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# TEXAS REGISTER

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TEXAS DOCUMENTS

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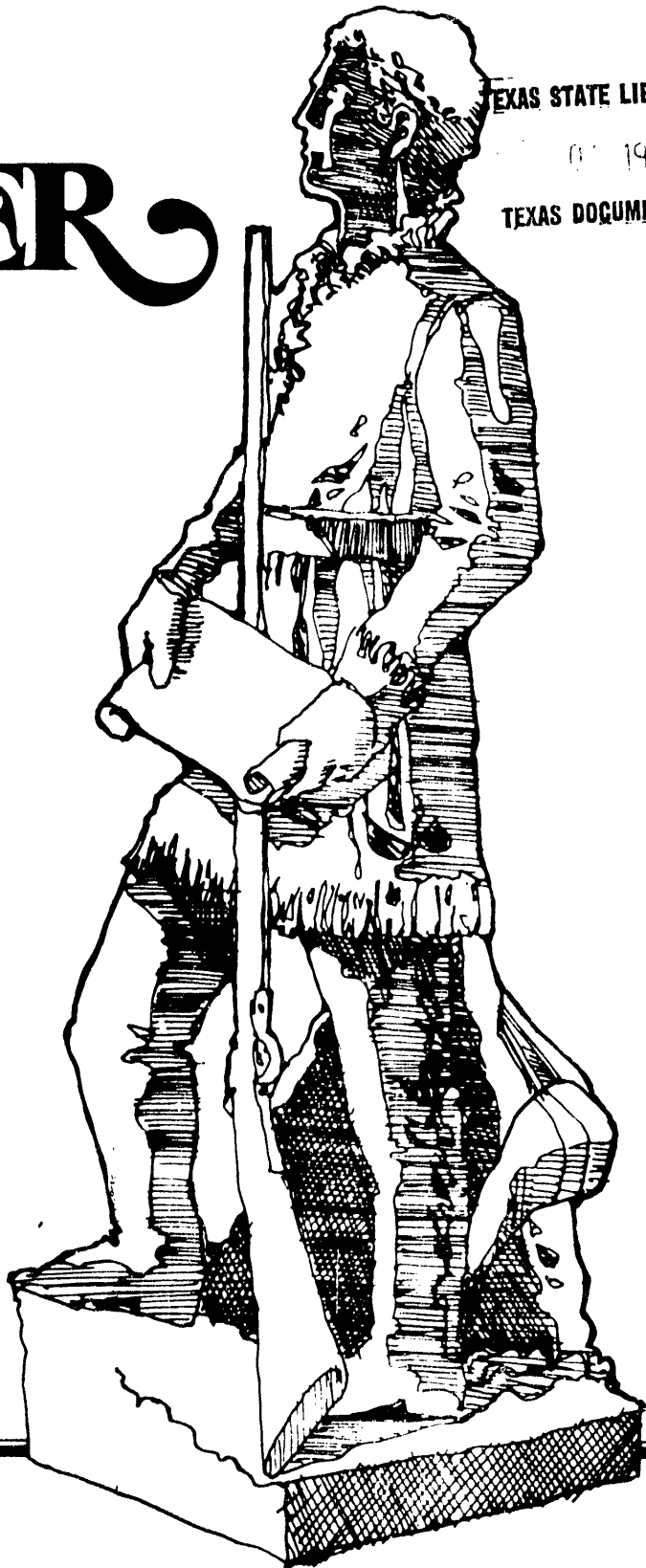
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Office of the Secretary of State

The *Texas Register* is currently in the process of converting to the numbering system found in the *Texas Administrative Code* (TAC). To aid the reader in this conversion, both the 10-digit *Register* number and the new TAC number will be listed for agencies whose rules have been published in the TAC. Emergency, proposed, and adopted rules sections of the *Register* are divided into two classifications: codified and noncodified. Codified rules appear in title number order. Non-codified rules appear in alphabetical order as they have in the past. An "Index of TAC Titles Affected" appears at the end of this issue.

Titles 1, 4, 7, 10, 13, 31, and 43 only of the TAC have now been published. Documents classified in the *Texas Register* to titles not yet published and certain documents affecting titles of the code have been accepted in the non-TAC format and may be renumbered or revised, or both, when initially codified in the TAC.

Under the TAC scheme, each agency rule is designated by a TAC number. For example, in the citation 1 TAC §27.15:

1 is the title (agencies grouped together by subject title which are arranged alphabetically)

TAC is the *Texas Administrative Code*

§27.15 is the section number (27 represents the chapter number and 15 represents the individual rule within the chapter)

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Latest Texas Code Reporter  
(Master Transmittal Sheet): No. 1, Oct. 79

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**HOW TO CITE:** Material published in the *Texas Register* is referenced by citing the volume in which a document appears, the words "TexReg," and the beginning page number on which that document was published. For example, a document published on page 2404 of Volume 4 is cited as follows: 4 TexReg 2404.

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

# TEXAS REGISTER

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George W. Strake, Jr.  
Secretary of State

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## Appointments

### Radiation Advisory Board

*For a six-year term to expire April 16, 1985:*

Dr. DuBilier  
505 Arlington  
Seguin, Texas 78155 (public safety)

Dr. DuBilier is being reappointed.

### Advisory Council on Youth Camp Safety

*For two year terms to expire December 1, 1981:*

Mrs. Thomas P. Hubbard  
Director of Camping Services  
Tejas Girl Scout Council, Inc.  
P.O. Box 64815  
Dallas, Texas 75206 (represents Girl Scouts)

Mrs. Hubbard is replacing Alice H. Mulkey of Dallas, Dallas County, whose term expired.

Silas B. Ragsdale, Jr.  
Director  
Camp Stewart for Boys  
Hunt, Texas 78024 (represents experience and competence)

Mr. Ragsdale is replacing Armin F. Luehrs of Dallas, Dallas County, whose term expired.

Issued in Austin, Texas, on February 19, 1980.

Doc. No. 801369      William P. Clements, Jr.  
Governor of Texas

For further information, please call (512) 475-3021.

Article 4399, Vernon's Texas Civil Statutes, requires the attorney general to give written opinions to certain public officials. The Texas Open Records Act, Article 6252-17a, Section 7, Vernon's Texas Civil Statutes, requires that a governmental body which receives a request for release of records seek a decision of the attorney general if the governmental body determines that the information may be withheld from public disclosure. Opinions and open records decisions issued under the authority of these two statutes, as well as the request for opinions and decisions, are required to be summarized in the *Texas Register*.

Copies of requests, opinions, and open records decisions may be obtained from the Opinion Committee, Attorney General's Office, Supreme Court Building, Austin, Texas 78701, telephone (512) 475-5445.

## Requests for Opinions

### Summary of Request for Opinion RQ-277

Request from Dr. Jack Elsom, president, Ranger Junior College, Ranger.

**Summary of Request:**

- (1) Are the student rosters of a college course showing the names of the students enrolled in the course required to be disclosed under the Texas Open Records Act?
- (2) Is a roster of each day of class in each course showing the students who were present in class on each day required to be disclosed under the Open Records Act?

Doc. No. 801386

### Summary of Request for Opinion RQ-278

Request from James B. Bond, general counsel, Texas A&M University System, College Station.

**Summary of Request:** Are names of students who hold certain university parking permits required to be released under the Open Records Act?

Doc. No. 801387

### Summary of Request for Opinion RQ-279

Request from Dr. C. Robert Kemble, president, Lamar University, Beaumont.

**Summary of Request:** Is it legally permissible for Lamar University to make available university-owned land at no rental charge to a developer selected by the Board of Regents after receipt of competitive proposals to build to university specifications the desired number of housing units at no charge whatsoever to the university and which the developer will operate for its profit subject to rules and regulations established by Lamar University? Under the agreement, in consideration for use of its land, Lamar University would receive the following:

- (a) availability of the housing for students;
- (b) one-half of the remaining revenues after certain specified expenses are paid;
- (c) all improvements on the land to vest in Lamar University no later than 40 years from completion of construction;
- (d) revenues from the management contract; and
- (e) control of the housing under the rules and regulations of the university.

Doc. No. 801388

### Summary of Request for Opinion RQ-280

Request from John B. Holmes, Jr., district attorney, Houston.

**Summary of Request:** A machine is designed to resemble a slot machine in appearance and operation; however, it can be played without inserting a coin and the dials may be manually manipulated to produce a winning combination. Is the machine violative of Section 47.01, Penal Code?

Issued in Austin, Texas, on February 21, 1980.

Doc. No. 801389

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

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

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

This section now contains two classifications: codified and noncodified. Agencies whose rules have been published in the *Texas Administrative Code* will appear under the heading "Codified." These rules will list the new TAC number, which will be followed immediately by the *Texas Register* 10-digit number. Agencies whose rules have not been published in the TAC will appear under the heading "Noncodified." The rules under the heading "Codified" will appear first, immediately followed by rules under the heading "Noncodified."

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

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## NONCODIFIED

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### Texas Education Agency

#### Assessment

##### Student Assessment of Basic Skills 226.38.01

The Texas Education Agency adopts Rule 226.38.01.080 on an emergency basis. The rule provides for funding of the student assessment of basic skills, to be administered in grades five and nine in 1979-80, and in grades three, five, and nine in 1980-81 and thereafter. The testing program is to be paid for from state compensatory education funds.

The rule is adopted on an emergency basis in order to meet testing program deadlines for the 1979-80 school year.

This rule is promulgated under the authority of Sections 16.005 and 16.176, Texas Education Code.

##### .080. Funding.

(a) Policy. The Texas Education Agency will withhold an average cost per pupil from the state compensatory allocation of each district receiving such funds to pay for the cost of developing and administering the assessment instruments.

(b) Administrative procedure. (Reserved for expansion.)

Issued in Austin, Texas, on February 20, 1980.

Doc. No. 801357      A. O. Bowen  
Commissioner of Education

Effective Date: February 20, 1980

Expiration Date: June 19, 1980

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

### Texas Department of Labor and Standards

#### Employment Agency

##### Labor Agencies 063.22.10

The Department of Labor and Standards has determined that an imminent peril to the public health, safety, and welfare has been created because the parameters set by Section 3B of the Texas labor agency law, Texas Revised Civil Statutes, Article 5221a-5, concerning the automatic denial of license application, fail to establish enough criteria by which to examine applicants. The parameters as established do not provide guidelines for determining the eligibility of applicants who have criminal records. Nor do these parameters include any due process considerations. The imminent threat to the public safety of prospective employees as well as due process considerations for prospective licenses necessitates the adoption of Rule 063.22.10.015, Examination of License Applications.

For the above reasons, the Texas Department of Labor and Standards adopts, through emergency rule, the following rule to be effective for a period not longer than 120 days.

This rule is adopted under the authority of Texas Revised Civil Statutes, Article 5221a-5, Section 12A.

.015. *Examination of License Applications.* The commissioner shall consider the following factors in his examination of an application for a labor agency license:

(1) whether the applicant has filed all documents as required by the Texas labor agency law,

(2) whether the applicant has remitted the annual license fee,

(3) whether the applicant has been convicted in a state or federal court of an offense which is a felony within three years of the date of the application, and

(4) whether the applicant has been convicted of any offense involving moral turpitude within three years of the date of application.

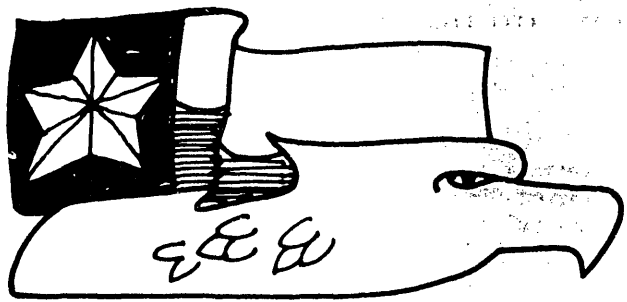
Issued in Austin, Texas, on February 22, 1979.

Doc. No. 801410      Lias B. "Bubba" Steen  
Commissioner  
Texas Department of Labor and  
Standards

Effective Date: February 22, 1980

Expiration Date: June 21, 1980

For further information, please call (512) 475-6560.



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

Upon request, an agency shall provide a statement of the reasons for and against adoption of a rule. Any interested person may request this statement from the agency before adoption or within 30 days afterward. The statement shall include the principal reasons for overruling objections to the agency's decision.

This section now contains two classifications: codified and noncodified. Agencies whose rules have been published in the *Texas Administrative Code* will appear under the heading "Codified." These rules will list the new TAC number, which will be followed immediately by the *Texas Register* 10-digit number. Agencies whose rules have not been published in the TAC will appear under the heading "Noncodified." The rules under the heading "Codified" will appear first, immediately followed by rules under the heading "Noncodified."

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

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## NONCODIFIED

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### Comptroller of Public Accounts

#### Tax Administration

##### Miscellaneous Tax Division 026.02.23

The comptroller of public accounts is proposing an amendment to Rule 026.02.23.003. The proposed amendment will delete subsection (d) because the tax is being administered by a different division.

There are no significant fiscal implications expected from the proposed rule.

