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TEXAS REGISTER

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TEXAS
DEPARTMENT
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In This Issue...

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Comptroller's proposal concerning motor vehicle sales tax exemption for the orthopedically handicapped, proposed date of adoption—March 31 716

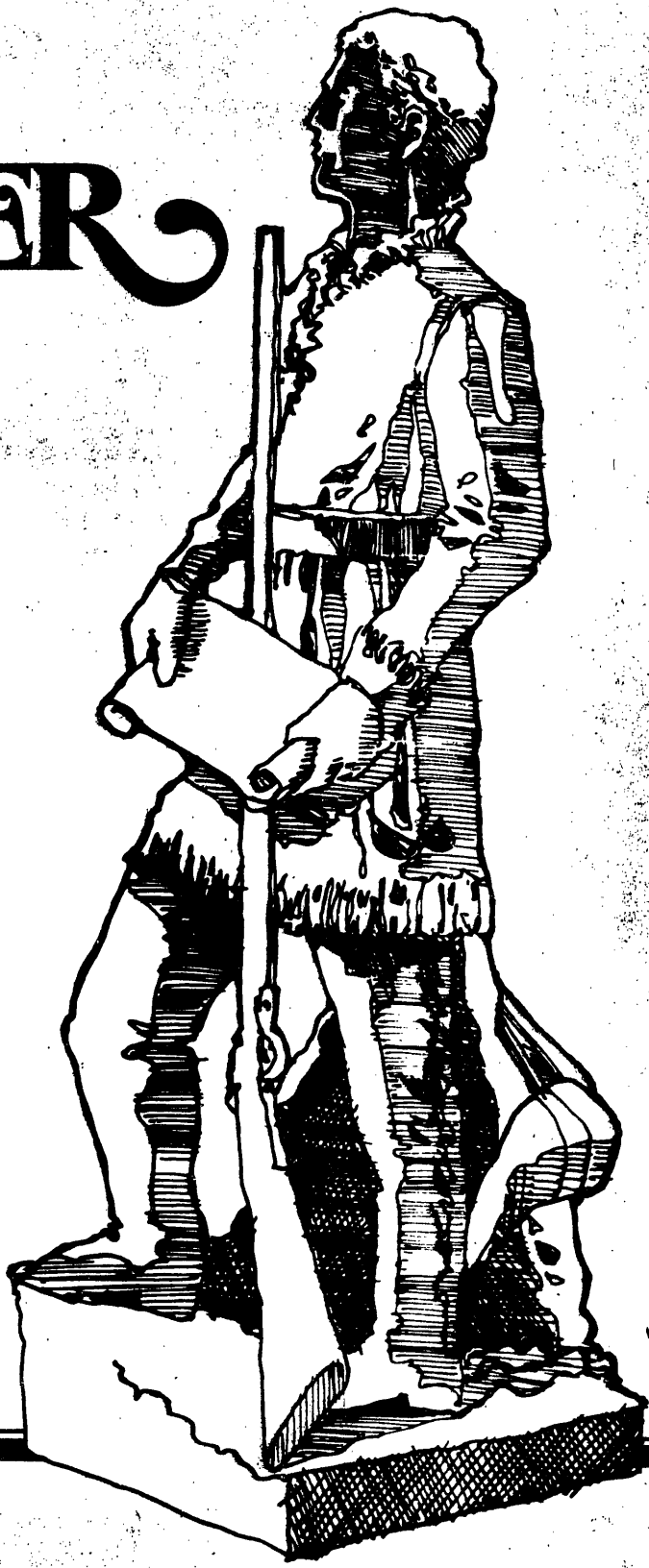
Rules on tax exemptions of property of disabled and deceased disabled veterans proposed by the comptroller, proposed date of adoption—March 31 716

Outreach programs proposed by the Texas Department of Mental Health and Mental Retardation, proposed date of adoption—March 31 721

Adopted herbicide regulations by the Department of Agriculture, effective March 14 734

Exemption for religious societies' motor vehicles adopted by the comptroller of public accounts, effective March 10 734

Adoption by the Credit Union Department concerning exception in considering real estate loans, effective March 15 ... 735



Office of the Secretary of State

USPS Publication Number 120090

NOTES ON THE ISSUE

The Department of Agriculture adopts rules exempting Tarrant and Terry Counties from the Texas Herbicide Law, as requested by the commissioners courts of those counties. The law requires that dealers obtain licenses to sell and users obtain permits to buy hormone herbicides because of their potential threat to cotton crops. The law further permits each county's commissioners court to decide during the last three months of each year whether the county or parts of it will be governed by the Texas Herbicide Law. These decisions are based on the prevalence of cotton.

The comptroller of public accounts proposes tax exemptions for the orthopedically handicapped motor vehicle owner/driver. The proposal, a response to Senate Bill 366, exempts a modified vehicle from the motor vehicle sales tax of four percent of the sale price if the primary driver is handicapped and the title holder. This exemption is not extended to those orthopedically handicapped vehicle owners who require drivers.

The Texas Department of Parks and Wildlife proposes an amendment to permit the sale of beer in state parks to increase revenue. The sale would be restricted to parks in wet precincts and to concessionaires approved by the local county judge and commissioners court and licensed by the Alcoholic Beverage Commission. Public consumption of the beverage would remain restricted.

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



*Steven C. Oaks
Secretary of State*

The *Texas Register* is published twice weekly, at least 100 times a year by the Texas Register Division, Office of the Secretary of State, P.O. Box 12887, Capitol Station, Austin, Texas 78711, telephone (512) 475-7886.

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

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Requests for Opinions

- 713 RQ-1821 (*authority of Commission on Jail Standards to promulgate Rule 217.14.00.003*)
- 713 RQ-1822 (*receipt by county treasurer of ad valorem taxes collected by assessor-collector*)
- 713 RQ-1823 (*assignment of Harris County Flood Control District to county clerk or data processing department*)
- 713 RQ-1824 (*printing contracts by state agencies*)
- 713 RQ-1825 (*compromise settlement agreements and Article 8307, Section 9a(e)(2), Vernon's Annotated Civil Statutes*)
- 713 RQ-1826 (*contributions of local school districts to Teacher Retirement System to qualify for "tax shelter"*)
- 714 RQ-1827 (*possible conflict between Article 2368a and Article 5160, Vernon's Annotated Civil Statutes*)

Emergency Rules

Texas Parks and Wildlife Department

- 715 *Wildlife*

Proposed Rules

Comptroller of Public Accounts

- 716 *Tax Administration*

Texas Department of Mental Health and Mental Retardation

- 721 *Other Agencies and the Public*

Texas Parks and Wildlife Department

- 724 *Parks*
- 725 *Wildlife*

Texas Water Development Board

- 732 *Financial Programs*

Adopted Rules

Texas Department of Agriculture

- 734 *Agricultural and Environmental Sciences*

Comptroller of Public Accounts

- 734 *Tax Administration*

Credit Union Department

- 735 *Credit Union Regulations*

Texas Education Agency

- 735 *Comprehensive Instruction*
- 738 *Instructional Development*
- 738 *Planning and Evaluation*

Texas Department of Human Resources

- 740 *AFDC*
- 744 *Food Stamps*

Railroad Commission of Texas

- 745 *Surface Mining and Reclamation Division*

The Courts

Texas Supreme Court

- 747 *Barr v. Bernhard*

4th Court of Civil Appeals

- 747 *San Pedro North, Ltd. v. City of San Antonio*

5th Court of Civil Appeals

- 747 *Albert v. City of Addison*

10th Court of Civil Appeals

- 747 *Carl v. San Antonio Independent School District*

12th Court of Civil Appeals

- 747 *Kordus v. City of Garland*

Open Meetings

- 748 *Texas Adult Probation Commission*
- 748 *Texas Department of Agriculture*
- 748 *State Board of Barber Examiners*
- 748 *Texas Department of Community Affairs*
- 749 *Comptroller of Public Accounts*
- 749 *Coordinating Board, Texas College and University System*
- 749 *Texas State Board of Dental Examiners*
- 750 *Texas Feed and Fertilizer Control Service*
- 750 *Office of the Governor*
- 750 *Texas Health Facilities Commission*
- 751 *State Board of Insurance*
- 752 *Texas Advisory Commission on Intergovernmental Relations*
- 752 *Texas Commission on Jail Standards*
- 753 *Department of Labor and Standards*
- 753 *Board for Lease of University Lands*
- 753 *Board of Examiners of Licensed State Land Surveyors*
- 753 *Midwestern University*
- 754 *Board of Nurse Examiners*
- 754 *Board of Pardons and Paroles*
- 754 *Department of Public Safety*
- 754 *Public Utility Commission of Texas*
- 756 *Texas Real Estate Commission*
- 756 *Texas Real Estate Research Center*
- 756 *Advisory Council for Technical-Vocational Education in Texas*
- 756 *Texas Water Commission*
- 758 *Regional Agencies*

In Addition

- Texas Department of Community Affairs**
 - 760 *Weatherization Program*
- Comptroller of Public Accounts**
 - 760 *Administrative Decisions*
 - 760 *Internal Revenue Service Ruling*
- Joint Advisory Committee on Educational Services to the Deaf**
 - 761 *Position Announcement*
- Texas Department of Human Resources**
 - 761 *Notice of Public Hearing—Health Care for the Elderly and the Handicapped*
- Railroad Commission of Texas**
 - 761 *Notice of Extension of Time to File Comments*
- Texas Surplus Property Agency**
 - 762 *Increase in Charges*
- Texas Register**
 - 762 *Notice of Schedule Variation*
 - 763 *Publication Schedule*

Requests for Opinions

Summary of Request for Opinion RQ-1821

Request for opinion sent to the Attorney General's Opinion Committee by James Greenwood III, chairman, Texas Commission on Jail Standards, Austin.

Summary of Request:

(1) Did the Commission on Jail Standards have authority to promulgate its Rule 217.14.00.003, which states as follows: .003. *Correction Officer Pay.* Pay for correction officers shall be equivalent to that of other appointed deputies of similar grade, status, and/or tenure whose daily duties require frequent, close, and risky contact with violators of the law.

(2) Does the Commission on Jail Standards have authority to enforce compliance with its Rule 217.04.00.003?

(3) Do commissioners' courts of Texas have the power to fix the pay for jail personnel at a level that is not comparable to and/or that is lower than the pay of other county law enforcement officers of otherwise equal rank and seniority?

Doc. No. 781299

Summary of Request for Opinion RQ-1822

Request for opinion sent to the Attorney General's Opinion Committee by Joe Resweber, Harris County Attorney, Houston.

Summary of Request:

(1) Is the county treasurer authorized or required to receive from the county tax-assessor collector money which the assessor-collector has collected from the ad valorem taxes of the county and other taxing entities for which he collects taxes?

(2) If the answer to the above question is in the affirmative, can the county treasurer require the county tax assessor-collector to deliver the aforementioned money to the treasurer for deposit in the county depository?

(3) If the answer to the above question is in the affirmative, can the county treasurer require the county depository to refuse to accept deposits for the county's accounts from anyone other than the treasurer?

Doc. No. 781300

Summary of Request for Opinion RQ-1823

Request for opinion sent to the Attorney General's Opinion Committee by Joe Resweber, Harris County Attorney, Houston.

Summary of Request: Can the Harris County Commissioners Court assign the preparation of Harris County and

Harris County Flood Control District warrants, prior to auditing and final disposition, to either the county clerk or the Harris County Data Processing Department?

Doc. No. 781301

Summary of Request for Opinion RQ-1824

Request for opinion sent to the Attorney General's Opinion Committee by Gibson D. Lewis, House of Representatives, Austin.

Summary of Request:

(1) Is the Board of Control authorized to let contracts for printing equipment for use by state agencies?

(2) Is the comptroller authorized to approve the purchase of said equipment and issue warrants in payment of a claim for such purchase?

(3) Is any state agency authorized to contract for, or perform printing for, another state agency?

(4) Is a state agency authorized to contract for, or perform printing for, quasi-state agencies, nonprofit organizations or associations, for governmental agencies outside of Texas or for commercial private enterprises?

Doc. No. 781302

Summary of Request for Opinion RQ-1825

Request for opinion sent to the Attorney General's Opinion Committee by Cue D. Boykin, chairman, Texas Industrial Accident Board, Austin.

Summary of Request:

(1) Does a completed compromise settlement agreement entered into between the claimant and the carrier constitute a claim for compensation for purposes of Article 8307, Section 9a(e)(2)?

(2) If a compromise settlement agreement constitutes a person's fifth claim for compensation within a five-year period, does Article 8307, Section 9a(h), preclude the board from approving the compromise settlement agreement?

Doc. No. 781303

Summary of Request for Opinion RQ-1826

Request for opinion sent to the Attorney General's Opinion Committee by Leonard Prewitt, executive secretary, Teacher Retirement System of Texas, Austin.

Summary of Request: Are local school districts allowed to "pick up" the required employee contributions for members of the Teacher Retirement System of Texas in order to take advantage of the "tax shelter" discussed in revenue Ruling 77-462?

Doc. No. 781304

Summary of Request for Opinion RQ-1827

Request for opinion sent to the Attorney General's Opinion Committee by Chris Victor Semos, House of Representatives, Austin.

Summary of Request:

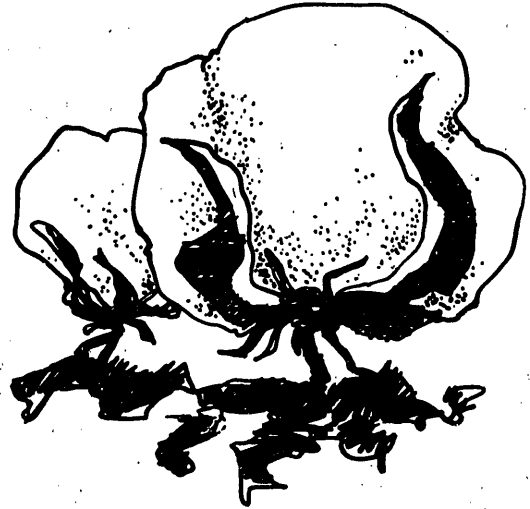
(1) Are the provisions of Article 2368a, which require a home rule city to follow the performance and payment bond provisions of its city charter, in conflict with the provisions of Article 5160, which prohibit any governmental authority from requiring a performance and payment bond if the contract does not exceed the sum of \$25,000?

(2) If there is a conflict, which statute should a home rule city follow?

Issued in Austin, Texas, on February 16, 1978.

Doc. No. 781305 C. Robert Heath
Opinion Committee Chairman
Attorney General's Office

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



EMERGENCY RULES

715

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

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

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

Texas Parks and Wildlife Department

Wildlife

Statewide Hunting, Fishing, and Trapping Proclamation No. A-5, 1977-78, 127.70.01

The Texas Parks and Wildlife Department is renewing the effectiveness of the emergency amendments to Rules

127.70.01.002, .004, .007, .024, .061, .062, .064, .083-.085, .111, and .113, Statewide Hunting, Fishing, and Trapping Proclamation No. A-5, 1977-78, for 60 days, effective March 3, 1978. The texts of the rules were published in the November 4, 1977 (2 TexReg 4207-4216), and in the November 15, 1977 (2 TexReg 4401-4402), issues of the *Texas Register*.

Issued in Austin, Texas, on February 16, 1978.

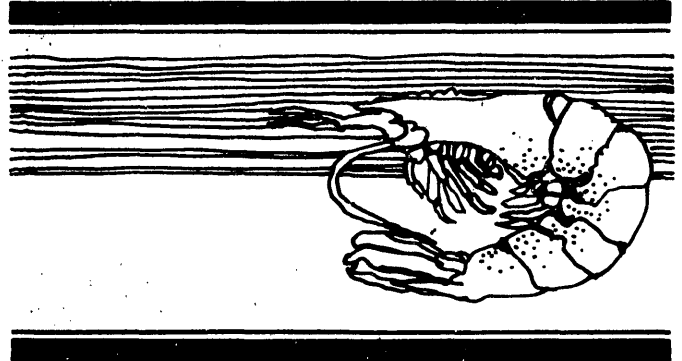
Doc. No. 781343

Maurine Ray
Administrative Assistant
Texas Parks and Wildlife Department

Effective Date: March 3, 1978

Expiration Date: May 2, 1978

For further information, please call (512) 475-4875.



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.

Comptroller of Public Accounts

Tax Administration

Motor Vehicle Sales Tax Division 026.02.06

The 65th Legislature enacted Senate Bill 366, which became effective August 29, 1977. In order to properly administer the new statute which adds a new exemption from the motor vehicle sales and use tax for vehicles driven primarily by an orthopedically handicapped person, the comptroller is proposing Rule 026.02.06.037.

There are no significant fiscal implications expected from the proposed rule. (Source: Revenue estimating staff, Office of the Comptroller of Public Accounts.)

Public comment on Proposed Rule 026.02.06.037 is invited. Persons should submit their comments in writing to Richard Montgomery, Drawer SS, Austin, Texas 78711.

The following rule is promulgated under the authority of Texas Taxation—General, Article 6.02 (1969).

.037. Exemption for Orthopedically Handicapped Person.

(a) The receipts from the sale and use of a motor vehicle which:

- (1) is driven primarily by an orthopedically handicapped person, and
- (2) is a privately owned vehicle which requires modification for operation by an orthopedically handicapped person.

This exemption does not apply to the sale and use of a vehicle owned or operated by a corporation, partnership, limited partnership, or association.

(b) An "orthopedically handicapped person" is an individual who has limited movement to his extremities and physical functions. The physical impairment must be such that the person is unable to operate a motor vehicle which has not been specially modified.

(c) "Primary use" means use of a motor vehicle for at least 80 percent of the vehicle's operating time.

(d) "Modified motor vehicle" is a vehicle which has been specifically modified by altering conventional foot brakes, accelerator pedal, or steering wheel to facilitate an orthopedically handicapped driver.

(e) A person claiming this exemption must present a restricted Texas driver's license which indicates a modification restriction on the vehicle to the county assessor and collector of taxes. The license must verify that the person claiming the exemption is so physically impaired that he is unable to operate a motor vehicle which has not been specifically modified.

Doc. No. 781385

Ad Valorem Tax 026.02.16

The comptroller of public accounts proposes issuance of Rule 026.02.16.020 to revise the present rule. The proposed rule provides procedures for qualifying for property tax exemptions for property owned by disabled veterans and surviving spouses and children of deceased veterans. The exemption itself is granted in the Texas Constitution, Article 8, Section 2(b), and enacted as Texas Revised Civil Statutes Annotated, Article 7150h (Supplement 1977). The proposed rules provide that the exemption must be renewed annually; that an eligible applicant may be entitled to multiple exemptions in certain jurisdictions; that a tax assessor-collector may designate the type of documentary proof necessary to show percentage of disability, marriage and divorce and filial relationship to a deceased disabled veteran; and gives the comptroller discretion to determine if a November 15th annual report will be required from assessor-collectors.

There are no significant fiscal implications expected to result from this change. (Source: Revenue Estimating Staff, Comptroller of Public Accounts.)

Public comment on Proposed Rule 026.02.16.020 is invited. Persons should submit their comments in writing to Jim Ray, Drawer SS, Capitol Station, Austin, Texas 78711.

The amendment is proposed under the authority of Texas Revised Civil Statutes Annotated, Article 7150h (Supplement 1977).

.020. Exemption of Property of Disabled and Deceased Veterans (Texas Revised Civil Statutes Annotated, Article 7150h (Supplement 1977)) (Duties of the Tax Assessor-Collector in Granting Exemptions under Article 7150h), Texas Civil Statutes.

(a) **Application for exemption.** Each applicant must complete the Comptroller's Application for Disabled Veterans or Qualified Relations Ad Valorem Tax Exemption (hereafter "application"). List each political subdivision in which an exemption has been claimed, including the assessed value of the property in each political subdivision listed by the applicant on the application. The application must be retained in the office of the tax assessor-collector for a period of two years, whether the exemption is granted or not.

(b) **Effective date.** An applicant's eligibility for any exemption under Article 7150h is determined on or before January 1st of the tax year for which the exemption is being claimed. No person may claim an exemption under

this rule for any year prior to the tax year beginning January 1, 1976. Furthermore, each exemption must be renewed annually by completing a new application and submitting the appropriate documents as required by the assessor-collector.

(c) Multiple exemptions.

(1) Any person who qualifies for an exemption under the provisions of Article 7150h may choose to claim any part of his or her exemption in more than one political subdivision of the same type as long as the total of all the exemptions claimed in that type of political subdivision does not exceed the amount of the exemption to which he or she is entitled. If a person is 65 years of age or older and also is a veteran eligible for the veteran's exemption and who lives in a jurisdiction that allows the "over 65 Homestead Exemption," then that person is entitled to both exemptions if he or she owns taxable property and claims a homestead in that jurisdiction.

(2) A person who is entitled to an exemption as a disabled veteran and who also is entitled to an exemption as the surviving spouse or child of a deceased disabled veteran, or to an exemption as the surviving spouse or child of a person who dies while on active duty in the armed services of the United States, is entitled to add the value of each exemption and is exempt from property taxes in an amount equal to the sum of the exemptions.

(d) Determination of eligibility; value of an applicant's exemption. The extent of a disabled veteran's service connected disability will determine the amount of assessed value of his or her property which is exempt from tax. Either the disabled veteran or qualified survivor would be subject to the following guidelines regarding amount of exemption and verification requirements.

(e) Amount of exemption.

Less than 10% disability	no exemption
10% or 30% disability	\$1500 of assessed value
31% to 50% disability inclusive	\$2000 of assessed value
51% to 70% disability inclusive	\$2500 of assessed value
71% to 100% disability inclusive	\$3000 of assessed value
10% or more disability and 65 years of age or older	\$3000 of assessed value
Loss of the use of one of more limbs or total blindness in one or both eyes or paraplegia	\$3000 of assessed value

A disabled veteran who might fit in more than one of the categories listed above may not add or combine the value of the exemptions but may only apply under the category which will allow him or her the largest exemption.

(f) Verification documents.

(1) The applicant must satisfy the tax assessor-collector that he or she is in fact a disabled veteran whose

disability is service connected or a qualified survivor. The disability, which must be service connected, must be verified with official documents of the Veteran's Administration (or its successor) or the branch of the armed services from which the veteran retired. These documents must bear a date no more than one year earlier than the date that they are presented to the tax assessor-collector, or satisfy the assessor-collector that the documents represent the current certification of disability.

(2) Any person applying for an exemption as a qualified survivor of a disabled veteran must provide the tax assessor-collector with proper verification of his or her relationship with that disabled veteran, his or her current marital status in all cases except the surviving spouse of a person who dies while on active duty, and his or her filial relationship and age in the case of a surviving child applicant. The following are some of the documents which could be used to verify this evidence: marriage license, will, probate proceedings, heirship affidavit, divorce papers, death certificate, birth certificate, valid driver's license, and official documents of the Veteran's Administration, armed services, Department of Defense, or Social Security Administration.

(g) Qualified relations.

(1) Surviving spouse of a deceased disabled veteran. The spouse of a deceased disabled veteran, who at the time of his or her death would have been entitled to an exemption due to his or her service-connected disabilities, is entitled to an exemption equal to the amount that the deceased disabled veteran would have been entitled to at the time of his or her death, if the surviving spouse is unmarried.

(A) The applicant must present the tax assessor-collector with satisfying documents verifying the deceased veteran's service-connected disability at the time of the veteran's death and the applicant's marital relationship to the deceased veteran.

(B) If the applicant remarried following the death of the deceased disabled veteran and if that remarriage has been terminated because of divorce or death on or before January 1st of the tax year for which he or she is claiming an exemption, the applicant must furnish proof to the tax assessor-collector verifying the termination of any such marriages following the deceased disabled veteran's death.

(C) A person entitled to an exemption as the surviving spouse of a deceased veteran is not entitled to an exemption as the child of a disabled veteran or as the child of a person who dies while on active duty in the armed services, but is entitled to an additional exemption as a disabled veteran.

(2) Surviving spouse of a person who died on active duty in the armed forces of the United States. The surviving spouse of a person who dies on active duty in the armed services of the United States is entitled to an exemption of \$2500 of the assessed value of the spouse's property subject to taxation.

(A) The applicant must present the tax assessor-collector with satisfying documents verifying both the fact of the veteran's death while on active duty and the applicant's marital relationship to the deceased veteran.

(B) A person who qualifies for an exemption as the surviving spouse of a person who dies on active duty

may also qualify for an exemption as a disabled veteran in his or her own right, as well as the surviving child of a person who dies on active duty in the armed services of the United States.

(3) Surviving child of a deceased disabled veteran. The surviving qualified child of a deceased disabled veteran who at the time of his or her death would have been entitled to an exemption due to his or her service-connected disabilities is entitled to an exemption equal to the amount that the deceased disabled veteran would have been entitled to at the time of his or her death.

(A) If there is more than one surviving child applying for an exemption in a political subdivision, the amount of the exemption allowable to each qualified child in that type of political subdivision is determined by dividing the amount of the exemption to which the deceased disabled veteran would have been entitled by the number of qualified children who own property subject to taxation.

(B) A qualified child is one who is under 21 years of age and unmarried and who has property subject to taxation by any taxing unit in this state. However, no surviving child of a deceased disabled veteran, even though the child might meet all other qualifications listed above, may claim an exemption as the child of a disabled veteran if a surviving spouse of that same disabled veteran is receiving an exemption as a surviving spouse of that deceased disabled veteran.

(C) The applicant must present the tax assessor-collector with documents verifying both the deceased disabled veteran's service-connected disability at the time of his or her death, the applicant's filial relationship to the deceased disabled veteran, and that applicant is under 21 years of age and is unmarried.

(D) A qualified surviving child of a deceased disabled veteran may also qualify for an exemption as a disabled veteran in his or her own right and is entitled to combine or aggregate these exemptions and is exempt from property taxes in an amount equal to the sum of the exemptions.

(4) The surviving child of a person who dies on active duty in the armed services of the United States. The surviving child of a person who dies on active duty in the armed services of the United States is entitled to an exemption of \$2500 of the assessed value of the child's property during the period that the child is under 21 years of age and is unmarried.

(A) The applicant must present the tax assessor-collector with documents verifying that the veteran dies while on active duty in the armed services of the United States. In addition, the applicant must present the tax assessor-collector with documents which verify the applicant's filial relationship to the person who dies on active duty and which verify the applicant's age.

(B) A child entitled to an exemption as the surviving child of a person who died on active duty may also qualify for an exemption as a disabled veteran in his or her own right and as the surviving spouse of a person who dies on active duty and is entitled to add the value of each exemption and is exempt from property taxes in an amount equal to the sum of the exemptions.

