

TEXAS REGISTER

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Office of the Secretary of State

USPS Publication Number 120090

NOTES ON THE ISSUE

On October 1, 1977, the Summer Food Program, an extension of the School Lunch Program, was transferred from the United States Department of Agriculture to the Texas Department of Human Resources. The program, still totally federally funded, operates annually from May 15 to September 15 offering meals to those children under 18 years who qualify to receive school lunches. Under federal supervision in 1977, 98,000 children participated throughout the state with 83 sponsors; \$2 million were spent last year in Texas for the program. Because of increased outreach programs, the Department of Human Resources projects that 150,000 children will participate in the 1978 program at 1,200 sites through 150 sponsors; the department anticipates a \$3 million cost increase over last year's expenditure. This projected increase still falls short of involving one million children estimated to be eligible in the state. Rules governing this program appear in the Proposed Rules section.

Recent legislation enacted by the 65th Legislature has changed certain provisions relating to voting. How voting registration procedures have been affected is the subject of a directive by the Office of the Secretary of State to registrars of voters, county clerks, county chairmen, and municipal clerks and secretaries. Excerpts from this directive concerning the new provisions, such as the list of cancelled voter registration certificates and postage-free voter registration applications, appears in the In Addition section. Also included in the section is information by the secretary of state concerning voting absentee in an emergency situation.

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

Artwork: Gary Thornton

TEXAS REGISTER

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Requests for Opinions

Summary of Request for Opinion RQ-1818

Request for opinion sent to the Attorney General's Opinion Committee by Fred Toler, executive director, Texas Commission on Law Enforcement Officer Standards and Education, Austin.

Summary of Request: Can the district attorney of the 53rd Judicial District legally appoint investigators of his office who are peace officers under the provisions of Section (5), Article 2.12, Code of Criminal Procedure, other than:

- (1) the district attorney and his assistant district attorneys while carrying out the investigations; and
- (2) those persons appointed and compensated as investigators with the approval of the Travis County Commissioners Court under the authority of Article 326k-14, Vernon's Texas Civil Statutes?

Doc. No. 781211

Summary of Request for Opinion RQ-1819

Request for opinion sent to the Attorney General's Opinion Committee by Charles A. Murphy, director, Texas Aeronautics Commission, Austin.

Summary of Request: Does the contribution of land, in-kind services, or any combination of these by the Brazos River Authority, governmental agency of the State of Texas, matching funds for the aircraft project, meet the requirement that at least 50 percent of the total cost of the project be from sources other than the State of Texas?

Doc. No. 781212

Summary of Request for Opinion RQ-1820

Request for opinion sent to the Attorney General's Opinion Committee by Chet Brooks, chairman, Committee on Human Resources, Texas Senate, Austin.

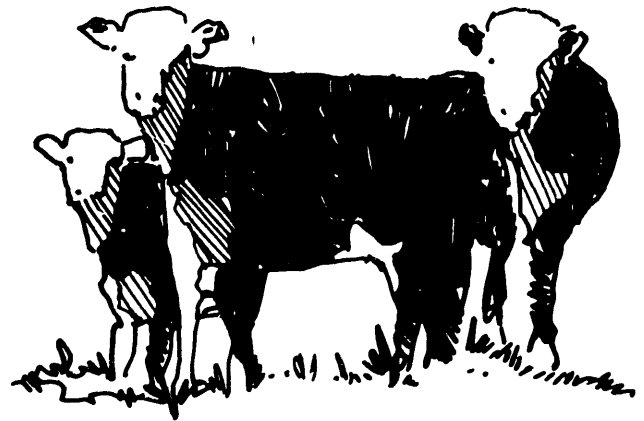
Summary of Request: Do secret ballots taken at public meetings constitute a violation of the Texas Open Meetings Act?

Issued in Austin, Texas, on February 14, 1978.

Doc. No. 781239

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

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



PROPOSED RULES

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

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

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

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

Texas Agricultural Experiment Station

Pullorum Disease and Fowl Typhoid Program 187.04.00

The Texas Agricultural Experiment Station proposes to adopt Rules 187.04.C .001-.009, which would implement a program to control and eradicate pullorum disease and fowl typhoid. These bacterial diseases of poultry pose a serious threat to the economic welfare of the Texas poultry industry. The new rules establish procedures for the testing of flocks for the diseases and for the handling of flocks in which infected fowl are found. The rules also require the registration of certain hatcheries and breeder flocks with the Texas Agricultural Experiment Station and establish a certification procedure to recognize disease-free hatcheries and flocks. The rules became effective as emergency rules on September 19, 1977, and were renewed on December 20, 1977.

The 65th Legislature appropriated \$210,000 for operation of the program in fiscal year 1978 and a like amount for fiscal year 1979. Texas Agricultural Experiment Station personnel estimate that the costs of the program for fiscal years 1980, 1981, and 1982 will be approximately \$250,000 each year.

Public comment on the proposed adoption of these rules may be submitted by telephoning the office of Dr. Leland C. Grumbles, project coordinator of the Poultry Disease Control Program, at (713) 845-5941, or by writing to Dr. Grumbles in care of the Department of Veterinary Microbiology and Parasitology, College and Veterinary Medicine, Texas A&M University, College Station, Texas 77843.

These rules are proposed under the authority of Texas Revised Civil Statutes, Article 7014h-1.

.001. Applicability and Scope. These rules shall apply to all firms or persons producing hatching eggs, or hatching,

selling, or exhibiting domesticated poultry within the State of Texas.

.002. Definitions and Terms.

(a) **Recognized laboratory** means a laboratory approved by the Texas Agricultural Experiment Station for performing approved serological testing procedures and bacteriological culture techniques.

(b) **Testing agent** means an employee, agent, or representative of the Texas Agricultural Experiment Station authorized by the station to perform approved serological testing procedures and bacteriological culture techniques.

(c) **Poultry** means chickens, turkeys, game birds, and all other domestic fowl.

(d) **Flock** means the poultry and eggs on any given premises.

(e) **Primary breeding flock** means a flock that is maintained for the purpose of establishing, continuing, or improving parent lines.

(f) **Multiplier flock** means a flock that originates from a primary breeding flock and that is intended for production of hatching eggs.

(g) **Hatchery** means equipment on one premises operated or controlled by any person or firm for the hatching of poultry eggs.

(h) **Products** means poultry or hatching eggs.

(i) **Official test** means serological testing using a Texas Agricultural Experiment Station-approved testing procedure conducted by a recognized laboratory or testing agent.

(j) **Infected flock** means a flock in which one or more birds has been diagnosed and confirmed by isolation of *Salmonella pullorum* or *Salmonella gallinarum* to be infected with pullorum disease or fowl typhoid.

(k) **Negative test result** means an approved testing procedure in which the blood or serum antigen mixture fails to clump.

(l) **Positive test result** means an approved testing procedure in which there is complete or nearly complete clumping of the blood or serum antigen mixture.

.003. Methods of Compliance. All firms or persons hatching domesticated poultry within the State of Texas must have a pullorum typhoid status at least equivalent to that specified by the National Poultry Improvement Plan. A firm or person may obtain such a status by compliance with one of the following methods.

(a) Those individuals or firms currently qualified under the National Poultry Improvement Plan are recognized as meeting the requirements of these rules.

(b) Any firm or person presently under a program of monitoring and testing breeder birds for pullorum and typhoid, which is equivalent to the required program, may have the program approved by the Texas Agricultural Experiment Station.

(c) A firm or person unable to obtain a pullorum-typhoid status at least equivalent to that specified by the National Poultry Improvement Program by compliance with one of the methods outlined in (a) and (b) must submit his flock to an official test. A flock in which all test results are negative shall be considered to have a pullorum-typhoid status equivalent to that specified by the National Poultry Improvement Plan. The following testing procedures may be used to comply with this regulation:

(1) All birds in the primary breeder flocks are tested and all birds in multiplier flocks are tested.

(2) All birds in the primary breeder flocks are tested, and birds in the multiplier flocks are tested according to the following:

Year	Size of Flock	Number Tested
1st	More than 2000	25% of flock
	500-2000	500
	Less than 500	All in flock
2nd	More than 2000	20% of flock
	400-2000	400
	Less than 400	All in flock
3rd	More than 2000	15% of flock
	300-2000	300
	Less than 300	All in flock
4th	More than 2000	10% of flock
	200-2000	200
	Less than 200	All in flock
5th	More than 2000	5% of flock
	100-2000	100
	Less than 100	All in flock

The amount of testing in multiplier flocks will be based on origin of the flock, the present testing program, and the number of years of continuous operation without evidence of pullorum or typhoid in a hatchery supply flock or in progeny from the hatchery. In no instance will the testing required the first year be less than five percent or 100 birds, whichever is greater.

(3) All birds in the primary breeder flocks are tested. Multiplier flocks may not be required to test provided certain conditions are met for the entire state. This method will not be used during the first year of the program but may become available in subsequent years depending on the incidence of infection in Texas.

(4) At least 300 birds from the primary breeder flocks are tested. No test is required in multiplier flocks. This method will not be available until the entire state has a pullorum-typhoid clean designation.

(5) Under the methods described in (2), (3), and (4) above, in lieu of blood testing, the Texas Agricultural Experiment Station may determine that a primary breeding flock, a multiplier breeding flock, game birds, and water fowl may comply with this regulation if progeny have been subjected to an approved 10-day baby poultry mortality bacteriological monitoring program and a bacteriological examination has been made of samples of down or fluff shed by baby poultry in the hatchery. In making such a determination, the Experiment Station shall consider the origin of the flock and any history of pullorum disease or fowl typhoid in the flock or on the premises on which the flock has been housed, incubated, brooded, or ranged. The Experiment Station may require blood testing of flocks when there is any cause to suspect infection with pullorum disease or fowl typhoid. Before compliance by this method can be approved by the Experiment Station, the firm or person owning the flock must agree to submit specimens to an approved laboratory when excessive mortality in birds under four weeks of age has occurred.

.004. *Submission of Positives to a Recognized Laboratory.*

(a) Each flockowner of poultry indicating a positive test result shall submit such birds from the flock to a recognized laboratory for confirmation. If laboratory examination

fails to reveal *Salmonella pullorum* or *Salmonella gallinarum* organisms, the flock shall be considered to have a pullorum-typhoid status at least equivalent to that specified by the National Poultry Improvement Program. If the laboratory examination reveals *Salmonella pullorum* or *Salmonella gallinarum* organisms, the flock shall be designated an infected flock.

(b) The number of poultry to be submitted for laboratory confirmation of serologic tests shall be all reactor birds up to five or as otherwise determined by the Texas Agricultural Experiment Station or its representative.

.005. *Procedures for Handling Infected Flocks and Their Products.*

(a) Any infected flock shall be reported to the Texas Animal Health Commission, who, upon verifying the infection, will impose a quarantine or otherwise restrict the movement of birds or eggs to prevent further spread of the infection. An infected flock may be disposed of in one of the following manners:

(1) Birds reacting to the pullorum typhoid test may be removed from the flock and all remaining birds in the flock serologically tested. If, as a result of two consecutive negative flock tests, the first not less than 21 days later, the flock shall be considered to have a pullorum-typhoid status at least equivalent to that specified by the National Poultry Plan. The flock must not be treated with antibiotics or other drugs that may mask the presence of the disease.

(2) The flock may be moved to a state or federally inspected poultry processing establishment accompanied by a written certificate issued by the Texas Animal Health Commission or its representative.

(3) The flock may be depopulated under supervision of the Texas Animal Health Commission and/or the Texas Agricultural Experiment Station.

(b) All incubating eggs from infected flocks shall be removed from the incubator and destroyed under Texas Animal Health Commission and Texas Agricultural Experiment Station supervision prior to hatching, except that by special permission eggs may be hatched under quarantine of the eggs and the progeny.

.006. *Cleaning and Disinfecting.* Premises found to have housed, incubated, brooded, or ranged an infected flock shall be cleaned and disinfected under the supervision of the Texas Agricultural Experiment Station within 15 days following depopulation, unless an extension of time is granted. No infected premises shall be restocked with poultry or eggs for hatching purposes until the above cleaning and disinfecting requirement is certified complete by the Experiment Station.

.007. *Texas Pullorum-Typhoid Certified Individual Flock and Hatchery Classification.* A flock and hatchery classification of "Texas Pullorum-Typhoid Certified" is established to recognize and identify those flocks and hatcheries that are free of pullorum disease and fowl typhoid.

(a) A flock of poultry may attain this status by meeting the requirements of one of three alternatives. The alternatives are:

(1) A flock may attain this status when each chicken or turkey breeder flock 16 weeks of age or older and other poultry approaching sexual maturity, and before eggs are hatching, has been tested by an approved serological testing

procedure, conducted by an authorized agent, with no positive reactors.

(2) A flock may attain this status when it is a flock originating from Texas pullorum-typhoid certified flocks, U.S. pullorum-typhoid clean, or the equivalent to that specified by the National Poultry Improvement Plan by one of the methods described in .003.

(3) A flock found to be infected with pullorum disease or fowl typhoid may attain this status by two consecutive negative tests not less than 21 days apart provided that all eligible poultry on the premises have been included in such tests. These flocks must be retested one year from the date of their last negative test.

(b) A flock of poultry which has been certified may be re-certified each year under this system if there is no serological or other evidence of pullorum disease or fowl typhoid and all birds added to the flock are U.S. pullorum-typhoid clean, Texas pullorum-typhoid certified, or the equivalent.

(c) A hatchery may be certified as a Texas pullorum-typhoid certified hatchery. Hatcheries desiring certification must be inspected and approved by a representative of the Texas Agricultural Experiment Station. Factors which will be considered by the station in the certification process include hatchery sanitary condition, the source and identification of all hatching eggs, and the cleaning, disinfecting, and fumigation practices of the hatchery. Only eggs or products from flocks which meet the United States pullorum-typhoid clean status, according to the National Poultry Improvement Plan or a Texas pullorum-typhoid certified flock or hatchery or equivalent, may be used by the certified hatchery.

(d) Certified hatcheries shall be subject to periodic inspections. Failure to meet the requirements of these regulations is cause for withdrawal of the certified status of the hatchery.

.008. Exhibition of Poultry. All poultry going to public exhibition shall originate from pullorum-typhoid clean flocks or hatcheries or have negative pullorum-typhoid test within 90 days prior to exhibition. Poultry entered for exhibition purposes which are from pullorum-typhoid clean sources must be accompanied by a certificate of source or purchase.

.009. Registration

(a) All existing hatcheries must register and submit the following information to the Texas Agricultural Experiment Station, College Station, Texas 77843:

(1) Hatchery name, address, capacity, and type of poultry hatched.

(2) Name and address of each supplier of hatching eggs and location of breeder flocks.

(b) All new hatcheries must register the same information with the Texas Agricultural Experiment Station before any sale of poultry may be made from the hatchery.

(c) All independent breeding flocks not associated with a registered hatchery must register, giving flock size, breed, where eggs are hatched, and location of flock.

Issued in College Station, Texas, on February 7, 1978.

Doc. No. 781167 Neville P. Clarke
Director
Texas Agricultural Experiment Station

Proposed Date of Adoption: March 24, 1978

For further information, please call (713) 845-3511.

Comptroller of Public Accounts

Tax Administration

Motor Vehicle Sales and Use Tax 026.02.06

The comptroller of public accounts is proposing Rule 026.02.06.038, defining the term "engaging in business," for purposes of Texas Taxation—General Annotated, Article 6.03(D)(3), to conform to the statutory changes enacted by the 65th Legislature.

There are no fiscal implications for the rule since it is merely definitional. (Source: Revenue Estimating staff, Office of the Comptroller of Public Accounts.)

Public comment on Proposed Rule 026.02.06.038 is invited. Persons should submit their comments in writing to: Richard Montgomery, Drawer SS, Austin, Texas 78711.

The following rule is proposed under the authority of Texas Taxation—General Annotated, Article 6.02.

.038. Engaging in Business—Article 6.03(D)(3).

(a) Any person is "engaging in the business" of making rentals or leases of motor vehicles if the person regularly and actively engages in renting or leasing of motor vehicles as a primary function of his business and rents or leases at least five different motor vehicles within any given 12-month period.

(b) Any person is "engaging in the business" of making sales of motor vehicles if the person regularly and actively engages in selling motor vehicles as a primary function of his business and sells at least five different motor vehicles acquired for the exclusive purpose of resale and not for use within any given 12-month period.

Issued in Austin, Texas, on February 15, 1978.

Doc. No. 781248 Bob Bullock
Comptroller of Public Accounts

Proposed Date of Adoption: March 24, 1978

For further information, please call (512) 475-6897.

Office of the Governor

Criminal Justice Division

State—Federal Relations 001.55.02

The Criminal Justice Division proposes to amend Rule 001.55.02.006 in order to clarify the manner in which LEAA external directives (guidelines, guideline manuals, and notices) are listed in the rule.

The proposed amendment would have no fiscal implication for the state or for units of local government as it is merely a revision of format. Administrative costs to the Criminal Justice Division on the proposed amendment are negligible. (Source: Criminal Justice Division staff.)

Public comment on the proposed amendment is invited for a period of 30 days from the date of publication. Comments may be submitted in writing to Willis Whately, General Counsel, 411 West 13th, Austin, Texas 78701, or by calling him at (512) 475-6065.

This rule is proposed under the authority of Public Law 90-351, Title I, Omnibus Crime Control and Safe Streets Act of 1968 as amended by Public Law 91-644, Omnibus Crime Control Act of 1970, Public Law 93-83, Omnibus Crime Control Act of 1973, and Public Law 94-503, Crime Control Act of 1976; Public Law 93-415, Juvenile Justice and Delinquency Prevention Act of 1974; Public Law 95-115, Juvenile Justice Amendments of 1977; and rules and guidelines promulgated by the Law Enforcement Assistance Administration.

