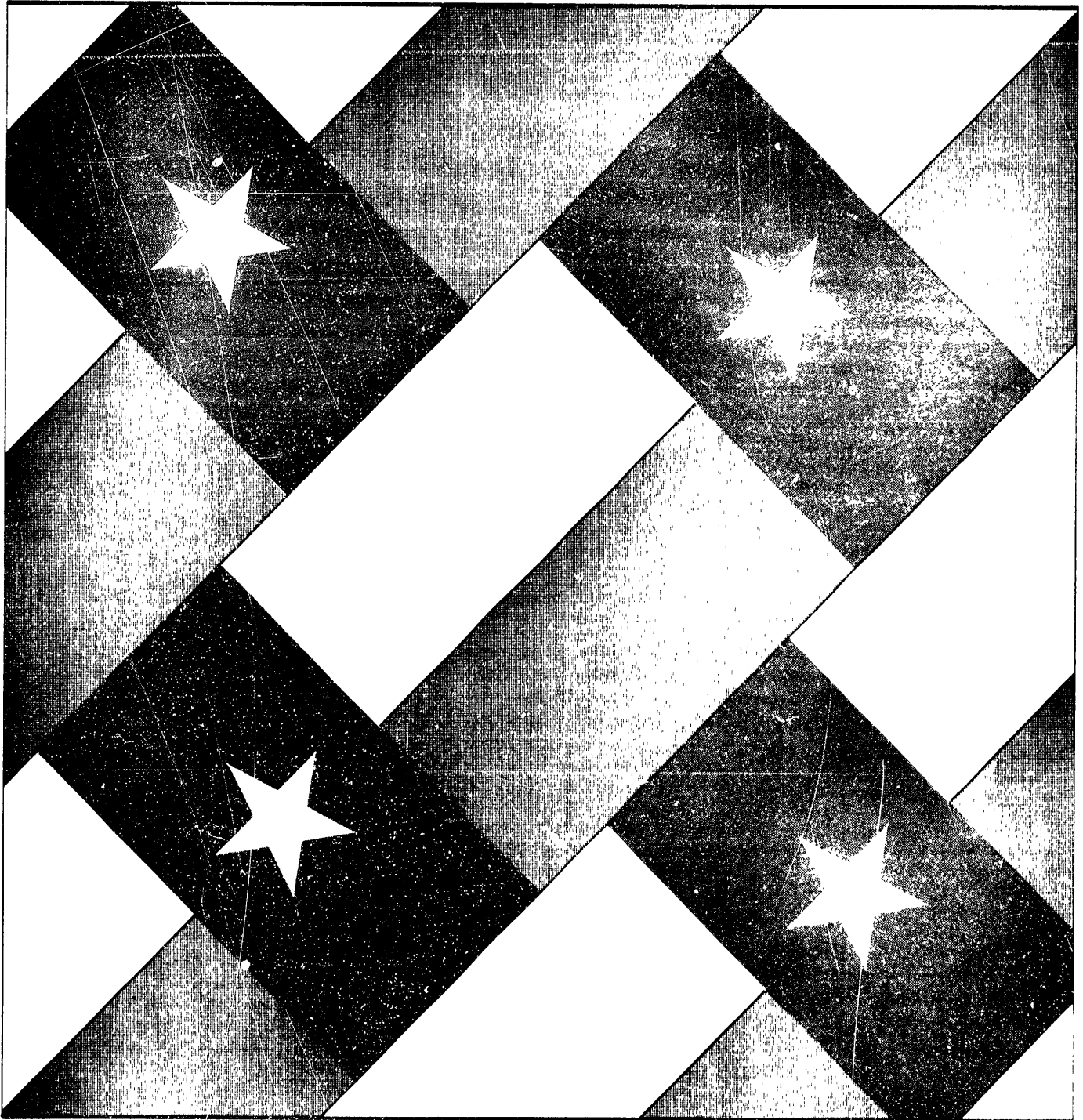


# Texas Register

Volume 12, Number 7, January 27, 1987

Pages 285-323



## Highlights

The **Comptroller of Public Accounts** adopts an emergency amendment requiring a taxpayer to submit its documentary evidence with its request for redetermination or refund hearing. Effective date - January 21 . . . . . **page 293**

The **Office of the Secretary of State** proposes a new section concerning the stan-

dardization of forms for financing statements. Earliest possible date of adoption - February 27 . . . . . **page 297**

The **Public Utility Commission of Texas** proposes a new section concerning substantive rules in regard to long distance rates. Earliest possible date of adoption - February 27 . . . . . **page 298**

**Office of  
the Secretary  
of State**

## Texas Register

The *Texas Register* (ISN 0362-4781) is published twice each week at least 100 times a year. Issues will be published on every Tuesday and Friday in 1987 with the exception of January 6, September 1, December 1, and December 29 by the Office of the Secretary of State

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1 indicates the title under which the agency appears in the *Texas Administrative Code*,

TAC stands for the *Texas Administrative Code*;

27.15 is the section number of the rule (27 indicates that the rule is under Chapter 27 of Title 1; 15 represents the individual rule within the chapter)

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# Attorney General

**Description of attorney general submissions.** Under provisions set out in the Texas Constitution, Texas Civil Statutes (Article 4399), and numerous statutes, the attorney general is authorized to write advisory opinions for state and local officials. These advisory opinions are requested by agencies or officials when they are confronted with unique or unusually difficult legal questions. The attorney general also determines, under authority of the Texas Open Records Act, whether information requested for release from governmental agencies may be held from public disclosure. Requests for opinions, opinions, and open record decisions are summarized for publication in the *Register*.

## Requests for Opinions

**RQ-969.** Request from Louise Sanders, R.N., Ph.D., acting executive secretary, Board of Nurse Examiners, Austin, concerning whether the Board of Nurse Examiners may expend funds for liability insurance required to rent the Tarrant County Convention Center.

TRD-8700521

★ ★ ★

**RQ-970.** Request from Paul Bibler, Jr., senior assistant city attorney, City of Houston—Legal Department, concerning whether personnel information compiled prior to the effective date of the Open Records Act, Texas Civil Statutes, Article 6252-17a, is subject to disclosure under that statute.

TRD-8700522

★ ★ ★

**RQ-971.** Request from Mike Driscoll, Harris County attorney, Houston, concerning the duty of district clerk to file and docket improperly tendered documents.

TRD-8700524

★ ★ ★

**RQ-972.** Request from Lowell C. Holt, criminal district attorney, Gilmer, concerning whether a county hospital is required to reimburse a state-supported public hospital for indigent health care of a resident of that county.

TRD-8700524

★ ★ ★

**RQ-973.** Request from Sam R. Hicks, assistant county attorney, Greenville, concerning the responsibility for medical expenses incurred on behalf of an indigent county jail prisoner serving in the Texas Department of Corrections.

TRD-8700525

★ ★ ★

**RQ-974.** Request from Stan Schlueter, chairman, Ways and Means Committee, House of Representatives, Austin, concerning the assessment of additional tax under the Property Tax Code, §23.55, relating to valu-

ation of land used for agricultural purposes.  
TRD-8700526

★ ★ ★

**RQ-975.** Request from Wiley I. Cheatham, Dewitt district attorney, County Courthouse, Cuero, concerning whether a county attorney who has only misdemeanor criminal jurisdiction is authorized to collect fees in certain felony cases.

TRD-8700527

★ ★ ★

**RQ-976.** Request from Robert Giddings, Office of General Counsel, The University of Texas System, Austin, concerning whether information regarding an investigation into the University of Texas Athletic Department is subject to disclosure under the Open Records Act, Texas Civil Statutes, Article 6252-17a.

TRD-8700528

★ ★ ★

**RQ-977.** Request from William H. Miller, executive director, Texas School for the Blind, Austin, concerning whether local school districts are required to furnish names and addresses of parents of blind students to the Texas School for the Blind.

TRD-8700529

★ ★ ★

**RQ-978.** Request from Mike Driscoll, Harris County attorney, Houston, concerning whether a county must comply with the Natural Resources Code, §61.025, when conveying an interest in real property.

TRD-8700530

★ ★ ★

**RQ-979.** Request from William J. Pitstick, executive director, North Central Texas Council of Governments, Arlington, concerning the availability under the Open Records Act, Texas Civil Statutes, Article 6252-17a, of software and data base information developed by the North Central Texas Council of Governments.

TRD-8700531

★ ★ ★

**RQ-980.** Request from George Pierce, chairman, Committee on Urban Affairs, House of Representatives, Austin, concerning whether purchases made by a housing authority under the Consolidated Supply Program are exempt from competitive bidding requirements.

TRD 8700532

★ ★ ★

## Opinions

**JM-615 (RQ-429).** Request from Charles E. Walker, Jr., general counsel, Board of Pardons and Paroles, Austin, concerning the authority of the Board of Pardons and Paroles to contract with counties for having prisoners incarcerated under the authority of warrants issued by the board.

**Summary of Opinion.** Pursuant to the Texas Code of Criminal Procedure, Article 42.12, §21(a), the Texas Board of Pardons and Paroles may direct the county sheriff to incarcerate the board's prisoners. Under Texas Code of Criminal Procedure, Articles 2.18 and 5.16, the county may not refuse to accept the board's prisoners. The board lacks the authority to enter into a contract to reimburse the county for the cost of jail ing the board prisoners.

TRD-8700533

★ ★ ★

**JM-616 (RQ-639).** Request from Mike Driscoll, Harris County attorney, Houston, concerning the constitutionality of Texas Civil Statutes, Article 601g, regarding out-of-state bidders on public contracts, and related questions.

**Summary of Opinion.** Texas Civil Statutes, Article 601g, a retaliatory bidding statute, is constitutional. Within the scope of the statute, principal place of business means the place where the person, whether natural or artificial, maintains offices and transacts business, i.e., where the person's business affairs are conducted.

TRD-8700534

★ ★ ★

**JM-617 (RQ-713).** Request from Dick Alcala, district attorney, Tom Green County Courthouse, San Angelo, concerning whether a felony defendant is liable for fees under former Code of Criminal Procedure, Article 1025.

**Summary of Opinion.** The 1985 legislation, which expressly repealed former Code of Criminal Procedure, Article 1025, did not make any substantive change regarding the applicability of that statute. Texas Civil Statutes, Article 3912e, impliedly repealed Code of Criminal Procedure, Article 1025, in 1935. A county clerk is not authorized to collect this fee. Article 3912e, §13, has no relation to or effect on Article 1025.

TRD-8700535

★ ★ ★

**JM-618 (RQ-799).** Request from Marlin W. Johnston, commissioner, Texas Department of Human Services, Austin, concerning the authority of the Texas Department of Human Services to select a long-distance telephone carrier for all of its offices with a single letter of agency without violating FCC regulations.

**Summary of Opinion.** As long as the Texas Department of Human Services included a list of its billed telephone numbers or some other unambiguous description indicating the scope of its designation of a primary long distance carrier in its letter of agency to American Telephone and Telegraph Company, the department need not submit an election ballot for each department location. This designation does not violate Texas' competitive purchasing laws.

The department is not legally liable to long distance carriers allocated to various department locations as default customers under Federal Communications Commission regulations.

TRD-8700536

★ ★ ★

**JM-619 (RQ-792).** Request from Al Luna, chairman, Committee on Science and Technology, Texas House of Representatives, Austin, concerning whether a municipality may adopt an ordinance prohibiting the consumption of alcoholic beverages by persons operating motor vehicles.

**Summary of Opinion.** The Texas Alcoholic Beverage Code, §1.06, preempts an ordinance enacted by a home rule city which prohibits the consumption of alcoholic beverages by persons operating motor vehicles.

TRD-8700537

★ ★ ★

**JM-620 (RQ-519).** Request from Lloyd Criss, chairman, Labor and Employment Committee, Texas House of Representatives, Austin, concerning the authority of the Texas Employment Commission to find that a corporate reorganization was invalid for the purpose of securing a new tax classification.

**Summary of Opinion.** The Texas Employment Commission does not have the expressed nor implied authority under Texas Civil Statutes, Article 5221b-5, to find that a reorgan-

ized corporation or a new corporation created to provide an employment service for another corporation were organized as a subterfuge to secure a lower tax rate. The Texas Employment Commission is only authorized to tax a newly formed corporation under Texas Civil Statutes, Article 5221b-5, §(b), unless a successor corporation and the predecessor corporation apply for a transfer of experience rate under Texas Civil Statutes, Article 5221b-5, §(c)(1). There is no implied authority under Texas Civil Statutes, Article 5221b-17, §(g)(1), for the Texas Employment Commission to tax a newly formed corporation providing an employment service, at the rate the commission previously charged to the corporation receiving the service.

TRD-8700538

★ ★ ★

**JM-621 (RQ-777).** Request from Lyndon L. Olson, Jr., chairman, State Board of Insurance, Austin, concerning the claims for loss or impairment of speech or hearing under the Insurance Code, Article 3.70-2(G).

**Summary of Opinion.** Under the Insurance Code, Article 3.70-2(G), an insurer may not offer or issue a plan that covers only certain types of speech and hearing problems and not others.

TRD-8700539

★ ★ ★



# Emergency

## Rules

An agency may adopt a new or amended rule, or repeal an existing rule on an emergency basis, if it determines that such action is necessary for the public health, safety, or welfare of this state. The rule may become effective immediately upon filing with the *Texas Register*, or on a stated date less than 20 days after filing, for no more than 120 days. The emergency action is renewable once for no more than 60 days.

**Symbology in amended emergency rules.** New language added to an existing rule is indicated by the use of **bold text** [Brackets] indicate deletion of existing material within a rule.

### TITLE 19. EDUCATION

#### Part II. Texas Education

##### Agency

#### Chapter 149. Education

##### Personnel Development

#### Subchapter C. Appraisal of

##### Certified Personnel

#### ★ 19 TAC §149.44

The Texas Education Agency adopts an amendment on an emergency basis to §149.44, concerning the teacher appraisal system, scoring procedures, and forms. The amendment deletes the preliminary scoring standards established by the State Board of Education in June 1986. These standards were preliminary only. In January 1987 the board established final standards based on actual teacher appraisal data generated during the 1986 fall appraisal period. The preliminary standards are being deleted on an emergency basis to ensure that the board rule does not conflict with the final standards adopted by the board.

This amendment is adopted on an emergency basis under the Texas Education Code, §13.302, which directs the State Board of Education to develop and adopt an appraisal process and assessment instrument for teacher appraisal for career ladder level assignment purposes.

#### §149.44 *Teacher Appraisal Instrument, Scoring Procedures, and Forms*

(a) (No change.)

(b) The State Board of Education shall develop and approve scoring procedures which guarantee that each teacher, at the close of the appraisal process, receives a performance score for each domain and an overall summary performance score.

(1)-(4) (No change.)

(5) Scoring of the teacher's performance is done in accordance with the Texas Education Code, §13.304, and is based on the summary domain credits issued each appraisal period by the teacher's supervisor and the other appraisers. The State Board of Education shall establish the standards for conversion of summary domain credits to domain performance scores of:

(A) unsatisfactory [score of 1.0 to 1.9];

(B) below expectation [score of 2.0 to 2.9];

(C) satisfactory [score of 3.0 to 3.9];

(D) exceeding expectation [score of 4.0 to 4.9]; and

(E) clearly outstanding [score of 5.0].

(6) (No change.)

(c)-(d) (No change.)

Issued in Austin, Texas, on January 16, 1987.

TRD-8700482

W. N. Kirby  
Commissioner of  
Education

Effective date: January 16, 1987

Expiration date: May 16, 1987

For further information, please call  
(512) 463-9212

★ ★ ★

### TITLE 34. PUBLIC FINANCE

#### Part I. Comptroller of Public Accounts

#### Chapter 1. Central

##### Administration

#### Practice and Procedure

#### ★34 TAC §15

The Comptroller of Public Accounts adopts on an emergency basis an amendment to §15, concerning initiation of a hearing. The amendment requires a taxpayer to submit its documentary evidence with its request for redetermination or refund hearing. It limits the use of documentary evidence during a hearing to evidence submitted by the taxpayer with the request for hearing and evidence obtained by the comptroller's department. It also provides no hearing will be held on fact-based hearings where documentary evidence is the best evidence and such evidence has not been submitted with the request for hearing.

The amendment is adopted on an emergency basis to allow a greater number of hearings to be held and to reduce the present number of hearings. The change will result in an increase in the speed and efficiency of the administrative hearings process, thereby speeding up the collection of tax revenue.

The amendment is adopted on an emergency basis under the Texas Tax Code,

§111.002, which provides that the comptroller may prescribe, adopt, and enforce rules relating to the administration and enforcement of the provisions of the Tax Code, Title 2.

#### §15. *Initiation of a Hearing.*

(a) Redetermination of a deficiency or jeopardy determination. A taxpayer may request a redetermination hearing by sending the agency a written request for redetermination within the time limits provided by the determination. The limit is 30 days for a deficiency determination and 20 days for a jeopardy determination. The request is defined to include a statement of grounds which sets out in detail the reasons the taxpayer does not agree with the determination **and all supporting documentary evidence on audits begun on or after February 1, 1987.** If the statement of grounds is not received within the time limit or an extension of the statement of grounds due date granted prior to the expiration of the time limit, no hearing will be commenced and the taxpayer will be required to pay the deficiency and request a refund before any objection to the assessment is considered. **Only documentary evidence submitted with the statement of grounds will be considered in the hearings process on audits begun on or after February 1, 1987.**

(b) Refund or tax paid. Within the time limits provided in the Texas Tax Code §111.104(c), a taxpayer may request a refund of any tax, penalty, or interest paid to the comptroller by sending the agency a written request. The request is defined to include a statement of grounds which sets out in detail the grounds on which the claim is founded **together with any supporting documentary evidence on refund claims made on or after February 1, 1987.** If no grounds are stated as a basis for the claim, no hearing will be commenced and the claim will be denied. If the claim is granted as any tax amount, the corresponding penalty and interest amount previously paid will be refunded. **Only documentary evidence submitted with the request for refund will be considered in the hearings process on any refund claims made on or after February 1, 1987.**

(c) (No change.)

(d) **If the request for a redetermination or refund hearing is based exclusively on a factual dispute for which documentary evidence is the best evidence and the documentary evidence is not submitted with the petition on any audit begun or refund re-**

quest made on or after February 1, 1987, no hearing will be granted.

Issued in Austin, Texas, on January 21, 1987

TRD-8700569      Bob Bullock  
Comptroller of Public  
Accounts

Effective date: January 21, 1987  
Expiration date: May 21, 1987  
For further information, please call  
(512) 463-4004

★      ★      ★

### ★34 TAC §1.7

The Comptroller of Public Accounts adopts on an emergency basis an amendment to §1.7, concerning content of statement of grounds. The amendment provides that documentary evidence to support that the statement of grounds must be submitted with the statement of grounds unless prior authorization is obtained to allow examination elsewhere. The amendment also eliminates the right to submit additional evidence or records to the auditor.

The amendment is adopted on an emergency basis to allow a greater number of hearings to be held and to reduce the present number of hearings. The change will result in an increase in the speed and efficiency of the administrative hearings process, thereby speeding up the collection of tax revenue.

The amendment is adopted on an emergency basis under the Tax Code, §111.002, which provides that the comptroller may prescribe, adopt, and enforce rules relating to the administration and enforcement of the provisions of the Tax Code, Title 2.

#### §1.7. *Content of Statement of Grounds*

(a) The statement of grounds must contain the reasons the taxpayer disagrees with the action of the agency. The taxpayer must list and number the items, individually or by category, with which there is disagreement and list and number the factual and legal grounds why the tax would not be assessed or should be refunded. Any documentary evidence to support each ground must [should] be submitted with the statement of grounds. If it is not practical to submit the documentary evidence with the statement of grounds on audits begun on or after February 1, 1987, written authorization to allow examination elsewhere must be obtained from the legal services director prior to the filing deadline for the redetermination or refund request. [unless a preliminary conference is requested and it is more practical to bring that evidence to the conference. Taxpayers electing to present evidence at a preliminary conference must state in the statement of grounds that the evidence has been acquired and is available for inspection by representatives of the comptroller's office.] Legal

authority should be cited if the taxpayer disagrees with the agency's interpretation of the law.

