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TEXAS REGISTER

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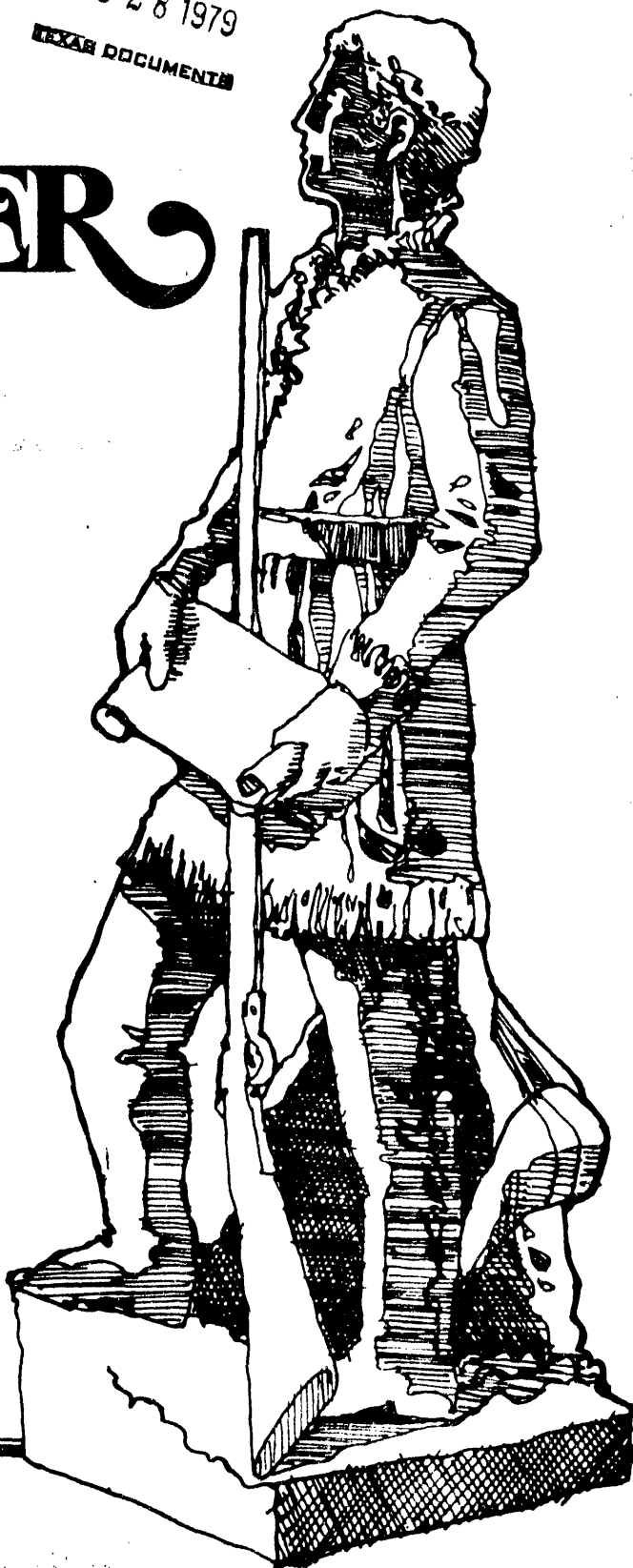
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On an emergency basis, the Credit Union Department temporarily amends its rules concerning the allocation of reserves and the declaring of dividends in state-chartered credit unions. Because of increased rates of interest paid to attract money, many credit unions have had to restrict loans to their consumer members, while other credit unions have had to use prior years' surpluses to try to stem the outflow of funds that form their capital base. Further, inflation has resulted in operation costs increasing considerably. In combination, these two factors have 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. Therefore the Credit Union Department determines that the one-time relief of the reserve transfer and the declaration of dividends for financially sound credit unions will provide economic relief to citizens investing in credit union savings programs without affecting the stability of credit unions.

The State Board of Dental Examiners proposes a rule stipulating that dental clinics, whether stationary or mobile, which are not operated by the state or federal government, or by a dental school, will not be approved by the board if they are financed by state or federal funds. The rule is proposed because practicing dentists report that, in many instances, mobile dental clinics are invading the province of local practitioners, failing to provide follow-up care, and are being financed by tax money in this competition. The board feels that "charitable clinics" should not be supported by any tax money.

The Criminal Justice Division, Office of the Governor, adopts rules concerning the security and privacy of criminal justice information. The rules cover collection, maintenance, dissemination, and security of criminal history record information.

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

Artwork: Gary Thornton



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

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Volume 4, Number 96, December 25, 1979

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Appointments

Caddo Lake Compact Commissioner

Pursuant to Senate Bill 675, 66th Legislature, Regular Session, for a two-year term to expire June 6, 1981:

Nathan Irving Reiter, Jr.
Route 5, Box 285C
Texarkana, Texas 75501

Texas Department of Community Affairs

To be executive director, effective January 1, 1980, for a term at the pleasure of the governor:

Sidney M. Wieser
P.O. Box 191
Lampasas, Texas 76550

Mr. Wieser is replacing Omar Harvey of Dallas, Dallas County, who resigned.

Texas Closeup Board

For a six-year term to expire January 31, 1985:

Margaret Wisdom
2154 Inwood Drive
Houston, Texas 77019

Ms. Wisdom will be filling the unexpired term of Frank A. Driskill of Wake Village, Bowie County, who resigned.

State Conservatorship Board

Pursuant to Senate Bill 1266, 66th Legislature, Regular Session, for a term to expire January 31, 1983:

William M. Noble, President
American Bank of Commerce
1900 Laurent
Victoria, Texas 77901

Governor's Committee on Employment of the Handicapped

To be vice chairman:

Robert E. Price
Dallas, Texas

95th Judicial District of Texas

To be judge, Dallas County, until the next general election and until his successor shall be duly elected and qualified:

A. Joe Fish
26th Floor, LTV Tower
Dallas, Texas 75201

Mr. Fish is replacing Judge Kenneth C. Dippel of Dallas, Dallas County, who resigned.

Texas 1986 Sesquicentennial Commission

Pursuant to Senate Bill 779, 66th Legislature, Regular Session, for a two-year term to expire January 31, 1981:

Dr. Robert H. Wilson
P.O. Box 1680
Dallas, Texas 75212

Issued in Austin, Texas, on December 11, 13, 14, and 17, 1979.

Doc. No. 799521- William P. Clements, Jr.
799523 & Governor of Texas
799560

For further information, please call (512) 475-3021.

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

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

Requests for Opinions

Summary of Request for Opinion RQ-231

Request from Leonard Prewitt, Teacher Retirement System of Texas, Austin.

Summary of Request:

(1) May the Teacher Retirement System invest a portion of its funds in real estate?

(2) May the Teacher Retirement System invest a portion of its funds in mortgages secured only by real estate?

(3) If the answer to either or both of these questions is in the negative, would a statutory or constitutional change be necessary to acquire such investment authority?

Doc. No. 799532

Opinions

Summary of Opinion MW-96

Request from John J. Kavanagh, M.D., commissioner, Texas Department of Mental Health and Mental Retardation, Austin, concerning whether facilities of the Department of Mental Health and Mental Retardation are authorized to pay application fees to the Health Facilities Commission for projects donated to the department.

Summary of Opinion: A volunteer council of a facility of the Texas Department of Mental Health and Mental Retardation is required to pay the appropriate fee to the Health Facilities Commission in order to undertake a project contemplated by Article 4418h, Vernon's Texas Civil Statutes. The Department of Mental Health and Mental Retardation may agree to pay the application fee on behalf of the council, if payment of the fee results in a benefit to the department.

Doc. No. 799533

Summary of Opinion MW-97

Request from Joe Resweber, county attorney, Harris County, concerning the disposition of surpluses in Interest and Sinking Fund for Harris County hospital bonds, Series 1950, after all principal of and interest thereon has been paid.

Summary of Opinion: The interest and redemption fund balance for the retired \$1,500,000 Harris County hospital bonds, Series 1950, may be expended by the district for any

lawful purpose relating to the establishing, enlarging, and equipping of said hospital, and for all other necessary permanent improvements.

Doc. No. 799534

Summary of Opinion MW-98

Request from Maurice S. Pipkin, executive director, State Commission on Judicial Conduct, Austin, concerning whether a justice of the peace may hold court in his own precinct and dispose of cases from another precinct.

Summary of Opinion: Justices of the peace may exchange benches and thereby sit in another court outside of their precinct whenever expedient. However, use of such procedure may be subject to a charge of abuse of discretion or neglect of duty.

Doc. No. 799535

Summary of Opinion MW-99

Request from George W. Strake, Jr., secretary of state, Austin, concerning the incorporation of local recording agents, life insurance agents, and physical therapists under the Texas Professional Corporation Act.

Summary of Opinion: The secretary of state may approve articles of incorporation pursuant to the Texas Professional Corporation Act that have as a purpose the authority to act as a local recording agent or a life insurance agent under the Texas Insurance Code. Physical therapists may incorporate under the Texas Professional Corporation Act but not under the Texas Business Corporation Act. The Texas Business Corporation Act and the Texas Professional Corporation Act are as a general matter mutually exclusive, but the legislature has acted to permit specific professions to incorporate under either statute.

Doc. No. 799536

Summary of Opinion MW-100

Request from Major General Willie L. Scott, TexARNG, the Adjutant General, Austin, concerning application of Article 6813d, Vernon's Texas Civil Statutes, to state employees returning after military service and to prior service of National Guard technicians.

Summary of Opinion: The longevity pay benefits provided for in Article 6813d, Vernon's Texas Civil Statutes, are applicable to those individuals entitled to the benefits provided for in Article 6252-4a, Section 3, Vernon's Texas Civil Statutes. Years of service as a National Guard technician prior to January 1, 1969, are creditable as years of service as an employee of the state for purposes of longevity pay, as established by Article 6813d, Vernon's Texas Civil Statutes.

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

Doc. No. 799537

C. Robert Heath
Opinion Committee Chairman
Attorney General's Office

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

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

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

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

Credit Union Department

Credit Union Regulations

Reserves and Dividends 058.01.09

The Credit Union Department temporarily amends Rules 058.01.09.001 and .002 on an emergency basis. These rules are applicable for allocating reserves and declaring dividends in a state-chartered credit union and they are amended for calendar year 1979 and the first three months of 1980. The original rules will apply for allocating reserves and declaring dividends in a state-chartered credit union beginning on April 1, 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). This interest restriction has been prevalent since 1934. Recent developments in the "money market" of the county 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 one-time relief 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 credit unions or the credit union industry.

The emergency amendment of Rules .001 and .002 on a temporary basis is promulgated under the authority of the Texas Credit Union Act, Article 2461, Chapter 1, et seq., Vernon's Texas Civil Statutes.

.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)(a) 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, 1980.* [until the total regular reserve amounts to 3.0% of loans.]

(2)(b) Credit unions in operation for four full years or more shall *not be required to make any transfer of earnings of 1979 or the first three months of 1980 to the Guaranty Fund unless the estimated solvency ratio is below 103.* [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.]

(3)(c) [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.] *Credit unions currently under dividend restrictions and credit unions with solvency ratios below 103 shall make transfers in accordance with the provisions of the current regulation, unless otherwise authorized in writing by the commissioner. Such authorization shall be requested by board resolution, duly recorded in the minutes. Such resolutions shall be forwarded to the commissioner by cover letter signed by the chairman and secretary of the board, and shall be accompanied by financial and statistical reports for each dividend period.*

(4)(d) In addition to the regular reserve, special reserves to protect the interests of members may be established by board resolution or by directive of the credit union commissioner, from current income or from undivided earnings. In lieu of establishing a special reserve, the commissioner may direct that all or a portion of the undivided earnings and any other reserve fund be frozen. In either case, such directives must be given in writing and must show cause for such action. (Establishment of an investment reserve, where warranted, shall fall under this section.)

(5)(e) Minimum reserve requirements. No credit union shall declare or pay a dividend unless and until the regular reserve and other reserves combined are sufficient to cover the estimated losses of the credit union, as determined by actual review by the credit union examiners, or by the following formula (whichever is greater):

(A)(1) loans two to five months delinquent—10% of total balances;

(B)(2) loans six to 11 months delinquent—40% of total balances;

(C)(3) loans delinquent 12 months or more—90% of total balances.

(6)(f) The board of directors may increase the amount to be transferred to the regular reserve, and may transfer from undivided earnings to the regular reserve at any time.

(7)(g) Use of reserves.

(A)(1) The reserve fund may be used only as follows:

(i)(A) to charge off uncollectible loans;

(ii)(B) to pay annual reserve deposits to the Texas Share Guaranty Credit Union;

(iii)(C) other distributions as allowed by law, and approved by the commissioner.

(B)(2) Special reserves may be used only for the purpose or purposes designated by board resolution. The board of directors may return to undivided earnings any special reserves previously committed by the board.

(C)(3) Undivided earnings may be used for any purpose approved by the board of directors, including payment of dividends, interest refunds, interest on deposits, and certificates of deposit.

.002. Dividends

(a) After allocations to reserves are made as required under Section 9.01(1)(a) and 9.01(1)(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. *For the dividend periods ending December 31, 1979, and March 31, 1980, a credit union chartered by the Texas Credit Union Department may declare a dividend for the period ending December 31, 1979, 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 103 or more, and provided that the credit union's reserves and undivided earnings are not frozen by order of the commissioner in accordance with Rule .001(d). In order to declare a dividend at a rate higher than 8.0% per annum, a credit union shall make a 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 each prior dividend period of 1979, and a copy of the November 30, 1979, and/or February 29, 1980, financial and statistical report. A credit union shall not be authorized to post such dividends until written approval has been given by the commissioner.*

(b) Dividends may be paid on fully paid shares or on the full dollar amount as prescribed in the bylaws or board policy. Shares which become fully paid during the dividend period shall be entitled to a proportionate part of the dividend if dividends are paid on fully paid shares only.

(c) Dividend credit for a month may be accrued on shares which are or become fully paid during the first 10 days of that month. No dividends shall be paid on shares that are withdrawn during the dividend period.

Issued in Austin, Texas, on December 18, 1979.

Doc No 799551 John P. Parsons
Commissioner
Credit Union Department

Effective Date: December 18, 1979

Expiration Date: April 1, 1980

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

Texas Water Development Board

Waste Discharge Permits

Procedure for Obtaining Waste Discharge Permits 156.25.05

The Texas Water Development Board is renewing the effectiveness of the emergency adoption of amendments to Rules 156.25.05.003, .010, and .011, and the emergency adoption of Rule .017. The original texts of these rules as amended and the text of the new rule were published in the September 4, 1979, *Texas Register* (4 TexReg 3137). The renewal period is effective December 21, 1979, for 60 days.

Doc. No. 799557

Amendment with Consent 156.25.10

The Texas Water Development Board is renewing the effectiveness of the emergency adoption of amendments to Rule 156.25.10.003. The original text of this rule as amended was published in the September 4, 1979, *Texas Register* (4 TexReg 3138). The renewal period is effective December 21, 1979, for 60 days.

Doc. No. 799558

Public Hearing, Notice 156.25.20

The Texas Water Development Board is renewing the effectiveness of the emergency adoption of amendments to Rule 156.25.20.003. The original text of this rule as amended was published in the September 4, 1979, *Texas Register* (4 TexReg 3138). The renewal period is effective December 21, 1979, for 60 days.

Issued in Austin, Texas, on December 18, 1979.

Doc. No 799559 Bruce Bigelow
General Counsel
Texas Department of Water Resources

Effective Date: December 21, 1979

Expiration Date: February 19, 1980

For further information, please call (512) 475-7841.



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

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

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

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Coordinating Board, Texas College and University System

Administrative Council

Administration of the Texas State College and University Employees Uniform Insurance Benefits Program 251.20.02.002

The Administrative Council of the Coordinating Board, Texas College and University System, is proposing to amend Rule 251.20.02.002(3), defining "retired employee." This amendment will require that upon retirement a person must not only be eligible to receive benefits but must remain eligible. It also deletes the requirement that a retiree must have been participating in the active employee group insurance plan at the time of retirement in order to be eligible for the retiree plan.

The proposed amendment has no fiscal implications to the state or to units of local government.

Public comments on the proposed amendment are invited. Comments may be submitted for a period of 30 days from the date of publication by telephoning the office of the Administrative Council at (512) 475-2033 or by writing to the Administrative Council at P.O. Box 12788, Austin, Texas 78711.

This amendment is proposed under the authority of Senate Bill 95, Acts of the 65th Legislature, Regular Session, 1977.

.002. Definitions. Unless a different meaning is plainly required by the context, the following words and phrases as used in these rules shall have the following meanings:

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

(3) "Retired employee" shall mean an employee as defined in the Act who retires or has retired under a retirement provision under the jurisdiction of:

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

(E) In addition, "retired employee" shall mean any former employee regardless of date of retirement who:

(i) has discontinued employment subject to retirement contributions under the indicated plan(s); and

(ii) upon active employment discontinuance, will receive or be eligible to receive, **and remain eligible to receive**, benefits under the indicated plan(s); provided, however, that the employee has met service requirements, age requirements, and other applicable requirements for retirement under the Teacher Retirement System of Texas; or land

(iii) was covered by the institution's group insurance program(s) on the last date of employment; or

(iii)(iv) has not reached the age to apply for full formula service retirement benefits but who has reached a state of permanent and total disability, where the employee is unable to perform the assigned duties and the individual is granted disability retirement benefits by the Teacher Retirement System of Texas, then that individual, if enrolled in an institution's uniform group insurance plan as an active employee, shall have the right to continue in that institution's insurance plan established for retired employees. The employer shall contribute to the cost of the disabled retiree's premium an amount equal to the amount contributed by the employer on behalf of any other retiree. If a disabled employee is not a member of the Teacher Retirement System of Texas, then in order to continue in an institution's retiree plan, the disabled employee must meet the applicable requirements for disability retirement under the Teacher Retirement System of Texas.

Doc. No. 799561

251.20.02.020

The Administrative Council of the Coordinating Board, Texas College and University System, is proposing to amend Rule 251.20.02.020, regarding coverage for dependents. The amendment is to make it clear that an employee or retired employee shall be entitled to secure for his dependents any uniform group health insurance coverage only if the employee or retired employee is enrolled in the institution's group health insurance plan.

The proposed amendment has no fiscal implications to the state or to units of local government.

Public comments on the proposed amendment are invited. Comments may be submitted for a period of 30 days from the date of publication by telephoning the office of the Administrative Council at (512) 475-2033 or by writing to the Administrative Council at P.O. Box 12788, Austin, Texas 78711.

This amendment is proposed under the authority of Senate Bill 95, Acts of the 65th Legislature, Regular Session, 1977.

.020. Coverage for Dependents. Any employee or retired employee **enrolled in an institution's uniform group health insurance plan** shall be entitled to secure for his dependents any uniform group health insurance coverage provided under Rule .003 of these rules. Such payments for such coverages for dependents in excess of the employer contribution shall be deducted from the monthly pay of the employee

paid in such other manner and form as the Administrative Council may approve.

Issued in Austin, Texas, on December 17, 1979.

Doc. No. 799563 James McWhorter, Executive Secretary
Administrative Council
Coordinating Board, Texas College and
University System

Proposed Date of Adoption: February 7, 1980
For further information, please call (512) 475-2033.

Texas State Board of Dental Examiners Conduct

Mobile or Moveable Offices 382.19.16

The Texas State Board of Dental Examiners is proposing Rule 382.19.16.006. Information received by the board from practicing dentists is to the effect that mobile dental clinics in many instances are invading the province of the local practitioners, failing to provide follow-up care, and are being financed by tax money in competition with private practitioners. The board feels that "charitable clinics" operated by whomever should be charitable from beginning to end rather than supported by tax money from any source.

The board has determined that this new rule will have no fiscal implications for the state or for units of local government.

Those desiring to comment upon this rule should direct their comments in writing to the Texas State Board of Dental Examiners, 718 Southwest Tower, 7th and Brazos, Austin, Texas 78701

This rule is proposed under the authority of Article 4551d of the Revised Civil Statutes of Texas as amended:

.006. *Funding* Dental clinics, stationary or mobile, which are not operated by some branch of the state or federal government or by an approved dental school, will not be approved by the board if they are financed by state or federal funds and must be on a "no fee" charitable basis

Issued in Austin, Texas, on December 18, 1979.

Doc. No 799565 Carl C. Hardin, Jr.
Executive Director
Texas State Board of Dental Examiners

Proposed Date of Adoption: January 25, 1980
For further information, please call (512) 475-2443.

State Board of Insurance

Life, Health, and Accident Insurance

(Editor's note: The texts of the following rules proposed for repeal will not be published. The rules may be examined in the offices of the State Board of Insurance, 1110 San Jacinto, Austin.)

The State Board of Insurance is proposing to repeal Rules 059.03.53.001 and .002. These rules are proposed to be repealed for the reason that the board is simultaneously proposing to adopt a new set of regulations, in Chapter .53, on credit insurance which will replace these rules.

There are no known fiscal implications to the state or units of local government as a result of the proposed repeals. The board relies on its Credit Life Section in making this determination.

Comments on the proposed repeals are invited. Comments may be made at a public hearing to be held in February 1980, specific notice of which will follow, or may be submitted in writing to Robert C. McAnelly, manager, Credit Life, State Board of Insurance, 1110 San Jacinto, Austin, Texas 78786.

Credit Life Insurance and Credit Accident and Health Insurance 059.03.53.001

The State Board of Insurance is proposing to repeal Rule 059.03.53.001, which is the rule regarding credit accident and health insurance.

This repeal is proposed under the authority of Texas Insurance Code Annotated, Article 3.53.

.001. *Credit Insurance Rules, Rates, and Regulations I.*

Doc. No. 799566

059.03.53.002

The State Board of Insurance is proposing to repeal Rule 059.03.53.002, which is a rule effectively amending Rule .001, which is also proposed for repeal.

This repeal is proposed under the authority of Texas Insurance Code Annotated, Article 3.53.

.002. *Credit Insurance Rules, Rates, and Regulations II.*

Doc. No 799567

Credit Insurance

The State Board of Insurance proposes to promulgate and adopt various rules applicable to all life insurance and all accident and health insurance sold in connection with loans or other credit transactions of less than five years duration pursuant to the authority provided in Texas Insurance Code Annotated, Article 3.53, Section 12. These rules will, in part, supersede and take the place of the current credit insurance rules, Rules 059.03.53.001 and .002, which are proposed to be repealed.

These proposed rules have no known fiscal implications for the state or for units of local government. The board relies on its Credit Life Section in making this fiscal evaluation.

Public comment is invited on the proposed adoption of the new rules. Comments may be made at a public hearing to be held in February 1980, specific notice of which will follow, or may be submitted in writing to Robert C. McAnelly, manager, Credit Life, State Board of Insurance, 1110 San Jacinto, Austin, Texas 78786.

General Provisions 059.53.01

The purpose of Rule 059.53.01.001 is to establish the authority and scope applicable to all of Chapter .53, inclusive of all subchapters and rules.

This rule is proposed pursuant to the authority of Texas Insurance Code Annotated, Article 3.53.