Public comment on the proposed amendment to Rule .003 is invited. Persons should submit their comments in writing to Jim Ray, Drawer SS, Austin, Texas 78711.

This amendment is proposed under the authority of Texas Taxation—General Annotated, Article 23.05 (1969).

##### .003. *Exemption Certificate.*

(a) An exemption certificate may be issued only by an exempt organization as defined in Texas Taxation—General Annotated, Article 23.02(c), which contracts and pays for the hotel accommodations.

(b) Exemption numbers or tax numbers do not exist for the purposes of this act.

(c) The exemption certificate must be substantially in the form set out below:

#### Hotel Occupancy Tax Exemption Certificate

The undersigned hereby claims an exemption from payment of taxes under *Texas Taxation—General Annotated, Chapter 23* [Chapter 23, Title 122A], for the rental of a hotel room or rooms from \_\_\_\_\_

The reason that said Occupant is claiming this exemption is \_\_\_\_\_

Executed this the \_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_.

Exempt Organization \_\_\_\_\_

Address \_\_\_\_\_

Signature \_\_\_\_\_

[(d) The exempt status of any organization may be determined by contacting the Rulings Section, Sales Tax Division, 1-800-252-5555.]

Issued in Austin, Texas, on February 22, 1980.

Doc. No. 801414      Bob Bullock  
Comptroller of Public Accounts

Proposed Date of Adoption: March 31, 1980

For further information, please call (512) 475-1932.

### Texas Education Agency

#### Assessment

##### Student Assessment of Basic Skills 226.38.01

(Editor's note: The Texas Education Agency is proposing for permanent adoption Rule 226.38.01.080, which the agency adopts on an emergency basis in this issue. The text of the rule appears in the Emergency Rules section.)

The Texas Education Agency proposes to adopt Rule 226.38.01.080, concerning the provision of funding for the student assessment of basic skills to be administered in grades five and nine in 1979-80, and in grades three, five, and nine in 1980-81 and thereafter.

The Texas Education Agency estimates the costs for the student assessment of basic skills as follows: for the 1979-80 school year, development of the test instrument will cost an estimated \$118,446 and administration of the test will cost an estimated \$1,577,935, for a total of \$1,696,381. With the addition of testing at the third grade level, the Texas Education Agency estimates costs for 1980-81 and thereafter at approximately \$3,000,000 each year. These costs will be paid from the \$42.9 million dollar State Compensatory Education Program, which is part of the Foundation School Program.

Public comment on the proposed adoption of Rule .080 is invited. Comments may be submitted by telephoning the office of Dr. J. B. Morgan, associate commissioner for policies and services, at (512) 475-7077, or by writing to him at 201 East 11th Street, Austin, Texas 78701. All requests for a public hearing on proposed rules 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 rule is proposed under the authority of Sections 16.005 and 16.176, Texas Education Code.

Issued in Austin, Texas, on February 20, 1980.

Doc. No. 801358      A. O. Bowen  
Commissioner of Education

Proposed Date of Adoption: April 12, 1980  
For further information, please call (512) 475-7077.

## Texas Department of Human Resources

### Medical Assistance Programs

#### General Policies 326.46.06

The Department of Human Resources proposes to add to its rules governing subrogation under the Texas Medical Assistance Program. Under state law, when a person applies for or receives Medicaid, he or she automatically assigns to DHR his or her right to recovery from personal insurance, other sources, and from personal injuries occasioned by the negligence or wrongdoing of another person, to the extent of the cost of medical care services paid by the Texas Department of Human Resources. State law also requires Medicaid recipients to report to DHR or its designated agent any such insurance coverage or personal injuries involving a liable third party at the time of application and subsequently within 60 days of learning of such coverage or liability. It is the intent of the state and federal law that Title XIX (Medicaid) funds are to be utilized for the payment of medical services only after all available third-party resources have been utilized. The proposed rules specify the department's legal rights and the limits on those rights as established under law.

The proposed rules indicate that the Texas Medical Assistance Program will continue its current policy of paying medical claims only after all other available resources have been exhausted. In this regard, the department authorizes and requires all providers of medical services participating in the Texas Medical Assistance Program to collect and recover funds the department has a right to collect or recover. The rules specify that when the availability of third-party resources are known, the provider is to collect or recover funds prior to submitting claims for reimbursement for medical assistance. If the availability of third-party resources is not known until after payment by the Medical Assistance Program, collection and/or recovery will be made in accordance with existing applicable laws, regulations, and rules. The proposed rules also contain provisions for notification by the department or its health-insuring agent to insurance companies of the department's right of subrogation and any assignment or waiver thereof.

In accordance with state law, the proposed rules provide that the Department of Human Resources does not assume responsibility for pursuing claims against third-party resources which are outside the limits of the recovery that the department is authorized to seek. The responsibility for pursuing such claims remains that of the recipient. Furthermore, there are provisions in the rules which permit the commissioner of human resources to waive the department's right of recovery from third-party resources if such recovery

is contraindicated. In the event of such a waiver, the recipient may pursue all claims against third parties.

The department has determined that the following new rules will have no fiscal implications for the state or units of local government. The entire concept of subrogation is designed to be a cost-saving measure for the tax-based Medicaid Program and the principles proposed in these rules for administering the assignment of third-party resources will allow the department to avoid sizable expenditures of state tax funds. At the same time, the principles will not cause any expenditures to be transferred to units of local government since the program will be ensuring that insurance policies and persons liable in tort actions bear the expenses.

Written comments are invited and may be sent to Susan Johnson, administrator, Handbook and Procedures Development Division—060, Department of Human Resources, P.O. Box 2960, Austin, Texas 78769, within 30 days of publication in this *Register*.

The following rules are proposed under the authority of the Human Resources Code, Chapter 32.

#### .003. Subrogation.

(a) Under the Texas Medical Assistance Program reimbursement from third-party resources for all medical care services paid on behalf of a recipient by the department has been assigned by law to the Department of Human Resources. Third-party resource is defined as:

- (1) health and accident insurance;
- (2) workman's compensation;
- (3) other sources; or

(4) another person for personal injury caused by the other person's negligence or wrong.

(b) The department's right of recovery is limited to the amount of the cost of medical care services paid by the department or its health-insuring agent in behalf of the recipient. Amounts available from third-party resources in excess of payments made by the department or its health-insuring agent are available to the recipient.

#### .004. Collection from Third-Party Resources.

(a) The Texas Medical Assistance Program will pay medical claims only after all other available resources have been exhausted.

(b) The department authorizes and requires all providers of medical services participating in the Texas Medical Assistance Program to collect and/or recover funds to which the department has a right under Rule .003(a)(1) and (2) prior to submitting claims for reimbursement to the Medical Assistance Program.

(c) The department authorizes all providers of medical services as participating in the Texas Medical Assistance Program to collect and/or recover funds for recipients' medical expenses tendered from any source.

#### .005. The Recipient's Right of Recovery and Waiver of Department's Right of Recovery.

(a) The Department of Human Resources does not assume responsibility for pursuing claims against third-party resources which are outside the limits of the recovery that the department is authorized by law to seek. The responsibility for pursuing such claims remains that of the recipient.



(b) If the commissioner of human resources waives the department's right of recovery from third-party resources, the recipient may pursue all claims against third parties.

**.006. Notice of Subrogation.**

(a) Absent indications of fraudulent activities, neither the department nor its health-insuring agent, will seek to recover from insurance companies any payments made to recipients by the companies before they were notified of the department's right of subrogation.

(b) In its notification to the insurance company, the department, or its health-insuring agent, will assign its rights to recovery to the medical provider who renders professional service to the recipient.

Issued in Austin, Texas, on February 22, 1980.

Doc. No. 801390 Jerome Chapman  
Commissioner  
Texas Department of Human Resources

Proposed Date of Adoption: March 31, 1980  
For further information, please call (512) 475-4601.

## State Board of Insurance

### Life, Accident, and Health

#### Indeterminate Premium Reduction Policy

##### 059.03.50

The State Board of Insurance proposes to adopt Rules 059.03.50.001-.011 to regulate nonparticipating life insurance policies which have the following characteristics: the premium for the policy is guaranteed for an initial period of time but subsequent to such initial period a maximum premium charge is specified in the policy; thereafter, the insurer reserves the right to charge a lesser unspecified amount (this type of policy is hereinafter referred to as "an indeterminate premium reduction policy"). The rules are designed to regulate indeterminate premium reduction policies in the following respects:

- (1) to insure adequate disclosure of the policy;
- (2) to prevent misunderstanding, misrepresentation, or other abuse of the policy; and
- (3) to inform the public of certain legal interpretations.

The State Board of Insurance expects no fiscal implications for the state or units of local government in respect to the indeterminate premium reduction policy, according to agency personnel.

Public comment on the proposed adoption of Rules .001-.011 is invited. Comments may be submitted in writing to A. W. Pogue, division manager-policy approval, State Board of Insurance, 1110 San Jacinto, Austin, Texas 78786.

These rules are proposed under authority of Articles 3.28, 3.42, 3.44a, and 21.21 of the Texas Insurance Code.

**.001. Purpose and Scope.**

(a) These rules are promulgated to regulate nonparticipating permanent life insurance policies which have the following characteristics:

- (1) the premium for the policy is guaranteed for an initial period of time but subsequent to such initial period, a maximum premium charge is specified in the policy;

thereafter, the insurer reserves the right to charge a lesser unspecified amount (this type of policy is hereinafter referred to as "an indeterminate premium reduction policy");

(2) one of the purposes of the policy is to provide insureds with insurance coverage at a lower initial premium than would be obtainable from the insurer if the premiums were required to be unchangeable by the insurer for the life of the policy.

(b) A major purpose of these rules is to promote an accurate presentation and description to the insurance-buying public of the indeterminate premium reduction policy. Adequate disclosure is one of the principal objectives of the rules. The rules attempt to insure that prospective insureds receive a fair, adequate, and accurate impression of the true nature of the indeterminate premium reduction policy. Some of the rules also give notice of certain legal interpretations. The rules are supplementary to and cumulative of other statutes and rules including those promulgated under authority of Chapter 21 of the Texas Insurance Code. The rules are applied and interpreted in accordance with the foregoing purposes.

**.002. Policy Form Submission.**

(a) No indeterminate premium reduction policy may be approved for use in Texas unless the insurer files with the State Board of Insurance in conjunction with such indeterminate premium reduction policy a statement:

- (1) that, to the best of its knowledge and belief, the policy submitted is in compliance with these rules;
- (2) that advertising and solicitation will be in compliance with these rules;
- (3) that any premium redetermination will not reflect a distribution of company surplus nor a return of previously collected premiums; and
- (4) that any nonguaranteed premium rates used to market the policy are lower than rates which the insurer could afford to guarantee in a policy with the same or similar benefits for insureds of essentially the same class of risk.

(b) A nonguaranteed premium means any charge for insurance, including any percentage deviation from a maximum charge, that an insurer or insurance agent mentions or illustrates as a possible charge for coverage other than the maximum guaranteed premium specified in the policy.

**.003. Solicitation and Advertising.**

(a) The initial premium charge and its period of guarantee, the maximum premium charge, the fact that the maximum premium charge might be charged, and the frequency of premium redetermination dates must be forth prominently in:

- (1) any advertising containing an application or any advertisement used with a solicitation, and
- (2) any oral or written solicitation.

In any such solicitation or advertisement, the insurer or insurance agent must also furnish the prospective insured with a written statement containing language substantially as follows:

The company reserves the right to charge the maximum premium beginning with any premium redetermination date. The premium at redetermination date, if less than the maximum premium stated in the policy, is not guaranteed beyond the current redetermination period. Also, the premium at redetermination date is subject to the company's expectations as to one or more future cost factors including persistency, expenses, mortality and interest.

(b) No insurer or agent may, in marketing an indeterminate premium reduction policy, mention, illustrate, or refer in any fashion to any possible or likely specific future charge for the coverage other than as set out in this subsection. The insurer or agent may only refer to the following:

- (1) actual relevant previous or current charges for the indeterminate premium reduction policy it is marketing;
- (2) the initial charge, and its period of guarantee;
- (3) the maximum guaranteed charge;
- (4) the fact that future charges may be less than the maximum; and

(5) relevant projected illustrations based on either actual previous or actual current charges or both, provided it is disclosed that such illustrations are based on current projections such as persistency, interest, mortality, or expense factors.

For the purposes of (b)(1) and (b)(5), rates for all issue ages under the policy marketed are considered relevant. Rates for different policies are not considered relevant.

(c) If nonguaranteed premium rates are displayed in advertising and disclosure material, the maximum premium rate(s) must be displayed with equal prominence.

#### .004. Summary or Provisions.

(a) Upon application for an indeterminate premium reduction policy, a separate form containing a summary which adequately describes the contractual premium provisions must be signed by the applicant and submitted to the insurer in conjunction with the application. A portion of the summary must include the following information:

- (1) the fact that the premium might be changed in the policy;
- (2) the frequency of the possible changes; and
- (3) the fact that the nonguaranteed premium (if used in solicitation or advertising) is not guaranteed but the full maximum could be charged.

The summary required by these rules must be kept with a copy of the application subsequent to its receipt by the insurer and maintained in the insurer's files during the existence of the contract.

