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JUL 26 1977

TEXAS DOCUMENTS

TEXAS REGISTER

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Emergency and proposed rule of Texas Education Agency concerning services to the visually handicapped

Proposed textbook adoption rules of Texas Education Agency

Fire extinguisher systems rule proposed by the State Board of Insurance

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Proposed rules on Sea Rim State Park

Proposed repeal of outdated election rules by the secretary of state

Legislative report



Office of the Secretary of State

USPS Publication Number 120090

NOTES ON THE ISSUE

The State Board of Insurance has adopted rules which prohibit unfair discrimination practices based on sex or marital status in insurance policies. These rules are similar to model rules on the subject adopted by the National Association of Insurance Commissioners in December, 1975. Texas was among the first five states to propose such rules, which will insure the equal rights guaranteed by the Texas Constitution. The rules will become effective on January 1, 1978.

The Texas Board of Private Investigators and Private Security Agencies proposes the repeal of all the agency's current rules and their replacement by new ones to reflect legislative changes passed by the 65th Legislature.

The State Securities Board also proposes amendments to bring the agency's rules into line with new legislation and with guidelines of the North American Securities Administrators Association.

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



Mark White
Secretary of State

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Requests for Opinions

Summary of Request for Opinion RQ-1676

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

Summary of Request: Can the county law library fees collected by the district and county clerks in the filing of civil cases be used to renovate an existing county-owned building or to build a new building, complete with furnishings, to house the county law library?

Doc No. 773493

Summary of Request for Opinion RQ-1677

Request for opinion sent to the Attorney General's Opinion Committee by Henry Wade, District Attorney, Dallas.

Summary of Request: Can Dallas County legally pay the four-year premiums as the bonds required by Article 6869.1, Vernon's Civil Texas Statutes, of reserve deputy sheriffs and reserve deputy constables?

Doc. No. 773494

Summary of Request for Opinion RQ-1678

Request for opinion sent to Attorney General's Opinion Committee by Eddie Aurispa, Acting Executive Director, Good Neighbor Commission, Austin.

Summary of Request:

(1) Does the rider to the Good Neighbor Commission's appropriation apply only to federal funds allocated under Section 303, Title III, of the Comprehensive Employment and Training Act or is the restriction and limitation applied to other funds as well?

(2) Looking at the legislative mandate which the Good Neighbor Commission has and at the appropriations for the next biennium, will this commission be expected to perform in the area of migrant affairs?

(3) Should the second paragraph of the rider be construed as a limitation on the funds appropriated to this commission?

Doc No 773505

Summary of Request for Opinion RQ-1679

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

Summary of Request:

(1) How should the Harris County Hospital District treat the question of legitimacy of a child in the preparation of birth certificates?

(2) May the Harris County Hospital District enter on a birth certificate a last name for a child that is not the same as the last name of the mother whenever the mother requests that such name be entered thereon?

(3) Does the Harris County Hospital District have the authority to change the names on a birth certificate?

Doc. No 773524

Summary of Request for Opinion RQ-1680

Request for opinion sent to the Attorney General's Opinion Committee by J. C. Martin, Jr., President of the Board of Directors of Texas A&I University, Kingsville.

Summary of Request:

(1) May the Texas A&I Board promote from within without advertising the vacancy and without conducting a search?

(2) If the answer to the above is affirmative, may the board make such a decision under the agenda item, "Executive Session, Discussion of Personnel Changes," without announcing the pending action?

Issued in Austin, Texas, on July 15, 1977.

Doc. No. 773525

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

Filed: July 19, 1977, 8:17 a.m.

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

Opinions

Summary of Opinion H-1024

Request from Joe A. Hubenak, Chairman, House Committee on Agriculture and Livestock, Texas House of Representatives, Austin, concerning the authority of

counties bordering Gulf of Mexico or its tidewater limits to enact flood control regulations under Article 1581e-1, Vernon's Texas Civil Statutes.

Summary of Opinion: The commissioners court of a county bordering the Gulf of Mexico or its tidewaters is authorized by Article 1581e-1, Vernon's Texas Civil Statutes, to enact land use regulations applicable only to areas subject to flooding by the Gulf of Mexico or its tidal waters, including lakes, bays, inlets, and lagoons. The commissioners court may conclusively establish the limits of such areas by making findings in a resolution passed by it.

Issued in Austin, Texas, on July 19, 1977.

Doc. No. 773581 C. Robert Heath
Opinion Committee Chairman
Attorney General's Office

Filed: July 10, 1977, 9:59 a.m.

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

Department of Public Welfare relating to mistreatment of a nursing home resident are public under the Open Records Act.

Summary of Decision: A report on the mistreatment of a nursing home resident who is receiving state assistance may not be released since Article 695j-1, Vernon's Texas Civil Statutes makes it "unlawful. . .to. . .disclose . . .any information concerning persons. . .receiving. . . public assistance or medical assistance. . ."

Issued in Austin, Texas, on July 19, 1977.

Doc. No. 773580 C. Robert Heath
Opinion Committee Chairman
Attorney General's Office

Filed: July 20, 1977, 9:59 a.m.

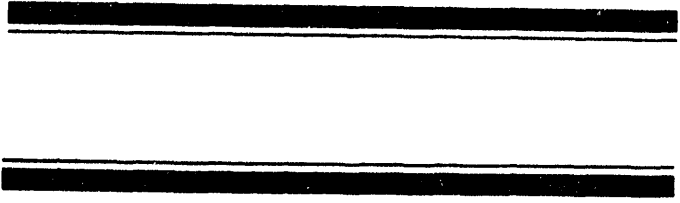
For further information, please call (512) 475-5445.

Open Records Decisions

Summary of Open Records

Decision 166

Request for open records decision from Raymond Vowell, Commissioner, State Department of Public Welfare, Austin, concerning whether records of the



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 are 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 category of rules to which the rule belongs. The third unit (two digits) indicates the subcategory of rules, if any, within the category. 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

Adaptations for Special Populations

Special Programs of Special Education 226.35.74

The Texas Education Agency adopts Rule 226.35.74.080, Comprehensive Services for the Visually Handicapped, as an emergency rule to be effective immediately upon filing with the Secretary of State and to remain in effect until superseded by a permanent rule or until expiration of a period of 120 days, whichever shall first occur. The 120-day period may be extended for an additional 60 days at the discretion of the Commissioner of Education.

The rule affirms the commitment of the State Board of Education to a program offering comprehensive educational services for the visually handicapped, defines terms, and sets out the major elements of the proposed new program. The rule is adopted on an emergency basis so that the Texas Education Agency and local school districts may be prepared to begin offering comprehensive educational services to the visually handicapped in the 1977-78 school year. The rule is also being proposed for permanent adoption.

This rule is promulgated under the authority of Sections 11.052, 11.091, 11.102, 16.104, and 16.161, Texas Education Code, and Article 4413(202), Vernon's Texas Civil Statutes.

.080. *Comprehensive Services for the Visually Handicapped.*

Policy

(a) Commitment to comprehensive educational services for the visually handicapped. It is the intent of the State Board of Education to ensure availability of comprehensive educational services to visually handicapped individuals. Such services shall provide the visually handicapped with an opportunity for achievement equal to the opportunities of their peers with normal vision. Reference: Section 11.052(a), Texas Education Code.

(b) Definitions.

(1) Visually handicapped. Visually handicapped individuals are those from birth through age 22 who either have no vision or whose visual impairments after correction result in educational handicaps requiring special provisions for maximal educational achievement, including the blind, the deaf-blind, and other persons with a visual impairment that requires the provision of special education services. References: Article 4413(202, Vernon's Civil Statutes; Section 16.161(1), Texas Education Code.

(2) Special education services. Comprehensive special education services for children with serious visual handicaps (including combination visual and hearing handicaps) shall include all those special services routinely provided by regular or special education as specified in current policies, procedures, and guidelines. The existing local special education programs shall maintain responsibility for providing the basic educational program for the visually handicapped by allocating the necessary resources and services as are provided to other handicapped students in special education programs. Additional special services required by the unique nature of individuals with visual handicaps will be the ultimate responsibility of school districts using supplemental assistance. Supplemental services provided by law shall include parental counseling and training, competent orientation and mobility training, and other nonacademic services either directly by school district or through contract or working arrangements. References: Sections 16.161(2) and 11.102, Texas Education Code.

(c) Establishment of comprehensive educational services to the visually handicapped. With the approval of the State Board of Education, the commissioner shall appoint a director of education for the visually handicapped who, together with appropriate staff, shall be primarily responsible for the ongoing development and

administration of a comprehensive statewide plan for the education of the visually handicapped. The major elements of the plan include:

(1) the provision of the administrative structure necessary for effective implementation and maintenance of educational and related services to visually handicapped individuals. The administrative structure should be sufficient to encompass all channels of development, coordination, and supervision of all elements necessary to provide statewide educational services and to encourage interaction and communication between all segments of the administrative framework;

(2) the implementation of continuous planning and evaluation activities in educational programs for the visually handicapped and assurance that resulting information is used for decision making at all levels of performance;

(3) the identification of every visually handicapped person birth through age 22 residing in the State of Texas to determine the educational service needed and place the individual in appropriate program;

(4) the establishment of a comprehensive service delivery system to provide a continuum of services to the visually handicapped;

(5) the provision of opportunities for visually handicapped individuals (birth through 22 years of age) to participate in appropriate special educational (including educationally related) programs which maximize the individual's potential to learn;

(6) the provision of a variety of instructional arrangements to ensure maximum flexibility in accommodating the requirements of the individualized educational program for visually handicapped individuals;

(7) the provision of instructional support to enhance the educational process for visually handicapped students through supportive services within the educational system and awareness campaigns to alert citizens of available educational opportunities for the visually handicapped. References: Sections 11.052, 11.091, 16.161, and 16.104(g), Texas Education Code.

(d) Program eligibility and authority. All accredited school districts operating approved special education programs under the Foundation School Program or regional education service centers are eligible to apply for and receive state funding aid for the provision of educational and related services to visually handicapped individuals ages birth through 22. References: Sections 11.102 and 11.052, Texas Education Code.

(e) Planning, budgeting, evaluation, and allocation. Programs for the visually handicapped shall be implemented and funded based on a system of continuous planning, budgeting, and evaluation. Information derived from the system shall be used for program

renewal and decision making at all levels of performance. Reference: Section 11.052, Texas Education Code.

Issued in Austin, Texas, on July 14, 1977.

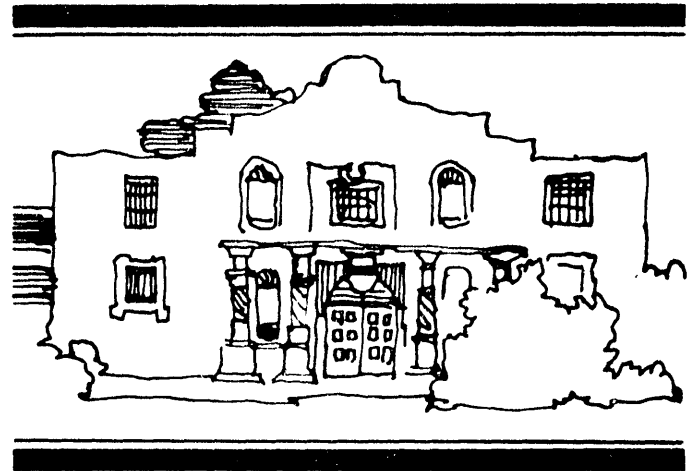
Doc. No. 773509

M. L. Brockette
Commissioner of Education

Effective Date: July 14, 1977

Expiration Date: November 10, 1977

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



Texas Health Facilities Commission

Definition and Explanation of Applicability of the Act 315.11.00

Section 3.01 of Article 4418(h), Vernon's Annotated Civil Statutes, prescribes the requirement for obtaining a certificate of need or an exemption certificate for a proposed project to (1) substantially expand a service currently offered or provide a service not currently offered by facilities; and (2) construct a new facility or change the bed capacity of an existing facility. Section 3.02(c) of Article 4418(h) further establishes the authority of the commission to prescribe criteria for determining the eligibility of a project for an exemption certificate. Considerable confusion surrounds the present interpretation of the term "expansion of existing services" as it pertains to contemplated changes in level of care in a nursing home and the commencement

of participation in the ICF-MR V or VI program, such that the Texas Health Facilities Commission finds that an imminent peril exists to the public health, safety, and welfare which requires the adoption of the emergency amendment of Rule 315.11.00.002. The amendment establishes criteria for determining the eligibility for exemption certificates of projects involving change in level of care of intermediate care facilities.

This rule is promulgated under the authority of Sections 2.06(2), 3.01, and 3.02 of Article 4418(h), Vernon's Annotated Civil Statutes.

.002. Explanation of Applicability of the Act.

(f) For purposes of Section 3.01(a)(1) and (2) of the act, the phrase "change the bed capacity of an existing facility" and "substantially expand a service currently offered" do not include and no commission action is required for the complete closing and cessation of delivery of health care services by a health care facility; the reduction of licensed beds by a facility; or the reduction in the level of care from *ICF III* [ICF MR] or skilled to ICF II; or [ICF MR or] skilled to ICF III; or *nursing to custodial*. The term "provide a service not currently offered" includes the commencement of participation in the *ICF-MR V* or *ICF-MR VI* program.

(j) On proper petition, a person may be eligible for an exemption certificate under Section 3.02 of the act:

(1) If the commission determines that in the case of replacement or modification of a facility existing on or after May 28, 1975, the following conditions are met:

(A) said replacement or modification is necessary to comply with licensing, certification, safety, or health requirements imposed under the authority of federal or state law, or valid city ordinance;

(B) the circumstances from which the necessity occurs for the replacement or modification that arose after May 28, 1975; and

(C) the replacement or modification will not expand the facility or increase the level of service provided; or

(2) *if the commission determines that in the case of the change in level of care of an intermediate care facility, the following conditions are met:* [if the commission determines that in the case of long-term care facilities, a change in level of care from ICF II

to ICF III, skilled or MR; or from ICF III to skilled or MR; or skilled to MR is not a substantial expansion of service].

(A) *the change in level of care involves a change from ICF II to ICF III, or ICF III to skilled, or ICF II to skilled, or custodial to nursing, or custodial to ICF III or skilled;*

(B) *the change in level of care involves not more than 10 beds or 10 percent of the total licensed bed capacity of the facility, whichever is less, over a two-year period; and*

(C) *the change in level of care will not substantially expand services currently offered by the facility.*

(3) *If the commission determines that in the case of the change in level of care of an intermediate care facility currently offering ICF-MR V or ICF-MR VI care, the following conditions are met:*

(A) *the change in level of care within the ICF-MR facility involves a change of not more than 10 beds or 10 percent of the total licensed bed capacity of the facility, whichever is less, over a two-year period; and*

(B) *the change in level of care will not substantially expand services currently offered by the facility.*

Issued in Austin, Texas, on July 14, 1977.

Doc. No. 773569 Melvin Rowland
Chairman
Texas Health Facilities
Commission

Effective Date: July 15, 1977

Expiration Date: November 11, 1977

For further information, please call (512) 475-6940.

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 category of rules to which the rule belongs. The third unit (two digits) indicates the subcategory of rules, if any, within the category. The fourth unit (three digits) indicates the individual rule.

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Texas Education Agency

State Board of Education

The Investment Program of the Permanent School Fund 226.12.03

The Texas Education Agency proposes to amend Rules 226.12.03.041, .081, and .100, concerning the investment program of the Permanent School Fund. The changes permit investment in debenture or obligations of United States corporations as well as in corporate bonds and remove previous restrictions on the sale or exchange of securities.

Public comment on the proposed amendment to Rules 226.12.03.041, .081, and .100 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.

These rules are promulgated under the authority of Sections 11.26, 15.02, 15.03, and 15.05-15.08, Texas Education Code.

.041. Fixed Income Securities. The State Board of Education shall be the sole agency which is authorized and empowered to invest the Permanent School Fund of the state in the following bonds or other obligations:

(a) bonds or other obligations issued, insured, or guaranteed in any manner by the United States Government or any of its agencies;

(b) bonds issued by the State of Texas, or any county thereof, and the independent or common school districts, road precincts, drainage, irrigation, navigation, and levee districts in this state, and the bonds of incorporated cities and towns;

(c) the obligations and pledges of The University of Texas at Austin;

(d) corporate bonds, *debentures, or obligations* of United States corporations;

(e) bonds issued, assumed, or guaranteed by the InterAmerican Development Bank and the International Bank of Reconstruction and Development;

(f) first-lien real estate mortgages issued by the Federal Housing Administration or guaranteed in whole or in part by the U.S. Government or any agency thereof.

.081. Restrictions and Limitations of Investments [Fixed Income Securities]. Bonds, *debentures, or obligations* of United States corporations must have at least an "A" rating.

Bonds of a municipality may not be purchased when the debt of the municipality exceeds seven percent of its assessed valuation.

No school district bonds or other municipal bonds shall be purchased unless the annual interest rate is two and one-half percent or more.

.100. Sale or Exchange of Securities. Corporations securities of the State Permanent School Fund may be sold at the discretion of the State Board of Education and the proceeds reinvested for the Permanent School Fund. The State Board of Education regulations for the sale of securities shall be established and maintained in the Investment Operating Manual, Rule .130 [below].

The State Board of Education may sell or exchange any securities issued by the U.S. Treasury or municipal bonds issued by any county, city, precinct, district, or any other political subdivisions held for the Permanent School Fund [providing that such securities shall not be sold for a price less than the actual amount of money of the Permanent School Fund invested in them].

The State Board of Education may exchange bonds owned by the Permanent School Fund for refunding bonds as provided by statute.

Comprehensive Instruction Advisory Committee for the Texas Personnel Interchange Program 226.32.42

The Texas Education Agency proposes to adopt new Rules 226.32.42.010-.040, concerning the advisory committee for the Texas personnel interchange program. The proposed rules set out the purpose, membership, terms of office, and rules for meetings of the committee.

Public comment on the proposed adoption of Rules 226.32.42.010-.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.

These rules are promulgated under the authority of Section 11.25(f), Texas Education Code.

.010. Purpose and Responsibilities.

(a) The Advisory Committee for the Texas Personnel Interchange Program shall advise the Texas Education Agency regarding personnel interchange among business, industry, labor, government, and education. The primary purpose of the committee is to study and make annual recommendations to the Commissioner of Education concerning the interchange of professional personnel. The committee will evaluate through program visitation and personal interviews with participants, school administrators, and business personnel. The annual report will be submitted to the commissioner no later than July 31.

(b) The responsibilities of the committee shall include:

- (1) promoting the concept of personnel interchange through professional, service, and community involvement activities;
- (2) evaluating and recommending an annual personnel interchange program plan for secondary vocational instructors;
- (3) encouraging and assisting community and junior college vocational instructors and administration in activities to promote personnel interchange;
- (4) encouraging vocational teacher education institutions to develop preservice personnel interchange activities.

.020. *Membership and Appointment.* The committee shall be composed of 15 members with no more than one member from a congressional district. There shall be two representatives from health, business, industry, union labor, nonunion labor, and government, and three from education. Members will be acknowledged leaders in their fields of expertise. The state coordinator of the Texas Personnel Interchange Program will serve as executive director of the committee.

.030. *Terms of Office.* Except for initial appointees, members will serve three-year staggered terms. Five appointments will be made in September, 1978, and five appointments every two years thereafter. The Commissioner of Education will determine the life of the committee.

.040. *Meetings.* The committee shall meet tri-annually during the school year at a time and place determined by the committee. The agenda for each meeting will be made available to the committee members and interested parties at least 30 days prior to each meeting. The meetings shall be called by the Deputy Commissioner for Programs and Personnel Development.

The committee shall elect annually from among its members a chairperson and any other officers it may consider necessary.

Doc. No 773511

Process for State Adoption of Textbooks 226.33.34.062, .063, .065, and .080

The Texas Education Agency proposes to amend Rules 226.33.34.062, .063, .065, and .080, concerning the process for state adoption of textbooks. The changes delete the requirement that certain steps in the adoption process take place at the May or November meetings of the State Board of Education. Editorial changes are also proposed in Rule 226.33.34.063.

Only the Policy sections of these rules are changed. The Administrative Procedure sections remain unchanged in all cases.

Public comment on the proposed amendment to Rules 226.33.34.062, .063, .065, and .080 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.

These rules are promulgated under the authority of Sections 12.11, 12.12, 12.17, 12.24, and 12.34, Texas Education Code.

.062. *Complaints of Misconduct or of Procedural Irregularities.*

Policy

All information about misconduct or procedural irregularities shall be filed with the Commissioner of Education in accordance with adoption policies. In no instance shall this information be furnished to the State Textbook Committee *prior to official recommendations by the committee.*

The Commissioner of Education shall notify the State Board of Education at a meeting specified by the board

of all textbooks being considered by the textbook committee which were not on deposit in the regional education service centers as required in Rule 226.33.34.050. At this meeting the board may, after hearing, at its discretion, remove from adoption consideration of any book or series of books not properly on deposit in a center.

The Commissioner of Education, in accordance with adoption policies, shall report all information of complaints of misconduct or of procedural irregularities not reported at a *specified* [the September] meeting, along with his findings of fact, to the State Board of Education at a *specified* [its November] meeting. It is the exclusive responsibility of the board to make decisions regarding complaints of misconduct or procedural irregularities.

.063. Hearings Before the Commissioner of Education and the State Textbook Committee in Textbook Protests.

Policy

At a date after the final date for publishers to file answers to petitioners' bills of particulars and before the selection meeting of the State Textbook Committee, the Commissioner of Education and the State Textbook Committee shall hold joint hearings on petitioners' bills of particulars and publishers' answers. The date for the hearing shall be set each year by the State Board of Education at a *specified* [its regular May] meeting. The Commissioner of Education or his designated hearing officers shall chair the joint hearings.

Purposes of the hearings are: (1) to provide the Commissioner of Education, his staff, and the State Textbook Committee with full information about the bills of particulars and answers; and (2) to develop a full record for use by members of the State Board of Education.

In order to contain the hearings within the designated dates, the Commissioner of Education may limit the time of each petitioner and each publisher, and/or may designate two or more hearing officers who will conduct hearings concurrently during the designated dates. The Commissioner of Education shall publish rules regarding the organization of the hearings at least two weeks in advance of the hearings.

At the hearing, oral presentations of petitioners which expand their bills and oral presentations of publishers which expand their answers shall be considered in detail in accordance with the following provisions:

(a) Both parties (petitioners and publishers) may present witnesses for the purpose of giving supportive testimony. Publishers' witnesses must be employed or retained by the publishing company involved. Petitioners' witnesses may not be connected in any way

with any publishing company taking part in the adoption and must qualify to the commissioner's satisfaction as expert witnesses in the subject matter or professional use of the textbooks to be discussed.

(b) Parties may offer documentary evidence and exhibits which shall be accepted by the commissioner when *the information presented* [it] is clearly connected to information presented in petitioner's bill or publisher's answer. Documentary evidence or exhibits must be read or described into the record in a brief and concise form.

(c) The commissioner shall conduct the hearing in accordance with the rules of the State Board of Education governing *textbook adoption*. [administrative hearings before the commissioner except that]. *The* hearing shall not be adversary in nature and only the commissioner or his *designated hearing officer* may examine the parties or the witnesses.

(d) The commissioner shall have a complete record of the hearing made and transcribed.

(e) Within 10 days after the hearing is held, the commissioner shall send copies of the record, including official exhibits and copies of the collected bills of particulars and publishers' answers to members of the State Textbook Committee, the petitioners, the publishers, and members of the State Board of Education. The commissioner shall retain a copy for his official use.

.065. Hearings by the State Board of Education on Textbook Protests and Complaints.

Policy

Preceding a *specified* [the November] meeting date, the State Board of Education shall hold a special meeting to hear:

(a) complaints of misconduct and procedural irregularities which have been filed in accordance with Rule 226.33.34.062;

(b) protests of textbooks; and

(c) the textbook report of the Commissioner of Education (Rule 226.33.34.070).

The first session of the special meeting shall be designated solely for hearing complaints of misconduct and procedural irregularities. Each complainant and each person complained against shall have a maximum time of 15 minutes for his presentation. Additional time may be taken by the State Board of Education for discussion and questioning.

The second session of the special meeting shall be designated solely for hearing protests of textbooks. To be eligible to appear, the petitioner shall have filed, directed to the Commissioner of Education and no later than five days before a *specified* [the regular November] meeting of the board, an appeal from the decision of the Commissioner of Education to the State Board of Education, and shall have appeared as a petitioner in

the joint hearing before the Commissioner of Education and the State Textbook Committee.

Each petitioner shall have a maximum time of 45 minutes. The publisher shall have the same time given the petitioner. Additional time may be taken by the board for discussion and questioning. Both the petitioner and the publisher shall restrict their presentations to:

(a) information previously filed by them in the bill of particulars and the answer

(b) the record of the joint hearing before the Commissioner of Education and the State Textbook Committee.

The third session of the meeting shall be designated solely for the textbook report by the Commissioner of Education (Rule 226.33.34.070) and a discussion thereof by members of the board.

No decision shall be made by the board on complaints, protests, or the report by the Commissioner of Education until a *specified* [its regular November] meeting.

.080. Adoption of Textbooks by the State Board of Education. The Committee on Programs and Personnel Development will consider the commissioner's recommendations of textbooks for state adoption at the regular committee meeting prior to adoption by the board. The Commissioner of Education or his representative, representatives of the State Textbook Committee, and staff will be available to furnish necessary rationale as might be requested by the committee. The committee will review the recommendations and submit their report to the entire board the following day.

At the *designated* [each November] meeting for adoption of textbooks, the State Board of Education may remove from the list any book which was recommended by the Commissioner of Education which in its judgment should not be adopted and adopt the remaining list of textbooks as recommended by the Commissioner of Education. The board shall not place on the list any book not recommended by the Commissioner of Education nor shall the board reduce to a single adoption any list for a specific grade or subject in which multiple adoption is recommended by the Commissioner of Education. If bids submitted are not satisfactory, the board may postpone the selection of the books or a part of them to such time as the board may select, and, after readvertising, new bids may be received and acted on by the board in the same manner as original bids and in accordance with adoption procedures.



Instructional Resources

Process for State Adoption of Textbooks 226.33.34.020

The Texas Education Agency proposes to amend Rule 226.33.34.020, concerning the textbook proclamation. The change allows the proclamation to be issued and proposals to be received at meetings specified by the State Board of Education, rather than requiring these actions at the May and November board meetings respectively.

Only the Policy section of the rule is changed. The Administrative Procedure section remains unchanged.

Public comment on the proposed amendment to Rule 226.33.34.020 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.

This rule is promulgated under the authority of Section 12.17, Texas Education Code.

*.020. Proclamation for New Textbooks. At a meeting specified by the State Board of Education [each May meeting] the board [State Board of Education] shall issue a proclamation for new textbooks in those subjects in which contracts are not renewed and the proclamation shall serve as public notice to all **Texas-registered** textbook publishers and to the public that bids to furnish textbooks to the state are being invited. The proclamation shall contain:*

- (a) the time and place of the State Board of Education at which adoptions shall be made;
- (b) the subjects in which new textbooks are to be adopted;
- (c) the last date on which sample copies of books offered for adoption may be submitted;

(d) the amount of each deposit required of the publisher;

(e) a statement that formal proposals will be received in *a specified* [the November] meeting of the State Board of Education; and

(f) the time allowed for signing contract and filing bond after the award is made.

The proclamation is printed in public press and is sent to the public schools and all persons, firms, and corporations requesting notice.

Doc. No. 773512

State Textbook Contracts 226.33.36

The Texas Education Agency proposes to amend Rule 226.33.36.020, concerning state textbook contracts. The change is in accordance with SB 1037, 65th Legislature, which allows the State Board of Education to specify annually the date at which textbooks will be adopted. Only the Policy section of the rule is changed. The Administrative Procedure section is unchanged.