(h) Tax assessor-collector's annual report on disabled veteran's or qualified relations ad valorem tax ex-

emption. The comptroller of public accounts may require the tax assessor-collector of each political subdivision to file with the comptroller a statistical report by November 15th of each year. If a report is required, a form will be sent to the tax assessor-collector by the comptroller's office prior to the filing date.

§Section 1. The Application for an Exemption. An exact copy of the enclosed affidavit will be completed in full by both the applicant and the tax assessor-collector. The affidavit will be retained in the office of the tax assessor-collector for a period of two years, whether the exemption is granted or not. If the exemption is not granted, the application must be clearly marked across its face with the words: "exemption not granted." If possible, the affidavit will be attached to the applicant's "Inventory of Property."

(a) Any person who owns property in more than one county and is eligible for an exemption under this act may elect to apply his or her exemption for state property tax purposes in more than one county as long as the total of the assessed value of his property exempted from state taxes does not exceed the amount of the exemption to which he or she is entitled under the provisions of this act.

(b) Any person who qualifies for an exemption under the provisions of Article 7150(h), Texas Civil Statutes, may choose to claim any part of the exemption in more than one type of political subdivision (more than one school district, etc.) as long as the total of all the exemptions claimed in that particular type of political subdivision does not exceed the amount of the exemption to which he or she is entitled under this act. For example, if a person is entitled to a \$1500 exemption and owns taxable property in two school districts, that person may elect to use all \$1500 of the exemption in one school district and none in the other or to use \$1000 of the exemption in one school district and \$500 in the other. The same applies to a person who is entitled to an exemption and who owns property in more than one county or more than one city or any other political subdivision.

§The tax assessor-collector will attempt to insure that no applicant receives an exemption that would exceed that person's entitlement under the provisions of this act by having each applicant fill out the application for exemption completely and listing on the application each political subdivision in which an exemption was claimed and the amounts of the value of the applicant's property which were exempted from taxation.

§Section 2. Determination of date of eligibility. An applicant's eligibility for any exemption under this act is determined as of January 1st of the tax year for which the exemption is being claimed. If an applicant is determined eligible for any exemption under this act, he or she must have become eligible on January 1st or before January 1st of the tax year for which he or she is claiming the exemption.

§The effective date of this act is January 1, 1976, and any eligible applicant may claim an exemption as of that date. No person may claim an exemption for any year prior to the tax year beginning January 1, 1976.

§Section 3. Determination of eligibility: value of an applicant's exemption.

(a) Disabled veteran. The extent of a disabled veteran's service-connected disability will determine the amount of assessed value of his or her property which is exempt from tax.

(1) An exact copy of the comptroller's Application for Disabled Veterans or Qualified Relations Ad Valorem Tax Exemption must be completed by both the applicant and the tax assessor-collector. Any portion of the application which is not applicable to the exemption may be marked "N-A" for "not applicable."

(2) The applicant must present the tax assessor-collector with official documents of the Veterans Administration (or its successor) or the branch of the armed services in which the applicant served. These documents must satisfy the tax assessor-collector that the applicant is in fact a disabled veteran whose disability is service connected and must satisfy the tax assessor-collector as to the extent of the veteran's disability. These documents must bear a date no more than one year earlier than the date that they are presented to the tax assessor-collector.

(3) Less than 10% disability	no exemption
10% to 30% disability	\$1500 of assessed value
More than 30% to 50%	\$2000 of assessed value
More than 50% to 70%	\$2500 of assessed value
More than 70% disability	\$3000 of assessed value
10% or more disability and over 65 years of age	\$3000 of assessed value
Loss of the use of one or more limbs, total blindness in one or both eyes or paraplegia.....	\$3000 of assessed value

[A disabled veteran who might fit in more than one of the categories listed above may not add or combine the value of the exemptions but may only apply under the category which will allow him or her the largest exemption.

(4) A person who is entitled to an exemption as a disabled veteran and who also is entitled to an exemption as the surviving spouse or child of a deceased veteran, or to an exemption as the surviving spouse or child of a person who died while on active duty in the armed services of the United States is entitled to add the value of each exemption and is exempt from property taxes in an amount equal to the sum of the exemptions.

(b) Surviving spouse of a deceased disabled veteran. The spouse of a deceased disabled veteran who at the time of his or her death would have been entitled to an exemption due to his or her service-connected disabilities is entitled to an exemption equal to the amount that the deceased disabled veteran would have been entitled to at the time of his or her death if the surviving spouse is unmarried.

(1) The Comptroller's Application for Disabled Veterans or Qualified Relations Ad Valorem Tax Exemption must be completed by both the applicant and the tax assessor-collector. Any portion of the application which is

not applicable to the exemption may be marked "N-A" for "not applicable."

(2) The applicant must present the tax assessor-collector with documents verifying the deceased veteran's service-connected disability at the time of the veteran's death and the applicant's marital relationship to the deceased veteran.

(3) Proof of the deceased veteran's service-connected disability must consist of an official document of the Veteran's Administration or the branch of the armed services in which the veteran served or documentation of the fact that the veteran was receiving an exemption under this act (Article 7150(h), Texas Civil Statutes) at the time of his or her death.

(4) Proof of the applicant's marriage to the deceased disabled veteran should consist of the following: marriage license, will, probate proceedings, heirship affidavit, official documents of the Veteran's Administration, armed services, Department of Defense or Social Security Administration, other legal or official documents verifying marital status.

(5) If the applicant remarried following the death of the deceased disabled veteran and if that remarriage has been terminated on or before January 1st of the tax year for which he or she is claiming an exemption because of divorce or death, the applicant must furnish proof to the tax assessor-collector verifying the termination of any marriages following the deceased disabled veteran's death. Such proof should consist of the following: divorce papers, death certificate, official documents of the Veteran's Administration, armed services, Department of Defense or Social Security Administration, other legal or official documents verifying the applicant's status as unmarried.

(6) A person entitled to an exemption as the surviving spouse of a deceased disabled veteran is not entitled to an exemption as the child of a disabled veteran or as the child of a person who died while on active duty in the armed services, but is entitled to an additional exemption as a disabled veteran.

(c) Surviving spouse of a person who died on active duty in the armed services of the United States. The surviving spouse of a person who dies on active duty in the armed services of the United States is entitled to an exemption of \$2500 of the assessed value of the spouse's property subject to taxation.

(1) The Comptroller's Application for Disabled Veterans or Qualified Relations Ad Valorem Tax Exemption must be completed by both the applicant and the tax assessor-collector. Any portion of the application which is not applicable to the exemption may be marked "N-A" for "not applicable."

(2) The applicant must present the tax assessor-collector with documents verifying both the fact of the veteran's death while on active duty and the applicant's marital relationship to the deceased veteran.

(3) Proof of the deceased veteran's death while on active duty must consist of an official document of the Veterans Administration, the United States Department of Defense, or the branch of the armed services in which the veteran served.

(4) Proof of the applicant's marriage to the deceased veteran should consist of the following: marriage license, will, probate proceedings, heirship affidavit, official

documents of the Veterans Administration, armed services, Department of Defense or Social Security Administration, other legal or official documents verifying marital status.

(5) A person who qualifies for an exemption as the surviving spouse of a person who died on active duty may also qualify for an exemption as a disabled veteran in his or her own right, or as the surviving child of a person who died on active duty in the armed services of the United States.

(d) Surviving child of a deceased disabled veteran. The surviving qualified child of a deceased disabled veteran who at the time of his or her death would have been entitled to an exemption due to his or her service-connected disabilities is entitled to an exemption equal to the amount that the deceased disabled veteran would have been entitled to at the time of his or her death. If there is more than one surviving child applying for an exemption in a political subdivision, the amount of the exemption allowable to each qualified child in that type of political subdivision is determined by dividing the amount of the exemption to which the deceased disabled veteran would have been entitled by the number of qualified children who own property subject to taxation. A qualified child is one who is under 21 years of age and unmarried and who has property subject to taxation by any taxing unit in this state.

(1) The Comptroller's Application for Disabled Veterans or Qualified Relations Ad Valorem Tax Exemption must be completed by both the applicant and the tax assessor-collector. Any portion of the application which is not applicable to the exemption may be marked "N-A" for "not applicable."

(2) The applicant must present the tax assessor-collector with documents verifying both the deceased disabled veteran's service-connected disability at the time of his or her death, the applicant's filial relationship to the deceased disabled veteran, and that the applicant is under 21 years of age and is unmarried.

(3) Proof of the deceased veteran's service-connected disability must consist of an official document of the Veterans Administration or the branch of the armed services in which the veteran served or documentation of the fact that the veteran was receiving an exemption under this act (Article 7150(h), Texas Civil Statutes) at the time of his or her death.

(4) Proof of the applicant's filial relationship to the deceased disabled veteran should consist of the following: birth certificate, will, probate proceedings, official documents of the Veterans Administration, armed services, Department of Defense or Social Security Administration, other legal or official documents verifying filial status.

(5) Proof of the applicant's age should consist of any document listed above or a valid driver's license.

(6) A qualified surviving child of a deceased disabled veteran may also qualify for an exemption as a disabled veteran in his or her own right and is entitled to combine or aggregate these exemptions and is exempt from property taxes in an amount equal to the sum of the exemptions.

(7) No surviving child of a deceased disabled veteran, even though the child might meet all other qualifications listed above, may claim an exemption as the child of a deceased disabled veteran, if a surviving spouse of that same disabled veteran is receiving an exemption as a surviving spouse of that deceased disabled veteran.

(e) The surviving child of a person who dies on active duty in the armed services of the United States. The surviving child of a person who dies on active duty in the armed services of the United States is entitled to an exemption of \$2500 of the assessed value of the child's property during the period that the child is under 21 years of age and is unmarried.

(1) The Comptroller's Application for Disabled Veterans or Qualified Relations Ad Valorem Tax Exemption must be completed by both the applicant and the tax assessor-collector. Any portion of the application which is not applicable to the exemption may be marked "N-A" for "not applicable."

(2) The applicant must present the tax assessor-collector with documents verifying that the veteran died while on active duty in the armed services of the United States. In addition, the applicant must present the tax assessor-collector with documents which verify the applicant's filial relationship to the person who died on active duty and which verify the applicant's age.

(3) Proof of the deceased veteran's death while on active duty must consist of an official document of the Veterans Administration, the United States Department of Defense or the branch of the armed services in which the veteran served. exemption of all the applicant's property both real and person, in each political subdivision on the tax roll.

(4) Proof of the applicant's filial relationship to the deceased veteran should consist of the following: birth certificate, will, probate proceedings, official documents of the Veterans Administration, armed services, Department of Defense or Social Security Administration, other legal or official documents verifying filial status.

(5) Proof of the applicant's age should consist of any document listed above or a valid driver's license.

(6) A child entitled to an exemption as the surviving child of a person who died on active duty may also qualify for an exemption as a disabled veteran in his or her own right or as the surviving spouse of a person who died on active duty and is entitled to add the value of each exemption and is exempt from property taxes in an amount equal to the sum of the exemptions.

[Section 4. Application of the exemption to tax roll value (assessed value) of property. Once the tax assessor-collector has determined that an applicant is eligible for an exemption under the provisions of Article 7150(h), Texas Civil Statutes, and has determined the total value of an applicant's exemption, the tax assessor-collector must adjust the tax roll to insure that the applicant's tax liability is correctly reduced. To accomplish this:

(a) Determine the total assessed value before any exemption of all the applicant's property both real and person, in each political subdivision on the tax roll.

(b) If the applicant is eligible for an exemption under this act, and is also eligible for other exemptions allowed by the taxing jurisdiction (state homestead or over 65 exemption) add all the exemptions together.

(c) Subtract the total of all exemptions from the total assessed value of the applicant's real and personal property.

(d) Apply the tax rate to the remaining assessed value of the applicant's property. If the total value of the exemptions is equal to or greater than the total assessed value of the applicant's property, the applicant owes no taxes.

[Section 5. Tax assessor-collector's annual report on disabled veterans or qualified relations ad valorem tax exemptions. The comptroller of public accounts requires the tax assessor-collector of each political subdivision to file with the comptroller a statistical report by November 15th of each year. A form will be sent to the tax assessor-collector by the comptroller's office prior to the filing date, and will require the following information:

- (a) the total number of persons (veterans and survivors) applying for an exemption;
- (b) the number of applicants ruled eligible for an exemption;
- (c) the total assessed value of exemptions granted;
- (d) the tax rate of the taxing jurisdiction per \$100 of assessed value;
- (e) the total assessed valuation of the taxing jurisdiction.]

Issued in Austin, Texas, on February 17, 1978.

Doc. No. 781335 Bob Bullock
Comptroller of Public Accounts

Proposed Date of Adoption: March 31, 1978

For further information, please call (512) 475-4166.

Texas Department of Mental Health and Mental Retardation

Other Agencies and the Public

Departmental Procedures for Outreach Programs 302.03.09

The Texas Department of Mental Health and Mental Retardation is proposing to adopt Rules 302.03.09.001-.012 concerning departmental procedures for the operation of outreach programs. Since the rules are applicable to community mental health and mental retardation centers as well as to departmental facilities, the rules cannot become effective until approved by the Texas Board of Mental Health and Mental Retardation. The board will consider approval of the rules at its March, 1978, meeting. Proposed Rules 302.03.09.001-.012 would establish procedures governing the operation of outreach programs and the coordination of outreach programs with programs operated by a community center when an outreach program expands into areas not served by either a departmental outreach program or a community center; when an outreach program expands into counties served by a community center; when a community center expands or regionalizes into counties not served by an outreach program or a community center; when a community center expands into counties served by an outreach program; and when outreach programs and a community center operate in the same county. Proposed Rules 302.03.09.001-.012 would also establish methods for contracting between departmental facilities and boards of trustees of community centers for the operation of outreach programs, requirements for local support of department facility outreach programs, and guidelines for setting fee schedules for services provided by outreach programs and community centers.

The effect of Proposed Rules 302.03.09.001-.012 would be a uniform set of procedures governing outreach programs and the elimination, insofar as possible, of any overlap and duplication in the provision of community services which may now exist.

The promulgation of Proposed Rules 302.03.09.001-.012 will have no known fiscal implications for the state or for units of local government. (Source: Legal and Claims Division.)

Public comment on Proposed Rules 302.03.09.001-.012 is invited. Interested persons may submit their comments by writing to Kenneth D. Gaver, M.D., Commissioner, Texas Department of Mental Health and Mental Retardation, P.O. Box 12668, Capitol Station, Austin, Texas 78711, or by telephoning (512) 454-3761.

Rules 302.03.09.001-.012 are proposed under the authority of Section 2.11(b) of Article 5547-202, Texas Civil Statutes, and Section 4.01 of Article 5547-204, Texas Civil Statutes.

.001. *Purpose.* The purpose of these rules is:

(a) to establish departmental procedures governing the operation of outreach programs and the coordination of outreach programs with those programs operated by centers when:

- (1) outreach programs expand into areas not served by either outreach or a center;
- (2) centers expand (regionalize) into counties not served by either outreach or a center;
- (3) outreach programs expand into counties served by centers;
- (4) centers expand (regionalize) into counties served by outreach;
- (5) outreach programs and centers operate in the same county;

(b) to establish methods for contracting between departmental facilities and community mental health and mental retardation centers' boards of trustees for the operation of outreach programs;

(c) to establish the requirements for local support of facility outreach programs;

(d) to establish guidelines for setting fee schedules for services in outreach programs and centers;

(e) to eliminate, insofar as possible, any overlap and duplication in the provision of community services which may now exist.

.002. *Application.* These rules apply to all facilities of the Texas Department of Mental Health and Mental Retardation and to community mental health and mental retardation centers. These rules do not apply to the Genetics Screening and Counseling Program as defined in Rules of the Commissioner of MHMR Affecting Other Agencies and the Public, Rules Governing the Genetics Screening and Counseling Program, 302.03.04. (The rules governing the Genetic Screening and Counseling Program have not yet been promulgated.)

.003. *Definitions.* In these rules:

(a) "Outreach programs" means programs operated by facilities of the Texas Department of Mental Health and Mental Retardation which provide services beyond the traditional boundaries of those institutions. For outreach services to qualify as an outreach program, an outreach facility must exist, one or more employees must utilize the outreach facility as a base of operations, and services must be offered

at the outreach facility at least five days per week for at least four hours per day.

(b) "Center" means a community mental health and mental retardation center administered by a board of trustees appointed pursuant to Article 5547-203, Vernon's Annotated Civil Statutes, and offering services which, either alone or in conjunction with other service agencies owned or operated by it, or affiliated by contract with such centers, provides mental health or mental retardation service programs, or both, to persons residing in its area.

(c) "Department facility" means:

(1) a "state hospital" which is a facility of the Texas Department of Mental Health and Mental Retardation whose major role is the diagnosis, treatment, and rehabilitation of clients, including alcoholics and drug abusers, in need of mental health services; or

(2) a "state school" which is a facility of the Texas Department of Mental Health and Mental Retardation whose major role is the diagnosis, special training, education, supervision, care, and habilitation of mentally retarded individuals; or

(3) a "state center for human development" which is a facility of the Texas Department of Mental Health and Mental Retardation that is community based and provides programs for the mentally ill or the mentally retarded or both within a prescribed geographic area; or

(4) the Texas Research Institute of Mental Sciences (TRIMS); or

(5) the Rio Grande State Center for Mental Health and Mental Retardation.

(d) "Program costs" include the costs of personnel, supplies, equipment, travel, and utilities paid from appropriated and other funds for the operation of a specific program at any location. Only costs of local operation are considered in determining local support requirements. For the purposes of this rule, in order to determine local support requirements, the expenses of traveling teams operating out of the sponsoring facility are not included in the program costs.

(e) "Local sponsor" means those agents identified in Article 5547-202, Section 2.13, Vernon's Annotated Civil Statutes.

(f) "Local support" consists of both the following:

(1) cash—income from taxing authorities; fees; funds from local donations; gifts; grants; and contracts, whether used for rental or purchase of facilities, purchase of utilities for payment of personnel;

(2) in kind—donated space, utilities, supplies, and equipment.

(g) "Regionalization" means the expansion of services and authority of a center from its original composition to include the jurisdictional boundaries of local agencies which may establish and operate community centers pursuant to Article 5547-203, Section 3.01(a), Vernon's Annotated Civil Statutes, who have asked to participate in the board of trustees at the center. This will result in the reconstitution of the board of trustees to reflect the representation of the population to be served by the center.

(h) "Appropriate deputy commissioner" means the deputy commissioner with line administrative authority over a facility outreach program.

(i) "Commissioner" means the commissioner of the Texas Department of Mental Health and Mental Retardation.

(j) "Department" means the Texas Department of Mental Health and Mental Retardation.

(k) "Plan for service expansion" means a written plan which includes but is not necessarily limited to a needs assessment, goals and objectives, budget, clients to be served, and services to be offered.

.004. Expansion of Outreach Programs into Counties Not Served by Outreach or Centers. If an outreach program operated by a department facility desires to expand services into a county not served by that outreach program or a center, the minimum procedures to be followed are:

(a) The need for such services and the plan for service expansion shall be documented and forwarded by the facility to the appropriate deputy commissioner for review.

(b) The appropriate deputy commissioner will confer with the deputy commissioner for community services to determine if a center plans to regionalize into the county.

(c) The appropriate deputy commissioner will approve or disapprove the plan for expansion.

(d) Subsequent to approval by the deputy commissioner, such expansion will be endorsed by a local sponsor and a contract negotiated between the department facility and the local sponsor.

(e) Prior to delivering services under the terms of the contract, the department facility shall consult with the department's Legal Division to determine that the rules and regulations of the Texas Health Facilities Commission and the provisions of the Texas Health Planning and Development Act, Article 4418(h), Vernon's Annotated Civil Statutes, are followed.

.005. Expansion of Center Programs and Responsibility into Counties Not Served by Department Facility Outreach Programs or the Center. If a center operated by a board of trustees desires to expand services into a county not served by that center or a facility outreach program, the minimum procedures to be followed are:

(a) The need for such services and the plan to expand such services shall be documented and forwarded by the board of trustees to the deputy commissioner for community services for review.

(b) The deputy commissioner for community services will confer with the deputy commissioners for Mental Health and Mental Retardation to determine if a facility is preparing to expand outreach programs into that county.

(c) The deputy commissioner for community services will approve or disapprove the board of trustees plan for expansion into the county.

(d) Subsequent to approval of the deputy commissioner, the board of trustees may regionalize pursuant to Article 5547-203, Section 3.01(a), Vernon's Annotated Civil Statutes.

.006. Expansion of Outreach Programs into a Center's Area of Service Responsibility. If an outreach program operated by a department facility desires to expand services into a center's area of service responsibility, the minimum procedures to be followed are:

(a) The need for such services and the plan to expand services shall be documented and forwarded by the department facility to the appropriate deputy commissioner, the deputy commissioner for community services, and the board of trustees of the center for their review.

(b) The department facility, with the approval of the appropriate deputy commissioner, shall offer a contract to

the board of trustees which will provide the funds to the board to administer and operate the program in order to meet the documented need.

(c) If the board of trustees does not accept the contract to administer and operate the program, the department facility shall request the commissioner to authorize the department facility to administer and operate the program within the budgetary restraints of the original contract offered to the board of trustees. The board of trustees may submit to the commissioner, in writing and within 30 days from the date it refuses to accept the contract to administer and operate the program, its reasons for not accepting the contract. In determining whether to authorize the department facility to administer and operate the program, the commissioner may take into consideration the reasons submitted by the board of trustees for its refusal to accept the contract.

(d) The department facility and the center shall meet the requirements of a memorandum of understanding as specified in Section (a) or Section (b) of Rule .008 of these rules.

(e) The department facility may then administer and operate the program after approval of the commissioner has been obtained.

(f) Prior to delivering services, the department facility shall consult with the department's Legal Division to ensure that the rules and regulations of the Texas Health Facilities Commission and the provisions of the Texas Health Planning and Development Act, Article 4418(h), Vernon's Texas Civil Statutes, are followed.

.007. Expansion of Center Programs into Counties Served by Outreach. If the board of trustees of a center desires to expand services into a county served by a facility outreach program, the minimum procedures to be followed are:

(a) The need for such services and the plan for service expansion shall be documented and forwarded by the board of trustees to the deputy commissioner for community services for review.

(b) The deputy commissioner will confer with the deputy commissioners for Mental Health and Mental Retardation.

(c) The deputy commissioner for community services will approve or disapprove the board of trustees plan for expansion into the county.

(d) Subsequent to the approval of the deputy commissioner, the board of trustees may regionalize pursuant to Article 5547-203, Section 3.01(a), Vernon's Annotated Civil Statutes.

(e) If, after regionalization, the jurisdictional boundaries of the board encompasses the outreach program, Rule .008 of these rules shall be followed.

.008. Operation of Outreach Programs and Centers in the Center's Area of Service Responsibility. If a facility outreach program and a center operated by a board of trustees operate in the center's area of service responsibility, one of the following methods shall be adopted:

(a) State hospitals and/or state school outreach programs operating within the jurisdictional boundaries of center boards of trustees.

(1) The center and state hospital and/or state school shall enter into a memorandum of understanding which is signed by all parties which will clearly delineate the programmatic and administrative responsibilities of each party,

which should include but not be limited to: screening and referral of all clients to state hospitals and/or state schools; development of a discharge plan with state hospital and/or state school treatment team prior to any client's discharge into the service area; and follow-up services required in the discharge plan.

(2) If the memorandum of understanding cannot be agreed to, then the outreach program(s) may continue to operate in keeping with a schedule to phase the outreach program(s) and budget into the administration and budget of the center. This schedule shall be developed by the appropriate deputy commissioner(s) and the deputy commissioner for community services; and approved by the commissioner and the center's board of trustees.

(3) If the center's board of trustees does not approve the schedule established pursuant to Section (a)(2) of this rule, the commissioner may authorize the state hospital and/or state school outreach program(s) to operate independently of the center.

(b) State centers for human development and Rio Grande State Center outreach program operating within the jurisdictional boundaries of center boards of trustees.

(1) The center and State Center for Human Development outreach program or Rio Grande State Center outreach programs shall enter into a memorandum of understanding which is signed by all parties, which will clearly delineate administrative and programmatic responsibilities of each party, which should include but not be limited to: screening and referral of all clients to state hospitals and/or state schools; development of a discharge plan with state hospital and/or state school treatment team prior to any client's discharge into the service area; and follow-up services required in the discharge plan.

(2) If the memorandum of understanding cannot be created and agreed to, then the outreach program may continue to operate in keeping with a schedule to phase the outreach program(s) and budget into the administration and budget of the center. This schedule shall be developed by the appropriate deputy commissioner(s) and the deputy commissioner for community services; and approved by the commissioner and the center's board of trustees.

(3) If the center's board of trustees does not approve the schedule established pursuant to Section (b)(2) of this rule, the commissioner may authorize the State Center for Human Development or Rio Grande State Center outreach program(s) to operate independently of the center.

(c) The memorandum of understanding shall be reviewed and approved by all parties not less often than biennially.

.009. Requirements for Local Support. After September 1, 1978, all new department facility outreach programs, and after September 2, 1979, all existing department facility outreach programs, shall meet the following requirements for local support:

(a) The local sponsoring group shall contribute not less than 10 percent of the program cost.

(b) The amount and kinds of services and facilities which may be credited to local support shall be within the discretion of the State Mental Health Authority.

.010. Requirements for Contracts for the Operation of Outreach Programs with Local Sponsors. Contracts for the operation of outreach programs with local sponsors shall include but shall not necessarily be limited to:

- (a) a statement of the purpose of the contract;
- (b) the minimum number of clients to be served;
- (c) a statement that the program shall provide not less than existing levels of service;
- (d) the location of the program for which the contract is being drawn;
- (e) the maximum amount of dollars to be expended under the contract;
- (f) services to be performed;
- (g) a statement that the local sponsoring group shall contribute an amount not less than 10 percent of the program cost;
- (h) a statement establishing the level of cash/in-kind support.

.011. Fee Schedule for Services in Outreach Programs and Community Centers.

- (a) Fees, including percentage reduction based upon income and dependency, charged by a department facility outreach program and community centers shall be homogeneous within the service area, or proposed service area, of the community center.
- (b) When an outreach program and a community center serve the same area, the higher existing rate shall prevail, provided, however, the fee charged for services by an outreach program may not exceed the actual cost of services delivered.

