supplemental appropriation to the Judiciary Section-Comptroller's Department. (Finance)
- SB 590 Harris—Relating to the regulation, licensing, and taxing of horse racing and pari-mutuel wagering. (State Affairs)
- SB 591 Mauzy, Schwartz—Relating to the authority of certain insurers to invest in bonds and securities of the State of Israel. (Economic Development)
- SB 592 Traeger—Relating to a repeal of the penalty for assessing property for taxes without state registration. (Economic Development)
- SB 593 Jones of Taylor—Relating to public school education. (Education)
- SB 594 Brooks—Relating to contracts for services between the Texas Department of Health and shelter centers that provide shelter and services to victims of family violence. (Human Resources)
- SB 595 Brooks—Relating to court orders for the protection of members of a family or a household. (Jurisprudence)
- SB 596 Farabee—Relating to notice of a reappraisal for property tax purposes. (Finance)
- SB 597 Schwartz—Relating to the indictment, trial, and punishment of certain youthful offenders. (Jurisprudence)
- SB 598 Jones of Harris—Providing that certain bonds or obligations of housing authorities and certain non-profit corporations, when secured by a pledge of certain housing assistance payments from the United States Government, are authorized security for all public deposits and lawful investments for certain entities. (Human Resources)
- SB 599 Jones of Taylor—Relating to regulation of podiatrists. (Human Resources)
- SB 600 Jones of Harris—Relating to persons not authorized to receive license as an attorney at law. (Jurisprudence)
- SB 601 Brooks, Doggett, Jones of Harris, Santiesteban—Relating to the use of equivalent drug products in filling prescriptions. (Human Resources)
- SB 602 Ogg—Relating to the selection of delegates to national nominating conventions and party nominees for public office. (State Affairs)
- SJR 38 Short—Proposing a constitutional amendment dedicating a portion of state sales taxes for public primary and secondary education and requiring state funding of new primary and secondary education programs. (Finance)

## Meetings

### Notices Filed February 15, 1979

*Senate Subcommittee on Consumer Affairs*, Tuesday, February 20, 1979, 2 p.m., Sergeant-at-Arms Committee Room, State Capitol, to consider SB 4 (Andujar).

*Senate Committee on Economic Development*, Monday, February 19, 1979, 9 a.m., Lieutenant Governor's Committee Room, State Capitol, to consider SB 219 (Parker), SB 108 (Brooks, et al.), SB 417 (Farabee), SB 261 (Harris), SB 285 (Harris), SB 368 (Jones of Taylor), SB 248 (Moore), and SB 279 (Doggett).

*Senate Committee on Intergovernmental Relations*, Tuesday, February 20, 1979, 3 p.m., Lieutenant Governor's Committee Room, State Capitol, to consider SB 295 (Doggett), SB 11 (Farabee), SB 308 (Clower), SB 310 (Clower), SB 76 (Mengden), and SB 114 (Mengden).

*Senate Committee on Intergovernmental Relations*, Thursday, February 22, 1979, 9 a.m., Lieutenant Governor's Committee Room, State Capitol, to consider SB 173 (Moore), SB 405 (Schwartz), SB 535 (Traeger), SB 420 (Short), and SB 316 (Ogg).

*Senate State Affairs Committee*, Monday, February 19, 1979, 2 p.m., Senate Chamber, State Capitol, to consider SB 349 (Andujar), SB 404 (Longoria), SJR 10 (Mengden), SB 482 (Harris), SB 124 (Doggett), SJR 8 (Mengden), and SB 53 (Mengden).

## Legislative Information System of Texas

### Toll-Free Telephone Number

The Texas Senate and House of Representatives are providing information on the activities of the 66th 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 Aeronautics Commission

### Correction of Error

In the February 16, 1979, issue of the *Texas Register* (4 TexReg 515), the Texas Aeronautics Commission published notice of proposed amendments to the commission's Aviation Facilities Development rules, Rules 105.03.00.103, 106-109, .111, .117, and .121. The commission inadvertently omitted the new language in Rule .117(b). The last sentence of Rule .117(b), immediately preceding the deleted portion of Rule .117(b), should read: *Notwithstanding any language contained in Rule .114 of these rules, land costs are eligible for reimbursement irrespective of the date of acquisition by the sponsor.*

# MANUFACTURING



## 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 5-9, 1979.

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, 8520 Shoal Creek Boulevard, Austin, Texas 78758.

