

TEXAS REGISTER

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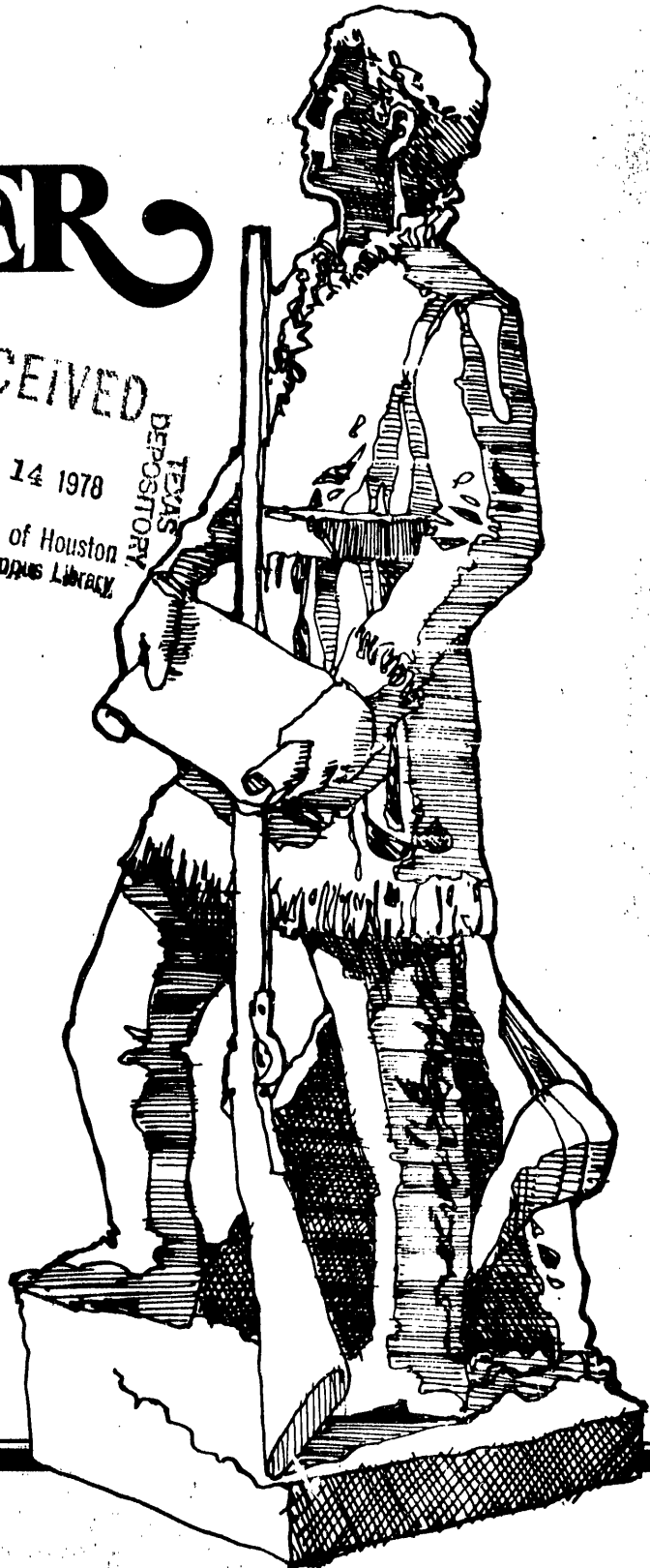
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NOTES ON THE ISSUE

The bilingual education program in Texas schools is being revised by the Texas Education Agency through the adoption of emergency new rules and amendments as well as proposals that include amendments, repeals, and new rules. Bilingual instruction is to be provided for all children with limited English-speaking ability in kindergarten through the fifth grade. Also to be included in the instruction is the teaching of the cultural heritage of the people whose languages are used and the contributions made to the community, state, and nation. Another provision of the rules is English language development for grades 6-12, a part-time program to develop the student's skills of listening, speaking, reading, and writing in English. The agency estimates the cost of bilingual education will be approximately \$5,200,000 each year for the next five years. These costs are to be shared by the state and local school districts under the financing provisions of the Foundation School Program (Chapter 16, Texas Education Code). The agency is also amending, on an emergency basis, rules governing the accreditation of school districts. The amendments reflect the changes in rules concerning bilingual education.

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

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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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Appointments

Southern Regional Education Board

For a four-year term to expire June 30, 1981:

James E. (Jim) Nugent
832 Main Street
Kerrville, Texas 78028

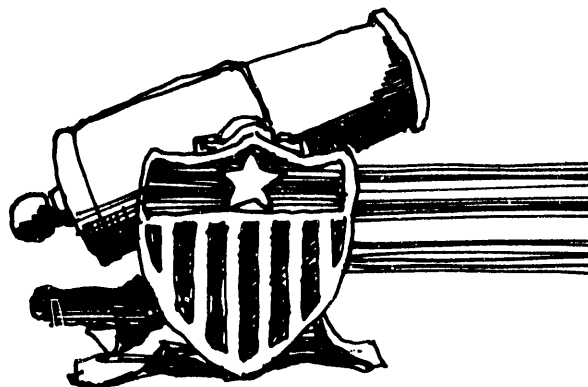
Representative Nugent is replacing John Poerner of Hondo, Medina County, whose term expired.)

Issued in Austin, Texas, on June 19, 1978.

Doc. No. 784073

Dolph Briscoe
Governor of Texas

For further information, please call (512) 475-4571.



Requests for Opinions

Summary of Request for Opinion

RQ-1914

Request from W. K. Harvey, Jr., commissioner, Texas Rehabilitation Commission, Austin.

Summary of Request:

(1) Does the Comptroller of Public Accounts have the authority to make a warrant payable to any other name or at any other address than the one shown on the face of the claim signed by the claimant and approved by the agency?

(2) Does the comptroller have authority to refuse to pay a claimant because the claim does not include a comptroller's sales tax permit number or a comptroller's vendor number?

(3) Is this new system requiring the use of social security numbers as a universal identifier in violation of Section 7 of the Privacy Act of 1974 (Public Law 93-579)?

Doc. No. 784074

Summary of Request for Opinion

RQ-1915

Request from Robert M. Collie, Jr., Houston city attorney, Houston.

Summary of Request: Are taxicab inventory and financial reports submitted to a city public under the Open Records Act?

Doc. No. 784075

Summary of Request for Opinion

RQ-1916

Request from John W. LaGrone, County of Hutchinson, Borger.

Summary of Request:

(1) Does the district judge of Hutchinson County have discretion to set the annual salary of a county auditor at an annual sum in excess of that being paid by the county to the tax assessor-collector?

(2) Do the grievance procedures set out in Section 2 of Article 3912k, Vernon's Texas Civil Statutes, apply to the assistant county attorney of Hutchinson County?

Doc. No. 784076

Opinions

Summary of Opinion H-1184

Request from Tom Massey, chairman, House Committee on Public Education, Austin, concerning multiple elections between the Optional Retirement Program and the Teacher Retirement System.

Summary of Opinion: Under current law a person may exercise the option to participate in the Optional Retirement Program only once.

Doc. No. 784077

Summary of Opinion H-1185

Request from H. Bate Bond, county auditor, Comal County, New Braunfels, concerning the authority of the county auditor to audit bond monies held by the county sheriff.

Summary of Opinion: All money held by a county officer in an official capacity, whether or not such money belongs to the county, is subject to audit by the county auditor under Article 1651, Vernon's Texas Civil Statutes. All funds held by a county officer in an official capacity, including trust funds, must be deposited in the county depository.

Doc. No. 784078

Summary of Opinion H-1186

Request from A. R. Schwartz, chairman, Senate Jurisprudence Committee, Austin, concerning the authority of a state agency to enter into a conciliation agreement providing back wages to a person who claims employment discrimination.

Summary of Opinion: Sections 44 and 51 of Article 3 of the Texas Constitution do not bar state agencies from entering into conciliation agreements providing back wages to a person who asserts a valid claim of employment discrimination under Title VII of the 1964 Civil Rights Act.

Doc. No. 784079

Open Records Decisions

Summary of Open Records Decision

ORD-193

Request from Thomas V. Murto III, attorney for Garland Independent School District, Dallas, concerning whether a report of accident insurance claims paid to identifiable students is public under the Open Records Act.

Summary of Decision: A report of accident insurance claims paid to identifiable students is not public information.

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

Doc. No. 784080

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

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

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

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

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



Texas Education Agency Comprehensive Instruction Bilingual Education 226.32.52

The Texas Education Agency has adopted and/or amended on an emergency basis Rules 226.32.52.001, .010, .011-.012, .020, .021-.029, .030, .031-.034, .040, and .050, which it proposes for permanent adoption in this issue. These rules concern bilingual education. The changes require bilingual education for all children identified as having limited English-speaking ability in kindergarten through grade five. English language development instruction shall be provided for all students identified as limited English-speaking ability in grades 6 through 12.

These rules are adopted on an emergency basis in order that districts may staff and take other actions necessary to be in compliance at the start of the 1978-79 school year. These emergency rules shall be in effect for 120 days unless either renewed for an additional 60 days or superseded by a set of rules adopted on a permanent basis.

The Texas Education Agency anticipates that the cost for bilingual education will be approximately \$5,200,000 each year for the next five years. These costs are shared by the state and by local school districts under the financing provisions of the Foundation School Program (Chapter 16, Texas Education Code).

These rules are promulgated under the authority of Chapter 21, Subchapter L, and Section 11.26(a)(5), Texas Education Code.

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

Doc. No. 784041 M. L. Broquette
Commissioner of Education

Effective Date: June 16, 1978

Expiration Date: October 14, 1978

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

Planning and Evaluation

Principles, Standards, and Procedures for the Accreditation of School Districts 226.37.15.240 and .250

The Texas Education Agency has amended on an emergency basis Rules 226.37.15.240 and .250, Principles 4 and 5 of the Principles, Standards, and Procedures for the Accreditation of School Districts, which it proposes for permanent adoption in this issue. These amendments reflect the changes in regulations concerning bilingual education which have been adopted as emergency rules and are also proposed for permanent adoption.

Rule .240 is amended to include the requirement that districts identify children of limited English-speaking ability. If programs for children of limited English-speaking ability are significantly different from specifications in the State Plan for Bilingual Education, the problem must be addressed as part of the district's five-year priorities plan.

These rules are adopted on an emergency basis in order that districts can make necessary preparations for the 1978-79 school year.

These rules are promulgated under the authority of Section 11.26(a)(5) and Chapter 21, Subchapter L, Texas Education Code.

Doc. No. 784134

226.37.15.321

The Texas Education Agency has adopted on an emergency basis Rule 226.37.15.321 as part of the Principles, Standards, and Procedures for the Accreditation of School Districts, which it proposes for permanent adoption in this issue. The rule requires districts to offer bilingual education in compliance with state and federal laws and with the Texas State Plan for Bilingual Education.

This rule is adopted on an emergency basis in order to permit school districts to prepare for the 1978-79 school year.

This rule is promulgated under the authority of Section 11.25(a)(5) and Chapter 21, Subchapter L, Texas Education Code.

Issued in Austin, Texas, on June 20, 1978.

Doc. No. 784135 M. L. Brockette
Commissioner of Education

Effective Date: June 21, 1978

Expiration Date: October 19, 1978

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

Texas Department of Health

Texas Board of Health

Formal Hearing Procedures 301.01.02

The Texas Board of Health has adopted these rules and Rules 301.54.10.001-.006 on an emergency basis because the board found that an imminent peril to the public health, safety, or welfare required adoption on an emergency basis. The board's reasons for this finding are as follows: These formal hearing procedures will be used when a long-term care facility appeals or contests a decertification action (see preamble to Rules 301.54.10.001-.006 for details on decertification actions). The department decertifies a facility when there is an imminent or immediate threat to the health and safety of the facility's patients or residents. Because of the immediate threat to health and safety involved, the department needs to be able to act quickly to protect the health and safety of the patients and residents and, also, give the facility the opportunity to appeal or contest the action in a formal hearing. The right of appeal and a department hearing on the appeal are fundamental parts of the department's entire decertification action. Therefore, these formal hearing procedures are adopted on an emergency basis in conjunction with Rules 301.54.10.001-.006 to make it possible for the department to have rules immediately available to decertify a facility when there is an imminent or immediate threat to the health and safety of patients/residents and to give the facility the right to request immediately a formal hearing on the decision. The department is simultaneously proposing these rules for permanent adoption.

These rules are being adopted under authority of Article 4418a and 6252-13a, Texas Revised Civil Statutes.

.001. Definitions.

(a) "APTRA" means the "Administrative Procedure and Texas Register Act," passed by the 64th Legislature, Regular Session, 1975, and cited as Article 6252-13a, Texas Revised Civil Statutes.

(b) Department of Health entities.

(1) "Agency" means Texas Department of Health.

(2) "Board" means the Texas Board of Health.

(3) "Commissioner" means the Texas Commissioner of Health.

(c) "Hearing examiner" means either the agency or a licensed Texas attorney designated by the agency from its Legal Division to conduct a contested case or noncontested case proceeding.

(d) "License" includes the whole or part of any agency permit, certificate, approval, registration, or similar form of permission required by law.

(e) "Licensing" includes the agency process respecting the granting, denial, renewal, revocation, suspension, annulment, withdrawal, or amendment of a license.

(f) "Party" means each person named by the hearing examiner as having a justiciable interest in the matter being considered.

(g) "Person" means any natural person, partnership, municipal corporation, cooperative corporation, corporation, association, governmental subdivision, or public or private organization of any character other than an agency.

(h) "Pleading" means any written allegation filed by a party concerning its claim or position.

.002. Generally.

(a) Initiating a formal hearing. The agency on its own motion or on petition from a person may initiate a formal hearing and shall conduct it in accordance with the provisions of APTRA, other state statutes and agency rules applying to such hearing, and these rules. In the event of conflict between APTRA, other state statutes and agency rules, and these rules, the APTRA, other state statutes, and agency rules will prevail over these rules.

(b) Location. All contested cases will be held at locations within the state which the agency determines best serves the interest of the parties and the purpose of the hearing.

.003. Notice.

(a) The hearing examiner shall give notice of the hearing according to the notice requirements of the applicable law or agency rules authorizing the hearing. If no such requirements exist, the hearing examiner at his discretion may give notice to the parties by personal service or by certified mail, return receipt requested, or by publication once in a newspaper of local circulation at the place where the hearing is to be held. All notices under this section must be given not less than 10 days prior to the hearing, and all notices shall be filed with the secretary of state and published in the *Texas Register* as required by APTRA.

(b) The notice shall contain:

(1) a statement of time, place, and nature of the hearing;

(2) a statement of the legal authority and jurisdiction under which the hearing is to be held;

(3) a reference to the particular section of the statutes and rules involved;

(4) a short and plain statement of the matters asserted; and

(5) a statement that any party can appear in person or by his counsel and be heard.

If the agency or other party is unable to state the matters in detail at the time the notice is served, the initial notice may be limited to a statement of the issues involved. Thereafter, on timely written application from a party to the agency, a more definite and detailed statement shall be furnished to the party not less than three days prior to the date set for the hearing.

(c) Failure to appear after notice. If a party fails to appear or be represented at a hearing after receiving notice, the hearing examiner may proceed with the hearing or take

whatever action is fair and appropriate under the circumstances.

.004. Parties to the Hearing.

(a) Justiciable interest. All parties must have a justiciable interest in the proceedings to be designated as parties. All appearances are subject to a motion to strike upon a showing that the party has no justiciable interest in the proceeding.

(b) Duties and privileges of a party. A party has the privilege to participate fully in any prehearing and hearing, to appeal as provided by law, and to perform any and all duties and privileges provided by the APTRA and other applicable laws.

(c) Interested persons. Any person not wishing to be designated as a party but desiring only to appear for the purpose of showing support or opposition or to make any general relevant statement showing support or opposition may appear at the hearing and make or file statements.

(d) Time of designation as a party. The hearings examiner shall designate parties prior to final adjournment of the hearing, and no person will be admitted as a party later except upon a finding by the hearings examiner of good cause and extenuating circumstances and that the hearing in progress will not be unreasonably delayed.

(e) Different classifications for parties. In their pleadings, parties may classify themselves as applicants, petitioners, respondents, protestants, complainants, etc., but regardless of such classification, the hearings examiner has the authority to determine and designate their true status whenever necessary.

(f) Representation. A party may appear personally and/or be represented by counsel or other authorized representative.

(g) Consolidation of parties. The hearings examiner may require parties of each class of affected persons to select one person to represent them in the proceedings.

.005. Subpoenas.

(a) On the hearings examiner's own motion or on the written request of any party to the hearing, the hearings examiner shall issue a subpoena to the appropriate sheriff or constable to require the attendance of witnesses or the production of documents at the hearing.

(b) There has to be a show of good cause for the subpoena, i.e., the witnesses or documents must have information that is relevant, material, and necessary to the hearing, and the subpoena should not result in undue harassment, imposition, inconvenience, or expense to a party to the hearing.

(c) Witnesses may be subpoenaed from any place in the State of Texas.

(d) Documents include books, papers, accounts, and similar materials or objects.

The payment of subpoena costs or fees and the failure to comply with a subpoena shall be governed by Section 14 of APTRA.

.006. Depositions. The taking and use of depositions in any contested case proceeding shall be governed by Section 14 of APTRA.

.007. Prehearing Conferences.

(a) In a contested case, the hearings examiner, on his own motion or the motion of a party, may direct the parties, their attorneys, or representatives to appear at a specified

time and place for a conference prior to the hearing for the purpose of:

- (1) the formulation and simplification of issues;
- (2) the necessity or desirability of amending the pleadings;
- (3) the possibility of making admissions or stipulations;
- (4) the procedure at the hearing;
- (5) specifying the number of witnesses;
- (6) the mutual exchange of prepared testimony and exhibits;
- (7) designation of parties; and
- (8) other matters which may expedite the hearing.

(b) The hearings examiner will conduct the prehearing conference in such manner and with the necessary authority to expedite the conference while reaching a fair, just, and equitable determination of any matters or issues being considered.

(c) The hearings examiner will have the minutes of the conference recorded in an appropriate manner and will issue whatever orders are necessary covering the said matters or issues.

(d) Recording orders. Any action taken at the prehearing conference shall be reduced to writing, signed by the parties, and made a part of the record.

.008. The Hearing Procedure.

(a) The hearings examiner's duties. The hearings examiner will preside over and conduct the hearing. On the day and time designated for the hearing, the hearings examiner shall:

- (1) convene and call the hearing to order;
- (2) state the purpose of and the legal authority for the hearing;
- (3) announce that a record of the hearing will be made;
- (4) outline the procedure and order of presentation that will be followed;
- (5) administer oaths to those who intend to testify; and

(6) take any and all other actions as authorized by applicable law and these rules to provide for a fair, just, and proper hearing.

(b) Order of presentation.

(1) After making the necessary introductory and explanatory remarks on the purpose, etc., of the hearing, the hearings examiner will begin receiving testimony and evidence from the witnesses.

(2) Each party may present evidence and testimony and cross-examine or ask clarifying questions of any witness who presents evidence or testimony.

(3) In the request for relief or action of any kind, the applicant or petitioner has the burden of proving entitlement to the relief or action requested. The hearings examiner will introduce first the applicant or his attorney or representative, and ask him to proceed with his case. Each witness is subject to cross-examination and clarifying questions by other parties.

(4) When the applicant finishes his case, the protestant or other party will be allowed to present evidence and testimony in the same manner. Each witness is subject to cross-examination and clarifying questions by any party.

(5) The hearings examiner may limit the number of witnesses whose testimony will be repetitious, and the hear-

ings examiner may also establish time limits for testimony so long as all viewpoints are given a reasonable opportunity to be expressed.

(6) When the parties have concluded their testimony and evidence, the hearings examiner will ask the audience if any interested person desires to make a statement. If so, the interested person will be allowed to make his statement subject to cross-examination and clarifying questions by any party.

(7) After interested persons make statements or if there are no such statements, the hearings examiner, at his discretion, will allow final arguments or take the case under advisement, note the time, and close the hearing. For sufficient cause, the hearings examiner will hold the record open for a stated number of days for the purpose of receiving additional evidence into the record.

(c) Consolidation. The hearings examiner, upon his own motion or upon motion by any party, may consolidate for hearing two or more proceedings which involve substantially the same parties or issues. Proceedings before the agency shall not be consolidated without consent of all parties to such proceedings, unless the hearings examiner finds that such consolidation will be conducive to a fair, just, and proper hearing and will not result in unwarranted expense or undue delay.

(d) Conduct and decorum during the hearing. Every party, witness, attorney, representative, or other person shall exhibit in all hearings proper dignity, courtesy, and respect for the hearings examiner and all other persons participating in or observing the hearing. The hearings examiner is authorized to take whatever action he deems necessary and appropriate to maintain the proper level of decorum and conduct, including but not limited to recessing the hearing to be reconvened at another time or place or excluding from the hearing any party, witness, attorney, representative, or other person for such period and upon such conditions as the hearings examiner deems fair and just.

(e) The hearing record. The hearing record will include:

- (1) all pleadings, motions, and intermediate rulings;
- (2) evidence received or considered;
- (3) a statement of matters officially noticed;
- (4) questions and offers of proof, objections, and rulings of them;
- (5) proposed findings and exceptions;
- (6) any decision, opinion, or report by the hearings examiner; and
- (7) all staff memoranda or data submitted to or considered by the hearings examiner or members of the agency who are involved in making the decision.

(f) Recording the hearing. The hearing examiner will keep either a stenographic or magnetic tape record of the hearing proceeding. Any party to the proceedings desiring a transcribed copy of the record must give the agency's Legal Division a written request for such transcript. Upon receipt of the written request, the Legal Division will have the record transcribed and furnish the requestor with the transcript. The hearing examiner, with the commissioner's approval, may assess the cost of the transcript to whichever party(s) the agency deems appropriate.

(g) Rules of evidence. The hearing examiner, at a hearing, a reopened hearing, or a rehearing will apply the rules of evidence under Section 14(a) of APTRA and also the following rules:

(1) Consolidation. The hearing examiner may consolidate the testimony of parties or persons if the evidence can be effectively consolidated into one document or the testimony of one witness. The standard by which the hearings examiner should judge this consolidation is whether each party or person can offer unique or new evidence that has not been previously introduced.

(2) Documentary evidence. Documentary evidence should be presented in its original form, but if the original is not readily available, documentary evidence may be received in the form of copies or excerpts. On request, parties shall be given an opportunity to compare the copy with the original. When numerous documents are offered, the hearing examiner may limit those admitted to a number which are typical and representative and may, in his or her discretion, require the abstracting of the relevant data from the documents and presentation of the abstracts in the form of exhibits; provided, however, that before making such requirement, the hearing examiner shall require that all parties of record or their representatives be given the right to examine the documents from which such abstracts were made.

(3) Exhibits.

(A) Form. Exhibits of documentary character shall be of such size as not unduly to encumber the files and records of the agency. Exhibits shall be limited to facts material and relevant to the issues involved in a particular proceeding.

(B) Tender and service. The original of each exhibit offered shall be tendered to the hearing examiner or a designee for identification and shall be offered to the parties for their inspection prior to offering or receiving the same into evidence.

(C) Excluded exhibits. In the event an exhibit has been identified, objected to, and excluded, it shall be given an exhibit number for purposes of identification and shall be included in the record under seal.

(D) After hearing. Unless specifically directed by the hearing examiner or by the agency itself, no exhibit will be permitted to be filed in any proceeding after the conclusion of the hearing except in a reopened hearing or a rehearing.

(4) Admissibility of prepared testimony and exhibits. When a proceeding will be expedited and the interests of the parties will not be prejudiced substantially, evidence may be received in written form. The prepared testimony of a witness upon direct examination, either in narrative or question and answer form, may be incorporated in the record as if read or received as an exhibit, upon the witness being sworn and identifying the same as a true and accurate record of what his testimony would be if he were to testify orally. The witness shall be subject to clarifying questions and to cross-examination and his prepared testimony shall be subject to a motion to strike either in whole or in part.

(5) Offer of proof. When testimony is excluded by the hearings examiner, the party offering such evidence shall be permitted to make an offer of proof by dictating into the record or submitting in writing the substance of the proposed testimony prior to the conclusion of the hearing, and such offer of proof shall be sufficient to preserve the point for review by the agency. The hearings examiner may ask such questions of the witness as he deems necessary to satisfy himself that the witness would testify as represented in the offer of proof. An alleged error in sustaining any objections

to questions asked on cross-examination may be preserved without making an offer of proof.

(6) **Official notice.** Official notice by the hearings examiner or the agency shall be governed by Section 14(q) of APTRA. To the maximum extent possible, the examiner shall indicate during the course of a hearing that information of which he will take official notice. When an examiner's findings are based upon official notice of a material fact not appearing in the evidence of record, the examiner shall set forth in his proposal for decision those items with sufficient particularity so as to advise the parties of the matters which have been officially noticed. The parties shall have the opportunity to show to the contrary through the filing of exceptions to the examiner's proposal for decision.