.012. References. Reference is made to the following statutes and rules:

- (a) Article 5547-202, Section 2.13 and 2.17(a), Vernon's Annotated Civil Statutes;
- (b) Article 5547-203, Section 3.01(a), Vernon's Annotated Civil Statutes;
- (c) Article 3147b-4, Vernon's Annotated Civil Statutes;
- (d) current appropriations bill;
- (e) Rules of the Commissioner of Mental Health and Mental Retardation Affecting Client (Patient) Care, Basic Standards and Guidelines for Outreach Programs, 302.04.13.

.013. Distribution.

- (a) These rules shall be distributed to all members of the Texas Board of Mental Health and Mental Retardation; assistant commissioners, deputy commissioners, directors and section chiefs of Central Office; superintendents and directors of all Texas Department of Mental Health and Mental Retardation Facilities, the chairmen of the boards of trustees and executive directors of all community mental health and mental retardation centers.
- (b) The superintendents and directors of department facilities shall provide copies of these rules to their respective outreach coordinators and assistant superintendents, and to local sponsors of outreach programs.

.014. Effective Date.

- (a) These rules shall become effective after the expiration of 20 days from the date on which they are filed as adopted rules with the Texas Register Division of the Office of the Secretary of State, and approval by the Texas Board of Mental Health and Mental Retardation.

(b) On the effective date of these rules, all other instructions, verbal or written, on this subject are rescinded.

Issued in Austin, Texas, on February 17, 1978.

Doc. No. 781331

Kenneth D. Gaver, M.D.
Commissioner
Texas Department of Mental Health and
Mental Retardation

Proposed Date of Adoption: March 31, 1978

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



Texas Parks and Wildlife Department

Parks

State Parks 127.40.10

The Texas Parks and Wildlife Commission proposes to amend Rule 127.40.10.022, which prohibits the sale or public consumption of alcoholic beverages in state parks. The proposed amendment will permit the sale of beer, as defined by the Alcoholic Beverage Commission, in state parks at leased concession facilities for nonpublic consumption within the park.

The department staff has determined that the amendment of this rule could increase revenue to the state in the amount of \$76,999 for each of the next five years, assuming that operators of leased concessions agree to sell beer in state parks.

Public comment on the proposed amendment of Rule 127.40.10.022 is invited. Comments may be submitted by telephoning (512) 475-4845, or by writing to Bill M. Collins, Texas Parks and Wildlife Department, 4200 Smith School Road, Austin, Texas 78744. Comments must be received within 30 days of the publication of this proposal in the *Texas Register*.

This amendment is proposed under the authority of Sections 13.101 through 13.110, Texas Parks and Wildlife Code.

.022. Alcoholic Beverages. *No intoxicating liquors or beverages, except beer, as defined by the Alcoholic Beverage Commission, may be sold in state parks. No in-*

toxicating liquors or beverages may be publicly consumed within any unit of the state park system or a portion thereof. [No intoxicating liquors or beverages may be sold or publicly consumed within any unit of the state park system or a portion thereof.]

Doc. No. 781344

Wildlife

Statewide Hunting, Fishing, and Trapping Proclamation No. A-5, 1977-78 127.70.01.002, .004, .007, .024, .061, .062, .064, .083-085, .111, and .113

The Texas Parks and Wildlife Commission proposes to amend Rules 127.70.01.002, .004, .007, .024, .061, .062, .064, .083-085, .111, and .113, which are a portion of the Statewide Hunting, Fishing, and Trapping Proclamation No. A-5, 1977-78. The proposed amendments were adopted on an emergency basis on November 3 and 4, 1977.

The commission is responsible for establishing seasons, bag limits, means, and methods for harvesting wildlife resources in regulatory counties. The amendments are being proposed for permanent adoption so that the rules will be consistent with current statutes, action by the commissioners courts under the authority of Section 61.202, Texas Parks and Wildlife Code, and commission action. The text of the proposed amendments is the same as the emergency amendments which were published in the November 4, 1977 (2 Tex-Reg 4207), and in the November 15, 1977 (2 TexReg 4401), issues of the *Texas Register*.

The staff of the Texas Parks and Wildlife Department has determined that there are no fiscal implications for the state or units of local government.

Public comments on the proposed amendments are invited. Comments may be submitted by contacting Phil Evans, Regulatory Coordinator, Texas Parks and Wildlife Department, 4200 Smith School Road, Austin, Texas 78744, telephone (512) 475-4875. Comments must be received within 30 days of the publication of this proposal in the *Texas Register*.

These amendments are proposed under the authority of Chapter 61, Texas Parks and Wildlife Code.

.002. Application.

(a) These rules apply to all of the game birds, game animals, fur-bearing animals of all kinds, fish and other aquatic life, and marine animals of all kinds in the following counties: Anderson, Andrews, Aransas, Archer, Armstrong, Atascosa, Austin, Bailey, Bandera, Bastrop, Baylor, Bee, Bell, Bexar, Blanco, Borden, Bosque, Bowie, Brazoria, Brazos, Brewster, Briscoe, Brown, Burleson, Burnet, Caldwell, Calhoun, Callahan, Cameron, *Camp*, Carson, Castro, Childress, Clay, Cochran, Coke, Coleman, Collin, Collingsworth, Colorado, Comal, Comanche, Concho, Cooke, Corryell, Cottle, Crockett, Crosby, Cuberson, Dallam, Dallas, Dawson, Deaf Smith, Denton, Dewitt, Dimmit, Donley, Duval, Eastland, Ector, Edwards, Ellis, El Paso, Erath, Falls, Fannin,

Fayette, Fisher, Floyd, Fort Bend, Franklin, Freestone, Frio, Gaines, Garza, Gillespie, Glasscock, Goliad, Gonzales, Gray, Grayson, Grimes, Guadalupe, Hale, Hall, Hamilton, Hansford, Hardeman, Hardin, Harris, Harrison, Hartley, Haskell, Hays, Hemphill, Henderson, Hidalgo, Hill, Hockley, Hood, Houston, Howard, Hudspeth, Hunt, Hutchinson, Irion, Jack, Jackson, Jasper, Jeff Davis, Jefferson, Jim Wells, Johnson, Jones, Karnes, Kaufman, Kendall, Kenedy, Kent, Kerr, Kimble, Kinney, Kleberg, Knox, Lamar, Lamb, Lampasas, Lavaca, Lee, Liberty, Limestone, Lipscomb, Live Oak, Llano, Lubbock, Lynn, Madison, Martin, Mason, Matagorda, Maverick, Medina, Menard, Midland, Milam, Mills, Mitchell, Montague, Montgomery, Moore, Motley, McCulloch, McLennan, Nacogdoches, Navarro, Newton, Nolan, Nueces, Ochiltree, Oldham, Orange, Palo Pinto, Panola, Parker, Parmer, Pecos, Polk, Potter, Presidio, Randall, Reagan, Real, Red River, Reeves, Refugio, Roberts, Robertson, *Rockwall*, Runnels, Rusk, *San Augustine*, *San Jacinto*, San Patricio, San Saba, Schleicher, Scurry, Shackelford, Sherman, Smith, Somervell, Starr, Stephens, Sterling, Stonewall, Sutton, Swisher, Tarrant, Taylor, Terrell, Terry, Throckmorton, Titus, Tom Green, Travis, Trinity, Tyler, Upton, Uvalde, Val Verde, Victoria, Walker, Waller, Ward, *Washington*, Webb, Wharton, Wheeler, Wichita, Wilbarger, Willacy, Williamson, Wilson, *Winkler*, Wise, Wood, Yoakum, Young, Zapata, and Zavala Counties; and to all of the water area of Lake Tawakoni located within Rains, Van Zandt, and Kaufman Counties; and to all the water area of the Joe B. Hogsett Reservoir known as the Cedar Creek Reservoir located within Henderson and Kaufman Counties; and to the land and water area of the Somerville Reservoir located in Burleson, Lee, and Washington Counties; and to that portion of Lake Texoma in Cooke and Grayson Counties; and to all of the water area of the Sam Rayburn Reservoir in Angelina, Nacogdoches, Sabine, and San Augustine Counties; and to all the water area of Toledo Bend Reservoir in Sabine and Shelby Counties; and to all of the water area of Lake Palestine located in Anderson, Cherokee, Henderson, and Smith Counties; and to all the water area of Falcon Reservoir located in Zapata County; and to all of the water area of Lake Ray Hubbard located in Rockwall and Collin Counties; and to all the water area of Lake Livingston located in Polk, San Jacinto, Trinity, and Walker Counties, except as provided in Section (b) of this rule below.

(b) Exceptions to these rules are:

- (1) Angelina County: applies only to fish in the Sam Rayburn Reservoir;
- (2) Aransas County: does not apply to shrimp and oysters, and does not apply to Copano Creek where it forms the boundary with Refugio County;
- (3) Austin County: shall apply only to deer, quail, and turkey;
- (4) *Blanco County: does not apply to special archery season on deer, javelina, or turkey;*
- (5)(4) Brazoria County: does not apply to oysters;
- (6)(5) Brewster County: does not apply to freshwater fish and aquatic life;
- (7)(6) Burleson County: does not apply to fish except in Somerville Reservoir;
- (8)(7) Burnet County: does not apply to archery season on deer and turkey;
- (9)(8) Calhoun County: shall not apply to fishing methods in the Guadalupe River, nor to shrimp and oysters;

(10)(9) Cameron County: shall not apply to oysters, and does not apply to shrimp, except in the inside waters;

(11)(10) Collingsworth County: does not apply to the quail season;

(12)(11) Cottle County: does not apply to the quail season;

(13)(12) Culberson County: does not apply to fresh-water fish and aquatic life;

(14)(13) Duval County: does not apply to antlerless deer;

(15)(14) El Paso County: does not apply to fresh-water fish and aquatic life;

(16)(15) Gillespie County: does not apply to archery season on deer and turkey;

(17)(16) Goliad County: applies only to deer, wild turkey, and quail;

(18)(17) Gonzales County: does not apply to fishing methods;

(19) *Grimes County: does not apply to deer;*

(20)(18) Hardeman County: does not apply to the quail season;

(21)(19) Hardin County: does not regulate the use of calling devices to attract wild fox;

(22)(20) Harris County: does not apply to saltwater species;

(23)(21) Houston County: does not apply to deer season, except archery season;

(24)(22) Hudspeth County: does not apply to fresh-water fish and aquatic life;

(25)(23) Jackson County: does not apply to oysters;

(26)(24) Jasper County: does not apply to fox;

(27)(25) Jeff Davis County: does not apply to fresh-water fish and aquatic life;

(28)(26) Jefferson County: does not apply to oysters;

(29)(27) Kendall County: regulatory authority expires December 31, 1977;

(30)(28) Kenedy County: applies only in the coastal waters with respect to fish, aquatic life, and marine animals, except shrimp and oysters;

(31)(29) Kimble County: does not regulate the taking of doe deer with longbow and arrows during the open season for buck deer;

(30) King County: does not apply to quail;

(32)(31) Kleberg County: applies only in the coastal waters with respect to fish, aquatic life, and marine animals, except shrimp and oysters;

(33)(32) Liberty County: does not regulate the use of calling devices to attract wild fox;

(34)(33) Limestone County: does not regulate squirrel season;

(35)(34) Llano County: does not apply to archery season on deer and turkey;

(36)(35) Mason County: does not apply to archery season on deer and turkey;

(37)(36) Matagorda County: does not apply to shrimp and oysters;

(38)(37) McCulloch County: does not apply to archery season on deer and turkey;

(39)(38) Newton County: does not apply to fox;

(40)(39) Nueces County: applies only in coastal waters with respect to fish, aquatic life, and marine animals, except shrimp and oysters;

(41)(40) Orange County: does not apply to oysters;

(42)(41) Pecos County: does not apply to fresh-water fish and aquatic life;

(43)(42) Presidio County: does not apply to fresh-water fish and aquatic life;

(44)(43) Reeves County: does not apply to fresh-water fish and aquatic life;

(45)(44) Refugio County: applies only in coastal waters with respect to fish, aquatic life, and marine animals, except shrimp and oysters;

(46)(45) Sabine County: applies only to fish in Toledo Bend and in the Sam Rayburn Reservoir;

(46) San Augustine County: applies to freshwater fish and other aquatic life;

(47) *San Jacinto County: applies only to fresh-water fish and other aquatic life;*

(48)(47) San Saba County: does not apply to archery season on deer and turkey;

(49)(48) San Patricio County: does not apply to quail, shrimp, or oysters, nor to the Aransas River or Copano Creek where they form the boundary with Refugio County;

(50)(49) Shelby County: applies only to fish in the Toledo Bend Reservoir;

(51)(50) Smith County: applies to deer, quail, and the water area of Lake Palestine;

(52)(51) Terrell County: does not apply to fresh-water fish and aquatic life;

(53)(52) Trinity County: does not apply to the definition of buck deer;

(54)(53) Travis County: does not apply to archery season on deer and turkey;

(55)(54) Tyler County: does not apply to fox;

(56)(55) Victoria County: shall not apply to fishing methods in the Guadalupe River, Lavaca Bay, Banal Lake, Mesquite Creek, Placedo Creek, Garcitas Creek, or Oyster Bayou, nor to quail or saltwater species of marine life;

(57)(56) Walker County: does not regulate the use of calling devices to attract wild fox;

(58)(57) Waller County: applies only to deer, quail, and turkey;

(59)(58) Wheeler County: does not apply to the quail season; and

(60)(59) Willacy County: does not apply to oysters.

.004. *Effective Date.*

(a) In all counties except those listed in Section (b) of this rule, these rules shall become effective 20 days after the filing of two certified copies in the Office of the Secretary of State.

(b) In the following counties, these rules shall be approved or disapproved by the commissioners court of each county at the next regular meeting of such court occurring more than five days after the Texas Parks and Wildlife Commission meeting at which these rules are adopted, as provided in Section 61.202, Texas Parks and Wildlife Code, and as amended by House Bill 1893, Acts of the 64th Legislature, Regular Session 1975: Bandera, Coke, Crockett, Dimmit, Edwards, Frio, Gillespie, Grayson, Hays, Kendall, Kerr, Kimble, Kinney, Lampasas, Llano, Mason, Medina, Menard, Reagan, Real, Robertson, San Saba, Schleicher, Sutton, Uvalde, Val Verde, and Zavala Counties. (See attached appendix for results of action by commissioners courts.) *on the Statewide Hunting, Fishing, and Trapping Proclamation No. A-5, 1977-78.*

(c) All rules and amendments to such rules affecting the counties listed in Rule 127.70.01.002 above, which pertain to the activities herein regulated, are revoked on the effective date of these rules.

.007. *Definitions.* A "buck deer" is a deer having hardened antlers protruding through the skin, except in Bandera, Brazos, Burleson, Comal, Grimes, Houston, Jasper, Kendall, Kerr, Madison, Medina, Montgomery, Nacogdoches, Newton, Polk, Real, *Rockwall*, Robertson, *San Augustine*, Trinity, Tyler, [and] Walker, *Washington*, and *Winkler* Counties where a "buck deer" is a deer with forked antler.

.024. *Hunting Deer with Dogs.*

(a) It shall be unlawful to use a dog or dogs in hunting, pursuing, or taking deer in all regulatory counties, except Hardin County, that portion of Harrison County south of Interstate Highway 20 and east of State Highway 43, Jasper, Newton, Orange, Panola, Polk, *that portion of San Augustine County bounded on the north by State Highway 103, on the south by State Highway 147 beginning at the Angelina County line to its junction with State Highway 83, thence east on State Highway 83 to the Sabine County line,* and Tyler Counties.

(b) It shall be lawful to use not more than two dogs in trailing a wounded deer in all regulatory counties, except Bowie, *Camp*, Fannin, Franklin, Harris, Harrison (north of Interstate Highway 20 and west of State Highway 43), Houston, Hunt, Jefferson, Lamar, Liberty, Montgomery, Nacogdoches, Red River, *Rockwall*, Rusk, *San Augustine (north of State Highway 103, and beginning at the Angelina County line east of State Highway 147 to its junction with State Highway 83, and south of State Highway 83 to the Sabine County line,* Titus, Trinity, Walker, *Washington*, *Winkler*, and Wood Counties.

.061. *Antelope: Open Seasons and Bag Limits.*

(b) There shall be an open season for antelope for nine consecutive days beginning the Saturday nearest October 1 in the following counties: Andrews, Borden, Brewster, Cochran, Coke, Concho, Crosby, Culbertson, Dawson, Ector, El Paso, Fisher, Gaines, Garza, Glasscock, Haskell, Hockley, Howard, Hudspeth, Irion, Jeff Davis, Jones, Kent, Knox, Lubbock, Lynn, Martin, Midland, Mitchell, Nolan, Pecos, Presidio, Reagan, Reeves, Runnels, Scurry, Sterling, Stonewall, Taylor, Terrell, Terry, Tom Green, Upton, Ward, *Winkler*, and Yoakum Counties; and the bag limit shall be one antelope per season by permit only.

.062. *Deer: Open Seasons and Bag Limits.*

(c) Exceptions to general seasons, bag and possession limits for deer are as follows:

(3) There shall be a general open season for deer as prescribed in Section (a) of this rule above in Austin, Bastrop, Brazos, Burleson, Caldwell, Colorado, Falls, Fayette, [Grimes,] Lavaca, Lee, Madison, Navarro, [and] Waller, and *Washington* Counties; and the bag limit shall be two deer, no more than one buck, antlerless deer by permit.

(4) There shall be an open season for deer beginning the Saturday nearest November 15 through November 30 in *Camp*, Franklin, Lamar, Red River, Smith, and Titus Counties; and the bag limit shall be three deer, no more than one buck, antlerless by permit only.

(d) Archery season, bag and possession limits are as follows:

(1) In Aransas, Atascosa, Bandera, Bee, Bell, Bexar, [Blanco,] Bosque, Brazoria, Brown, Calhoun, Cameron, Coke, Coleman, Comal, Concho, Coryell, Crockett, Dewitt, Eastland, Erath, Fort Bend, Frio, Goliad, Gonzales, Guadalupe, Hamilton, Hidalgo, Hood, Irion, Jackson, Jim Wells, Johnson, Kendall, Kerr, Kinney, Lampasas, Live Oak, Matagorda, Maverick, Medina, Menard, Mills, Mitchell, Nolan, Parker, Runnels, San Patricio, Schleicher, Somervell, Starr, Sterling, Sutton, Tarrant, Taylor, Throckmorton, Tom Green, Trinity, Uvalde, Val Verde (east of the Pecos River), Victoria, Webb, Wharton, Willacy, Williamson, Wilson, Zapata, and Zavala Counties, there shall be an additional open season during which deer of either sex may be taken with longbow and arrows beginning October 1 and ending October 31. The bag limit is three deer, either sex, no more than two bucks.

(4) In Anderson, Andrews, Archer, Baylor, Borden, Callahan, Clay, Cochran, Collin, Comanche, Cooke, Crosby, Dallas, Dawson, Denton, Duval, Ector, Ellis, Fisher, Freestone, Gaines, Garza, Glasscock, Hardin, Harris, Haskell, Henderson (in that area bounded on the north by the county line, on the east by U.S. Highway 175 and Tin Can Alley Road, on the north by State Highway 31, and on the west by State Highway 274), Hill, Hockley, Houston, Howard, Jack, Jasper, Jefferson, Jones, Karnes, Kent, Kimble, Knox, Liberty, Limestone, Lubbock, Lynn, Martin, McLennan, Midland, Milam, Montague, Montgomery, Newton, Orange, Palo Pinto, Polk, Reagan, Robertson, *Rockwall*, *San Augustine*, Scurry, Shackelford, Stephens, Stonewall, Terry, Tyler, Upton, Walker, Ward, Wichita, Wilbarger, *Winkler*, Wise, Yoakum, and Young Counties, there shall be an additional open season beginning October 1 and ending October 31. The bag limit is two buck deer.

(5) In Austin, Brazos, Burleson, Colorado, [Grimes,] Lavaca, and Madison Counties, there shall be an additional open season during which deer of either sex may be taken with longbow and arrows beginning October 1 and ending October 31. The bag limit is two deer, either sex, no more than one buck.

(6) In *Bastrop*, *Caldwell*, *Falls*, *Fayette*, *Lee*, *Nacogdoches (south of Highway 21 only)*, *Navarro*, *Waller*, and *Washington* Counties, there shall be an additional open season during which buck deer may be taken with longbow and arrows beginning October 1 and ending October 31. The bag limit is one buck deer. [In Zavala County, the deer bag limit during the archery season is three deer, either sex, no more than two bucks, the additional archery open season applies.]

(10) In *Camp*, Franklin, Lamar, Red River, Smith, and Titus Counties, there shall be an additional open season during which buck deer only may be taken with longbow and arrows beginning October 1 and ending October 18. The bag limit is one buck deer.

.064. *Squirrel: Open Seasons and Bag Limits.*

(a) In Archer, Baylor, Bell, Bosque, Brazos, Burleson, Callahan, Clay, Coleman, Collin, Colorado, Comanche, Cooke, Coryell, Dallas, Denton, Eastland, Ellis, Erath, Falls, Fayette, Fort Bend, Grayson, Grimes, Hamilton, Hill, Hood, Jack, Jackson, Johnson, Kaufman, Lavaca, Lee, Madison, Matagorda, McLennan, Milam, Montague, Palo Pinto, Parker, Shackelford, Somervell, Stephens, Tarrant, Throckmorton, Wharton, *Washington*, Wichita, Wilbarger, Williamson, Wise, and Young Counties, there is no closed

season for squirrel. The bag and possession limits are 10 per day and 20 in possession after opening day.

(b) In Bowie, *Camp*, Fannin, Franklin, Harrison, Hunt, Lamar, Panola, Red River, *Rockwall*, Rusk, Titus, and Wood Counties, there shall be an open season for squirrel beginning May 1 through May 31, and October 1 through December 31. The bag and possession limits are 10 per day and 20 in possession.

(c) In Nacogdoches [County] and *San Augustine Counties*, there shall be an open season on squirrel beginning October 1 through January 15. The bag and possession limits are 10 per day and 20 in possession.

.083. Pheasant: Open Seasons and Bag Limits.

(e) In [Lynn and] Terry County [Counties], the open season for pheasants begins the second Saturday in December for nine consecutive days. Bag and possession limit is two cock pheasants per day, four in possession after the first day. Head and feet must remain attached to the pheasant until it reaches its final destination.

.084. Quail: Open Seasons and Bag Limits.

(c) In Archer, Baylor, Bosque, Bowie, Brown, Callahan, *Camp*, Clay, Coleman, Collin, Comanche, Cooke, Dallas, Denton, Eastland, Ellis, Erath, Fannin, Franklin, Grayson, Hamilton, Harrison, Hill, Hood, Hunt, Jack, Johnson, Lamar, McLennan, Mills, Montague, Palo Pinto, Panola, Parker, Red River, *Rockwall*, Rusk, Shackelford, Smith, Somervell, Stephens, Tarrant, Throckmorton, Titus, Wichita, Wilbarger, Wise, Wood, and Young Counties, there shall be an open season for quail beginning December 1 through the Sunday nearest February 15. Bag and possession limits are 12 quail per day and 36 in possession.

(d) In Cottle [, Dickens,] and Hardeman [, and King] Counties, the open season for quail is December 1 through January 31. Bag limit is 12 quail per day and 36 in possession.

.085. Turkey.

(e) Exceptions to general open season, additional archery season, or bag limits.

(1) In Anderson, Austin, Bandera, Bastrop, Bosque, Bowie, Brazoria, Brazos, Brewster, Burleson, Caldwell, Cameron, *Camp*, Collin, Colorado, Cooke, Culberson, Dallas, Denton, Dewitt, Ellis, El Paso, Erath, Falls, Fannin, Fayette, Fort Bend, Franklin, Freestone, Gonzales, Grayson, Grimes, Guadalupe, Hardin, Harris, Harrison, Henderson, Hidalgo, Hill, Houston, Hudspeth, Hunt, Jackson, Jasper, Jeff Davis, Jefferson, Johnson, Kaufman, Lamar, Lavaca, Lee, Liberty, Limestone, Madison, McLennan, Milam, Montgomery, Nacogdoches, Navarro, Newton, Orange, Palo Pinto, Panola, Parker, Pecos, Polk, Presidio, Red River, Reeves, Robertson, *Rockwall*, Rusk, *San Augustine*, Somervell, Starr, Tarrant, Terrell, Titus, Trinity, Tyler, Victoria, Walker, Waller, *Washington*, Wharton, Wise, Wood, and Zapata Counties, there is no open season on turkey.

(5) In Bell, Coryell, Real, [and] Williamson, and *Winkler* Counties, the general open season on turkey as set out in Section (b) of this rule above shall apply. The bag limit is one turkey, grouse, or bearded hen.

(6) In *Gillespie*, Dimmit, Edwards, Hays, Kendall, and Real Counties, there is no additional archery season on turkey.

.111. Freshwater Fish: Bag and Possession Limits.

(c) It shall be unlawful to take from or possess on any of the public waters under regulatory authority of the department in the following counties and lakes any blue or channel catfish less than nine inches in length: Archer, Baylor, Bosque, Bowie, Brown, Callahan, Clay, Coleman, Collin, Comanche, Cooke, Dallas, Denton, Eastland, Ellis, Erath, Fannin, Franklin, Grayson, Hamilton, Hardin, Harris, Harrison, Hill, Hood, Houston, Hunt, Jack, Jasper, Jefferson, Johnson, Lamar, Liberty, McLennan, Mills, Montague, Montgomery, Nacogdoches, Newton, Orange, Palo Pinto, Panola, Parker, Polk, Red River, Rusk, *San Augustine*, *San Jacinto*, Shackelford, Somervell, Stephens, Tarrant, Throckmorton, Titus, Trinity, Tyler, Walke, Wichita, Wilbarger, Wise, Wood, Young, and the waters of Lake Tawakoni in Rains and Van Zandt Counties, the waters of Lake Palestine in *Anderson*, *Henderson*, Smith, and Cherokee Counties, the waters of Lake Ray Hubbard in Collin and Rockwall Counties, and the waters of Sam Rayburn Reservoir in Angelina, Sabine, and San Augustine Counties, the waters of the Toledo Bend Reservoir in Sabine and Shelby Counties, and the waters of Lake Livingston in San Jacinto County.

(i) In the main stream of the Brazos River, excluding cutoffs, oxbow lakes, and tributary streams, where it forms the common boundary between Robertson and Burleson Counties, between Brazos and Burleson Counties, between Brazos and Washington Counties, and between Washington and Grimes Counties, and in *Yegua Creek* where it forms a common boundary between Washington and Burleson Counties, bag and possession limits [means and methods] are as provided by Section 66.106 [66.101], Texas Parks and Wildlife Code.