.005. *Relation of Initial to Later Premium Charge.* If the policy offers an initial premium which is different from the maximum guaranteed premium specified in the policy for later policy years, no solicitation or advertisement may display or state the smaller premium in such a fashion that the larger premium charge is rendered obscure or de-emphasized. The smaller premium may not be displayed more prominently than the larger premium charge.

.006. *Premium Redetermination.* No policy may provide for premium changes more often than once per policy year.

.007. *Reclassification of Policyholders.* No insurer may, for premium redetermination purposes, reclassify into subclasses or new classes the original class established for an indeterminate premium reduction policy at date of issue.

.008. *Minimum Nonforfeiture Values.* The minimum basis for cash values is stated in Article 3.44a wherein the adjusted premiums are required to be computed as a "uniform percentage of the respective premiums specified in the policy." Maximum guaranteed premiums in the policy are specified premiums as defined by the code. Cash values will not be required to be redetermined when premiums are reduced for in-force policies.

#### .009. Minimum Reserves.

(a) The minimum reserve basis stated in Article 3.28 requires modified net premiums that are a "uniform percentage of the respective contract premiums." The same contract premiums at the same durations are used in this reserve computation as are used in the minimum cash value computation. The reserve must never be less than the cash value in the policy.

(b) Deficiency reserves are required to be calculated using maximum guaranteed premiums. Thus, maximum guaranteed premiums specified in the policy are used in the calculation except that any lower guaranteed premiums must be used for the periods guaranteed.

#### .010. Manipulated Maximum Premiums.

(a) No insurer may incorporate an increment into a maximum premium in an indeterminate premium policy in order to be able to show an increased reduction in later policy years or to reduce cash values or reserves.

(b) As a condition precedent to policy form approval, there shall accompany each submission of an indeterminate premium reduction policy a certification by a qualified actuary to the following: that the maximum premiums specified in the policy are based on assumptions consistent with currently issued nonparticipating guaranteed premium policies. An approval of a policy form subsequent to receipt of the foregoing certification shall not be construed as a determination by the State Board of Insurance that the certification is true and accurate.

.011. *General Enforcement.* A failure to follow and abide by these rules in marketing the indeterminate premium reduction policy or a failure to abide by the representations required by these rules in marketing the indeterminate premium reduction policy will be grounds for a withdrawal of approval of the insurer's previously approved indeterminate premium reduction policy forms and may be grounds for disapproval of subsequently filed indeterminate premium reduction policy forms. The provisions of this rule are additional to and cumulative of all other enforcement provisions provided by law including Article 21.21 of the Texas Insurance Code.

Doc. No. 801415

## Credit Insurance

(Editor's note: The following new rules, concerning credit insurance, were originally proposed for adoption in December of 1979 and published in the December 25, 1979, issue (4 TexReg 4683). The original proposals are being withdrawn and repropose with changes in this issue.)

The State Board of Insurance proposes rules concerning credit insurance. These rules will, in part, supersede and take the place of current credit insurance rules, Rules 059.03.53.001 and .002, which were proposed to be repealed.

The proposed rules have no known fiscal implications for the state or for units of local government. The board relies on its Credit Life Section in making this fiscal evaluation.

Public comment is invited on the proposed adoption of these rules. Comments may be made at a public hearing to be held March 13, 1980, at 9 a.m. in the hearing room of the Department of Highways and Transportation Building, 11th and Brazos, Austin, or may be submitted in writing to Joy West,

Credit Life Section, State Board of Insurance, 1110 San Jacinto, Austin, Texas 78786.

### Disclosure Provisions 059.53.02

The State Board of Insurance proposes to adopt Rule 059.53.02.004, concerning the disclosure of certain provisions to the debtor relating to credit life insurance and credit accident and health insurance. The purpose of this rule is to provide application provisions if individual policy or group certificate is not delivered at the time the indebtedness is incurred.

This rule is proposed pursuant to the authority of Texas Insurance Code Annotated, Articles 1.04, 3.53, 21.07, Section 13, and 21.21, Section 13.

#### .004. Application Provisions.

(a) If said individual policy or group certificate of insurance is not delivered to the debtor at the time the indebtedness is incurred, a copy of the application for such individual policy or a notice of such proposed group insurance coverage shall be delivered to the debtor at the time such indebtedness is incurred. However, when insurance is voluntarily applied for more than 30 days later by the debtor, and such application for insurance is a transaction separate and apart from the credit transaction and is not a requirement of the creditor, and in the absence of a prior identifiable insurance charge to the debtor in the loan involved, a copy of such application or such notice conforming to these rules shall be delivered to the debtor when executed.

(b) Every such application or notice of proposed insurance shall be signed by the debtor and shall set forth:

(1) the name and home office address of the insurer and on notices of proposed group insurance, an identification of the master policy;

(2) the name and age of the debtor or debtors;

(3) the full amount of premium or the total identifiable insurance charge, if any, to the debtor, separately for credit life and for credit accident and health insurance;

(4) the amount of coverage;

(5) the effective date of insurance, if accepted by the insurer, and the termination date of insurance which shall not extend more than 15 days beyond the scheduled maturity date of the indebtedness except when extended without additional cost to the debtor;

(6) a brief description of the coverage applied for;

(7) a statement that upon acceptance of the insurance by the insurer and not later than 30 days after the date upon which the indebtedness is incurred the insurer shall cause the individual policy or the group certificate of insurance to be delivered to the debtor, and that if the insurance is not accepted by the insurer or by a substituted insurer, then any insurance charge made for such proposed insurance shall be fully refunded directly to the debtor; and

(8) a space indicated as the space for required signature by the debtor.

(c) The copy of such application or notice of proposed insurance shall refer exclusively to insurance coverage and shall be separate and apart from the loan, sale, or other credit statement of account, instrument or agreement, unless the information above required appears in type of at least equal size and prominence as the other provisions of said statement of account, instrument, or agreement.

Doc. No. 801393

### Presumptively Acceptable Relation of Credit Life Insurance Benefits to Premiums 059.53.04.

The State Board of Insurance proposes to adopt Rules 059.53.04.001 and .005, concerning the presumptively acceptable relation of credit life insurance benefits to premiums. The purpose of the rules is to establish single life coverages per specified monthly outstanding balance indebtedness and to establish requirements for presumed reasonableness of life insurance benefits in relation to premiums. An additional purpose is to provide guidelines for the commissioner of insurance to use in determining whether the benefits of a credit life insurance form are reasonable to the premium charged, which will result in administrative convenience to the State Board of Insurance and expedite the review and approval or disapproval of forms submitted by insurers.

These rules are proposed pursuant to the authority of Texas Insurance Code Annotated, Articles 1.04, 3.53, 21.07, Section 13, and 21.21, Section 13.

.001. *Presumptively Reasonable Life Rates.* The commissioner of insurance may presume (subject, however, to a rebuttal of the presumption) that the benefits of a credit life insurance form are reasonable in relation to the premium charged if the premium rate schedule for death benefits as filed does not exceed an amount equal, or mathematically equivalent, to the following maximum rates:

(1) coverage on a single life provided by a group policy on the outstanding indebtedness basis: \$ .80 per month per \$1,000 of outstanding balance of insured indebtedness;

(2) coverage on a single life provided by an individual or group policy on other than an outstanding indebtedness basis:

(A) \$ .50 per year of coverage per \$100 of initial insured indebtedness for all credit transactions when the insured indebtedness is repayable in substantially equal monthly installments during the term of coverage; and

(B) \$ .96 per year of coverage per \$100 of level life insurance where the amount of insured indebtedness remains level during the term of coverage and is repayable in a single sum at the end of the term;

(3) coverage on joint lives provided on the outstanding indebtedness basis: \$1.20 per month per \$1,000 of outstanding balance of insured indebtedness;

(4) coverage on joint lives provided by an individual or group policy on other than an outstanding indebtedness basis:

(A) \$ .75 per year of coverage per \$100 of initial insured indebtedness for all credit transactions when the insured indebtedness is repayable in substantially equal monthly installments during the term of coverage; and

(B) \$1.44 per year of coverage per \$100 of level life insurance where the amount of insured indebtedness remains level during the term of coverage and is repayable in a single sum at the end of the term.

.005. *Conditions of Life Insurance Benefits.* The foregoing rate test for the presumed reasonableness of life insurance benefits in relation to premiums is based upon the following requirements:

(1) That the credit life insurance contract may require submission of the debtor's written and signed evidence of the debtor's insurability or that the debtor be in gainful employment at the time the insurance becomes effective, or both, on a form filed with and approved by the commissioner

of insurance, and that such contract contains no conditions for validity of insurance more restrictive than contestability based on written and debtor-signed material misrepresentation and no exclusions other than for suicide, nonscheduled aircraft, and war or military service hazard. In group life policies, such exclusions shall not remain effective after termination of the contestable period of the certificate. No mere policy condition precedent of unsigned insurability may be used.

(2) That life insurance coverage is provided or offered to all debtors regardless of age; or to all debtors not older than the applicable age limit. The applicable age limit shall not be less than attained age of 65 years if such limit applies to the age when the insurance attached, or not less than attained age of 66 years if such limit applies to the age on the scheduled maturity date of the debt. No limitation of insurance amount or term based upon any attained age of less than age 65 shall be used.

Doc. No. 801394

## Presumptively Acceptable Relation of Credit Accident and Health Benefits to Premiums 059.53.05

The State Board of Insurance proposes to adopt Rule 059.53.05.001 to provide guidelines for the commissioner of

insurance to use in determining whether the benefits of a credit life insurance form are reasonable to the premium charged by establishing a presumptively reasonable rate schedule. Such will result in administrative convenience to the State Board of Insurance and expedite the review and approval or disapproval of forms submitted by insurers. Another purpose of this rule is to establish a presumptively reasonable rate schedule and to provide benefits payable after the 90th day of disability—nonretroactive.

This rule is proposed pursuant to the authority of Texas Insurance Code Annotated, Articles 1.04, 3.53, 21.07, Section 13, and 21.21, Section 13.

*.001. Presumptively Reasonable Accident and Health Rates.* The commissioner of insurance may presume (subject, however, to a rebuttal of the presumption) that the benefits of an accident and health insurance form are reasonable in relation to the premium charged if the premium rate schedule for such accident and health benefits, as filed, does not exceed an amount equal, or mathematically equivalent, to the following maximum rates:

(1) Plans with seven-, 14-, and 30-day waiting periods:

### Single Premium Rate per \$100 of Initial Insured Indebtedness

#### Benefits Payable After:

Original number of equal monthly installments	<u>the 7th day of disability</u>		<u>the 14th day of disability</u>		<u>the 30th day of disability</u>	
	<u>Retroactive to first day</u>	<u>Retroactive to first day</u>	<u>Nonretro- active</u>	<u>Retroactive to first day</u>	<u>Nonretro- active</u>	
3	1.27	.82	.63			
4	1.50	1.10	.84			
5	1.67	1.37	1.04			
6	1.84	1.57	1.25	1.07	.62	
7	1.93	1.66	1.40	1.17	.72	
8	2.02	1.75	1.49	1.26	.80	
9	2.10	1.82	1.57	1.34	.87	
10	2.17	1.89	1.64	1.42	.94	
11	2.23	1.95	1.70	1.47	1.01	
12	2.29	2.00	1.76	1.50	1.03	
13	2.34	2.06	1.81	1.53	1.13	
14	2.39	2.11	1.86	1.56	1.19	
15	2.44	2.16	1.91	1.60	1.24	

<u>Original number of equal monthly installments</u>	<u>the 7th day of disability</u>	<u>the 14th day of disability</u>	<u>Nonretro- active</u>	<u>the 30th day of disability</u>	
	<u>Retroactive to first day</u>	<u>Retroactive to first day</u>		<u>Retroactive to first day</u>	<u>Nonretro- active</u>
16	2.48	2.21	1.95	1.62	1.28
17	2.53	2.25	2.00	1.65	1.31
18	2.57	2.29	2.04	1.68	1.34
19	2.61	2.33	2.08	1.71	1.37
20	2.65	2.37	2.12	1.73	1.40
21	2.68	2.41	2.15	1.75	1.43
22	2.72	2.45	2.19	1.78	1.45
23	2.75	2.48	2.22	1.80	1.48
24	2.79	2.52	2.26	1.82	1.50
25	2.82	2.55	2.29	1.84	1.52
26	2.86	2.59	2.33	1.86	1.54
27	2.89	2.62	2.36	1.88	1.56
28	2.92	2.65	2.39	1.90	1.58
29	2.95	2.68	2.42	1.92	1.60
30	2.98	2.71	2.45	1.94	1.62
31	3.01	2.74	2.48	1.96	1.64
32	3.04	2.77	2.51	1.98	1.65
33	3.07	2.80	2.54	1.99	1.67
34	3.10	2.83	2.57	2.01	1.69
35	3.13	2.85	2.60	2.03	1.70
36	3.15	2.88	2.62	2.05	1.72
37	3.18	2.91	2.65	2.06	1.73
38	3.21	2.93	2.68	2.08	1.75
39	3.24	2.96	2.71	2.09	1.76
40	3.26	2.99	2.73	2.11	1.78
41	3.29	3.01	2.76	2.12	1.79
42	3.31	3.04	2.78	2.14	1.81
43	3.34	3.06	2.81	2.16	1.82
44	3.36	3.08	2.83	2.17	1.83
45	3.39	3.11	2.86	2.18	1.85
46	3.41	3.13	2.88	2.20	1.86

Original number of equal monthly installments	the 7th day of disability	the 14th day of disability	Nonretroactive	the 30th day of disability	Nonretroactive
	Retroactive to first day	Retroactive to first day		Retroactive to first day	
47	3.43	3.15	2.90	2.21	1.87
48	3.46	3.18	2.93	2.23	1.89
49	3.48	3.20	2.95	2.24	1.90
50	3.50	3.22	2.97	2.26	1.91
51	3.53	3.24	3.00	2.27	1.93
52	3.55	3.27	3.02	2.28	1.94
53	3.57	3.29	3.04	2.30	1.95
54	3.59	3.31	3.06	2.31	1.96
55	3.62	3.33	3.09	2.32	1.97
56	3.64	3.35	3.11	2.33	1.98
57	3.66	3.37	3.13	2.35	2.00
58	3.68	3.39	3.15	2.36	2.01
59	3.70	3.41	3.17	2.37	2.02
60	3.72	3.43	3.19	2.39	2.03
Basic Loss Ratio: 63%		61%	59%	57%	52%

(2) Plan with 90-day waiting period. A single premium rate of \$.15 per year of coverage per \$100 of initial insured indebtedness may be presumed reasonable for a 90-day nonretroactive disability benefit when such benefit is written in connection with an individual policy or group certificate of credit life insurance. Such plan shall not be written for any term of less than six months. The basic loss ratio is 60%.