Public comment on the proposed amendment to Rule 226.33.36.020 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.

This rule is promulgated under the authority of Sections 12.26, 12.27, and 12.34, Texas Education Code.

.020. *Activation of Textbook Contracts.* Policy

At *a specified* [each November] meeting, the State Board of Education shall:

(a) authorize its chairman to sign contracts with allowance for exchange for the books returned less those transferred to libraries maintained by city and county jails and institutions with the Department of Corrections and other state agency institutions for the purchase of the newly adopted textbooks;

(b) authorize the purchase of sample textbooks for use by local textbook committees; and

(c) approve the rules governing the selection and use of the newly adopted textbooks by a school district.

Issued in Austin, Texas, on July 12, 1977.

Doc. No. 773514 M. L. Brockette
Commissioner of Education

Proposed Date of Adoption: October 8, 1977

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

Adaptations for Special Populations

Educational Programs for Disadvantaged Pupils 226.35.63

The Texas Education Agency proposes to amend Rule 226.35.63.010, concerning educational programs for disadvantaged pupils. The proposed change permits districts more flexibility in using state compensatory funds as part of a unified effort to provide compensatory education. The requirement that state compensatory education services be concentrated on a limited number of children has been removed. Under the proposed new rules, children with the greatest needs in designated academic areas must be served first. The title of Subcategory 226.35.63 was previously "Educationally Disadvantaged." The rule title is also being changed.

Only part (b) of the Administrative Procedure section of the rule is changed. The rest of the rule text remains unchanged.

Public comment on the proposed amendment to Rule 226.35.63.010 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.

These rules are promulgated under the authority of the Elementary and Secondary Education Act of 1965, Public Law 89-10, as amended by Public Laws 89-750, 90-247, 91-230, and 93-380, and Section 16.176, Texas Education Code.

.010. *Compensatory Education [Educational Programs for Educationally Disadvantaged Pupils].*

(b) Texas State Compensatory Education Assistance, education programs for educationally disadvantaged children. The Texas Education Agency administers its responsibility in accordance with the following procedures:

(b-a) Duration of assistance. The Texas Education Agency shall make payments to school districts for each appropriation period.

(b-b) Determination of a basic grant. The maximum grant which a school district may receive is not to exceed the amount appropriated by the legislature divided by the number of children *who are eligible for* [from families having an annual income factor as determined by Congress as affecting] Title I of the Elementary and Secondary Education Act of 1965, but in any case not to exceed \$40 per child.

(b-c) Establishing eligibility for application approval. To establish eligibility for approval by the Texas Education Agency for a grant within the limit of its entitlement, the districts are required to:

(1) provide assurance that the use of state compensatory funds to finance projects will not result in the reduction of other state and local funds used in financing the school district educational programs;

(2) use state compensatory funds as a supplement to other state and local funds. [(The Title I program and the regular school program will be planned and budgeted to assure that state compensatory funds will supplement and not supplant other state and local funds.)]

(b-d) Project application. *Allocations* [Grants] under the Texas Compensatory Education Program are made on the basis of applications which are submitted to the Texas Education Agency and are approved in an amount not to exceed the amount of funds made available for the local educational agency.

State compensatory education funds are to be used as a part of the district's total compensatory effort. The need for compensatory education is established through the district-wide needs assessment process. Data from this assessment should be used to plan state compensatory education program components. Programs should be planned in such a manner to prevent duplication and overlapping of services for the same pupil population.

Each application will detail the plans for the expenditure of the funds and must demonstrate that the program is designed to meet the priority educational needs of disadvantaged students in such areas as reading, mathematics, language development, and/or bilingual-multicultural development. Those children with the greatest needs in those academic areas as determined by educational needs assessment must be given first consideration. [It is the school district's responsibility to establish criteria to determine the educationally disadvantaged that have the greatest need. However, the priority focus of the Texas State Compensatory Assistance Program must be for supplementary instructional programs for educationally disadvantaged pupils in the areas of reading, mathematics, language development, and/or bilingual/multicultural development. Supportive type program activities such as counseling, health service, and the like may be provided but only if the proposal clearly states how the activity will give assistance or help improve the instructional process for the educationally disadvantaged pupils participating in a compensatory instructional program(s).]

Each application includes a program description which indicates the following:

(1) The Texas State Compensatory Education Assistance Program is based on a consideration of the needs of children at all ages and grade levels and is designed to meet a limited number of high priority needs which cannot be met through the regular school program or other programs.

(2) The Texas State Compensatory Education Assistance Program is based on stated objectives and desired outcomes and, if executed as planned, will very likely result in reduction of educational deficiency.

(3) Consideration is given to the relationship of the program to the regular school program and to the possibility of modifying that program so as to provide a better base for the addition of supplementary compensatory educational services.

(4) Activities or services are offered at locations where the children can best be served.

(5) Services are programmed so that those services are concentrated on a limited number of children.]

(5) [(6)] The proposed staffing pattern is appropriate for the activities and services provided.

(6) [(7)] In-service training is geared specifically to program requirements and staff needs.

(8) Specific provision is made for professional staff members and their education aides to participate together in coordinated training programs.

(9) Consideration is given to the provision of services during the regular school year and also during the summer.

(10) Expenditures for equipment are limited to the minimum required to implement approved activities or services.]

Issued in Austin, Texas, on July 15, 1977.

Doc. No. 773515 M.L. Brockett
Commissioner of Education

Proposed Date of Adoption: August 21, 1977

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

Special Programs of Special Education 226.35.74

The Texas Education Agency proposes to amend Rules 226.35.74.041-.043, concerning special education for the deaf and blind or totally blind and non-speaking and other blind and multi-handicapped persons. Under the proposed change, applications for services for eligible pupils are to be made by the school district, with written consent of the parents or guardian. Contracts are limited to public or private institutions outside the state, in accordance with the appropriations bill, 65th Legislature.

Only the title of Rule .041 is changed. Only the Policy sections of Rules .042 and .043 are changed. The rest of the rules remain unchanged.

Public comment on the proposed amendment to Rules 226.35.74.041-.043 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.

These rules are proposed under the authority of Section 11.27, Texas Education Code.

.041. Providing for Deaf and Blind, Totally Blind and Non-Speaking, and Other Blind and Multiply Handicapped Persons: Authorization.

.042. Applications.

Policy

The school district, with the written consent of the parents or guardians of eligible pupils, may make application for consideration of services to the commissioner. [The parent or guardian of eligible pupils may make application through the resident's school district.]

.043. Contracts.

Policy

Contracts may be negotiated with accredited or otherwise approved public or private institutions [inside the State of Texas or] outside the State of Texas if recognized or accredited by a state, regional, or national accrediting association. All institutions must be equipped to provide the specialized facilities and personnel necessary to care for and educate these persons.

Doc. No. 773516

Proposed Rulemaking

The Texas Education Agency is proposing the permanent adoption of Rule 226.35.74.080, concerning comprehensive services for the visually handicapped. The rule has been adopted as an emergency rule and the full text of the rule appears in the Emergency Rules section of this Register.

Public comment on the proposed adoption of Rule 226.35.74.080 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. The proposed date of adoption is October 8, 1977.

Doc. No. 773517

Instructional Development

Educational Development Support 226.36.12

The Texas Education Agency proposes to adopt new Rule 226.36.12.010, affirming its commitment to seek resources for educational improvement through program development and implementation.

Public comment on the proposed adoption of Rule 226.36.12.010 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.

This rule is promulgated under the authority of Sections 11.52(b) and 11.63(a)(3), Texas Education Code.

.010. Resources for Program Development and Implementation. The Texas Education Agency shall seek resources to support program development and implementation which will lead to educational improvement in the school districts of the state. Such resources shall be administered in accordance with state and federal laws and approved state plans.

Doc. No. 773518

Educational Improvement Advisory Council 226.36.13

The Texas Education Agency proposes to adopt new Rules 226.36.13.010-.050, concerning the educational improvement advisory council. The rules set out the purpose, responsibilities, membership, terms of office, and rules for meetings of the advisory council.

Public comment on the proposed adoption of Rules 226.36.13.010-.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.

These rules are promulgated under the authority of Sections 11.52 (b) and 11.63 (a)(3), Texas Education Code.

.010. Purpose. An Advisory Council shall be established by the Commissioner of Education to advise and consult with the Texas Education Agency on all matters pertaining to the administration of (Libraries and Learning Resources and Educational Innovation and Support) Title IV of the Elementary and Secondary Education Act of 1965, as amended by Section 401, Public Law 93-380 and on matters pertaining to the administration of the National Reading Improvement Program, Part B, Title VII, Public Law 93-380.

.020. Membership.

(a) Membership of the Advisory Council shall not exceed 15 members who are broadly representative of the educational resources and population of the State of Texas. The Advisory Council shall include representatives of the following cultural and educational resources of the state and of the public as specified in Public Law 93-380.

- (1) public elementary and secondary schools;
 - (2) private elementary and secondary schools;
 - (3) institutions of higher education;
 - (4) parents of elementary and secondary school children;
 - (5) fields of professional competence in dealing with children needing special education because of physical or mental handicaps;
 - (6) fields of professional competence in dealing with children having specific learning disabilities;
 - (7) fields of professional competence in dealing with children who are educationally disadvantaged;
 - (8) fields of professional competence in dealing with children of limited English-speaking ability;
 - (9) fields of professional competence in dealing with children who are gifted or talented;
 - (10) fields of professional competence in guidance and counseling;
 - (11) fields of professional competence in instructional resources; and
 - (12) fields of professional competence in reading instructions;
- (b) Additional representatives will be selected from the following educational resource areas of the state:
- (1) regional educational service centers;
 - (2) educational administration; and
 - (3) teaching personnel or students.

.030. Appointments and Terms of Office. Members of the Advisory Council shall be appointed by the State Board of Education upon recommendation of the Commissioner of Education. The present council members shall draw for staggered terms of one, two, or three years so that the terms of approximately one-third of the Advisory Council membership shall expire each year. Normal appointments shall be for a three-year term, subject to one consecutive reappointment. In the event that a member ceases to represent the educational resources or population for which appointed, such member shall automatically vacate membership on the Advisory Council. Any council member who is unable to attend at least one-half of the regular and called meetings of the council during a fiscal year shall vacate his membership on the council.

.040. Meetings. The Educational Improvement Advisory Council shall meet at least semi-annually. The

commissioner may convene the council at other times as necessary to carry out the responsibilities of the council.

.050. Responsibilities. The Educational Improvement Advisory Council shall advise the Texas Education Agency on the preparation of, and policy matters arising in the administration of, the annual program plan, including the development of criteria for the distribution of funds and the approval of applications for assistance under Title IV, ESEA. The council shall evaluate all programs and projects funded under Title IV, ESEA, with respect to scope and quality and report their findings and recommendations to the commissioner. The council shall advise the Texas Education Agency on the formulation of a standard of excellence for reading programs in the elementary schools and on the preparation of, and policy matters arising in the administration of, Part B of Title VII, Public Law 93-380 (including the criteria and priorities for approval of applications for assistance under Title VII), and in the evaluation of results of the state reading improvement program.

Doc. No. 773519

Budgeting, Accounting, and Auditing Advisory Committee for Budgeting, Accounting, and Auditing 226.42.03

The Texas Education Agency proposes to adopt new Rules 226.42.03.010-.040 concerning the Advisory Committee for Budgeting, Accounting, and Auditing. The proposed rules set out the committee's purpose and membership, terms of office, and schedule of meetings.

Public comment on the proposed adoption of Rules 226.42.03.010-.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.

These rules are proposed under the authority of Sections 21.256, 23.46, and 23.48, Texas Education Code.

.010. Purpose and Responsibilities. The Advisory Committee for Budgeting, Accounting, and Auditing shall advise the Texas Education Agency on all aspects of the uniform system for school district budgeting, accounting, and auditing.

.020. Membership and Appointment. The Advisory Committee for Budgeting, Accounting, and Auditing shall be composed of nine members, approved by the State Board of Education upon recommendation of the Commissioner of Education, allocated as follows:

- (a) One member shall represent a school district with more than 100,000 average daily attendance.
- (b) One member shall represent a school district with fewer than 500 average daily attendance.
- (c) Three members shall represent school districts with between 500 and 100,000 average daily attendance.
- (d) One member shall represent education service centers.
- (e) One member shall be a professor of accounting from a Texas university.
- (f) Two members shall be certified public accountants representing firms actively engaged in auditing of Texas public schools.

.030. *Term of Office.* Committee members shall be appointed for three-year terms.

.040. *Meetings.* The advisory committee shall hold one regular annual meeting and called meetings as required.

Issued in Austin, Texas, on July 14, 1977.

Doc. No 773520 M. L. Brockette
Commissioner of Education

Proposed Date of Adoption: October 8, 1977

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

State Board of Insurance Rating and Policy Forms

Duty of Fire Marshal 059.05.43

The State Board of Insurance is proposing to amend Rule 059.05.43.005, which adopted by reference rules and regulations on the licensing and servicing of portable and fixed fire extinguisher systems. The objective of this proposed amendment is to safeguard lives and property by ensuring that fixed fire extinguisher systems offer maximum fire protection for commercial cooking equipment. Specifically, this proposed amendment will prohibit the installation of pre-engineered and engineered fixed fire extinguisher systems in hoods and ducts which do not meet certain standards.

Public comment on the proposed amendment to Rule 059.05.43.005 is invited. Persons should submit their comments in writing to William Heaton, Director of Operations, State Fire Marshal's Office, 1110 San Jacinto, Austin, Texas 78786.

A public hearing has been scheduled on this proposed amendment for Monday, August 22, 1977, at 10 a.m. in

Room 142 of the State Board of Insurance, 1110 San Jacinto, Austin. Interested persons are invited to attend and to testify.

This rule is proposed under the authority of Articles 1.04, 1.09A, 5.43-1 of the Texas Insurance Code and Section 4, Article 6252-13a, Vernon's Annotated Texas Statutes.

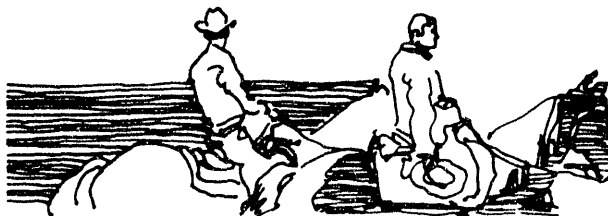
.005. *Fire Extinguisher Systems.* The State Board of Insurance adopts by reference the attached Rules and Regulations for the Licensing and Servicing of Portable and Fixed Fire Extinguisher Systems, **as amended in 1977**. This document is published by and available from the State Board of Insurance, 1110 San Jacinto, Austin, Texas 78786.

Issued in Austin, Texas, on July 19, 1977.

Doc. No 773587 Pat Wagner
Deputy Chief Clerk
State Board of Insurance

Proposed Date of Adoption: Indefinite

For further information, please call (512) 475-4204.



Texas State Board of Medical Examiners Institutional Permits

Requirement Change to Complete Rules Regarding Visiting Professor Permit 386.01.06

The Texas State Board of Medical Examiners is proposing to amend the requirement for issuance of a visiting professor permit, Rule 386.01.06.004. The proposed amendment would clarify requirements for responsibilities of visiting professors and alleviate problems associated with the present requirements.

Public comment on the proposed amendment is invited. Comments can be submitted by telephoning the office

of the board at (512) 475-6335, or by writing to the board at Southwest Tower Building, 211 East 7th Street, Austin, Texas 78701.

Amendment to this rule is proposed under the authority of Articles 4496 and 4509, Civil Statutes of Texas.

.004. Visiting Professor Permit. The board may issue a [one-year non-renewable] permit to practice medicine to a person appointed as a visiting professor by a [within the confines of an approved] Texas medical school, [to a person appointed as a visiting professor] under the following terms and conditions:

(a) The permit may [shall] be issued for a continuous one-year period. Such permit is non-renewable. [to the institution authorizing the named visiting professor to practice medicine within the physical confines of the applying medical school as a part of duties and responsibilities assigned by the school to the visiting professor.]

(b) If a permit is issued for less than one month for special instructional seminars, same could be renewed the next year for a similar period, if follow-up seminars are needed or felt to be essential. Such permit should be requested each year in the usual manner and at the regular fee. [The permit shall automatically expire one year after date of issuance, unless a sooner expiration date is indicated at time of issuance; the permit shall not be renewable].

(c) The permit shall be issued to the institution authorizing the named visiting professor to practice medicine within the teaching confines of the applying medical school as a part of duties and responsibilities assigned by the school to the visiting professor. The visiting professor may participate in the full activities of the department in whichever hospital the appointee's department has full responsibility for clinical, patient care, and teaching activities. [The permit shall be revocable by the board without notice and recourse to either the medical school or visiting professor.]

(d) The permit shall automatically expire one year after date of issuance, unless a sooner expiration date is indicated at time of issuance; the permit shall not be renewable, except as noted in Rule .004(b). [The visiting professor and the school shall file affidavits affirming acceptance of the terms, limitations, and conditions imposed by the board on the medical activities of the visiting professor.]

(e) The permit shall be revocable by the board without notice and recourse to either the medical school or visiting professor. [The application for visiting professor permit shall be presented to the secretary of the board at least six months prior to the effective date of the appointment of the visiting professor; the application shall be made by the dean and/or chairman

of the department in which the visiting professor will teach and provide such information and documentation to the board as may be requested.]

(f) The visiting professor and the school shall file affidavits affirming acceptance of the terms, limitations, and conditions imposed by the board on the medical activities of the visiting professor. [The board shall charge a fee of \$100 for the issuance of a permit.]

(g) The application for visiting professor permit shall be presented to the secretary of the board at least six months prior to the effective date of the appointment of the visiting professor; the application shall be made by the chairman of the department in which the visiting professor will teach and provide such information and documentation to the board as may be requested. Such application shall be endorsed by the dean of the medical school and the president of the health science center making application.

(h) The institution will be notified of approval upon completion of the application. It is therefore advisable that the fee of \$100 be paid at the time the visiting professor arrives.

(i) Prior to the time the visiting professor receives his permit, the board shall have received the fee of \$100.

(j) The application shall state the date the visiting professor shall begin performance of duties and the date of termination of such duties at the institution. The permit issued shall be effective only for this period of time. After issuance of a permit, there will be no refund of the fee.

Doc. No. 773610

386.01.06.005

The Texas State Board of Medical Examiners is proposing to adopt Rule 386.01.06.005, regarding the rehabilitation permit. Passage of the new rule regarding the rehabilitation permit would permit a physician whose license was cancelled or suspended by the board and who needs exposure to additional education and training before again embarking into the field of medicine to receive rehabilitation under special provisions as set forth by the board.

Public comment on the proposed new rule is invited. Comments may be submitted by telephoning the office of the board at (512) 474-6335, or by writing to the board at Southwest Tower Building, 211 East 7th Street, Austin, Texas 78701.

This rule is proposed under the authority of Article 4496 and Article 4509, Civil Statutes of Texas.

.005. Rehabilitation Permit. The board may issue a rehabilitation permit which would be valid for such period of time as the board may determine. The permit may be issued in the event it is deemed that a physician whose license has been cancelled or suspended by the board needs exposure to an educational or training program before that physician reenters the practice of medicine. The rehabilitation permit may be issued under the following terms and conditions:

(a) The permit shall be issued to the applicant upon the filing of an application for a permit.

(b) Upon receipt of the application for a rehabilitation permit, the board shall consult with such physicians, medical educators, and state agencies as appropriate to determine if a position in any institution is available for the applicant.

(c) In determining the availability of a physician for retraining, the board shall furnish the appropriate physicians a copy of the application, pertinent information as to the charges for which the license was initially cancelled or suspended, and other recommendations for rehabilitation.

(d) In evaluating the availability of a position for rehabilitation, the institution may require the applicant to undergo appropriate physical or psychiatric examinations, may require the applicant to abide by such rules of the institution as are applicable, may require the applicant to agree to termination of the rehabilitation program upon request of the institution, and may require such other reasonable and necessary agreements from the applicant as are determined necessary.

(e) A report of the applicant's progress shall be given to the board every three months by a designated individual within the institution who will then certify to the board at the conclusion of the rehabilitation the quality of the applicant's performance.

(f) The board is under no obligation to secure a position for rehabilitation and shall not be obligated in any manner to insure that in each case such a position will be available.

(g) The board shall not provide funds for the Rehabilitation Program and any cost for such program shall be borne by the applicant.

(h) Neither the board nor the applicant shall impose upon the institution any restrictions not acceptable to the institution.

Issued in Austin, Texas, on July 19, 1977.

Doc. No. 773611 A. Bryan Spires, Jr., M.D.
 Secretary-Treasurer
 Texas State Board of Medical
 Examiners

Proposed Date of Adoption: August 25, 1977

For further information, please call (512) 475-6335.

Texas Parks and Wildlife Department Parks

Sea Rim State Park Hunting, Fishing, and Trapping Proclamation No. 4, 1976-77 127.40.12

The Parks and Wildlife Commission is proposing to amend Rule 127.40.12.011, subparagraph (c), and Rule 127.40.12.015 in order to update the Sea Rim State Park Hunting, Fishing, and Trapping Proclamation for the 1977-78 open season. The proposed new proclamation will be the same as the current proclamation except for the proposed amendments listed below, and will constitute the Sea Rim State Park Hunting, Fishing, and Trapping Proclamation No. 5, 1977-78.

Public comment on the proposed amendments to Rule 127.40.12.011, subparagraph (c), and Rule 127.40.12.015 is invited. Comments may be submitted by telephoning (512) 475-4848 or by writing to Ron Moreau, Park Operations and Maintenance Branch, Parks Division, 4200 Smith School Road, Austin, Texas 78744. Comments will be accepted until August 24, 1977.

The amendments to Rule 127.40.12.011, subparagraph (c), and Rule 127.40.12.015 are proposed under the authority of Sections 62.061 through 62.069, Texas Parks and Wildlife Code.

.011. Open Seasons and Bag Limits: Migratory Birds.

(c) The daily bag and possession limits for migratory birds will be in accordance with *the current Parks and Wildlife* [No. 33, 1976-77] Migratory Game Bird Proclamation.

.015. Effective Date. These rules are effective October 1, 1977, [1976,] and shall remain in effect until amended, modified, or revoked.

Doc. No. 773571

Sea Rim State Park Special Rules and Regulations 127.40.13

The Texas Parks and Wildlife Commission is proposing to amend Rules 127.40.13.009, .010, subparagraph (b) of .011, subparagraph (a) of .012, and .015, and to add a new rule .013 to update the rules to accommodate full public use of Sea Rim State Park when development of facilities is completed.

The amendments will permit public access into the Marsh Lands Unit by mud boats and boats over 25 horsepower, with the exception of air-propelled boats,

which engines shall not exceed 10 horsepower. The amended rules will permit taking of certain rough fish species in the Marsh Lands Unit by means of bow and arrow. Provisions are included to permit hunting of migratory birds in accordance with the current Sea Rim State Park Hunting, Fishing, and Trapping Proclamation, and to delete the reference to Proclamation No. 4, 1976-77, to permit the special rules and regulations governing the use of Sea Rim State Park to remain in effect until amended, modified, or revoked.

A new rule is proposed prohibiting glass containers on all public beach areas seaward of the vegetation line and public boardwalks and pathways in the D. Roy Harrington Beach Unit. Rules .013, .014, and .015 will be renumbered .014, .015, and .016 to permit the new rule to be listed in proper sequence as .013.

Public comment on the proposed amendments to Rules 127.40.13.009, .010, subparagraph (b) of .011, subparagraph (a) of .012, and .015, and Proposed New Rule .013 is invited. Comments may be submitted by telephoning (512) 475-4848, or by writing to Ron Moreau, Park Operations and Maintenance Branch, Parks Division, 4200 Smith School Road, Austin, Texas 78744. Comments will be accepted until August 24, 1977.

The amendments to Rules 127.40.13.009, .010, subparagraph (b) of .011, subparagraph (a) of .012, and .015, and new Rule .013 are proposed under the authority of Sections 13.101 through 13.110 and Sections 62.061 through 62.069, Texas Parks and Wildlife Code.

.009. Watercraft.

(a) No watercraft entering or utilizing the Marsh Lands Unit shall be powered by motor in excess of 25 horsepower.

(b) During public hunting, *there* [there] will be no horsepower *limitations*, [limitation,] with the exception of air-propelled boats, which engines shall not exceed 10 horsepower.

.010. Marsh Vehicles. The entry or use of air boats greater than 10 horsepower, [mud boats] or any other vehicle capable of traversing into marshland, is prohibited.

.011. Fishing.

(b) Only rod and reel, handline, throwline, crab net, cast net, [or] pole, *or fishing bow and arrow* will be permitted.

.012. Hunting.

(a) Hunting of migratory birds will be permitted only in the Marsh Lands Unit in accordance with *the current* Sea Rim State Park Hunting, Fishing, and Trapping Proclamation [No. 4, 1976-77].

.013. Glass Containers. Glass containers are prohibited on all public beach areas seaward of the vegetation line and public boardwalks and pathways in the D. Roy Harrington Beach Unit.

.014. [013.] General.

.015. [014.] Penalties.

.016. [015.] Effective Date. These rules are effective October 1, 1977, [1976,] and shall remain in effect until amended, modified, or revoked.

Issued in Austin, Texas, on July 18, 1977.

Doc. No 773572 Maurine Ray
Administrative Assistant
Texas Parks and Wildlife
Department

Proposed Date of Adoption: August 25, 1977

For further information, please call (512) 475-4848.

Texas Board of Private Investigators and Private Security Agencies

The Texas Board of Private Investigators and Private Security Agencies proposes to adopt the following new rules in order to establish consistency, uniformity, and clarity of all rules promulgated by the board and to assure that all rules so promulgated are in accordance with recent amendments made to Article 4413 (29bb), Vernon's Annotated Civil Statutes, by the 65th Legislature of the State of Texas.

Comments on the rules proposed herein are welcomed. Comments should be in writing and directed to Clema D. Sanders, Executive Director, Texas Board of Private Investigators and Private Security Agencies, P.O. Box 13509, Capitol Station, Austin, Texas 78711.

General Provisions 399.01.00

The Texas Board of Private Investigators and Private Security Agencies is empowered to promulgate rules under the provisions of the Private Investigators and Private Security Agencies Act (Article 4413 (29bb), Vernon's Annotated Civil Statutes as amended) in order to properly implement and enforce the same.

.001. Correspondence to the Board. Correspondence to the board in writing by a licensee or his manager shall contain the licensee's name, address, license number, and shall be signed by the person directing the correspondence.

.002. Notice of Change or Fact. Whenever the act or board rules require a licensee or his manager to notify the board of any change or fact, the notice shall be in writing and:

- (1) contain the licensee's name, address, and license number;
- (2) contain the change or fact;
- (3) contain the effective date; and
- (4) contain the signature of the licensee or manager.

Doc. No. 773530

Notice of Repeals

The Texas Board of Private Investigators and Private Security Agencies proposes to repeal the following board rules in order that new rules may be promulgated which are consistent in form, clear and concise in language, and which are in accordance with recent amendments made to Article 4413(29bb), Vernon's Annotated Civil Statutes, by the 65th Legislature of the State of Texas.

The rules being proposed for repeal are listed below by subcategory titles and numbers. The full text of the rules is not being published. Copies of the rules may be inspected at the office of the Texas Board of Private Investigators and Private Security Agencies, Suite 500, Chevy Chase II, 7600 Chevy Chase Drive, Austin, or in the Office of the Texas Register Division, Suite 550, Texas Comodore Building, 8th and Brazos, Austin.

The Texas Board of Private Investigators and Private Security Agencies is empowered to promulgate rules under the provisions of the Private Investigators and Private Security Agencies Act (Article 4413 (29bb), Vernon's Annotated Civil Statutes, as amended) in order to properly implement and enforce them.