(b) If a taxpayer's statement of grounds raises issues which cannot be resolved from the material contained in the audit or statement of grounds, additional evidence [information] may be obtained through: [several procedures.]

(1) a preliminary conference as described in §1.8 of this title [subchapter] relating to Preliminary Conference;

(2) discovery as discussed in §1.33 of this [subchapter] (relating to Discovery);

(3) written or oral requests for additional evidence; and [information or documentation,]

[(4) submission to the auditor of additional evidence or records; or]

(4) [(5)] an audit amendment.

(c) (No change.)

Issued in Austin, Texas, on January 21, 1987.

TRD-8700570      Bob Bullock  
Comptroller of Public  
Accounts

Effective date: January 21, 1987  
Expiration date: May 21, 1987  
For further information, please call  
(512) 463-4004

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### ★34 TAC §1.8

The Comptroller of Public Accounts adopts on an emergency basis an amendment to §1.8, concerning preliminary conferences. The amendment eliminates the right of taxpayers to submit additional information prior to a preliminary conference. The amendment also provides the conference will be scheduled within 10 days of the agreement to hold a preliminary conference.

The amendment is adopted on an emergency basis to allow a greater number of hearings to be held and to reduce the present number of hearings. The change will result in an increase in the speed and efficiency of the administrative hearings process, thereby speeding up the collection of tax revenue.

The amendment is adopted on an emergency basis under the Texas Tax Code, §111.002, which provides that the comptroller may prescribe, adopt, and enforce rules relating to the administration and enforcement of the provisions of the Tax Code, Title 2.

§1.8. *Preliminary Conference* If both hearings attorney and the taxpayer agree a preliminary conference would be beneficial, a conference will be scheduled within 10 days of such agreement [after one is requested]. This will be an informal conference, the purposes of which will be to try to resolve the controversy or to narrow disagreement as to facts and define legal issues involved. [Any

additional information to be submitted by the taxpayer is due within 14 days after the preliminary conference. While a taxpayer may request a conference with the hearings attorney at any time during the hearing process, if the taxpayer intends for any information presented at the conference to be considered in the preparation of the position letter, the conference must be requested within 21 days after the taxpayer submits a statement of grounds.]

Issued in Austin, Texas, on January 21, 1987

TRD-8700571      Bob Bullock  
Comptroller of Public  
Accounts

Effective date: January 21, 1987  
Expiration date: May 21, 1987  
For further information, please call  
(512) 463-4004

★      ★      ★

### ★34 TAC §1.9

The Comptroller of Public Accounts adopts on an emergency basis an amendment to §1.9, concerning position letters. The amendment changes the word "information" found in the first sentence of the section to the word "evidence." The first sentence is rewritten without substantive change into two sentences.

The amendment is adopted on an emergency basis to allow a greater number of hearings to be held and to reduce the present number of hearings. The change will result in an increase in the speed and efficiency of the administrative hearings process, thereby speeding up the collection of tax revenue.

The amendment is adopted on an emergency basis under Texas Tax Code, §111.002, which provides that the comptroller may prescribe, adopt, and enforce rules relating to the administration and enforcement of the provisions of the Tax Code, Title 2.

§1.9. *Position Letter* Following receipt of the taxpayer's statement of grounds, **documentary evidence**, and any additional **evidence** [information] requested by the hearings attorney, **a position letter will be sent to the taxpayer.** [will send to the taxpayer a] the position letter which will [either] accept or reject, in whole or in part, each contention of the taxpayer. The position letter will set forth what the hearings attorney, after consultation with the tax division, finds is properly subject to or exempt from taxation according to his or her understanding of the facts and the law. No position will be taken on the basis of expediency, hazards of litigation, nuisance value, or other form of settlement, compromise, or abatement where not authorized by law. The position letter will be sent to the taxpayer [petitioner] after its [the taxpayer's] contentions are fully presented to the hearings attorney and reviewed by the audit and tax divisions.

Issued in Austin, Texas, on January 21, 1987

TRD-8700572

Bob Bullock  
Comptroller of Public  
Accounts

Effective date January 21, 1987

Expiration date: May 21, 1987

For further information, please call  
(512) 463-4004

★ ★ ★

★34 TAC §1.14

The Comptroller of Public Accounts adopts on an emergency basis an amendment to §114, concerning notice of setting. The amendment eliminates old language in paragraph (3) and deletes paragraphs (4) and (5) of the section. These paragraphs provide that particular statutes and rules will be cited in the notice for setting and a statement of the matters asserted will be included.

This amendment is adopted on an emergency basis to allow a greater number of hearings to be held and to reduce the present number of hearings. The change will result in an increase in the speed and efficiency of the administrative hearings process, thereby speeding up the collection of tax revenue.

This amendment is adopted on an emergency basis under the Tax Code, §111.002, which provides that the comptroller may prescribe, adopt, and enforce rules relating to the administration and enforcement of the provisions of the Tax Code, Title 2.

§1.14. *Notice of Setting* Upon receipt of a motion to set, the clerk of the administrative law judges will acknowledge receipt of the motion by sending notice to the parties giving:

- (1) (No change.)
- (2) the legal authority and jurisdiction under which the hearing is to be held; **and**
- (3) the date any legal brief in reply to the position letter is due. [the particular statutes and rules involved,
- (4) a short and plain statement of the matters asserted, and
- (5) the date any reply to the position letter is due.]

Issued in Austin, Texas, on January 21, 1987

TRD-8700573

Bob Bullock  
Comptroller of Public  
Accounts

Effective date January 21, 1987

Expiration date May 21, 1987

For further information, please call  
(512) 463-4004

★ ★ ★

★34 TAC §1.15

The Comptroller of Public Accounts adopts on an emergency basis an amendment to §115, concerning taxpayer's reply to the position letter. The amendment eliminates the right to present additional facts. In addition, new issues may not be raised in a reply to the position letter.

This amendment is adopted on an emergency basis to allow a greater number of hearings to be held and to reduce the present number of hearings. The change will result in an increase in the speed and efficiency of the administrative hearings process, thereby speeding up the collection of tax revenue.

This amendment is adopted on an emergency basis under the Tax Code, §111.002, which provides that the comptroller may prescribe, adopt, and enforce rules relating to the administration and enforcement of the provisions of the Tax Code, Title 2.

§1.15. *Taxpayer's Reply to the Position Letter* If a taxpayer desires to present additional [facts or] legal arguments for consideration by the administrative law judge, a reply to the position letter should be filed. [If the taxpayer wishes to raise new issues, a reply to the position letter must be filed.] The notice of setting will specify a due date **not sooner than 20 days** for this reply. [The taxpayer will have at least 20 days to reply.] If any issues are raised or presented for the first time at the hearing, a party may plead surprise and move for a continuance.

Issued in Austin, Texas, on January 21, 1987

TRD-8700574

Bob Bullock  
Comptroller of Public  
Accounts

Effective date January 21, 1987

Expiration date May 21, 1987

For further information, please call  
(512) 463-4004

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★34 TAC §1.16

The Comptroller of Public Accounts adopts on an emergency basis an amendment to §116, concerning response to the tax division. The amendment deletes the portion of the section stating the administrative law judge will have at least 20 days to respond. Additional clarification changes have been made.

The amendment is adopted on an emergency basis to allow a greater number of hearings to be held and to reduce the present number of hearings. The change will result in an increase in the speed and efficiency of the administrative hearings process, thereby speeding up the collection of tax revenue.

This amendment is adopted on an emergency basis under the Tax Code, §111.002, which provides that the comptroller may prescribe, adopt, and enforce rules relating to the administration and enforcement of the provisions of the Tax Code, Title 2.

§1.16. *Response of the Tax Division* If the taxpayer files a reply to the position letter, the hearing attorney must file any response by the date specified by the **notice of setting** [administrative law judge but will have at least 20 days to respond]. The response will state the legal position of the tax division, and any factual disagreement, with respect to each new issue or argument raised by the taxpayer. **No additional or new evidence submitted by the taxpayer on audits begun on or after February 1, 1987, will be considered or responded to by the tax division.**

Issued in Austin, Texas, on January 21, 1987

TRD-8700575

Bob Bullock  
Comptroller of Public  
Accounts

Effective date January 21, 1987

Expiration date May 21, 1987

For further information please call  
(512) 463-4004

★ ★ ★

★34 TAC §1.22

The Comptroller of Public Accounts adopts on an emergency basis an amendment to §122, concerning rules of evidence. The amendment provides documentary evidence not timely submitted by the taxpayer will not be considered unless the evidence was obtained by the comptroller's office or at the request of the hearings attorney.

This amendment is adopted on an emergency basis to allow a greater number of hearings to be held and to reduce the present number of hearings. The change will result in an increase in the speed and efficiency of the administrative hearings process, thereby speeding up the collection of tax revenue.

The amendment is adopted on an emergency basis under the Tax Code, §111.002, which provides that the comptroller may prescribe, adopt, and enforce rules relating to the administration and enforcement of the provisions of the Tax Code, Title 2.

§1.22 *Rules of Evidence* The rules of evidence set forth in the Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6252-13a, apply to all contested case. The Act, §14, provides, in part: "In contested cases, irrelevant, immaterial, or unduly repetitious evidence shall be excluded. The rules of evidence as applied in nonjury cases in the district courts of this

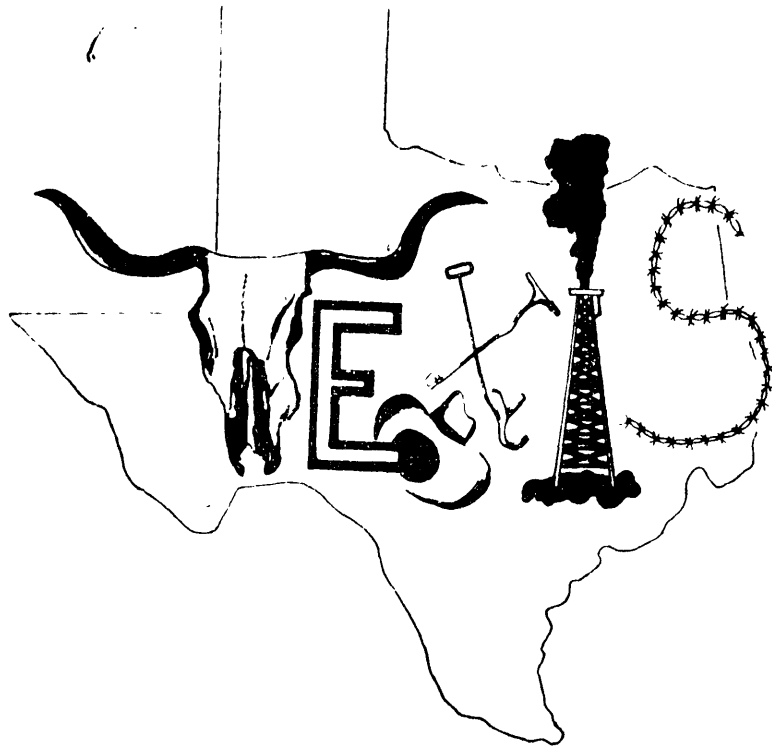
state shall be followed. When necessary to ascertain facts not reasonably susceptible of proof under these rules, evidence not admissible thereunder may be admitted, except where precluded by statute, if it is of a type commonly relied upon by reasonably prudent men in the conduct of their affairs. Agencies shall give effect to the rules of privilege recognized by law. Objections to evidentiary offers may be made and shall be noted in the records. 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. It is specifically provided documentary evidence not timely submitted by the taxpayer on audits begun on or after February 1, 1987, will not be considered unless such evidence was obtained by the comptroller's office or at the request of the hearing attorney. The rules of evidence promulgated by the Supreme Court of Texas apply to all oral hearings held on or after September 1, 1983.

Issued in Austin, Texas, on January 21, 1987

TRD-8700576      Bob Bullock  
                         Comptroller of Public  
                         Accounts

Effective date: January 21, 1987  
Expiration date: May 21, 1987  
For further information, please call  
(512) 463-4004

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Name: Cindy Walls  
Grade: 12  
School: Plano Senior High School, Plano

# Proposed Rules

Before an agency may permanently adopt a new or amended rule, or repeal an existing rule, a proposal detailing the action must be published in the *Register* at least 30 days before any action may be taken. The 30-day time period gives interested persons an opportunity to review and make oral or written comments on the rule. Also, in the case of substantive rules, a public hearing must be granted if requested by at least 25 persons, a governmental subdivision or agency, or an association having at least 25 members.

**Symbology in proposed amendments.** New language added to an existing rule is indicated by the use of **bold text**. [Brackets] indicate deletion of existing material within a rule.

## TITLE 1. ADMINISTRATION Part IV. Office of the Secretary of State Chapter 95. Uniform Commercial Code Standard Forms ★ 1 TAC §95.51

*(Editor's note. The text of the following section proposed for repeal will not be published. The section may be examined in the offices of the Office of the Secretary of State, Capitol Building, Austin, or in the Texas Register office, Room 8031, Sam Houston Building, 201 East 14th Street, Austin.)*

The Office of the Secretary of State proposes the repeal of §95.51, concerning standard forms. The repeal standardizes forms for financing statements.

Wally Boggus, director, Uniform Commercial Section, has determined that for the first five-year period the proposed repeal will be in effect there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the repeal.

Mr Boggus also has determined that for each year of the first five years the repeal is in effect the public benefit anticipated as a result of enforcing the repeal will be standardization of forms for financing statements, change of financing statement, and request for information. There is no anticipated economic cost to individuals who are required to comply with the proposed repeal.

Comments on the proposal may be submitted to Hyattye O Simmons, General Counsel, PO Box 12697 Austin, Texas 78711.

The repeal is proposed under the Texas Business and Commerce Code, §9.409, which provides the Office of the Secretary of State with the authority to prescribe the forms to be used in making any filing or in requesting any information under the Texas Uniform Commercial Code.

### §95.51 Prescribed Form

This agency hereby certifies that the proposal has been reviewed by legal counsel

and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on January 16, 1987

TRD-800503 Myra A. McDaniel  
Secretary of State

Earliest possible date of adoption,  
February 27, 1987

For further information, please call  
(512) 463-5701

★ ★ ★

The Office of the Secretary of State proposes new §95.51, concerning standard forms. The new section standardizes forms for financing statements.

Wally Boggus, director, Uniform Commercial Section, has determined that for the first five-year period the proposed section will be in effect there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the section.

Mr Boggus also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be standardization of forms for financing statements, change of financing statement, and request for information. There is no anticipated economic cost to individuals who are required to comply with the proposed section.

Comments on the proposal may be submitted to Hyattye O Simmons, General Counsel, PO Box 12697, Austin, Texas 78711.

The new section is proposed under the Texas Business and Commerce Code, §9.409, which provides the Office of the Secretary of State with the authority to prescribe the forms to be used in making any filing or in requesting any information under the Texas Uniform Commercial Code.

### §95.51 Prescribed Form

(a) The secretary of state has prescribed forms for the financing statement, Form UCC-1; the financing statement change, Form UCC-3; the request for information, Form UCC-11, for use with the Secretary of State of Texas and county clerks of Texas.

(1) Specifications pertaining to the prescribed forms may be obtained by writing

the Uniform Commercial Code Section, Office of the Secretary of State of Texas, Austin, Texas 78711.

(2) Permission to print prescribed forms must be obtained in writing from the secretary of state. Printer must submit five forms of each type to the secretary of state for examination. Within 30 days of receipt of forms the secretary of state will transmit to printer written notification of the results of the examination. The notification will grant permission to print forms or express the reasons for refusal to grant permission.

(3) The secretary of state will notify approved printers of revisions which must be made to the prescribed forms. Printer must submit five revised forms of each type to the secretary of state for examination. Within 30 days of receipt of the revised forms, the secretary of state will transmit written notification of the results of the examination. The notification will grant permission to print forms or express the reasons for refusal to grant permission.

(4) The secretary of state may suspend permission to print forms at any time for failure to comply with this section or failure to maintain compliance with form specifications.

(b) Where a form other than the form prescribed by the secretary of state is used or where additional pages are attached to the prescribed form, the filing or request for information is nonstandard.

(c) Forms revised September of 1986 will be effective as standard forms on March 1, 1987. During the period beginning March 1, 1987, and ending May 31, 1987, standard forms previously prescribed may be filed with the secretary of state as standard forms. After May 31, 1987, forms previously prescribed may be filed with the secretary of state as nonstandard forms.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on January 16, 1987

TRD-8700504 Myra A. McDaniel  
Secretary of State

Earliest possible date of adoption,  
February 27, 1987

For further information, please call  
(512) 463-5701

**TITLE 16. ECONOMIC  
REGULATION  
Part II. Public Utility  
Commission of Texas  
Chapter 23. Substantive Rules  
Rates**

**★16 TAC §23.25**

The Public Utility Commission of Texas proposes new §23.25, concerning long distance rates. The new section governs the flexible regulation of companies providing long distance telecommunications service, but which also do not offer local exchange service and are subject to the rate-making jurisdiction of the commission.

Philip Diehl, Telephone Division Director has determined that for the first five-year period the proposed section will be in effect there will be fiscal implications for state as a result of enforcing or administering the section. The effect on state government will be an estimated additional cost of \$50,000 each year in 1988-1991. There is no effect on local government or small businesses as a result of enforcing the section.

Mr. Diehl, also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be generally lower rates for intrastate, inter LATA long distance service, and the availability of a wider range of telecommunication services. The possible economic cost to those who are required to comply with the section as proposed will be an unknown reduction in AT&T's regulatory expenses.

Comments on the proposal may be submitted to Phillip Holder, Secretary of the Commission, 7800 Shoal Creek Boulevard, Suite 450N, Austin, Texas 78757.

The new section is proposed under Texas Civil Statutes, Article 1446c, §16, which provide the Public Utility Commission of Texas with the authority to make and enforce rules reasonably required in the exercise of its powers and jurisdiction and in administering the provisions of this Act.

**§23.25 Long Distance Rates**

(a) Application. Except as otherwise specified, this section only applies to companies which offer long distance telecommunications service as that term is defined by §23.61 of this title (relative to Telephone Utilities), which do not offer local exchange service, and are subject to the rate-making jurisdiction of the commission for any service or market, referred to as the RIXC.

(b) New services. After the effective date of this section, the RIXC may offer new services by following the procedures outlined as follows. As used in this subsection, new services includes repricing or repackaging of any tariffed service offering, so long as the

new service incorporates some new feature and is not merely a change of the names and rates for an existing service, and any method of transmission or switching of messages or data not offered on a tariffed basis prior to January 1, 1987. New services shall be offered at the same price throughout the state. New services shall be offered in every area of the state unless the access, switching, or billing equipment of a local exchange company does not have the technical capability to handle the service. The RIXC shall file a description of the proposed new service with the commission not less than 30 days prior to the proposed effective date of the service. The RIXC shall give statewide notice of its filing of a new service. New services shall be priced at or above the incremental cost of such service. The filing shall also include detailed cost justification for the new service. If the new service will not be made available on a statewide basis simultaneously, the RIXC shall also file an implementation plan which shall demonstrate the RIXC's provisions for making the service available statewide. If the RIXC is not offering a new service in an area because of limitations of the local exchange company, the RIXC shall also file specific information which shall show the technical reasons why the service cannot be offered in the area. No proceedings shall commence, and no time limits shall begin to run, until the RIXC completes the filing required by this subsection. The commission shall determine whether the filing constitutes a new service, whether the rates proposed for the new service are set at or above the incremental cost of the service, and whether the implementation plan is just and reasonable. If the commission has not issued an order accepting the proposed new service at the rates and conditions proposed by the RIXC, or setting the just and reasonable rates to be charged within 30 days, the new service may go into effect at the rates proposed, pending final commission action.

(c) Banded rates. After the effective date of these rules, the RIXC may have maximum and minimum rates established by this commission in accordance with this subsection.

(1) The charges in effect at the effective date of this rule shall be the benchmark price. The benchmark price may be changed pursuant to procedures set forth in the Public Utility Regulatory Act (PURA), §43. The maximum and minimum rate for each service shall be as follows.

(A) For message telecommunication service, the maximum rate shall be \$ .01 above the benchmark price for each rate band for the first year after this section becomes effective and \$ .02 above the benchmark price for each rate band for the second and subsequent years after this section becomes effective. The minimum rate shall be \$ .01 below the benchmark price for each rate band for the first year after this section becomes effective, and \$ .02 below the bench-

mark price for each rate band for the second and subsequent years after this section becomes effective.