Doc. No. 801395

## Standard of Benefits for Credit Accident and Health Insurance 059.53.06

The State Board of Insurance proposes to adopt Rule 059.53.06 001, concerning the standards and principles for application of credit accident and health insurance rates. The purpose of this rule is to establish standards, to provide a mathematical formula for rates for premiums other than a single premium basis, to establish to whom such insurance contract may be issued, and to define "total disability."

This rule is proposed pursuant to the authority of Texas Insurance Code Annotated, Articles 1.04, 3.53, 21.07, Section 13, and 21.21, Section 13.

.001. *Standards and Principles for the Application of the Rates* The standards and principles for the application of the rates set forth for credit accident and health insurance are as follows:

(1) The initial amount of insured indebtedness to which the rate is applied shall not exceed the aggregate of the insured portion of the periodic scheduled unpaid installments of the indebtedness.

(2) The indebtedness must be repayable in substantially equal monthly or other periodic installments during the period of coverage.

(3) The rates for premiums payable on other than a single premium basis shall be the mathematical equivalent of the rates set forth in Subchapter .05 of these rules. Such premium rates will be deemed the mathematical equivalent of the foregoing single premium rates if such rates produce a total premium for any duration and amount of insurance equal to the corresponding single premium for the same duration and amount of insurance.

$$O_p = \frac{20}{n+1} SP_n$$

(4) The credit accident and health insurance contract may require written and signed evidence of insurability (inclusive of age and gainful employment) and where offered, shall be offered to all eligible debtors, and shall contain:

(A) no provisions excluding or denying a claim for disability resulting from pre-existing conditions except for those conditions for which the insured debtor received medical diagnosis or treatment within the six months im

mediately preceding the effective date of the debtor's coverage and which caused a period of loss within six months following the effective date of coverage; provided, however, that any subsequent continuous period of disability commencing thereafter, resulting from such condition, shall be covered under provision of the policy;

(B) no provision more restrictive as to validity of insurance than contestability based on material misrepresentation in any required written and debtor-signed evidence of insurability (no mere policy condition precedent of validity) and no other provision which excludes or restricts liability in the event of disability caused in a specified manner except that it may contain provisions excluding or restricting coverage in the event of:

(i) elective abortion;  
(ii) normal pregnancy, except complications of pregnancy;

(iii) intentionally self-inflicted injuries;

(iv) flight in nonscheduled aircraft;

(v) foreign travel or foreign residence; and

(vi) loss resulting from war or military service;

(C) only age restrictions making ineligible for coverage debtors 64 or over at the time the indebtedness is incurred or debtors who will have attained age 66 or over on the maturity date of the indebtedness, or else no age restrictions;

(D) provision for a daily benefit equal in amount to 1/30 (or other applicable fraction) of the scheduled monthly (or other specified mode of installment) payments on the indebtedness; and

(E) for the purpose of total disability insurance, a definition of "total disability" which provides coverage during the first 12 months of such disability even though the insured is able to perform an occupation other than the one he held at the time such disability occurred. During the first 12 months of such disability, the definition of "total disability" must relate such disability to the occupation of the debtor at the time the disability occurred. After such disability continues for more than 12 months, the definition of "total disability" may relate such continuing disability to the inability to perform any occupation for which the debtor is reasonably fitted by education, training, or experience.

Doc. No. 801396

### Deviation Procedures 059.53.07

The State Board of Insurance proposes to adopt Rules 059.53.07.003 and .004, concerning the deviation procedures to be used in the application of credit life insurance and credit accident and health insurance rates. The purpose of these rules is to determine deviated presumptive rates and to establish an effective period of case rate.

These rules are proposed pursuant to the authority of Texas Insurance Code Annotated, Articles 1.04, 3.53, 21.07, Section 13, and 21.21, Section 13.

#### .003. *Determination of Deviated Presumptive Rates.*

(a) For cases which are not of credible size, or have no experience, no deviation shall be made in the presumptive rates under these deviation procedures; except that nothing herein shall be construed as preventing any insurer from filing its rate schedules as otherwise provided under Article 3.53 of the Texas Insurance Code.

(b) For cases which are of credible size, the case rate shall be the presumptive rate if the actual case ratio is within the acceptance range.

(c) For cases which are of credible size, the case rate shall be the presumptive rate derived under Rule .005 below if the actual case ratio is above or below the acceptance range.

(d) As used in this rule, "actual case ratio" means the ratio of claims incurred to premiums earned at the presumptive rate during the experience period divided by the basic loss ratio.

(e) For purposes of this rule:

(1) if the coverage for a single creditor which qualifies as a case has been in force with the insurer for less than the experience period, the claim experience of the creditor while covered by any prior insurer shall be included to the extent necessary in determining the appropriate case ratios; and

(2) the experience considered in the determination of case rates shall be country-wide experience of the case unless the insurer makes the one-time election to use only Texas experience. The election to use only Texas experience must be accompanied by a certification that the insurer uses the same single-state basis in determining the case ratios in each state in which the case has experience. A grouping of states may be used subject to the same requirements concerning consistency and certification.

.004. *Effective Period of Case Rate.* The case rate as determined in Rule .003 above remains with the case, regardless of any change of insurers, and shall continue for a period equal to the experience period on which it was based, not to exceed three years. Where the case rate applies to a group of accounts, the case rate will continue to apply to every account which was grouped for determination of the case rate and to only those accounts. If an account drops out of the group, the case rate will continue to apply to every account remaining within the group and to each account in the original group becoming insured with a new insurer.

Doc. No. 801397

### Policy and Claims Reserves 059.53.12

The State Board of Insurance proposes to adopt Rule 059.53.12.001 for the purpose of providing for the establishment of policy reserves.

This rule is proposed pursuant to the authority of Texas Insurance Code Annotated, Articles 1.04, 3.53, 21.07, Section 13, and 21.21, Section 13.

#### .001. *Policy Reserves.*

(a) Except as provided in Rule .002 below, the minimum reserves for premium refunds required by these rules and the payment of benefits under outstanding credit life insurance policies and certificates may not be less in the aggregate than 130% of the reserves computed on the 1958 CSO Mortality Table with interest not to exceed 5.5%; or, at the option of the company, such reserves may be maintained at 100% of the reserves computed on the 1941 CSO Mortality Table with interest not to exceed 5.5%.

(b) If the aggregate gross premiums charged for outstanding certificates issued under any group policy of credit life insurance are not greater than the aggregate of the cor-

responding tabular net premiums computed on the 1958 CSO Mortality Table with interest not to exceed 5.5%, the minimum reserves required for such certificates may not be less in the aggregate than 100% of the reserves computed on such table.

(c) The reserve for credit accident and health insurance or disability insurance may not be less than the product rounded to the next higher dollar of the gross presumptive single premium rate per \$100 of insured indebtedness for the term of the indebtedness remaining as of the valuation date times the number of hundreds of dollars of indebtedness outstanding as of the valuation date.

Doc. No. 801398

## Compensations and Adjustment in Rates 059.53.14

The State Board of Insurance proposes to adopt Rule 059.53.14.002, concerning compensations and adjustments in rates for credit life insurance and credit accident and health insurance. The purpose of this rule is to establish procedures for providing experience refunds and for adjusting rates resulting from adjusted compensation in the matters of credit life and credit accident and health insurance.

This rule is proposed pursuant to the authority of Texas Insurance Code Annotated, Articles 1.04, 3.53, 21.07, Section 13, and 21.21, Section 13.

### .002. *Adjustment in Rates Resulting from Adjusted Compensation.*

(a) Any insurer who, for credit insurance written in any of its credit insurance accounts in this state, charges or proposes to charge the presumptive rates of premium set forth in these rules, and who, for the production of such insurance, pays or proposes to pay, directly or indirectly, compensations in excess of the presumptive allowances set out in these rules shall:

(1) reduce the premium rates charged in any such account by 4.0% for credit life insurance, and by 5.0% for credit accident and health insurance, (or fractions thereof) of the applicable presumptive premium rates set out in these rules for each 1.0% (or fraction thereof) by which it pays or proposes to pay compensation in excess of the presumptive allowance set forth in these rules. Such compensation in excess of the presumptive compensation rate shall be applied thereafter to all subsequently written net written premium calculated upon the basis of the reduced rates of premium as specified above; and

(2) file with the Credit Life Section of the State Board of Insurance a transcribed copy of any agreement, whether written or oral, direct, indirect, or reciprocal, by which for the sale of credit insurance in this state it pays, proposes to pay, or contingently may pay compensations in excess of the allowable presumptive compensations set out in these rules.

(b) The following compensation allowances are presumed (subject, however, to a rebuttal of the presumption) to be reasonable compensation for the sale of credit insurance in this state:

(1) in the aggregate, to any and all persons or entities, including insurance agents, directly or indirectly connected with the creditor, or agents independent of the creditor, 25% of the net written life insurance premiums;

(2) in the aggregate, to a creditor and to any and all persons or entities, including insurance agents, directly or indirectly connected with the creditor, or agents independent of the creditor, 20% of the net written accident and health insurance premiums; and

(3) in the aggregate, to a general agent not directly or indirectly connected with a creditor for such agent's sales and sales service for which an insurance agent's license is required by law, 5.0% of the net written premiums.

"Compensation" shall include but shall not be limited to the receipt directly, indirectly, or reciprocally of commissions, contingent commissions, service fees, policy fees, expense allowances or reimbursements, gifts, all benefits such as items of merchandise, equipment, travel, conventions, vacations, rewards, bonuses, trading stamps, script, prohibited transactions, and unfair competition and unfair practices (as such terminology is defined in Subchapter .13 of these rules and in the insurance laws of this state), or any other form of remuneration resulting directly or indirectly from the sale of credit insurance or as an inducement to or payment for sales made or volume of sales obtained. Experience refunds and retrospective rate credits are treated as compensation for the sole purpose of determining the rebuttable compensation allowances under this Subchapter .14. Nothing contained herein shall be construed as approval of the distribution, disposal or handling of experience refunds or retrospective rate credits by insurers, insurance agents, group policyholders or any other entity in a manner inconsistent with any relevant law. Compensation shall also include any amounts or things of value received from or paid by a general agent, special agent, or any person other than an insurer in consideration of the sale or retention of credit insurance.

(c) In the event an insurer pays or proposes to pay a general agent or special agent for any lawful services other than those sales services for which an insurance agent's license is required by law, and the aggregate of all compensation paid to such agent will exceed 5.0% of net written premiums, such insurer shall file a copy of the contract setting out such other services, the compensation therefor, and data to support the economic benefits of such contract.

(d) Nothing herein shall prevent any insurer who by operation of subsection (a) is required to reduce premium rates in a credit insurance account from filing for an upward deviation under these rules; provided, however, such insurer must use the reduced premium rates until such time as an upward deviation has been officially approved by the commissioner.

(e) In the event premium rates for any account of credit insurance are required to be reduced in accordance with these rules by reason of base or front-end compensations in excess of the presumptive compensation allowances, the effective date of such reduction shall be the same as the effective date of the agreement providing for such payment. For any reduction of premium rates required by these rules by reason of contingent compensations based on favorable experience which, alone or together with base or front-end compensations, exceed the presumptive compensation allowances set out in these rules, the effective date of such reduction of premium rates shall be the termination date of the period for which such contingent compensations are paid, and such rate reduction shall remain in effect in that account for a period of 12 months thereafter, regardless of any change or replacement of the insurer during any such 12-month period; provided that no reduction of premium rates shall be required by



reason of any contingent compensations earned prior to the effective date of these rules.