(h) **Informal disposition of case.** Unless precluded by law, informal disposition may be made of any contested case by stipulation, agreed settlement, consent order, or default.

(i) **Agreements in writing.** No stipulation or agreement between the parties, their attorneys, or representatives with regard to any matter involved in any proceeding shall be enforced unless it shall have been reduced to writing and signed by the parties or their authorized representatives, dictated into the record during the course of a hearing, or incorporated in an order bearing their written approval. This rule does not limit a party's ability to waive, modify, or stipulate away any right or privilege afforded by these rules.

.009. Action after the Hearing.

(a) **Reopening of hearing for new evidence.**

(1) The agency may reopen a hearing where new evidence is offered which was unobtainable or unavailable at the time of the hearing.

(2) The agency will reopen a hearing to include such new evidence as part of the record if the agency deems such evidence necessary for a proper and fair determination of the case. The reopened hearing will be limited to only such new evidence.

(3) Notice and procedural requirements will be the same as for the original hearing.

(b) **Proposal for decision:**

(1) If a proposal for decision is necessary under Section 15 of APTRA, the hearings examiner will supervise the preparation of the proposal and its filing with the appropriate parties.

(2) Each party having the right and desire to file exceptions and briefs shall file them with the hearing examiner within the time designated by the hearing examiner.

(3) Parties desiring to do so shall file written replies to these exceptions and briefs as soon as possible after receiving same, and within the time designated by the hearing examiner.

(4) All exceptions and replies to them shall be succinctly stated.

(c) At any time after the record has been closed in a contested case, and prior to the administrative decision becoming final in such case, all briefs, exceptions, written objections, motions (including motion for rehearing), replies to the foregoing, and all other written documents shall be filed with the hearing examiner; and further, the party filing such instrument shall provide copies of the same to all other parties of record by First Class U.S. Mail or personal service and certify, in writing thereon, the names and addresses of the parties to whom copies have been furnished, as well as the date and manner of service.

(d) **Final orders or decisions.**

(1) The agency will render a final order or decision according to the requirements of Section 16(c) of APTRA, any other pertinent statutes, and these rules on final orders or decisions.

(2) All final orders or decisions shall be in writing and shall set forth the findings of fact and conclusions required by law, either in the body of the order or by reference to an examiner's proposal for decision.

(3) Unless otherwise permitted by statute or by these rules, all final orders shall be signed by the commissioner; however, interim orders may be issued for the agency by another designated official.

(4) The agency shall serve a copy of all final orders or decisions on all parties as required by law.

(e) **Motion for rehearing.** A motion for rehearing shall be governed by Section 16 of APTRA or other pertinent statute and shall be addressed to the commissioner and filed with the hearing examiner.

(f) **Appeals.** All appeals from final agency orders or decisions shall be governed by Sections 19 and 20 of APTRA or other pertinent statute, and communications regarding any appeal shall be to the commissioner.

.010. Licenses and Licensing. These terms are defined in Rule .001, Definitions. All licensing procedures shall be governed by the applicable provisions of APTRA and other pertinent statutes covering the license in question and these rules.

.011. Ex parte Consultations. Unless required for the disposition of *ex parte* matters authorized by law, members or employees of the agency assigned to render a decision or to make findings of fact and conclusions of law in a contested case may not communicate, directly or indirectly, in connection with any issue of fact or law with any party or his representative, except on notice and opportunity for all parties to participate.

Doc. No. 784066

Nursing and Convalescent Homes Procedures Covering Certification and Decertification of Long-Term Care Facilities which Participate in the Title XIX Medical Assistance Program 301.54.10

The Texas Board of Health has adopted these rules and Rules 301.01.02.001-.011, "Formal Hearing Procedures," as emergency rules because the board found that an imminent peril to the public health, safety, or welfare required adoption on an emergency basis. The board's reasons for this finding are as follows: These rules cover the practices and procedures the department uses in certifying, decertifying, or taking related action regarding a long-term care facility which participates in the Medical Assistance Program in the State of Texas under Title XIX of the United States Social Security Act. Included in these rules are fair hearing procedures available to a facility to appeal or contest the decision. For a facility to participate in this program, the department first must certify the facility as meeting minimum federal standards of participation. If the facility, after being

certified, falls below required standards and the violations are of such a serious nature as to represent an imminent or immediate threat to the health and safety of the patients or residents, the department is required to take immediate action under Title XIX regulations (45 Code of Federal Regulations, Section 249.33) by decertifying or cancelling the certification of the facility and giving the facility the right to have a hearing to appeal or contest the action. To meet this federal mandate, the department needs rules of procedure and practice on the certification/decertification process and the hearing process. Because of the department's need to act immediately to meet the imminent or immediate threat to health and safety and to give the facility the right to an immediate hearing, the department needs rules of procedures and practice to support its actions and, therefore, is adopting these rules along with Rules 301.01.02.001-.011 on an emergency basis. The department is simultaneously proposing these rules for permanent adoption.

These rules are adopted under authority of Article 4418a and 6252-13a, Texas Revised Civil Statutes.

.001. Purpose. The purpose of these rules is to establish the procedures and practices the Texas Department of Health uses in certifying, decertifying, or taking related action relating to long-term care facilities participating in the Medical Assistance Program in the State of Texas under Title XIX of the United States Social Security Act.

.002. Definitions.

(a) "Certification/recertification" means a department survey of a facility reveals that the facility has complied with standards governing the Title XIX Medical Assistance Program requirements for certification and the facility is certified as meeting these requirements.

(b) "Decertification" means that a survey made by the department reveals that the facility is not in compliance with the Title XIX Medical Assistance Program for certification requirements and action is taken to remove certification.

(c) "Denial of certification" means that a survey made by the department reveals that the facility is not in compliance with the Title XIX Medical Assistance Program for certification requirements and action is taken not to grant certification status.

(d) "Department" means the Texas Department of Health.

(e) "Facility" means a long-term care institution which has applied for participation in the Title XIX Medical Assistance Program in the State of Texas.

(f) "Human Resources" means the Texas Department of Human Resources.

(g) "Invocation of automatic cancellation clause" means a department follow-up that determines correction has not been made or no substantial progress toward correction of previously listed deficiencies has been made, leading to department action to invoke the predetermined automatic cancellation clause of the certification.

(h) "Standards" means those rules, requirements, and guidelines established by Human Resources with which a facility must comply to participate in the Title XIX Medical Assistance Program.

(i) "Title XIX Medical Assistance Program" means the Medical Assistance Program in the State of Texas under Title XIX, "Grants to States for Medical Assistance Programs," United States Social Security Act.

.003. Department's General Responsibilities Under Title XIX Medical Assistance Program.

(a) To certify to Human Resources by means of a survey report and related documentation the level of compliance of each facility with federal and state standards and that each facility does the following:

(1) employs a full-time licensed nursing home administrator;

(2) has in operation an organized nursing service;

(3) maintains professional planning and supervision of menus and meal service for patients for whom special diets or dietary restrictions are medically prescribed;

(4) has satisfactory policies and procedures relating to maintenance of medical records;

(5) has satisfactory policies relating to the administration and distribution of drugs, medications, and biologicals;

(6) maintains satisfactory policies and procedures relating to physician coverage and emergency medical attention;

(7) has entered into written agreements with one or more general hospitals under which such hospitals will provide needed diagnostic and other services to patients and under which such hospitals agree to timely acceptance, as patients thereof, of acutely ill patients who are in need of hospital care;

(8) meets conditions relating to environment and sanitation; and

(9) meets the requirements of the Life Safety Code (National Fire Protection Association, NFPA No. 101, 1967), or of such comparable State Fire and Safety Code, as are applicable.

(b) To perform any and all other certification responsibilities as required by standards and the contract between the department and Human Resources for the implementation of the state certification program.

.004. Department's Survey Procedure and Practice in Facilities.

(a) The department will make a complete initial survey and subsequent surveys as necessary, but at least once during the term of the provider contract. The survey will consist of an on-site inspection by department personnel.

(b) More frequent surveys will be conducted if the facility does not comply with standards or there are deficiencies. The surveyors will:

(1) determine if the deficiency has been or is being corrected;

(2) determine the progress the facility is making in correcting the deficiency;

(3) write a report, supported by satisfactory documentation, to the department central office on the deficiency and recommend action, if any, the department should take.

(c) Written reports of all surveys will be prepared on forms approved by the United States Department of Health, Education, and Welfare, the department, and Human Resources. These reports, supported by satisfactory documentation, will be submitted to the department's Facility Standards Division.

(d) The criteria and guidelines that the surveys use to ascertain compliance are those listed in the standards as defined in Rule .002(f).

(e) Each surveyor will have to use his professional judgment and expertise in determining if a facility complies with

standards. The surveyor's analyses and conclusions will be based on proper documentation, which includes the surveyor's narrative and survey form and which should reflect as accurately as possible the true conditions of the facility's operation.

(f) The types of action that a surveyor or survey team can recommend to the Facility Standards Division and the criteria for such recommendations are:

(1) Certification is granted when the facility either has no deficiencies or the deficiencies noted individually or in combination neither jeopardize the health or safety of patients nor are of such character as to seriously limit the facility's capacity to render adequate care.

(2) A compliance (probation) letter is written a facility when the situation does not immediately jeopardize the patient's health and safety, but:

(A) the facility has a history of not exhibiting prompt corrective action; or

(B) the facility has deficiencies of a repeat but otherwise nonserious nature; or

(C) deficiencies are in such number or nature as to cause concern that the facility's operations are beginning to deteriorate.

(3) A hold on vendor payments is recommended when:

(A) deficiencies are still not corrected following a compliance letter; or

(B) deficiencies may be considered a threat to patient health and/or safety but are not widespread.

(4) Decertification of a facility is based on:

(A) a history of noncompliance with standards;

(B) deficiencies which pose an immediate threat to patient health and/or safety. The department will determine if there is an immediate threat to patients health and/or safety by using the professional judgment and expertise of department personnel and considering the facts and documentation in the survey report and narrative.

.005. Final Action by Department on Survey Recommendations. Upon receiving recommendations from the surveyors, the department through the Facility Standards Division will take final action as follows:

(a) The survey report is reviewed for completeness, consistency with standards, and uniformity in application of standards.

(b) The department, in the professional judgment of the personnel reviewing the report, is authorized to render a final decision different from the survey recommendation. Such final decision will be based on facts, information, and related material in the survey report documentation, and will be made by the director of the Facility Standards Division on behalf of the department.

(c) The various final actions the department can take are:

(1) certification of facility; or

(2) sending compliance (probation) letter to the facility; or

(3) recommendation to Human Resources that the facility's vendor payments be held in abeyance (vendor hold); or

(4) denial of certification of facility; or

(5) invocation of automatic cancellation clause; or

(6) decertification of facility.

.006. Fair Hearing Procedures.

(a) **Informal hearings.** Before the department takes any of the actions listed in Sections (c)(4), (c)(5), or (c)(6) of Rule .005, the department will give the facility an opportunity for an informal hearing to ascertain if the proposed action is proper and justified under the following hearing procedures.

(1) If the proposed action is a denial of certification under Rule .005(c)(4) or the invocation of the automatic cancellation clause under Rule .005(c)(5), the Facility Standards Division will give the facility written notice of the proposed action stating: the effective date of the proposed action; the basis for the action; the facility's opportunity to request a hearing and the time within which the request must be made to the Facility Standards Division director; the name of the hearing officer; and any other information the division considers necessary to apprise the facility of the proposed action and hearing procedure.

(2) If the proposed action is a decertification of a facility under Rule .005(c)(6), the Facility Standards Division will give the facility written notice of the proposed action stating: the effective date of the proposed action; the basis for the division's belief that the deficiencies pose an immediate threat to patient health and/or safety; the department will hold a hearing prior to the action and the date of the hearing; the name of the hearing officer; and any other information the division considers necessary to apprise the facility of the proposed action and hearing procedure.

(3) An impartial hearing officer from the department will conduct the hearing in a fair and reasonable manner, will keep minutes of the proceedings, and will allow all facts and issues to be discussed as he deems necessary and appropriate to ascertain if the proposed action is proper and justified. The hearing officer will be the person stated in the notice to the facility or his designated representative.

(4) At the conclusion of the hearing, the hearing officer will render his opinion on whether he approves or disapproves of the proposed action. If he approves of the action, it will become effective on the date stated in the notice; if he disapproves of the proposed action, it will not become effective. The hearing officer will follow up with a final written report of the hearing with copies to all parties.

(5) The parties to the hearing will be the facility administrator, the department's Facility Standards Division director, and any other persons the hearing officer deems necessary to be present for a fair determination.

(6) In all informal hearings, the hearing officer will conduct the hearing to insure due process, but he need not apply technical rules of evidence and legal procedure. The intent is to have the hearing officer obtain all relevant information and testimony pertaining to the subject of the hearing as conveniently, inexpensively, and expeditiously as possible without prejudice to the rights of any party.

(b) **Formal hearing.** If the facility is dissatisfied with the results of the informal hearing in the case of a decertification action under Rule .005(c)(6), the facility may request a formal hearing under the following procedures.

(1) The facility will send a formal written request to the Facility Standards Division director for a formal hearing on the decertification action. The director will then ask the department's Legal Office to institute formal hearing procedures.

(2) The hearing will be conducted according to the Administrative Procedure and Texas Register Act and the department's formal hearing procedures in Rules 301.01.02.001-.011.

Issued in Austin, Texas, on June 19, 1978.

Doc. No. 784067 Fratis L. Duff, M.D.
Commissioner of Health

Effective Date: June 19, 1978

Expiration Date: October 17, 1978

For further information, please call (512) 458-7611.



Texas Department of Mental Health and Mental Retardation

Other Agencies and the Public Public Responsibility Committees for Community Mental Health—Mental Retardation Centers 302.03.20

The Texas Department of Mental Health and Mental Retardation is renewing the effectiveness of Rules 302.03.20.001-.009, which were adopted on an emergency basis effective February 23, 1978, and published in the March 3, 1978, issue of the *Texas Register* (3 TexReg 770). The emergency rules are being renewed for a period of 60 days, beginning June 24, 1978.

Doc. No. 784064

Client (Patient) Care

Comprehensive Diagnostic and Evaluation Centers 302.04.35

The Texas Department of Mental Health and Mental Retardation is renewing the effectiveness of emergency rules con-

cerning comprehensive diagnosis and evaluation centers for a period of 60 days, beginning June 24, 1978. Rules 302.04.35.001-.013 were adopted on an emergency basis effective February 23, 1978, and published in the March 3, 1978, issue of the *Texas Register* (3 TexReg 775).

Issued in Austin, Texas, on June 19, 1978.

Doc. No. 784065 James T. Herod
Legal Clerk
Texas Department of Mental Health
and Mental Retardation

Effective Date: June 24, 1978

Expiration Date: August 23, 1978

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

Texas Water Development Board

Financial Programs

Policy Declarations 156.09.10

The City of Itasca has made a request for financial assistance under the Water Quality Enhancement Program for the purpose of expanding and upgrading the existing waste water treatment plant. Pursuant to Sections 5.131 and 5.132, Texas Water Code, as revised, the Texas Water Development Board has previously adopted and published rules concerning call provisions on junior lien revenue bonds and required principal and interest payment dates on bonds purchased by the board which when applied to the bonds being purchased by the board from the City of Itasca are disadvantageous to the development fund. The board also recognizes that an undue delay in the approval of the request for financial assistance could imperil the public health, safety, and welfare of the City of Itasca.

For these reasons, the Texas Water Development Board has resolved that an imminent peril to the public health, safety, and welfare of the City of Itasca requires adoption of a rule on fewer than 30 days' notice. The Texas Water Development Board adopts, through emergency rule, the following amendment, to be effective for a period of not longer than 120 days.

This rule is amended under the authority of Sections 5.131 and 5.132, Texas Water Code.

.001. Administrative Policies.

(a) Prior review of methods of financing and sources of revenue. The applicant seeking financial assistance for a project shall, prior to execution, adoption, or the holding of elections in respect thereof, present for preliminary review and approval by the executive director any proposed bond resolutions and ordinances relating to methods of financing such project as well as proposed water sales contracts and other agreements providing a source of revenues therefrom.

(b) Bonds eligible for board purchase. Securities eligible for purchase by the board may be one or more of the following categories:

- (1) general obligation bonds, limited tax;
- (2) general obligation bonds, limited tax;
- (3) revenue bonds, prior lien;
- (4) revenue bonds, junior lien;

(b) combination tax and revenue (prior or junior lien) bonds.

(c) Income pledges for revenue bonds. Bonds offered to the board which are payable in whole or in part from revenues shall include a pledge of revenues to be derived from the project for which financial assistance is sought, and such pledge may be combined with a pledge of revenue from other facilities or systems.

(d) Requirements as to maturities. Bonds purchased by the board may have a final maturity up to applicant's legal limit. Maturities should be arranged to create a schedule of debt service requirements which is reasonably uniform over the life of the issue. However, where warranted, principal maturities may be arranged to accommodate reasonably expected future growth in payment ability; or, under certain conditions, term bonds may be acceptable. Bonds may be made callable at par at the option of the issuer on any interest payment date on and after 20 years from the date of issuance, and any earlier call date may require the payment of a premium of not less than one half of one percent for each 12 months from date of such call to the date at which the bonds are callable at par. Junior lien revenue bonds *may be made* [are] callable at any time at par plus accrued interest. Principle of all bonds offered to the board shall mature January 10 and/or July 10, and interest payment dates shall be January 10 and July 10, except in those instances where prohibited by existing bond resolutions *or in those instances where the development fund manager determines that the use of other dates is advantageous to the development fund.*

(e) Water development fund; purpose for which used. The Texas Water Development Fund shall be used by the board for the purpose of providing financial assistance to the various political subdivisions for the conservation and development of the water resources of the State of Texas by the construction, acquisition, or improvement of projects. Water quality enhancement loans may be used in support of federal construction grant funds under the Federal Water Pollution Control Act (33 United States Code Annotated 1251, *et seq.*) or may be used for the amount of the cost of the treatment works not supported by federal construction grant funds.

(f) Water development account; purpose for which used. All proceeds from the sale of water development bonds (except accrued interest) shall be deposited in the state treasury and credited to a special account in the development fund designated "water development account." The water development account may be used for any project and any manner consistent with the provisions of the Texas Constitution or the Texas Water Code, but the development fund may not be used for the construction of retail water distribution systems or for transportation of water solely to retail purchasers.

(g) Water quality enhancement account; purpose for which used. All proceeds from the sale of water quality enhancement bonds (except accrued interest) shall be deposited in a special account in the development fund designated "water quality enhancement account." The water quality enhancement account may be used for construction of treatment works in any manner consistent with the provisions of the Texas Constitution and the Texas Water Code.

(h) Use of local financial resources. Every participating political subdivision proposing to participate in the development of any project shall be required to use its own resources to the maximum to finance optimum development

at the site and to exhaust all other customary means of financing before seeking state financial assistance or participation. The board may require that the bonds of the applicant be publicly offered for sale prior to action on any application.

(i) Loan assistance in preference to state ownership. In those instances where financial assistance is necessary to develop a project or to effectuate state policy with respect to optimum development at a specific reservoir site, the applicant will be encouraged to apply for financial assistance under the board's Loan Assistance Program rather than under the Water Facilities Acquisition Program.

(j) Recoupment of state investment. The board shall require that, subject to constraints of environmental responsibility, the economic potential of any project be developed to the maximum extent possible for the purpose of developing sources of revenue to assist the state in recovering its investment. In a project where a dam and reservoir is proposed, such sources of revenue include but are not limited to:

(1) recreational uses of project lands and facilities developed or acquired in whole or in part with financial assistance from the board;

(2) use of project lands or facilities for any purpose not inconsistent with the primary purpose for which such lands and facilities were acquired and developed;

(3) sales of water by participating political subdivisions to customers who were not foreseen at the time state participation in a project was approved.

(k) Operation and maintenance expenses. In the absence of a specific legislative appropriation for operation and maintenance expenses or other sources of revenue specifically derived for that purpose, the board will not bear any portion of the operation and maintenance expenses for state-owned interests in any water facilities acquisition project, and such interests are acquired without the assumption of any obligation relating to future operation and maintenance expenses. However, money received from the sale of water, which shall include standby service, may be used for the operation and maintenance of acquired facilities.

(l) Character of the state's interest in acquired facilities. The character of interest which the state shall acquire in storage facilities under the Water Facilities Acquisition Program shall be an undivided interest. Unless specifically modified by the contractual act of the participating parties or as may be otherwise indicated by these rules, the rights and responsibilities of the board and other participating interests in acquired storage facilities shall be governed by the rules and principles of law relating to tenants in common.

(m) Attorney general's approval of certain documents. For any project where a dam and reservoir is proposed, the attorney general of Texas is required to approve the following as to legality:

(1) the resolution of the board authorizing the acquisition and development of projects;

(2) all contracts between the board and the United States or any of its agencies for the acquisition and development of projects constructed or to be constructed by the federal government;

(3) all contracts or agreements by the board for the sale, lease, or transfer of acquired projects, in whole or in part;

(4) all contracts by the board for the sale of water impounded in acquired projects;

(5) all contracts by the board for the development and operation of recreation facilities.

(n) Ancillary recreational facilities. The board will consider applications by participating political subdivisions for assistance for purchase of land required for development of needed recreational facilities on a dam and reservoir project. The primary emphasis in considering the recreational function of a project shall be the optimum public use and enjoyment of such project and recoupment of the state's investment in the development of the project. It is expressly provided that such planned facilities:

(1) shall be an integral part of the proposed dam and reservoir project;

(2) are in an area where needed and not otherwise available to the general public; and

(3) cannot be financed by any other source of funds;

(4) shall be so operated that any recreational use of water in the project will be in accordance with commission's permit for same;

(5) have been submitted to the Texas Parks and Wildlife Department and/or other agencies having responsibility and jurisdiction in the premises for review and comment as to:

(A) the facilities for which there is the greatest need,

(B) adherence to applicable provisions of the State's Comprehensive Outdoor Recreational Plan,

(C) consistency with any existing regional outdoor recreational plan;

(6) are supported by a system of fees and charges for use of recreational areas to ensure proper operation and maintenance of such facilities and recoupment of the state's investment therein;

(7) shall ordinarily comprise not more than 10 percent of the total land acquired for the project.

(o) Project inspection during construction. The following principles of board policy shall apply to all projects financed in whole or in part by the Texas Water Development Fund:

(1) The executive director is authorized to inspect all work performed and materials furnished. Such inspection may extend to all or to any part of the work and to the preparation or manufacture of the materials to be used therein. A resident engineer or inspector may be stationed at the construction site to report to the executive director on the manner and progress of the construction, or to report conditions relating to the materials furnished and the compliance by the contractor with approved plans and specifications for the project. Such inspection will not release the contractor from any obligation to perform the work in accordance with the requirements of the contract documents.

(2) In the event construction procedures or materials are determined by the executive director to be substandard or otherwise unsatisfactory and/or not in conformity with approved plans and specifications, the executive director may order the participating political subdivision to take such action through the project engineer in the manner provided for in the construction contract to correct any such deficiency.

(3) In those instances of dispute between the participating political subdivision's project engineer and the execu-

tive director's representative as to whether materials furnished or work performed conform with the terms of the construction contract, the executive director may order the participating political subdivision to direct the project engineer to reject questionable materials and/or initiate other action provided for in the construction contract, including suspension where necessary, until all disputed issues are resolved in accordance with the terms of the construction contract.

(4) Under authority of Rule 156.09.20.005(h)(6), the contractor shall furnish the executive director's representative with every reasonable facility for ascertaining whether the work as performed is in accordance with the requirements and intent of the contract.

(5) The executive director is authorized to conduct engineering and financial audits of every project which is financed in whole or in part by Texas water development funds. For purposes of this rule, the following definitions are applicable:

(A) Financial audit. A financial audit consists of a review of all this agency's files for historical background for the project, a visit to the project offices or site to gather sufficient information to perform a detailed review of documents which substantiate the project expense, a tabulation of expenses, and issuance of an audit report to document the findings.

(B) Engineering audit. An engineering audit consists of a physical inspection of the project to analyze and compare the project with the approved plans and specifications, resulting in the issuance of a technical report which itemizes any variances from the construction contract and approved plans and specifications, and recommends corrective action.

(p) Testing of materials. In addition to normal testing procedures required of the participating political subdivision, the executive director may require reasonable additional tests of construction materials or processes which the executive director determines to be necessary during the construction of projects financed in whole or in part by Texas water development funds. All tests, whether for the executive director or the project engineer, will conform to current American Association of State Highway Officials, American Society of Testing and Materials, Texas Department of Highways and Public Transportation published procedures, or similar criteria. The executive director shall specify which tests are applicable. Samples for testing shall be furnished free of cost to the executive director upon request on the construction site.

(q) Approval of project plans and specifications. A loan assistance or water facilities acquisition project shall not be eligible for state participation in the event engineering plans and specifications have not been approved by the executive director prior to (1) completion of bid advertising, (2) the execution of a construction contract, or (3) the commencement of actual construction. A water quality enhancement project shall not be eligible for state participation in the event engineering plans and specifications have not been approved by the executive director prior to completion of bid advertising.

