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TEXAS REGISTER

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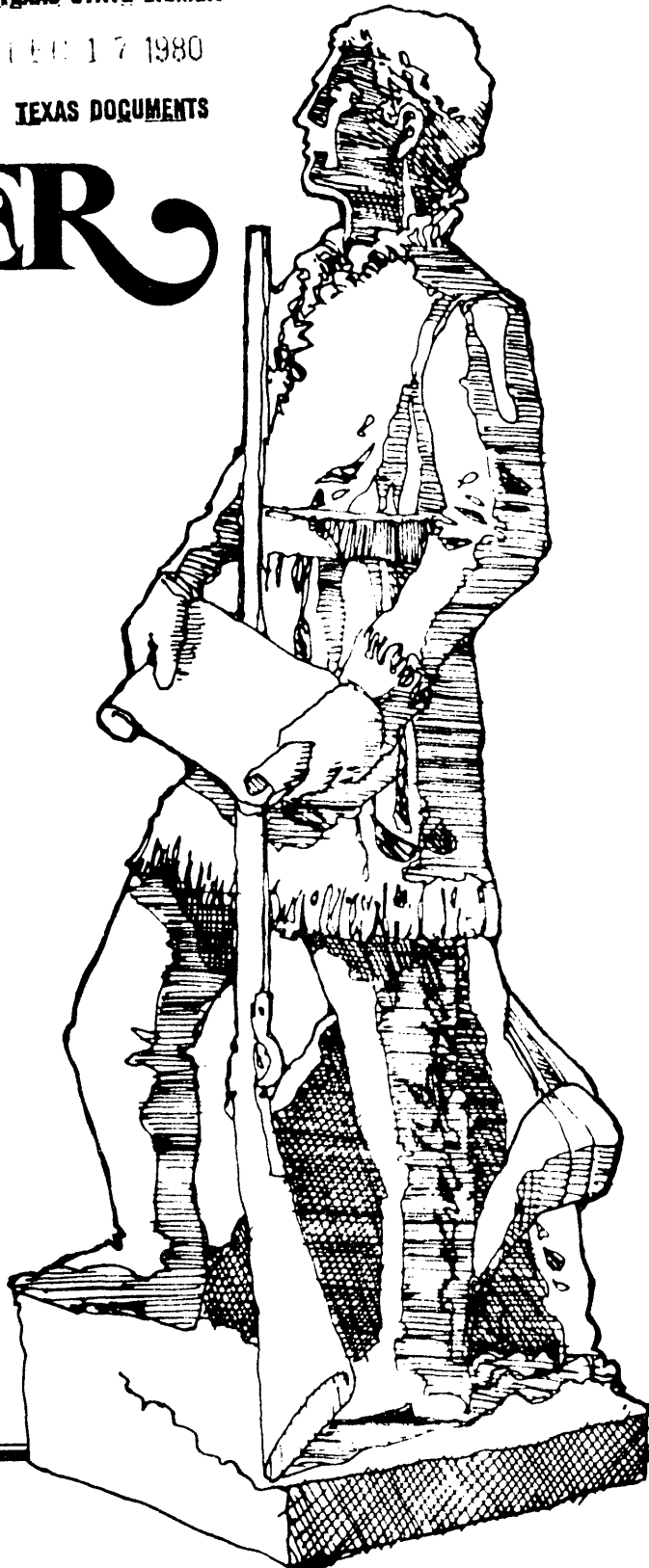
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Office of the Secretary of State

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

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

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

1 is the title (agencies grouped together by subject title which are arranged alphabetically)
TAC is the *Texas Administrative Code*
§27.15 is the section number (27 represents the chapter number and 15 represents the individual rule within the chapter)

Latest Texas Code Reporter
(Master Transmittal Sheet): No. 3, Aug. 80

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

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

TEXAS REGISTER



George W. Strake, Jr.
Secretary of State

The *Texas Register* (ISSN 0362-4781) is published twice weekly, at least 100 times a year except January 4, May 30, September 5, December 2, and December 30, by the Texas Register Division, Office of the Secretary of State, 201 East 14th Street, P.O. Box 13824, 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 \$40 for units of Texas state government and nonprofit schools and libraries in Texas, and \$60 for all others. Six month subscriptions are also available for \$30 and \$45, respectively. Back issues, when available, are \$1.50 each.

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POSTMASTER: Please send Form 3579 changes to the Texas Register, P.O. Box 13824, Austin, Texas 78711.

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

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

Opinions

Summary of Opinion MW-285 (RQ-313)

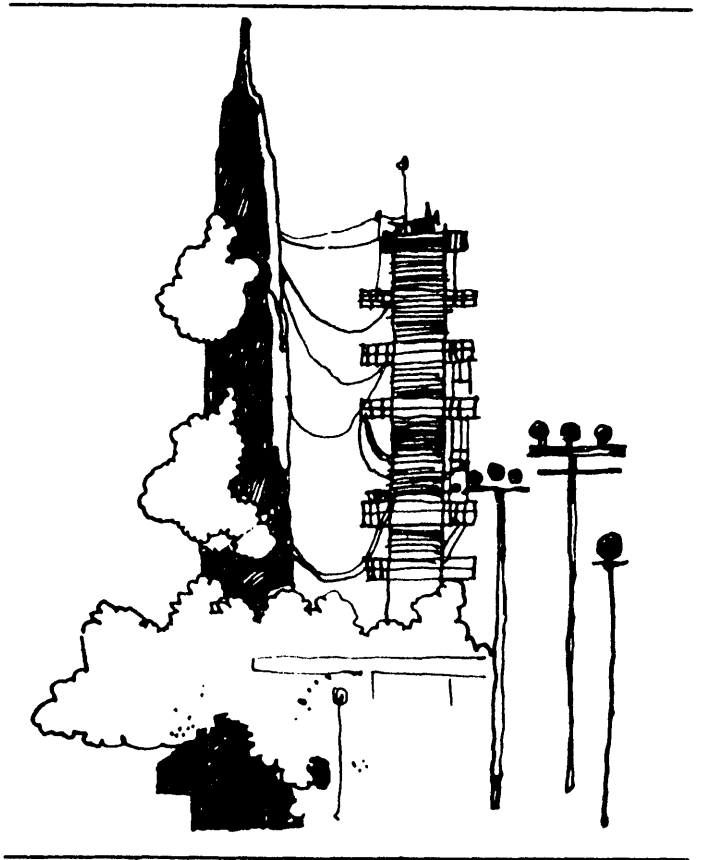
Request from Joe Resweber, county attorney, Harris County, concerning application of rabies control statutes.

Summary of Opinion: Harris County is subject to the rabies control and eradication provisions of Article 4477 6a, Vernon's Texas Civil Statutes

Issued in Austin, Texas, on December 4, 1980.

Doc. No. 809275 Susan L. Garrison, Acting Chairwoman
Opinion Committee
Attorney General's Office

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



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

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

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

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

CODIFIED

TITLE 22. EXAMINING BOARDS

Part XII. Board of Vocational Nurse Examiners

Chapter 235. Licensing

Application for Licensure

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

The Board of Vocational Nurse Examiners proposes to repeal §235.16 (390.03.01.016) of this title (relating to Foreign Nurse Graduate) as the substance of the section is encompassed in §235.11 (011) of this title (relating to Professional Graduates).

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

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

The repeal of this section is proposed pursuant to Vernon's Civil Statutes, Article 4528c.

§235.16 (390.03.01.016) *Foreign Nurse Graduate*.

Doc. No. 809286

The Board of Vocational Nurse Examiners proposes to adopt §235.17 (390.03.01.017) of this title (relating to Temporary Permits). The section is proposed to clarify who is eligible for a temporary permit, when it is issued, and length of time effective.

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

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

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

§235.17 (390.03.01.017) *Temporary Permits*. Temporary permits shall

(1) be issued to graduates of an approved vocational nursing program after applications have been approved for licensure examination.

(2) be issued for the first scheduled examination.

(3) expire 10 weeks following date of licensure examination.

Issued in Austin, Texas, on December 8, 1980.

Doc. No. 809287 Waldeen D. Wilson, R.N.
Executive Secretary
Board of Vocational Nurse Examiners

Proposed Date of Adoption: January 16, 1981
For further information, please call (512) 458-1203.