(B) For wide area telecommunications service, the maximum rate shall be 5.0% above the benchmark price, and the minimum rate shall be 5.0% below the benchmark price for the first year after this section becomes effective. The maximum rate shall be 10% above the benchmark price, and the minimum rate shall be 10% below the benchmark price for the second and subsequent years after this section becomes effective.

(C) For analog private line service, for the first year after the section becomes effective the maximum rate shall be \$25 above the monthly benchmark price per local channel rate element, not to exceed the cost of access. For the second year and each subsequent year after this section becomes effective, the maximum rate shall be \$50 above the monthly benchmark price per local channel rate element not to exceed the cost of access. The benchmark price shall be the minimum rate. The commission shall review private line rates before the end of the second year after this section becomes effective.

(D) For digital private line service, the maximum rate shall be 10% above the benchmark price, for the first year after this section becomes effective, and 20% above the benchmark price for the second and subsequent years after this section becomes effective. The minimum rate shall be 10% below the benchmark price for the first year after this section becomes effective, and 20% below the benchmark price for the second and subsequent years.

(E) For in-bound wide area telephone service (WATS 800) and operator services, the benchmark price shall be the maximum and minimum price.

(2) The RIXC shall file tariffs containing its maximum and minimum rates and the benchmark rates in accordance with this section on the effective date of this section, and one year after the effective date of this section. For analog private line service, the tariffs shall be accompanied by information showing the access cost associated with each local channel rate element for which maximum rates are to be set.

(3) After the tariff is filed, the RIXC may charge the benchmark price without further action of this commission. If the company desires to charge a price different from its benchmark price, but within the maximum and minimum tariff rates, it shall file a revised price schedule for each service or group of services. The RIXC may change one or more than one price within a service. The price schedule shall be in the form prescribed by the commission and shall make reference to the tariff section, sheet number, and USOC code for each affected service. The revised price schedule shall have a stated effective date, which shall not be less than 30 days after the filing date. Notice of the

revised price schedule shall be mailed to customers of the affected service through bill inserts at least 30 days prior to the effective date of the revised price schedule

(d) Access charge changes. If the commission changes the access charges charged to the RIXC, the RIXC shall file revised bench-mark prices for each service affected by such changes within six months after the order of the commission. During the first six months of the commission's order revising access charges, the RIXC may implement revised bench-mark prices which flow through to each respective service all or part of the access charge changes related to that specific service. Six months after the effective date of any commission ordered changes in access charges, the commission may review the flow-through of such changes implemented by the RIXC and order a revision of the flow-through methodology and the bench-mark prices. The revised bench-mark prices shall have a stated effective date which shall not be less than 30 days after the filing date. The filing shall include detailed workpapers showing the access charge inputs, the calculations, and the results for each affected bench-mark price. The filing shall also contain a detailed narrative explanation of each step in the calculation. Notice of the filing shall be mailed to customers of the affected service through bill inserts at least 30 days prior to the effective date of the revised bench-mark prices.

(e) Reports. The commission staff shall file a quarterly report on the impact of these rules on ratepayers and other interexchange carriers. The reports shall be based on reports from local exchange companies and interexchange companies and publicly available records. The local exchange companies and interexchange companies shall supply such information as the commission staff shall request. If any local exchange company or interexchange company claims information submitted in these reports is proprietary or a trade secret, such information shall be treated as is information submitted pursuant to §23.61(f)(6) of this title (relating to Telephone Utilities).

(f) Prohibitions. No tariffed offering in effect prior to January 1, 1987, may be withdrawn or limited without the prior approval of the commission. Rates shall not be deaveraged on a geographic basis.

(g) Effective date. The effective date of this section shall be July 1, 1987.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on January 16, 1987

TRD-8700506      Phillip A. Holder  
Secretary  
Public Utility  
Commission

Earliest possible date of adoption,  
February 27, 1987

For further information, please call  
(512) 458-0100

## TITLE 19. EDUCATION Part II. Texas Education Agency

### Chapter 75. Curriculum Subchapter G. Other Provisions

#### ★ 19 TAC §75.166

*(Editor's note: The text of the following section proposed for repeal will not be published. The section may be examined in the offices of the Texas Education Agency 201 East Eleventh Street, Austin, or in the Texas Register office, Room 504F, Sam Houston Building, 201 East 14th Street, Austin.)*

The Texas Education Agency proposes the repeal of §75.166, concerning credit by examination. A new section with revised criteria and procedures for credit by examination is being proposed.

Lynn M. Moak, deputy commissioner for research and information, has determined that for the first five-year period the proposed repeal will be in effect there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the repeal.

Mr. Moak and Dr. Beverly Bardsley, director for policy development, also has determined that for each year of the first five years the repeal is in effect the public benefit anticipated as a result of enforcing the repeal will be that the repeal of the old rule on credit by examination will make possible the adoption of a new one which recognizes the distinction between advanced placement and credit by examination. There is no anticipated economic cost to individuals who are required to comply with the proposed repeal.

Comments on the proposal may be submitted to Dr. Beverly Bardsley, director for policy development, 1701 North Congress Avenue, Austin, Texas, 78701, (512) 463-9682. All requests for a public hearing on proposed sections submitted in accordance with the Administrative Procedure and Texas Register Act must be received by the commissioner of education not more than 15 calendar days after notice of a proposed change in rules has been published in the *Texas Register*.

This repeal is proposed under the Texas Education Code, §21.101, which authorizes the State Board of Education to make rules concerning the public school curriculum.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on January 16, 1987

TRD-8700483      W. N. Kirby  
Commissioner of  
Education

Proposed date of adoption:

March 14, 1987

For further information, please call  
(512) 463-9212

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The Texas Education Agency proposes new §75.166, concerning credit by examination. Under the proposed new section, credit by examination may be used only by students who have had at least the specified amount of prior formal instruction in a particular course. Local school districts will make the determination of prior formal instruction based on a review of educational records.

Under the proposed new section, districts could place restrictions on the total amount of credit which may be earned by credit by examination. They may use screening procedures to determine eligibility, and may charge fees not to exceed a limit set by the commissioner of education. Examinations must assess mastery of the state-mandated essential curriculum elements for the course.

Students who exceed the maximum number of absences allowed by the Texas Education Code, §21.041, may not use credit by examination to receive credit for the course in which excessive absences were accrued. Credit by exam may not be used to gain eligibility for extracurricular activities.

Lynn M. Moak, deputy commissioner for research and information, has determined that for the first five-year period the proposed section will be in effect there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the section.

Mr. Moak and Dr. Beverly Bardsley, director for policy development, also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be that school districts will be able to continue to offer credit by examination for eligible students who have had prior instruction. There is no anticipated economic cost to individuals who are required to comply with the proposed section. Districts may charge fees for credit by examination but the procedure is optional, not required.

Comments on the proposal may be submitted to Dr. Beverly Bardsley, director for policy development, 1701 North Congress Avenue, Austin, Texas, 78701, (512) 463-9682. All requests for a public hearing on proposed sections submitted in accordance with the Administrative Procedure and Texas Register Act must be received by the commissioner of education not more than 15 calendar days after notice of a proposed change in rules has been published in the *Texas Register*.

This new section is proposed under the Texas Education Code, §21.101, which authorizes the State Board of Education to make rules concerning the public school curriculum.

**§75.166. Credit by Examination.**

**(a) General provisions.**

(1) A school district board of trustees which chooses to grant credit by examination shall adopt a policy which shall include, but need not be limited to, the following:

(A) eligibility requirements for students seeking credit by examination;

(B) courses for which credit may be earned by examination.

(C) procedures for examinations for credit;

(D) provisions for ensuring that examinations given under this section assess mastery of the essential elements;

(E) provisions for ensuring that the passing grade for the examination for credit is as high as that required for the same course or courses for other students in the district; and

(F) provisions for ensuring that examinations for credit are properly evaluated before credit is granted.

(2) Districts shall give reasonable notification of the availability of credit by examination.

(3) Districts may place restrictions on the total amount of credit to be awarded through credit by examination.

(4) Students who have had a least 55 scholastic hours of prior formal instruction for a semester course or 110 scholastic hours of prior formal instruction for a full-year course may use credit by examination procedures. Districts shall determine prior formal instruction based upon a review of educational records.

(5) Districts may use screening procedures to determine which students may use credit by examination.

(6) Districts may charge for these examinations at a rate not to exceed a limit set by the commissioner of education.

(b) Assessment of mastery. Examinations that assess student mastery of the essential elements for a particular course may be obtained from any source and may be administered by outside agencies. Examinations should be as rigorous as possible and may use a variety of methods. Tests or other assessments used to determine essential element mastery are not required to be submitted to the Central Education Agency for approval, but are subject to review by accreditation teams.

(c) Granting of credit. Credit obtained using credit by examination shall be recorded on the permanent school record for grades six-eight or on the academic achievement record for grades nine-12 as appropriate.

(1) Granting of credit shall be dependent upon performance equivalent to that of students receiving regular classroom instruction. Students must attain a grade of

at least 70 or above on the assessment of the essential elements in this chapter. Granting of credit is subject to parental and district approval.

(2) Students in grades seven-eight and grade six, when included in the middle school, may receive unit credit for a course if they meet the standards in paragraph (1) of this subsection.

(3) Students in grades nine-12 may receive credit for a course if they meet the standards in paragraph (1) of this subsection.

(4) For courses offered for local credit only, credit may be given by examination at the discretion of the district.

(d) Use of credit. Credit by examination shall not be used to gain eligibility for participation in extracurricular activities. Students who exceed the maximum number of absences allowed by the Texas Education Code, §21.041, may not use credit by examination to receive credit for the particular course.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on January 16, 1987.

TRD-8700484

W N Kirby  
Commissioner of  
Education

Proposed date of adoption:

March 14, 1987

For further information, please call  
(512) 463-9212.

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**Chapter 149. Education  
Personnel Development  
Subchapter C. Appraisal of  
Certified Personnel**

**★19 TAC §149.44**

*(Editor's note: The Texas Education Agency proposes for permanent adoption the amendment it adopts on an emergency basis in this issue. The text of the amendment is published in the Emergency Rules section of this issue.)*

The Texas Education Agency proposes an amendment to §149.44, concerning the teacher appraisal system, scoring procedures, and forms, to delete the preliminary scoring standards established by the State Board of Education in June 1986. These standards were preliminary only. In January 1987 the board adopted final standards based on actual teacher appraisal data generated during the 1986 fall appraisal period.

Lynn M. Moak, deputy commissioner for research and information, has determined that for the first five-year period the proposed section will be in effect there will be no fiscal implications for state or local government or small businesses as a re-

sult of enforcing or administering the section.

Mr. Moak and Dr. Beverly Bardsley, director for policy development, also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be that the board rule will not be in conflict with scoring standards adopted by the State Board of Education in January 1987. There is no anticipated economic cost to individuals who are required to comply with the proposed section.

Comments on the proposal may be submitted to Dr. Beverly Bardsley, director for policy development, 1701 North Congress Avenue, Austin, Texas, 78701, (512) 463-9682. All requests for a public hearing on proposed sections submitted in accordance with the Administrative Procedure and Texas Register Act must be received by the commissioner of education not more than 15 calendar days after notice of a proposed change in rules has been published in the *Texas Register*.

This amendment is proposed under the Texas Education Code, §13.302, which directs the State Board of Education to develop and adopt an appraisal process and assessment instrument for teacher appraisal for career ladder level assignment purposes.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on January 16, 1987.

TRD-8700485

W N Kirby  
Commissioner of  
Education

Proposed date of adoption:

March 14, 1987

For further information, please call  
(512) 463-9212.

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**TITLE 28. INSURANCE  
Part I. State Board of  
Insurance**

**Chapter 19. Agent's Licensing  
Subchapter H. Variable Contract  
Agents**

**★28 TAC §§19.701, 19.703, 19.708**

The State Board of Insurance proposes amendments to §§19.701, 19.703, and 19.708, concerning licensing and regulation of variable contract agents. The amendments are based on recommendations to the agent's licensing advisory committee appointed by the board. The amendments are necessary to make the provisions under the Insurance Code, Article 3.75, for licensing and for participation in the profits of variable contract



agents more closely in accord with provisions for local recording agents under the Insurance Code, Article 2114. The amendments also complement existing and proposed statutory provisions for licensing of legal reserve life insurance agents under the Insurance Code, Article 2107-1. The amendment to §19 701 extends eligibility for licensing to partnerships and corporations under the conditions specified. The amendment to §19 703 provides that a partnership may obtain a variable contract agent's license if all partners individually qualify for licensing and are named in the license. Additionally, the amendment to §19 703 permits licensing of a corporation if every officer, director, and shareholder is individually licensed and if the corporation furnished evidence of financial responsibility through an errors and omissions policy, a surety bond, or a deposit of cash or securities in the amounts specified in the amended section. The amendment to §19 708 provides a means for the dependent children of a duly licensed variable contract agent, or the surviving spouse and/or children of a deceased variable contract agent, to participate in the profits of the agency without qualifying for license so long as they do not perform any act of an agent.

Jack Evins, assistant manager, License Division, has determined that, for the first five-year period that the proposed amendments will be in effect, there will be not fiscal implications for local government as a result of enforcing or administering the amendments. The fiscal implications for state government will be negligible, because the expense of processing the additional paperwork should be offset by the collection of fees. For small businesses there is no anticipated cost of compliance with the amendments other than what is specified in this notice for all persons required to comply with the amendments. There will be no difference per hour of labor in cost of compliance between small and large businesses.

Mr Evins has also determined that, for each year of the first five years that the proposed amendments are in effect, the public benefit anticipated as a result of enforcing the amendments will be long-term security for agents and their dependents and a more stable agency population provided by the ability of agencies to operate under a broader range of structures. The anticipated economic cost of individuals who are required to comply with the proposed amendments will be the amount of the fee (currently \$25) and the cost of a bond, deposit, or errors and omissions insurance policy for those who desire to take advantage of the expanded eligibility.

Comments on the proposal may be submitted to Jack Evins, Assistant Manager, License Division, State Board of Insurance, 1110 San Jacinto Boulevard, Austin, Texas 78701-1998.

The amendments are proposed under the Insurance Code, Article 3 75, §8, which provides that the State Board of Insurance may establish such rules, regulations, or limitations which are fair and reasonable as may be appropriate for the augmentation and implementation of provisions of the Insurance Code concerning licensing and regulations of variable contract agents.

**§19 701 Securities Dealer's License.** As a condition of licensure, an individual, partnership, or corporation acting as a variable contract (hereinafter referred to simply as agent) must hold a valid life insurance agent's license issued under authority of the Insurance Code, Article 21.07-1. Additionally, an individual, as a condition for licensure as a variable contract agent, must meet the following requirements:

(1) hold a valid life insurance agent's license issued under authority of the Insurance Code, Article 21.07-1, and

(1)(2) provide evidence of successful completion of an examination on general securities principles administered by the National Association of Securities Dealers on either:

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

(2)(3) provide evidence of successful completion of an examination on state securities law administered by the State Securities Board or the examination for the Uniform Securities Agents State Law Examination (USABLE) Series 63 administered by the National Association of Securities Dealers.

**§19 703 Application for License.**

(a) Each applicant for a license to act as an agent within the state shall file with the insurance commissioner a [his or her] written application in such form as the board may require. The application shall be signed and duly sworn by the applicant. Such (b) the] application shall be accompanied by a certificate on forms and signed by an officer or properly authorized representative of the sponsoring insurance company, the applicant [he or she] proposes to represent, stating that the insurer has investigated the character and background of the applicant and is satisfied that the applicant [he or she] is trustworthy and qualified to hold himself, [or] herself, or itself out in good faith to the general public as an agent, that the applicant has completed applicable educational requirements, and that the insurer desires that the applicant be licensed as a variable contract agent to represent it in this state.

(b)(c) The application, when filed, shall be accompanied by the required [a] license fee, [of \$25. In the event an applicant fails to qualify for or is refused a license, the filing fee shall be returned.]

(c) The board shall issue licenses to individuals or to individuals engaging as partners in the insurance business, provided the names of all persons interested in any such partnership are named in the license, and each named person qualifies as an agent under this subchapter.

(d) The board shall issue a license to a corporation if it finds:

(1) that the corporation is a Texas corporation organized or existing under the Texas Business Corporation Act or the Texas Professional Corporation Act, having its principal place of business in the State of Texas and having as one of its purposes the authority to act as agent under this subchapter;

(2) that every officer, director, and shareholder of the corporation is individually licensed as an agent under the provisions of this subchapter; and

(3) that such corporation will have the ability to pay any sums up to \$25,000 which it might become legally obligated to pay on account of any claim made against it by any customer and caused by any negligent act, error, or omission of the corporation or any person whose acts the corporation is legally liable in the conduct of its business as under this subchapter. The term "customer" as used in this paragraph shall mean any person, firm, or corporation to whom such corporation sells or attempts to sell a variable annuity or variable life contract or from whom such corporation accepts an application for such contract. Such ability shall be proven in one of the following ways:

(A) an errors and omissions policy insuring such corporation against errors and omissions in at least the sum of \$100,000 with no more than a \$5,000 deductible feature issued by an insurance company licensed to do business in the state or Texas or, if a policy cannot be obtained from a company licensed to do business in Texas, a policy issued by a company not licensed to do business in Texas on filing an affidavit with the State Board of Insurance stating the inability to obtain coverage and receiving the board's approval; or

(B) a bond executed by such corporation as principal and a surety company authorized to do business in this state, as surety, in the principal sum of \$25,000, payable to the State Board of Insurance for the use and benefit of customers of such corporation, conditioned that such corporation shall pay any final judgment recovered against it by any customer; or

(C) a deposit with the state treasurer of cash or securities of the class authorized by the Insurance Code, Articles 2.08 and 2.10. Any such deposit shall have a fair market value of \$25,000. The state treasurer is hereby authorized and directed to accept and receive such deposit and hold it exclusively for the protection of any customer of such corporation recovering a final judgment against such corporation. Such deposit may be withdrawn only upon filing with the commissioner of insurance evidence satisfactory to the commissioner that the corporation has withdrawn from business and has no unsecured liabilities outstanding, or that such corporation has provided for the protection of

its customers by furnishing an errors and omissions policy or a bond as provided in subparagraph (A) or (B) of this paragraph. Securities so deposited may be exchanged from time to time for other qualified securities.

(e) A binding commitment to issue such a policy or bond, or tender of such securities, shall be sufficient in connection with any application for license.

(f) Nothing contained in this section shall be construed to permit any unlicensed employee or agent of any corporation to perform any act of an agent under this subchapter without obtaining a license.

(g) If, at any time, any corporation holding a license under this subchapter does not maintain the qualifications necessary to obtain a license, the license of such corporation to act as an agent shall be cancelled or denied in accordance with the provisions of §19.709 of this title (relating to Denial, Suspension, or Revocation of Licenses); provided, however, that should any person who is not an agent licensed under this subchapter acquire shares in such corporation by devise or descent, the person shall have a period of 90 days from date of acquisition within which to obtain a license as an agent or to dispose of the shares to an agent licensed under this subchapter.

(h) Should such an unlicensed person acquire shares in such a corporation and not dispose of them within said period of 90 days to a licensed agent, then they must be purchased by the corporation for their book value, that is, the value of said shares of stock as reflected by the regular books and records of said corporation as of the date of the acquisition of said shares by said unlicensed person. Should the corporation fail or refuse to so purchase such shares, its license shall be cancelled.

(i) Any such corporation shall have the power to redeem the shares of any shareholder, or the shares of a deceased shareholder, upon such terms as may be agreed upon by the board of directors and such shareholder or his personal representative, or at such price and upon such terms as may be provided in the articles of incorporation, the by-laws, or an existing contract entered into between the shareholders of the corporation.

(j) Each corporation licensed as an agent under this subchapter shall file, under oath, a list of the names and addresses of all of its officers, directors, and shareholders with its application for renewal license.

(k) Each corporation licensed as an agent under this subchapter shall notify the State Board of Insurance upon any change in its officers, directors, or shareholders not later than the 30th day after the date on which the change became effective.