(r) Retail distribution prohibited. The point at which a system necessary for transportation from storage attaches to lines which have as the sole or obvious primary purpose the distribution of water to retail purchasers is the final extent to

which construction can be financed with proceeds from the water development fund.

Issued in Austin, Texas, on June 20, 1978.

Doc. No. 784116 Bruce Bigelow
General Counsel
Texas Department of Water Resources

Effective Date: June 20, 1978

Expiration Date: October 18, 1978

For further information, please call (512) 475-7838.



PROPOSED RULES

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

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

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

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

Comptroller of Public Accounts

Tax Administration

Motor Vehicle Sales and Use Tax Division 026.02.06

The Comptroller of Public Accounts is proposing to adopt amended Rule 026.02.06.028. The amendment provides a definition of the phrase "rented in Texas." The amendment also provides for a credit to be taken against Texas Motor Vehicle Gross Rental Receipts Tax when a person rents a motor vehicle in Texas and then moves the vehicle to another state and pays legitimately imposed rental receipts tax or sales and use tax attributable to the motor vehicle. The rule has been properly formatted.

The proposed amendment clarifies Texas Taxation—General Annotated, Article 6.01(1), regarding the meaning of "rented in Texas" and "not rented in Texas." The proposed changes have no substantive effect on the base of the Motor Vehicle Sales Tax, and thus, are not expected to have any significant fiscal implications (source: Revenue Estimating staff, Comptroller of Public Accounts).

Public comment on the proposed amendment to Rule 026.02.06.028 is invited. Persons should submit their comments in writing to Richard Montgomery, Drawer SS, Austin, Texas 78711.

The amendment is proposed under the authority of Texas Taxation—General Annotated, Article 6.02 (1969).

028. Motor Vehicles [Vehicle] Rented in Texas [but Terminated Out of State; Motor Vehicle Rented Out of State but Terminated in Texas—Article 6.01(1)].

(a) When a motor vehicle is rented in Texas, all of the rental receipts are subject to the Texas Motor Vehicle Gross Rental Receipts Tax. If a person who rents a motor

vehicle in Texas subsequently moves the vehicle to another state and pays a legitimately imposed rental receipts tax or sales and use tax attributable to the motor vehicle, he may claim a credit in the amount of the tax paid to the other state against any Texas Motor Vehicle Gross Rental Receipts Tax due after payment of the tax to the other state.

(1) A motor vehicle is "rented in Texas" when the vehicle is delivered to the renter in Texas regardless of the location of the rental agency.

(b) If a motor vehicle is not rented in Texas, the gross rental receipts from the rental are not subject to the Texas Motor Vehicle Gross Rental Receipts Tax.

(1) A motor vehicle is not "rented in Texas" if the vehicle is delivered to the renter outside the State of Texas or to a common carrier for transportation to the renter outside of Texas.

[When a motor vehicle is rented in Texas and the rental is terminated out of Texas, the entire motor vehicle gross rental receipts from the rental are subject to Texas Motor Vehicle Gross Receipts Tax. The use outside the state does not affect the tax liability due in this state. When a motor vehicle is rented in another state and the rental is terminated in Texas, no Motor Vehicle Gross Rental Receipts Tax is due.]

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

Doc. No. 784139 Bob Bullock
Comptroller of Public Accounts

Proposed Date of Adoption: July 28, 1978

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

Texas Education Agency Comprehensive Instruction Bilingual Education 226.32.52.001

The Texas Education Agency proposes to adopt Rule 226.32.52.001, concerning participation in bilingual education. This proposed new rule is the first in a series of proposed amendments to regulations concerning bilingual education. Under the proposed changes, it is the responsibility of each school district to identify all children of limited English-speaking ability and to provide special language programs for them. Bilingual education shall be provided in kindergarten through grade five. English language development programs shall be provided in grades 6 through 12. These changes in bilingual education regulations have been adopted as emergency rules.

Proposed Rule .001 sets out the responsibility of each school district to identify children of limited English-speaking ability. Each school district must report to the commissioner of education each year the number of children identified.

The Texas Education Agency anticipates that the cost for bilingual education will be approximately \$5,200,000 each year for the next five years. These costs are shared by the state and by local school districts under the financing provisions of the Foundation School Program (Chapter 16, Texas Education Code).

Public comment on the proposed adoption of Rule 226.32.52.001 is invited. Comments may be submitted by telephoning the office of Dr. J. B. Morgan, associate commissioner for Policies and Services, at (512) 475-7077, or by writing to him at 201 East 11th Street, Austin, Texas 78701. All requests for a public hearing on proposed rules must be received by the commissioner of education not more than 15 calendar days after notice of a proposed change in rules has been published in the *Texas Register*.

This rule is proposed under the authority of Chapter 21, Subchapter L, Texas Education Code.

.001. Participation in Bilingual Education.

(a) Policy. It is the responsibility of each school district to identify all children of limited English-speaking ability and to provide for them special language programs. Criteria for identification of children for entry into and exit from special language programs shall be developed by the commissioner of education.

(b) Administrative procedure. Children of limited English-speaking ability are children whose primary language is other than English and who have difficulty performing ordinary classwork in English. All children identified as limited English-speaking ability shall be provided the opportunity to participate in a special language program.

The commissioner of education shall establish criteria for the survey of students' home language and shall select tests for identifying limited English-speaking ability children. The commissioner of education shall receive from each school district, not later than March 1 of each year, a written report of the number of school-age children of limited English-speaking ability within each grade level (kindergarten through 12) in the district and a classification according to the language in which they possess a primary speaking ability. Each school district must have on file a policy statement adopted by its board of trustees delineating the district's method and criteria to be used for identifying children of limited English-speaking ability.

Doc. No. 784042

226.32.52.010

The Texas Education Agency proposes to amend Rule 226.32.52.010, Bilingual Education Program Description. This is one of a series of changes in the rules concerning bilingual education.

It is proposed that the first paragraph of the policy section and the first paragraph of the administrative procedure section be retained, with amendments, but that subsequent paragraphs as amended be moved to Rule .011. A provision is added to the policy section of the rule stating that bilingual programs shall be transitional in nature. The administrative procedure section requires districts to plan, to conduct program evaluations, and to emphasize the positive values of linguistic and cultural diversity. The proposed amendment to Rule 226.32.52.010 has been adopted as an emergency rule.

The Texas Education Agency anticipates that the cost for bilingual education will be approximately \$5,200,000 each year for the next five years. These costs are shared by the

state and by local school districts under the financing provisions of the Foundation School Program (Chapter 16, Texas Education Code).

Public comment on the proposed amendment to Rule 226.32.52.010 is invited. Comments may be submitted by telephoning the office of Dr. J. B. Morgan, associate commissioner for Policies and Services, at (512) 475-7077, or by writing to him at 201 East 11th Street, Austin, Texas 78701. All requests for a public hearing on proposed rules must be received by the commissioner of education not more than 15 calendar days after notice of a proposed change in rules has been published in the *Texas Register*.

This rule amendment is proposed under the authority of Chapter 21, Subchapter L, Texas Education Code.

.010. Bilingual Education Program Description.

(a) Policy. The basis for bilingual education shall be founded on the belief that a program of bilingual education will meet the needs of children of limited English-speaking ability and facilitate their integration into the regular English [school] curriculum. *The program shall be transitional in nature with the purpose of enabling children to participate in the regular school program as soon as practicable.* Bilingual education constitutes an authorized instructional program encompassing the total education process in which two languages (English and another language) shall be used for a portion of the curriculum. Bilingual instruction shall be provided in kindergarten, first grade, and second grade in 1975-76 and also in the third grade by 1976-77. Bilingual instruction may be offered in the fourth and fifth grades for students who have not progressed sufficiently in the use of the English language to participate in the regular school curriculum. Any bilingual program beyond the fifth grade shall be at the expense of the respective local school district.

[The amount of time and the treatment accorded to each of the languages in both content area and language instruction shall be commensurate with the individual needs of pupils. Inherent in the program of bilingual instruction shall be the teaching of the cultural heritage of the people whose languages are used and the contributions made to the community, the state, and the country. For pupils whose first language is other than English, the teaching of concepts, content information, and attitudes and relationships may be undertaken entirely in the first language until sufficient facility is achieved in the use of both languages, recognizing English as the predominant curriculum language.]

(b) Administrative procedure. The Division of Bilingual Education has primary responsibility for the administration of bilingual education programs. The division develops descriptions of instructional program alternatives and assists school districts in establishing, operating, and evaluating developing comprehensive bilingual education programs.

Each school district is responsible for providing special language programs for all children identified as limited English-speaking ability. Because educational needs of children vary because of age and placement in school, districts shall provide full bilingual education programs for children in grades kindergarten through five and English language development programs for students in grades 6-12.

All public school efforts to assist children of limited English-speaking ability shall be directed primarily toward meeting the educational needs of these children in accordance with State Board of Education policies and administrative procedures. To meet those needs in a responsible and sensitive manner, it is necessary to undertake intensive local planning processes, to maximize the innovative use of bilingual methodology and instructional resources, to emphasize the positive values of cultural and linguistic diversity, and to disseminate the results of program evaluation. Because the numbers of children of limited English-speaking ability and resources available to meet their needs do not occur uniformly throughout the state, school districts shall explore every available avenue to provide these children with a program.

[Bilingual education is a full-time program of instruction developed to meet the individual needs of each child in order that the pupil can participate in the regular school program as rapidly as possible. It is characterized by the following instructional components:

(1) The basic concepts initiating the child into the school environment are taught in the language he brings from home.

(2) Language development is provided in the child's dominant language.

(3) Language development is provided in the child's second language.

(4) Subject matter and concepts are taught in the child's dominant language.

(5) Subject matter and concepts are taught in the second language of the child.

(6) Specific attention is given to develop in the child a positive identity with his cultural heritage, self-assurance, and confidence.

(a) Responsibility for implementation. All public school efforts to assist children of limited English-speaking ability shall be directed primarily toward meeting the educational needs of these children in accordance with State Board of Education policies and administrative procedures. To meet those needs in a responsible and sensitive manner, it is necessary to undertake intensive local planning processes, to maximize the innovative use of bilingual methodology and instructional resources, to emphasize the positive values of cultural and linguistic diversity, and to disseminate the results of program evaluation. Because the numbers of children of limited English-speaking ability and resources available to meet their needs do not occur uniformly throughout the state, school districts shall explore every available avenue to provide these children with a full-time instructional program of bilingual education.

(b) Definitions. Children of limited English-speaking ability means children whose primary language is one other than English and who have difficulty performing ordinary classwork in English.]

Doc. No. 784043

226.32.52.011-.012

The Texas Education Agency proposes to adopt Rules 226.32.52.011-.012, concerning bilingual education. This is part of a series of changes in the bilingual education regula-

tions. Rule .011 is the program description for required bilingual education programs in kindergarten through grade five. The six instructional components of the program are set out in the administrative procedure section of the rule. Rule .012 is the program description for required English language development programs for grades 6 through 12. These rules have been adopted as emergency rules.

The Texas Education Agency anticipates that the cost for bilingual education will be approximately \$5,200,000 each year for the next five years. These costs are shared by the state and by local school districts under the financing provisions of the Foundation School Program (Chapter 16, Texas Education Code).

Public comment on the proposed adoption of Rules 226.32.52.011-.012 is invited. Comments may be submitted by telephoning the office of Dr. J. B. Morgan, associate commissioner of Policies and Services, at (512) 475-7077, or by writing to him at 201 East 11th Street, Austin, Texas 78701. All requests for a public hearing on proposed rules must be received by the commissioner of education not more than 15 calendar days after notice of a proposed change in rules has been published in the *Texas Register*.

These rules are proposed under the authority of Chapter 21, Subchapter L, Texas Education Code.

.011. Bilingual Education (Grades Kindergarten through Five): Program Description.

(a) Policy. Bilingual education constitutes an authorized instructional program encompassing the total education process in which two languages (English and another language) shall be used for a portion of the curriculum. Bilingual instruction shall be provided for all children identified as limited English-speaking ability in kindergarten through grade five.

The amount of time and the treatment accorded to each of the languages in both content area and language instruction shall be commensurate with the individual needs of pupils. Inherent in the program of bilingual instruction shall be the teaching of the cultural heritage of the people whose languages are used and the contributions made to the community, the state, and the country. For pupils whose first language is other than English, the teaching of concepts, content information, and attitudes and relationships may be undertaken entirely in the first language until sufficient facility is achieved in the use of both languages, recognizing English as the predominant curriculum language.

(b) Administrative procedure. Bilingual education is a full-time program of instruction developed to meet the individual needs of each child in order that the pupil can participate in the regular school program as rapidly as possible. It is characterized by the following instructional components.

(1) The basic concepts initiating the child into the school environment are taught in the language he brings from home.

(2) Language development is provided in the child's dominant language.

(3) Language development is provided in the English language.

(4) Subject matter and concepts are taught in the child's dominant language.

(5) Subject matter and concepts are taught in the English language.

(6) Specific attention is given to develop in the child a positive identity with his cultural heritage, self-assurance, and confidence.

.012. English Language Development (Grades 6-12): Program Description.

(a) Policy. English language development is a component of bilingual education and constitutes an authorized instructional program encompassing the skills of listening, speaking, reading, and writing in English. English language development instruction shall be provided for all students identified as limited English-speaking ability in grades 6 through 12.

(b) Administrative procedure. English language development is a part-time program of language instruction designed to develop skills of listening, speaking, reading, and writing in English. English language development programs provide instruction for a minimum of one standard class period, or the equivalent thereof, each day.

Doc. No. 784044

226.32.52.020

The Texas Education Agency proposes to amend Rule 226.32.52.020, concerning required bilingual education. This is one of a series of amendments to bilingual education regulations. The proposed change would move most of the material in the administrative procedure section of the rule to Rules .021-.029. The policy section of the rule provides for the development of a state plan for bilingual education. The proposed amendment to Rule 226.32.52.020 has been adopted as an emergency rule.

The Texas Education Agency anticipates that the cost for bilingual education will be approximately \$5,200,000 each year for the next five years. These costs are shared by the state and by local school districts under the financing provisions of the Foundation School Program (Chapter 16, Texas Education Code).

Public comment on the proposed amendment to Rule 226.32.52.020 is invited. Comments may be submitted by telephoning the office of Dr. J. B. Morgan, associate commissioner for Policies and Services, at (512) 475-7077, or by writing to him at 201 East 11th Street, Austin, Texas 78701. All requests for a public hearing on proposed rules must be received by the commissioner of education not more than 15 calendar days after notice of a proposed change in rules has been published in the *Texas Register*.

This rule amendment is proposed under the authority of Chapter 21, Subchapter L, Texas Education Code.

.020. Bilingual Education Required (State-Supported Required Bilingual Education).

(a) Policy. A state-supported bilingual education program for children in grades kindergarten through five and an English language development program for students in grades 6 through 12 shall be implemented in accordance with law and procedures developed by the commissioner of education and approved by the State Board of Education. The commissioner of education shall prepare and distribute a state plan for bilingual education which shall provide the basis for the operation of

language programs for children of limited English-speaking ability. A school district must provide a program of bilingual instruction to facilitate the state policy as set out in the Texas Education Code, Section 21.451, if the school has an enrollment of 20 or more children of limited English-speaking ability in any language classification in the same grade level during the preceding scholastic year. A state-supported required bilingual education program in grades kindergarten through three shall be implemented in accordance with law and procedures developed by the commissioner of education and approved by the State Board of Education.

(b) Administrative procedure.

(1) Establishment of state-supported required bilingual education programs (*grades kindergarten through five*). Bilingual education shall be provided for all children identified as limited English-speaking ability in kindergarten through grade five (in kindergarten, first, second, and third grades by the 1976-77 school year). The means by which school districts shall operate a bilingual education program with children of limited English-speaking ability under the Foundation School Program are found in Rules .021-.029.

(2) Establishment of required English language development programs (*grades 6-12*). English language development programs shall be provided for all students identified as limited English-speaking ability in grades 6 through 12. (See Rules .031-.034.)

(a-a) Establishing requirements for school districts. The commissioner of education shall receive from each school district, not later than March 1 of each year, a written report of the number of school-age children of limited English-speaking ability within each grade level in the district and a classification according to the language in which they possess a primary speaking ability. Each school district must have on file a policy statement adopted by its board of education delineating the district's method and criteria to be used for identifying children of limited English-speaking ability. In determining the criteria for identifying children of limited English-speaking ability, the school district should make use of both objective and subjective measures of English proficiency. Objective measures must be suitable for the age of the child and must compare his language skills with those of the typical native English-speaking child of the same age. Measures of a more subjective nature, such as teacher opinion as well as peer interaction and/or parent information concerning the child's language, should be used to supplement conclusions reached from objective measures. For children in the early elementary grades (kindergarten through two), assessment of language proficiency should be on the basis of oral language production and comprehension. For others, assessment should include the reading and writing skills also, since these are a part of language proficiency. In any case, a judgment must be based on the child's real language and not just an artificial, incidental, or nonessential aspect of it.

(a-b) Operational expenses allocation. A special allowance per child of limited English-speaking ability enrolled in an approved state-supported required bilingual education program is to be made for pupil evaluation and special instructional materials. The special allowance is allocated to a school district at the beginning of the school year as soon as the "Application for Operational Expenses Allocation" is submitted to and certified by the Division of Bilingual

Education to the Finance Division. The procedures which apply to the use of the operational expenses allocation to each approved bilingual education program are:

(1) The allocation will be used to improve the quality of instruction in bilingual education classes. The allocation shall be utilized for pupil evaluation services and materials (the cost of purchasing and scoring of evaluation instruments), books, instructional media, and other instructional materials appropriate for instruction with children of limited English-speaking ability;

(2) Instructional materials which may be purchased by state funds allotted for this program are books and any apparatus, including three-dimensional manipulative materials, which convey information to the child or otherwise contribute to the learning process;

(3) Items which may not be purchased with state funds allotted for this program are:

(3-1) room furnishings, including desks, tables, chairs, filing cabinets, rugs, or any other item which is usually attributed to capital outlay; and

(3-2) consumable or expendable materials, including food, paints, clay, paper, ditto masters, or any other item which is consumed by use;

(4) The special allowance used for the operation of an approved program must supplement, not replace, local funds normally budgeted for the total instructional program; and

(5) Since unused funds shall be applied against the operational expenses allocation for the ensuing school year, the school district must maintain records that specifically identify or otherwise account for itemized expenditures from the operational expenses allocation and must retain documents as necessary to support the payment of expenditures. Records are subject to audit in accordance with State Board of Education Policy 226.42.01.010, Budgeting, Accounting, Financial Reporting, and Auditing for School Districts and Education Service Centers.

(6) Priority for operational expenses allocations will be given to those districts implementing required (grades kindergarten through three) and optional (grades four and five) bilingual education programs. Second priority will be given to those districts implementing optional bilingual education programs with less than 20 children of limited English-speaking ability where sufficient need is demonstrated.

(a-c) Application for operational expenses allocation. Allocations for state-supported required bilingual education programs for children of limited English-speaking ability will be made on the basis of an approved application submitted to the Texas Education Agency in September of each scholastic year. Each application shall include a program description which indicates the following:

(1) the number of children of limited English-speaking ability in the program and their primary language classification;

(2) the number of native English-speaking children, if any, participating in the bilingual education program;

(3) the number of teachers and paraprofessionals assigned to the program;

(4) location of program (specify campus or campuses);

(5) brief description of instructional programs;

(6) record of on-going and proposed inservice education geared to the requirements of the bilingual program and the needs of the professional and paraprofessional staff;

(7) where programs are being operated jointly, a description of the contracting arrangements;

(8) a description of parental-involvement activities;

(9) an evaluation design.

A "Supplemental Application for Operational Expenses Allocation—for State Bilingual Education Programs" will be distributed by the Division of Bilingual Education in January of each scholastic year, in order that school districts will be able to report and receive an operational expenses allocation for children of limited English-speaking ability who were identified and enrolled in the program since submission of the preliminary "Application for Operational Expenses Allocation."

(a-d) Evaluation of programs. School districts operating programs of bilingual education should develop an evaluation design in accordance with the objectives derived from the six instructional components for use in making local programmatic decisions, as well as to provide for the collection of information required for statewide evaluation purposes. An evaluation plan would embrace the following elements: instructional (product/process); management; parental/community involvement; staff development; materials development/acquisition/use.

In devising an evaluation plan, the Texas Education Agency bulletin entitled "Evaluation Plan Model" (May 1974) is suggested as a reference. Guidelines for submission and information requirements for statewide evaluation of bilingual education programs will be disseminated by the Texas Education Agency along with instructions for the completion of the "Application for Operational Expenses."

(b) Program content; method of instruction. The state-supported required bilingual education program implemented by a school district shall be a full-time program of instruction.

(c) Enrollment of children in program. Every school-age child of limited English-speaking ability residing within a school district required to provide a bilingual program for his language classification shall be enrolled in the program for a period of three years or until he achieves a level of English language proficiency which will enable him to perform successfully in classes in which instruction is given only in English, whichever first occurs. Children enrolled in the program, whenever possible, shall be placed in classes with other children of approximately the same age and level of educational attainment. If children of different age groups or educational levels are combined, the school district shall insure that the instruction given each child is appropriate to his or her level of educational attainment, and the district shall keep adequate records of the educational level and progress of each child enrolled in the program.

[No school district may transfer a child of limited English-speaking ability out of a state-supported required bilingual education program prior to his third year of enrollment in the program, unless the parents of the child approved the transfer in writing, and the child has received a score on an examination, which in the determination of the Texas Education Agency, reflects a level of English language skills appropriate to his or her grade level. A list of approved tests and their appropriate grade levels are disseminated annually

to school districts. If later evidence suggests that a child who has been transferred is still handicapped by an inadequate command of English, he may be re-enrolled in the program for a length of time equal to that which remained at the time he was transferred. Assignment to a bilingual education program may continue beyond three years with the approval of the school district and the child's parents or legal guardian.

[Native English-speaking children may be voluntarily enrolled in the program although no funding from the operational expenses allocation is provided for them. Both groups of children may be served in the same classroom, provided there is grouping within the classroom to meet the special needs of both groups.

[(d) School district policy for parent or guardian notification. Each school district operating a state-supported required bilingual education program for children of limited English-speaking ability will have a board policy requiring that:

[(1) the child's parent or guardian be notified of the child's enrollment in a bilingual education program no later than 10 days after the enrollment of the child; and

[(2) such written notification shall be in English and in the language in which the parents or guardian of the child possess a primary speaking ability.

[(e) Joint bilingual education programs and the transfer of students. A school district may join with any other district or districts to provide bilingual education programs. The availability of the programs shall be publicized throughout the affected districts. The tuition of a child of limited English-speaking ability who transfers from one district to another is:

[(1) the responsibility of the home district if bilingual education is not provided in the home district; or

[(2) the responsibility of the parent, if bilingual education is provided in the home district.

[(f) Preschool and summer school programs. (To be developed.)

[(g) Bilingual education. A bilingual education teacher is a teacher employed by a school district in a position requiring state certification and having bilingual education endorsement or a special assignment permit for bilingual education. Bilingual education endorsements shall be issued as specified in Policy 226.62.03.020, Specific Requirements for Teacher Certification by Class and by Level, Including Areas of Specialization and Endorsements.

[(h) Curriculum and staff development. A special curriculum and staff development allocation is made annually to school districts on the basis of pupils of limited English-speaking enrolled in an approved state-supported required bilingual education program. Allocations are made on the basis of an approved application submitted to the Texas Education Agency. Each application includes a program plan focusing on bilingual education for each participant (staff member) for the period requested. Funds allocated to this program are for payment of services for staff participation in the following activities:

[(1) Staff development to familiarize teachers with materials and/or bilingual education methodology and philosophy. This development may be planned and sponsored by the school district, by the regional service center, by the Texas Education Agency, or by teacher training institutions offering bilingual teacher education programs approved by the Texas Education Agency.

[(2) Development and/or revision of curricular and instructional materials for bilingual education classes.

[(3) Teaching in bilingual education summer programs designed for children of limited English-speaking ability needing specialized or intensive individualized instruction at the grade level(s) at which the school is required to implement the program.

[(4) Advanced language training for bilingual teachers and language training for monolingual teachers working under special assignment permits.

[(5) The line item amount of appropriation for this purpose will not be exceeded in allocating funds to local school districts.]

Doc. No. 784045

226.32.52.021-.029

The Texas Education Agency proposes to adopt Rules 226.32.52.021-.029, concerning provisions for required bilingual education programs, kindergarten through grade five. Rule .021 concerns use of the operational expenses allocation. This material was previously contained in Rule .020. The only substantive change occurs in subsection (6). Priority in allocating these funds will be given to districts implementing programs for kindergarten through grade three, and then for districts with programs in grades four and five. Rule .022 concerns application for the operational expenses allocation. This material is being moved from Rule .020 with no substantive change. Rule .023 concerns program evaluation and sets out the elements in an evaluation plan. This material is being moved from Rule .020 without substantive change. Rule .024, Program Content, is moved from Rule .020 with no substantive change. Rule .025 concerns enrollment of children in the program. Under the proposed amendment, children are enrolled in the program until they achieve a sufficient level of English proficiency or until the child reaches grade five. Previously, children were enrolled for a maximum of three years. Rule .026 concerns parent or guardian notification. It includes the provision that parents may choose not to have their children participate in bilingual education, even though the children may be eligible for the program. Rules .027 and .028 are moved from Rule .020 with no substantive change. Rule .029 concerns staff development and includes the requirement that each district assess the staff development needs of personnel in the bilingual program. These rules have been adopted as emergency rules.