.001. Authority and Scope. Chapter .53 of the rules and regulations of the State Board of Insurance is promulgated and adopted pursuant to the authority provided in Section 12 of Article 3.52 of the Texas Insurance Code as amended. The rules and regulations in Chapter .53 apply to all life insurance and all accident and health insurance sold in connection with loans or other credit transactions of less than five years duration, the premium for which is charged to or paid for in whole or in part either directly or indirectly by the debtor, regardless of the nature, type, or plan of the credit insurance coverage or premium payment system, which shall include any such credit insurance which purports to be on a "cost free," "no cost," "give away," or other "no charge" basis insofar as a debtor is concerned, but shall not apply to the issuance of such insurance by an insurance company as an isolated transaction which is not related to any agreement or plan for insuring debtors of the creditor or credit insurance, the premium for which is not charged to or paid for in whole or in part either directly or indirectly by the debtor. Chapter .53 of the rules and regulations of the State Board of Insurance are supplementary to and cumulative of existing statutes and rules of the State Board of Insurance which effect the functioning of the Credit Life Section. In case of an ambiguity or contradiction between these rules and any statute, the provisions of the statute control.

Doc. No. 799568

Disclosure Provisions 059.53.02

The State Board of Insurance proposes to adopt Rules 059.53.02 .001-.008, concerning the disclosure of certain provisions to the debtor relating to credit life insurance and credit accident and health insurance. The purpose of these rules is to assure the debtor of a choice of insurer, to provide debtor with delivery of a policy at the time indebtedness is incurred, to provide certain mandatory policy provisions for protection of debtor, to provide application provisions if individual policy or group certificate is not delivered at the time the indebtedness is incurred, to prohibit certain provisions, to enumerate additional provision for group certificates, and to provide for termination of coverage.

These rules are proposed pursuant to the authority of Texas Insurance Code Annotated, Article 3.53.

.001. Debtor's Choice of Insurer. When credit life or credit accident and health insurance is required as additional security for any indebtedness, the person processing the indebtedness transaction shall advise the debtor prior to completion of the transaction of the debtor's right to furnish the required amount of insurance through existing policies of insurance owned or controlled by the debtor or to procure the required coverage from any insurer authorized to transact insurance business within this state.

.002. Delivery When Indebtedness Incurred. All credit life insurance and credit accident and health insurance shall be evidenced by an individual policy, or in the case of group insurance by a certificate of insurance, which in either case shall be delivered to the debtor at the time the indebtedness is incurred, except as hereinafter provided.

.003. Policy Provisions.

(a) Each individual policy or group certificate of credit life insurance or credit accident and health insurance delivered or issued for delivery in this state shall, in addition to the other requirements of law, set forth:

(1) the name and home office address of the insurer, and on group certificates, an identification of the master policy;

(2) the name and age or birth date of the insured debtor (or debtors, if joint life);

(3) the full amount of premium or the total identifiable insurance charge, if any, to the debtor, stated separately for credit life insurance and for credit accident and health insurance; however, if the indebtedness is an open-end revolving loan or charge account, there must be set forth, stated separately for credit life insurance and for credit accident and health insurance, the rate of insurance premium or payment per unit of coverage and how each premium is derived;

(4) the amount of insurance coverage;

(5) the effective date of insurance, and the termination date of insurance. The termination date shall not extend more than 15 days beyond the scheduled maturity date of the indebtedness except when extended without additional cost to the debtor. If the indebtedness is an open-end revolving loan or charge account, in lieu of the termination date, the conditions of termination shall be set forth;

(6) a description of the coverage;

(7) any and all exceptions, limitations, and restrictions to the coverage;

(8) a statement that the benefits, to the extent necessary to extinguish the unpaid amount of the indebtedness, will be paid to the creditor as first beneficiary, and will be applied by the creditor to reduce or extinguish such indebtedness; for credit life insurance, a statement that wherever the insurance benefits may exceed the amount necessary to extinguish the indebtedness, any such excess amount of benefit shall be paid by separate check or draft of the insurer to a second beneficiary named by the debtor, or to the debtor's estate, and for credit accident and health insurance, a statement that excess benefits will be paid to the insured debtor, if then living;

(9) statements that

(A) only the delivery of such excess benefit check or draft, at the option of the insurer, may be accomplished by the creditor acting for the insurer;

(B) the creditor shall not apply, nor require that any benefit be applied to the reduction of any indebtedness other than the indebtedness in connection with which the insurance was written;

(C) a copy of each and every claim check mailed to other than the insured debtor (whether payable to the creditor or to the second beneficiary) shall be mailed by the insurer to the insured debtor's last known address, and

(10) a statement indicating that upon discharge of the indebtedness by prepayment, renewal, refinancing, or otherwise, the insurance shall be terminated, but without prejudice to any claim originating prior to such termination, and that in all cases of termination prior to scheduled maturity, a refund of any unearned amount of premium paid by or charged to the debtor for insurance shall be made in accordance with the appropriate formula set forth in Chapter .53.10 of these rules. Such refund shall be paid to the debtor, or to the second beneficiary if the debtor is not living. No

such refund is required if the total amount thereof is less than \$1.00.

(b) If an accident and health insurance claim is in progress at the time of discharge of the indebtedness by prepayment, renewal, refinancing, or by other insurance, such claim shall continue during the originally scheduled term of insurance, as if there had been no such discharge of indebtedness. Upon termination of such continuing claim within the originally scheduled term of insurance, a refund shall be made of any then unearned premium. In the case of termination of credit life insurance due to death of the insured debtor (except by any policy excluding suicide, war risk, or noncommercial aviation), the life insurance premium paid or then due and payable to the insurer is deemed earned, and no refund thereof is required; however, in such instance, the accident and health insurance premium is not deemed earned and shall be refunded to the second beneficiary in accordance with Chapter .53.10 of these rules.

.004. Application Provisions.

(a) If said individual policy or group certificate of insurance is not delivered to the debtor at the time the indebtedness is incurred, a copy of the application for such individual policy or a notice of such proposed group insurance coverage shall be delivered to the debtor at the time such indebtedness is incurred. However, when insurance is voluntarily applied for more than 30 days later by the debtor, and such application for insurance is a transaction separate and apart from the credit transaction and is not a requirement of the creditor, and in the absence of a prior identifiable insurance charge to the debtor in the loan involved, a copy of such application or such notice conforming to these rules shall be delivered to the debtor when executed.

(b) Every such application or notice of proposed insurance shall be signed by the debtor and shall set forth:

(1) the name and home office address of the insurer and on notices of proposed group insurance, an identification of the master policy;

(2) the name and age of the debtor or debtors;

(3) the full amount of premium or the total identifiable insurance charge, if any, to the debtor, separately for credit life and for credit accident and health insurance;

(4) the amount of coverage;

(5) the effective date of insurance, if accepted by the insurer, and the termination date of insurance which shall not extend more than 15 days beyond the scheduled maturity date of the indebtedness except when extended without additional cost to the debtor;

(6) a brief description of the coverage applied for;

(7) a statement that upon acceptance of the insurance by the insurer and not later than 30 days after the date upon which the indebtedness is incurred the insurer shall cause the individual policy or the group certificate of insurance to be delivered to the debtor, and that if the insurance is not accepted by the insurer or by a substituted insurer, then any insurance charge made for such proposed insurance shall be fully refunded directly to the debtor; and

(8) a space indicated as the space for required signature by the debtor.

(c) The copy of such application or notice of proposed insurance shall refer exclusively to insurance coverage and shall be separate and apart from the loan, sale, or other credit statement of account, instrument or agreement, unless the information above required appears in type of at least equal

size and prominence as the other provisions of said statement of account, instrument, or agreement.

(d) Upon acceptance of the insurance by the insurer and within 30 days of the date upon which the indebtedness is incurred, the insurer shall cause the individual policy or group certificate of insurance to be delivered to the debtor.

.005. Prohibited Provisions. The policy or certificate of insurance shall not contain provisions which would encourage misrepresentation or are unjust, unfair, inequitable, misleading, deceptive, or contrary to law or to the public policy of this state.

.006. Additional Provisions for Group Certificates.

(a) A group certificate of insurance issued to a debtor under any plan charging the debtor an identifiable amount for insurance for a period of time greater than that of the shortest premium payment mode of the group policy issued to the creditor shall, in addition to all other requirements of these rules and regulations and of the laws of this state, clearly and prominently set forth that: (1) the creditor alone is liable for refunds of such excess charges as are unearned, and (2) the insurance company is not liable for such excess unearned charges not received, and (3) the liability of the insurance company for benefits is upon a month-to-month basis, or otherwise as set out in the group policy of insurance, and (4) the liability may be terminated by the insurance company or the creditor upon 30 days prior written notice to the debtor (see Rule .007(b)), and (5) that the insurer is not liable for claims beyond such interval.

(b) The certificate shall be so phrased as not to violate the public policy of the State of Texas and not to indicate to the ordinary debtor that insurance coverage had been provided commensurate to the identifiable charge appearing upon the certificate or for the full term of the indebtedness nor that the insurer would be obligated to the debtor for any such excess unearned charges.

.007. Termination of Coverage.

(a) If a debtor is covered by a group credit insurance policy providing for the payment of single premiums to the insurer, provision shall be made by the insurer that in the event of termination of the group policy for any reason, insurance coverage with respect to any debtor then insured under such policy shall be continued for the entire period for which the single premium has been paid, subject to the provisions of the policy relative to early termination of a debtor's insurance.

(b) If a debtor is covered by a group credit insurance policy providing for payment of premiums to the insurer on a monthly outstanding balance basis, then the policy shall provide that, in the event of termination of such group policy for any reason, the insured debtor shall be given written notice that coverage will continue for 30 days from the date of such notice, except where replacement of the coverage by the same or another insurer in the same or greater amount takes place without interruption of coverage and a new certificate reflecting such replacement coverage is delivered to such then insured debtor. The notice of termination required in this paragraph shall be given by the insurer or, at the option of the insurer, by the creditor.

.008. Interest on Premiums. If the creditor adds identifiable insurance charges or premiums for credit insurance to the indebtedness, and any direct or indirect finance, carrying, credit, or service charge is made to the debtor on such in-

insurance charges or premiums, the creditor must remit and the insurer shall collect on a single-premium basis only for each debtor so insured. In any event, the charge to a debtor shall be of the same mode and in an amount not to exceed the insurer's charge.

Doc. No. 799569

Filing and Approval of Forms and Rates 059.53.03

The State Board of Insurance proposes to adopt Rules 059.53.03.001-005, concerning the filing and approval of forms and rates in the matter of credit life insurance and credit accident and health insurance. The purpose of these rules is to insure specificity of rates and forms, to reasonably relate benefits to premiums charged, to define "premiums earned" and "claims incurred," and to provide for compliance of policies and applications.

These rules are proposed pursuant to the authority of Texas Insurance Code Annotated, Article 3.53.

.001. Submission of Rate Schedules. Every insurance company, when submitting a schedule of rates for consideration by the commissioner of insurance, shall identify the rates to be used with the policy form submitted for approval. In the alternative, specific reference in the case of each submission shall be made to the particular schedule of rates, or portions thereof, which are applicable to the specific policy form. The face or back page of every form or schedule submitted to the commissioner of insurance for his consideration under Article 3.53, Texas Insurance Code, shall have added to its identifying form number the additional identification: "(3.53)" if used only within the scope of Article 3.53; "(3.53 & 3.50)" if group life and used within the scope of Articles 3.53 and 3.50; "(3.53 & 3.44)" if individual life and used within the scope of Articles 3.53 and 3.44; "(3.53 & 3.70)" if individual accident and health only, and used within the scope of Articles 3.53 and 3.70-1 through 3.70-10. Such additional identification shall appear on issued copies of such forms.

.002. Reasonable Relation of Benefits to Premiums. As the basic test of the reasonableness of the relation of benefits to the premium charged, to be applied separately by policy form number, it is hereby declared that the benefits of credit life insurance or credit accident and health insurance, individual or group, shall not be considered to be reasonable in relation to the premium charged, unless it can be reasonably anticipated that a loss ratio of "claims incurred" to "earned premiums" is no less than the following

- (1) credit life
 - (A) 50% on single life;
 - (B) 66 2/3% on joint life.
- (2) credit accident and health:
 - (A) 63% for retroactive coverage, seven-day waiting period;
 - (B) 61% for retroactive coverage, 14-day waiting period;
 - (C) 59% for nonretroactive coverage, 14-day waiting period;
 - (D) 57% for retroactive coverage, 30-day waiting period;
 - (E) 52% for nonretroactive coverage, 30-day waiting period;

(F) 60% for nonretroactive coverage, 90-day waiting period.

.003. Earned Premiums. "Earned premium" means the total gross premiums which become due the insurance company, without reduction of any kind, except the premiums refunded or adjusted on account of termination of coverage, appropriately adjusted for changes in unearned premium reserve and claim reserve liabilities calculated from gross premiums, in force upon a pro rata basis.

.004. Claims Incurred. "Claims incurred" means the liability resulting from the happening of the contingency insured against whether paid, reported, not reported, or resisted on accounting dates, valued by date of occurrence and, without reduction for reinsurance, at amounts, excluding claims expenses, sufficient to discharge the company from all liability.

.005. Policies and Applications. Any individual policy, application, group policy, group certificate, or notice of proposed insurance shall be in full compliance with the law and the rules and regulations in Chapter .53 of the rules of the State Board of Insurance.

Doc. No. 799570

Presumptively Acceptable Relation of Credit Life Insurance Benefits to Premiums 059.53.04

The State Board of Insurance proposes to adopt Rules 059.53.04.001-007, concerning the presumptively acceptable relation of credit life insurance benefits to premiums. The purpose of the rules is to establish single life coverages per specified monthly outstanding balance indebtedness, to establish joint credit insurance, to establish the formula for premium charged to debtor for outstanding balance insurance, to provide for premiums for obligations paid in other than equal monthly installments, to establish requirements for presumed reasonableness of life insurance benefits in relation to premiums, and to provide for premiums based on age.

These rules are proposed pursuant to the authority of Texas Insurance Code Annotated, Article 3.53.

.001. Presumptively Reasonable Life Rates. The commissioner of insurance may presume (subject, however, to a rebuttal of the presumption) that the benefits of a credit life insurance form are reasonable in relation to the premium charged if the premium rate schedule for death benefits as filed does not exceed an amount equal, or mathematically equivalent, to the following maximum rates

(1) coverage on a single life provided by a group policy on the outstanding indebtedness basis: _____ per month per \$1,000 of outstanding balance of insured indebtedness;

(2) coverage on a single life provided by an individual or group policy on other than an outstanding indebtedness basis:

(A) _____ per year of coverage per \$100 of initial insured indebtedness for all credit transactions when the insured indebtedness is repayable in substantially equal monthly installments during the term of coverage; and

(B) _____ per year of coverage per \$100 of level life insurance where the amount of insured indebtedness remains level during the term of coverage and is repayable in a single sum at the end of the term;

(3) coverage on joint lives provided on the outstanding indebtedness basis: _____ per month per \$1,000 of outstanding balance of insured indebtedness;

(4) coverage on joint lives provided by an individual or group policy on other than an outstanding indebtedness basis:

(A) _____ per year of coverage per \$100 of initial insured indebtedness for all credit transactions when the insured indebtedness is repayable in substantially equal monthly installments during the term of coverage; and

(B) _____ per year of coverage per \$100 of level life insurance where the amount of insured indebtedness remains level during the term of coverage and is repayable in a single sum at the end of the term.

.002. Joint Credit Insurance.

(a) Where, with respect to a single indebtedness, coverage is provided on two lives, maximum presumptive credit life insurance premium rates shall not exceed those set forth in (3) and (4) of the above Rule .001.

(b) The phrase "two lives" as used in the preceding sentence means only spouses or business partners, and such persons must be jointly and severally liable for repayment of the single indebtedness and be joint signers of the instrument of indebtedness. Endorsers and guarantors are not eligible for credit insurance coverage. Joint life coverage shall not be written covering more than two lives. Jointly indebted persons shall not both be covered separately at single life rates.

(c) Joint life rates may not be charged for single life coverage.

(d) The writing of joint credit accident and health insurance is prohibited.

.003. Premium Charged to Debtor for Outstanding Balance Insurance. If the creditor-policyholder is charged a premium based on a monthly outstanding balance of insured indebtedness, the total identifiable insurance charge to the insured debtor shall not exceed that amount computed by the use of the mathematical equivalent of the actual monthly premium rates charged the creditor. Such mathematical equivalent charged to the insured debtor shall be computed on the following formula:

$$SP_n = \frac{(n + 1)}{20} O_p \quad (\text{or}) \quad O_p = \frac{20}{(n + 1)} SP_n$$

where

SP_n = Single Premium Rate per \$100 of initial indebtedness repayable in "n" equal monthly installments.

O_p = Monthly Outstanding Balance Premium Rate per \$1,000.

n = Original repayment period, in months.

.004. Premiums for Obligations Paid in Other Than Equal Monthly Installments. Premiums and premium rates for insurance covering obligations payable in other than substantially equal monthly installments during the period of coverage shall be determined in a manner resulting in a rate not exceeding the mathematical equivalent of the foregoing monthly decreasing term life rates.

.005. Conditions of Life Insurance Benefits. The foregoing rate test for the presumed reasonableness of life insurance benefits in relation to premiums is based upon the following requirements:

(1) That the credit life insurance contract may require submission of the debtor's written and signed evidence of the debtor's insurability or that the debtor be in gainful employment at the time the insurance becomes effective, or both, on a form filed with and approved by the commissioner of insurance, and that such contract contains no conditions for validity of insurance more restrictive than contestability based on written and debtor-signed material misrepresentation and no exclusions other than for suicide, nonscheduled aircraft, and war or military service hazard. In group life policies, such exclusions shall not remain effective after termination of the contestable period of the certificate. No mere policy condition precedent of unsigned insurability may be used.

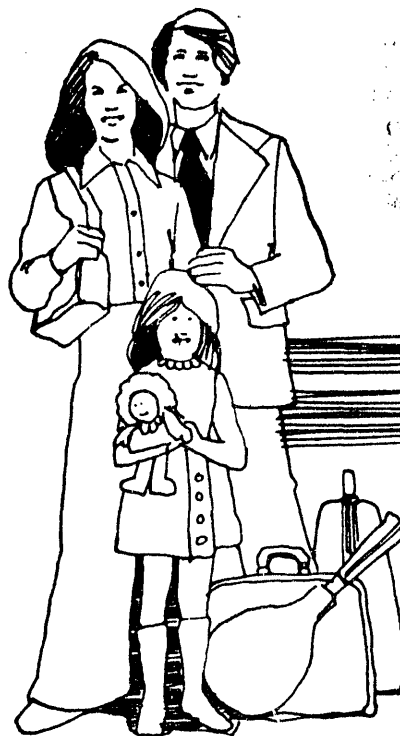
(2) That life insurance coverage is provided or offered to all debtors regardless of age; or to all debtors not older than the applicable age limit. The applicable age limit shall not be less than attained age of 65 years if such limit applies to the age when the insurance attached, or not less than attained age of 66 years if such limit applies to the age on the scheduled maturity date of the debt. No limitation of insurance amount or term based upon any attained age of less than age 65 shall be used.

(3) No property or casualty insurance coverage shall be combined with nor offered as a compulsory or optional package with any life or accident and health insurance written under this Chapter .53 of the rules and regulations of the State Board of Insurance.

.006. Premiums Based on Age. If the premiums are determined according to age of the insured debtor or by age brackets, appropriate adjustments in the rate and premium may be made according to age if such adjustments are actuarially consistent with the foregoing rates when applied regardless of actual age at issue and if such adjustments produce an aggregate premium not substantially greater than that produced by the foregoing rates, and such rates and actuarially consistent computations are filed with and approved by the commissioner of insurance.

.007. Standard for Additional Benefits. If a contract of insurance includes other lawful benefit or benefits for which standards of reasonableness of benefits in relation to premium are not elsewhere in these rules determined or described, any premium charged therefor in excess of the rates set forth in these rules shall be shown to the satisfaction of the commissioner of insurance to be based upon credible statistics, and shall be reasonable in relation to the additional benefit provided, and shall be in accordance with the basic loss ratio in Rule 059.53.03.002.

Doc. No. 799571



Presumptively Acceptable Relation of Credit Accident and Health Benefits to Premiums 059.53.05

The State Board of Insurance proposes to adopt Rule 059.53.05.001, concerning the presumptively acceptable relation of credit accident and health or disability insurance benefits to premiums. The purpose of this rule is to establish a presumptively reasonable rate schedule and to provide benefits payable after the 90th day of disability—nonretroactive.

This rule is proposed pursuant to the authority of Texas Insurance Code Annotated, Article 3.53.

.001. Presumptively Reasonable Accident and Health Rates. The commissioner of insurance may presume (subject, however, to a rebuttal of the presumption) that the benefits of an accident and health insurance form are reasonable in relation to the premium charged if the premium rate schedule for such accident and health benefits, as filed, does not exceed an amount equal, or mathematically equivalent, to the following maximum rates:

(1) Plans with seven-, 14-, and 30-day waiting periods:

Single Premium Rate per \$100 of Initial Insured IndebtednessBenefits Payable After:

Original number of equal monthly installments	<u>the 7th day of disability</u>	<u>the 14th day of disability</u>		<u>the 30th day of disability</u>	
	<u>Retroactive to first day</u>	<u>Retroactive to first day</u>	<u>Nonretro- active</u>	<u>Retroactive to first day</u>	<u>Nonretro- active</u>
3	—	—	—	—	—
4	—	—	—	—	—
5	—	—	—	—	—
6	—	—	—	—	—
7	—	—	—	—	—
8	—	—	—	—	—
9	—	—	—	—	—
10	—	—	—	—	—
11	—	—	—	—	—
12	—	—	—	—	—
13	—	—	—	—	—
14	—	—	—	—	—
15	—	—	—	—	—
16	—	—	—	—	—
17	—	—	—	—	—
18	—	—	—	—	—
19	—	—	—	—	—
20	—	—	—	—	—
21	—	—	—	—	—
22	—	—	—	—	—
23	—	—	—	—	—
24	—	—	—	—	—

Original Number of equal monthly installments	<u>the 7th day of disability</u> Retroactive to first day	<u>the 14th day of disability</u> Retroactive to first day	<u>Nonretro- active</u>	<u>the 30th day of disability</u> Retroactive to first day	<u>Nonretro- active</u>
25	—	—	—	—	—
26	—	—	—	—	—
27	—	—	—	—	—
28	—	—	—	—	—
29	—	—	—	—	—
30	—	—	—	—	—
31	—	—	—	—	—
32	—	—	—	—	—
33	—	—	—	—	—
34	—	—	—	—	—
35	—	—	—	—	—
36	—	—	—	—	—
37	—	—	—	—	—
38	—	—	—	—	—
39	—	—	—	—	—
40	—	—	—	—	—
41	—	—	—	—	—
42	—	—	—	—	—
43	—	—	—	—	—
44	—	—	—	—	—
45	—	—	—	—	—
46	—	—	—	—	—
47	—	—	—	—	—
48	—	—	—	—	—

Original Number of equal monthly installments	<u>the 7th day of disability</u> Retroactive to first day	<u>the 14th day of disability</u> Retroactive to first day	<u>Nonretro- active</u>	<u>the 30th day of disability</u> Retroactive to first day	<u>Nonretro- active</u>
49	—	—	—	—	—
50	—	—	—	—	—
51	—	—	—	—	—
52	—	—	—	—	—
53	—	—	—	—	—
54	—	—	—	—	—
55	—	—	—	—	—
56	—	—	—	—	—
57	—	—	—	—	—
58	—	—	—	—	—
59	—	—	—	—	—
60	—	—	—	—	—
<u>Basic Loss Ratio:</u>	63%	61%	59%	57%	52%

(2) Plan with 90-day waiting period. A single premium rate of _____ per year of coverage per \$100 of initial insured indebtedness may be presumed reasonable for a 90-day nonretroactive disability benefit when such benefit is written in connection with an individual policy or group certificate of credit life insurance. Such plan shall not be written for any term of less than six months. The basic loss ratio is 60%.