.113. Freshwater Fish: Means and Methods.

(e) Any net used in the public waters by sports fishermen shall be identified by a legible tag constructed of a material as durable as the net, bearing the name and address of the fisherman and the date it was set out.

(f)(e) In Anderson, Andrews, Archer, Bandera, Baylor, Bee, Bell, Blanco, Borden, Bosque, Brazos, Brown, Burnet, Callahan, *Camp*, Clay, Cochran, Coke, Coleman, Collin, Comal, Comanche, Concho, Cooke, Coryell, Crockett, Crosby, Dallas, Dawson, Denton, Eastland, Ector, Edwards, Ellis, Erath, Falls, Fisher, Freestone, Gaines, Garza, Gillespie, Glasscock, Grayson, Grimes, Hamilton, Haskell, Hays, Henderson, Hill, Hockley, Hood, Howard, Irion, Jack, Johnson, Jones, Kaufman, Kendall, Kent, Kerr, Kimble, Knox, Lampasas, Limestone, Llano, Lubbock, Lynn, Madison, Martin, Mason, McCulloch, McLennan, Menard, Midland, Milam, Mills, Mitchell, Montague, Navarro, Nolan, Palo Pinto, Parker, Reagan, Real, Robertson, *Rockwall*, Runnels, San Saba, Schleicher, Scurry, Shackelford, Somervell, Stephens, Sterling, Stonewall, Sutton, Tarrant, Taylor, Terry, Throckmorton, Tom Green, Travis, Upton, Val Verde, Ward, Wichita, *Washington*, Wilbarger, Williamson, *Winkler*, Wise, Yoakum, and Young Counties, and the waters of Lake Somerville in Burleson County, only the following means and methods may be used in taking fish:

(1)(A) Not more than 100 hooks altogether which may be used in any combination of the following: pole and line, rod and reel, artificial and natural baits, jug line, throwline, and not more than two nonmetallic trotlines with not more than 50 hooks each; hooks on throwlines and

trotlines must be spaced not less than three horizontal feet apart.

(B) All freshwater trotlines must be identified by a legible tag, constructed of a material as durable as the trotline, bearing the name and address of the fisherman and the date it was set out.

(C) All trotlines that remain in public waters shall be redated at the expiration of each 90-day period.

(D) Any net used in the public waters by sports fishermen shall be identified by a legible tag constructed of a material as durable as the net, bearing the name and address of the fisherman and the date it was set out.

(E) Any net or trotline set in the public waters of this state in violation of these rules shall be removed from the waters thereof.

(F) There is no restriction on the number of hooks on trotlines in the Trinity River between Madison and Houston Counties.

(G) No trotline may be placed or set in the vicinity of any public boat dock or public bathing pier, or public bathing beach, or any public place commonly used as a swimming or bathing area except:

(i) In Lake Buchanan, not more than 30 hooks may be used on one trotline. No more than 30 hooks may be used by one person on all devices employed by him, but there is no limit on the number of trotlines employed, so long as no trotline has more than 30 hooks.

(ii) In the Pecos River in Crockett County, there are no restrictions on the number of hooks which may be employed in total or in or on any device.

(iii) In Medina Lake, there is no limit on the number of trotlines that may be employed.

(iv) The use of trotlines, throwlines, and jug lines is prohibited in bodies of water 500 acres or less which lie totally within the boundaries of a state park, or that portion of any stream bordering a state park.

(2) Minnow seines not more than 20 feet in length for taking only minnows, sunfish (bream or perch), or rough fish.

(A) In the waters of the Pease River, Big Wichita River, and Brazos River, and their tributaries in Archer, Baylor, Shackelford, Throckmorton, Wichita, Wilbarger, and Young Counties, minnow seines not longer than 40 feet may be used only when the owner is in constant attendance on such seines.

(B) In the waters of the Wichita and Brazos Rivers and their tributaries in Knox County, minnow seines not longer than 40 feet may be used only when the owner is in constant attendance on such seines.

(C) In Lake Buchanan, minnow seines not longer than 50 feet may be used.

(3) A common fruit jar type trap or its metallic counterpart not longer than 24 inches with throat no larger than one inch in diameter, dip nets, cast nets, or umbrella nets, constructed of nonmetallic materials for taking only minnows, sunfish (bream or perch), and rough fish. All other fish must be immediately released in the water from which taken.

(4) A spear gun and spear or bow and arrows for taking only rough fish, but it shall be unlawful to possess any fish other than rough fish when using a spear gun and spear or bow and arrow.

(5) A wire loop or gig for taking rough fish, but when using a wire loop or gig, one may not possess any crappie, bass, or catfish.

(6) In Williamson County only, a nonmetallic net having mesh not less than one and three-fourths inches square for taking only rough fish. Any fish not designated rough fish taken in such a net must be immediately released into the water where taken. It shall be unlawful to have in possession or aboard any boat or in any vehicle any fish other than rough fish, as defined, while fishing with or possessing a hoop net, trammel net, or gill net.

(7) In Brazos, Falls, Freestone (except Lake Fairfield), Grimes, Madison, Milam, and Robertson Counties, a nonmetallic net having mesh not less than three inches square for taking only rough fish (any fish not designated rough fish taken in such a net must be immediately released into the waters when taken). It shall be unlawful to have in possession or aboard any boat or in any vehicle, any fish other than rough fish, as defined, while fishing with or possessing a hoop net, trammel net, or gill net.

(8) In the Neches River in Anderson County, three-inch mesh nets may be used to take all fish from February through May of each year.

(9) In Lake Palestine in Anderson County, nets may not be used, except as provided in Rule 127.70.01.009 above and Section (f) (e), sub-sections (2) and (3) of this rule above.

(10) In Henderson County, a three-inch square mesh net is permitted to take rough fish only, except that in the waters of Cedar Creek Reservoir, Flat Creek Reservoir, Flat Creek, and in Lake Palestine in Henderson County, nets may not be used except as provided in Rule 127.70.01.009 above and Section (f) (e), subsections (2) and (3) of this rule above.

(11) In Lake Fairfield all nets other than minnow seines are prohibited.

(12) In the main stream of the Brazos River, excluding cutoffs, oxbow lakes, and tributary streams, where it forms the common boundary between Robertson and Burleson Counties, between Brazos and Burleson Counties, between Brazos and Washington Counties, and between Washington and Grimes Counties, *and the rest of Washington County except Lake Somerville*, the means and methods of taking fish are as provided by Sections 66.102 and 66.103, Texas Parks and Wildlife Code.

(13) In Gillespie County only, except during March, April, and May, a nonmetallic net having mesh not less than two inches square for taking rough fish only (any fish not designated rough fish taken in such a net must be immediately released into the waters where taken). It shall be unlawful to have in possession or aboard any boat or in any vehicle, any fish other than rough fish, as defined, while fishing with or possessing a hoop net, trammel net, or gill net.

(g) (f) In Aransas, Atascosa, Bastrop, Bee, Bexar, Brazoria, Caldwell, Calhoun, Cameron, Colorado, Dewitt, Dimmit, Duval, Fayette, Fort Bend, Frio, Guadalupe, Hardin, Harris, Hidalgo, Houston, Jackson, Jasper, Jefferson, Jim Wells, Karnes, Kinney, Lavaca, Lee, Liberty, Live Oak, Matagorda, Maverick, Medina, Montgomery, Nacogdoches, Newton, Orange, Polk, *San Augustine*, *San Jacinto*, San Patricio, Starr, Trinity, Tyler, Uvalde, Victoria, Walker, Webb, Wharton, Willacy, Wilson, Zapata, and Zavala Counties, only the following means and methods may be used in taking fish:

(1)(A) Pole and line, rod and reel, artificial and natural baits, hand line, jug line, or throwline and trotline; hooks on throwlines and trotlines must be spaced no less than three horizontal feet apart.

(B) All freshwater trotlines must be identified by a legible tag, constructed of a material as durable as the trotline, bearing the name and address of the fisherman and the date it was set out.

(C) All trotlines that remain in public waters shall be redated at the expiration of each 90-day period.

(D) Any net used in the public waters by sports fishermen shall be identified by a legible tag constructed of a material as durable as the net, bearing the name and address of the fisherman and the date it was set out.

(D)(E) Any net or trotline set in the public waters of this state in violation of these rules shall be removed from the waters thereof.

(E)(F) No trotline may be placed or set in the vicinity of any public boat dock, or public bathing pier, or public bathing beach, or any public place commonly used as a swimming or bathing area except:

(i) In Bexar, Medina, and Uvalde Counties (but not in Lake Medina), no more than 30 hooks may be used by one person, nor more than 30 hooks may be used on one trotline.

(ii) In Lake Medina, the following rules shall apply to trotlines and other multiple-hook devices and combinations. Hooks on trotlines and throwlines must be spaced at least three feet apart. Metallic throwlines or trotlines are unlawful. Not more than 100 hooks in the aggregate may be employed by one person at any time on all devices. There is no limit on the number of trotlines employed.

(iii) The use of trotlines, throwlines, and jug lines is prohibited in bodies of water 500 acres or less which lie totally within the boundaries of a state park.

(iv) In Hardin, Harris, Houston, Jasper, Jefferson, Liberty, Montgomery, Nacogdoches, Newton, Orange, Polk, *San Augustine*, *San Jacinto*, Trinity, Tyler, and Walker Counties, and the waters of the Sam Rayburn Reservoir in Angelinal, and Sabine], and San Augustinel Counties, and the waters of Toledo Bend Reservoir in Sabine and Shelby Counties, and the waters of Lake Livingston in San Jacinto County, no more than 100 hooks may be used altogether, in any of the following combinations: pole and line, rod and reel, artificial and natural baits, throwline or no more than two nonmetallic trotlines with not more than 50 hooks each, except Sam Rayburn Reservoir in Angelinal, and Sabine], and San Augustinel Counties, and in the public waters of Jasper, Polk, Trinity, Tyler, Houston, Newton, and Nacogdoches, and *San Augustine* Counties, and in the Neches River where it forms a common boundary between Hardin and Jasper Counties, no more than 100 hooks in the aggregate may be employed by any person at a time on all devices, and there is no limit on the number of nonmetallic trotlines that may be employed. Hooks on throwlines and trotlines must be spaced not less than three horizontal feet apart.

(2) Minnow seines not more than 20 feet in length for taking only minnows, sunfish (bream or perch), or rough fish, except minnow seines not more than 30 feet in length for taking only minnows, sunfish, and rough fish may be used in Toledo Bend Reservoir.

(3) A common fruit jar type trap or its metallic counterpart not longer than 24 inches with throat no larger than one inch in diameter, dip nets, cast nets, or umbrella nets constructed of nonmetallic materials for taking only minnows, sunfish (bream or perch), and rough fish. All other fish must be immediately released in the water from which taken.

(4) Except in Uvalde County, a spear gun and spear or bow and arrows for taking only rough fish, but it shall be

unlawful to possess any fish other than rough fish when using a spear gun and spear or bow and arrow.

(5) Except in the Nueces River for the parts of Lake Corpus Christi to which these rules apply, downstream to Nueces Bay and in Colorado County, a wire loop or gig for taking rough fish, but when using a wire loop or gig, one may not possess any crappie, bass, or catfish.

(6) In Dimmit and Zavala Counties only, a non-metallic net having mesh not less than three inches square for taking only rough fish (any fish not designated rough fish taken in such net must be immediately released into the waters from which taken). It shall be unlawful to have in possession or aboard any boat or in any vehicle, any fish other than rough fish, as defined, while fishing with or possessing a hoop net, trammel net, or gill net.

(7) In Hardin, Houston, Jasper, Jefferson, Liberty, Nacogdoches, Newton, Orange, Polk, *San Augustine*, *San Jacinto*, Trinity, and Tyler Counties, hoop nets, trammel nets, and gill nets of nonmetallic construction having a mesh size not less than three inches square may be used for taking only rough fish, as defined, except that it shall be unlawful to use nets for taking fish from the Neches River from the Jasper-Angelina County line to the bridge over the Neches River between Bridge City and Groves on State Highway 87, and from the waters of the Angelina River in Jasper County below the Sam Rayburn Dam, and in Sam Rayburn Reservoir, and in Lake Livingston and in Toledo Bend Reservoir below U.S. Highway 84 bridge, except as provided in Rule 127.70.01.009 above and Section (f) (e), subsections (2) and (3) of this rule above. No person may take any bass or crappie with such a net. It shall be unlawful to have in possession or aboard any boat or in any vehicle, any fish other than rough fish, as defined, while fishing with or possessing a hoop net, trammel net, or gill net.

(8)(A) In Lee County, set or drag nets or seines, the meshes of which are not less than three inches square, may be used in Yegua Creek, where it forms the boundary with Burleson County to take all fish and set or drag nets with three-inch square mesh, except hoop nets to take rough fish in the remainder of the county.

(B) In Bastrop County, no such nets or seines may be used.

(C) In Austin, Brazoria, Caldwell, Calhoun (except in the Guadalupe River), Colorado, Dewitt, Fayette, Fort Bend, Goliad, Gonzales, Guadalupe, Jackson, Lavaca, Matagorda, Victoria (except in the Guadalupe River), Waller, and Wharton Counties, set or drag nets or seines, the meshes of which are not less than three inches square (other than hoop and barrel nets), may be used for taking only rough fish, and all other fish taken in such nets must be immediately released in the water from which taken.

(D) It shall be unlawful to have in possession or aboard any boat or in any vehicle any fish other than rough fish, as defined, while fishing with or possessing a hoop net, trammel net, or gill net.

(E) In Colorado County, set or drag net or seines or hoop net, the meshes of which are not less than three inches square, may be used to take rough fish.

(h)(g) In Armstrong, Bailey, Briscoe, Carson, Castro, Childress, Collingsworth, Cottle, Dallam, Deaf Smith, Donley, Floyd, Gray, Hale, Hall, Hansford, Hardeman, Hartley, Hemphill, Hutchinson, Lamb, Lipscomb, Moore, Motley, Ochiltree, Oldham, Parmer, Potter, Randall, Roberts, Sher-

man, Swisher, and Wheeler Counties, only the following means and methods may be used in taking fish:

(1)(A) Not more than 20 hooks altogether except on Lake Meredith where 40 hooks may be used, and which may be used in any combination of the following: pole and line, jug line, artificial lures or natural baits, rod and reel, throwline, and not more than one trotline; hooks on throwlines and trotlines must be spaced not less than three horizontal feet apart.

(B) No trotline may be placed or set in the vicinity of any public boat dock, or public bathing pier, or public bathing area.

(C) All freshwater trotlines must be identified by a legible tag, constructed of a material as durable as the trotline, bearing the name and address of the fisherman, and the date it was set out.

(D) All trotlines that remain in public waters shall be redated at the expiration of each 90-day period.

(E) A trotline set in the public waters of this state in violation of these rules shall be removed from the waters thereof.

(F) The use of trotlines, throwlines, and jug lines is prohibited in bodies of water 500 acres or less which lie totally within the boundaries of a state park, or that portion of any stream bordering on a state park.

(2) Minnow seines not more than 20 feet in length for taking only minnows, sunfish (bream or perch), bullheads, or rough fish.

(3) A common fruit jar type trap or its metallic counterpart not longer than 24 inches with throat no larger than one inch in diameter, dip nets, cast nets, or umbrella nets, constructed of nonmetallic materials for taking only minnows, sunfish (bream or perch), and rough fish. All other fish must be immediately released in the water from which taken.

(4) A spear gun and spear or bow and arrows for taking only rough fish, but it shall be unlawful to possess any fish other than rough fish when using a spear gun and spear or bow and arrow.

(5) A wire loop or gig for taking rough fish, but when using a wire loop or gig, one may not possess any crappie, bass, or catfish.

(i)(h) In Bowie, *Camp*, Fannin, Franklin, Harrison, Hunt, Lamar, Panola, Red River, Rusk, Titus, and Wood Counties, and the waters of Lake Palestine in *Anderson*, *Cherokee*, *Henderson*, and *Smith Counties* [County], only the following means and methods may be used in taking fish:

(1)(A) Pole and line, artificial lures or natural baits, rod and reel, jug line, throwline, and trotline. Hooks on throwlines or trotlines must be spaced not less than three horizontal feet apart.

(B) In Lake Tawakoni, Lake Palestine, and Lake Cypress Springs in Franklin County, not more than 100 hooks altogether, which may be used in any combination as above, except no more than two nonmetallic trotlines with not more than 50 hooks each may be used.

(C) No trotlines may be placed or set in the vicinity of any public boat dock, or public bathing pier, or public bathing beach, or any public place commonly used as a swimming or bathing area.

(D) All freshwater trotlines must be identified by a legible tag, constructed of a material as durable as the trotline, bearing the name and address of the fisherman, and the date it was set out.

(E) All trotlines that remain in public waters shall be redated at the expiration of each 90-day period.

(F) Any net used in the public waters by sports fishermen shall be identified by a legible tag constructed of a material as durable as the net bearing the name and address of the fisherman, and the date it was set out.

(G) Any net or trotline set in the public waters of this state in violation of these rules shall be removed from the waters thereof.

(H) The use of trotlines, throwlines, and jug lines is prohibited in bodies of water 500 acres or less which lie totally within the boundaries of a state park, or that portion of any stream bordering on a state park.

(2) Minnow seines not more than 20 feet in length for taking only minnows, sunfish (bream and perch), or rough fish.

(3) A common fruit jar type trap or its metallic counterpart not longer than 24 inches with throat no larger than one inch in diameter, dip nets, cast nets, or umbrella nets, constructed of nonmetallic materials for taking only minnows, sunfish (bream or perch), and rough fish. All other fish must be immediately released in the water from the waters from which taken.

(4) A spear gun and spear or bow and arrows for taking only rough fish, but it shall be unlawful to possess any fish other than rough fish when using a spear gun and spear or bow and arrow.

(5) A wire loop or gig for taking rough fish, but when using a wire loop or gig, one may not possess any crappie, bass, or catfish.

(6)(A) Hoop nets, trammel nets, and gill nets of non-metallic construction with meshes not less than three inches square may be used for taking only rough fish, as defined, and catfish, except in *Camp*, Fannin, Franklin, Hunt, Lamar, Red River, Rusk, Titus, and Wood Counties; Lake Tawakoni in Rains and Wood Counties; Lake Palestine; and the Sabine River in Harrison County, they are unlawful.

(B) It shall be unlawful to have in possession or aboard any boat or in any vehicle, any fish other than rough fish and catfish while fishing with or possessing a hoop net, trammel net, or gill net.

(C) In the Sabine River in Panola County and in that portion of Toledo Bend Reservoir north of U.S. Highway 84 bridge in Shelby County, three-inch square mesh gill nets may be used for taking rough fish only.

(D) It shall be unlawful to have in possession or aboard any boat or in any vehicle, any fish other than rough fish while fishing with or possessing a gill net.

Issued in Austin, Texas, on February 16, 1978.

Doc. No. 781345

Maurine Ray
Administrative Assistant
Texas Parks and Wildlife Department

Proposed Date of Adoption: March 31, 1978

For further information, please call (512) 475-4875.

127.70.01.139

The Texas Parks and Wildlife Commission proposes to adopt Rule 127.70.01.139, which prescribes the necessary information and procedures for reporting the commercial harvest of saltwater fishes. The commission is responsible for establish-

ing the means, methods, manners, times, and places for harvesting the public fishery, and for conducting continuous research on the marketing, harvesting, processing, and catching of fishes landed in Texas under the Uniform Wildlife Regulatory Act. Due to the legislative mandate to study the economic value and harvest statistics of all fishes, and the necessity of establishing and monitoring a commercial catch quota for red drum, the commission is proposing this rule to assure uniform reporting of the required information.

The administrative and enforcement responsibilities of the proposed rule will not involve local agencies. A review of the Parks and Wildlife Department budget indicates that no additional funding or personnel will be required to administer or enforce the proposed rule. (Source: Department staff.)

Public comment on the proposed adoption of Rule 127.70.01.139 is invited. Public hearings will be scheduled in each coastal county during March, 1978. Additional comments may be submitted by telephoning (512) 475-4835, or by writing to Dr. James E. Weaver, Director of Finfish Programs, Texas Parks and Wildlife Department, 4200 Smith School Road, Austin, Texas 78744. Comments must be received within 30 days of the publication of this proposal in the *Texas Register*.

This rule is proposed under the authority of Chapter 61, Subchapter C-1, Texas Parks and Wildlife Code.

139. Commercial Harvest Reporting Requirements.

(a) Each individual sales transaction of all saltwater fishes must be recorded in triplicate at the time of the initial purchase only on a form prescribed and distributed by the department. The original copy of all individual sales transaction forms from the previous month must be retained at the place of business until filed with the department no later than the 10th day of the following month, or surrendered on request to authorized department personnel prior to that date. A separate copy of each completed form must be retained by both the buyer and the seller for a period of 72 hours after the initial sale.

(b) The individual sales transaction form shall include:

- (1) the date of the sale;
- (2) the dealer's code number or name of purchaser;
- (3) the fisherman's name;
- (4) the red drum license number of the fisherman (if red drum are sold);
- (5) the commercial license number of the fisherman;
- (6) the equipment used;
- (7) the pounds of each species of fishes sold;
- (8) the price per pound of each species of fishes sold;

and

(9) the bay system or area of the Gulf of Mexico where captured.

(c) The responsibility for obtaining and completing the individual sales transaction form shall be on the holders of wholesale or retail truck and fish dealer's licenses who initially purchase the fishes from a commercial fisherman, unless the fishes are sold by a commercial fisherman directly to a final consumer, in which case the form shall be obtained and completed by the commercial fisherman.

(d) Completion of the individual sales transaction form is in addition to other reporting requirements for fishes, oysters, crabs, or shrimp as prescribed by law.

(e) Penalties for conviction of violating this rule are provided in Section 61.902, Texas Parks and Wildlife Code.

Issued in Austin, Texas, on February 21, 1978.

Doc. No. 781353 Maurine Ray
Administrative Assistant
Texas Parks and Wildlife Department

Proposed Date of Adoption: May, 1978
(Specific date to be announced)

For further information, please call (512) 475-4835.

Texas Water Development Board

Financial Programs

Application to Acquire State Interests or to Purchase Water 156.09.65

The general counsel of the Texas Department of Water Resources is proposing to amend Rule 156.09.65.006, entitled "Negotiation of Contracts." The proposal amends Section (a)(7) of the rule, concerning the provision that the transfer agreement and any other contracts executed with the board pursuant thereto shall be subject to suspension or cancellation by the board upon finding by the commission that the water client or storage client has failed to comply with the terms of the applicable permit, by exempting the sale of the board's interest in a facility from the operation of the rule.

The amendment would operate to exempt transactions from the operation of the rule wherein the board sells an interest in a state-owned facility for cash or revenue bonds. The rationale for the amendment is that once the board has transferred an interest in a state-owned facility for consideration, it would be inappropriate to retain a right to suspend or cancel the transaction for the failure of the buyer to comply with the terms of the applicable permit issued by the Texas Water Commission.

The general counsel of the department has determined that the proposed amendment of the rule will have no fiscal impact to the state or units of local government. No local units of government have been consulted in this estimate. However, the amended rule is essentially the same as the previous rule covering this area, with alterations primarily for purposes of clarity.

Public comment on the proposed amendment to Rule 156.09.65.006 is invited. Persons should submit their comments in writing to Bruce Bigelow, General Counsel, Texas Department of Water Resources, P.O. Box 13087, Austin, Texas 78711.

This amendment is proposed under the authority of Sections 5.131 and 5.132, Texas Water Code.

006. Negotiation of Contracts.

(a) Before adopting the transfer resolution, the executive director shall negotiate a transfer agreement with the water client or storage client to effectuate the sale, transfer, or lease of board-owned interests, including storage facilities, or the sale of the right to use water therefrom. The client

may not commence use of storage facilities or use of the water stored therein which it has acquired from the board until it has been issued the necessary permit by the commission. (See Rule 156.09.45.001 relating to master agreements for suggestions relating to procedures.) The transfer agreement shall cover the following points as applicable.

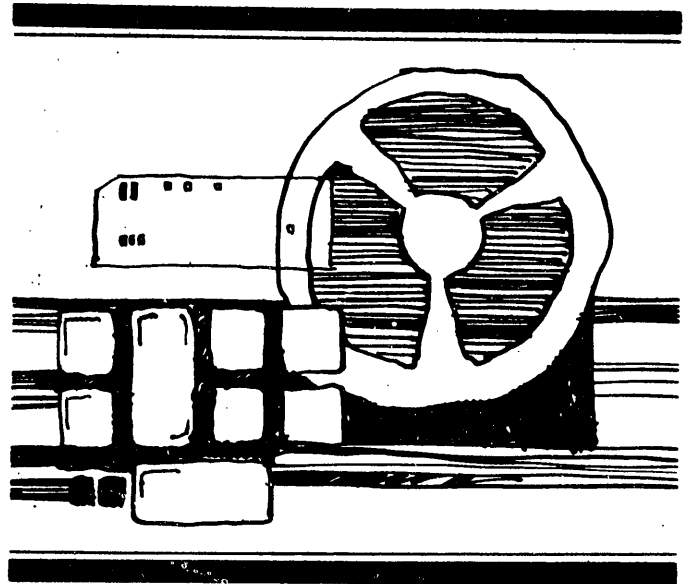
(7) Provision that the transfer agreement and any other contracts executed with the board pursuant thereto shall be subject to suspension or cancellation by the board upon findings by the commission that the water client or storage client has failed to comply with the terms of the applicable permit. *This provision shall not be applicable in a sale of the board's interest in a facility.*

Issued in Austin, Texas, on February 22, 1978.

Doc. No. 781390 Bruce Bigelow
 General Counsel
 Texas Department of Water Resources

Proposed Date of Adoption: March 31, 1978

For further information, please call (512) 475-7836.



ADOPTED RULES

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

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

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

Texas Department of Agriculture

Agricultural and Environmental Sciences

Herbicide Regulations 176.26.00

Under the authority of Article 135b-4, Texas Civil Statutes, the Texas Department of Agriculture has amended Rules 176.26.00.001 and 176.26.00.002(s) to read as follows:

.001. *Counties Regulated.* Aransas, Austin, Bell, Bexar, Brazoria, Brazos, Burleson, Calhoun, Cochran, Collin, Collingsworth, Colorado, Cooke, Culberson, Dallas, Dawson, Delta, Denton, Dickens, Donley, El Paso, Falls, Fannin, Fort Bend, Franklin, Gaines, Galveston, Grayson, Hall, Hardin, Harris, Hidalgo, Houston, Hudspeth, Hunt, Jackson, Jefferson, Karnes, Kaufman, King, Knox, Lamar, Lamb, Liberty, Loving, Lynn, McLennan, Martin, Matagorda, Midland, Milam, Newton, Orange, Palo Pinto, Parmer, Rains, Red River, Reeves, Refugio, Robertson, Rockwall, Runnels, San Patricio, Titus, Travis, Tyler, Van Zandt, Waller, Ward, Washington, Wharton, Williamson, Wilson, and Wood.