(l) No other corporation may own interest in a corporation licensed under this subchapter, and each owner of an interest in a corporation licensed under this subchapter shall be a natural person who holds a va-

lid license issued under this subchapter.

(m) No association nor any legal entity of any nature, other than an individual person, partnership, or corporation, may be licensed as a variable contract agent.

#### §19.708. Prohibitions.

(a) (No change)

(b) Except as provided in this subsection, no person, partnership, or corporation shall act as an agent within this state until he, [or] she, or it shall have procured a license as required by the laws of this state. No insurer or licensed agent doing business in this state shall pay directly or indirectly any commission, or other valuable consideration, to any person, partnership, or corporation for services as an agent within this state, unless such person, partnership, or corporation shall hold a currently valid license to act as an agent as required by the laws of this state, nor shall any person, partnership, or corporation, other than a duly licensed agent, accept any such commission or other valuable consideration, provided, however, that the provisions of this subsection shall not prevent the payment or receipt of renewal or other deferred commissions to or by any person, partnership, or corporation solely because such person, partnership, or corporation has ceased to hold a license to act as an agent; and also provided, that:

(1) Upon the death of a duly licensed variable contract agent who is a member of an agency partnership, the surviving spouse and children, if any, of such deceased partner, or a trust for such surviving spouse and children, may share in the profits of such agency partnership during the lifetime of such surviving spouse or children, as the case may be, if, and as, provided by a written partnership agreement, or in the absence of any written agreement, if, and as, agreed by the surviving partner or partners and the surviving spouse, the trustee, and the legal representative of the surviving child or children. Such surviving spouse and any such surviving children or trusts shall not be required to qualify as variable contract agents to participate in such profits, but shall not do or perform any act of a variable contract agent on behalf of such partnership without having qualified as a variable contract agent; provided, however, that a duly licensed variable contract agent who is a member of an agency partnership may, with the approval of the other members of the partnership, transfer an interest in the agency partnership to his children or a trust for same, and may operate such interest in the agency partnership for their use and benefit; and such children or trusts may share in the profits of such agency partnership. Such child or children or trusts shall not be required to qualify as a variable contract agent to participate in such profits, but shall not do or perform any act of a variable contract agent on behalf of such partnership without having qualified as a variable contract agent;

(2) upon the death of a duly licensed

variable contract agent who is a sole proprietorship, unless otherwise provided by the last will of such deceased agent, the surviving spouse and children, if any, of such deceased agent, or a trust for such spouse or children, may share in the profits of the continuance of the agency business of said deceased agent, provided such agency business is continued by a duly licensed variable contract agent. Said surviving spouse, trusts, or children shall not be required to qualify as variable contract agents in order to participate in the profits of such agency, but shall not do or perform any act of a variable contract agent in connection with the continuance of such agency business without first having been duly licensed as a variable contract agent; provided, however, that a duly licensed variable contract agent who is a sole proprietorship may transfer an interest in his agency to his children, or a trust for same, and may operate such interest for their use and benefit; and such children may share in the profits of such variable contract agency during their lifetime, and during such time shall not be required to qualify as a variable contract agent in order to participate in such profits, but shall not do or perform any act of a variable contract agent in connection with such agency business without first having been duly licensed as a variable contract agent;

(3) upon the death of a shareholder in a corporate licensed variable contract agency, the surviving spouse and children, if any, of such deceased shareholder, or a trust for such surviving spouse and children, may share in the profits of such corporate agency during the lifetime of such surviving spouse or children, as the case may be, if and as provided by a contract entered into by and between all of the shareholders and the corporation. Any such surviving spouse, surviving children, or trusts shall not be required to individually qualify as a variable contract agent in order to participate in such profits, but shall not do or perform any act of a variable contract agent on behalf of such corporation without having qualified as a variable contract agent, provided, however, that a shareholder in a corporate licensed variable contract agency, may, if provided by a contract entered into by and between all of the shareholders and the corporation, transfer an interest in the agency to his children or a trust for same, and such children or trusts may share in the profits of such agency to the extent of such interest during their lifetime. Such children or trusts shall not be required to qualify as a variable contract agent to participate in such profits, but shall not do or perform any act of a variable contract agent on behalf of such corporation without having qualified as a variable contract agent;

(c) No licensed agent may assist, and/or conspire with a person, partnership, or corporation whose license as an agent has been suspended or revoked to engage in any acts of an agent.

(d) No agent may knowingly or willfully make any false or fraudulent statement

or representation in or with reference to an application for a variable contract.]

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on January 16, 1987

TRD-8709501      Nicholas Murphy  
Chief Clerk  
State Board of Insurance

Earliest possible date of adoption  
February 27, 1987  
For further information, please call  
(512) 463-6327

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## TITLE 31. NATURAL RESOURCES AND CONSERVATION

### Part IX. Texas Water Commission

#### Chapter 305. Consolidated Permits

##### Subchapter E. Actions, Notice, Hearings

###### ★ 31 TAC §305.105

The Texas Water Commission proposes amendments to §305.105 and 305.145, concerning consolidated permits. These proposed amendments are currently effective on an emergency basis as published in the November 11, 1986, issue of the *Texas Register* (11 TexReg 4613).

These amendments were made on an emergency basis to maintain a state hazardous waste program that is equivalent to the federal program under 42 United States Code §6901, et seq., Resource Conservation and Recovery Act of 1976 (RCRA), §3006(c). The amendments are now proposed in order to be subsequently adopted as permanent sections.

In §305.105(c), the description of an affected person is amended to delete the reference to an interest different from that of the general public. An affected person is then described as one who is determined by the commission to have an interest that may be adversely affected by action taken on the application.

In §305.145(b), the amendment states that the executive director may waive the five-day written notice requirement under §305.125(9) for releases or discharges of solid waste in favor of a written report within 15 days. Prior to this amendment, written reports were given 25 days for submittal to the executive director when the five-day notice requirement was waived.

William Monroe, chief fiscal officer, has determined that for the first five-year period the proposed section will be in effect,

there will be no fiscal implications for state or local governments or small businesses as a result of enforcing or administering these regulations.

Mr. Monroe also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing these sections will be the continued maintenance of a state hazardous waste program that is equivalent to the federal program under the Resource Conservation and Recovery Act of 1976 (RCRA), as amended. There is no anticipated economic cost to individuals who are required to comply with the proposed section.

Comments on the proposal may be submitted to Cynthia C. Smiley, Staff Attorney, Legal Division, Texas Water Commission, P.O. Box 13087, Austin, Texas 78711-3087. Please submit comments on or before February 20, 1987.

This amendment is proposed under the Texas Water Code, §5.103 and §5.105, which provide the Texas Water Commission with the authority to adopt any rules necessary to carry out its powers and duties under the Water Code and other laws of this state and to establish and approve all general policy of the commission. The amendment is also proposed under the Solid Waste Disposal Act, Texas Civil Statutes, Article 44777, §4(c), which authorizes the commission to adopt and promulgate rules consistent with the general intent and purposes of the Act and to establish minimum standards of operation for all aspects of the management and control of municipal hazardous waste and industrial solid waste, including rules relating to the siting of hazardous waste facilities. Under the Solid Waste Disposal Act, §3(b), the Texas Water Commission is designated the state solid waste agency with respect to the management of all industrial solid waste and hazardous municipal waste and is required to seek the accomplishment of the purposes of the Act through the control of all aspects of industrial solid waste and municipal hazardous waste management by all practical and economically feasible methods consistent with the powers and duties prescribed under the Act and other existing legislation. Section 3(b) also grants to the commission the powers and duties specifically prescribed in the Act and all other powers necessary or convenient to carry out its responsibilities.

###### §305.105. Request for Public Hearing

(a)-(b) (No change)

(c) An affected person is one who is determined by the commission to have an interest [different from that of the general public] that may be adversely affected by action taken on the application.]

(d) (No change)

This agency hereby certifies that the proposal has been reviewed by legal counsel

and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on January 20, 1987

TRD-8700560      James K. Rourke, Jr.  
General Counsel  
Texas Water Commission

Earliest possible date of adoption:  
February 27, 1987  
For further information, please call  
(512) 463-8087

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## Subchapter G. Additional Conditions for Solid Waste Storage, Processing, or Disposal Permits

### ★ 31 TAC §305.145

The amendment is proposed under the Texas Water Code, §5.103 and §5.105, which provide the Texas Water Commission with the authority to adopt any rules necessary to carry out its powers and duties under the Water Code and other laws of this state and to establish and approve all general policy of the commission. The amendment is also proposed under the Solid Waste Disposal Act, Texas Civil Statutes, Article 44777, §4(c), which authorizes the commission to adopt and promulgate rules consistent with the general intent and purposes of the Act and to establish minimum standards of operation for all aspects of the management and control of municipal hazardous waste and industrial solid waste, including rules relating to the siting of hazardous waste facilities. Under the Solid Waste Disposal Act, §3(b), the Texas Water Commission is designated the solid waste agency with respect to the management of all industrial waste and is required to seek the accomplishment of the purposes of the Act through the control of all aspects of industrial solid waste and municipal hazardous waste management by all practical and economically feasible methods consistent with the powers and duties prescribed under the Act and other existing legislation. Section 3(b) also grants to the commission the powers and duties specifically prescribed in the Act and all other powers necessary or convenient to carry out its responsibilities.

###### §305.145. Release or Discharges of Solid Waste.

(a) (No change)

(b) The executive director may waive the five-day written notice requirement under §305.125(9) of this title (relating to Standard Permit Conditions) in favor of a written report pursuant to this section within 15 [25] days.

This agency hereby certifies that the proposal has been reviewed by legal counsel

and found to be within the agency's authority to adopt

Issued in Austin, Texas, on January 20, 1987

TRD-8700559 James K. Rourke, Jr.  
General Counsel  
Texas Water  
Commission

Earliest possible date of adoption  
February 27, 1987

For further information, please call  
(512) 463-8087

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## Chapter 335. Industrial Solid Waste and Municipal Hazardous Waste

### Subchapter C. Standards Applicable to Generators of Hazardous Waste

#### ★ 31 TAC §335.61

The Texas Water Commission proposes an amendment to §335.61, concerning standards applicable to generators of hazardous waste. The amendment is currently effective on an emergency basis, as published in the November 11, 1986, issue of the *Texas Register* (11 TexReg 4614). This amendment was made on an emergency basis to maintain a state hazardous waste program that is equivalent to the federal program under 42 United States Code §6901 *et seq.* Resource Conservation and Recovery Act of 1976 (RCRA), §3006(c). The amendment is now proposed to be subsequently adopted as a permanent section.

In §335.61(c)(8)(B), the requirements imposed on small quantity generators are clarified to explain that accumulated hazardous waste is subject to full regulation under Chapters 305 and 335 when quantity limits are exceeded.

In §335.61(c)(10), the requirements imposed on small quantity generators are amended to clarify that a small quantity generator that mixes a solid waste with a hazardous waste that exceeds a quantity exclusion level under §335.61(c) is subject to full regulation under Chapters 305 and 335. Prior to this amendment, the requirement inadvertently referred only to regulation under Chapter 335, Subchapter C. This proposed amendment clarifies that full regulation is imposed when quantity exclusion levels are exceeded.

William Monroe, chief fiscal officer, has determined that for the first five-year period the proposed sections will be in effect there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering these regulations. The amendment merely clarifies the existing practice of the agency.

Mr. Monroe has also determined that for each year of the first five years the sections are in effect the public benefit anticipated as a result of enforcing these sections will be the continued maintenance of a state hazardous waste program that is equivalent to the federal program under the Resource Conservation and Recovery Act of 1976 (RCRA) as amended. There is no anticipated economic cost to individuals who are required to comply with the proposed sections.

Comments on the proposal may be submitted to Cynthia C. Smiley, Staff Attorney, Legal Division, Texas Water Commission, P.O. Box 13087, Austin, Texas 78711-3087. Please submit comments on or before February 20, 1987.

The amendment is proposed under the Texas Water Code, §§103 and §5105, which provide the Texas Water Commission with the authority to adopt any rules necessary to carry out its powers and duties under the Water Code and other laws of this state and to establish and approve all general policy of the commission. The amendment is also proposed under the Solid Waste Disposal Act, Texas Civil Statutes, Article 4477-7, §4(c), which authorizes the commission to adopt and promulgate rules consistent with the general intent and purposes of the Act and to establish minimum standards of operation for all aspects of the management and control of municipal hazardous waste and industrial solid waste, including rules relating to the siting of hazardous waste facilities. Under the Solid Waste Disposal Act, §3(b), the Texas Water Commission is designated the state solid waste agency with respect to the management of all industrial solid waste and hazardous municipal waste and is required to seek the accomplishment of the purposes of the Act through the control of all aspects of industrial solid waste and municipal hazardous waste management by all practical and economically feasible methods consistent with the powers and duties prescribed under the Act and other existing legislation. Section 3(b) also grants to the commission the powers and duties specifically prescribed in the Act and all other powers necessary or convenient to carry out its responsibilities.

#### §335.61 Purpose, Scope, and Applicability

- (a)-(b)(No change.)
- (c) Generators of small quantities of hazardous waste are subject to the following requirements:
- (1)-(7)(No change.)
- (8) In order for hazardous waste generated by a small quantity generator in a quantity greater than 100 kilograms but less than 1000 kilograms during a calendar month to be excluded from full regulation under this section, the generator must comply with the following requirements:
- (A) (No change.)

(B) A small quantity generator may accumulate hazardous waste on-site. If he or she accumulates at any time more than a total of 1000 kilograms of his or her hazardous waste, all those accumulated wastes for which the accumulation limit was exceeded are subject to full regulation under this Chapter and 305 of this title (relating to Consolidated Permits).

(C)-(D) (No change.)

(9) (No change.)

(10) A small quantity generator who mixes a solid waste with a hazardous waste that exceeds a quantity exclusion level of this subsection is subject to full regulation under this Chapter 305 of this title (relating to Consolidated Permits) (subchapter).

(11) (No change.)

(d)-(f) (No change.)

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on January 20, 1987

TRD-8700558 James K. Rourke, Jr.  
General Counsel  
Texas Water Commission

Earliest possible date of adoption  
February 27, 1987

For further information, please call  
(512) 463-8069

★ ★ ★

## TITLE 34. PUBLIC FINANCE

### Part I. Comptroller of Public Accounts

#### Chapter 1. Central Administration

##### Practice and Procedure

#### ★ 34 TAC §1.5

*(Editor's note: The Comptroller of Public Accounts proposes for permanent adoption the amendment it adopts on an emergency basis in this issue. The text of the amendment is published in the Emergency Rules section of this issue.)*

The Comptroller of Public Accounts proposes an amendment to §1.5 concerning initiation of a hearing. The amendment requires a taxpayer to submit its documentary evidence with its request for redetermination or refund hearing. It limits the use of documentary evidence during a hearing to evidence submitted by the taxpayer with the request for hearing and evidence obtained by the comptroller's department. It also provides no hearing will be held on fact-based hearing where documentary evidence is the best evidence and such evidence has not been submitted with the request for hearing.

The amendment allows a greater number of hearings to be held and to reduce the present number of hearings. The changes will result in an increase in the speed and efficiency of the administrative hearings process, thereby speeding up the collection of tax revenue.

John Moore, director of the comptroller's economic analysis center, has determined that for the first five-year period the proposed section will be in effect there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the section.

Mr Moore also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be a streamlined process of handling these issues and a speedier hearing process. There is no anticipated economic cost to individuals who are required to comply with the proposed section.

Comments on the proposal may be submitted to Wade Anderson, Executive Counsel, PO Box 13528, Austin, Texas 78711.

The amendment is proposed under the Texas Tax Code, §111.002, which provides that the comptroller may prescribe, adopt, and enforce rules relating to the administration and enforcement of the provisions of the Tax Code, Title 2.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on January 21, 1987

TRD-8700577      Bob Bullock  
                         Comptroller of Public  
                         Accounts

Earliest possible date of adoption  
February 27, 1987  
For further information, please call  
(512) 463-4004

★            ★            ★

★34 TAC §1.7

*(Editor's note: The Comptroller of Public Accounts proposes for permanent adoption the amendment it adopts on an emergency basis in this issue. The text of the amendment is published in the Emergency Rules section of this issue.)*

The Comptroller of Public Accounts proposes an amendment to §1.7, concerning content of statement of grounds. The amendment provides documentary evidence to support the statement of grounds must be submitted with the statement of grounds unless prior authorization is obtained to allow examination elsewhere. The amendment also eliminates the right to submit additional evidence or records to the auditor.

The amendment allows a greater number of hearings to be held and to reduce the present number of hearings. The change will result in an increase in the speed and efficiency of the administrative hearings process, thereby speeding up the collection of tax revenue.

John Moore, director of the comptroller's economic analysis center, has determined that for the first five-year period the proposed section will be in effect there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the section.

Mr Moore also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be a streamlined process of handling these issues and a speedier hearings process. There is no anticipated economic cost to individuals who are required to comply with the proposed section.

Comments on the proposal may be submitted to Wade Anderson, Executive Counsel, PO Box 13528, Austin, Texas 78711.

The amendment is proposed under the Texas Tax Code, §111.002, which provides that the comptroller may prescribe, adopt, and enforce rules relating to the administration and enforcement of the provisions of the Tax Code, Title 2.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on January 21, 1987

TRD-8700578      Bob Bullock  
                         Comptroller of Public  
                         Accounts

Earliest possible date of adoption  
February 27, 1987  
For further information, please call  
(512) 463-4004

★            ★            ★

★34 TAC §1.8

*(Editor's note: The Comptroller of Public Accounts proposes for permanent adoption the amendment it adopts on an emergency basis in this issue. The text of the amendment is published in the Emergency Rules section of this issue.)*

The Comptroller of Public Accounts proposes an amendment to §1.8 concerning preliminary conferences. The amendment eliminates the right of taxpayers to submit additional information prior to a preliminary conference and provides the conference will be scheduled within 10 days of the agreement to hold a preliminary conference.

The amendment is proposed to allow a greater number of hearings to be held and to reduce the present number of hearings. The change will result in an increase in the speed and efficiency of the administrative hearings process, thereby speeding up the collection of tax revenue.

John Moore, director of the comptroller's economic analysis center, has determined that for the first five-year period the proposed section will be in effect there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the section.

Mr Moore also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be a streamlined process of handling these issues and a speedier hearings process. There is no anticipated economic cost to individuals who are required to comply with the proposed section.

Comments on the proposal may be submitted to Wade Anderson, Executive Counsel, PO Box 13528, Austin, Texas 78711.

This amendment is proposed under the Texas Tax Code, §111.002, which provides that the comptroller may prescribe, adopt, and enforce rules relating to the administration and enforcement of the provisions of the Tax Code, Title 2.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on January 21, 1987

TRD-8700579      Bob Bullock  
                         Comptroller of Public  
                         Accounts

Earliest possible date of adoption  
February 27, 1987  
For further information, please call  
(512) 463-4004

★            ★            ★

★34 TAC §1.9

*(Editor's note: The Comptroller of Public Accounts proposes for permanent adoption the amendment it adopts on an emergency basis in this issue. The text of the amendment is published in the Emergency Rules section of this issue.)*

The Comptroller of Public Accounts proposes an amendment to §1.9, concerning position letters. The amendment changes the word "information" found in the first sentence of the section to the word "evidence." The first sentence is rewritten without substantive change into two sentences.

The amendment is proposed to allow a greater number of hearings to be held and to reduce the present number of hearings.

The change will result in an increase in the speed and efficiency of the administrative hearings process, thereby speeding up the collection of tax revenue

John Moore, director of the comptroller's economic analysis center, has determined that for the first five-year period the proposed section will be in effect there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the section

Mr. Moore also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be a streamlined process of handling these issues and a speedier hearings process. There is no anticipated economic cost to individuals who are required to comply with the proposed section

Comments on the proposal may be submitted to Wade Anderson, Executive Counsel, PO Box 13528, Austin, Texas 78711

This amendment is proposed under the Texas Tax Code, §111.002, which provides that the Comptroller may prescribe, adopt, and enforce rules relating to the administration and enforcement of the provisions of the Tax Code, Title 2

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt

Issued in Austin, Texas, on January 21, 1987

TRD 8700580 Bob Bullock  
Comptroller of Public  
Accounts

Earliest possible date of adoption  
February 27, 1987

For further information, please call  
(512) 463-4004.

