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# TEXAS REGISTER

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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)

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

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

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

# TEXAS REGISTER

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

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

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

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

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### TITLE 7. BANKING AND SECURITIES

#### Part VI. Credit Union Department

#### Chapter 91. Credit Union Regulations

#### Reserves and Dividends

The Credit Union Department temporarily amends §§91.61 and 91.62 (058.01.09.001 and .002) of this title (relating to Reserves and Dividends) on an emergency basis. These sections are applicable for allocating reserves and declaring dividends in a state-chartered credit union and they are amended for the last six months of 1980. The original sections will apply for allocating reserves and declaring dividends in a state-chartered credit union beginning with the close of business December 31, 1980.

These amendments are being adopted on an emergency basis because credit unions in Texas are prohibited from charging interest on loans in excess of the rate of 1.0% per month on the unpaid balance (12% APR). Recent developments in the "money market" of this country have caused record increases in the rates of interest paid to attract money. These developments have caused many credit unions to restrict loans to their consumer members, while others have had to use prior years' surpluses just to try to stem the outflow of funds that form the only capital base of credit unions. At the same time, double-digit inflation has caused the operations costs to increase considerably. The combination of these two items has caused some credit unions to be unable to maintain their usual dividends, much less increase dividends to retain the savings needed to continue consumer loans.

For these reasons, the Texas Credit Union Commission has determined that this waiver of the reserve transfer requirement and the declaration of dividends for financially sound credit unions will provide relief to this economic squeeze and thereby provide great benefit to the citizens of Texas investing in credit union savings programs, without materially affecting the stability of the credit unions or the credit union industry.

These amendments are promulgated under the authority of the Texas Credit Union Act, Article 2461, Chapter 1 - et seq., Vernon's Texas Civil Statutes.

§91.61 (058.01.09.001). *Reserve Allocations*. In accordance with the requirement of Section 9.01 of the Credit Union Act, state-chartered credit unions shall set aside a portion of their current net income, prior to the declaration or payment of dividends, at the close of each dividend period as follows:

(1) Newly organized credit unions. Each credit union that has been in operation for less than five years, shall transfer to the regular reserve (or guaranty fund) 10% of the gross income for each dividend period, *unless authorized by the commissioner to do otherwise. Requests for lower transfer must be submitted in writing to the commissioner prior to January 31, 1981* [until the total regular reserve amounts to 3.0% of loans].

(2) Credit unions in operation for four full years or more, shall transfer to the regular reserve (or guaranty fund), 5.0% of the gross income for each dividend period, until the total regular reserve amounts to 5.0% of loans. *However, for the year ending December 31, 1980, credit unions with estimated solvency ratios (ESR) of 105 or more are authorized to maintain the dividend paid for any of the last four quarters, using first, current period net earnings and then undivided earnings from prior periods. If such current and undivided earnings are not sufficient to meet the accustomed dividend rate, funds allocated or transferred to the regular reserve fund in the last two quarters of 1980 may be utilized to the extent needed to maintain such dividend rate.*

(3) *Credit unions with estimated solvency ratios (ESR) of 102 to 105 and credit unions presently under dividend restrictions or department sanctions may follow the authority of paragraph (2) above upon written approval by the credit union commissioner. Otherwise, credit unions shall be regulated by Section 9.01 of the Texas Rules and Regulations for Credit Unions. Credit unions in these categories shall be limited to a dividend rate of 6.0% per annum.* [After the regular reserve fund equals 5.0% of loans, a credit union shall transfer only such sums from gross income to maintain that fund at 5.0% of loans, or 5.0% of gross income, whichever is less.]

(4)-(7)-(No change)

§91.62 (058.01.09.002). *Dividends*.

(a) *For the dividend period ending December 31, 1980, a credit union chartered by the Texas Credit Union Department, may declare a dividend for the period ending December 31, 1980, from current and undivided earnings at any rate up to 8.0% per annum without the prior approval of the commissioner, provided that the estimated solvency ratio (ESR) of the credit union is 105 or more, and provided that the credit union's reserves and undivided earnings are not frozen by order of the commissioner in accordance with §91.61(d) (.001(d)) of this title*

*(relating to Reserves and Dividends). In order to declare a dividend at a rate higher than 8.0% per annum, a credit union shall make written request to the commissioner, furnishing a copy of the board's resolution to request such authority. In addition, the credit union shall state the rate of dividend requested, furnish an estimate of the dividend cost, and a copy of the financial and statistical report for the months of November and December 1980. A credit union shall not be authorized to post such dividends until written approval has been given by the commissioner. [After allocations to reserves are made as required under Section 9.01[1(a) and (b)], the board of directors may declare a dividend as prescribed in the bylaws and established board policy. Such dividend shall not exceed the rate of 6.0% per annum, unless such amounts required for a dividend in excess of 6.0% shall have been earned in the dividend period for which it is declared unless approved by the commissioner. Further, no dividend shall exceed the rate of 7.0% per annum unless the reserves of the credit union are in excess of delinquent loans (excluding federally insured loans), by at least 5.0% of total loans (excluding federally insured loans), unless approved by the commissioner in writing.]*

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

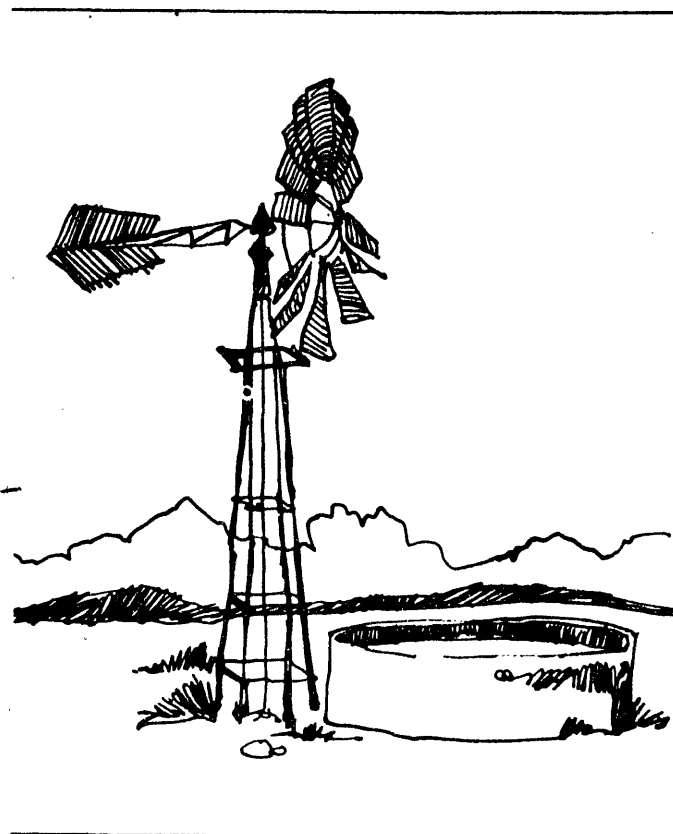
Issued in Austin, Texas, on December 15, 1980.

Doc. No. 809403      John P. Parsons  
                                 Commissioner  
                                 Credit Union Department

Effective Date: December 15, 1980

Expiration Date: February 3, 1981

For further information, please call (512) 837-9236.



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

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

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

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### TITLE 1. ADMINISTRATION

#### Part IV. Office of the Secretary of State

##### Chapter 91. Texas Register

The Office of the Secretary of State proposes to revise Chapter 91 (004.65) of this title (relating to the *Texas Register*). The proposal includes the amendment and repeal of existing Texas Register Division sections and the adoption of new sections concerning definitions; agency liaison; filing of documents; adoption by reference; adoption under federal mandate; document format; classification systems; submission forms; and miscellaneous provisions.

The staff of the Texas Register Division determines that the adoption of the proposal will have no fiscal implications for the state or for units of local government.

Comments are invited for 30 days from the date of this *Register*. Comments may be submitted in writing to Charlotte Scroggins, director, Texas Register Division, Office of the Secretary of State, P.O. Box 13824, Austin, Texas 78711.

##### Definitions

Section 91.1 (004.65.01.001) of this title (relating to Definitions) is proposed for amendment to include new definitions related to the *Texas Administrative Code* and to clarify existing definitions. In addition, the section is reformatted to conform to the format of the *Texas Administrative Code*.

The following amendments are proposed under the authority of Article 6252-13a and Article 6252-13b, Texas Civil Statutes.

§91.1 (004.65.01.001). *Definitions*. The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise:

**ACA**—*The Administrative Code Act, Article 6252-13b, Texas Civil Statutes.*

**APTRA** [Act]—*The Administrative Procedure and Texas Register Act, Article 6252-13a, Texas Civil Statutes [(Chapter 61, Acts of the 64th Legislature, Regular Session, 1975)].*

**Agency**—Any state board, commission, department, or officer having statewide jurisdiction, other than an agency wholly financed by federal funds, the legislature, the courts, and institutions of higher education, that makes rules or determines contested cases.

**Code**—*The Texas Administrative Code established by the ACA, also referred to as the TAC.*

**Liaison**—A person designated by an agency to act as its representative to the Texas Register *Division*.

**Person**—Any individual, partnership, corporation, association, governmental subdivision, or public or private organization of any character other than an agency.

**Register**—*The Texas Register established by the APTRA [Act].*

**Rule**—Any agency statement of general applicability that implements, interprets, or prescribes law or policy, or describes the procedure or practice requirements of an agency.

(A) The term includes the amendment or repeal of a prior **agency statement** [rule] but does not include a **statement** [statements] concerning only the internal management, organization, or personnel practices of an agency and not affecting private rights or procedures.

(B) *The following shall not constitute rulemaking:*

(i)[(1)] A statement [does not have "general applicability" if it is] applied only to specifically named persons or agencies.

(ii)[(2)] The duplication or paraphrasing of Texas statutes [does not constitute rulemaking]. The one exception allowed is that of repeating statutory definitions as rule definitions.

(iii)[(3)] A statement **applied** [is not a rule if it applies] exclusively to employees of the issuing agency and [does] not **affecting** [affect] the rights or procedures of persons or agencies outside of the employment of the issuing agency.

(C)[(4)] If the use of a specific form is required by an agency, and if the form imposes requirements not imposed by statute or by rule, the portions of the form itself which impose such requirements shall be adopted as rule.

Doc. No. 809413

##### Agency Liaison

Sections 91.11 and 91.12 (004.65.02.001 and .002) of this title (relating to Agency Liaison) are proposed for amendment to further clarify the role of the agency liaison. In addition, minor editorial changes are proposed.

The following amendments are proposed under the authority of Article 6252-13a, Texas Civil Statutes.