Doc. No. 799572

Standard of Benefits for Credit Accident and Health Insurance 059.53.06

The State Board of Insurance proposes to adopt Rule 059.53.06.001, concerning the standards and principles for application of credit accident and health insurance rates. The purpose of this rule is to establish standards, to provide a mathematical formula for rates for premiums other than a single premium basis, to establish to whom such insurance contract may be issued, and to define "total disability."

This rule is proposed pursuant to the authority of Texas Insurance Code Annotated, Article 3.53.

.001. *Standards and Principles for the Application of the Rates.* The standards and principles for the application of the rates set forth for credit accident and health insurance are as follows:

(1) The initial amount of insured indebtedness to which the rate is applied shall not exceed the aggregate of the insured portion of the periodic scheduled unpaid installments of the indebtedness.

(2) The indebtedness must be repayable in substantially equal monthly or other periodic installments during the period of coverage. If the indebtedness is of level amount during its entire scheduled term and is to be repaid in one single sum, the policy shall define the daily benefit for any disability coverage written as a fraction having as its numerator the initial amount of insured indebtedness and as its denominator, the total number of days in the term of insured indebtedness. If the indebtedness is repayable in irregular installments, the policy shall define the daily benefit for any disability written as a fraction having as its numerator the

scheduled installment payment amount and as its denominator the number of days in the installment payment period.

(3) The rates for premiums payable on other than a single premium basis shall be the mathematical equivalent of the rates set forth in Chapter .53.05 of these rules. Such premium rates will be deemed the mathematical equivalent of the foregoing single premium rates if such rates produce a total premium for any duration and amount of insurance equal to the corresponding single premium for the same duration and amount of insurance.

$$\frac{O}{p} = \frac{20}{n+1} \frac{SP}{n}$$

(4) The credit accident and health insurance contract may require written and signed evidence of insurability (inclusive of age and gainful employment) and where offered, shall be offered to all eligible debtors, and shall contain:

(A) no provisions excluding or denying a claim for disability resulting from pre-existing conditions except for those conditions for which the insured debtor received medical diagnosis or treatment within the six months immediately preceding the effective date of the debtor's coverage and which caused a period of loss within six months following the effective date of coverage; provided, however, that any subsequent continuous period of disability commencing thereafter, resulting from such condition, shall be covered under provision of the policy;

(B) no provision more restrictive as to validity of insurance than contestability based on material misrepresentation in any required written and debtor-signed evidence of insurability (no mere policy condition precedent of validity) and no other provision which excludes or restricts liability in the event of disability caused in a specified manner except that it may contain provisions excluding or restricting coverage in the event of:

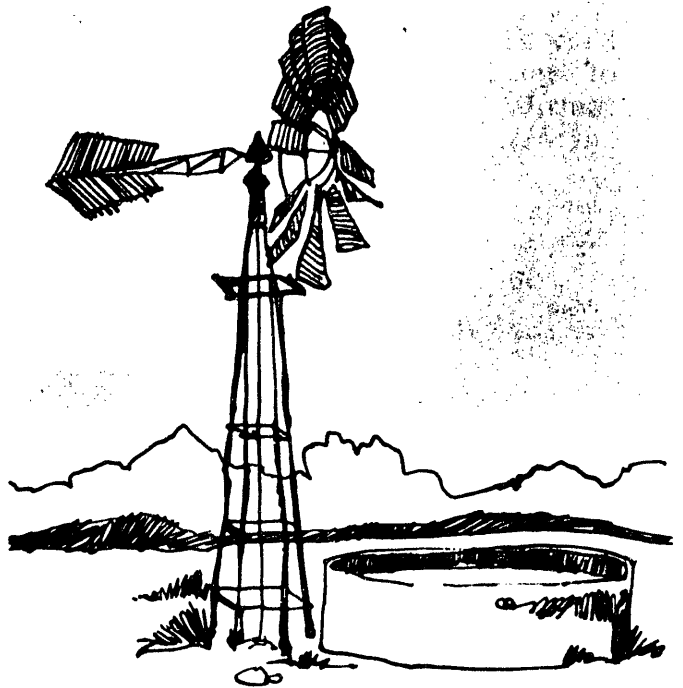
- (i) elective abortion;
- (ii) normal pregnancy, except complications of pregnancy;
- (iii) intentionally self-inflicted injuries;
- (iv) flight in nonscheduled aircraft;
- (v) foreign travel or foreign residence; and
- (vi) loss resulting from war or military service;

(C) only age restrictions making ineligible for coverage debtors 64 or over at the time the indebtedness is incurred or debtors who will have attained age 66 or over on the maturity date of the indebtedness, or else no age restrictions;

(D) provision for a daily benefit equal in amount to 1/30 (or other applicable fraction) of the scheduled monthly (or other specified mode of installment) payments on the indebtedness; and

(E) for the purpose of total disability insurance, a definition of "total disability" which provides coverage during the first 12 months of such disability even though the insured is able to perform an occupation other than the one he held at the time such disability occurred. During the first 12 months of such disability, the definition of "total disability" must relate such disability to the occupation of the debtor at the time the disability occurred. After such disability continues for more than 12 months, the definition of "total disability" may relate such continuing disability to the inability to perform any occupation for which the debtor is reasonably fitted by education, training, or experience.

Doc. No. 799573



Deviation Procedures 059.53.07

The State Board of Insurance proposes to adopt Rules 059.53.07.001-.007, concerning the deviation procedures to be used in the application of credit life insurance and credit accident and health insurance rates. The purpose of these rules is to allow deviation by case, to prescribe the form therefor, to determine case rate, to establish an effective period of case rate, to provide for case rate where the case ratio is above or below the acceptance range, to establish minimum changes, and to define "acceptance range," "account," "adjustment constant," "basic loss ratio," "case," "class of business," "credible size," "earned premium," "experience period," "experience year," "incurred claims," and "loss ratio limit."

These rules are proposed pursuant to the authority of Texas Insurance Code AAnnotated, Article 3.53.

.001. *Deviation by Case Allowed.* Notwithstanding the determination by the State Board of Insurance of presumably acceptable maximum rates which are reasonable in relation to the benefits of a policy providing the coverage to which the rates are applicable, an insurer who has experienced excessive loss ratios or who fails to develop the minimum loss ratio as defined in Rule 059.53.03.002 of these rules, for a case consisting of a single account or combination of accounts, as "account" is hereinafter defined, may be permitted, at its own request, or required by the commissioner, to adjust the premium rate or premium rate schedule for such case in accordance with the deviation procedures set out in this subchapter.

.002. *Deviation Form.* Any report required by this subchapter shall be submitted to the commissioner through the Credit Life Section in the manner prescribed by the following form:

CREDIT INSURANCE DEVIATION REQUEST FORM
STATE OF TEXAS
Date _____

(To be filed on or before June 1)

Account identification number _____ or () Combination*

Name _____

*Experience of accounts may be combined only within the same plan of benefits and class of business. If experience of accounts is combined, attach a list of those included.

Class of business () Credit Unions () Other cash loans
() Commercial or Savings Bank () Other sales finance

Plan of benefits () Credit life, Death Benefits only () Credit Health ___ days
() Retro () Nonretro

() Other

Part A - Case Experience

() Calendar Year 19__ or () Policy Year ending 19__

Experience of: () Total case or () State only or () Other _____
Describe

<u>1. Actual Earned Premiums</u>	<u>Credit Life</u>	<u>Credit Health</u>
a. Gross premium written	_____	_____
b. Refunds on terminations	_____	_____
c. Net (a-b)	_____	_____
d. Premiums due but unpaid, beginning of period	_____	_____
e. Premiums due but unpaid, end of period	_____	_____
f. Premium reserve, beginning of period	_____	_____

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g. Premium reserve, end of period	_____	_____
h. Earned premiums (c - d + e + f - g)	_____	_____
2. <u>Incurred Claims</u>		
a. Claims paid	_____	_____
b. Unreported claims, beginning of period	_____	_____
c. Unreported claims, end of period	_____	_____
d. Claim reserve beginning of period	_____	_____
e. Claim reserve, end of period	_____	_____
f. Incurred Claims (a - b + c - d + e)	_____	_____
	<u>Credit Life</u>	<u>Credit Health</u>
3. <u>Actual Loss Ratio (2)f ÷ (1)h</u>	_____ %	_____ %

Part B - Case Rates

A separate Part B of this report is required separately for credit life and credit health insurance for each plan of benefits and for each class of business. However, no Part B is required for credit insurance for which there is no charge to the debtor. If there is no such charge for insurance provided for this account or combination of accounts, so indicate.

() No Charge to Debtor

If case rates are carried forward from a previous year, include a copy of Part B of the report on which they are based. Otherwise, complete this Part B.

Rates for Currently

Original Repayment Period, in MonthsIssued Indebtedness612243660120Single Premium per \$100Single Charge to Debtors, per \$100

If outstanding balance premium, show monthly rate per \$1,000

(Applicable to a 12-month indebtedness if variable by term of indebtedness)

1. Experience Period: () 1 Year, () 2 years, or () 3 Years

Ending _____

2. Earned Premiums

3. Incurred Claims _____

a. Actual earned premium _____

b. Earned premium at
presumptive rate level _____4. Ratio of Incurred
Claims to presumptive
premiums (3 ÷ 2b) _____ %

(Items 2a and 3 above will be from Part A of this and previous years' reports.)

5. Basic Loss Ratio _____

6. Actual Case Ratio
(4 ÷ 5) _____

7. Acceptance Range a. _____ to

8. Adjustment Constant _____

b. _____

Compare 6 with 7a and with 7b.

() If not less than 7a nor more than 7b - Case rates equal presumptive rates.

() Otherwise, complete case rate calculation on the next page of this form.

CASE RATE CALCULATION

(Actual Case Ratio falls outside Acceptance Range)

() Item 6 is greater than 7b -- Case rates equal presumptive rates times
Deviation Factor calculated as follows:

a. Adjusted Case Ratio (6 - 8) _____

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- b. Adjusted Case Ratio - 1.00 _____
- c. Basic Loss Ratio (same as 5) _____
- d. $1.25 \times (b) \times (c)$ _____
- e. Deviation Factor $(1.00 + (d))$ _____

() Item 6 is less than 7a — Case rates equal presumptive rates times
Deviation Factor calculated as follows:

- a. Adjusted Case Ratio $(6 + 8)$ _____
() For Credit Life Insurance
- b. Deviation Factor=Adjusted Case Ratio (a) _____
() For Credit Health Insurance
- c. Limit (See Rule 059.53.07.007(1)) _____
() If Adjusted Case Ratio exceeds Limit
- d. $1.00 - \text{Adjusted Case Ratio } (1.00 - (a))$ _____
- e. Basic Loss Ratio (same as 5. Part B -
Case Rates) _____
- f. $1.25 \times (d) \times (e)$ _____
- g. Deviation Factor $(1.00 - (f))$ _____
() If Adjusted Case Ratio does not
exceed Limit.
- h. Basic Loss Ratio
(Same as 5. Part B - Case Rates) _____
- i. Deviation Factor $(2 \times (a) \times (h))$ _____

Name of Company _____

By _____

Title _____

Date _____

.003. Determination of Case Rate.

(a) For cases which are not of credible size, or have no experience, the case rate shall be the presumptive rate.

(b) For cases which are of credible size, the case rate shall be the presumptive rate if the actual case ratio is within the acceptance range.

(c) For cases which are of credible size, the case rate shall be the presumptive rate derived under Rule .005 below if the actual case ratio is above or below the acceptance range.

(d) As used in this rule, "actual case ratio" means the ratio of claims incurred to premiums earned at the presumptive rate during the experience period divided by the basic loss ratio.

(e) For purposes of this rule:

(1) if the coverage for a single creditor which qualifies as a case has been in force with the insurer for less than the experience period, the claim experience of the creditor while covered by any prior insurer shall be included to the extent necessary in determining the appropriate case ratios; and

(2) the experience considered in the determination of case rates shall be countrywide experience of the case unless the insurer makes the one-time election to use only Texas experience. The election to use only Texas experience must be accompanied by a certification that the insurer uses the same single-state basis in determining the case ratios in each state in which the case has experience. A grouping of states may be used subject to the same requirements concerning consistency and certification.

.004. Effective Period of Case Rate. The case rate as determined in Rule .003 above remains with the case, regardless of any change of insurers, and shall continue for a period equal to the experience period on which it was based, not to exceed three years. Where the case rate applies to a group of accounts, the case rate will continue to apply to every account which was grouped for determination of the case rate and to only those accounts. If an account drops out of the group, the case rate will continue to apply to every account remaining within the group and to each account in the original group becoming insured with a new insurer. No commissions shall be paid on any amount of increased premium authorized under any upward rate deviation, and commissions on the entire remaining premium produced by rates decreased hereunder by downward deviation shall be reduced by the same percentage as the percentage of the rate decrease.

.005. Case Rate Where the Case Ratio is Above or Below the Acceptance Range. The case rate for cases in which the actual case ratio is above or below the acceptance range should be determined by following these steps:

(1) Determine the adjusted case ratio by:

(A) deducting the proper adjustment constant from the actual case ratio if the case ratio is above the acceptance range; or

(B) adding the proper adjustment constant to the actual case ratio if the actual case ratio is below the acceptance range.

(2) For both credit life and credit accident and health insurance, if the adjusted case ratio exceeds 1.00, the case rate will be the product of the deviation factor and the presumptive rate. For such purpose the deviation factor equals:

$$1 + [(\text{basic loss ratio}) \times (1.25) \times (\text{adjusted case ratio} - 1)]$$

(3) For credit life insurance, if the adjusted case ratio is less than 1.00, the case rate shall be the product of the adjusted case ratio and the presumptive rate.

(4) For credit accident and health insurance:

(A) if the adjusted case ratio is less than 1.00 but greater than the applicable loss ratio limit as defined herein, the case rate shall be the product of the deviation factor and the presumptive rate. For such purpose the deviation factor equals:

$$1 - [(\text{basic loss ratio}) \times (1.25) \times (1 - \text{adjusted case ratio})]; \text{ and}$$

(B) if the adjusted case ratio is less than or equal to the applicable loss ratio limit, the case rate shall be the product of the deviation factor and the presumptive rate. For such purpose the deviation factor equals:

$$(\text{adjusted case ratio}) \times (\text{basic loss ratio}) \times 2.$$

.006. Minimum Changes.

(a) For credit life insurance, the currently charged premium rates will be considered the case rates if the single premium (or its equivalent) case rate per \$100 of initial amount of insured indebtedness repayable in 12 equal monthly installments as determined under this subchapter is within \$.05 of the corresponding premium under the currently charged premium rates for the case.

(b) For credit accident and health insurance, the currently charged premium rates will be considered the case rate if the case rate as determined under this subchapter is within 5.0% of the currently charged premium rates for the case.

.007. Definitions for This Subchapter. As used in this subchapter:

(a) "Acceptance range" means:

(1) For credit life insurance, the following amounts by type of creditor and premium volume:

Type of Creditor

	Credit Union or Other Cash Loans	Commercial and Savings Banks Or Other Sales Finance	Acceptance Range
	\$ 50,000 - \$125,000	\$ 50,000 - \$ 200,000	0.80 - 1.20
Earned	125,001 - 300,000	200,001 - 500,000	0.85 - 1.15
Premium	300,001 - 650,000	500,001 - 1,000,000	0.85 - 1.15
Volume.	650,001 or more	1,000,001 or more	0.90 - 1.10

(2) For credit accident and health insurance, the following amounts by type of creditor and premium volume:

Type of Creditor

	Credit Union or Other Cash Loans	Commercial and Savings Banks Or Other Sales Finance	Acceptance Range
	\$ 50,000 - \$ 75,000	\$ 50,000 - \$ 100,000	0.80 - 1.20
Earned	75,001 - 125,000	100,001 - 175,000	0.85 - 1.15
Premium	125,001 - 250,000	175,001 - 350,000	0.85 - 1.15
Volume	250,001 or more	350,001 or more	0.90 - 1.10

(b) "Account" means the aggregate credit life insurance or credit accident and health insurance coverage for a single plan of benefits and for a single class of business written through a single creditor by the insurer, whether coverage is written on a group or individual policy basis.

(c) "Adjustment constant" means:

(1) For credit life insurance, the following amounts by type of creditor and premium volume:

Type of Creditor

	Credit Union or Other Cash Loans	Commercial and Savings Banks Or Other Sales Finance	Adjustment Constant
	\$ 50,000 - \$125,000	\$ 50,000 - \$ 200,000	0.15
Earned	125,001 - 300,000	200,001 - 500,000	0.10
Premium	300,001 - 650,000	500,001 - 1,000,000	0.05
Volume	650,001 or more	1,000,001 or more	0.00

(2) For credit accident and health insurance, the following amounts by type of creditor and premium volume:

	<u>Type of Creditor</u>		
	Credit Union or Other Cash Loans	Commercial and Savings Banks Or Other Sales Finance	Adjustment Constant
	\$ 50,000 - \$ 75,000	\$ 50,000 - \$100,000	0.15
Earned	75,001 - 125,000	100,001 - 175,000	0.10
Premium	125,001 - 250,000	175,001 - 350,000	0.05
Volume	250,001 or more	350,001 or more	0.00

(d) "Basic loss ratio" means:

(1) for credit life insurance: single lives 50%; joint lives 66-2/3%;

(2) the following percentages for the indicated plans of credit accident and health insurance:

(A) 63% for retroactive coverage with a seven-day waiting period;

(B) 61% for retroactive coverage with a 14-day waiting period;

(C) 59% for nonretroactive coverage with a 14-day waiting period;

(D) 57% for retroactive coverage with a 30-day waiting period;

(E) 52% for nonretroactive coverage with a 30-day waiting period; and

(F) 60% for nonretroactive coverage with a 90-day waiting period.

(e) "Case" means:

(1) an account if the total earned premium for the account during the most recent three experience years, including any experience with a prior insurer, has been \$50,000 or more during a one-year experience period or \$125,000 or more during a three-year experience period.

(2) a combination of all the insurer's accounts of the same plan of benefits and class of business which combination has experience in this state, excluding all accounts which meet the criterion for inclusion under Rule .007(e)(1).

(f) "Class of business" means any of the following:

(1) credit unions;

(2) commercial and savings banks; and savings and loan associations;

(3) other cash loans, including but not limited to small loans finance companies, and industrial bank loans; and

(4) sales finance including dealers or merchandisers, but not limited to discount transactions.

(g) "Credible size" means a case with \$50,000 or more of earned premium during a one-year experience period, or \$125,000 or more during a three-year experience period.

(h) "Earned premium" means, unless otherwise specified, premiums at the level of the presumptive premium rate standards. If the rates applicable to the account are not at the presumptive level or at a uniform percentage of the

presumptive rates, the amount of premium which would have been earned at the presumptive rates shall be approximated by a reasonable method set out in an attachment by the insurer to its Credit Insurance Deviation Request form.

(i) "Experience period" means the most recent three experience years or a lower number of full years if it produces an earned premium in the largest size group for that class of business. The size classifications by class of business are found in the definitions of "acceptance range" and "adjustment constant."

(j) "Experience year" for a group policy means a 12-month period ending on the policy anniversary or renewal date or on a calendar year-end. "Experience year" for individual policies means a calendar year. Experience for a given account or permitted combination of accounts shall be reported consistently from year to year. If a case consists of a combination of accounts, the experience year for such case may be the 12-month period for each account ending on its policy anniversary or renewal date. For group insurance cases which consist of a grouping of accounts which are not themselves credible, the experience period will be constructed for each calendar year by using the policy years of all accounts in the grouping which ended in that calendar year.

(k) "Incurred claims" means the total claims paid during the year, appropriately adjusted for the change in claim reserves during the year including reserves for reported claims in process of settlement and claims incurred but not reported.

(l) "Loss ratio limit" means the following loss ratios for the indicated plans of credit accident and health insurance:

(1) 44% for retroactive coverage with a seven-day waiting period;

(2) 51% for retroactive coverage with a 14-day waiting period;

(3) 59% for nonretroactive coverage with a 14-day waiting period;

(4) 67% for retroactive coverage with a 30-day waiting period; and

(5) 89% for nonretroactive coverage with a 30-day waiting period.

Doc. No. 799574

Experience Calls 059.53.08

The State Board of Insurance proposes to adopt Rule 059.53.08.001, concerning experience calls. The purpose of this rule is to establish requirements for the maintenance of statistical data for the submission of experience reports in response to the specific annual call of the commissioner of insurance.

This rule is proposed pursuant to the authority of Texas Insurance Code Annotated, Article 3.53.

.001. Statistical Data and Annual Experience Calls. Insurers writing credit life insurance and credit accident and health insurance in Texas shall keep statistical data in such form and manner as necessary to enable the commissioner to determine if rates are reasonable in relation to the benefits afforded by the various policy contracts together with appropriate expenses. Each such insurer shall submit experience reports as shall be required by specific annual call of the commissioner upon reporting forms supplied by such call. The experience reports required by this subchapter shall not replace other annual reports of credit insurance experience and are separate and distinct from the NAIC annual statement and from the deviation request permitted by Rule 059.53.07.001 and are not used in any manner to determine the financial condition of the company.

Doc. No. 799575

Additional Coverages 059.53.09

The State Board of Insurance proposes to adopt Rule 059.53.09.001, concerning additional coverage. The purpose of this rule is to establish procedure for broadening types of coverages other than those set forth in Chapter .53 of the rules of the State Board of Insurance.

This rule is proposed pursuant to the authority of Texas Insurance Code Annotated, Article 3.53.

.001. Proposal for Other Types of Coverage. If a company proposes to write any type of coverage other than those set forth in Chapter .53 of the rules of the State Board of Insurance, it may request the board to set a public hearing to determine if a public need exists for such coverage and to determine, through credible statistics, whether the rate proposed may be presumed to be reasonable in relation to the benefits offered, until such time that experience indicates a different rate.

Doc. No. 799576

Premium Refunds 059.53.10

The State Board of Insurance proposes to adopt Rules 059.53.10.001-.007, concerning premium refunds in the matter of credit life insurance and credit accident and health insurance. The purpose of these rules is to establish refunds for unearned premiums, to establish procedures for the payment of refunds, to establish the responsibility for refunds, to provide for maintenance of refund records, to establish a refund formula in the policy, whether individual or group, to establish a minimum refund, and to provide for treatment of refunds for partial months.

These rules are proposed pursuant to the authority of Texas Insurance Code Annotated, Article 3.53.