The Texas Education Agency anticipates that the cost for bilingual education will be approximately \$5,200,000 each year for the next five years. These costs are shared by the state and by local school districts under the financing provisions of the Foundation School Program (Chapter 16, Texas Education Code).

Public comment on the proposed adoption of Rules 226.32.52.021-.029 is invited. Comments may be submitted by telephoning the office of Dr. J. B. Morgan, associate commissioner for Policies and Services, at (512) 475-7077, or by writing to him at 201 East 11th Street, Austin, Texas 78701. All requests for a public hearing on proposed rules must be received by the commissioner of education not more than 15 calendar days after notice of a proposed change in rules has been published in the *Texas Register*.

These rules are proposed under the authority of Chapter 21, Subchapter L, Texas Education Code.

021. Operational Expenses Allocation: (Grades Kindergarten through Five).

(a) A special allowance per pupil of limited English-speaking ability enrolled in an approved state-supported required bilingual education program is to be made for pupil evaluation and special instructional materials.

(b) The special allowance is allocated to a school district at the beginning of the school year as soon as the "Application for Operational Expenses Allocation" is submitted to and certified by the Division of Bilingual Education to the Division of State Funding.

(c) The procedures which apply to the use of the operational expenses allocation to each approved bilingual education program are:

(1) The allocation will be used to improve the quality of instruction in bilingual education classes. The allocation shall be utilized for pupil evaluation services and materials (the cost of purchasing and scoring of evaluation instruments), books, instructional media, and other instructional materials appropriate for instruction with children of limited English-speaking ability;

(2) Instructional materials which may be purchased by state funds allotted for this program are books and any apparatus, including three-dimensional manipulative materials, which convey information to the child or otherwise contribute to the learning process;

(3) Items which may not be purchased with state funds allotted for this program are:

(A) room furnishings, including desks, tables, chairs, filing cabinets, rugs, or any other item which is usually attributed to capital outlay; and

(B) consumable or expendable materials, including food, paints, clay, paper, ditto masters, or any other item which is consumed in use;

(4) The special allowance used for the operation of an approved program must supplement, not replace, local funds normally budgeted for the total instructional program;

(5) Since unused funds shall be applied against the operational expenses allocation for the ensuing school year, the school district must maintain records that specifically identify or otherwise account for itemized expenditures from the operational expenses allocation and must retain documents as necessary to audit in accordance with State Board of Education Policy 4201, Budgeting, Accounting, Financial Reporting, and Auditing for School Districts and Education Service Centers; and

(6) Priority for operational expenses allocations will be given to those districts implementing programs for grades kindergarten through three and then on grades four and five.

(Provisions for Textbooks for Children Enrolled in Bilingual Education Classes, Policy 3340; and Allocation for Transportation for Children Enrolled in Required Statewide Bilingual Education Programs, Policy 4107.3.7.)

022. Application for Operational Expenses Allocation (Grades Kindergarten through Five).

(a) Allocations for state-supported required bilingual education programs for children of limited English-speaking ability will be made on the basis of an approved application submitted to the Texas Education Agency in September of each scholastic year.

(b) Each application shall include a program description which indicates the following:

(1) the number of children of limited English-speaking ability in the program and their primary language classification;

(2) the number of native English-speaking children, if any, participating in the bilingual education program;

(3) the number of teachers and paraprofessionals assigned to the program;

(4) location of program (specify campus or campuses);

(5) brief description of instructional programs;

(6) record of ongoing and proposed inservice education geared to the requirements of the bilingual program and the needs of the professional and paraprofessional staff;

(7) where programs are being operated jointly, a description of the contracting arrangements;

(8) a description of parental-involvement activities;

(9) an evaluation design.

(c) A "Supplemental Application for Operational Expenses Allocations for State Bilingual Education Programs" will be distributed by the Division of Bilingual Education in January of each scholastic year, in order that school districts will be able to report and receive an operational expenses allocation for children of limited English-speaking ability who were identified and enrolled in the program since submission of the preliminary "Application for Operational Expenses Allocation."

023. Evaluation of Programs (Grades Kindergarten through Five).

(a) School districts operating programs of bilingual education should develop an evaluation design in accordance with the objectives derived from the six instructional components (See 32.52.011) for use in making local programmatic decisions, as well as to provide for the collection of information required for statewide evaluation purposes.

(b) An evaluation plan would embrace the following elements:

(1) instructional (product/process);

(2) management;

(3) parental/community involvement;

(4) staff development;

(5) materials development/acquisition/use.

(c) In devising an evaluation plan, Texas Education Agency bulletins regarding program evaluation are suggested as references.

(d) Guidelines for submission and information requirements for statewide evaluation of bilingual education programs will be disseminated by the Texas Education Agency along with instructions for the completion of the "Application for Operational Expenses."

024. Program Content; Method of Instruction (Grades Kindergarten through Five). The state-supported required bilingual education program implemented by a school district shall be a full-time program of instruction as described in Policy and Administrative Procedure 32.52.010-011.

025. Enrollment of Children in Program (Grades Kindergarten through Five).

(a) Every school-age child of limited English-speaking ability residing within a school district shall be enrolled in the program until he achieves a level of English language proficiency which will enable him to perform successfully in

classes in which instruction is given only in English or until he reaches grade five, whichever first occurs.

(b) Children enrolled in the program, whenever possible, shall be placed in classes with other children of approximately the same age and level of educational attainment. If children of different age groups or educational levels are combined, the school district shall ensure that the instruction given each child is appropriate to his or her level of educational attainment, and the district shall keep adequate records of the educational level and progress of each child enrolled in the program.

(c) No school district may transfer a child of limited English-speaking ability out of a state-supported required bilingual education program prior to completion of grade five, unless the parents of the child approved the transfer in writing; and the child has received a score on an examination which, in the determination of the Texas Education Agency, reflects a level of English language skills appropriate to his or her grade level. A list of approved tests and their appropriate grade levels is disseminated annually to school districts.

(d) If later evidence suggests that a child who has been transferred is still handicapped by an inadequate command of English, he may be re-enrolled in the program for a length of time equal to that which remained at the time he was transferred.

(e) Native English-speaking children may be voluntarily enrolled in the program although no funding from the operational expenses allocation is provided for them. Both groups of children may be served in the same classroom, provided there is grouping within the classroom to meet the special needs of both groups.

026. School District Policy for Parent or Guardian Notification (Grades Kindergarten through Five). Each school district operating a state-supported required bilingual education program for children of limited English-speaking ability will have a board policy requiring that:

(1) the child's parent or guardian be notified of the child's enrollment in a bilingual education program no later than 10 days after the enrollment of the child;

(2) such written notification shall be in English and in the language in which the parents or guardian of the child possess a primary speaking ability; and

(3) upon notification of eligibility, if the parent does not want the child in the bilingual education program, written verification from the parent shall be obtained for the record and the child shall be enrolled in the regular program.

027. Joint Bilingual Education Programs and the Transfer of Students (Grades Kindergarten through Five).

(a) A school district may join with any other district or districts to provide bilingual education programs. The availability of the programs shall be publicized throughout the affected districts.

(b) The tuition of a child of limited English-speaking ability who transfers from one district to another is:

(1) the responsibility of the home district if bilingual education is not provided in the home district; or

(2) the responsibility of the parent if bilingual education is provided in the home district.

028. Bilingual Endorsements (Grades Kindergarten through Five).

(a) A bilingual education teacher is a teacher employed by a school district in a position requiring state certification

and having bilingual education endorsement or a special assignment permit for bilingual education.

(b) Bilingual education endorsements shall be issued as specified in Policy 6203, Specific Requirements for Teacher Certification by Class and by Level, Including Areas of Specialization and Endorsements.

029. Curriculum and Staff Development (Grades Kindergarten through Five).

(a) A special curriculum and staff development allocation is made annually to school districts on the basis of pupils of limited English-speaking ability enrolled in an approved state-supported required bilingual education program.

(b) Allocations are made on the basis of an approved application submitted to the Texas Education Agency. Each application includes a program plan focusing on bilingual education for each participant (staff member) for the period requested.

(c) Funds allocated to this program are for payment of services for staff participation in the following activities:

(1) Staff development to familiarize teachers with materials and/or bilingual education methodology and philosophy. This development may be planned and sponsored by the school district, by the regional service center, by the Texas Education Agency, or by teacher training institutions offering bilingual teacher education programs approved by the Texas Education Agency;

(2) Development and/or revision of curricular and instructional materials for bilingual education classes;

(3) Teaching in bilingual education summer programs designed for children of limited English-speaking ability needing specialized or intensive individualized instruction at the grade level(s) at which the school is required to implement the program;

(4) Advanced language training for bilingual teachers and language training for monolingual teachers working under special assignment permits; and

(5) The line item amount of the appropriations for this purpose will not be exceeded in allocating funds to local school districts.

(d) Each district shall assess the needs of each professional and paraprofessional based upon his or her assignments in the program. The Texas Education Agency shall develop a list of generic competencies to provide a basis for such assessment. Based upon the assessment, school districts shall provide or cause to be provided appropriate staff development activities annually, during but not limited to the eight days provided for inservice and preparation.

Doc. No. 784046

226.32.52.030

(Editor's note. The text of the following rule proposed for repeal is not being published. The text may be examined in the office of the Texas Education Agency, 201 East 11th Street, Austin.)

The Texas Education Agency proposes to repeal Rule 226.32.52.030, concerning state-supported optional bilingual education. Under the proposed amendments to the rules concerning bilingual education, programs for grades four and five will be required for all children identified as having

limited English-speaking ability. This repeal has been effected on an emergency basis.

The Texas Education Agency anticipates that the cost for bilingual education will be approximately \$5,200,000 each year for the next five years. These costs are shared by the state and by local school districts under the financing provisions of the Foundation School Program (Chapter 16, Texas Education Code).

Public comment on the proposed repeal of Rule 226.32.52.030 is invited. Comments may be submitted by telephoning the office of Dr. J. B. Morgan, associate commissioner for Policies and Services, at (512) 475-7077, or by writing to him at 201 East 11th Street, Austin, Texas 78701. All requests for a public hearing on proposed rules must be received by the commissioner of education not more than 15 calendar days after notice of a proposed change in rules has been published in the *Texas Register*.

The following repeal is proposed under the authority of Chapter 21, Subchapter L, Texas Education Code:

.030. State-Supported Optional Bilingual Education.

Doc. No. 784047

226.32.52.031-.034

The Texas Education Agency proposes to adopt Rules 226.32.52.031-.034, concerning provisions for the establishment of required English language development programs in grades 6 through 12. Rule .031 provides that English language development programs shall be part-time programs which should be integrated into standard course work and provide the student the opportunity to secure credit toward graduation. Rule .032 concerns enrollment of children in the program. Rule .033 requires each school district operating a program to have a policy concerning parent or guardian notification. Parents may choose not to have their children participate in the program. Rule .034 concerns staffing and staff development and requires each district to assess the needs of personnel in the program. These rules have been adopted as emergency rules.

The Texas Education Agency anticipates that the cost for bilingual education will be approximately \$5,200,000 each year for the next five years. These costs are shared by the state and by local school districts under the financing provisions of the Foundation School Program (Chapter 16, Texas Education Code).

Public comment on the proposed adoption of Rules 226.32.52.031-.034 is invited. Comments may be submitted by telephoning the office of Dr. J. B. Morgan, associate commissioner for Policies and Services, at (512) 475-7077, or by writing to him at 201 East 11th Street, Austin, Texas 78701. All requests for a public hearing on proposed rules must be received by the commissioner of education not more than 15 calendar days after notice of a proposed change in rules has been published in the *Texas Register*.

These rules are proposed under the authority of Chapter 21, Subchapter L, Texas Education Code.

.031. Program Content; Method of Instruction (Grades 6-12). The English language development programs shall be part-time programs of instruction as described in Policy and

Administrative Procedure 32.52.010-.012. Programs should be integrated, if at all possible, into standard coursework and provide the student with the opportunity to secure credit toward graduation. English language development methodology may be integrated into English courses, taught as elective courses, or other strategies may be used as determined by the district.

.032. Enrollment of Children in the Program (Grades 6-12).

(a) Every school-age child of limited English-speaking ability shall be enrolled in the program until he attains the exit standards established by the Texas Education Agency or the parent provides written verification that he does not want the child to participate in the program.

(b) A child entering grade six who has been enrolled in a bilingual education program in grade five and has not achieved program exit criteria shall be administered a language test to ascertain whether the child is limited English-speaking ability.

.033. School District Policy for Parent or Guardian Notification (Grades 6-12). Each school district operating a required bilingual education program for children of limited English-speaking ability will have a board policy requiring that:

(1) the child's parent or guardian be notified of the child's enrollment in a bilingual education program no later than 10 days after the enrollment of the child;

(2) such written notification shall be in English and in the language in which the parents or guardian of the child possess a primary speaking ability; and

(3) if the parent does not want the child in the bilingual education program, written verification from the parent shall be obtained for the record and the child shall be enrolled in the regular program.

.034. Staffing and Staff Development (Grades 6-12). Each school district shall assess the needs of each professional and paraprofessional based upon his or her assignment in the program. The Texas Education Agency shall develop and distribute a list of generic competencies addressed by job roles to provide a basis for such assessment. Based upon the assessment, school districts shall provide or cause to be provided appropriate staff development activities during but not limited to the eight days allotted for inservice and preparation. Teachers shall be appropriately certified for the course for which credit is given. No additional certification is required.

Doc. No. 784048

226.32.52.040

The Texas Education Agency proposes to amend Rule 226.32.52.040. This is one of a series of changes in the set of regulations concerning bilingual education. Rule .040 concerns bilingual education programs which go beyond state requirements. It is being amended to reflect that English language development programs are now required to be offered to eligible students in grades 6 through 12.

The Texas Education Agency anticipates that the cost for bilingual education will be approximately \$5,200,000 each year for the next five years. These costs are shared by the

state and by local school districts under the financing provisions of the Foundation School Program (Chapter 16, Texas Education Code). Bilingual education programs under Rule .040 would be offered at local district expense.

Public comment on the proposed amendment to Rule 226.32.52.040 is invited. Comments may be submitted by telephoning the office of Dr. J. B. Morgan, associate commissioner for Policies and Services, at (512) 475-7077, or by writing to him at 201 East 11th Street, Austin, Texas 78701. All requests for a public hearing on proposed rules must be received by the commissioner of education not more than 15 calendar days after notice of a proposed change in rules has been published in the *Texas Register*.

This rule amendment is proposed under the authority of Chapter 21, Subchapter L, Texas Education Code.

.040. Bilingual Education Permitted.

(a) Policy. [Permissive] Bilingual education, *in addition to English language development*, may be offered beyond grade five *at the discretion of the school district* [when such instruction is necessary to ensure a pupil's reasonable efficiency in the English language]. In addition, bilingual education may be provided for all students in all grades if in the judgment of the board of trustees the program contributes to meeting the needs of all students. Such permitted bilingual education programs shall be at the expense of the respective school districts.

(b) Administrative procedure. If a district elects to implement a bilingual education program which is not state-supported, Policy and Administrative Procedure 32.52.010-.034, Bilingual Education Program Description, is to be followed as a guideline for the implementation of the program.

Doc. No. 784049

226.32.52.050

The Texas Education Agency proposes to adopt Rule 226.32.52.050, concerning verification of program offerings in bilingual education. This is one of a series of changes in the set of bilingual education regulations.

Under Rule .050, the Texas Education Agency will visit school districts to review bilingual programs. Districts shall also review their own programs for compliance with revised bilingual education regulations and with the State Plan for Bilingual Education. Where programs are significantly different from those required, the district must identify meeting the needs of limited English-speaking children as a priority in the district's five-year accreditation plan. Any district that fails to make a "good-faith" effort to provide services consistent with the State Plan for Bilingual Education shall be subject to full accreditation review. Rule 226.32.52.050 has been adopted as an emergency rule.

The Texas Education Agency anticipates that the cost for bilingual education will be approximately \$5,200,000 each year for the next five years. These costs are shared by the state and by local school districts under the financing provisions of the Foundation School Program (Chapter 16, Texas Education Code).

Public comment on the proposed adoption of Rule 226.32.52.050 is invited. Comments may be submitted by

telephoning the office of Dr. J. B. Morgan, associate commissioner for Policies and Services, at (512) 475-7077, or by writing to him at 201 East 11th Street, Austin, Texas 78701. All requests for a public hearing on proposed rules must be received by the commissioner of education not more than 15 calendar days after notice of a proposed change in rules has been published in the *Texas Register*.

This rule is proposed under the authority of Chapter 21, Subchapter L, and Section 11.26(a)(5), Texas Education Code.

.050. Verification of Program Offerings.

(a) Policy. The commissioner of education shall establish a system for the review of all school districts to determine program consistency with policy of the State Board of Education as delineated in the State Plan for Bilingual Education. The purpose shall be to assist districts in meeting the special needs of limited English-speaking children. Any district that fails to make a "good faith" effort to provide appropriate services consistent with the State Plan for Bilingual Education shall be subject to full accreditation review.

(b) Administrative procedure. The Division of Bilingual Education will conduct on-site visits of school districts to review program operations for consistency with the State Plan for Bilingual Education. Both districts operating bilingual programs and districts not operating bilingual programs but that have pupil populations with children who may be from homes where languages other than English are spoken will be reviewed. Findings of the Division of Bilingual Education will be reported to the school district and to the Division of Accreditation.

All school districts shall review program offerings for limited English-speaking children for consistency with the State Plan for Bilingual Education. If significant inconsistencies are noted, the district will identify the needs of limited English-speaking ability children as a priority in the five-year accreditation plan. Activities the district has identified to address the priority will then be implemented. If inconsistencies are not significant, the district may resolve them without identifying the needs of limited English-speaking ability children as a priority. If information from the Division of Bilingual Education and the Division of Accreditation indicates that a district may not be making a "good faith" effort to meet the language needs of limited English-speaking ability children, a full accreditation visit will be conducted.

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

Doc. No. 784050

M. L. Brockette
Commissioner of Education

Proposed Date of Adoption: September 9, 1978

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

Instructional Resources

Guidelines for District Instructional Television Services Planning 226.33.94

The Texas Education Agency proposes to amend Rules 226.33.94.010-.030, the guidelines for district instructional

television services planning. Under the proposed amendments, priorities for service after the first year shall continue to be programming and utilization. The ITV plan must be on file in the district, but need not be submitted with the application for funds. The plan must identify needs, as well as goals, objectives, activities, and evaluation. Editorial changes are also proposed.

State expenditures for the Instructional Television Services Program are approximately \$1,625,000 per year. The Texas Education Agency does not anticipate that the proposed amendment to Rules 226.33.94.010-.030 will have state or local fiscal implications.

Public comment on the proposed amendment to Rules 226.33.94.010-.030 is invited. Comments may be submitted by telephoning the office of Dr. J. B. Morgan, associate commissioner for Policies and Services, at (512) 475-7077, or by writing to him at 201 East 11th Street, Austin, Texas 78701. All requests for a public hearing on proposed rules must be received by the commissioner of education not more than 15 calendar days after notice of a proposed change in rules has been published in the *Texas Register*.

These rule amendments are proposed under the authority of Section 21.915, Texas Education Code.

010. Criteria for Eligibility.

(a) Expenditures of state funds provided through this program should be limited to the three types of services stated in Section 21.915, Texas Education Code:

- (1) programming,
- (2) utilization services,
- (3) development of television programs designed to enhance the district instructional program.

(b) Priorities for services [in the first year] shall be programming and utilization. Individual exceptions shall be allowed only after all applications for priority services have been reviewed and funds are remaining in the annual state appropriation.

(c) Districts receiving funds should own, or have evidence of a commitment to acquire, a minimum of one operational television set per 200 applied-for-ADA.

(d) District applications shall indicate only the number of students who will be [directly] served with the funds.

(e) Each district shall *have on file* [provide] an annual ITV services plan at the time of application for funds.

(1) Such plan shall include *identified needs*, goals, objectives, planned activities, and *description of the* [a proposed] evaluation process.

(2) District plans will indicate the process whereby ITV programming selection will be accomplished. (Subject matter and curriculum planning groups are recommended.)

(3) Plans will indicate the types of services which are to be provided partially or wholly through use of ITV state funds and the party, unit, or company which will provide the service. [Projected] ITV services financial budgets will be developed. Management procedures and responsibilities will be defined. No state ITV funds are to be expended by a district to purchase for that district any equipment.

(4) If the district produces its own programming or provides its own distribution system, other equipment such as video recorders/players, studio, and other distribution equipment should be appropriate to facilitate the purpose and objectives of the district instructional TV program.

(5) Districts will conduct a needs assessment (required by state accreditation process) and the results will be considered in determining the priority objectives for the district ITV program.]

(5)(6) The district plan will identify the person responsible for administration and coordination of the ITV program and the persons on the ITV Services Committee.

(6)(7) The plan will contain activities and schedules to indicate that development or maintenance of teaching skills with ITV materials is planned.

(7)(8) The plan will outline or explain how evaluation of services will be accomplished and measured against annual program objectives.

(f) The application will describe the ITV program or past experiences which indicate a local commitment to the use of ITV in the instructional program.]

020. Program and Fiscal Accountability.

(a) Each district will be responsible for documenting the achievement of the ITV program which furthers the objectives of the district's instructional program and will annually conduct a self-evaluation of the ITV Services Program. The information will be summarized in an annual evaluation report, submitted to the Division of Instructional Resources, TEA, in the format designated by TEA. Such reports will reflect the degree of accomplishment of the major objectives, activities, and other projected events [which were submitted] in the district *ITV services plan* [application for funds].

(b)(c) Each district will maintain fiscal records of expenditures in accordance with *TEA Accounting/Budget Procedures Manual* 679 (Rule 226.42.90.010) (Revenue and Disbursement Code 5814, Subfund 14X).

(c)(e) District fiscal records shall be subject to audit by TEA.

(d)(b) TEA will monitor the ITV Services Programs in funded districts.

(e)(d) The Division of Instructional Resources of TEA may request portions or all of a district's ITV program fiscal records, including contracts, as part of the district's annual evaluation report.

030. [Planned] Needs/Planning. A process for identifying instructional television needs and determining methods to alleviate these needs includes the following:

(1) Planning for the ITV Services Program at the district level shall be based on identified instructional needs.

(2) Needs for ITV services shall be derived from an instructional needs assessment.

(3) Annual objectives for the ITV Services Program shall be formulated in measurable terms.

(4) District planning for ITV shall be compatible with the state accreditation process.

(5) State accreditation and district self-study shall include consideration of the ITV Services Program as a strategy to support instructional goals.

(6) Local planners shall coordinate [the] long-range goals and objectives of the ITV Services Program with the goals

and objectives of the local school district and the State Board of Education.

Issued in Austin, Texas, on June 19, 1978.

Doc. No. 784068 M. L. Brockette
Commissioner of Education

Proposed Date of Adoption: July 28, 1978

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

Planning and Evaluation

Principles, Standards, and Procedures for the Accreditation of School Districts 226.37.15.240 and .250

The Texas Education Agency proposes to amend the Principles, Standards, and Procedures for the Accreditation of School Districts to reflect the changes in regulations concerning bilingual education which have been adopted as emergency rules and which are also proposed for permanent adoption.

Rule .240 is amended to include the requirement that districts identify children of limited English-speaking ability. If programs for children of limited English-speaking ability are significantly different from specifications in the State Plan for Bilingual Education, the problem must be addressed as part of the district's five-year priorities plan.

Rule .250 is amended to include the requirement that districts which enroll pupils of limited English-speaking ability offer adaptations of teaching methodologies to fit the distinctive needs of these pupils. These changes have been adopted as emergency rules.

The Texas Education Agency anticipates that the cost for bilingual education will be approximately \$5,200,000 each year for the next five years. These costs are shared by the state and by local school districts under the financing provisions of the Foundation School Program (Chapter 16, Texas Education Code).

Public comment on the proposed amendment to Rules 226.37.15.240 and .250 is invited. Comments may be submitted by telephoning the office of Dr. J. B. Morgan, associate commissioner for Policies and Services, at (512) 475-7077, or by writing to him at 201 East 11th Street, Austin, Texas 78701. All requests for a public hearing on proposed rules must be received by the commissioner of education not more than 15 calendar days after notice of a proposed change in rules has been published in the *Texas Register*.

These rule amendments are proposed under the authority of Section 11.26(a)(5) and Chapter 21, Subchapter L, Texas Education Code.

.240. Principle 4. Through vigorous application of an accountability and educational improvement system, the district gives primary emphasis to success in its efforts directly focused upon producing student learning.