**§91.11 (004.65.02.001). Function.** The liaison shall represent his or her agency, or agencies in all matters relating to the [Texas] Register. *The liaison shall be familiar with the APTRA, the ACA, the Texas Open Meetings Law, and other related legislation; the statutes governing the liaison's agency; the rules of the Texas Register Division, Office of the Secretary of State; and the most recent edition of the Texas Register Form and Style Manual. All documents filed by an agency shall be coordinated through the agency liaison, who [The liaison] shall verify that documents submitted for filing and publication in [to] the Register have been processed properly and are correct as to format and content.*

**§91.12 (004.65.02.002). Appointment.** The director of the Texas Register Division shall be notified in writing as to the appointment of a liaison, and as to any changes that may occur in that appointment.

Doc. No. 809414

## Filing of Documents

Sections 91.21-91.23 and 91.25-91.33 (004.65.03.001-.003 and .005-.013) of this title (relating to Filing of Documents) are proposed for amendment to clarify existing language; to set out specifically the Texas Register Division's policy on nonacceptance of documents for noncompliance with applicable laws; to implement the Texas Register Division's new policy regarding acknowledgment of receipt; and to expand on the procedures for filing emergency, proposed, and final rulemaking action, notices of open meetings, miscellaneous notices, and actions of the Governor of Texas and Attorney General of Texas. The material contained in §91.131 (004.65.10.001) of this title (relating to Computing of Time) is incorporated into the respective sections on procedures for filing rulemaking action. Section 91.131 (004.65.10.001) of this title (relating to Computing of Time) is simultaneously proposed for repeal in this issue of the Register. Section 91.34 of this title (relating to Procedure for Filing Notice of Interest Rate) is proposed as a new section.

The following amendments and new section are proposed under the authority of Articles 6252-11c, 6252-13a, 6252-13b, and 6252-17, Texas Civil Statutes.

**§91.21 (004.65.03.001). Compliance; Nonacceptance of Documents.** [General.]

(a) The following documents shall be filed with the Texas Register Division, Office of the Secretary of State, and published by the secretary of state in the [Texas] Register: emergency [rules], proposed [rules], and final rulemaking action [adopted rules]; notices of open meetings; [proclamations and] executive orders of the Governor of Texas; summaries of requests for [attorney general's] opinions, [summaries of] opinions, [letters advisory,] and open records decisions of the Attorney General of Texas; notices filed by the banking commissioner pursuant to Article 342-401a(B)(6), Texas Civil Statutes; [House Bill 991, 65th Legislature, Regular Session, 1977;] notices filed by the savings and loan commissioner pursuant to Article

5069-1.07, Texas Civil Statutes; notices filed by agencies, regional councils of government, and the Texas State Library pursuant to Article 6252-11c, Texas Civil Statutes; [Senate Bill 737, 65th Legislature, Regular Session, 1977;] and miscellaneous notices of general interest to the public of Texas.

(b) All documents shall be filed with the Texas Register Division, Office of the Secretary of State, in accordance with the format, content, and procedural requirements specified by the APTRA [Act], the ACA, the Texas Open Meetings Law, the law relating to use of private consultants by state agencies, and by the rules of the Texas Register Division, Office of the Secretary of State. The Office of the Secretary of State is vested with the authority to ensure the effective administration of the above governing statutes. Therefore, pursuant to the requirements contained in Articles 6252-11c, 6252-13a, 6252-13b, and 6252-17, Texas Civil Statutes, and the requirements set forth in the promulgated rules of the Texas Register Division contained in Chapter 91 (004.65) of this title (relating to the Texas Register), the Texas Register Division, Office of the Secretary of State, may refuse to accept for filing and publication any document that does not conform to such requirements. Should any document not be accepted for filing and publication, the Texas Register Division, Office of the Secretary of State, shall issue notice of such fact to the liaison of the issuing agency and shall set forth the reason(s) why the document was not accepted for filing and publication by the Texas Register Division, Office of the Secretary of State.

(c) Supplemental information concerning Texas Register Division policies, procedures for submission of documents, and style guidelines is contained in the Texas Register Form and Style Manual, as revised 1980 [1977], and as periodically updated.

**§91.22 (004.65.03.002). Transmittal Methods: Receipt; Acknowledgment.** [Filing Procedures: General.]

(a) Two certified copies of each document to be filed with the Texas Register Division, Office of the Secretary of State, together with the appropriate submission forms, shall be mailed [sent] to the following address: [The] Texas Register Division, Office of the Secretary of State, P.O. Box 13824 [12887], Austin, Texas 78711, or delivered to the office [offices] of the Texas Register Division, Room 503E [fifth floor], Sam Houston Building, 201 East 14th Street, Austin. Documents may be sent through the means most expedient to the sender, e.g., U.S. mail, interagency mail, commercial courier, hand delivery, and so on.

(b) A document is "received for filing" when the document is datelime stamped in the office of the Texas Register Division. Pursuant to the provisions set forth in §91.21 (.001) of this title (relating to Compliance; Nonacceptance of Documents), a document is either accepted for public inspection filing in the office of the Texas Register Division and publication in the Register or not accepted and returned to the issuing agency.

(c)(b) If acknowledgment of receipt by the Texas Register Division is requested by checking the appropriate blank on the submission form, the agency shall submit an additional submission form, completed and verified or certified, at the same time the document is filed with the Texas Register Division (three copies in all) [will be returned to the issuing agency, if requested]. The agency shall only submit a third copy of the submission form and

not the entire document to be filed. The additional submission form will be date/time stamped and returned to the issuing agency and will serve as the acknowledgment. Any material accompanying the additional submission form will not be returned to the issuing agency.

**§91.23 (004.65.03.003). General Filing Procedures: Rules or Sections.**

(a) Rules or sections may be filed [submitted] individually, [or] by subchapter, or by an undesignated head; where chapters are not divided into subchapters or undesignated heads, rules or sections may be filed [submitted] by chapter.

(b) Agency policies based in whole or part upon opinions or similar determinations of the Attorney General of Texas shall be promulgated and filed with the Texas Register Division, Office of the Secretary of State, as rules or sections when applicable.

(c) Rules or sections which have been rendered obsolete, inconsistent, or invalid by legislation, constitutional amendment, or court decision shall be formally revised or repealed in accordance with rulemaking procedures and filed with the Texas Register Division, Office of the Secretary of State.

**§91.25 (004.65.03.005). Procedure for Filing [of] Emergency Rulemaking Action [Rules].**

(a) According to the provisions of Section 5(d) of the APTRA, emergency rulemaking action may be promulgated on fewer than 30 days notice.

(b)(a) The notice of [the] adoption of [an] emergency action [rule] shall contain the following information in the order shown.

(1) A preamble containing a brief statement of the agency's reasons for the emergency action [adoption of the rule on an emergency basis].

(2) A statement of the legal authority under which the emergency action [rule] is promulgated.

(3)(5) Any other statement required by law or policy.

(4)(3) The text of the rule or section.

(5)(4) Certification by an authorized agency official.

(b) The period of effectiveness of an emergency rule may be renewed by filing two completed and verified submission forms.]

(c) Emergency rulemaking action does not preclude proposed and final rulemaking action following normal rulemaking procedures.

(d) Subsequent to the original filing of an emergency amendment to a permanently adopted rule or section or the emergency adoption of a new rule or section, an emergency amendment may be made to the original action as many times as needed during the 180-day period of effectiveness of the original emergency action (120 days original period of effectiveness plus 60 days renewal of effectiveness). All such amendments shall have identical expiration dates.

(e) Emergency action shall become effective immediately on filing or on a stated date less than 20 days after filing. The APTRA limits the effectiveness of emergency action to 120 days, renewable once for no more than 60 days, for a maximum of 180 days. The period of effectiveness shall be calculated by counting the effective date as "day one" and counting forward the stated num-

ber of full calendar days. Thus, the expiration date is the day after the final full calendar day counted.

(f) The effectiveness of original emergency action taken shall be renewable once for a period not exceeding 60 days by filing two completed and verified submission forms. A renewal notice shall be filed during the last 20 days of the original period of effectiveness. The renewal shall take effect immediately upon the expiration of the original period of effectiveness.

(g) The period of effectiveness of emergency action may be terminated prior to the date originally specified according to the requirements set forth under §91.27(e) (.007(e)) of this title (relating to Procedure for Filing Final Rulemaking Action).

**§91.26 (004.65.03.006). Procedure for Filing [of] Proposed Rulemaking Action [Rules].**

(a) Prior to the adoption of proposed rulemaking action, an agency shall give at least 30 days notice of its intended action.

(b) The notice of proposed action shall contain the following information in the order shown.

(1) A preamble containing:

(A)(a) A [The] brief explanation [preamble] of the [a] proposed action, [rule shall be] written in layman's language, and containing [the explanation shall contain]:

(i)(1) any relevant background necessary to an understanding of the rule or section; and

(ii)(2) a statement of the desired effect of the proposed action [rule] if it is adopted.

(B)(b) A fiscal note

(i)(1) In addition to the requirements imposed by Section 5(a)(4) of the APTRA [Act], the fiscal note for [to a] proposed action [rule] shall contain a listing of the sources relied upon for fiscal information, which shall include the units of local government consulted, if applicable.

(ii)(2) If the [a] proposed action [rule] is anticipated to have no fiscal implications, the agency shall make a statement to that effect, which shall include the sources relied upon in making that determination.

(iii)(3) For the purpose of this section, "unit of local government" means county, city, town, school district, conservation district, hospital district, or any other political subdivision or special district.

(4) The fiscal note to a proposed rule shall be included in the preamble to the rule, immediately preceding the agency's request for public comment.]

(C)(c) A [The] request for comments on the proposed action, stating [rule shall state] the manner in which an interested person may submit comments.

(2) A statement of the legal authority under which the proposed action is filed.

(3) The text of the rule or section.

(4) Certification by an authorized agency official.

(c) In calculating the proposed date of adoption, the 30-day period begins on the day after the date of publication in the Register and continues for 30 full calendar days before the day the rule or section may be submitted for adoption. Therefore, the earliest date the rule or section may be submitted for adoption is the 31st day after publication.

(d) [If a] Proposed action [rule] may be [is] withdrawn[,] according to the requirements set forth under



**§91.27(e) (.007(e)) of this title (relating to Procedure for Filing Final Rulemaking Action)** [two completed and verified submission forms shall be filed].