.006. LEAA External Directives Adopted by Reference.

(a) Guidelines.

(1) G1432.2A, dated June 12, 1974, *Format Standards for Manuscripts of LEAA Grant, Contract or In-house Project Reports*

(2) G3500.1A, dated June 13, 1974, *LEAA Funding of Narcotics and Dangerous Drugs Grants*

(3) G4000.2, dated June 25, 1975, *Effect of FY Change on Planning and Action Grant Submissions, Obligations, and Expenditures*

(4) G4061.1A, dated November 28, 1972, *Relocation Assistance and Payments—Draft Guidelines and Procedures for Interim Use*

(5) G4061.1A, Chg-1, dated July 19, 1973, *Relocation Assistance and Payments*

(6) G4061.1A, Chg-2, dated December 6, 1973, *Relocation Assistance and Payments*

(7) HB4061.5, dated December 14, 1976, *Environmental Procedures*

(8) G4063.1A, dated December 19, 1973, *Transmittal of OMB Circular No. A-95 (Revised), Evaluation, Review, and Coordination of Federal and Federally Assisted Programs and Projects*

(9) G4063.2A, dated February 14, 1973, *National Clearinghouse for Criminal Justice Planning and Architecture*

(10) G4100.2, dated January 21, 1977, *1977 Planning Grant Amendments and Comprehensive Plan Supplement Document*

(11) G4340.1A, dated October 10, 1974, *Variable Pass-Through Classification Procedures and Percentages*

(12) G4340.1A, Chg-1, dated August 5, 1976, *Variable Pass-Through Classification Procedures and Percentages*

(13) G4340.1A, Chg-2, dated February 23, 1977, *Variable Pass-Through Classification Procedures and Percentages*

(14) G5400.2A, dated August 30, 1976, *Competitive Graduate Research Fellowship Program*

(15) G5400.3, dated January 27, 1975, *Guidelines for the Graduate Research Program: National Criminal Justice Educational Development Consortium Institutions*

(16) G6010.1A, dated March 23, 1977, *LEAA Visiting Fellowship Program*

(17) G6060.1A, dated June 18, 1974, *Use of LEAA Funds for Psychosurgery and Medical Research*

(18) G7100.3A, dated January 28, 1976, *Principles for Determining Travel Cost Applicable to LEAA Grants*

(19) G7140.2A, dated October 14, 1977, *Reporting of Possible LEAA Fund Misuse, Criminal Activity, Conflict of Interest, or Other Serious Irregularities*

(20) G7360.1, dated June 12, 1975, *Establishment of Recommended Technical Standards to Facilitate Interchange of TV Video Recordings*

(21) G7380.2, dated August 30, 1976, *Standards for Property Acquired with LEAA Grant Funds*

(22) G7400.1B, dated June 4, 1974, *Construction Contracts—Equal Employment Opportunity Procedures for Submitting Information on Construction and Renovation Contracts*

(23) G7400.2A, dated June 18, 1974, *The Effect on Minorities and Women of Minimum Height Requirements for Employment of Law Enforcement Officers*

(24) G7400.4, dated August 19, 1974, *Representation of Minorities and Women on Supervisory Boards of Criminal Justice SPA's and Regional Planning Units*

(b) Guideline Manuals.

(1) M1700.6, dated February 7, 1973, *Grant Manager Procurement Manual*

(2) M1700.6, Chg-1, dated March 28, 1973, *Grant Manager Procurement Manual*

(3) M1700.6, Chg-2, dated January 25, 1974, *Grant Manager Procurement Manual*

(4) M4100.1F, dated January 18, 1977, *State Planning Agency Grants*

(5) M4100.1F, Chg-1, dated May 20, 1977, *State Planning Agency Grants*

(6) M4500.1E, dated September 27, 1976, *Guide for Discretionary Grant Programs*

(7) M6640.1, dated April 27, 1976, *Comprehensive Data Systems Program*

(8) M7100.1A, dated April 30, 1973, *Financial Management for Planning and Action Grants*

(9) M7100.1A, Chg-1, dated January 24, 1974, *Financial Management for Planning and Action Grants*

(10) M7100.1A, Chg-2, dated December 18, 1974, *Financial Management for Planning and Action Grants*

(c) Notices.

(1) N1480.27, dated May 10, 1977, *LEAA Policy on Control of Official Travel*

[The CJD Adopts by Reference the Following LEAA Guidelines:

[(a) G 1432.2A Format Standards for Manuscripts of LEAA Grant, Contract or In-house Project Reports

[(b) M 1700.6/Chg-1/Chg-2 Grant Manager Procurement Manual

[(c) G 3500.1A LEAA Funding of Narcotics and Dangerous Drugs Grants

[(d) G 3600.1A LEAA Pilot Cities/Counties Program

[(e) G 4000.2 Effect of FY Change on Planning and Action Grant Submissions, Obligations, and Expenditures

[(f) G 4060.1 Presidential Statement on Corrections; SPA Use of GSA Motor Pools; Radio Frequency Reports

[(g) G 4061.1A/Chg-1/Chg-2 Relocation Assistance and Payments—Draft Guidelines and Procedures for Interim Use

[(h) G 4061.4 OMB Circular No. A-102, Uniform Administrative Requirements for Grants-in-Aid to State and Local Governments

[(i) G 4062.1 Guidelines for the Integrated Grant Administration Program

[(j) G 4063.1A Transmittal of OMB Circular No. A-95 (Revised), Evaluation, Review, and Coordination of Federal and Federally Assisted Programs and Projects *

[(k) G 4063.2A National Clearinghouse for Criminal Justice Planning and Architecture

[(l) M 4100.1D/Chg-1/Chg-2 State Planning Agency Grants

[(m) G 4201.2 Carryforward of Part B Planning Funds

[(n) G 4301.1/Chg-1 Submission of Action Subgrant Data for LEAA Grant Management Information System

[(o) G 4340.1A Variable Pass-Through Classification Procedures and Percentages

[(p) M 4500.1D Guide for Discretionary Grant Programs

[(q) M 5200.1B Law Enforcement Education Program

[(r) G 5400.2 Competitive Graduate Research Fellowship Program

[(s) G 5400.3 Guidelines for the Graduate Research Program. National Criminal Justice Educational Development Consortium Institutions

[(t) G 5500.1A Participation Criteria for Internship Program

[(u) G 6010.1 LEAA Visiting Fellowship Program

[(v) G 6060.1A Use of LEAA Funds for Psychosurgery and Medical Research

[(w) M 7100.1A/Chg-1/Chg-2 Financial Management for Planning and Action Grants

[(x) G 7100.3 Principles for Determining Travel Cost Applicable to LEAA Grants

[(y) M 7120.1 Implementation Training Manual for the LEAA Financial System

[(z) G 7140.1A Distribution, Resolution, and Clearance of Audit Reports

[(aa) G 7140.2 Reporting of Possible LEAA Fund Misuse, Criminal Activity, Conflict of Interest, or Other Serious Irregularities

[(bb) G 7200.1 Excessive Cash Balances Under Letters of Credit

[(cc) G 7360.1 Establishment of Recommended Technical Standards to Facilitate Interchange of TV Video Recordings

[(dd) G 7370.1 Procurement Assistance

[(ee) G 7370.2A Helicopter Procurement

[(ff) G 7400.1B Construction Contracts-Equal Employment Opportunity Procedures for Submitting Information on Construction and Renovation Contracts

[(gg) G 7400.2A The Effect on Minorities and Women of Minimum Height Requirements for Employment of Law Enforcement Officers

[(hh) G 7400.4 Representation of Minorities and Women on Supervisory Boards of Criminal Justice SPA's and Regional Planning Units

[(ii) N 4150.1 FY 75 Plan Supplement Document and Special Emphasis Grant Application Forms for Funding Under the Juvenile Justice and Delinquency Prevention Act of 1974

[(jj) N 7140.1 Distribution, Resolution, and Clearance of Audit Reports

[(kk) RODAL B 76-1 Government Excess Motor Vehicles

[(ll) RODAL B 76-2 Sole-Source Procurement

[(mm) RODAL B 76-6 Amendment to M 7100.1A, "Financial Management for Planning and Action Grants"

[(nn) RODAL B 76-7 Clarification of Paragraph 49f(6)(b), Guideline Manual M 7100.1A

[(oo) RODAL B 75-17 LEAA Policy Regarding Ammunition, Firearms, etc.

[(pp) RODAL B 75-18 Preparation and Submission of Revisions to LEAA Grant Awards

[(qq) RODAL B 75-22 State and Local Funds Used to Match LEAA Funded Construction Projects

[(rr) RODAL I 6900.1C Technical Assistance Requests—Requesting and Processing Procedures

[(ss) RODAL I 7140.1 Clearance of Audit Report Recommendations

[(tt) RODAL B 76-20 Appropriations for FY 1976

[(uu) RODAL B 76-21 Vehicles on Loan to LEAA Project Grantees]

Issued in Austin, Texas, on February 3, 1978.

Doc. No. 781255

Robert C. Flowers, Executive Director
Criminal Justice Division
Office of the Governor

Proposed Date of Adoption March 24, 1978

For further information, please call (512) 475-6065.

Texas Department of Human Resources Commodity Program

The Department of Human Resources proposes the following rules concerning the Summer Food Program. This program was transferred from the United States Department of Agriculture (USDA), and the Office of the Governor designated the Department of Human Resources as the state agency responsible for the administration of this 100 percent federally funded program. The Summer Food Program for children provides nutritional help to children 18 years of age or younger who would otherwise be deprived of the food assistance they get at other times of the year under the National School Lunch and Breakfast Programs. Summer food services are organized and operated by public and private nonprofit institutions. They are set up to benefit children from areas in which at least one third of the children are eligible under a state's family-size and income standards for free and reduced-price school meals. Residential camps can operate the Summer Food Program, as well as sponsors who enroll children in a regularly scheduled nonresidential cultural or recreational activity.

Sponsors for the Summer Food Program may include agencies of city governments, county and municipal school systems, recreational groups, churches, and social service organizations. Although the program is intended to operate primarily during school summer vacation periods, it also provides for meal services in situations where schools operate on a continuous school calendar basis.

The following rules include policies concerning the financial management and costing standards for operating the Summer Food Program. The policies specify the standards and guidelines for determining operating costs, purchasing practices, cost reports, and audits.

The department has determined that the proposed rules are 100 percent federally funded, and therefore, will have no fiscal implications for the state or units of local government.

Written comments are invited and may be sent to Susan Johnson, Administrator, Systems and Procedures Bureau—411, Department of Human Resources, John H. Reagan Building, Austin, Texas 78701, within 30 days of publication in this *Register*.

Summer Food Program 326.18.10

These rules are proposed under the authority of Article 695c, Texas Revised Civil Statutes.

.001. *Responsibilities.* By April 15 of each year, the department will develop and issue the Summer Program Financial Management System to sponsors who have applied for participation in the program.

.002. *Full Operating Costs.*

(a) Operating costs are the costs which result from day-to-day program operations. Among these day-to-day operating costs are some exceptional costs which are not eligible for payment from federal funds. Operating costs not eligible for federal payments include initial or replacement purchase of nonexpendable equipment, or other similar capital expenditures, as more specifically enumerated in Rule 326.18.10.003.

(b) Sponsors may elect to claim payment for costs as full operating costs, including cost of food used, direct labor costs for food service, facilities service costs, and cost of supplies used, plus administrative costs as justified; or limited to any element or elements of full operating costs, as justified, except that administrative costs cannot be the single element elected.

(c) The department shall advise sponsors of the options available to them while the written agreement is being formulated. The final written agreement must indicate which elements of full operating costs the sponsor will claim, and will, therefore, record.

(d) Any portion of administrative costs not recovered by any sponsor from federal payments shall not be claimed by the sponsor as an operating cost, nor shall any under-recovered portion of operating costs be claimed as administrative costs.

(e) Full operating costs, including administrative costs, and reimbursement procedures associated with various elements of income accruing to the program are described below.

(f) *Cost of food used.* Cost of food used is, in its simplest form, beginning inventory, plus food received, less ending inventory. Reasonable costs to sponsors for food necessary for the conduct of the program are allowable provided that food costs are reported net of all applicable credits and provided that food costs are properly documented.

(g) *Cost of obtaining food.* The cost of obtaining food includes, in addition to the price of purchased food, costs of processing, distributing, transporting, storing, and handling both purchased and donated food.

(h) *Reductions to the cost of obtaining food.* Normal operations associated with obtaining food may involve several actions which reduce the cost of obtaining food, and are referred to as credit to the cost of obtaining food. Applicable credits, which should be recorded and separately reported, may include:

(1) returns to vendors or food service management companies of food that is defective or does not otherwise meet specifications;

(2) allowances to sponsors by vendors or food service management companies for food that fails to meet specifications, but is nevertheless accepted at price reduction;

(3) cash discounts earned by sponsors through prompt payment of bills;

(4) trade discounts or rebates to sponsors for purchasing in volume.

(i) *Inventory counts and adjustments.* The dollar value of purchased food, if any, ascertained by a physical count to be on hand or in storage at the end of the period is the ending inventory. Beginning inventory (including startup) of a given period is the same as the ending inventory of the preceding period. The method for assigning dollar value, including transportation costs to food inventory, shall be the purchase price. Donated food should be excluded from inventory counts. Inventory adjustments shall be made when major reductions of food in stock results from fire, water, spoilage or other contamination, or any event other than normal usage that results in major stock reductions. Minor reductions in food stock need not be recorded as inventory adjustments except when such minor losses are covered by insurance. The dollar amount at which reductions in stock become "major" will be for reductions over \$250.

(j) *Calculation of cost of food used.* The formula used by sponsors to calculate the cost of food used will be stated as: calculated cost of food used equals beginning inventory plus receipts of purchased food plus other costs of obtaining food minus credits to costs of obtaining food minus inventory adjustment equals ending inventory. Sponsors who will submit three or less monthly claims for reimbursement will be required only to calculate and report closing inventory values of food used. However, sponsors who will submit four or more monthly claims for reimbursement, or who conduct the program on a continuous school calendar basis, shall be required to report only the cost of food used monthly. Smaller sponsors who maintain no inventory of food from month to month and pay for food as they obtain it should report food costs on the cash basis.

(k) *Closing inventories.* Sponsors shall be required to report results of a physical count (inventory) of food on hand at the close of their program operations in terms of dollar value, using methods prescribed or specifically approved by the department. The department shall prescribe or approve any recognized method for assigning dollar value to inventories and shall include procedures for showing applicable credits for reporting net values.

(l) *USDA donated commodities.* Availability of commodities for use by summer program sponsors which prepare meals to be served at its site or which enter into an agreement with a school district for the preparation of meals will be summarized by the department and announced at an early date prior to development of menu cycles. Concurrent with such a notice, the department will include unit of issue price or value date. Issue or draw procedures and delivery schedules will be established at the same time.

(m) It will be in the interests of a sponsor to receive and pass on donated commodities to food service management companies when such companies prepare meals onsite. Prices charged by a food service management company to such sponsor will be reduced by the value(s) of donated com-

modities received. The donated commodity value(s) credited to the sponsor must reflect all costs of obtaining food borne by the department and sponsor.

(n) Internal control and documentation. Records maintained in support of the cost of food used shall include as a minimum:

(1) receiving reports prepared at sites or wherever food is received from suppliers and signed by receiving personnel;

(2) purchase invoices received from food suppliers;

(3) records reflecting costs of processing, distributing, transporting, storing, and handling of purchased food when they are invoiced separately from the original purchase invoice(s);

(4) records of returns, allowances, cash discounts taken, and other credits when they are not reflected on purchase invoices;

(5) cancelled checks and other forms of receipts for payment;

(6) inventory records that show the kinds of food items on hand at the end of a period, the quantity of each item, the dollar value assigned to each food item, and the total value of the inventory;

(7) records of major inventory adjustments showing the same kinds of information as inventory records.

(o) Sponsors which contract with food service management companies to provide all meals, including supplements, allowance, and discounts earned as cost of food used for any period. When USDA donated commodities have been received by a sponsor, additional records will be maintained by sponsors and will include the unit of issue price or value data of all USDA donated commodities; and when costs of obtaining USDA donated commodities are charged to or borne by sponsors, records will reflect these costs.

(p) Direct labor costs for food service. This category of full operating costs is limited to wages paid and fringe benefits paid to employees who perform food service labor as a direct cost. Such labor cost is limited to:

(1) preparing of food;

(2) serving of food;

(3) conducting of day-to-day food service operations onsite, including supervision of children when they are being served meals or are consuming meals, when claimed as a direct labor cost for food service.

(q) Costs claimed as direct labor for food service shall be supported by payroll documents. When food service employees are paid to perform other work for the same sponsor, the portion of their wages claimed as direct labor must be supported by employee time and attendance reports, and it may not be charged a second time to any other federal program, nor to any other program or activity administered by the sponsor. Donated labor shall not be claimed as a cost.

(r) Sponsors shall serve food at no charge to adults who perform labor necessary for program operations. Sponsors shall be required to maintain records that identify the adults who are served food at no charge, and certify that the adults served food at no charge performed labor necessary for program operations on the day food was served to them.

(s) If the costs of food served to administrative personnel are not included in basic operating costs, they may be enumerated and claimed as administrative costs in an amount equal to the number of servings to adults multiplied

by the applicable per meal cost. Claims for payments submitted by sponsors must always exclude the number of servings to adults from the number of meals served to children.