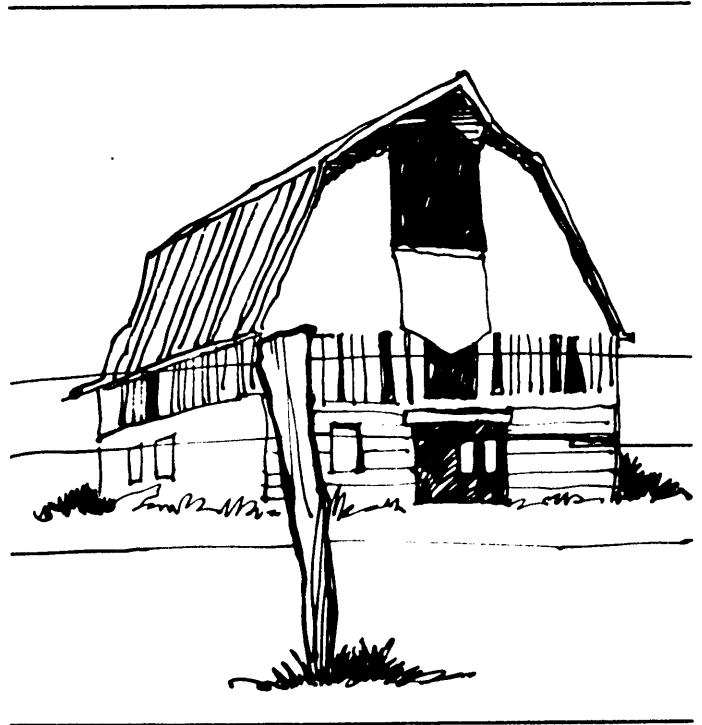
(f) In the event that premiums are paid and charged debtors at rates in excess of the reduced rates permitted by these rules, whether by inadvertence or otherwise, the insurer shall be responsible for the refund of such overpayment to the person or persons who paid such premiums or insurance charge in addition to any other remedies set out in Texas Insurance Code Annotated, Articles 1.10 and 3.53.

(g) In order to assist the enforcement of these rules, any insurer writing credit life or credit accident and health insurance in this state within the scope of Article 3.53, Texas Insurance Code Annotated, shall on or before December 31, 1980, and on the same date of each year thereafter, file with the Credit Life Section of the State Board of Insurance a notarized affidavit certified to by one of the insurer's officers who signed the last annual statement of the insurer, stating whether or not said insurer or its agents had paid compensation in excess of the presumptive compensation allowances as herein described and set out.

Issued in Austin, Texas, on February 22, 1980.

Doc. No. 801399      Pat Wagner  
                                 Chief Clerk  
                                 State Board of Insurance

Proposed Date of Adoption: March 31, 1980  
For further information, please call (512) 475-4189.



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

Upon request, an agency shall provide a statement of the reasons for and against adoption of a rule. Any interested person may request this statement from the agency before adoption or within 30 days afterward. The statement shall include the principal reasons for overruling objections to the agency's decision.

This section now contains two classifications: codified and noncodified. Agencies whose rules have been published in the *Texas Administrative Code* will appear under the heading "Codified." These rules will list the new TAC number, which will be followed immediately by the *Texas Register* 10-digit number. Agencies whose rules have not been published in the TAC will appear under the heading "Noncodified." The rules under the heading "Codified" will appear first, immediately followed by rules under the heading "Non-codified."

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## CODIFIED

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### TITLE 31. NATURAL RESOURCES AND CONSERVATION

#### Part XIV. Texas Board of Irrigators

##### Chapter 421. Introductory Provisions

###### General Provisions

The following sections are adopted under the authority of Article 8751, Section 7, Vernon's Texas Civil Statutes.

**§421.1 (409.01.01.001). Definitions.** In these sections:

- (a) "Person" means a natural person.
- (b) "Board" means the Texas Board of Irrigators.
- (c) "Executive director" means the executive director of the Texas Department of Water Resources.
- (d) "Executive secretary" means the executive secretary of the board.
- (e) "Commission" means the Texas Water Commission.
- (f) "Irrigation system" means an assembly of component parts permanently installed with and for the controlled distribution and conservation of water for the purpose of irrigating any type of landscape vegetation in any location or for the purpose of dust reduction or erosion control.

(g) "Irrigator" means a person who maintains a regular place of business and who by himself or through a person in his employ sells, designs, consults, installs, maintains, alters, repairs, or services an irrigation system or yard sprinkler system including connections in and to a private or public raw or potable water supply or water supply system.

(h) "Licensed irrigator" means an irrigator registered under Article 8751, Vernon's Texas Civil Statutes, pursuant to these sections.

(i) "Installer" means a person who performs the actual connection to private or public raw or potable water supply systems.

(j) "Licensed installer" means an installer registered under Article 8751, Vernon's Texas Civil Statutes, pursuant to these sections.

(k) "Complainant" means anyone who has filed with the board a notarized complaint which states matters within the board's jurisdiction.

(l) "Respondent" means anyone against whom a notarized complaint, which states matters within the board's jurisdiction, has been filed with the board.

**§421.4 (409.01.01.005). Purposes of Rules.** The purposes of these rules, regulations and policies are to implement the powers and duties assigned to the Texas Board of Irrigators, and its executive secretary by Article 8751, Vernon's Texas Civil Statutes, and other laws of this state, and to establish the general policies which are specifically applicable to the board. These rules shall be given a reasonable, fair, and impartial interpretation.

Doc. No. 801377

#### General Provisions Affecting Board

The following sections are adopted under the authority of Article 8751, Section 7, Vernon's Texas Civil Statutes.

**§421.21 (409.01.05.001). Office; Mailing Address.** The official place of business of the board shall be the office of its executive secretary in the Stephen F. Austin State Office Building in Austin, Texas. The official mailing address of the board shall be P.O. Box 12337, Austin, Texas 78711.

**§421.24 (409.01.05.005). Person for Service of Process.** The executive secretary, at the address of the board's official place of business, shall be the person upon whom service of process may be served in judicial proceedings against the board.

**§421.27 (409.01.05.010). Official Seal.** The official seal of the board will bear the words "Texas Board of Irrigators" encircling the oak and olive branches common to other official seals.

**§421.30 (409.01.05.015). Meetings and Notices Thereof.**

(a) The board shall hold at least two regular meetings each year at times and places designated by its chairman.

(b) The board may hold other meetings at times and places considered necessary by a majority of the members of the board or the chairman of the board.

(c) The board shall give notice of its meetings and shall hold its meetings in accordance with the open meetings law, Article 6252-17, Vernon's Texas Civil Statutes.

**§421.33 (409.01.05.020). Quorum.** Four members of the board shall constitute a quorum for the transaction of business. The chairman of the board is a voting member.

**§421.36 (409.01.05.025). Officers and Employees.**

(a) The board shall elect a chairman who shall hold office for two years or thereafter until his successor has been elected. The chairman may be removed by the board for cause, but his removal does not disqualify him from continuing as a member of the board. When present, the chairman shall preside at all meetings, sign all certificates of registra-

tion issued, and perform all other duties pertaining to the office.

(b) The board may elect a vice chairman who shall hold office for two years or thereafter until his successor has been elected. In the absence of the chairman, the vice chairman shall fulfill all responsibilities of the chairman.

(c) The board may employ an executive secretary approved by the executive director to serve at the will of the board. The executive secretary shall perform the duties and functions provided by Article 8751, Vernon's Texas Civil Statutes, and as directed by the board. The board shall arrange for necessary office space with the executive director to house the staff and records.

(d) The executive secretary is authorized to request personnel assistance from the executive director.

**§421.39 (409.01.05.030). Official Records.**

(a) Among other official records required by law, or by rules of other agencies, there shall be kept in the office of the executive secretary accurate and current records including but not limited to:

(1) Minutes: a record containing, in chronological order, minutes of all the meetings of the board.

(2) Record of registrants: a record containing the name and registration number of all persons to whom certificates of registration are issued, the last known address of all registrants and a record of all current renewals effected through annual registrations.

(3) Registrant records: an individual record for each registrant containing the original application, relevant verification and evaluation data, records of examinations and grades, date of original registration, and a record of annual registrations and fees received after original registration, and when applicable, records of alleged violations, suspensions, and revocations.

(4) Finances: a system of record-keeping correctly and currently indicating funds budgeted, committed, spent, and remaining, as well as projects of appropriate requests for consideration in budget development.

(b) Subject to the limitations provided in the Open Records Act, Article 6252-17a, Vernon's Texas Civil Statutes, information collected, assembled, or maintained by the board or its executive secretary is public information open to inspection and copying during regular business hours.

**§421.42 (409.01.05.035). Signing Certificates.** Each certificate of registration shall be signed by the chairman of the board and shall bear the seal of the Texas Board of Irrigators.

**§421.45 (409.01.05.040). Liaison with Secretary of State.** The general counsel of the Texas Department of Water Resources, or, in his absence, his designated representative, shall be the liaison through whom all required documents may be submitted on behalf of the board to the secretary of state for filing and publication.

**§421.48 (409.01.05.045). Irrigation Standards and Testing Procedures.** The board shall remain current on national irrigation testing procedures as well as national and state requirements governing irrigation systems.

## Chapter 423. Registration of Irrigators and Installers

### Application for Registration

The following sections are adopted under the authority of Article 8751, Section 7, Vernon's Texas Civil Statutes.

**§423.1 (409.02.01.001). Eligibility for Certificates of Registration.**

(a) The board may issue certificates of registration only to individuals who are eligible for registration as irrigators or installers under Article 8751, Vernon's Texas Civil Statutes, and these sections. No certificate of registration may be issued to any firm, partnership, corporation, or other group of persons.

(b) No individual is eligible to receive an irrigator's or installer's certificate of registration unless he has applied for it pursuant to these sections and:

(1) the board has determined that he is a person of good moral character who has passed a uniform, reasonable examination for irrigators or installers, as applicable, administered by the board in accordance with these sections; or

(2) the board has determined that he is a person registered as an irrigator or an installer in another state or country that has requirements for registration that are substantially equivalent to the requirements of Texas and that extends the same privilege of reciprocity to licensed irrigators or licensed installers registered in Texas.

**§423.4 (409.02.01.005). Applications for Certificates of Registration.**

(a) Every person applying for an irrigator's or installer's certificate of registration shall complete a required application form and submit it to the executive secretary with the required application or examination fee.

(b) In addition to submitting his completed application form and application fee, an irrigator or installer holding a certificate of registration in another state or country who wishes to be considered for registration in Texas under reciprocity, shall submit to the executive secretary his certification record from the state or country in which he is registered.

(c) Upon request, the executive secretary shall furnish the required application form and instructions for an irrigator's or installer's certificate of registration.

**§423.7 (409.02.01.010). Application or Examination Fees; Form of Payment.** Persons applying for an irrigator's certificate of registration shall remit an application or examination fee of \$50. Persons applying for an installer's certificate of registration shall remit an application or examination fee of \$35. Payments shall be made by personal check, money order, or cashier's check made payable to the Texas Board of Irrigators. These fees shall not be refundable.

**§423.10 (409.02.01.015). Application Processing.**

(a) Applications for registration shall be submitted to the board in a complete form and accompanied by the required application or examination fee, as applicable.

(b) Applications for registration by examination may be made at any time but must be accompanied by the examination fee and received by the executive secretary at least 30 days prior to the applicant's examination date. Applicants shall be responsible for fulfilling these requirements by the deadline.

(c) The board shall verify and evaluate each submitted application, and if the board or the executive secretary should require additional relevant information from the applicant, the applicant shall submit such information within the time and form requested in writing.

(d) Rejection of an application for registration shall be by letter sent by certified mail to the applicant explaining the board's reasons for rejection, outlining the procedures under which reconsideration may be possible, and explaining the applicant's right to a hearing.

**§423.13 (409.02.01.020). Determination of Application for Registration under Reciprocity.** The board's approval of an application for registration under reciprocity shall be given by letter which assigns the applicant a registration number. A certificate of registration and identification card shall be issued upon the applicant's compliance with §§425.41 and 425.44 (409.03.05.001 and .005) of this title as applicable.

**§423.16 (409.02.01.025). Incomplete Application Returned.** If an applicant submits an incomplete application after the executive secretary has returned the application to the applicant with written instructions to completely answer all or particular parts of the application, the executive secretary may return the application to the applicant again without any further action or explanation.

**§423.19 (409.02.01.030). Rejection of Application.**

(a) The board, or the executive secretary on behalf of the board, may reject an application if:

(1) the applicant has not completely filled in the required application form and submitted it to the executive secretary in accordance with these sections; or

(2) the applicant has failed to remit the required application or examination fee in accordance with these sections.

(b) The board may reject an application if the board finds that the applicant is not of good moral character.

**§423.22 (409.02.01.035). Hearing on Rejected Application.**

(a) If the board rejects an application for a certificate of registration, the affected applicant may request a hearing by the board on the board's reasons for rejection as stated in the letter of rejection.

(b) The affected applicant must request a hearing in writing within 10 days after the applicant receives his letter of rejection.