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 9, 1979

Ashbrook-Simon-Hartley, Houston; coplastix manufacturing building; 11600 East Hardy Street; 7311; new source

Babcock and Wilcox Co., Bryan; stress relief furnace; 1700 Independence Avenue; 7312; new source

Babcock and Wilcox Co., Bryan; No. 1 end heating furnace; 1700 Independence Avenue; 7313; new source

Babcock and Wilcox Co., Bryan; No. 2 end heating furnace; 1700 Independence Avenue; 7314; new source

Babcock and Wilcox Co., Bryan; austenitizing furnace; 1700 Independence Avenue; 7315; new source

Babcock and Wilcox Co., Bryan; temper furnace; 1700 Independence Avenue; 7316; new source

Babcock and Wilcox Co., Bryan; tube coating; 1700 Independence Avenue; 7317; new source

Freightmaster--Division of Halliburton Co., Saginaw; shot blast facility; Highway 287 North and Peden Road; 7318; new source

Freightmaster--Division of Halliburton Co., Saginaw; painting booth; Highway 287 North and Peden Road; 7319; new source

Southwest Galvanizing, Inc., San Antonio; hot dip zinc galvanizing facility; East of Loop 410 on San Hedwig Road; 7320; new source

Goodyear Tire and Rubber Co., La Porte; propylene meter station; 13441 Bay Area Boulevard—Bayport Chemical Plant; 7321; new source

Burrus Milling Department, Cargill, Inc., Saginaw; flour mill; 401 East Industrial Boulevard; 7322; new source

Kleberg County Farmers Cooperative, Ricardo; dry bulk fertilizer blending plant; 3909A

Union Carbide Corp., Port Lavaca; LPPE catalyst precursor storage system; Highway 185—Seadrift Plant; 1567B; modification

Halliburton Services, Kilgore; bulk cement handling plant; Highway Intersection 259 and 31; 6839A; modification

Fibergrate Corp., Addison; fabrication of reinforced fiberglass; 4112 Billy Mitchell; 7323; new source

Stewart Sand Blasting and Spray Painting Co., Freeport; sand blasting and spray paint operation; 136 Jeffers Road; 7324; modification

FSI Concrete, Huffman; concrete batch plant; FM 1960; 4162A; new source

Elk Corp., Ennis; shingle manufacturing; Business 75 and County Road; 7329; new source

Dowell Division of the Dow Chemical Co., Bryan; oil and gas well service facility; 1650 Independence Avenue; 7328; new source

**Bendix Forext Products Corp.**, Hurst; sawing and surfacing lumber; 205 West Hurst Boulevard; 7327; new source

**City of Amarillo**, Amarillo; sewage screenings incinerator; Hollywood Road Wastewater Treatment Plant; 7326; new source

**Seven K Corp.**, Mesquite; concrete batch plant; Eastside Water Treatment Plant; 7325; new source

**HCW Construction Co., Inc.**, Penwell; rock crusher; Moss Pit; 4279B; modification

**G & S Co.**, Lufkin; two bag house dust collectors; 515 Industrial; 5907A; modification

**NPC Realty Co.**, Austin; trench burner; South First Street—Buckingham Estates; 7330; new source

**NPC Realty Co.**, Austin; trench burners; South First Street—Buckingham Estates; 7331; new source

**Texas Byproducts, Inc.**, San Antonio; two expellers; 114 Apache Street; 2312A; modification

**Hot Mix, Inc.**, Midfield; asphalt concrete plant; 5141A; new source

**Jon T Hansen Constructors, Inc.**, El Paso; rock crushing facility; 7332; new source

**The Superior Oil Co.**, New Ulm; gas sweetening/dehydration facility; Speiss Processing Plant; 7333; new source

**Aztec Products, Inc.**, Mansfield; paint booth; 103 Sentry Drive North; 7334; new source

**Halliburton Services**, Abilene; bulk cement handling plant; 2701 Industrial Boulevard; 6377B; modification

**Atlas Processing Co.**, Longview; crude oil pipeline terminal; 7335; new source

**El Paso Products Co.**, Corpus Christi; C4's dock/rail loading facility; 7336; new source

**Lubrizol Corp.**, Deer Park; storage tank; 7339; new source

**Bodin Concrete Co.**, Rowlett; ready mix concrete plant; Tolar Industrial Park; 7338; new source

**RAYMCHRIS, Inc.**, doing business as Valley Cellulose Insulation, Brownsville; cellulose insulation manufacturing; 3320 East 14th Street; 7337; new source