(t) Facilities service costs. These are the cost of services other than labor that are required to operate a summer food service. Facilities service costs eligible for federal payments are restricted to the following:

(1) The cost incurred by sponsors for rental of food service preparation facilities and food service equipment:

(A) Facilities are considered to be buildings, or parts of buildings, but not land, used for the preparation of food. Rental of space for dining only, which is not part of a larger facility used for the preparation of food, is not an eligible cost. Furthermore, sponsors must have the approval of the department within the written agreement for the rental of facilities to be eligible. When sponsors use school food service facilities for program food service operations, charges billed to the sponsor for opening, closing, and use of the school facilities, even use of space for dining only, are eligible costs.

(B) Food service equipment is considered to be equipment designated for the preparation, refrigeration and storage, cleaning, serving, and transporting of food.

(C) Rental agreements may not include an option for the sponsor to buy the equipment or facilities at a later date, and rental fees for equipment or facilities which exceed the rental fees of comparable equipment or facilities in the same locality.

(2) The use allowance will be calculated based upon the acquisition costs of the equipment item, multiplied by a monthly factor of .0056 for each month the equipment is in use to meet program needs. When the original acquisition cost of the item is unknown, Rule 326.18.99.600 must be used to estimate it. No equipment acquired entirely or in part with federal funds may have a use allowance claimed. The provisions of this paragraph do not apply when the sponsor or the supplier of meal service is a public or nonprofit private school which operates regularly under the National School Lunch Program.

(3) Costs of repair to equipment that are eligible for use allowance, by virtue of the written agreement with the department, are eligible costs. However, those repairs may only constitute normal maintenance for the equipment and may not be capital expenditures that rebuild or appreciably prolong the life expectancy of the equipment.

(u) Maintenance costs of rented facilities that keep facilities in a clean and efficient operating condition are eligible costs only to the extent that those costs are not already reflected fees. Improvements to facilities, when those improvements are of a permanent nature or when the benefits derived from those improvements exceed the duration of program operations, are not eligible costs. Utilities costs incurred in the operation of the facility or equipment used for program operations are eligible costs to the extent that those expenses are not already reflected in rental fees and to the extent that those expenses are related to program food service operations. Communication costs shall not be allowable as utilities costs.

(v) Cost of supplies received. Nonfood supplies for food service are eligible operating costs for the period during which they are received by sponsors. Claims should reflect returns, allowances, and discounts that may have applied to purchases.

(w) **Administrative costs.** These may be charged only to that portion of the per-meal payment factors specifically designated to pay for administration. Sponsors shall document all administrative costs claimed. They are eligible to receive the actual costs of administering the program, or that portion of the per-meal payment factor specifically set aside for administrative costs, whichever is the lesser. Administrative costs eligible for federal payments are divided into three functional groups: planning, organizing, and managing. While some administrative activities could be classified in more than one of the three groups, each activity appears in no more than one group in order to simplify and standardize reporting of costs. Use allowances shall not be claimed as administrative costs. The final decision as to the eligibility of an administrative cost for federal payment shall be made during preparation of the written agreement with an individual sponsor.

(x) **Reductions to full operating costs and payments.** Sponsors shall report all income accruing to the program other than program payments. Such reported income shall include:

- (1) nonfederal monies received from state, intermediate, or local governments;
- (2) income, if any, from food sales to adults;
- (3) cash donations or grants from benevolent organizations or individuals;
- (4) interest earned, if any, on federal advance payments.

Subsections (1), (2), and (3), above, must be subtracted from full operating costs to determine costs eligible for federal payments within the pre-meal payment factors. Subsection (4), above, interest earned on federal advance payments, shall be reported to the department who will promptly notify the director, Child Nutrition Division, requesting advice for turning in of such interest to the Federal Treasury.

.003. Costs Not Eligible for Federal Payment. Costs which are not eligible for federal payment include the following:

- (a) Costs of purchasing land, acquiring or constructing buildings, or making alterations to existing buildings.
- (b) Costs of purchasing nonexpendable equipment, whether food service, office, automotive, or any other kind of equipment; or costs of repairs to any equipment that materially increase the value or useful life of the equipment.
- (c) Use allowance for buildings or any kind of equipment except food service equipment, and use allowance for food service equipment that is not specifically permitted in the sponsor's written agreement with the department. No equipment purchased with federal assistance may have a use allowance applied. Use allowances may not be applied to idle equipment.
- (d) Rental fees claimed by the sponsors for equipment already owned by the sponsor.
- (e) Rental of only dining space, except when school facilities are utilized.
- (f) Contractual agreements which are classified as rental-purchase or lease with an option to purchase.
- (g) Donations used, whether of labor, food, supplies, or any other kind except for nonexpendable food service equipment.
- (h) Interest or other financial or legal charges on money borrowed by sponsors.
- (i) Fines and penalties.
- (j) Bad debts.

.004. Purchasing Practices.

(a) In establishing policies and procedures for the procurement of supplies, equipment items of minor dollar value, and services with federal grant funds, procurement provisions set forth in Rule 326.18.99.004 shall be used. The procurement provisions are furnished to ensure that such materials and services are obtained by sponsors in an effective manner and in compliance with the provisions of applicable federal law and executive orders.

(b) The procurement provisions do not relieve the department of the contractual responsibilities arising under its agreements and other contracts. The department is the responsible authority, regarding the settlement and satisfaction of all contractual and administrative issues arising out of procurements entered into, in support of a grant. This includes but is not limited to disputes, claims, protests of award, source evaluation, or other matters of a contractual nature. Matters concerning violation of law are to be referred to such local, state, or federal authority as may have proper jurisdiction.

(c) Contracts with food service management companies. Any sponsor may contract with a food service management company for the preparation of unitized meals, with or without milk. (Supplements need not be unitized.) Any sponsor may employ a food service management company to operate its entire food service, provided, however, that a sponsor that so employs a food service company shall remain responsible for seeing that the food service operation is in conformity with its agreement with the department. A sponsor whose contract with a food service management company will exceed \$10,000 in value must use a competitive bid procedure in the selection of the food service management company, and use the standard contract developed by the department. All sponsors shall adhere to the procurement standards set forth in Rule 326.18.99.004 and shall follow applicable state or local laws governing bid procedure in addition to the bid requirement established in Rule 326.18.99.004. Each request for an exception to the standard contract shall be submitted for consideration to the department. Copies of all contracts between sponsors and food service management companies must be submitted to the department prior to the beginning of program operations. Each food service management company which enters into a food service contract with a sponsor under the program shall be required to obtain a performance bond in an amount specified by program regulations. Sponsors must require the food service management company to furnish a copy of the bond.

(d) Purchasing from school systems. Sponsors shall be encouraged to purchase food requirements from nearby school food service operations. In such instances, the purchase contract may be negotiated without formal advertisement. When the purchase is made from a school food service regularly under the agency's lunch program, the provisions of *FNS(CN) Instruction 796-1, Financial Management—Cost-Based Accountability* shall apply to the supplier except that allocation of costs may not be practical and, therefore, may be waived by the department. When using these school facilities, there may be requirements by the school system referred to as "start-up costs" and "close down costs" which should be considered as eligible costs.

.005. Cost Reports.

(a) **Advance payments.** Sponsors must claim the element(s) of full operating costs as specified by the written

agreement. Sponsors may not expect to receive payments for elements of full operating costs unless the amount of those costs exceeds the amount of advance payments received by the sponsor up to the date of the report. Advance payments shall not be paid to food service management companies, vendors, or other suppliers until they have earned payment by serving meals or providing other goods or services.

(b) Full operating costs. Full operating costs, or its elements, should be reported separately, especially when administrative costs are claimed, in categories corresponding to Rule 326.18.10.002. Reduction to full operating costs and federal payments shall be itemized by sponsors and treated as required in Rule 326.18.10.002.

(c) Number of meals. The number of meals served to children shall be included, detailed to show the type of meal.

.006. Audits.

(a) Policy. Sponsors which have received or expect to receive an amount of federal payments that exceeds \$50,000 for program operations of the season shall submit with their final claim for payment an audit report that establishes the fiscal integrity, in accordance with sound accounting practices of transactions and reports involving both costs and revenues of the total period of operations. This audit must be conducted by an outside, certified public accountant, in conformance with USDA audit guides. This audit does not affect the rights of the department and Office of Audit to audit, as they deem necessary, any sponsor. Neither are regulatory requirements concerning retention of records affected in any way by this audit.

(b) The final claim for payment submitted by a sponsor bound by this requirement shall not be processed for federal payment until the audit report is completed, submitted in its entirety to the department, and results have been reviewed and cleared by the department.

(c) Determination of income. All fiscal audits will determine the completeness and accuracy of reports of revenue to the program, and ensure that they have been used solely for authorized purpose and credited to costs reports as required in this rule.

(d) Determination of costs. Audits will determine the fiscal integrity of program costs in terms of:

(1) accuracy and completeness of financial records;
(2) accuracy and completeness of source documents that support financial records;

(3) assurance that costs claimed were incurred solely for program operations and are eligible for federal payment;

(4) a review of specifications for purchase and changes thereto for adequacy in determining costs, especially when sponsors purchase meals from food service management companies;

(5) a comparison of costs actually claimed for federal payments with costs budgeted to be claimed for federal payments, whenever a budget was required for the sponsor's application to participate in the program.

(e) Assurance of timely resolution of findings. The department shall allow 60 days for timely resolution of audit findings, and shall withhold final payment of the federal funds claimed until the audit report has been approved by the department.

(f) Costs of audits. Costs of audits required of sponsors which receive more than \$50,000 in federal payments are administrative costs. As such, they are eligible for federal pay-

ments, but only within that part of the pre-meal payment factor set aside for administrative costs.

Doc. No. 781240

Support Documents 326.18.99.004

This rule is proposed under the authority of Article 695c, Texas Revised Civil Statutes.

.004. *Summer Food Program Regulations.* The Department of Human Resources adopts by reference the Summer Food Program rules contained in Title 7, Code of Federal Regulations, Sections 225.4, 225.9, 225.10, 225.11, 225.12, 225.13, 225.14, 225.15, 225.16, and 225.17 of Part 225.

Doc. No. 781241

326.18.99.600

This rule is proposed under the authority of Article 695c, Texas Revised Civil Statutes.

.600. *Chart for Estimating Original Cost of Food Service Equipment.* The Department of Human Resources adopts by reference Exhibit D, Chart for Estimating Original Cost of Food Service Equipment, contained in *FNS (CN) Instruction 796-4*, dated February 28, 1977.

Issued in Austin, Texas, on February 15, 1978.

Doc. No. 781242 Jerome Chapman
Commissioner
Texas Department of Human Resources

Proposed Date of Adoption: March 24, 1978

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

Texas Department of Water Resources

Private Sewage Facility Regulations

Lake Limestone 157.31.25

The Texas Water Commission and the Texas Water Development Board, on behalf of the Texas Department of Water Resources, are proposing to adopt Rules 157.31.25.001-.015, concerning the establishment of a regulated area around Lake Limestone; promulgating rules and regulations for the control of sewage within the area which is not disposed of in organized disposal systems; providing for licensing of private sewage facilities; and designating the Brazos River Authority to perform the licensing, regulation, and enforcement functions related to the rules and regulations set forth herein.

A public hearing will be held on March 9, 1978, in Groesbeck in order to receive testimony and evidence which are relevant and material to the adoption of this private sewage facility regulation.

The proposed rules will have no known fiscal implications. Any costs to state and local governments for implementation will be financed by license fees provided in these proposed rules.

Comments regarding this proposed private sewage facility regulation are invited. Please direct any comments or inquiries to John P. Sutton, Texas Water Commission, P.O. Box 13087, Austin, Texas 78711, telephone (512) 475-1468.

These proposed rules as well as any comments received will be presented to the Texas Water Commission and the Texas Water Development Board for adoption no less than 30 days after publication. Copies of these proposed rules may be examined in or obtained from offices of the Texas Water Commission. Copies may also be examined in the office of the county judges of Limestone, Leon, and Robertson Counties; the Brazos River Authority; and the Office of the Secretary of State, Texas Register Division.

Lake Limestone is located on the Navasota River in Limestone, Robertson, and Leon Counties. The lake is to be utilized for water conservation, water supply, and recreation, both contact and noncontact. Among the potential sources of water pollution which must be controlled in order to maintain high standards of water quality is the disposal of sewage from individual dwellings, motels, marinas, and other such developments surrounding the lake. Sewage discharged into organized waste collection, treatment, and disposal systems is regulated through the permit system of the department. This regulation and control is needed to protect the quality of the waters of Lake Limestone.

The rules are proposed under the authority of Section 26.031 of the Texas Water Code.

.001. Definitions.

- (a) "Authority" means the Brazos River Authority.
- (b) "Commission" means the Texas Water Commission.
- (c) "Department" means the Texas Department of Water Resources.
- (d) "Executive director" means the executive director of the Texas Department of Water Resources.
- (e) "Holding tank system" means a system for collecting and holding sewage and consisting of a holding tank and house sewer.
- (f) "Holding tank" means a vented, watertight tank used for storing sewage until it is hauled to a final disposal site.
- (g) "House sewer" means the lines which carry sewage from plumbing fixtures to a septic tank or holding tank.
- (h) "Msl" is the abbreviation for mean sea level.
- (i) "Organized disposal system" means any public or private sewage system for the collection, treatment, and disposal of sewage operated in accordance with the terms and conditions of a permit from the Texas Water Commission.
- (j) "Lake Limestone" means the lake located in Limestone, Robertson, and Leon Counties, created by the Sterling C. Robertson Dam on the Navasota River.
- (k) "Private sewage facility" means any facility, system, or method used for the disposal of sewage, other than organized disposal systems operated under a permit issued by the commission and other than facilities discharging into such organized disposal systems.
- (l) "Septic tank" means a vented, watertight tank which serves as a sedimentation and sludge digestion chamber, which is placed between the house sewer and the soil absorption field.
- (m) "Septic tank system" means a system for disposing of sewage through soil absorption and consisting of the

following components: the house sewer, the septic tank, and the soil absorption field.

(n) "Sewage" means waterborne human wastes and other domestic wastewater.

(o) "Soil absorption field" is that part of a septic tank system consisting of drainage pipes and surrounding permeable soil used for the subsurface disposal of septic tank effluent.

(p) "Subdivision" means a subdivision which has been platted and recorded with the county clerk of the county or counties in which the land lies, or which is required by statute to be so platted and recorded.

.002. Regulated Area. The commission designates the Lake Limestone Regulated Area as all the area in the Lake Limestone watershed bounded by a line parallel to and 2,000 feet from the lake shoreline, *i.e.*, the 363-foot msl contour line. If any part of a subdivision lies within the regulated area, the entire subdivision is included within the regulated area for purposes of this subchapter.

.003. Regulations Controlling the Discharge of Sewage Within the Regulated Area. All sewage disposal within the regulated area shall be in accordance with one of the following types of authorization:

(a) Sewage discharged into an organized disposal system operating under a valid permit issued by the commission.

(b) Sewage discharged into a private sewage facility licensed by the authority in accordance with the regulations contained in this subchapter.

(c) Sewage discharged into a private sewage facility registered as existing at the effective date of this subchapter, for so long as such private sewage facility is operating properly and is not causing nuisance conditions, pollution, or a threat to public health.

.004. Authority Designated to Perform Licensing Functions of this Order.

(a) The Brazos River Authority is designated by the commission to perform all the functions necessary to meet the licensing requirements of this subchapter.

(1) The authority shall have the following powers:

(A) to enforce all the regulations contained in this subchapter;

(B) to make inspections of all private sewage facilities located or to be located within the area covered by this subchapter;

(C) to collect all fees set by the authority and approved by the Texas Water Development Board as necessary to recover all costs incurred in meeting the requirements of this subchapter; and

(D) to establish procedures, prepare application forms, etc., as necessary to administer this program and to issue, renew, cancel, or transfer licenses, in accordance with the provisions of this subchapter.

(2) The authority shall have the following responsibilities:

(A) to make annual reports to the executive director on all actions taken concerning this subchapter; and

(B) to perform all duties necessary to meet the requirements of this subchapter.

(b) The licensing requirements contained in this subchapter shall not be interpreted as altering or changing in

any way the intent of the legislature as expressed in Article 4477-1, Vernon's Texas Civil Statutes.

.005. Licensing Requirements for New Private Sewage Facilities.

(a) Private sewage facilities installed, or substantially altered, to be located in the regulated area after the effective date of this subchapter must meet the following requirements:

(1) All private sewage facilities to be installed or constructed after the effective date of this subchapter should conform to the minimum standards as contained in the latest edition of *Construction Standards for Private Sewage Facilities*, published by the Texas Department of Health.

(2) A license for the private sewage facility must be obtained from the authority.

(3) Lots or tracts which will be served by private sewage facilities and which are located in a subdivision that is created subsequent to the effective date of this subchapter must average no less than one-half acre in size, considering all lot sizes in the particular subdivision, with the minimum size of any lot being 15,000 square feet.

(4) A lot or tract that is not located in a subdivision or that is located in a subdivision that was created prior to the effective date of this subchapter must be large enough, considering the soil and drainage conditions and probable volume of sewage to be disposed of, to permit the use of the type of private sewage facility proposed without causing nuisance conditions, pollution, or a threat to public health.

(5) Approval for construction of private sewage facilities issued hereunder will expire unless the facilities are built within one year of the date that the approval is issued by the authority.