.002. *County Special Provisions.*

(s) Runnels. That portion of Runnels County beginning at junction of State Highway 384 with Oak Creek southerly along Oak Creek to its junction with the Colorado River. Down the Colorado River to its junction with F.M. 3115, thence northerly along F.M. 3115 to its junction with State Highway 158, thence easterly southeasterly to State Highway 158 to its junction with Valley Creek; thence northerly along Valley Creek some six and one-half miles to its junction with a county road; thence easterly along said county road one and three-fourths miles to its junction with F.M. 2111; thence north along F.M. 2111 three miles to intersection of a county road; thence easterly along said county road one and one-fourth miles to a 90-degree left turn; thence northerly one mile to its intersection with F.M. 384; thence easterly along F.M. 1677; thence northerly along F.M. 1677 to Pumpfrey community to continue northerly along a county

road two and one-fourth miles to its intersection with F.M. 2595; thence westerly and southwesterly along F.M. 2595 to its intersection with F.M. 53; thence south along F.M. 53 approximately one-half mile to intersection of a county road at north edge of Wingate; thence southwesterly along the county road three miles; thence southerly one mile; thence southwesterly one mile; thence southerly two and one-half miles; thence southwesterly one and one-half miles; thence southerly one and one-fourth miles to the intersection with F.M. 384; thence southwesterly along F.M. 384 two miles to Oak Creek the point of beginning, is regulated by the Texas Herbicide Law. Persons within the regulated area who use regulated herbicides between May 10 and September 1 must obtain a spraying permit from the Texas Department of Agriculture prior to such use.

Issued in Austin, Texas, on February 21, 1978.

Doc. No. 781352 Reagan V. Brown
Commissioner
Texas Department of Agriculture

Effective Date: March 14, 1978

For further information, please call (512) 475-6133.

AGRICULTURE



Comptroller of Public Accounts

Tax Administration

Motor Vehicle Sales and Use Tax—State Taxes 026.02.06.034

Under the authority of Texas Taxation—General Annotated, Article 6.01, the comptroller of public accounts has adopted Rule 026.02.06.034 to read as follows:

.034. *Exemption for Churches or Religious Societies.* (Article 6.09(3).)

(a) There are exempted from motor vehicle sales and use taxes the receipts from the sale or rental and the use of a motor vehicle that is designed to carry more than six passengers, is sold to or used by a church or religious society, and is used primarily for the purpose of providing transportation to

and from church or religious services or meetings. This exemption does not apply to a vehicle registered as a passenger vehicle and the primary use of which is for the personal or official needs or duties of a minister.

(b) A "church or religious society" is a regularly organized group of people associating for the sole purpose of holding, conducting, and sponsoring, according to the rites of the sect, religious worship. An organization supporting and encouraging religion as an incidental purpose or an organization with the general purpose of furthering religious work or instilling its membership with a religious understanding is not sufficient to qualify such an entity as a church or religious society.

(c) A motor vehicle "designed to carry more than six passengers" means a vehicle with at least three seats as wide as the interior of the vehicle, including such vehicles as station wagons, vans, and buses.

(d) The "primary use" means a use of a motor vehicle for at least 80 percent of the vehicle's operating time.

Doc. No. 781332

026.02.06.035

Under the authority of Texas Taxation—General Annotated, Article 6.02 (1969), the comptroller of public accounts has adopted Rule 026.02.06.035 to read as follows:

.035. *Payment Instruments.* (Article 6.01(1)-(5), Texas Taxation—General Annotated.)

(a) The comptroller of public accounts authorizes money orders, cash, cashier's checks, and certified checks as valid methods of payment of motor vehicle sales and use taxes to a county assessor and collector of taxes. If an assessor and collector of taxes accepts personal checks as payment instruments, he is relieved of liability only if he requires at least the following identification:

(1) personal data including name, home address, home telephone number, name and location of employer, and telephone number of employer,

(2) driver's license number of the person signing the check, and

(3) license plate number of motor vehicle(s) owned by person signing the check.

(b) If a county assessor and collector of taxes accepts a personal check in payment of motor vehicle sales and use taxes, and the personal check is not honored, the county assessor and collector of taxes may request the assistance of the comptroller in collecting the monies due if he certifies on a form promulgated by the comptroller:

(1) the identification information required by this rule,

(2) two dates upon which the county assessor and collector of taxes sent the check to the appropriate bank,

(3) the date upon which the sheriff attempted to seize the license plates if the fees for the plates were included in the check, and

(4) the date(s) the assessor and collector of taxes took other collection action, such as filing a complaint with the county attorney or hiring a collection agency.

Issued in Austin, Texas, on February 17, 1978.

Doc. No. 781333

Bob Bullock
Comptroller of Public Accounts

Effective Date: March 10, 1978

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

Credit Union Department

Credit Union Regulations

Loans 058.01.07

In compliance with House Bill 1673, 63rd Legislature, and Senate Bill 940, 64th Legislature, the following rule is adopted to authorize the commission to have the power to make exceptions to the improved nonresidential property loan restriction.

This amendment is adopted under the authority of the Texas Credit Union Act, Article 2461, Chapters 1, *et seq.*, Texas Civil Statutes.

.003. *Real Estate Loans.* Credit unions with assets of \$500,000 or more may make real estate loans to members secured by a mortgage, deed of trust, or other instruments creating or constituting a first and prior lien on real estate. Additional security may also be taken by the credit union in connection with any such loan if deemed necessary and proper.

(a) Requirement in regard to real estate loan transaction. No credit union shall:

(6) Maximum real estate terms. Credit union real estate loans are subject to the following additional terms and conditions:

(B) On all real estate loans secured by improved nonresidential property, the maximum loan is 80 percent of the sales price or appraised value, whichever is less, and shall be repaid, both interest and principal, within a period not exceeding 15 years from the date the loan is made unless otherwise approved by the commissioner.

Issued in Austin, Texas, on February 21, 1978.

Doc. No. 781380

John P. Parsons
Commissioner
Credit Union Department

Effective Date: March 15, 1978

For further information, please call (512) 475-2295.

Texas Education Agency

Comprehensive Instruction

State Board for Vocational Education

226.32.31

The Texas Education Agency has amended Rule 226.32.31.020 concerning the Advisory Council for Techni-

cal-Vocational Education in Texas. Senate Bill 283, 65th Legislature, increased the membership of the Advisory Council from 21 to 24 members and changed the specifications for membership. The amendment to Rule 226.32.31.020 reflects the new legislation.

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

This rule is promulgated under the authority of Sections 31.12, 31.13, and 31.33, Texas Education Code.

.020. *Relationship with the Advisory Council for Technical-Vocational Education.*

(a) Policy. A 24-member representative Advisory Council for Technical-Vocational Education in Texas is appointed by the State Board of Education after recommendation by the governor and subject to confirmation by the senate. This council shall make independent studies of manpower needs and job opportunities within the state, provide information and planning, and be responsible for data needed for evaluating, planning, and making recommendations regarding the coordination and implementation of technical-vocational education at all levels to the board, which will accept or reject the recommendations made by the council.

(b) Administrative procedure.

(1) Membership of council. The State Board of Education appoints members of the Advisory Council for Vocational-Technical Education, in the numbers hereinafter indicated, from a list of persons recommended by the governor and representing the following membership:

(A) one member familiar with vocational needs and the problems of management in the state;

(B) one member familiar with vocational needs and the problems of labor in the state;

(C) one member representing state industrial and economic development agencies;

(D) one member representing community or junior colleges;

(E) one member actively engaged in technical training institutes;

(F) one member representing and familiar with public programs of vocational education in comprehensive secondary schools;

(G) one member having special knowledge, experience, or qualifications with respect to vocational education, but who is not involved in the administration of state or local vocational education programs;

(H) one member who is currently serving as superintendent or other administrator of a local educational agency;

(I) one member who is currently serving on a local school board;

(J) one member who is familiar with the programs of teachers' training for technical-vocational teachers in the post secondary institutions;

(K) one member who is familiar with post secondary baccalaureate technological degree programs;

(L) one member representing the State Manpower Services Council established pursuant to Section 107 of the Comprehensive Employment and Training Act of 1973;

(M) one member representing school systems with large concentrations of persons who have special academic, social, economic, and cultural needs and of persons who have limited English-speaking ability;

(N) one member having special knowledge, experience, or qualifications with respect to the special educational needs of physically or mentally handicapped persons;

(O) one member representative of and knowledgeable about the poor and disadvantaged;

(P) one member representing and familiar with the vocational needs and problems of agriculture in the state;

(Q) one member representing the general public;

(R) one member representing proprietary vocational-technical schools of the state;

(S) one member who is a present or recent vocational education student who is not otherwise qualified for membership;

(T) one member representing and familiar with vocational guidance and counseling services;

(U) one member representing and familiar with nonprofit private schools;

(V) one member representing state correctional institutions;

(W) one member who is a vocational education teacher presently teaching in a local educational agency; and

(X) one member who is a woman with a background and experience in employment and training programs, and who is knowledgeable with respect to the special experiences and problems of sex discrimination in job training and employment, of sex stereotyping in vocational education, and of discrimination in job training and employment against women who are members of minority groups.

The membership shall elect annually their chairperson and such other officers as may be deemed necessary.

(2) Provision of facilities and services. The Texas Education Agency provides offices and other supporting services in Austin, Texas, for the staff of the Advisory Council for Vocational-Technical Education.

(3) Working relationship. The Texas Education Agency gives due consideration to all recommendations made by the council regarding the planning, development, and evaluation of technical, vocational, and manpower training in public schools and colleges to meet the needs of industrial and economic development in the state. Any recommendations rejected by the State Board of Education are returned immediately to the council. The council concurs in any amendment made to the State Plan for Vocational Education before it is placed before the State Board of Education.

Issued in Austin, Texas, on February 16, 1978.

Doc. No. 781293

M. L. Brockett
Commissioner of Education

Effective Date: March 9, 1978

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

Vocational Administrator, Vocational Supervisor and Vocational Counselor Units 226.32.34

The Texas Education Agency amends Rules 226.32.34.010 and .020, concerning vocational administrator, vocational supervisor, and vocational counselor units.

Senate Bill 1, 65th Legislature, Special Session, amended the Texas Education Code by adding provision for the allocation

of "vocational administrator units," stipulating that these units shall be approved on a 12-month contract basis. The amendment to Rules 226.32.34.010 and .020 defines "vocational administrator units" and sets out provisions for the allocation of these units.

Public review and discussion of the proposed change were held. Rule .010 is adopted with no change from the text proposed. Rule .020 has been changed from the proposed text. It was proposed that districts with a certain size vocational program could request either a vocational administrator (12 months) or a vocational supervisor unit (less than 12 months). The rule as adopted makes the initial unit for which a district qualifies a 12-month vocational administrator unit in all cases.

These rules will be effective beginning with the 1978-79 school year.

These rules are adopted under the authority of the Texas Education Code, Sections 11.24, 16.005, and 16.103.

.010. Authorization.

(a) Policy. Vocational administrator, vocational supervisor units, and vocational counselor units may be authorized as provided in the Foundation School Program and as defined by the commissioner of education.

(b) Administrative procedure.

(1) Vocational administrator units. "Vocational administrator unit" is defined as the equivalent of one full-time vocational administrator receiving an annual salary paid under the Foundation School Program, local funds, or through contract with the Texas Education Agency. Vocational administrators are allocated for the purpose of furnishing, as assigned, administration and leadership to the vocational education programs, services, and activities conducted by the school district.

(2) Vocational supervisor units. "Vocational supervisor unit" is defined as the equivalent of one full-time vocational supervisor receiving an annual salary paid under the Foundation School Program, local funds, or through contract with the Texas Education Agency. Vocational supervisory units are allocated for the purpose of providing administrative and supervisory services to the various vocational education programs, services, and activities conducted by the school district.

(3) Vocational counselor units. "Vocational counselor unit" is defined as the equivalent of one full-time vocational counselor receiving an annual salary paid under the Foundation School Program, local funds, or through contract with the Texas Education Agency. Vocational counselor units are allocated to perform one or more of the following functions according to assignment: assist persons in making informed and meaningful occupational-career choices; identify individuals who are suited to and who would benefit from vocational instruction; assist them in selecting a program of vocational instruction; aiding on job placement; and coordinating follow-up studies.

.020. Allocation.

(a) Policy.

(1) School districts. Vocational administrator, vocational supervisor units, and vocational counselor units are allocated in accordance with need to school districts having four-year accredited high schools. The number of units to be allocated shall be determined by application of formulas

adopted by the State Board of Education and subject to approval of the commissioner of education.

(2) Texas Department of Corrections. Vocational administrator, vocational supervisor units, and vocational counselor units shall be allocated in accordance with the allocation of professional units to the Department of Corrections, as provided in Allocation of Professional Units to the Department of Corrections (Rule 226.41.03.072).

(b) Administrative procedure. Applications by school districts for vocational administrator, vocational supervisor, and vocational counselor units are made to the Department of Occupational Education and Technology. Review and approval of applications by the Department of Occupational Education and Technology are based upon the requirements shown below. Vocational administrative units shall be approved on a 12-month contract basis, and vocational supervisor and vocational counselor units shall be approved up to an 11-month contract basis based on program needs.

(1) Vocational administrator unit. A school district is eligible to request either one vocational administrator unit or one vocational supervisor unit when it has a minimum of 10 full-time teaching units for in-school youth (or the equivalent of 10 full-time teaching units) in four or more vocational program areas.

(2) Vocational supervisor units. After the initial vocational administrator or supervisor unit, additional vocational supervisor units are allocated to a school district based upon the local plan for utilizing these special units. They are allocated and reallocated on the basis of specific instructional need and according to the following table:

Proposed Additional Positions	Required Vocational Teaching Units
1 supervisor	25-54
2 supervisors	55-84
3 supervisors	85-114
4 supervisors	115-144
5 supervisors	145-174
6 supervisors	175-204
7 supervisors	205 units and up

Vocational supervisor units will be placed on Pay Grade 10c for the total number of months authorized.

(3) Vocational counselor units. A school district is eligible to apply for the allocation of a vocational counselor unit on the basis of one counselor for the first 300 vocational students enrolled and one additional counselor for every additional 500 vocational students enrolled in approved vocational courses. Consideration will be given to requests for the allocation of one-half counselor units for 150 vocational students enrolled. Vocational counselor units will be placed on Pay Grade 10 for the total number of months authorized.

Issued in Austin, Texas, on February 21, 1978.

Doc. No. 781359

M. L. Brockette
Commissioner of Education

Effective Date: 1978-79 School Year

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

Instructional Development

Career Education 226.36.24

The Texas Education Agency adopts Rules 226.36.24.010 and .020, concerning career education. The rules provide for the development of a statewide plan for implementing career education and the establishment of a career education advisory committee.

Public review and comment on the proposed rules were held. Rule .010 is adopted with no change from the text proposed. In Rule .020, the membership of the committee has been changed to increase the representation from business and industry. The total number of committee members remains the same.

These rules are adopted under the authority of Sections 11.26, 11.52(c), and 11.63, Texas Education Code.

.010. *A Design for Implementing Career Education.*

Career education shall be implemented in Texas public schools based upon the goals outlined in the Texas State Plan for Career Education (adopted June, 1975). A statewide plan for implementing career education shall provide public schools with guidelines for helping students develop personal knowledge, skills, competence, attitudes, and awareness of a broad range of opportunities in relation to careers. This implementation plan shall include (1) program and student goals and objectives; (2) strategies, activities, and resources useful in implementing the goals and objectives; (3) plans for evaluating and disseminating program and resource information; (4) a structure for adequate financing; and (5) guidelines for coordinating career education objectives with postsecondary and adult education programs, as well as other state level agencies and programs. The statewide plan for implementing career education shall comply with the State Board of Education goals for public school education in Texas and will be developed with the guidance of the State Career Education Advisory Commission.

.020. *Career Education Advisory Committee.*

(a) Purpose. A Career Education Advisory Committee will assist the Texas Education Agency in developing a statewide plan for implementing career education. The committee shall advise the commissioner of education on (1) career education program and student goals and objectives; (2) implementation strategies, activities, and resources involving needs assessment, staff development, curriculum infusion, and guidance services; (3) evaluation; (4) dissemination; (5) coordination with other agencies and programs; and (6) other matters pertaining to career education. The Advisory Committee will consult on the overall direction of career education and its implementation in the public schools.

(b) Membership.

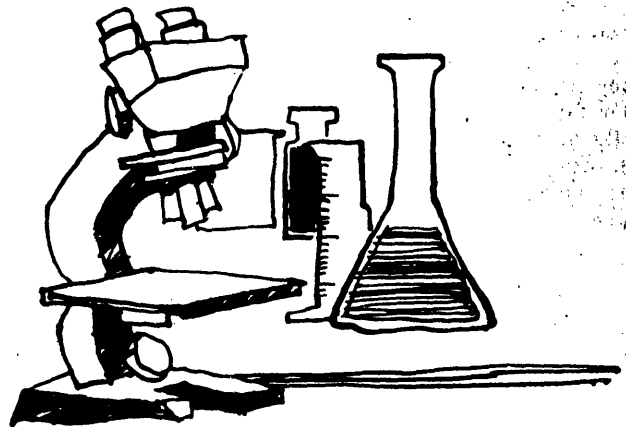
- (1) business/industry representative—trade, wholesale, and retail
- (2) business/industry representative—manufacturing/mining and construction
- (3) business/industry representative—service, business, and personal
- (4) business/industry representative—agriculture and forestry

- (5) business/industry representative—transportation, utilities
- (6) business/industry representative—finance, real estate
- (7) business/industry representative at large
- (8) labor representative
- (9) parent
- (10) student
- (11) public junior college administrator
- (12) public school counselor
- (13) public school administrator
- (14) senior high teacher
- (15) elementary/junior high teacher

(c) Appointments and terms of office. Members of the committee shall be appointed by the State Board of Education upon recommendation of the commissioner of education. Members other than students serve terms of three years, subject to one consecutive reappointment. Students serve one-year terms. In the event that a member ceases to represent the category for which appointed, such a member shall automatically vacate membership on the committee.

(d) Meetings. The Career Education Advisory Committee shall elect a chairman annually who will conduct all meetings. The commissioner will convene the committee at least once annually and as many other times as necessary to carry out the responsibilities of the committee.

Doc. No. 781358



Planning and Evaluation

Principles, Standards, and Procedures for the Accreditation of School Districts—1977, 226.37.15

The Texas Education Agency has amended Rules 226.37.15.140 and .230, concerning accreditation of school districts. The change in Rule .140 gives authority to the commissioner of education to modify a district's accreditation status under certain specified conditions on a temporary basis until full procedures for modifying a district's status

can be applied. The change in Rule .230 adds "immunization of students" to the list of areas which must be addressed by written policies in local school districts. Only paragraph (d) of the rule is changed. The rest of the rule remains unchanged.

Public review and discussion of the proposed rules were held. The rules are adopted with no changes from the text proposed.

These rule are promulgated under the authority of the Texas Education Code, Sections 11.26(a)(5) and 16.053.

.140. Establishment and Modification of a District's Accreditation Status.

(a) Each district will be classified for purposes of accreditation in one of five categories:

(1) Accredited. In substantial compliance with these Procedures and with Principles and Standards.

(2) Accredited, advised status. Accredited upon condition of correction of minor variations from Accreditation Principles, Standards, and Procedures for which there is not evidence that such variations are being satisfactorily resolved through implementation of the district's Five-Year Priorities Plan. A district may not remain on advised status for more than one year.

(3) Accredited, warned status. Accredited with provision for correction of substantive discrepancies from Accreditation Principles, Standards, and Procedures for which there is not evidence that such discrepancies are being satisfactorily resolved through implementation of the district's Five-Year Priorities Plan. A district may not remain on warned status for more than two years.

(4) Unaccredited status. Because of failure to remove variations or discrepancies cited in (2) or (3) above, and/or failure to discharge satisfactorily its obligations during the accreditation cycle, accreditation is removed. When such action is taken by the State Board of Education, the board shall specify the time at which removal of accreditation becomes effective.

(5) Accredited, probationary status. An unaccredited school district can establish or re-establish accredited status only by meeting stipulations made to the district by the agency under Rule .130 (i) above. Districts re-enter accreditation on probationary status for a period of two years. A district on probationary status is accredited on condition of correction, during a period of not more than two years, substantive discrepancies from accreditation Principles, Standards, and Procedures, accompanied by periodic demonstration to the agency that removal of such discrepancies is proceeding as scheduled.

(b) A district's accreditation status is established or reaffirmed through the following:

(1) Completion by the district of the actions required to apply for accredited status as outlined in (c) below and in Rule .160.

(2) Review by the Division of School Accreditation, and recommendation by the division that the district be granted accredited status.

(3) Review by the State Commission on School Accreditation, and recommendation that the district be granted accredited status.

(4) Review by the commissioner of education, and recommendation that the district be granted accredited status.

(5) Establishment or reaffirmation of the district's accredited status by action of the State Board of Education.

(c) In order to maintain accredited status, once established, the district must (1) remain in substantial compliance with Accreditation Principles, Standards, and Procedures, and (2) actively and continuously implement its Five-Year Priorities Plan. Notification of intent by the Division of School Accreditation to recommend modification of a district's status is given at least 60 days prior to the effective date of the proposed modification in status. If the district is not in agreement with the judgment or recommendation of the Division of School Accreditation, the district may, within 30 days, request in writing an opportunity for review of the recommendation for proposed action. Such review process normally follows the steps outlined below:

(1) District officials confer with the director of the Division of School Accreditation. If agreement is reached, no further review is taken.

(2) If agreement is not reached in (1), the district may request a review by the State Commission on School Accreditation. If resolved at this level, no further review is taken.

(3) If not resolved in steps (1) and/or (2), the district may request review by the commissioner of education. If agreement is reached, no further review is taken.

(4) If not resolved in step (3), the district may request a hearing by the State Board of Education. If resolved at this level, no further review is taken.

(5) If not satisfied with the action of the State Board of Education, the district has the right to request a rehearing before the board.

(d) The provisions of Sections (a), (b), and (c) do not necessarily apply when a district is found to be in violation of Civil Action 5281.

(e) The commissioner of education is authorized to modify a school district's accreditation status on a temporary basis until procedures for modifying a district's status can be applied. The commissioner may take such action when, in the commissioner's judgment, one or more of the following conditions exist:

(1) an unaccredited district is in compliance with accreditation standards and would be penalized financially by remaining unaccredited; or

(2) an accredited school district

(A) is found to be in violation of Civil Action 5281;

or
(B) has permitted conditions to exist which constitute an evident danger to the health, safety, or basic welfare of students or school personnel; or

(3) in an accredited school district, emergency conditions exist which constitute serious violations of accreditation standards. Such action taken by the commissioner shall be reported to the State Board of Education at its earliest subsequent meeting.

.230. Principle 3.

(d) The district is guided by explicit policies. These are written and are readily accessible to organization members, students, and citizens. Policies are continuously updated. They are heeded and applied by the board, the superintendent, and other responsible school personnel. Indicators:

(1) Policies adopted by the board and its administrative officers are in writing, made known, and made accessible in compliance with legal requirements for due process.

(2) Coverage by policies is comprehensive. Especially crucial are policies covering:

(A) employees—responsibilities, rights under employment status, performance evaluation, retention/dismissal, contracts and assignments, job descriptions, and procedural safeguards as required by law;

(B) students—responsibilities, rights, and conditions leading to suspension or other disciplinary sanctions, and procedural safeguards as required by law;

(C) student transfers into and out of the district;

(D) maintenance of fiscal responsibility;

(E) matters on which Texas statutory law and regulations direct the district to adopt policies;

(F) accident and fire prevention, and health and safety provisions, including requirements for annual written verification that applicable standards are met; and

(G) immunization of student.

Issued in Austin, Texas, on February 21, 1978.

Doc. No. 781360 M. L. Brockett
Commissioner of Education.

Effective Date: March 14, 1978

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

Texas Department of Human Resources

AFDC

Deprivation of Parental Support

326.10.28.005, .007-.014

The Texas Department of Human Resources adopts the following amendments to its rules regarding collection of child support in the Aid to Families with Dependent Children (AFDC) Program as proposed in the November 8, 1977, issue of the *Texas Register*.

These amendments are related to that condition of eligibility for AFDC in which applicants and recipients must assign to the state any rights to support from another person. These amendments contain policy about child support assignments, cooperation of the client, report to the child support unit, and interim procedures for handling child support payments received by the family.

Comments were received from several individuals concerning child support procedures used by DHR staff. While most comments were supportive, changes were made in the content of the following rules due to several suggestions. In addition, emphasis will be given to other, pre-existing policy to assure full use of all suggestions received which enhance department services.

While it was suggested that DHR was asking too much of its clients in the number of its forms and questionnaires, the department is striving to require essential information with a minimum of such material. Emphasis is being placed on helping clients to comply with requests for information, and the staff is cautioned against arbitrary denials because of failure to provide information.

A legal phrase was deleted due to one comment and further study will occur to determine whether other terminology exists in DHR forms and instructions which would further impede applicants. Another comment was incorporated which called for closer communication between separate groups of DHR staff which would end premature reduction in services.

One comment received pointed to an inconsistency in policy within these rules in regard to caretaker liability for recoupment. This inconsistency was removed. Additional comments resulted in further clarification in the following amendments.

These amendments have been approved by the Texas Board of Human Resources and are adopted under the authority of Texas Civil Statutes, Article 695c.

.005. Child Support Assignments.

(a) As a condition of eligibility for AFDC, the law requires the following:

(1) Each applicant, reapplicant, or recipient must assign to the state any rights to support from any other person. A separate assignment must be initiated for each of the following:

(A) each parent in an incapacity case when both are living at home;

(B) deceased parents;

(C) all other absent parents involved in the case.

(2) Each applicant, reapplicant, or recipient must cooperate with the state in establishing the paternity of a child born out of wedlock.

(3) Each applicant, reapplicant, or recipient must cooperate with the state in locating an absent parent and in obtaining support payments for the child for whom assistance is requested.