★ ★ ★

★34 TAC §1.14

*(Editor's note: The Comptroller of Public Accounts proposes for permanent adoption the amendment it adopts on an emergency basis in this issue. The text of the amendment is published in the Emergency Rules section of this issue.)*

The Comptroller of Public Accounts proposes an amendment to §1.14, concerning notice of setting. The amendment eliminates old language in paragraph (3) and deletes paragraphs (4) and (5) of the section. These paragraphs provide that particular statutes and rules will be cited in the notice for setting and a statement of the matters asserted will be included.

This amendment is proposed to allow a greater number of hearings to be held and to reduce the present number of hearings. The change will result in an increase in the speed and efficiency of the administrative hearings process, thereby speeding up the collection of tax revenue.

John Moore, director of the comptroller's economic analysis center, has determined that for the first five-year period the proposed section will be in effect there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the section

Mr. Moore also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be a streamlined process of handling these issues and a speedier hearings process. There is no anticipated economic cost to individuals who are required to comply with the proposed section

Comments on the proposal may be submitted to Wade Anderson, Executive Counsel, PO Box 13528 Austin, Texas 78711

This amendment is proposed under the Texas Tax Code, §111.002, which provides that the comptroller may prescribe, adopt, and enforce rules relating to the administration and enforcement of the provisions of the Tax Code, Title 2

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt

Issued in Austin, Texas, on January 21, 1987

TRD 8700581 Bob Bullock  
Comptroller of Public  
Accounts

Earliest possible date of adoption  
February 27, 1987

For further information, please call  
(512) 463-4004

★ ★ ★

★34 TAC §1.15

*(Editor's note: The Comptroller of Public Accounts proposes for permanent adoption the amendment it adopts on an emergency basis in this issue. The text of the amendment is published in the Emergency Rules section of this issue.)*

The Comptroller of Public Accounts proposes an amendment to §1.15, concerning taxpayer's reply to the position letter. The amendment eliminates the right to present additional facts. In addition, new issues may not be raised in a reply to the position letter.

This amendment is proposed to allow a greater number of hearings to be held and to reduce the present number of hearings. The change will result in an increase in the speed and efficiency of the administrative hearings process, thereby speeding up the collection of tax revenue.

John Moore, director of the comptroller's economic analysis center, has determined that for the first five-year period the proposed section will be in effect there will

be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the section

Mr. Moore also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be a streamlined process of handling these issues and a speedier hearings process. There is no anticipated economic cost to individuals who are required to comply with the proposed section

Comments on the proposal may be submitted to Wade Anderson, Executive Counsel, PO Box 13528, Austin, Texas 78711

This amendment is proposed under the Tax Code, §111.002, which provides that the comptroller may prescribe, adopt, and enforce rules relating to the administration and enforcement of the provisions of the Tax Code, Title 2

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt

Issued in Austin, Texas, on January 21, 1987

TRD 8700582 Bob Bullock  
Comptroller of Public  
Accounts

Earliest possible date of adoption  
February 27, 1987

For further information, please call  
(512) 463-4004

★ ★ ★

★34 TAC §1.16

*(Editor's note: The Comptroller of Public Accounts proposes for permanent adoption the amendment it adopts on an emergency basis in this issue. The text of the amendment is published in the Emergency Rules section of this issue.)*

The Comptroller of Public Accounts proposes an amendment to §1.16, concerning response to the tax division. The amendment deletes the portion of the section stating the administrative law judge will have at least 20 days to respond. Additional clarification changes have been made.

The amendment is proposed to allow a greater number of hearings to be held and to reduce the present number of hearings. The change will result in an increase in the speed and efficiency of the administrative hearings process, thereby speeding up the collection of tax revenue.

John Moore, director of the comptroller's economic analysis center, has determined that for the first five-year period the proposed section will be in effect there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the section

Mr. Moore also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be a streamlined process of handling these issues and a speedier hearings process. There is no anticipated economic cost to individuals who are required to comply with the proposed section.

Comments on the proposal may be submitted to Wade Anderson, Executive Counsel, PO Box 13528, Austin, Texas 78711.

This amendment is proposed under the Tax Code, §111.002, which provides that the comptroller may prescribe, adopt, and enforce rules relating to the administration and enforcement of the provisions of the Tax Code, Title 2.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on January 21, 1987.

TRD-8700583      Bob Bullock  
Comptroller of Public  
Accounts

Earliest possible date of adoption

February 27, 1987

For further information, please call  
(512) 463-4004

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#### ★ 34 TAC §1.22

*(Editor's note. The Comptroller of Public Accounts proposes for permanent adoption the amendment it adopts on an emergency basis in this issue. The text of the amendment is published in the Emergency Rules section of this issue.)*

The Comptroller of Public Accounts proposes an amendment to §1.22 concerning rules of evidence. The amendment provides documentary evidence not timely submitted by the taxpayer will not be considered unless the evidence was obtained by the comptroller's office or at the request of the hearings attorney.

This amendment is proposed to allow a greater number of hearings to be held and to reduce the present number of hearings. The change will result in an increase in the speed and efficiency of the administrative hearings process. Thereby speeding up the collection of tax revenue.

John Moore, director of the comptroller's economic analysis center, has determined that for the first five-year period the proposed section will be in effect there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the section.

Mr. Moore also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section

will be a streamlined process of handling these issues and a speedier hearings process. There is no anticipated economic cost to individuals who are required to comply with the proposed section.

Comments on the proposal may be submitted to Wade Anderson, Executive Counsel, PO Box 13528, Austin, Texas 78711.

This amendment is proposed under the Tax Code, §111.002, which provides that the comptroller may prescribe, adopt, and enforce rules relating to the administration and enforcement of the provisions of the Tax Code, Title 2.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on January 21, 1987.

TRD 8700584      Bob Bullock  
Comptroller of Public  
Accounts

Earliest possible date of adoption

February 27, 1987

For further information, please call  
(512) 463-4004

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## TITLE 37. PUBLIC SAFETY AND CORRECTIONS

### Part 1. Texas Department of Public Safety

#### Chapter 27. Crime [Identification and Criminal] Records

##### Review of Personal Criminal History Record

#### ★ 37 TAC §27.1

The Texas Department of Public Safety proposes an amendment to §27.1, concerning right of review of personal criminal history record. The chapter title is changed to Crime Records and amendments to subsections (b)(1) and (2) and (c)(1) change the organizational name of the Identification and Criminal Records Division to Crime Records Division.

Melvin C. Peeples, chief accountant III, has determined that for the first five-year period the proposed section will be in effect there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the section.

Mr. Albert, chief, Crime Records Division, also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be clarification to the public of the organizational

division name change when requesting a review of a personal criminal history record. There is no anticipated economic cost to individuals who are required to comply with the proposed section.

Comments on the proposal may be submitted to John C. West, Jr., Texas Department of Public Safety, PO Box 4087, Austin, Texas 78773, (512) 465-2000.

The new section is proposed under Texas Civil Statutes, Article 4413(4)(6), which provide the Public Safety Commission with the authority to establish and make public proclamation of all rules and regulations for the conduct of the work of the department as may be deemed necessary. The director, subject to the approval of the commission and provisions of this Act, shall have the authority to make such rules and regulations as are deemed necessary for the control of the department.

#### §27.1 Right of Review

(a) (No change.)

(b) The procedure to obtain this information for individuals appearing at Department of Public Safety headquarters in Austin, Texas, is as follows:

(1) Any individual requesting access to his criminal history record must submit a written request to the crime [Identification and Criminal] Records Division, Texas Department of Public Safety, P.O. Box 4143, Austin, Texas 78756.

(2) The individual will present the request to the Chief, crime [Identification and Criminal] Records Division, or his designee, Texas Department of Public Safety, 5805 North Lamar Boulevard, Austin, Texas.

(3)-(4) (No change.)

(c) The procedure to obtain this information in the event the individual is unable to appear personally at the Texas Department of Public Safety headquarters in Austin, Texas, is as follows:

(1) Any individual requesting access to his criminal history record must submit a written request for same to the crime [Identification and Criminal] Records Division, Texas Department of Public Safety, P.O. Box 4143, Austin, Texas 78765.

(2)(8) (No change.)

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on January 20, 1987.

TRD 8700555      James B. Adams  
Director  
Texas Department of  
Public Safety

Earliest possible date of adoption

February 27, 1987

For further information, please call  
(512) 465-2000

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## Missing Persons Clearinghouse

### ★ 37 TAC §§27.41-27.43

The Texas Department of Public Safety proposes new §§27.41-27.43, concerning missing persons clearinghouse. Section 27.41 establishes procedures for any individual or group wishing to publicize photographs supplied by the Missing Persons Clearinghouse to prevent any misuse. Section 27.42 establishes the guidelines for information on a missing or unidentified deceased/living person to be entered into the *Missing Persons Bulletin* which is published monthly. Section 27.43 provides procedures for noncompliance that may result in denial of further participation in Missing Persons Clearinghouse programs.

Melvin C. Peeples, chief/Accountant II, has determined that for the first five-year period the proposed sections will be in effect there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the sections.

Mr. Albert, chief, Crime Records Division, also has determined that for each year of the first five years the sections are in effect the public benefit anticipated as a result of enforcing the sections will be assisting the Missing Persons Clearinghouse and law enforcement agencies in locating missing persons or identifying unidentified deceased/living persons through public awareness. There is no anticipated economic cost to individuals who are required to comply with the proposed sections.

Comments on the proposal may be submitted to John C. West, Jr., Texas Department of Public Safety, PO Box 4087, Austin, Texas 78773 (512) 465-2000.

The new sections are proposed under Texas Civil Statutes, Article 4413(4)(6), which provide the Public Safety Commission with the authority to establish and make public proclamation of all rules and regulations for the conduct of the work of the department as may be deemed necessary. The director, subject to the approval of the commission and provisions of this Act, shall have the authority to make such rules and regulations as are deemed necessary for the control of the department.

**§27.41. Publication of Missing Persons Clearinghouse Photographs.** Any individual or group (television stations, newspapers, magazines, etc.) wishing to publicize photographs of missing persons supplied by the Missing Persons Clearinghouse shall submit a request in writing specifying how they wish to use them. If the publication is in written form, a sample must be forwarded to the Clearinghouse along with the request. If the publication is in another form, a detailed format must be submitted to the Clearinghouse. The Clearinghouse's toll free number and the direct line number must be included in the publication. Upon publication, all photographs must be returned to the Clearinghouse along with a finished copy of all written publications.

**§27.42. Criteria for Entry into the Missing Persons Bulletin.** The following guidelines must be met before information on a missing or unidentified deceased/living person can be entered into the Texas Department of Public Safety Missing Persons Bulletin.

(1) Missing person (information) on a Texas missing person or a person missing from another state but believed to be in Texas)

(A) The parent, spouse, or guardian must contact a law enforcement agency and file a missing person report. The missing person must be entered into the National Crime Information Center (NCIC) files by the law enforcement agency.

(B) The prescribed form must be signed, completed, and returned to the Missing Persons Clearinghouse (MPCH). (Forms can be obtained from MPCH.)

(C) A current, original photograph (preferably black and white) must be received by MPCH. (NOTE: do not write on back of photo.)

(D) All entries to be published in the *Missing Persons Bulletin* must be submitted no later than the 10th of each month to appear in the next month's bulletin.

(E) In cases of parental abductions, a copy of the court-certified custody order stating that the reporting parent has custody must be received by MPCH. (NOTE: if it is requested that the noncustodial parent's photograph be included in the bulletin, a copy of a court-certified active felony warrant, which is presently in Texas Crime Information Center (TCIC)/National

Crime Information Center (NCIC), must be made available to MPCH prior to publication of the photograph.)

(F) The parent, spouse, guardian, or investigating officer must notify MPCH immediately of the location or return of the missing person.

(2) Unidentified deceased/living person.

(A) The unidentified deceased/living person must be entered into the National Crime Information Center (NCIC) files by the law enforcement agency.

(B) Submit as much pertinent information on the unidentified person as possible, such as a black and white photograph (if available), dental records, fingerprints, etc.

(C) All entries to be published in the *Missing Persons Bulletin* must be submitted no later than the 10th of each month to appear in the next month's bulletin.

(D) The law enforcement agency must notify MPCH immediately upon identification.

**§27.43. Compliance.** Any individual, group, agency, etc., that fails to comply with the provisions of §27.41 and or §27.42 of this title (relating to Publication of Missing Persons Clearinghouse Photographs; Criteria for Entry into the *Missing Persons Bulletin*) may be denied any further participation in the Missing Persons Clearinghouse programs. Such denial shall continue until such time as the failure to comply with the previously-stated provisions has been, in the opinion of the Missing Persons Clearinghouse, satisfactorily corrected.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on January 20, 1987

TRD-8700556 James B. Adams  
Director  
Texas Department of  
Public Safety

Earliest possible date of adoption  
February 27, 1987  
For further information, please call  
(512) 465-2000

★ ★ ★



# Withdrawn

**Rules** An agency may withdraw proposed action or the remaining effectiveness of emergency action on a rule by filing a notice of withdrawal with the *Texas Register*. The notice is effective immediately upon filing. If a proposal is not adopted or withdrawn within six months after the date of publication in the *Register*, it will automatically be withdrawn by the *Texas Register* office and a notice of the withdrawal will appear in the *Register*.

**TITLE 16. ECONOMIC  
REGULATION  
Part II. Public Utility  
Commission of Texas  
Chapter 23. Substantive Rules  
Rates**

**★ 16 TAC §23.25**

The Public Utility Commission of Texas has withdrawn from consideration new §23.25, concerning rates. The text of the new section appeared in the October 21, 1986, issue of the *Texas Register* (11 TexReg 4320). The effective date of the new section is January 19, 1987.

Issued in Austin, Texas, on January 19, 1987

TRD-8700507      Phillip A. Holder  
Secretary  
Public Utility  
Commission

Filed January 19, 1987  
For further information, please call  
(512) 458-0100.

★      ★      ★

**Quality of Service**

**★ 16 TAC §23.61**

The Public Utility Commission of Texas has withdrawn from consideration of the amendment, concerning quality of service. The text of the amendment appeared in the November 21, 1986, issue of the *Texas Register* (11 TexReg 4741). The effective date of the amendment is January 19, 1987.

Issued in Austin, Texas, on January 19, 1987

TRD 8700505      Phillip A. Holder  
Secretary  
Public Utility  
Commission

Filed January 19, 1987  
For further information, please call  
(512) 458-0100

★      ★      ★



Name: Tait Piper  
Grade: 12  
School: Plano Senior High School, Plano

# Adopted Rules

An agency may take final action on a rule 30 days after a proposal has been published in the *Register*. The rule becomes effective 20 days after the agency files the correct document with the *Texas Register*, unless a later date is specified or unless a federal statute or regulation requires implementation of the action on shorter notice.

If an agency adopts the rule without any changes to the proposed text, only the preamble of the notice and statement of legal authority will be published. If an agency adopts the rule with changes to the proposed text, the proposal will be republished with the changes.

## TITLE 1. ADMINISTRATION Part VI. Texas Surplus Property Agency Chapter 143. Plan of Operation

### ★ 1 TAC §143.1

The Texas Surplus Property Agency adopts an amendments to §143.1, without changes to the proposed text published in the December 19, 1986, issue of the *Texas Register* (11 TexReg 5036)

This amendment changes the wording in Part III, paragraph G 2, Inventory and Property Accounting, Part IX, Maintaining Eligibility, and pen and ink changes throughout the plan raising the base federal acquisition cost on property from \$3,000 or more to \$5,000 or more, as required by Public Law 99-386

This document serves as a guideline for this agency in the administration of the Donation Program within the State of Texas. This plan outlines to the administrator of the General Services Administration the methods by which this agency will implement the rules and regulations as set forth in the *G S A Donation Handbook*

No comments were received regarding adoption of the amendment

The amendment is adopted under Texas Civil Statutes, Article 6252-6b, which provide the Texas Surplus Property Agency with the authority to make rules

This agency hereby certifies that the rule as adopted has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority

Issued in Austin, Texas, on January 16, 1987

TRD 8700520 Marvin J. Titzman  
Executive Director  
Texas Surplus Property  
Agency

Effective date February 10, 1987  
Proposal publication date December 19, 1986  
For further information, please call  
(512) 661-2381

★ ★ ★

## TITLE 19. EDUCATION Part I. Coordinating Board, Texas College and University System Chapter 25. Administrative Council Subchapter B. Administration of the Texas State College and University Employees Uniform Insurance Benefits Program

### ★ 19 TAC §25.32

The Coordinating Board, Texas College and University System, adopts an amendment to §25.32, with changes to the proposed text published in the September 30, 1986, issue of the *Texas Register* (11 TexReg 4099)

The amendment will provide group insurance coverage as a retired employee to those individuals who have less than 10 years of state service credit, but who terminated employment prior to July 1, 1986, but who do not have the 10 years of state service credit under the Optional Retirement Program (ORP), the Teachers Retirement System (TRS), or the Employees Retirement System (ERS), have more years of state service credit than public school service credit, and have an equal number of years of state service credit and public school service credit and were last employed in an institution of higher education prior to retirement. Changes were made by adding clauses (ii) and (iii) to the section

This amendment would provide a waiver of the 10 years of state service credit requirement under certain conditions

No comments were received regarding adoption of the amendment

The amendment is adopted under the Insurance Code, Article 350-3, §4(b) and (G), which provides the Administrative Council with the authority to adopt rules and regulations consistent with the provisions of the Act to carry out its statutory responsibilities

§25.32. *Definitions* The following words and terms, as used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise  
Retired employee---Any former em-

ployee, regardless of date of retirement who retires or has retired and who receives or is eligible to receive benefits under a retirement provision under the jurisdiction of

(A) the Teacher Retirement System of Texas, pursuant to the Texas Education Code, Chapter 3, as amended, provided, however, that the employee has at least 10 years of state service credit under ORP, TRS, or ERS (including public community / junior college service) or a combination thereof. The 10 years of state service credit is waived for employees who:

(i) terminated employment from all institutions of higher education in Texas prior to July 1, 1986, (the date the 10-year state service credit requirement was adopted); or

(ii) have more years of state service credit than public school service credit; or

(iii) have the same number of years of state service credit as public school service credit and their last place of employment in a benefits eligible status was at an institution of higher education in Texas.

This agency hereby certifies that the rule as adopted has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority

Issued in Austin, Texas, on January 15, 1987

TRD-8700487 James McWhorter  
Assistant Commissioner  
for Administration  
Coordinating Board,  
Texas College and  
University System

Effective date February 6, 1987  
Proposal publication date September 30, 1986  
For further information, please call  
(512) 462-6420

★ ★ ★



## TITLE 22. EXAMINING BOARDS

### Part XII. Board of Vocational Nurse Examiners

#### Chapter 235. Licensing Application for Licensure

##### ★ 22 FAC §235.17

The Board of Vocational Nurse Examiners adopts an amendment to §235.17, without changes to the proposed text published in the December 5, 1986, issue of the *Texas Register* (11 TexReg 4882)

The amendment provides clarification of language for compliance with the Vocational Nurse Act, and clarifies the fact that certain individuals will not be issued temporary permits

No comments were received regarding adoption of the amendment

The amendment is adopted under Texas Civil Statutes, Article 4528c, §5(g), which provide the Board of Vocational Nurse Examiners with the authority to make such rules and regulations as may be necessary to govern its procedures and to carry in effect the purposes of the law.

This agency hereby certifies that the rule as adopted has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on January 15, 1987

TRD-88700512      Joyce A. Hammer  
Executive Director  
Board of Vocational  
Nurse Examiners

Effective date February 9, 1987  
Proposal publication date December 5, 1986  
For further information, please call  
(512) 835-2071

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#### Issuance of Licenses

##### ★ 22 FAC §235.47

The Board of Vocational Nurse Examiners adopts an amendment to §235.47, with changes to the proposed text published in the December 5, 1986, issue of the *Texas Register* (11 TexReg 4883). The change reflects that individuals must meet the requirements of either paragraphs (2) or (3) of this section, not both.

The amendment assures competent nursing care by individuals who have not had employment as nurses within the past five years and also clarifies the requirements for reactivation of a license.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 4528c, §5(g), which

provide the Board of Vocational Nurse Examiners with the authority to make such rules and regulations as may be necessary to govern its procedures and to carry in effect the purposes of the law.