.001. Refund of Unearned Premiums. With respect to policies issued and certificates delivered after the effective operative date of these rules:

(1) the refund of an unearned amount paid by or charged to a debtor for reducing term credit life insurance, or for credit accident and health insurance on which charges to the debtor are payable by other than a single sum, and for level term credit life insurance must not be less than the pro rata gross unearned amount charged;

(2) the refund of an unearned amount paid by or charged to a debtor for reducing term credit life insurance or for credit accident and health insurance on which the insurance charges to the debtor are paid in a single sum must not be less than the amount computed by the "sum of the digits" formula, commonly known as the "Rule of 78."

.002. Procedures for Payment of Refunds. Upon the termination of insurance prior to maturity, each debtor is entitled to receive from the insurer or other entity legally responsible under either the lending laws or insurance laws of this state any refund of unearned identifiable insurance charges by cash, or by check, in accordance with the insurer's refund formula. Insurers shall be responsible for the establishment of procedures by which refunds or credits are to be made, and shall furnish to creditors schedules for refunds or credits to be made in the event of termination of insurance. Insurers shall also furnish instructions to creditors with respect to their duties in the making of such refunds or credits.

.003. Responsibility for Refunds. Where insurance charges or premiums are paid by or charged to the debtor and such funds are paid to the insurer, the insurer is responsible for making the refund to the debtor (or to the debtor's estate). Where discharge of the insurer's responsibility for completion of such refunds is delegated by the insurer to the creditor, the actions of such creditor will be deemed by the commissioner of insurance to be acts of the insurer.

.004. Refund Records. The insurer must maintain in its home office for inspection by the commissioner records of the completion of such refunds to debtors. Such records must consist of written statements by the creditors of the completion or noncompletion of each refund due, and must specify the date and amount of such refund, to whom the refund was paid or credited, and must include data sufficient to verify the accuracy of the computation of the refund.

.005. Refund Formula in Policy. The requirement for filing refund formulas will be satisfied if the formulas are set forth in the individual policy or group policy filed with the commissioner and not disapproved. If the appropriate refund formula is the "sum of the digits" formula, commonly known as the "Rule of 78," it shall be sufficient to so refer to such formula by either description in the policy.

.006. Refunds Less Than \$1.00. A premium refund or credit need not be made if the amount thereof is less than \$1.00.

.007. Treatment of Partial Months. In calculating such refunds, partial months may be treated as though the in-

insurance had terminated on the last day of the premium month in which the refund is due, or, at the option of the insurer, the "15-day rule" may be used.

Doc. No. 799577

Responsibilities and Obligations of Insurance Companies and Their Agents and Representatives 059.53.11

The State Board of Insurance proposes to adopt Rules 059.53.11.001-.010, concerning the responsibilities and obligations of insurance companies and their agents and representatives. The purpose of these rules is to establish the responsibilities of insurers, to provide for the delegation by insurer of responsibilities of policy issuance and premium collection, to establish restrictions on interest of creditors under group and individual policies, to provide for the delegation by insurer of certain claims responsibilities, to provide for the establishment and maintenance of claim files by the insurer, to establish method of claims payment, and to impose additional restrictions on settlement and adjustment of claims, to provide for audit by insurer of outstanding indebtedness method of premium collection, to establish method and extent of supervision of credit insurance operations by each insurer.

These rules are proposed pursuant to the authority of Texas Insurance Code Annotated, Article 3.53.

.001. Responsibilities of Insurers. Each insurer transacting credit insurance business in this state shall, in compliance with the laws of this state and the regulations promulgated thereunder, be responsible for:

(1) the approval, production, reproduction, amendment, and modification of its policies, certificates of insurance, and other insurance forms including rate schedules, and for the issuance, cancellation, or termination of such policies, certificates, or forms;

(2) the selection and appointment of its agents and representatives;

(3) the proper charge, collection, remittance, and refund of credit insurance premiums;

(4) the receipt of copies of all certificates of insurance, and other insurance forms issued in its name by its agents or representatives;

(5) the computation and maintenance of policyholder and claims reserves in accordance with Subchapter .12 of these rules; and

(6) the investigation of claims filed against the insurer and the payment, adjustment, settlement, or denial of such claims. None of the foregoing ultimate responsibilities of the insurer may be delegated to any other person, nor may the performance of such responsibilities be assigned to any creditor or to any agent or representative selected and appointed by the insurer, except as provided in these rules.

.002. Delegation by Insurer of Responsibilities of Policy Issuance and Premium Collection. The insurer, by its group policy, may authorize the group policyholder-creditor to issue certificates of group insurance or may authorize a legally appointed insurance agent of the insurer to issue individual policies of insurance and, respectively, to collect the insurance charge under the group policy, or premium therefor

under an individual policy, provided that the master group insurance policy with the creditor or the agent's agreement with the agent under which such authority is granted shall require that:

(1) the creditor issue such group certificate, or the agent issue such individual policy in the name of the insurer, and payment of the respective policy premium shall be by a check payable to the insurer or by deposit to an account of the insurer under the sole control of the insurer;

(2) a "home office" copy of each certificate or policy so issued, together with the premium therefor, shall be delivered to the insurer within 30 days after the certificate or policy is issued;

(3) refunds of unearned premiums shall be made in accordance with Subchapter .10 of these rules; and

(4) no creditor or creditor agent may knowingly issue any group certificate of insurance which, alone, or in conjunction with other group certificates issued on the same risk, will in the aggregate exceed the group credit life insurance limits of this state.

No insurer may authorize, and no insurance agent, or group policyholder with their respective capacities may issue any policy or certificate of insurance or collect any premium or insurance charge therefor or make any refund of premium, except only pursuant to and in accordance with either a master group insurance policy or an agent's agreement in compliance with this rule.

.003. Restrictions on Interest of Creditors under Group and Individual Policies. No group policy may be issued to other than a bona fide creditor. No first beneficiary may be designated except a creditor. No creditor may be designated as owner of the individual policy, nor have any rights thereunder other than that of first beneficiary except as specifically authorized by law.

.004. Delegation by Insurer of Certain Claims Responsibilities. The insurer may designate or engage one or more representatives for the purposes of investigating or settling claims, processing production reports, calculating reserves, and performing other administrative services authorized by law, provided:

(1) such services are performed under the supervision and direction of the insurer and the insurer shall remain responsible for their proper performance;

(2) the work product of representatives of the insurer are the property of the insurer and are retained in the possession of the insurer, together with the supporting data and information used in their preparation; and

(3) all claims shall be promptly reported to the insurance company, or its designated claim representative, and all claims shall be settled as soon as reasonably possible and in accordance with the terms of the insurance contract.

.005. Claim Files Maintained by Insurer. The insurance company shall establish and maintain an adequate claims register and claim files, which may be reviewed and examined by the commissioner of insurance.

.006. Proofs of Loss. Adequate proofs of loss must be in the possession of the insurance company at the time its funds are disbursed in payment of claims. Such proofs of loss shall include data sufficient for the insurer to determine proper amounts of any excess benefit payable to a beneficiary other than the creditor.

.007. Method of Claims Payment. All claims shall be paid either by draft drawn upon the insurance company or by check of the insurance company to the order of the specific beneficiary to whom payment of the claim is due.

.008. Additional Restrictions on Settlement and Adjustment of Claims. No plan or arrangement shall be used whereby any person, firm, or corporation other than the insurer or its designated claim representative shall be authorized to settle or adjust claims. The creditor shall not be designated as claim representative for the insurer in settling or adjusting claims; however, a group policyholder may, by arrangement with the group insurer, draw drafts or checks in payment of claims due only to the group policyholder subject to audit and review by the insurer. Nothing herein may be construed to relieve the insurance company from the responsibility for the proper settlement, adjustment, and payment of all claims to proper beneficiaries in accordance with the terms of the insurance contract.

.009. Audit by Insurer of Outstanding Indebtedness Method of Premium Collection. When the outstanding indebtedness method of premium collection is used in the writing of credit life, or credit accident and health insurance, it shall be the responsibility of the insurer to audit each of its creditor accounts at least annually, verifying the accuracy of premium payments, or other identifiable insurance charges, premium refunds, and claims incurred and be prepared to exhibit the results of such audit upon request of the commissioner of insurance. The insurer shall require of the creditor under such insurance that a copy of each group certificate as issued to each debtor shall be forwarded to the insurer within 30 days after issuance by said creditor.

.010. Supervision of Credit Insurance Operations. Each insurer transacting credit insurance in this state shall be responsible to conduct a thorough annual review of each creditor with respect to its credit insurance business with such creditor to assure compliance with the insurance laws of this state and the regulations promulgated thereunder. Such review shall include but not be limited to a determination that:

- (1) the proper charges to debtors are being made by the creditor;
- (2) the proper refunds are being made by the creditor;
- (3) all claims are being filed and properly handled;
- (4) amounts of insurance payable on death in excess of the amounts necessary to extinguish the indebtedness are properly calculated and reported to the insurer in proofs of loss;
- (5) the creditor is promptly and fairly processing complaints concerning its credit insurance operations and is maintaining proper procedures for and records of the complaints processed; and
- (6) authorized certificate and policy forms are being used and delivered to insured debtors.

Doc. No. 79957@

Policy and Claims Reserves 059.53.12

The State Board of Insurance proposes to adopt Rules 059.53.12.001 and .002 for the purpose of providing for the establishment of policy reserves and claims reserves for credit life insurance and credit accident and health insurance.

These rules are proposed pursuant to the authority of Texas Insurance Code Annotated, Article 3.53.

.001. Policy Reserves.

(a) Except as provided in Rule .002 below, the minimum reserves for premium refunds required by these rules and the payment of benefits under outstanding credit life insurance policies and certificates may not be less in the aggregate than 130% of the reserves computed on the 1958 CSO Mortality Table with interest not to exceed 5.5%; or, at the option of the company, such reserves may be maintained at 100% of the reserves computed on the 1941 CSO Mortality Table with interest not to exceed 5.5%.

(b) If the aggregate gross premiums charged for outstanding certificates issued under any group policy of credit life insurance are not greater than the aggregate of the corresponding tabular net premiums computed on the 1958 CSO Mortality Table with interest not to exceed 5.5%, the minimum reserves required for such certificates may not be less in the aggregate than 100% of the reserves computed on such table.

(c) The reserve for credit and accident and health insurance or disability insurance may not be less than the amount of unearned premium calculated from gross premiums in force upon a pro rata basis as required by Texas Insurance Code Annotated, Article 1.10(3).

.002. Claims Reserves.

(a) The insurer shall set up adequate reserves for claims on credit life and credit accident and health insurance, in addition to the policy reserves already described. Such claim reserves shall be based upon appropriate consideration for liability under each of the following categories:

- (1) the liability on claims which are known to be due and already payable, but which have not yet been paid;
- (2) the additional reserve on claims for ongoing and now continuing disability benefits which have already been reported, and on which future payments will be due during the continuance of this disability;
- (3) the liability on claims which are incurred and benefits now due but not yet reported, but which will be payable when they are reported;
- (4) the reserve on claims for disability benefits which are incurred but not yet reported, and on which future payments will be due during the continuance of this disability;
- (5) the reserve on allocated projected expense of claim settlement (investigation, legal action, etc.); and
- (6) the unallocated loss adjustment expense reserve which represents the expense of in-house personnel to orderly process and settle the liabilities established under Rule .002(a)(1)-(5).

(b) The company may rely upon credible experience developed by its own claim experience, industry-wide experience, or any other available source which produces an adequate reserve for the liability described under Rule .002(a)(1)-(6).

(c) An actuary of the insurer will be expected to take into appropriate consideration all of the above categories when furnishing the required actuarial opinion with respect to the aggregate reserve for life policies and contracts (Exhibit 8 of the annual statement blank), and the policy and contract claims liability-end of current year (Exhibit 11, Part 1, of the annual statement blank).

Doc. No. 799579

Prohibited Transactions 059.53.13

The State Board of Insurance proposes to adopt Rule 059.53.13.001, concerning unfair methods of competition in connection with the sale or placement of credit insurance. The purpose of this rule is to specify those practices which are considered unfair methods of competition.

This rule is proposed pursuant to the authority of Texas Insurance Code Annotated, Article 3.53.

.001. Unfair Methods of Competition. The following practices, when engaged in either directly or by reciprocal agreement by an insurer or by any insurance agent in connection with the sale or placement of credit insurance as an inducement thereto, shall constitute unfair methods of competition:

(1) the offer or grant by an insurer or by any insurance agent to a creditor or to any person connected with the creditor of any special advantage or any service not set out in the group insurance contract;

(2) agreement by an insurer or by an insurance agent to deposit with a bank or financial institution money or securities of the insurer with the design or intent that the same shall affect or take the place of a deposit of money or securities which otherwise would be required of the creditor by such bank or financial institution as a compensating balance or offsetting deposit for a loan or other advancement; and

(3) deposit as an inducement to insurance by an insurer or by an insurance agent of money or securities, regardless of interest or yield, in a creditor bank or financial institution. This paragraph shall not be construed to prohibit the maintenance by an insurer of such demand deposits or premium deposit accounts as are reasonably necessary for use in the ordinary course of the insurer's business. However, premiums shall be remitted to the insurer within 60 days of their due dates and for purposes of this regulation only, the deposit of such premiums to any such demand deposit account with the creditor and their continued retention therein for more than 60 days shall not be deemed remittance to the insurer.

Doc. No. 799580

Compensations and Adjustment in Rates 059.53.14

The State Board of Insurance proposes to adopt Rules 059.53.14.001 and .002, concerning compensations and adjustments in rates for credit life insurance and credit accident and health insurance. The purpose of these rules is to establish procedures for providing experience refunds and for adjusting rates resulting from adjusted compensation in the matters of credit life and credit accident and health insurance.

These rules are proposed pursuant to the authority of Texas Insurance Code Annotated, Article 3.53.

.001. Experience Refunds. Retroactive adjustment of rates of premiums for group insurance policies based upon the loss or expense experience thereunder (experience refunds) may only be made in accordance with the terms of the group insurance policy and may be made only at the end of a policy year and may be retroactive only for the immediately preceding policy year. Further, experience refunds must be consistent with the loss ratio provided in these rules.

.002. Adjustment in Rates Resulting from Adjusted Compensation.

(a) Any insurer who, for credit insurance written in any of its credit insurance accounts in this state, charges or proposes to charge the presumptive rates of premium set forth in these rules, and who, for the production of such insurance, pays or proposes to pay, directly or indirectly, compensations in excess of the presumptive allowances set out in these rules shall:

(1) Reduce the premium rates charged in any such account by 4.0% for credit life insurance, and by 5.0% for credit accident and health insurance, (or fractions thereof) of the applicable presumptive premium rates set out in these rules for each 1.0% (or fraction thereof) by which it pays or proposes to pay compensation in excess of the presumptive allowance set forth in these rules. Such compensation in excess of the presumptive compensation rate shall be applied thereafter to all subsequently written net written premium calculated upon the basis of the reduced rates of premium as specified above; and

(2) File with the Credit Life Section of the State Board of Insurance a transcribed copy of any agreement, whether written or oral, direct, indirect, or reciprocal, by which for the sale of credit insurance in this state it pays, proposes to pay, or contingently may pay compensations in excess of the allowable presumptive compensations set out in these rules.

(b) The following compensation allowances are presumed to be reasonable compensation for the sale of credit insurance in this state:

(1) in the aggregate, to a creditor and to any and all persons or entities, including insurance agents, directly or indirectly connected with the creditor, 25% of the net written life insurance premiums;

(2) in the aggregate, to a creditor and to any and all persons or entities, including insurance agents, directly or indirectly connected with the creditor, 20% of the net written accident and health insurance premiums; and

(3) in the aggregate, to an insurance agent (commonly referred to as "general agent" or "special agent") not directly or indirectly connected with a creditor for such agent's sales and sales service for which an insurance agent's license is required by law, 5.0% of the net written premiums.

"Compensation" shall include but shall not be limited to the receipt directly, indirectly, or reciprocally of commissions, contingent commissions, experience refunds of premium, retrospective rate credits, service fees, policy fees, expense allowances or reimbursements, gifts, all benefits such as items of merchandise, equipment, travel, conventions, vacations, rewards, bonuses, trading stamps, script, prohibited transactions, and unfair competition and unfair practices (as such terminology is defined in Subchapter .13 of these rules and in the insurance laws of this state), or any other form of remuneration resulting directly or indirectly from the sale of credit insurance or as an inducement to or payment for sales made or volume of sales obtained. Compensation shall also include any amounts or things of value received from or paid by a general agent, special agent, or any person other than an insurer in consideration of the sale or retention of credit insurance.

(c) In the event an insurer pays or proposes to pay a general agent or special agent for any lawful services other than those sales services for which an insurance agent's

license is required by law, and the aggregate of all compensation paid to such agent will exceed 5.0% of net written premiums, such insurer shall file a copy of the contract setting out such other services, the compensation therefor, and data to support the economic benefits of such contract.

(d) Nothing herein shall prevent any insurer who by operation of subsection (a) is required to reduce premium rates in a credit insurance account from filing for an upward deviation under these rules; provided, however, such insurer must use the reduced premium rates until such time as an upward deviation has been officially approved by the commissioner.

(e) In the event premium rates for any account of credit insurance are required to be reduced in accordance with these rules by reason of base or front-end compensations in excess of the presumptive compensation allowances, the effective date of such reduction shall be the same as the effective date of the agreement providing for such payment. For any reduction of premium rates required by these rules by reason of contingent compensations based on favorable experience which, alone or together with base or front-end compensations, exceed the presumptive compensation allowances set out in these rules, the effective date of such reduction of premium rates shall be the termination date of the period for which such contingent compensations are paid, and such rate reduction shall remain in effect in that account for a period of 12 months thereafter, regardless of any change or replacement of the insurer during any such 12-month period; provided that no reduction of premium rates shall be required by reason of any contingent compensations earned prior to the effective date of these rules.

(f) In the event that premiums are paid and charged debtors at rates in excess of the reduced rates permitted by these rules, whether by inadvertence or otherwise, the insurer shall be responsible for the refund of such overpayment to the person or persons who paid such premiums or insurance charge in addition to any other remedies set out in Texas Insurance Code Annotated, Articles 1.10 and 3.53.

(g) In order to assist the enforcement of these rules, any insurer writing credit life or credit accident and health insurance in this state within the scope of Article 3.53, Texas Insurance Code Annotated, shall on or before December 31, 1980, and on the same date of each year thereafter, file with the Credit Life Section of the State Board of Insurance a notarized affidavit certified to by one of the insurer's officers who signed the last annual statement of the insurer, stating whether or not said insurer or its agents had paid compensation in excess of the presumptive compensation allowances as herein described and set out.

Doc. No. 799581

Effective Date, Savings Clause, and Severability Clause 059.53.20

The State Board of Insurance proposes to adopt Rules 059.53.20.001-.003, concerning the effective date, savings clause, and severability clause applicable to credit life insurance and credit accident and health insurance. The purpose of these rules is to establish an effective date, to provide a savings clause, and to provide that all provisions of Chapter .53 of the rules and regulations of the State Board of Insurance are declared to be severable.

These rules are proposed pursuant to the authority of Texas Insurance Code Annotated, Article 3.53.

.001. *Effective Date.* The effective date of these amended rules and regulations is March 1, 1980.

.002. *Savings Clause.* Each cause of action, pending litigation, matter in process before the State Board of Insurance or commissioner of insurance, or matter hereafter arising from an event occurring prior to the time Chapter .53 of the rules and regulations of the State Board of Insurance become effective shall be determined in accordance with and governed by the provisions of statutes, rules, orders, or interpretations of the State Board of Insurance in effect at the time of the occurrence of the subject event; and this rule operates to save the application of such past procedure and law to any such event from amendment, change, or repeal notwithstanding any provision of these rules or any conflict or ambiguity therein.

.003. *Severability.* If any provisions of Chapter .53 of the rules and regulations of the State Board of Insurance or the application thereof to any person or circumstance is held invalid for any reason, the invalidity shall not affect the other provisions or any other application of said rules which can be given effect without the invalid provisions or application. To this end, all provisions of Chapter .53 of the rules and regulations of the State Board of Insurance are declared to be severable.

Issued in Austin, Texas, on December 19, 1979.

Doc. No. 799582 Pat Wagner
Chief Clerk
State Board of Insurance

Proposed Date of Adoption: March 1, 1980
For further information, please call (512) 475-4717.

Texas State Board of Library Examiners

Certification Requirements

County Librarian Certificates 385.10.01

The Texas State Board of Library Examiners is proposing to amend Rules 385.10.01.002-.004, which establish the requirements for obtaining nonpermanent county librarian certificates. The proposed amendments would delete the requirement of attendance at system meetings for the Grades II, III, and IV certificates. The effect of the amended rules would be to eliminate an unnecessarily restrictive requirement in renewal of county librarian certificates.

The proposed amendments have no fiscal implications for units of local government of the state.

Public comments on the proposed amendments to Rules .002-.004 are invited. Persons should submit their comments in writing to Dorman Winfrey, Texas State Library, P.O. Box 12927, Austin, Texas 78711.

These amendments are proposed under the authority of Article 1682, Vernon's Civil Statutes.

.002. Grade II Certificate.

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

(c) Renewable with attendance at a minimum of *two* [one] library-related workshops or professional meetings (i.e., TLA, SWLA, ALA, etc.) [and two system meetings during the period of certification].

.003. Grade III Certificate.

(a) Graduation from an accredited college or university and attendance at a minimum of one library-related workshop or professional meeting (i.e., TLA, SWLA, ALA, etc.) [and one system meeting].

(b) (No change.)

.004. Grade IV Certificate.

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

(d) Renewable annually with attendance at a minimum of one library-related workshop or professional meeting (i.e., TLA, SWLA, ALA, etc.) [and one system meeting each year].

Issued in Austin, Texas, on December 17, 1979.

Doc. No. 799553 William D. Gooch
Assistant State Librarian
Texas State Library

Proposed Date of Adoption: January 25, 1980

For further information, please call (512) 475-2166.



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

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

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

Texas Education Agency

Student Services

Transportation Special Provisions 226.34.64.010

The Texas Education Agency has amended Rule 226.34.64.010, concerning special transportation provisions for certain educational programs. The amendment has deleted all material in the administrative procedure section of the rule. This material will be found, in revised form, in Rules .020 and .030. Reference to transportation for the Migrant Education Program has been deleted. The extended day schedule, for which this transportation was provided, is no longer part of the Migrant Education Program.

Public review and discussion of the proposed rule were held. The rule is adopted with no change from the text as proposed.

This rule is promulgated under the authority of Section 16.005, Chapter 16, Subchapter F, and Section 21.460, Texas Education Code.

.010. *Special Transportation Provisions for Certain Educational Programs.*

(a) **Policy.** Special transportation provisions for educational programs shall be established by the commissioner of education when directed by law or when the commissioner deems necessary. These programs shall include but not be limited to vocational, bilingual, and special education for handicapped students.

(b) **Administrative procedure.** The special provisions which are made for transporting students are found in Administrative Procedures 34.64.020-.030.

Doc. No. 799539

226.34.64.020, .030

The Texas Education Agency has adopted Rules 226.34.64.020 and .030, concerning transportation for handicapped students and for students in vocational or bilingual programs.