**§91.27 (004.65.03.007). Procedure for Filing [of] Final Rulemaking Action [Adopted Rules].**

(a) **Under normal rulemaking procedures, at least 30 days must elapse between the publication of the proposed action in the Register and filing of final action.**

(b) **Final action may be taken by an agency with or without changes to the text of the proposed action. When adopting a rule or section or an amendment to a rule or section in final form with changes made to the text as proposed, such changes shall be made for clarification purposes only and shall not be material or substantive changes. The Texas Register Division, Office of the Secretary of State, will review all final rulemaking action taken with changes to the text as proposed for a determination of substantive or nonsubstantive changes. If the Texas Register Division determines that final rulemaking action is taken with substantive changes to the text as proposed, the issuing agency will be notified and advised of the normal rulemaking procedures to be followed. The Texas Register Division, Office of the Secretary of State, will not accept for filing and publication final rulemaking action taken with substantive changes to the text as proposed. Such final rulemaking action will not be accepted by the Texas Register Division according to the procedures set forth in §91.21(b) (.001(b)) of this title (relating to Compliance; Nonacceptance of Documents).**

(c) **The notice of final action [the adoption of a rule] shall contain the following information in the order shown.**

(1) **A statement of whether the final action taken is with or without changes to the text of the proposed action.**

(2)(1) **A statement of the legal authority under which the final action [rule] is promulgated.**

(3)(4) **Any other statement required by law or policy.**

(4)(2) **The text of the [adopted] rule or section, as adopted. The text shall be formatted according to the provisions set forth in §91.54 of this title (relating to Format for Final Repeal Action) and §91.55 of this title (relating to Format for Adopted Text).**

(5)(3) **Certification by an authorized agency official.**

(d) **Final action shall take effect 20 full calendar days after filing of the notice of final action with the Texas Register Division, unless a later date is specified. In calculating the effective date, "day one" shall be the first calendar day after filing, therefore, the earliest date the rule or section may become effective is the 21st calendar day after filing.**

(e) **The period of effectiveness of emergency action may be terminated prior to the date originally specified or proposed action may be withdrawn by filing two completed and verified submission forms. The agency shall indicate on the forms in the spaces provided under "final action" that the original emergency action or proposed action is withdrawn, and shall indicate the publication date of the original emergency action or proposed action, the docket number of the original emergency action or proposed action, and the specific original emergency action or proposed action taken.**

**§91.28 (004.65.03.008). Procedure for Filing [of] Notice [Notices] of Open Meeting [Meetings].**

(a) **Notice [All notices] of an open meeting [meetings] shall be submitted to the Texas Register Division, Office of the Secretary of State, in accordance with the provisions of the Texas Open Meetings Law, Article 6252-17, Texas Civil Statutes.**

(b) **[A] Notice of an open meeting shall be submitted on two copies of Form TR-3, [the] Submission Form—Notice of Open Meeting, and on one three-by-five-inch index card, according to the requirements set forth in §91.94 (004.65.07.004) of this title (relating to Form for Notice of Open Meeting).**

(c) **If the complete agenda cannot be stated in the blanks provided on the submission form, the agency shall summarize the agenda in the blanks provided for publication purposes only. The agency shall then attach three copies of the complete agenda for filing, one copy attached to each submission form and one copy attached to the index card. When an agenda is summarized, the Register shall publish with the notice a statement that the agenda is summarized for publication purposes.**

(d)(c) **Both the submission forms and the index card shall be certified by an authorized agency official, according to the requirements set forth in §91.94 (004.65.07.004) of this title (relating to Form for Notice of Open Meeting).**

(d) **Agenda.**

(1) **Three copies of an agenda attachment to a notice of an open meeting shall be filed, if such an attachment is necessary.**

(2) **If the complete agenda cannot be stated in the subject blanks on Form TR-3, the agency shall summarize the agenda in the subject blanks for the purposes of publication only. When an agenda has been summarized, the Register shall publish with the notice a statement that the agenda has been summarized for publication in the Register.]**

(e) **The Texas Register Division shall be responsible for delivering all notices of open meetings to the Office of the Secretary of State in the State Capitol for posting. To allow adequate time for processing and posting a notice of open meeting submitted on the last possible day in order to meet the seven-day requirement imposed by the Texas Open Meetings Law, a notice shall be received by the Texas Register Division as early in the day as possible but no later than 4:30 p.m. To allow adequate time for processing and posting an emergency notice, a notice shall be received by the Texas Register Division at least 30 minutes before the two-hour requirement imposed by the Texas Open Meetings Law. In order to meet the 72-hour requirement imposed by the Texas Open Meetings Law, regional agencies and institutions of higher education which utilize the U.S. postal service as a means of submitting notice of open meeting should have such notice postmarked at least 10 days prior to the scheduled day of the meeting. For a notice postmarked at least 10 days prior to the scheduled day of the meeting but received too late to comply with the 72-hour provision, the issuing agency will be called by telephone and offered four alternative courses of action.**

(1) **The agency may cancel the scheduled meeting if it has not already been conducted.**

(2) **The agency may authorize the Texas Register Division to designate the meeting as an emergency meeting if the agency determines such designation may be**

justified under the emergency provisions of the Open Meetings Law. An agency shall not designate a meeting as an emergency merely for purpose of administrative expediency.

(3) The agency may take no remedial action at all and conduct the meeting, risking judicial invalidation of any business conducted if it is challenged in court.

(4) If an agency has already conducted a meeting before being notified by the Texas Register Division that the notice was received too late to comply with the 72-hour provision, the agency may give due notice of a new meeting at which any business conducted at the originally scheduled session will be ratified.

(f) An agency is not required by the Open Meetings Law to file and post a cancellation notice of a meeting which has previously been filed and posted. However, if an agency desires, it may notify the Texas Register Division by telephone of a meeting cancellation. The Texas Register Division will then notify the appropriate staff of the Secretary of State's Office to remove the notice from the bulletin board in the State Capitol. If a meeting is canceled by telephone, the agency shall submit a follow-up letter to the Texas Register Division.

§91.29 (004.65.03.009). *Procedure for Filing [of] Actions of the Governor [Executive Orders and Proclamations].* *Appointments*, executive orders, and proclamations of the Governor of Texas submitted for publication in the Governor's section of the Register shall be certified and submitted with the appropriate submission form, according to the requirements set forth in §91.96 (004.65.07.006) of this title (relating to Form for Governor and Attorney General). These documents need not conform to the format and style [numbering] requirements specified for other documents [rules]. Such documents shall be published in the next issue of the Register following the date such documents are received by the Texas Register Division, subject to the deadline requirements contained in §91.113 (004.65.08.003) of this title (relating to Deadlines).

§91.30 (004.65.03.010). *Procedure for Filing [of] Actions of the Attorney General.* [Attorney general's] Summaries of opinions, requests for opinions, [letters advisory.] and open records decisions of the Attorney General of Texas submitted for publication in the Attorney General's section of the Register shall be certified and submitted with the appropriate submission form, according to the requirements set forth in §91.96 (004.65.07.006) of this title (relating to Form for Governor and Attorney General). These documents need not conform to the format and style [numbering] requirements specified for other documents [rules]. Such documents shall be published in the next issue of the Register following the date such documents are received by the Texas Register Division, subject to the deadline requirements contained in §91.113 (004.65.08.003) of this title (relating to Deadlines).

§91.31 (004.65.03.011). *Procedure for Filing [of] a Miscellaneous Notice [Notices].*

(a) A miscellaneous notice [notices] not required to be published in the Register will be published [in the Texas Register] at the discretion of the Texas Register Division, Office of the Secretary of State.

(b) A miscellaneous notice [notices] shall conform to the format requirements specified for other documents [rules] as to paper size and form as set forth in §91.51

(004.65.05.001) of this title (relating to Paper Size and Form) and shall be certified and submitted with the appropriate submission form.

§91.32 (004.65.03.012). *Procedure for Filing [Submission of] Notice of Application to Acquire State Bank Securities.*

(a) Each notice required to be submitted by the banking commissioner for publication in the Register, pursuant to Article 342-401a(B)(6), Texas Civil Statutes, [House Bill 991, 65th Legislature, Regular Session, 1977,] shall be filed in accordance with §91.22 (.002) of this title (relating to Transmittal Methods; Receipt; Acknowledgment [Filing Procedures: General]).

(b) Each copy of each notice shall be accompanied by the appropriate submission form, [a] completed and verified, according to the requirements set forth in §91.95 (004.65.07.005) of this title (relating to Form for Miscellaneous Document) [Submission Form—Miscellaneous Documents].

(c) The notice shall be published in the next issue of the [Texas] Register following the date the notice is received by the Texas Register Division, subject to the deadline requirements contained in §91.113 (004.65.08.003) of this title (relating to Deadlines).

§91.33 (004.65.03.013). *Procedure for Filing Notice [of Documents] Related to the Use of Private Consultant Services.*

(a) Notice relating to the use of private consulting services shall be filed pursuant to the provisions of Article 6252-11c, Texas Civil Statutes.

(1) In addition to the requirements set forth in Section 6(a), Article 6252-11c, Texas Civil Statutes, a state agency or regional council of government shall include in the notice a statement that the request for consulting services is filed pursuant to the provisions of Article 6252-11c, Texas Civil Statutes.

(2) In addition to the requirements set forth in Section 6(b), Article 6252-11c, Texas Civil Statutes, a state agency or regional council of government shall include in the notice:

(A) a statement that the award of consulting services is filed pursuant to the provisions of Article 6252-11c, Texas Civil Statutes; and

(B) the Register citation of the consultant proposal request.

(b) The Texas State Library shall comply with the requirements set forth in Section 6(c), Article 6252-11c, Texas Civil Statutes.

(c)[a] The quarterly list of reports required to be filed by the Texas State Library and each notice required to be filed by a state agency or a regional council of government for publication in the Register, pursuant to Article 6252-11c, Texas Civil Statutes, [Section 6, Senate Bill 737 (Texas Civil Statutes, Article 6252-11c), 65th Legislature, Regular Session, 1977,] shall be filed in accordance with §91.22 (.002) of this title (relating to Transmittal Methods; Receipt; Acknowledgment [Filing Procedures: General]).

(d)[b] Each copy of each notice or list of reports shall be accompanied by the appropriate submission form, [a] completed and verified, according to the requirements set forth in §91.95 (004.65.07.005) of this title (relating to Form for Miscellaneous Document) [submission form for miscellaneous documents].

(e) The notice shall be published in the next issue of the Register following the date the notice is received by

*the Texas Register Division, subject to the deadline requirements contained in §91.113 (004.65.08.003) of this title (relating to Deadlines).*

§91.34. *Procedure for Filing Notice of Interest Rate.*

(a) Each notice require to be submitted by the savings and loan commissioner for publication in the *Register*, pursuant to Article 5069-1.07, Texa. Civil Statutes, shall be filed in accordance with §91.22 (.002) of this title (relating to Transmittal Methods; Receipt; Acknowledgment).