(c) The board shall hold its hearing on the reasons for rejection after it receives the written request for the hearing.

(d) During the hearing, the board shall hear and consider any relevant evidence and argument presented by the affected applicant in support of his application.

(e) The board shall inform the affected applicant of its final decision on his application by certified mail. If the final decision is to uphold its rejection of the application, the board shall state in its final decision the reasons and relevant facts for rejection.

Doc. No. 801379

## Examinations

The following sections are adopted under the authority of Article 8751, Section 7, Vernon's Texas Civil Statutes.

**§423.41 (409.02.05.001). Eligibility for Written Examinations.** The board, or any board members, or the executive secretary on behalf of the board shall administer written examinations only to persons who the board has determined to be of good moral character and who have completed the required application form and have submitted it and the required examination fee to the executive secretary in accordance with these sections.

**§423.44 (409.02.05.005). Notification of Examination Date, Time, and Place.** The executive secretary shall notify each person eligible to take the written examination of his examination date, time, and place by first-class mail.

**§423.47 (409.02.05.010). Study Materials.** Upon request, the executive secretary shall furnish information regarding study materials to persons eligible to take the written examination.

**§423.50 (409.02.05.015). Appearance for Examination; Failure to Appear.** Applicants shall personally appear for the written examination at the designated date, time, and place and be prepared to present sufficient identification. An applicant who fails to appear for an examination shall forfeit the required examination fee except upon written request showing good cause why the applicant failed to appear, as determined by the board.

**§423.53 (409.02.05.020). Examination Conditions.** Examinations shall be conducted under conditions assuring honest results. The executive secretary, individual board members, or their designees shall monitor all tests. Examinees shall not be permitted to communicate with anyone except proctors during the examination period.

**§423.56 (409.02.05.025). Grading; Minimum Passing Score.** A score of 70% or more on the applicable examination is required for registration as an irrigator or installer.

**§423.59 (409.02.05.030). Notification of Examination Results and Performance.** Within 30 days after the day on which an applicant completed an examination, the executive secretary on behalf of the board shall send the applicant his examination results by first-class mail. If requested in writing by an applicant who fails the examination, the executive secretary on behalf of the board shall send to the applicant, within 30 days after the day on which the request is received by the board, an analysis of the applicant's performance on the examination.

**§423.62 (409.02.05.035). Re-Examination; Fee.** An applicant who fails the written examination must repeat the entire examination including full payment of the required fee.

Doc. No. 801380

## Chapter 425. Certificate of Registration and Seal

### Certificate of Registration

The following sections are adopted under the authority of Article 8751, Section 7, Vernon's Texas Civil Statutes.

**§425.1 (409.03.01.001). Issuance of Certificate; Initial Fee.**

(a) Once the board has determined that an applicant has passed the board's written examination, has paid to the

executive secretary the initial registration fee in accordance with subsection (b) of this section and has complied with §§425.41 and 425.44 (409.03.05.001 and .005) of this title as applicable, the executive secretary shall issue a certificate of registration and identification card to the applicant.

(b) The initial registration fee shall be the applicable amount specified in §425.19 (409.03.01.030) of this title prorated on a monthly basis beginning with the month during which the board informed the following August. Payment shall be made by personal check, money order, or cashier's check made payable to the Texas Board of Irrigators.

**§425.4 (409.03.01.005). Description of Certificate.** Certificates of registration shall identify the registrant by name and registration number, show effective date and year, confirm the registrant's qualifications, and acknowledge the registrant as a licensed irrigator or installer.

**§425.7 (409.03.01.010). Display of Certificate.** Every person holding a certificate of registration shall display it at his place of business or employment and be prepared to substantiate annual registration renewal for the current year.

**§425.10 (409.03.01.015). Replacement of Certificate.** A certificate of registration or identification card may be issued to a registrant to replace a lost or destroyed certificate or card provided that:

- (1) his current annual registration renewal is effective;
- (2) the registrant makes proper request for such replacement certificate or card and submits a notarized affidavit containing an acceptable explanation of the loss or destruction of the original certificate or card; and
- (3) the registrant pays the \$10 replacement fee for each certificate or card.

**§425.13 (409.03.01.020). Expiration of Certificate.** Certificates of registration shall expire on August 31 of each year unless renewed in accordance with §425.19 (409.03.01.030(a)) of this title.

**§425.16 (409.03.01.025). Notice of Certificate Expiration; Change of Address.**

(a) The executive secretary shall notify each licensed irrigator and licensed installer of the date of expiration of his certificate and the amount of the fee that is required for the annual renewal of registration. Such notice shall be sent by first-class mail by June 30 of each year to each licensed irrigator's or licensed installer's last known address.

(b) Licensed irrigators and licensed installers shall immediately notify the executive secretary of any change in mailing address.

**§425.19 (409.03.01.030). Renewal of Certificate; Same Registration Number.**

(a) A licensed irrigator or a licensed installer may renew his certificate of registration at any time during the months of July and August of each year by payment of a renewal fee in the amount of \$50 for a licensed irrigator or \$50 for a licensed installer. Payment shall be made by personal check, money order, or cashier's check made payable to the Texas Board of Irrigators.

(b) Renewal certificates of registration shall carry the same registration number as the original certificate.

**§425.22 (409.03.01.035). Failure to Renew Certificate of Registration; Notice; Penalty.**

(a) Failure of a licensed irrigator or a licensed installer to renew his certificate of registration by August 31 of each year does not deprive him of the right to renewal, but his registration shall be automatically suspended and the fee paid for renewal of a certificate of registration after the August 31 expiration date shall be increased 10% for each month or part of a month that the renewal payment is delayed. If the licensed irrigator or licensed installer fails to renew within 90 days after the date of expiration of his last certificate of registration, his registration shall automatically expire and he must requalify under Article 8751, Section 8, Vernon's Texas Civil Statutes, and must reapply and successfully complete a new examination pursuant to these sections to act as a licensed irrigator or licensed installer.

(b) The executive secretary shall immediately notify each licensed irrigator and licensed installer who has failed to renew his certificate of registration by August 31 of such failure by certified mail sent to his last known address.

(c) Any irrigator or installer who acts as a licensed irrigator or licensed installer when his registration has been automatically suspended or has automatically expired pursuant to these rules is in violation of Article 8751, Vernon's Texas Civil Statutes, and is subject to the penalties provided in Section 12 thereof.

**§425.25 (409.03.01.040). Unauthorized Use of Certificate.**

(a) Only a licensed irrigator or licensed installer may use or attempt to use his certificate of registration.

(b) Anyone who uses or attempts to use as his own the certificate or registration of someone else who is a licensed irrigator or licensed installer violates Article 8751, Vernon's Texas Civil Statutes, and this section.

(c) Any licensed irrigator or licensed installer who authorizes anyone else to use his certificate of registration to act as a licensed irrigator or licensed installer violates this section.

Doc. No. 801381

## Seal

The following sections are adopted under the authority of Article 8751, Section 7, Vernon's Texas Civil Statutes.

**§425.41 (409.03.05.001). Seal Required.**

(a) Each licensed irrigator, upon registration and before issuance of his certificate of registration, shall obtain a seal, or a rubber stamp in lieu thereof, of the design authorized by the board. The seal shall be placed on all professional documents, including contracts, maps, plans, designs, drawings, specifications, estimates, and reports issued by a registrant for use in this state.

(b) Each licensed irrigator shall file with the board in duplicate a sample impression of his seal or rubber stamp facsimile on letterhead or other business stationery which he proposes to use. A licensed irrigator shall notify the board of any changes in his seal or rubber stamp facsimile.

**§425.42 (409.03.05.005). Seal and Rubber Stamp Facsimile Design.** The seal shall be circular and one-half inches in diameter. The impression of the seal shall be at the top center of the seal or rubber stamp facsimile.

tor" shall be in a like position at the bottom. The licensed irrigator's name shall be placed horizontally in the circular field accompanied by his certificate number. Letters and figures shall be as bold as possible to insure legibility and durability.

**§425.47 (409.03.05.010). Authorized Use of Seal and Rubber Stamp Facsimile.**

(a) The licensed irrigator shall sign his legal name on each professional document and shall affix the imprint of his seal or rubber stamp facsimile of the seal over that signature. Use of a rubber stamp facsimile is encouraged for application on all tracings to produce legible reproduction of all copies or prints made from such tracings. If a rubber stamp facsimile of the seal is used, the licensed irrigator shall affix his signature to the documents and shall stamp the documents with the rubber seal over the signature.

(b) The presence of the licensed irrigator's seal imprint over his signature on any document constitutes his acceptance of all professional responsibility for the document and the work done pursuant to and in accordance with the document.

(c) The licensed irrigator is responsible for the security of his seal and rubber stamp.

**§425.50 (409.03.05.015). Unauthorized Use of Seal or Rubber Stamp.**

(a) Only a licensed irrigator or a person acting under his direction and on his behalf may use or attempt to use his seal or rubber stamp.

(b) Anyone who uses or attempts to use as his own the seal or rubber stamp of someone else who is a licensed irrigator violates Article 8751, Vernon's Texas Civil Statutes, and this section.

(c) Any licensed irrigator who authorizes anyone else to use his seal or rubber stamp except on his behalf and under his direction violates this section.

**§425.53 (409.03.05.020). Required Use of Seal.** Each licensed irrigator must affix his seal, or rubber stamp impression in lieu thereof, to the original index page identifying all drawings covered, to the original cover and index page identifying all specification pages covered, and to other documents of service as well which are developed and issued under the direction or authorship of the licensed irrigator. In the absence of index pages or covers identifying all pages bound, each page of all original contract documents of service, including drawings, must have the seal, or rubber stamp impression in lieu thereof, of the responsible licensed irrigator affixed thereto. The absence of a seal or rubber stamp impression affixed to any contract documents or plans is a violation of this section.

Doc. No. 801382

## Chapter 427. Water Supply Connections Standards for Connections to Potable Water Supplies

The following sections are adopted under the authority of Article 8751, Section 7, Vernon's Texas Civil Statutes.

**§427.1 (409.04.01.001). Local Regulation.** Where any city, town, county, special purpose district, or other political subdivision of the state requires licensed irrigators or licensed installers to comply with reasonable inspection requirements

or ordinances or regulations designed to protect the public water supply, any of which relates to work performed or to be performed within such political subdivision's territory by licensed irrigators or licensed installers, a licensed irrigator or licensed installer shall comply with such requirements, ordinances, and regulations.

**§427.4 (409.04.01.005). Absence of Local Regulation—Backflow Prevention Devices.** Where a licensed irrigator's or a licensed installer's connection of an irrigation system or yard sprinkler system to a public or a private potable water supply is not subject to any inspection requirement, ordinance, or regulation of any city, town, county, special purpose district, or other political subdivision of the state, the licensed irrigator or licensed installer making such connection shall install one of the following devices:

(1) Vacuum breakers. Vacuum breakers are designed to prevent only back-siphonage. Therefore, vacuum breakers shall not be used in systems where back-pressure may occur. In this subchapter, back pressure means any pressure, regardless of its source, against the outlet side of the backflow prevention device, which exceeds the supply pressure against the inlet side of the device. Where vacuum breakers may be used, they shall be installed at least 12 inches above the surrounding ground.

(2) Atmospheric vacuum breakers. In addition to the prohibition and installation requirements of subsection (a) of this section, continuous pressure on the supply side of an atmospheric vacuum breaker is prohibited. Therefore, atmospheric vacuum breakers shall be installed in either of the two following ways:

(A) a separate atmospheric vacuum breaker shall be installed on the discharge side of each water control valve, between the valve and all of the sprinkler heads such valve controls; or

(B) a single atmospheric vacuum breaker may be installed in the pressure main only if there is a single, automatic master water control valve in the pressure main. The automatic master water control valve shall be installed between the water supply and the atmospheric vacuum breaker.

(3) Pressure-type vacuum breaker. Subject to the prohibition and installation requirements of subsection (a) of this section, a single pressure-type vacuum breaker may be used in systems where the sprinkler main may be pressurized at all times.

(4) Double check assembly backflow preventor. A double check assembly (DCA) backflow preventor may be used where water supply pressure and back pressure on the device may continuously exist.

(5) Reduced pressure principle device. A reduced pressure principle device shall be installed above ground in a location so as to insure that the device will not be submerged during operation. In addition, adequate provisions shall be made for any water which may be discharged through the device's release valve. A licensed irrigator may not incorporate this device in an irrigation system design without first obtaining informed approval to do so from the party for whom he is designing the system.

**§427.10 (409.04.01.010). Connections to Alternative Water Supplies.**

(a) Because of the danger of contaminating potable water supplies, the design and installation of irrigation systems and yard sprinkler systems which incorporate connections to alternate potable and nonpotable water supplies

are not recommended and are discouraged unless absolutely necessary.

(b) Where an irrigation system or yard sprinkler system is designed to have alternate water supplies, one being a potable water supply and the other a nonpotable water supply, a licensed irrigator or licensed installer shall not install any connection for alternate potable and nonpotable water supplies except one which:

(1) provides for a complete absence of pipe between the two water supplies (i.e., air gap);

(2) makes impossible the connection of the two water supplies to each other; and

(3) makes impossible the simultaneous connection of both water supplies to the irrigation system or yard sprinkler system.