Public review and discussion of the proposed rules were held. Rule .030 is adopted with no change from the text as proposed. Rule .020, which concerns transportation for handicapped students, is adopted with changes from the text as proposed. Detailed public comment was received on this proposed rule. Some of the suggested improvements to the rule have been incorporated into the final version. These constitute the changes from the text as proposed.

The principle reason for the adoption of Rule .020 is to ensure that Texas Education Agency regulations track revisions made in state statutes concerning transportation by the 66th Legislature in Senate Bill 350. The comments summarized below represent all of the considerations which have been urged against the adoption of the rule. The agency's response to each comment is also set out below.

Rule 226.34.64.020(b), transportation alternatives:

(1) **Comment.** The proposed rules imply that only two options are available to school districts for the transportation of handicapped students: district-operated buses or transportation by parents or their agents. This ignores other alternatives such as contracting with a public transportation system or "transportation by the school staff (as agents of the district) in private vehicles."

Response. Rule .020(b), as adopted, includes the provision that transportation services may be provided to handicapped students "by contracted transportation in accordance with law and Policy and Administrative Procedure 34.63.040." The special transportation reimbursement provisions of Section 16.206(h) of the Texas Education Code speak to transportation provided by "parents or their agents." The Texas Education Agency can find no statutory authority under which the agency could authorize transportation of handicapped students in private vehicles by school staff as agents of the district.

(2) **Comment.** Current rules permit private transportation "in very unusual cases where specific needs can feasibly be met" and require that "The best interests of the child and the parent must be given serious consideration in making such arrangements."

Response. The revised rules provide that this type of transportation shall be provided "only in extreme hardship cases," in accordance with Section 16.206(h), Texas Education Code, as amended by Senate Bill 350. The requirement "The best interests..." has been retained in the adopted rule.

(3) **Comment.** Contracting with parents or their agents should only be undertaken as a last resort, with the parents' voluntary agreement.

Response. Rule .020(b)(3) states that it is interpreted that the legislative intent for special transportation was for the school district to own and operate suitable buses for handicapped students. Private transportation will be approved by the Texas Education Agency only in extreme hardship cases.

(4) **Comment.** The rules do not specify whether, when a school district does contract with parents for transportation, it must reimburse the full, actual cost.

Response. Whenever contracted transportation is used as a related service in order for a child to benefit from the special education program, it must be provided without cost to the parents. In light of the statutory limitations placed upon

state funding, any amount over and above \$600 per year or \$.18 per mile would have to be assumed by the local school district from other legal funding sources (federal, other state, or local). The reimbursement allowance should be addressed as a part of the child's individual educational plan, which is developed jointly by the local education agency and the parents or guardian of the child. Should the parents, or guardian, or the LEA, disagree with the level of the reimbursement allowance, this disagreement could become substance for a due process hearing and subject to the decision of an impartial hearing officer appointed in the matter. The issue is addressed in Rule .020(b)(3)(C) as adopted.

(5) Comment. The proposed section of Rule .020(b)(1)(C) which states that "No student is eligible for special transportation for more than 175 days of any school year" should be deleted.

Response. This provision has been deleted from the final version of the rule.

(6) Comment. Rule .020(b)(3)(H) requires reimbursement of the local school district's handicapped children transportation fund when buses are used for field trip travel for handicapped students. Who pays for the reimbursement? If it is the parents of the handicapped children, is the rate of reimbursement the same as that charged the parents of nonhandicapped students for field trip travel?

Response. Rule 226.34.65.060 requires local school districts to establish written regulations for the use of buses for extracurricular activities and field trips. These regulations must include provision for reimbursing the district or county regular transportation fund and the special education transportation fund for the cost of extracurricular and/or field trip travel. Local regulations must include a reimbursement rate, based on actual cost, for reimbursing each of these funds. These rates will in many cases be different. Reimbursement for field trip travel may be paid by the local school district from other than transportation funds, by school clubs or organizations which have sponsored a field trip, or by parents or students provided the field trip is not required "as a part of a basic education program or course" (Section 20.53(b)(2), Texas Education Code). Where parents or students are charged a fee for field trip transportation, handicapped students may not be charged a fee which is different from that charged to regular students for the same trip. Any differential between fees charged to parents or students and the amount of funds to be reimbursed to the county or district transportation fund would have to be paid by the local school district. This issue is addressed in Rule .020(b)(3)(H) as adopted.

(7) Comment. The rules should provide for use of state transportation funds to provide insurance coverage for privately owned vehicles in which parents or their agents transport handicapped students.

Response. The Texas Education Agency can find no authority by which the agency could authorize the use of state funds specifically for this purpose and it is assumed that this is covered in the allocation.

These rules are promulgated under the authority of Sections 16.005, Chapter 16, Subchapter F, and 21.460, Texas Education Code.

.020. Transportation for Handicapped Students.

(a) Policy. (Reserved for expansion.)

(b) Administrative procedure. A public school district having an education program for handicapped students may provide services for students who are rendered eligible under Policy and Administrative Procedure Series 35.70. Services may be provided to eligible students by the following methods: district-operated buses, private transportation provided by parents or their agents, or by contracted transportation, in accordance with law and Policy and Administrative Procedure 34.63.040. The transportation program for handicapped children must be operated in accordance with the following guidelines and requirements:

(1) Application.

(A) All bus routes shall be approved by the lawful designated authority and the commissioner of education. All requests for additional district-operated routes shall be on forms furnished by the Texas Education Agency and received by the Transportation Section of the Texas Education Agency on or before December 22 of the current school year. There must be a complete route description for each route requested.

(B) Notification of the transportation of eligible handicapped students by private transportation provided by parents or their agents shall be made annually to the Texas Education Agency on appropriate forms by September 20. Special requests should be made for programs initiated during the school year.

(C) All districts participating in a transportation program shall file with the Texas Education Agency a final application which shall be due annually on or before May 15. A district shall certify that students being served shall meet the statutory requirements for this service. If a district desires to operate a part of the handicapped children program in the fourth quarter of the 1979-80 school year, in lieu of another quarter, a supplement to the application including a list of students being transported on June 15, or the nearest school day, shall be filed on or before July 1.

(2) Routes.

(A) Each bus route operated by a school district shall be planned to provide the transportation service required by each eligible student. These services shall be transportation from the child's home to school and return to home. When a child is picked up or delivered to a different address, a request must be made in writing and be on file.

(B) The system of routes, both private and district operated, shall be substantiated by a narrative description of each route including the number of miles covered by each route and the number of handicapped and regional day school deaf students on each route.

(C) School bus routes for the following school year shall be established and approved by the legally designated authority by June 1 as required by Section 16.202(b)(2), Texas Education Code, and route descriptions furnished annually to the Transportation Section of the Texas Education Agency for each route operated by school-owned buses.

(D) If notification of revised routes is not received by June 1, the program for the following school year will be approved in keeping with the route mileages rendered on the annual student transportation report for the current year.

(E) The nearest practical route to serve eligible students between home and school should be established for district-operated buses.

(3) General guidelines and requirements.

(A) It is interpreted that the legislative intent for special transportation was for the school district to own and operate suitable school buses for eligible handicapped children.

(B) Buses shall transport only eligible handicapped students as defined in Policy 34.62 and Policy and Administrative Procedure Series 35.70.

(C) Private transportation provided by parents or their agents may be used in some instances with prior approval of the Texas Education Agency on an annual basis. The need for this type transportation shall be determined on an individual basis and shall be approved only in extreme hardship cases. The best interests of the child and parent must be given serious consideration in making such arrangements. Where private transportation is used as a related service in order for the child to benefit from the special education program, it must be provided without cost to parents. The reimbursement allowance for private transportation should be addressed as part of the student's individual educational plan.

(D) If transportation is provided by an agent of the parent, a signed statement of parental authorization must be on file in the student's eligibility folder for each school year the service is provided.

(E) Special modification of equipment as well as the type of equipment chosen should be a major consideration for the safety of the children being transported.

(F) School buses used to transport eligible handicapped students must meet state and federal specifications and must be purchased in keeping with Section 21.161, Texas Education Code. Small buses are considered to be most feasible. Each route load will depend on the number and kind of students transported. Precaution should be observed to prevent overcrowding of special buses.

(G) In emergency situations, a special bus should be available for eligible handicapped students.

(H) Special buses may be used to transport eligible handicapped children on field trip travel. In using these vehicles for field trip activities, the district's handicapped children transportation fund must be reimbursed at a rate based on the actual cost per mile for the operation of the special buses to transport handicapped students to and from school. The extracurricular rate for handicapped student transportation should be included in the local board of trustees' policy relevant to extracurricular travel. Where parents or students are charged a fee for extracurricular or field trip travel, handicapped students may not be charged a fee which is different from that charged to regular students for the same activity.

(I) Students attending a regional day school for the deaf may be transported with handicapped children on a per student cost basis from funds provided by the Regional Day Schools for the Deaf Program only when this transportation does not change the services required for eligible handicapped students.

.030. Vocational and Bilingual Services.

(a) Policy. (Reserved for expansion.)

(b) Administrative procedure. Eligible vocational and bilingual education students may be transported by bus under the following conditions:

(1) Notification of the transportation of vocational and bilingual education students shall be made annually to the Texas Education Agency on appropriate forms by Sep-

tember 20. Special requests should be made for programs initiated during the school year.

(2) Services provided to vocational and/or bilingual students shall be on a campus-to-campus basis for either the full school day or any part of the school day.

(3) Forms for final application for funds shall be mailed to the districts on or before May 1.

(4) A final application for funds for vocational and/or bilingual transportation shall be due annually on or before June 1.

Issued in Austin, Texas, on December 17, 1979.

Doc. No. 799540

A. O. Bowen

Commissioner of Education

Effective Date: January 7, 1980

Proposal Publication Date: October 2, 1979

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

Office of the Governor

Criminal Justice Division

Criminal Justice Information Systems—Security and Privacy 001.55.21

The Criminal Justice Division adopts Rules 001.55.21.001-.016, concerning criminal justice information systems—security and privacy. These adopted rules and guidelines cover collection, maintenance, dissemination, and security of criminal history record information.

The Criminal Justice Division received two written responses from John B. Duncan, executive director, Texas Civil Liberties Union, and written response from Robert E. DeLong, Jr., general counsel, Texas Department of Corrections. The Criminal Justice Division held a public hearing to receive comments on Wednesday, November 21, 1979, at the request of John B. Duncan, executive director, Texas Civil Liberties Union, and David Spencer, attorney at law, Austin.

The first objection raised by the Texas Civil Liberties Union was the definition of "conviction data" in Rule .002(l) of the proposed rules and guidelines. The interpretation placed by the Texas Civil Liberties Union upon this definition leads to an unintended result since the definition is not explicit and is, to some extent, ambiguous. The Criminal Justice Division adopts the following definition of "conviction data" in lieu of Rule .002(l) of the proposed rules. "Conviction data" means all notations of criminal transactions related to an offense that have resulted in a conviction, guilty plea, or a plea of nolo contendere. This definition is taken from the Privacy and Security Instructions, Criminal Justice Information Systems, revised April 1976, issued by the Law Enforcement Assistance Administration, and A Guide to Dissemination, published by the Law Enforcement Assistance Administration.

The next objection raised was the limitation on dissemination being confined to nonconviction data under Rule .005. The Texas Civil Liberties Union suggested that Rule .005 on dissemination limitations apply to all criminal history record information, including conviction data, and not be limited to nonconviction data. The federal regulations provide that

conviction data may be disseminated to anyone without any limitation. Therefore, the Criminal Justice Division adopts Rule .005 as proposed.

The next objection raised by the Texas Civil Liberties Union was including "ordinances and executive orders" under Rule .005(a)(2). The Criminal Justice Division concurs that the executive orders issued by the governor do not have the force and effect of law as a statute, and that local agencies do not have the power to pass ordinances under Texas law, which would allow the release of such information. The Criminal Justice Division adopts Rule .005(a)(2) as proposed with the deletion of the words "ordinance, executive order."

The next objection raised by the Texas Civil Liberties Union was that the one-year period for maintenance of dissemination logs is too short under Rule .008. This same objection was raised by David Spencer, attorney at law, and more particularly in the area of expunction of arrest records as provided for in Chapter 55 of the Code of Criminal Procedure. The federal regulations place no time limit for maintaining dissemination logs. The Privacy and Security Planning Instructions, published by the Law Enforcement Assistance Administration, recommends that the dissemination logs be retained for a period of not less than one year. It should be noted that recipients of federal funds from the Criminal Justice Division are required to keep all other records for a minimum of three years. The adoption of a three-year period for maintenance of dissemination logs should provide adequate time for tracking through court proceedings any dissemination of arrest information to be expunged under Chapter 55, Code of Criminal Procedure. Further, it should provide adequate time to anyone who wishes to review and challenge the record being maintained on that person. Therefore, the Criminal Justice Division adopts Rule .008 as proposed with a three-year maintenance of dissemination logs requirement in lieu of the proposed one-year requirement.

The next objection raised by the Texas Civil Liberties Union was the exemption from maintenance of dissemination logs under Rule .008(b) and (c). The concern expressed is to assure that CHRI is not disseminated outside the criminal justice system. The provisions of Rule .008(b) and (c) limit dissemination to other criminal justice agencies within the criminal justice system. Therefore, the Criminal Justice Division adopts Rule .008(b) and (c) as proposed.

David Spencer raised an objection that there were no provisions for defense lawyers to obtain criminal records by court order, as in the case of witnesses or prospective witnesses in a case, criminal or civil, and that there should be an exception where defense lawyers can get their own client's "rap sheet" without a court order. The Privacy and Security Planning Instructions, Criminal Justice Information Systems, revised April 1976, issued by the Law Enforcement Assistance Administration points out that the definition of "administration of criminal justice" does not include criminal defense functions. Criminal defense attorneys are, therefore, not eligible to obtain criminal history record information except by court order.

David Spencer expressed a concern that the Criminal Justice Division does not have the authority to pass rules which would automatically bind every sheriff and police department and any other criminal justice agency. He thought it might be possible to do what the federal government has done

in cutting off funds for failure to comply with the rules. The Criminal Justice Division follows the federal government's approach and provides for withholding of funds for non-compliance in Rule .014 and termination of funds for continued noncompliance after withholding of funds in Rule .015.

David Spencer also raised a general objection to dissemination of any criminal history record information outside the criminal justice system without the person's consent. It appears that his general objection includes information on police blotters (see Rule .003(b)(2)—may be disseminated to the public), criminal history record information related on an offense currently in the criminal justice system (see Rule .003(c)—may be disseminated to the public), conviction data (see Rule .005(b)—may be disseminated to the public) and information in offense reports (except front page, *Houston Chronicle v. City of Houston*, 531 SW2d 177, 536 SW2d 559 nre—may not be disseminated to the public), and personal history and arrest record (*Houston Chronicle v. City of Houston*, 531 SW2d 177, 536 SW2d 559 nre—may not be disseminated to the public).

The proposed rules and guidelines as adopted comply with the federal regulations, Texas statutes, Texas case decisions, and Texas attorney general's opinions. Legislation would be required to effectuate the changes sought.

David Spencer further raised an objection to the fact that arrest information may be disseminated (see Rules .003(b)(2) and .003(c)), but the rules and guidelines prohibit dissemination of information regarding acquittal or dismissal of charge resulting from an arrest (see Rule .002(k)). To allow dissemination of acquittals and dismissals would require legislative change.

The Texas Department of Corrections expressed concern about the provision of Rule .011(b) which provides that points of review shall be the Texas Department of Corrections (for inmates of TDC only) because it appears that this is in conflict with Article 42.12, Section 27, Texas Code of Criminal Procedure.

The Criminal Justice Division concurs that it appears that there is a probable conflict and therefore adopts Rule .011(b) deleting the following "the Texas Department of Corrections (for inmates of TDC only)." These rules and guidelines are adopted under the authority of Title 28, Judicial Administration, Chapter 1, Department of Justice, Part 20, Criminal Justice Information Systems, Code of Federal Regulations, and issued pursuant to Sections 501 and 524(b) of Title I, Omnibus Crime Control and Safe Streets Act of 1968, as amended, and pursuant to rules and guidelines promulgated by the Law Enforcement Assistance Administration.

.001. Purpose. It is the purpose of these rules and guidelines to insure that criminal history record information, wherever it appears, is collected, stored, and disseminated in a manner to insure the completeness, integrity, accuracy, and security of such information and to protect individual privacy.

.002. Definitions.

(a) "Criminal justice agency" includes courts and any government agency or any subunit thereof which performs the administration of criminal justice pursuant to a statute or executive order, and which allocates a substantial part of its annual budget to the administration of criminal justice.

(b) "Administration of criminal justice" means performance of any of the following activities: detection, apprehension, detention, pretrial release, posttrial release, prosecution, adjudication, correctional supervision, or rehabilitation of accused persons or criminal offenders. The administration of criminal justice shall include criminal identification activities and the collection, storage, and dissemination of criminal history record information.

(c) "Criminal history record information" (CHRI) includes records and related data contained in either a manual or an automated criminal justice information system, compiled by criminal justice agencies for purposes of identifying criminal offenders and maintaining as to such persons notations of arrests, the nature and disposition of criminal charges, sentencing, confinement, rehabilitation, and release. Criminal history record information is a general term which includes within its definition both conviction data and nonconviction data. The term does not include identification information such as fingerprint records to the extent that such information does not indicate involvement of the individual in the criminal justice system.

(d) "Dissemination" means the release, either verbally or printed (hard copy), of CHRI by an agency to another agency or individual or the transfer of CHRI from computer to computer.

(e) "Law enforcement" means those criminal justice agencies which employ sworn peace officers and are significantly involved in detecting and apprehending criminal offenders.

(f) "Prosecution" means those criminal justice agencies which represent the state in the prosecution of criminal cases.

(g) "Clerk" includes both district and county clerks.

(h) "Corrections" means those criminal justice agencies which supervise criminal offenders under sentence of a court whether incarcerated or not, e.g., probation departments, county jails, Texas Department of Corrections (TDC), Board of Pardons and Paroles, and the Texas Youth Council.

(i) "Disposition" means information disclosing that criminal proceedings have been concluded, including information disclosing that the police have elected not to refer a matter to a prosecutor or that a prosecutor has elected not to commence criminal proceedings and also disclosing the nature of the termination in the proceedings; or information disclosing that proceedings have been indefinitely postponed and also disclosing the reason for postponement. Dispositions shall include but not be limited to acquittal, acquittal by reason of insanity, charge dismissed due to mental incompetence, charge still pending due to insanity, charge still pending due to mental incompetence, guilty plea, nolle prosequi, nolo contendere plea, failure to indict by the grand jury (no-bill), convicted, youthful offender determination, deceased, deferred disposition, dismissed—civil action, found insane, found mentally incompetent, pardoned, probation before conviction, sentence commuted, adjudication withheld, mistrial—defendant discharged, executive clemency, placed on probation, paroled, or released from correctional supervision.

(j) "Agency disposition" means information from a criminal justice agency which reveals the decision made by that agency with regard to its disposition of the offender or his case or both.

(k) "Nonconviction data" means arrest information without disposition if an interval of one year has elapsed from

the date of arrest and no active prosecution of the charge is pending; or information disclosing that the police have elected not to refer a matter to a prosecutor, or that a prosecutor has elected not to commence criminal proceedings, or that proceedings have been indefinitely postponed, as well as all acquittals and all dismissals.

(l) "Conviction data" means all notations of criminal transactions related to an offense that have resulted in a conviction, guilty plea, or a plea of nolo contendere.

(m) "Direct access" means having the authority to access the CHRI data base.

.003. Applicability.

(a) These rules and guidelines apply to all state and local agencies and individuals which collect, store, or disseminate CHRI processed by manual or automated operation where such collection, storage, or dissemination has been funded in whole or in part with funds made available by LEAA subsequent to July 1, 1973.

(b) These rules and guidelines shall not apply to CHRI contained in:

(1) posters, announcements, or lists for identifying or apprehending fugitives or wanted persons;

(2) original records of entry such as police blotters maintained by criminal justice agencies, compiled chronologically and required by law or longstanding custom to be made public, if such records are organized on a chronological basis;

(3) court records of public judicial proceedings;

(4) published court or administrative opinions or public judicial, administrative, or legislative proceedings;

(5) records of traffic offenses maintained by the Department of Public Safety for the purpose of regulating the issuance, suspension, revocation, or renewal of driver's, pilot's, or other operators' licenses;

(6) announcements of executive clemency.

(c) Nothing in these rules or guidelines prevents criminal justice agencies from disclosing to the public CHRI related to the offense for which an individual is currently within the criminal justice system. Nor are criminal justice agencies prohibited from confirming prior CHRI to members of the news media or any other person, upon specific inquiry, as to whether a named individual was arrested, detained, indicted, or whether an information or other formal charge was filed, on a specific date, if the arrest record information or criminal record information disclosed is based on data excluded by subsection (b) of this rule. These rules and guidelines do not prohibit the dissemination of CHRI for purposes of international travel, such as issuing visas and granting of citizenship.

.004. *Completeness and Accuracy.* Each criminal justice agency shall query the Department of Public Safety prior to dissemination of any CHRI unless it can assure that the most up-to-date disposition data is being used. The only exception is where time is of the essence and the Department of Public Safety is technically incapable of responding within the necessary time period.

.005. Dissemination—Limitations.

(a) Dissemination of nonconviction data shall be limited, whether directly or through any intermediary, only to:

(1) Criminal justice agencies for the purpose of administration of criminal justice and criminal justice agency employment.

(2) Individuals and agencies for a purpose authorized by statute or court rule decision or order as construed by appropriate state or local officials or agencies.

(3) Individuals and agencies pursuant to specific agreement with a criminal justice agency to provide services required for the administration of criminal justice pursuant to that agreement. The agreement shall specifically authorize access to data, limit the use of data to purposes stated, and insure the security and confidentiality of the data consistent with these rules and guidelines.

(4) Individuals and agencies for the express purpose of research, evaluative, or statistical activities pursuant to an agreement with a criminal justice agency. The agreement shall specifically authorize access to data, limit the use of data to research, evaluative, or statistical purposes, and insure the confidentiality and security of the data consistent with these rules and guidelines and with Section 524(a) of the Omnibus Crime Control and Safe Streets Act, Title I, as amended, and any regulations implementing Section 524(a).

(b) These dissemination limitations do not apply to conviction data.

(c) Dissemination of information obtained from the FBI Identification Division or the FBI/NCIC system shall be disseminated only to criminal justice agencies for criminal justice purposes and agencies with specific statutory authority.

.006. Existence or Nonexistence of CHRI. No agency or individual shall confirm the existence or nonexistence of CHRI to any person or agency that would not be eligible to receive the information itself.

.007. Dissemination Not Mandated. Dissemination of CHRI is not mandated to any agency or individual.

.008. Dissemination Logs.

(a) Dissemination of CHRI must be recorded in a log. The information required for each transaction shall include the requesting agency or individual, date, and the name of the person whose record is being requested. The log shall also be cross-indexed by the person's name whose record is being requested and the requesting agency. The logs may be destroyed after a period of three years from the date of the request.

(b) No log is required when CHRI is disseminated in the normal course of processing through the criminal justice system.

(c) No log is required when CHRI is disseminated by a criminal justice agency to another criminal justice agency in the same county.