(b) Each copy of each notice shall be accompanied by the appropriate submission form, completed and verified, according to the requirements set forth in §91.95 (004.65.07.005) of this title (relating to Form for Miscellaneous Document).

(c) The notice shall be published in the next issue of the *Register* following the date the notice is received by the Texas Register Division, subject to the deadline requirements contained in §91.113 (004.65.08.003) of this title (relating to Deadlines).

Doc. No. 809415

### Adoption by Reference; Adoption under Federal Mandate

Section 91.41 (004.65.04.001) of this title (relating to Documents Allowed To Be Adopted by Reference) and §91.42 (.002) of this title (relating to Procedure for Filing a Document by Reference) are proposed for amendment to clarify existing Texas Register Division requirements. In addition, §91.43 of this title (relating to Procedure for Filing a Federally Mandated Document) is proposed as a new section to include Texas Register Division format and filing requirements for agencies submitting rule action required by federal statute or regulation to be implemented.

The following amendments and new section are proposed under the authority of Article 6252-13a, Texas Civil Statutes.

§91.41 (004.65.04.001). *Documents Allowed To Be Adopted by Reference.*

(a) Rules contained in the following documents may be adopted by reference:

- (1) federal statutes;
- (2) federal regulations;
- (3) state plans, including those circulated under OMB Circular A-95 for review and comment;
- (4) forms.[;]

(b)(5) *The prior approval of the director of the Texas Register Division, Office of the Secretary of State, shall be required for an agency to adopt by reference a document not included under subsection (a) of this section.* [any other document approved by the secretary of state. Such] Approval shall be based upon the general availability of the document and upon the impracticality of submitting the document in the standard rule format. An agency requesting [such] approval shall *submit* [state] in writing to the director of the Texas Register Division its reasons for the request to adopt by reference.

(c)(b) An agency may adopt by reference amended versions of a document [such documents]. An agency shall [may] not adopt by reference a document [documents] as it [they] may be amended in the future.

§91.42 (004.65.04.002). *Procedure [Procedures] for Filing a Document [Adoption] by Reference.*

(a) *The procedure for filing a document by reference shall be the same as that required for other rules, except that the actual text of the document need not conform to Texas Register Division format requirements. However, notice of intention to adopt by reference shall be given in the form of a numbered rule. The [Such] notice shall follow usual rulemaking and filing procedures for emergency, proposed, or final action on [adopted] rules.*

(b) [The] Notice of the adoption [to adopt rules] by reference shall contain information as required by the type of action being taken (e.g., *emergency*, proposed [rule], *final* [adopted rule, etc.]). In addition[, the notice shall contain the following information]:

(1) *The preamble of the notice shall contain a concise description of the document, including a brief summary of its major provisions.*

(2) The text of the *numbered* rule which adopts *the document* [rules] by reference shall include:[, including]

(A) any differences or variations existing between the verbatim copy of the document and that which is to be adopted by reference, if any; and

(B)[(3)] information concerning where the document has been published, if applicable, and where and how copies of it may be obtained.

(c) *An agency shall submit an adoption by reference to the Texas Register Division according to the following procedure.*

(1) *Two completed and verified submission forms shall accompany the notices of adoption by reference and the document.*

(2) *Two copies of the notice of adoption by reference, in the form of a numbered rule, shall accompany the submission forms and the document.*

(3) *One copy of the document, attached to one of the submission forms, shall accompany the notices of adoption by reference.*

(c) One copy of the document shall accompany each notice of adoption by reference. The copy of the document need not be formatted according to *Register* requirements.]

(d) If an agency wishes to adopt amendments to a document previously adopted by reference, it shall amend the rule adopting the document by reference.

(e) *Notice periods.*

(1) *Full notice. The notice period for adopting a document by reference shall be the same as the usual notice period requirements set forth in §§91.25-91.27 (004.65.03.005-.007) of this title (relating to Procedures for Filing Emergency, Proposed, and Final Rulemaking Action).*

(2) *Abbreviated notice.*

(A) *An abbreviated notice period is allowed if a federally specified effective date is less than 30 days after publication in the Register. The agency shall indicate in the blank provided on the submission form the date on which the document must take effect.*

(B) *If a federally specified effective date does not allow time for 20 days to elapse before the date the document takes effect, the agency shall indicate in the blank provided on the submission form the date on which the document must take effect.*

## §91.43. Procedure for Filing a Federally Mandated Document.

(a) If an agency is required by federal statute or regulation to implement a new rule or an amendment to an existing rule by a certain date, it is effective on that date.

(b) If time allows, the agency shall give notice of its intention to adopt a new rule or an amendment to an existing rule. Notice shall be in the form of proposed action and shall fulfill all format and content requirements prescribed for proposed action on rules. The agency shall state in the preamble of the proposal the circumstances under which the rule action is proposed and that the notice period is abbreviated, if applicable.

(c) If the federally specified date does not allow time for notice of proposed action, the agency may take final action on a new rule or an amendment to an existing rule without prior notice. Notice of final action shall fulfill all format and content requirements prescribed for final action on rules.

(d) The statement of legal authority shall include a statement that the new rule or amendment to existing rule is proposed or adopted pursuant to federal requirements.

Doc. No. 809416

## Document Format

Sections 91.51, 91.52, 91.56, and 91.57 (004.65.05.001, .002, .006, and .007) of this title (relating to Document Format) are proposed for amendment with minor changes made for clarification. Sections 91.53-91.55 (.003-.005) of this title (relating to First-Page Headings for Rule Action) are proposed for repeal in this issue of the *Register*. These sections are repropoed as new sections covering format requirements for emergency, proposed, and final repeal action, and format requirements for final rule action. Section 91.59 of this title (relating to Photoslicks) is proposed as a new section.

The following amendments and new sections are proposed under the authority of Article 6252-13a, Texas Civil Statutes.

§91.51 (004.65.05.001). *Paper Size and Form*. Documents shall be submitted on white 8-1/2-inch by 11-inch paper. The margins shall be approximately 1-1/2 inches at the top, one inch at the left and right sides, and one inch at the bottom. **Submissions shall be typed on only one side of the paper.** Standard pica type shall be used [whenever possible]. Type smaller than standard elite shall [may] not be used. Unusual type, such as italic or script, **or unusually large type, shall [may] not be used.** The text of all documents submitted for filing and publication in the *Register* shall be double-spaced and shall be typed in black.

§91.52 (004.65.05.002). *Headings*. Each page of each document [rule] submitted shall contain an identifying heading.

(1) The **complete** name of the issuing agency shall be typed in the upper left-hand corner of each page, above the top margin and flush with the left-hand margin.

(A) **When submitting rule action**, the title of the chapter of rules shall be typed on the line below **the name of the issuing agency, flush with the left-hand margin.**

(B) **When submitting a miscellaneous notice, the title of the document shall be typed on the line below the name of the issuing agency, and centered on the page.**

[The code number for the agency and chapter, which will be a five-digit number, shall be typed on the next line below.]

(2) Each page of **each** [the] document **submitted** shall be numbered in the upper right-hand corner of the page as follows: "Page \_\_\_\_\_ of \_\_\_\_\_."

## §91.53. Format for Emergency and Proposed Repeal Action.

(a) Notice of emergency or proposed repeal action shall be formatted according to the following requirements.

(1) One copy of the notice shall include the complete text of the rule including *Register* code number and TAC code number, if applicable, and respective title.

(2) The other copy of the notice shall list only the *Register* code number and TAC code number, if applicable, and respective title.

(b) The requirements set forth in subsection (a)(1) and (2) of this section shall not preclude other requirements for submission and filing of emergency or proposed rule action.

## §91.54. Format for Final Repeal Action.

(a) Notice of final repeal action shall not include the text of a repealed rule. However, the notice shall include:

(1) the *Register* code number and TAC code number, if applicable, and respective title;

(2) a concise statement of the reason why the rule or section is repealed; and

(3) the *Register* citation of the proposed notice of repeal.

(b) The requirements set forth in subsection (a)(1)-(3) of this section shall not preclude other requirements for submission and filing of final rule action.

§91.55. *Format for Adopted Text*. The text of a rule or section submitted during the final action stage of the rulemaking process shall be formatted in the same manner as the proposed text was formatted and published in the *Register*, with the exception of final repeal action. Final action taken on a proposed repeal shall be subject to the provisions of §91.54 of this title (relating to Format for Final Repeal Action).

## §91.56 (004.65.05.006) *Typography*. [Emergency and Proposed Rules Indicating New and Removed Language.]

(a) **All documents shall be typed in conventional upper-case and lower-case format, except as provided in subsection (b) of this section.**

(b) **Emergency and proposed rule action: indicating new and removed language.**

(1)(a) Existing text shall be typed in upper-case and lower-case **letters**.

(2)(b) New material in an existing text shall be typed in **upper-case** [capital] letters only.

(3)(c) Brackets shall be used to indicate deletion of existing material. Do not bracket out part of a word; bracket the entire word and type new material in **upper-case** [capital] letters.

(4)(d) New material shall be placed before deleted material.

(5)(e) Underscoring shall be used to indicate italicization, or to indicate new numbers or other symbols which cannot be **upper cased** [capitalized].

§91.57 (004.65.05.007) *Statement of Legal Authority*. A statement of the legal authority under which **any rule action is proposed or** [the rules are] promulgated shall accompany each **submission of rule action** [or set of rules]. It shall appear immediately preceding the text of the **first rule or section contained in the submission**, and it shall be as specific

as is necessary to enable a reader to locate the authority. Codified statutes shall reference the appropriate code. Uncodified statutes shall reference Texas Civil Statutes.

**§91.59. Photoslicks.**

(a) A map, an illustration, or tabular material submitted for filing and publication shall be prepared by the issuing agency on a "photoslick" for inclusion in the *Register*. A photoslick shall be prepared according to the following requirements.

(1) The area of text on a photoslick shall not exceed 8-5/8 inches by 7-1/4 inches.

(2) The text of a photoslick shall conform to the type requirements set forth in §91.51 (.001) of this title (relating to Paper Size and Form).

(3) Two photocopies of the photoslick shall accompany each submission package, in addition to the photoslick itself.

(b) A photoslick which is of poor or marginal quality will not be published. A slick of poor or marginal quality will be returned to the issuing agency.

(c) A photoslick submitted for publication shall accompany the submission package and shall be subject to the deadline requirements contained in §91.113 (004.65.08.003) of this title (relating to Deadlines).

Doc. No. 809417

(Editor's note: The text of the following sections proposed for repeal will not be published. The sections may be examined in the office of the Texas Register Division, Room 503E, Sam Houston Building, Austin.)