**Petro United, Inc.**, Seabrook; smokeless flare; 11666 Port Road; 4516A

**Petro United, Inc.**, Seabrook; concrete batch plant; 11666 Port Road; 5335A

**Petro United, Inc.**, Seabrook; tank car and tank truck loading/unloading rack; 11666 Port Road; 4644A

**Petro United, Inc.**, Seabrook; petrochemical storage tanks; 11666 Port Road; 3467B

**Petro United, Inc.**, Seabrook; two 15,000 BBL tanks; 11666 Port Road; 4070A

**Petro United, Inc.**, Seabrook; four 50,000 BBL fixed roof storage tanks; 11666 Port Road; 4071A

**Petro United, Inc.**, Seabrook; two 50,000 BBL floating roof storage tanks; 11666 Port Road; 4072A

**Petro United, Inc.**, Seabrook; three 50,000 BBL storage tanks; 11666 Port Road; 4798A

**Petro United, Inc.**, Seabrook; one petrochemical storage tank; 11666 Port Road; 5150A

**Petro United, Inc.**, Seabrook; one petrochemical storage tank; 11666 Port Road; 5151A

**Petro United, Inc.**, Seabrook; one petrochemical storage tank; 11666 Port Road; 5152A

**Petro United, Inc.**, Seabrook; one petrochemical storage tank; 11666 Port Road; 5153A

**Petro United, Inc.**, Seabrook; five 80,000 BBL floating roof tanks; 11666 Port Road; 54333B

**Petro United, Inc.**, Seabrook; eight 12,500 BBL fixed roof storage tanks; 11666 Port Road; 5435A

**Petro United, Inc.**, Seabrook; three 50,000 BBL floating roof tanks; 11666 Port Road; 5436A

Issued in Austin, Texas, on February 13, 1979.

Doc. No 790984

John B. Turney  
Hearing Examiner  
Texas Air Control Board

Filed: February 15, 1979, 8:40 a.m.

For further information, please call (512) 451-5711.

## Texas Department of Human Resources

### Consultant Proposal Request

**Description of Services Requested.** The Texas Department of Human Resources requests proposals to conduct a study of basic child day care rates in Texas. These single-cost proposals must be for conducting a normative study of the basic rates charged by licensed/registered child day care facilities in Texas, excluding those that are federally funded. The products to be received are a detailed technical report and an abstract report which provides the following information on licensed centers and registered family day homes for each DHR region and a state composite:

- (A) average rate by child's age;
- (B) proportion of facilities with vacancies/waiting lists (by child age);
- (C) proportion providing transportation and transportation rates;
- (D) proportion of facilities with other extra charges and average charge (by category of charge).

**Contact Person.** Parties desiring more details may secure a request for proposal packet by contacting Dr. J. K. Southard, manager, Child Development Programs, 529-0, Department of Human Resources, John H. Reagan Building, Austin, Texas 78701, telephone (512) 475-6511.



**Closing Date for Offers.** Proposals must be received by the Department of Human Resources, Child Development Program Division, no later than 5 p.m. on April 5, 1979.

**Evaluation Criteria for Awarding Contracts.** The proposals will be evaluated for completeness, cost (lowest cost under \$75,000), and the offeror's skill, experience, study methodology, resources, and budget plan to adequately meet planned objectives.

Issued in Austin, Texas, on February 14, 1979.

Doc. No. 790983 Jerome Chapman  
Commissioner  
Texas Department of Human Resources

Filed: February 15, 1979, 8:37 a.m.

For further information, please call (512) 475-4601.

## Railroad Commission of Texas Transportation Division

### Rulemaking Hearing--Notice of Correction

The Railroad Commission will conduct a public hearing to receive oral comments on proposed Rule 051.03.02.012, Equipment Transporting Commodities in Bulk, published in the December 12, 1978, issue of the *Texas Register* (3 TexReg 4298), at 9 a.m. on March 5, 1979, rather than March 4, 1979, as published in the February 9, 1979, issue of the *Register* (4 TexReg 455). The public hearing will be held in Room 214 of the Lamar Crest Office Towers, 7703 North Lamar Boulevard, Austin. In response to a petition filed by Dan Felts on behalf of Moore Transportation Company, the Railroad Commission is proposing the amendment which would broaden the application of the existing Rule 051.03.02.012. Comments which have been submitted in writing need not be presented orally.

Issued in Austin, Texas, on February 12, 1979.

Doc. No. 791006 John G. Soule, Director  
Transportation Division  
Railroad Commission of Texas

Filed: February 15, 1979, 11 11 a.m.

For further information, please call (512) 475-3421.

## 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, 1979.

The following are eligible to receive a subscription to the *Register* free on request—each board, commission, and department having statewide jurisdiction, the governor, the lieutenant governor, the attorney general, each member of the legislature, each county clerk, the supreme court, the court of criminal appeals, and each court of civil appeals, and each state depository library. If you are no longer eligible to receive a complimentary subscription, you may renew your subscription by sending \$25 to the address below.

Complimentary subscribers who wish to continue their subscription should send a copy of their mailing label complete with necessary changes to:

Office of the Secretary of State  
Texas Register Division  
P.O. Box 12887, Capitol Station  
Austin, Texas 78711

If you are not currently receiving a complimentary subscription and wish to do so, please send a request stating your eligibility and mailing address to the address above.

Please refer any questions regarding subscriptions to Charlotte Scroggins at (512) 475-7886.

Doc No 31A20