(c) The installation of any mechanical connection device as a substitute for or equivalent of the connection required by subsection (b) of this section is prohibited and is a violation of this section.

Doc. No. 801383

## Chapter 429. Violation of Statute or Board Rule

### Complaint Process

The following sections are adopted under the authority of Article 8751, Section 7, Vernon's Texas Civil Statutes.

#### §429.1 (409.05.01.001). *Complaint.*

(a) Any person knowledgeable of any alleged violation of Article 8751, Vernon's Texas Civil Statutes, or of these sections may file a written complaint with the board.

(b) Any person knowledgeable of any probable act of a licensed irrigator or licensed installer which may constitute gross negligence, incompetency, or misconduct while he is acting as a licensed irrigator or licensed installer may file a written complaint with the board.

(c) A written complaint shall set forth the name and address of the person against whom the complaint is filed and the alleged facts and shall be notarized.

§429.4 (409.05.01.005). *Board's Receipt of Complaint.* Upon the board's receipt of a complaint, the executive secretary shall:

(1) file three copies of the complaint with the executive director;

(2) send one copy of the complaint by certified mail to the respondent; and

(3) send copies of the complaint to the board members.

#### §429.7 (409.05.01.010). *Investigation of Complaint.*

(a) The chairman of the board may designate not more than three members of the board to investigate a complaint.

(b) Designated members shall investigate the matters complained of and may take steps to secure the respondent's voluntary compliance with Article 8751, Vernon's Texas Civil Statutes, and these sections, or otherwise informally resolve the matter.

§429.10 (409.05.01.015). *Informal Resolution of Complaint.* Where a complaint is informally resolved, the investigating members, at the board's next meeting, shall brief the board

on the matters complained of and how the complaint was resolved.

§429.13 (409.05.01.020). *Setting Complaint on Board Agenda; Notice.* Where a complaint is not informally resolved, the chairman of the board may place consideration of the complaint on the agenda for a board meeting. At least 10 days before the date of such meeting, the executive secretary shall send notice of the meeting to the respondent by certified mail, to the complainant by first-class mail, and to the executive director.

#### §429.16 (409.05.01.025). *Board Consideration of Complaint; Board Action on Complaint.*

(a) During its consideration of a complaint, the board shall hear any relevant evidence and argument presented on behalf of the complainant and the respondent.

(b) After hearing relevant evidence and argument, the board may consider whether the information presented in the complaint and at its meeting is sufficient to warrant further action by the commission, the executive director, or the attorney general. If the board considers such information sufficient, it shall issue an order referring the complaint to the commission, or request the executive director or the attorney general, or both, to take appropriate measures to enforce Article 8751, Vernon's Texas Civil Statutes, and the board's rules.

§429.19 (409.05.01.030). *Copies of Board Order.* Where the board enters an order referring a complaint to the commission, the executive secretary shall issue copies of the order by filing one copy with the executive director and sending copies by certified mail to the complainant and the respondent.

#### §429.22 (409.05.01.035). *Probable Violation Report of Board Member.*

(a) Where a member of the board becomes aware of a probable violation of Article 8751, Vernon's Texas Civil Statutes, or of these sections, such member may file a written report with the board, setting forth the name of the person about whom the report is filed and the facts pertaining to the probable violation.

(b) A board member's report of a probable violation shall be processed by the board pursuant to §§429.1, 429.4, 429.7, 429.10, 429.13, 429.16, 429.19, and 429.22 (409.05.01.001, .005, .010, .015, .020, .025, .030, and .035) of this title.

Doc. No. 801384

### Revocation of Registration

The following sections are adopted under the authority of Article 8751, Section 7, Vernon's Texas Civil Statutes.

§429.41 (409.05.05.001). *Grounds for Revocation of Registration.* As provided by law, the commission may revoke the registration of any licensed irrigator or licensed installer after giving due notice and an opportunity for hearing as required by law, if it finds that he is guilty of:

(1) violations of Article 8751, Vernon's Texas Civil Statutes, or these sections;

(2) fraud or deceit in obtaining a certificate of registration; or

(3) gross negligence, incompetency, or misconduct while acting as a licensed irrigator or licensed installer.

**§429.44 (409.05.05.005). Surrender of Certificate and Pocket Card; Seal.** Upon the revocation of an irrigator's or installer's registration by the commission, the affected irrigator or installer shall immediately surrender his certificate of registration and pocket identification card to the board and shall cease using his official seal and any rubber stamp facsimile of the seal in the irrigator's possession.

Issued in Austin, Texas, on February 21, 1980.

Doc. No. 801385      Bruce Bigelow  
                                  General Counsel  
                                  Texas Department of Water Resources

Effective Date: March 13, 1980

Proposal Publication Date: January 8, 1980

For further information, please call (512) 475-6943.

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## NONCODIFIED

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### Texas Education Agency Adaptations for Special Populations Compensatory Education Program 226.35.63

The Texas Education Agency has amended Rule 226.35.63.030, concerning the State Compensatory Education Program. The amended rule has deleted subsection (a)(2), which stated that priorities for delivery of services to students are based upon state regulations and procedures. A new subsection (a)(3) has been added to provide instead that districts shall use the information gathered from the assessment of basic skills to design and implement an appropriate compensatory education program. The assessment of basic skills for students at certain grade levels is required by Section 16.176 of the Texas Education Code and is addressed by new Rules 226.38.01.010-.070.

Public review and discussion of the proposed rule were held. The rule is adopted with changes from the text as proposed. There are minor editorial changes in subsection (a). In subsection (b), paragraph (2) has been reworded to reflect emphasis on improving student performance on essential language arts and mathematics competencies. In paragraph (5), instructional support services may be provided. A paragraph (6), concerning reporting requirements, has been added.

This rule amendment is promulgated under the authority of Sections 16.005 and 16.176, Texas Education Code.

*.030. State Compensatory Education Assistance.*

(a) Policy.

(1) The State Compensatory Education Program shall address priority student needs requiring compensatory education and shall supplement the regular program.

(2) The objectives of the program must promote individualized student development, restructuring of instructional approaches, and accountability.

(3) Student performance data shall be used to design appropriate compensatory instructional services in accor-

dance with Section 16.176, Texas Education Code, and Policy 38.01.

(b) Administrative procedure.

(1) (No change.)

(2) State compensatory education funds shall be used for instructional purposes to improve student performance on essential language arts and mathematics competencies.

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

(5) Instructional support services may be provided with state compensatory funds.

(6) At the end of each year, participating districts shall forward to the Texas Education Agency a two-section report on the program. Section I will be a detailed financial report on program expenditures according to general budget categories. Section II will be descriptive program information relating to program services provided with state compensatory education funds and number of students being served by grade.

Reference. Section 16.176, Texas Education Code.

Doc. No. 801355

### Assessment

#### Student Assessment of Basic Skills 226.38.01

The Texas Education Agency has adopted new Rules 226.38.01.010, .020, .030, .040, .050, .060, and .070, concerning the assessment of basic skills which is required by Section 16.176 of the Texas Education Code as amended by the 66th Legislature. Beginning with the 1979-80 school year, the Texas Education Agency must adopt and administer criterion-referenced tests to assess basic skills in reading, writing, and mathematics for pupils in the fifth grade, and skills in mathematics and English language arts for pupils in the ninth grade. Beginning in 1980-81, students in the third grade will be tested as well.

The adopted new rules require local school districts to assist in the administration of the tests. Each school district shall certify to the Texas Education Agency that all reasonable efforts have been made to ensure that all nonexempt students at appropriate grade levels have been tested and that security of the test has been maintained.

Public review and discussion of the proposed rules were held. The rules are adopted with changes from the text as proposed. Rule .030(a)(2) has been changed so that for handicapped students who are to be tested, modification of regular classroom procedures which are provided by the local district as specified in the student's individual educational plan shall also be provided during the assessment process in accordance with guidelines developed by the commissioner of education. Adaptations of materials which are normally provided by the state, such as braille or large type editions of materials, will not be provided for the test of basic skills. The commissioner's guidelines also address situations in which adaptations provided in the classroom might distort the purpose of the test. The guidelines are available from the Texas Education Agency. The rest of the rules are unchanged.

These rules are promulgated under the authority of Sections 16.005 and 16.176, Texas Education Code.



**.010. General Provisions.**

(a) Policy. The Texas Education Agency shall adopt and administer criterion-referenced assessment instruments in accordance with Section 16.176, Texas Education Code.

(b) Administrative procedure. (Reserved for expansion.)

**.020. Participation.**

(a) Policy. Each school district will assist in the administration of the criterion-referenced tests to its students in accordance with procedures established by the commissioner of education.

(b) Administrative procedure.

(1) The superintendent or chief administrative officer in each school district shall be responsible for coordinating all local test activities including:

(A) scheduling testing dates and times on all affected campuses;

(B) administering or training personnel to administer the basic skills examination to the appropriate students;

(C) ensuring maintenance of security; and

(D) ensuring that all test materials are returned to the Texas Education Agency.

(2) The superintendent or chief administrative officer of each school district shall certify in writing to the Texas Education Agency that:

(A) all reasonable efforts have been made to ensure that all nonexempt students at the designated grades have been tested;

(B) all exempt students have been properly excluded from the examination;

(C) all security provisions of the program have been maintained (see 38.01.050); and

(D) beginning with the 1980-81 school year, that all students eligible to retake the test were given an opportunity to do so.

**.030. Exemptions.**

(a) Policy.

(1) All handicapped students who are in a residential placement, a nonpublic day school program, a special education campus, a homeroom/special education departmentalized instructional arrangement, or in special education classes for all academic areas shall be exempt from the student assessment of basic skills.

(2) Any eligible handicapped student who is in a regular class placement for either language arts (reading or writing) or mathematics shall be required to participate in the assessment of basic skills for that area. Modifications of regular classroom procedures which are provided in the student's individual educational plan shall also be provided during the assessment process in accordance with guidelines developed by the commissioner of education.

(3) Districts shall make every reasonable effort to ensure that all nonexempt students are tested.

(b) Administrative procedure. The superintendent or chief administrative officer of each school district shall report to the commissioner of education the number of exempt and nonexempt students who were not tested and shall certify that the exemptions were granted in accordance with Policy 38.01.030.

**.040. Opportunity To Be Retested.**

(a) Policy.

(1) All ninth grade students who fail to demonstrate adequate mastery of basic skills shall be given the opportunity to retake the assessment instrument each year the assessment instrument is administered (Section 16.176(c), Texas Education Code).

(2) School districts shall make provisions for retesting of students in accordance with procedures developed by the commissioner of education.

(3) The State Board of Education shall establish annually the criteria for mastery of basic skills.

(b) Administrative procedure.

(1) School districts shall notify in writing the parent of each ninth grade student who fails to pass the basic skills examination that the student will be provided an opportunity the following year to retake the examination.

(2) School districts shall notify the Texas Education Agency by December 1 each year of the number of students who will retake the examination.

**.050. Security.**

(a) Policy. The superintendent of each school district shall certify to the Texas Education Agency that assessment instruments and test items have been kept secure.

(b) Administrative procedure. The superintendent or chief administrative officer of each school district shall certify in writing to the commissioner of education that:

(1) no unauthorized person inspected, viewed, copied, or in any way reproduced any part of the basic skills examination;

(2) test administrators did not reveal any of the contents of the examination;

(3) only the examinee or test administrator was allowed to view or mark on any of the student answer documents.

**.060. Confidentiality of Individual Results.**

(a) Policy. Results of individual student performance shall be confidential in accordance with Section 16.176(e), Texas Education Code.

(b) Administrative procedure. (Reserved for expansion.)

**.070. Reporting of Results.**

(a) Policy. The commissioner of education shall develop procedures for reporting and interpretation of results for use by local school districts.

(b) Administrative procedure.

(1) Student performance data aggregated by campus and district, with appropriate interpretations, shall be reported at the first regularly scheduled meeting after June 1 of the local school board of trustees.

(2) School districts should notify students and parents of test results, observing confidentiality requirements in Section 16.176(e), Texas Education Code.

Issued in Austin, Texas, on February 20, 1980.

Doc. No. 801356

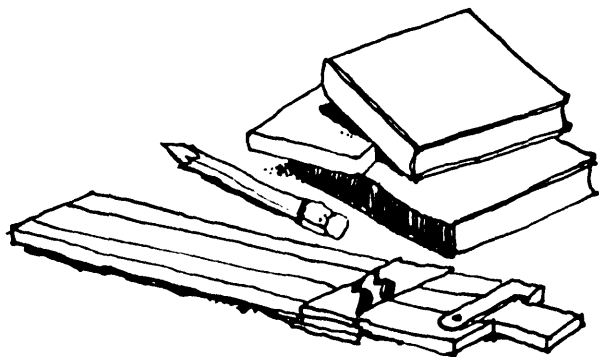
A. O. Bowen

Commissioner of Education

Effective Date: March 12, 1980

Proposal Publication Date: December 4, 1979

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



## State Board of Insurance Rating and Policy Forms

### Fixing of Rate of Automobile Insurance 059.05.01

The State Board of Insurance adopts by reference Rule 059.05.01.005 which will be the rules and rates governing the insuring of automobiles and standard endorsements. This rule is adopted effective June 1, 1980; a similar rule, also commonly known as the Texas Automobile Manual, which is Rule .001, will continue in effect temporarily.