Sections 91.53-91.55 (004.65.05.003-.005) of this title (relating to Document Format) are proposed for repeal. With the distribution to agencies of Form TR-2, Submission Form—Rule Action, which was recently revised by the Texas Register Division, the division determines that the material contained in these sections is duplicative of the information now required on Form TR-2.

The following sections are proposed for repeal under the authority of Article 6252-13a, Texas Civil Statutes.

§91.53 (004.65.05.003) *First Page: Rules Submitted Individually*

§91.54 (004.65.05.004) *First Page: Rules Submitted by Subchapter.*

§91.55 (004.65.05.005) *First Page: Rules Submitted by Chapter.*

Doc. No. 809418

**Classification Systems**

Sections 91.71, 91.72, 91.74, and 91.75 (004.65.06.001, .002, .004, and .005) of this title (relating to Classification Systems) are proposed for amendment. For clarification, the title of the undesignated head is being changed from "Rule Code Numbers" to "Classification Systems." Section 91.71 (.001) of this title (relating to Classification Terms) is proposed for amendment to include new terms as a result of the inception of the *Texas Administrative Code* (Article 6252-13b,

Texas Civil Statutes). In addition, with the inception of the *Code*, the Texas Register Division is converting to a new numbering scheme. The conversion period will last approximately one year (November 1981). For those agencies whose rules have been codified and published in the *Code*, §91.72 (.002) of this title (relating to Numbering Schemes) is proposed for amendment to set forth the general nature of the new numbering scheme. Minor editorial changes are also made to the section. Section 91.73 (.003) of this title (relating to Subchapters) is proposed for repeal in this issue of the *Register*. Section 91.73 of this title (relating to Structure; Terminology) is repropoed as a new section covering subdivision structure and terminology for individual rules or sections. Section 91.74 (.004) of this title (relating to Rule or Section Titles) and §91.75 (.005) of this title (relating to Identification) are proposed for amendment to clarify existing language.

The following amendments and new section are proposed under the authority of Articles 6252-13a and 6252-13b, Texas Civil Statutes.

**§91.71 (004.65.06.001). Classification Terms. [Definitions.]** *When classifying agency rules or sections, the following terms shall have the following meanings:*

(1) "Title" shall identify the specific classification of subject matter under which an agency has been grouped by the Texas Register Division, according to the Code title system. The title subject matter shall be preceded by the appropriate Arabic numeral designation.

(2) "Part" shall identify the individual agency under the title subject matter, according to the Code part system. The part name shall be preceded by the appropriate Roman numeral designation assigned by the Texas Register Division.

(3)(a) "Chapter of rules or sections" shall identify [mean]:

(A)(1) a group of rules or sections which is related to the same general subject;

(B)(2) a group of rules or sections which depends on a common set of definitions; or

(C)(3) a group of rules or sections which is independent of another chapter in meaning or effect.

(4)(b) "Subchapter of rules or sections" shall identify [mean] a group of rules or sections related to the same general subject within a chapter.

(A) The division of a chapter of rules or sections into subchapters is optional.

(B) An agency's rules which have been codified and published in the Code shall use a subchapter classification only if the subchapter is designated with a specific upper-cased letter.

(5) "Undesignated head" shall identify a group of sections related to a specific subject within a chapter or subchapter. An "undesignated head" shall be assigned only when classifying sections under the Texas Administrative Code (TAC) numbering scheme.

(6) "Rule" or "section."

(A) "Rule" shall identify a specific agency statement which has not been codified and published in the Code. The term "rule" shall be retained when used in a quote or in an ambiguous phrase (i.e., does not refer to a particular rule, but rather to laws or regulations in general).

(B) "Section" shall identify a specific agency statement which has been codified and published in the Code.

§91.72 (004.65.06.002). *Numbering Schemes.*

(a) **Register.** Each rule submitted for filing under the Register numbering scheme shall be identified by a unique 10-digit code number, divided by decimal points into four units, as follows:

(1) A three-digit number, assigned by the Texas Register Division, Office of the Secretary of State, identifying the agency submitting the rule.

(2) A two-digit number, assigned by the agency, identifying the chapter of rules to which the individual rule belongs.

(3) A two-digit number, assigned by the agency, identifying the subchapter of rules, if any, to which the individual rule belongs. *The subchapter unit of the code number shall be designated ".00" if the chapter of rules is not divided into subchapters.*

(4) A three-digit number, assigned by the agency, identifying the individual rule.

(b) **TAC.** During the conversion period from Register to TAC numbering scheme, both the new TAC number and Register 10-digit number will be published. During the conversion period, as agency rules are codified and published in the Code, an agency may submit its rules according to the new TAC scheme as follows.

(1) **Identification.** Each section under the TAC numbering scheme shall be identified by a code number, divided by a decimal point into two units, as follows:

(A) A specific number, assigned by the Texas Register Division, Office of the Secretary of State, or by the agency, identifying the chapter in which the individual section is contained.

(B) A specific number, assigned by the Texas Register Division, Office of the Secretary of State, or by the agency, identifying the individual section.

(2) **Gapping.** To allow for future expansion under the TAC numbering scheme, gapping is used for all components identified by Arabic numbers.

(A) Chapters shall be gapped by one within parts. Thus, only odd numbers shall be used for chapters on initial publication. Chapters shall be gapped by a minimum of 10 between parts. However, if a part contains more than three chapters, the next part shall gap to 20 chapters beyond the start of the last series of tens. The beginning chapter of each part shall end in the number "1" and sufficient space shall be left for future expansion. In the case of the last chapter within a part ending in a digit greater than five, a gap of at least 10 shall be left and the next designation, to begin a new part of that title, shall begin at the next Arabic numeral ending in "1" after 10 has been left.

(B) Sections shall follow the same gapping procedure for undesignated heads as do chapters for parts.

§91.73 *Structure, Terminology*

(a) An agency shall subdivide a rule or section according to the following structure, in the order shown, subject to the provisions of subsections (b) and (c) of this section. The appropriate terminology shall be used in all preambles to rule action and in the text of all rule action.

(1) A "subsection" shall be designated by a lower-cased letter of the alphabet (e.g., (a), (b), etc.).

(2) A "paragraph" shall be designated by an Arabic numeral (e.g., (1), (2), etc.).

(3) A "subparagraph" shall be designated by an upper-cased letter of the alphabet (e.g., (A), (B), etc.).

(4) A "clause" shall be designated by a lower-cased Roman numeral (e.g., (i), (ii), etc.).

(5) A "subclause" shall be designated by a Roman numeral (e.g., (I), (II), etc.).

(b) An agency shall not designate a subsection if it is the only subsection in the rule or section. This policy shall apply to all subdivisions, as set forth in subsection (a)(1)-(5) of this section.

(c) "Implied (a)." The term "implied (a)" shall identify any undesignated text which immediately follows a rule or section title and precedes the first designated subdivision of the rule or section. According to the "implied (a)" policy, the first designated subdivision shall be at the "paragraph" level.

(d) "(No change.)"

(1) The term "(No change.)" means that neither a change, deletion, nor addition of wording is made to a subdivision of an existing rule, nor to the format of an existing rule structure. When "no change" occurs in the language or structure of a rule subdivision, the subdivision may be designated as "(No change.)". The text of a subdivision designated as "(No change.)" need not be submitted, subject to the provisions of paragraph (2) of this subsection.

(2) When the text of a subdivision is amended, the agency shall include the text of the preceding higher-level subdivision. Although the higher-level subdivision may not have any changes itself, its publication is necessary for clarification. For example, if paragraph (2) of subsection (a) is amended, the entire text of subsection (a) must be included in the submission. Paragraph (1) of the subsection may be designated as "(No change.)" if there are no changes in the paragraph.

§91.74 (004.65.06.004). *Rule or Section Titles*

(a) Each chapter [of rules], each subchapter [of rules], each undesignated head, and each rule or section of each submission of rule action shall be titled.

(b) The title shall reflect the subject matter of the chapter, subchapter, undesignated head, or individual rule or section.

§91.75 (004.65.06.005). *Identification*

(a) The Register [rule] code number, and TAC code number, if applicable, of a proposed rule or section shall be used to identify the rule or section as adopted.

(b) The Register [rule] code number, and TAC code number, if applicable, of a rule or section adopted on an emergency basis shall be used to identify the rule or section if it is proposed or adopted on a nonemergency basis.

(c) The amendment or repeal of a rule or section shall be identified by the Register [rule] code number, and TAC code number, if applicable, of the affected rule or section.

(d) The Register [rule] code number, and TAC code number, if applicable, of a proposed rule or section which is not adopted or is withdrawn may be used to identify another rule or section.

(e) According to the Register numbering scheme, the [rule] code number of a repealed rule shall [may] not be used to identify another rule. According to the TAC numbering scheme, the code number of a repealed section may be used to identify another section.

## Rule Code Numbers

(Editor's note: The text of the following section proposed for repeal will not be published. The section may be examined in the office of the Texas Register Division, Room 503E, Sam Houston Building, Austin.)

Section 91.73 (004.65.06.003) of this title (relating to Subchapters) is proposed for repeal. The material contained in this section is incorporated into §91.71 (.001) of this title (relating to Definitions) and §91.72 (.002) of this title (relating to Numbering Schemes).

The following section is proposed for repeal under the authority of Article 6252-13a, Texas Civil Statutes.

§91.73 (004.65.06.003). *Subchapters.*

Doc. No. 809420

## Submission Forms

Sections 91.91 and 91.93-91.97 (004.65.07.001 and .003-.007) of this title (relating to Submission Forms) are proposed for amendment to set forth in more detail the instructions for completing *Texas Register* submission forms. The Texas Register Division recently revised Forms TR-2 (Submission Form—Rule Action), TR-3 (Submission Form—Notice of Open Meeting), TR-4 (Submission Form—Miscellaneous Document), and TR-5 (Submission Form—Governor and Attorney General) to include additional information required.

The following amendments are proposed under the authority of Articles 6252-13a, 6252-13b, and 6252-17, Texas Civil Statutes.

§91.91 (004.65.07.001). *Use of Submission Forms*

(a) Each copy of each document submitted shall be accompanied by the appropriate submission form, *as revised July 1980.*

(b) Each submission form shall be completed by the agency before submission, *according to the instructions set forth in this section and in §§91.93-91.97 (.003-.007) of this title (relating to Submission Forms), and according to the instructions set forth on the reverse side of the appropriate submission form.*

(c) *All information, except signatures, shall be typewritten.*

(d)[(c)] The submission form shall be stapled to the front of each copy of each document submitted.

§91.93 (004.65.07.003). *Form for Rule Action [Rules]*

(a) Form TR-2, Submission Form—*Rule Action*, shall be used for submitting *emergency*, proposed, or *final action on* [adopted] rules.