§235.47. *Reactivation of a License.* A vocational nurse who has been on inactive status or whose license has been delinquent, revoked, or suspended for more than five years shall meet the following criteria for licensure:

- (1) submit request form and affidavit;
- (2) submit verification of employment as a licensed vocational nurse in another state, or employment as an R.N. in this state or another state within the last 12 months; or
- (3) submit evidence of successful completion of a refresher course or an agreement to supervised employment or agreement to a refresher course, with verification of such submitted to the board office prior to the issuance of license; and
- (4) submit required fees.

This agency hereby certifies that the rule as adopted has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on January 15, 1987

TRD-8700511      Joyce A. Hammer  
Executive Director  
Board of Vocational  
Nurse Examiners

Effective date February 9, 1987  
Proposal publication date December 5, 1986  
For further information, please call  
(512) 835-2071

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## TITLE 34. PUBLIC FINANCE

### Part I. Comptroller of Public Accounts

#### Chapter 3. Tax Administration Subchapter O. State Sales and Use Tax

##### ★ 34 FAC §3.295

The Comptroller of Public Accounts adopts an amendment to §3.295, without changes to the proposed text published in the December 19, 1986, issue of the *Texas Register* (11 TexReg 5051).

The amendment sets out the comptroller's requirements for claiming a sales tax exemption on the purchase of natural gas and electricity and explains what information is required in a utility study to support the claimed exemption. Exemptions currently being claimed, based on studies containing complete and valid information, will be honored and a new study will not be required. Those taxpayers who

claimed a sales tax exemption without a study establishing the exemption or with incomplete or inaccurate studies will be required, upon notice by the comptroller, to provide a study using the new guidelines.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Tax Code, §111.002, which provides that the comptroller may prescribe, adopt, and enforce rules relating to the administration and enforcement of the provisions of the Tax Code, Title 2.

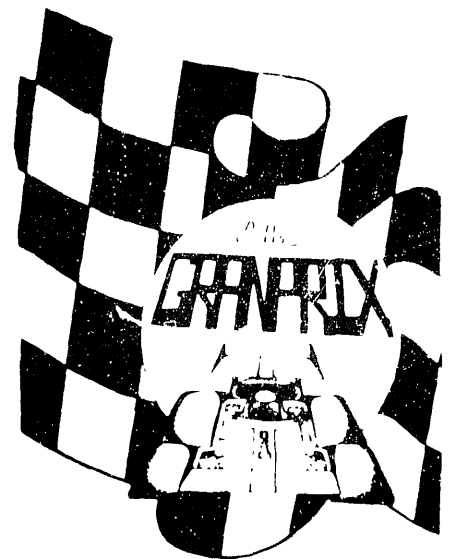
This agency hereby certifies that the rule as adopted has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on January 19, 1987

TRD-8700509      Bob Bullock  
Comptroller of Public  
Accounts

Effective date February 9, 1987  
Proposal publication date December 19, 1986  
For further information, please call  
(512) 463-4004.

★      ★      ★



Name: Tony Adams  
Grade: 12  
School: Plano Senior High School, Plano

State Board of Insurance  
Notifications Pursuant to the  
Insurance Code, Chapter  
5, Subchapter 1

*Editor's note: As required by the Insurance Code, Article 5.96 and Article 5.97, the Register publishes notices of actions taken by the State Board of Insurance pursuant to Chapter 5, Subchapter 1, of the Code. Board action taken under these articles is not subject to the Administrative Procedure and Texas Register Act, and the final actions printed in this section have not been previously published as proposals.*

*These actions become effective 15 days after the date of publication or on a later specified date.*

*The text of the material being adopted will not be published, but may be examined in the offices of the State Board of Insurance, 1110 San Jacinto Street, Austin.*

The State Board of Insurance has adopted, on an emergency basis, a rule in the Texas Commercial Multi-Peril section of the Texas General Basis Schedules

to allow individual company filed monoline General Liability Pollution Exclusion endorsements to be used with a Texas commercial multi-peril policy, subject to the rules, rates, and forms approved under monoline general liability procedures ("a" rating)

The adoption of this rule will alleviate the current restriction in the insurance market for certain types of risks with known pollution exposures and will allow insurance to continue to be provided under a Texas commercial multi-peril policy

These changes are to be effective January 20, 1987, and will remain in effect for one hundred twenty (120) days thereafter

This notification is made pursuant to the Insurance Code, Article 5.97, which exempts it from the requirements of the Administrative Procedure and Texas Register Act

issued in Austin, Texas, on January 20, 1987

TRD-8700563  
Nicholas Murphy  
Chief Clerk  
State Board of Insurance

Effective date: January 20, 1987  
For further information, please call  
(512) 463-6327

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The State Board of Insurance has approved a filing by Western Surety Company proposing an Employer's Comprehensive Notary Public Errors and Omissions Program

This program was approved effective March 1, 1987

This notification is filed pursuant to the Insurance Code, Article 5.97, which exempts it from the requirements of the Administrative Procedure and Texas Register Act

Issued in Austin, Texas, on January 15, 1986

TRD-8700488  
Nicholas Murphy  
Chief Clerk  
State Board of Insurance

Effective date: March 1, 1987  
For further information, please call  
(512) 463-6327

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# Open Meetings

Agencies with statewide jurisdiction must give at least seven days notice before an impending meeting. Institutions of higher education or political subdivisions covering all or part of four or more counties (regional agencies) must post notice at least 72 hours prior to a scheduled meeting time. Some notices may be received too late to be published before the meeting is held, but all notices are published in the *Register*.

**Emergency meetings and agendas.** Any of the governmental entities named above must have notice of an emergency meeting, an emergency revision to an agenda, and the reason for such emergency posted for at least two hours before the meeting is convened. Emergency meeting notices filed by all governmental agencies will be published.

**Posting of open meeting notices.** All notices are posted on the bulletin board outside the Office of the Secretary of State on the first floor of the East Wing in the State Capitol, Austin. These notices may contain more detailed agendas than what is published in the *Register*.

## Texas Antiquities Committee

**Friday, January 30, 1987, 9:30 a.m.** The Texas Antiquities Committee submitted a revised agenda for a meeting held in Room 118, Stephen F. Austin Building, 1700 North Congress, Austin. The addition concerns proposal for loan of 154 wreck artifacts for a major traveling exhibit, and staff reports. The committee also will meet in executive session to discuss El Paso litigation, possible Cleburne litigation, Randall County courthouse, and personnel matters regarding J. Arnold III and Molly Hicklen Godwin.

**Contact:** William C. Griggs, P.O. Box 12276, Austin, Texas 78711, (512) 463-6098.

**Filed:** January 22, 1987, 8:59 a.m.  
TRD-8700623

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## State Bar of Texas

**Thursday, January 22, 1987, 9 a.m.** The Executive Committee of the State Bar of Texas made an emergency addition to the agenda of a meeting held in Rooms 206 and 207, Texas Law Center, 1414 Colorado Street, Austin. The addition concerned the conference call meeting to consider the request for funding for symposium on the social and economic consequences of divorce. The emergency status was necessary because the request was not received in time for inclusion on the agenda posted on January 14, 1987, and the committee needed to proceed with details.

**Contact:** Paula Welch, 1414 Colorado Street, Austin, Texas 78701, (512) 463-1451.

**Filed:** January 21, 1987, 2:40 p.m.  
TRD-8700609

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## Texas Employment Commission

**Wednesday, January 28, 1987, 8:30 a.m.** The Texas Employment Commission will meet in Room 644, TFC Building, 101 East 15th Street, Austin. According to the agen-

da summary, the commission will consider internal procedures of commission appeals, tax liability cases and higher level appeals in unemployment compensation cases listed on commission Docket 4, and set date of next meeting.

**Contact:** Courtenay Browning, 101 East 15th Street, Austin, Texas 78778, (512) 463-2226

**Filed:** January 20, 1987, 10:32 a.m.  
TRD-8700540

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## Governor's Commission on Physical Fitness

**Saturday, January 31, 1987, 10 a.m.** The Board of Directors of the Governor's Commission on Physical Fitness will meet in the Hills Lodge, Austin. According to the agenda summary, the board will approve minutes from the last board meeting, consider legislative update, review Executive Committee action, hear employee fitness year-end report, senior citizen fitness year-end report, review the F.Y.I. program, discuss future role for the commission, review commission annual report, hear Texas health and fitness foundation report, and other business.

**Contact:** Donald Haydon, 7703 North Lamar Boulevard, Suite 508, Austin, Texas 78752, (512) 467-7141

**Filed:** January 21, 1987, 8:43 a.m.  
TRD-8700586

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## State Department of Highways and Public Transportation

**Wednesday-Thursday, January 28-29, 1987, 10 a.m. daily.** The State Highway and Public Transportation Commission of the State Department of Highways and Public Transportation will meet in Rooms 101, and 101A, Auditorium, First Floor, Dewitt C. Greer Building, 11th and Brazos Streets, Austin.

According to the agenda summary, the commission will hear presentations in the auditorium Room 101 by the public for various highway, bridge, and F.M. road requests for Bexar, Collin, Brazos, Lamar, Delta, and Hunt Counties, (docket is available in second floor, commission office in the Dewitt C. Greer State Highway Building upon completion of public hearings). The commission will meet in Room 101A to execute contract awards and routine minute orders, consider decisions on presentations from public hearing dockets, and review staff reports relative to planning and construction programs and projects. (Agenda is available in second floor office of minute clerk, Dewitt C. Greer Building)

**Contact:** Lois Jean Turner, Dewitt Greer Building, 11th and Brazos Streets, Austin, Texas 78701-2483, (512) 463-8616.

**Filed:** January 20, 1987, 2:06 p.m.  
TRD-8700552

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## Texas State Board of Medical Examiners

Committees of the Texas State Board of Medical Examiners will meet at 1101 Camino LaCosta, Austin. Days, times, committees, and agendas follow.

**Friday, January 30, 1987, 1 p.m.** The Legislative Committee will discuss pending legislation affecting the board as well as proposed changes to the Medical Practices Act. The committee also will meet in executive session under authority of Texas Civil Statutes, Article 6252.17, as related to Texas Civil Statutes, Article 4495b, 2.07, 3.05(d), 4.05(d), 5.06(c)(1), and Attorney General Opinion H-484, 1974.

**Contact:** Jean Davis, P.O. Box 13562, Austin, Texas 78711, (512) 452-1078

**Filed:** January 21, 1987, 4:13 p.m.  
TRD-8700620

**Friday, January 30, 1987, 3 p.m.** The Medical School Committee will consider continuing medical education, and medical school visits. The committee also will meet in executive session under authority of Texas Civil Statutes, Article 6252-17, as related to Texas Civil Statutes, Article 4495b, 2.07, 3.05(d), 4.05(d), 5.06(e)(1), and Attorney General Opinion H-484, 1974.

**Contact:** Jean Davis, P.O. Box 13562, Austin, Texas 78711, (512) 452-1078.

**Filed:** January 21, 1987, 4:13 p.m.  
TRD-8700618

**Friday, January 30, 1987, 3 p.m.** The Reciprocity Committee will review reciprocity applicants. The committee also will meet in executive session under authority of Texas Civil Statutes, Article 6252-17, as related to Texas Civil Statutes, Article 4495b, 2.07, 3.05(d), 4.05(d), 5.06(e)(1), and Attorney General Opinion H-484, 1974.

**Contact:** Jean Davis, P.O. Box 13562, Austin, Texas 78711, (512) 452-1078.

**Filed:** January 21, 1987, 4:13 p.m.  
TRD-8700619

**Friday, January 30, 1987, 6 p.m.** The Disciplinary Process Review Committee will review investigation files. The committee also will meet in executive session under authority of Texas Civil Statutes, Article 6252-17, as related to Texas Civil Statutes, Article 4495b, 2.07, 3.05(d), 4.05(d), 5.06(e)(1), and Attorney General Opinion H-484, 1974.

**Contact:** Jean Davis, P.O. Box 13562, Austin, Texas 78711, (512) 452-1078.

**Filed:** January 21, 1987, 4:13 p.m.  
TRD-8700616

**Friday, January 30, 1987, 6 p.m.** The Long Range Planning Committee will re-review the Texas Research League report, consider board office legal structure, and the board in transition. The committee also will meet in executive session under authority of Texas Civil Statutes, Article 6252-17, as related to Texas Civil Statutes, Article 4495b, 2.07, 3.05(d), 4.05(d), 5.06(e)(1), and Attorney General Opinion H-484, 1974.

**Contact:** Jean Davis, P.O. Box 13562, Austin, Texas 78711, (512) 452-1078.

**Filed:** January 21, 1987, 4:13 p.m.  
TRD-8700617

**Saturday, January 31, 1987, 7:30 a.m.** The Finance Committee will discuss the auditor's report, hear report of Senate Finance Committee meeting, and discuss personnel matters. The committee also will meet in executive session under authority of Texas Civil Statutes, Article 6252-17, as related to Texas Civil Statutes, Article 4495b, 2.07, 3.05(d), 4.05(d), 5.06(e)(1), and Attorney General Opinion H-484, 1974.

**Contact:** Jean Davis, P.O. Box 13562, Austin, Texas 78711, (512) 452-1078.

**Filed:** January 21, 1987, 4:13 p.m.  
TRD-8700615

**Saturday, January 31, 1987, 8 a.m.** The board will consider reorganization, officer elections, approval of orders; hear the sanction report, minutes, and committee reports of meetings held January 30-31; consider resolutions regarding press releases, proposals for decision, director's report on personnel and office space, the examination applicant, and legislation. The board also will meet in executive session under authority of Texas Civil Statutes, Article 6252-17, as related to Texas Civil Statutes, Article 4495b, 2.07, 3.05(d), 4.05(d), 5.06(e)(1), and Attorney General Opinion H-484, 1974.

**Contact:** Jean Davis, P.O. Box 13562, Austin, Texas 78711, (512) 452-1078.

**Filed:** January 21, 1987, 4:14 p.m.  
TRD-8700614

### Texas National Guard Armory Board

**Sunday, February 8, 1987, 11 a.m.** The Texas National Guard Armory Board will meet in the conference room, Building 64, Camp Mabry. According to the agenda summary, the board will consider administrative matters, fiscal matters, facility construction, remodeling, renovation, facility maintenance, and property leases.

**Contact:** Sandra Hille, P.O. Box 5218, Austin, Texas 78763-5218, (512) 451-6394.

**Filed:** January 20, 1987, 3:32  
TRD-8700554

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### Texas State Board of Examiners of Psychologists

**Wednesday-Saturday, January 28-31, 1987, 8:30 a.m. daily.** The Texas State Board of Examiners of Psychologists, will meet in the Emily Morgan Hotel, 705 East Houston Street, San Antonio. According to the agenda, the board will consider oral exam, applications, opinion letters, proposed rules, interviews, hearings, complaints supervision guidelines, budget, jurisprudence exam, legislative matters, and meeting with the American Association of State Psychology Boards.

**Contact:** Pat Bizzell, 1300 East Anderson Lane, Suite C-270, Austin, Texas 78752, (512) 835-2036.

**Filed:** January 20, 1987, 10:48 a.m.  
TRD-8700553

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### Texas State Board of Public Accountancy

Committees of the Texas State Board of Public Accountancy will meet in Suite 340,

1033 La Posada, Austin. Days, times, rooms, Committees, and agendas follow.

**Wednesday, January 28, 1987, 1:30 p.m.** The board will conduct a panel hearing to consider those who have not renewed their license for a period of three consecutive years.

**Contact:** Bob E. Bradley, 1033 La Posada, Suite 340, Austin, Texas 78752-3892, (512) 451-0241.

**Filed:** January 20, 1987, 4:25 p.m.  
TRD-8700565

**Wednesday, January 28, 1987, 2:30 p.m.** The Exam Committee will meet to audit grades from the November 1986, CPA exam.

**Contact:** Bob E. Bradley, 1033 La Posada, Suite 340, Austin, Texas 78752, (512) 451-0241.

**Filed:** January 20, 1987, 4:25 p.m.  
TRD-8700566

**Wednesday, January 28, 1987, 3 p.m.** The Executive Committee will review status of the constructive enforcement program, discuss definition of supervision, board member orientation, review personnel actions, discuss legislative matters, 1988-1989 appropriation request, consider ratification of revisions to the board's administrative guidelines, review purchases, discuss negotiations for renewal of office lease, and other matters coming before the board.

**Contact:** Bob E. Bradley, 1033 La Posada, Suite 340, Austin, Texas 78752-3892, (512) 451-0241.

**Filed:** January 20, 1987, 4:25  
TRD-8700567

**Thursday-Friday, January 29-30, 1987, 9 a.m. and 8:30 a.m., respectively.** The full board will hear committee reports from the Entry and Recentry Screening Committee, Continuing Education, Technical Standards Review, Enforcement, Executive, and Long-Range Planning Committees, consider adoption of substantive rules, review request for Attorney General opinions, discuss NASBA activities, appointment of Nominating Committee, ratification of a pool of name changes, review of board litigation, financial condition, ratification of board orders, consent orders, and proposals for decision; discussion of proposed resolution for non-board members, review of certain board communications, and review of future meeting hearing schedules.

**Contact:** Bob E. Bradley, 1033 La Posada, Suite 340, Austin, Texas 78752-3892, (512) 451-0241.

**Filed:** January 20, 1987, 4:25  
TRD-8700568

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## Texas Public Building Authority

**Tuesday, February 3, 1987, 10 a.m.** The Texas Public Building Authority will meet in Room 503-C, Sam Houston Building, Austin. According to the agenda, the authority will approve minutes from the December 12, 1986, meeting; hear reports; consider budget and finance, the status of building projects, the status of briefing of legislators, hear executive development task force report, consider Texas research league study, the reinvestment of securities portfolio, insurance on building projects, and setting of time and place of next meeting.

**Contact:** Gayle Colby, 201 East 14th Street, Austin, Texas 78701, (512) 463-5544

**Filed:** January 21, 1987, 3:43 p.m.  
TRD-8700611

## Public Utility Commission of Texas

Divisions of the Public Utility Commission of Texas will meet in Suite 450N, 7800 Shoal Creek Boulevard, Austin, days, times, divisions, and agendas follow.

**Wednesday, January 28, 1987, 9 a.m.** The Hearings Division will consider the following dockets: 7209, 7122, 7123, 7124, 7152, 6968, 6265, 7287, 6131, 7036, 6991, 7015, 7012, 7041, 6130, 6132, 6133, 7040, 6909, and 7038. The division will also meet in executive session to consider the Interstate Commerce Commission *ex parte* 387, General Telephone Company of the Southwest *vs.* Public Utility Commission of Texas, El Paso Electric Company *vs.* Public Utility Commission of Texas (appeal of Docket 6350), City of Austin *vs.* Public Utility Commission of Texas (Appeal of Docket 6560), Central Power and Light Company *vs.* Lubow, McKay, Stevens and Lewis *vs.* Public Utility Commission of Texas, and FERC Docket E-1798.

**Contact:** Phillip A. Holder, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

**Filed:** January 20, 1987, 2:58 p.m.  
TRD-8700553

**Thursday, January 29, 1987, 9 a.m.** The Administrative Division will approve minutes of the meeting of December 12, 1986; hear reports, discuss and act on budget and fiscal matters, metropolitan calving scopes advisory task force, joint proposal to the U.S. DOE, federally funded end use project and of the contract with General Electric Company for consulting assistance with federally funded bulk power transmission study. The division also will meet in executive session to consider personnel matters (discussion and action regarding the hiring of assistant director of Electric Division), and reconvene for decisions on matters considered in executive session.

**Contact:** Phillip A. Holder, 7800 Shoal

Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

**Filed:** January 21, 1987, 2:54 p.m.  
TRD-8700610

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## Texas Savings and Loan Department

**Friday, January 30, 1987, 9 a.m.** The Texas Savings and Loan Department will meet at 2601 North Lamar Boulevard, Austin. According to the agenda summary, the department will consider proposed new §53.18, concerning offices and remote service units in other states or territories; proposed new §55.7, concerning agencies in other states or territories; proposed new §69.10, concerning acquisitions involving associations in other states or territories, proposed technical amendment to §65.12 and proposed amendment to §65.1 and §65.3, in regard to commercial loans; proposed new §65.22, concerning to commercial loans; and legislative update. The department also will meet in executive session to consider personnel and supervisory matters.