(b) Any developer or other interested person desiring to create a subdivision which will lie wholly or partially in the regulated area and on which private sewage facilities will be utilized must fulfill the following requirements:

(1) A plat of the proposed subdivision must be filed with and approved by the county commissioners courts having jurisdiction in the area, and recorded with the appropriate county clerks.

(2) An appropriate application for evaluation as to the type of private sewage facilities that may be licensed and used in the subdivision, together with the required fee, shall be filed with the authority.

(3) The authority will perform the necessary tests and inspections and advise the applicant as to the types of private sewage facilities that may be suitable for use in the subdivision.

(4) Advice by the authority as to types of private sewage facilities that may be suitable for use in the subdivision shall not constitute a license for a specific private sewage facility but shall be a prerequisite for obtaining licenses for such facilities within the subdivision. Each private sewage facility installed within the subdivision must be licensed individually in accordance with the terms of this subchapter.

(5) Notice of this subchapter and its terms and conditions, as well as its applicability to the subdivision and each lot therein, must be given to every lot buyer by the developer, his agent, or his assigns prior to the sale or transfer of any lot.

(c) License for a new private sewage facility shall be obtained as follows:

(1) Application forms for license may be obtained from the office of the county judges of Limestone, Robertson, and Leon Counties, or from the offices of the authority. In order to initiate an application for a license, the completed application form, together with the appropriate fee, shall be filed with the authority.

(2) The authority will, as soon as practicable after filing of an application, perform such inspections and tests as may be deemed necessary.

(3) Upon a finding that the proposed private sewage facility meets the requirements of this subchapter and that there is no evidence that it will cause nuisance conditions, pollution, or a threat to public health, the authority will issue a certificate of approval for its construction.

(4) The applicant shall notify the authority when the completed facility can be inspected prior to being backfilled with earth or otherwise covered. If the authority finds, on the basis of a field inspection, that the facility has been constructed in accordance with the approved proposal, a five-year license will be issued for its operation.

(d) The license issued by the authority for the new private sewage facility may be renewed for successive terms of five years if there is no evidence that the continued use of the private sewage facility will be in conflict with this subchapter or that continued use may cause nuisance conditions, pollution, or a threat to public health.

(e) Upon a finding by the authority that a license for the new private sewage facility cannot be issued or renewed under the terms of this subchapter, the applicant shall be notified in writing of that finding and of the faults which prevent licensing.

.006. Existing Private Sewage Facilities.

(a) Private sewage facilities existing within the regulated area as of the effective date of this subchapter must be registered within 180 days after the effective date of this subchapter to evidence the fact that they were in existence as of that date. Registration is the responsibility of the owner of the private sewage facility concerned. Registration will be accomplished on forms provided by the authority and mailed or delivered to the Lake Limestone supervisor's office. A copy of the registration form, certified as received by the authority, will be returned to the owner and should be retained by the owner as proof of the registration. The private sewage facility registered in accordance with this section is not required to be licensed, provided the facility is operated and maintained so as not to cause nuisance conditions, pollution, or a threat to public health.

(b) Any private sewage facility existing within the regulated area as of the effective date of this subchapter, but not registered in accordance with Rule .006(a) above, must be licensed in the same manner as required for new facilities. In addition, any registered facility found by the authority at any time to be functioning improperly or not in accordance with the Texas Department of Health standards or in such a manner as to cause nuisance conditions, pollution, or a threat to public health must, therefore, be improved or replaced by the owner, and must be licensed as a new facility following the procedures prescribed in Rule .005(c) above. The owner of such malfunctioning facility must submit an application for a license within 30 days after receipt of written notification by the authority that the existing facility is functioning improperly. If an owner of a registered facility desires on his own initiative to expand, improve, or replace such registered

facility, he must obtain a license for such expanded, improved, or replacement facility following the procedures prescribed in Rule .005(c), above. Routine maintenance and repair of registered facilities may be accomplished without obtaining a license.

.007. Revocation or Suspension of Licenses. Licenses issued under the authority of this subchapter may, for good cause, be revoked or suspended by the authority. Owners of facilities for which licenses are revoked or suspended must stop discharging sewage into such facilities upon written notification by the authority.

.008. Transfer of Licenses. Any license issued under the authority of this subchapter shall be transferred to any succeeding owner of the private sewage facility upon application and payment of a transfer fee by the new owner. The authority may inspect the facility, and provided there is no significant change in amount or quality of waste to be placed in the private sewage facility and no evidence of malfunction of the facility, shall transfer the license as requested and renew it for a five-year period. Licenses not properly transferred within 90 days to a new owner may be cancelled by the authority. If the license is cancelled, the new owner must submit an application for a new license within 30 days after notification by the authority of cancellation.

.009. Connection of Private Sewage Facility to Organized Disposal Systems. In order to implement the stated policy of the legislature and the department that the development and use by interested and affected parties of organized disposal systems to serve the waste disposal needs of the citizens of the state and to prevent pollution and maintain and enhance the quality of the water in the state should be encouraged, the following requirements shall be observed:

(a) No private sewage facility will be licensed by the authority when any part of the facility is closer than 300 feet in horizontal distance to an organized waste collection, treatment, and disposal system; but instead, the house sewer to such facility shall be connected to the organized system, unless it is determined by the authority that connection to the organized system is legally, physically, or economically infeasible.

(b) Whenever an organized disposal system is developed to within 300 feet in horizontal distance from any part of an existing private sewage facility, the house sewer connected to such facility shall be connected to the organized system unless it is determined by the authority that such connection is legally, physically, and economically infeasible, and the license issued hereunder for that private sewage facility shall not be renewed on the next succeeding renewal date.

.010. Exceptions. The commission intends that the regulations contained in this subchapter shall be enforced but realizes that certain individual situations may require the granting of an exception to the requirements of this subchapter so that hardships may be avoided. Therefore, the following terms and conditions are established:

(a) Any person desiring an exception shall file an application with the authority for its analysis of the need and reason for the exception.

(b) The authority shall review the application and issue a statement either granting or denying the application. When an application is denied, the statement shall set out the reasons for the authority's decision.

.011. Appeal. Any person aggrieved by an action or decision of the authority may appeal to the executive director and then to the commission providing that:

(a) All of the appropriate steps required of the aggrieved person by the terms and conditions of this subchapter have been met.

(b) The aggrieved person has made a conscientious effort to resolve his problem with the authority.

.012. License Fees. License fees will be in accordance with Rule .015 of this subchapter. These fees shall be paid to and collected by the authority so long as the authority is delegated the licensing function and the administration of the licensing system specified in this subchapter. The establishment of the fee schedule does not impair or prohibit the imposition of reasonable charges by the authority at the request of the applicant in connection with presentation of an application and the required data. Percolation tests and other examinations will be performed by engineering firms or soil testing laboratories approved by the authority.

.013. Enforcement of this Subchapter.

(a) Criminal penalty (Section 26.214, Texas Water Code).

(1) A person who violates any provision of this subchapter is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$10 nor more than \$200. Each day that a violation occurs constitutes a separate offense.

(2) Jurisdiction for prosecution of a suit under this section is in the justice of the peace courts.

(3) Venue for prosecution of a suit under this section is in the justice of the peace precinct in which the violation is alleged to have occurred.

(b) Civil penalty. A person who violates any provision of this subchapter is subject to a civil penalty for each act of violation and for each day of violation, to be recovered as provided in Chapter 26 of the Texas Water Code.

.014. Severability. If any provision of this subchapter or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of this subchapter which can be given effect without the invalid provisions or application, and to this end, the provisions of this subchapter are declared severable.

.015. Fee Schedule. The following represents the approved fee schedule for the private sewage facilities regulatory program around Lake Limestone:

(1) processing application, making field inspections and analyzing percolation tests for evaluation of subdivision for septic tank use (does not include cost of making percolation tests)—\$50;

(2) processing application, evaluating percolation tests and reviewing plans for proposed new private sewage facility (does not include costs of making percolation tests or field inspections)—\$20;

(3) processing application and making inspection, as necessary, for transfer of license or for renewal (every five years) of license—\$25;

(4) field inspection of new facility during construction (if more than two visits to the site are required for inspection purposes, there will be an additional charge of \$20 for each additional visit)—\$30;

(5) making percolation tests (per set)—\$25; or, if authority has tests made by engineering firm—engineering firm's charge.

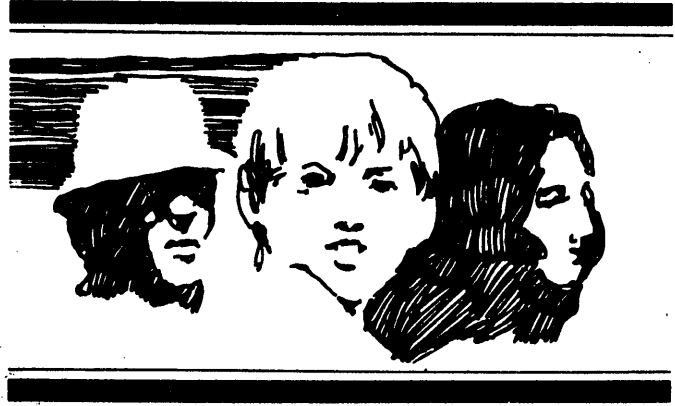
A "set" of percolation tests means the number of tests (up to a maximum of six) made at one time in connection with a single private sewage facility.

Issued in Austin, Texas, on February 9, 1978.

Doc. No. 781166 Mary Ann Hefer
 Chief Clerk
 Texas Water Commission

Proposed Date of Adoption: March 24, 1978

For further information, please call (512) 475-1468.



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 Board of Architectural Examiners

Written Examinations 376.03.00.006

Rule 376.03.00.006 is adopted under the authority of Vernon's Texas Civil Statutes, Article 249a.

.006. Grading. Grading procedures for both examinations will be available from the board office upon request.

Doc. No. 781244

376.03.00.007

Rule 376.03.00.007 is adopted under the authority of Vernon's Texas Civil Statutes, Article 249a.

.007. Subject Matter. Printed subject matter, explaining the examinations, as published by the National Council of Architectural Registration Boards, will be available upon request from the Texas board.

Doc. No. 781245

376.03.00.008

Rule 376.03.00.008 is adopted under the authority of Vernon's Texas Civil Statutes, Article 249a.

.008. Reexamination. The Texas Board of Architectural Examiners will allow unlimited opportunities to retake examinations previously failed.

Professional Examination candidates will "pass" or "fail" the entire examination. They may retake the entire examination (unlimited opportunities) but will not be credited with partial "passes."

Qualifying Test candidates will "pass" or "fail" each section. Unlimited retake opportunities will be allowed for repeating sections failed.

Candidates failing to appear for reexamination within a three-year period will forfeit any credits for parts passed, and will be required to reapply for admission to the examination.

Doc. No. 781246

Rules of Conduct 376.08.00

Rule 376.08.00.006 is adopted under the authority of Vernon's Texas Civil Statutes, Article 249a.

.006. Dishonest Practice Defined.

(a) The following practices, among others, may be deemed "dishonest practice" and cause for denial, suspension, or revocation of Certificates of Registration in Texas:

(1) Conviction of a felony involving moral turpitude.

(2) Acts which evidence violation, or attempts to violate, any laws or rules of this or any other state relating to registration to practice architecture. The misrepresentation or omission of relevant fact required or requested by application forms, notices, etc., issued by registration authorities, are considered violations.

(3) Acts which evidence attempts by an architect, through commission or omission, to mislead or defraud any person or persons.

(4) Acts which evidence attempts or success in efforts violating rules regarding the use of an architect's seal; see Chapter 6.

(5) Acts which evidence attempts or success in efforts to bribe any person or persons who may influence the selection of any architect. Kickbacks, donations, or forgiveness offered or paid to gain improper advantage in selection will be considered bribes.

(6) Acts which evidence attempts to conceal personal interests in conflict with responsibilities of service to a client.

(7) Acts which evidence improper partiality as arbiter or interpreter in matters relating to client/contractor agreements resulting in or from unauthorized waivers, deviations, or disregard of provisions in such agreements.

(8) Acts evidenced by improper and unauthorized involvement in projects by one architect, when another is the architect-of-record, or by acts evidencing attempts of one architect to supplant another whose employment has not been terminated and appropriately confirmed.

(9) Acts, evidenced by inappropriate solicitations or offerings, paid advertisements, or publications wherein an architect or architectural organization employs false, deceptive, misleading, or self-laudatory processes in developing new commission opportunities.

(b) Permissible. An architect or architectural organization may:

(1) Publish and distribute professional cards and brochures giving factual dignified information free of ostentatious, complimentary, or self-laudatory implications.

(2) Subscribe to telephone listing services, including classified sections of telephone directories, so long as only the name, address, and professional status are included. Boldface print is not permissible.

(3) Subscribe to professional directories within business and professional publications, but only to the extent that the firm name, address, and professional status are included.

(4) Author and permit publication of professional and/or technical papers, descriptive graphics, etc., within the

technical press, but only to the extent that factual information is presented, and no publication cost is borne by the architect.

Issued in Austin, Texas, on February 13, 1978.

Doc. No. 781247 Philip D. Creer, FAIA
Executive Director
Texas Board of Architectural Examiners

Effective Date: March 8, 1978

For further information, please call (512) 458-1363.

Office of the Governor Criminal Justice Division

Mini-Block Participation 001.55.18

The Criminal Justice Division adopts Rules 001.55.18.001-.020 concerning mini-block participation. No comment on the rules was received by the Criminal Justice Division after the publication of the proposed adoption in the *Texas Register* on January 13, 1978 (3 TexReg 151).

These rules and guidelines are promulgated by the Law Enforcement Assistance Administration under the authority of Public Law 90-351, Title I, Omnibus Crime Control and Safe Streets Act of 1968 as amended by Public Law 91-644, Omnibus Crime Control Act of 1970, Public Law 93-83, Omnibus Crime Control Act of 1973, and Public Law 94-503, Crime Control Act of 1976; Public Law 93-415, Juvenile Justice and Delinquency Prevention Act of 1974; and Public Law 95-115, Juvenile Justice Amendments of 1977.

.001. Eligibility. Cities and counties with a population of 200,000 or more are eligible under this rule and guideline.

.002. Participation. Eligible cities and counties must notify the Criminal Justice Division (CJD) in writing on or before January 31 of each year whether they desire to participate under this rule and guideline. Such notice shall be given by the mayor or county judge to CJD's director of System Research and Planning.

.003. Regional and Metropolitan Plan Requirements. Participating cities or counties must attach to the regional or metropolitan plan submitted in accordance with the CJD guidelines for local plans the following:

- (a) Personnel or merit system procedures.
- (b) Policy or procedure on procurement.
- (c) Policy or procedure on travel.
- (d) Policy on equipment control.
- (e) Total city or county budget in summary for criminal justice activities.
- (f) Completed A-95 review and comments and Form 424, or certification of date the mini-block plan was submitted to the appropriate A-95 clearinghouse for review and comment.

(g) Prior participants may submit a certification of prior submission and copies of changes, if any, for items (a) through (d).

.004. Date of Consideration for Recommendations for Approval. The Criminal Justice Division Advisory Board (CJDAB) will consider projects eligible for inclusion in mini-

block that are contained in the metropolitan or regional plan with the attachments required in .003. The CJDAB will consider proposals for recommendations for approval or disapproval to the governor at the meeting at which it considers the *Criminal Justice Plan for Texas*, including budgets for Parts C and E and JJDP funds based on proposed projects, subject to .005.

.005. Approval. Approval of projects under this rule and guideline are subject to congressional appropriations and allocations for Parts C and E and JJDP funds. Upon notification of approval of projects, all other projects requested by the applicant in the regional or metropolitan plan are automatically disapproved.

.006. Implementation of Projects. Individual projects must be implemented within 30 days of the date contained in the project notification sheet. CJD may, on written request, extend the implementation date for a maximum of 30 additional days. All projects must be implemented by September 30 of the budget year. Failure to implement the project within this timeframe shall drop the project from the approved projects and the project funds shall revert to the Criminal Justice Division for redistribution throughout the state for unbudgeted projects. Projects may not be implemented sooner than the date reflected in the project notification sheet without the prior written approval of CJD. Under no condition can a project be implemented earlier than October 1 of the budget year from which it is funded. Requests for changes in project implementation dates should be addressed to CJD's director of Administrative Systems and Control.

.007. Cancellation of Projects. The participating city or county shall notify the CJD (director of Administrative Systems and Control) by resolution of the cancellation of any approved project immediately on the determination to cancel the project. The project shall be dropped from the approved projects and the project funds shall revert to the Criminal Justice Division for redistribution throughout the state for unbudgeted projects.

.008. Implementation Resolution. Within 45 days preceding the implementation date of each project, the participating city or county shall adopt and submit a resolution stating the implementation of the project, the agency's EEO certification, a copy of the project notification sheet, and executed mini-block grant conditions. The resolution must clearly reflect the commitment of the applicable required cash contributions from local funds and the applicable in-kind contribution, if any, which must have LEAA approval prior to implementation, for JJDP projects. The participating city or county must accept in writing within 30 days any special conditions required by the Criminal Justice Division. Documentation required by this paragraph shall be submitted to CJD's director of Administrative Systems and Control.

.009. Statewide Comprehensive Plan. The Criminal Justice Division shall, if necessary, make adjustments in project priorities expressed in regional and metropolitan plans to ensure a statewide comprehensive plan as required by the current amendments to the Crime Control Act and Juvenile Justice and Delinquency Prevention Act.

.010. Maintenance of Effort. The Criminal Justice Division shall, if necessary, make adjustments in project priorities expressed in regional and metropolitan plans to en-

sure the maintenance of efforts required for juvenile justice and corrections projects from Part C funds.