(b) Form TR-2 shall *be completed according to the following instructions.* [contain the following information:]

(1) *Enter the transmittal date.*

(2) *Enter the Arabic numeral and complete title designation under which the agency has been classified according to the Code title system.*

(3) *Enter the Roman numeral which the agency has been assigned according to the Code part system and enter the complete agency name.*

(4) *If the agency's rules have been codified and published in the Code, enter the numerical designation*

*for the chapter of rules and enter the complete name of the chapter. If the agency's rules have not been codified and published in the Code, enter the complete name of the chapter.*

(5) *If the agency's rules have been codified and published in the Code and a letter designation and subchapter have been designated, enter the letter designation for the subchapter of rules and enter the complete name of the subchapter. If the agency's rules have not been codified and published in the Code, enter the complete name of the subchapter, if a subchapter has been designated.*

(6) *If the agency's rules have been codified and published in the Code and a letter designation has not been assigned to the name of the subchapter, enter the complete name of the undesignated head.*

(7) *If the agency's rules have been codified and published in the Code, enter the TAC section number(s) affected by the action being taken.*

(8) *If the agency's rules have been codified and published in the Code, enter the corresponding Register rule number(s) affected by the action being taken. If the agency's rules have not been codified and published in the Code, enter the Register rule number(s) affected by the action being taken.*

(9) *Emergency action.*

(A) *Enter whether the emergency action is an original filing or whether it is a renewal of effectiveness. If the period of effectiveness is renewed, enter the Texas Register Division docket number assigned to the original filing and enter the volume and beginning page number of the Register where the original action was published.*

(B) *Enter whether the emergency action is new, an amendment, a repeal, or an adoption by reference.*

(C) *Enter the number of days the emergency action is in effect and whether the emergency action is effective immediately on filing with the Texas Register Division or on another date (specify).*

(10) *Proposed action.*

(A) *Enter the Texas Register Division docket number or numbers assigned the last time action was taken on the submission.*

(B) *Enter whether the proposed action is new, an amendment, a repeal, or an adoption by reference.*

(C) *Enter whether identical emergency action is filed for simultaneous publication with the proposed action.*

(D) *Enter whether the proposed date of adoption is 30 days after publication in the Register or on another date (specify).*

(11) *Final action.*

(A) *Enter the Texas Register Division docket number assigned to the proposed action on the submission and enter the date of the Register in which the proposed action was published.*

(B) *Enter whether the final action is new, an amendment, a repeal, or an adoption by reference.*

(C) *Enter whether the final action taken is with or without changes to the proposed action.*

(D) *Enter whether the emergency effectiveness and/or proposed action is withdrawn.*

(E) *Enter whether the effective date is 20 days after filing the final action with the Texas Register Division or on another date (specify).*

- (1) All rules.
- (A) The name of the agency submitting the document.
- (B) The date the document is submitted.
- (C) The rule code number or numbers of the rule or rules submitted.
- (D) The title of the document submitted.
- (E) The name and telephone number of the person in the agency responsible for answering questions regarding the document.
- (F) Verification by the agency liaison.
- (2) Emergency rules.
- (A) Whether the emergency rule action is being submitted for the first time or is being renewed.
- (B) The number of days the emergency rule is to be in effect.
- (C) The effective date of the emergency rule.
- (3) Proposed action on rules.
- (A) The type of action proposed.
- (B) The proposed date of adoption.
- (4) Final action on rules.
- (A) The type of action taken.
- (B) The effective date of the adopted rule.
- (C) The *Texas Register* docket number and publication date of the corresponding proposed rule.
- (12) Enter the verification information. Verification shall include the telephone number of the liaison; name, title, and signature of the liaison; and date of verification.
- (13)(c) The agency may request an acknowledgment of receipt by the *Texas Register Division, Office of the Secretary of State*, in the blanks provided on Form TR-2.
- §91.94 (004.65.07.004) Form for Notice [Notices] of Open Meeting [Meetings].
- (a) Notice of an open meeting shall be submitted on two copies of Form TR-3, Submission Form—[for] Notice of Open Meeting, and on one three-inch by five-inch index card.
- (b) Form TR-3 [and the index card] shall be completed according to the following instructions. [contain the following information:]
- (1) Enter the three-digit agency code number assigned by the *Texas Register Division to the agency*.
- (2)(1) Enter whether the notice is for an emergency meeting, a revision of the original agenda on a non-emergency basis, [or] an emergency revision of [addition or amendment to] the original agenda [of a meeting], or a meeting rescheduled for a new day/date, time, and/or location. If rescheduled, enter scheduling of original meeting and Register citation. The reason for an emergency meeting or an emergency revision of the original agenda shall be entered in the space provided on the submission form.
- (2) The name of the division in the agency which will hold the meeting, if applicable.]
- (3) Enter the complete name of the agency issuing the notice, including any other applicable unit of the agency.
- (3) The name of the agency which will hold the meeting.]
- (4) Enter the day [of the week and], date, and time of [on which] the meeting [will be held].
- (5) Enter the location [address] of the meeting.
- (6) Enter whether the agenda to be typed on the submission form is a complete agenda or a summarized

agenda and enter the complete or summarized agenda in the space provided on the submission form.

- (6) The time at which the meeting will begin.]
- (7) Enter the name, address, and telephone number of the person in the agency responsible for providing information concerning the meeting.
- (7) The subject or subjects of the meeting.]
- (8) Enter the certification information. Certification shall include the name, title, and signature of the liaison and date of certification.
- (9)(e) The agency may request an acknowledgment of receipt by the *Texas Register Division, Office of the Secretary of State*, in the blanks provided on Form TR-3.
- (c) The index card shall be typed according to the following instructions.

- (1) Enter whether the notice is for a meeting, an emergency meeting, a revision or an emergency revision of the original agenda, or a meeting rescheduled for a new day/date, time, and/or location. If rescheduled, enter scheduling of original meeting.
- (2) Enter the complete name of the agency issuing the notice, including any other applicable unit of the agency.
- (3) Enter the day, date, and time of the meeting.
- (4) Enter the location of the meeting.
- (5) Enter the agenda of the meeting. If there is inadequate space on the index card, the agency shall attach a complete agenda of standard paper size to the card and indicate on the card that the agenda is attached. No summary shall be required on the card if a complete agenda is attached.

(6) If the meeting is designated as an emergency meeting or if the original agenda is revised on an emergency basis, the agency shall state in writing on the card the reason for the emergency.

(7) Enter the certification information. Certification shall include the name, title, and signature of the liaison and date of certification.

(c) In addition to the requirements contained in subsection (b) of this section, Form TR-3 shall also contain the following information:

- (1) The three-digit code number of the issuing agency.
- (2) The name, address, and telephone number of the person in the agency responsible for providing information concerning the meeting.
- (3) Certification by an authorized agency official.]
- (d) Each Form TR-3 and each index card shall be stapled to the front of attachments, if any.

§91.95 (004.65.07.005) Form for Miscellaneous Document [Documents]

(a) Form TR-4, Submission Form—[for] Miscellaneous Document [Documents], shall be used to submit all documents other than rule actions [rules], notices of open meetings, executive orders and proclamations of the Governor of Texas, and summaries of requests for opinions [of the attorney general, and summaries of], opinions, [letters advisory,] and open records decisions of the Attorney General of Texas.

(b) Form TR-4 shall be completed according to the following instructions. [contain the following information:]

- (1) Enter the complete name of the agency submitting the document.



(2) **Enter** the three-digit **agency** code number **assigned by the Texas Register Division to the** [of the issuing] agency.

(3)(4) **Enter** the title of the document.

(4)(3) **Enter** the **transmittal** date [the document is submitted].

(5)(7) **Enter the verification information** [by the agency liaison]. **Verification shall include the telephone number of the liaison; the name, title, and signature of the liaison; and date of verification.**

(5) The name and telephone number of the person in the agency responsible for answering questions regarding the document.]

(6)(c) The agency may request an acknowledgment of receipt by the **Texas Register Division, Office of the Secretary of State**, in the blanks provided on Form TR-4.

(6) A description of the document.]

§91.96 (004.65.07.006). *Form for Governor and Attorney General.*

(a) Form TR-5, Submission Form— [for] Governor and Attorney General, shall be used to submit **appointments, executive orders, and proclamations of the Governor of Texas, and summaries of requests for opinions [of the attorney general, and summaries of], opinions, [letters advisory,] and open records decisions of the Attorney General of Texas.**

(b) Form TR-5 shall **be completed according to the following instructions.** [contain the following information:]

(1) **Enter the complete** name of the agency submitting the document.

(2) **Enter the three-digit agency code number assigned by the Texas Register Division to the agency.**

(3)(5) **Enter** the title of the document submitted.

(4)(2) **Enter the transmittal** date [the document is submitted].

(3) The type of document submitted.

(4) The identifying number of the document submitted.]

(5)(7) **Enter the verification information** [by the agency liaison]. **Verification shall include the telephone number of the liaison; name, title, and signature of the liaison; and date of verification.**

(6)(c) The agency may request an acknowledgment of receipt by the **Texas Register Division, Office of the Secretary of State**, in the blanks provided on Form TR-5.

(6) The name and telephone number of the person in the agency responsible for answering questions regarding the document.]

§91.97 (004.65.07.007) *Reproduction of Forms*

(a) Each agency shall produce each submission form from blank sample copies provided by the **Texas Register Division, Office of the Secretary of State.**

(b) **The format for Texas Register Division submission forms (TR-2, TR-3, TR-4, and TR-5) shall not be altered by state agencies without the permission of the director of the Texas Register Division.**

Doc. No. 809421

## Miscellaneous Provisions

(Editor's note: The text of the following section proposed for repeal will not be published. The section may be examined in the office of the Texas Register Division, Room 503E, Sam Houston Building, Austin.)

Section 91.131 (004.65.10.001) of this title (relating to Computing of Time) is proposed for repeal. The material contained in this section is incorporated and expanded, as appropriate, into §91.26 (004.65.03.006) of this title (relating to Procedure for Filing Proposed Rulemaking Action) and §91.27 (004.65.03.007) of this title (relating to Procedure for Filing Final Rulemaking Action).

The following section is proposed for repeal under the authority of Article 6252-13a, Texas Civil Statutes.

§91.131 (004.65.10.001). *Computing of Time.*

Doc. No. 809422

Section 91.131 of this title (relating to Editing of Documents) is proposed as a new section. This section, formerly numbered as §91.131 (004.65.10.001) of this title (relating to Computing of Time) is proposed for repeal in this issue of the *Register*. Section 91.132 (002) of this title (relating to Form of Citation) is proposed for amendment to include the standard citation to material published in the *Code*. Sections 91.133-91.135 of this title (relating to Miscellaneous Provisions) are proposed as new sections to set out Texas Register Division policy concerning text of documents not published, serialization of documents to be published, and form for correction of error.