- 399.01.01 General Provisions
- 399.01.02 Miscellaneous
- 399.01.11 Rules of Procedure and Seal; Issuance of Subpoenas; Revocation, Suspension, etc.
- 399.01.12 Organization and Meetings of the Board
- 399.03.13 License Required and False Representation Prohibited
- 399.03.15 Application and Examination
- 399.03.17 Fees
- 399.03.18 Manager to Control Business
- 399.03.19 Handgun; Security Officer Commission
- 399.03.20 Training Programs
- 399.03.23 Change of Address and New Officers
- 399.03.24 License Not Assignable
- 399.03.25 Termination of License
- 399.03.27 Employees
- 399.03.29 Employee Records

- 399.03.30 Advertisements
- 399.03.31 Branch Offices
- 399.03.32 Registration of Employees of Private Investigators
- 399.03.39 Registration Fee
- 399.03.40 Bonds Filed for License
- 399.04.46 Expiration Date of Licenses; Proration of Fees

Comments on the proposed repeals are welcomed. Comments should be in writing and directed to Clema D. Sanders, Executive Director, Texas Board of Private Investigators and Private Security Agencies, P.O. Box 13509, Capitol Station, Austin, Texas 78711.

Doc. Nos. 773531-773552

Rules of Procedure and Seal

Regulation or Code of Professional

Responsibility and Conduct 399.11.01

The Texas Board of Private Investigators and Private Security Agencies is empowered to promulgate rules under the provisions of the Private Investigators and Private Security Agencies Act (Article 4413 (29bb), Vernon's Annotated Civil Statutes, as amended) in order to properly implement and enforce the same.

.001. Standards of Conduct.

(a) All licensees, employees, and commissioned security officers shall maintain high standards of professional conduct and shall not participate in, nor knowingly help, assist, facilitate, promote the accomplishment thereof, help in advancing, encourage, counsel, or incite a violation of the act, board rules, and/or any statute of this state or of the United States.

(b) Licensees and employees of licensees shall carry out fully any contract of employment entered into with a client for professional services, except for justifiable cause.

(c) Licensees and employees of licensees shall not place an employee in a position of trust or responsibility with a client, knowing that the employee is not qualified to fulfill the duties or responsibilities of that position.

(d) Licensees and employees of licensees shall not engage in any illegal conduct, nor counsel or assist a client in conduct that is known to be illegal or fraudulent.

.002. Standards of Services.

(a) A licensee shall inform each client he is entitled to receive a written or oral contract that contains the fee arrangement with necessary information covering services to be rendered.

(b) A written contract shall be furnished by a licensee to a client within seven days after a request is made for such written contract. The written contract

shall contain the fee arrangement, with the necessary information covering services to be rendered.

(c) A written contract shall be dated and signed by the licensee, his manager, or a person authorized by one or either of them to sign written contracts.

.003. *Standards of Reports.*

(a) A licensee shall inform each client he is entitled to receive a written or oral report concerning services rendered for which a fee has been tendered.

(b) An oral report that is timely and adequate is required when a client does not desire a written report.

(c) A written report shall be furnished by a licensee to a client within seven days after a request is made for such written report. The written report shall be dated and signed by the licensee, his manager, or a person authorized by one or either of them to sign written reports.

Doc. No. 773552

Hearings, Grievances, and Appeal Procedures 399.11.02

The Texas Board of Private Investigators and Private Security Agencies is empowered to promulgate rules under the provisions of the Private Investigators and Private Security Agencies Act (Article 4413 (29bb), Vernon's Annotated Civil Statutes, as amended) in order to properly implement and enforce the same.

.001. *Grievance and Appeal Procedures Provided.*

Pursuant to the authority granted the board under the provisions of the act, and pursuant to the mandate of Section 4(A)(1) of the Administrative Procedure and Texas Register Act, the following grievance and appeal procedures and rules are provided.

.002. *Definitions.*

(a) "Agency" means the Texas Board of Private Investigators and Private Security Agencies.

(b) "Applicant" or "petitioner" means a party seeking a license or rule from the agency or holder of a license.

(c) "Board member" means one of the ex-officio or appointed members of the decision-making body defined as the agency.

(d) "Contested case" means a licensing proceeding in which the legal rights, duties, or privileges of a party are to be determined by the agency after an opportunity for adjudicative hearing.

(e) "Director" means the director of the Texas Board of Private Investigators and Private Security Agencies.

(f) "Examiner" means any person, including a board member, appointed by the agency or the director to conduct hearings on matters within the agency's jurisdiction.

(g) "License" means a license, a security officer commission, and a registration issued by the Texas Board of Private Investigators and Private Security Agencies.

(h) "Licensing" means the agency process respecting the granting, denial, renewal, revocation, or suspension of a license.

(i) "Party" means each person named or admitted as a party and includes the agency.

(j) "Person" means any individual, partnership, corporation, or association.

(k) "Pleading" means written allegations filed by parties concerning their respective claims.

(l) "Register" means the *Texas Register*.

(m) "Rule" means any agency statement of general applicability that implements, interprets, or prescribes law or policy, or describes the procedure or practice requirements of any agency. The term includes the amendment or repeal of a prior rule but does not include statements concerning only the internal management or organization of any agency and not affecting private rights or procedures. This definition includes substantive regulations.

.003. *Filing of Documents.* All applications, petitions, motions, replies, answers, notices, and other pleadings relating to any proceeding pending or to be instituted before the agency shall be filed with the director. They shall be deemed filed only when actually received by her, accompanied by the filing fee, if any, required by statute or agency rules.

.004. *Computation of Time.*

(a) Computing time. In computing any period of time prescribed or allowed by these rules, by order of the agency, or by any applicable statute, the period shall begin on the day after the act, event, or default in controversy and conclude on the last day of such computed period, unless it be a Saturday, Sunday, or legal holiday, in which event the period runs until the end of the next day which is neither a Saturday, Sunday, nor a legal holiday.

(b) Extensions. Unless otherwise provided by statute, the time for filing any pleading may be extended by order of the director, upon written motion duly filed with her prior to the expiration of the applicable period of time for the filing of the same, showing that there is good cause for such extension of time and that the need therefore is not caused by the neglect, indifference, or lack of diligence of the movant. A copy of any such motion shall be served upon all other parties of record to the proceeding contemporaneously with the filing thereof.

.005. *Agreement to be in Writing.* No stipulation or agreement between the parties, their attorneys, or representatives, with regard to any matter involved in any proceeding before the agency shall be enforced

unless it shall have been reduced to writing and signed by the parties or their authorized representatives, or unless it shall have been dictated into the record by them 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 any right or privilege afforded by these rules, unless precluded by law.

.006. Service in Non-Rulemaking Proceedings.

(a) Personal service. Where personal service of notice by the agency is required, the agency shall mail the same, certified or registered mail, to the last known place of address of the person entitled to receive such notice or otherwise deliver the notice to such person.

(b) Service of pleadings. A copy of any reply, answer, motion, or other pleading filed by any party in any proceeding subsequent to the institution thereof shall be mailed or otherwise delivered by the party filing the same to every other party of record. If any party has appeared in the proceeding by attorney or other representative authorized under these rules to make appearances, service shall be made upon such attorney or other representative. The willful failure of any party to make such service shall be sufficient grounds for the entry of an order by the director, or the presiding examiner, striking the reply, answer, motion, or other pleading from the record.

(c) Certificate of service. A certificate by the party, attorney, or representative who files a pleading, stating that it has been served on the other parties, shall be *prima facie* evidence of such service. The following form of certificate will be sufficient in this connection: "I hereby certify that I have this _____ day of _____, 19____, served copies of the foregoing pleading upon all other parties to this proceeding, by (here state the manner of service). Signature."

.007. Conduct and Decorum. Every party, witness, attorney, or other representative shall comport himself in all proceedings with proper dignity, courtesy, and respect for the agency, the director, the examiner, and all other parties. Disorderly conduct will not be tolerated. Attorneys and other representatives or parties shall observe and practice the standards of ethical behavior prescribed for attorneys-at-law by the Texas State Bar.

.008. Classification of Parties. Parties to proceedings before the agency are applicants or petitioners. Regardless of errors as to designations in their pleadings, the parties shall be accorded their true status in the proceeding.

.009. Parties in Interest. Any party in interest may appear in any proceeding before the agency. All appearances shall be subject to a motion to strike upon a

showing that the party has no justifiable or administratively cognizable interest in the proceeding.

.010. Appearances Personally or by Representative.

Any party may appear and be represented by an attorney-at-law authorized to practice law before the highest court of any state. This right may be expressly waived. Any person may appear on his own behalf, or by a bona fide full-time employee or by an officer, partner, or by a bona fide full-time employee of that person.

.011. Classification of Pleadings. Pleadings filed with the agency through the director shall be applications, petitions, answers, replies, motions for rehearing, and other motions. Regardless of any error in the designation of a pleading, it shall be accorded its true status in the proceeding in which it is filed.

.012. Form and Content of Pleadings.

(a) Typewritten or printed. Pleadings shall be typewritten or printed upon paper 8-1/2 inches wide and 14 inches long with an inside margin at least one inch wide and exhibits annexed thereto either shall be folded to the same size or shall be smaller. Reproductions are acceptable, provided all copies are clear and permanently legible.

(b) Content. Pleadings shall state their object, and shall contain a concise statement of the facts in support of the same, and shall be signed by the applicant or his authorized agent.

(c) Signature and address. The original of every pleading shall be signed in ink by the party filing the paper or by his authorized representative. Pleadings shall contain the address of the party filing the document or the name, telephone number, and business address of the representative.

(d) Forms. Official forms for use in agency proceedings are incorporated in the appendix to these rules. All pleadings which are the subject of an official form shall contain the information, allegations, and other matter designated in such official form and shall conform substantially to the form thereof.

(e) Other pleadings. All pleadings for which no official form is prescribed shall contain:

(1) the name of the party seeking to bring about or prevent action by the agency;

(2) the names of all other known parties in interest;

(3) a concise statement of the fact relied upon by the pleader;

(4) a prayer stating the type of relief, action, or order desired by the pleader;

(5) any other matter required by statute; and a certificate of service, as required by Rule 399.11.02.006.(c)

(f) **Filing fees.** Each application or petition which is intended to institute a proceeding before the agency shall be accompanied by the filing fee prescribed by law and these rules.

.013. Examination by the Director. Upon the filing of any pleading with the director, she shall examine the same and determine its sufficiency under these rules. If she shall find that the pleading does not comply in all material respects with these rules, she shall return it to the person who filed it, along with her statement of the reasons for rejecting same. The person who filed such pleading shall thereafter have the right to file a corrected pleading, provided that the filing of such corrected pleading shall not be permitted to delay any hearing unless the director shall determine that such delay is necessary in order to prevent injustice or to protect the public interest and welfare.

.014. Motions. Any motion relating to a pending proceeding shall, unless made during a hearing, be written and shall set forth the relief sought and the specific reasons and grounds therefore. If based upon matters which do not appear of record, it shall be supported by affidavit. Any motion not made during a hearing shall be filed with the director, who shall act upon the motion at the earliest practicable time.

.015. Amendments. Any pleading may be amended at any time upon motion, provided that the application or petition upon which notice has been issued shall not be amended so as to broaden the scop thereof.

.016. Incorporation by Reference of Agency Records. Any pleading may adopt and incorporate, by specific reference thereto, any part of any document or entry in the official files and records of the agency. This rule shall not relieve any applicant of the necessity of alleging in detail, if required, facts necessary to sustain his burden of proof imposed by law.

.017. Docketing and Numbering of Causes. Upon receipt of an application or other pleading, which is intended to institute a proceeding before the agency and complies with these rules as to form and content, the director shall docket the same as a pending proceeding and serve notice thereon by personal service.

.018. Licenses. When a licensee has made timely and sufficient application for the renewal of a license or a new license for any activity of a continuing nature, the existing license does not expire until the application has been finally determined by the agency, or unless it has been determined according to statute and rule, and in case the application is denied until the last day for seeking review of the agency order or a later date fixed by order of the reviewing court.

.019. Contested Proceedings.

(a) Before revoking or suspending a license, security officer commission, or registration, or denying an application for a license, security officer commission, or registration, the agency will afford the applicant or petitioner an opportunity for hearing after reasonable notice of not less than 30 days, except in a case of failure to maintain the required surety bond or insurance.

(b) Such notice shall include:

- (1) a statement of the legal authority and jurisdiction under which the hearing is to be held;
- (2) a reference to the particular sections of the statutes and rules involved;
- (3) a statement of time, place, and nature of the hearing; and
- (4) a short and plain statement of the matters asserted.

(c) 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, a more definite and detailed statement must be furnished not less than three days prior to the date set for the hearing.

.020. Personal Service. All notices of which personal service is required by law shall be addressed to the person entitled thereto, and shall set forth the names of all other parties, the nature and subject matter of the proceeding, the time and place of hearing, and any other matter required by law.

.021. Pre-Hearing Conference.

(a) In any proceeding, the director, on her own motion or on the motion of a party, may direct the parties, their attorneys, or representatives to appear before an examiner at a specified time and place for a conference prior to the hearing for the purpose of formulating issues and considering:

- (1) the simplification of issues;
- (2) the possibility of making admissions of certain averments of fact or stipulations concerning the use by either or both parties of matters of public record to the end of avoiding the unnecessary introduction of proof;
- (3) the procedure at a hearing;
- (4) the limitation, where possible, of the number of witnesses; and
- (5) such other matters as may aid in the simplification of the proceedings and the disposition of the matters in controversy, including settlement of such issues as are in dispute.

(b) Unless precluded by law, informal dispositions may be made of any contested case by stipulation, agreed settlement, consent order, or default.

(c) Action taken at the conference shall be recorded in an appropriate order by the examiner, unless the parties enter into a written agreement.

.022. Motions for Postponement, Continuance, Withdrawal, or Dismissal. Motions for postponement, continuance, withdrawal, or dismissal of applications or other matters which have been duly set for hearing, shall be in writing, shall be filed with the director and distributed to all interested parties, over a certificate of service, not less than five days prior to the designated date that the matter is to be heard. Such motion shall set forth, under oath, the specific grounds upon which the moving party seeks such action and shall make reference to all prior motions of the same nature filed in the same proceeding. Failure to comply with the above, except for good cause shown, may be construed as lack of diligence on the part of the moving party, and, at the discretion of the director, may result in the dismissal of the application or other matter in issue, with prejudice to refiling. Once an application has actually proceeded to a hearing, pursuant to the notice issued thereon, no postponement or continuance shall be granted by the examiner without the consent of all parties involved, unless the agency shall have ordered such postponement or continuance.

.023. Joint Hearings. A motion for consolidation of two or more applications, petitions, or other proceedings shall be in writing, signed by the movant, his attorney, or representative, and filed with the director prior to the date set for hearing. No two or more applications, petitions, or other proceedings shall be consolidated or heard jointly without the affirmative consent of all parties to all such proceedings, unless the agency shall find that the two or more applications, petitions, or other proceedings involve common questions of law and fact, and shall further find that separate hearings would result in unwarranted expense, delay, or substantial injustice.

.024. Place and Nature of Hearings. All hearings conducted in any proceeding shall be open to the public. All hearings shall be held in Austin, Texas, unless for good and sufficient cause the agency shall designate another place of hearing in the interest of the public.

.025. Presiding Officer.

(a) Hearings will be conducted by a board member of the agency or an examiner. The hearing examiner shall have the authority to administer oaths, to examine witnesses, and to rule upon the admissibility of evidence and amendments to pleadings. He shall have the authority to recess any hearing from day to day.

(b) If the hearing examiner dies, or becomes disabled or withdraws or is removed from employment or the case at any time before the final decision thereof,

the agency or the director may appoint another presiding examiner who may perform any function remaining to be performed without the necessity of repeating any previous proceedings in the case.

.026. Order of Procedure.

(a) In all proceedings the petitioner or applicant shall be entitled to open and close. Where several proceedings are heard on a consolidated record, the examiner shall designate who shall open and close. After all parties have completed the presentation of their evidence, the agency may call upon any party or the staff of the agency for further material or relevant evidence upon any issue to be presented at further public hearing after notice to all parties of record.

(b) The examiner shall direct all parties to enter their appearances on the record. If exceptions to the form or sufficiency of a pleading have been filed in writing at least three days prior to the date of hearing, they shall be heard; otherwise not. If exceptions are sustained, the examiner shall allow a reasonable time for amendment, subject to the provisions of Rule 399.11.02.013.

.027. Reporters and Transcript.

(a) When a party makes a written request that proceedings be transcribed, the party shall state in writing his election to furnish his own stenographic reporter or to utilize the reporter on the staff of the agency, if the agency has a stenographic reporter available at the time of the request. In the event the agency does not have a stenographic reporter available at the time of the request or if the party elects to furnish the stenographic reporter, the cost of the original transcript shall be assessed one-half to the party requesting the transcription, the remaining one-half to the other parties equally.

(b) The original transcript shall be delivered to the director not more than 14 working days after the close of the hearing. A stenographic reporter may sell a copy of a transcript if the stenographic reporter first submits a written request to the director containing:

- (1) the full name and address of the party requesting the copy;
- (2) the number of pages in the transcript; and
- (3) the cost of the copy to the party.

Upon approval of the request by the director, the stenographic reporter shall furnish a copy to the requesting party at not more than 30 cents per page plus the cost of postage, if any. The director or agency may exclude any stenographic reporter for late delivery or poor workmanship in previous hearings.

(c) Suggested corrections to the transcript of the record may be offered within 10 days after the transcript is filed in the proceeding, unless the examiner and the agency shall permit suggested corrections to be offered thereafter. Suggested corrections

shall be served in writing upon each party of record, the official reporter, and the examiner. If suggested corrections are not objected to, the examiner will direct the corrections to be made and the manner of making them. In case the parties disagree on suggested corrections, they may be heard by the examiner, who shall then determine the manner in which the record shall be changed, if at all.

.028. *Formal Exceptions.* Formal exceptions to rulings of the presiding examiner during a hearing shall be unnecessary. It shall be sufficient that the party at the time any ruling is made or sought shall have made known to the presiding examiner the action which he desires.

.029. *Dismissal Without Hearing.* The agency may entertain motions for dismissal without a hearing for the following reasons: failure to prosecute; unnecessary duplication of proceedings or *res adjudicata*; moot questions or stale petitions; or lack of jurisdiction.

.030. *Rules of Evidence.* In all cases, irrelevant, immaterial, or unduly repetitious evidence shall be excluded. The rules of evidence as applied in non-jury civil cases in the district courts of this state shall be followed. When necessary to ascertain facts not reasonably susceptible of proof under those rules, evidence not admissible thereunder may be admitted, except where precluded by statute, if it is of a type commonly relied upon by reasonably prudent men in the conduct of their affairs. The agency shall give effect to the rules of privilege recognized by law. Objections to evidentiary offers may be made and shall be noted in the record. Subject to these requirements, if a hearing will be expedited and the interests of the parties will not be prejudiced substantially, any part of the evidence may be received in written form. Opportunity must be afforded all parties to respond and present evidence and argument on all issues involved.

.031. *Documentary Evidence and Official Notice.*

(a) Documentary evidence may be received in the form of copies or excerpts, if the original is not readily available. 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.

(b) Official notice may be taken of all facts judicially cognizable. In addition, notice may be taken of generally recognized facts within the area of the agency's specialized knowledge. Parties shall be notified either before or during the hearing, or by reference in preliminary reports or otherwise, of the material officially noticed, including any staff memoranda or

date; and they shall be afforded an opportunity to contest the material so noticed. The special skills or knowledge of the agency and its staff may be utilized in evaluating the evidence.

.032. *Prepared Testimony.* In all contested proceedings and after service of copies upon all parties of record at such time as may be designated by the director or the examiner, 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's being sworn and identifying the same. Such witness shall be subject to cross-examination and the prepared testimony shall be subject to a motion to strike in whole or in part.

.033. *Limitations on Number of Witnesses.* The director or the examiner shall have the right in any proceeding to limit the number of witnesses whose testimony is merely cumulative.

.034. *Exhibits.*

(a) *Form.* Exhibits of documentary character shall be of such size, as set forth in Rule 399.11.02.012 as not unduly to encumber the files and records of the agency. There shall be a brief statement on the first sheet of the exhibit of what the exhibit purports to show. 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 reporter for identification; one copy shall be furnished to the presiding examiner, and one copy to each other party of record or his attorney or representative.

(c) *Excluded exhibits.* In the event an exhibit has been identified, objected to, and excluded, the presiding examiner shall determine whether or not the party offering the exhibit withdraws the offer, and if so, permit the return of the exhibit to him. If the excluded exhibit is not withdrawn, it shall be given an exhibit number for identification, shall be endorsed by the examiner with his ruling, and shall be included in the record for the purpose only of preserving the exception.

(d) *After hearing.* Unless specifically directed by the presiding examiner, or by the agency itself, no exhibit will be permitted to be filed in any proceeding after the conclusion of the hearing. In the event the agency allows an exhibit to be filed after the conclusion of the hearing, copies of the late-filed exhibit shall be served on all parties of record.

.035. *Offer of Proof.* When testimony is excluded by ruling of the examiner, the party offering such evidence shall be permitted to make an offer of proof by dictating 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 presiding 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 an objection to questions asked on cross-examination may be preserved without making an offer of proof.

.036. Depositions. The taking and use of depositions in any proceeding shall be governed by Section 14 of the Administrative Procedure and Texas Register Act.

.037. Subpoenas. Following written request by a party or on its own motion:

(a) Subpoenas for the attendance of a witness from any place in the State of Texas at a hearing in a pending proceeding, may be issued by the agency, any member thereof, the director, or, during the course of a hearing, by the presiding examiner.

(b) Motions for subpoenas to compel the production of books, papers, accounts, or documents shall be addressed to the agency, shall be verified, and shall specify as nearly as may be the books, papers, accounts, or documents desired and the material and relevant facts to be proved by them. If the matter sought is relevant material and necessary and will not result in harassment, imposition, or undue inconvenience or expense to the party to be required to produce the same, the agency, any member thereof, or the director may issue a subpoena, compelling production of books, papers, accounts, or documents as deemed necessary.

(c) Such subpoenas shall be issued only after a showing of good cause and deposit of sums sufficient to insure payment of expenses incident to the subpoenas. Service of subpoenas and payment of witness fees shall be made in the manner prescribed in Section 14 of the Administrative Procedure and Texas Register Act.

.038. Proposals for Decision.

(a) In a contested case, if a majority of the board members who are to render the final decision have not heard the case or read the record, the proposed decision, if adverse to a party to the proceeding other than the agency itself, may not be made until a proposal for decision is served on the parties, and an opportunity is afforded to each party adversely affected to file exceptions and present briefs to the board members who are to render the decision. The proposal for decision must contain a statement both of the reasons for the proposed decision and of each finding of fact and conclusion of law necessary to the proposed decision, prepared by the person who conducted the hearing or by one who has read the record. The parties by written stipulation may waive compliance with this section.

(b) When a proposal for decision is prepared, a copy of the proposal shall be served forthwith by the director on each party and his attorney of record. Upon

the expiration of the 20th day following the time provided for the filing of exceptions and briefs in Rule 399.11.02.039, the proposal for decision may be adopted by written order of the agency, unless exceptions and briefs shall have been filed in the manner required in Rule 399.11.02.041 warranted by the director, the assigned examiner may direct a party to draft and submit a proposal for decision which shall include proposed findings of fact and a concise and explicit statement of the underlying facts supporting such proposed findings developed from the record.

.039. Filing of Exceptions, Briefs, and Replies. Any party of record may, within 20 days after the date of service of a proposal for decision, file exceptions and briefs to the proposal for decision, and replies to such exceptions and briefs may be filed within 15 days after the date for filing of such exceptions and briefs. A request for extension of time within which to file exceptions, briefs, or replies shall be filed with the director, and a copy thereof shall be served on all other parties of record by the party making such request. The director shall promptly notify the parties of her action upon the same and shall allow additional time only in extraordinary circumstances where the interests of justice so require.

.040. Form and Content of Briefs, Exceptions, and Replies. Briefs, exceptions, and replies shall be of such size and conform, as near as may be, to the form of pleadings as set forth in Rule 399.11.02.012(a) and (c). The points involved shall be concisely stated. The evidence in support of each point shall be abstracted or summarized and/or briefly stated in the form of proposed findings of fact. Complete citations to the page number of the record or exhibit referring to evidence shall be made. The specific purpose for which the evidence is relied upon shall be stated. The argument and authorities shall be organized and directed to each point properly proposed as a finding of fact in a concise and logical manner. Briefs shall contain a table of contents and authorities. Briefs, prior to the issuance of a proposal for decision, may be filed only when requested or permitted by the examiner.

.041. Oral Argument. Any party may request oral argument prior to the final determination of any proceeding, but oral argument shall be allowed only in the sound discretion of the agency. A request for oral argument may be incorporated in exceptions, briefs, replies to exceptions, motions for rehearing, or in separate pleadings.

.042. Final Decisions and Orders. All final decisions and orders of the agency shall be in writing and shall be signed by a majority of the board members. A final decision shall include findings of fact and conclusions of law, separately stated. Findings of fact, if set forth in statutory language, shall be accompanied by a concise

and explicit statement of the underlying facts supporting the findings. If, in accordance with agency rules, a party submits proposed findings of fact, the decisions shall include a ruling on each proposed finding. Parties shall be notified either personally or by mail of any decision or order. On written request, a copy of the decision or order shall be delivered or mailed to any party and to his attorney of record.

.043. *Rendering of Final Decision or Order.* The final decision or order must be rendered within 60 days after the date the hearing is finally closed. In a contested case heard by other than a majority of the officials of an agency, the agency may prescribe a longer period of time within which the final order or decision of the agency shall be issued. The extension, if so prescribed, shall be announced at the conclusion of the hearing.

.044. *Administrative Finality.* A decision is final, in the absence of a timely motion for rehearing, and is final and appealable on the date of rendition of the order overruling the motion for rehearing, or on the date the motion is overruled by operation of law. If the agency board includes a member who (1) receives no salary for his work as a board member and who (2) resides outside Travis County, the board may rule on a motion for rehearing at a meeting or by mail, telephone, telegraph, or other suitable means of communication. If the agency finds that an imminent peril to the public health, safety, or welfare requires immediate effect of a final decision or order in a contested case, it shall recite the finding in the decision or order as well as the fact that the decision or order is final and effective on the date rendered, in which event the decision or order is final and appealable on the date rendered and no motion for rehearing is required as a prerequisite for appeal.

.045. *Motions for Rehearing.* A motion for rehearing is a prerequisite to an appeal. A motion for rehearing must be filed within 15 days after the date of rendition of a final decision or order. Replies to a motion for rehearing must be filed with the agency within 25 days after the date of rendition of the final decision or order, and agency action on the motion must be taken within 45 days after the date of rendition of the final decision or order. If agency action is not taken within a 45-day period, the motion for rehearing is overruled by operation of law 45 days after the date of rendition of the final decision or order. The agency may by written order extend the period of time for filing the motions and replies and taking agency action, except that an extension may not extend the period for agency action beyond 90 days after the date of rendition of the final decision or order. In the event of an extension, the motion for rehearing is overruled by operation of law on the date fixed by the order, or in the absence of a fixed

date, 90 days after the date of the final decision or order. The parties may by agreement, with the approval of the agency, provide for a modification of the times provided in this section.

.046. *The Record.*

(a) The record in a contested case shall 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 on them;
- (5) proposed findings and exceptions;
- (6) any decision, opinion, or report by the officer presiding at the hearing; and
- (7) all staff memoranda or data submitted to or considered by the hearing officer or members of the agency who are involved in making the decision.

(b) Findings of fact shall be based exclusively on the evidence presented and matters officially noticed.