**Contact:** Russell R. Oliver, 2601 North Lamar Boulevard, Suite 201, Austin, Texas 78705, (512) 479-1250.

**Filed:** January 22, 1987, 8:55 a.m.  
TRD-8700622

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## Teacher's Professional Practices Commission of Texas

**Friday, January 30, 1987, 9 a.m.** The Teacher's Professional Practices Commission of Texas will meet in Room 1-109, William B. Travis Building, 1701 North Congress Avenue, Austin. According to the agenda, a three-member panel of the commission will hear a complaint filed by an active certified member of the teaching profession against another active certified member of the teaching profession pursuant to Texas Education Code, §§13.201-13.218.

**Contact:** James A. Salmon, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9332.

**Filed:** January 21, 1987, 9:16 a.m.  
TRD-8700588

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## Texas A&M University System

**Sunday, January 25, 1987.** Committees of the Board of Regents of Texas A&M System, met in the MSC Annex, Texas A&M University, College Station. Times, rooms, committees, and agendas follow.

**2 p.m.** The Planning and Building Committee considered cancellation of unexpended balances of appropriations, heard report of contract actions by the chancellor, report of

construction project appropriations, authorizations by the chancellor, contract actions by the deputy chancellor or presidents, considered initiation of major construction projects, actions on bids, appropriations for designs, discussion of Houston nursing facility, and 1981-1983 repair and rehabilitation program.

**Contact:** Vickie E. Burt, The Texas A&M University System, College Station, Texas 77843, (409) 845-9603

**Filed:** January 20, 1987, 11:30 a.m.  
TRD-8700543

**3:30 p.m.** The Committee for Service Units considered appropriation of funds, Texas forest service, execute license agreement with Diagon Corp., Texas agricultural experiment station, reconveyance of twenty acres in Floydada vacated by the Texas Engineering Extension Service.

**Contact:** Vickie E. Burt, The Texas A&M University System, College Station, Texas 77843, (409) 845-9603

**Filed:** January 20, 1987, 11:30 a.m.  
TRD-8700544

**3:35 p.m.** The Committee for Academic Campuses considered granting of emeritus titles, adoption of resolutions, establishment of field trip fees, establishment of parking fees, and confirmation of vending contracts.

**Contact:** Vickie E. Burt, The Texas A&M University System, College Station, Texas 77843, (409) 845-9603

**Filed:** January 20, 1987, 11:31 a.m.  
TRD-8700545

**Monday, January 26, 1987.** Committees of the Board of Regents Texas A & M University System, met in the MSC Annex, Texas A&M University, College Station. Times, committees, and agendas follow.

**8:30 a.m.** The Executive Committee considered assignment of foreign patent rights, approval of credit agreement for permanent university fund subordinate lien variable rate notes, appointments and promotions, terminations, acceptance of gifts, grants, loans and bequests, budget and fiscal changes and personnel actions, authorization to seek actions by the 70th Texas Legislature, confirmation of advertisement and sale of oil, gas, and sulphur leases, and appropriations from the permanent university fund bond proceeds, consider personnel matters, naming of facilities and roads, land and investment matters, litigation, programs and agreements regarding Texas A&M University Institute of Biosciences and Technology, Texas Medical Center-Houston, and appropriations from available university fund.

**Contact:** Vickie E. Burt, The Texas A&M University System, College Station, Texas 77843, (409) 845-9603

**Filed:** January 21, 1987, 1:30 p.m.  
TRD-8700604

**9 a.m.** The Ad Hoc Committee on Budgets and Planning considered appropriations for permanent university fund bond proceeds and available university fund.

**Contact:** Vickie E. Burt, Board of Regents, The Texas A & M University System, College Station, Texas 77843, (409) 845-9603

**Filed:** January 21, 1987, 1:29 p.m.  
TRD-8700605

**11:30 a.m.** The Ad Hoc Committee on Mineral Leases considered confirmation of advertisement and sale of oil, gas, and sulphur leases in Brazoria County

**Contact:** Vickie E. Burt, The Texas A&M University System, College Station, Texas 77843, (409) 845-9603

**Filed:** January 21, 1987, 1:30 p.m.  
TRD-8700606

**3 p.m.** The board considered construction matters for the Texas A&M University System, granting of emeritus titles, authorization to execute license agreements, sale of oil, gas, and sulphur leases, appropriations for permanent university funds bonds proceeds; assignment of foreign patent rights, approval of credit agreement for permanent university fund subordinate lien variable rate notes; appointments and promotions, terminations, acceptance of gifts, grants, loans, and bequests, budget, fiscal changes, and personnel actions, authorization to seek actions by the 70th Texas Legislature, consideration of personnel matters, naming of facilities and roads, land and investment matters, litigation, consideration of programs and agreements regarding the Texas A&M University Institute of Biosciences and Technology, Texas Medical Center-Houston, appropriations of funds, reconveyance of 20 acres in Floydada, adoption of resolution establishment of parking and field trip fees, confirmatio of vending contracts, and appropriations from available university fund

**Contact:** Vickie E. Burt, The Texas A&M University System, College Station, Texas 77843, (409) 845-9603.

**Filed:** January 26, 1987, 3 p.m.  
TRD-8700607

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### University of Texas at Austin

**Friday, January 23, 1987, 3 p.m.** The Intercollegiate Athletics for Women of the University of Texas at Austin met in Conference Room 606, Bellmont Hall, UT Campus, 21st and San Jacinto Streets, Austin. According to the agenda summary, the committee approved minutes of the December 10, 1986, meeting, consider announcements/

information reports, old business, and new business.

**Contact:** Dr. Donna A. Lopiano, 21st and San Jacinto Streets, Austin, Texas 78712, (512) 471-7693

**Filed:** January 20, 1987, 1:38 p.m.  
TRD-8700551

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### University of Texas System

**Saturday, January 24, 1987, 3:30 p.m.** The Board of Regents of the University of Texas System met in the Second Floor Conference Room, Ashbel Smith Hall, 201 West Seventh Street, Austin. According to the agenda, the board considered personnel matters related to the possible election and employment of a chief administrative officer for the University of Texas Medical Branch at Galveston. If appropriate, the board will meet in executive session pursuant to Texas Civil Statutes, Article 6252-17, §2(g) related to this personnel matter.

**Contact:** Arthur H. Dilly, P.O. Box N, Austin, Texas 78713-7328, (512) 449-4402.

**Filed:** January 24, 1987, 3:30 p.m.  
TRD-8700562

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### Texas Water Commission

The Office of Hearings Examiner of the Texas Water Commission will meet in the Stephen F. Austin Building, 1700 North Congress, Austin. Days, times, rooms, and agendas follow.

**Tuesday, February 3, 1987, 10 a.m.** In Room 215, the examiner will consider application 5106- Phillips Coal Company for a water code §11.121 permit.

**Contact:** Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, (512) 463-7898

**Filed:** January 20, 1987, 11:29 a.m.  
TRD-8700547

**Wednesday, February 4, 1987, 2 p.m.** In Room 118, the examiner will consider the executive director's preliminary report and petition for a Texas Water Commission order assessing administrative penalties and requiring certain actions of Baker Performance Chemicals, Inc. (Solid Waste Registration 32536)

**Contact:** Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, (512) 463-7898.

**Filed:** January 20, 1987, 11:29 a.m.  
TRD-8700548

**Monday, February 9, 1987, 10 a.m.** In Room 512, the examiner will consider notice requiring Don K. Langson, Richard K. Langson, and Bruce K. Langson to appear and show cause why an unpermitted and unsafe dam known as Pleasure Acres Lake Dam

should not be breached or otherwise modified.

**Contact:** Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, (512) 463-7898.

**Filed:** January 20, 1987, 11:29 a.m.  
TRD-8700549

**Friday, February 20, 1987, 10 a.m.** In Room 512, the examiner will consider Docket 7122-R—application for a rate increase filed by Steve Grove Water Systems and Canyon Lake Forest Utilities, Inc.

**Contact:** Claire Patterson, P.O. Box 13087, Austin, Texas 78711, (512) 463-7875.

**Filed:** January 21, 1987, 4:03 p.m.  
TRD-8700612

**Monday, February 23, 1987, 10 a.m.** In Room 512, the examiner will consider Docket 7134-G—application for a rate increase filed by Twin Creek Park, Inc.

**Contact:** Steve Dickman, P.O. Box 13087, Austin, Texas 78711, (512) 463-7875.

**Filed:** January 21, 1987, 4:03 p.m.  
TRD-8700613

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### Regional Agencies Meetings Filed January 20

**The Dallas Central Appraisal District, Appraisal Review Board,** will meet in Suite 500, 1420 West Mockingbird Lane, Dallas, on January 30, 1987, at 10 a.m. Information may be obtained from Rick I. Kuehler, 1420 West Mockingbird Lane, Suite 500, Dallas, Texas 75247, (214) 631-0520.

**The Deep East Texas Regional MHMR Services, Board of Trustees,** will meet in the Ward R. Burke Community Room, Administration Facility, 4101 South Medford Drive, Lufkin, on January 27, 1987, at 5:30 p.m. Information may be obtained from Jim McDermott, 4101 South Medford Drive, Lufkin, Texas 75901, (409) 639-1141.

**The Golden Crescent Regional Planning Commission, Executive Committee and Board of Directors,** will meet in Building 102, Regional Airport, Victoria, on January 28, 1987, at 4 p.m. and 5 p.m., respectively. Information may be obtained from Patrick J. Kennedy, 115 South Main, Victoria, Texas 77902, (512) 578-1587.

**The Lavaca County Central Appraisal District, Appraisal Review Board,** met at 113 North Main, Hallettsville, on January 26, 1987, at 9 a.m. Information may be obtained from Diane Munson, P.O. Box 386, Hallettsville, Texas 77964, (512) 798-4396.

**The Texas Municipal League (Risk and Insurance Management Services), Board of Trustees, Workers' Compensation and Joint Self-Insurance Fund,** met at Tapatio Springs,



Boerne, on January 25-26, 1987, at 1 p.m., and 8:30 a.m., respectively. Information may be obtained from Allen F. Hyman, 211 East Seventh, Suite 1020, Austin, Texas 78701-3283, (512) 478-6601  
TRD-8700546

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#### Meetings Filed January 21

**The Ark-Tex Council of Governments, Board of Directors**, will meet in the Wildflower Inn Restaurant, I-30 and Highway 271 Bypass, Mt. Pleasant, on January 29, 1987, at 5:30 p.m. Information may be obtained from Susan J. Rice, P.O. Box 5307, Texarkana, Texas 75501, (214) 832-8636.

**The Capital Area Rural Transportation System (CARTS), Board of Directors**, met in the conference room, Suite 100, 2520 South IH-35, Austin, on January 22, 1987, at 10 a.m. Information may be obtained from Edna Burroughs, 5021 East First Street, Austin, Texas 78702, (512) 478-RIDE.

**The Dallas Area Rapid Transit, Legislative Committee**, met at 601 Pacific Avenue, Dallas, on January 22, 1987, at 2:30 p.m. Information may be obtained from Nancy McKethan, 601 Pacific Avenue, Dallas, Texas 75202, (214) 658-6237.

**The Lee County Appraisal District, Board of Directors**, will meet at 218 East Richmond Street, Giddings, on January 28, 1987, at 9 a.m. Information may be obtained from Roy L. Holcomb, 218 East Richmond Street, Giddings, Texas 78942, (409) 542-9618

**The Lubbock Regionals MHRM Center, Board of Trustees**, met at 3800 Avenue H, Lubbock, on January 26, 1987, at noon. Information may be obtained from Gene Menefee 1210 Texas Avenue, Lubbock, Texas 79401, (806) 763-4213

**The Middle Rio Grande Development Council, Texas Review and Comment System Committee**, will meet in the Reading Room, Civic Center, Uvalde, on January 28, 1987, at 10 a.m. Information may be obtained from Oralia Saldua, 612 D. Bedell, Del Rio, Texas 78840, (512) 775-4160.

TRD-8700587

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#### Meetings Filed January 22

**The Education Service Center, Region XVII, Board of Directors**, will meet at 4000 22nd Place, Lubbock, on February 3, 1987, 10 a.m. Information may be obtained from Weldon E. Day, 4000 22nd Place, Lubbock, Texas 79410, (806) 792-4000, ext. 200

**The MHRM Regional Center of East Texas, Board of Trustees**, will meet in the boardroom, 2323 West Front Street, Tyler, on January 29, 1987, at 4 p.m. Information may be obtained from R. J. DeSanto, P.O. Box 4730, Tyler, Texas 75712, (214) 597-1351

**The Middle Rio Grande Development Council, Board of Directors**, will meet in the Reading Room, Civic Center, 300 East Main, Uvalde, on January 28, 1987, at 1:30 p.m. Information may be obtained from Ramon S. Johnston, P.O. Box 1199, Carrizo Springs, Texas 78834, (512) 876-3533

**The Texas Panhandle Mental Health Authority, Board of Trustees**, will meet in the boardroom, 1901 Medi-Park, Amarillo, on January 29, 1987, at 1 p.m. Information may be obtained from Claire Rigler, P.O. Box 3250, Amarillo, Texas 79106, (806) 353-7235.

TRD-8700624

# In Addition

The *Register* is required by statute to publish certain documents, including applications to purchase control of state banks, notices of rate ceilings, changes in interest rate and applications to install remote service units, and consultant proposal requests and awards.

To aid agencies in communicating information quickly and effectively, other information of general interest to the public is published as space allows.

## Texas Department of Community Affairs

### Announcement of Contract Awards

The Texas Department of Community Affairs (TDCA) announces that the following units of general local government have each been selected as a contract recipient for economic development under the Texas Community Development Program established pursuant to Texas Civil Statutes, Article 4413 (201), §4A, for the third 1986 competition: Port Isabel, \$230,000; Karnes City, \$180,000; Nacogdoches, \$200,000; Angelina County, \$120,000; Cameron County, \$180,000; Montague County, \$200,000; and Plainview, \$250,000.

A contract is not effective until executed by the unit of general local government and the executive director of TDCA.

This announcement is not filed pursuant to Texas Civil Statutes, Article 6252-C.

Issued in Austin, Texas, on January 15, 1987.

TRD-8700479 Douglas C. Brown  
General Counsel  
Texas Department of Community  
Affairs

Filed January 16, 1987.

For further information, please call (512) 834-6060.

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## Texas Economic Development Commission

### Private Activity Bonds as Required by Texas Civil Statutes, Article 5190.9

The Tax Reform Act of 1986 (the Tax Act) imposes a volume ceiling on the aggregate principal amount of private activity bonds that may be issued within the State of Texas during any calendar year. The state ceiling for Texas, imposed by the Tax Act for calendar year 1987 is \$1,227,750,000.

The Tax Act and the Internal Revenue Code of 1986 authorize the governor of a state to proclaim a formula for allocating the state ceiling among the governmental units (or other authorities) in such state having authority to issue private activity bonds. Executive Order MW-40A establishes the procedures for the 1987 allocation for the state ceiling on private activity bonds.

It specifies that no more than an aggregate amount of \$327,750,000 may be reserved by local housing finance corporations for the purpose of issuing qualified mortgage bonds, no more than an aggregate amount of \$200,000,000 may be reserved by issuers of state-voted issues (no more than \$100,000,000 of which may be reserved by any one

such issuer), and no more than an aggregate of \$700,000,000 may be reserved for all other bonds requiring an allocation.

Generally, the state ceiling will be allocated on a first-come, first-served basis within the applicable subceiling, with the Texas Economic Development Commission (the commission) administering the allocation system.

The information that follows is a summary report of the allocation activity for the period, January 7-16, 1987.

Summary Report on the 1987 Allocation of the State Ceiling on Certain Private Activity Bonds as Required by Executive Order MW-40A. Total unreserved principal amount of private activity bonds authorized to be allocated as per the Tax Reform Act of 1986 for the \$327,750,000 subceiling for housing finance corporations through January 16, 1987:  
\$327,750,000

Comprehensive listing of bond issues which have received a reservation date as per Executive Order MW-40A for the \$327,750,000 subceiling for housing finance corporations from January 7-16, 1987:  
none

Total unreserved principal amount of private activity bonds authorized to be allocated as per the Tax Reform Act of 1986 for the \$200,000,000 subceiling for state-voted issues through January 16, 1987:  
\$200,000,000

Comprehensive listing of bond issues which have received a reservation date as per Executive Order MW-40A for the \$200 million subceiling for state-voted issues from January 7-16, 1987:  
none

Total unreserved principal amount of private activity bonds authorized to be allocated as per the Tax Reform Act of 1986 for the \$700,000,000 subceiling for all other bonds requiring an allocation through January 16, 1987:  
\$466,775,000

Comprehensive listing of bond issues which have received a reservation date as per Executive Order MW-40A for the \$700,000,000 subceiling for all other bonds requiring an allocation from January 7-16, 1987:

Hansford County Industrial Development Corporation; Gruver Power Partnership, Ltd.; solid waste disposal facility, \$99,000,000

Bexar County Industrial Development Corporation; Hill County Waterworks Company, Water supply facility; \$34,250,000

Brazos River Authority; Texas Utilities Electric Company; H2O pollution control/solid waste disposal facility; \$100,000.00

Total dollar amount reserved from January 16, 1987 = \$233,225,000

Total principal amount of bonds issued through January 16, 1987, for the \$327,750,000 subceiling for housing finance corporations:  
none

Total principal amount of bonds issued through January 16, 1987, for the \$200,000,000 subceiling for state-voted issues:  
none

Total principal amount of bonds issued through January 16, 1987, for the \$700,000,000 subceiling for all other bonds requiring an allocation:  
none

The above allocations were granted by the commission in accordance with the procedures set forth in Executive Order MW-40A, signed by Governor Mark White on January 16, 1987.

Issued in Austin, Texas, on January 16, 1987  
TRD-8700508 David V. Brandon  
Executive Director  
Texas Economic Development  
Commission

Filed January 19, 1987  
For further information, please call (512) 472-5059



## Texas Education Agency Consultant Proposal Requests

This consultant proposal request is filed in accordance with provisions of Texas Civil Statutes, Article 6252-11c.

**Description.** The Texas Education Agency is requesting proposals for assistance in developing and conducting in-service training for the alcohol and drug awareness unit of the state's driver education curriculum, and for identifying, selecting, and purchasing media resources to support the curriculum. The last day on which proposals will be accepted for evaluation is February 27, 1987. A contract is expected to be awarded no earlier than March 6, 1987. The right to reject any or all proposals is reserved.

**Procedures for Selecting Contractor.** Selected will be the respondent deemed best qualified by experience in conducting alcohol/drug awareness workshops, personnel qualifications, familiarity with the alcohol/drug awareness unit in the state's driver education curriculum, and the organization and administration of the project.

**Contact.** Further information may be obtained by writing or calling Gene Wilkins, Specialist, Safety and Driver Education, Division of Curriculum Development, Texas Education Agency, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9585. Copies of the request for proposals may be obtained from the Document Control Center, Texas Education Agency, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9304.

Issued in Austin, Texas, on January 21, 1987  
TRD-8700589 W. N. Kirby  
Commissioner of Education

Filed: January 21, 1987  
For further information, please call (512) 463-9212.

In accordance with Texas Civil Statutes, Article 6252-11c, the Texas Education Agency is requesting applications for the second year development of staff development modules to prepare PK-Grade eight teachers to teach the essential elements of mathematics pursuant to the provisions of the Education of Economic Security Act (EESA), Title II. A set of 21 modules will be developed to prepare PK-Grade eight teachers to teach the essential elements of mathematics using manipulative materials, concept development techniques, and problem solving applications. The modules cover eight content areas, broken down as primary, intermediate, and middle school. The focus of the modules will be on teaching the essential elements of the state mathematics curriculum. Modules will also address general issues such as eliminating bias, reducing mathematics anxiety, and improving participation of all students in higher level mathematics courses.

Trainers from each education service center region will be identified and trained to deliver these modules. The contractor will conduct a pilot training session for the delivery of each module. Evaluation of the pilot training session should be incorporated to make revisions in modules. Districts will then receive guidelines on how to use flowthrough or other funding sources to provide staff development for their staffs.