.017. *Failure to Comply with Any Applicable Law Enforcement Assistance Administration Rule or Guideline or Criminal Justice Division Rule or Guideline.* Failure of a participant to comply with any LEAA rule or guideline or CJD rule or guideline may result in a withholding of all grant funds.

.018. *Termination of Funds.* Failure of a participant to comply with any LEAA rule or guideline or CJD rule or guideline within 30 days after funds are withheld may result in a termination of all grant funds.

.020. *Waiver of 90-Day Rule.* Participants under this rule and guideline automatically waive the provisions of Section 303(a)(15), Crime Control Act of 1976, also known as the 90-Day Rule.

Issued in Austin, Texas, on February 12, 1978.

Doc. No. 781249 Robert C. Flowers
Criminal Justice Division
Office of the Governor

Proposed Date of Adoption: March 8, 1978

For further information, please call (512) 475-6065.

Texas Department of Human Resources

Child Support Collection

Standards for an Effective Program 326.20.28

The Department of Human Resources has adopted amendments to its Rules 326.20.28.001-.004, .006-.007, concerning standards for an effective Child Support Collection Program. These changes update these program standards and clarify procedures to be used in cooperating with other states.

These proposed amendments were published in the November 22, 1978, issue of the *Texas Register*. No comments were received; therefore, this policy will be adopted as published.

These rule amendments are adopted under the authority of Article 695c, Texas Revised Civil Statutes, and with the approval of the Texas Board of Human Resources.

.001. *Federal Requirements.* Federal regulations require that the department comply with certain standards in providing child support services. The standards apply to the:

- (a) maintenance of case files;
- (b) location of absent parents;
- (c) establishment of support obligations;
- (d) establishment of paternity;
- (e) enforcement of support obligations;
- (f) cooperation with other states.

.002. *Maintenance of Case Records.*

(a) Immediately (within two working days) upon receipt of the application, the local child support unit will establish a case record and open the case on the master file.

The case record will contain all information obtained pertaining to the case. The case record must contain the application and, if appropriate, the referral; the child support record; a record of any contact with the AFDC recipient or other applicant, the date of such contact, and the reason and result of such contact; and a record of any contact with the absent parent, the date of such contact, the reason and result of such contact. The case record must contain a record of all locate efforts (local, state, federal, and other), including the date and results of these efforts.

.003. *Location of Absent Parents.*

(a) The department must, within 60 days of the receipt of the application, attempt to locate all absent parents using appropriate local and state locate sources.

.004. *Establishment of Support Obligation.*

(a) The local child support unit must attempt to establish the support obligation for all cases received in which the obligation has not previously been established. This obligation will be established by an order of a court of competent jurisdiction or by other state legal processes.

(b) All established support obligations must be reviewed every two years or at any time the local child support unit learns of changes in the factors which determine the amount of the support obligation. The local child support unit shall not initiate any action to reduce the amount of the obligation.

.006. *Enforcement of Support Obligations.* If the absent parent defaults in his or her timely payment of the support obligation, a delinquency notice will be sent to the absent parent 14 days after the missed payment. The local child support unit shall, within 10 working days, initiate the appropriate action to enforce the support obligation. If this is a breach of a court order, the local child support unit shall initiate contempt proceedings. If there is no court order, the local unit shall obtain a court order. If, after defaulting under the agreement to pay, the absent parent begins paying, the local child support unit shall not dismiss the court suit without the approval of the unit's supervising attorney.

.007. *Cooperation with Other States.*

(a) The child support agency in each state is required to cooperate with every other state in child support enforcement.

(b) Requests for the assistance of the state parent locator service in locating absent parents are sent directly to the parent locator services of the various states. Requests for cooperation from other states may be received at the state, regional, or local unit level.

(c) URESA procedures provide that child support payments are sent between jurisdictions. Cases in which collections are not sent through the State Office are monitored every 30 days by the local child support unit through the local court registry.

Issued in Austin, Texas, on February 14, 1978.

Doc. No. 781224 Jerome Chapman
Commissioner
Texas Department of Human Resources

Effective Date: March 7, 1978

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

Texas Board of Pardons and Paroles

Parole

Terms and Conditions of Parole 205.03.02

The Texas Board of Pardons and Paroles has amended Rule 205.03.02.006, regarding employment of persons under parole supervision in positions requiring contact with others who have a criminal background. The present rule sets out an exception to parole rule 9, which was renumbered as parole rule f(1). Thus, it became necessary to amend this rule to reflect that change in numbering.

This rule shall be effective 20 days after filing. The executive director of the Board of Pardons and Paroles has determined that no fiscal implications will ensue as result of the promulgation, adoption, and implementation of this amendment to any governmental subdivision.

This amendment is promulgated under the authority of Article 42.12, Section 15(d), Texas Code of Criminal Procedure (Supplement 1967).

.006. Employment of Parolees in Positions Requiring Contact with Persons of Criminal Background. As an exception to parole rule f(1) and annual report rule 3, a parolee may accept employment with approved halfway house programs, drug abuse, or alcohol abuse programs upon the specific approval of the director of parole supervision.

Issued in Austin, Texas, on February 13, 1978.

Doc. No. 781202

Connie L. Jackson
Vice-Chairman
Texas Board of Pardons and Paroles

Effective Date: March 5, 1978

For further information, please call (512) 475-3675.

This section includes summarized opinions in cases on appeal from administrative decisions of local, state, and federal governments and agencies. The section contains opinions of the U.S. Supreme Court, U.S. Circuit Courts of Appeals, U.S. District Courts, the Texas Supreme Court, and Texas Courts of Civil Appeals. Selected opinions of particular importance dealing with other than administrative appeals may also be included here from time to time. State court opinions are cited in the *Texas Lawyers' Weekly Digest*. Opinions from federal courts are cited in *The United States Law Week*.



Texas Court of Criminal Appeals

Ex parte Granviel

Article 43.14, Code of Criminal Procedure, providing for executions by intravenous injection of a lethal substance (the director of the Texas Department of Corrections has decided to use sodium thiopental), is constitutional. The new method of execution does not violate federal or state constitutional prohibition of cruel and unusual punishment, nor is it disproportionate to the offense of capital murder. Execution by lethal injection may be imposed on a defendant even though death by electrocution was the mode of execution authorized by law at the time of the trial, and even if he had been previously sentenced to die by electrocution. Article 43.14 is not constitutionally infirm for indefiniteness and vagueness for its failure to specify what lethal substance or substances and procedures shall be used in the injection to execute condemned prisoners. The delegation of authority to the director of the Texas Department of Corrections to determine the lethal substance to be used is not an unauthorized delegation of legislative power. Finally, Article 43.14 is not in irrecon-

ciliable conflict with Article 6166j, Revised Civil Statutes (concerning the authority of the director of the Texas Department of Corrections and providing for the director making rules and regulations governing the discipline of prisoners with the approval of the Board of Corrections). (15 TLWD 6, at 1)

Filed: February 1, 1978
Doc. No. 3C6

3rd Court of Civil Appeals

First Federal Savings and Loan Association v. Lewis

The trial court set aside the savings and loan commissioner's order granting a branch office to a savings and loan association without passing on the substantial evidence question or on the issues concerning the statutory propriety of the order itself.

Held: The judgment of the trial court is reversed and judgment is here rendered validating the order of the commissioner. Finding the trial court to have been in error in setting aside the order, the order being valid, and all questions being questions of law, the court of civil appeals disposes of all questions. (15 TLWD 6, at 2)

Filed: January 18, 1978, Austin
Doc. No. 3C4

10th Court of Civil Appeals

McVicker v. Johnson County

The plaintiff and her husband were driving in a pickup when it was swept off a crossing and propelled downstream by flooding waters of Buffalo Creek, injuring the plaintiff and drowning her husband. The plaintiff sued the defendant under the Tort Claims Act, alleging that the crossing was hazardous and unsafe during periods of rainfall in the area, that the road would flood during such periods, and that the defendant's agents and employees knew so. The plaintiff alleged that the defendant, through its officers and employees, was negligent in failing to provide a flood gauge at the crossing (so that users could determine if the crossing was hazardous) and in failing to install a warning sign or device at the crossing (to warn of its dangerous condition). The trial court entered a summary judgment for the defendant.

Held: Reversed and remanded. The plaintiff pleaded a cause of action based on "premises defect." Depositions show the defendant's employees knew of the dangerous condition. The summary judgment evidence does not conclusively show that the plaintiff and her husband knew of the dangerous condition or that the condition was open and obvious as the plaintiff and her husband started to drive across. (15 TLWD 6, at 3)

Filed: January 26, 1978, Waco
Doc. No. 3C5

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

Monday, March 6, 1978, 10 a.m. The Texas Produce Recovery Fund Board of the Texas Department of Agriculture will meet in Conference Room 934, Stephen F. Austin Building, 17th and North Congress, Austin, to discuss the administration of the Producer Recovery Fund and the promulgation of rules relating to the payment of claims from the fund.

Additional information may be obtained from Yolanda Villarreal, P.O. Box 12847, Austin, Texas 78711, telephone (512) 475-2550.

Filed: February 15, 1978, 10:04 a.m.
Doc. No. 781229

Texas Air Control Board

Friday, February 24, 1978, 9:30 a.m. The Texas Air Control Board will meet in the Texas Air Control Board Auditorium, 8520 Shoal Creek Boulevard, Austin. The agenda will include the following items, as summarized: report on meeting sponsored by the Environmental Protection Agency to discuss the National Ambient Air Quality Standard for Photochemical Oxidants; report on meeting of Medical Resources Advisory Panel; reports by executive director; reports by hearing examiner; Environmental Protection Agency designation of attainment and nonattainment areas; consideration of new source review procedures; and new business.

Additional information may be obtained from John B. Turney, 8520 Shoal Creek Boulevard, Austin, Texas 78758, telephone (512) 451-5711.

Filed: February 15, 1978, 10:04 a.m.
Doc. No. 781228

Texas Alcoholic Beverage Commission

Monday, February 27, 1978, 10 a.m. The Texas Alcoholic Beverage Commission will meet in Room 210, Jefferson Building, 1600 West 38th Street, Austin, to hear the administrator's report of each division and to approve affidavits of destruction of tested alcoholic beverages, as summarized in the agenda.

Additional information may be obtained from W. S. McBeath, P.O. Box 13127, Austin, Texas 78711, telephone (512) 475-3611.

Filed: February 14, 1978, 1:34 p.m.
Doc. No. 781220

Texas Commission on the Arts and Humanities

Thursday, February 16, 1978, 8:30 a.m. The Executive Committee of the Texas Commission on the Arts and Humanities made an emergency addition to the agenda of a meeting held in the Driskill Hotel, 117 East 7th Street, Austin, to include discussion of the NASAA Pilot Planning Project, as summarized.

Additional information may be obtained from Bob E. Bradley, P.O. Box 13406, Austin, Texas 78711, telephone (512) 475-6593.

Filed: February 15, 1978, 2:50 p.m.
Doc. No. 781262

Thursday, February 16, 1978, 10 a.m. The Texas Commission on the Arts and Humanities made an emergency addition to the agenda of the quarterly commission meeting held in the Driskill Hotel, 117 East 7th Street, Austin. The commission deleted from the agenda a discussion of the operating budget and appointment of advisory panel members; additions to the agenda included consideration of appointment of the Legislation/Appropriation Committee and of a secretary and treasurer for the commission, as summarized.

Additional information may be obtained from Bob E. Bradley, P.O. Box 13406, Austin, Texas 78711, telephone (512) 475-6593.

Filed: February 15, 1978, 2:50 p.m.
Doc. No. 781261

Thursday, February 16, 1978, 3 p.m. The Texas Commission on the Arts and Humanities made an emergency addition to the agenda of the quarterly commission meeting held in the Driskill Hotel, 117 East 7th Street, Austin, to include discussion of the proposed ESAA Project budget and application, as summarized.

Additional information may be obtained from Bob E. Bradley, P.O. Box 13406, Austin, Texas 78711, telephone (512) 475-6593.

Filed: February 16, 1978, 9:49 a.m.
Doc. No. 781265

State Board of Barber Examiners

Monday, March 6, 1978, 8 a.m. The State Board of Barber Examiners will meet in Suite H-111, 5555 North Lamar, Austin, to consider the following agenda: interviews with out-of-state barbers wishing to obtain Texas barber license; discussion of date for hearing on L. D'Lynn Barber College; revised sanitary rules and regulations; new barber colleges; executive session; and letters for action by board members.

Additional information may be obtained from Charles F. Blackburn, Suite H-111, 5555 North Lamar, Austin, Texas 78751, telephone (512) 458-2241.

Filed: February 15, 1978, 1:49 p.m.
Doc. No. 781256

Texas Commission for the Deaf

Saturday, February 18, 1978, 10 a.m. The Texas Commission for the Deaf made an emergency addition to the agenda of a meeting held at Howard Johnson's Motor Lodge, 7800 North Interstate Highway 35, Austin, to include discussion of the January 28, 1978, meeting (Corpus Christi) minutes and the next TCD regular board meeting.

Additional information may be obtained from Joan Boerger Fowler, P.O. Box 12904, Austin, Texas 78711, telephone (512) 475-2492.

Filed: February 15, 1978, 3 p.m.
Doc. No. 781263

East Texas State University

Friday, February 24, 1978, 11 a.m. The Board of Regents of East Texas State University have rescheduled a meeting to be held in the board room, fourth floor, Hillcrest State Bank, 6517 Hillcrest Avenue, Dallas, due to inclement weather. As summarized, the board will conduct a general discussion of proposed land purchases for the university and hear a brief on the construction of an instructional printing facility on the university campus. A closed session will be held to discuss land acquisitions. This meeting was originally scheduled for February 10.

Additional information may be obtained from Charles Morrow, East Texas State University, Commerce, Texas 75428, telephone (214) 886-3636.

Filed: February 14, 1978, 10:26 a.m.
Doc. No. 781210

Commission on Fire Protection Personnel Standards and Education

Wednesday, March 1, 1978, 9 a.m. The Subcommittee on Recruitment and Selection of the Commission on Fire Protection Personnel Standards and Education will meet in Suite 122, 8330 Burnet Road, Austin. As summarized, the subcommittee will review and discuss the four manuals adopted by the Commission on Law Enforcement Officer Standards and Education, including: Police Officer Selection Procedure Validity Report; Police Officer Recruitment Manual; Background Investigation Procedure Manual; and Oral Interview Procedure Manual. The subcommittee will also hold a conference with Ann Stillman, Personnel Psychologist I.P.P.D. - USCSC, about how the commission may utilize the service offered to state and local government by the federal agency she represents; to discuss the possibility of receiving funds for program of recruitment and selection; and to comment on the effectiveness of law enforcement recruitment.

Additional information may be obtained from Garland W. Fulbright, Suite 122, 8330 Burnet Road, Austin, Texas 78758, telephone (512) 459-8701.

Filed: February 14, 1978, 12:09 p.m.
Doc. No. 781213

Wednesday, March 1, 1978, 1:30 p.m. The Subcommittee on Fire Protection (Prevention) of the Commission on Fire Protection Personnel Standards and Education will meet in Suite 122, 8330 Burnet Road, Austin. As summarized, the subcommittee will resume study in the culmination of proposed recommendations for the updating and improving of the standards regulating the certification of fire inspectors.

Additional information may be obtained from Garland W. Fulbright, Suite 122, 8330 Burnet Road, Austin, Texas 78758, telephone (512) 459-8701.

Filed: February 14, 1978, 12:09 p.m.
Doc. No. 781219

Office of the Governor

Wednesday, March 1, 1978, 10:30 a.m. until noon. The Budget and Planning Office will meet in Room 100-B, John H. Reagan Building, Austin, to hear a presentation and summary of President Carter's proposed budget for the 1979 federal fiscal year by representatives of the Southwest Federal Regional Council.

Additional information may be obtained from Donald E. Harley, Room 604, Executive Office Building, 411 West 13th Street, Austin, Texas 78701, telephone (512) 475-6021.

Filed: February 15, 1978, 9:05 a.m.
Doc. No. 781225

Texas Grain Sorghum Producers Board

Tuesday, February 21, 1978, 10 a.m. The Texas Grain Sorghum Producers will meet in the basement meeting room, City National Bank, 7th and Baltimore, Plainview, to hear reports on financial statement, Pest Management Program, and from Feed Grain Council.

Additional information may be obtained from Elbert Harp, 1708-A 15th Street, Lubbock, Texas 79401, telephone (806) 763-4425.

Filed: February 13, 1978, 2:17 p.m.
Doc. No. 781186

Texas Department of Health

Saturday, March 4, 1978, 9:30 a.m. The Texas Medical Disclosure Panel of the Texas Department of Health will meet in the first floor conference room, 1100 West 49th Street, Austin. As summarized, the agenda will include the following: discussion of common surgical procedures performed by various surgical subspecialty groups; discussion of medical and therapeutic diagnostic procedures; discussion of the details that must be included for any procedure that requires disclosure; discussion of other details pertinent to the duties of the Texas Medical Disclosure Panel, under House Bill 1048.

Additional information may be obtained from E. P. Tottenham, M.D., 1100 West 49th Street, Austin, Texas 78756, telephone (512) 458-7296.

Filed: February 14, 1978, 12:09 p.m.
Doc. No. 781214

Sunday, March 5, 1978, 9 a.m. The Texas Radiation Advisory Board of the Texas Department of Health will meet in the first floor conference room, 1100 West 49th Street, Austin. As summarized, the agenda will include the following: election of officers; director's report; radiation program activities; U.S. Nuclear Regulatory Commission policies on waste disposal; Medical and Waste Disposal Committee reports; consultant reports on Research, Radiochemical Research and Southern Interstate Nuclear Board; and report from Texas Energy Advisory Council.