.047. *Show Cause Orders and Complaints.*

(a) The agency, either on its own motion or upon receipt of sufficient written complaint, may, in its sound discretion, at any time after notice to all interested parties, including personal service upon the license holder, cite any person operating under its jurisdiction to appear before it in a public hearing and require him or it to show cause why his or its license should not be revoked or suspended or other action available to the agency be taken, for the failure to comply with any applicable statute, or the rules, regulations, or orders of the agency, or for failure to abide by the terms and provisions of the license itself. All hearings in such proceedings shall be conducted in accordance with the provisions of these rules.

(b) No revocation or suspension of any license is effective unless, prior to the institution of agency proceedings, the agency gives notice by personal service or by registered or certified mail to the licensee of facts or conduct alleged to warrant the intended action, and the licensee is given an opportunity to show compliance with all requirements of law for the retention of the license.

.048. *Ex Parte Consultations.* Unless required for the disposition of *ex parte* matters authorized by law, board 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.

.049. *Appeals.* Appeals from final decisions of the board shall be made to a district court of Travis County.

.050. Amendments to Rules Subsequent to January 1, 1976.

(a) Prior to the adoption of any rule, the agency shall give at least 30 days notice of its intended action. Notice of the proposed rule shall be filed with the Secretary of State and published by the Secretary of State in the *Texas Register*. The notice shall include:

- (1) a brief explanation of the proposed rule;
- (2) the text of the proposed rule, except any portion omitted as provided in Section 6(C) of the Administrative Procedure and Texas Register Act, prepared in a manner to indicate the words to be added or deleted from the current text, if any;
- (3) a statement of the statutory or other authority under which the rule is proposed to be promulgated;
- (4) a request for comments on the proposed rule from any interested person; and
- (5) any other statement required by law.

(b) Each notice of a proposed rule becomes effective as notice when published in the *Texas Register*. The notice shall be mailed to all persons who have made timely written requests of the agency for advance notice of this rulemaking proceeding. However, failure to mail the notice does not invalidate any actions taken or rules adopted.

(c) Prior to the adoption of any rule, the agency shall afford all interested persons reasonable opportunity to submit data, views, or arguments, orally or in writing. In the case of substantive rules, opportunity for public hearing shall be granted if requested by at least 25 persons, by a governmental subdivision or agency, or by an association having at least 25 members. The agency shall consider fully all written and oral submissions concerning the proposed rule. On adoption of a rule, the agency, if requested to do so by an interested person either prior to adoption or within 30 days after adoption, shall issue a concise statement of the principal reasons for and against its adoption, incorporating in the statement its reasons for overruling the considerations urged against its adoption.

(d) If the agency finds that an imminent peril to the public health, safety, or welfare requires adoption of a rule on fewer than 30 days notice and states in writing its reasons for that finding, it may proceed without prior notice or hearing that it finds practicable to adopt an emergency rule. The rule may be effective for a period not longer than 120 days, renewable once for a period of not exceeding 60 days, but the adoption of an identical rule under subsections A and C of this section is not precluded. An emergency rule adopted under the provisions of this subsection, and the agency's written reasons for the adoption, shall be filed in the Office of the Secretary of State for publication in the *Texas Register*.

(e) The agency may use informal conferences and consultations as means of obtaining the viewpoints and

advice of interested persons concerning contemplated rulemaking. The agency also may appoint committees of experts or interested persons or representatives of the general public to advise it with respect to any contemplated rulemaking. The powers of the committees are advisory only.

(f) Any interested person may petition the agency requesting the adoption of a rule. Any such petition must be presented in substantially the form set forth in Rule 399.11.02.052. Within 60 days after submission of a petition, the agency either shall deny the petition in writing, stating its reasons for the denial, or shall initiate rulemaking proceedings in accordance with the provisions of this rule.

.051. Effective Date. These rules shall take effect on December 31, 1975. They govern all proceedings filed after they take effect and they also govern all proceedings then pending. Any rule adopted after December 31, 1975, shall become effective 20 days after filing two certified copies of said rule with the Secretary of State, unless otherwise specified in the rule because of statutory directive or federal law or emergency.

.052. Petition for Adoption of a Rule.

(a) _____ (Here give name and complete mailing address of applicant on whose behalf the application is filed, hereinafter called applicant.)

(b) Caption. Applicant hereby seeks _____ (Here make specific reference to the rule or rules which it is proposed to establish, change, or amend, so that it or they may be readily identified, prepared in a manner to indicate the words to be added or deleted from the current text, if any.)

(c) Proposed change. (Here make reference to an exhibit to be attached to and incorporated by reference to the petition, the said exhibit to show the amendment providing for the proposed new provision, rule, regulation, rate practice, or other change, including the proposed effective date, application, and all other necessary information, in the exact form in which it is to be published, adopted, or promulgated.)

(d) Justification. (Here submit the justification for the proposed action in narrative form with sufficient information to inform the agency and any interested party fully of the facts upon which applicant relies.)

(e) Resume or concise abstract. (Here file with the petition a concise but complete resume or abstract of the information required in (a), (b), (c), and (d) hereof.)

Doc No 773553

Organization and Meetings of the Board 399.12.00

The Texas Board of Private Investigators and Private Security Agencies is empowered to promulgate rules

under the provisions of the Private Investigators and Private Security Agencies Act (Article 4413 (29bb), Vernon's Annotated Civil Statutes, as amended) in order to properly implement and enforce the same.

.001. *Meetings of the Board.* Regular meetings of the board shall be held at such times as are deemed necessary.

Doc. No. 773554

License Required and False Representation Prohibited 399.13.00

The Texas Board of Private Investigators and Private Security Agencies is empowered to promulgate rules under the provisions of the Private Investigators and Private Security Agencies Act (Article 4413 (29bb), Vernon's Annotated Civil Statutes, as amended) in order to properly implement and enforce the same.

.001. *Texas Residency.* The qualified manager or supervisor shall be a Texas resident and maintain Texas residency.

Doc. No. 773555

Application and Examination 399.15.00

The Texas Board of Private Investigators and Private Security Agencies is empowered to promulgate rules under the provisions of the Private Investigators and Private Security Agencies Act (Article 4413 (29bb), Vernon's Annotated Civil Statutes, as amended) in order to properly implement and enforce the same.

.001. *Verification of Experience.* Verification of experience required by an applicant, his manager, or supervisor shall be: affidavits from clients, former clients, employers or former employers, copies of DD214's, other items that are acceptable to the board.

.002. *Examination.* An applicant to qualify as manager or supervisor of an investigations company and/or a security services contractor shall successfully pass an examination based on the provisions of the act as amended. Unless qualified on the act as amended, this includes a manager applicant or supervisor when a license has expired and is being reinstated and renewed. The passing grade of an examination shall be 75 percent of the total points possible. The examination shall cover information relative to the type or class of license the manager is to manage, or the category the supervisor is to supervise.

.003. *Re-examination.* The re-examination fee shall be \$50. Any examination for a replacement manager or supervisor shall be considered a re-examination.

.004. *Photographs.* Photographs required by the act shall be in color and shall show a facial likeness of applicant. Photographs shall have been taken within the past six months and be 1" by 1-1/4" in size.

.005. *Fingerprint Cards.* Fingerprint cards required by the act shall be signed by the applicant and the person taking the prints. All blanks shall be completed on the fingerprint cards. Two fingerprint cards shall be submitted to the board so that one may be classified.

.006. *Licensees who are not Texas Residents.* Officers, partners, or shareholders who do not reside in Texas may not be required to furnish police and sheriff letters.

.007. *Examination to be in Austin.* The required examination shall be given in Austin unless otherwise designated by the board.

.008. *Assumed Name.* Applicants doing business under an assumed name shall submit a certificate from the county clerk showing compliance with the Assumed Name Statute.

.009. *Corporations.* Applicants that are corporations shall submit a current certificate of existence or a certificate of authority from the Texas Secretary of State.

.010. *Issuance of Pocket Card.* The board may issue a pocket card to an owner, officer, partner, or shareholder upon approval of an application.

.011. *Return of Pocket Card.* Any pocket card issued under any board rule shall be mailed or delivered to the board by the licensee within 14 days of the termination of the person to whom it was issued.

Doc No 773556

Manager to Control Business 399.18.00

The Texas Board of Private Investigators and Private Security Agencies is empowered to promulgate rules under the provisions of the Private Investigators and Private Security Agencies Act (Article 4413 (29bb), Vernon's Annotated Civil Statutes, as amended) in order to properly implement and enforce the same.

.001. *Operation Without Manager.* When a qualified manager or supervisor of a licensee has terminated his position and in the absence of the qualified manager or supervisor, the business shall be operated by a person

designated by an owner, officer, partner, or shareholder, who is listed as such in the records of the board, for a period not to exceed 60 days, providing the licensee has notified the board of the manager's or supervisor's termination as per the requirements of the act.

Doc. No. 773557

Handgun; Security Officer Commissions 399.19.00

The Texas Board of Private Investigators and Private Security Agencies is empowered to promulgate rules under the provisions of the Private Investigators and Private Security Agencies Act (Article 4413 (29bb), Vernon's Annotated Civil Statutes, as amended) in order to properly implement and enforce the same.

.001. Renewal of Security Officer Commissions. The renewal period for security officer commissions shall be the same as for the licensee's license.

.002. Authority Numbers for a Private Business. The security department of a private business requesting security officer commissions for private security officer employees shall make application to the board for an authority number on a form prescribed by the board.

(a) An authority number shall be issued by the board at no fee upon approval of an application.

(b) The authority number shall be used on all applications for security officer commissions.

(c) The authority number shall be issued for one year and may be renewed upon request at no fee. The renewal period shall be during that month preceding the month of expiration.

(d) Security officer commissions issued to employees of the security department of a private business shall expire the same date as the authority number.

(e) The renewal period for security officer commissions shall be the same as for the authority number.

(f) An authority number for the purpose of this act shall be considered a license and is subject to denial, revocation, or suspension as any other license.

.003. Requirements for Issuance of a Security Officer Commission by the Board.

(a) Applicant shall have successfully completed a board-approved 25-hour training program and be awarded a certificate of completion from a board-approved security officer training school.

(b) The employer shall submit and maintain on file with the board one color photograph of the company uniform(s) shown in full length and as worn by its commissioned security officer employees (for use as sample information only), size 8" by 10" desired, 3" by 5" minimum acceptable.

.004. Application for a Security Officer Commission. Applicant shall submit a completed application to the board for a security officer commission on a form provided by the board. To be complete, the application shall include:

(a) the required \$15 fee which is non-refundable for any cause;

(b) at least two sets of fingerprints on a card furnished by the board; no regular or 60-day temporary security officer commission shall be issued prior to classification of fingerprints and receipt of concurrence from the Texas Department of Public Safety;

(c) one color photograph affixed on the application that shows a facial likeness with the employee's name legibly printed on the back. The employer shall retain one color photograph 1" by 1" and affix to the pocket card when received from the board:

(d) a letter justifying any application which requests more than one county and those continuous thereto;

(e) a copy of the certificate of completion awarded to the employee from a board-approved security officer training school.

.005. Expedited Criminal History Check. An employer may desire to obtain a criminal history check on an employee prior to sending the employee to a board-approved training school. For this purpose follow this procedure:

(a) Complete the application and submit it to Austin with all requirements except the certificate of completion. Instructions are on all applications.

(b) Submit a \$4 fee for the criminal history check in addition to the regular \$15 filing fee. The total fee is \$19 and is non-refundable.

(c) Employers will be notified by mail as to whether or not the applicant has a criminal history that would be grounds for denial of a commission.

.006. Issuance of 45-Day Temporary Security Officer Commission. Procedure for a licensee or the security department of a private business to issue a 45-day temporary security officer commission to an employee.

(a) Obtain a supply of 45-day temporary security officer commissions from the board by paying the required fee in advance. The 45-day temporary security officer commission will have one original with two copies.

(b) Complete the employee's application for a security officer commission and attach his photograph, two sets of fingerprints, and a copy of his certificate of completion from a board-approved training program.

(c) Issue the original of the 45-day temporary security officer commission to the employee after his application has been completed.

(d) Attach a copy of the issued 45-day temporary security officer commission to the completed application for a security officer's commission.

(e) Mail the completed application to the board by registered mail, retaining the receipt as proof it was submitted. The application shall be postmarked not later than the next working day following the day in which it was issued.

(f) Retain the second copy of the issued 45-day temporary security officer commission in the employer file.

(g) No person shall be issued more than one 45-day temporary security officer commission unless the board has received concurrence from the Department of Public Safety.

(h) Should the board fail to receive concurrence from the Department of Public Safety, the employer will be notified of such and within 14 days after receiving such notice shall obtain the original of the issued 45-day temporary security officer commission and forward it to the board for cancellation.

(i) A 45-day temporary security officer commission shall be issued to original applicants only and shall not be issued to renew a commission, replace a lost commission, or to continue a commission that has expired or is about to expire.

.007. Issuance of a 60-day Temporary Security Officer Commission. The procedure for a licensee or the security department of a private business to issue a 60-day temporary security officer commission to an employee shall be that the licensee or the security department of a private business submit the employee's application for a security officer commission to the board, along with the \$15 fee and all items required by the act and board rules. Upon approval by the board of the application, a 60-day temporary security officer commission will be mailed to the licensee or the security department of a private business to be issued to the employee.

.008. Validity of a Temporary Security Officer Commission. A temporary security officer commission shall be valid provided:

(a) the applicant and employer are in compliance with the act and board rules; and

(b) the board has not notified the applicant or employer to return the temporary commission under procedures listed herein.

(1) The board may notify the employer by written notice to obtain immediately a temporary security officer commission for return to the board upon:

(A) receipt of an objection to the issuance of a security officer commission from a law enforcement agency of proper jurisdiction; or

(B) receipt of substantive information indicating the application may contain a material

misstatement or misrepresentation of qualifications; or

(C) receipt of substantive information indicating the applicant or employer are not in compliance with the act and board rules.

(2) An employer shall obtain and return to the board an issued temporary security officer commission within 14 days after receiving written notice from the board to surrender the temporary security officer commission.

(3) When a person to whom a temporary security officer commission has been issued terminates employment as a private security officer, the commission shall be surrendered immediately to the employer who shall mail or deliver it to the board within 14 days of the receipt of same, along with the letter setting forth the date the employee terminated.

.009. Issuance of a Regular Security Officer Commission by the Board. Prior to the expiration date of the temporary security officer commission, the board may issue a regular commission to an applicant, which shall be valid until its expiration date provided:

(a) the applicant and employer are in compliance with all requirements of the act and board rules;

(b) the applicant has not been terminated from employment;

(c) concurrence has been received from the Texas Department of Public Safety;

(d) no objection has been received from a law enforcement agency; and

(e) no information has been received by the board that the application may contain a material misstatement or misrepresentation of qualifications.

.010. Return of a Security Officer Commission. Security officer commissions shall be surrendered to the board within 14 days following termination, revocation, or suspension of the license or letter of authority under which it was issued, or upon notice served by the board.

.011. Verification of Information Received. Prior to or after issuance of any security officer commission, the board may require documented evidence from any appropriate person subject to the act or board rules verifying the applicant meets all security officer commission requirements. Failure to provide such evidence required by the board shall be sufficient cause for the board to deny, revoke, suspend, reprimand, or demand the surrender of any security officer commission, license, authority number, or letter of approval.

.012. Violations of the Act by Commissioned Security Officers. The following shall be considered a violation of the act if a commissioned security officer:

(a) does not perform private security officer duty for the employer under whom the commission was issued;

(b) performs commissioned security officer duties for any person(s) other than the employer under whom the commission was issued;

(c) does not affix his signature and photograph to the commission card issued by the board;

(d) does not timely surrender his commission card to his employer immediately upon termination of duties as a commissioned security officer or upon written notice served by the board;

(e) fails to timely surrender his commission upon conviction of any felony or crime of moral turpitude, or upon written notice from the board;

(f) possesses or uses any security officer commission which has been altered;

(g) defaces or allows improper use of his security officer commission;

(h) is wearing a handgun while not in a distinctive uniform;

(i) is wearing a handgun while in uniform and:

(1) is not engaged in the performance of his duties as a security officer; and/or

(2) is not traveling to and from his place of assignment.

.013. Employer Records Required on Commissioned Security Officers. The employer of a commissioned security officer shall maintain for board inspection current records on all persons issued a commission. The records shall contain:

(a) current residence of security officer;

(b) current duty assignment and location of assignment; and

(c) documented information on training required and provided.

.014. Interstate Armored Car Businesses. Armored car companies that have a permit from federal or state regulatory authority to conduct interstate armored car business may issue a temporary security officer commission to its non-Texas resident employees who occasionally perform duties of a private security officer in this state.

(a) The board may issue an authority number to an armored car company for the above purpose, on a special application form, at no fee.

(b) Temporary security officer commissions may be furnished under the authority number at no fee.

(c) Special application forms shall be filed with the board by an armored car company issued temporary security officer commissions to employees.

(d) The authority number shall be issued for each calendar year and is renewable upon request.

(e) Unused temporary security officer commissions shall be surrendered to the board at the end of each calendar year.

.015. Carrying of a Security Officer Commission. A private security officer who has been issued a security officer commission by the board shall carry it on or about his person while on duty and going to and from his place of assignment, and shall present same upon request.

Doc. No. 773558

Training Programs 399.20.00

The Texas Board of Private Investigators and Private Security Agencies is empowered to promulgate rules under the provisions of the Private Investigators and Private Security Agencies Act (Article 4413 (29bb), Vernon's Annotated Civil Statutes, as amended) in order to properly implement and enforce the same.

.001. Application for a Training Program Letter of Approval. An application for private security officer training school approval shall be on a form prescribed by the board to show proof that the applicant:

(a) has developed an adequate training program or is using the board *Private Security Officer Training Manual* as its curriculum;

(b) has adequate space, qualified instructors, and proper instructional material;

(c) has appointed a director who will be responsible for training;

(d) the letter of approval shall be valid for five years and may be renewed for a period of five years by submitting an application for renewal 30 days prior to the expiration date.

.002. Attendance, Progress, and Completion Records Required. A board-approved training school shall:

(a) issue an original certificate of completion to each qualifying student,

(b) maintain adequate records to show attendance and progress of grades of students.

.003. Certificate of Completion. A certificate of completion shall be in the form prescribed by the board and shall include:

(a) the name and approval number of the school;

(b) the date of completion;

(c) the name and signature of the director;

(d) the approval number and signature of the handgun instructor and the range qualifying date.

.004. Records Required on Director. A board-approved training school shall maintain on file with the board the name and signature of its director and shall notify the board in writing of any change in the address or telephone number of the director within 14 days after such change.

.005. Board Refusal of Certificate of Completion.

The board may refuse to accept a certificate of completion from a training school upon receipt of proof of a violation of the act or board rules involving an owner, officer, partner, shareholder, director, or instructor.

.006. Withdrawal of Training Program Approval.

The board may withdraw approval of a training school upon proof that said school has been operated in violation of Article 4413 (29bb) or board rules.

.007. Notification of Denial or Withdrawal of a Letter of Approval.

The board, upon review and consideration of an application for training program approval, shall set forth in writing the reasons for denial of approval. The applicant who is denied approval shall have the right of appeal in accordance with the act and board rules. If the applicant fails to exercise his right of appeal within 30 days after receipt of notice that the application is denied, the notice shall become final.

.008. Application for a Training Instructor Letter of Approval. Any person applying for approval as an instructor shall submit proof of qualification as required by the board. Instructors may be approved for classroom and/or handgun training. A person may apply for approval for one or both of these categories.

(a) Proof of qualifications as a classroom instructor shall include, but not be limited to, the following:

(1) an instructor's certificate issued by the Texas Commission on Law Enforcement Officer Standards and Education (TCLEOSE);

(2) an instructor's certificate issued by a federal, state, or political subdivision law enforcement academy;

(3) an instructor's certificate issued by the Texas Education Agency;

(4) an instructor's certificate relating to law enforcement, private security, or industrial security issued by a junior college, college, or university;

(5) evidence of at least five years experience as a fulltime law enforcement officer who has been certified by TCLEOSE for that five-year period;

(6) evidence of at least three years legal experience of classroom instruction of private security officers for a licensee or the security department of a private business. Evidence may include:

(A) affidavit from employer;

(B) a copy of curriculum taught.

(b) Proof of qualification as a handgun training instructor shall include, but not be limited to, the following:

(1) an instructor's certificate issued by the National Rifle Association (NRA);

(2) an instructor's certificate issued by TCLEOSE;

(3) a handgun instructor's certificate issued by a federal, state, or political subdivision law enforcement agency;

(4) evidence of at least five years experience as a fulltime law enforcement officer who has been certified by TCLEOSE for that five-year period;

(5) evidence of at least three years legal experience as a handgun training instructor of private security officers for a licensee or the security department of a private business. Evidence may include:

(A) affidavit from employer;

(B) a copy of curriculum taught.

(c) A letter of approval from the board shall be issued to each approved instructor at no charge to the applicant and shall be valid for a period of five years unless withdrawn. The instructor's approval may be renewed for a period of five years without charge upon application to the board for renewal.

(d) The board may revoke or suspend an instructor's approval or deny the application or renewal thereof upon proof that:

(1) the instructor or applicant has violated any provisions of the act or board rules;

(2) the qualifying instructor's certificate has been revoked or suspended by the issuing agency;

(3) a material false statement was made in the application; or

(4) any person who has been convicted of a felony or crime involving moral turpitude for which a full pardon has not been granted.

(e) Appeal. The applicant whose application is denied or whose approval has been withdrawn has the right to appeal in accordance with the act and board rules.

.009. Basic Training Courses.

(a) The basic training course shall consist of a minimum of 25 hours and shall include:

(1) legal limitations on the use of handguns;

(2) powers and authority of a private security officer;

(3) familiarity with the act;

(4) field note taking and report writing;

(5) range firing and procedure, handgun safety and maintenance;

(6) range qualification as required by the act.

(b) In addition to the above training, the licensee or the security department of a private business shall administer job specific training applicable to the security officer's particular assignment. The job specific training will be required as part of the curriculum. The job specific training will be a requirement of the licensee and records pertaining to job specific training are not necessary to be maintained on file at this office by this board.

(c) The training manual will be prepared by board staff and selected private security representatives.

.010. Notice of Change of Address of a Training Program. Notice shall be given in writing to the board within 14 days after a change in the address where an approved security officer training program is conducted.

.011. Notice of Change of Instructor Signature Authorization. Notice shall be given in writing to the board within 14 days if a new instructor is to be authorized to sign certificates of completion for students graduating from an approved training program.

Doc No 773559

Change of Address and New Officers 366.23.00

The Texas Board of Private Investigators and Private Security Agencies is empowered to promulgate rules under the provisions of the Private Investigators and Private Security Agencies Act (Article 4413 (29bb), Vernon's Annotated Civil Statutes, as amended) in order to properly implement and enforce the same.

.001. Owner, Officer, Partner, and Shareholder Records. A licensee shall maintain on file with the board the names of all its current owners, officers, partners, and shareholders who own 25 percent or greater interest in licensee.

.002. Filing of Owner, Officer, Partner, and Shareholder Records. All items required for owners, officers, partners, and shareholders, including information forms, photographs, fingerprints, and police and sheriff letters, shall be filed with the board.

.003. Corporation Records. A licensee owned by a corporation shall maintain on file with the board the names of its president, vice-presidents, secretary, treasurer, and any shareholder who holds 25 percent or more interest in licensee and those documents required for licensing.

.004. Partnership Records. A licensee owned by a partnership shall maintain a file with the board the names of all its partners and those photographs and documents required for licensing.

.005. Records of Change of Officers of a Corporation. When a corporation-owned licensee has a change in its officers that terminates all of the current listed officers, a certified copy of the minutes of the board shall be submitted with the application for change of officers.

Doc. No. 773560

License Not Assignable 399.24.00

The Texas Board of Private Investigators and Private Security Agencies is empowered to promulgate rules under the provisions of the Private Investigators and Private Security Agencies Act (Article 4413 (29bb), Vernon's Annotated Civil Statutes, as amended) in order to properly implement and enforce the same.

.001. Assignment of a Terminated License. A license not renewed within one year of its expiration date may be reassigned by the board to a new entity.

.002. Assignment Under Retained Ownership. The board may approve the assignment of a valid license or one that has been expired less than one year to a new entity providing one or more of the original owners retain ownership in the new entity.

.003. Assignment to Spouse or Heirs. The board may approve the assignment of a license to the spouse or heir(s) of a deceased licensee provided:

(a) a copy of the licensee's death certificate is filed with the board;

(b) ownership, insurance, and bond are legally transferred to the surviving spouse or heir(s);

(c) a manager is qualified within 90 days after the death of the licensee.

.004. Assignment Under Class. When a Class A or B license is assigned to a Class C, a fee of \$75 shall be paid to upgrade the class. When a Class C license is assigned to a Class A or Class B, there shall be no refund to the licensee.

Doc No 773561

Termination of License 399.25.00

The Texas Board of Private Investigators and Private Security Agencies is empowered to promulgate rules under the provisions of the Private Investigators and Private Security Agencies Act (Article 4413 (29bb), Vernon's Annotated Civil Statutes, as amended) in order to properly implement and enforce the same.

.001. Procedure for Termination of License. The procedure for terminating a license is as follows:

(a) submit a written request to the board to terminate the license;

(b) return the license, all issued branch office licenses, all pocket cards and commissions.

.002. No Termination Fee Required. No fee is required to terminate a license.

.003. Denial of Termination. The board may deny the termination of a license upon proof the licensee has violated the act or board rules. Notification shall be made to the licensee when a request for termination is denied.

.004. Terminated License Not to be Reinstated.
After a license has been terminated under the provisions of Section 25 of the act, it shall not be reinstated. This rule does not preclude a licensee from reapplying for a new license.

Doc. No 773562

Licensee Responsible for Conduct of Employees 399.27.00

The Texas Board of Private Investigators and Private Security Agencies is empowered to promulgate rules under the provisions of the Private Investigators and Private Security Agencies Act (Article 4413 (29bb), Vernon's Annotated Civil Statutes as amended) in order to properly implement and enforce the same.

.001. Requirements for Employees of Licensees. In the public interest and to ensure the good conduct of employees of licensees, they shall meet the requirements of Section 14(a) of the act except that they shall not be required to be 18 years of age or United States citizens except as required by other provisions of the act.

Doc No 773564

Employee Records 399.29.00

The Texas Board of Private Investigators and Private Security Agencies is empowered to promulgate rules under the provisions of the Private Investigators and Private Security Agencies Act (Article 4413 (29bb), Vernon's Annotated Civil Statutes, as amended) in order to properly implement and enforce the same.

.002. Security Employees. A licensee shall keep records of its security employees who are not registered with the board. These records shall be maintained in the principal place of business for a period of three years from the date of termination and shall be available for inspection by the board or its employees at all reasonable times.

- (a) Security employees include:
- (1) private security officers who do not carry a handgun;
 - (2) security salespersons;
 - (3) alarm installers, servicemen, and response runners.
- (b) The following records shall be maintained:

(1) one color photograph taken within six months prior to the date of employment and of a size to show likeness of employee;

(2) one set of classifiable fingerprints with complete information on a card prescribed by the board.

(3) a permanent personnel record to include:

(A) full name of employee, date of employment, position, and address;

(B) previous address for last five years;

(C) previous employers for last five years;

(D) date and place of birth;

(E) Social Security number;

(F) Texas driver's license number; and

(G) physical descriptions to contain height, weight, color of eyes, and color of hair.