Part XXIII. Texas Real Estate Commission

Chapter 535. Provisions of the Real Estate License Act

General Provisions Relating to the Requirement of Licensure

The Texas Real Estate Commission proposes to amend §535.1 (402.03.01.001) of this title (relating to License Required) so as to permit Texas real estate licensees to cooperate with foreign real estate licensees. For the purposes of this section, the Texas Real Estate Commission has traditionally interpreted "state" to mean only one of the United States. The amendment would permit Texas licensees to provide greater service to their principals by expanding the class of licensees with whom Texas licensees are permitted to cooperate. Non-resident licensees are still prohibited, however, from conducting negotiations in Texas without Texas licensure.

The commission estimates that adoption of the amendment would have no fiscal implications for the state or units of local government.

Public comment is invited and may be submitted to the Texas Real Estate Commission before February 2, 1981.

This amendment is proposed under the authority of Article 6573a, Vernon's Texas Civil Statutes.

§535.1 (402.03.01.001) License Required

(a) (d) (No change)

(e) The Real Estate License Act permits Texas licensed brokers to cooperate with and share earned commission with persons licensed as brokers by other states, but all negotiations within Texas must be handled by Texas licensees. **For the purposes of this section, "states" includes the states, territories, and possessions of the United States and any foreign country or governmental subdivision thereof.**

(f) (h) (No change)

Doc No 809281

Termination of Salesman's Association with Sponsoring Broker

The Texas Real Estate Commission proposes to amend §535.122 (402.03.13.002) of this title (relating to Reactivation of License). The amendment clarifies the fee requirements involved when an inactive real estate salesman returns to an active status under the sponsorship of the same broker. The current section requires payment of a fee for issuance of a license when a salesman forms an association with a different broker. The amendment would require payment of the same fee, now set at \$10, when a salesman returns to active status under the previous broker.

The commission staff estimates that adoption of the amendment would increase the fees received by the agency by \$45,000 for each of the first five years after adoption. No fiscal implications are expected for units of local government. The commission staff estimates that adoption of the proposal would not increase cost of administration of Article 6573a, Vernon's Texas Civil Statutes, because the agency already performs the function of recording changes in sponsorship of salesmen and issuing new licenses.

Public comment is invited and may be submitted to the Texas Real Estate Commission before February 2, 1981.

This amendment is proposed under the authority of Article 6573a, Vernon's Texas Civil Statutes.

§535.122 (402.03.13.002) Reactivation of License. When a licensed salesman enters the sponsorship of a broker other than the broker named on the salesman's current license certificate **or when a licensed salesman re-enters the sponsorship of the broker by whom he was last sponsored,** [it is necessary that] the salesman and the broker, whose sponsorship he has entered **shall** notify the commission within 10 days, submit the appropriate fee, and request that a [new] license reflecting the [new] association be issued.

Doc No 809282

Nonresidents

The Texas Real Estate Commission proposes to amend §535.131 (402.03.14.001) of this title (relating to Unlawful Conduct: Splitting Fees) so as to permit Texas real estate licensees to cooperate with foreign real estate licensees. Section 14(a) of Article 6573b, Vernon's Texas Civil Statutes, enables Texas licensees to cooperate and share commissions with persons licensed by other states as attorneys or real estate salesmen or brokers. Nonresident licensees are, however, prohibited from conducting negotiations within Texas unless also licensed by Texas. By broadening the definition of "state" to include foreign countries and their governmental subdivisions, the Texas Real Estate Commission permits Texas licensees to cooperate with a larger class of nonresident licensees and thus provide greater service to the public.

The commission estimates that adoption of the amendment would have no fiscal implications for the state nor for units of local government.

Public comment is invited and may be submitted to the Texas Real Estate Commission before February 2, 1981.

This amendment is proposed under the authority of Article 6573a, Vernon's Texas Civil Statutes.

§535.131 (402.03.14.001) Unlawful Conduct: Splitting Fees

(a) (No change)

(b) The word "state" refers to **the states, territories, and possessions of the United States and any foreign country or governmental subdivision thereof** [states of the United States].

(c) (d) (No change)

Doc No 809283

Suspension and Revocation of Licensure

The Texas Real Estate Commission proposes to amend §535.147 (402.03.15.011) of this title (relating to Splitting Fee with Unlicensed Person) so as to permit Texas real estate licensees to share real estate commissions with foreign licensees. For the purposes of this section, the Texas Real Estate Commission has traditionally interpreted "state" to mean only one of the United States. The amendment would permit Texas licensees to provide greater service to their principals by expanding the class of real estate licensees with whom the Texas licensees may cooperate in real estate transactions.

The commission estimates that adoption of the amendment would have no fiscal implications for the state nor for units of local government.

Public comment is invited and may be submitted to the Texas Real Estate Commission before February 12, 1981.

This amendment is proposed under the authority of Article 6573a, Vernon's Texas Civil Statutes.

§5.35 147 (402.03.15.011) *Splitting Fee with Unlicensed Person.*

(a) "Any other state" means *the states, territories, and possessions* [any other state] of the United States *and any foreign country or governmental subdivision thereof* (b) (c) (No change.)

Issued in Austin, Texas, on December 8, 1980

Doc. No. 809284 Andy James
 Administrator
 Texas Real Estate Commission

Proposed Date of Adoption January 16, 1981
 For further information, please call (512) 475-6693.

NONCODIFIED

Texas Department of Human Resources

Family Services

Day Care Services for Children 326.53.63

(Editor's note: The text of the following rule proposed for repeal will not be published. The rule may be examined in the offices of the Texas Department of Human Resources, 706 Banister, Austin, or in the Texas Register Division offices, 503E Sam Houston Building, Austin.)

The Texas Department of Human Resources proposes to repeal Rule 326.53.63.044 regarding the purchase of child day care services in the Family Services Program. This rule which represents part of the required compliance with the new United States Department of Health and Human Services Day Care Requirements Volume 45 of the Code of Federal Regulations - Part 71 is now found in rules subsequently adopted in the *Texas Register* (5 TexReg 3961).

The department has determined that this rule repeal is for the elimination of duplication only and that there will be no fiscal implications for the state or for local units of government.

Written comments are invited and may be sent to Susan L. Johnson, administrator, Handbook and Procedures Development Division - 357, Texas Department of Human Resources, P.O. Box 2960, Austin, Texas 78769, within 30 days of publication in this *Register*.

This repeal is proposed under the authority of Title II of the Human Resources Code.

044 Application Process for Provider Agreement - Day Care Center

Doc. No. 809289

Support Documents 326.53.99

(Editor's note: The text of the following rule proposed for repeal will not be published. The rule may be examined in the offices of the Texas Department of Human Resources, 706 Banister, Austin, or in the Texas Register Division offices, 503E Sam Houston Building, Austin.)

The Texas Department of Human Resources proposes to repeal Rule 326.53.99.200 regarding the maximum rates that day care providers can charge the department for care of children of various ages. The procedures for establishing rates are now found in rules subsequently adopted in the *Texas Register* (5 TexReg 3961).

The department has determined that this rule repeal is for the elimination of duplication only and that there will be no fiscal implications for the state or for local units of government.

Written comments are invited and may be sent to Susan L. Johnson, administrator, Handbook and Procedures Development Division - 357, Texas Department of Human Resources, P.O. Box 2960, Austin, Texas 78769, within 30 days of publication in this *Register*.

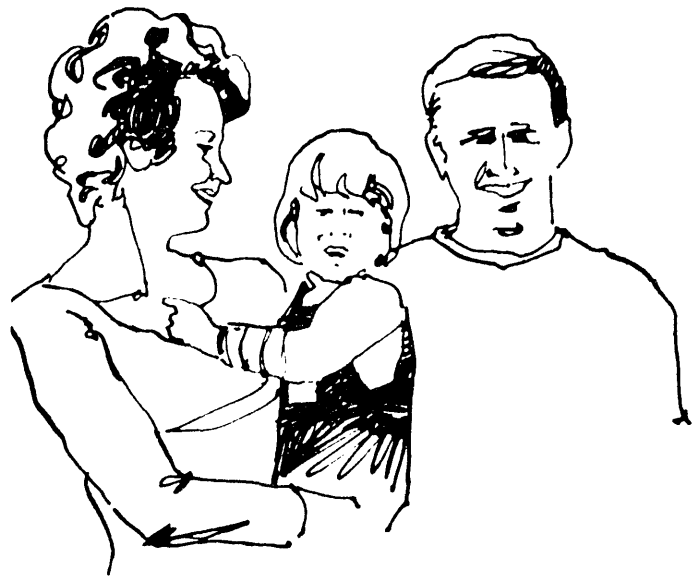
This repeal is proposed under the authority of Title II of the Human Resources Code.