(Note: The specialized meaning of this principle must be made clear. The terms "accountability" and "educational improvement" carry a variety of meanings. In the broad sense of demonstrated compliance with statutory and

regulatory requirements, accountability is inherent in most of these standards and is being discharged by the majority of school districts in Texas. These standards repeatedly call for continuous improvements in governance, in programs, and in facilities. This constitutes "educational improvement" in one broad sense.

(However, more specific meanings are also attached to accountability and educational improvement. One of those is used in this principle. That meaning is, "A system or design for achieving desired student learning by governing the efforts of an organization."

(Accountability and educational improvement is therefore the system for the guidance, information, and decision-making to govern, focus, and continuously improve the district's efforts to produce student learning. The system concentrates upon achieving specified results by the use of careful planning which is based upon diagnostic assessment and feedback information. The information is also used to make periodic reports on stewardship to those who entrust the district with control of the education process.

(Principle 4 and its accompanying standards apply this system to the most important efforts of a district to produce student learning. These are efforts to bring about acquisition of desired learnings by all students:

(The products sought, therefore, are student learnings.

(These products are designated by goals (hence commitments) of the district.

(From the goals, the learning outcomes students are expected to acquire are made specific.

(Programs of direct instruction are planned and carried out to produce these specified learner outcomes.

(Financial resources available to the district are budgeted to provide support for these programs.

(Assessments of (a) learning produced by programs, and (b) functioning of programs are planned and carried out.

(Information derived from assessment is fed back to district planners, who use it to take necessary corrective steps.

(Periodic summaries of assessment information are furnished to district citizens as an accounting for stewardship, and to the agency as the district's contribution to statewide assessment reports.

(The board, assisted by its administration and its other advisors, performs periodically a thorough diagnostic review of student learning results.

(From the discrepancies discovered by this diagnostic review, the board selects priorities and directs the administration to make and execute plans to improve student learning results.

(Educational improvement by selection. One of the most effective strategies known for educational improvement is that of choosing for concentrated attention a small number of advancements to be made, and then planning in depth to make sure those advancements occur. While this strategy involves the setting of priorities, it can be used without lessening the effectiveness of other efforts to produce learning.

Standards 4(f) and 4(g) in this rule call for use of this strategy.

(The standards under Principle 4 are divided into two sets: (1) those applying to all instructional programs and student services (Standards (a)-(e)), and (2) priority efforts to improve student learning and related programs and services (Standards (f)-(g)).)

(a) The district has established a set of goals for student learning. This set of goals is officially adopted by the board of trustees, and is given primary attention in all aspects of the district's operations.

Indicators

(1) The set of goals covers a reasonably comprehensive variety of student learnings and gives central attention to the *Student Development Goals for Public School Education in Texas* established by the State Board of Education. Other student development goals which the district recognizes as impelling concerns are also included in the set.

(2) The goals are stated as broad areas of expected attainment by students. Most goals are further defined by descriptors (goal indicators) which depict components of the broad goal.

(3) The set of goals for student development is formulated with appropriate participation of educators and citizens, for the purpose of ensuring that the goals are understood and accepted as relevant by those who have an interest in the end results of schooling. (Note: See "Accreditation Planning Process," Rule .395, for further elaboration upon Indicators 1, 2, and 3.)

(4) The set of goals is widely distributed as a mandate to those in the organization. Personnel manifest understanding of and commitment to achieving the goals applicable to their field of responsibility.

(5) Serious and thoughtful review of the goals is made periodically, and revisions are made if appropriate. (Note: However, the goals should have continuity over time and should not be changed so frequently that the district's sense of direction is reduced.)

(b) The superintendent assigns, within the organization, responsibility for student achievement toward each goal and all goals collectively. The district is in the process of developing student learning objectives, stated as components of goals, which are assigned to the respective instructional programs and student services. Targeted levels of expected achievements by each program over a school year are established.

Indicators

(1) The district designates certain of these student learning objectives as attainments expected for all students who graduate from high school (or who complete the highest grade offered). Also included are other student learning objectives desirable to be attained by some students, but not necessarily by all students, as recognition of the differences among individual students in abilities, interests, and future plans.

(2) Yearly targets are based upon expected progress by students from their entry-level attainments. Differences among students are recognized by targets set. But, significant progress for all types of students is assigned as a responsibility.

(c) Using the goals and student learning objectives as criteria, student achievement is assessed periodically and

findings are reported. Findings from student assessment are used in shaping the district's program efforts aimed directly at student learning.

Indicators

(1) At least once in each accreditation cycle a broad assessment of student attainments along all goals is conducted, and more objective assessments are made of student attainment in selected goal areas of high priority. (Note: See the "self-study phase" of the accreditation planning process in Rule .395.)

(2) Student assessment is regularly conducted each year, addressing all goals or selected goals. Assessment may be rotated among goals at two-year or three-year intervals. But appreciable assessment information is obtained and used by the district each year.

(3) The district makes provision in its student assessment for the identification of children of limited English-speaking ability.

(4)(3) Information from a variety of valid instruments and sources is used for assessing student goal attainments. However, standardized achievement test scores are not used as the sole criteria for placement, promotion, or retention of students. (Note: "Valid instruments and sources" include objective appraisals by qualified observers, tests developed by the district, and standardized achievement tests. The district may also consider the use of perceptions gathered from parents, citizens, employees, students, or other interested parties.)

(5)(4) Major findings from assessments are reported to the district's board, to citizens in the district, and to the agency.

(6)(5) Information about student achievement derived from assessment serves as a major basis for the diagnostic analysis of instructional programs outlined in Principle 4, Standard (d).

(d) Analysis of instructional programs is in continuous progress and is directly related to the student learning objectives assigned respectively to each instructional program. A full-scale program analysis is conducted during each accreditation cycle. Findings from such program assessment are used in making decisions for program and/or staff revisions. (Note: The assessment referred to here addresses the process of instruction, as contrasted with the assessment of student goal attainment in Standard 4(c).)

Indicators

(1) Student learning discrepancies identified in the student assessment are used in the diagnostic assessment of instructional programs to locate those program features which may be causes of these less-than-adequate results in student goal attainment.

(Note 1: The second sentence of this standard refers to the "self-study phase of the accreditation planning process" outlined in Rule .395.)

(Note 2: In practice, assessment of student attainments and diagnostic analysis of programs occur simultaneously, not separately.)

(2) Based on the findings of the student assessment and program analysis, adjustments or corrections are made to improve program results.

(e) The district supports its commitment to the primary emphasis upon achieving the adopted goals for student learning through financial allocations and budgetary control.

Indicators

(1) The district uses program-budgeting systems which will enable it to relate the flow of funds to program outcomes.

(2) The distribution between gross expenditures for direct instruction and student services and those for other operations in the maintenance and operations budget is accorded careful study. If negatively different from the areas of emphasis, the board is able to justify such differences. There is reasonable equity in allocation of resources among various campuses and instructional levels.

(3) Multiyear fiscal projects are developed to support educational improvement.

(4) The expenditure budgets for special programs (such as compensatory education) focus upon achieving and appraising student learning results.

(5) Sufficient financial resources are earmarked in budgeted expenditures to conduct the student assessment and program analysis called for by Standards 4(c) and 4(d).

(6) In formulating the annual operating budget for expenditures, the board specifically sets up allocations for financing its efforts toward priority objectives (Standards 4(f) and 4(g)).

(f) Once during each accreditation cycle, the district selects for priority attention a set of discrepancies in student learnings. This set of priority student needs is small in number. Then specific objectives or targets are set for the amount of increase in student achievement to be sought over a five-year period to reduce or eliminate these student learning needs.

(Note 1: One method for selecting priority discrepancies is set forth in the self-study phase of the accreditation planning process. A district may use other methods with similar features, or use the results of previous studies of its own, to document and establish priority student learning needs.)

(Note 2: It is not the intent of these standards to supplant or replace sound accountability and educational improvement procedures which are already employed by many Texas districts. Districts are urged, after conference with the Division of School Accreditation, to build upon foundations already in place, not to start over.)

(Note 3: In its set of priority objectives, a district may also include one or two targets addressed to discrepancies other than those in student learning. This is justifiable when (a) evaluations (self-study or external) have identified programmatic deficiencies which seriously threaten accredited status, or (b) elimination of a program deficiency requires planned action over a span of three to five years.)

Indicators

(1) *If the district identifies children of limited English-speaking ability, the district reviews program operations against the State Plan for Bilingual Education. If significant program discrepancies exist, the district addresses the discrepancies in an appropriate part of the five-year priorities plan.*

(g) To achieve its designated priority objectives, the district formulates and implements a five-year priorities plan. (Note: The plan referred to here is not a comprehensive plan for the total operations of the district. Instead it is a plan for selected operations which undertake to attain with specified procedures and resources the set of priority objectives designated. While a comprehensive, goal-centered plan

would be a valuable asset in governing a school district, this standard does not require preparation of such a plan.)

Indicators

(1) The five-year priorities plan is developed, set forth in writing, and officially adopted as a commitment of the district. The plan contains:

(A) The five-year and annual objectives for raising the level of student learning in each of the priority student need areas designated. (Note: Objectives, if any, for other priority areas are similarly displayed. (See Note 3 under Standard 4(f)).)

(B) An outline of the instructional and support services to be used in producing the intended increases in student goal attainment. This includes a description of changes in or additions to instructional programs or student services.

(Note: Such changes and additions may include but are not limited to instructional tactics, supportive services to students, devices for parental involvement, staff development enterprises, or other programmatic arrangements to be used. The responsibility of each programmatic arrangement for achieving certain of the plan's objectives should be shown.)

(C) Resources to be furnished to implement each program arrangement. Resources include regular staff, other staff, facilities, materials, and equipment, etc.

(D) A dated schedule for (1) readying each program arrangement and (2) initiating and continuing each program arrangement. (Note: A flow chart for the five-year span is a convenient device. Such a chart can show how each program arrangement is to be phased in.)

(E) The provision for management of the total project, including revision of the plan during the course of its implementation.

(F) Specific provision for systematically evaluating and reporting the extent to which the district is (1) attaining the targeted objectives and (2) meeting schedules established in (D) above. (Note: The evaluation design should show how information from assessments will be used to (a) inform those responsible for management of the plan and (b) produce reports for local dissemination and/or for the Division of School Accreditation.)

(G) Estimated dollar allocation to be provided for plan implementation, including annual budgets and multiyear fiscal projections.

(2) The original plan is approved by the district's board of trustees and is transmitted to the Division of School Accreditation for critique and suggestions.

(3) When approved by the Division of School Accreditation, the plan becomes a performance commitment of the district as the basis for maintenance of accredited status. The central performance is attainment of the targeted objectives set out in the plan. (Note: No district will have its accreditation suspended for failure to attain its targeted objectives, without an opportunity to explain why its efforts to implement the planned program changes did not achieve expected results.)

(4) Installation and continued implementation of the plan proceed steadily. Implementation includes making timely changes in program arrangements as responses to assessments during the course of the program.

(5) Each year the district files a report on achievement of the plan's objectives with the Division of School Accreditation in formats provided. Significant revisions made during implementation are also transmitted. At all times,

the updated plan is available to and used by the district officials as a guide to implementation.

250. Principle 5. Curriculum content adequate to achieve the student development goals of the district is made available to students through effective programs. The curriculum reflects state and local goals, and the curriculum offerings are evaluated periodically and revised as appropriate.

Standards

(a) Curriculum content is arranged to improve learning by students.

Indicators

(1) The scope, sequence, and cycling of content in subject areas are keyed to developmental stages of students and of the discipline involved. Mastery is made cumulative. Differential learning rates of students are accommodated effectively.

(2) Materials used, learning experiences provided, and provisions for mastery of learning objectives capitalize upon the abilities and interests of diverse learners. Multidiscipline as well as single-discipline approaches are provided.

(3) In total, the curriculum content provided is sufficient to achieve each goal or goal indicator adopted by the district. However, that portion of the curriculum which is commonly designated as extracurricular activities may be used to advance student achievement toward goal indicators (see Standard 4(a), Indicator (4) (Rule .240)).

(b) Curriculum content maintains a balance in which each discipline, including the liberal arts, fine arts, sciences, and vocational fields, makes a significant contribution to student knowledge, skills, and competencies.

Indicators

(1) Emphasis is placed upon teaching the facts of, and developing understanding for, all phases of the American heritage, including culture, language, and life style diversities.

(2) Curriculum content also serves any local goals which embrace attitudes, motivation, values, skills in thinking, career orientation, pursuit of further education, economic competence, occupational pride, aesthetic appreciation, safe living, and relations with others.

(3) Content used in the various disciplines is reasonably abreast of current developments in those disciplines. (Note: While availability of printed and audiovisual curriculum materials is not a guarantee of relevance, absence of supplements to the curriculum resources may indicate that this standard is not being met.)

(4) The district makes provisions for curriculum materials which enable students with unusual capacities to progress in mastery of content relevant to adopted goals. This may be done through elective courses, guided individual studies, course adaptations, and other means.

(c) The district identifies essential student learning objectives which all students are expected to acquire and is providing effective instruction to produce the expected performance of students in these basic areas. (Note: Standards 4(a)-(c) (Rule .240) are applicable.)

Indicators

(1) These essential student learning objectives consist of at least the knowledge, skills, and competence which

the district designates as basic within the curriculum areas mandated by law and by State Board of Education policy: English language usage, including reading and other language skills; mathematics; citizenship, including government, history, and geography; health; physical education; and science. These are outlined in Rules .310-.333.

(Note 1: It is not expected that all student learning objectives within these areas of the curriculum be included in those designated as essential or basic for all students. The essential learning outcomes are those which the district judges to be indispensable for every citizen in dealing effectively with the opportunities and problems of living, including choice and pursuit of a career and/or postsecondary education.)

(Note 2: Appropriate adaptations in expected levels should be made for students whose handicapping conditions prevent their attainment of basic performance levels.)

(Note 3: Every precaution should be taken to ensure that students and teachers do not perceive satisfactory student performance in these essential learning areas as all that a student should strive to attain through his or her school experience. Certainly every student should be assisted and encouraged to go as far beyond these essential learning objectives as his or her abilities, interests, and life goals will permit.)

(2) Sufficient time and attention are devoted to the teaching and learning of these essential outcomes by the district's staff and students to ensure satisfactory levels of performance by students.

(3) The district recognizes that a student's mastery of the fundamentals of English language usage and mathematics are tools for effective learning in all other areas of curriculum, and that English and mathematics cut across and underlie all other teaching and learning occurring in the school. Particular care and attention are given by the district to ensure that all students are making satisfactory progress toward competence in these fundamental learning areas of mathematics and English language usage. (Note: The district sets its own levels of performance expected for its students in these fundamental student learning objectives, consistent with the expectations and conditions existing in the community.)

(4) The district conducts regular appraisal of the progress students are making toward the essential learning objectives and uses the findings to design instructional activities appropriate to the needs of each student.

(d) The district regularly studies and revises curriculum elements, consistent with its adopted goals and standards 5(a), 5(b), and 5(c).

Indicators

(1) Standard 4(d) (Rule .240) applies: "Analysis of instructional programs is in continuous progress and is directly related to the student learning objectives assigned respectively to each instructional program. A full-scale program analysis is conducted during each accreditation cycle. Findings from such program assessment are used in making decisions for program and/or staff revisions."

(2) Standard 6(c) (Rule .260) applies: "Program guides and curriculum frameworks issued by the Texas Education Agency are used by the district as references for designing local curriculum and supportive arrangements."

(3) School district procedures in selecting from state-adopted textbooks are guided by findings from applying Standards 4(d) and 4(b) (Rule .240).

(4) A regular cycle of curriculum assessment exists to discover deficiencies and update curriculum content. This cycle, however, is integrally related to the system outlined by Standard 4(d) (Rule .240).

(5) A district enrolling pupil populations requiring compensatory programs discharges these obligations by adaptations of the curriculum to fit distinctive needs (such as language or culture) of these populations.

(6) *A district enrolling pupils of limited English-speaking ability offers adaptations of teaching methodologies to fit the distinctive needs of these pupils. These adaptations are in accordance with the State Plan for Bilingual Education.*

(7)(6) Study and revision of curriculum content gives pointed attention to discovery and correction in curriculum materials which stereotype or otherwise negatively portray members of ethnic, class, or sex groups.

(8)(7) A district may choose to provide curriculum content to serve certain of its goals or goal indicators by arranging that content among several programs. In that event, study and revision should be conducted in such a way that it is clear how the whole goal or goal indicators are being served. (Note: Illustrations of the choices referred to above are the dispersion of curriculum content to achieve goal indicators referring to citizenship, conservation of resources, drug abuse education, safety, aesthetic appreciation, self-concept, etc.)

(e) As supplements to classroom instruction, the district provides student services essential to progress toward the district's adopted goals for student development. (Note: By state law, judgmental discretion is given to school districts respecting organization, staffing, operation, and evaluation of student services. These accreditation regulations do not prescribe specific arrangements or programs which must be used (other than those in law). The district is obligated to devise and describe arrangements which accomplish its purposes.)

Indicators

(1) Standard 7(d), Indicator (4) (Rule .270) applies: "The district is making strong efforts to protect good teaching from the negative effects of disruptive behavior of students or outsiders."

(2) Counseling and guidance services are accessible to students and to assist teachers in working with individual students. (Note: If counselors are employed, the counselors devote the major portion of their time to conferring with and giving help to students, parents, and/or teachers.)

(3) If assessment data indicate, services are provided for students who are unable to attend regular schools because of (a) custodial assignment to a public agency, (b) extended illness, and/or (c) disciplinary suspension.

(4) In-school health and health-maintenance services are provided.

(5) Reasonable access to extracurricular activities of sufficient range is provided to develop interests, skills, and aesthetic and cognitive abilities not provided for in the credit curriculum.

(6) Interschool contest and training for such activities advance student progress toward goals of the district and positively support the performance of good instruction in

the credit curriculum. This indicator applies to activities relating to such contests as well as to the training for and student performance in such contests.

(7) Necessary student attendance services are provided.

Doc. No. 784136

226.37.15.321

The Texas Education Agency proposes to adopt Rule 226.37.15.321 as part of the Principles, Standards, and Procedures for the Accreditation of School Districts. The rule requires districts to offer bilingual education in compliance with state and federal laws and with the Texas State Plan for Bilingual Education.

The Texas Education Agency anticipates that the cost for bilingual education will be approximately \$5,200,000 per year for the next five years. These costs are shared by the state and by local school districts under the financing provisions of the Foundation School Program (Chapter 16, Texas Education Code).

Public comment on the proposed adoption of Rule 226.37.15.321 is invited. Comments may be submitted by telephoning the office of Dr. J. B. Morgan, associate commissioner for Policies and Services, at (512) 475-7077, or by writing to him at 201 East 11th Street, Austin, Texas 78701. All requests for a public hearing on proposed rules must be received by the commissioner of education not more than 15 calendar days after notice of a proposed change in rules has been published in the *Texas Register*. This rule has been adopted on an emergency basis.

This rule is proposed under the authority of Section 11.25(a)(5) and Chapter 21, Subchapter L, Texas Education Code.

.321. Bilingual Education for Children of Limited English-Speaking Ability. If the district has enrolled children who have been identified as limited English-speaking ability, bilingual instruction must be offered to meet the needs of these children in language development and in other curriculum areas where needs are identified. Such bilingual education must be in compliance with state and federal laws and the Texas State Plan for Bilingual Education. If bilingual education is not provided under these conditions, the accreditation status of the district may be adversely affected.

Doc. No. 784137

Policies and Procedures System

Public Comments Regarding Policies, Administrative Procedures, and State Plans 226.93.04

The Texas Education Agency proposes to amend Rules 226.93.04.010-.060, concerning public comments on proposed changes in policy, administrative procedure, or state plans. The proposed changes address several ways for the public to make comments as well as setting out rules for a formal public hearing under the Administrative Procedure Act. The

provision that notice of a public hearing must be published in the *Texas Register* 15 days before a hearing is held is deleted. Instead, it is proposed that notice of hearing shall comply with the Open Meetings Law.

The Texas Education Agency anticipates that the proposed amendment to Rules 226.93.04.010-.060 will not have state or local fiscal implications.

Public comment on the proposed amendment to Rules 226.93.04.010-.060 is invited. Comments may be submitted by telephoning the office of Dr. J. B. Morgan, associate commissioner for Policies and Services, at (512) 475-7077, or by writing to him at 201 East 11th Street, Austin, Texas 78701. All requests for a public hearing on proposed rules must be received by the commissioner of education not more than 15 calendar days after notice of a proposed change in rules has been published in the *Texas Register*.

These rule amendments are proposed under the authority of Section 11.02(a), Texas Education Code, and Section 5 of Article 6252-13a, Vernon's Texas Civil Statutes.

.010. Requests from the Public to be Heard (Hearings before the Commissioner of Education) on Proposed Policies, Administrative Procedures, and State Plans. All requests to be heard on a proposed change in policy, administrative procedure, or state plan shall be directed in writing to the commissioner of education. A request to be heard must be received by the commissioner not more than 15 calendar days after notice of a proposed change in policy, administrative procedure, or state plan has been published in the *Texas Register*. [The commissioner shall hold a public hearing on a proposed policy or administrative procedure (1) when in his judgment, information obtained at such a hearing would significantly aid him or the board in their deliberations; (2) when he is directed to do so by the board; or (3) when a public hearing is requested in writing by at least 25 persons, by a governmental subdivision or agency, or by official action of an association having at least 25 members. This policy shall also apply to state plans for which hearings are required by state law, State Board of Education policy, or federal law or regulations. The commissioner shall consider fully all written and oral submissions in his deliberations on the adoption of administrative procedures and in his recommendations to the State Board concerning policies and state plans. The commissioner shall provide the board with information obtained from hearings or other written or oral submissions which would aid the board in actions regarding proposed policies or state plans.]

.020. Response to Requests from the Public to be Heard (Procedures for Hearings before the Commissioner). The Texas Education Agency shall fulfill requests from the public to be heard in one of the following ways:

- (1) a public hearing held by the commissioner of education;
- (2) an invitation to the requestor to speak at a committee meeting of a standing or special committee of the board;
- (3) a public hearing held by a committee of the board;
- (4) an invitation to the requestor to speak before the board; or
- (5) a public hearing held by the board.

The appropriate response to each request to be heard shall be determined by the chairman of the board in con-

sultation with the chairmen of appropriate board committees and the commissioner of education. [All requests for a public hearing on a proposed policy, administrative procedure, or state plan shall be directed in writing to the commissioner of education. A request must be received by the commissioner of education not more than 15 calendar days after notice of a proposed change in policy, administrative procedure, or state plan has been published in the *Texas Register*. Notice of the date, time, and place of the hearing shall be published in the *Texas Register* at least 15 days in advance of the hearing date. The commissioner may designate a hearing officer to preside at a public hearing on a proposed policy, administrative procedure, or state plan. The commissioner or hearing officer may invite other members of the agency staff to sit with him or her to hear testimony. Any person desiring to appear and give testimony must give written notice to the commissioner of education at least five calendar days before the hearing is scheduled to begin. The commissioner or hearing officer may limit the number of persons testifying and the time allotted to each. The purpose of such hearings is to provide the commissioner and the State Board of Education with information which will be useful to them in their deliberations. The commissioner, the hearing officer, and other agency staff who have been invited to hear testimony may make inquiries of persons testifying. Hearings shall not be adversary or adjudicative in nature.]

.030. Request for Public Hearing under the Administrative Procedure and Texas Register Act (Hearings before the State Board of Education on Proposed Policies and State Plans). A public hearing shall be held on proposed policies, administrative procedures, or state plans when such a hearing is requested in writing by at least 25 persons, by a governmental subdivision or agency, or by official action of an association having at least 25 members. All requests for a public hearing under the Administrative Procedure and Texas Register Act shall be directed in writing to the commissioner of education. A request must be received by the commissioner of education not more than 15 calendar days after notice of a proposed change in policy, administrative procedure, or state plan has been published in the *Texas Register*. A public hearing requested under the Administrative Procedure and Texas Register Act may be held by the commissioner of education or his designee, a committee of the board, or the board. The appropriate forum in each instance shall be determined by the chairman of the board in consultation with the chairmen of appropriate board committees and the commissioner of education. [The State Board of Education may hold a public hearing on a proposed policy or state plan when in their judgment information obtained from the hearing would significantly aid their deliberations.]

.040. Procedures for Public Hearing (Hearings before the Board). Notice of the date, time, and place of the public hearing shall be posted in accordance with the Open Meetings Law (Article 6252-17, Vernon's Texas Civil Statutes) and shall be published in the *Texas Register* as far in advance of the hearing date as possible [at least 15 days in advance of the hearing date]. [The chairman or vice-chairman of the board or another member of the board designated by the chairman shall preside at hearings before the board on proposed policies or state plans.] Any person desiring to appear and give testimony is requested to [must] give written notice to the commissioner of education at least five calendar

days before the hearing is scheduled to be held. [The commissioner of education, as chief executive officer of the board.] *The officer, board, or committee conducting the hearing* may limit the number of persons *speaking* [testifying] and the time allotted to each. The purpose of a *public hearing* [such hearings] is to provide the *commissioner and the State Board of Education* [board] with information which will be useful to them in their [its] deliberations. [on proposed policies and state plans. All members of the board may make inquiries of persons testifying.] Hearings shall not be adversary or adjudicative in nature.