.002. Other Employees. Licensees shall keep records of all non-investigative and non-security employees. These records shall be maintained in the principal place of business for a period of two years from date of termination. The following records shall be maintained:

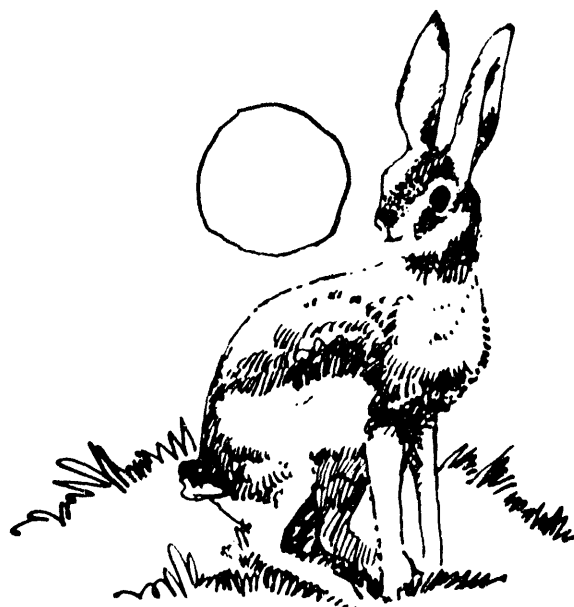
(a) full name of employee, date of employment, position, and address;

(b) Social Security number;

(c) date of termination; and

(d) date and place of birth.

Doc No 773563



Advertisements 399.30.00

The Texas Board of Private Investigators and Private Security Agencies is empowered to promulgate rules under the provisions of the Private Investigators and Private Security Agencies Act (Article 4413 (29bb), Vernon's Annotated Civil Statutes, as amended) in order to properly implement and enforce the same.

.001. *Address Shown in Advertisements.* The address shown in advertisements shall be the principal place of business or a licensee's branch office.

Doc No 773565

Branch Offices 399.31.00

The Texas Board of Private Investigators and Private Security Agencies is empowered to promulgate rules under the provisions of the Private Investigators and Private Security Agencies Act (Article 4413 (29bb), Vernon's Annotated Civil Statutes, as amended) in order to properly implement and enforce the same.

.001. *Closing of a Branch Office.* A licensee upon closing a branch office shall mail or deliver the current license certificate or continuation certificate to the board along with the pocket card issued to the branch office manager, if any.

Doc No 773566

Registration of Employees or Private Investigators 399.32.00

The Texas Board of Private Investigators and Private Security Agencies is empowered to promulgate rules under the provisions of the Private Investigators and Private Security Agencies Act (Article 4413 (29bb), Vernon's Annotated Civil Statutes as amended) in order to properly implement and enforce the same.

.001. *Definition of "Employee."* For the purpose of registering employees with the board, the term "employee" shall mean a *bona fide* employee and not an independent contractor engaged by the licensee to perform services for which a license would be required.

Doc No 773567

Expiration Dates of Licenses; Proration of Fees 399.46.00

The Texas Board of Private Investigators and Private Security Agencies is empowered to promulgate rules

under the provisions of the Private Investigators and Private Security Agencies Act (Article 4413 (29bb), Vernon's Annotated Civil Statutes, as amended) in order to properly implement and enforce the same.

.001. *Original Fees Not Prorated.* Original fees shall not be prorated. The full license fee shall accompany all applications for original licenses.

.002. *Change of Expiration Date of License.* A licensee desiring to change the expiration date of his license may make such a request to the board during the renewal period.

(a) The expiration date desired shall be the last day of any of the 12 months in a calendar year.

(b) The renewal fee shall be prorated on a monthly basis.

(c) Original and renewal registration and security officer commission fees shall not be prorated.

Issued in Austin, Texas, on July 18, 1977.

Doc No 773568

Clema D. Sanders
Executive Director
Texas Board of Private
Investigators and Private
Security Agencies

Proposed Date of Adoption August 25, 1977

For further information, please call (512) 475-3944



State Department of Public Welfare

Commodity Program

Support Documents 326.18.99

The Department of Public Welfare proposes the following rule about the Special Milk Program. This program is presently administered by the United States Department of Agriculture (USDA). USDA has transferred

the responsibility for the administration of the Special Milk Program to the state, and the Office of the Governor has designated the Department of Public Welfare as the state agency responsible for the administration of this 100 percent federally funded program.

The Special Milk Program makes it possible for children attending schools or nonprofit child-caring institutions to purchase milk at a reduced price or, if they are needy, to receive it free. This program provides cash assistance to the participating institutions to help defray the cost of milk. Schools and institutions which participate in other federal-state child nutrition programs may also participate in the Special Milk Program. Also, the milk program is especially helpful to those schools which have no other meal service.

The following rule adopts by reference the rules in the federal regulations about the Special Milk Program. Included in the regulations are requirements for participation, reimbursement payments, reimbursement procedures, claims against schools or child-care institutions, and miscellaneous provisions.

Written comments are invited and may be sent to Susan Johnson, Administrator, Systems and Procedures Bureau, 412, Department of Public Welfare, John H. Reagan Building, Austin, Texas 78701, within 30 days of publication in this *Register*.

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

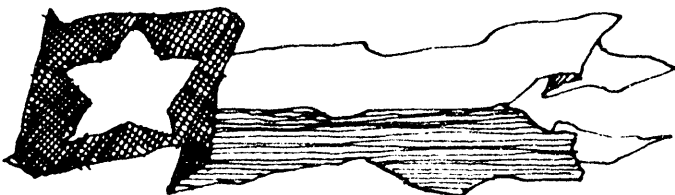
.003. Special Milk Program Regulations. The Department of Public Welfare adopts by reference the Special Milk Program rules contained in Title 7, Code of Federal Regulations, part 215 as amended by *Federal Register* Documents Number 76-21579, pages 31172-31178 of Volume 41, Number 145.

Issued in Austin, Texas, on July 15, 1977.

Doc No 773496 Raymond W. Vowell
Commissioner
State Department of Public
Welfare

Proposed Date of Adoption August 14 1977

For further information please call (512) 475-4601



Railroad Commission of Texas

Transportation Division

Tariffs and Schedules 051.03.08

The Railroad Commission of Texas is proposing to amend Regulation 051.03.08.006, which prescribes the requirements relating to the obtaining of weights to be used in assessing freight charges on truckload shipments.

The proposed amendment would add a third exception to Section (b)(3) by providing that carriers operating under Sand and Gravel Motor Carriers Association, Inc., Motor Freight Commodity Tariff No. 2 Series and transporting shipments in bobtail trucks for a distance of 25 miles or less from point of origin to destination shall weigh such shipments at the point of origin if practical to do so; otherwise, at destination or at a point within one mile of the most direct route available for truck travel between point of origin and destination, if scales are available. Section (a), Section (b)(1) and (2), and Sections (c)-(h) are unchanged by this amendment.

Public comment on the proposed amendment to Regulation 051.03.08.006 is invited. Comments may be submitted in writing to James H. Cowden, Director, Transportation Division, Railroad Commission of Texas, P.O. Drawer 12967, Capitol Station, Austin, Texas 78711. Comments will be accepted until August 17, 1977.

This regulation is proposed under the authority of Section 4(a) of Article 911b, Texas Civil Statutes.

.006. Weights to be Used in Assessing Freight Charges.

(b)(3).

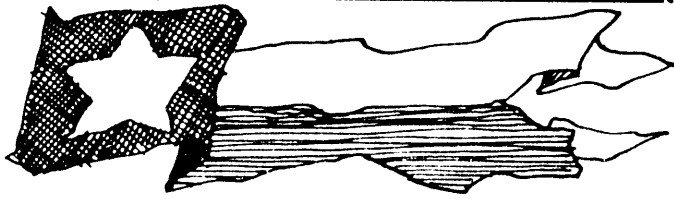
Exception (3): Carriers operating under Sand and Gravel Motor Carriers Association, Inc., Motor Freight Commodity Tariff No. 2 Series and transporting shipments in bobtail trucks for a distance of 25 miles or less from a point of origin to destination shall weigh such shipments at the point of origin if practical to do so; otherwise, at destination or at a point within one mile of the most direct route available for truck travel between point of origin and destination, if scales are available.

Issued in Austin, Texas, on July 15, 1977.

Doc No 773588 James H. Cowden, Director
Transportation Division
Railroad Commission of Texas

Proposed Date of Adoption August 25 1977

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



Gas Utilities Division

Substantive Rules 051.04.03

The Gas Utilities Division of the Railroad Commission of Texas is proposing to adopt Rule 051.04.03.026. This rule is proposed to establish a procedure for the inclusion of certain sums committed to Construction Work in Progress in the rate base of a gas utility for rate determination purposes.

Public comment on proposed Rule 051.04.03.026 is invited. Persons should submit their comments in writing to Joseph J. Piotrowski, Jr., Acting Director, Gas Utilities Division, Railroad Commission of Texas, Capitol Station, P.O. Drawer 12967, Austin, Texas 78711. Comments will be accepted until August 17, 1977.

This rule is proposed pursuant to Article 1446c, Sections 19(b) and 41(c)(3) (Supplement 1976); and Articles 6053 and 6058 (1962), Texas Revised Civil Statutes Annotated.

.026. *Construction Work in Progress.*

(a) In all rate proceedings, the examiner shall base his recommendations on funds committed to construction work in progress on the following standards:

(b) For the purpose of this rule:

(1) "Construction Work in Progress" (CWIP) represents funds expended by a gas utility which are irrevocably committed to construction projects not yet completed or placed into service.

(2) The rate base shall include only amounts for projects with completion dates within two years after the end of the test year. The rate base amount shall be the test year average monthly CWIP adjusted from midyear to year-end by the average monthly growth rate.

(c) Except as limited in (d) below, an amount computed in accordance with (a)(2) may be included in the rate base where necessary to the financial integrity of the utility.

(d) Long-term projects with completion dates in excess of two years after the end of the test year shall not be included in the rate base. The construction cost of these projects, together with interest on funds used during construction, may be added to the rate base upon completion, or in a future rate proceeding if the project at that time meets the criteria of (a)(2).

Doc No 773606

051.04.03.027

The Gas Utilities Division of the Railroad Commission of Texas, by authority of Section 37 (Supplement 1976), Article 1446c, and Section 4, Article 6252-13a, Texas Revised Civil Statutes Annotated, proposes to adopt Rule 051.04.03.027, which provides that interest of six percent per annum shall be allowed on deferred funds collected by relating commission orders back to some point after commission jurisdiction attached.

Public comment on proposed Rule 051.04.03.027 is invited. Persons should submit their comments in writing to Joseph J. Piotrowski, Jr., Acting Director, Gas Utilities Division, Railroad Commission of Texas, Capitol Station, P.O. Box 12967, Austin, Texas 78711. Comments will be accepted 30 days after publication in the *Texas Register*.

.027. *Interest on Deferred Funds.* The commission may provide that an order in a rate proceeding be effective from some date after commission jurisdiction has attached. Interest in six percent per annum shall be allowed on an amount equivalent to the amount of funds that would have been so collected or paid from the effective date of the order to the date of issuance of the order.

Doc No 773607

051.04.03.028

The Gas Utilities Division of the Railroad Commission of Texas, by authority of Section 34 (Supplement 1976), Article 1446c and Article 6252-5a (Supplement 1976), Texas Revised Civil Statutes Annotated, proposes to adopt Rule 051.04.03.028, which provides that the selling price for natural gas charged by a utility which is engaged in the transmission of natural gas shall be adjusted for a reduction in BTU content caused by the extraction of hydrocarbon liquids, and that the price shall be adjusted to reflect the BTU content actually delivered to the burner tip customer.

Comments by any interested person will be considered at a public hearing which has been scheduled for September 6, 1977, at 9 a.m. in Room 812 of the E. O. Thompson Building, 10th and Colorado Streets, Austin.

.028. *BTU Content Adjustment.* The selling price for natural gas which is to be charged by any utility which is subject to the original jurisdiction of the Railroad Commission of Texas, and is engaged in the transmission of natural gas for sale or resale to any distribution or transmission company over which the Railroad Commission of Texas has either original or appellate jurisdiction shall be adjusted to reflect any reduction in the heating capacity of the natural gas. For purposes of computing the selling price only, the purchase price of the natural gas shall be reduced by an amount which is

equal to the actual purchase price multiplied times the percentage of reduction of British Thermal Units (BTU) per cubic foot between the time of purchase and time of sale.

Further, the selling price shall be adjusted by a percentage which is equal to the variation in percentage of BTU's per cubic foot over or below 1000 BTU's per cubic foot.

The BTU adjustment for each month or billing period is to be calculated according to the method outlined above. This adjustment will be included in the determination of the weighted average cost of gas to be used in calculating the selling price for the following month or billing period.

The utilities affected by this rule shall file with the director of the Gas Utilities Division of the Railroad Commission of Texas an annual statement detailing the weighted average cost of gas and the average BTU content per cubic foot for gas purchased and gas sold for each month of the preceding year. Upon request, any city, municipality, or other governmental entity whose citizens are served by a natural gas distribution system which purchases natural gas from any such utility must be supplied with a copy of the annual statement which is filed with the Railroad Commission of Texas.

This rule is to operate prospectively only, and will become effective for any given utility only in conjunction with a new gate which will be determined after a public hearing on the matter has been conducted.

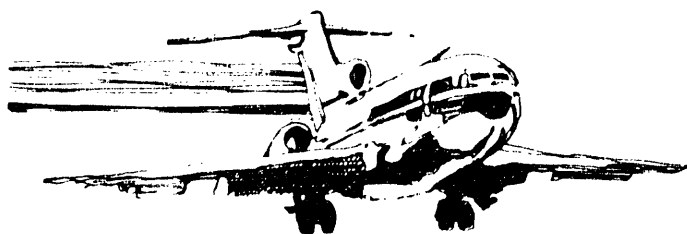
In making a proposal for decision in any case involving a gate rate which is to be set after this rule becomes effective the examiner shall consider the effects of the adjustments set out above in making a determination concerning the proper gate rate.

Issued in Austin, Texas, on July 18, 1977.

Doc No 773608 Joseph J Piotrowski, Jr.
Acting Director
Railroad Commission of Texas

Proposed Date of Adoption August 25 1977

For further information please call (512) 475-2747



Office of the Secretary of State

Elections

Proposed Repeals

The Office of the Secretary of State is proposing the repeal of various rules which pertain to specific elections which have now passed. Because of the length of these rules and because of their dated subjects, the texts will not be published in the *Register*. Copies of the rules may be examined in the Office of the Texas Register, Suite 550, Texas Commodore Building, 8th and Brazos, Austin, or in the Office of Elections Division, Suite 1000, Texas Commodore Building.

Public comment on the proposed repeal is invited. Comments may be submitted by telephoning the Elections Division at (512) 475-3091 or (800) 252-9602, or by writing to P.O. Box 12887, Capitol Station, Austin, Texas 78711.

The repeal of the following rules is proposed under the authority of Article 1.03 of the Texas Election Code.

The rules proposed for repeal are:

004.30.01.202 Use of Interpreters in all Appropriate Polling Places for the November 4, 1975, Constitutional Revision Election

004.30.05.309 Requirements of Federal Voting Rights Act as Amended for the November 5, 1975, Mailing of Voter Registration Application Form

004.30.06.101 Certified List of Candidates for State and District Offices for the General Election, November 7, 1972

004.30.06.102 Sample Ballot for Constitutional Amendment Election, November 6, 1973

004.30.06.103 Order of Offices on General Election Ballot for November 3, 1974

004.30.06.104 Constitutional Amendments Election, April 22, 1975

004.30.06.105 Constitutional Amendment Election Held on April 22, 1975

004.30.08.101 Returns for November 7, 1972, Election

004.30.08.102 County Returns for Constitutional Amendment Election of November 6, 1973

004.30.08.104 Election Returns for November 5, 1974, General Election

004.30.08.110 Use of Interpreters in all Appropriate Polling Places for the November 4, 1975, Constitutional Revision Election

004.30.13.101 Primary Filing Fee for 1972 Primary

004.30.13.103 Primary Election Expenses and Duties for 1972 Primary

004.30.13.104 The Maximum Number of Election Clerks Who May Be Compensated for Their Services at a Polling Place for the May 6, 1972, Primary Election

004.30.13.107 Report of Actual Costs for 1974 General Primary and Run-Off Primary

004.30.13.110 Primary Election Expense Estimate for Run-Off Primary to be Held on June 1, 1974

004.30.13.111 Primary Election Expense Estimate for Special Primary to be Held in Jim Hogg County

004.30.13.116 Nominating Petition to Elect Presidential Candidate's Delegates at the Primary Election to be Held on Saturday, May 1, 1976

004.30.13.117 Nominating Petition to Elect Presidential Candidate's Delegates at the Primary Election to be Held on Saturday, May 1, 1976 (in Spanish)

004.30.13.120 Uncommitted Individual Delegate Application

004.30.13.121 Delegate Nominee Consent

004.30.14.106 Schedule for Reporting Campaign Contributions and Expenditures for 1974 Primary and General Elections

004.30.14.107 Schedule for Reporting Campaign Contributions and Expenditures for the 1974 Primary and General Elections

004.30.14.108 Amended Schedule for Reporting Campaign Contributions and Expenditures for 1974 Primary and General Election

004.30.14.205 Political Funds Reporting and Disclosure Act of 1975 Directive (Pursuant to HB 4, 64th Legislature, 1975)

004.30.14.511 Use of Campaign Materials in 1974 Elections (Political Advertising)

004.30.14.528 The Requirements of the Campaign Reporting and Disclosure Act of 1973 to Candidates for the Special Elections to be Held in Harris County on January 11, 1975

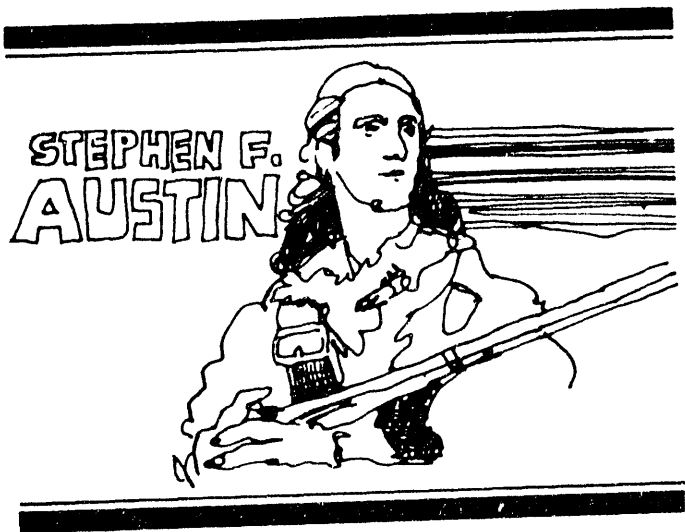
004.30.14.531 Status of Sale of Commemorative Editions of the 1975 Texas Inaugural Magazine for \$10 a Copy at the Victory Dinner Sponsored by the Texas Democratic Party to Honor the State's Newly Elected Officials on the Evening of January 20, 1975

Issued in Austin, Texas, on June 2, 1977.

Doc No 773415- Mark White
773420 Secretary of State

Proposed Date of Adoption August 25, 1977

For further information please call (512) 475-3091



State Securities Board

Terminology 065.04.00

The State Securities Board proposes to amend Rule 065.04.00.002. The first amendment concerns the definition of "investment adviser," found at paragraph 12. The proposed amendment replaces the term "fee" with the broader term "compensation" and places savings and loans on a parity with banks in their treatment as investment advisers. The amendment excludes professional geologists and engineers from the definition of investment adviser. The amendment also deletes the provision exempting from that definition dealers who receive no special compensation for advice, as a registered dealer is not required by the Securities Act to be registered as an investment adviser to render investment advice for a fee.

The second amendment would define "days," found at paragraph 29, to mean ordinary business days for the purpose of the filing periods for certain documents with the Securities Board.

Cosmetic amendments to Sections 1, 2, 10, and 23 refer to the appropriate sections of Vernon's Annotated Texas Statutes.

Public comment on the proposed amendments to Rule 065.04.00.002 is invited. Written comments may be submitted to Lee Polson, State Securities Board, P.O. Box 13167, Capitol Station, Austin, Texas 78711.

The following amendment is proposed under the authority of Sections 4.C and 28-1, Article 581, Vernon's Annotated Texas Statutes, and Article 6252-13a, Vernon's Annotated Texas Statutes.

.002. *Definitions.* The following terms shall have the following respective meanings unless the context otherwise indicates:

(a) "Act" or "Securities Act" or "Texas Securities Act" is the Securities Act, Article 581, *et seq.*, Vernon's Texas Civil Statutes, *as amended* [(Chapter 269, Acts of the 55th Legislature, Regular Session, 1957, as amended)].

(b) "APA" or "Administrative Procedure Act" is the Administrative Procedure and Texas Register Act, *Article 6252-13a, Vernon's Annotated Texas Statutes, as amended* [(SB 41, Acts of the 64th Legislature, 1975)].

(j) "Credit union": for definition see the Texas Credit Union Act (Article 2461-1, *et seq.*, Vernon's Texas Civil Statutes, as amended [by SB 940, Acts of the 64th Legislature, 1975]) which regulates such credit unions.

(l) "Investment Adviser" means every person or company who for *compensation* [a fee] engages in this state in the business of advising the public, either directly or through publications or writing, as to the value of securities or as to the advisability of investing in, purchasing, or selling securities, or who for compensation and as a part of a regular business, issues or promulgates analyses or reports concerning securities. However, this interpretation is deemed not to apply to: (1) state or national banks in the conduct of their normal banking functions *or state or federally chartered savings and loan institutions in the conduct of their normal functions*; (2) any lawyer, [or] accountant, *engineer, or geologist*, whose performance of such practices is solely incidental to the practice of his profession; (3) [any broker or dealer whose performance of such services is solely incidental to the conduct of his business as a broker or dealer who receives no special compensation therefor; (4)] the publisher of any bona fide newspaper, news magazine, or business and financial publication of general and regular circulation, except such publications a principal purpose of which is to recommend the purchase and sale of specific securities issues.

(w) "Savings and loan association": for definition see the Texas Savings and Loan Act (Article 652a, Vernon's Texas Civil Statutes, as amended [by S.B. 241,

Acts of the 64th Legislature, 1975]) which regulates such savings and loan associations.

(cc) "Days": *for the purposes of Section 5.1(C) of the act, "days" means ordinary business days and does not include Saturdays, Sundays, or state holidays. For the purpose of determining when the information required by Section 5.1(C) has been "on file" for five days, the counting period begins on the day when the last exhibit or piece of information required by 5.1(C) is received by the commissioner.*

Doc No 773499

Transactions Exempt from Registration 065.05.00

The State Securities Board proposes to add Rule 065.05.00.018, concerning exempt sales of certain interests in oil, gas, and mineral leases. Currently, Rule .018 is reserved, as there is no specific administrative rule concerning the exemption of Section 5.Q of the Securities Act for "private" sale of these interests. The proposed rule will clarify that employees of mineral lease owners may aid in sale of oil, gas, and mineral lease interests without being licensed as securities dealers or salesmen in certain limited instances.

Public comment on the proposed amendment is invited. Written comments should be mailed to Lee Polson, State Securities Board, P. O. Box 13167, Capitol Station, Austin, Texas 78711.

The following amendment to Rule 065.06.00.018 is proposed under the authority of Sections 5.Q and 28-1, Article 581, Vernon's Annotated Texas Statutes, and Article 6252-13a, Vernon's Annotated Texas Statutes.

.018. *Oil and Gas Interests* For the purposes of Section 5.Q, an employee of the owner of an oil, gas, or mineral lease, fee, or title may aid such owner/employer in selling interests in such lease, fee, or title and will not be considered an agent required to be licensed under the act provided all the following conditions are satisfied:

(a) the employee was not hired for the purpose of offering or selling such securities;

(b) the employee's activity involving the offer and sale of such securities is strictly incidental to his *bona fide* primary non-securities related work duties; and

(c) the employee's compensation is based solely on the performance of such other duties, i.e., the employee does not receive any compensation for offering for sale, selling, or otherwise aiding in the sale of securities.

Doc No 773500

Securities Exempt from Registration
065.06.00

The State Securities Board proposes to adopt an amendment to Rule 065.06.00.006, whose title will be changed from "approved stock exchanges" to "listed securities". The amendment clarifies language in Section 6.F of the Securities Act to reflect that "fully listed" securities on an exchange include securities approved for listing upon future issuance.

Public comment on the proposed amendment is invited. Written comments may be mailed to Lee Polson, State Securities Board, P.O. Box 13167, Capitol Station, Austin, Texas 78711.

The following amendment to Rule 065.06.00.006 is proposed under the authority of Sections 6.F and 28-1, Article 581, Vernon's Annotated Texas Statutes, and Article 6252-13a, Vernon's Annotated Texas Statutes.

.006. Listed Securities [Approved Stock Exchanges].

(a) *As used in Section 6.F of the act, "fully listed" includes any security listed or approved for listing upon notice of issuance on an exchange specified in Section 6.F or subsection (b) of this rule.*

(b) The commissioner has approved the following exchanges, by written order, as satisfying the requirements of Section 6.F eligibility:

- (1) Pacific Stock Exchange;
- (2) Chicago Board Options Exchange.

Doc No 773501

Dealers and Salesmen
065.08.00.003

The State Securities Board proposes to amend Rule 065.08.00.003. The amendment would clarify in Section 3(c)(4) that a person licensed as a salesman under the Real Estate Act is exempt from the "General Law" portion of the examination requirement when applying for a dealer license under the Securities Act.

Public comment on the proposed amendment is invited, and written comments may be mailed to Lee Polson, P.O. Box 13167, Capitol Station, Austin, Texas 78711.

The following amendment is proposed under the authority of Sections 13.D and 28-1, Article 581, Vernon's Annotated Texas Statutes, and Article 6252-13a, Vernon's Annotated Texas Statutes.

.003. Examination.

(c) Exemptions.

(3) A partial waiver of the examination requirements of Section 13.D is granted by the board for the following classes of persons:

(d) Any person seeking registration as a securities dealer exclusively in real estate syndication interests and/or condominium securities, *provided such person if he is applying as a dealer is licensed at the time of his application as a broker under the Real Estate License Act of Texas, or if such person is applying as a salesman is licensed at the time of his application as a salesman or broker under the Real Estate License Act of Texas* [provided such person at the time of his application is licensed as a broker or salesman under the real estate license act of Texas]. Such person is not required to take the general securities portion of the examination prescribed by Section 13.D, but is required to pass an examination on the Texas Securities Act.

Doc No 773502

065.08.00.004

The State Securities Board proposes to amend Rule 065.08.00.004, concerning licenses issued to dealers and salesmen. The changes are necessary due to amendments to the Securities Act made by House Bill 1158, Acts of the 65th Legislature, effective August 29, 1977.

The first amendment changes Section 1 of the rule to reflect that separate licenses will be sent to each branch office of a dealer, rather than sending a duplicate of the home office license. Section 2 would be amended to reflect that the \$1 charge for license amendments will be \$5. Erroneous surplus language will be deleted from Section 3. Changes to improve clarity are made to Sections 1, 2, 3, 4, and 6.

Comments on the proposed amendments to Rule 065.08.00.004 are invited. Written comments should be submitted to Lee Polson, P.O. Box 13167, Capitol Station, Austin, Texas 78711.

The following amendments are proposed by authority of Sections 28-1 and 35, Article 1158, Vernon's Annotated Texas Statutes (as amended by House Bill 1158, Acts of the 65th Legislature, effective August 29, 1977), and Article 6252-13, Vernon's Annotated Texas Statutes.

.004. Licenses.

(a) *Issuance.* Dealers are issued, *after payment of the appropriate fee*, a license certificate in the firm name with each registered officer listed on the license.

In addition, a license is issued for each branch office. The fee is \$5 for each branch office license. [A duplicate license is issued for each branch office.] Each salesman of a dealer, **after payment of the appropriate fee**, is issued a license in **the name of the salesman**, [his name], reflecting the name and address of **the dealer** [his employer] and **the** [his] residence address of **the salesman**. The salesman license certificate is retained by the dealer and the **dealer gives the** salesman [should be given] the identification slip.