200 Maximum Rates of Payments for Day Care in Contract Agencies

Issued in Austin, Texas, on December 9, 1980.

Doc. No. 809290 Marlin W. Johnston
 Acting Commissioner
 Texas Department of Human Resources

Proposed Date of Adoption January 16, 1981
 For further information, please call (512) 441-3355.



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

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

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

CODIFIED

TITLE 37. PUBLIC SAFETY AND CORRECTIONS

Part V. Board of Pardons and Paroles

Chapter 141. General Provisions

Definitions

Under the authority of Article IV, Section 11 of the Texas Constitution, and Article 42.12, Sections 1 and 22, Texas Code of Criminal Procedure, the Board of Pardons and Paroles has adopted the amendments to §141.111 (205.01.11.001-029) of this title (relating to Definitions):

§141.111 (205.01.11.001-029) *Definitions*. The following words and terms, when used in this part, shall have the following meanings unless the context clearly indicates otherwise:

Conditional pardon. A form of executive clemency granted by the governor which serves to release the grantee from the conditions of his or her sentence and/or any disabilities imposed by law thereby, subject to the conditions contained in the clemency proclamation. A person released pursuant to the terms of a conditional pardon is considered, for the purposes of revocation thereof, to be an administrative releasee, §141.111 (001-029) of this title (relating to Definitions) and all such revocation proceedings are governed by the sections for revocation of administrative release herein, §§145.41-145.55 (205.03.03.001-.005, .013-.022) of this title (relating to Revocation of Parole).

Doc. No. 809297

Chapter 143. Executive Clemency

Conditional Pardon

Under the authority of Article IV, Section 11, of the Texas Constitution, and Article 42.12, Sections 1 and 22, Texas Code of Criminal Procedure, the Board of Pardons and Paroles has adopted the amendments to §§143.21 and 143.23 (205.02.02.001 and .003) of this title (relating to Conditional Pardon):

§143.21 (205.02.02.001) *Definition*. A conditional pardon is a form of executive clemency which, upon request, may be recommended by the board to the governor except in cases of treason or impeachment, and if granted, serves to release the grantee from the conditions of his or her sentence and/or any disabilities imposed by law thereby, subject to the conditions contained in the clemency proclamation. A person released pursuant to the terms of a conditional pardon is considered for the purposes of revocation thereof to be an administrative releasee, §141.111 (205.01.11.001-029) of this title (relating to Definitions), and all such revocation proceedings are governed by the sections for revocation of administrative release herein, §§145.41-145.55 (205.03.03.001-.005, .013-.022) of this title (relating to Revocation of Parole).

§143.23 (205.02.02.003) *Revocation of Conditional Pardon*. A conditional pardon may be revoked if the terms and conditions of the clemency proclamation are breached. All such revocation proceedings shall be conducted in accordance with the sections for revocation of administrative release herein, §§145.41-145.55 (205.03.03.001-.005, .013-.022) of this title (relating to Revocation of Parole).

Issued in Austin, Texas, on December 8, 1980.

Doc No 809298 Connie L Jackson
Chairman
Board of Pardons and Paroles

Effective Date: December 30, 1980
Proposal Publication Date: October 24, 1980
For further information, please call (512) 475-3675.

NONCODIFIED

Statewide Health Coordinating Council

State Health Plan

Medical Facilities Planning Annex to the Texas State Health Plan 318.01.02

The Statewide Health Coordinating Council adopts by reference the document entitled Medical Facilities Planning Annex to the Texas State Health Plan. The proposed rule was published in the June 27, 1980, issue of the *Texas Register* (5 TexReg 2565).

The only change to the proposed document is the modification to the arithmetic calculations covering Health Systems Agency 2 on page G-3. The calculations, as proposed, were in error and now have been corrected.

Copies of the annex are available for inspection at the following places: (1) the department's Bureau of State Health Planning and Resource Development, 1106 West 49th Street, Austin; and (2) the offices of the health systems agencies and public health regions located throughout the state. Information concerning the locations of these offices can be obtained from the department's Bureau of State Health Planning and Research Development.

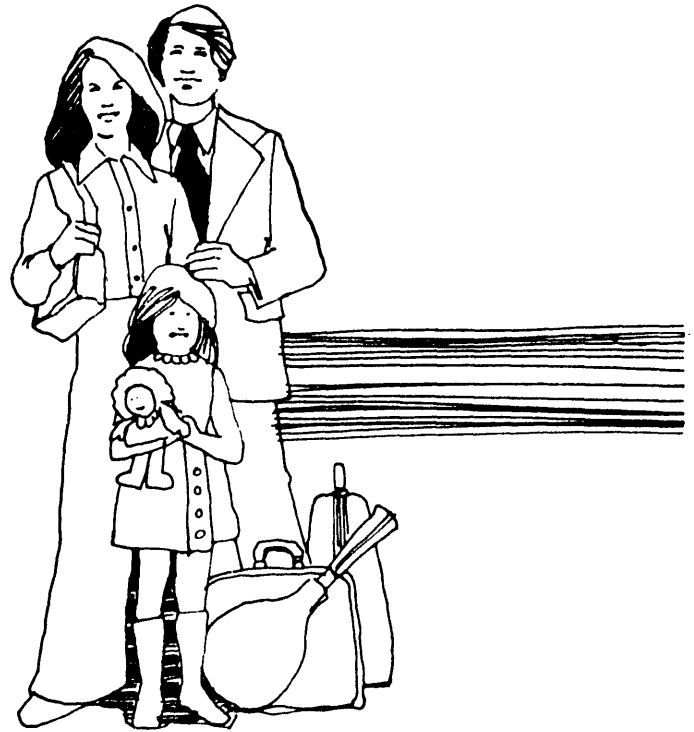
The rule is adopted by reference under the authority of Articles 4418a and 6252-13a, Texas Revised Civil Statutes, and Public Law 93-641, as amended.

002 Medical Facilities Planning Annex to the Texas State Health Plan—The Statewide Health Coordinating Council adopts by reference the document entitled Medical Facilities Planning Annex to the Texas State Health Plan. This document has been published by the Statewide Health Coordinating Council and is available from the Bureau of State Health Planning and Resource Development, Texas Department of Health, 1106 West 49th Street, Austin, Texas.

Issued in Austin, Texas, on December 8, 1980.

Doc. No. 809303 Mike Ezzell, Director
State Health Planning and Resource
Development Division
Statewide Health Coordinating Council

Effective Date: December 30, 1980
Proposal Publication Date: June 27, 1980
For further information, please call (512) 458-7261.



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 Depository Board

Friday, December 19, 1980, 11 a.m. The State Depository Board will meet in the state treasurer's office, LBJ Building, 111 East 17th, Austin. The board will consider applications for designation of state depositories as made by American National Bank of Abilene, Abilene, Citizens National Bank, Victoria, and any other applications received in the board's office prior to the meeting date. The interest rate to be charged on time account deposits will also be reviewed.

Information may be obtained from Warren G. Harding, P.O. Box 12608, Austin, Texas 78711, (512) 475-2591

Filed: December 10, 1980, 1:28 p.m.
Doc. No. 809312

Employees Retirement System of Texas

Monday, December 22, 1980, 9 a.m. The Board of Trustees of the Employees Retirement System of Texas will meet at 18th and Brazos, Austin. The board will approve the minutes of the trustees' meeting held November 12, 1980, and consider the following matters: retirement of members of system since board meeting of September 15, 1980; payments for occupational deaths (Article 6228a) since September 6, 1980; payments to survivors of law enforcement officers and firemen (Article 6228f) since June 13, 1980; additions to stock bond dealers approved list; investment of retirement funds; insurance carrier concerns in regards to multiple group health insurance plans; clarification of definition of a dependent under group insurance program. Attorney General Opinion MW 276, concerning errors and omissions insurance, and additional personnel for the Social Security Division. An executive session will also be held concerning personnel matters.