(4) If the relative with whom a child is living fails to comply with any of the above provisions, he or she is ineligible to have his or her needs included in the budget and any AFDC payments made to the eligible child will be provided in the form of protective payments.

(b) The AFDC worker will discuss these requirements with the client while completing the eligibility determination or redetermination. If the client agrees to make the assignment of support rights to the department, an Assignment of Support Rights form is completed and the oath is administered to the client according to form instructions. It should be made clear to the client that this is a legally binding oath and that the absent parent will be contacted by specialized staff who will attempt to obtain child support for the children who are being certified.

(c) Assignments of support rights to the state are required in all cases whether or not there are any support payments being made at that time. An assignment is also required whenever an additional child is certified, even though the recipient has already assigned support rights for other children from that parent. In cases where deprivation is based on incapacity, death, or incarceration, there are occasional possibilities for legally collecting support. Normally, the mother who is living with the AFDC family will be the person to make the assignment.

(d) The assignment of support rights terminates upon the denial of a case; therefore, a new assignment must be made on all reapplications.

(e) If the applicant/recipient refuses to make the child support assignment or to cooperate, he or she will not be eligi-

ble for certification or for Title XIX coverage. A protective payee will be appointed and only the eligible children will be certified. However, the case will be referred to the appropriate child support unit with or without the client's consent or assignment. The worker should advise the client that this action will be taken. All child support received by the family will be included as income in the budget and deducted from recognizable needs in determining eligibility and the amount of assistance grant for the children. No amount of the child support received may be diverted to meet the needs of the caretaker who refuses to make the child support assignments.

(f) Caretakers removed from an active case for any of the above reasons have the right to appeal. In this situation the timely notice requirement is applicable. Assistance will be continued pending a hearing decision if it is appealed within the timely notice period. If the decision is sustained, the caretaker's needs will be removed but the overpayment will not be recouped. No protective payee will be appointed until after the appeal hearing.

(g) The designated relative, whether a parent or not, who is responsible for the care of the child will be the person who must make the assignment. When the relative is serving as payee only and is already excluded from the grant, the only penalty for refusing to make the assignment will be the appointment of a protective payee. When a caretaker's needs are removed because of failure to cooperate or make an assignment, the household then becomes a non-PA food stamp household.

(h) The child support requirements are applicable to children in AFDC foster care. The social services worker is responsible for signing the form to assign child support to the department. The oath is not required when completing the assignment for a foster care case.

.007. Assignments on Applications.

(a) On a person's first contact with the AFDC office, whether in person, by telephone, or letter, an information receptionist will immediately offer an explanation of the services and of the requirements and benefits of assigning child support rights to the state. If the individual is interested in making application for AFDC, forms will be given to the individual. The individual will be told that application is filed on receipt of the completed forms. If and when the signed, completed forms are returned, they will be routed to an eligibility worker and an AFDC application will be filed. Unless the information on the application form obviously renders the applicant ineligible, the eligibility worker will then make an appointment for the face-to-face interview at which eligibility will be further explored. If it is established that eligibility exists, assignments will be secured and the oath administered.

(b) If, at that time, the applicant decides not to make an assignment of support rights, only the children will be certified, if sufficient information can be established to certify their eligibility, and a protective payee obtained.

(c) If the applicant decides not to apply for AFDC, an explanation will be given of the right to apply for the child support unit services as a non-AFDC applicant, and he or she will be given a Parent Profile Questionnaire to complete and take to the child support unit.

.008. Cooperation of the Client.

(a) A grant is not delayed pending the location of an absent parent. As soon as the client has been determined other-

wise eligible and an assignment of support rights to the department has been signed, a grant will be initiated. By completing the Parent Profile Questionnaire and providing the information necessary, the client has demonstrated a sincere effort to cooperate in locating the absent parent and in obtaining support for the children.

(b) If the caretaker maintains that he or she does not know the name or address of the absent parent, this does not constitute noncooperation. The department does not impose penalties for noncooperation unless evidence is available to indicate that the applicant/recipient did know the name or address of the absent parent, or in some other way failed to cooperate. In their case, referral is still made to the child support unit.

(c) If the caretaker makes the assignment of child support to the department but later refuses to cooperate with the child support representative in the location effort, in establishing paternity, or in any of the requirements for which the child support unit is responsible, the child support representative notifies the local AFDC worker of this fact. After the advance notice has been given, the AFDC worker deletes the caretaker's needs from the grant and a protective payee is secured. The decision of noncooperation on the part of the client as determined by the child support officer is final. The worker does not question the appropriateness of the decision and must remove the caretaker's needs from the grant.

(d) A caretaker cannot be charged with noncooperation if after signing the assignment form he or she states that any payments received will not be remitted to the department. However, if the caretaker actually receives child support payments and fails to remit them to the department, the worker will initiate the form deleting the caretaker's needs from the grant and appointing a protective payee. The worker will pursue restitution of any grant overpayments. Recoupment would not be applicable as it would be withheld from the children's grant.

.009. Financial Services Worker's Responsibility.

(a) If there is conflicting or inconsistent information which raises a question as to whether there is a break in the family relationship or whether the parent is away for a temporary purpose only, it may be necessary for the worker to write to the absent parent or send an OTI to determine the reason for the absence and the plans to return to determine whether deprivation actually exists.

.010. Child Support Unit Responsibility.

(a) Upon receipt of the referral form and the Parent Profile Questionnaire, the regional child support unit staff assumes all responsibility for contacting the absent parent, securing copies of court orders, establishing paternity, and initiating locate efforts.

.011. Report to Child Support Unit.

(a) Only assignments on absent parents are referred to the child support unit. Assignments on incapacitated parents remain in the AFDC case record. Deceased parents are referred only if the worker discovers the possibility of collecting support from the deceased parent's estate.

(b) Upon receipt of the referral, the child support unit will assume total responsibility for carrying out the provisions of the law in attempting to locate absent parents, establishing paternity of children born out of wedlock, and in obtaining support.

.012. Interim Procedure for Handling Child Support Payments Received by Family.

(a) The worker must explain to the client that no future child support payments received by the family for the certified children can be legally retained and used by the family after the Assignment of Support Rights has been signed and the grant has become effective or an active case is adjusted. Any check or money order received after that date must be endorsed to the Texas Department of Human Resources and attached to the Payment Due Notice card. Both are mailed or hand carried by the client to the local child support office. The restrictive endorsement must read: "Pay to the Texas Department of Human Resources," followed by the signature which corresponds to the name on the cashier's check or money order. If the client fails to remit these payments to the department, the child support unit will notify the AFDC worker of the amount and the months involved and restitution will be pursued for the amount of grant overpayment. Failure to remit child support payments to the department constitutes noncooperation. If the client denies receiving the payment, the child support unit will contact the absent parent, who must prove that he or she actually made the payment.

.013. Handling of Child Support Payments Collected.

(a) When child support payments have been transferred to the department and are paid directly to the Fiscal Division, the funds are disbursed according to provisions of the federal law. Court orders may require an absent parent to pay both on child support arrearages and current month support obligations. When more than one absent parent is involved in an AFDC case, the child support agency may initiate collections to meet court-ordered monthly support obligations of one or all of the absent parents. Amounts collected on arrearages and in excess of the monthly support obligation will be used to reimburse the state for past assistance provided to the AFDC client.

(b) The total collections received on the current month's obligation of the absent parent(s) are computer matched with the current AFDC grant. A notice of denial is sent to the client at the end of the first month in which the collection equals or exceeds the grant.

(c) The worker must evaluate the case situation. If the grant is expected to remain the same for the next budget period, the worker will either remove the child(ren)'s needs for whom collections are being received, or deny the grant. The form lowering or denying the grant will be held in suspense for the timely notice period. The first day of the hold period is the date the notice is mailed from State Office.

(d) The client will continue to receive the grant and collections will remain undistributed until a form is submitted to State Office denying the grant. If a child(ren) is being removed from the grant, the worker must notify the local child support unit of the action taken before the collections can be distributed. The client will be forwarded the full amount of the monthly support obligations received in the month in which the denial notice was generated. The client will receive the child support payment in the effective month of the denial.

(e) The department will continue to make collections for three months following the denial of the AFDC grant. During this time, the client is forwarded the collections, up to the amount of the monthly support obligation. Collections received in excess of the monthly support obligation may be

used to recover unreimbursed assistance or court-ordered payments on arrearages. After that time, the department will continue to collect the child support payments only upon request of the client. A fee will be charged for this service.

.014. Requirement for Social Security Numbers.

(a) The Social Security Act requires that as a condition of eligibility each applicant for or recipient of assistance shall furnish to the department the social security account number (or numbers if there are more than one) for himself and for each member of the AFDC certified group. The department will use these account numbers in addition to any other means of identification in the administration of the AFDC program.

(b) Therefore, if any member of the group cannot furnish these number(s) either because they have not been issued or are not known, he or she will be required as a condition of eligibility to agree to apply for an account number. The applicant or recipient on an as-reviewed basis may be assisted in the completion of Social Security Form SS-5. He or she will be instructed that it is his or her responsibility to mail or take it to the nearest SSA office immediately. Assistance will not be denied, delayed, or discontinued pending the issuance or verification of these numbers. After the applicant/recipient has complied with this requirement by agreeing to make application, he or she will be requested to report the number to the worker upon receipt from SSA. If at the next periodic review he or she still has not applied for a number for a family member, that person's needs must be deleted pending receipt of a number.

Doc. No. 781294

326.10.28.006

The Department of Human Resources adopts the repeal of Rule 326.10.28.006, regarding payments of child support collected in the Aid to Families with Dependent Children Program as proposed in the November 8, 1977, issue of the *Texas Register*. The time limit for the providing of bonus payments to those eligible has not been extended, ending the need for this rule. No comment was received as a result of this notice in the *Register*.

This repeal has been approved by the Texas Board of Human Resources and is adopted under the authority of Texas Civil Statutes, Article 695c.

Doc. No. 781295

Income 326.10.33

The Department of Human Resources adopts the amendments to its rules concerning income in the Aid to Families with Dependent Children (AFDC) Program. The proposed amendments were published in the December 2, 1977, issue of the *Texas Register*. These amendments are adopted as a result of new federal guidelines which state that certain educational assistance grants or loans should be disregarded as income when determining eligibility for public assistance. Such funds are no longer considered as a duplication of AFDC assistance grants, but as supplements in addition to the grant. Several comments were received in favor of these amendments. Minor clarification changes have been made to the proposed text.

These amendments have been approved by the Texas Board of Human Resources and are adopted under the authority of Article 695c, Texas Revised Civil Statutes.

.024. Loans, Grants, and Scholarships.

(a) Loans and grants, where the principal is not available for current maintenance, are not considered as income. When property is purchased with the proceeds of a loan, policies governing resources apply.

(b) Loans made by FHA, USDA, or under Title III of the EOA are typical of loans with conditions specified by the creditors as to the purchase that may be made, purpose to be fulfilled, or other controls that prevent the recipient from using the funds to meet current living costs.

(c) Educational assistance, such as college loans, grants, and scholarships, are within the intent and purpose of the AFDC program to assist needy children, and the parents or relatives with whom they live, to attain or retain the maximum self-support and personal independence possible. The criteria to be followed in the treatment of funds from various sources for individuals who are pursuing an education or vocational course to fit them for gainful employment are:

(1) Treatment of loans, grants, and scholarships.

Grants and loans to undergraduate students for educational purposes made or insured under any programs administered by the commissioner of education are totally disregarded. There are four programs of student assistance in the form of loans and grants supported by the U.S. Office of Education which must be totally disregarded in the determination of need and the amount of the assistance payment:

(A) Basic Educational Opportunity Grants Program.

(B) Supplemental educational opportunity grant.

(C) National direct student loans.

(D) Guaranteed student loans.

(2) Treatment of scholarships, grants, and awards from federally or nonfederally supported sources. Scholarships, grants, and awards from federally-supported sources are for the specific purpose of providing educational assistance. Monies from state sources, from a civic, fraternal, alumni organization, achievement scholarships and awards, or any combination thereof, are all for the same specific purpose. As such, these monies are totally disregarded in determining eligibility and amount of assistance. They are considered as complementary assistance, in addition to the AFDC grant, because they are provided for a different purpose than the AFDC grant.

(3) College Work Study Program. While earnings from the College Work Study Program are not a grant and therefore not covered under the Higher Education Act, this program for student assistance is supported by the U.S. Office of Education and has the same objectives as student aid grants. Earnings of students of any age (either caretaker or dependent child) under the Work Study Program are totally disregarded in determining eligibility or amount of grant for AFDC.

(4) Treatment of OASDI benefits. Extension of OASDI benefits for 18 to 21 year olds is for the sole reason that they are full-time students. Thus, such benefits are totally disregarded as income or resources in determining eligibility or amount of grant for AFDC.

.025. Treatment of Veterans' Benefits.

(a) In accordance with federal regulations, when determining need and amount of assistance for individuals who

qualify for educational assistance from the Veterans Administration, that part of the payment received from the Veterans Administration for the individual's dependents who are in an AFDC assistance unit must be counted as available nonexempt income.

(b) That part of the payment that is for the "student" receiving educational assistance from VA and that is actually used for items such as tuition, books, fees, equipment, transportation for school purposes, child care services necessary for school attendance, etc., will not be considered as income for AFDC.

(c) To determine if any income should be applied against the AFDC grant, the year's projected costs are divided by 12 and subtracted from the monthly benefit received contingent upon school attendance. Verification is not necessary if these expenses appear reasonable to the worker. This provision applies whether the student is a parent or a dependent child. As the year's projected costs are based on anticipated tuition, books, fees, etc., adjustments may be made at the next review or when the student reports a change.

Doc. No. 781296

Overpayments 326.10.36

The Department of Human Resources adopts the addition of Section (d) to its rule about initiating recoupment in the Aid to Families with Dependent Children (AFDC) Program as proposed in the November 22, 1977, issue of the *Texas Register*. The addition to this rule clarifies that whenever a case denial and a recoupment are processed concurrently, the client will be notified of both actions at the same time, and will also be notified of his or her right to appeal one or both decisions. If the client does not file an appeal within 60 days, the right to appeal both decisions is permanently lost. Comments were received and all were in favor of adopting the addition to this rule. Minor changes were suggested and incorporated to clarify the procedural instructions in the proposed text.

The addition to this rule has been approved by the Texas Board of Human Resources and is adopted under the authority of Article 695c, Texas Civil Statutes.

.011. Criterion for Initiating Recoupment.

(d) When a denial and a recoupment offense are processed concurrently, only one notification letter is completed. The box that shows the recipient is no longer eligible for assistance is checked, and the amount of overpayment is stated in the comment section. The client must be notified on the same notification letter that recoupment of this amount will be automatically initiated upon recertification within a two-year period unless restitution is made in whole during that time. If partial restitution is made, this amount will be adjusted. The client is also notified on the notification letter than an appeal may be filed on the decision to deny the case and/or the decision to recoup. If the client does not appeal within the timely notification period, the case is denied and recoupment authorized. If the client does not file an appeal within 60 days, the right to appeal both decisions is permanently lost.

Doc. No. 781297

Receipt of Client-Completed Forms Procedure 326.10.72

The Texas Department of Human Resources adopts the following amendments to its rule regarding procedures to follow after receipt of client-completed forms as proposed in the November 8, 1977, issue of the *Texas Register*. The amendments incorporate new interpretations of federal regulations and will result in fewer errors and delays in service to clients.

While comments were received regarding amendments to related rules which were published at the same time, none were received regarding these changes to existing rules.

These amendments have been approved by the Texas Board of Human Resources and are adopted under the authority of Texas Civil Statutes, Article 695c.

.001. Procedure after Receipt of Client-Completed Forms.

(a) When an applicant returns the Application Form and the attachments, they are reviewed for completeness. If information omitted is significant or only one of the forms is returned without the other, they will be returned to the client with a letter informing the applicant that the Parent Profile Questionnaire is an important part of the application process and the information on all forms is required in order to file an application for AFDC. If only the Parent Profile Questionnaire is returned, it will be returned to the applicant with instructions to contact the child support unit.

(b) Upon receipt of all completed forms, the worker holds a face-to-face interview in either the office or the home. If a new applicant fails to keep the appointment and does not contact the worker, a letter is sent and the application is denied immediately. If a recipient fails to keep a required appointment or does not contact the worker prior to the appointed date, a Notification Letter is sent and the input document held for 12 days. The case is denied if not appealed. If at any time during the hold period, the recipient contacts the worker and complies with the agency's requests, the hold is removed or the warrant release procedure is followed and arrangements are made for a review of the case.

(c) Should information supplied by the applicant or recipient on the Application Form or Parent Profile Questionnaire obviously render him or her ineligible, no personal contact by the worker is required, and the case is denied. Applicants are notified of a denial. Recipients are notified of a denial by a Notification Letter.

(d) A current applicant's statement form must be used in establishing initial or continuing eligibility for AFDC benefits. Any eligibility information which is older than 45 days is not considered current. In a few instances, delay may occur in processing an application or complete review pending receipt of special medical examination results, medical information, etc. The worker is to note this in the case record.

(e) At the time of the face-to-face interview when all factors of eligibility appear to be met, the worker will administer the oath and take the assignment of support rights according to instructions for that form. The referral to the child support unit will not be made until the first input form is received from State Office. The Parent Profile Questionnaire, Child Support Referral, and Assignment of Support Rights forms, in which deprivation of parental support is

based on absence of a parent, will be forwarded to the child support unit no later than two working days from the receipt of the input form at the local office. In cases in which deprivation is based on death or incapacity of a parent, both the Parent Profile Questionnaire and the Assignment of Support Rights forms are normally filed in the AFDC case record and no referral to the child support unit is made. However, if the worker has reason to believe that there is the potential of recovering support from the deceased parent's estate, the referral will be made.

Issued in Austin, Texas, on February 16, 1978.

Doc. No. 781298

Jerome Chapman
Commissioner
Texas Department of Human Resources

Effective Date: March 9, 1978

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

Food Stamps

Self-Employment 326.15.45

The Department of Human Resources adopts the amendments to its rules concerning self-employment income in the Food Stamp Program as proposed in the November 1, 1977, issue of the *Texas Register* (2 TexReg 4158-4159). These amendments simplify the procedures for household members to report self-employment income. In the Food Stamp Program, households are considered as self-employed if one or more members are engaged in an enterprise for gain as an independent contractor, franchise holder, or owner-operator. No comments were received on the amendments. However, minor editorial changes have been made to the proposed text.

These amendments are adopted under the authority of Texas Civil Statutes, Article 695c.

.001. Self-Employment Income.

(a) Households in which one or more members are engaged in an enterprise for gain either as an independent contractor, franchise holder, or owner-operator shall be considered as self-employed, provided that the member(s) are actively engaged in the enterprise on a day-to-day basis. In instances where the member(s) hire(s) or contract(s) for another person or firm to handle the day-to-day activities of such enterprise, the member(s) will have self-employment income but will not be considered as self-employed for purposes of work registration.

(b) The receipt of income from self-employment, which may constitute all or only a portion of the income of such household, does not automatically exempt the member(s) from the work registration requirement. This determination will be made based on the assessment of the certifying worker that the self-employment enterprise required 30 hours of work per week or averaged annually 30 hours per week.

(c) Households whose members' primary source of income is from self-employment may be certified for periods of up to one year; however, consideration should be given to certifying households for shorter periods of time, if circumstances so warrant.

(d) Households whose members' income is derived either wholly or in part from self-employment will be treated in accordance with the procedures listed for the category

which best describes the self-employment circumstances. In determining the exact method to be used, the time period over which such income is received will be a controlling factor.

.008. Deductions from Gross Income of Self-Employment.

(a) Determine net income from self-employment by deducting from gross income any identifiable costs of doing business. In no case may a loss from self-employment be deducted from other income. In determining the amount to be deducted from gross income as the cost of producing income, the following may not be deducted:

(1) Do not deduct payments on the principal of real estate mortgages on income-producing property. However, the interest on such mortgages may be deducted as well as taxes on the property. In instances when the self-employment enterprise is conducted from the home, no portion of the costs of the home is deductible as a business cost if the costs are undivided and cannot be separated for the purpose of determining business costs alone. Undivided costs are considered wholly as shelter costs.

(2) Do not deduct monies paid to purchase capital assets, equipment, machinery, and other durable goods. If such goods are purchased on an installment plan, interest paid on such installment payments may be deducted.

(3) Do not deduct any amount claimed as depreciation for federal income tax or other purposes.

(4) Do not deduct any amount claimed as the net loss sustained in any prior period.

(b) The applicant's statement of self-employment income is used for obtaining the required information from the household. Since most people will be using a very simple cash-flow bookkeeping system, the form is designed to follow this accounting system. However, copies of income tax forms or other accounting statements, which should bear the appropriate signature(s) and a certification of the accuracy of the information provided, may be used in place of, or be attached to, the statement form.

Doc. No. 781355

Farm Laborers 326.15.57

The Department of Human Resources adopts the addition of Section (b) to its rule about certification periods for seasonal migrant farm work households in the Food Stamp Program as proposed in the November 8, 1977, issue of the *Texas Register* (2 TexReg 4275-4276). The addition to this rule provides for an increase in certification periods of up to three months for migrant households who have returned to their home counties. The three-month certification reduces the visits the client must make to the certification office and the number of forms to be completed for recertification. Several comments were received in support of this rule, and therefore, the rule is adopted with no changes in the proposed text.

The addition to this rule has been approved by the Texas Board of Human Resources and is adopted under the authority of Texas Civil Statutes, Article 695c.

.005. Certification Periods.

(a) Migrant households are certified for one month based on the anticipated income for that month, except as provided below and in Rule 326.15.57.016. Migrant households may not be certified for longer than one month, unless

they have documentary proof of a contract with a specific grower or crew chief specifying the length of employment and the wages to be paid, or the household is being certified during a nonwork period.

(b) Migrants who have returned to their home counties may, if the stability of their circumstances warrants, be certified for up to three months. In these instances, because the household is in its home area, it may receive the same certification period as any other household whose income is subject to fluctuation. A contract with a specific grower or crew chief is not necessary.

Issued in Austin, Texas, on February 21, 1978.

Doc. No. 781356

Jerome Chapman
Commissioner
Texas Department of Human Resources

Effective Date: March 14, 1978

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



Railroad Commission of Texas Surface Mining and Reclamation Division

Substantive Rules 051.07.03

The Surface Mining and Reclamation Division of the Railroad Commission of Texas has adopted Section (dd) of Rule 051.07.03.251, which requires that the initial performance standards for surface coal and lignite mining operations, promulgated by the U.S. Department of the Interior, be complied with by all Railroad Commission surface mining permittees to mine for coal or lignite within Texas. The proposed rule was published in the *Texas Register* on January 20, 1978 (3 TexReg 244), and comments have been received.

Based on the comments received, the proposed rule has been modified and a sentence added to clarify its intent. As adopted, the rule differs from the proposed rule in the following respects:

(1) The rule requires compliance with only the "lawfully promulgated" standards enumerated by the Secretary of the Department of the Interior; and

(2) a sentence was added to make it clear that the initial performance standards apply only to coal and lignite surface mining operations.

The rule is adopted pursuant to Title IV, Chapter 131 of the Natural Resources Code.

.251. *Standards.* The operator of all surfacing mining and reclamation operations not otherwise exempted or excluded shall as a minimum:

(dd) comply in all respects with the initial performance standards lawfully promulgated by the Secretary of the

Department of the Interior under the authority of Section 501 of the federal Surface Mining Control and Reclamation Act of 1977 and published as Sections 710 and 715-717 in the *Federal Register* (42 FedReg 62639) on December 13, 1977, and as subsequently amended. These initial performance standards apply only to coal and lignite surface mining operations.

Issued in Austin, Texas, on February 21, 1978.

Doc. No. 781389 Mack Wallace
 Chairman
 Railroad Commission of Texas

Effective Date: March 15, 1978

For further information, please call (512) 475-6520.

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 Supreme Court

Barr v. Bernhard

The independent school district is immune from liability under the doctrine of governmental immunity for injuries to the student-plaintiff arising from the collapse of the "Ag Farm" building roof. Article 6252-19, Section 19A, Revised Civil Statutes (Tort Claims Act), states that a school district's liability is limited to causes of action arising from the use of motor vehicles, and any abrogation of this provision should come from the legislature, not the court. Neither cases nor statutes indicate that the district waived immunity by the purchase of general liability insurance.

The individual defendants (professional employees of the independent school district) were sued by the plaintiff student for negligence causing the plaintiff's injuries when the roof of the school facility collapsed.

Held: The trial court judgment granting the defendant's motion for summary judgment is affirmed. Section 21.912(b), Education Code, grants qualified immunity to employees for acts within the scope of employment involving judgment or discretion. The last clause of that subsection, which provides exception from immunity for certain acts, is ambiguous. The court concludes that the legislative intent was to provide in Section 21.912(b) that the employee would be liable only when he uses excessive force or is negligent in disciplining a student, resulting in bodily injury to the student. This case involves no issues concerning discipline. (15 TLWD 7, at 1)

Filed: February 15, 1978, Austin
Doc. No. 3C7

4th Court of Civil Appeals

San Pedro North, Ltd. v. City of San Antonio

A zoning ordinance is not subject to initiative and referendum provisions of a city's charter. (15 TLWD 7, at 4)

Filed: January 25, 1978, San Antonio
Doc. No. 3C8

5th Court of Civil Appeals

Albert v. City of Addison

The plaintiff sued the defendant-city to compel the issuance of a special use permit for the sale of alcoholic beverages for

off-premise consumption or to restrain the defendant from refusing to issue a permit. The plaintiff alleged that the defendant acted arbitrarily and discriminated against him in denying a permit, and accordingly he asserted that refusal was a constitutionally invalid exercise of the defendant's police power. The trial court entered a summary judgment for the defendant.

Held: Affirmed. In a zoning case, a summary judgment may not be reversed simply because the record presents a question of fact. If a fact issue exists regarding the adequacy of the grounds for granting or refusing a permit, the court must presume the city exercised its discretion properly. This is an extraordinary burden, for the refused applicant must conclusively show that no issuable facts or conditions existed that would have supported the city's decision. The burden is not changed if the city files a motion for summary judgment. To defeat the city's motion, the opposing applicant must produce sufficient proof to establish his right to relief as a matter of law. Any lesser showing would merely create a fact issue, which must be resolved to support the city's discretion. (15 TLWD 7, at 5)

Filed: January 18, 1978, Dallas
Doc. No. 3C11

10th Court of Civil Appeals

Carl v. San Antonio Independent School District

The adoption of the teacher tenure contract provisions of Section 13.101, *et seq.*, Education Code, is discretionary with the independent school district. Section 13.101 does not violate the equal protection clause and is constitutional. (15 TLWD 7, at 5)

Filed: January 12, 1978, Waco
Doc. No. 3C9

12th Court of Civil Appeals

Kordus v. City of Garland

The plaintiffs sued to recover money the city donated to the chamber of commerce, for an injunction to prohibit the city from expending \$40,000/year pursuant to an agreement with the chamber, and for an injunction to prohibit the city from making future payments of membership dues to the chamber. The trial court dismissed the cause.