(b) **Amendments.** Any change in any of the information reflected on a license certificate **must** [should] be submitted to the commissioner, along with a **\$5** [\$1] amendment fee **per license certificate**, so that an amended license certificate may be issued. Upon receipt of the amended certificate, the dealer **must** [is requested to] surrender the original to the commissioner.

(c) **Transfer.** A salesman who is [currently] registered in Texas may [effect] transfer [of] his registration to **another registered dealer** [a new firm]. The transfer application, along with a **\$5 fee**, **must** [the appropriate fee should] be filed in duplicate with the salesman's current identification slip attached. If **the identification slip** [this item] has been lost or destroyed, or if it is in the possession of the former employer, a notarized statement setting forth such fact will be accepted. The application must be signed by the salesman, and it must be properly notarized. [The fee is \$5 from January 1st through June 30th of each year, and \$2.50 thereafter.]

(d) **Termination.** Upon termination of a **registered salesman** [an employee], the securities dealer **must** [is requested to] surrender the **salesman's** [appropriate] license to the commissioner for cancellation. **Upon receipt of notice from a registered dealer to cancel the registration of a registered salesman**, [Thereafter,] the **salesman's** [salesman] **license will be cancelled, and such salesman** is not eligible to transfer his registration. **After cancellation the registered** [new] **dealer seeking to register said salesman** must submit **an original** [a new] salesman's application.

(f) **Classifications.** Securities licenses are classified as follows:

- (1) General securities dealer-- **fee, \$35 for original or renewal;**
- (2) Individual dealer-- **fee, \$35 for original or renewal;**
- (3) Issuer dealer-- **fee, \$35 for original or renewal;**
- (4) Dealer in oil and gas interests-- **fee, \$35 for original or renewal;**
- (5) Restricted bond dealer-- **fee, \$35 for original or renewal;**

(6) Restricted real estate securities dealer-- **fee, \$35 for original or renewal;**

(7) Investment adviser-- **fee, \$35 for original or renewal of dealer/investment adviser and \$15 for original or renewal of a salesman/investment adviser;**

(8) Salesman-- **fee, \$15 for original or renewal.**

Doc No 773503

Administrative Guidelines for Registration of Oil and Gas Drilling Programs 065.11.00

The State Securities Board proposes to amend Rules 065.11.00.002 - .004, concerning guidelines for registration of oil and gas drilling programs, to conform to the requirements of the recent amendments to the guidelines of the North American Securities Administrators Association, which were adopted by that association on September 22, 1976. Four amendments to the guidelines of the Securities Board are proposed:

- (1) maximum compensation to program sponsors is raised to 15 percent;
- (2) minimum purchase unit for income (but not drilling) programs is reduced to \$2,500
- (3) minimum amount of subscriptions to a program is increased to \$500,000, and preliminary escrow of funds is required; and
- (4) Provisions for repurchase of specified amounts of program interests each year have been eliminated.

Comments on the proposed amendments are invited. Written comments should be mailed to Lee Polson, State Securities Board, P.O. Box 13167, Capitol Station, Austin, Texas 78711.

The following amendments to Rules 065.11.00.002-.004 are proposed under the authority of Sections 7, 9, 10, and 28-1, Article 581, Vernons Annotated Texas Statutes, and Article 6252-13a, Vernon's Annotated Texas Statutes.

.002. Plan of Business

(d) Compensation. A maximum of **15 percent** [12-1/2 percent] of the dollar amount of cash receipts to the program from a public offering is allowable to the program sponsor for organizational and offering expenses out of which must be paid any "management fees" for the first year of operation. Overhead and administrative expenses, fully audited, may be chargeable to the program and must be reasonable. If per well charges are made or contemplated, overhead and administrative charges must be reduced accordingly.

Compensation to the sponsor (and its affiliates) of a program is limited as follows: The participation in program revenues by the sponsor and any affiliate shall be reasonable, taking into account all relevant factors. Sponsors' retained interests may be considered reasonable if they meet the standards set forth in paragraphs (1) through (6) below. Any other combinations of fees, overriding royalty interests, and working or net profits interests, which are generally accepted as reasonable in the industry and are justified, in light of the entire offering, may be considered reasonable by the commissioner.

003 Plan of Distribution.

(a) **Minimum unit.** *For a drilling program, the minimum purchase shall not be less than \$5,000 and the initial investment by a participant not less than \$5,000. For an income or production purchase program, the minimum purchase shall not be less than \$2,500 and the initial investment not less than \$2,500. All of the aforesaid minimums must be paid within 12 months from the date the program commences. Assignability of the unit must be limited so that no assignee (transferee) or assignor (transferor) may hold less than the prescribed minimums except by gift, devise, descent, or other operation of law.* [The minimum purchase of a program may not be less than \$5,000 and the initial investment by a participant shall be no less than \$5,000, all of which must be paid within 12 months from the date the program commences. Assignability of the unit must be limited so that no assignee (transferee) or assignor (transferor) may hold less than a \$5,000 interest except by gifts or by operation of law.]

004 Prospectus and its Contents.

(d) **Maximum and minimum.** The prospectus shall indicate the maximum amount of subscriptions to be sought from the public and the minimum amount of subscriptions necessary to activate the program. The minimum amount of funds to activate the program shall be sufficient to accomplish the objectives of the program, including "spreading the risk," and shall be set out in the prospectus. Any minimum less than **\$500,000** [\$250,000] will be presumed to be inadequate to spread the risk of the public investors. Provision must be made for the return to public investors of 100 percent of paid subscriptions in the event that the established minimum to activate the program is not reached. *All funds received prior to activation of the program must be deposited with an independent custodian, trustee, or escrow agent whose name and address shall be disclosed in the prospectus.*

(6) **Repurchase of participations.** *No representation shall be made that program interests are readily marketable. If any provision is made for the repurchase of program interests by the sponsor or*

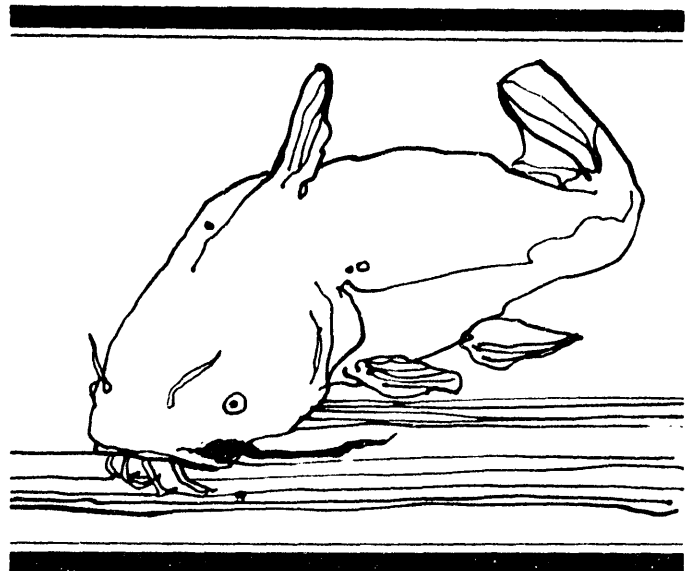
an affiliate, the offer must be made to all participants. Valuation of the interests shall be determined by independent petroleum engineers and interest holders may tender their interests for repurchase within 30 days following the valuation date. If the tender is for cash, payment must be made within 30 days of a satisfactory tender. If the interests tendered exceed the maximum dollar amount which the sponsor or affiliate desire to repurchase, those interests which are repurchased must be selected by lot. [No representations shall be made that program interests are readily marketable. If any provision is made for the repurchase of program interests, the program sponsor or affiliate shall be unconditionally obligated to repurchase a specified dollar amount of such interests each 12-month period in cash under a fully disclosed formula, which amount must be material. Valuation of the interests shall be determined by independent petroleum engineers annually on a specified date and interest holders may tender their interests for repurchase within 30 days following the valuation date. If the interests tendered exceed the maximum dollar amount which the sponsor or affiliate is obligated to repurchase in a 12-month period, those interests which are repurchased must be selected by lot.]

Issued in Austin, Texas, on July 15, 1977.

Doc No 773504 Richard D Latham
 Securities Commissioner
 State Securities Board

Proposed Date of Adoption August 25 1977

For further information please call (512) 475-4561



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 category of rules to which the rule belongs. The third unit (two digits) indicates the subcategory of rules, if any, within the category. The fourth unit (three digits) indicates the individual rule.

Texas Education Agency

School Districts

Mineral Leases by School Districts 226.23.12

The Texas Education Agency has adopted Rules 226.23.12.001, .010-.020, concerning the terms of mineral leases executed by the school districts of the State of Texas and establishing procedures for obtaining the approval of the Commissioner of Education where required. These rules would establish uniform guidelines for the terms to be incorporated into oil, gas, and sulphur leases and leases for coal and lignite.

Public review and discussion of the proposed rules were held. They were adopted with no change from the text proposed.

These rules are promulgated under the authority of Sections 11.24(b) and 23.29, Texas Education Code, and Article 5421(p), Vernon's Texas Civil Statutes.

.001. Policy. The Commissioner of Education shall approve mineral leases for certain school districts in accordance with Section 23.29, Texas Education Code, and Article 5421(p), Vernon's Texas Civil Statutes.

.010. Common School Districts. Mineral leases executed by common school districts and rural high school districts classified as common shall be in accordance with Section 22.10(b), Texas Education Code, and Article 5421(p), Vernon's Texas Civil Statutes. The right to lease rests with the board of trustees subject to the approval of the county school trustees or county board of education having jurisdiction over the district. Approval of such leases by the Commissioner of Education is not required.

.020. Independent School Districts. Mineral leases executed by independent school districts shall be in accordance with Section 23.29, Texas Education Code, Article 5421(p), Vernon's Texas Civil Statutes, and these rules. Approval of such leases by the Commissioner of Education is required and shall be granted upon satisfactory compliance by the district with the following conditions and procedures:

(a) General requirements.

(1) **Competitive bidding.** The board of trustees shall give notice of its intention to lease any lands owned by the district by publishing a notice in some newspaper published and having a general circulation in the county where the lands are situated once a week for a period of three consecutive weeks, describing the lands to be leased and designating the time and place after such publication where the board shall receive and consider bids for such mineral leases as the board may determine to make. On the date specified in said notice, the board shall receive and consider any and all bids submitted for the leasing of said lands or any portions thereof which are advertised for leasing and in the discretion of the board shall award each lease to the highest and best bidder submitting a bid therefor, provided that, if in the judgment of the board, the bids submitted do not represent a fair value of any such lease, the board may reject the same and again give notice and call for additional bids, but no lease shall in any event be made except upon public hearing and consideration of said bids and after the notice as herein provided unless granted by public action as provided in paragraph (2) below.

(2) **Public auction.** In the alternative to competitive bidding as specified in paragraph (1) above, the board of trustees may grant mineral leases by public auction.

(3) **Board resolution.** All leases shall be authorized by resolution of the board of trustees, which resolution shall contain a legal description of the land leased and shall specify the number of acres of land involved and the consideration or terms under which the land is being leased. A copy of the resolution shall be attached to the lease and made a part thereof.

(4) **Execution of lease.** All leases shall be executed by the board of trustees, acting through its president.

(b) **Oil, gas, and sulphur leases.** In addition to the general requirements of (a) above, the following rules shall apply to all leases for oil, gas, or sulphur:

(1) **Royalty retained.** The district as lessor shall retain at least one-eighth royalty on oil and gas. If sulphur is leased, the royalty retained shall not be less than \$2 per long ton.

(2) **Pooling clause.** In leases of land consisting of less than 40 acres, the lease shall contain a pooling clause.

(c) Coal and lignite leases. In addition to the general requirements of (a) above, the following rules shall apply to all leases for coal and lignite:

(1) Royalty retained. No lease for coal and lignite may be executed unless the district as lessor retains at least a royalty based on one of the following or a combination of the following:

(A) a sum certain per ton;

(B) a percentage certain of the gross sale price F.O.B. at the mine site of the coal and lignite; or

(C) a sum certain for each acre-foot of coal and lignite mined and removed from the premises.

Royalties paid under this paragraph may be paid as advanced mineral royalties.

(2) Maximum term. No lease for coal and lignite may be for a primary term of more than 35 years from the date of execution.

(d) Applications for approval. Mineral leases executed by independent school districts shall be submitted for approval by the Commissioner of Education in accordance with the following procedure:

(1) When a mineral lease has been fully executed by all parties thereto, the president of the board of trustees shall request approval of the same by letter to the Commissioner of Education, 201 East 11th Street, Austin, Texas 78701, enclosing the original and one copy of the lease with attached copies of the board resolution authorizing the lease. The request letter should state whether the lease was awarded as a result of competitive bidding or granted by a public auction and should contain sufficient information for the commissioner to determine whether the bidding or auction requirements of these rules have been met

(2) The commissioner shall review the request letter and enclosed materials upon receipt and shall determine whether the lease is in compliance with these rules.

(A) If the commissioner determines that the lease is in compliance with these rules, he shall attach his notarized signature of approval to the original of the lease and shall return the original to the district, retaining the request letter, one copy of the lease, and any other supporting materials for agency files.

(B) If the commissioner determines that the lease is not in compliance with these rules, he shall return all copies of the lease to the district with a letter specifying the corrective action the district should take to obtain approval of the lease.

(C) Corrected leases may be re-submitted for approval as provided in paragraph (1) above, in which case the commissioner shall likewise make the determinations and take the actions as herein provided for original submissions.

Pupil Services

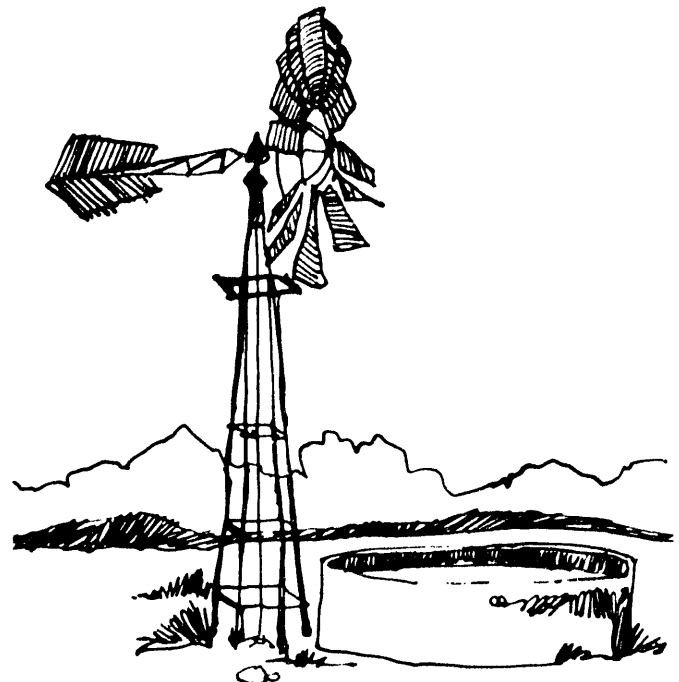
Adoptions by Reference: General 226.34.90

The Texas Education Agency has amended Rule 226.34.90.020, the permanent adoption by reference of the *Revised School Bus Driver's Driving Record Evaluation*. The rule is adopted with no change from the text proposed.

This rule is promulgated under the authority of Sections 16.201-16.212, Texas Education Code.

.020. *Revised School Bus Driver's Driving Record Evaluation*. The rules for evaluating a school bus driver's driving record are described in the official Texas Education Agency Standards entitled *Revised School Bus Driver's Driving Record Evaluation* as amended, June 1977, which is adopted by reference as the agency's official rule. A copy is available for examination at all county and independent school district offices operating a public school transportation program during regular office hours, 8 a.m. to 5 p.m., except holidays Saturdays, and Sundays, at the Texas Education Agency (headquarters) Buildings, 201 East 11th Street, Austin, Texas.

Doc No 773522



Doc No 773521

Instructional Development

Aerospace-Aviation Education 226.36.25

The Texas Education Agency has adopted Rules 226.36.25.010-.020, concerning aerospace-aviation education. The rules define the purpose of the aerospace-aviation education program and set out the purpose, membership, terms of office, and rules for meetings for the Texas Advisory Council on Aerospace-Aviation Education.

Public review and discussion of the proposed rules were held. The rules were adopted with no change from the text proposed. The rule title for Rule .020 was omitted from the proposed rule as it was printed in the *Texas Register*.

These rules are promulgated under the authority of Sections 11.26 and 11.52, Texas Education Code.

.010. Aerospace-Aviation Education Program. The aerospace-aviation education program shall be designed, tested, and made available to elementary and secondary schools in order to develop student knowledge, skills, and attitudes about aerospace activities and the total impact of the air and space age upon the society. An understanding of the relationships of people and the aerospace age shall be developed from a cultural-sociological standpoint and shall simultaneously bring into focus the scientific and technological facts that serve as the foundation on which the aerospace age has been founded.

.020. Texas Advisory Council on Aerospace-Aviation Education

(a) Purpose and responsibilities. A council shall be established to advise the Commissioner of Education and the Texas Education Agency on aerospace-aviation education. The council shall function in an advisory capacity to offer suggestions, react to ideas and materials, and promote program activities relative to aerospace-aviation education.

(b) Membership and appointment. Membership on the council shall not exceed 15 members. The membership shall have a broad representation from congressional districts in the state and shall include representatives from public schools, regional education service centers, professional organizations, institutions of higher education, business and industry, and governmental agencies. Members shall be approved by the State Board of Education upon recommendation of the Commissioner of Education.

(c) Term of office. The initial organization of the council shall provide for staggered terms of one, two, or three years so that one-third of the council membership shall expire each year. Thereafter, members of the council shall be appointed for three-year terms, subject to one reappointment.

(d) Meetings. The council shall elect a chairman and any other officers deemed necessary to perform their functions under rules and policies established by the State Board of Education. The Commissioner of Education shall convene the council at least twice a year to carry out the responsibilities of the council. The Commissioner of Education shall designate a staff person to serve as a liaison between the council and the Texas Education Agency.

Issued in Austin, Texas, on July 13, 1977.

Doc No 773523 M. L. Brockette
Commissioner of Education

Effective Date August 4 1977

For further information please call (512) 475 7077

State Board of Insurance

General Provisions

Unfair Competition and Unfair Practices

059.21.21

The State Board of Insurance has adopted Rules 059.21.21.101-.109 in respect to unfair discrimination practices based upon sex or marital status in insurance policies.

These rules are adopted under the authority of Vernon's Annotated Texas Statutes Insurance Code, Articles 21.21 and 1.04(b).

.101. Purpose. The purpose of these rules is to eliminate unfair discrimination based upon sex or marital status in the terms and conditions of insurance policies, in the underwriting criteria of insurers, and in the rates, rating plans, and rating classifications of insurers.

.102. Applicability and Scope. These rules apply to all individual, group, or blanket policies, contracts, and certificates of insurance delivered or issued for delivery in this state on or after January 1, 1978.

.103. Definitions. For the purposes of these rules:
(a) "Policy" shall include any insurance policy, plan, certificate, subscriber agreement, statement of coverage, binder, rider, endorsement, or application, if attached, offered by any person or entity engaged in the business of insurance or board-regulated prepaid services in this state.

(b) "Insurer" shall include, but not be limited to, all life, health, and accident companies, capital stock companies, mutual assessment life insurance companies, statewide mutual assessment corporations, county mutual insurance companies, local mutual aid

associations, farm mutual insurance companies, mutual or natural premium life or casualty insurance companies, general casualty companies, Mexican casualty companies, Lloyds, reciprocal or inter-insurance exchanges, non-profit hospital, medical or dental service corporations including but not limited to companies subject to Chapter 20 of the Insurance Code of 1951, as amended, stipulated premium insurance companies, fidelity, guaranty, and surety companies, title insurance companies, health maintenance organizations, non-profit legal service corporations, and all other organizations, corporations, or persons engaged in the business of insurance, whether or not named above; provided, however, this regulation shall not apply to any society, company, or other insurer whose activities are by statute exempt from the regulation of the board and which are entitled by statute to an exemption certificate from the board in evidence of their exempt status, nor to fraternal benefit societies.

.104. Underwriting. Availability of any policy may not be denied to an insured or prospective insured on the basis of sex or marital status of the insured or prospective insured. However, nothing contained in this rule shall be construed to prohibit any insurance underwriter or insurance agent requiring the joinder of both spouses as a condition of issuance of any policy of insurance where such joinder is required by any provision of the constitution or laws of the State of Texas.

Specific practices prohibited by this rule shall include, but not be limited to, the following:

(a) No insurer may deny coverage to females gainfully employed at home, employed part-time, or employed by relatives when that coverage is offered to males similarly employed.

(b) No insurer may deny policy riders to females when the riders are available to males.

(c) No insurer may exclude from prescription drug benefits oral contraceptives when all other prescription drugs are covered.

(d) No insurer may deny, under group policies, coverage to eligible husbands of female employees when dependent coverage is available to eligible wives of male employees.

(e) No insurer may deny disability income policies to women employed in high-risk classifications when coverage is offered to men similarly employed.

(f) No insurer may deny maternity benefits to insureds or prospective insureds purchasing an individual policy when comparable family coverage policies offer maternity benefits.

.105. Policy Terms and Conditions. The amount of benefits payable, or any term, condition, or type of coverage may not be restricted, modified, excluded, or reduced on the basis of the sex or marital status of the insured or prospective insured. However, nothing in

these rules shall prohibit an insurer from taking marital status into account for the purpose of defining persons eligible for dependents' benefits. Specific practices prohibited by this regulation shall include, but not be limited to, the following:

(a) No policy may treat complications of pregnancy differently from any other illness or sickness under the policy. For the purpose of this rule, complications of pregnancy mean:

(1) conditions requiring hospital confinement (when the pregnancy is not terminated), whose diagnoses are distinct from pregnancy but are adversely affected by pregnancy or are caused by pregnancy, such as acute nephritis, nephrosis, cardiac decompensation, missed abortion, and similar medical and surgical conditions of comparable severity, but shall not include false labor, occasional spotting, physician-prescribed rest during the period of pregnancy, morning sickness, hyperemesis gravidarum, pre-eclampsia, and similar conditions associated with the management of a difficult pregnancy not constituting a nosologically distinct complication of pregnancy; and

(2) non-elective cesarean section, termination of ectopic pregnancy, and spontaneous termination of pregnancy occurring during a period of gestation in which a viable birth is not possible.

(b) No policy may restrict, reduce, modify, or exclude benefits based solely upon the genital organs of one sex.

(c) No policy may apply arbitrary waiting periods to maternity benefits in such a way as to exclude coverage for premature births when normal maternity benefits are included in the policy. Medical evidence of the prematurity of the baby may reasonably be required.

(d) No disability policy may offer lower maximum monthly benefits to women than to men who are in the same risk classifications.

(e) No disability policy may offer more restrictive basic benefit periods and more restrictive definitions of disability to women than to men. Normal pregnancy is not considered to be a disability.

(f) No policy may establish different conditions by sex as a prerequisite to the exercise of benefit options contained in the policy.

(g) No insurer may limit the scope and/or amount of coverage an insured or prospective insured may purchase based on the insured's or prospective insured's marital status unless such limitation is for the purpose of defining persons eligible for dependents' benefits.

.106. Rates. When rates differ by sex or marital status, the insurer may be required to justify that the differential equitably reflects the difference in the risk assumed. Rates shall be based on a reasonable classification system according to actual or expected

loss and expense data where available. In the absence of actual loss and expense data, rates must be based upon reasonable actuarial assumptions. Rates may differ by sex or marital status when approved or promulgated by the board.

.107. Continuance of Coverage. In individual policies, if a person loses coverage due to change in marital status, that person shall be issued a policy which the insurer is then issuing which most nearly approximates the coverage of the policy which was in effect prior to the change in marital status. The new policy will be issued without evidence of insurability and will have the same effective date as the policy under which coverage was afforded prior to the change in marital status.

.108. Amendments. The subject matters covered by these rules treat only a portion of the subject matters contemplated by Article 21.21 of the Texas Insurance Code and are not exhaustive on this subject; therefore, these rules and regulations remain open for correction and future additions as the needs may arise or procedures require.

.109. Severability Clause. If any provision of a rule of these rules or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the rules which can be given effect without the invalid provision or application, and to this end the provisions of each rule are declared to be severable.

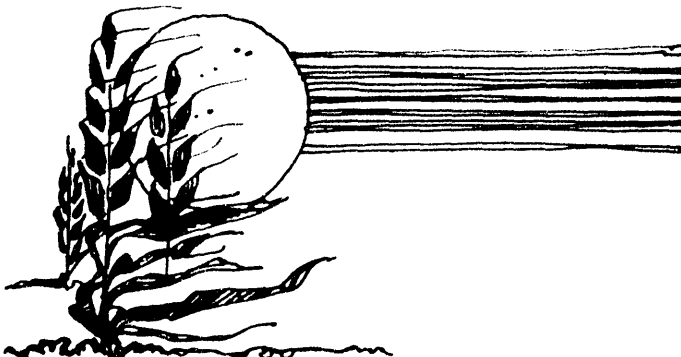
(Rule Numbers 059.21.21.110-.119 are reserved for expansion.)

Issued in Austin, Texas, on July 14, 1977.

Doc. No. 773573 Pat Wagner
Deputy Chief Clerk
State Board of Insurance

Effective Date: January 1, 1978

For further information, please call (512) 475-2551.



Texas Parks and Wildlife Department

Parks

Park Entrance and Park User Fees 127.40.01

The Parks and Wildlife Commission has adopted an amendment to Rule 127.40.01.017, which permits campsites in state parks to be reserved.

No comments were received from the public. With minor editorial changes, the amendment was adopted as proposed.

The Parks and Wildlife Commission has adopted an amendment to Rule 127.40.01.017 under the authority of Chapters 13 and 21 of the Texas Parks and Wildlife Code, to read as follows:

.017. Reservation of State Park Facilities.

(e) Reservations for campsites may be accepted at parks designated by the executive director. A nonrefundable fee of \$2 is required for confirmation of each reservation. The executive director is authorized to adjust the prescribed reservation fee in relation to the cost of providing the service. A confirmed reservation will be held until 6 p.m. of the first day for which the reservation is made and if the user fee for the site is paid, the reservation will be held until 2 p.m. the following day.

Issued in Austin, Texas, on July 15, 1977.

Doc. No. 773574 Maurine Ray
Administrative Assistant
Texas Parks and Wildlife
Department

Effective Date: July 29, 1977

For further information, please call (512) 475-4845.

Texas Real Estate Commission

Rules Relating to the Provisions of the Real Estate License Act

Suspension and Revocation of Licensure 402.03.15.006

Pursuant to the authority of Article 6573a, Vernon's Annotated Civil Statutes, the Texas Real Estate Com-

mission has repealed Rule 402.03.15.006, which required a real estate licensee to inspect property being sold for another to discover any latent structural defect or other significant defects which may exist.

Doc. No 773507

402.03.15.010

The Texas Real Estate Commission has amended Rule 402.03.15.010. No comments were received opposing the proposed amendment printed in the *Texas Register* (Volume 2, Number 41), dated May 24, 1977. The amendment was adopted with changes clarifying the obligations of real estate licensees who act as escrow agents under a written agreement granting the licensees the right to require the receipt, release, and authorization in writing from all parties before paying earnest money to any party or parties.

The Texas Real Estate Commission, by authority of Article 6573a, Vernon's Annotated Civil Statutes, has amended Rule 402.03.15.010.

.010. Section 15(4)(E): Grounds for Suspension: Failure to Properly Account for Money; Commingling.

(a) Licensees are not required to act as escrow agents or to accept money belonging to others.

(b) If a licensee accepts money belonging to others, he holds such money in a fiduciary capacity. If any or all of the parties to a real estate transaction make demand for the money, the licensee must, within a reasonable time, properly account for or remit the money. "Reasonable time" means 30 working days after demand is made for an accounting or for remittance of money belonging to others.