(d) No log is required when CHRI is disseminated to the Department of Public Safety for inclusion in that person's CHRI.

.009. Dissemination of Juvenile Records. Dissemination of juvenile records shall be in accordance with Section 51.14, Texas Family Code.

.010. Security.

(a) Where computerized data processing is employed, effective and technologically advanced software and hardware designs shall be instituted to prevent unauthorized access to such information.

(b) Access to CHRI system facilities, systems operating environments, data file contents, whether while in use or when stored in a media library, and system documentation shall be restricted to authorized organizations and personnel.

(c) Computer operations, whether dedicated or shared, which support criminal justice information systems, shall be operated in accordance with procedures developed or approved by the participating criminal justice agencies that assure that:

(1) Criminal history record information shall be stored by the computer in such manner that it cannot be modified, destroyed, accessed, changed, purged, or overlaid in any fashion by noncriminal justice terminals.

(2) Operation programs shall be used that will prohibit inquiry, record updates, or destruction of records from any terminal other than criminal justice system terminals which are so designated.

(3) The destruction of records shall be limited to designated terminals under the direct control of the criminal justice agency responsible for creating or storing the CHRI.

(4) Operational programs shall be used to detect and store for the output of designated criminal justice agency employees all unauthorized attempts to penetrate any CHRI system, program, or file.

(5) The programs specified in (2) and (4) of this rule shall be known only to criminal justice agency employees responsible for CHRI system control or individuals and agencies pursuant to a specific agreement with the criminal justice agency to provide such programs and the programs are kept continuously under maximum security conditions.

(6) Procedures shall be instituted to assure that an individual or agency authorized direct access is responsible for the physical security of CHRI under its control or in its custody and the protection of such information from unauthorized access, disclosure, or dissemination.

(7) Procedures shall be instituted to protect any central repository of CHRI from unauthorized access, theft, sabotage, fire, flood, wind, or other natural or manmade disasters.

A criminal justice agency shall have the right to audit, monitor, and inspect procedures established above.

(d) The criminal justice agency will:

(1) screen and have the right to reject for employment, based on good cause, all personnel to be authorized to have direct access to CHRI;

(2) have the right to initiate or cause to be initiated administrative action leading to the transfer or removal of personnel authorized to have direct access to such information where such personnel violate the provisions of these rules and regulations or other security requirements established for the collection, storage, or dissemination of CHRI;

(3) institute procedures, where computer processing is not utilized, to assure that an individual or agency authorized direct access is responsible for the physical security of CHRI under its control or in its custody and the protection of such information from unauthorized access, disclosure, or dissemination;

(4) institute procedures, where computer processing is not utilized, to protect any central repository of CHRI from unauthorized access, theft, sabotage, fire, flood, wind, or other natural or manmade disasters;

(5) provide that direct access to CHRI shall be available only to authorized officers or employees of a criminal justice agency and, as necessary, other authorized personnel essential to the proper operation of the CHRI system.

(e) Each employee working with or having access to CHRI shall be made familiar with the substance and intent of these rules and guidelines.

.011. Access and Review.

(a) Any individual shall, upon satisfactory verification of his identity, be entitled to review without undue burden to either the criminal justice agency or the individual, any CHRI maintained about the individual and obtain a copy of the portion challenged thereof when necessary for the purpose of challenge or correction.

(b) Points of review shall be DPS headquarters, and all sheriffs' offices, police departments, and federal criminal justice agencies which have fingerprint identification capability.

(c) Administrative review shall be provided and necessary correction made of any claim by the individual to whom the information relates that the information is inaccurate or incomplete.

(d) Upon request, an individual whose record has been corrected shall be given the names of all noncriminal justice agencies to whom the data has been given to the extent that logs are available.

(e) The correcting agency shall notify all criminal justice recipients of corrected information to the extent that logs are available.

(f) The individual's right to access and review of CHRI shall not extend to data contained in intelligence, investigatory, or other related files and shall not be construed to include any other information than that defined by the CHRI definition in Rule .002(c).

.012. *Audit.* Each state and local agency shall retain the appropriate records which shall include but not be limited to the names of all persons or agencies to whom information is disseminated and the date upon which such information is disseminated. (The reporting of a criminal justice transaction to a state, local, or federal repository is not a dissemination of information.)

.013. *Certification.* Each state and local criminal justice agency which collects, stores, or disseminates CHRI processed by manual or automated operation where such collection, storage, or dissemination has been funded, either directly or indirectly, in whole or in part, with funds made available by LEAA subsequent to July 1, 1973, shall immediately certify compliance with these rules and guidelines to the general counsel, Criminal Justice Division, 411 West 13th Street, Austin, Texas 78701. Each state or local criminal justice agency which collects, stores, or disseminates CHRI processed by manual or automated operation where such collection, storage, or dissemination is funded subsequent to these rules and guidelines, either directly or indirectly, in whole or in part, with funds made available by LEAA shall certify compliance with these rules and guidelines upon the acceptance of the grant award to the general counsel, Criminal Justice Division, 411 West 13th Street, Austin, Texas 78701.

.014. *Failure to Comply with Any LEAA Rule or CJD Rule or Guideline/CHRI/Security and Privacy.* Failure of any state or local criminal justice agency to comply with any LEAA rule or CJD rule or guideline/CHRI/security and privacy may result in withholding of all grant funds.

.015. *Termination of Funds.* Failure of any grantee to comply with any LEAA rule or CJD rule or guideline/CHRI/security and privacy within 30 days after

funds are withheld may result in a termination of all grant funds.

Issued in Austin, Texas, on December 17, 1979.

Doc. No. 799584 James B. Adams
Executive Director
Criminal Justice Division

Effective Date: January 9, 1980

Proposal Publication Date: October 16, 1979

For further information, please call (512) 475-6085.

Texas Department of Human Resources

Child Welfare Services

Standards 326.50.80

The Department of Human Resources adopts the following rules concerning standards for the child welfare services of its Social Services Branch. These rules were published in proposed form in the September 1, 1978, issue of the *Texas Register* (3 TexReg 3047). The standards from which these rules were derived are a part of a service control system which establishes a minimum level of quality expected in DHR direct and purchased services and a process for assessing whether services meet these standards.

Since appearing in proposed form, these rules (standards) have been pilot tested for a year throughout the department's regions. During that time, they have been subjected to review by the public and department staff and as a result they have been revised to delete those items which were either unmeasurable or not specific enough.

Major changes brought about by public comment were: the elimination of duplication with licensing standards of the department; clarification of terms that proved ambiguous during the pilot year; the identification of the critical principles of quality service delivery, leaving to the regions the flexibility to carry out these principles as they determine best; consistency of wording between the standards and recent legislation; the reflection of both what is reasonable at current staffing levels and what is best practice; and the organization and combination of standards by topic and elimination of redundancy.

These new rules have been approved by the Texas Board of Human Resources and are adopted under the authority of the Human Resources Code, Chapter 11.

.001. *Protective Services for Abused and Neglected Children.*

(a) Standards for intake (includes information and referral).

(1) The department must provide for the receipt of reports 24 hours a day, seven days each week in all counties.

(2) The supervisor must approve action taken by the worker on every report of a child in need of protective services. The worker's actions and the supervisor's approval must be recorded.

(3) Priority I and II intake reports.

(A) Children in Priority I intake reports include those alleged or found to be abused, neglected, or otherwise in need of protection to the extent that they are in immediate

danger or death or serious physical harm. Immediately upon receiving the report, but in no case later than 24 hours, the following must be done:

(i) The worker must attempt to inform the supervisor of the report and obtain approval of action to be taken.

(ii) The department's protective services to the child must begin. The investigation must be conducted by worker level or above direct delivery staff.

(iii) Law enforcement must be notified if the child has died, disappeared, or has a serious physical injury which has been confirmed by the worker, a hospital, teacher, or other reliable source. If the child's situation has not been confirmed by a reliable source, the worker should confirm that the child has suffered serious physical injury before notifying law enforcement of the child's situation.

(B) Priority II intake reports include all other children who are alleged or found to be abused, neglected, or otherwise in need of protection from immediate danger or harm. As soon as possible, but in no case more than the length of time agreed upon in the annual regional service plan between the region and the program manager for protective services for children, the region must begin intake services to these children. The investigation must be conducted by worker or above level direct delivery staff, except where otherwise noted.

(4) In the investigation of a report where abuse and/or neglect are found, the worker must determine:

- (A) the type of abuse or neglect;
- (B) the apparent effects on the child;
- (C) probable cause of the abuse or neglect;
- (D) the person apparently responsible for the abuse or neglect;

(E) the names and conditions of the other children in the home;

(F) an assessment of the parents' (or others responsible for the health and welfare of the child) ability to protect the child;

(G) the adequacy of the home environment in relation to the protection of the child;

(H) any action needed to protect the child.

(5) A child can be removed from his or her home by DHR only with prior or concurrent supervisory approval or with program approval, in the supervisor's absence.

(6) The worker must complete the investigation by deciding with supervision whether the family will receive ongoing services or whether the case will be closed.

(7) The results of the investigation must be explained to:

- (A) parents or caretakers;
- (B) child who was interviewed regarding the alleged abuse and/or neglect; or
- (C) complainant who is a professional person working with the family.

(b) Standards for services for children in their own homes.

(1) When ongoing services are given to children not in the department's conservatorship who are living in their own or relatives' home, the worker must establish a service plan.

(2) The supervisor must approve the initial and updated service plans.

(3) The service plan must be updated as changes occur.

(4) The service plan must include:

(A) the family's problems and the effects of the problems on the child and family;

(B) the planned solutions to the problems, including the specific ways the care of the child is to be improved.

(5) The worker and family must reassess the service plan at a minimum of every six months.

(6) The worker must have personal contact with the family at least once each month.

(7) The supervisor must approve case closure.

(8) The worker must inform the family when DHR will no longer be delivering services to the family, and must inform them of how to obtain help if needed in the future.

(9) When the worker and supervisor believe that removal is in the best interest of the child, the department must petition the court for permission to remove the child or to take other action as needed to protect the child.

(c) Standards for services for children in substitute care.

(1) The worker with supervision must establish a permanent plan for the child within one year of initial placement.

(2) The worker, jointly with the family, must develop the family's service plan within 30 days of the placement. This plan must be recorded in the family's case folder. This service plan must include an identification of changes that must take place before the department can recommend that the court return conservatorship to the family.

(3) The worker and family must reassess the service plan at a minimum of every six months.

(4) The department must cooperate with the court in procedures to systematically review the status and progress of all children in foster care under the jurisdiction of the court.

(d) Standards for social studies for the courts—social studies not related to DHR placement including disputed conservatorships or adoption petitions. When ordered by the court, the department must provide or arrange for a department-approved written report of a social study on an adoptive or on a disrupted conservatorship petition to be submitted to the court within the prescribed time limit.

(e) Standards for out-of-town inquiries.

(1) DHR must respond to OTI requests for home studies for placement of children, social studies concerning the care of children, and/or supervision of the child after placement:

(A) when court ordered, including out-of-state court orders;

(B) for a DHR unit or other child welfare agency having conservatorship or custody of the child.

(C) when a DHR prison liaison unit requests them;

(D) after a child has been approved under Texas laws for placement in Texas and postplacement services are needed;

(2) DHR must respond to OTIs to protect children referred when there are allegations of Priority I or II abuse or neglect.

(3) The supervisor must approve action on an OTI.

(4) A program director must approve OTIs involving placement of children into or out of Texas.

.002. *Protective Foster Home Services—Recruitment of Foster Homes.* Community and parent groups, such as child welfare boards, foster parent associations, and council on

adoptable children, must be considered as resources to meet the region's recruitment needs for foster homes.

.003. Protective Adoption Services—Recruitment of Adoptive Homes. Community and parent groups, such as child welfare boards, foster parent associations, and councils on adoptable children, must be considered as resources to meet the region's recruitment needs for adoptive homes.

.004. Protective Services for Unmarried or School-Age Parents. Standards for direct delivery and Title XX services are the following:

(1) The worker/contract provider must help parents consider alternatives available for planning and caring for the baby. These alternatives could include any of the following:

- (A) pregnancy termination;
- (B) planning for adoption;
- (C) keeping and caring for the baby.

(2) The worker and the school-age parent must develop a plan for service.

(3) The worker/contract provider must encourage and assist the unmarried and/or school-age parent in obtaining adequate health services including prenatal care where available.

(4) If the mother or the mother and significant others decide to place the child in adoption through DHR, the worker/contract provider must:

- (A) obtain a social history of the baby's background;
- (B) obtain necessary legal work;
- (C) explore the need for and availability of foster care/maternity home care for mother and/or child;
- (D) in a contract agency which is not a licensed child-placing agency, the provider must refer to a licensed child-placing agency and other needed services, where available.

(5) If the parent(s) choose to keep the child, the worker/contract provider must explore with the mother her financial ability to support the child and make plans for herself and the child and refer her to a family planning agency.

.005. Protective Services for Juveniles. Standards for direct delivery and Title XX services are the following:

(1) The worker/contract provider must provide services to the youth and his or her family directed at one or more of the following:

- (A) resolving parent-child relationship problems;
- (B) helping parents assume their parental responsibilities;
- (C) resolving tension and stress in the home when the youth remains or returns there;
- (D) helping the youth develop inner controls regarding antisocial impulses and behavior;
- (E) helping the youth become self-sufficient.

(2) The worker/contract provider will assess the need for legal, law enforcement, medical, psychiatric, and/or protective intervention. If the assessment indicates that intervention is necessary, the worker/contract provider must provide or arrange services as resources allow.

.006. Title XX Contracts.

(a) Standards for contracted emergency shelter services.

(1) Emergency care in a purchase of service contract agency must not be given for more than 30 days in any six-month period.

(2) A child under two must remain in care in an emergency shelter licensed as a foster group home for not more than five working days. If an unusual circumstance requires extending placement beyond five working days, it must be documented by the provider.

(b) Standards for contracted juvenile services. The provider must meet the standards as defined in Rule .005, Protective Services for Juveniles.

(c) Standards for contracted unmarried and/or school-age parents' services. The provider must meet the standards as defined in Rule .004, Protective Services for Unmarried or School-Age Parents.

(d) Standards for contracted community treatment services.

(1) The provider and the DHR worker must jointly develop the service plan and coordinate service activities.

(2) The provider must assess the client's needs. The client must be involved in the assessment.

(3) The provider must offer services based on client needs which may include:

- (A) outreach;
- (B) individual, family, or group counseling;
- (C) diagnosis, evaluation, and treatment of emotional or behavioral problems, or referral to appropriate community resources;

(D) parenting and child-rearing training for parents.

(4) The provider must provide feedback to DHR about the use of services and barriers to use of services.

(e) Standards for contracted emergency homemaker services.

(1) The provider must provide homemakers with formal/informal training in their job responsibilities as specified in the contract with DHR.

(2) The provider and the DHR worker must jointly develop the service plan and coordinate service activities.

(3) The provider must provide supervisory review of homemaker activities after every five visits.

(4) As specified in the contract, the provider must have the capability of immediate response in order to protect the child.

(5) Case plans of the provider must allow for no more than 240 hours of service with the client within a contract period. If an unusual circumstance requires more hours, it must be documented.

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

Doc. No. 799508

Jerome Chapman

Commissioner

Texas Department of Human Resources

Effective Date: February 1, 1980

Proposal Publication Date: September 1, 1978

For further information, please call (512) 475-4601.

State Board of Insurance

Rating and Policy Forms

Standard Forms 059.05.36.001

The State Board of Insurance has amended Rule 059.05.36.001, which adopted by reference fire policy forms, by revising Clause 12 of Form 40 and Form 41 to change the basis for determining premium from the average price per pound of 31-28 (Middling 7/8-inch staple cotton) at the Houston Cotton Exchange to the average price per pound of the above cotton at the Lubbock Cotton Exchange. Copies of the amended forms are attached hereto and incorporated herein by reference.

This rule is amended under the authority of Article 5.36 of the Texas Insurance Code.

.001. Fire Policy Forms. The State Board of Insurance adopts by reference the following fire policy forms (copies of which are attached) as amended in 1979. These forms are published by and available from the Texas Insurance Advisory Association, 2801 South Interregional Highway, Austin, Texas 78741, and from the State Board of Insurance, 1110 San Jacinto, Austin, Texas 78786.

Doc. No. 799515

059.05.36.006

The State Board of Insurance has amended Rule 059.05.36.006, which adopted by reference an **Excess of Loss Agreement of Indemnity (To Be Attached to a Standard Fire Policy)**, to provide for an annual aggregate deductible. A copy of the amended form is attached hereto and incorporated herein by reference.

This rule is amended under the authority of Article 5.36 of the Texas Insurance Code.

.006. Excess of Loss Agreement of Indemnity (To Be Attached to a Standard Fire Policy). The State Board of Insurance adopts by reference the attached **Excess of Loss Agreement of Indemnity (To Be Attached to a Standard Fire Policy)** as amended in 1979. This document is published by and available from the State Board of Insurance, 1110 San Jacinto, Austin, Texas 78786.

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

Doc. No. 799514 Pat Wagner
Chief Clerk
State Board of Insurance

Effective Date: January 7, 1980
Proposal Publication Date: October 5, 1979
For further information, please call (512) 475-2061.

Workers' Compensation Rates 059.05.55

The State Board of Insurance adopts the amendments to Rule 059.05.55.001, which adopted by reference a **Texas Workers' Compensation and Employers' Liability Insurance Manual**. The adopted amendments are as follows:

Revision of the weekly payroll limitation rule from \$200 to \$300 for use in premium determination.

A new classification for freight handling NOC-US Act coverage—Code 7350F.

A combination of Class Codes 7609 and 7610—radio or television broadcasting.

A new classification for restaurants operated by hotels and motels—Code 9058.

A new classification for physicians and dentists office personnel—Code 8832.

A new classification for temporary clerical service and temporary technical service—Code 8816.

A new classification for temporary medical service—Code 8819.

A minimum policy premium of \$50 for low premium policies.

A revision in the general rules section of the basic manual raising from \$200 per week to \$300 per week the maximum individual payroll of executive officers on which premium is charged. A second revision in the same general rules section increasing from \$10,400 to \$15,600 the maximum annual remuneration of partners and sole proprietors on which premium is charged.

Additions to the Classification Underwriting Guide for: boat or fishing dock operations—Code 9015; lawn sprinkler installation—Code 5183; marinas—see boat or fishing docks; and power tong operation—by contract—oil or gas well casing—Code 6238.

Revision of the minimum premium formula calling for a multiplier of 35 instead of the previous 25 times the rate.

Erection of a new classification for aerial applicators—Code 7409.

Extension of the Coverage B Limits of Liability Limit Table from \$1,000,000 to \$5,000,000.

Extension of the Maritime Employment Limit Table from \$1,000,000 to \$5,000,000.

In the classification section, Code 7409 is to replace Code 7420 for aerial applicators, the word for airport operators under Code 7423, and the wording of Code 5200—concrete or cement work is to be amended by removing the NPD restriction over against Code 5213—concrete construction NOC.

The Classification Underwriting Guide is amended by making the following additions:

Bicycle sales and service—including drivers. . . .	7998
Dude ranches.	9015
Garbage and refuse collection—containerized. . .	9403
Gasoline stations—self-service exclusively. . . .	8017
Ice machines—sales (rental, installation, and service).	5192
Locksmiths—including drivers.	7998
Prison or jail cell erection—steel.	5102
Radio or television broadcasting—field announcers.	7610
Sheet metal covered steel frame building construction: Frame work—assign appropriate iron or steel erection classification	
Sheet metal siding.	5538
Sheet metal decking—installation for subroofs or floors.	5538

The Classification Underwriting Guide is amended by making these changes:

The assignment of concrete construction of prefabricated wall sections at building sites from Code 5213 to the assignment of the appropriate concrete construction classification otherwise applicable to the job, and the term "including drivers" is to be added to all entries to which Class Code 7998 applies.

Withdrawal of the all states endorsement.

Code 6423—ground crew applicable to ground crews of aircraft operations engaged in transporting personnel in the conduct of insured's business.

Complete revision of the classification phraseology in the Texas Compensation Manual as proposed in National Council Filing B-1116. The purpose of the revision is to modernize and shorten the classification phraseologies but without changing the scope or application of any classification. Introduced in the revision is the new concept of establishing optional "minimum" phraseologies which can be used for policy writing in lieu of the corresponding full phraseology. Two minor changes in the basic manual rules are promulgated to coincide with the revised manual wordings alluded to in Item 1. These are found on page R9, paragraphs 4 and 5.

Reassignment of various workers' compensation class codes to different hazard groups used in the determination of excess loss premium factors under Retrospective Rating Plans A, B, C, D, and J.

A new classification for attorneys and law offices—Code 8820.

A new classification for building service contractors—Code 9030.

Revision of the phraseologies of street or road construction Class Codes 5506, 5507, and 5508, but without altering the scope or application of either code.

A new classification for temporary marketing service—Code 8817.

Revision of the manual wording of Class Code 3292—storage warehouse NOC to include "& Drivers."

The following changes in the Classification Underwriting Guide: reclassification of demonstration of products in stores from Code 8017 to Code 8742; assignment of doughnut shops—retail to Code 8038; deleted Class Code 9014 for janitor service—by contract.

Revision of the eligibility requirements, corresponding retrospective premium endorsements, and tables and rating values applicable to Retrospective Rating Plans A, B, C, and J, both one-year and three-year plans.

Approval of retrospective premium endorsements—one year and three year.

Revision of rules and procedure governing the application of the Retrospective Rating Plans A, B, C, and J.

Approval of retrospective premium endorsements—one year and three year—Plan D.

Revision of Retrospective Rating Plan D administrative rules and procedure.

Approval of new retrospective premium endorsement—short form and two new supplemental endorsements being (1) supplement to retrospective premium endorsement (excess loss premium factors—Texas) and (2) supplement to retrospective premium endorsement (exclusion of retrospective development factors).

These amendments are adopted pursuant to Articles 1.04, 5.55, and 5.62 of the Texas Insurance Code.

.001. *Texas Workers' Compensation and Employers' Liability Insurance Manual.* The State Board of Insurance adopts by reference the attached Workers' Compensation and Employers' Liability Insurance Manual as amended in October 1979, which contains the rules, classifications, rates, and endorsement forms for workers' compensation and employers' liability insurance. This document is available for public inspection in the offices of the Workers' Compensation Unit of the State Board of Insurance, 1110 San Jacinto, Austin, Texas 78786, and can be purchased from the State Board of Insurance for \$15.75.

Issued in Austin, Texas, on December 4, 1979.

Doc. No. 799516 Pat Wagner
Chief Clerk
State Board of Insurance

Effective Date: January 7, 1980

Proposal Publication Date: October 16, 1979

For further information, please call (512) 475-2136.