Information may be obtained from Clayton T. Garrison, Box 13207, Austin, Texas 78711, (512) 476-6431.

Filed: December 11, 1980, 8:23 a.m.
Doc. No. 809326

Texas Department of Health

The Texas Department of Health will conduct the following hearings in the city council chambers, city hall, 1300 7th Street, Wichita Falls, at the below dates and times.

Tuesday, January 13, 1981, 2 p.m. Application 1428—consideration of City of Wichita Falls to operate a proposed Type I municipal solid waste disposal site to be located west of the City of Wichita Falls on Parker Ranch Road, two miles northwest of the intersection of U.S. Highways 277-82 and FM Highway 258 in Wichita County

Wednesday, January 14, 1981, 9 a.m. Application 1429—consideration of City of Wichita Falls to operate a proposed Type V municipal solid waste processing site (transfer station) to be located on the west side of Lawrence Road, 2,550 feet south of intersection with Kell Boulevard in Wichita Falls, Wichita County

Information may be obtained from Jack C. Carmichael, 1100 West 49th Street, Austin, Texas, (512) 458-7271.

Filed: December 10, 1980, 9:58 a.m.
Doc. No. 809308

Texas Health Facilities Commission

Friday, December 19, 1980, 9:30 a.m. The Texas Health Facilities Commission will meet in Suite 305 of the Jefferson Building, 1600 West 38th Street, Austin, to consider the following applications:

Exemption Certificate Nunc Pro Tunc
McAllen General Hospital, McAllen
AH80 0912 002

Amendment of Certificate of Need Order
Psychiatric Institute of Houston, Houston
AH79 0221 007A (111880)

Certificate of Need
Richards Memorial Hospital, Paducah
AH80 0701 006

Metropolitan General Hospital, San Antonio
AH80 0905 023

Eagle Lake Community Hospital, Eagle Lake
AH80 0625 025

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

Filed: December 10, 1980, 9:53 a.m.
Doc. No. 809309

Texas Commission on Jail Standards

Wednesday, December 10, 1980, 8:30 a.m. The Texas Commission on Jail Standards made an emergency addition to the agenda of a meeting held in Room 206, 1414 Colorado, Austin. The addition concerned the election of a new chairman. The emergency addition was made because the chairman's term expires January 31, 1981, and since the commission does not meet again until February, the chairman had to be chosen at this time.

Information may be obtained from Robert O. Viterna, 1414 Colorado, Suite 500, Austin, Texas, (512) 475-2716.

Filed: December 9, 1980, 1:31 p.m.
Doc. No. 809296

State Board of Morticians

Wednesday, December 10, 1980, 9:30 a.m. The State Board of Morticians conducted an emergency meeting via a conference call from 1513 IH 35 South, Austin. According to the agenda summary, the call concerned a motion for rehearing for Mike R. Esparza. The meeting was held on less than seven days' notice because a motion for rehearing would be overturned by operation of law before the board's next scheduled meeting.

Information may be obtained from John W. Shocklee, 1513 IH 35 South, Austin, Texas 78741, (512) 442-6721.

Filed: December 9, 1980, 4:10 p.m.
Doc. No. 809301

Texas Department of Public Safety

Thursday, December 18, 1980, 10 a.m. The commissioners of the Texas Department of Public Safety will meet at 5805 North Lamar, Austin. Items on the agenda include approval of minutes, budget matters, personnel matters, litigation—Bessent case, and other unfinished business.

Information may be obtained from James B. Adams, 5805 North Lamar, Austin, Texas, (512) 465-2000, ext. 3700.

Filed: December 9, 1980, 3:48 p.m.
Doc. No. 809300

Public Utility Commission of Texas

Thursday, December 18, 1980, 9 a.m. The Public Utility Commission of Texas will meet in Suite 450N, 7800 Shoal Creek Boulevard, Austin. According to the agenda summary, the commission will consider final orders and hear oral argument in the following Dockets: 3339, 3397, 3353, 3370, 3042, 3064, 3292 and 3296, 3122, 2889, 2356, 3503, 3562, 3322, 3356, 3500, 3516, and 3518. The commissioners will also consider an amendment to Substantive Rule 052.02.05.052(j).

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

Filed: December 9, 1980, 2:39 p.m.
Doc. No. 809299

Tuesday, December 30, 1980, 9 a.m. The Hearings Division of the Public Utility Commission of Texas will conduct a prehearing conference in Suite 450N, 7800 Shoal Creek Boulevard, Austin, in Docket 3578—application of Fayette Electric Cooperative, Inc., for a rate increase.

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

Filed: December 10, 1980, 4:12 p.m.
Doc. No. 809322

Monday, February 2, 1981, 1:30 p.m. The Hearings Division of the Public Utility Commission of Texas will conduct a hearing on the merits in Suite 450N, 7800 Shoal Creek Boulevard, Austin, in Docket 3259—application of Greenbelt Electric Cooperative, Inc., for a system wide rate increase.

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

Filed: December 10, 1980, 4:13 p.m.
Doc. No. 809323

University of Texas

Monday, December 15, 1980, 1:30 p.m. The Athletics for Women Division of the University of Texas at Austin met in Room 606 of Bellmont Hall, San Jacinto between 21st and 23rd Streets, Austin. The division approved the minutes and then considered the following items: old business—varsity status for club sports, status of 1981-82 budget proposal, report on office space difficulties; new business—policy revisions (competition schedules and academic performance), 1981 spring golf schedule, AIAW delegate assembly legislation, and NCAA convention legislation. An executive session followed the meeting.

Information may be obtained from Charlotte Lucas, Bellmont 606, Austin, Texas 78712, (512) 471-7693.

Filed: December 10, 1980, 11:57 a.m.
Doc. No. 809295

Texas Water Commission

Friday, January 9, 1981, 10 a.m. The Texas Water Commission will meet in Room 618 of the Stephen F. Austin Building, 1700 North Congress Avenue, Austin. According to the agenda summary, the commission will conduct a hearing on Application 15630 of the Brazos River Authority and Fort Bend County WCD 1. Applicants seek an amendment to Permits 1467 and 1967 to increase the combined capacity of Horseshoe Lake, Alkire Lake, and Eldridge Lake on Jones and Upper Oyster Creeks located in the San Jacinto Brazos Coastal Basin in Fort Bend County. Applicants also seek authority to use the entire reservoir system for nonconsumptive recreational purposes, to correct Permit 1467 by deleting any mention of Lake Venice, to renumber Permits 1467 and 1967 by consolidating them under Permit 1467, and finally to remove an irrigation amount per acre of land restriction.

Information may be obtained from Mary Ann Hefner, P.O. Box 13987, Austin, Texas 78711, (512) 475-4515.

Filed: December 10, 1980, 3:30 p.m.
Doc. No. 809317

Wednesday, January 14, 1981, 10 a.m. The Texas Water Commission has made additions to the complete agendas of the following hearings to be held in Room 118 of the Stephen F. Austin Building, 1700 North Congress Avenue, Austin. Below are the summarized agendas. The complete agendas, which include the revisions, are posted in the State Capitol.