Held: Affirmed in part; reversed and remanded in part. The Texas Constitution clearly prohibits donations and expenditures of this nature, but a taxpayer does not have standing to bring suit to recover public funds already illegally expended by the city, irrespective of the fact that the city may have acted in bad faith in refusing to make an effort to recover the funds. However, the taxpayer has a justiciable interest to give him standing in a suit to enjoin the expenditure of public funds not yet expended under an agreement in violation of the constitution or otherwise illegal. In the latter situation, the plaintiffs did not have to plead an injury peculiar to themselves. (15 TLWD 7, at 6)

Filed: January 19, 1978, Tyler
Doc. No. 3C10

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 Adult Probation Commission

Thursday and Friday, March 2-3, 1978, 7:30 p.m. and 9 a.m. The Texas Adult Probation Commission will meet in the Galleria Plaza Hotel, 5060 West Alabama, Houston, to discuss standards for adult probation departments and officers and payment of state aid.

Additional information may be obtained from Don Stiles, Suite 400, 812 San Antonio, Austin, Texas 78711, telephone (512) 475-1374.

Filed: February 22, 1978, 10:06 a.m.
Doc. No. 781373

Texas Department of Agriculture

Friday, March 3, 1978, 10:30 a.m. The Agricultural Protective Act Division of the Texas Department of Agriculture will meet at 3385 Laurel, Beaumont, to consider the verified statement of claim of Selvidge and Gonzalez, Houston, in account with Sam and Jake Mazzu, doing business as Jake Mazzu Produce, Beaumont.

Additional information may be obtained from Ed Whitesides, P.O. Box 12847, Austin, Texas 78711, telephone (512) 475-4304.

Filed: February 21, 1978, 1:30 p.m.
Doc. No. 781350

Monday, March 13, 1978, 10:30 a.m. The Agricultural Protective Act Division of the Texas Department of Agriculture will meet at the Texas Department of Agriculture, Expressway 83 (two blocks west of Morningside Road), San Juan, to conduct a rehearing concerning Victor Russell, doing business as Russell Produce Company, McAllen, in account with Doug Harrington, Donna.

Additional information may be obtained from Ed Whitesides, P.O. Box 12847, Austin, Texas 78711, telephone (512) 475-4304.

Filed: February 21, 1978, 1:30 p.m.
Doc. No. 781351

State Board of Barber Examiners

Monday, March 6, 1978, 1:30 p.m. The State Board of Barber Examiners will meet in Building H-111, 5555 North Lamar, Austin, to conduct a discussion with members of the Cosmetology Commission concerning Barber Board Rule 378.01.04.001 (separation of barber shops and beauty shops).

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

Filed: February 22, 1978, 10:06 a.m.
Doc. No. 781375

Texas Department of Community Affairs

Thursday, March 9, 1978, 10 a.m. The Advisory Council of the Texas Department of Community Affairs will meet in the Texas Department of Community Affairs Building, 210 Barton Springs Road, Austin. The summarized agenda includes: executive director's report; discussion of current legislative and intergovernmental affairs developments; general business; and discussion of overall program design developments and the progress of the Community Assistance activities.

Additional information may be obtained from Tom A. Laramey, Jr., P.O. Box 13166, Austin, Texas 78711, telephone (512) 475-6093.

Filed: February 17, 1978, 3:25 p.m.
Doc. No. 781317

Comptroller of Public Accounts

Wednesday, March 8, 1978, 9:30 a.m. The Sales Tax Division of the Comptroller of Public Accounts Office will meet in Room 2-120, Joe C. Thompson Conference Center, Austin, to conduct a public hearing on proposed sales tax Rule 026.02.20.016 (Agriculture, Animal Life, Feed, Seed, Plants, and Fertilizer).

Additional information may be obtained from Mark Weiss, Drawer SS, Austin, Texas 78711, telephone (512) 475-1720.

Filed: February 22, 1978, 11:25 a.m.
Doc. No. 781382



Coordinating Board, Texas College and University System

Friday, March 3, 1978, 1 p.m. The Research Group of the Advisory Committee on Higher Education Insurance Program of the Coordinating Board, Texas College and University System, will meet in Room 1-612, Bayou Building, University of Houston at Clear Lake City, 2700 Bay Area Boulevard, Houston. The agenda will include: review of programs offered in private industry; review of institutional programs; discussion and formulation of recommendations on medical and hospitalization insurance coverage; and discussion of the process for completion and forwarding of those recommendations to the Advisory Committee.

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

Filed: February 23, 1978, 11 a.m.
Doc. No. 781405

Saturday, March 25, 1978, 10 a.m. The Family Practice Residency Advisory Committee of the Coordinating Board, Texas College and University System, has rescheduled a meeting to be held in Room 745, Dallas/Fort Worth Airport Marina Hotel. The committee will consider applications being made for funds to establish new family practice residency programs in accordance with House Bill 282.

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

Filed: February 21, 1978, 10:46 a.m.
Doc. No. 781337

Texas State Board of Dental Examiners

Saturday, February 25, 1978, 9 a.m. The Texas State Board of Dental Examiners made an emergency addition to the agenda of a meeting held in the board hearing room, Shamrock-Hilton Hotel, Houston, to include consideration of adoption of or amendments to rules and regulations pertaining to dentists and all persons or businesses under the board's jurisdiction, as summarized in the agenda. The board also conducted regular business.

Additional information may be obtained from Carl C. Hardin, Jr., 718 Southwest Tower, 7th and Brazos, Austin, Texas 78701, telephone (512) 475-2443.

Filed: February 17, 1978, 4:35 p.m.
Doc. No. 781330

Friday and Saturday, March 17-18, 1978, 9 a.m. The Texas State Board of Dental Examiners will meet in the board hearing room, Sheraton-Dallas Hotel, Dallas, to consider the following agenda, as summarized: adoption of or amendments to rules and regulations pertaining to dentists and all persons or businesses under the board's jurisdiction; scheduled disciplinary hearings; and regular business.

Additional information may be obtained from Carl C. Hardin, Jr., 718 Southwest Tower, 7th and Brazos, Austin, Texas 78701, telephone (512) 475-2443.

Filed: February 22, 1978, 10:06 a.m.
Doc. No. 781377

Texas Feed and Fertilizer Control Service

Tuesday, April 4, 1978, 3 p.m. The Texas Feed and Fertilizer Control Service of the Texas Agricultural Experiment Station at Texas A&M University will meet in Room 410, Rudder Tower, Texas A&M University, College Station. The summarized agenda includes review of proposed amendments to the following Feed Rules (under the Texas Commercial Feed Control Act of 1957, Article 3881, Vernon's Civil Statutes): Rule 178.02.03.002, Label Format (Labeling); Rule 178.01.02.004, Expression of Guarantees (Labeling); Rule 178.01.02.005, Ingredients, Statements, Definitions, Sampling, and Analysis (Labeling); Rule 178.01.02.007, Non-Protein Nitrogen (Labeling); and Rule 178.01.04.002, Certificates (Procedures for Paying the Inspection Fee).

Additional information may be obtained from Dr. Flake L. Fisher, P.O. Box 3160, College Station, Texas 77843, telephone (713) 845-1121.

Filed: February 23, 1978, 11:53 a.m.
Doc. No. 781409

Office of the Governor

Tuesday, February 28, 1978, 10 a.m.-3 p.m. The Area Agency Directors of the Governor's Committee on Aging will meet in emergency session at La Quinta, 5812 North Inter-regional Highway, Austin. As summarized in the agenda, this will be a planning meeting for the Governor's Conference on Aging, to be held on June 26-27, 1978.

Additional information may be obtained from Dick Thomas, Executive Office Building, 411 West 13th Street, Austin, Texas 78701, telephone (512) 475-2717.

Filed: February 21, 1978, 10:55 a.m.
Doc. No. 781336

Texas Health Facilities Commission

Wednesday, March 1, 1978, 10 a.m. The Texas Health Facilities Commission has made an addition to the agenda of a meeting to be held in Suite 305, Jefferson Building, 1600 West 38th Street, Austin. The additions are as follows:

Coastal Bend Halfway Houses for Alcoholics, Inc., Corpus Christi—certificate of need

Visiting Nurse Association of Houston, Inc., Houston—three certificates of need

Texas Children's Hospital, Houston—two declaratory rulings

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

Filed: February 21, 1978, 1:31 p.m.
Doc. No. 781346

Thursday, March 9, 1978, 10 a.m. The Texas Health Facilities Commission will meet in Suite 305, Jefferson Building, 1600 West 38th Street, Austin. The agenda will include the following, as summarized:

Cliff Towers Nursing Home, Dallas—certificate of need

Medical Center Hospital, Odessa—certificate of need

Georgetown Hospital, Georgetown—certificate of need

Santa Rosa Medical Center, San Antonio—certificate of need

St. Luke's Episcopal and Texas Children's Hospital, Houston—certificate of need

Yes-Ter-Year, Inc., Saint Jo—certificate of need

University of Texas Medical Branch, Galveston—certificate of need

Harris Hospital, Fort Worth—certificate of need

T. L. Goodnight Memorial Hospital, Inc., Caldwell—certificate of need

Abilene Area Dialysis Center, Abilene—certificate of need

Metroplex Hospital, Killeen—exemption certificate

Tyler County Hospital, Woodville—exemption certificate

Kessler Hospital, Dallas—exemption certificate

Hermann Hospital, Houston—exemption certificate

Schleicher County Medical Center, Eldorado—exemption certificate

Family and Individual Services of Tarrant County, Inc., Fort Worth—certificate of need, enforcement

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

Filed: February 22, 1978, 12:17 p.m.
Doc. No. 781387



State Board of Insurance

Thursday, February 23, 1978, 2 p.m. The State Board of Insurance met in emergency executive session in Room 408, 1110 San Jacinto, Austin, to discuss personnel matters.

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

Filed: February 23, 1978, 9:56 a.m.
Doc. No. 781401

Tuesday, February 28, 1978, 2 p.m. The Commissioner's Hearing Section of the State Board of Insurance will conduct an emergency hearing in Room 343, 1110 San Jacinto, Austin, to consider an application by Clark W. Breeding, Dallas, to acquire control of Dealers Underwriters, Inc., San Antonio.

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

Filed: February 22, 1978, 8:36 a.m.
Doc. No. 781370

Wednesday, March 1, 1978, 9 a.m. The State Board of Insurance will conduct a hearing in Room 408, 1110 San Jacinto, Austin, to consider an appeal of Joiner Enterprises, Inc., et al., Baytown, from action of Workers Compensation Section of the board.

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

Filed: February 21, 1978, 5:03 p.m.
Doc. No. 781363

Wednesday, March 1, 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, Austin, to consider a request from John Hancock Mutual Life Insurance Company, Boston, Massachusetts, for commissioner's approval of groups for group life insurance.

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

Filed: February 21, 1978, 5:03 p.m.
Doc. No. 781362

Monday, March 6, 1978, 9 a.m. The Commissioner's Hearing Section of the State Board of Insurance will conduct a hearing in Room 343, 1110 San Jacinto, Austin, to determine compliance of Camp Burial Association, Dallas, with Commissioner's Supervision Order No. 78-0001, dated January 3, 1978.

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

Filed: February 22, 1978, 8:02 a.m.
Doc. No. 781364

Monday, March 6, 1978, 2 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, Austin, regarding United American Insurance Company, Dallas.

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

Filed: February 22, 1978, 8:02 a.m.
Doc. No. 781365

Tuesday, March 7, 1978, 9 a.m. The Commissioner's Hearing Section of the State Board of Insurance will conduct a hearing in Room 343, 1110 San Jacinto, Austin, to consider the eligibility of the First National Bank of Minneapolis to act as trustee for the Naval Reserve Association Group Insurance Trust under Government Employees Life Insurance Company, Certificate Form No. LGC-808.

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

Filed: February 22, 1978, 8:02 a.m.
Doc. No. 781366

Thursday, March 9, 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, Austin, to consider stock purchase by Knickerbocker Life Insurance Company, Austin.

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

Filed: February 22, 1978, 8:02 a.m.
Doc. No. 781367

Monday, March 13, 1978, 9 a.m. The Commissioner's Hearing Section of the State Board of Insurance will conduct a hearing in Room 343, 1110 San Jacinto, Austin, to determine compliance of David Ted Ferguson, doing business as Ted Ferguson Agency and Ted Ferguson Group Agency, with Commissioner's Supervision Order No. 78-0067, dated January 10, 1978.

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

Filed: February 22, 1978, 8:02 a.m.
Doc. No. 781368

Monday, March 13, 1978, 1:30 p.m. The Commissioner's Hearing Section of the State Board of Insurance has rescheduled a hearing to be held in Room 343, 1110 San Jacinto, Austin, to consider an application of Equity National Life Insurance Company, Atlanta, Georgia, to expand certificate of authority. This hearing was originally scheduled for February 28.

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

Filed: February 22, 1978, 8:02 a.m.
Doc. No. 781369

Texas Advisory Commission on Intergovernmental Relations

Monday, February 27, 1978, 9:30 a.m. The Project Committee on Evaluation of Title I Community Service Program of the Texas Advisory Commission on Intergovernmental Relations met in Room 618, Stephen F. Austin Building, 1700 North Congress, Austin, to review the draft of final report for the Evaluation of Title I Community Service Program, as summarized in the agenda.

Additional information may be obtained from Patricia Corbin, Stephen F. Austin Building, Austin, Texas 78701, telephone (512) 475-3728.

Filed: February 17, 1978, 3:25 p.m.
Doc. No. 781318

Friday, March 10, 1978, 7:30 a.m. The Committee on Joint Funding and Grant Simplification for Human Service Programs of the Texas Advisory Commission on Intergovernmental Relations will meet in the cafeteria meeting room, first floor, Stephen F. Austin Building, 1700 North Congress, Austin, to hear progress reports and discussion on the commission's study on joint funding and grant simplification of human service programs, as summarized in the agenda.

Additional information may be obtained from Lorraine Camp, Stephen F. Austin Building, Austin, Texas 78701, telephone (512) 475-3728.

Filed: February 22, 1978, 11:25 a.m.
Doc. No. 781383

Friday, March 10, 1978, 9 a.m. The Texas Advisory Commission on Intergovernmental Relations will meet in Room 118, Stephen F. Austin Building, 1700 North Congress, Austin, to consider the following items: executive director's report; final report on commission's Title I Evaluation Project; preliminary report on commission's project related to joint funding and grant simplification for human service programs; report on commission's work program development; and budget items.

Additional information may be obtained from Lorraine Camp, Stephen F. Austin Building, Austin, Texas 78701, telephone (512) 475-3728.

Filed: February 22, 1978, 11:25 a.m.
Doc. No. 781384



Texas Commission on Jail Standards

Friday, March 3, 1978, 9 a.m. The Texas Commission on Jail Standards will meet in Room 101, Texas Law Center, 1414 Colorado, Austin. The agenda will include the following items: reading and approval of minutes of November 29, 1977, subcommittee on rewrite of Sections 217.05.06 and .07; reading and approval of minutes of last regular commission meeting, December 19, 1977; report from Life Safety Committee, Commissioner Robert Uhr, Chairman (repeal of old section and proposed new section); report from committee on rewrite of Section 217.05.06 and .07; Commissioner Gayle Carden, Chairman (adoption of new rules); report on Jackson County; selection of commission chairman; director's report; application for variance for counties (by subcommittee report) of Austin, Bastrop, Bosque, Dallas, Gillespie, Gregg, Hutchinson, Kendall, Leon, Ochiltree, Shelby, Sherman, Tarrant, Upshur, Williamson, and Winkler; and variance applications (initial action) from Cherokee, Dallas, Guadalupe, Howard, Jefferson, Milam, Van Zandt, and Wilson.

Additional information may be obtained from Guy Van Cleave, Suite 500, 1414 Colorado, Austin, Texas 78701, telephone (512) 475-2716.

Filed: February 17, 1978, 3:59 p.m.
Doc. No. 781329

Department of Labor and Standards

Tuesday, March 7, 1978, 2 p.m. The Boxing and Wrestling Division of the Department of Labor and Standards will meet in emergency session in Room 316, Sam Houston State Office Building, 14th and San Jacinto Streets, Austin, to conduct a license hearing. The division will determine whether the boxer's license of Miguel Antonio Ayala should be suspended, revoked, or left in good standing.

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

Filed: February 23, 1978, 11:52 a.m.
Doc. No. 781407

Tuesday, March 7, 1978, 3 p.m. The Boxing and Wrestling Division of the Department of Labor and Standards will meet in emergency session in Room 316, Sam Houston State Office Building, 14th and San Jacinto Streets, Austin, to conduct a license hearing. The division will determine whether the boxer's license of Richard G. Gutierrez should be suspended, revoked, or left in good standing.

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

Filed: February 23, 1978, 11:52 a.m.
Doc. No. 781406

Board for Lease of University Lands

Friday, March 3, 1978, 2 p.m. The Board for Lease of University Lands of the University of Texas System will meet in the General Land Office 8th floor conference room, Stephen F. Austin Building, Austin, to consider the following agenda: proposed sale of oil and gas leases on university lands; application for gas pooling agreement, Monsanto; two applications for gas pooling agreement, Exxon; application for unit agreement for development and operation, Getty Oil Company; discussion of policy guidelines for General Land Office staff and The University of Texas System staff for taking gas in kind and redetermining gas prices; and discussion of future market value lawsuits.

Additional information may be obtained from Maxine R. Dean, 210 West 6th Street, Austin, Texas 78701, telephone (512) 471-5781.

Filed: February 22, 1978, 4:18 p.m.
Doc. No. 781394

Board of Examiners of Licensed State Land Surveyors

Friday, March 3, 1978, 9:30 a.m. The Board of Examiners of Licensed State Land Surveyors will meet in the 8th floor Conference Room 831, Stephen F. Austin Building, 1700 North Congress, Austin, to hold oral examinations and consider miscellaneous items, as summarized.

Additional information may be obtained from Herman Forbes, Room 812, Stephen F. Austin Building, Austin, Texas 78701, telephone (512) 475-3145.

Filed: February 17, 1978, 3:25 p.m.
Doc. No. 781319

Midwestern University

Thursday, February 23, 1978, 3:30 p.m. The Finance Committee of the Board of Regents of Midwestern University met in emergency session in Room 108, Hardin Administration Building, Midwestern State University, Wichita Falls. The agenda, as summarized, included the following: medical technology increases; stage production; student medical services; position changes; Fine Arts Festival funding; parking facilities items; Killingsworth Hall and Pierce Hall allocation items; general administrative expense; food service expenses; general maintenance operating fund; and Bea Wood and O'Donohue Halls roof repair.

Additional information may be obtained from Joe Hooper, Midwestern State University, Wichita Falls, Texas 76308, telephone (817) 692-6611, extension 271.

Filed: February 21, 1978, 1:30 p.m.
Doc. No. 781348

Thursday, February 23, 1978, 3:30 p.m. The Executive Committee of the Board of Regents of Midwestern University met in emergency session in Room 108, Hardin Administration Building, Midwestern State University, Wichita Falls. The agenda, as summarized, included the following: change orders, Fine Arts Building; Fine Arts Building landscaping and sprinkler system; Fine Arts Building, electrical additions; Fine Arts Building construction; landscape and sprinkler system; tennis courts resurfacing; architect contract, music addition of the Fine Arts Building; architects, parking lot and street repairs; parking facilities; food service contract; Fain Hall lease agreement; commissioning of police officer; police regulations for unclaimed personal property; and demolition of Education and General Buildings.

Additional information may be obtained from Dr. John Barker, Midwestern State University, Wichita Falls, Texas 76308, telephone (817) 692-6611, extension 211.

Filed: February 21, 1978, 1:31 p.m.
Doc. No. 781347

Friday, February 24, 1978, 9 a.m. The Board of Regents of Midwestern University met in emergency session in Room 108, Hardin Administration Building, Midwestern State University, Wichita Falls. The agenda, a summarized, included the following: by-laws; outside employment; student service fee allocation; Fine Arts Building items; tennis courts resurfacing; music wing contract; parking facilities items; food service contract; Fain Hall lease; police officer commissioning; regulations for unclaimed personal property; demolition of Education and General Buildings; medical technology; stage production; student medical services; position changes; Fine Arts Festival; Killingsworth and Pierce Hall items; general administrative expense; Bea Wood Hall and O'Donohoe Hall roof repairs; routine reports; faculty emeritus recommendation; appointment of acting vice-president; faculty development leaves; grievance procedures; room and board rates; and advance Midwestern reports.

Additional information may be obtained from Dr. John G. Barker, Midwestern State University, Wichita Falls, Texas 76308, telephone (817) 692-6611, extension 211.

Filed: February 21, 1978, 1:30 p.m.
Doc. No. 781349

Board of Nurse Examiners

Tuesday and Wednesday, March 7-8, 1978, 8:15 a.m. The Board of Nurse Examiners will meet in the first floor conference room, Building II, 7600 Chevy Chase Drive, Austin, to consider the following items, as summarized: survey visit reports; annual reports; proposal for new school; report of executive secretary; examination; irregular applicants; disciplinary hearings; reinstatement hearings; and public hearing on change in Rule 388.04.00.012, scheduled for March 8 at 10 a.m.

Additional information may be obtained from Margaret Rowland, R.N., Suite 502, 7600 Chevy Chase Drive, Austin, Texas 78752, telephone (512) 451-0201.

Filed: February 23, 1978, 9:38 a.m.
Doc. No. 781399

Board of Pardons and Paroles

Monday through Friday, March 6-10, 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.

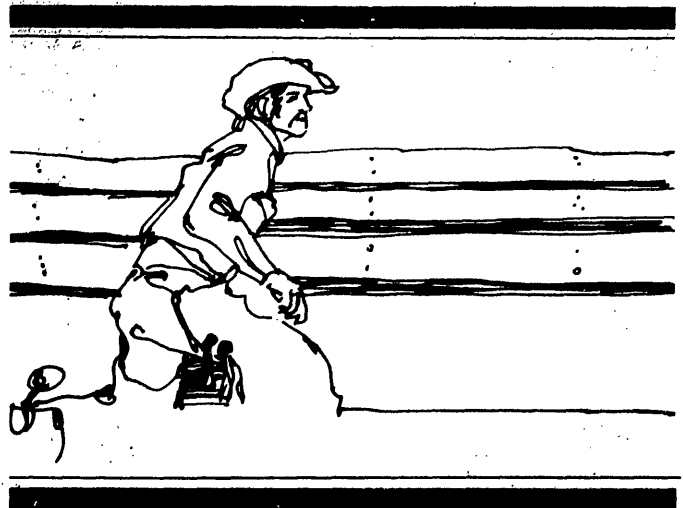
Filed: February 22, 1978, 10:31 a.m.
Doc. No. 731379

Department of Public Safety

Thursday, March 2, 1978, 10 a.m. The Public Safety Commission of the Department of Public Safety will meet at 5805 North Lamar, Austin, to consider the following agenda: approval of internal manuals; adoption of proposed rules, relating to testimony of personnel in civil cases, to classification of motor vehicle fatal traffic accidents, and to unloading and reducing loads consisting of dangerous commodities; budget; building program; personnel matters; and any other unfinished business.

Additional information may be obtained from Wilson E. Speir, 5805 North Lamar, Austin, Texas 78752, telephone (512) 452-0331.

Filed: February 21, 1978, 4:21 p.m.
Doc. No. 781361



Public Utility Commission of Texas

Thursday, February 23, 1978, 9 a.m. The Public Utility Commission of Texas made an emergency addition to the agenda of a hearing held in Suite 400N, 7800 Shoal Creek Boulevard, Austin. As summarized, the commission considered an amended final order in Docket No. 817, application of Cherokee County Electric Cooperative Association for authority to change rates. This emergency addition was necessitated to correct the staff allocations before the commission lost jurisdiction of the case.

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

Filed: February 22, 1978, 4 p.m.
Doc. No. 781395

Tuesday, March 7, 1978, 9:30 a.m. The Public Utility Commission of Texas will conduct a hearing in Suite 400N, 7800 Shoal Creek Boulevard, Austin, regarding a petition of Sunbelt Utilities for authority to change rates and application for transfer of certificates of convenience and necessity (Docket No. 804), 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 23, 1978, 11 a.m.
Doc. No. 781402

Friday, March 10, 1978, 10 a.m. The Public Utility Commission of Texas will conduct a pre-hearing conference in Suite 400N, 7800 Shoal Creek Boulevard, Austin, regarding an application from Southwestern Bell Telephone Company and Guadalupe Valley Telephone Cooperative, Inc., to reassign or transfer boundary exchange line in River Oaks subdivision, Comal County, 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 21, 1978, 11:12 a.m.
Doc. No. 781340

Monday, March 13, 1978, 10 a.m. The Public Utility Commission of Texas will conduct a hearing in Suite 400N, 7800 Shoal Creek Boulevard, Austin, regarding an inquiry by the commission into the failure of M.S. Water Supply Corporation to render service to 20 customers within its certificate service area (Docket No. 1637).

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

Filed: February 22, 1978, 10:06 a.m.
Doc. No. 781374

Monday, March 20, 1978, 10 a.m. The Public Utility Commission of Texas will conduct a hearing in Suite 400N, 7800 Shoal Creek Boulevard, Austin, regarding the application of Lyndon Sanders Realty, Inc., Crystal Forest Water System for a rate increase in Montgomery County, 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 23, 1978, 11 a.m.
Doc. No. 781404

Wednesday, April 19, 1978, 10 a.m. The Public Utility Commission of Texas will conduct a pre-hearing conference in Suite 400N, 7800 Shoal Creek Boulevard, Austin, regarding the application of Cross Country Water Supply Corporation for a rate increase in McLennan County (Docket No. 1614), 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 23, 1978, 11 a.m.
Doc. No. 781403

Wednesday, April 19, 1978, 2 p.m. The Public Utility Commission of Texas will conduct a hearing in Suite 400N, 7800 Shoal Creek Boulevard, Austin, regarding an application from Refugio Mobile Telephone Company for a certificate of convenience and necessity to provide radio-telephone service within Refugio and surrounding counties (Docket No. 449).