Texas Department of Mental Health and Mental Retardation

Other Agencies and the Public

Departmental Procedures for Outreach Programs 302.03.09

Under the authority contained in Section 2.11(b) of Article 5547-202, Texas Civil Statutes, Section 4.01 of Article 5547-204 and upon the approval of the Texas Board of Mental Health and Mental Retardation at its November 16, 1979, meeting, the Texas Department of Mental Health and Mental Retardation has adopted Rule 302.03.09.011 to read as follows:

.011. *Fee Schedule for Nonresidential Programs of State Facilities and Community Centers.* When a nonresidential program of a departmental facility serves a county within the service area of a community mental health and mental retardation center and the center provides a similar service within the same county, the departmental facility and the center will coordinate to ensure that the fees charged for those services are mutually agreed upon. A statement to the effect that the fees charged are mutually agreed upon shall be included in the memorandum of agreement between the departmental facility and the center.

Issued in Austin, Texas, on December 17, 1979.

Doc. No. 799528 John J. Kavanagh, M.D.
Commissioner
Texas Department of Mental Health and Mental Retardation

Effective Date: January 7, 1980

Proposal Publication Date: November 8, 1979

For further information, please call (512) 454-3761, ext. 241.

Office of the Secretary of State

Office of the Secretary

Practice and Procedure 004.01.01

Under the authority of Article 3916A, Texas Civil Statutes, the secretary of state has amended Rule 004.01.01.010 to read as follows:

.010. *Special Services.*

(a) Upon the request of any person, notice of any action taken by the secretary of state will be given the requesting party by means of a Telex message or Mailgram. The fee for this service shall be \$4.00, in addition to any statutory fees required by law.

(b) Upon the request of any person, certification of the existence of any document on file in the Office of the Secretary of State will be given the requesting party by means of a Telex message or Mailgram. The fee for this service shall be \$6.00, in addition to any statutory fees required by law.

(c) Upon the request of any person, the secretary of state will expedite the filing or reviewing of a document relating to a profit or nonprofit corporation, professional corporation or association, cooperative association, or limited partnership. On the day of receipt, the secretary of state will notify the sender of the filing or of the reason the document was not filed. The fee for this service shall be \$10. Requests for expedited filing or reviewing must be sent to:

Secretary of State
Corporations Division
Special Handling
P.O. Box 12436
Austin, Texas 78711

(d) Upon the request of any person, the secretary of state will expedite the handling of a certified record search pursuant to Chapter 9 or 35, Business and Commerce Code, or Article 1.07C, Title 122A, Taxation—General, Revised Civil Statutes of Texas, 1925, as amended. The fee for this service shall be \$5.00.

Issued in Austin, Texas, on December 17, 1979.

Doc. No. 799564 George W. Strake, Jr.
Secretary of State

Effective Date: January 9, 1980

Proposal Publication Date: November 6, 1979

For further information, please call (512) 475-5891.

Teacher Retirement System of Texas

Membership Credit

Compensation 334.03.03

The Teacher Retirement System of Texas has amended Rule 334.03.03.008 to clarify reporting requirements for persons being paid from federal funds or private grants, with one change in the text proposed. Additional language is inserted to clarify that, in reporting persons paid from federal or private grant funds for whom employer retirement costs from such grants, the retirement system may require information on an annual basis in addition to the employee's name.

The amendment to Rule .008 is promulgated under the authority of the Texas Education Code, Section 12.35(b).

.008. *Payroll Report Dates.*

(a) (No change.)

(b) Each employer must report each month on forms furnished by the Teacher Retirement System those employees eligible to participate in the Teacher Retirement System or Optional Retirement Program who receive part or all of their salary from federal funds and/or private grants. Reporting districts must transmit to the retirement system 8.5% of the monies paid as salary in addition to the amount transmitted for member contributions. If the maximum percentage legally provided for retirement purposes from these funds is less than 8.5%, the employer shall transmit the amount provided and indicate by letter the name of the grant and the rate.

Information furnished shall include the employee's tax number, name, salary paid from funds, contributions amount, fund source, and any other information designated by the TRS staff. In addition, all colleges and universities shall indicate whether the person is a member of TRS or ORP. When reporting, all independent school districts will use the TEA school district federal grants code sheet or similar code provided by TRS. If employer retirement costs are not legally available for transmission to the retirement system from federal funds or private grants paid to an employee, the name of the employee and such other information which the retirement system requires should be reported only for the first month of employment each fiscal year. A letter should accompany such report explaining why retirement costs are not available.

(c) (No change.)

Doc. No. 799549

Military Service 334.03.06

Under the authority of Sections 3.23(a) and 3.59(i), Texas Education Code, the Teacher Retirement System of Texas has amended Rule 334.03.06.001 to read as follows:

.001. *Service Credit for Eligible Military Duty.*

(a) (No change.)

(b) Credit for military duty is limited to a maximum of five years. Eligible military duty will be evaluated for credit only in the school year in which it was rendered. A member must have served a minimum of 4-1/2 months of military duty in a school year to be eligible to obtain military service credit for that year. No credit may be given for any school year of military duty which duplicates any other credit already granted or in which a year of creditable service is available for service in the public schools of Texas.

(c) (No change.)

Issued in Austin, Texas, on December 17, 1979.

Doc. No. 799550 Leonard Prewitt
Executive Secretary
Teacher Retirement System of Texas

Effective Date: January 8, 1980

Proposal Publication Date: November 13, 1979

For further information, please call (512) 477-9711, ext. 213.

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

Texas Department of Agriculture

Thursday, January 3, 1980, 10 a.m. The Texas Pork Producers Board of the Texas Department of Agriculture will meet at the Chariot Inn Motor Hotel on North IH 35, Austin. According to the agenda, the board will hear the minutes of the last meeting and consider the following: treasurer's report; approval of contractual agreement between association and board; Pork Promotion Committee report; Check-off Committee report; Research Committee report; Public Relations Committee report; and Education Committee report.

Additional information may be obtained from Kenneth E. Horton, 8330 Burnet Road, Room 108, Austin, Texas 78758, telephone (512) 453-0615.

Filed: December 18, 1979, 4:49 p.m.
Doc. No. 799556

Texas Commission on Alcoholism

Thursday and Friday, January 17 and 18, 1980, 9 a.m.-5 p.m. The Grants and Resource Development Division of the Texas Commission on Alcoholism will meet in Room 117 of the Sam Houston State Office Building, Austin. According to the agenda summary, the Grant/Contract Review Committee will review and award formula grant funds for alcoholism programs.

Additional information may be obtained from Tom Sears, 809 Sam Houston Building, Austin, Texas 78701, telephone (512) 475-2577.

Filed: December 19, 1979, 10:49 a.m.
Doc. No. 799593

Office of the Attorney General

Wednesday, December 19, 1979, 8:30 a.m. Representatives of the attorney general's office met in emergency executive session with the Railroad Commission in the conference room on the seventh floor of the Supreme Court Building to discuss litigation.

Additional information may be obtained from Mary Hardesty, seventh floor, Supreme Court Building, Austin, Texas, telephone (512) 475-3113.

Filed: December 19, 1979, 8:20 a.m.
Doc. No. 799554

Coordinating Board, Texas College and University System

Friday, January 18, 1980, 10 a.m. The Financial Planning Committee of the Coordinating Board, Texas College and University System, will meet in the Student Center on the Northeast Campus of Tarrant County Junior College in Hurst. According to the agenda summary, the committee will consider matters related to the Division of Administration and matters related to the Division of Financial Planning.

Additional information may be obtained from Kenneth H. Ashworth, P.O. Box 12788, Austin, Texas 78711, telephone (512) 475-4361.

Filed: December 19, 1979, 9:26 a.m.
Doc. No. 799585

Thursday, January 24, 1980, 9 a.m. The Campus Planning and Physical Facilities Committee of the Coordinating Board, Texas College and University System, will meet in the Crown West Auditorium at the Hilton Inn, 6000 Middle Fiskville Road, Austin. According to the agenda summary, the committee will consider matters related to the Division of Campus Planning and Physical Facilities Development.

Additional information may be obtained from Kenneth H. Ashworth, P.O. Box 12788, Austin, Texas 78711, telephone (512) 475-4361.

Filed: December 19, 1979, 9:28 a.m.
Doc. No. 799586

Thursday, January 24, 1980, 11 a.m. The Community Education and Continuing Education Committee of the Coordinating Board, Texas College and University System, will meet in the Crown West Auditorium at the Hilton Inn, 6000 Middle Fiskville Road, Austin. According to the agenda, the committee will consider a proposal from the Austin Community College for the approval of an election to create a new Travis County Community College District; final adoption of amendments to the rules for out-of-state and foreign instruction by public institutions of higher education (Rule 251.02.12); and approval to establish a community service project to provide internship training for college and university personnel with the coordinating board.

Additional information may be obtained from Kenneth H. Ashworth, P.O. Box 12788, Austin, Texas 78711, telephone (512) 475-4361.

Filed: December 19, 1979, 9:28 a.m.
Doc. No. 799587

Thursday, January 24, 1980, 1 p.m. The Senior College and University Committee of the Coordinating Board, Texas College and University System, will meet in the Crown West Auditorium at the Hilton Inn, 6000 Middle Fiskville Road, Austin. According to the agenda summary, the committee will consider matters related to unaccredited private degree-granting institutions and out-of-state institutions operating in Texas, and matters related to the Division of Senior Colleges and Universities.

Additional information may be obtained from Kenneth H. Ashworth, P.O. Box 12788, Austin, Texas 78711, telephone (512) 475-4361.

Filed: December 19, 1979, 9:29 a.m.
Doc. No. 799588

Thursday, January 24, 1980, 2 p.m. The Financial Planning Committee of the Coordinating Board, Texas College and University System, will meet in the Crown West Auditorium at the Hilton Inn, 6000 Middle Fiskville Road, Austin. According to the agenda summary, the committee will meet if necessary to conclude any business matters related to the Division of Administration and matters related to the Division of Financial Planning that were not concluded from an earlier meeting of January 18, 1980.

Additional information may be obtained from Kenneth H. Ashworth, P.O. Box 12788, Austin, Texas 78711, telephone (512) 475-4361.

Filed: December 19, 1979, 9:28 a.m.
Doc. No. 799589

Thursday, January 25, 1980, 9 a.m. The Coordinating Board, Texas College and University System, will meet in the Crown West Auditorium at the Hilton Inn, 6000 Middle Fiskville Road, Austin. According to the agenda summary, the committee will consider matters relating to the Division of Administration, Division of Financial Planning, Division of Campus Planning and Physical Facilities Development, Division of Community College and Continuing Education; matters relating to unaccredited private degree-granting institutions operating in Texas; and the Division of Senior Colleges and Universities.

Additional information may be obtained from Kenneth H. Ashworth, P.O. Box 12788, Austin, Texas 78711, telephone (512) 475-4361.

Filed: December 19, 1979, 9:29 a.m.
Doc. No. 799590

Texas Board of Corrections

Monday, January 14, 1980, 8 a.m. The Texas Board of Corrections will meet in Room 103, Texas Department of Corrections conference room, 815 Eleventh Street, Huntsville. According to the agenda summary, the board will consider matters relating to inmate affairs; personnel; business; agriculture; construction; industries; legal; research, planning, and development; and Winham School District.

Additional information may be obtained from W. J. Estelle, Jr., P.O. Box 99, Huntsville, Texas 77340, telephone (713) 295-6371, extension 160.

Filed: December 17, 1979, 3:28 p.m.
Doc. No. 799529

Texas State Board of Dental Examiners

Friday, January 4, 1980, 8 a.m. The Texas State Board of Dental Examiners will meet in the board meeting room at the Airport-Marina Hotel, Dallas/Fort Worth International Airport, Dallas. According to the agenda, the board will consider the adoption of the following rules: 382.01.03.001 and .002; 382.01.04.002; 382.19.02.003; 382.19.16.002, .003, .005, and .006; 382.19.18.002, .006, and .008; 382.26.00.004; 382.19.21.002; and 382.13.02.038. Additionally, the board will discuss examination procedures.

Further information may be obtained from Carl C. Hardin, Jr., 718 Southwest Tower, 7th and Brazos, Austin, Texas 78701.

Filed: December 19, 1979, 10:21 a.m.
Doc. No. 799592

Texas Education Agency

Tuesday, January 8, 1980, 10 a.m. The Proprietary Schools and Veterans Education Division of the Texas Education Agency will meet in the fourth floor auditorium, 1001 Trinity, TRS Building, Austin. According to the agenda, the division will consider the following: status report—Texas proprietary schools; proposed change to Minimum Standard XI; financial stability; presentation of proprietary school survey project using institutional report form developed by American Institutes for Research; and the minutes of September 11, 1979, meeting.

Additional information may be obtained from Janice Boyd, 201 East Eleventh Street, Austin, Texas 78701, telephone (512) 475-2246.

Filed: December 20, 1979, 9:52 a.m.
Doc. No. 799615

Texas Department of Health

Friday, January 11, 1980, 10 a.m. The Sanitarian Advisory Committee of the Texas Department of Health will meet in the fifth floor conference room of the Tower Building, 1100 West 49th Street, Austin. According to the agenda summary, the committee will consider the following: election of officers; review of application for professional sanitarian for educational qualifications; review of application for professional sanitarian for experience qualifications; whether or not the Merit System Council will accept CDC courses for the 15 semester hours of science required for registration; review pending applications; and the progress report.

Additional information may be obtained from Rubin Alvarado, 1100 West 49th Street, Austin, Texas 78756, telephone (512) 458-7536.

Filed: December 18, 1979, 3:52 p.m.
Doc. No. 799552

Texas Health Facilities Commission

Thursday, December 20, 1979, 10 a.m. The Texas Health Facilities Commission has made an emergency addition to the agenda of a meeting held in Suite 305 of the Jefferson Building, 1600 West 38th Street, Austin. According to the agenda summary, the addition concerned an application for a certificate of need by Brownwood Dialysis Center, Brownwood.

Further information may be obtained from Dan R. McNery, P.O. Box 15023, Austin, Texas 78761, telephone (512) 475-6940.

Filed: December 19, 1979, 12:28 p.m.
Doc. No. 799595

Thursday, January 3, 1980, 10 a.m. The Texas Health Facilities Commission will meet in Suite 305 of the Jefferson Building, 1600 West 38th Street, Austin. According to the agenda summary, the commission will consider the following applications:

- certificate of need
- Parkland Memorial Hospital, Dallas
AH79-0824-013
- Sunrise Hospital, Arlington
AH79-0731-007
- Shady Oaks Nursing Home, Sherman
AN79-0829-009
- INA Healthplan of Texas, Inc., Dallas
AS79-0829-005
- Hurst General Hospital, Hurst
AH79-0806-025
- Memorial Hospital System, Houston
AH79-0830-025
- Memorial City General Hospital, Houston
AH79-0726-021
- exemption certificate
- Metropolitan General Hospital, San Antonio
AH79-1105-025

Further information may be obtained from Dan R. McNery, P.O. Box 15023, Austin, Texas 78761, telephone (512) 475-6940.

Filed: December 19, 1979, 12:29 p.m.
Doc. No. 799596

House of Representatives

Tuesday, December 18, 1979, 10 a.m. The Advisory Committee to the Select Committee on State Employee Productivity of the House of Representatives met in the offices of the Texas Department of Health, Room T803, 1100 West 49th Street, Austin. According to the agenda summary, during

this work session of the Advisory Committee there was discussion on proposed specific suggestions for possible consideration by the five subcommittees; and the subcommittee areas were reviewed and refined. Additionally, the committee discussed their response to agency questionnaires and employee questionnaires to be sent out in February 1980.

Additional information may be obtained from Cindy Hewitt, 110 Reagan Building, P.O. Box 2910, Austin, telephone (512) 475-0223.

Filed: December 17, 1979, 4:03 p.m.
Doc. No. 799527

Texas Department of Human Resources

Friday, January 11, 1980, 8:15 a.m. The Financial and Social Services Committee of the Texas Department of Human Resources will meet in Room 5A3 at 1708 East Anderson in Austin. According to the agenda summary, the committee will consider Title XX ceiling; social services philosophy statement; project for assessment of social services; legislative appropriations request; and food stamps.

Additional information may be obtained from Victor M. Ehlers, 1708 East Anderson Lane, Austin, Texas, telephone (512) 835-0440, extension 2532.

Filed: December 20, 1979, 10:38 a.m.
Doc. No. 799616

State Board of Insurance

Tuesday, December 18, 1979, 2 p.m. The Commissioner's Hearing Section of the State Board of Insurance conducted an emergency hearing in Room 342 at 1110 San Jacinto Street in Austin. The hearing was in Docket 5912, consideration of the application of Inland Life Insurance Company, Salt Lake City, Utah, for admission to Texas.

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

Filed: December 17, 1979, 1:54 p.m.
Doc. No. 799524

Thursday, December 20, 1979, 2 p.m. The Commissioner's Hearing Section of the State Board of Insurance conducted an emergency hearing in Room 342 at 1110 San Jacinto Street in Austin. The hearing was in Docket 5852, consideration of application by TDA Life and Health Insurance Company, Houston, for certificate of authority.

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

Filed: December 17, 1979, 1:54 p.m.
Doc. No. 799525

Friday, December 28, 1979, 10 a.m. The Commissioner's Hearing Section of the State Board of Insurance will conduct a hearing in Room 342 at 1110 San Jacinto Street in Austin. The hearing is in Docket 5914, consideration of the application of Northern Life Insurance Company, Seattle, Washington, for admission to Texas.

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

Filed: December 17, 1979, 1:54 p.m.
Doc. No. 799526

Merit System Council

Friday, January 4, 1980, 8:30 a.m. and 1 p.m. The Merit System Council will meet in Room 507 of the Brown Building, Eighth and Colorado Streets, Austin. According to the agenda, the council will consider appeals hearings.

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

Filed: December 19, 1979, 1:39 p.m.
Doc. No. 799603

Pan American University

Tuesday, January 8, 1980, 8:30 a.m. The Buildings and Grounds Committee of the Board of Regents of Pan American University will meet in La Fuente Room 2, Valley International Country Club, business Highway 77 and Farm Road 802, Brownsville. According to the agenda, the committee will consider reports and/or recommendations concerning: (1) new floor covering for the recreation area of student center building; (2) improvements for campus parking lots; and (3) purchase of aluminum stands for natatorium.

Additional information may be obtained from Dr. Ralph F. Schilling, Pan American University, Edinburg, Texas 78539, telephone (512) 381-2101.

Filed: December 18, 1979, 9:12 a.m.
Doc. No. 799544

Tuesday, January 8, 1980, 11 a.m. The Academic and Developmental Affairs Committee of the Board of Regents of Pan American University will meet at La Fuente Room 2, Valley International Country Club, business Highway 77 and Farm Road 802, Brownsville. According to the agenda, as authorized by Article 6252-17, Section 2g., Vernon's Annotated Texas Statutes, the committee will meet in executive session to consider employment of personnel.

Additional information may be obtained from Dr. Ralph F. Schilling, Pan American University, Edinburg, Texas 78539, telephone (512) 381-2101.

Filed: December 18, 1979, 9:12 a.m.
Doc. No. 799545

Tuesday, January 8, 1980, 11:30 a.m. The Board of Regents of Pan American University will meet in the La Fuente Room 2, Valley International Country Club, business Highway 77 and Farm Road 802, Brownsville. According to the agenda, the board will consider reports from the Buildings and Grounds Committee and Academic and Developmental Affairs Committee; leave of absence; small class size; sale of alcoholic beverages on campus; and budget changes.

Additional information may be obtained from Dr. Ralph F. Schilling, Pan American University, Edinburg, Texas 78539, telephone (512) 381-2101.

Filed: December 18, 1979, 9:12 a.m.
Doc. No. 799546

Board of Pardons and Paroles

Monday, Wednesday, Thursday and Friday, December 31, 1979, and January 2, 3, and 4, 1980, 9 a.m. daily. The Board of Pardons and Paroles will meet in Room 711 of the 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.

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

Filed: December 17, 1979, 2:16 p.m.
Doc. No. 799520

Public Utility Commission of Texas

Thursday, December 20, 1979 9 a.m. The Hearings Division of the Public Utility Commission of Texas held an emergency rescheduled session in Suite 400N, 7800 Shoal Creek Boulevard, Austin, and conducted a hearing on the merits of Docket 2850: application of Glenn Water Supply, Inc., for a rate increase within Hill County. The hearing was reset from December 19, 1979, due to scheduling conflicts.

Additional information may be obtained from Philip F. Ricketts, 7800 Shoal Creek Boulevard, Suite 400N, Austin, Texas 78757, telephone (512) 458-0100.

Filed: December 18, 1979, 9:11 a.m.
Doc. No. 799547

Thursday, December 20, 1979, 1:30 p.m. The Hearings Division of the Public Utility Commission of Texas held an emergency session in Suite 400N, 7800 Shoal Creek Boulevard, Austin. According to the agenda, the division considered Docket 2917: complaint of Answer, Inc., of San Antonio against Autophone of San Antonio. The emergency hearing was warranted to determine the necessity of entering interim orders.

Additional information may be obtained from Philip F. Ricketts, 7800 Shoal Creek Boulevard, Suite 400N, Austin, Texas 78757, telephone (512) 458-0100.

Filed: December 19, 1979, 3:59 p.m.
Doc. No. 799609

Thursday, December 20, 1979, 2:30 p.m. The Hearings Division of the Public Utility Commission of Texas held an emergency meeting in Suite 400N, 7800 Shoal Creek Boulevard, Austin. According to the agenda, the division considered Docket 2801: application of Edward W. Plodzik for sale to Indian Hill Harbor Sewer, Inc. The emergency hearing was warranted because of threatened immediate termination of sewer service in affected area.

Additional information may be obtained from Philip F. Ricketts, 7800 Shoal Creek Boulevard, Suite 400N, Austin, Texas 78757, telephone (512) 458-0100.

Filed: December 18, 1979, 3:52 p.m.
Doc. No. 799555

Friday, December 21, 1979, 9 a.m. The Public Utility Commission of Texas made an emergency addition to the agenda of a meeting held in Suite 400N, 7800 Shoal Creek Boulevard, Austin. According to the agenda, the addition concerned the commission hearing an oral argument and considering an appeal by Tarrant Utility Company for the examiner's interim order in Docket 2914: application of Tarrant Utility Company for a rate increase. The emergency addition was warranted because Public Utility Commission of Texas Procedural Rule 052.01.00.067 requires the commission to rule on an appeal from an interim order within 10 days of the date of filing.

Additional information may be obtained from Philip F. Ricketts, 7800 Shoal Creek Boulevard, Suite 400N, Austin, Texas 78757, telephone (512) 458-0100.

Filed: December 19, 1979, 3:59 p.m.
Doc. No. 799610

Thursday, January 24, 1980, 10 a.m. The Hearings Division of the Public Utility Commission of Texas will meet in Suite 400N, 7800 Shoal Creek Boulevard, Austin. According to the agenda, the division will consider Docket 2869: application of Haskin Water Supply, Inc., doing business as Suburban Water Company, Inc., for a rate increase and for approval of the sale of the system in Bexar, Comal, and Kendall Counties.

Additional information may be obtained from Philip F. Ricketts, 7800 Shoal Creek Boulevard, Suite 400N, Austin, Texas 78757, telephone (512) 458-0100.

Filed: December 19, 1979, 9:30 a.m.
Doc. No. 799591

Monday, February 4, 1980, 10 a.m. The Hearings Division of the Public Utility Commission of Texas will hold a rescheduled meeting in Suite 400N, 7800 Shoal Creek Boulevard, Austin. According to the agenda the hearing originally scheduled for 9 a.m. on December 17, 1979, has been changed and will be held on the above date. The commission will consider Docket 2822: petition of San Jacinto Mall Company against Houston Lighting and Power Company.