Application 1112B—Richmond Irrigation Co., a Texas Limited Partnership, and Houston Lighting and Power Co., for an amendment to Permit 1041, as amended, to eliminate the permit provision which restricts water usage for irrigation to two acre feet per acre per year in Fort Bend County, Brazos River Basin

Application 1218D—Chocolate Bayou Water Co., for an amendment to Permit 1145, as amended, to eliminate the provision in Permit 1145, as amended, which restricts water usage for irrigation to two acre feet per acre per year in Fort Bend and Brazoria Counties, Brazos River Basin

Applications 1108I and 1381C—Brazos River Authority to amend Permit 1040, as amended, to eliminate the provision restricting water usage for irrigation to two acre feet of water per acre per year in Fort Bend, Brazoria, Galveston, and Harris Counties, Brazos River Basin and San Jacinto Brazos Coastal Basin; and to eliminate the provision in Permit 1299, as amended, which restricts water usage for irrigation to two acre feet per acre per year in Fort Bend, Brazoria, and Galveston Counties, Brazos River Basin, and within the San Jacinto Brazos Coastal Basin

Applications 1427C, 1340C, 1341D, and 1401A by Chocolate Bayou Water Co., to: (1) eliminate the provision in Permit 1337, as amended, which restricts water usage for irrigation to four acre feet per year for rice irrigation; (2) eliminate the provision in Permit 1255, as amended, which restricts water usage for irrigation to 2 1/2 acre feet per year; (3) eliminate the provision in Permit 1256, as amended, which restricts water usage for irrigation to four acre feet per acre per year for rice irrigation and to two acre feet per year for other irrigation; and (4) eliminate the provision in Permit 1310, which restricts water usage for irrigation to two acre feet per acre per year in Brazoria and Galveston Counties, San Jacinto Brazos Coastal Basin

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

Filed: December 10, 1980, 3:32 p.m.
Doc. Nos. 809318-809321

Friday, January 23, 1981, 10 a.m. The Texas Water Commission will meet in Room 618 of the Stephen F. Austin Building, 1700 North Congress Avenue, Austin. According to the agenda summary, the commission will conduct a hearing on Application 4086 of Alicante Corp., N.V., Gus E. Meriwether, trustee. Applicant seeks a permit to directly divert not to exceed 339 acre-feet of water per year from Hurricane Bayou, tributary of Trinity River, Trinity River Basin, for irrigation purposes in Houston County.

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

Filed: December 9, 1980, 11:14 a.m.
Doc. No. 809294

Regional Agencies

Meetings Filed December 9, 1980

The Austin-Travis County MH/MR Center, Budget and Finance Committee, met at 1300 East Anderson Lane, Austin, on December 12, 1980, at 12:15 p.m. The Board of Trustees Personnel Committee met in the board room, 1430 Collier Street, Austin, on the same day at 12:30 p.m. Information may be obtained from Ann Meyers and Cynthia C. Garcia, respectively, 1430 Collier Street, Austin, Texas 78704, (512) 447-4141.

The Brazos River Authority, Upper Subbasin Planning Advisory Committee, will meet in the meeting room of the Abilene Convention and Visitor's Bureau, 325 Hickory, Abilene, on December 17, 1980, at 2 p.m. Information may be obtained from Tom Ray, P.O. Box 7555, Waco, Texas 76710, (817) 776-1441.

The Central Counties Center for MH/MR Services, Board of Trustees, will meet at 302 South 22nd Street, Temple, on December 18, 1980, at 7:45 p.m. Information may be obtained from Steven B. Schnee, 302 South 22nd Street, Temple, Texas 76501, (817) 778-4841.

The Heart of Texas Region MH/MR Center, Board of Trustees, will meet in the second floor conference room, 110 South 12th Street, Waco, on December 16, 1980, at 11:30 a.m. Information may be obtained from Sue W. Richardson, P.O. Box 1277, Waco, Texas 78704, (512) 447-4141.

The Tri-Region Health Systems Agency, Plan Development Committee, will meet at Santa Fe 3, Starlite Inn, 3425 South 1st, Abilene, on December 18, 1980, at 10:30 a.m. The Executive Committee will meet in Santa Fe 1 West, Starlite Inn, on the same day at 1:30 p.m. Information may be obtained from Bob Caras and David Jackson, respectively, 2642 Post Oak Road, Abilene, Texas 79605, (915) 698-9481.

Doc. No. 809291

Meetings Filed December 10, 1980

The Brazos Valley Region MH/MR Center, Board of Trustees, will meet in Suite 103, 707 Texas Ave South, College Station, on December 18, 1980, at 3 p.m. Information may be obtained by Charles Thompson, P.O. Box 4588, Bryan, Texas, (713) 696-8585.

The Deep East Texas Regional MH/MR Services, Board of Trustees, will meet in the Ward R. Burke Community Room, Day Treatment Administrative Facility, Lufkin, on December 16, 1980, at 5:30 p.m. Information may be obtained from Wayne Lawrence, Ph.D., 4101 South Medford Drive, Lufkin, Texas, (713) 639-1111.

The Guadalupe-Blanco River Authority, Board of Directors, will meet at the authority's offices located at 933 East Court Street, Seguin, on December 18, 1980, at 10 a.m. Information may be obtained from John H. Specht, Guadalupe Blanco River Authority, P.O. Box 271, Seguin, Texas, (512) 379-5822.

The Houston-Galveston Area Council, Board of Directors, will meet at 3701 West Alabama, Houston, on December 16, 1980, at 9:30 a.m. Information may be obtained from Martha Pawley Grady, 3701 West Alabama, Houston, Texas, (713) 627-3200, ext. 336.

The Middle Rio Grande Development Council, Board of Directors, will meet at Carrizo Springs Civic Center, 7th Street, Carrizo Springs, on December 23, 1980, at 2 p.m. Information may be obtained from Hector Jimenez, P.O. Box 702, Carrizo Springs, Texas, (512) 876-3533.

The Education Service Center, Region V, will meet at 2285 Delaware Street, Beaumont, on December 16, 1980, at 1:15 p.m. Information may be obtained from Fred Waddell, 2295 Delaware Street, Beaumont, Texas 77706, (713) 835-5212.

The Sabine Valley Regional MHMR Center, Board of Trustees, will meet at Highway 80 West at Sun Camp Road, Longview, on December 18, 1980, at 7:30 p.m. Information may be obtained from Frances H. Willis, P.O. Box 6800, Longview, Texas, (214) 297-2191.

The San Antonio River Authority, Board of Trustees, will meet in the conference room of the authority's general offices, 100 East Guenther Street, San Antonio, on December 17, 1980, immediately following a 2 p.m. Board of Directors meeting. Information may be obtained from Fred Pfeiffer, 100 East Guenther Street, P.O. Box 9284, San Antonio, Texas, (512) 227-1373.

Doc. No. 809310

Meetings Filed December 11, 1980

The Deep East Texas Council of Governments, Applications Review Committee, will meet at the First United Methodist Church Fellowship Hall, Jasper, on December 18, 1980, 1 p.m. The Board of Directors will also convene at the same location on the same day immediately after the above meeting. Information may be obtained from Mae Ballard and Billy D. Langford, respectively, P.O. Drawer 1170, Jasper, Texas 75951, (713) 384-5701.

Doc. No. 809327

AGRICULTURE



Banking Department of Texas

Applications to Purchase Control of State Banks

Article 342.401a, Vernon's Texas Civil Statutes, requires any person who intends to buy control of a state bank to file an application with the banking commissioner for the commissioner's approval to purchase control of a particular bank. A hearing may be held if the application is denied by the commissioner.

On December 9, 1980, the banking commissioner received an application to acquire control of Western Bank, Duncanville, by James D. Atchley, trustee, Houston. Additional information may be obtained from Robert E. Stewart, 2601 North Lamar, Austin, Texas 78705, telephone (512) 475-1151.

Issued in Austin, Texas, on December 9, 1980.

Doc. No. 809305 Daniel A. Flynn
Deputy Banking Commissioner

Filed: December 10, 1980, 9:47 a.m.
For further information, please call (512) 475-4451.

Texas Department of Community Affairs

Request for Proposals

Notice of Invitation. The Texas Department of Community Affairs (TDCA), under the authority of its enabling act, Texas Revised Civil Statutes Annotated, Article 4413(201), and the Texas Controlled Substances Act, Texas Revised Civil Statutes Annotated, Article 4776.15, announces a request for proposals (RFP) for the delivery of drug abuse intervention and alternative services in a location within Bee County and to serve the counties of Bee, Goliad, and Live Oak.

The anticipated period of performance for the successful offeror shall begin March 1, 1981, and shall not extend beyond February 28, 1982.

Qualifications Desired. To be eligible, offerors must be able to document previous experience in the delivery of human services and evidence of the capability to accomplish the services being requested through this RFP. Proposals must include specific items and documents as described in the proposal preparation instructions. Prior to awarding of a contract, the successful offeror will be required to establish legal authority to contract with TDCA. This shall be accomplished by completing and submitting certification of eligibility documents as specified in the proposal preparation package.