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

Filed: February 21, 1978, 10:12 a.m.
Doc. No. 781339

Wednesday, April 19, 1978, 2 p.m. The Public Utility Commission of Texas made an emergency addition to the agenda of a meeting held in Suite 400N, 7800 Shoal Creek Boulevard, Austin. As summarized, the commission considered entering a final order in Docket No. 1475, styled "Application of Texas Power and Light, Dallas Power and Light and Texas Electric Service Company to amend their certificates of convenience and necessity to relocate a transmission line in Smith, Van Zandt, Kaufman, Hunt, and Rockwell Counties." This emergency addition was necessitated due to the companies' need to begin construction immediately to accommodate increased demand.

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

Filed: February 21, 1978, 3:58 p.m.
Doc. No. 781357



Texas Real Estate Commission

Friday, February 24, 1978, 10 a.m. The Texas Real Estate Commission made an emergency addition to the agenda of a meeting held in the Aztec Room, Broadway Plaza Hotel, 1111 N.E. Loop 410, San Antonio, to include consideration of request to permit appeals to the commission from administrative hearings.

Additional information may be obtained from Camilla S. Shannon, P.O. Box 12188, Austin, Texas 78711, telephone (512) 475-4250.

Filed: February 21, 1978, 10:46 a.m.
Doc. No. 781338

Texas Real Estate Research Center

Friday, February 24, 1978, 1:30 p.m. The Advisory Committee of the Texas Real Estate Research Center met in the American Airlines A. Lounge, Dallas/Fort Worth International Airport, to review the budget for fiscal year 1978-79 and to review subcommittee assignments, as summarized in the agenda.

Additional information may be obtained from Dr. Alvin B. Wooten, Texas A&M University, College Station, Texas 77844.

Filed: February 21, 1978, 11:21 a.m.
Doc. No. 781341

Advisory Council for Technical-Vocational Education in Texas

Tuesday, March 14, 12:30 p.m. and Wednesday, March 15, 1978, 8:15 a.m. The Advisory Council for Technical-Vocational Education in Texas will meet on the Prairie View A&M University campus, Prairie View, on March 14, and at the Quality Inn, 6115 Jetero Boulevard, Houston, on March 15.

The afternoon of March 14 will be spent touring the campus of Prairie View A&M University. The council will be briefed on the vocational aspects of their work. The council meeting will begin at 8:15 a.m. on March 15 at the Quality Inn and adjourn at 12:45 p.m. The council will be presented with an overview of agricultural education in Texas, a report on the work of the House of Representatives Subcommittee on Educational Curriculum, and an overview of the work of the Office of Occupational Planning, Bureau of Occupational Adult Education, U.S. Office of Education. The main focus of the meeting will be to review and evaluate vocational programs and to review the State Plan for Adult Education.

Additional information may be obtained from Valeria J. Bieck, P.O. Box 1886, Austin, Texas 78767, telephone (512) 475-2046.

Filed: February 22, 1978, 10:06 a.m.
Doc. No. 781376

Texas Water Commission

Tuesday, February 21, 1978, 10 a.m. The Texas Water Commission made an emergency addition to the agenda of a meeting held in the Stephen F. Austin Building, 1700 North Congress, Austin, to consider district conversion and use of surplus funds, as summarized in the agenda.

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

Filed: February 17, 1978, 3:25 p.m.
Doc. No. 781321

Monday, March 6, 1978, 10 a.m. The Texas Water Commission will conduct a hearing in Room 118, Stephen F. Austin Building, 1700 North Congress, Austin, to consider proposed amendments for the following existing permits, as summarized in the agenda: Fallbrook Utility District, 10919-01; Gulf Coast Waste Disposal Authority (Northland Shopping Center STP), 11572-01; Gulf Coast Waste Disposal Authority (Timberlake Improvement District), 11267-01; Texas Power and Light Company, 01267; Beatrice Foods Company, doing business as Brown-Miller Pickle Company, 02046; City of Panhandle, 10359-01; and Hooker Chemicals and Plastics Corporation, 15727.

Additional information may be obtained from Larry Soward, P.O. Box 13087, Austin, Texas 78711, telephone (512) 475-1311.

Filed: February 17, 1978, 3:25 p.m.
Doc. No. 781320

Monday, March 6, 1978, 10 a.m. The Texas Water Commission will conduct a hearing in Room 118, Stephen F. Austin Building, 1700 North Congress, Austin, to consider a proposed amendment to Permit No. 10084-01 by the City of Falfurrias, as summarized in the agenda.

Additional information may be obtained from Larry Soward, P.O. Box 13087, Austin, Texas 78711, telephone (512) 475-1311.

Filed: February 21, 1978, 3:36 p.m.
Doc. No. 781354

Monday, March 6, 1978, 10 a.m. The Texas Water Commission will conduct a hearing in Room 118, Stephen F. Austin Building, 1700 North Congress, Austin, regarding a proposed amendment to Permit No. 10224-01 by the City of Monahans, as summarized in the agenda.

Additional information may be obtained from Larry Soward, P.O. Box 13087, Austin, Texas 78711, telephone (512) 475-1311.

Filed: February 22, 1978, 3:52 p.m.
Doc. No. 781391

Tuesday, March 7, 1978, 10 a.m. The Texas Water Commission will conduct a hearing in the Stephen F. Austin Building, 1700 North Congress, Austin, concerning a petition for organization of West Harris County Municipal Utility District No. 6, as summarized in the agenda.

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

Filed: February 22, 1978, 3:52 p.m.
Doc. No. 781392

Tuesday, March 7, 1978, 10 a.m. The Texas Water Commission will conduct a hearing in the Stephen F. Austin Building, 1700 North Congress, Austin, concerning a petition for organization of Northwest Harris County Municipal Utility District No. 15, as summarized in the agenda.

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

Filed: February 22, 1978, 3:52 p.m.
Doc. No. 781393

Monday, March 13, 1978, 10 a.m. The Texas Water Commission will conduct a hearing in the Stephen F. Austin Building, 1700 North Congress, Austin, to consider an application by Sabine Pass Port Authority for conversion into a municipal utility district, as summarized in the agenda.

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

Filed: February 23, 1978, 11:17 a.m.
Doc. No. 781408

Tuesday, March 28, 1978, 9 a.m. The Texas Water Commission will conduct a hearing in the conference room, Houston-Galveston Area Council, 3701 West Alabama, Houston, to consider an application from ARCO Chemical Company, Channelview, seeking an amendment to Permit No. 00391 to modify effluent zinc limits scheduled to become effective April 1, 1978, as summarized in the agenda.

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

Filed: February 17, 1978, 3:25 p.m.
Doc. No. 781322

Tuesday, March 28, 1978, 9 a.m. The Texas Water Commission will conduct a hearing in the conference room, Houston-Galveston Area Council, 3701 West Alabama, Houston, to consider an application by Novamont Corporation, La Porte, seeking a permit to allow for a discharge not to exceed an average flow of 352,000 gallons per day of industrial wastewater, as summarized.

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

Filed: February 17, 1978, 3:25 p.m.
Doc. No. 781323

Tuesday, March 28, 1978, 9 a.m. The Texas Water Commission will conduct a hearing in the Stephen F. Austin Building, 1700 North Congress, Austin, to consider an application by the City of League City (Plant No. 3) seeking an amendment to Permit No. 10568 to accommodate plant expansion, as summarized in the agenda.

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

Filed: February 17, 1978, 3:25 p.m.
Doc. No. 781324

Tuesday, March 28, 1978, 9 a.m. The Texas Water Commission will conduct a hearing in the Stephen F. Austin Building, 1700 North Congress, Austin, to consider an application from Anchortank, Inc. (Bayport Terminal), Seabrook, seeking a permit to allow for a discharge of a variable flow of rainfall runoff from the bulk liquids terminal, as summarized.

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

Filed: February 17, 1978, 3:25 p.m.
Doc. No. 781325

Friday, April 7, 1978, 10 a.m. The Texas Water Commission will conduct a hearing in the Stephen F. Austin Building, 1700 North Congress, Austin, to consider the cancellation of Permit No. 2187 of A/F/G Management Company to appropriate state water, as summarized in the agenda.

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

Filed: February 17, 1978, 3:25 p.m.
Doc. No. 781328

Friday, April 14, 1978, 10 a.m. The Texas Water Commission will conduct a hearing in the Stephen F. Austin Building, 1700 North Congress, Austin, to consider the application by High Gabriel Development Company, Inc. (Application No. 3864) for a permit to authorize the impoundment of 6 acre/feet of water in a reservoir on South Fork San Gabriel, tributary San Gabriel, tributary Little River, tributary Brazos River, Brazos River Basin, for recreational purposes in Williamson County, as summarized.

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

Filed: February 17, 1978, 3:25 p.m.
Doc. No. 781326

Friday, April 14, 1978, 10 a.m. The Texas Water Commission will conduct a hearing in the Stephen F. Austin Building, 1700 North Congress, Austin, to consider an application by UPG, Inc. (Application No. 3865) for a permit to maintain a 10 acre/foot reservoir on an unnamed tributary Saline Branch, tributary Gaston Branch, tributary Trinity River, to maintain a 1 acre/foot capacity off-channel reservoir and to divert water for mining purposes in Freestone County.

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

Filed: February 17, 1978, 3:25 p.m.
Doc. No. 781327

Regional Agencies

Meetings Filed February 17, 1978

The Austin-Travis County MH/MR, Ad Hoc Committee, met at 1430 Collier, Austin, on February 22, 1978, at 7 p.m. The Operations Committee of the Board of Trustees met in the board room, 1430 Collier, on February 23 at 7 p.m. The Budget/Finance Committee met at the same location on February 23 at 7 p.m. The Board of Trustees met at 7:30 p.m. Further information may be obtained from Dr. Larry Miller, 1430 Collier, Austin, Texas 78704, telephone (512) 447-4141.

Doc. No. 781316

Meetings Filed February 21, 1978

The Ark-Tex Council of Governments, Regional Development Citizens Advisory Committee, met in the City Council Chambers, City Hall, Mount Pleasant, on February 23, 1978, at 1:30 p.m. The Executive Committee will meet at the Branding Iron Restaurant, Clarksville, on March 2 at 5 p.m. The Board of Directors will meet in the cafeteria, Bogata Elementary School, Bogata, on March 2 at 7:30 p.m. The Sulphur Basin Planning Advisory Committee will meet at the Titus County Courthouse, Mount Pleasant, on March 6 at 7 p.m. Further information may be obtained from Laura Jacobus, P.O. Box 5307, Texarkana, Texas 75501, telephone (501) 774-3481.

The Austin-Travis County MH/MR Center, Personnel Committee, met at 1430 Collier, Austin, on February 23, 1978, at 7 p.m. Further information may be obtained from Dr. Larry Miller, 1430 Collier, Austin, Texas 78704, telephone (512) 447-4141.

The Education Service Center, Region XVI, Board of Directors, will meet at 1601 South Cleveland, Amarillo, on February 28, 1978, at 1 p.m. Further information may be obtained from Dr. Kenneth M. Laycock, Box 30600, Amarillo, Texas 79120, telephone (906) 376-5521.

The Edwards Underground Water District, Board of Trustees, will meet in the meeting room, Tower Life Building, St. Mary's and Villita, San Antonio, on March 14, 1978, at 10 a.m. Further information may be obtained from McDonald D. Weinert, 2603 Tower Life Building, San Antonio, Texas, telephone (512) 222-2204.

The Lower Rio Grande Valley Subarea Advisory Council, Nominating Committee, will meet at Garcia's Cafe, 601 South F, Harlingen, on February 28, 1978, at noon. Further information may be obtained from Fidel Pizana, Texas A&I University, Station 1, Box 2378, Kingsville, Texas 78363, telephone (512) 595-5545.

The Northeast Texas Municipal Water District, Board of Directors, met at 1003 Linda Drive, Daingerfield, on February 27, 1978, at 8 p.m. Further information may be obtained from Homer Tanner, P.O. Box 680, Daingerfield, Texas, telephone (214) 645-2241.

The Panhandle Regional Planning Commission, Board of Directors, met in the Chamber of Commerce Conference Room, Amarillo Building, 301 Polk, Amarillo, on February 23, 1978, at 1:30 p.m. Further information may be obtained from George Loudder, P.O. Box 9257, Amarillo, Texas 79105.

The South Texas Health Systems Agency, Coastal Bend Subarea Health Advisory Council, will meet at Most Precious Blood Catholic Church, 3582 Saratoga, Corpus Christi, on March 1, 1978, at 1 p.m. Further information may be obtained from Emily M. Petersen, Texas A&I University, Station 1, Box 2378, Kingsville, Texas 78363, telephone (512) 595-5545.

The South Texas Health Systems Agency, Lower Rio Grande Valley Subarea Advisory Council, will meet at the Holiday Inn, 1901 West Tyler, Harlingen, on March 8, 1978, at 7:30 p.m. Further information may be obtained from E. M. Maese, Texas A&I University, Station 1, Box 2378, Kingsville, Texas 78363, telephone (512) 595-5545.

Doc. No. 781342

Meetings Filed February 22, 1978

The Austin-Travis County MH/MR, Ad Hoc Committee, met at 1430 Collier, Austin, on February 22, 1978, at 6 p.m. Further information may be obtained from Dr. Larry J. Miller, 1430 Collier, Austin, Texas 78704, telephone (512) 447-4141.

The Brazos Valley Development Council, Board of Directors, will meet at 3006 East 29th Street, Bryan, on March 1, 1978, at 1:30 p.m. Further information may be obtained from Glenn J. Cook, P.O. Drawer 4128, Bryan, Texas 77801, telephone (214) 822-7421.

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.

Meetings Filed February 23, 1978

The North Texas Multi-Region Processing Center, Management Committee, will meet in the board room, 400 East Spring Valley, Richardson, on March 9, 1978, at 10 a.m. Further information may be obtained from H. W. Goodgion, P.O. Box 1300, Richardson, Texas 75080, telephone (214) 231-6301, extension 202.

The Texas Municipal Power Agency, Board of Directors, will meet at 600 Arlington Downs Tower, Arlington, on March 3, 1978, at 10 a.m. Further information may be obtained from Paul R. Cunningham, 600 Arlington Downs Tower, Arlington, Texas 76011, telephone (817) 461-4400.

Doc. No. 781400

The Central Texas MHMR Center, Board of Trustees, will meet in the board room, 308 Lakeway Drive, Brownwood, on February 28, 1978, at 4:30 p.m. Further information may be obtained from James H. Dudley, P.O. Box 250, Brownwood, Texas 76801, telephone (915) 646-9574.

The Education Service Center, Region XIII, Board of Directors, met in Conference Room 101, 7703 North Lamar, Austin, on February 27, 1978, at 7 p.m. Further information may be obtained from Dr. Joe Parks, 7703 North Lamar, Austin, Texas, 78752, telephone (512) 458-9131.

The Permian Basin Health Systems Agency, Governing Body, met in the conference room, West Texas Education Building, Air Terminal, Midland, on February 27, 1978, at 7:30 p.m. Further information may be obtained from Jeanne Kaferle, P.O. Box 6391, Midland, Texas 79701, telephone (915) 563-1061, extension 63.

The San Jacinto River Authority, Board of Directors, will meet at the Lake Conroe Dam Site Office Building, Highway 105 West, Conroe, on February 28, 1978, at 2 p.m. Further information may be obtained from Jack K. Ayer, P.O. Box 329, Conroe, Texas, telephone (713) 588-1111.

The South Texas Development Council, Government Application Review Committee, met in the conference room, Building S-1, Laredo International Airport, Laredo, on February 23, 1978, at 10 a.m. Further information may be obtained from Julie Saldana, P.O. Box 1287, Laredo, Texas 78041, telephone (512) 722-3995.

Doc. No. 781378

COMMUNICATIONS



Texas Department of Community Affairs

Weatherization Program

(Editor's note: The following article is excerpted from the *EOD Weekly News*, Number 521, a Texas Department of Community Affairs publication.)

Ben F. McDonald, Jr., executive director of the Texas Department of Community Affairs (TDCA), announced the active beginning of a statewide program for weatherization of the homes of the poor, particularly the elderly poor.

Pursuant to authorization from Governor Dolph Briscoe and the Governor's Office of Energy Resources, approximately \$423,000 in federal energy funds will be made available to the department and passed through to communities for actual home weatherization.

McDonald stated, "This will involve a four-way cooperative effort. The federal energy program makes the money available and establishes the guidelines. The Governor's Office of Energy Resources through the Texas Department of Community Affairs passes the federal funds to the community. Performance contracts will be executed with community action agencies and one regional planning commission.

"Under the energy funds, only materials may be purchased for eligible homes identified by local contractors. The Department of Labor has encouraged Comprehensive Employment and Training Act (CETA) prime sponsors to make trainee labor available for installation of the materials. TDCA will assist in the coordination with CETA prime sponsors, who are responding well. Thus, we have coordination and cooperation of the U.S. Department of Energy, U.S. Department of Labor, state government, and communities," continued McDonald.

The weatherization project is taking a similar approach to the Special Crisis Intervention Program which was recently completed by TDCA in an unusually short time frame.

"The recent severe and cold weather has demonstrated the need for weatherization of homes of the poor and the elderly

from the standpoint of health and energy conservation," said McDonald. "We expect this to be a most successful and innovative program. It is expected that funds available during the next year will be almost \$966,600. These funds will be stretched as far as we can make them go; but, of course, we cannot, with such limited resources, begin to cover all the eligible homes across Texas. But we can make a start."

The lead division of the Texas Department of Community Affairs in implementing this project will be the Economic Opportunity Division.

Doc. No. 3IA6

Comptroller of Public Accounts

Administrative Decisions

Summary of Administrative Decision 8389

Summary of Decision: The production and delivery of architectural delineations for a consideration is a nonexempt sale of tangible personal property for sales and use tax purposes.

For copies of recent opinions selected and summarized by the Legal Services Division, contact Harriet Burke, Legal Services Division, P.O. Box 13528, Austin, Texas 78711. Copies will be edited to comply with confidentiality statutes.

Issued in Austin, Texas, on February 22, 1978.

Doc. No. 781381

Harriet D. Burke
Hearings Section
Comptroller of Public Accounts

Filed: February 22, 1978, 11:17 a.m.

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

Internal Revenue Service Ruling Effect on Traveling Expenses of State Employees

Comptroller Bob Bullock has announced that the Internal Revenue Service has determined that partial per diem allowances paid traveling state employees may be considered taxable income under certain circumstances.

Bullock said state employees should direct any questions to IRS officials.

Bullock said the ruling has no effect on full per diem, mileage, or other travel allowances paid Texas state employees.

"However, the IRS feels that partial per diem in some cases is compensation for meals and nothing else and is, therefore, taxable income," the comptroller said.

The 240,000 Texas state employees are eligible for the partial per diem allowances when they must be away from their designated headquarters for six hours or more.

Doc. No. 3IA5

Joint Advisory Committee on Educational Services to the Deaf

Position Announcement

Program Coordinator

Minimum Qualifications: A bachelor's degree in special education, school administration, or a related field is required plus two years' experience in teaching deaf students or administering educational programs for the deaf in public schools; institutions of higher education; local, state, or federal governments; or a private institution. Special knowledge and skill in sign language is required to enable communication with subcommittee members, interested citizens, and professional employees. Previous research experience is desirable. Must also demonstrate more than an ordinary ability to write in the English language.

Job Description:

In summary, the primary responsibilities of the program coordinator will be to (1) plan, prepare for, and schedule subcommittee meetings; (2) conduct research on educational programs for the deaf; and (3) coordinate the development of the subcommittees' reports.

The program coordinator will coordinate on a full-time basis the activities of the two subcommittees of the Joint Advisory Committee on Educational Services to the Deaf. The coordinator will conduct research and help develop a work program for each subcommittee. The program coordinator must perform work in a manner that achieves the legislative objectives on a schedule approved by the subcommittees.

The program coordinator will plan and prepare presentations to the subcommittees regarding subcommittee work and will obtain the information requested by the members.

The program coordinator will work closely with the subcommittee chairmen and members of the subcommittees and maintain communications with interested organizations and public agencies designated to assist the Joint Advisory Committee in its work.

Salary: \$1200/\$1450 per month; will vary with experience.

Maximum Period of Employment: 12 months (March 15, 1978, through March 15, 1979), but will guarantee through December 31, 1978.

Expected Job Announcement Closing: March 6, 1978.

Contact: Representative Tim Von Dohlen, House of Representatives, State Capitol, Room G-09, P.O. Box 2910, Austin, Texas 78769, telephone (512) 475-3722; or Senator Chet Brooks, State Senate, State Capitol, Room 325, P.O. Box 12068, Austin, Texas 78711, telephone (512) 475-2901.

Issued in Austin, Texas, on February 21, 1978.

Doc. No. 781371 Tim Von Dohlen
State Representative

Filed: February 21, 1978, 4:35 p.m.

For further information, please call (512) 475-3722.

Texas Department of Human Resources

Notice of Public Hearing—Health Care for the Elderly and the Handicapped

A public hearing on health care for the elderly and the handicapped will be held Tuesday, March 7, 1978, from 1:30 p.m. until 5 p.m., in the auditorium of the U.T. Health Science Center, 5323 Harry Hines Boulevard, Dallas, Texas. Registration will begin at 1 p.m.

The purpose of the hearing is to obtain information from providers, recipients, and other interested parties regarding alternate care, the need for home care services, gaps in service availability, problems and issues in service delivery, means of cooperation between agencies, and funding issues.

The hearing is sponsored by the Texas Department of Human Resources in a joint effort with the Texas Legislature. Senator Chet Brooks will chair the hearing.

In conjunction with this hearing, a series of four other hearings will be conducted across the state from January through July, 1978. Announcements will be made for these hearings as dates and sites are confirmed.

The hearing in Dallas will be preceded on the morning of the 7th by a hearing on nursing home issues, conducted by the Senate Committee on Human Resources, also chaired by Senator Brooks.

For additional information, please contact Dr. Suzette Ashworth in Austin at (512) 459-4291.

Issued in Austin, Texas, on February 17, 1978.

Doc. No. 781315 Jerome Chapman
Commissioner
Texas Department of Human
Resources

Filed: February 17, 1978, 2:17 p.m.

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

Railroad Commission of Texas

Notice of Extension of Time to File Comments

Proposed Rules of Practice and Procedure

The Railroad Commission of Texas has extended for three weeks the deadline for filing comments on the commission's proposed rules of practice and procedure which appeared in the January 13, 1978, issue of the *Texas Register* (3 TexReg 152-166). The commission had received one formal request and several informal requests for more time. The commission wants to give the public every opportunity to study the proposed rules and to submit comments. The deadline for submitting comments is now Friday, March 17, 1978. Com-

ments should be submitted to John G. Soule, assistant special counsel, Railroad Commission of Texas, P.O. Box 12967, Austin, Texas 78711.

Issued in Austin, Texas, on February 21, 1978.

Doc. No. 781388 John G. Soule
 Assistant Special Counsel
 Railroad Commission of Texas

Filed: February 22, 1978, 11:51 a.m.

For further information, please call (512) 475-4686.

Texas Surplus Property Agency

Increase in Charges

Public notice is given that the Texas Surplus Property Agency Board, meeting in regular session February 2, 1978, voted unanimously to increase the service and handling charge by one percentage point. The handling charge will increase from nine percent to 10 percent of the fair value of property distributed by the agency. This increase will become effective with the start of business of March 1, 1978.

Issued in San Antonio, Texas, on February 2, 1978.

Doc. No. 781372 Ray Underwood
 Executive Director
 Texas Surplus Property Agency

Filed: February 22, 1978, 9:51 a.m.

For further information, please call (512) 661-2381.

Texas Register

Notice of Schedule Variation

Due to a state holiday, Texas Independence Day, on March 2, 1978, no issue will be published on March 7, 1978. Publication of regular issues will resume with the March 10 issue of the *Texas Register*. Regular deadline dates will apply for this issue (Friday, March 3, by noon—all copy except notices of open meetings; Monday, March 6, by noon—notice of open meetings).



1978 Publication Schedule for the *Texas Register*

Listed below are the deadline dates for the March, April, and May issues of the *Texas Register*. Because of printing schedules, material received after the deadline for an issue cannot be published until the next issue. Generally, deadlines for a Tuesday edition of the *Register* are Wednesday and Thursday of the week preceding publication, and deadlines for a Friday edition are Friday of the preceding week and Monday of the week of publication. An asterisk beside a publication date indicates that the deadlines have been moved because of state holidays. Please note the issue published on April 28 will be an index; no other material will be published in this issue. The *Texas Register* will not be published on March 7.

**FOR ISSUE
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**ALL
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Friday, March 3
 Tuesday, March 7
 Friday, March 10
 Tuesday, March 14
 Friday, March 17
 Tuesday, March 21
 Friday, March 24
 Tuesday, March 28
 Friday, March 31

 Tuesday, April 4
 Friday, April 7
 Tuesday, April 11
 Friday, April 14
 Tuesday, April 18
 Friday, April 21
 Tuesday, April 25
 Friday, April 28

 Tuesday, May 2
 Friday, May 5
 Tuesday, May 9
 Friday, May 12
 Tuesday, May 16
 Friday, May 19
 Tuesday, May 23
 Friday, May 26
 Tuesday, May 30

Friday, February 24

 Friday, March 3
 Wednesday, March 8
 Friday, March 10
 Wednesday, March 15
 Friday, March 17
 Wednesday, March 22
 Friday, March 24

 Wednesday, March 29
 Friday, March 31
 Wednesday, April 5
 Friday, April 7
 Wednesday, April 12
 Friday, April 14
 Wednesday, April 19

 Wednesday, April 26
 Friday, April 28
 Wednesday, May 3
 Friday, May 5
 Wednesday, May 10
 Friday, May 12
 Wednesday, May 17
 Friday, May 19
 Wednesday, May 24

Monday, February 27

NO ISSUE PUBLISHED
 Monday, March 6
 Thursday, March 9
 Monday, March 13
 Thursday, March 16
 Monday, March 20
 Thursday, March 23
 Monday, March 27

 Thursday, March 30
 Monday, April 3
 Thursday, April 6
 Monday, April 10
 Thursday, April 13
 Monday, April 17
 Thursday, April 20

QUARTERLY INDEX
 Thursday, April 27
 Monday, May 1
 Thursday, May 4
 Monday, May 8
 Thursday, May 11
 Monday, May 15
 Thursday, May 18
 Monday, May 22
 Thursday, May 25

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