The following new sections and amendments are proposed under the authority of Article 6252-13a, Texas Civil Statutes.

§91.131 *Editing of Documents*

(a) All documents submitted for filing and publication in the *Register* will be edited for grammatical correctness and consistency of language to conform with the journalistic style of the *Register*.

(b) "Editor's notes" will be written and published by the Texas Register Division preceding the text of rule action and other documents not published, and preceding other documents, as needed, for clarification.

§91.132 (004.65.10.002) *Form of Citation*

(a) The standard citation to material published in the [Texas] *Register* shall be composed as follows: volume number followed by "TexReg," followed by number of page on which material begins. For example: 2 TexReg 1346

(b) **The standard citation to material published in the Code shall be composed as follows: numerical subject title of the Code followed by "TAC," followed by numerical chapter designation and individual section number. The chapter designation and section number are preceded by the symbol "\$." For example: 1 TAC §91.132.**

§91.133 *Text of Documents Not Published* The Texas Register Division will not include for publication in the *Register* the text of the following documents submitted for filing:

- (1) emergency, proposed, or final repeal action;
- (2) renewal of effectiveness of emergency rule action;
- (3) proposed rule action when identical emergency action is published simultaneously;
- (4) emergency or proposed rule action which has been withdrawn from further effectiveness or consideration, respectively;

(5) final rule action adopted with no changes from the text as proposed and published;

(6) other documents as provided under Section 6(c), Article 6252-13a, Texas Civil Statutes.

§91.134. *Serialization of Documents To Be Published.* If necessary, the Texas Register Division will serialize documents submitted for filing and publication in order to process lengthy submissions, and in order to meet production and printing deadlines for the *Register*. Serializations will be published in consecutive regular issues of the *Register*.

§91.135. *Form for Correction of Error.*

(a) When an agency finds an error in the published text of a document, the issuing agency shall notify the director of the Texas Register Division in writing within seven days of the date of the issue in which the error occurred requesting a correction of error.

(b) The written notification shall include the following information:

(1) the name of the agency involved;

(2) the specific section of the *Register* where the error occurred (i.e., Proposed Rules, Open Meetings, etc.);

(3) the date of the issue in which the error occurred and the *Register* citation; and

(4) the nature of the error.

(c) A correction of error will be published in the In Addition section of the *Register*.

Issued in Austin, Texas, on December 1, 1980.

Doc. No. 80942?      George W. Strake, Jr.  
Secretary of State

Proposed Date of Adoption: January 23, 1981  
For further information, please call (512) 475-7886.

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 Canvassers

**Monday, December 22, 1980, 1:30 p.m.** The State Board of Canvassers met in emergency session in Room 125 of the State Capitol. Items on the agenda included: canvass recount results of November 4, 1980; general election for district attorney; and 155th Judicial District. The meeting was held on less than seven days' notice because the board was unable to determine prior to December 16 whether it could have a quorum on December 22, and because the canvass had to be completed so that the winner could be sworn in on January 1, 1981.

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

Filed: December 17, 1980, 10 a.m.  
Doc No. 809430

According to the agenda summary, the committee will elect officers; hear minutes of the August 22, 1980, meeting; discuss work experiences considered as satisfactory for sanitarian registration and science requirements relative to acceptable courses for sanitarian registration; review pending applications; and hear progress report.

Information may be obtained from Lester Blaschke, 1100 West 49th Street, Austin, Texas, (512) 458-7536.

Filed: December 17, 1980, 1 58 p.m.  
Doc. No. 809437

The Texas Department of Health will meet to hear the following applications at the below times and locations.

**Wednesday, January 21, 1981, 10 a.m.**

Council chambers, city hall, Stratford—Application 1418 of the City of Stratford to operate a proposed Type II municipal solid waste disposal site to be located three miles south southeast of U.S. Highways' 54/287 intersection in Stratford, 3/4 mile southwest of U.S. Highway 287, in Sherman County

**Thursday, January 22, 1981, 9 a.m.**

Tumbleweed Room, Hilton Inn, 1-40 East and Lakeside, Amarillo—Application 1416 of Customized Service Co., Inc., to operate a proposed Type I municipal solid waste disposal site to be located five miles north of the northernmost boundry of Palo Duro State Park, on the west side of FM Highway 1258, 2.8 miles south of FM Highway 1151 in Randall County

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

Filed: December 17, 1980, 9:14 a.m.  
Doc No 809428



## Texas Department of Health

**Friday, January 9, 1981, 10 a.m.** The Sanitarian Advisory Committee of the Texas Department of Health will meet in Conference Room 803, 1100 West 49th Street, Austin. Ac-

## Texas Health Facilities Commission

**Friday, December 19, 1980, 9:30 a.m.** The Texas Health Facilities Commission submitted an emergency revised agenda for a meeting held in Suite 305 of the Jefferson Building, 1600 West 38th Street, Austin. According to the revised agenda summary, the board considered an amendment to commission Rule 315.17.01.100 (relating to Acquisition, Replacement, or Repair of Equipment Not a Modification); amendment to Rule 315.17.01.245 (relating to Increase in Level of Care); and an application of Certificate of Need AN80-0528-017 by The Meadowgreen, Dallas. The emergency revisions were made for the following reasons: to avoid unwarranted expenditure of public and private monies; to apprise nursing facilities of options prior to expiration of period for decision making; and to consider Medicare patient admission problems, respectively.

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

Filed: December 17, 1980, 9:39 a.m.  
Doc No 809421

## State Board of Insurance

**Friday, December 19, 1980, 9 a.m.** The Commissioner's Hearing Section of the State Board of Insurance conducted an emergency public hearing in Room 342, 1110 San Jacinto Street, Austin, in Docket 6257—application for certificate of authority filed by Smith Street Life Insurance Co., Houston. The meeting was held on less than seven days' notice because of a scheduled licensing procedure involving the certificate of authority of Smith Street Life Insurance Co.

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

Filed: December 17, 1980, 2:09 p.m.  
Doc No 809436

**Wednesday and Thursday, January 7 and 8, 1981, 9 a.m.** The State Board of Insurance will conduct a public hearing in the hearing room of the State Highway Building, 11th and Brazos, Austin, to review various methodologies for the treatment of investment income in ratemaking for all lines of property and casualty insurance.

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

Filed December 17, 1980, 9:14 a.m.  
Doc No 809429

## Lamar University

**Saturday, December 20, 1980, 8 a.m.** The Lamar University Board of Regents met in emergency session in the board room, Plummer Administration Building, main campus, Beaumont, to review and approve bids received for construction and/or renovation program. The meeting was held on less than seven days' notice because the board needed to meet the building schedule and December 20 was the last day of this month that the board could meet.

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

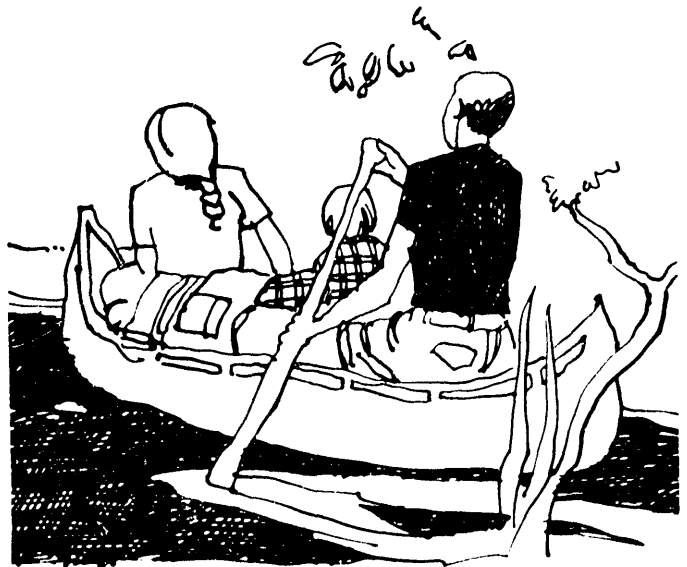
Filed: December 17, 1980, 10:33 a.m.  
Doc No 809432

## Board of Pardons and Paroles

**Monday, Tuesday, Wednesday, and Friday, December 29, 30, and 31, 1980, and January 2, 1981, 9 a.m. daily.** The Board of Pardons and Paroles will meet in Room 711, Stephen F. Austin Building, Austin. According to the agenda, the board will review cases of inmates for parole consideration; act on emergency reprieve requests and other acts of executive clemency; review reports regarding persons on parole; review procedures affecting the day-to-day operation of support staff; review and initiate needed rule changes relating to general operation, executive clemency, parole, and all hearings conducted by this agency; and take action upon gubernatorial directives.

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

Filed: December 16, 1980, 1:57 p.m.  
Doc. No. 809412



## Texas Parks and Wildlife Department

**Tuesday, January 6, 1981, 2 p.m.** The Fisheries Division/Resource Protection Branch of the Texas Parks and Wildlife Department will meet in Room A 200, 4200 Smith School Road, Austin, to consider the application of Belton Sand and Gravel Co., for a permit to remove approximately 5,000 cubic yards of sand and gravel per month from the Lampasas River by means of dragline for commercial use. The work site would be located approximately three miles north of Oakalla, in Burnet County, starting approximately 1,000 feet west of the FM 2657 bridge and extending west for a distance of approximately 1,000 feet adjacent to the property of C. L. Morse.

Information may be obtained from Chester Harris, 4200 Smith School Road, Austin, Texas 78744, (512) 475-4831.

Filed: December 16, 1980, 3:35 p.m.  
Doc No 809424

## State Securities Board

**Monday, December 29, 1980, 10 a.m.** The Securities Commissioner of the State Securities Board will conduct a public hearing at 1800 San Jacinto, Austin, for the purpose of determining whether a cease and desist order should be issued prohibiting the sale of securities issued by North Texas Energy, Inc., Explo Oil, Inc., and Carlos Ventura Sandoval.

Information may be obtained from Lee Polson, 1800 San Jacinto Street, Austin, Texas, (512) 474-2233.

Filed: December 17, 1980, 11:56 a.m.  
Doc. No. 809435

## Advisory Council for Technical-Vocational Education in Texas

**Monday, January 5, 1981, 7 p.m.** The Industry/Education Committee of the Advisory Council for Technical-Vocational Education in Texas will meet in Suite 3, Quality Inn, 2200 South IH 35, Austin. According to the agenda, the committee will meet to review their program of work and activities for 1981, and discuss work and progress on the public information project.