Deadline for Submission of Proposals. Proposals submitted in response to this RFP will not be accepted after 5 p.m. Friday, January 9, 1981, unless they are postmarked on or before January 7, 1981. Two copies of the proposal should be sent by certified mail to the contracts officer, Drug Abuse Prevention Division, Texas Department of Community Affairs, P.O. Box 13166, Austin, Texas 78711. Proposals may also be hand delivered up to the deadline to the Drug

Abuse Prevention Division, second floor, TDCA building, 210 Barton Springs Road, Austin, on any state workday between 8 a.m. and 5 p.m.

Duration of Program and Amount of Funding. Programs should be proposed for a period of not less than 12 months and shall not extend beyond February 28, 1982. Funding for the successful proposal will be made available under Section 409 of the Drug Abuse Office and Treatment Act of 1972 through the National Institute on Drug Abuse (NIDA) of the United States Department of Health and Human Services. The maximum amount of the 12 month TDCA/DAPD award to the successful offeror will be \$61,000. Contractor support funding (match) will be required at a minimum of 40% of the total budget. The contractor support share may be cash or related in kind support.

General Information. TDCA reserves the right to accept or reject any or all proposals submitted under this RFP and to negotiate modifications to improve the quality of cost effectiveness of any proposal.

This RFP does not commit TDCA to pay for any costs incurred prior to the execution of a contract and is subject to the availability of appropriate funds. Issuance of this RFP in no way obligates TDCA to award a contract. TDCA is under no legal requirement to execute a resulting contract, if any, on the basis of this advertisement, and intends the material provided herein only as a means of identifying the services desired by TDCA and the amount of funding available. TDCA will base its selection on factors such as the capacity of the offeror to manage and deliver services, availability of contractor's match, and availability of federal funds. Other factors upon which the selection will be based are specified in the proposal preparation package. In addition, proposals are subject to review by the appropriate health systems agency or agencies, as required by the National Health Planning and Resources Development Act, Public Law 93-641.

Contact. For purposes of obtaining a proposal preparation package, contact chief program development, Drug Abuse Prevention Division, Texas Department of Community Affairs, P.O. Box 13166, Austin, Texas 78711, telephone (512) 475-5566.

Issued in Austin, Texas, on December 9, 1980.

Doc. No. 809307 Jeanne Marcus
General Counsel
Texas Department of Community Affairs

Filed: December 10, 1980, 10 a.m.
For further information, please call (512) 475-6903.

Texas Education Agency

Consultant Contract Award

Description; Contractor. This notice is filed pursuant to Article 6252.11c, Vernon's Annotated Civil Statutes. After publication of a consultant proposal request in the October 10, 1980, issue of the *Texas Register* (5 TexReg 4110), the Texas Education Agency on December 2, 1980, executed a contract with Powell Associates, Inc., 3724 Jefferson, Suite 205, Austin, Texas 78731, to assist the agency in evaluating projects for the deaf blind in Texas, as to their relative success in accomplishing individual education plan goals and objectives.

Contract Amount; Period of Contract. The total amount of the contract is \$25,568. The beginning date of the contract is November 10, 1980, and the ending date is June 30, 1981.

Due Dates of Documents. Delivery date of the final report is June 30, 1981.

Issued in Austin, Texas, on December 8, 1980.

Doc. No. 809288 A. O. Bowen
Commissioner of Education

Filed: December 9, 1980, 10:02 a.m.
For further information, please call (512) 475-7077.

Texas Energy and Natural Resources Advisory Council

Consultant Contract Award

Name of Contractor; Description of Services To Be Performed. The Texas Energy and Natural Resources Advisory Council has contracted with Planergy, Inc., 901 West Martin Luther King Jr. Boulevard, Austin, Texas 78701, to conduct 12 statewide energy auditor training sessions to assist eligible institutions for the Institutional Conservation Grants Program identify and implement maintenance and operating procedures and energy conservation measures for saving energy and related costs in buildings.

Funding; Contract Period; Report Due Date. Maximum funding will not exceed \$42,070. Planergy, Inc., will be retained for the contract period of November 28, 1980, to February 15, 1981. All evaluation forms completed by attendees and a completion report and recommendations for subsequent programs will be submitted on or before February 15, 1981.

Issued in Austin, Texas, on December 8, 1980.

Doc. No. 809293 Mel Roberts
Program Coordinator for Institutional
Conservation Grants Program
Texas Energy and Natural Resources
Advisory Council

Filed: December 9, 1980, 10:55 a.m.
For further information, please call (512) 475-0953.

Texas Health Facilities Commission

Applications for Declaratory Ruling, Exemption Certificate, and Transfer and Amendment of Certificate

Notice is hereby given by the Texas Health Facilities Commission of application (including a general project description) for declaratory ruling, exemption certificate, transfer of certificate, and amendment of certificate accepted December 8, 1980.

Should any person wish to become a formal party to any of the above stated applications, that person must file a request to become a party to the application with the chairman of the commission within 25 days after the application is accepted. The first day for calculating this 25 day period is the first

calendar day following the date of acceptance of the application. The 25th day will expire at 5 p.m. on the 25th consecutive day after the date said application is accepted. If the 25th day is a Saturday, Sunday, or state holiday, the last day shall be extended to 5 p.m. of the next day that is not a Saturday, Sunday, or state holiday. A request to become a party should be mailed to the chairman of the commission, P.O. Box 15023, Austin, Texas 78761, and must be received at the commission no later than 5 p.m. of the last day allowed for filing of a request to become a party.

The contents and form of a request to become a party to an application for a declaratory ruling, exemption certificate, transfer of certificate, or amendment of certificate must meet the minimum criteria set out in Rule 315.20.01.050. Failure of a party to supply the minimum necessary information in the correct form will result in a defective request to become a party and such application will be considered uncontroverted.

The fact that an application is uncontested will not mean that it will be approved. The application will be approved only if the commission determines that it qualifies under the criteria of Sections 3.02 or 3.03 of Article 4418(h), Texas Revised Civil Statutes, and Rules 315.17.04.010 .030, Rules 315.17.05.010 .030, Rules 315.18.04.010 .030, and Rules 315.18.05.010 .030.

In the following list, the applicant and date of acceptance are listed first, the file number second, the relief sought third, and description of the project fourth. EC indicates exemption certificate, DR indicates declaratory ruling, TR indicates transfer of ownership of certificate, AMD indicates amendment of certificate, and CN indicates certificate of need.

INA Healthplan of Texas, Inc., Dallas, (12/8/80)
AS80 1126 042

DR/EC—Request for a declaratory ruling that neither a certificate of need nor an exemption certificate is required for the applicant HMO to continue to contract with the North Central Texas Independent Practice Association, the professional association of physicians who provide medical services to applicant's subscribers, when the association opens additional offices in Dallas County for the provision of those services; or, in the alternative, that the commission issue an exemption certificate for the applicant to contract with the association for the provision of services from the new offices

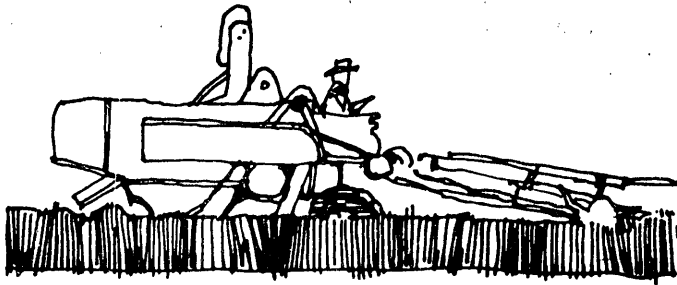
INA Healthplan of Texas, Inc., Dallas, (12/8/80)
AS80 1126 040

DR/EC—Request for a declaratory ruling that neither a certificate of need nor an exemption certificate is required for the applicant to relocate their administrative offices from 6350 LBJ Freeway in Dallas to larger offices located in Town Hall Shopping Center in Addison, Dallas County; or, in the alternative, that the commission issue an exemption certificate for the office relocation

Issued in Austin, Texas, on December 10, 1980.