Additional information may be obtained from Martin Wukasch, 1100 West 49th Street, Austin, Texas 78756, telephone (512) 458-7341.

Filed: February 15, 1978, 10:43 a.m.
Doc. No. 781237

Texas Health Facilities Commission

Thursday, February 16, 1978, 10 a.m. The Texas Health Facilities Commission made an emergency addition to the agenda of a meeting held in Suite 305, Jefferson Building, 1600 West 38th Street, Austin. Due to the existence of an

emergency and urgent public necessity, the commission considered the application for exemption certificate by the Methodist Hospitals of Dallas (AH78-0117-001).

Additional information may be obtained from William D. Darling, P.O. Box 15023, Austin, Texas 78761, telephone (512) 475-6940.

Filed: February 15, 1978, 11:52 a.m.
Doc. No. 781252

Wednesday, February 22, 1978, 2 p.m. The Texas Health Facilities Commission will conduct a public hearing in Suite 305, Jefferson Building, 1600 West 38th Street, Austin, to receive testimony relevant to the repeal of existing rules and the adoption of proposed new rules. These rules are proposed under the authority of Article 4418(h), Vernon's Annotated Civil Statutes.

Additional information may be obtained from William D. Darling, P.O. Box 15023, Austin, Texas 78761, telephone (512) 475-6940.

Filed: February 14, 1978, 12:09 p.m.
Doc. No. 781215

Thursday, February 23, 1978, 10 a.m. The Texas Health Facilities Commission has made additions to the agenda of a meeting to be held in Suite 305, Jefferson Building, 1600 West 38th Street, Austin. As summarized, the commission will consider the following applications:

Memorial Hospital System, Houston—declaratory ruling
Southwest Texas Methodist Hospital, San Antonio—exemption certificate
Apple Tree Inn, Richardson—declaratory ruling
Medical Plaza Hospital, Fort Worth—exemption certificate
Lubbock State School, Lubbock—exemption certificate

Additional information may be obtained from William D. Darling, P.O. Box 15023, Austin, Texas 78761, telephone (512) 475-6940.

Filed: February 15, 1978, 11:52 a.m.
Doc. No. 781251

Wednesday, March 1, 1978, 10 a.m. The Texas Health Facilities Commission will meet in Suite 305, Jefferson Building, 1600 West 38th Street, Austin. As summarized, the commission will consider applications for certificate of need from the following: Edgewood Manor, Texarkana; Richards Memorial Hospital, Rockdale; Bridgeport Hospital, Inc., Bridgeport; Ben Taub General Hospital, Houston (2); Wadley Hospital, Texarkana; Scott and White Memorial Hospital, Temple; Permian Basin Planned Parenthood, Seagraves, Texas Cosponsored Gaines County, Seminole; Alief General Hospital, Houston; Permian Basin Community Centers for MH/MR, Midland; and San Antonio State School, San Antonio. The commission will also consider applications from Community Mental Health Center, Tyler (declaratory ruling) and Wichita Home Health Service, Jacksboro Branch, Wichita Falls (exemption certificate).

Additional information may be obtained from William D. Darling, P.O. Box 15023, Austin, Texas 78761, telephone (512) 475-6940.

Filed: February 15, 1978, 11:52 a.m.
Doc. No. 781250

State Department of Highways and Public Transportation

Thursday, February 23, 1978, 9 a.m. The State Highway and Public Transportation Commission will conduct public hearings in the large hearing room, first floor, State Highway Building, 11th and Brazos Streets, Austin. As summarized in the agenda, the commission will consider various highway, bridge, and F.M. road requests from Liberty, Crane, Shelby, Ellis, and Willacy Counties. The complete agenda is available in the second floor commission office in the State Highway Building.

Additional information may be obtained from the Office of the Engineer-Director, Room 203, State Highway Building, 11th and Brazos Streets, Austin, Texas 78701, telephone (512) 475-3525.

Filed: February 15, 1978, 10:04 a.m.
Doc. No. 781230

Thursday, February 23, 1978, after public hearings. The State Highway and Public Transportation Commission will meet, upon completion of public hearings, in Room 207, State Highway Building, 11th and Brazos Streets, Austin. As summarized, the agenda includes: execution of contract awards and routine minute orders; consideration of decisions on presentations from public hearing dockets; review of staff reports relative to planning and construction programs and projects. The complete agenda is available in the second floor office of the minute clerk in the State Highway Building.

Additional information may be obtained from the Office of the Engineer-Director, Room 203, State Highway Building, 11th and Brazos Streets, Austin, Texas 78701, telephone (512) 475-3525.

Filed: February 15, 1978, 10:04 a.m.
Doc. No. 781231

Friday, February 24, 1978, 9 a.m. The State Highway and Public Transportation Commission will meet in Room 207, State Highway Building, 11th and Brazos Streets, Austin, to consider items remaining from the meeting on February 23. The complete agenda is available in the second floor office of the minute clerk in the State Highway Building.

Additional information may be obtained from the Office of the Engineer-Director, Room 203, State Highway Building, 11th and Brazos Streets, Austin, Texas 78701, telephone (512) 475-3525.

Filed: February 15, 1978, 10:04 a.m.
Doc. No. 781232

State Board of Insurance

Tuesday, February 21, 1978, 3 p.m. The Commissioner's Hearing Section of the State Board of Insurance will conduct a stock purchase hearing in Room 343, 1110 San Jacinto Street, Austin, regarding Texas Life Insurance Company, Waco.

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

Filed: February 13, 1978, 3:50 p.m.
Doc. No. 781194

Wednesday, February 22, 1978, 10 a.m. The Commissioner's Hearing Section of the State Board of Insurance will conduct a hearing in Room 343, 1110 San Jacinto Street, Austin, regarding an application for admission to Texas from Bankers Fidelity Life Insurance Company, Atlanta, Georgia.

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

Filed: February 13, 1978, 3:50 p.m.
Doc. No. 781195

Thursday, February 23, 1978, 2 p.m. The Commissioner's Hearing Section of the State Board of Insurance will conduct a hearing in Room 343, 1110 San Jacinto Street, Austin, regarding an application for admission to Texas from Signet Reinsurance Company, Omaha, Nebraska.

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

Filed: February 13, 1978, 3:50 p.m.
Doc. No. 781196

Friday, February 24, 1978, 10 a.m. The Commissioner's Hearing Section of the State Board of Insurance will conduct a hearing in Room 343, 1110 San Jacinto Street, Austin, regarding an application for admission to Texas from Wisconsin National Life Insurance Company, Oshkosh, Wisconsin.

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

Filed: February 13, 1978, 3:50 p.m.
Doc. No. 781197

Friday, February 24, 1978, 2 p.m. The Commissioner's Hearing Section of the State Board of Insurance will conduct a hearing in Room 343, 1110 San Jacinto Street, Austin, regarding an application for initial certificate of authority from Brazos Security Life Insurance Company, Weatherford.

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

Filed: February 13, 1978, 3:50 p.m.
Doc. No. 781198

Monday, February 27, 1978, 10 a.m. The Commissioner's Hearing Section of the State Board of Insurance will conduct a hearing in Room 343, 1110 San Jacinto Street, Austin, regarding an application for initial certificate of authority from Southwest Bancshares Life Insurance Company, Houston.

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

Filed: February 13, 1978, 3:50 p.m.
Doc. No. 781199

Monday, February 27, 1978, 10:30 a.m. The Commissioner's Hearing Section of the State Board of Insurance will conduct a hearing in Room 343, 1110 San Jacinto Street, Austin, regarding a request for acquisition of Empire General Life Insurance Company, Dallas, by Protective Life Insurance Company, Birmingham, Alabama.

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

Filed: February 13, 1978, 3:50 p.m.
Doc. No. 781200

Tuesday, February 28, 1978, 10 a.m. The Commissioner's Hearing Section of the State Board of Insurance will conduct a hearing in Room 343, 1110 San Jacinto Street, Austin, regarding an application to expand certificate of authority from Equity National Life Insurance Company, Atlanta, Georgia.

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

Filed: February 13, 1978, 3:50 p.m.
Doc. No. 781201

Department of Labor and Standards

Monday, March 6, 1978, 10 a.m. The Boxing and Wrestling Division of the Department of Labor and Standards will meet in Room 316, Sam Houston Building, 14th and San Jacinto Streets, Austin, to conduct a license revocation hearing.

Additional information may be obtained from Robert R. Busse, Room 316, Sam Houston Building, Austin, Texas 78701, telephone (512) 475-5691.

Filed: February 16, 1978, 9:51 a.m.
Doc. No. 781268

Texas State Board of Landscape Architects

Wednesday, February 22, 1978, 10 a.m. The Texas State Board of Landscape Architects will meet in emergency session in Suite 106-H, 5555 North Lamar, Austin, to appoint a new executive secretary to the board, as summarized in the agenda.

Additional information may be obtained from Kathryn Mitchell, Suite 106-H, 5555 North Lamar, Austin, Texas 78751, telephone (512) 458-4126.

Filed: February 14, 1978, 12:09 p.m.
Doc. No. 781216

Texas Natural Resources Council

Tuesday, February 21, 1978, 1:30 p.m. The Texas Natural Resources Council will meet in the Texas Air Control Board Auditorium, 8520 Shoal Creek Boulevard, Austin, to consider the following agenda: discussion of history, purposes, and role of the Natural Resources Council; agreement on initial NRC program, including basic objectives and policy areas to be addressed; and organizational matters.

Additional information may be obtained from Frank Sheffield, Room 601, 411 West 13th Street, Austin, Texas 78701, telephone (512) 475-6283.

Filed: February 13, 1978, 3:50 p.m.
Doc. No. 781189

Texas Optometry Board

Wednesday, February 22, 1978, 7 p.m. The Texas Optometry Board has rescheduled an emergency meeting to be held in the Airport Marina Hotel, Dallas/Fort Worth Airport. The meeting was originally scheduled for February 15. The agenda remains the same, as published in the *Texas Register* (3 TexReg 611).

Additional information may be obtained from Lois Ewald, Suite H-101, Commerce Park, 5555 North Lamar, Austin, Texas 78751, telephone (512) 458-2141.

Filed: February 15, 1978, 1:49 p.m.
Doc. No. 781257

Board of Pardons and Paroles

Monday through Wednesday, February 27-March 1 and Friday, March 3, 1978, 9 a.m. daily. The Board of Pardons and Paroles will meet in Room 711, Stephen F. Austin Building, Austin. 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 and 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 the agency; and take action upon gubernatorial directives.

Additional information may be obtained from Ken Casner, Room 711, Stephen F. Austin Building, Austin, Texas 78701, telephone (512) 475-3363.

Filed: February 15, 1978, 10:43 a.m.

Doc. No. 781236

Wednesday, March 1, 1978, 9 a.m. The Board of Pardons and Paroles will meet in the Diagnostic Unit, Texas Department of Corrections, Huntsville. A parole panel, consisting of members of the Board of Pardons and Paroles and members of the Texas Parole Commission, will conduct parole violation hearings.

Additional information may be obtained from Ken Casner, Room 711, Stephen F. Austin Building, Austin, Texas 78701, telephone (512) 475-3363.

Filed: February 15, 1978, 10:43 a.m.

Doc. No. 781235

Texas Parks and Wildlife Department

Tuesday, February 28, 1978, 10 a.m. The Parks and Wildlife Commission will meet in Building B, 4200 Smith School Road, Austin. The summarized agenda includes consideration of the following: fiscal year 1978 Boat Ramp Construction Program; Lake Mineral Wells and Seminole Canyon State Parks, additional development funding; Lost Maples State Natural Area development funding status report; regulatory county public hearings; proposed 1978-79 Hunting, Fishing and Trapping Proclamation changes; Monsanto Company easement request, Gene Howe Wildlife Management Area; Texaco, Inc. seismograph request, Gus Engeling Wildlife Management Area; Possum Kingdom and Huntsville Fish Hatcheries, oil/gas lease nominations; food and lodging emoluments; and rules corrections.

Additional information may be obtained from Maurine Ray, 4200 Smith School Road, Austin, Texas 78744, telephone (512) 475-4954.

Filed: February 15, 1978, 11:46 a.m.

Doc. No. 781254

Wednesday, March 1, 1978, 9 a.m. The Parks and Wildlife Commission will meet in Building B, 4200 Smith School Road, Austin. The summarized agenda includes consideration of the following: Enchanted Rock site acquisition; Seminole Canyon State Historical Park initial staffing and budget; Texas State Railroad State Historical Park additional rolling stock acquisition; Fort McKavett State Historical Site interpretive development; Fulton Mansion State Historical Structure preservation plan/program/budget; Jose Antonio Navarro State Historical Site development program change/increased design budget; fiscal year 1978 Boat Ramp Construction Program; Lake Mineral Wells and Seminole Canyon State Parks, additional development funding;

Dundee Fish Hatchery staffing proposal; Possum Kingdom and Huntsville Fish Hatcheries, oil/gas lease nominations; Gulf of Mexico Fisheries Management Council reimbursements to coastal fisheries operating budget; Port Aransas Marine Laboratory and Palacios Marine Fisheries Research Station Operating Plan and budget; permanent rules to replace emergency rules existing in six new regulatory counties; Monsanto Company easement request, Gene Howe Wildlife Management Area; Chaparral Wildlife Management Area oil/gas lease award; Texaco, Inc. seismograph request, Gus Engeling Wildlife Management Area.

Additional information may be obtained from Maurine Ray, 4200 Smith School Road, Austin, Texas 78744, telephone (512) 475-4954.

Filed: February 15, 1978, 11:46 a.m.

Doc. No. 781253

Texas State Board of Pharmacy

Monday, February 27 and Wednesday, March 1, 1978, 8:30 a.m.-5:30 p.m. The Texas State Board of Pharmacy will meet in the Driskill Room, Driskill Hotel, 117 East 7th Street, Austin, to conduct violation hearings. In open session, the board will hear testimony and view evidence of alleged violations of the laws and regulations under the purview of the board. In executive session, the board will determine which persons are subject to administrative sanctions and what form the sanctions are to take.

Additional information may be obtained from Jim Riley, Suite 1121, Southwest Tower, 211 East 7th Street, Austin, Texas 78701, telephone (512) 478-9827.

Filed: February 14, 1978, 12:09 p.m.

Doc. No. 781217

Thursday, March 2, 1978, 9:30 a.m.-3 p.m. The Texas State Board of Pharmacy will meet in Suite 1221, Southwest Tower, 211 East 7th Street, Austin, to conduct a discussion with the deans of the Colleges of Pharmacy, representatives of the Texas Pharmaceutical Association, and Texas Society of Hospital Pharmacists on the present extern/intern program to determine if the program can be improved with regard to the quality and quantity of experience gained by students participating in the program.

Additional information may be obtained from Jim Riley, Suite 1121, Southwest Tower, 211 East 7th Street, Austin, Texas 78701, telephone (512) 478-9827.

Filed: February 14, 1978, 12:09 p.m.

Doc. No. 781218

State Board of Podiatry Examiners

Monday, February 27, 1978, 9 a.m. The State Board of Podiatry Examiners will conduct a hearing in El Catalon Room No. 2, Marriott Hotel, Stemmons Expressway, Dallas.

In this hearing, the board will determine whether podiatrists Roy Bernstein and John Bowers have violated Article 4570, Texas Civil Statutes. If appropriate, board action may be taken on revocation, cancellation, or suspension of licenses to practice podiatry, pursuant to Article 4573, Texas Civil Statutes.

Additional information may be obtained from Joe C. Littrell, D.P.M., 2204 Washington Avenue, Waco, Texas 76702, telephone (817) 754-1811.

Filed: February 15, 1978, 10:04 a.m.
Doc. No. 781227

Public Utility Commission of Texas

Thursday, February 23, 1978, 9 a.m. The Public Utility Commission of Texas will meet in Suite 400N, 7800 Shoal Creek Boulevard, Austin, to sign final orders, hear oral argument, and rule on motions for rehearing in various dockets, as summarized in the agenda.

Additional information may be obtained from Roy J. Henderson, Suite 400N, 7800 Shoal Creek Boulevard, Austin, Texas 78757, telephone (512) 458-6111.

Filed: February 13, 1978, 4:05 p.m.
Doc. No. 781204

Thursday, February 23, 1978, 9 a.m. The Hearings Division of the Public Utility Commission of Texas has made an addition to the agenda of a meeting to be held in Suite 400N, 7800 Shoal Creek Boulevard, Austin. The commission will consider a motion for rehearing from Del Mar Conservation District (Docket No. 630), as summarized in the agenda.

Additional information may be obtained from Roy J. Henderson, Suite 400N, 7800 Shoal Creek Boulevard, Austin, Texas 78757, telephone (512) 458-6111.

Filed: February 14, 1978, 3:46 p.m.
Doc. No. 781223

School Land Board

Tuesday, February 21, 1978, 10 a.m. The School Land Board of the General Land Office will meet in Room 831, Stephen F. Austin Building, 1700 North Congress, Austin, to consider the following items, as summarized: nine pooling agreement applications; one application for lease suspension; 23 excess acreage applications; and three easement applications regarding coastal public lands.

Additional information may be obtained from H. E. White, Room 749, Stephen F. Austin Building, Austin, Texas 78701, telephone (512) 475-6491.

Filed: February 13, 1978, 2:47 p.m.
Doc. No. 781187

Tuesday, February 21, 1978, 10 a.m. The School Land Board of the General Land Office will meet in Room 831, Stephen F. Austin Building, 1700 North Congress, Austin, to consider one application for lease suspension and one pooling agreement application, as summarized in the agenda.