.050. Transcripts [Procedures for Hearings before Standing Committee of the Board]. *Upon the initiative of any officer, board, or committee before whom a hearing is held, or upon the timely written request of any interested party, the agency may cause a verbatim transcript to be made of all or any portion of the hearing. Written requests for a verbatim transcript shall be submitted to the commissioner of education no later than three days prior to the scheduled forum date and, as a condition to granting the request, the agency may require the requesting party to pay the actual cost of a transcript. If the transcript is made at the initiative of the officer, board, or committee, its cost shall be borne by the agency.* [Hearings before standing committees of the board shall follow the rules of procedure for hearings before the full board insofar as possible. They shall be chaired by the chairman, co-chairman, or vice-chairman of the committee. All members of the board may attend, hear testimony, and make inquiries of persons testifying.]

.060. Other Public Comments [Transcripts]. *The board encourages the submission of comments orally or in writing on proposed changes in policy, administrative procedures, and state plans. The commissioner shall consider fully all written and oral submissions in his deliberations on the adoption of administrative procedures and in his recommendations to the State Board concerning policies and state plans. The commissioner shall provide the board with information obtained from written or oral submissions which would aid the board in actions regarding proposed policies or state plans.* [Upon the initiative of any officer, board, or committee before whom a hearing is held under these rules, or upon the timely written request of any interested party, the agency may cause a verbatim transcript to be made of all or any portion of the hearing. Written requests for a verbatim transcript shall be submitted to the officer, board, or committee conducting the hearing no later than three days prior to the scheduled hearing date and, as a condition to granting the request, the agency may require the requesting party to pay the actual cost of the transcript. If the transcript is made at the initiative of the officer, board, or committee, its cost shall be borne by the agency.]

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

Doc. No. 784051 M. L. Brockett
Commissioner of Education

Proposed Date of Adoption: September 9, 1978
For further information, please call (512) 475-7077.

Texas Department of Health

Texas Board of Health

Formal Hearing Procedures 301.01.02

The Texas Department of Health proposes the permanent adoption of Rules 301.01.02.001-.011 adopted on an emergency basis in this issue. These rules cover the formal hearing procedures and practices that will be available to persons or parties who request formal hearings before the department. The intended effect of these procedures is to implement the provisions of the Administrative Procedure and Texas Register Act and various state health laws on formal hearings and to make the public aware of these procedures and practices.

Department personnel have determined that these rules will have no fiscal implications for the State of Texas or units of local government, in that implementation of these rules will be done by department personnel within existing department programs and will not increase costs over and above existing expenditures.

Public hearings will be held on the proposed rules at the following locations:

- (1) Monday, July 10, 1978, 9 a.m., first floor auditorium, Texas Department of Health, 1100 West 49th Street, Austin
- (2) Thursday, July 13, 1978, 10 a.m., West End Health Center Auditorium, 190 Heights Boulevard, Houston
- (3) Friday, July 14, 1978, 9:30 a.m., Community Center, Music Room, 2800 South Center, Arlington

The procedure at these hearings will be as follows:

- (1) All interested persons will have the opportunity to present testimony and comments which are relevant and material to the proposed rules.
- (2) Testimony may be limited to 10-15 minutes per person if a large number of people want to testify. Therefore, all persons desiring to testify are urged to reduce as much of their testimony as possible to writing and present such material to the hearing officer at the hearing.
- (3) Associations or other groups of people should select one spokesperson to present the viewpoints of the association or group.
- (4) All testimony, written or verbal, will become part of the formal hearing record and will be carefully considered by the department in the final adoption process.

Public comments on the proposed rules are invited and should be submitted in writing to Dan LaFleur, attorney, Legal and Claims Services, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756. All comments are required to be in Mr. LaFleur's office by July 17, 1978.

These rules are being proposed under authority of Articles 4418a and 6252-13a, Texas Revised Civil Statutes. The proposed date of adoption is the July board meeting of the Texas Board of Health.

Doc. No. 784100

Nursing and Convalescent Homes Procedures Covering Certification and Decertification of Long-Term Care Facilities which Participate in the Title XIX Medical Assistance Program 301.54.10

The Texas Department of Health proposes the permanent adoption of Rules 301.54.10.001-.006 adopted on an emergency basis in this issue. These rules cover the department's procedure and practice in certifying, decertifying, and taking related action regarding long-term care facilities participating in the Medical Assistance Program under Title XIX of the U.S. Social Security Act. Included in these rules are hearing procedures relating to appeals from department actions under these rules. The intended effect of these rules is to establish in writing the department's procedures and practices in certification/decertification actions and the types of hearings available on appeal and to make the public aware of these procedures and practices.

Department personnel have determined that these rules will have no fiscal implications for the State of Texas or units of local government, in that implementation of these rules will be done by department personnel within existing department programs and will not increase costs over and above existing expenditures.

Public hearings will be held on the proposed rules at the following locations:

- (1) Monday, July 10, 1978, 9 a.m., first floor auditorium, Texas Department of Health, 1100 West 49th Street, Austin
- (2) Thursday, July 13, 1978, 10 a.m., West End Health Center Auditorium, 190 Heights Boulevard, Houston
- (3) Friday, July 14, 1978, 9:30 a.m., Community Center, Music Room, 2800 South Center, Arlington

The procedure at these hearings will be as follows:

- (1) All interested persons will have the opportunity to present testimony and comments which are relevant and material to the proposed rules.
- (2) Testimony may be limited to 10-15 minutes per person if a large number of people want to testify. Therefore, all persons desiring to testify are urged to reduce as much of their testimony as possible to writing and present such material to the hearing officer at the hearing.
- (3) Associations or other groups of people should select one spokesperson to present the viewpoints of the association or group.
- (4) All testimony, written or verbal, will become part of the formal hearing record and will be carefully considered by the department in the final adoption process.

Public comments on the proposed rules are invited and should be submitted in writing to Dan LaFleur, attorney, Legal and Claims Services, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756. All comments are required to be in Mr. LaFleur's office by July 17, 1978.

These rules are being proposed under authority of Articles 4418a and 6252-13a, Texas Revised Civil Statutes. The pro-

posed date of adoption is the July board meeting of the Texas Board of Health.

Issued in Austin, Texas, on June 19, 1978.

Doc. No. 784101

Fratris L. Duff, M.D.
Commissioner of Health

Proposed Date of Adoption: July board meeting
For further information, please call (512) 458-7236.



TEXAS
DEPARTMENT
PUBLIC SAFETY

Texas Department of Public Safety

Traffic Law Enforcement

Accident Investigation 201.02.01.008

The Texas Department of Public Safety is proposing to amend Rule 201.02.01.008, which adopts by reference the Driver's Confidential Accident Report. The form, as amended in August 1977, lists sufficiently detailed information to disclose with reference to a traffic accident the cause, conditions then existing, and the persons and vehicle involved. Proposed amendment 1 would delete the statement of legal authority from the language of the rule as it appears immediately preceding the text of the rule. Proposed amendment 2 adds language to Section (a). Reports will be submitted on the Driver's Confidential Accident Report. The meaning of the section is not changed. Proposed amendment 3 creates Section (b), adopting the Driver's Confidential Accident Report by reference.

The staff of the Texas Department of Public Safety has determined that there are no fiscal implications for the state or for any unit of local government that would result from these amendments. There is no change in the procedure to supply accident report forms to all law enforcement agencies.

Comments on the proposed amendments of Rule 201.02.01.008 are invited. Comments may be submitted by contacting Norman V. Suarez, Texas Department of Public Safety, Box 4087, Austin, Texas 78773, telephone (512) 452-

0331. Comments must be received within 30 days of the publication of this proposal in the *Register*.

The amendments are proposed pursuant to the authority of Vernon's Civil Statutes, Article 6701d, Sections 44 and 45.

.008. *Reporting by Involved Drivers.* [The following rule is promulgated under Vernon's Civil Statutes, Article 6701d, Sections 44 and 45, and Attorney General Opinion H-601.]

(a) [Section 1.] Reports required from drivers involved in motor vehicle accidents *will be submitted* on the Driver's Confidential Accident Report, commonly known as the blue form.

(b) *The attached report, Driver's Confidential Accident Report as amended in August 1977 is adopted by reference and lists sufficiently detailed information regarding involvement in a traffic accident.*

Doc. No. 784057

201.02.01.009

The Texas Department of Public Safety is proposing to amend Rule 201.02.01.009, which adopts by reference the Texas Peace Officers Accident Report and Texas Peace Officers Accident Casualty Supplement. These forms, as amended in March 1978, list sufficiently detailed information to disclose with reference to a traffic accident the cause, conditions then existing, and the persons and vehicles involved. Proposed amendment 1 would delete the statement of authority from the language of the rule as this appears immediately preceding the text of the rule. Proposed amendment 2 adds language to Section (a). Reports required will be submitted by officers who investigate motor vehicle accidents on the Texas Peace Officers Accident Report and Texas Peace Officers Accident Casualty Supplement Report. The meaning of the section is not changed. Proposed amendment 3 would create Section (b), adopting the Texas Peace Officers Accident Report and Texas Peace Officers Accident Casualty Supplement Report by reference.

The staff of the Texas Department of Public Safety has determined that there are no fiscal implications for the state or any unit of local government that would result from these amendments. There is no change in the procedure to supply Peace Officers Accident Report forms to all law enforcement agencies.

Comments on the proposed amendment of Rule 201.02.01.009 are invited. Comments may be submitted by contacting Norman V. Suarez, Texas Department of Public Safety, Box 4087, Austin, Texas 78773, telephone (512) 452-0331. Comments must be received within 30 days of the publication of this proposal in the *Register*.

The amendments are proposed pursuant to the authority of Vernon's Civil Statutes, Article 6701d, Article IV.

.009. *Reporting by Investigating Officers.* [The following rule is promulgated under Vernon's Civil Statutes, Article 6701d, Article IV.]

(a) Reports required will be submitted on the Texas Peace Officers Accident Report and Texas Peace Officers Accident Casualty Supplement by officers who investigate motor vehicle accidents and will be in accordance with Department of Public Safety publication, *Instructions to Police Officers for Reporting Accidents*.

(b) *The attached reports, Texas Peace Officers Accident Report and Texas Peace Officers Accident Casualty Supplement, as amended in March 1978, are adopted by reference and list sufficiently detailed information regarding investigation of a traffic accident.*

Doc. No. 784058

Driver's License

Examination Requirements 201.08.03

The Texas Department of Public Safety is proposing to amend Rule 201.08.03.008, relating to driver's license examination requirements and the guidelines for Medical Advisory Board referrals for certain physical conditions which cannot be determined by the department. Proposed amendment 1 would delete the statement of legal authority from the rule as it appears immediately preceding the text of the rule. Proposed amendment 2 creates Paragraph (B) under Section (a)(1). This section clarifies the rule in that an applicant for a driver's license using a telescopic aid to pass the vision examination must be referred to the Medical Advisory Board. Only the section of the rule to be amended is submitted. Section (a)(2)-(5) is unchanged and Sections (b)-(d) are unchanged.

The staff of the Texas Department of Public Safety has determined that there are no fiscal implications involved in the proposed amendment as this only applies to applicants for a driver's license.

Comments on the proposed amendment of Rule 201.08.03.008 are invited. Comments may be submitted by contacting Norman V. Suarez, Texas Department of Public Safety, Box 4087, Austin, Texas 78773, telephone (512) 452-0331. Comments must be received within 30 days of the publication of this proposal in the *Register*.

The amendments are proposed pursuant to the authority of Vernon's Civil Statutes, Article 6687b, Section 10 and Section 18(c) and (d).

.008. *Medical Advisory Board Referrals.* [The following rule is promulgated under Vernon's Civil Statutes, Article 6687b, Section 10 and Section 18(c) and (d).] Persons applying for or holding a Texas driver's license and having a physical or mental condition, the extent of which cannot be determined by the department, are referred to the Medical Advisory Board for further evaluation.

(a) Guidelines for referral for physical conditions are:

(1) Eye diseases.

(A) Under the care of a physician, excluding the fitting of lenses when no disease is present.

(B) *Any driver license applicant using a telescopic aid to pass the vision examination.*

Doc. No. 784059

Vehicle Inspection

Vehicle Inspection Station Licensing 201.12.01

The Texas Department of Public Safety is proposing to amend Rule 201.12.01.011, Reinstatement after Withdrawal

of Authorization, relating to vehicle inspection station licensing. Proposed amendment 1 would create Section (c), which clarifies the rule in that an inspection station fee will not be required during the same licensing period in which the vehicle inspection station was operating when authorization was withdrawn.

The staff of the Texas Department of Public Safety has determined that there are no fiscal implications involved in the proposed amendment, which is a clarification, and no fees are involved.

Comments on the proposed amendment of Rule 201.12.01.011 are invited. Comments may be submitted by contacting Normal V. Suarez, Texas Department of Public Safety, Box 4087, Austin, Texas 78773, telephone (512) 452-0331. Comments must be received within 30 days of the publication of this proposal in the *Register*.

This amendment is proposed under the authority of Vernon's Civil Statutes, Article 6701d, Article XV, Section 141.

.011. Reinstatement after Withdrawal of Authorization.

(a) If a vehicle inspection station meets the minimum requirements and the owner desires reinstatement, the owner or operator shall notify the department regional commander in writing of this desire.

(b) Forms required. An owner seeking reinstatement shall:

- (1) properly complete an inspection station application, form VI-2;
- (2) submit a current signature card, form VI-13; and
- (3) complete an application for inspector certification, form VI-3, and inspector certification fee, if new personnel are to be certified.

(c) *An inspection station fee will not be required during the same licensing period in which the vehicle inspection station was operating when authorization was withdrawn.*

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

Doc. No. 784060 Wilson E. Speir
Director
Texas Department of Public Safety

Proposed Date of Adoption: July 28, 1978

For further information, please call (512) 452-0331.

Railroad Commission of Texas

Transportation Division

Commercial Zones 051.03.16

Pursuant to a petition filed by A&E Messenger Service and various other trucking companies, Houston Cartage Association, Houston Chamber of Commerce, Houston Warehouse and Transfer Association, Inc., the Houston Port Bureau, Inc., and Retail Merchants Association of Houston, the Railroad Commission of Texas is instituting a rulemaking proceeding to consider whether or not it should amend Section (c) of Regulation 051.03.16.004, which defines the geographical area comprising the Houston Commercial Zone.

The proposed amendment would change language in Section (c) to expand the commercial zone at Houston to include within such zone all unincorporated areas within 20 miles of the corporate limits of the City of Houston and all of any other municipality, any part of which is within 20 miles thereof.

In support of their petition, petitioners show as follows:

(1) There is a commercial relationship and interdependence between all points in the area above-defined and all such area is at present within the commercial zone of Houston as a matter of economic fact. The area is identical with the commercial zone at Houston as defined by the Interstate Commerce Commission since January 1, 1977, by population formula which provides as follows:

(7) When the . . . municipality has a population of one million or more, all unincorporated areas within twenty miles of its corporate limits and all of any other municipality, any part of which is within twenty miles of the base municipality.

Houston has a population of 1-1/2 million and is thereby within the terms of this definition.

(2) Broadening of the commercial zone of Houston to include the area defined herein will broaden the operating authority of regular route common carriers presently authorized to serve the City of Houston to include all points within the expansion area, such as Conroe, Hempstead, Richmond, Rosenberg, Alvin, Liberty, and Texas City, and thereby increase the single-line truck service available at such points to include most areas and to all the major cities of Texas.

(3) Expansion of the commercial zone as here requested will extend the service of approximately 200 small carriers independently operating under the present commercial zone exemption. Collectively, these carriers offer services which include the following: they render conventional short-haul truck service with multiple daily schedules and on-call service; they make deliveries in residential areas; they do installations on home delivery of retail sales of equipment and appliances; they store, transport, and deliver chattels in levy and foreclosure proceedings; they render storage and handling in connection with transportation of files and records; they handle contractor materials to job sites; and they deliver parcels and small shipments. They deliver messages and documents rendering special services therewith, including the return of signed documents. They render this parcel and message service to and from any place where entry is not prohibited, including all floors of multiple story offices and warehouse buildings. Few of these services are presently available from the regular route common carriers. Where the services are held out by such carriers by tariff, the rates are prohibitive.

(4) The services described in the preceding paragraph are now available when rendered in connection with interstate and foreign transportation. Grant of extension as proposed will remove this discrimination which is inherent in the present differences between state and interstate regulations.

(5) The services described in preceding paragraphs are presently available on shipments between approximately 35 named cities and areas within the Houston Commercial Zone as defined by Regulation 051.03.16.004 of the Railroad Commission's Motor Transportation Regulations before the

Transportation Division. Expansion of the commercial zone as here requested will bring additional towns which are economically related to Houston within its zone, including, among others, those named in paragraph (2) hereof. Shippers and receivers at such points compete with producers within the Houston Commercial Zone in the purchase and sale of their products. By reason thereof, there is a discrimination against them, and they are damaged by their exclusion from the commercial zone as presently defined.

(8) It is believed that there are no interests or carriers which are likely to oppose this application except Central Freight Lines, Inc., and three or four other regular route carriers which may oppose because they serve more points in the proposed extended territory than their competitors. These are large carriers. Central reported \$25,354,000 gross income for the first quarter of 1977. Such carriers will not be hurt by grant of this application. Their minimal self-interest should yield to the public benefit.

Pursuant to Section 5(a)(4), Texas Revised Civil Statutes Annotated, Article 6252-13a, the Transportation Division estimates that there will be no cost to the state or to any unit of local government of the state in administering or enforcing this rule.

Public comment on the proposed amendment to Regulation 051.03.16.004 is invited. Comments may be submitted in writing to John G. Soule, director, Transportation Division, Railroad Commission of Texas, P.O. Drawer 12967, Austin, Texas 78711. Written comments will be accepted until August 10, 1978. Pursuant to Section 1(g), Texas Revised Civil Statutes Annotated, Article 911b, a public hearing to receive oral comments will be held on September 19, 1978, in Room 509 of the E. O. Thompson Building, 10th and Colorado Streets, Austin, Texas.

This amendment to Regulation 051.03.16.004 is proposed under the authority of Section 1(g), Texas Revised Civil Statutes Annotated, Article 911b.

.004. Existing Commercial Zones.

(c) The Houston Commercial Zone shall include the incorporated City of Houston: *all of the unincorporated areas within 20 miles of the corporate limits of the City of Houston, Texas, and all of any other municipality, any part of which is within 20 miles thereof.* (The following cities, towns, and areas which are adjacent to and commercially a part of the City of Houston: Spring Valley, Hedwig Village, Hunter's Creek Village, Piney Point Village, Hilshire Village, Bunker Hill Village, Bellaire, West University Place, Southside Place, Galena Park, Jacinto City, Missouri City, Pearland, Friendswood, Webster, League City, Seabrook, Shoreacres, La Porte, Lomax, Deer Park, Pasadena, South Houston, Baytown, El Lago, Taylor Lake Village, Jersey Village, Humble, and the areas lying within the Channel Easement and adjacent unincorporated areas bounded on the north by Interstate Highway 10, eastward to Baytown, and on the south by State Highway 225 eastward to La Porte, and the Channel Easement from its origin in midtown Houston to Galveston Bay; the Bayport, Clear Lake City, and NASA developments; the unincorporated area in southeast Harris County lying south of State Highway 225, north of the Harris County-Galveston line, and east of Pearland and Friendswood; Stafford, and an area embracing all points within one mile of the present location of the United States Post Office which is designated in the *United States Postal Guide* as the town of Highlands, Texas, and the City of Sugar Land, Texas.)

Issued in Austin, Texas, on June 19, 1978.

Doc. No. 784117

John G. Soule, Director
Transportation Division
Railroad Commission of Texas

Proposed Date of Adoption: July 28, 1978

For further information, please call (512) 475-3207.

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 Education Agency

Teacher Certification

Requirements for Teacher Certificates

226.62.03

The Texas Education Agency has amended Rule 226.62.03.020, concerning teacher certification. The amendment concerns the bilingual education endorsement. Under the amendment, effective January 1, 1979, an applicant for a bilingual education endorsement must have credit for 12 semester hours earned after the baccalaureate degree in certain subject areas specified in the rule. Under present regulations, individuals could qualify for the bilingual endorsement based on teaching experience in an approved bilingual program. Individuals may still qualify for the endorsement under the old requirements provided they enter the program before January 1, 1979, and complete all requirements by December 31, 1980. Only part (e-e), Bilingual Education, of Section (e), Endorsements, is changed. The rest of the rule remains unchanged.

Public review and discussion of the proposed changes were held. There are three editorial changes from the text as proposed. The 12 hours after the baccalaureate degree must include study in language acquisition and development in childhood (psycholinguistics). The words "for an endorsement" were added to paragraph (E). The sentence introducing requirements based on teaching experience was reworded for clarity.

This rule is promulgated under the authority of Section 13.032, Texas Education Code.

.020. Specific Requirements for Teacher Certification by Class and by Level, Including Areas of Specialization and Endorsements.

(e) Endorsements.

(e-e) Bilingual education. Effective January 1, 1979, an applicant for a bilingual education endorsement must have:

- (1) Baccalaureate degree;
- (2) Valid Texas teacher certificate;

(3) Professional level oral and written proficiency in the language of the target population as measured by an examination approved by the Texas Education Agency;

(4) Credit for 12 semester hours at the graduate or undergraduate level earned after the baccalaureate degree in the following:

(A) Language acquisition and development in childhood (psycholinguistics);

(B) Teaching language arts and reading in the language of the target population;

(C) Teaching English as a second language, including reading and oral communication;

(D) Teaching mathematics, science, and social studies in the language of the target population, including necessary vocabulary in the language of the target population;

(5) One year of successful classroom teaching experience in a bilingual program approved by the Texas Education Agency; and

(6) Recommendation of a college or university with an approved bilingual education program. Requirements for the bilingual endorsement based on teaching experience in an organized/approved bilingual program are shown below. Individuals who wish to qualify for an endorsement under these requirements must enter this program on or before January 1, 1979, and must complete all requirements on or before December 31, 1980.

(A) Bachelor's degree.

(B) Valid Texas teacher certificate.

(C) Evidence of proficiency in English and the language of the target population at the highest level for which the individual has been certified, as determined by an institution approved for teacher education or a public school committee of at least three language professional persons who verify language proficiency of the certificate applicant.

(D) One year of successful classroom teaching experience on a permit, as documented by the employing superintendent; experience must have been in an organized/approved bilingual education program which included staff development or in a state-approved bilingual education program in an accredited public school or an accredited private school which provides contract services to the public schools.

(E) Recommendations for an endorsement by a three-member public school committee through the superintendent of the employing district to the Division of Teacher Certification on form TCER-016, application, and two-dollar fee (money order or cashier's check).

Doc. No. 784069

Teaching Permits 226.62.06

The Texas Education Agency has amended Rule 226.62.06.010, concerning emergency teaching permits and permits for special assignment. The change concerns only the emergency permit and the special assignment permit for bilingual education. Under these regulations, a candidate for an emergency teaching permit for bilingual education must have a bachelor's degree and must have been admitted to a college-approved program for bilingual education. A candidate for a bilingual education special assignment permit must have completed either six semester hours in an ap-

proved bilingual teacher preparation program at an institution of higher education or a program at a bilingual teacher training institute provided by the Texas Education Agency. The bilingual teacher training institute option will not be available after December 31, 1978. Only Section (e), Special Requirements for Teachers Requiring Emergency Teaching Permits, and part (k-v), Teacher of Bilingual Education, of the rule are changed. The rest of the rule remains unchanged.

Public review and discussion of the proposed changes were held. The rule is adopted with one change from the text proposed. The first sentence in Section (e) has been rewritten for clarity. There are no substantive changes.

This amendment is promulgated under the authority of Sections 13.032 and 13.040, Texas Education Code.

.010. Emergency Teaching Permits and Permits for Special Assignment.

(e) Emergency teaching permits which require completion of a teacher education program. The individual for whom the initial emergency teaching permit is requested must:

- (1) hold a standard bachelor's degree from an accredited institution of higher learning;
- (2) if the permit requested is for teaching at the secondary level, have the minimum qualifications of one teaching field as provided in the *Standards for Teacher Education in Texas*; and the permit must be issued only for teaching in that field;
- (3) if the permit requested is for teaching at the elementary level, have the minimum of 12 semester hours specifically designated as elementary education; and
- (4) be able to complete all requirements for certification within a three-scholastic-year period from the date of issuance of the initial permit.

In addition, an individual for whom bilingual education emergency permit is requested must:

- (1) be bilingual in English and the language of the target population; and
- (2) have been admitted to a college-approved program for bilingual education.