Additional information may be obtained from Philip F. Ricketts, 7800 Shoal Creek Boulevard, Suite 400N, Austin, Texas 78757, telephone (512) 458-0100.

Filed: December 18, 1979, 9:11 a.m.
Doc. No. 799548

Railroad Commission of Texas

Thursday, December 20, 1979, 8 a.m. The Oil and Gas Division of the Railroad Commission of Texas met in emergency session in the first floor auditorium at 1124 South IH 35, Austin. According to the agenda, the commission went into executive session to discuss personnel actions. Consideration of the above matters on less than seven days' notice was required as a matter of urgent public necessity in order to permit action on the backlog of applications in the NGPA Section prior to the expiration of processing time allowed by regulations promulgated pursuant to the Act.

Additional information may be obtained from Linda D. Carr, P.O. Drawer 12967, Austin, Texas 78711, telephone (512) 445-1273.

Filed: December 19, 1979, 4:59 p.m.
Doc. No. 799612

Thursday, December 20, 1979, 8 a.m. The Oil and Gas Division of the Railroad Commission of Texas held an emergency meeting in the first floor auditorium at 1124 South IH 35, Austin. According to the agenda, the division considered Rule 37 application of Ike Lovelady, Inc., for the Lovelady IA Garza Well, Live Oak County, Texas. This item is being considered on less than seven days notice as a matter of urgent public necessity because the purchaser of gas from the well, El Paso Natural Gas Company, is currently experiencing a shortage of gas, requiring that it partially curtail several of its customers.

Additional information may be obtained from John G. Soule, P.O. Drawer 12967, Austin, Texas 78711, telephone (512) 445-1281

Filed: December 19, 1979, 4:59 p.m.
Doc. No. 799613

Texas Tourist Development Agency

Friday, January 18, 1980, 10 a.m. The Texas Tourist Development Agency Board will meet in Room 1033 of the Stephen F. Austin State Office Building, Austin. According to the agenda summary, the board will review the budget of fiscal year 1980; consider fiscal year 1982-83 budget request;

review autumn/winter media campaign and consider spring/summer campaign; consider fiscal year 1980 public service advertising; consider public relations efforts concerning Mexican oil spill problem; and consider a third travel mission to Britain.

Additional information may be obtained from Margaret Younger, Box 12008, Austin, Texas 78711, telephone (512) 475-4326.

Filed: December 19, 1979, 1:39 p.m.
Doc. No. 799602

Veterans Affairs Commission

Friday, January 25, 1980, 2 p.m. The Veterans Affairs Commission will meet in Room 321 of the Sam Houston Building, 201 East 14th Street, Austin. According to the agenda, the commission will consider reports on its activities and make decisions relative to general administrative matters pertaining to Texas' Veterans Counseling and Assistance Program.

Additional information may be obtained from Aubrey L. Bullard, P.O. Box 12277, Austin, Texas 78711, telephone (512) 475-4185

Filed: December 20, 1979, 9:53 a.m.
Doc. No. 799614

Texas Water Commission

Friday, February 8, 1980, 10 a.m. The Texas Water Commission will meet in the Stephen F. Austin State Office Building, 1700 North Congress Avenue, Austin. According to the agenda summary, the commission will consider the application of the Fordyce Company and Parker Brothers Company, Inc., (RE-0117) for approval of preliminary plans for construction of certain improvements on the Guadalupe River and certain of its tributaries (Crescent Valley Creek, Blue Bayou, and Springs Bayou) in Victoria County.

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

Filed: December 17, 1979, 3:22 p.m.
Doc. No. 799530

Regional Agencies

Meetings Filed December 18, 1979

Central Plains MH/MR Center, Board of Trustees, met in emergency session at 2601 Dimmit Road in Plainview on December 20, 1979, at 7 p.m. Further information may be obtained from J. C. Thomas, 2700 Yonkers, Plainview, Texas 79072, telephone (806) 296-2726.

Region IX Education Service Center, Board of Directors, met in emergency session at 301 Loop 11 in Wichita Falls on December 19, 1979, at 10 a.m. Further information may be obtained from H. M. Fullerton, 301 Loop 11, Wichita Falls, Texas 76309, telephone (817) 322-6928.

Doc. No. 799541

Meetings Filed December 19, 1979

Heart of Texas Region MH/MR Center, Board of Trustees, met in emergency session in the second floor conference room in the Cameron Building at 110 South 12th Street in Waco on December 21, 1979, at 2 p.m. Further information may be obtained from Dean Maberry, P.O. Box 1277, Waco, Texas 76703, telephone (817) 752-3451.

Upper Leon River Municipal Water District, Board of Directors, will meet in the general office of the Filter Plant at Proctor Lake in Comanche on December 27, 1979, at 7 p.m. Further information may be obtained from Lowell G. Pittman, Upper Leon River Municipal Water District, Box 67, Comanche, Texas, telephone (817) 879-2258.

Doc. No. 799594

Meetings Filed December 20, 1979

Amarillo MH/MR Center, Executive Committee of the Board of Trustees, will meet at 7201 Evans Street in Amarillo on December 20, 1979, at 10:30 a.m. Further information may be obtained from Don Pipes, P.O. Box 3250, Amarillo, Texas 79106, telephone (806) 353-7235.

Trinity River Authority of Texas, Tarrant County Water Project Right-of-Way Committee, will meet in the executive conference room at TRA's general offices at 2723 Avenue E East, in Arlington, on January 2, 1980, at 10 a.m. Further information may be obtained from Geri Elliot, P.O. Box 5768, Arlington, Texas 76011, telephone (817) 461-3151.

West Central Texas Council of Governments, Executive Committee, will meet at 1025 North 10th Street in Abilene on December 27, 1979, at 12:45 p.m. Further information may be obtained from Bobbie T. Gallagher, P.O. Box 3195, Abilene, Texas, telephone (915) 672-8544.

Doc. No. 799617



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 10-14, 1979.

Information relative to these applications, including projected emissions and the opportunity to comment or to request a hearing, may be obtained by contacting the office of the executive director at the Central Office of the Texas Air Control Board, 6630 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 14, 1979

Canadian Millworks, Inc., Canadian; woodwaste incineration/air heater; 2 Main Street; 8089; new source

AMF Tuboscope, Inc., Houston; phenol storage tank; 2835 Holmes Road; 8078; new source

Cities Service Co., Chico; natural gas-fired process heater; 8079; new source

Duval Corp., Orla; Frasch sulphur mining; 8080; new source

Skandia Roof Tile, Weatherford; cement roof tile plant; Tin Top Road; 8073; new source

Badische Corp., Clute; oxo alcohols plant; 8074; modification

Gulf Oil Corp., Monahans; crude oil storage—tank battery; J. H. Edwards, et al., D-1; 8077; modification

Gulf Oil Corp., Monahans; crude oil storage tank battery; Janelle Edwards et al., B-1; 8076; modification

Exxon Corp., Santa Elena; petroleum production tank battery; Kelsey Central Tank Battery; 8075; new source

Zack Burkett Co., Arlington; asphalt concrete plant; Abrams Road at Highway 360; 254L

Cities Service Co., Chico; gas-fired engine-driven compressor; Cherryhomes Compressor Station; 8081; new source

Cities Service Co., Chico; gas-fired engine-driven compressor; Park Springs Compressor Station; 8082; new source

Mobay Chemical Corp., Baytown; Desmodur L-2291A-85; 2006B; modification

Sigmor Refining Co., Three Rivers; storage tank; 301 Leroy Street; 8083; new source

Texas Industries, Inc., Bridgeport; crushed stone facility; Chico Highway; 336B; modification

ARCO Polymers, Inc., La Porte; polypropylene plant expansion; Monument I Plant—Battleground Road; 2269A

Tenneco Chemicals, Inc., Pasadena; phthalic anhydride manufacturing plant; 4403 La Porte Road; 8084; new source

Baytex Construction Co., Houston; air curtain destructor trench burner; Normandie Street; 7105C

Blocker Refining Co., Houston; petroleum refinery; Jacintoport Complex—Houston Refinery; 8085; new source

Jake Diel Dirt & Paving, Inc., Dumas; portable rock & caliche crusher; Four Way Pit; 8086; new source

Vanguard Pipeline Corp., Lyons; propane and heavier liquids recovery plant; 8087; new source

Issued in Austin, Texas, on December 17, 1979.

Doc. No. 799542 Ramon Dasch
Hearing Examiner
Texas Air Control Board

Filed: December 18, 1979, 9:13 a.m.

For further information, please call (512) 451-5711, ext. 401.

Texas Animal Health Commission

Consultant Proposal Request

Description of Services To Be Performed. The Texas Animal Health Commission extends a notice of invitation for consulting services to set up and computer program the Adult Vaccination Program, which forms a part of the Brucellosis Program for Texas. This invitation is offered through February 1, 1980.

Deadline for Offers and Person to Contact. Offers for consulting services may be hand delivered up to the deadline date to Joe A. Hubenak, Room 1008, Sam Houston Building, Austin, Texas, on any state workday between the hours of 8 a.m. and 5 p.m. For additional information, contact Mr. Hubenak by telephone at (512) 475-6597.

Selection Criteria. The Texas Animal Health Commission reserves the right to accept or reject any or all offers under this invitation and is under no requirement to execute a resulting contract. The commission will make its selection on the basis of the lowest and best offer conforming to the knowledge, availability of time and understanding of the duties to be undertaken, and results desired as well as the character, responsibility, reputation, and experience of the consultant.

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

Doc. No. 799484 John W. Holcombe, DVM
Executive Director
Texas Animal Health Commission

Filed: December 14, 1979, 12:58 p.m.

For further information, please call (512) 475-6597.

Texas Cosmetology Commission

Notice of Cosmetology Examinations

The Texas Cosmetology Commission will hold cosmetology examinations in the El Paso public school cosmetology facilities from June 16-21, 1980. The exams will take place at El Paso Technical High School, Cosmetology Department, 2231 Arizona, El Paso, Texas.

Further information may be obtained from the Texas Cosmetology Commission, 1111 Rio Grande, Austin, Texas 78701, telephone (512) 475-3304.

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

Doc. No. 799543 Ron Resech
Executive Director
Texas Cosmetology Commission

Filed: December 18, 1979, 10:33 a.m.

For further information, please call (512) 475-3304.

Texas Department of Health

Consultant Proposal Request

Description of Project. The Texas Department of Health, Maternal and Child Health Division, has received a second-year award for its Improved Pregnancy Outcome (IPO) Program from the Department of Health and Human Services. TDH has determined that part of its mandate to conduct statewide perinatal (obstetrical and neonatal) planning and information activities cannot feasibly be accomplished within this, or any other, state agency because of the dispersed nature and sensitivity of the data to be collected, the timeliness and editorial content of the newsletter to be produced and distributed, and the constant and consistent communications required for proper functioning of a perinatal education information clearinghouse.

The Department of Health therefore plans to award one contract, not to exceed \$17,500, to a private health consultant or nonprofit volunteer health organization for the accomplishment of the following three tasks:

(1) Statewide assessment of ambulatory perinatal health needs and intervention opportunities. This study must complement the perinatal vital statistics study currently being conducted by TDH as regards the geographical grid employed and supplement that study in furnishing data not otherwise available to the department such as: prospects for enhanced sex education in public schools, prospects for increased birth control use by sexually active adolescents, prospects for increased family planning participants in the postpartum period, the extent of high-risk pregnancy prebooking in perinatal centers, and elective Caesarean section rates in a selection of Texas hospitals. This study requires the services of an experienced health planner, knowledgeable of the state, to tactfully contract both community and professional groups. This task will cost about \$7,500. Preference will be given to a consultant whose primary place of business is within the state.

(2) Statewide perinatal newsletter. The newsletter is to be an open forum on Texas perinatal health matters, reliable and available without charge to all interested health pro-

viders and consumers. A bimonthly four-page newsletter of attractive but modest design, to a mailing list (to be furnished) of about 4,000, is required. The successful bidder will have the ability to collect and edit the content and to provide appropriate photographs. Typesetting, layout, paper, printing, folding, mailing, and postage are to be included under this contract but may be performed by a commercial third party. This task will cost about \$8,000.

(3) Statewide perinatal education clearinghouse. At present, perinatal education meetings and presentations are conducted at irregular intervals by hospitals with neonatal intensive care units, medical schools, volunteer health organizations, state and national health-professional organizations (including physicians, nurses, midwives, and nutritionists), concerned parent groups, and governmental entities. The successful bidder will enhance the quality and attendance of these meetings and presentations, and help avoid duplication, by providing a single clearinghouse, functioning during normal working hours, to dispense information to each of these groups, or to any inquirer, on the educational offerings scheduled within Texas. This task will cost about \$2,000.

Evaluation or Selection Criteria. Responses to this notice will be evaluated by the director, Division of Maternal and Child Health (also project director of the Improved Pregnancy Outcome Project), using the following criteria:

(1) Feasibility of the work plan proposed. Proposed accomplishments will be evaluated as to probable quality, timeliness, and adherence to the proposed budget.

(2) Offeror qualifications. Offerors with a staff experienced in Texas health matters, and with Texas health professionals and institutions, will be given priority. Health planning experience, editorial experience, and general administrative ability need also be demonstrated.

(3) Method. The method of data collection and analysis, as well as the detailed section of items to be ascertained, will be negotiated between the department and the successful bidder. The proposal, however, should demonstrate an understanding of the context and technique involved.

Contact Person. Prospective consultants should contact John Lowry, Division of Maternal and Child Health, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756, telephone (512) 458-7700.

Closing Date for Offers. All offers or bids must be sent to the Texas Department of Health, Purchasing Section, P.O. Box 4192, 1100 West 49th Street, Austin, Texas 78756, and such offers and bids must be received by the department no later than 5 p.m. January 18, 1980. A decision will be made according to the above-mentioned evaluation or selection by February 1, 1980, and notice of the contract award will be published in the *Texas Register*. The department reserves the right to reject any and all bids received.

General Information. The total contract amount will not exceed \$17,500. It is anticipated that the full amount will be required but there is no guarantee by the department on this amount. Prospective consultants should clarify any questions on this point with Mr. Lowry.

The period of the contract will begin on the date the parties have signed the contract and will extend through September 30, 1980.

All payments by the department under this contract will be according to the fiscal policies and requirements of the department and the State of Texas.

The contract in all its provisions will be subject to and governed by all applicable laws, rules, and regulations of the State of Texas.

Legal Authority: Articles 4418f, 6252-11c, Texas Revised Civil Statutes; House Bill 558, 66th Legislature, Regular Session, 1979; and U.S. Department of Health and Human Services, Grant No. 06-H-000653-02.

Issued in Austin, Texas, on December 17, 1979.

Doc. No. 799538 Robert Bernstein, M.D.
Acting Commissioner of Health

Filed: December 17, 1979, 2:44 p.m.
For further information, please call (512) 458-7700.

Texas Health Facilities Commission

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

Notice is given by the Texas Health Facilities Commission of applications (including a general project description) for declaratory rulings, exemption certificates, and transfers and amendments of certificates accepted December 12-17, 1979.

Should any person wish to become a formal party to any of the above-stated applications, that person must file a request to become a party to the application with the chairman of the commission within 25 days after the application is accepted. The first day for calculating this 25-day period is the first calendar day following the date of acceptance of the application. The 25th day will expire at 5 p.m. on the 25th consecutive day after the date said application is accepted. If the 25th day is a Saturday, Sunday, or state holiday, the last day shall be extended to 5 p.m. of the next day that is not a Saturday, Sunday, or state holiday. When a request to become a party is mailed to the chairman of the commission, P.O. Box 15023, Austin, Texas 78761, it must be postmarked no later than the day prior to the last day allowed for filing of a request to become a party.

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

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

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

Nacogdoches County Hospital District, Nacogdoches, (12/17/79)

AH79-1214-027

DR—That neither a CN nor an EC is required for the construction of approximately 5,500 square feet of office space to house a blood bank, provide physician offices, and space for other health related organizations

Upjohn Healthcare Services, Inc., Pasadena, (12/13/79)
AS79-1210-041

EC—Relocate the Pasadena office of Upjohn Healthcare Services from the Diamond Shamrock Building at 1149 Ellsworth to the San Jacinto State Bank Building at 213 West Southmore and increase office space

St. Luke's Episcopal Hospital and Texas Children's Hospital, Houston, (12/13/79)

AH79-1211-005

EC—Purchase a mobile ultrasound unit to be used exclusively for examination of infants too ill to be moved from intensive care unit

St. Luke's Episcopal Hospital, Houston, (12/13/79)
AH79-1211-008

EC—Purchase one additional Coag-A-Mate dual channel instrument for use in pathology lab

Inman Christian Center Ambulatory Health Care Clinic, San Antonio, (12/13/79)
AO79-1213-013

EC—To expand the outpatient dental and medical services currently being offered by adding additional physician and dental clinics

Newburn Memorial Hospital, Jacksonville, (12/17/79)
AH79-1204-004

EC—To contract for mobile ultrasound service at no cost to the hospital

Hill Country Memorial Hospital, Fredericksburg, (12/17/79)
AH79-1205-018

EC—To contract for ultrasound service at no cost to the hospital

Issued in Austin, Texas, on December 19, 1979.

Doc. No. 799583 Dan R. McNery
General Counsel
Texas Health Facilities Commission

Filed: December 19, 1979, 11:59 a.m.
For further information, please call (512) 475-6940.

Texas Register

Correction of Error

Rule 301.54.02.006 and Rule 301.54.03.006 proposed for amendment by the Texas Department of Health and published in the December 11, 1979, Texas Register contained two errors as published in that issue. Rule 301.54.02.006,

subsection (e)(1), was published "No change" (4 TexReg 4462). Paragraph (1) of that subsection should read as follows:

(1) Each facility shall implement and maintain programs of orientation, training, and continuing inservice education of all employees who have any contact with the residents. The programs shall meet the requirements described below. However, these specified programs of orientation, training, and continuing inservice education do not apply to licensed facilities or sections thereof participating in the ICF-MR-V and VI categories under Title XIX of the Social Security Act.

Rule 301.54.03.006, subsection (e)(1), was also published "No change" (4 TexReg 4465). Paragraph (1) of that subsection should read as follows:

(1) Each facility shall implement and maintain programs of orientation, training, and continuing inservice education of all employees who have any contact with the residents. The programs shall meet the requirements described below. However, these specified programs of orientation, training, and continuing inservice education do not apply to licensed facilities or sections thereof participating in the ICF-MR-V and VI categories under Title XIX of the Social Security Act.

Texas Water Commission

Applications for Waste Discharge Permits

Notice is given by the Texas Water Commission of public notices of waste discharge permit applications issued during the period of December 10-14, 1979.

No public hearing will be held on these applications unless an affected person who has received notice of the applications has requested a public hearing. Any such request for a public hearing shall be in writing and contain (1) the name, mailing address, and phone number of the person making the request; (2) a brief factual statement of the nature of the interest of the requester and an explanation of how that interest would be affected by the proposed actions; and (3) the names and addresses of all persons whom the requester represents. If the commission determines that the request sets out legal or factual questions within the jurisdiction of the commission and relevant to the waste discharge permit decision, the commission shall conduct a public hearing, after the issuance of proper and timely notice of the hearing. If no sufficient request for hearing is received within 45 days of the date of publication of notice concerning the applications, the permit will be submitted to the commission for final decision on the application.

Information concerning any aspect of these applications may be obtained by writing Larry R. Soward, assistant chief hearings examiner, Texas Water Commission, P.O. Box 13087, Capitol Station, Austin, Texas 78711, telephone (512) 475-1311.

Listed are the name of the applicant and the city in which the facility is located; type of facility; location of the facility; permit number; and type of application—new permit, amendment, or renewal.

Week Ending December 14, 1979

Galveston County Water Control and Improvement District No. 12, Kemah; sewage treatment plant; on the south bank of Clear Lake west of State Highway 146; 10029; renewal

City of Needville, Fort Bend County; sewage treatment plant; south of Buffalo Creek, approximately 0.8 mile south of and 0.4 mile east of the intersection of State Highway 36 and FM Road 1236; 10343; amendment

Fort Bend County Municipal Utility District No. 25; sewage treatment plant; 2,900 feet east of FM Road 1464 and 400 feet north of Old Richmond Road (Richmond-Gaines Road); 12003; amendment

Texas Outdoor Ministry, Inc., doing business as Camp Lone Star, La Grange, Fayette County; sewage treatment plant; 1.7 miles east-northeast of the intersection of FM Road 155 and U.S. Highway 77; new permit

City of Schulenburg (Babylon Lane Plant), Fayette County; sewage treatment plant; approximately 1/4 mile west of the intersection of FM Road 1292 and James Avenue; 10115-02; renewal

City of Beasley, Fort Bend County; sewage treatment plant; 3,000 feet east of the intersection of U.S. Highway 59 and FM Road 1875; 11450; renewal

City of Navasota, Grimes County; sewage treatment plant; four blocks northwest of the intersection of State Highway 90 and FM Road 1227; 10231; renewal

Petroleum Equipment Tools Co., Alvin, Brazoria County; services and rents oil field equipment; south of State Highway 6, approximately 0.2 mile east of the intersection of State Highway 6 with State Highway 35; new permit

City of Canadian, Hemphill County; sewage treatment plant; one mile north of FM Road 2388 and 1/2 mile east of U.S. Highway 60, at the east end of the golf course and fairgrounds; 10072; renewal

Coastal Industrial Water Authority, Liberty County; sewage treatment plant; on the west bank of the Trinity River, two miles east of FM Road 1409 and seven miles south of U.S. Highway 90; 10495-80; renewal

West Hardin County Consolidated ISD, Saratoga; sewage treatment plant; immediately south of the intersection of State Highway 105 and FM Road 770, 1,000 feet east of Pine Island Bayou; 11274; renewal

Crystal Chemical Co., Harris County; waste disposal well; approximately 850 feet west of the east line and 1,700 feet north of the south survey line 1-1/2 miles east-northeast of Alief; new permit

Harris County Water Control and Improvement District No. 110, Spring; sewage treatment plant; 18501 Highway 75, north of Cypress Creek and west of IH 45; 10792; renewal

Ohmstede Machine Works, Inc., La Porte Plant, Harris County; industrial wastewater plant; 1/2 mile west of the intersection of State Highway 225 with State Highway 146; 01318; renewal

Air Products and Chemicals, Inc., Harris County; industrial wastewater plant; 10202 Sprang Road, northwest of La Porte; 01280; renewal

Harris County Municipal Utility District No. 1; sewage treatment plant; 2,000 feet east of Kuykendahl Road and 4,000 feet south of its intersection with Huffsmith Road, four miles northeast of Tomball; 11630; renewal Wyoming Mineral Corp., Bruni, Webb County; industrial waste disposal well; in Section 2081, Abstract 1372, at a point approximately 3,400 feet north of the south survey line and 800 feet west of the east survey line; new permit

Issued in Austin, Texas, on December 17, 1979.

Doc. No. 799531 Mary Ann Heffer
 Chief Clerk
 Texas Water Commission

Filed: December 17, 1979, 3:21 p.m.

For further information, please call (512) 475-1311.