Doc. No. 809304 Linda E. Zatopek
Assistant General Counsel
Texas Health Facilities Commission

Filed: December 10, 1980, 9:53 a.m.
For further information, please call (512) 475-6940.



Lower Rio Grande Valley Development Council

Request for Bids

Notice of Invitation for Bids. A request for bids was opened on December 7, 1980, to interested laboratories to perform services I and II, listed below. (Note: Interested laboratories may submit bids on I or II or both.) The anticipated period of performance of contract(s) is for a period from the date of award through November 1, 1981.

Description of Services To Be Performed. The services requested include but are not limited to the following:

I. Laboratory services for the analysis of pesticide residues in environmental samples. The work consists of performing chemical analysis for four residual pesticides in water, sediment, plant tissue, and fish tissue, i.e., DDT, DDE, DDD, and toxophene.

II. Laboratory services for the analysis of heavy metal residues in environmental samples. The work consists of performing chemical analysis for two metal residues in water, sediment, plant tissue, and fish tissue, i.e., mercury and cadmium.

Contact Person. For additional information and copies of the detailed request for bids, please request in writing to Merle G. Derdall, director, Department of Environmental Resources, Lower Rio Grande Valley Development Council, Suite 205, First National Bank Building, McAllen, Texas 78501, (512) 682-3481.

Closing Date. The closing date for receipt of bids is January 5, 1981.

Bid Submittal. Twenty-five copies of the bid should be submitted to the office of the Lower Rio Grande Valley Development Council in McAllen, Texas, prior to 1 p.m. on January 5, 1981.

Evaluation for Award. Award of the contract will be made to that responsible bidder whose bid, conforming to the invitation for bids, is most advantageous to the Lower Rio Grande Valley Development Council (LRGVDC), price and other factors considered.

(1) Review of Technical Subcommittee who submit their recommendations to the LRGVDC Board of Directors, which is composed of local officials.

(2) Award of contract by LRGVDC Board of Directors.

(3) Rejection of bids and proposals. The LRGVDC Board of Directors reserves the right to refuse any and all bids and proposals.

(4) Any contract awarded under this invitation for bids or request for qualifications/proposals is expected to be funded in part by a grant from the United States Environmental Protection Agency. This procurement will be subject to regulations contained in 40 Code of Federal Regulations, Subchapter B, and particularly Part 33 thereof. Neither the United States nor the United States Environmental Protection Agency is, nor will be, a party to this invitation for bids or request for qualifications/proposals, or to any resulting contract.

Issued in McAllen, Texas, on December 5, 1980.

Doc. No. 809274 Robert A. Chandler
Executive Director
Lower Rio Grande Valley Development Council

Filed: December 8, 1980, 10:09 a.m.

For further information, please call (512) 682-3481.

Public Utility Commission of Texas

Recommendations/Public Hearings To Encourage Cogeneration and Small Power Production in Texas

In May 1980, the Public Utility Commission of Texas (PUCT) constituted a task force of utility companies and industries to provide advice on the development of policies relating to Section 210 of PURPA.

Summary of Task Force Recommendations. Based on the task force's consideration of the general requirements of PURPA Section 210 and the deliberation of the task force members on the issues raised by Section 210, the Cogeneration Task Force submitted the following recommendations to the Public Utility Commission.

Recommendation 1. The PUCT should support revisions to the Texas Public Utility Regulatory Act to remove regulatory uncertainties for generating customers wishing to sell electricity to the utility. The task force recommends that the PUCT support the proposed revisions to the Texas PURA. These are presented in the task force report. These revisions are designed to redefine "electric utility" to exclude from regulation qualifying facilities (QFs) and also generation facilities that produce power primarily for their own use.

Recommendation 2. The PUCT should encourage qualifying facilities and utilities to enter into contracts through good faith negotiations, without the need for regulation. The task force recommends that the PUCT adopt this recommendation as a general policy. In addition, commission staff might be made available to assist in estimating avoided costs or evaluating the reasonableness of interconnection requirements. Also, the commission could maintain a file of contracts negotiated around the country which might be useful in negotiations and in drawing up contracts.

Recommendation 3. The PUCT should establish a capability for arbitrating contract disputes between qualifying facilities and utilities. The task force recommends that the PUCT be available to qualifying

facilities and utilities in the event that there is an impasse over contract terms, including the reasonableness of interconnection requirements and charges and the rates for purchase based on the utility's avoided costs.

Recommendation 4. The PUCT should make available an optional review procedure for qualifying facility-utility contracts when such service is required to encourage a qualifying facility project. The task force recommends that the PUCT take a minimal role in overseeing qualifying facility utility negotiations since any required formal review of qualifying facility utility contracts could be in violation of the federal law and could add a regulatory step that would discourage qualifying facilities. However, given that in some cases qualifying facility financing will be contingent on reducing the risk of regulatory intervention in the qualifying facility utility agreement, the task force recommends that the PUCT establish an optional contract review procedure but not encourage its general use. In this optional review procedure, the PUCT would examine terms of the proposed contract to render a judgment on whether the terms were harmful to the utility's other ratepayers.

Recommendation 5. The PUCT should adopt the basic reporting guidelines as suggested by FERC on filing of electric utility system costs data. The task force recommends that the PUCT should not consider the substitution an alternative method for reporting required electric utility system cost data, but should rely upon the basic reporting requirements. This is set forth in Section 292.302 of the Code of Federal Regulations and is described in Part II, Section C.2, of the task force report.

Recommendation 6. The PUCT should adopt as the fundamental principle for PUCT review of qualifying facility contracts that other utility ratepayers not be adversely affected. The task force recommends that this fundamental principle be adopted as one which is consistent with the objectives of PURPA and of traditional ratemaking. Payments to qualifying facilities should not be subsidized by other rate payers. The use of avoided costs as a basis for qualifying facility payments will assure that this fundamental principle is maintained.

Recommendation 7. The PUCT should use the results of a calculation of the differential revenue requirements to evaluate utility qualifying facility contracts which it reviews. The task force recommends that the PUCT not prescribe any one method or approach for determining payments to qualifying facilities because each project will be unique. However, the task force recommends that the differential revenue requirements method be used to establish an estimated value for a qualifying facility's energy and capacity. This value can be used by the PUCT as a tool in evaluating qualifying facility utility agreements.

Recommendation 8. The PUCT should encourage utilities to base payments to qualifying facilities providing nonfirm energy on their "decremental" energy costs. The task force recommends to the PUCT that the

most accurate, practical, and fair way of calculating avoided energy costs is to calculate "decremental" energy costs at the time of delivery using the utility's economic dispatch model. "Decremental" is a term intended to reflect the fact that cost savings to the utility from purchase of qualifying facility energy are due to an ability to back-down some of the utility's units or to avoid firing a unit because of the qualifying facility's presence.

Recommendation 9. The PUCT should require that standard tariffs for qualifying facilities of under 100 kw have a common, general approach. The task force recommends to the PUCT that the standard 100 kw tariffs filed with the commission should have a common approach. The task force suggests that each tariff should include at least three options which would involve progressively more sophisticated metering and administrative arrangements. Also, each utility's standard 100 kw rate should offer, at a minimum, average fuel costs. QFs of under 100 kw which choose to operate under the standard tariff should receive some capacity credit once the utility determines that as a class QFs providing nonfirm energy offer some predictable capacity resulting in avoided costs to the utility.

Recommendation 10. The PUCT should accept as a reasonable requirement of interconnection the preparation of an interconnection plan. The task force recommends that the PUCT accept the interconnection plan as a reasonable requirement to be met prior to the start up of qualifying facility utility interconnected operation. An interconnection plan would, in most cases, be jointly prepared and agreed to by the qualifying facility and the utility. It would serve as the basis for determining interconnection costs and it would facilitate qualifying facility utility negotiations. It would also facilitate PUCT review in the event the commission is asked to arbitrate a dispute. Small power producers of under 100 kw would in most cases only need to submit descriptive technical data on the system so that the utility could be assured of the system's safety in regard to the utility's system.