(c) "Properly account for or remit" means to pay the money to the party or parties entitled to the money if it can be reasonably determined to which party or parties the money should be paid. A licensee may pay the money into the registry of a court and interplead the parties if it cannot be reasonably determined to which party or parties the money should be paid.

(d) If, by written agreement of the parties to the real estate transaction, the licensee holding money

belonging to others has the right to require the receipt, release, and authorization in writing from all parties before paying the money to any party or parties, and if the licensee chooses to exercise that right, "properly account for or remit" means to furnish every party with a written statement requesting such receipt, release, and authorization and detailing the amount and place of custody of the money and to pay the money to the party or parties in accordance with the receipts, releases, and authorizations, if obtained. A licensee may pay the money into the registry of a court and interplead the parties, if the receipts, releases, and authorizations that the licensee has the right to require cannot be obtained.

(e) If escrow or other money belonging to another is held by a licensee, it must be maintained in a trust account. Placing such money in a licensee's operating account constitutes commingling.

(f) If, by virtue of closing a sales transaction, or by virtue of default of one of the parties, a licensee acquires ownership of money in his escrow account that was originally held in trust for another, such money must be removed from the escrow account within a reasonable time. "Reasonable time" in this context means within 30 days after the licensee acquires ownership of the money.

(g) Paying operating expenses or making withdrawals from a broker's escrow account for any purpose other than proper disbursement of escrow money is *prima facie* evidence of commingling money held in trust with his own funds.

Issued in Austin, Texas, on July 14, 1977.

Doc. No. 773508 Andy James
 Administrator
 Texas Real Estate Commission

Effective Date: August 7, 1977

For further information, please call (512) 475-6693

Legislative Report

The 65th Legislature took only five days to pass the school finance bill for which Governor Briscoe had convened the special session. Monday the session was opened to four additional issues: provisions for bonds issued by state agencies that are later abolished under the Sunset Act, national flood insurance, the regulation of nursing homes, and deep water ports.

The senate acted quickly on the issue of nursing homes, passing a bill Wednesday to establish criminal penalties for the abuse of residents of nursing homes. The bill also transfers regulation of nursing homes to the Department of Health instead of the Department of Public Welfare, which now oversees them. The house began consideration of its version Thursday, July 21.

The governor asked the legislators for authority for the state to undertake a study of state participation in the proposed deep sea port project. Seadock, proposed for the Gulf Coast near Freeport, is currently endangered by the withdrawal of EXXON Corporation and other major private funding sources. Briscoe is requesting creation of an overseeing authority and appropriate funding.

Public School Finance

On July 21, 1977, the senate in a 22 to 7 vote, accepted the house's \$945.4 million version of the school finance bill. The senate and house versions had differed on the calculation of tax bases for local fund assignments. The house version, finally adopted by the senate, allowed local districts to use either the market value or the agricultural productivity potential in the determination of tax bases. The senate had proposed a tax based on an average of the two.

Another difference was in the amount of state funds assigned for equalization aid to local districts and for

the Minimum Foundation Program. The house provided \$341 million for local districts to use in meeting their share of the school program costs. The senate had originally accepted \$238.6 million for that purpose.

Both versions provided more than \$290 million for increases in teacher salaries and more than \$40 million for teacher retirement. The passage of this bill brings beginning teacher salaries up to \$8,460 annually from \$8,000.

The recently passed school finance bill, however, may be jeopardized by a ruling by U.S. District Judge Jack Roberts, declaring that Texas' distribution of state money to local districts based solely on the value of the districts' real property is unconstitutional. Roberts did not disagree with an argument that such a system gives urban taxpayers, holding stocks, furniture, and other such untaxed property, an unfair advantage over rural landowners. The effect of this ruling on the yet unsigned Texas public school finance bill is not clear, pending further study and possible legal appeals.

Resignation of Judge Yarbrough

Donald B. Yarbrough resigned July 15, 1977, as Associate Justice of the Supreme Court of Texas. The resignation followed the dismissal by the 5th Circuit Court of Appeals of a petition to restrain the legislature from acting to remove the indicted justice.

The governor appointed Charles W. Barrow, Yarbrough's opponent in the Democratic primary for the supreme court seat and the current chief justice of the 4th Court of Civil Appeals, to replace Yarbrough.

Yarbrough still faces disbarment proceedings and prosecution on charges of forgery and aggravated perjury in Travis County.

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



Texas Supreme Court Texas Antiquities Committee v. Dallas Community College District

Section 6 of the Antiquities Code, Article 6145-9, Revised Civil Statutes, providing that "all . . . buildings . . . and locations of historical . . . interest . . . are State Archeological Landmarks" is unconstitutionally vague. The Antiquities Committee has not exercised its power to adopt rules or standards stating criteria for such buildings and locations. The legislature may not delegate its powers without providing some criteria or safeguards. Here there is no standard or criteria either by statute or rule that provides safeguards for affected parties.

The application by the Antiquities Committee of Article 6145-9, Revised Civil Statutes, to three buildings owned by the community college district is unconstitutional.

There is no substantial evidence to support the action of the committee denying a permit to demolish the buildings. Because the only source to finance the restoration of the buildings is college funds, and the restoration would require reconstruction of five times more space than needed for education, the program to restore buildings would compel misuse of public funds committed to educational purposes. Because the committee's application of the statute diverts buildings to non-educational purposes, the statute is unconstitutional as applied. (14 TLWD 28, at 2)

Filed: July 13, 1977, Austin

Doc. No. 2C72

3rd Court of Civil Appeals General Telephone Co. of the Southwest v. City of Perryton

Trial court summarily and permanently enjoined a phone company from unilaterally increasing its rates for extended area service in violation of a city's contractual right to regulate rates.

Held: Reversed and dismissed. Without regard to whether a contractual right existed, the original jurisdiction to adjudicate the matter terminated when the Public Utility Commission assumed the jurisdiction of all telecommunications in the state before the judgment became final.

Where a city and a phone company contracted for a city's regulation of extended area service, that is, local service, which the city had statutory authority to regulate, combined with intrastate service, when the city had no statutory authority to regulate, the phone company would be bound by its contract.

But the contract could be modified or superseded by the legislature or its authorized agency at any time. Although the cities were to continue to regulate each local utility inside their boundaries under the Public Utility Regulatory Act, and all pertinent rules and regulations were to remain in effect until the commission assumed jurisdiction, there was no savings clause in the act. Thus, the legislature's exercise of authority terminated regulatory powers, both statutory and contractual, theretofore held by municipalities. (14 TLWD 27, at 4)

Filed: May 31, 1977, Amarillo

Doc. No. 2C70

9th Court of Civil Appeals

Gibson v. Kountze Independent School District

To successfully attack the assessment and levy of *ad valorem* taxes by an independent school district, the plaintiffs had to show that the plan discriminated against them by deliberately assessing their property at a greater percentage of its true value than the percentage assessed for other properties subject to the tax. If the plan is attacked on the ground of inequity of assessment, however, proof of actual market value of the plaintiff's property is necessary, since without such proof no discrimination can be established. (14 TLWD 28, at 5)

Filed: May 26, 1977, Beaumont
Doc. No. 2C73

11th Court of Civil Appeals

Nunley v. State Board of Insurance

Regulation 27700, as amended ("Regulation in Respect of Replacement of Life Insurance"), issued by the State Board of Insurance, is constitutional. (14 TLWD 28, at 5)

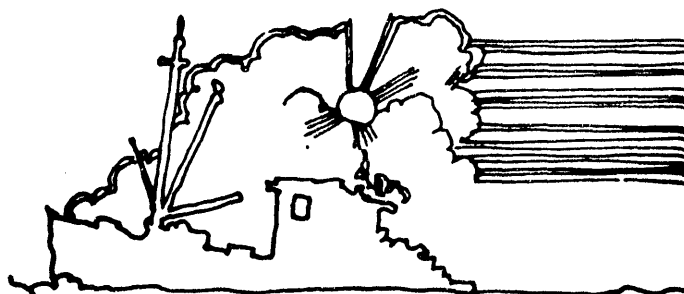
Filed: June 2, 1977, Eastland
Doc. No. 2C75

13th Court of Civil Appeals

Westbrook v. City of Edna

The Tort Claim Act authorizes, but does not require, the purchase of insurance by a governmental unit. Since the governmental unit would not be liable for the delegation of a governmental function to an incompetent, it is not liable for the failure to require one who has been delegated the governmental function of garbage collection to maintain insurance as required by a contract between the city and a contractor. (14 TLWD 28, at 5)

Filed: May 31, 1977, Corpus Christi
Doc. No. 2C74



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 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.

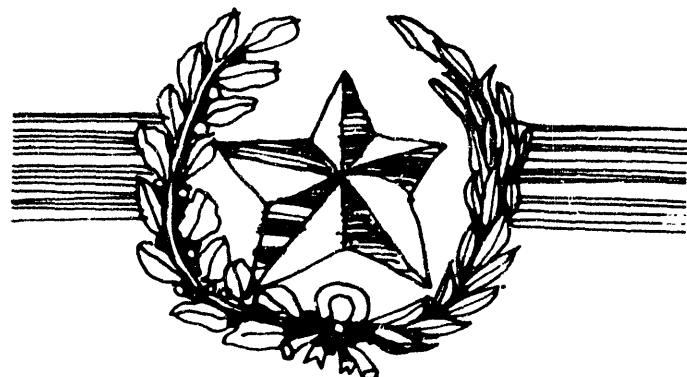
Texas Department of Agriculture

Meeting

A meeting of the Agricultural Protective Act Section of the Texas Department of Agriculture was held on Monday, July 25, 1977, 10:30 a.m., in Room 202, Texas Department of Agriculture, 4900 Fannin, Houston, to consider the verified statement of claim of Donna Fruit Company, Inc., Edinburg, in account with B. J. Pickrell and Matt Hooper, Houston.

Additional information may be obtained from Ed Whitesides, P.O. Box 12845, Austin, Texas 78711, telephone (512) 475-4304.

Filed: July 14, 1977, 4:24 p.m.
Doc. No. 773477



American Revolution Bicentennial Commission of Texas

Meeting

A meeting of the American Revolution Bicentennial Commission of Texas will be held on Monday, August 1, 1977, 5 p.m., in the Webb Room, American Bank Tower, Austin, to consider adoption of a resolution of appreciation for the University of Texas at Arlington and Dr. Wendell Nedderman, and to discuss closing of the Arlington and Austin offices and the transfer of materials to the University of Texas at San Antonio.

Additional information may be obtained from Gene Brownrigg, 210 University Hall, Arlington, Texas 76019, telephone (817) 461-1776.

Filed: July 19, 1977, 9:20 a.m.
Doc. No. 773528

East Texas State University

Meeting

A meeting of the Board of Regents of East Texas State University will be held on Friday, July 29, 1977, 12:30 p.m., in the Charro Room, Southland Center, Dallas. The board will consider budgets, personnel, and financial items. The complete agenda is posted in the East Wing of the State Capitol.

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

Filed: July 21, 1977, 11:55 a.m.
Doc. No. 773628

Texas Health Facilities Commission

Additions to Agenda

Additions are being made to the agenda of a meeting of the Texas Health Facilities Commission to be held on Thursday, July 28, 1977, 10 a.m., in Suite 450, One Highland Center, 314 Highland Mall Boulevard, Austin, to include consideration of the following applications and requests:

Pleasant Manor Corporation, doing business as Pleasant Manor Nursing Home of Waxahachie, Waxahachie-- certificate of need

Tri-South Mortgage Investors, doing business as Tremont Health Care Center, Dallas-- exemption certificate

The complete supplemental notice is posted in the East Wing of the State Capitol.

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

Filed: July 20, 1977, 2:05 p.m.

Doc. No. 773592

Texas Department of Health Resources

Meeting

A meeting of the Advisory Committee on Nursing Home Affairs of the Texas Department of Health Resources will be held on Thursday, July 28, 1977, 10 a.m., in the 6th floor conference room, Texas Department of Health Resources, 1100 West 49th Street, Austin.

The agenda includes: reports on departmental activities and programs; sub-committee reports and recommendations; reports on nursing and convalescent homes' divisional activities; consideration of procedures on therapy in nursing homes; consideration of limited terms of committee members; and consideration of items of interest from committee members.

Additional information may be obtained from Howard Allen, 1100 West 49th Street, Austin, Texas 78756, telephone (512) 458-7611.

Filed: July 20, 1977, 3:25 p.m.

Doc No. 773612

State Board of Insurance

Emergency Addition to Agenda

An emergency addition was made to the agenda of a meeting of the State Board of Insurance held on Monday, July 18, 1977, 2 p.m., in Room 408, 1110 San Jacinto, Austin, to include consideration of a request for an

Attorney General's Opinion concerning the applicability of the Open Records Act to supporting documents filed with policy forms.

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

Filed: July 15, 1977, 10:50 a.m.

Doc No 773481

Emergency Addition to Agenda

An emergency addition was made to the agenda of a meeting of the State Board of Insurance held on Monday, July 18, 1977, 2:30 p.m., in Room 343, 1110 San Jacinto, Austin, concerning the application of World Service Life Insurance Company, Fort Worth.

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

Filed: July 18, 1977, 9:40 a.m.

Doc No 773497

Emergency Meeting

An emergency meeting of the State Board of Insurance was held on Thursday, July 21, 1977, 2 p.m., in Room 408, 1110 San Jacinto, Austin, to discuss Agenda Item 77-14 of the Automobile Hearing.

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

Filed: July 20, 1977, 9:57 a.m.

Doc No 773583

Meeting

A meeting of the State Board of Insurance will be held on Thursday, July 28, 1977, 2 p.m., in Room 408, 1110 San Jacinto, Austin, to consider the commissioner's report.

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

Filed: July 20, 1977, 9:56 a.m.

Doc No 773584

Meeting

A meeting of the State Board of Insurance will be held on Friday, July 29, 1977, 10 a.m., in Room 408, 1110 San Jacinto, Austin, to decide on burglary credit on homeowners policies and the minimum standards rehearing.

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

Filed: July 20, 1977, 9:56 a.m.

Doc No 773585

Texas Commission on Jail Standards

Meeting

A meeting of the Texas Commission on Jail Standards will be held on Tuesday, August 2, 1977, 9:30 a.m., in the Commissioners Courtroom on the fourth floor of the Records Building, Dallas, to review, inspect, and discuss an application for variances submitted by the Dallas County Commissioners Court; and to make recommendations and/or take official action on their requests.

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

Filed: July 14, 1977, 10:24 a.m.

Doc No 773469

Lamar University

Addition to Agenda

An addition was made to the agenda of a meeting of the Board of Regents of Lamar University held on Thursday, July 21, 1977, 9 a.m., on the eighth floor of Mary and John Gray Library, Lamar University main campus, Beaumont, to include consideration of the following: 1977-78 budget; student fees; development policy resolutions; traffic regulations; scholarship policy; small class reports; Foundation Board members; formal designation of University Reception Center; organization of academic departments; bids and status reports for construction and renovation projects; and revisions of beverage policy.

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

Filed: July 15, 1977, 10:50 a.m.

Doc No 773480

Commission on Law Enforcement Officer Standards and Education

Meeting

A meeting of the Commission on Law Enforcement Officer Standards and Education will be held on Thursday, August 4, 1977, 10 a.m., in Room 208 of the Criminal Justice Center, Sam Houston State University, Huntsville. The commission will consider adoption of proposed amendments to Rules 210.01.02.003 and 210.01.02.004, discuss standards to be proposed for county jail personnel, and hear staff reports.

Additional information may be obtained from Jack L. Ryle, 503-E Sam Houston Building, Austin, Texas 78701, telephone (512) 475-5637.

Filed: July 12, 1977, 10:33 a.m.

Doc No 773377

Texas Parks and Wildlife Department

Meeting

A meeting of the Fisheries Division/Environmental Branch of the Texas Parks and Wildlife Department will be held on Tuesday, August 9, 1977, 2 p.m., in Room A-200, 4200 Smith School Road, Austin, to consider the application of Orange County Drainage District for a permit to remove approximately 90,000 cubic yards of material by dragline from Cow Bayou, Orange, Orange County, for flood control.

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

Filed: July 14, 1977, 10:27 a.m.

Doc No 773468

Hearing Rescheduled

A hearing by the Parks Division of the Texas Parks and Wildlife Department is being rescheduled for Thursday, August 18, 1977, 9 a.m., in Room A-100 of the Headquarters Building, 4200 Smith School Road, Austin, to consider proposed temporary construction of a right-of-way affecting 3.44 acres at Bryan Beach State Park Site, as required by the United States. The hearing was originally scheduled for June 30, 1977.

Additional information may be obtained from Loyd Booth, 4200 Smith School Road, Austin, Texas 78744, telephone (512) 475-4995.

Filed: July 13, 1977, 9:29 a.m.

Doc. No. 773399

Meeting

A meeting of the Parks Division of the Texas Parks and Wildlife Department will be held on Thursday, August 18, 1977, 10 a.m., in Room A-100 of the Headquarters Building, 4200 Smith School Road, Austin. The department will consider a right-of-way easement request from General Telephone Company across a portion of Pedernales Falls State Park in Blanco County.

Additional information may be obtained from Loyd Booth, 4200 Smith School Road, Austin, Texas 78744, telephone (512) 475-4995.

Filed: July 13, 1977, 9:29 a.m.

Doc. No. 773398

Texas State Board of Pharmacy

Emergency Meeting

An emergency meeting of the Texas State Board of Pharmacy was held on Sunday, July 24, 1977, 9 a.m., in Ranger Room I, Waco Convention Center, Waco. The agenda included discussion of regulations, including those concerning nuclear pharmacy; examination requirements for reciprocity candidates; fee increase for reciprocity candidates; computerized prescription records; removal of citizenship requirements for foreign examination and reciprocity applicants; unit dosages; and the requirement that a pharmacist be licensed at least one year before becoming eligible to reciprocate into the state.

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

Filed: July 20, 1977, 2:07 p.m.

Doc No 773589

State Board of Registration for Public Surveyors

Meeting

A meeting of the State Board of Registration for Public Surveyors will be held at 8 a.m. Monday, Tuesday, and Wednesday, August 1, 2, and 3, 1977, in Room 511, Sam Houston Building, Austin. The agenda includes: examinations; interviewing applicants; consideration of new applications; consideration of proposed rule changes; reconsideration of applicants who were not approved previously to take the examination; and consideration of complaints.

Additional information may be obtained from Betty J. Pope, 511 Sam Houston Building, Austin, Texas 78701, telephone (512) 475-3445.

Filed: July 15, 1977, 10:48 a.m.

Doc. No. 773483

Public Utility Commission of Texas

Hearing

A hearing by the Public Utility Commission of Texas will be held on Tuesday, September 20, 1977, 9 a.m., in Suite 450N, 7800 Shoal Creek Boulevard, Austin, concerning Docket 426, 535-551-- application of Central Power and Light for review of action taken by the City of Camp Wood, *et al.* and application to change existing rates outside the boundaries of incorporated municipalities. The hearing will be held on Central's application to increase its rates in unincorporated areas with regard to Standby Rider 11.

Additional information may be obtained from Roy J. Henderson, Suite 450N, 7800 Shoal Creek Boulevard, Austin, Texas 78757, telephone (512) 475-7921.

Filed: July 15, 1977, 10:49 a.m.

Doc. No. 773482

State Department of Public Welfare

Meeting

A meeting of the State Board of Public Welfare of the State Department of Public Welfare will be held on Fri-

day, July 29, 1977, 9:30 a.m., in Room 406, John H. Reagan Building, Austin. The board will consider appointments of DPW representatives to the reporting panel on alternate care; presentation of the 1978 operating plan; a progress report on department evaluation of court rulings on abortions; potential problems with the HEW reorganization relating to state information systems and information requirements; personnel policies; submission of complaint and grievance policies and request for implementation, and minimum qualifications of staff hired or transferred for child-placing activities; reaffirmation of EEO and affirmative action commitment; proposed revisions to minimum standards; technical amendments to program policies and procedures; and approval of final rule on notification of Social Services eligibility or ineligibility.

Additional information may be obtained from Bill Woods, John H. Reagan Building, Austin, Texas 78701, telephone (512) 475-6297.

Filed: July 21, 1977, 11:47 a.m.
Doc. No 773631

Railroad Commission of Texas

Emergency Addition to Agenda

An emergency addition was made to the agenda of a meeting of the Gas Utilities Division of the Railroad Commission of Texas held on Monday, July 18, 1977, 9 a.m., at the E. O. Thompson Building, 10th and Colorado, Austin, to include consideration of the following: jurisdictional enforcement matters; burner tip rate matters; a transmission rate matter; statements of intent to change rates; rulemaking matters; and miscellaneous matters.

Additional information may be obtained from Meiling Newman, P.O. Box 12967, Austin, Texas 78711, telephone (512) 475-2747.

Filed: July 15, 1977, 11:46 a.m.
Doc. No 773485

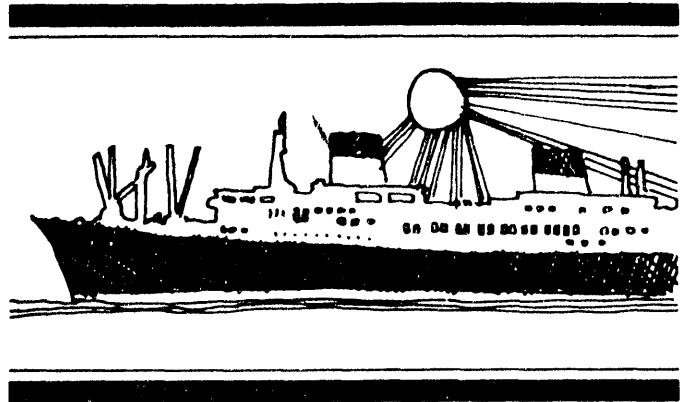
Emergency Additions to Agenda

Emergency additions were made to the agenda of a meeting of the Oil and Gas Division of the Railroad Commission of Texas held on Monday, July 18, 1977, 9 a.m., at the E. O. Thompson Building, 10th and Colorado, Austin.

The additions included consideration of the following matters: various application requests for the adoption of field rules to govern fields in the State of Texas; an application request for gas field rules; and three Rule 37 exception requests.

Additional information may be obtained from Sandra D. Mott, P.O. Box 12967, Austin, Texas 78711, telephone (512) 475-6155.

Filed: July 15, 1977, 11:53 a.m.
Doc. No. 773486



Emergency Additions to Agenda

Emergency additions were made to the agenda of a meeting of the Transportation Division of the Railroad Commission of Texas held on Monday, July 18, 1977, 9 a.m., at the E. O. Thompson Building, 10th and Colorado, Austin.

The additions included consideration of the following matters: entering into a contract for the preparation and approval of the Texas Rail Plan, pursuant to the Railroad Revitalization and Regulatory Reform Act of 1976, Public Law 94-210 (90 Statute 31) and the U.S. Department of Transportation's regulations, as published in 49 CFR Part 266, as adopted or amended; the application of Aldon Estilette, Jr., doing business as Estilette Trucking, for exempt commodity authority; the applications of Alexander Truck Lines, Inc., and Motor Express, Inc., for motion to hold hearing in McAllen; and the application of Airline Vans, Inc., to transfer SMC Certificate Number 7603 to Airline Vans of Texas, Inc.

Additional information may be obtained from John Whisenhunt or Denna Braun, P.O. Box 12967, Austin, Texas 78711, telephone (512) 475-4738 or 475-2088, respectively.

Filed: July 15, 1977, 2:24 p.m.
Doc. No. 773487

Meeting

A meeting of the Gas Utilities Division of the Railroad Commission of Texas was held on Monday, July 25, 1977, 9 a.m., at the E. O. Thompson Building, 10th and Colorado, Austin. The commission considered review of proposed sales, acquisitions, or transfers; various gate rate, burner tip rate, and statement of intent to change rate matters; curtailment matters (approval for adding new customers); and reporting forms.

Additional information may be obtained from Meiling Newman, P.O. Box 12967, Austin, Texas 78711, telephone (512) 475-2747.

Filed: July 15, 1977, 11:47 a.m.

Doc. No. 773488

Meeting

A meeting of the Liquefied Petroleum Gas Division of the Railroad Commission of Texas was held on Monday, July 25, 1977, 9 a.m., at the Ernest O. Thompson Building, 10th and Colorado, Austin. The agenda included adoption of proposed amendments to Liquefied Petroleum Gas Docket Number 1; discussion of proposed new rule; and discussion of proposed rule amendments.

Additional information may be obtained from Sharon Gillespie, P.O. Box 12967, Austin, Texas 78711, telephone (512) 475-4352.

Filed: July 15, 1977, 11:45 a.m.

Doc. No. 773489

Meeting

A meeting of the Transportation Division of the Railroad Commission of Texas was held on Monday, July 25, 1977, 9 a.m., at the E. O. Thompson Building, 10th and Colorado, Austin.

The commission considered various uncontested applications regarding the following specific subjects: amending authority, bus rate, motor brokers license, consolidating authority, dividing authority, amending ICC authority registration, ICC authority registration, leasing authority, interstate exempt authority, rail rate, requested authority cancellation, reinstatement, selling authority, bus schedule change, truck rate, and transferring authority. The commission also considered the following: Ute Corporation to show cause why Specialized Motor Carrier Certificate of Convenience and Necessity Number 23603 should not be cancelled or suspended; the application of Texas Railroads for a general increase of five percent on rates and charges; and adoption of Regulation 051.03.14.002.

Additional information may be obtained from Denna Braun, P.O. Box 12967, Austin, Texas 78711, telephone (512) 475-2088.

Filed: July 15, 1977, 11:48 a.m.

Doc. No. 773490

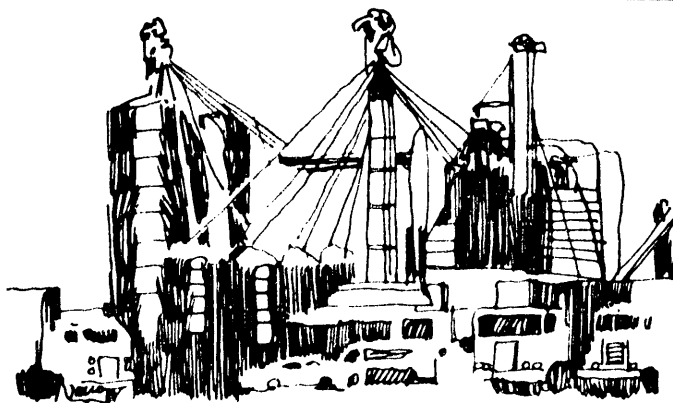
Meeting

A meeting of the Oil and Gas Division of the Railroad Commission of Texas will be held on Monday, August 1, 1977, 9 a.m., at the E. O. Thompson Building, 10th and Colorado, Austin, to consider various hearing applications and applications for administrative action. The complete agenda is posted in the East Wing of the State Capitol.

Additional information may be obtained from Luci Castleberry, P.O. Box 12967, Austin, Texas 78711, telephone (512) 475-3003.

Filed: July 15, 1977, 11:49 a.m.

Doc. No. 773491



State Rural Medical Education Board

Meeting

A meeting of the State Rural Medical Education Board will be held at 2 p.m. Saturday and at 8:30 a.m. Sunday, July 30 and 31, 1977, in Room 1009, Southwest Tower Building, Austin, to review the applications and interview the students applying for loans from the SRMEB.

Additional information may be obtained from J.C. Randolph, Suite 900, Southwest Tower, Austin, Texas 78701, telephone (512) 474-5983.

Filed: July 15, 1977, 10:51 a.m.
Doc No 773479

Stephen F. Austin State University

Meeting

A meeting of the Board of Regents of Stephen F. Austin State University will be held on Saturday, July 30, 1977, 10 a.m., at Henderson Clay Products Lodge, Huxley Bay, to consider personnel matters; approve curriculum changes; approve the university's annual operating budget; name a building; approve construction and renovation projects; and consider other routine university business matters.