The superintendent of schools is authorized to renew emergency teaching permits a maximum of two consecutive times provided that the:

- (1) permit is renewed for the same assignment in the same school system as the initial permit;
- (2) school district has on file from an institution of higher learning a plan for removal of deficiencies stating that:

- (A) the individual meets the grade-point average required for admission to the college's teacher education program leading to certification recommendation; and
- (B) all requirements for the certificate can be completed within the following two years;

- (3) school district has on file for each renewal a valid transcript of a minimum of six semester hours of college/university credit completed toward the certificate in the level of the assignment and it is evident that at least one third of the total deficiency is removed each year; and
- (4) school district has on file for each renewal the Emergency Teaching Permit Renewal form completed prior to duty date;

(5) permits that must be renewed through the Texas Education Agency:

- (A) special assignment permits (including special education permits),
- (B) kindergarten permits,
- (C) bilingual education permits,
- (D) vocational permits,
- (E) permits renewed for "hardship" reasons.

(k) Special requirements of an applicant for a permit for special assignment.

(k-v) Teacher of bilingual education. The individual for whom an initial permit for special assignment for a teacher of bilingual education is requested must:

- (1) hold a baccalaureate degree from an accredited college;
- (2) hold a valid Texas teacher certificate;
- (3) have successfully completed:

(A) six semester-hours in an approved bilingual teacher preparation program at an institution of higher education or

(B) a bilingual teacher training institute provided under law through the Texas Education Agency, consisting of a minimum of 30 clock-hours on bilingual processes. (This alternative not available after December 31, 1978.);

(4) have demonstrated professional level oral and written proficiency in the language of the target population as measured by an examination approved by the Texas Education Agency; or

(5) have successfully completed six semester-hours in the study of the language of the target population at an institution of higher education; or

(6) have successfully completed a bilingual teacher training institute provided under law through the Texas Education Agency, consisting of a minimum of 100 clock-hours of language development. (This alternative not available after December 31, 1978.)

A special assignment permit for bilingual education may be renewed a maximum of three times. To renew the permit which allows a person to continue an assignment in an approved bilingual education program, the individual must:

- (1) identify regular progress, a minimum of six semester hours, in an approved bilingual teacher preparation program at an institution of higher education;
- (2) demonstrate progress toward professional level oral and written proficiency in the language of the target population by showing an improved score on an examination approved by the Texas Education Agency.

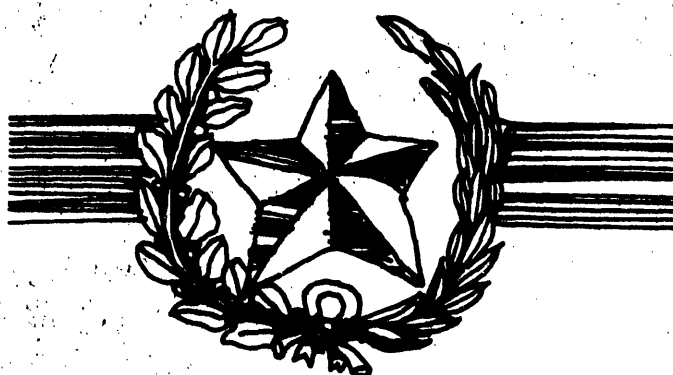
Issued in Austin, Texas, on June 19, 1978.

Doc. No. 784070

M. L. Brockette
Commissioner of Education

Effective Date: July 10, 1978

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



Employees Retirement System of Texas

Creditable Service 335.30.00

The Board of Trustees of the Employees Retirement System of Texas has adopted the amendment to Rule 335.30.00.115 as proposed, without changes. No written comments were received. This rule was amended pursuant to the authority of Section 6, Article 6228k, Texas Revised Civil Statutes.

115. Fractional Service Retirement Benefits.

(a) Retirement credit established in the two classes of service under the State Employees Retirement Act may be treated as if the service had been rendered in separate systems.

(b) A member who is retiring exclusively under programs administered by the board may use the shortest vesting period required for any class of service in the programs in which the member has retirement credit.

(c) A member who retires with 10 or more years of service credit in the Employees Retirement System, exclusive of military service credit, may receive retirement benefits as an elective state official for the percentage of his eligible military service as is derived by dividing the number of months of creditable service as an elective state official by 96 months, but no more than 100 percent.

(d) When the length of service requirement for retirement is met by creditable service in more than one class or system, the member must complete retirement from each of the classes and systems in which such creditable service was established.

Doc. No. 784008

Uniform Group Insurance Program 335.80.00

The Board of Trustees of the Employees Retirement System of Texas has adopted Rule 335.80.00.126 as proposed, without changes. No written comments were received. This rule was adopted pursuant to the authority of Sections 4(h) and 5(e), Article 3.50-2, Texas Insurance Code.

126. Health Maintenance Organization Selection.

(a) On the effective date of this rule, a health maintenance organization (HMO) which previously has been approved by the trustee shall continue to be eligible for selection by the trustee to provide medical care to participants in the Uniform Group Insurance Program. After the effective date of this rule, only an HMO which is certified by the U.S. Department of Health, Education, and Welfare (HEW) is eligible for selection by the trustee. A request for selection must be submitted by an HMO to the Employees Retirement System no less than six months prior to a contract anniversary date.

(b) An HMO which loses certification by HEW or by an agency of the State of Texas automatically loses eligibility for selection by the trustee to provide health care services to participants in the program.

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

Doc. No. 784009

Joseph N. Murphy, Jr.
Executive Director
Employees Retirement System of Texas

Effective Date: July 7, 1978

For further information, please call (512) 476-6431.

Texas Department of Human Resources

Food Stamps

Support Documents 326.15.99

The Department of Human Resources adopts the following amendment to its rule which adopts by reference the federal regulations which set forth the maximum income eligibility standards and basis of issuance tables used to determine allotments and purchase prices for participating households in the Food Stamp Program. These regulations appear in *Federal Register* Document No. 78-13462 and have a federally mandated effective date of July 1, 1978. The changes in the food stamp basis of issuance tables reflect the increased cost of food and most households are expected to benefit from this action. No household should receive a reduction in bonus coupons. The changes include increased allotments and increased net income limits for all households and slightly increased purchase prices for households with high net income.

This amendment is adopted under the authority of Article 695c, Texas Revised Civil Statutes, effective July 1, 1978, pursuant to federal requirements.

002. *Federal Register* Document No. 78-13462. The Department of Human Resources adopts by reference the food stamp rules and appendix contained in *Federal Register* Document No. 78-13462, Volume 43, Number 95, as corrected by *Federal Register*, Volume 43, Number 103, page 22670, which amends Code of Federal Regulations, Part 271.

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

Doc. No. 784131

Jerome Chapman
Commissioner
Texas Department of Human Resources

Effective Date: July 1, 1978

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

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*.

3rd Court of Civil Appeals

Lorenzo Textile Mills, Inc. v. Bullock

The limitation period in Section 20.06(D)(1), Taxation—General, is preserved and was not repealed by Article 1.045(A) or Article 1.045(B), Taxation—General. (15 TLWD 24, at 6)

Filed: May 3, 1978, Austin
Doc. No. 3C47

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, June 29, 1978, 9 a.m. The Texas Adult Probation Commission will meet at the Ramada Inn Center, 2000 Beach Street, Fort Worth, to consider the following: review of standards; progress report on survey done by Sam Houston State University; and budget review for next fiscal year. Only those matters on the agenda not covered at the June 28 meeting will be discussed.

Additional information may be obtained from Sharon Schunn, Suite 400, 812 San Antonio, Austin, Texas 78701, telephone (512) 475-1374.

Filed: June 20, 1978, 10:21 a.m.
Doc. No. 784090

Texas Alcoholic Beverage Commission

Monday, June 26, 1978, 10 a.m. The Texas Alcoholic Beverage Commission made an emergency addition to the agenda of a meeting held in Room 210, Jefferson Building, 1600 West 38th Street, Austin, to discuss possible litigation with legal counsel of the attorney general's office (executive session), as summarized.

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

Filed: June 20, 1978, 9:50 a.m.
Doc. No. 784071

Texas Antiquities Committee

Wednesday, July 5, 1978, 1 p.m. The Texas Antiquities Committee of the Texas Historical Commission will meet at the Viking Inn, Highway 35 Bypass, Port Lavaca, to consider

the following items: financial statement, current operating budget; biennial budget request; discussion of underwater cultural resource surveys, attorney general opinion H-1162; review of schedule for traveling exhibit; field report (Davis, Bob Sandlin, Lake Fork, Galveston Island, Hueco Tanks); status of publications; preservation of collections from state archeological landmarks; Stephenville brick streets; permits issued; inundation study; summer field work; next meeting date; and personnel matters (executive session).

Additional information may be obtained from Jane Levy, 105 West 16th Street, Austin, Texas 78701, telephone (512) 475-6328.

Filed: June 22, 1978, 9:18 a.m.
Doc. No. 784197

Coordinating Board, Texas College and University System

Thursday, July 13, 1978, 9 a.m. The Investment Committee of the Coordinating Board, Texas College and University System, will meet in the Brazos Room, Sheraton Crest Inn, 111 East 1st Street, Austin, to consider investment policy (Chapter 22).

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

Filed: June 21, 1978, 9:53 a.m.
Doc. No. 784125

Thursday, July 13, 1978, 9:30 a.m. The Financial Planning Committee of the Coordinating Board, Texas College and University System, will meet in the Brazos Room, Sheraton Crest Inn, 111 East 1st Street, Austin, to consider matters related to the Division of Financial Planning and the Division of Administration, as summarized.

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

Filed: June 21, 1978, 9:53 a.m.
Doc. No. 784126

Thursday, July 13, 1978, 10:30 a.m. The Community Junior College Committee of the Coordinating Board, Texas College and University System, will meet in the Brazos Room, Sheraton Crest Inn, 111 East 1st Street, Austin, to consider matters related to the Division of Community Colleges and Continuing Education, as summarized.

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

Filed: June 21, 1978, 9:53 a.m.
Doc. No. 784127

Thursday, July 13, 1978, 11 a.m. The Campus Planning Committee of the Coordinating Board, Texas College and University System, will meet in the Brazos Room, Sheraton Crest Inn, 111 East 1st Street, Austin, to consider matters related to the Division of Campus Planning and Facilities, as summarized.

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

Filed: June 21, 1978, 9:53 a.m.
Doc. No. 784122

Thursday, July 13, 1978, 1:15 p.m. The Policy Paper I Revision Committee of the Coordinating Board, Texas College and University System, will meet in the Brazos Room, Sheraton Crest Inn, 111 East 1st Street, Austin, to consider proposed revision to the Coordinating Board Policy Paper I, Academic Freedom, Tenure, and Responsibility.

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

Filed: June 21, 1978, 9:53 a.m.
Doc. No. 784124

Thursday, July 13, 1978, 1:45 p.m. The Senior College and University Committee of the Coordinating Board, Texas College and University System, will meet in the Brazos Room, Sheraton Crest Inn, 111 East 1st Street, Austin, to consider matters related to the Division of Senior Colleges and Universities, as summarized.

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

Filed: June 21, 1978, 9:53 a.m.
Doc. No. 784121

Friday, July 14, 1978, 9 a.m. The Student Services Committee of the Coordinating Board, Texas College and University System, will meet in the Brazos Room, Sheraton Crest Inn, 111 East 1st Street, Austin, to consider interest rate charged on student loans made in fiscal year ending August 31, 1979, under the authority of Chapter 52, Texas Education Code.

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

Filed: June 21, 1978, 9:53 a.m.
Doc. No. 784123

Friday, July 14, 1978, 9:10 a.m. The Health Affairs Committee of the Coordinating Board, Texas College and University System, will meet in the Brazos Room, Sheraton Crest Inn, 111 East 1st Street, Austin, to consider matters related to the Division of Health Affairs, as summarized.

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

Filed: June 21, 1978, 9:53 a.m.
Doc. No. 784128

Friday, July 14, 1978, 10 a.m. The Coordinating Board, Texas College and University System, will meet in the Brazos Room, Sheraton Crest Inn, 111 East 1st Street, Austin, to consider matters relating to the following, as summarized: Division of Administration; Division of Financial Planning; Division of Student Services; Division of Health Affairs; Division of Campus Planning; Division of Community Colleges and Continuing Education; and the Division of Senior Colleges and Universities.

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

Filed: June 21, 1978, 9:53 a.m.
Doc. No. 784120

Texas Board of Corrections

Monday, July 10, 1978, 8 a.m. The Texas Board of Corrections will meet in Room 103, 815 Eleventh Street, Huntsville, to consider the following items, as summarized: inmate affairs; personnel; business and budget; legislation; agriculture; construction; industries; legal; research, planning, and development; miscellaneous; and Windham School District.

Additional information may be obtained from W. J. Estelle, Jr., P.O. Box 99, Huntsville, Texas 77340, telephone (713) 295-6371, extension 259.

Filed: June 21, 1978, 3:12 p.m.
Doc. No. 784146

Texas Deepwater Port Authority

Wednesday, June 21, 1978, 1:30 p.m. The Texas Deepwater Port Authority made an emergency addition to the agenda of a meeting held in Suite 844, 3701 Kirby, Houston, to consider the acquisition of real estate (executive session).

Additional information may be obtained from Nancy Fasolino, Suite 801, 807 Brazos, Austin, Texas 78701, telephone (512) 475-6041.

Filed: June 20, 1978, 2:47 p.m.
Doc. No. 784108

Texas Department of Health

Public Hearings in July. The Texas Department of Health will conduct public hearings on the following proposed rules: procedures covering certification and decertification of long

term care facilities which participate in the medical assistance program in the State of Texas under Title XIX of the U.S. Social Security Act (included in these rules are hearing procedures relating to appeals from department actions under these rules); and procedures covering formal hearings that will be available to persons or parties who request formal hearings before the department.

These public hearings will be held as follows:

Monday, July 19, 1978, 9 a.m.

First floor auditorium, Texas Department of Health, 1100 West 49th Street, Austin

Thursday, July 13, 1978, 10 a.m.

West End Health Center auditorium, 190 Heights Boulevard, Houston

Friday, July 14, 1978, 9:30 a.m.

Community Center, Music Room, 2800 South Center, Arlington

Additional information may be obtained from Dan LaFleur, 1100 West 49th Street, Austin, Texas 78756, telephone (512) 458-7236.

Filed: June 22, 1978, 8:53 a.m.

Doc. No. 784195

Public Hearings in July and August. The Texas Department of Health will conduct public hearings regarding identification of regional boundaries and responsible agencies for solid waste management. The Texas Department of Health has completed the preliminary task of consulting with interested parties and local officials and has developed a proposal to identify regional boundaries and agencies for municipal solid waste management. This proposal will be published in its entirety in the June 30, 1978, issue of the *Texas Register*. The hearings will involve a discussion of this proposal.

The hearings will be held as follows:

Tuesday, July 11, 1978, 10 a.m.

City County auditorium, Dallas Health Center, 1936 Amelia, Dallas

Friday, July 14, 1978, 10 a.m.

City Council Chamber, City Hall, 411 West 8th Street, Odessa

Monday, July 17, 1978, 10 a.m.

West End Health Center, 190 Heights Boulevard, Houston

Friday, July 21, 1978, 10 a.m.

EMS Training Center, 2315 Buena Vista, San Antonio

Thursday, July 27, 1978, 10 a.m.

City Council Chamber, City Hall, West Ferguson and North Bonner, Tyler

Thursday, August 10, 1978, 10 a.m.

Lecture Hall A, Building D, Texas State Technical Institute, Harlingen Municipal Airport

Tuesday, August 29, 1978, 10 a.m.

Texas Department of Health auditorium, 1100 West 49th Street, Austin

Additional information may be obtained from Jack C. Carmichael, 1100 West 49th Street, Austin, Texas 78756, telephone (512) 458-7271.

Filed: June 22, 1978, 8:53 a.m.

Doc. No. 784194

Texas Health Facilities Commission

Thursday, June 29, 1978, 10 a.m. The Texas Health Facilities Commission will meet in Suite 305, Jefferson Building, 1600 West 38th Street, Austin. The commission will consider the following applications:

Home Help Care, Inc., Lubbock—motion for rehearing for certificate of need

Visiting Nurse Service, Inc., Lubbock—motion for rehearing for certificate of need

Baylor University Medical Center, Dallas—certificate of need

Autumn Hills Convalescent Centers, Inc., Liberty—certificate of need

Brazos Artificial Kidney Center, Waco—certificate of need

Jacinto Towers Artificial Kidney Center, Jacinto City—certificate of need

Medical City Dallas Hospital, Dallas—certificate of need

Normandy Terrace, Inc., San Antonio—certificate of need

Glenview Hospital, Fort Worth—transfer of certificate of need

South Limestone Community Health Center, Inc., Groesbeck—exemption certificate

Park Plaza Hospital, Houston—declaratory ruling

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

Filed: June 21, 1978, 11:48 a.m.

Doc. No. 784140

Texas Legislative Council

Friday, June 30, 1978, 9 a.m. The Property Tax Study Committee of the Texas Legislative Council will meet in the Senate Chamber, State Capitol, Austin. The committee will hold a hearing on the proposed property tax code and related property tax reform issues.

Additional information may be obtained from Robert Taylor, P.O. Box 12128, Austin, Texas 78711, telephone (512) 475-2736.

Filed: June 21, 1978, 3:47 p.m.

Doc. No. 784158

State Board of Insurance

Thursday, June 22, 1978, 2 p.m. The State Board of Insurance met in emergency session in Room 408, 1110 San Jacinto, Austin, with agents' groups and cat pool concerning commissions.

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

Filed: June 21, 1978, 3:29 p.m.

Doc. No. 784153

Wednesday, June 28, 1978, 10 a.m. The State Board of Insurance will meet in Room 408, 1110 San Jacinto, Austin, to consider the following: wife's supplemental protection insurance filing by Empire Casualty Company; and fiduciary responsibility insurance filing by Aetna Casualty and Surety Company.

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

Filed: June 20, 1978, 11:29 a.m.

Doc. No. 784099

Wednesday, June 28, 1978, 2 p.m. The Commissioner's Hearing Section of the State Board of Insurance will meet in Room 343, 1110 San Jacinto, Austin, to consider an application from LL Life Insurance Company, Austin. The applicant seeks a merger between LL Life Insurance Company, Austin, and United Fidelity Life Insurance Company, Dallas, pursuant to Articles 21.25 and 21.49-1, Section 5, of the Texas Insurance Code.

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

Filed: June 20, 1978, 10:18 a.m.

Doc. No. 784083

Wednesday, June 28, 1978, 2 p.m. The State Board of Insurance will meet in Room 408, 1110 San Jacinto, Austin, to consider variable life insurance rules.

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

Filed: June 20, 1978, 11:29 a.m.

Doc. No. 784098

Thursday and Friday, June 29-30, 1978, 9 a.m. The State Board of Insurance will meet in Room 343, 1110 San Jacinto, Austin, to conduct a hearing regarding agents' commissions to be paid by the Texas Catastrophe Property Insurance Association.

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

Filed: June 20, 1978, 10:18 a.m.

Doc. No. 784082

Wednesday, July 5, 1978, 10 a.m. The Commissioner's Hearing Section of the State Board of Insurance will meet in Room 343, 1110 San Jacinto, Austin, to consider an application by Navajo Life Insurance Company, Phoenix, Arizona, for admission to Texas, pursuant to Texas Insurance Code Annotated, Article 3.24-1.

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

Filed: June 20, 1978, 10:18 a.m.

Doc. No. 784084

Thursday, July 6, 1978, 10 a.m. The Commissioner's Hearing Section of the State Board of Insurance will meet in Room 343, 1110 San Jacinto, Austin, to consider an application by Vico County Mutual Insurance Company, Fort Worth, for approval of charter amendment, pursuant to Texas Insurance Code Annotated, Article 17.19.

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

Filed: June 20, 1978, 10:18 a.m.

Doc. No. 784085

Thursday, July 6, 1978, 2 p.m. The Commissioner's Hearing Section of the State Board of Insurance will meet in Room 343, 1110 San Jacinto, Austin, to conduct an articles of incorporation hearing regarding Mortgage Bankers Life Insurance Company, Fort Worth, pursuant to Texas Insurance Code Annotated, Articles 3.02 and 3.04.

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

Filed: June 20, 1978, 10:18 a.m.

Doc. No. 784086

Friday, July 7, 1978, 11 a.m. The Commissioner's Hearing Section of the State Board of Insurance will meet in Room 343, 1110 San Jacinto, Austin, to discuss First American Title Company of Galveston, League City. The board will consider the failure of the company to furnish audit report within the time required and furnishing an audit report which revealed shortage or other irregularity or a practice not in keeping with sound, honest business practices, pursuant to Article 9.37 and 9.39 of the Texas Insurance Code.

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

Filed: June 20, 1978, 10:18 a.m.

Doc. No. 784087

Friday, July 7, 1978, 2 p.m. The Commissioner's Hearing Section of the State Board of Insurance will meet in Room 343, 1110 San Jacinto, Austin, to discuss American Heritage Life Insurance Company, Jacksonville, Florida. This hearing will concern discretionary approval of a group for life insurance, pursuant to Article 3.50 of the Texas Insurance Code.

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

Filed: June 20, 1978, 10:18 a.m.
Doc. No. 784088

Tuesday, July 11, 1978, 10 a.m. The State Board of Insurance will meet in Room 408, 1110 San Jacinto, Austin, to conduct a meeting with the Personal Automobile Policy Subcommittee of the Texas Automobile Insurance Service Office.

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

Filed: June 20, 1978, 10:18 a.m.
Doc. No. 784081

Texas Advisory Commission on Intergovernmental Relations

Friday, June 30, 1978, 1:30 p.m. The Committee on Personal Tort Liability of Public Officials and Employees of the Texas Advisory Commission on Intergovernmental Relations will meet in Room 618, Stephen F. Austin Building, 1700 North Congress, Austin. The committee will hold a discussion of the preliminary results of staff research on the current status of personal tort liability of public officials and employees and possible methods of preventing such liability.

Additional information may be obtained from Louise Winecup, 1700 North Congress, Austin, Texas 78701, telephone (512) 475-3728.

Filed: June 19, 1978, 2:14 p.m.
Doc. No. 784056

State Board of Morticians

Wednesday, June 21, 1978, 9 a.m. The State Board of Morticians made an emergency addition to the agenda of a meeting held at 1513 South Interstate Highway 35, Austin. As summarized, William G. Anderson appeared in regard to his application for reciprocity from the state of Oklahoma. Also, licensees who did not pay the renewal fee that was due and payable by May 31, 1978, had their licenses suspended by board action on June 21.

Additional information may be obtained from James W. McCammon, 1513 South Interstate Highway 35, Austin, Texas 78741, telephone (512) 442-6721.

Filed: June 20, 1978, 3:31 p.m.
Doc. No. 784109

Texas Optometry Board

Wednesday, June 28, 1978, 8 p.m. The Texas Optometry Board will meet at the Airport Marina Hotel, Dallas/Fort Worth Airport. As summarized, the agenda will include: business meeting; meeting with several additions to be included regarding optometry students as investigators and request of Texas Association of Optometrists concerning possible violations of Act; grading session following business meeting to determine those candidates passing the board examination; committee meetings prior to and following the board meeting; and formal hearing to be held on June 29 at 9 a.m.

Additional information may be obtained from Lois Ewald, Suite H-101, 5555 North Lamar, Austin, Texas 78751, telephone (512) 458-2141 or Tex-An 824-1595.

Filed: June 20, 1978, 4:31 p.m.
Doc. No. 784118

Board of Pardons and Paroles

Monday and Wednesday through Friday, July 3, 5, 6, and 7, 1978, 9 a.m. daily. The Board of Pardons and Paroles will meet in Room 711, Stephen F. Austin Building, Austin. As summarized, 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: June 20, 1978, 10:23 a.m.
Doc. No. 784091

Texas Board of Private Investigators and Private Security Agencies

Tuesday, June 20, 1978, 10 a.m. The Texas Board of Private Investigators and Private Security Agencies made an emergency addition to the agenda of a meeting held in the first floor conference room, 7600 Chevy Chase Drive, Austin. As summarized, agenda item number three under new business was amended to read: request for waiver of board rule on three denial cases. The agenda was amended on an emergency basis because the board will not meet again until

August and the individual in question did not know whether or not he could be employed as a security officer until the board had officially voted on his application.

Additional information may be obtained from Clema D. Sanders, P.O. Box 13509, Austin, Texas 78711, (512) 475-3944.

Filed: June 19, 1978, 3:54 p.m.

Doc. No. 784062

Public Utility Commission of Texas

Friday, June 23, 1978, 10 a.m. The Public Utility Commission of Texas rescheduled an emergency hearing held in Suite 400N, 7800 Shoal Creek Boulevard, Austin, regarding an appeal of Lower Colorado River Authority from rates set by the City of Kerrville (Docket No. 1910), as summarized in the agenda. Due to a scheduling conflict, the hearing was rescheduled from June 21.

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

Filed: June 20, 1978, 11:24 a.m.

Doc. No. 784093

Thursday, June 29, 1978, 9 a.m. The Public Utility Commission of Texas will meet in Suite 400N, 7800 Shoal Creek Boulevard, Austin, to conduct a hearing regarding an application of the City of Weimar to amend its certificate of convenience and necessity to provide electric service in Colorado County (Docket No. 1703), 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: June 20, 1978, 11:24 a.m.