Recommendation 11. The PUCT formally should review wheeling charges assessed to qualifying facilities only when the qualifying facility and the utility are unable to negotiate a rate, or when requested by either party. The task force recommends that the PUCT not require utilities to establish a standard wheeling rate or methodology. Because each situation is likely to be different, wheeling charges generally should be negotiated on a case by case basis. If the utility and the qualifying facility cannot agree on an appropriate wheeling charge, however, the PUCT formally should review the utility's proposed charge under the authority of Section 3(d) and Section 61 of the Texas Public Utility Regulatory Act (TPURA).

Recommendation 12. The PUCT should follow the PURPA principles in reviewing stand-by rates for qualifying facilities. The task force recommends that the PUCT follow the PURPA 210 principles in reviewing a utility's rates for sales to a qualifying facility. PURPA 210 states that rates for back-up, supplementary, maintenance, or interruptible power for qualify-

ing facilities must be based on accurate data and consistent system-wide costing principles and should be equally applicable to the utility's other customers with similar load or other cost related characteristics (see Section 292.305(a)(2) of FERC rules). Furthermore, back up or maintenance power sale rates shall not be based on assumptions (unless supported by factual data) that qualifying facilities' outages or reductions in output will occur simultaneously or during system peak. Also, the rates must take into account possible coordination of scheduled outages between qualifying facilities and utilities.

Recommendation 13. The PUCT should allow a qualifying facility built prior to the passage of PURPA to get full avoided cost payments for its capacity and energy if it can be demonstrated that such a rate is essential to make the qualifying facility economically viable or to increase its output. The task force recommends that the PUCT encourage qualifying facilities built prior to the passage of PURPA and utilities negotiating with them to reach contract agreements without having to come to the PUCT. The purchase rate between a utility and a qualifying facility built prior to the passage of PURPA will be negotiated on a case by case basis. In the event of a dispute over the level of payments, the task force recommends that the PUCT require the qualifying facility, if it desires full avoided cost payments, to demonstrate that such a rate is essential to make its operation economically viable or to increase its output.

Recommendation 14. The PUCT should allow filing of contracts between qualifying facilities and utilities to be optional. The task force recommends that the PUCT leave to the discretion of the utility and qualifying facility the decision of whether to file with the PUCT a copy of a utility qualifying facility contract.

These recommendations represent the suggested major actions or approaches the Public Utility Commission should take to encourage cogeneration and small power production in the State of Texas. These recommendations represent a consensus of the major parties and interests involved in many qualifying facility utility arrangements.

The commission intends to hold two hearings to receive comments from any interested parties on the task force recommendations. The purpose of these hearings is for the staff to develop substantive rules for the commission to adopt to implement the requirements of Sections 201 and 210 of PURPA. The first hearing to be held at 9 a.m. on January 15 and, if necessary, January 16, will be restricted to issues relating to cogeneration and the wheeling of a QF's energy to another utility or to another of the cogenerator's sites. The second hearing will cover issues relating to small power production and will be held at 9 a.m. on January 22. These two hearings will be conducted in Hearing Room A and will be presided over by a panel of the staff from the commission. Interested parties are asked to provide comments to the staff on the recommendations and to present suggestions for substantive rules. The staff requests that all interested parties submit three copies of their prepared remarks to the commission by January 11. A sign-up sheet will be available at each hearing for all parties who wish to present oral comments. Those presenting oral comments may expect to be asked questions by

the staff for purposes of clarification. Written rebuttals to comments made at the hearing may be submitted up to two weeks after the hearing.

With regard to small power production issues, the staff would like to receive comments on the appropriateness of the terms of the 100 kw tariff, the rates for purchase of electricity by the utility from small power producers, the various metering options, interconnection requirements, or any of the other task force recommendations relating to small power production.

The staff is interested in receiving comments on the task force's recommendations on cogeneration, including the appropriateness of avoided cost for "old" QFs, procedures for arbitrating disputes between QFs and utilities, appropriate avoided cost rates for firm versus nonfirm power, and interconnection requirements. The staff is also interested in investigating whether a utility should be required to transmit cogenerated power from one to another of the cogenerator's sites. This list of issues is not definitive, and any other issues of merit brought forth in the hearing will receive all due consideration.

Any parties interested in presenting comments at the hearing, or wishing to receive a copy of the task force report should contact Paul N. Smolen at (512) 458-0207 or Tom Halicki at (512) 458-0213, or write to either of the above at the Public Utility Commission of Texas, 7800 Shoal Creek Boulevard, Suite 450N, Austin, Texas 78757.

Issued in Austin, Texas, on December 10, 1980.

Doc. No. 809306 Philip F. Ricketts
Commission Secretary and Director of
Hearings
Public Utility Commission of Texas

Filed: December 10, 1980, 9:51 a.m.
For further information, please call (512) 458-0100.

Texas Savings and Loan Department Notice of Interest Rate

The following information is made available at this time for the benefit of the public and the financial institutions of Texas.

Pursuant to the provisions of House Bill 409, 66th Legislature of Texas, Regular Session, 1979, the Savings and Loan Commissioner of Texas has ascertained the average per annum market rate adjusted to constant maturities on 10 year U.S. Treasury notes for the calendar month of November 1980 to be 12.44%. An additional 2.0% per annum translates to the maximum 12% as provided for by state law.

This rate shall govern applicable loans made on or after January 1, 1981, and extending through January 31, 1981.

Issued in Austin, Texas, on December 9, 1980.

Doc. No. 809302 L. Alvis Vandygriff
Commissioner
Texas Savings and Loan Department

Filed: December 9, 1980, 4:23 p.m.
For further information, please call (512) 475-7991.

Office of the Secretary of State

Texas Register Division

Notice to State Agencies

Pursuant to the provisions of Section 9(d), Article 6252-13a, Texas Civil Statutes (the Administrative Procedure and Texas Register Act), and §91.12 (004.65.02.002) of the rules of the Texas Register Division concerning appointment of an agency liaison, all state agencies are reminded that each new appointment and each change in appointment of a liaison is required to be reported in writing to the Texas Register Division, Office of the Secretary of State. The Texas Register Division requests the cooperation of each state agency in this division's endeavor to update its present list of agency liaisons. Please direct any inquiries regarding this matter to Gail Myrick at (512) 475-7886.



TAC Titles Affected in This Issue

The following is a list of the chapters of each title of the *Texas Administrative Code* affected by documents published in this issue of the *Register*. The listings are arranged in the same order as the table of contents of the *Texas Administrative Code*.

TITLE 22. EXAMINING BOARDS

Part XII. Board of Vocational Nurse Examiners

- 22 TAC §235.16 (390.03.01.016) 4953
- 22 TAC §235.17 (390.03.01.017) 4953

Part XXIII. Texas Real Estate Commission

- 22 TAC §535.1 (402.03.01.001) 4953
- 22 TAC §535.122 (402.03.13.002) 4954
- 22 TAC §535.131 (402.03.14.001) 4954
- 22 TAC §535.147 (402.03.15.011) 4954

TITLE 25. HEALTH SERVICES

Part VI. Statewide Health Coordinating Council

- Noncodified (318.01.02.002) 4956

TITLE 37. PUBLIC SAFETY AND CORRECTIONS

Part V. Board of Pardons and Paroles

- 37 TAC §141.111 (205.01.11.001-.029) 4956
- 37 TAC §§143.21, 143.23 (205.02.02.001, .003) 4956

TITLE 40. SOCIAL SERVICES AND ASSISTANCE

Part I. Texas Department of Human Resources

- Noncodified (326.53.63.044) 4955
- Noncodified (326.53.99.200) 4955

Table of TAC Titles

- TITLE 4. ADMINISTRATION
- TITLE 4. AGRICULTURE
- TITLE 7. BANKING AND SECURITIES
- TITLE 10. COMMUNITY DEVELOPMENT
- TITLE 13. CULTURAL RESOURCES
- TITLE 16. ECONOMIC REGULATION
- TITLE 19. EDUCATION
- TITLE 22. EXAMINING BOARDS
- TITLE 25. HEALTH SERVICES
- TITLE 28. INSURANCE
- TITLE 31. NATURAL RESOURCES AND CONSERVATION
- TITLE 34. PUBLIC FINANCE
- TITLE 37. PUBLIC SAFETY AND CORRECTIONS
- TITLE 40. SOCIAL SERVICES AND ASSISTANCE
- TITLE 43. TRANSPORTATION