Additional information may be obtained from H. E. White, Room 749, Stephen F. Austin Building, Austin, Texas 78701, telephone (512) 475-6491.

Filed: February 15, 1978, 10:04 a.m.
Doc. No. 781226

Texas State University System

Thursday, March 2, 1978, 2 p.m. The Building Committee of the Texas State University System Board of Regents will meet on the second floor, Bryan Wildenthal Memorial Library, Sul Ross State University, Alpine, to review construction projects and documents for the four universities in the system.

Additional information may be obtained from Gary L. Whittle, Room 505, Sam Houston Building, Austin, Texas 78701, telephone (512) 475-3876.

Filed: February 16, 1978, 12:13 p.m.
Doc. No. 781271

Thursday, March 2, 1978, 5 p.m. The Curriculum Committee of the Texas State University System Board of Regents will meet on the second floor, Bryan Wildenthal Memorial Library, Sul Ross State University, Alpine, to review curriculum needs and requests of the four universities in the system.

Additional information may be obtained from Gary L. Whittle, Room 505, Sam Houston Building, Austin, Texas 78701, telephone (512) 475-3876.

Filed: February 16, 1978, 12:13 p.m.
Doc. No. 781272

Friday, March 3, 1978, 8 a.m. The Board of Regents of the Texas State University System will meet on the second floor, Bryan Wildenthal Memorial Library, Sul Ross State University, Alpine, to review matters of the board and the four universities in the system, as summarized.

Additional information may be obtained from Gary L. Whittle, Room 505, Sam Houston Building, Austin, Texas 78701, telephone (512) 475-3876.

Filed: February 16, 1978, 12:13 p.m.
Doc. No. 781273

Texas Water Commission

Tuesday, February 21, 1978, 10 a.m. The Texas Water Commission has made an emergency addition to the agenda of a meeting to be held in the Stephen F. Austin Building, 1700 North Congress, Austin. As summarized, the commission will consider an application by Colorado River Municipal Water District for setting of a hearing date.

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

Filed: February 14, 1978, 2:39 p.m.
Doc. No. 781221

Tuesday, February 28, 1978, 10 a.m. The Texas Water Commission will meet in the Stephen F. Austin Building, 1700 North Congress, Austin. As summarized, the commission will hear examiner's proposals for decision on water quality matters and consider the pleading of intervention of the Office of Public Interest.

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

Filed: February 14, 1978, 2:39 p.m.
Doc. No. 781222

Regional Agencies

Meetings Filed February 13, 1978

The Education Service Center Region I, Bilingual Education Program, met in Room 205, 1900 West Schunior, Edinburg, on February 16, 1978, at 2 p.m. Further information may be obtained from Charles W. Benson, 1900 West Schunior, Edinburg, Texas, telephone (512) 383-5611, extension 110.

The Lubbock Regional MH/MR Center, Human Development Center, met on the mezzanine, 1210 Texas Avenue, Lubbock, on February 14, 1978, at 4:30 p.m. Further information may be obtained from Gene Menefee, 1210 Texas Avenue, Lubbock, Texas 79401, telephone (806) 763-4213.

Doc. No. 781185.

Meetings Filed February 14, 1978

The Brazos Valley MH/MR Center, Board of Trustees, met in the board room, second floor, 202 East 27th Street, Bryan, on February 16, 1978, at 4 p.m. Further information may be obtained from Linda S. Davis, 202 East 27th Street, Bryan, Texas 77801, telephone (713) 779-2000.

The Central Texas Council of Governments, Area Agency on Aging Advisory Council, will meet in Room 302, Poage Federal Building, 110 South Main, Temple, on March 1, 1978, at 1 p.m. Further information may be obtained from Dan J. Mizell, P.O. Box 729, Belton, Texas 76513, telephone (817) 939-1801.

The Education Service Center, Region XI, Board of Directors, will meet at 2821 Cullen Street, Fort Worth, on February 21, 1978, at noon. Further information may be obtained from R. P. Campbell, Jr., 2821 Cullen Street, Fort Worth, Texas 76107, telephone (817) 335-2441.

The Education Service Center, Region XX, Board of Directors, will meet at 1550 N.E. Loop 410, San Antonio, on February 22, 1978, at 3 p.m. Further information may be obtained from Dwain M. Estes, 1550 N.E. Loop 410, San Antonio, on February 22, 1978, at 3 p.m. Further information may be obtained from Dwain M. Estes, 1550 N.E. Loop 410, San Antonio, Texas 78209, telephone (512) 828-3551.

The Deep East Texas Council of Governments, Board of Directors, will meet in the Ayres Room, King's Inn, Loop 304 East Crockett, Crockett, on February 23, 1978, at 2:30 p.m. Further information may be obtained from Billy D. Langford, P.O. Drawer 1170, Jasper, Texas 75951, telephone (713) 384-5704.

The Deep East Texas Regional MH/MR Services, Board of Trustees, will meet in the conference room, Day Treatment/Administration Facility, 4101 South Medford, Lufkin, on February 28, 1978, at 5 p.m. Further information may be obtained from Wayne Lawrence, 4101 South Medford, Lufkin, Texas 75901, telephone (713) 639-1141.

The Gulf Bend MH/MR Center, Board of Trustees, met at 2105 Point Lavaca Drive, Victoria, on February 16, 1978, at noon. Further information may be obtained from T. G. Kelliher, Jr., P.O. Box 2238, Victoria, Texas 77901, telephone (512) 578-5262.

The Heart of Texas Council of Governments, Executive Committee, will meet in the Student Center Cafeteria, McLennan Community College, 1400 College Drive, Waco, on February 23, 1978, at 5:30 p.m. The Board of Directors will meet at the same location on February 23 at 6:30 p.m. Further information may be obtained from Marcia Ross or Helen Zuehlke, 110 South 12th Street, Waco, Texas 76701, telephone (817) 756-6631.

The Houston-Galveston Area Council, Area-wide Planning Advisory Committee, met in the large conference room, 3701 West Alabama, Houston, on February 16 and 28, 1978, at 4 p.m. Further information may be obtained from Nick Aschliman, P.O. Box 22777, Houston, Texas 77027, telephone (713) 627-3200.

The Houston Metropolitan Transit Authority, Board of Directors, will meet in the Mayor's Conference Room, basement level, City Hall, 900 Brazos, Houston, on February 23, 1978, at 4 p.m. Further information may be obtained from Marilee M. Wood, P.O. Box 1562, Houston, Texas 77001, telephone (713) 225-1151.

The Middle Rio Grande Development Council, A-95 Project Review Committee, met on February 17, 1978, at 2:30 p.m. Further information may be obtained from Mrs. Elia G. Santos, P.O. Box 1461, Del Rio, Texas 78840, telephone (512) 775-1581.

The Panhandle Regional Planning Commission, Community Development Committee, met in Room 216, Amarillo Building, Third and Polk Streets, Amarillo, on February 15, 1978, at 2 p.m. Further information may be obtained from Tom Plumlee, Box 9257, Amarillo, Texas 79105, telephone (806) 372-3381.

The Retired Senior Volunteer Program, Advisory Board, met in the Temple Memorial Library, Diboll, on February 16, 1978, at 1:30 p.m. The board will meet again in the City Commissioners Court Room, Nacogdoches, on February 22 at 1:30 p.m. and in the City Commissioners Court Room, Center, on February 27 at 1:30 p.m. Further information may be obtained from Delores Wheeler, P.O. Drawer 648, Nacogdoches, Texas 75961, telephone (713) 569-6648.

The South Texas Development Council, South Texas Area Agency on Aging, will meet at the Nutrition Site, 420 East Main, Rio Grande City, on February 23, 1978, at 1:30 p.m. The council will meet again at the Elderly Feeding Program, Laredo International Airport, Cherry and Cactus Streets, Laredo, on February 24 at 1:30 p.m. Further information may be obtained from Lúpita Rubio, P.O. Box 2187, Paredo, Texas 78041, telephone (512) 722-3995.

The South Texas Health Systems Agency, Board of Directors, met at the Bonanza Restaurant, 1920 East King, Kingsville, on February 18, 1978, at noon. Further information may be obtained from Richard W. Kull, Texas A&I University, Station 1, Box 2378, Kingsville, Texas 78363, telephone (512) 595-5545.

The Tri-Region Health Systems Agency, Plan Development Committee, met at the Public Health Region IV offices, Old County Courthouse, Abilene, on February 17, 1978, at 8:30 a.m. The Project Review Committee will meet in Room 211, Moody Center, Hardin-Simmons University, Abilene, on February 21 at 5 p.m. Further information may be obtained from Michal Hubbard or Ken Cooley, 2642 Post Oak Road, Suite B, Abilene, Texas 79605, telephone (915) 698-9481.

Doc. No. 781207

Meetings Filed February 15, 1978

The Education Service Center, Region I, Board of Directors, will meet at 1900 West Schunior, Edinburg, on February 28, 1978, at 6 p.m. Further information may be obtained from Charles W. Benson, 1900 West Schunior, Edinburg, Texas 78539.

Doc. No. 781233

Meetings Filed February 16, 1978

The Central Texas Health Systems Agency, Inc., Board of Directors, will meet in the Hilton Inn, 6000 Middle Fiskville Road, Austin, on February 28, 1978, at 7 p.m. Further information may be obtained from Irwin R. Salmanson, 1106 Clayton Lane, Suite 140 East, Austin, Texas 78723, telephone (512) 458-9161.

The Golden Crescent Council of Governments, Board of Directors, will meet in the La Salle Room, 120 South Main, Victoria, on February 22, 1978, at 5 p.m. Further information may be obtained from Robert W. Burr, P.O. Box 2028, Victoria, Texas 77901, telephone (512) 578-1587, extension 30.

The Lower Colorado River Authority will meet at 3700 Lake Austin Boulevard, Austin, on February 24, 1978, at 9 a.m. Further information may be obtained from Charles Herring, P.O. Box 220, Austin, Texas 78767, telephone (512) 474-5931, extension 330.

The Trinity River Authority of Texas, Legal Committee, held a conference call meeting through the Office of the General Manager, 2723 Avenue E East, Arlington, on February 16, 1978, at 2 p.m. Further information may be obtained from Geri Elliott, P.O. Box 5768, Arlington, Texas 76011, telephone (817) 461-3151.

The West Central Texas Council of Governments, Executive Committee, will meet at the Jamaica Inn, 3161 South 23rd, Abilene, on February 22, 1978, at noon. Further information may be obtained from Bob Gallagher, P.O. Box 3195, Abilene, Texas 79604, telephone (915) 672-8544.

Doc. No. 781269

Department of Banking Notice of Application

Article 342-401a, Vernon's Texas Civil Statutes, requires any person who intends to buy control of a state bank to file an application with the banking commissioner for the commissioner's approval to purchase control of a particular bank. A hearing may be held if the application is denied by the commissioner.

On February 10, 1978, the banking commissioner received an application to acquire control of Hillcrest State Bank, Dallas, Texas, by Cam F. Dowell, Jr., Dallas.

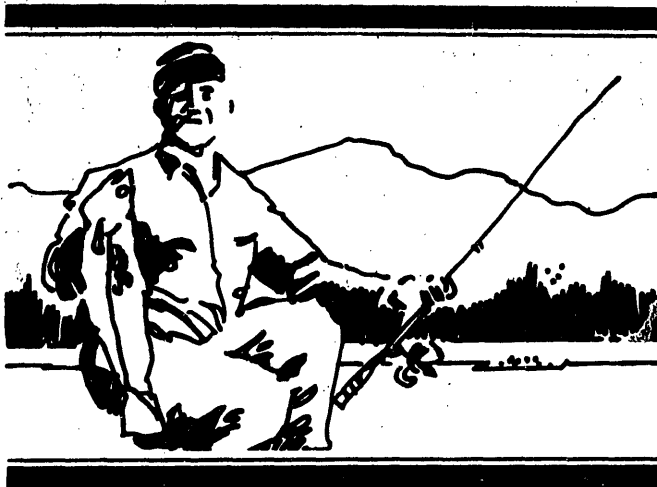
Additional information may be obtained from Robert E. Stewart, 2601 North Lamar, Austin, Texas 78705, telephone (512) 475-4451.

Issued in Austin, Texas, on February 10, 1978.

Doc. No. 781209 Robert E. Stewart
Banking Commissioner

Filed: February 14, 1978, 10:16 a.m.

For further information, please call (512) 475-4451.



State Bar of Texas Environmental Law Institute

The Environmental Law Section of the State Bar of Texas is sponsoring an Environmental Law Institute on February 23 and 24, 1978, in Houston at Stouffer's Greenway Plaza Hotel. Registration begins at 8:30 a.m., with the program beginning at 9 a.m.

The proposed program topics are: Coastal Zone Management and Corps of Engineers; Surface Mining and Strip Mining; Solid Waste; Air Pollution; Water Pollution; Toxic Substances; and Litigation. This institute includes extensive written materials.

Pre-registration is \$40 and door registration, \$45. To register now, send a check payable to the State Bar of Texas along with a letter stating your name, address, and telephone number to: State Bar of Texas, Environmental Law Institute, P.O. Box 12487, Austin, Texas 78711.

Issued in Austin, Texas, on February 10, 1978.

Doc. No. 781184 Judy Bolton
State Bar of Texas

Filed: February 13, 1978, 12:20 p.m.

For further information, please call (512) 475-6842.

Texas Coastal and Marine Council

Notice of Consultant Contract in Excess of \$10,000

The Coastal and Marine Council is serving notice that the form of a contract with Sally S. Davenport, Austin, has been changed and will therefore culminate in expenditures more than \$10,000.

The consultant will coordinate activities relative to the council's Hurricane Awareness Program for the 1978 hurricane season. The contract amount will be \$12,000 and will terminate August 31, 1978.

No formal report is required under the terms of the current contract.

Issued in Austin, Texas, on February 10, 1978.

Doc. No. 781205 Jenny Hanson
Fiscal Officer
Texas Coastal and Marine Council

Filed: February 13, 1978, 4:29 p.m.

For further information, please call (512) 475-5830.

Coastal Bend Council of Governments

Notice of Public Hearing—City of Mathis

The Human Resources Development Council of the Coastal Bend Council of Governments is sponsoring a public hearing on health, transportation, education, social services, housing, employment, and other needs for all ages. The public is encouraged to participate.

The hearing will be held at 7 p.m. Thursday, February 23, 1978, in the Mathis City Hall. Additional information may be

obtained from Fred Stansell, Coastal Bend Council of Governments, P.O. Box 6609, Corpus Christi, Texas 78411.

Issued in Corpus Christi, Texas, on February 13, 1978.

Doc. No. 781208 Charlene K. Forest
Coastal Bend Council of
Governments

Filed: February 14, 1978, 10:16 a.m.

For further information, please call (512) 854-3081.

Comptroller of Public Accounts

Summary of Administrative Decision 7867

Summary of Decision: Tangible personal property, which was purchased outside of Texas for use at an out-of-state plant, was used there for a year and was transferred to Texas for use here only after the out-of-state plant was closed, was not purchased "for use in Texas," and was not subject to Texas use tax. Texas Taxation—General Annotated, Article 20.03.

For copies of recent opinions selected and summarized by the Legal Services Division, contact the Legal Services Division, P.O. Box 13528, Austin, Texas 78711. Copies will be furnished without charge and edited to comply with our confidentiality statutes.

Issued in Austin, Texas, on February 15, 1978.

Doc. No. 781243 Harriet D. Burke
Hearings Section
Comptroller of Public Accounts

Filed: February 15, 1978, 11:17 a.m.

For further information, please call (512) 475-2148.

Texas Natural Resources Council

Preliminary Report: Texas Coastal Natural Resource Issues

Senate Bill 577, 65th Legislature, directs the council to submit to the governor and legislature a report with recommendations for action on problems and issues affecting the coastal natural resource areas of the state. The report will include:

- (1) a description of the changes affecting the coastal area during the preceding two years;
- (2) a statement of principal problems of state concern affecting coastal natural resource areas;
- (3) steps recommended by the NRC to resolve identified problems;
- (4) a review of the effectiveness of current state programs;

(5) recommended state coastal resource research and data acquisition priorities.

Copies of the preliminary report will be available from the Natural Resources Council on February 28, 1978. The comment period on the report will commence on March 20, 1978, and close on April 21, 1978, unless extended beyond that date. Comments may be sent to the Natural Resources Council, 411 West 13th Street, Austin, Texas 78701.

Issued in Austin, Texas, on February 9, 1978.

Doc. No. 781206 Frank Sheffield
Staff Director
Texas Natural Resources Council

Filed: February 13, 1978, 3:13 p.m.

For further information, please call (512) 475-6283.

Prosecuting Attorneys Coordinating Council Opening For Position of Executive Director

The Prosecuting Attorneys Coordinating Council seeks qualified applicants for the position of executive director. Applicant must be licensed to practice law in the State of Texas, and trial and administrative experience is preferred. The executive director will serve as chief operating officer of new state agency, authorized by Senate Bill 113 (Chapter 345, page 917, Acts of the 65th Legislature), and will also represent the agency in all legal proceedings, including investigation and trial of complaints of prosecutor misconduct and incompetency.

Salary is in the upper \$30,000, and is negotiable based upon experience. Relocation to Austin is required. Resumes should be forwarded to the Texas District and County Attorneys Association, Attention: Prosecutor Council, 1411 West Avenue, Suite 210, Austin, Texas 78701.

Issued in Austin, Texas, on February 14, 1978.