The development of modules will be contracted to one or more entities. Each contractor may apply to develop one or more modules. Applications will be requested from interested districts, service centers, institutes of higher education, and private consulting firms. The development is projected for a three year period. The approximate funding level for the second year is \$126,894.

Any person wishing to obtain additional information about the application may contact Dr. Cathy Seeley Peavler, Director of Mathematics, Texas Education Agency, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9585.

The beginning date of this contract is June 1, 1987, and the ending date is August 31, 1988.

A contract will be awarded based upon the applicant's demonstrated expertise in preparation of instructional materials, quality of key personnel, adequacy of resources, plan of operation, and program evaluation design. Each application will be evaluated as to the cost effectiveness of the budget.

Application packets may be requested from the Document Control Center, Texas Education Agency, Room 6-108, 1701 North Congress Avenue, Austin, Texas 78701, or by calling (512) 463-9304. Completed applications must be received on or before 5 p.m., March 15, 1987, at the Document Control Center.

Issued in Austin, Texas, on January 20, 1987  
TRD-8700486 W. N. Kirby  
Commissioner of Education

Filed January 16, 1987  
For further information, please call (512) 463-9212



## Texas Department of Health Radioactive Material License Amendment

Notice is hereby given by the Texas Department of Health that it has granted an amendment to the following radioac-

tive material license: Radioactive Material License No. 12-1654 issued to GNI Inc., for their facility located in Odessa (mailing address: GNI Inc., 202 Medical Center Boulevard, Webster, Texas 77598)

The amendment of this license is summarized as follows:

(1) changes the license number from 11-1654 to 12-1654 because no waste from others is stored in Webster (Public Health Region 11), only in Odessa (Public Health Region 12);

(2) grants exemptions from TRCR 44.30(c) concerning liability insurance by authorizing a minimum aggregate per occurrence of \$1,000,000 and a ten day prior notification period before the insurance policy can be cancelled, terminated, or not renewed. These exemptions shall expire on October 1, 1987;

(3) requires that an updated certificate of insurance be submitted to the agency by September 20, 1987.

The Division of Licensing, Registration, and Standards has determined that the amendment has no significant impact on the human environment, the licensee is qualified by reason of training and experience to use the material in question for the purpose requested in accordance with these regulations in such a manner as to minimize danger to public health and safety, and the environment, the licensee's equipment, facilities, and procedures are adequate to minimize danger to public health and safety, and the environment, the issuance of the license amendment will not be inimical to public health and safety, or have a detrimental impact on the environment, and the licensee satisfies any applicable special requirements in Part 44 of the TRCR. This notice affords the opportunity for a public hearing upon written request within 30 days of the date of publication of this notice by a person affected as required by Texas Civil Statutes, Article 4590f, §11B(b), as amended, and as set out in TRCR 13.6. A person affected is defined as a person who is resident of a county, or a county adjacent to a county, in which the radioactive materials are or will be located, including any person who is doing business or who has a legal interest in land in the county or adjacent county, and any local government in the county, and who can demonstrate that he has suffered or will suffer actual injury or economic damage.

A person affected may request a hearing by writing Mr. David K. Facker, Chief, Bureau of Radiation Control (Director, Radiation Control Program), 1100 West 49th Street, Austin, Texas 78756-3189. Any request for a hearing must contain the name and address of the person who considers himself affected by agency action, identify the subject license, specify the reasons why the person considers himself affected, and state the relief sought. If the person is represented by an agent, the name and address of the agent must be stated. Should no request for a public hearing be timely filed, the amendment will remain in effect.

A copy of all material submitted is available for public inspection at the Bureau of Radiation Control, 1212 East Anderson Lane, Austin, Texas. Information relative to the amendment of this specific radioactive material license may be obtained by contacting Mr. David K. Facker, Chief, Bureau of Radiation Control (Director, Radiation Control Program), 1100 West 49th Street, Austin, Texas 78756-3189. For further information, please call (512) 835-7000.

Issued in Austin, Texas, on January 19, 1987

TRD-8700557      Robert A. MacLean  
Deputy Commissioner  
Texas Department of Health

Filed: January 20, 1987

For further information, please call (512) 475-7238

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## State Board of Insurance Company Licensing

The following applications have been filed with the State Board of Insurance and are under consideration.

(1) Application for admission to do business in Texas of Monumental General Casualty Company, a foreign fire and casualty insurance company. The home office is in Baltimore, Maryland.

(2) Application for admission to do business in Texas of Phoenix Reinsurance Company, a foreign fire and casualty insurance company. The home office is in Hartford, Connecticut.

(3) Application for a name change by National Excess Insurance Company, a foreign fire and casualty insurance company. The home office is in San Francisco, California. The proposed new name is Premier Alliance Insurance Company.

(4) Application for a name change by Healthamerica Corporation of Texas, a domestic health maintenance organization. The home office is in Dallas. The proposed new name is Maxicare San Antonio, Inc.

(5) Application for incorporation of Texas Fire and Marine Insurance Company, to be a domestic fire and casualty insurance company. The home office is to be in Houston.

(6) Application for admission to do business in Texas of Universal Title Insurance Company, a foreign title insurance company. The home office is in Edina, Minnesota.

Issued in Austin, Texas, on January 16, 1987

TRD 8700584      Nicholas Murphy  
Chief Clerk  
State Board of Insurance

Filed January 20, 1987

For further information, please call (512) 463-6327

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## Railroad Commission of Texas Extension of Rulemaking Comment Period and Notice of Rulemaking Hearing

The Railroad Commission of Texas, Surface Mining and Reclamation Division, has proposed an amendment to 16 TAC, Part 1, §11.221, concerning coal mining regulations pertaining to effluent limitations, prime farmland, notices of violation, and lands unsuitable for mining.

The proposed rulemaking was announced at 11 TexReg 4467 on October 31, 1986. The comment period on the proposed rulemaking has been extended until February 12, 1987, at 5 p.m. A public hearing on the proposed rules will be held at 1 p.m. on February 5, 1987, at 1701 North Congress, 12th Floor Conference Room.

Issued in Austin, Texas, on January 15, 1987

TRD-8700478      Walter Earl Lillie  
Special Counsel  
Railroad Commission of Texas

Filed: January 16, 1987

For further information, please call (512) 463-7149.

## Texas Water Commission Notice of Application for Waste Discharge Permit

Notice is given by the Texas Water Commission of public notices of waste disposal permit applications issued during the period of January 12-16, 1987.

No public hearing will be held on these applications unless an affected person has requested a public hearing. Any such request for a public hearing shall be in writing and contain the name, mailing address, and phone number of the person making the request, and a brief description of how the requester or persons represented by the requester, would be adversely affected by the granting of the application. If the commission determines that the request sets out an issue which is relevant to the waste discharge permit decision, or that a public hearing would serve the public interest, the commission shall conduct a public hearing, after the issuance of proper and timely notice of the hearing. If no sufficient request for hearing is received within 30 days of the date of publication of notice concerning the applications, the permit will be submitted to the commission for final decision on the application.

Information concerning any aspect of these applications may be obtained by contacting the Texas Water Commission, P.O. Box 13087, Austin, Texas 78711, (512) 463-7905.

Listed is the name of the applicant and the city in which each facility is located, type of facility, location of the facility, permit number, and type of application—new permit, amendment, or renewal.

Archison, Topoka, and Santa Fe Railway Company, storage, processing, and disposal facility for Class I hazardous waste, on a 200-acre tract of land on the northeastern edge of the City of Somerville, Burleson County, Somerville, HW 50090-000, new permit.

Why Wastewater? Inc., commercial industrial hazardous and non-hazardous solid waste storage facility on a 3,787-acre tract of land in the Cantunillo Industrial Park which is 1.25 miles north of Camutillo, and 13 miles northwest of El Paso, El Paso County, El Paso, HW 50209-001, new permit.

Bruce Foods Corporation, food processing plant, at 15000 Dyer Street between Dyer Street, Highway 54 and Railroad Drive extension in the City of El Paso and in El Paso County, El Paso, 02518, renewal.

Northwest Harris County Municipal Utility District 20, wastewater treatment facilities, approximately 8,700 feet east and 6,500 feet north of the intersection of Bammel Road (FM Road 1960) and Stuebner Airline Road in Harris County, Houston, 12165-01, renewal.

G. Karbalar, sewage treatment plant, approximately 600 feet north of East Mount Houston Street and approximately 1.3 miles west of the intersection of FM Road 527 and East Mount Houston Street in Harris County, Houston, 12869-01; renewal.

West Memorial Municipal Utility District, wastewater treatment facilities, approximately 6,000 feet south of IH 10 and approximately 1,000 feet west of Mason Road in Harris County, Katy, 11152-01, renewal.

Harris County WCID No. 133, Wastewater treatment facilities; at 7415 Smiling Wood Lane and the intersection of Bauerlein Drive in Harris County; Houston, 11153-01; renewal.

Encanto Real Utility District, wastewater treatment facilities; approximately 3/4 miles northwest of the intersection of IH 45 and Spring-Stuebner Road just south of Spring Creek, north of the City of Houston, Harris County, Houston, 11303-01, renewal.

Elva Weiman and Mabel Weiman, wastewater treatment plant; adjacent to Horsepen Bayou, approximately 1,500 feet south of Spencer Road (FM Road 529) and east of Horsepen Bayou in Harris County; Houston; 1310-01; renewal.

Roy H. Cullen, sewage treatment plant; on the northeast corner of the intersection of Alameda-Genoa Road and State Highway 288 in Harris County; Houston; 12425-01; renewal.

Vetco Services, Inc., wastewater treatment facilities; approximately 1 mile north of IH 10 and 790 feet east of Brittmoore Road in Harris County, Houston, 12355-01; renewal.

Lakeview Methodist Assembly, wastewater treatment facilities; approximately 2.2 miles east of the intersection of State Highway 294 and FM Road 1990, just northwest (downstream) of Lakeview Lake Dam in Anderson County; Palestine, 10578-01; renewal.

Greater Houston Area YMCA, wastewater treatment plant, approximately 1,000 feet north of FM Road 356, 4 1/2 miles east of State Highway 19 and five miles southeast of the intersection of State Highway 19 and FM Road 230 in Trinity County, Trinity, 11644-01, renewal.

Montgomery County MUD #39, wastewater treatment facilities, approximately 2,000 feet east of IH 45 and 1/4 mile south of FM Road 1488, adjacent to the Missouri Pacific Railroad Tracks and the drainage ditch in Montgomery County, The Woodlands, 11658-01, renewal.

City of Johnson City, wastewater treatment facilities, approximately 3,700 feet north of the intersection of FM Road 2766 and U.S. Highway 281 and 2,500 feet south southwest of the U.S. 281 crossing of the Pedernales River in Blanco County, Johnson City, 10198-01, renewal.

Proter International Corporation, metals reclamation and pipe fabrication plant, at 7501 Wallisville Road and 7501 Liberty Road in the northeast part of the City of Houston, Harris County, Houston, 01809, amendment.

Harris County Municipal Utility District No. 208, wastewater treatment plant, at 7926 State Highway 6, approximately 1/4 mile northeast of the intersection of State Highway 6 and FM Road 529 (Spencer Road), approximately 2.18 miles southwest of the intersection of U.S. Highway 290, State Highway 6 and FM Road 1960 in Harris County, Houston, 11947-01, amendment.

Riverside Country Club, wastewater treatment facilities, approximately 1,200 feet south of State Highway 332 and 1.5 miles east of the intersection of State Highway 332 and FM Road 521 in Brazoria County, Lake Jackson, 11602-01, renewal.

City of Donna, wastewater treatment facilities, immediately west of FM Road 493 and approximately 1.5 miles south of U.S. Highway 83 (Business Route) in the City of Donna, Hidalgo County, 10504-01, renewal.

Central Power and Light Company, power station; approximately 1 1/2 miles west of the Corpus Christi Bay Turning Basin at a site north of Navigation Boulevard in the City of Corpus Christi in Nueces County; Corpus Christi; 01244; amendment.

Town of Prosper, wastewater treatment facilities, approximately 300 feet west of the intersection of the St. Louis and San Francisco Railroad and Seventh Street in the City of Prosper in Collin County; 10915-01; renewal

Diana Water Supply Corporation, wastewater treatment facilities; approximately 1½ miles south of the City of Diana, ¼ mile east of the intersection of U.S. Highway 259 and FM Road 2345 on the north side of FM Road 3245 in Upshur County, Diana, 11199-01, renewal

City of Lockhart, wastewater treatment facilities; at the end of Lanemore Street in the southeastern part of Lockhart in Caldwell County, 10210-01; renewal

Browning-Ferris Industries Chemical Services, Inc., Class II/III solid waste disposal facility, on West Port Arthur Road Highway 823 between Port Arthur and Beaumont and between Live Oak Cemetery and Rhodair Gully west of Nederland, Jefferson County; Nederland, 02517, amendment

Carotex, Inc., plant that cleans and repairs chemical and petroleum barges and ships approximately one mile downstream and southeast of the Rainbow Bridge crossing over the Neches River and adjacent to Old Yacht Club Road in the City of Port Arthur, Jefferson County, Port Arthur; 01674, amendment

Rohm and Haas Texas Inc., Ht Plant, facility for the synthesis and purification of acetic acid, acrylic acid, and acrylic ester monomers, north of State Highway 225 and adjacent to Old Battleground Road in the City of Deer Park, Harris County, Deer Park, 01962, amendment

Browning Ferris, Inc., truck maintenance facility, at 8101 Little York Road approximately 3.6 miles east of the intersection of Little York Road and U.S. 59 in the City of Houston, Harris County, Houston, 02887, new

City of Burnet, wastewater treatment plant, approximately 1,400 feet southeast of the Southern Pacific Railroad Bridge crossing at Hamilton Creek in Burnet County, 10793-02, amendment

Lebanon Properties, Inc., wastewater treatment plant, approximately 6,000 feet north of State Highway 105, approximately 4.5 miles northwest of the intersection of State Highways 105 and 146, approximately 9.4 miles east south east of the intersection of State Highway 105 and FM Road 163 in Liberty County, Cleveland, 13350-01, new

Tidwell Timbers Municipal Utility District, wastewater treatment facilities, at the west bank of Greens Bayou, north of and adjacent to Tidwell Road in Harris County, Houston, 13333-01, new

Polycom Huntsman, Inc., Plastics Compounding Division, plastics compounding plant, on the west side of State Highway 146 approximately two miles north of the City of Seabrook, Harris County, Seabrook, 01028, renewal

BTI Specialty Resins Corporation, (formerly Reichhold Chemicals, Inc.) formaldehyde unit and synthetic resins manufacturing plant, at 1503 Haden Road in the City of Houston, Harris County, Houston, 00662, renewal

The Atchison, Topeka, and Santa Fe Railway Company, railroad main line fueling facility, about 800 feet north of the Hawkins Road Crossing and 3,400 feet north of the FM Road 3117 Crossing, south of the City of Temple, Bell County; Temple, 02545, renewal

Universal Tubular Services, Inc., wastewater treatment facilities, at 9015 Sheldon Road approximately 1½ miles south, of U.S. Highway 90 and approximately ¾ mile

north of Miller Road No. 1 in Harris County, Houston; 12436-01, renewal

Spaw-Glass, Inc., Richmond Equipment Division, a structural steel erection, equipment rental, and equipment cleaning approximately 1,000 feet south of the intersection of Little York Road and North Houston Rosslyn Road in the City of Houston, Harris County, Houston, 02527; renewal

Mr. and Mrs. Leroy Brown, doing business as Oak Terrace Mobile Home Park, wastewater treatment facilities, on the north side of Linscomb Road approximately ½ mile west of FM Road 1136 and approximately 2½ miles southwest of the intersection of State Highways 12 and 62 in the City of Mauriceville in Orange County, Mauriceville, 11357-01, renewal

Issued in Austin, Texas, on January 20, 1987

TRD 8700440 Mary Ann Heffner  
Chief Clerk  
Texas Water Commission

Filed January 20, 1987

For further information please call (512) 463-7898.

## Public Hearings

Notice is hereby given that, pursuant to the requirements of the Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6252-13a, §5, the Texas Water Commission will conduct a public hearing to receive testimony and public comments concerning the addition of Subchapter E—Lakes Lyndon B. Johnson and Marble Falls Water Quality (31 TAC §§311.51-311.55) to the Watershed Protection rules (31 TAC Chapter 311)

Notice and the text of the proposed sections was published in the *Texas Register* on December 19, 1986. Proposed Subchapter E is modeled on the Lakes Travis and Austin rules (31 TAC §§311.1-311.5) and would prohibit new discharges of pollutants into Lakes Lyndon B. Johnson and Marble Falls, and require secondary treatment of effluent before it is discharged into holding ponds for land disposal.

Currently permitted facilities would be allowed to continue discharges under their existing permits and may apply for renewal of the permits. New permits and permit amendments which result in additional treatment capacity would require secondary treatment and land disposal of all effluent. The actual text of the proposed rule should be referred to for a complete understanding of the provisions contained therein.

The public hearing will be held at 9 a.m., February 9, 1987, Room 118, Stephen F. Austin Building, 1700 North Congress Avenue, Austin, Texas.

Public comment, both oral and written, on the proposed sections is invited at the public hearing. The hearing is structured for the receipt of narrative comments, and interrogation or cross-examination is not permitted. Written comments may be submitted up to and including February 13, 1987. Comments should be mailed to Duncan C. Norton, Hearings Examiner, Texas Water Commission, P.O. Box 13087, Austin, Texas, 78711-3087. Final action on these rules will be taken by the Texas Water Commission in a subsequent open meeting.

Issued in Austin, Texas, on January 21, 1987

TRD-8700585 James K. Rourke, Jr.  
General Counsel  
Texas Water Commission

Filed January 21, 1987  
For further information, please call (512) 463-7875

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The Texas Water Commission will conduct a public hearing beginning at 11:15 p.m., March 12, 1987, David Nelson Meeting Room, Texarkana Public Library, 600 West Third, Texarkana, in order to receive testimony concerning the waste load evaluation for Days Creek in the Sulphur River Basin (Segment 0304).

The public hearing shall be conducted in accordance with the Texas Water Code, §26.011 and §26.037. The primary purpose of a waste load evaluation is to define treatment levels for wastewater dischargers to a segment and specify other program actions that need to be taken in order to attain and maintain the water quality standards, describe nonpoint source pollution from areas tributary to a segment, and identify treatment level alternatives using receiving stream water quality simulations.

A section containing recommended treatment levels and other recommended actions that are proposed to be taken is also included.

The public is encouraged to attend the hearing and to present relevant evidence or opinions concerning the waste load evaluation. Written testimony which is submitted prior to or during the public hearing will be included in the rec-

ord. The commission would appreciate receiving a copy of all written testimony at least five days before the hearing. Copies of written testimony and questions concerning the public hearing should be addressed to Daniel E. Beckett, Texas Water Commission, P. O. Box 13087, Austin, Texas 78711-3087 or call (512) 463-8452. A limited number of copies of the draft waste load evaluation will be available for review after February 10, 1987, in the Texas Water Commission Library, Room 511 of the Stephen F. Austin Building, 1700 North Congress in Austin, and at the Texarkana Public Library, 600 West Third, Texarkana; or may be obtained by writing to Dale White, P. O. Box 13087, Austin, Texas 78711-3087 or call (512) 463-8452.

There are no charges for the prehearing draft copies of the waste load evaluation, however, a fee will be charged for the finalized post-hearing copies. The date selected for this hearing is intended to comply with deadlines set by statute and regulation. Any publication or receipt of this notice less than 45 calendar days prior to the hearing date is due to the necessity of scheduling the hearing on the date selected.

Issued in Austin, Texas, on January 20, 1987

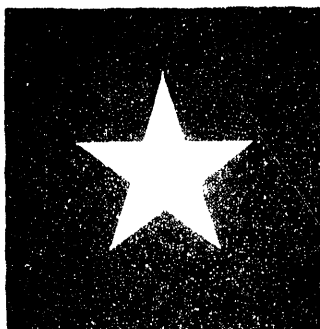
TRD-8700561      James K. Rourke, Jr.  
General Counsel  
Texas Water Commission

Filed January 20, 1987  
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