Doc. No. 784094

Records Preservation Advisory Committee

Thursday, June 29, 1978, 2:30 p.m. The Records Preservation Advisory Committee will meet in Room 205a, Lorenzo de Zavala State Archives Building, Austin, to discuss the acquisition or construction of additional space for the Records Management Division of the Texas State Library for the purpose of housing inactive records, as summarized in the agenda.

Additional information may be obtained from Jimmy Hausenfluke, 1201 Brazos, Austin, Texas 78701, telephone (512) 475-6652.

Filed: June 20, 1978, 3:42 p.m.

Doc. No. 784110

State Board of Examiners for Teacher Education

Tuesday, July 11, 1978, 8:30 a.m. The State Board of Examiners for Teacher Education will meet in the State Board of Education conference room, Riverside Square North Building, 150 East Riverside Drive, Austin. As summarized, the agenda will include: resolutions of Texas College English Association; report on site visit to Wiley College; report on operating procedure for approval of teacher education institutions; report of subcommittee on reading of the State Board of Examiners for Teacher Education; consideration of date for September 1978 meeting; and college/university approvals.

Additional information may be obtained from Tom Walker, 201 East 11th Street, Austin, Texas 78701, telephone (512) 475-3236.

Filed: June 21, 1978, 2:20 p.m.

Doc. No. 784141

Texas Water Commission

Wednesday, June 28, 1978, 10 a.m. The Texas Water Commission will conduct a hearing in the Stephen F. Austin Building, 1700 North Congress, Austin, to consider a petition for organization of Fort Bend County Municipal Utility District No. 26 (located within Fort Bend County and including 406.8297 acres of land), 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: June 19, 1978, 4:18 p.m.

Doc. No. 784063

Thursday, June 29, 1978, 10 a.m. The Texas Water Commission will conduct a hearing at the Bank of the Southwest, third floor auditorium, 910 Travis Street, Houston, to consider an application by Coastal Supply Company, Houston. As summarized, the applicant seeks a permit to allow for a discharge of domestic sewage effluent from a sewage treatment plant to serve a population equivalent of 100 people.

Additional information may be obtained from David Hume, P.O. Box 13087, Austin, Texas 78711, telephone (512) 475-2711.

Filed: June 20, 1978, 2:45 p.m.

Doc. No. 784102

Thursday, June 29, 1978, 10 a.m. The Texas Water Commission will conduct a hearing at the Bank of the Southwest, third floor auditorium, 910 Travis Street, Houston, to consider an application by Intercoastal Refining Company, Houston. As summarized, the applicant seeks an amendment to Permit No. 01688 to revamp plant operations.

Additional information may be obtained from David Hume, P.O. Box 13087, Austin, Texas 78711, telephone (512) 475-2711.

Filed: June 20, 1978, 2:45 p.m.
Doc. No. 784103

Thursday, June 29, 1978, 10 a.m. The Texas Water Commission will conduct a hearing at the Bank of the Southwest, third floor auditorium, 910 Travis Street, Houston, to consider an application by Northwest Harris County Municipal Utility District No. 12 (c/o Smith, Rowe, Hay & Bacon, Houston). As summarized, the applicant seeks a permit to allow for a discharge of domestic sewage effluent from a sewage treatment plant to serve a population equivalent of 3,100 people.

Additional information may be obtained from David Hume, P.O. Box 13087, Austin, Texas 78711, telephone (512) 475-2711.

Filed: June 20, 1978, 2:44 p.m.
Doc. No. 784104

Thursday, June 29, 1978, 10 a.m. The Texas Water Commission will conduct a hearing at the Bank of the Southwest, third floor auditorium, 910 Travis Street, Houston, to consider an application by the City of Woodbranch Village, New Caney. As summarized, the applicant seeks a permit to allow for a discharge of domestic sewage effluent from a sewage treatment plant to serve a population equivalent of 1,250 people.

Additional information may be obtained from David Hume, P.O. Box 13087, Austin, Texas 78711, telephone (512) 475-2711.

Filed: June 20, 1978, 2:44 p.m.
Doc. No. 784105

Thursday, June 29, 1978, 10 a.m. The Texas Water Commission will conduct a hearing at the Bank of the Southwest, third floor auditorium, 910 Travis Street, Houston, consider an application by Midas Homes, Inc. (Dickerson Park Subdivision), Alvin. As summarized, the applicant seeks a permit to allow for a discharge of domestic sewage effluent from a sewage treatment plant to serve a population equivalent of 2,000 people.

Additional information may be obtained from David Hume, P.O. Box 13087, Austin, Texas 78711, telephone (512) 475-2711.

Filed: June 20, 1978, 2:44 p.m.
Doc. No. 784106

Thursday, June 29, 1978, 10 a.m. The Texas Water Commission will conduct a hearing at the Bank of the Southwest, third floor auditorium, 910 Travis Street, Houston, consider an application by Good Samaritan Lutheran Home, Cypress. As summarized, the applicant seeks a permit to allow for a discharge of domestic sewage effluent from a sewage treatment plant to serve a population equivalent of 200 people.

Additional information may be obtained from David Hume, P.O. Box 13087, Austin, Texas 78711, telephone (512) 475-2711.

Filed: June 20, 1978, 2:44 p.m.
Doc. No. 784107

Thursday, July 6, 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 following items, as summarized: petition for creation of Caney Creek Municipal Utility District, containing approximately 1,709.50 acres; petition for creation of West Harris County Municipal Utility District No. 7, containing 452.47 acres; and petition for creation of Clay Road Municipal Utility District, containing 311.8572 acres.

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

Filed: June 21, 1978, 3:04 p.m.
Doc. No. 784142

Tuesday, July 11, 1978, 9:30 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 McMillin Construction, Inc. As summarized, the applicant seeks a temporary permit to use two acre/feet of water for a 18-month period from Gray's Creek, Little Cypress Bayou, Cypress Bayou, Cypress Basin, for industrial purposes in Harrison County.

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

Filed: June 16, 1978, 2:59 p.m.
Doc. No. 784024

Tuesday, July 11, 1978, 9:30 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 J. H. Strain and Sons, Inc. As summarized, the applicant seeks a temporary permit to use 50 acre/feet of water for a two-year period from Colorado River, Colorado River Basin, for industrial purposes in Coleman County.

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

Filed: June 16, 1978, 2:59 p.m.
Doc. No. 784025

Tuesday, July 11, 1978, 9:30 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 South Texas Construction Company. As summarized, the applicant seeks a temporary permit to use 50 acre/feet of water for a three-year period from Atascosa River, Frio River, Nueces River, Nueces River Basin, for industrial purposes in Live Oak County.

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

Filed: June 16, 1978, 2:59 p.m.

Doc. No. 784026

Tuesday, July 11, 1978, 9:30 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 J. H. Strain and Sons, Inc. As summarized, the applicant seeks a temporary permit to use 30 acre/feet of water for a two-year period from Home Creek, Colorado River, Colorado River Basin, for industrial purposes in Coleman County.

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

Filed: June 16, 1978, 2:59 p.m.

Doc. No. 784027

Texas Youth Council

Thursday, June 22, 1978, 10 a.m., and Friday, June 23, 8:30 a.m. The Texas Youth Council made an emergency addition to the agenda of a meeting held at the La Mansion Hotel, 112 College Street, San Antonio. The time of the meeting was also changed.

As summarized, the agenda on June 22 included: Brownwood easement; Morales v. Turman; transfer of funds; signature authorization; data processing grant; Crockett Camping Program; TEA accreditation; and community assistance rule modification. As summarized, the agenda on June 23 included: community assistance grant; Joint Study Committee report; task force report review; and miscellaneous matters.

Additional information may be obtained from Ron Jackson or Judy Culpepper, P.O. Box 9999, Austin, Texas 78766, telephone (512) 452-8111.

Filed: June 19, 1978, 2:19 p.m.

Doc. No. 784055

Regional Agencies

Meetings Filed June 19, 1978

The Austin-Travis County MH/MR Center, Personnel and Budget/Finance Committee, met at 1430 Collier, Austin, on June 22, 1978, at 6 p.m. The Budget/Finance Committee met at 6:15 p.m. The Personnel Committee met at 6:15 p.m. The Board of Trustees met at 7 p.m. Further information may be obtained from Larry J. Miller, 1430 Collier, Austin, Texas 78704, telephone (512) 447-4141.

The Texas Municipal Power Agency, Board of Directors, met at 600 Arlington Downs Tower, Arlington, on June 21 at 10 a.m. The board will meet again on June 29 at 9 a.m. at the same location. Further information may be obtained from Robert E. Nelson, 600 Arlington Downs Tower, Arlington, Texas 76011, telephone (817) 461-4400.

The Panhandle Ground Water Conservation District No. 3, Board of Directors, will meet at the district office, White Deer, on June 28, 1978, at 8:15 p.m. Further information may be obtained from Felix W. Ryals, P.O. Box 637, White Deer, Texas 79097, telephone (806) 883-2501.

Doc. No. 784061

Meetings Filed June 20, 1978

The Alamo Area Council of Governments, Executive Committee, met at 532 Three Americas Building, San Antonio, on June 26, 1978, at 1:30 p.m. Further information may be obtained from Al J. Notzon III, 400 Three Americas Building, San Antonio, Texas 78205, telephone (512) 225-5201.

Doc. No. 784092

Meetings Filed June 21, 1978

The Brazos River Authority, Board of Directors Lake Management Committee, will meet in the Lake Supervisor's office, Possum Kingdom Lake, on June 30, 1978, at 10 a.m. Further information may be obtained from Mike Bukala, P.O. Box 7555, Waco, Texas 76710, telephone (817) 776-1441.

The Coastal Bend Subarea Health Advisory Council, Bylaws Committee, met in Meeting Room No. 3, Memorial Medical Center, 2606 Hospital, Corpus Christi, on June 23, 1978, at 7:30 a.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 Houston Metropolitan Transit Authority, Board of Directors, will meet in the Mayor's Conference Room, basement level, City Hall, 900 Brazos, Houston, on June 29, 1978, at 3 p.m. Further information may be obtained from Marilee M. Wood, P.O. Box 1562, Houston, Texas, telephone (713) 225-1151.

The Edwards Underground Water District, Board of Directors, will meet in the meeting room, second floor, Tower Life Building, San Antonio, on July 11, 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 Trinity River Authority of Texas, Board of Directors, will meet in the Administration Building, Central Regional Wastewater System, Singleton Boulevard, Grand Prairie, on June 28, 1978, at 10:30 a.m. Further information may be obtained from Geri Elliott, P.O. Box 5768, Arlington, Texas 76011, telephone (817) 461-3151.

The West Central Texas Council of Governments, Executive Committee, will meet at the Jamaica Inn, 3161 South 23rd Street, Abilene, on June 28, 1978, at noon. Further information may be obtained from Bobbie T. Gallagher, P.O. Box 3195, Abilene, Texas 79604, telephone (915) 672-8544.

Doc. No. 784130

Department of Banking Notice of Applications

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

On June 19, 1978, the banking commissioner received an application to acquire control of Lone Oak State Bank, Lone Oak, by William R. McRae, Jacksonville; John Norton, Houston; and Jeff Austin, Jr., James D. Godfrey, and Bill H. Bailey, Jr., also of Jacksonville.

On June 19, 1978, the banking commissioner received an application to acquire control of Peoples State Bank, Shepherd, by Babette Odem, Orange.

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

Issued in Austin, Texas, on June 19, 1978.

Doc. No. 784132- Robert E. Stewart
784133 Banking Commissioner

Filed: June 21, 1978, 2:49 p.m.

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



Coastal Bend Council of Governments

Consultant Proposal Request

Description: The Coastal Bend Council of Governments is seeking a consultant experienced in pay surveys, developing classifications, pay plans, personnel ordinances, and affirmative action plans under the Intergovernmental Personnel Act.

Due Date: Proposals due June 30, 1978, 5 p.m.

Contact: Blanca Garza, telephone (512) 854-3081.

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

Doc. No. 784054 Charlene Forest
Administrative Assistant
Coastal Bend Council of
Governments

Filed: June 19, 1978, 1:49 p.m.

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

Comptroller of Public Accounts

Summary of Administrative Decision 9074

Summary of Decision: The sale of a mailing list represents the sale of a service and is therefore not taxable under the Limited Sales, Excise, and Use Tax Act.

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 June 21, 1978.

Doc. No. 784138 Harriet D. Burke
Hearings Section
Comptroller of Public Accounts

Filed: June 21, 1978, 11:18 a.m.

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

Employees Retirement System of Texas

Consultant Contract Award

Description of Contract: The Employees Retirement System of Texas has entered into a contract with a certified public accounting firm to conduct an audit of multilife and health insurance contracts provided by one insurance carrier to various state agencies, said contracts terminating August 31, 1976, and to audit a contract between the Employees Retirement System and the Uniform Group Insurance Program with the same insurance carrier, such contract terminating August 31, 1977.

Consultant: The Employees Retirement System has entered into said contract with the certified public accounting firm of Alexander Grant and Company, One Main Place, Dallas.

Amount: Alexander Grant and Company has agreed to perform the services of the contract in an amount not to exceed \$88,000, plus out-of-pocket expenses which include travel expenses at actual cost, but not to exceed five percent of the total fee.

Reports: Alexander Grant and Company has agreed to submit the final report of findings resulting from its audit to the Employees Retirement System no later than August 31, 1978.

Issued in Austin, Texas, on June 20, 1978.

Doc. No. 784119 Joseph N. Murphy, Jr.
Executive Director
Employees Retirement System
of Texas

Filed: June 21, 1978, 8:48 a.m.

For further information, please call (512) 476-6431.

Texas Energy Advisory Council

Consultant Contract Awards

In its quarterly meeting on June 16, 1978, the Texas Energy Advisory Council authorized the awarding of contracts for performance of energy development projects B-1-5, S-1-9, and B-1-1 under the Texas Energy Development Act of 1977 (Vernon's Annotated Civil Statutes, Article 4413(47b)) and in accordance with guidelines adopted by the council on December 2, 1977, and published in the *Texas Register* on December 16, 1977.

Description of Contracts:

B-1-5 provides for a demonstration of the fluidized bed combustion of cotton gin trash for power generation under a contract with Texas A&M University with Dr. Ed Hiler as project manager, at a cost of \$40,000 from the Energy Development Fund with provision for matching funds and services of \$150,000.

S-1-9 provides for a low-cost solar heating and cooling retrofit demonstration under a contract with Southside Community Center of San Marcos with Gary Beyer as project manager, at a cost of \$10,083 from the Energy Development Fund with provision for matching funds and services of \$47,591.

B-1-1 provides for a biogas operation of small irrigation systems under a contract with Texas Tech University with Dr. Harry Parker as project manager, at a cost of \$40,000 from the Energy Development Fund with provision for matching funds and services of \$82,500.

Issued in Austin, Texas, on June 19, 1978.

Doc. No. 784072 Milton L. Holloway
Executive Director
Texas Energy Advisory Council

Filed: June 20, 1978, 9:53 a.m.

For further information, please call (512) 475-5588.

Office of the Governor

Consultant Contract Award

Description of Contract: The Criminal Justice Division, Office of the Governor, entered into a contract with Touche Ross and Company for a compliance and financial audit of

the Criminal Justice Division (CJD) in accordance with LEAA audit requirements for the period September 1, 1975, through August 31, 1977. Touche Ross and Company is required to submit a report on the overall financial and compliance conditions of the division by August 14, 1978. The consultant is required to review workpapers, reports, and the management letter of the state auditor in order to issue an opinion of the financial condition and certain compliance conditions of the agency.

Amount of Contract: The amount of the contract with Touche Ross and Company is \$19,576.

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

Doc. No. 784053 Robert C. Flowers
Executive Director
Criminal Justice Division

Filed: June 19, 1978, 12:13 p.m.

For further information, please call (512) 475-6091.

Legislative Budget Board

Executive and Legislative Budget Offices

Joint Budget Hearing Schedule** on Appropriations Requests for the 1980-81 Biennium

June 26-30, 1978

Date	Time	Agency	Location
June 26	9 a.m.	Nimitz Memorial Naval Museum Commission	Room 100D, Reagan State Office Building, Austin
June 26	10 a.m.	Board of Examiners of Psychologists	Room 402, Executive Office Building, 411 West 13th, Austin
June 26	1:30 p.m.	Real Estate Commission	Room 301, Senate Finance Committee Room, State Capitol
June 26	3 p.m.	Board of Registration for Public Surveyors	Room 402, Executive Office Building, 411 West 13th, Austin
June 27	9 a.m.	Veterans Affairs Commission	Room 301, Senate Finance Committee Room, State Capitol
June 28	10 a.m.	Department of Labor and Standards	Room 402, Executive Office Building, 411 West 13th, Austin
June 29	3 p.m.	Coastal and Marine Council	Room 301, Senate Finance Committee Room, State Capitol

****Note:** Please confirm above dates, times, and locations in the event you plan to attend a hearing, since experience has shown that some rescheduling always occurs.

Issued in Austin, Texas, on June 19, 1978.

Doc. No. 784040 James P. Oliver
Assistant Director
Legislative Budget Board

Filed: June 19, 1978, 10:13 a.m.

For further information, please call (512) 475-3426.

Texas Register

Correction of Error

The *State Securities Board* proposed rule, "Issuer Sales of Exempt Securities," was incorrectly numbered 065.05.00.017 in the June 13, 1978, issue of the *Texas Register* (3 TexReg 2010). The correct rule number is 065.05.00.018.

Texas Department of Water Resources

State Solid Waste Plan

Public Hearing Scheduled in Houston

A hearing commission of the Texas Department of Water Resources will conduct a regional forum beginning at 1:30 p.m. on July 6, 1978, in the large conference room at 3701 West Alabama in Houston. The commission will receive testimony concerning a draft work program developed by the Texas Department of Water Resources to accompany a request for federal grant assistance. The testimony will be used to develop (1) an approved state hazardous waste program, (2) the industrial aspects of a state solid waste plan, and (3) an outline for the conduct of an industrial solid waste disposal site survey. These three activities will be accomplished under the authority of the Resource Conservation and Recovery Act of 1976 (RCRA).

The department previously conducted a series of regional forums during the month of May in Houston, Corpus Christi, Midland-Odessa, Arlington, and Austin. These forums were designed to provide for public input to the draft work program during its development. With the completion of the draft work program, the department has determined that an additional opportunity for public input would be in order prior to completion and submittal of the final document to the Environmental Protection Agency's Regional VI Office in Dallas.

Further information, including a technical synopsis of the draft work program for fiscal year 1979, may be obtained by contacting William E. Colbert, Solid Waste Planning Unit, Texas Department of Water Resources, P.O. Box 13087, Austin, Texas 78711.

Doc. No. 784112

Public Hearing Scheduled in Corpus Christi

A hearing commission of the Texas Department of Water Resources will conduct a regional forum beginning at 1:30 p.m. on July 7, 1978, at 4600 Parkdale Drive, Suite 200, in Corpus Christi. The commission will receive testimony concerning a draft work program developed by the Texas Department of Water Resources to accompany a request for federal grant assistance. The testimony will be used to develop (1) an approved state hazardous waste program, (2) the industrial aspects of a state solid waste plan, and (3) an outline for the conduct of an industrial solid waste disposal site survey. These three activities will be accomplished under the authority of the Resource Conservation and Recovery Act of 1976 (RCRA).

The department previously conducted a series of regional forums during the month of May in Houston, Corpus Christi, Midland-Odessa, Arlington, and Austin. These forums were designed to provide for public input to the draft work program during its development. With the completion of the draft work program, the department has determined that an additional opportunity for public input would be in order prior to completion and submittal of the final document to the Environmental Protection Agency's Regional VI Office in Dallas.

Further information, including a technical synopsis of the draft work program for fiscal year 1979, may be obtained by contacting William E. Colbert, Solid Waste Planning Unit, Texas Department of Water Resources, P.O. Box 13087, Austin, Texas 78711.

Doc. No. 784113

Public Hearing Scheduled in Lubbock

A hearing commission of the Texas Department of Water Resources will conduct a regional forum beginning at 9:30 a.m. on July 10, 1978, in the Garden and Arts Center Auditorium at 4215 University Avenue in Lubbock. The commission will receive testimony concerning a draft work program developed by the Texas Department of Water Resources to accompany a request for federal grant assistance. The testimony will be used to develop (1) an approved state hazardous waste program, (2) the industrial aspects of a state solid waste plan, and (3) an outline for the conduct of an industrial solid waste disposal site survey. These three activities will be accomplished under the authority of the Resource Conservation and Recovery Act of 1976 (RCRA).

The department previously conducted a series of regional forums during the month of May in Houston, Corpus Christi, Midland-Odessa, Arlington, and Austin. These forums were designed to provide for public input to the draft work program during its development. With the completion of the draft work program, the department has determined that an additional opportunity for public input would be in order prior to completion and submittal of the final document to the Environmental Protection Agency's Regional VI Office in Dallas.

Further information, including a technical synopsis of the draft work program for fiscal year 1979, may be obtained by contacting William E. Colbert, Solid Waste Planning Unit, Texas Department of Water Resources, P.O. Box 13087, Austin, Texas 78711.

Doc. No. 784114

Public Hearing Scheduled in Tyler

A hearing commission of the Texas Department of Water Resources will conduct a regional forum beginning at 1:30 p.m. on July 11, 1978, in the Camelia Room of the Garden Center Building at West Front and Boone Streets in Tyler. The commission will receive testimony concerning a draft work program developed by the Texas Department of Water Resources to accompany a request for federal grant assistance. The testimony will be used to develop (1) an approved

state hazardous waste program, (2) the industrial aspects of a state solid waste plan, and (3) an outline for the conduct of an industrial solid waste disposal site survey. These three activities will be accomplished under the authority of the Resource Conservation and Recovery Act of 1976 (RCRA).

The department previously conducted a series of regional forums during the month of May in Houston, Corpus Christi, Midland-Odessa, Arlington, and Austin. These forums were designed to provide for public input to the draft work program during its development. With the completion of the draft work program, the department has determined that an additional opportunity for public input would be in order prior to completion and submittal of the final document to the Environmental Protection Agency's Regional VI Office in Dallas.

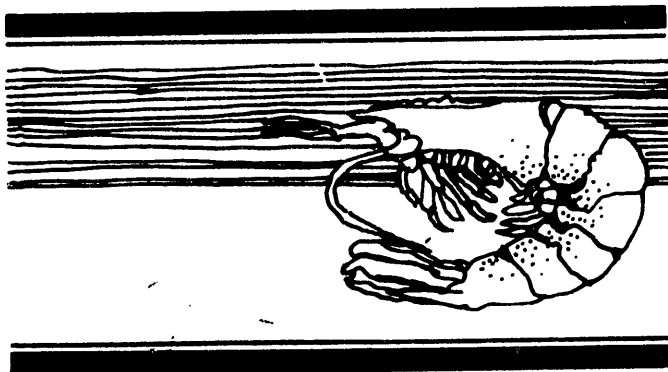
Further information, including a technical synopsis of the draft work program for fiscal year 1979, may be obtained by contacting William E. Colbert, Solid Waste Planning Unit, Texas Department of Water Resources, P.O. Box 13087, Austin, Texas 78711.

Issued in Austin, Texas, on June 19, 1978.

Doc. No. 784115 Bruce Bigelow
 General Counsel
 Texas Department of Water
 Resources

Filed: June 20, 1978, 4:26 p.m.

For further information, please call (512) 475-3454.



State Water Quality Management Program

Public Hearing

The Texas Department of Water Resources will conduct a public hearing beginning at 9 a.m. July 13, 1978, Room 618, Stephen F. Austin Building, 1700 North Congress, Austin. The hearing is being held to receive evidence which is relevant and material to the proposed State Water Quality Management Program for fiscal year 1979, which has been prepared pursuant to Section 106 of the Federal Water Pollution Control Act.

The management program includes an assessment of the severity of the state's water pollution problems, a five-year strategy, a description of the program elements designed to implement the strategy, and the resources needed for FY 1979. This hearing is being conducted pursuant to Sections 26.011 and 26.012, Texas Water Code, as amended, and it may be continued as necessary in order to develop the record.

Copies of the proposed State Water Quality Management Program will be available from Frosty Gray, Construction Grants and Water Quality Planning Division, Texas Department of Water Resources, P.O. Box 13087, Austin, Texas 78711, telephone (512) 475-3454.

The public is encouraged to attend this hearing and to present oral or written testimony concerning the subject matter. Statements for the record should be received at least five days prior to the hearing if possible. The testimony and questions concerning the public hearing should be addressed to Philip Haag, staff attorney, Texas Department of Water Resources, P.O. Box 13087, Austin, Texas 78711, or call (512) 475-7841.

Issued in Austin, Texas, on June 5, 1978.

Doc. No. 78411 Philip Haag
 Staff Attorney
 General Counsel's Office

Filed: June 20, 1978, 4:09 p.m.

For further information, please call (512) 475-3454.

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