Information may be obtained from Valeria Blaschke, P.O. Box 1886, Austin, Texas 78767 or 1700 South Lamar, Suite 202, Austin, Texas 78704, (512) 475-2046.

Filed: December 17, 1980, 4:43 p.m.  
Doc. No. 809439

## Texas Southern University

**Wednesday, January 7, 1981, 4 p.m.** The Board of Regents of Texas Southern University will meet at April Sound, Highway 105 West, Conroe, to consider fiscal and curriculum reports from the administration, and approval of short-term investments as recommended by the Finance Committee. This board meeting is being held in conjunction with an annual planning conference that is held by the administration.

Information may be obtained from Everett O. Bell, 3100 Cleburne, Houston, Texas, (713) 529-8911.

Filed: December 17, 1980, 9:15 a.m.  
Doc. No. 809427

## Texas Water Commission

**Tuesday, January 6, 1981, 10 a.m.** The Texas Water Commission will meet in Room 124A of the Stephen F. Austin Building, 1700 North Congress Avenue, Austin. According to the agenda summary, the commission will consider the adjudication of the Salt Fork and Double Mountain Fork Watersheds of the Brazos I segment in the Brazos River Basin for adoption of a preliminary determination.

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

Filed: December 17, 1980, 2:43 p.m.  
Doc. No. 809438

## Regional Agencies

### Meetings Filed December 17, 1980

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

Doc. No. 809433

## 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 December 8-12, 1980.

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

A copy of all material submitted by the applicant is available for public inspection at the Central Office of the Texas Air Control Board at the address stated above and at the regional office for the air quality control region within which the proposed facility will be located.

Listed are the name of the applicant and the city in which the facility is located; type of facility; location of the facility (if available); permit number; and type of application—new source or modification.

### Week Ending December 12, 1980

Champlin Petroleum Co., Corpus Christi; MTBE plant; 1801 Nueces Bay Boulevard; 8653; new source

Texas Oil and Chemical Terminal, Vidor; H-3 visbreaker heater; Old Mansfield Ferry Road; 8654; new source

Uvalde County Farmers Co-Op, Knippa; anhydrous ammonia storage and transfer facility; address unavailable; 8655; new source

Temple Eastex, Inc., Evadale; lime kiln; Highway 105; 8658; new source

Issued in Austin, Texas, on December 15, 1980.

Doc No. 809425 Ramon Dasch  
Director of Hearings  
Texas Air Control Board

Filed: December 16, 1980, 3:54 p.m.  
For further information, please call (512) 451-5711, ext. 354.

maximum of \$134,009. The beginning date of the contract is November 20, 1980, and the ending date of the contract is September 30, 1981.

**Due Dates for Reports.** The consultant is to present to the agency reports due on the fifth calendar day of each month.

Texas Electric Cooperatives, Inc.

**Description.** The private consultant is to conduct innovative rate design programs for rural electric cooperatives.

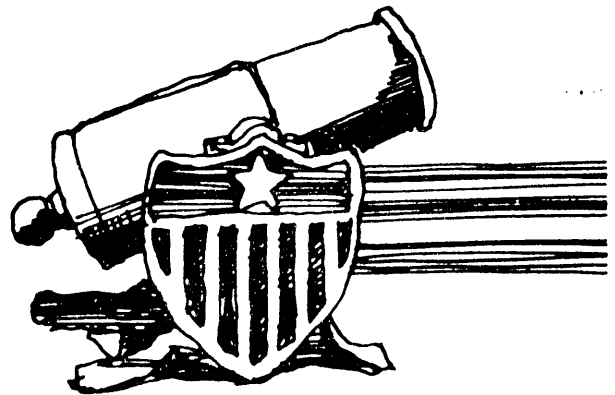
**Contractor; Total Value; Period of Contract.** The contractor is Texas Electric Cooperatives, Inc., 8140 Burnet Road, Austin, Texas 78758. The total value of the contract is a maximum of \$99,800. The beginning date of the contract is November 20, 1980, and the ending date of the contract is September 30, 1981.

**Due Dates for Reports.** The consultant is to present to the agency reports due on the fifth calendar day of each month.

Issued in Austin, Texas, on December 15, 1980.

Doc. No. 809426 Philip F. Ricketts  
Commission Secretary and  
Director of Hearings  
Public Utility Commission of Texas

Filed: December 16, 1980, 3:55 p.m.  
For further information, please call (512) 458-0100.



## Public Utility Commission of Texas

### Consultant Contract Awards

As required by Article 6252-11c, Section 6, Vernon's Annotated Texas Statutes, the Public Utility Commission of Texas provides the following notices of contract awards:

#### Houston Lighting and Power Company

**Description.** The private consultant is to conduct an evaluation of technical aspects and customer acceptance of controlling large commercial air conditioning equipment and a detailed cost/benefit analysis to determine economic feasibility and innovative rate incentive requirements.

**Contractor; Total Value; Period of Contract.** The contractor is Houston Lighting and Power Company, 611 Walker Street, Houston, Texas. The total value of the contract is a

## Office of the Secretary of State

### Election Law Interpretation GWS-6

Request from Bill Clayton, speaker of the house, concerning the applicability of the Political Funds Reporting and Disclosure Act of 1975, as amended, to contributions and expenditures for the purpose of defraying nonreimbursable legal expenses incurred by an officeholder as a direct result of activities in connection with his office.

**Interpretation:** In a letter dated December 3, 1980, you asked me for a formal interpretation of the Political Funds Reporting and Disclosure Act of 1975, as amended (PFRDA).

I am issuing this formal interpretation as chief election officer of the state (Article 1.03, Subdivision 1, Vernon's Texas

Election Code (VTEC)). As such, it is my "responsibility to obtain and maintain uniformity in the application, operation, and interpretation of the election laws." *Id.* Thus, my responsibility is defined by a broad and unique grant of specific interpretative authority.

The specific questions that you ask are:

(1) Is it permissible for an individual or a political committee to make contributions to be used for the payment of legal fees and other expenses which are nonreimbursable by the state and which were incurred because of the investigation and trial resulting from activities which you performed in connection with your office?

(2) If the contributions referred to in Question 1 are permitted, are you, as an officeholder, permitted to expend such contributions for the payment of legal fees and other expenses which were incurred because of the investigation and trial resulting from activities which you performed in connection with your office and which are nonreimbursable by the state?

In answering both of these questions, this office has made no independent investigation of the facts upon which your questions are based. Our interpretation relies, in varying degrees, upon the three following factual premises in your letter:

(1) The investigation and trial resulted from activities that you performed in connection with your office.

(2) You incurred legal fees and other related expenses because of this investigation and trial.

(3) The expenses you incurred are nonreimbursable by the state.

**Question 1:** To answer your question concerning "contributions," the key inquiry is whether money or anything of value accepted by you for the purpose of defraying the legal fees and other related expenses is an officeholder "contribution" as that term is defined in Article 14.01(D)(2), Vernon's Texas Election Code. (Clearly, the money or other thing of value would not be a campaign contribution as defined in Article 14.01(D)(1) since it would not be "involved in an election.") If it is an officeholder "contribution," then it would be permissible under the PFRDA for an individual or a "political committee" to make the contributions as long as they are properly reported in accordance with the provisions of the Act.

An officeholder "contribution" is defined as "any . . . transfer of funds . . . or anything of value knowingly accepted by an officeholder for the purpose of assisting such person in the performance of duties or activities in connection with the office which are nonreimbursable by the state or political subdivision" (Article 14.01(D)(2), Vernon's Texas Election Code).

This is a broad definition, made intentionally broad by the legislature. "Assisting," "activities," and "in connection with" are words and terms that are expansive rather than restrictive. The definition of "contribution" should be broadly, rather than narrowly, interpreted in order to be consistent with the breadth envisioned by Chapter 14 of the Election Code. Chapter 14, by design, seeks full disclosure of funds received and expenditures made by candidates and officeholders to ensure that candidates and officeholders are subject to the stern test of public scrutiny.

Since an officeholder is in the best position to determine whether an expense results from an "activity in connection with his office," initial reliance should be placed upon that judgment of officeholders. Chapter 14's check upon the judg-

ment of officeholders is to ensure the fullest disclosure of an officeholder's contributions and expenditures to the critical eyes of his contributors, constituents, and the general public. To narrowly define "contribution" would restrict public view and thwart these purposes of Chapter 14.

Money or other things of value assist an officeholder in the performance of an activity by enabling him to defray expenses that occur as a result of that activity. Because the investigation and trial directly resulted from your performance of an activity of your office, money given to and accepted by you for the purpose of paying the legal fees and related expenses are "contributions" as defined in Article 14.01(D)(2), Vernon's Texas Election Code.

This opinion should not be construed to apply to all legal fees or expenses of an investigation and trial of an officeholder. Expenses can result from many activities of an officeholder that are too remotely connected with an activity of the office to be considered within the definition of contribution. Also, if the trial of an officeholder resulted in a guilty verdict on a charge involving official misconduct, the litigation expenses could not be considered to have resulted from an activity in connection with the office—for it unquestionably is not a duty or activity of any state officeholder to act in a criminal manner.

**Question 2:** Since money or any other thing accepted for the purpose of defraying your legal expenses is a "contribution," any contributions expended by you for the purpose of defraying your legal expenses would be officeholder "expenditures" as defined in Article 14.01(E)(2), Vernon's Texas Election Code. Thus, it would be permissible for you to make such expenditures as long as they are properly reported in accordance with the provisions of the Act.

**Conclusion:** The Political Funds Reporting and Disclosure Act of 1975, as amended, authorizes, and requires the full reporting of, contributions to and expenditures by an officeholder to defray nonreimbursable legal expenses directly resulting from activities that were performed in connection with the office.

Issued in Austin, Texas, on December 15, 1980.

Doc. No. 809404      George W. Strake, Jr.  
Secretary of State

Filed: December 15, 1980, 1:37 p.m.  
For further information, please call (512) 475-2015.

## Texas Register Division

### Publication Schedule Variations

In view of the Christmas holidays, the *Texas Register* will not be published on December 30, 1980. A regular issue will resume with the issue dated January 2, 1981. Deadlines for the January 2 issue are 10 a.m. Monday, December 29 (all copy except notices of open meetings), and 10 a.m. Tuesday, December 30 (open meeting notices).

In view of the New Year's holiday, the *Register* will not be published on January 6, 1981. Regular issues will resume with the issue dated January 9, 1981. Deadlines for the January 9 issue are 10 a.m. Monday, January 5 (all copy except notices of open meetings), and 10 a.m. Tuesday, January 6 (open meeting notices).

## TAC Titles Affected in This Issue

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

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