Doc. No. 781234 Michael J. McCormick
Acting Secretary
Prosecuting Attorneys
Coordinating Council

Filed: February 15, 1978, 10:02 a.m.

For further information, please call (512) 474-2436.

Office of the Secretary of State

New Voter Registration Procedures

Senate Bill 850, 65th Legislature, 1977, amends many of the voter registration provisions enacted in 1975 in Senate Bill 300 and initiates several new registration procedures concerning new provisions, such as the list of cancelled voter registration certificates and postage-free voter registration

applications. Certain aspects of voter registration were also affected by the passage of House Bill 1125 and House Bill 1788.

The following subjects are addressed in this document: (1) return of nondeliverable certificates after November mailing; (2) repeal of notification procedures; (3) March 1 cancellation date; (4) reregistration of cancelled voter; (5) filing procedures in registrar's office; (6) lists of cancelled registration certificates; (7) annual original lists of registered voters; (8) furnishing and updating lists for use on election day; (9) use of combined forms; (10) voting by persons on the list of cancelled registration certificates; (11) absentee voting; (12) new registration procedures; and (13) duplicate applications.

Senate Bill 850 became effective on August 29, 1977, in accordance with Texas law, but due to the requirements of Section 5 of the Voting Rights Act of 1965, as amended in 1975, for the submission of Senate Bill 850 to the United States Department of Justice for approval, it was not possible to implement the new provisions until November, 1977.

Return of nondeliverable certificates after November mailing: Senate Bill 850 provides for the cancellation without further notice of the registrations of those voters whose new yellow voter registration certificates were returned as nondeliverable to the registrar after the November mailing in odd-numbered years (Article 5.14a, Subsection 2(b), Vernon's Texas Election Code).

Repeal of notification procedures: All previous requirements concerning address correction service, follow-up notices, and notices of cancellation required under Article 5.14a, Subsection 2, Vernon's Texas Election Code, have been repealed. However, if a registration is cancelled for any reason other than the return of the new yellow certificate as nondeliverable after the November mailing, the cancellation notices required under Article 5.18a and 5.18c, Vernon's Texas Election Code, are necessary.

March 1 cancellation date: All certificates returned as nondeliverable to the registrar's office shall be cancelled on March 1, 1978, unless the particular voter can show grounds for noncancellation prior to March 1.

Reregistration of cancelled voter: Any person whose registration is cancelled on March 1 due to the return of the new certificate as nondeliverable shall be required to reregister in the same manner as an initial registrant (Article 5.14a, Subsection 2(e), Vernon's Texas Election Code). As is the case with all new registrants, a new voter registration certificate number should be issued.

Filing procedures in registrar's office: On March 1 in 1978 as well as in succeeding even-numbered years, the original registration application of each person whose registration is cancelled due to the return of the new certificate as nondeliverable should be transferred to the separate inactive application file for cancelled registrations. The registrar should enter upon the application form the date on which the registration was cancelled (March 1, 1978) before filing the application in the separate inactive file. When a registration is cancelled, the registrar must enter the date and the reason for cancellation upon the person's duplicate registration certificate and transfer the duplicate to the inactive file arranged numerically for the voting year. (Article 5.15a, Vernon's Texas Election Code.)

An adequate notation of the reason for cancellation is "Cert. Ret'd." The new yellow voter registration certificates which are returned to the registrar as nondeliverable resulting in the cancellation of the voter's registration should be attached to the person's original registration application in the separate inactive application file. The retention of the yellow certificate in the inactive file will serve as further record of the fact that the certificate was returned to the registrar as nondeliverable, and that the cancellation of the voter's registration was executed according to law.

Lists of cancelled registration certificates: The registrar shall maintain a county-wide alphabetical list of voter registration certificates returned as nondeliverable after the November mailing showing the name, address, birthdate, and registration certificate number of the person to whom the certificate was issued. This list shall be open to public inspection in the registrar's office at all times during regular office hours of the registrar, subject to reasonable regulations and to proper safeguards against mutilation or removal. The registrar shall furnish a copy of such list to any person requesting it and shall be permitted to charge \$1 for each 10,000 names contained on such list, to be paid by the person so ordering the list. Any funds collected in this manner shall be accounted for as official fees of office. Prior to January 15, 1978, the registrar must send a copy of the county-wide list of cancelled voter registration certificates to the secretary of state in computer readable form. (Article 5.14a, Subsection 2(b), Vernon's Texas Election Code.)

As a practical matter, the county-wide list of cancelled registration certificates should also state the election precinct number of each cancelled certificate so that it can be used in absentee voting.

Article 5.19b, Subsection 3, Vernon's Texas Election Code, now requires the secretary of state to determine whether the registrar has complied with the provisions of Article 5.14a of the Election Code and to notify the comptroller. The comptroller shall not issue the warrant until notified by the secretary of state that the registrar is in compliance.

Annual original lists of registered voters: Previously, the registrar was required to prepare a list of registered voters for each county election precinct before the first day of March of each year. The new law now requires that the registrar prepare county election precinct lists of registered voters who are registered as of the 30th day prior to the first election held after March 1 of each voting year (Article 5.19a(1), Vernon's Texas Election Code).

Furnishing and updating of lists for use on election day: Instead of preparing the required supplemental precinct lists of registered voters, the registrar may now prepare revised original lists, consolidating into them the names of the voters who would have been included on the supplemental lists. The registrar is now required to maintain one set of original lists and one set of the supplemental lists (or the revised original lists) prepared for each county-wide election for a period of three years. These lists shall be public records available for public inspection.

Prior to the first election in 1978, and other even-numbered years, the registrar must attach to each county election precinct list of registered voters supplied to the appropriate authority conducting elections in the county during March, April, May, or June, a corresponding alphabetical list of can-

cancelled voter registration certificates, which must be attached to the appropriate county election precinct list for use at any election held from March 1, 1978, through June 30, 1978.

The precinct lists of cancelled voter registration certificates must be provided free of charge with the precinct lists of registered voters to the authority conducting an election prior to the beginning date for absentee voting. (Article 5.19a, Vernon's Texas Election Code.)

Whenever the lists of registered voters are required for use in elections held at the expense of the county or any city or other political subdivision or for use in a party primary election, no charge in addition to any charge authorized for the list of registered voters may be made. However, whenever the registrar furnishes lists of registered voters to any other person, he or she may charge no more than \$1 per 10,000 names.

For all elections occurring after the first election in 1978 or another even-numbered year, each precinct list of cancelled voter registration certificates should be updated by deletion of the names of those voters who have registered over 29 days before the particular election date. The registrar shall furnish each election precinct either a list of deletions from the precinct list of cancelled registration certificates or, as an alternative, the registrar may furnish an updated consolidated list of cancelled registration certificates. The list will, however, unlike the supplemental list of registered voters, never contain names of additional voters to those listed on the original list of cancelled registration certificates. It will contain only the names of those voters who have reregistered prior to the 29th day before the particular election and are, therefore, to be removed from the list of cancellations as a result of now appearing on some current precinct list of registered voters. In some cases, the modification of the cancelled list will include the names of those persons who registered at the polling place for a previous election in March, April, May, or June of the even-numbered year. In 1978, since the second (run-off) primary occurs within 29 days of the first primary, the list of cancelled registration certificates used in the run-off will still include the names of those persons who registered by voting in the first primary unless they registered by ordinary means over 29 days before the run-off.

In many counties, the first election held after March 1 in 1978 will be the party primary elections held on May 6. For those counties, the precinct lists should be prepared for the first time in 1978 voting listing those voters registered as of April 6, 1978. Other counties will have school district, municipal, or other elections on April 1, 1978. Additional elections, such as local option and bond elections, may be held after March 1 on a date other than the uniform dates prescribed by Article 201b, Vernon's Texas Election Code, and precinct lists for those elections must be prepared listing voters who are registered as of the 30th day prior to such election.

The precinct lists of registered voters as well as the corresponding lists of cancelled registration certificates discussed above must be provided to the absentee voting clerk for use in the conduct of absentee voting in any election. (Article 5.19a, Vernon's Texas Election Code.)

Use of combined forms: House Bill 1788, 65th Legislature, 1977, also affects the list of registered voters by authorizing

the registrar to produce the list of registered voters in a new format which combines each precinct list with other documents, such as the poll list and signature rosters to be used at the polling place. The lists of cancelled registration certificates may also be merged with the lists of registered voters and the affidavit of residency required at the polling place may be merged into any combination form in use or with the signature roster, in any format approved by the secretary of state. (Article 3.02(b) and Article 5.19a(1), Vernon's Texas Election Code.)

Voting by persons on the list of cancelled registration certificates: Under new law, a person whose name does not appear on the precinct list of registered voters, but whose name does appear on the precinct list of cancelled registration certificates, is authorized to vote at the precinct of former residence only in any election held on or after March 1 through June 30, in even-numbered years, if each voter: (1) executes an affidavit stating that he or she still resides within the county for county-administered and primary elections or within the appropriate political subdivision for other elections; and (2) submits a completed voter registration application at the polling place. Persons voting under these procedures must also sign the signature roster and follow the usual polling place procedures. (Article 5.16a, Subsection 3a, Article 8.08, Subsection 1, Vernon's Texas Election Code.)

The election officer should notate on the list of cancelled registration certificates that the person has voted, entering the date of the election, and should enter the voter's name on the poll list. The words "Struck List," or some similar notation, should be written on the poll list beside the voter's name in order to further designate the special method by which the person voted. The presiding judge should not deliver a certificate of having voted in a primary to any voter who is permitted to vote by reason of appearing on the list of cancelled voter registration certificates for the reason that Article 13.34, Vernon's Texas Election Code, requires the name of one attending a precinct convention to appear on the regular list of registered voters. The affidavits of residency, the precinct lists of cancelled voter registration certificates, and all voter registration applications submitted by persons whose names appear on the lists of cancelled registration certificates should be delivered along with the other usual election forms and supplies by the presiding judge to the officer who receives the election records which are open to public inspection at the time of the delivery of such records. This officer is the county clerk in elections held by the county and in county party primary elections. Within five days after the election, the officer who receives the applications submitted at the polling place shall deliver the applications to the registrar, who shall process the applications and issue registration certificates in the same manner as other applications. (Article 8.29(d), Vernon's Texas Election Code.)

Absentee voting for elections held on or after March 1 through June 30 by voters whose names are on list of cancelled registration certificates: The registrar of voters will provide free of charge to the clerk conducting absentee voting for an election held on or after March 1 and no later than June 30 of even-numbered years, a county-wide alphabetical list of those voters whose registration certificates were returned after the November mailing which is to be used during absentee voting.

The absentee voting procedures in Article 5.05, Subsection 4, and Subsection 6, Vernon's Texas Election Code, regarding absentee voting apply generally, but because of the provisions of 5.16a, discussed above, if a voter whose name appears on the list of cancelled registration certificates applies for an absentee ballot by mail, the clerk must include with the ballot an "Application for Voter Registration/Change Form" as well as the "Affidavit of Residency" (see attachments) and special instructions to an applicant whose name appears on the list of cancelled registrations certificates. The special instructions should require the voter to complete the application for voter registration and execute and notarize the "Affidavit of Residency" and to return them in the carrier envelope with the voted ballot.

The voter should be given the ballot that pertains to his or her precinct, as it is listed on the list of cancelled registration certificates.

The clerk should add the voter's name to the list of voters voting absentee by mail or by personal appearance, the notation "Struck List," and a notation of having voted by that voter's name on the struck list, in addition to the date of the election.

When a ballot is returned in the mail by a voter whose name is on the list of cancelled registration certificates, a notation "Struck List" should be made on the carrier envelope. The application and the unopened carrier envelope should be placed in the jacket envelope and stored in a safe place.

If a special canvassing board has been appointed to count the absentee ballots, or if absentee ballots are to be counted at the polling place, the judge should be instructed as stated in Article 5.05, Subsection 6 or Subsection 7, Vernon's Texas Election Code, whichever is applicable. When the notation "Struck List" and the date of the election are noted on the carrier envelope, the election officials should, in addition to the usual procedures, confirm that a completed "Voter Registration Application/Change Form" and an executed affidavit of residence are contained in the carrier envelope with the ballot envelope. In the event either is not enclosed, the ballot envelope should not be opened and the accompanying papers should be treated as appropriate for any other ballot which will not be counted.

New registration procedures: The date on which the election officer accepts an application at the polling place is considered to be the date on which the registrar receives it, and the registration becomes effective on the 30th day after that date (Article 5.16a, Subsection 3a, Vernon's Texas Election Code).

For all registration applications received for the 29th day prior to March 1 through the 29th day prior to June 30 (in 1978, those dates are January 31 and June 1, respectively), it will be necessary for the registrar to determine if the registrant is on a precinct list of cancelled voter registration certificates in either that county or in another Texas county. The new application form prescribed by this office requests the voter to state whether he or she previously registered to vote and failed to receive a new registration certificate. (Article 5.13b, Subsection 1, Vernon's Texas Election Code.) If so, the voter should note the former residence address and county in which the certificate was issued. After checking this statement and making an independent search of the registrant's records, the registrar should remove the name of each new registrant from the appropriate precinct list of can-

celled registration certificates if listed thereon on the 30th day after the application was filed.

If the lists of cancelled registration certificates cannot be updated in this manner, the registrar should furnish to the presiding judge of each precinct in a subsequent March, April, May, or June election a list of those persons whose names should be stricken from the list of cancelled registration certificates due to having registered to vote before the 29th day preceding the election in question. This list should also reflect the new election precinct number for each name appearing on it in order to enable each presiding judge to direct a voter attempting to vote in the precinct of former residence to the proper election precinct.

The registrar should notify also the registrar of the county of former residence that the person has registered in a new county, informing that registrar of (1) the voter's name, (2) the former residence address, (3) birthdate, (4) social security number, if available, (5) the date on which the voter's new certificate becomes effective, and (6) a copy of the voter's signature (optional).

The new law specifically provides that the name of no person shall be removed from a list of cancelled voter registration certificates until the person's new registration becomes effective. The registrar must not remove a voter's name from the appropriate precinct list of cancelled registration certificates until the 30th day after the date on which the application was filed. (Article 5.18a, Subsection 4, Vernon's Texas Election Code.)

Duplicate applications: Several elections may be held during the four months that the precinct lists of cancelled voter registration certificates are used in conjunction with the precinct lists of registered voters. In April, municipal and school district elections may be held. In May, the party primary elections occur; and in June, the second (run-off) primary elections are held. In addition, local option, bond, or other elections may be held during this period. The new law requires the voter to submit a registration application each time he votes while his name still appears on the precinct list of cancelled registration certificates. In the event that another election occurs within 29 days after the date of an election in which a person has voted under the provisions of Article 5.16a, Subsection 3a, Vernon's Texas Election Code, the voter shall be allowed to vote in such election by complying once again with this provision; but the voter shall inform the presiding judge of the previous act of voting, and the presiding judge shall note that fact on the voter registration application submitted. The registrar shall attach such an application to the application previously received from that particular voter.

Doc. No. 31A3

Voting Absentee in an Emergency Situation

House Bill 285, enacted by the 65th Legislature, 1977, provides for absentee voting by a voter who is unable to attend the polls on election day because of a sickness or physical disability which originated on or after the fifth day preceding the election day. This new law applies only to county-wide elections and to elections less than county-wide where a

special canvassing board for counting absentee ballots has been appointed and sets up specific procedures regarding the application and delivery of the ballot.

To obtain a ballot under an "emergency" situation, the voter must deliver a written request, signed by the voter or by a witness at the voter's direction, for an absentee ballot to the clerk conducting absentee voting. The request must give the date or otherwise identify the election and must state in effect that the sickness or physical disability which originated on or after the fifth day preceding the election will prevent him from going to the polling place on the day of the election. This request must be accompanied by a certification of a licensed doctor, chiropractor, or Christian Science practitioner which states substantially the following:

This is to certify that I have personal knowledge of _____; that because of sickness or physical disability he/she will be unable to appear at the polling place for an election to be held on the _____ day of _____, 19____; and that the inability to attend the polling place originated on or after the fifth day preceding the election. Witness my hand at _____, Texas, this _____ day of _____, 19____. (Signature).

The request must be accompanied by the voter's registration certificate or a statement that it has been lost or mislaid, left at home, or used for applying for an absentee ballot in another election (stating the nature and date of the election), and that it has not been returned to the voter.

The request is to be delivered to the clerk conducting absentee voting by a representative of the voter who must be at

least 18 years old and not employed by or related within the third degree of affinity or consanguinity to any person whose name appears on the ballot. A voter's representative may not serve as a representative for any other voter for the same election.

The clerk shall deliver the absentee voting materials to the voter's representative at any time after the close of business on the fourth day preceding the election and before noon on election day. The clerk shall record the representative's name and address on the request and shall require the representative to sign his or her name. The clerk shall add the voter's name to the list of absentee voters with a note that the ballot was sent to the voter by a representative. The clerk is not required to include the names of these voters on the precinct list of absentee voters sent to presiding judges. The ballot must be returned in person by the same person who delivered the request to the clerk of absentee voting by the deadline for receiving ballots voted by mail (See Article 5.05, Subdivision 4(a), Vernon's Texas Election Code). Upon receiving the marked ballot, the clerk shall make a notation on the carrier envelope of the name and address of the person who delivered it and shall require the person to place his or her signature alongside his or her name on the envelope. The clerk shall then follow the same procedure as for a ballot by mail and shall return the voter's registration certificate to him by mailing it to his permanent address. All ballots voted under these "emergency" provisions must be delivered to the special canvassing board by the clerk or his or her deputy on the day of the election.

Doc. No. 31A4

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