Additional information may be obtained from Dr. William R. Johnson, Box 6078, SFA Station, Nacogdoches, Texas 75962, telephone (713) 569-2201.

Filed July 19 1977, 9:20a.m.
Doc No 773527

Advisory Council for Technical-Vocational Education in Texas

Meeting

A meeting of the Advisory Council for Technical-Vocational Education in Texas will be held on Tuesday, August 16, 1977, 9 a.m., in the Lake Travis Room of the Ramada Inn North, 9220 North Interstate 35, Austin.

The agenda includes: review of draft of 8th Annual Report to the State Board; review of draft of 1976 Annual Manpower Report to the Governor; review of Consortium D. Vocational Personnel Development; review of council committee structure; further review of Advisory Council Program of Work/Activities; review of ACTVE Handbook; special reports; and report of the executive director. The complete agenda is posted in the East Wing of the State Capitol.

Additional information may be obtained from Nell Littrell, P.O. Box 1886, Austin, Texas 78767, telephone (512) 475-2046.

Filed: July 12, 1977, 10:34 a.m.
Doc. No. 773375

The University of Texas System

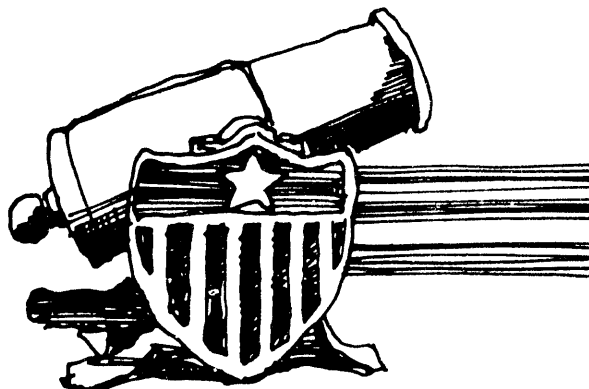
Meeting

A meeting of a special committee of the Board of Regents of The University of Texas System was held on Monday, July 18, 1977, 10 a.m., on the ninth floor of Asbhel Smith Hall, 201 West 7th Street, Austin.

The committee met to discuss, consider, evaluate, and recommend board action on the following proposals: that a meeting of the Buildings and Grounds Committee be held on the day preceding each meeting of the Board of Regents; that approximately one hour at each meeting of the regents be devoted to an extensive report from one of the system's institutions; that an invitation be sent to each faculty senate (or comparable body) of the system's institutions to send a representative to each meeting of the Board of Regents, and the evaluation of the present procedures by which concerns of any faculty senate or comparable body are brought to the attention of the regents; and that except during periods when the Texas Legislature is in session, meetings of the regents be regularly rotated among the locations of the system's institutions.

Additional information may be obtained from Betty Anne Thedford, Box N, U.T. Station, Austin, Texas 78712, telephone (512) 471-1265

Filed July 14, 1977, 3:26 p.m.
Doc No 773473



Board of Vocational Nurse Examiners

Meeting

A meeting of the Board of Vocational Nurse Examiners will be held on Tuesday through Thursday, July 26-28, 1977, beginning at 8:30 a.m. Tuesday, at the Sheraton-Crest Inn, 111 East 1st Street, Austin. The agenda includes: consideration of regular business; report of the executive secretary; report of the director of education; special reports; hearings; and consideration of licensure problems.

Additional information may be obtained from Waldeen D. Wilson, 813 Sam Houston Building, Austin, Texas 78701, telephone (512) 475-3771.

Filed: July 15, 1977, 10:52 a.m.

Doc. No. 773478

Texas Water Development Board

Emergency Additions to Agenda

Emergency additions were made to the agenda of a meeting of the Texas Water Development Board held on Tuesday, July 19, 1977, 11:30 a.m., in Room 118, Stephen F. Austin Building, 1700 North Congress, Austin.

The additions included consideration of approval of a contract under the terms of which studies are to be performed in support of the Colorado Coastal Plains Study with the Bureau of Reclamation financial support in the amount of \$46,000, and an executive session to discuss personnel matters relating to the Department of Water Resources.

Additional information may be obtained from James M. Rose, P.O. Box 13087, Austin, Texas 78711, telephone (512) 475-3187.

Filed: July 19, 1977, 9:20 a.m.

Doc. No. 773526

Texas Water Quality Board Emergency Meeting

An emergency meeting of the Hearings Division of the Texas Water Quality Board was held on Monday, July 25, 1977, 1:30 p.m., in Room 119, Stephen F. Austin Building, 1700 North Congress, Austin, to consider an application for temporary order by Anheuser-Busch, Inc., Houston.

Additional information may be obtained from John Sutton, P.O. Box 13246, Austin, Texas 78711, telephone (512) 475-7851.

Filed: July 20, 1977, 2:37 p.m.

Doc. No. 773604

Texas Water Rights Commission

Emergency Addition to Agenda

An emergency addition was made to the agenda of a meeting of the Texas Water Rights Commission held on Monday, July 18, 1977, 10 a.m., at the Stephen F. Austin Building, 1700 North Congress, Austin, to include consideration of filing and setting a hearing date on a federal project entitled, "Buffalo Bayou and Tributaries, Texas-Upper White Oak Bayou."

Additional information may be obtained from Mary Ann Hefner, P.O. Box 13207, Austin, Texas 78711, telephone (512) 475-4514

Filed: July 14, 1977, 3:53 p.m.

Doc. No. 773474



Meeting/Hearing

A meeting and hearing of the Texas Water Rights Commission will be held on Monday, July 25, 1977, 10 a.m., at the Stephen F. Austin Building, 1700 North Congress, Austin.

The agenda for the commission meeting includes consideration of the following: an application by Fountainhead Municipal Utility District of Harris County for use of surplus funds (\$1,050,000 bond issue, approved July 3, 1976); an application by Harris County Fresh Water Supply District Number 6 for approval of \$590,000 waterworks and sewer systems combination tax and revenue bonds (eight and one-half percent, third issue); an application by Harris County Municipal Utility District Number 119 for approval of \$1,800,000 waterworks and sewer systems combination tax and revenue bonds (seven and one-half percent, third issue); an application by Harris County Utility District Number 2 for escrow release (\$1,915,000 bond issue, approved February 3, 1976); an application by Chimney Hill Municipal Utility District of Harris County for approval of \$2,165,000 waterworks and sewer systems combination tax and revenue bonds (eight percent, first issue); an application by West Belt Municipal Utility District of Harris County for approval of an engineering project amendment (\$2,790,000 bond issue, approved December 4, 1975); an application by Haskell County Country Club for a Water Code Section 5.121 permit; an application by Texas Industries, Inc., to amend Permit 2592, pursuant to Rule 129.60.10; and an application by Coleman Farms, Inc., for a Water Code Section 5.141 permit.

The commission will conduct a hearing on the following matters: Proposed Rule 129.02.50.004, relating to special requirements for contracts of downstream purchases of water from storage; the application of George T. Roots; and applications by John Dorsey, Wagner Enterprises, Inc./Blackburn Brothers, Inc., and Taylor-Foster, Inc., and Blackburn Brothers, Inc./Wagner Enterprises, Inc. (Wagner Group), for Water Code Section 5.121 permits. The complete agenda is posted in the East Wing of the State Capitol.

Additional information may be obtained from Mary Ann Hefner, P.O. Box 12967, Austin, Texas 78711, telephone (512) 475-4514.

Filed: July 14, 1977, 3:54 p.m.

Doc No 773475

Quasi-State Agencies

Meetings Filed July 15, 1977

The Alamo Area Council of Governments, Regional Development and Review Committee, met at 532 Three Americas Building, San Antonio, on July 19, 1977, at 9 a.m. Further information may be obtained from Al J. Notzon III, 400 Three Americas Building, San Antonio, Texas 78205, telephone (512) 225-5201.

The Amarillo MHMR Regional Center, Executive Committee of the Board of Trustees, met at 7201 Evans Street, Amarillo, on July 21, 1977, at noon. Further information may be obtained from Clark E. Wooldridge, P.O. Box 3250, Amarillo, Texas 79106, telephone (806) 353-7235.

The Coastal Bend Council of Governments, Executive Board, met at the Petroleum Club, 811 North Carancahua, Corpus Christi, on July 22, 1977, at noon. The council met in the Central Jury Room, Nueces County Courthouse, Corpus Christi, on July 22, 1977, at 2 p.m. Further information may be obtained from John Buckner, P.O. Box 6609, Corpus Christi, Texas 78411, telephone (512) 854-3081.

The Education Service Center Region VII, Board of Directors, met at the Holiday Inn, Jacksonville, on July 25, 1977, at 6:30 p.m. Further information may be obtained from Von Rhea Beane, P.O. Box 1622, Kilgore, Texas 75662, telephone (214) 984-3071.

The Guadalupe-Blanco River Authority, Board of Directors, met at 933 East Court Street, Seguin, on July 21, 1977, at 10 a.m. Further information may be obtained from John H. Specht, P.O. Box 271, Seguin, Texas 78155, telephone (512) 379-5822.

The Permian Basin Regional Planning Commission, General Membership, met at the Dawson County Community Building, Lamesa, on July 20, 1977, at noon. The Board of Directors met at the same location on July 20, 1977, at 2 p.m. Further information may be obtained from Ernie Crawford, P.O. Box 6391, Midland, Texas 79701, telephone (915) 563-1061.

The Trinity River Authority of Texas, Administration Committee, met at Tarrant County Water Control and Improvement District's Lodge, Cedar Creek Reservoir, at 4:30 p.m., July 21 and at 8:30 a.m., July 22, 1977. The Utility Services Committee will meet at the Southern Division Office of the Trinity River Authority, Huntsville, on July 26, 1977, at 4 p.m. The Executive Committee of the Board of Directors will also meet at the Southern Division Office, Huntsville, on July 27, 1977, at 10 a.m. Further information may be obtained from Sam Scott or Wm. J. Philbin, P.O. Box 5768, Arlington, Texas 76011, telephone (817) 461-3151.

The West Texas Council of Governments, Board of Directors, met in Suite 700, The Mills Building, 303 North Oregon, El Paso, on July 22, 1977, at 9 a.m. Further information may be obtained from Eleanor Bode, Suite 700, The Mills Building, El Paso, Texas 79901, telephone (915) 532-2910.

Doc No 773484

Meetings Filed July 18, 1977

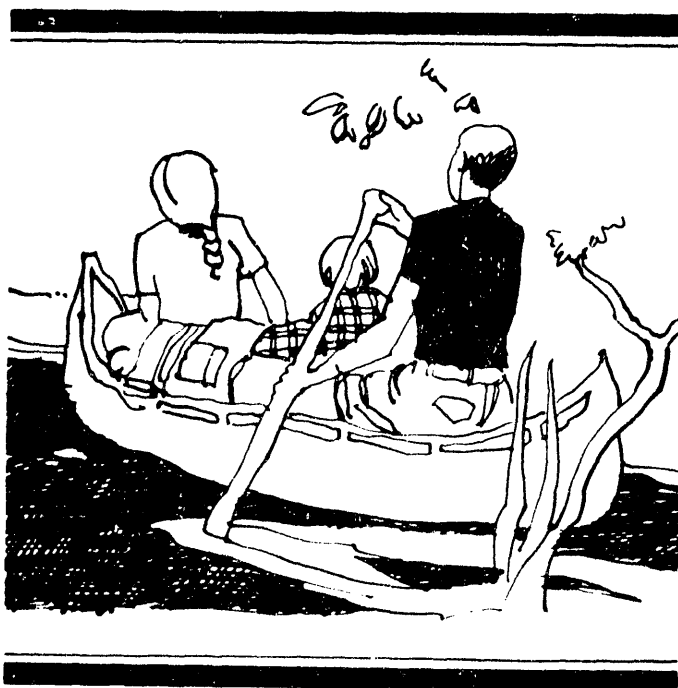
The Alamo Area Council of Governments, Executive Committee, will meet at 532 Three Americas Building, San Antonio, on July 27, 1977, at 1:30 p.m. Further information may be obtained from Al J. Notzon III, 400 Three Americas Building, San Antonio, Texas 78205, telephone (512) 225-5201.

The Austin-Travis County MH/MR, Board of Trustees, met at 1430 Collier, Austin, on July 21, 1977, at 6 p.m. Further information may be obtained from John W. Weimer, 1430 Collier, Austin, Texas 78704, telephone (512) 447-4141, extension 10.

The Nortex Regional Planning Commission, Executive Committee, met at the McBride Land and Cattle Company, 501 Scott, Wichita Falls, on July 21, 1977, at noon. Further information may be obtained from Edwin B. Daniel, 1914 Kemp Boulevard, Wichita Falls, Texas 76309, telephone (817) 322-5281.

The West Texas Council of Governments, West Texas Health Systems Agency, met at 1101 North Campbell, El Paso, on July 21, 1977, at 7:30 p.m. Further information may be obtained from Robert B. St. Almond, Suite 700, 303 North Oregon, El Paso, Texas 79901, telephone (915) 532-2910.

Doc. No. 773506



Meetings Filed July 19, 1977

The Camino Real Health Systems Agency, Inc., Board of Directors, met at Fort Clark Springs, Brackettville, on July 23, 1977, at 2:30 p.m. Further information may be obtained from Jose A. Contreras, Suite 310, Executive K. Center, 1017 North Main, San Antonio, Texas.

The Canadian River Municipal Water Authority, Board of Directors, will meet at the Hilton Hotel, 128 West Sixth, Plainview, on July 27, 1977, at 10:30 a.m. Further information may be obtained from John C. Williams, P.O. Box 99, Sanford, Texas 79078, telephone (806) 865-3325.

The Colorado River Municipal Water District, Board of Directors, will meet at 400 East 24th Street, Big Spring, on July 26, 1977, at 10 a.m. Further information may be obtained from O. H. Ivie, P.O. Box 869, Big Spring, Texas 79720, telephone (915) 267-6341.

The Golden Crescent Council of Governments, Board of Directors, will meet in the La Salle Room of the Victoria Bank and Trust Building, 120 South Main, Victoria, on July 27, 1977, at 5 p.m. Further information may be obtained from George V. Atkinson, Jr., P.O. Box 2028, Victoria, Texas 77901, telephone (512) 578-1587.

The Houston-Galveston Area Council, Area-wide Planning Advisory Committee, will meet at 3701 West Alabama, Houston, on July 26, 1977, at 4 p.m. Further information may be obtained from Nick Aschliman, P.O. Box 22777, Houston, Texas 77027, telephone (713) 627-3200.

The Lower Rio Grande Valley Development Council, Board of Directors, will meet at the Harlingen Chamber of Commerce, 311 East Tyler, Harlingen, on July 28, 1977, at 2 p.m. Further information may be obtained from Robert A. Chandler, Suite 207, First National Bank Building, McAllen, Texas 78501, telephone (512) 682-3481.

The Neches River Basin, Citizen's Advisory Committee, will meet at the Conference Center of the Lower Neches Valley Authority, Sam Rayburn Lake, Jasper, on August 3, 1977, at 10:30 a.m. Further information may be obtained from the Lower Neches Valley Authority, P.O. Box Drawer 3464, Beaumont, Texas 77704.

The Southeast Texas Regional Planning Commission, 208 Water Quality Program, will meet at Texas Air Guard Headquarters Airport Entrance Drive, on August 10, 1977, at 2 p.m. Further information may be obtained from Hugh Meindl, P.O. Drawer 1387, Nederland, Texas 77627.

Doc. No. 773529

Meetings Filed July 20, 1977

The Education Service Center Region XVII, Board of Directors, will meet in the Board Room on the 3rd floor, Lubbock National Bank Building, Lubbock on August 4, 1977, at 10 a.m. The Board of Directors will meet in Room 606, Texas Commerce Bank Building, Lubbock, on August 16, 1977, at 9:30 a.m. Further information may be obtained from Ray Lanier, 700 Texas Commerce Bank Building, Lubbock, Texas, telephone (806) 763-4127.

The West Central Texas Council of Governments, Executive Committee, will meet at the Jamaica Inn, 3161 South 23rd, Abilene, on July 27, 1977, at noon. Further information may be obtained from Bobbie T. Gallagher, P.O. Box 3195, Abilene, Texas 79604, telephone (915) 672-8544.

The Tri-Region Health Systems Agency, Plan Development Committee and Information/Education Committee, will meet on July 26, 1977, at 2:30 p.m. Further information may be obtained from the Tri-Region Health Systems Agency, Suite B, 2642 Post Oak Road, Abilene, Texas 79605.

Doc. No 773616

Meetings Filed July 21, 1977

The Northeast Texas Municipal Water District met at 1003 Linda Drive, Daingerfield, on July 25, 1977, 8 p.m. Further information may be obtained from Northeast Texas Municipal Water District, P.O. Box 680, Daingerfield, Texas 75638.

The Central Texas MH/MR Center, Board of Trustees, will meet at 308 Lakeway Drive, Brownwood, on July 26, 1977, 4:30 p.m. Further information may be obtained from James H. Dudley, P.O. Box 250, Brownwood, Texas 76801.

The Heart of Texas Region MH/MR Center, Board of Trustees, will meet at 1401 North 18th Street, Waco, on July 28, 1977, 4 p.m. Further information may be obtained from Dean Maberry, 1401 North 18th, Waco, Texas 76703, telephone (817) 752-3451.

The San Jacinto River Authority, San Jacinto Basin Planning Advisory Committee, will meet at Houston-Galveston Area Council, Houston, on August 10, 1977, 7 p.m. Further information may be obtained from Dennis J. Crowley, P.O. Box 329, Conroe, Texas, telephone (713) 588-1111.

The Middle Rio Grande Development Council, A-95 Project Review Committee, will meet at Zavala County Courthouse, District Courtroom, Crystal City, on August 3, 1977, 2:30 p.m. Further information may be obtained from Elia G. Santos, P.O. Box 1461, Del Rio, Texas 78840.

The Heart of Texas Council of Governments, Executive Committee, will meet at 110 South 12th, Waco, on July 28, 1977, noon. Further information may be obtained from Heart of Texas Council of Governments, 110 South 12th, Waco, Texas 76701, telephone (817) 756-6631.

The Texas Municipal Power Agency, Board of Directors, will meet at 600 Arlington Downs Tower, Arlington, on July 28, 1977, 10 a.m. and 3:30 p.m. Further information may be obtained from Paul R. Cunningham, 600 Arlington Down Tower, Arlington, Texas 76011, telephone (817) 461-4400.

Doc No 773632

Texas Department of Community Affairs

Request for Proposals

Delivery of Manpower Programs

The Texas Department of Community Affairs announces a request for proposals for the delivery of manpower programs under the Comprehensive Employment and Training Act of 1973, as amended, in the designated balance of State of Texas prime sponsor areas. The period of performance will be October 1, 1977, through September 30, 1978.

Offerors must be a unit(s) of state, county, or local government, or other public or private nonprofit organization headquartered in the program areas, except in the case of existing contractors for the prime sponsor offering acceptable program services. Selected offerors will be expected to assume responsibility for delivery of Titles I, II, III, and VI programs in the future as appropriate and directed by the prime sponsor.

Instructions will be available July 15, 1977, 10 a.m. at the Texas Department of Community Affairs, 210 Barton Springs Road, Austin, upon request. The deadline for receipt of proposals is 5 p.m. Wednesday, August 3, 1977, except for those proposals received postmarked on or before August 1, 1977. Should you have any questions regarding this notice, please contact Linda McDonald, Administrative Assistant, Manpower Services Division, at (512) 475-6216 or (800) 252-9642.

Program areas for the Texas Balance of State are as follows:

Brazos Valley (counties of):

Brazos
Burlison
Grimes
Leon
Madison
Robertson
Washington

Capital Area (county of):

Llano

Concho Valley (counties of):

Coke
Concho
Crockett
Irion
Kimble
McCulloch
Mason

Menard
Reagan
Schleicher
Sterling
Sutton
Tom Green

Deep East Texas (counties of):

Angelina	Sabine
Houston	San Augustine
Jasper	San Jacinto
Nacogdoches	Shelby
Newton	Trinity
Polk	Tyler

Panhandle (counties of):

Castro
Dallam
Hansford
Hutchinson
Moore
Ochiltree
Sherman

Permian Basin (counties of):

Andrews	Martin
Borden	Midland
Crane	Pecos
Dawson	Reeves
Ector	Terrell
Gaines	Upton
Glasscock	Ward
Howard	Winkler
Loving	

South Plains (counties of):

Bailey	Hockley
Cochran	King
Crosby	Lamb
Dickens	Lynn
Floyd	Motley
Hale	Yoakum

Golden Crescent (counties of):

Calhoun
Dewitt
Goliad
Gonzales
Jackson
Victoria

Middle Rio Grande (counties of):

Dimmit
Edwards
Kinney
La Salle
Maverick
Real
Uvalde
Val Verde
Zavala

North Central Texas A (counties of):

Ellis	Navarro
Erath	Palo Pinto
Hood	Parker
Hunt	Rockwall
Johnson	Somervell
Kaufman	

North Central Texas B (counties of):

Collin
Wise
Denton

North East Texas (counties of):

Cass
Delta
Franklin
Hopkins
Lamar
Morris
Red River
Titus

South Texas (counties of):

Jim Hogg
Zapata
Starr

Texoma (counties of):

Cooke
Greyson
Fannin

West Texas (counties of):

Brewster
Hudspeth
Presidio
Culberson
Jeff Davis

Doc No 773495



Texas Health Facilities Commission

Notice of Applications

Notice is given by the Texas Health Facilities Commission of applications (including a general project description) for declaratory rulings or exemption certificates and administrative order accepted July 5-11, 1977.

Should any person wish to contest the application for a declaratory ruling or an exemption certificate, that person must file a notice of intent to contest the application with the chairman of the commission within 12 days after the enclosed listing is published. The first day for calculating this 12-day period is the first calendar day following the dating of the publishing. The 12th day will expire at 5 p.m. on the 12th consecutive day after said publishing if the 12th day is a working day. If the 12th day is a Saturday, Sunday, or state holiday, the last day shall be extended to 5 p.m. of the next day that is not a Saturday, Sunday, or state holiday. When notice of intent to contest is mailed to the chairman of the commission, P.O. Box 15023, Austin, Texas 78761, it must be postmarked no later than the day prior to the last day allowed for filing notice of intent to contest.

The contents and form of a notice of intent to become a party to an application for a declaratory ruling or exemption certificate must meet the minimum criteria set out in Rule 506. Failure of a party to supply the minimum necessary information in the correct form by the 12th day will result in a defective notice of intent to become a party and such application will be considered uncontested.

The fact that an application is uncontested will not mean that it will be approved. The application will be approved only if the commission determines that it qualifies under the criteria of Sections 3.02, 3.03, or 6.02 of Article 4418(h), Vernon's Annotated Texas Statutes, and Rules 302, 502, and 515.

In the following notice, the applicant is listed first, the file number second, and the relief sought and project description third. EC indicates exemption certificate and DR indicates declaratory ruling.

Medical Arts Hospital, Houston
AH77-0705-004

EC/DR-- Increase psychiatric staff and establish a distinct treatment unit for psychiatric, alcoholic and drug abuse patients within the facility

Root Memorial Hospital, Colorado City
AH77-0705-007

EC-- Renovate medical records room to accommodate existing laboratory and the addition of 198 square feet to receive freight

San Augustine Nursing Center, San Augustine
AN77-0707-004

EC/DR-- Addition of 1,334 square feet to accommodate kitchen, dining area, two classrooms, and office

Citizens Memorial Hospital, Victoria
AH77-0708-001

EC-- Purchase radiotherapy planning system to include computer and associated software

Texas Children's Hospital, Houston
AH77-0708-010

EC-- Purchase Modamatic Autogamma Spectrometer System and an Automatic Tri Carb Liquid Scintillation Spectrometer System

C and W Home Health Services, Inc., Garland
AS77-0707-014

EC-- Request authorization to lease 950 square feet located at Clara Barton Boulevard, Suite 141, Garland, to accommodate existing staff

West Winds Care Center, Lubbock
AN77-0711-001

EC-- Renovation to correct Life Safety Code deficiencies at an expected cost of less than \$50,000

Memorial City General Hospital, Houston
AH77-0711-004

EC-- Addition of 1,165 square feet for cafeteria and doctors dining area

Seton Medical Center, Inc., Austin
AH77-0711-010

EC-- Acquisition of A-Scan Digital Biometric Ruler

Issued in Austin, Texas, on July 14, 1977.

Doc. No. 773498 William D. Darling
 General Counsel
 Texas Health Facilities
 Commission

Filed: July 15, 1977, 4:50 p.m.

For further information, please call (512) 475-6940.

Office of the Secretary of State

Notice to County Clerks

Construction of Senate Bill 850, 65th Legislature, 1977

The list of cancelled registrations may be furnished to and utilized by the elections judges and clerks in the November, 1978, general election for the purpose of determining the qualifications of a voter whose name does not appear on the list of registered voters and who

has not received a new yellow certificate. Upon the basis of that determination, it is appropriate and lawful for the election judge to permit the voter to vote under the appropriate procedures of the Election Code.

Issued in Austin, Texas, on July 20, 1977.

Doc. No. 773625 Mark White
 Secretary of State

Filed: July 20, 1977, 4:46 p.m.

For further information, please call (512) 475-2015.

Texas Register

Correction of Error

The list of *Texas State Agencies* which appeared in the July 8, 1977, issue of the *Register* (Volume 2, Number 58) is a list of most agencies covered under the Administrative Procedure Act but is not a complete list of all agencies within the state government. The following are agencies which appear with incorrect or incomplete information. The list includes the names of the agencies, the heads of those agencies, the addresses, and the individuals who act as liaisons between their agencies and the *Texas Register*. When the agency head also acts as liaison, the space designated for liaison is blank.

Air Control Board, Texas

Bill Stewart, P.E.
8520 Shoal Creek Boulevard
Austin, Texas 78758
Michelle Biasioli

Alcoholism, Texas Commission on

Clinton Kersey
809 Sam Houston Building
Austin, Texas 78701
David E. Sandefur

Arts and Humanities, Texas Commission on the

Maurice Coats
P.O. Box 13406
Austin, Texas 78711

Employment Commission, Texas

Nolan F. Ward
TEC Building
15th and Congress
Austin, Texas 78701
J. Ferris Duhon

Entomologist, State

Paul Jackson
Texas A&M University System
College Station, Texas 77843

Feed and Fertilizer Control Service

Dr. Flake L. Fisher
Texas Agricultural Experimental Station
College Station, Texas 77843
James Bond

Good Neighbor Commission

Eddie Aurispa, Acting Executive Director
507 Sam Houston Building
Austin, Texas 78701

***Hearing Aids, Texas Board of Examiners in
the Fitting and Dispensing of***

Robert B. Hall
1212 Guadalupe, Suite 105
Austin, Texas 78701

Organized Crime Prevention Council

Ralph L. Bowman
7600 Chevy Chase Drive, Suite 400
Austin, Texas 78752
Nadia Bice

Pardons and Paroles, Board of

Ken Casner
711 Stephen F. Austin Building
Austin, Texas 78701
John G. Jasuta

***Private Investigators and Private Security Agencies,
Texas Board of***

Clema D. Sanders
P.O. Box 13509
Austin, Texas 78711

Psychologists, Texas State Board of Examiners of

Patricia S. Smith
108 West 15th Street
Austin, Texas 78701

Railroad Commission of Texas

Mack Wallace
10th and Colorado
Austin, Texas 78701
John G. Soule

Securities Board, State

Richard D. Latham
P.O. Box 13167
Austin, Texas 78711
Lee Polson

The *Register* invites comments on or additional corrections to the Texas State Agencies.