The new rule is adopted as a result of extensive changes to the commercial automobile classification plan and attendant editorial changes to other sections of the manual to complement the classification changes. The present classification system for commercial liability and physical damage coverages has been in effect for many years with very few refinements to recognize technological changes. At present, many of the businesses for which separate industry classifications have been set up use the same equipment and drive over the same routes. Presently, most vehicles for a particular insured are rated according to the business of the insured rather than by the use of such particular vehicle. The distinction between rating classes may more properly be based on the type and activity of the vehicles used, rather than on the business of the owner. The core of the new commercial automobile classification plan is a set of rating factors based on gross vehicle weight, vehicle use, and radius of operation. In addition to the basic table of factors, a secondary table will apply to a small group of special risks which have an unusual or exceptional hazard associated with them. The primary and secondary rating factors were developed from countrywide experience of several large insurance carriers. Modifications in these factors have been made to reduce premium fluctuations for individual risks. As Texas experience is developed under this plan, further modification may be made to distribute premiums among insureds in a fair and equitable manner. The adopted classification plan is designed to provide a simple, uniform, effective system for rating and coding the commercial automobile business. It will also provide a way to gather significant classification experience and will make possible the same kind of computerized rating which is presently used on private passenger business.

There will be a transition period between the time this rule becomes effective on June 1, 1980, and the time at which the new rule will fully supersede Rule .001. For all new or renewal policies effective on or before May 31, 1980, Rule .001 will govern. The transition period will be from June 1, 1980, through May 31, 1983. During this period, all policies written on or after June 1, 1980, will be governed by a provision in this proposed Rule .005 which calls for a rating of policies on the basis of a combination of Rules .001 and .005 with a limitation on the applicable calculated rate under Rule .005. The transition period provision will not apply to automobiles classified and rated as private passenger automobiles. All policies written or renewed effective on or after June 1, 1983, will be entirely governed by proposed Rule .005, and Rule .001 is to be repealed. For risks subject to the Automobile Liability Experience Rating Plan, the experience rating anniversary date rather than the policy effective date will govern the applicability of the transition period.

This rule is adopted under the authority of Texas Insurance Code Annotated, Articles 5.01, 5.06, and 5.10.

*.005. Insuring of Automobiles and Standard Endorsements II.* The State Board of Insurance adopts by reference the rules contained in the Insuring of Automobiles and Standard Endorsements II effective June 1, 1980. This document is published by and available from the Texas Automobile Insurance Service Office, Suite 350, American Bank Tower, 221 West Sixth Street, Austin, Texas 78701, or the State Board of Insurance, 1110 San Jacinto, Austin, Texas 78786.

Doc. No. 801416

### Policy Forms and Endorsements 059.05.06

The State Board of Insurance has amended, effective June 1, 1980, Rule 059.05.06.001, which adopted by reference the Standard Provisions for Automobile Policies written on and after October 1, 1974. Copies of the amended pages are attached and incorporated herein by reference.

The changes adopted are to amend the automobile physical damage insurance (dealers) standard coverage part and the garagekeepers' legal liability provisions of the standard garage insurance coverage part. The proposed changes to the automobile physical damage insurance (dealers) coverage part is to add comprehensive coverage, to eliminate the separate fire, lightning or transportation coverages, theft, and supplemental coverages due to the fact that a new specified perils coverage is being added, which incorporates all of the separate coverages, and the addition of the false pretense coverage to the coverage part. False pretense coverage was previously available as an optional endorsement. In addition, the new comprehensive coverage and the specified perils coverage incorporates a new per car/maximum per event deductible for losses caused by theft or malicious mischief and vandalism. In addition, the comprehensive automobile liability insurance coverage part schedule has been editorially revised.

The changes to the garagekeepers' legal liability provisions of the garage insurance coverage part is to add comprehensive coverage and to eliminate the coverages of fire and explosion, theft, and combined additional coverage due to the fact that

these separate coverages have been combined into a new specified perils coverage. In addition, a new per car/maximum per event deductible has been added for losses caused by theft or malicious mischief and vandalism under the new comprehensive and specified perils coverage.

This amendment is adopted pursuant to the authority of Article 5.06 of the Texas Insurance Code.

.001. *Standard Provisions for Automobile Policies Written on and after October 1, 1974.* The State Board of Insurance adopts by reference the attached Standard Provisions for Automobile Policies written on and after October 1, 1974, as amended in June 1980. This document is published by and available from the Texas Automobile Insurance Service Office, Suite 350, American Bank Tower, 221 West Sixth Street, Austin, Texas 78701, or the State Board of Insurance, 1110 San Jacinto, Austin, Texas 78786.

Issued in Austin, Texas, on February 20, 1980.

Doc. No. 801435 Pat Wagner  
Chief Clerk  
State Board of Insurance

Effective Date: June 1, 1980  
Proposal Publication Date: November 6, 1980  
For further information, please call (512) 475-3486.

### Credit Life Insurance 059.53

The State Board of Insurance has withdrawn from consideration proposed Rules 059.53.02.004, 059.53.04.001 and .005, 059.53.05.001, 059.53.06.001, 059.53.07.003 and .004, 059.53.12.001, and 059.53.14.002, concerning credit life insurance. The texts of the rules were published in the December 25, 1979, issue of the *Texas Register* (4 TexReg 4684).

Issued in Austin, Texas, on February 22, 1980.

Doc. No. 801400- Pat Wagner  
801406 Chief Clerk  
State Board of Insurance

Filed: February 22, 1980, 11:40 a.m.  
For further information, please call (512) 475-4169.

### Office of the Secretary of State Elections 004.30

The Office of the Secretary of State has withdrawn from consideration proposed Rules 004.30.05.401-.415, concerning appointment of volunteer deputy registrars. The texts of the rules were published in the August 8, 1978, issue of the *Texas Register* (3 TexReg 2749). Also withdrawn from consideration is Rule .420, Handbook for Volunteer Deputy Registrars. The text of this rule was published in the December 19, 1978, issue of the *Register* (3 TexReg 4398).

Issued in Austin, Texas, on February 22, 1980.

Doc. No. 801411 & Tex Lezar  
801412 General Counsel  
Office of the Secretary of State

Filed: February 22, 1980, 9:41 a.m.  
For further information, please call (512) 475-3091.



The Open Meetings Act (Article 6252-17, Texas Civil Statutes) requires that an agency with statewide jurisdiction have notice posted for at least seven days before the day of a meeting. A political subdivision covering all or part of four or more counties, or an institution of higher education, must have notice posted for at least 72 hours before the scheduled meeting time. Notice of an emergency meeting or an emergency addition or amendment to an agenda must be posted for at least two hours before the meeting is convened. Although some notices may be received and filed too late for publication before the meetings are held, all filed notices will be published in the *Register*. Each notice published includes an agenda or a summary of the agenda as furnished for publication by the agency and the date and time of filing. Notices are posted on the bulletin board outside the offices of the secretary of state on the first floor in the East Wing of the State Capitol. These notices may contain more detailed agendas than space allows to be published in the *Register*.

## State Aircraft Pooling Board

**Tuesday, March 4, 1980, 1:30 p.m.** The State Aircraft Pooling Board will meet in Conference Room G-B, John H. Reagan Building, Austin. According to the agenda, the board will consider approval of purchase of special purpose single engine airplane for the Department of Public Safety. The board will also discuss scheduling office operations.

Additional information may be obtained from Barbara Mitchell, Room G-12, Reagan Building, Austin, Texas, telephone (512) 475-8301.

Filed: February 25, 1980, 9 a.m.  
Doc. No. 801442

## State Bar of Texas

**Monday, March 3, 1980, 9 a.m.** The Executive Budget Committee, Board of Directors, of the State Bar of Texas will meet in the third floor wing, President's Room, at the Texas Law Center, 1414 Colorado, Austin. According to the agenda summary, the committee will consider the following: report of president on FTC matter and Legal Services Corporation Inquiry Committee; report of executive director on personnel, Texas Department of Corrections request update, and 1980 convention; report of general counsel regarding pending litigation; report of president-elect; report of board chairman; financial reports—discussion concerning 1980-81 budget tentatively approved at January 1980 board meeting and discussion concerning public hearing—salaries, litigation, new personnel, capital expenditures, amendments to 1979-80 budget, financial statement for February 1980; discussion regarding forthcoming referendum; discussion concerning board policy on social activities at board meetings; discussion regarding request for free advertising space in Bar Journal.

Additional information may be obtained from Evelyn Avent, 1414 Colorado Street, Austin, Texas, telephone (512) 475-4746.

Filed: February 22, 1980, 2:12 p.m.  
Doc. No. 801417

## Texas Department of Community Affairs

**Friday, February 29, 1980, 10 a.m.** The State Drug Abuse Advisory Council of the Texas Department of Community Affairs will meet in the fourth floor conference room, TDCA Building, 210 Barton Springs Road, Austin, to consider the following items: report of drug abuse activities in the state since the last meeting; plans for the next year, including 1981 state drug abuse plan; and organization of subcommittees.

Additional information may be obtained from Richard Spence, P.O. Box 13166, Austin, Texas 78711, telephone (512) 475-6351.

Filed: February 21, 1980, 2:40 p.m.  
Doc. No. 801372

## Texas Department of Health

The Texas Department of Health will conduct hearings in March as follows:

**Tuesday, March 4, 1980, 9 a.m.**

City Council Room, City Hall, Madison Avenue and 3rd Street, Mount Pleasant—Application 797 of Mount Pleasant to locate a solid waste disposal site near Mount Pleasant

**Tuesday, March 11, 1980, 9 a.m.**

City Council Chambers, City Hall, 823 Rosenberg, Galveston—Application 1365 of Galveston to locate a solid waste disposal site near Galveston

**Wednesday, March 12, 1980, 9 a.m.**

City Council Chambers, City Hall, 411 West 8th Street, Odessa—Application 1338 of Odessa to locate a solid waste disposal site near Odessa

**Wednesday, March 19, 1980, 9:30 a.m.**

Library, Fort Worth Health Department, 1800 University Drive, Fort Worth—Application 1225 of Fort Worth to locate a solid waste disposal site near Fort Worth

Additional information may be obtained from Jack C. Carmichael, 1100 W. 49th Street, Austin, Texas 78756, telephone (512) 458-7271.

Filed: February 22, 1980, 4:32 p.m.  
Doc. No. 801437

## Texas Health Facilities Commission

**Thursday, February 28, 1980, 10 a.m.** The Texas Health Facilities Commission made an emergency addition to the agenda of a meeting held in Suite 305, Jefferson Building, 1600 West 38th Street, Austin. According to the agenda summary, the commission met in regular scheduled open session and considered one emergency addition, an application for a certificate of need by Groesbeck Park Plaza Nursing Home, Groesbeck.

Additional information may be obtained from John R. Neel, P.O. Box 15023, Austin, Texas 78761, telephone (512) 475-6940.

Filed: February 22, 1980, 11:43 a.m.  
Doc. No. 801419

**Thursday, March 6, 1980, 10 a.m.** The Texas Health Facilities Commission will meet in Suite 305 of the Jefferson Building, 1600 West 38th Street, Austin, to consider the following applications:

certificate of need

Red River Valley Home Health Services, Inc.,  
Sherman, AS79-0823-026

Providence Memorial Hospital, El Paso,  
AH79-0830-023

Fort Bend Nursing Home, Rosenberg,  
AN79-0323-003

St. Mary of the Plains Hospital, Lubbock,  
AH79-1009-023

Visiting Nurse Association of Dallas,  
Dallas, AS79-0711-015

Southern Manor Nursing Home, Temple  
AN79-0806-035

St. Anthony's Hospital, Amarillo,  
AH79-1015-019

Concho County Hospital, Eden,  
AH79-0803-003

Concho Nursing Center, Eden,  
AN79-0803-007

Trinity Oaks Hospital, Inc., Fort Worth,  
AH79-0905-017

Raleigh Hills Hospital, Houston,  
AH79-0824-024

reissuance of certificate of need order nunc pro tunc  
Mission Road Development Center,  
San Antonio, AO78-1002-005R(111568)

exemption certificate

Santo Rosa Medical Center, San Antonio,  
AH80-0125-001

The Methodist Hospital, Houston,  
AH80-0114-006

Mauritz Memorial Hospital, Ganado,  
AH80-0109-016

Baytown Medical Center Hospital, Baytown,  
AH80-0111-005

Fort Worth State School, Fort Worth,  
AA79-1231-039

St. John's Hospital, San Angelo,  
AH79-1126-017

St. Joseph Hospital, Fort Worth,  
AH79-1129-036

amendment of exemption certificate order  
Shady Oaks Nursing Home, Moulton,  
AN78-1011-010A(120679)

transfer of certificate of need  
Holy Cross Hospital, Austin,  
AH79-0131-011T(122879)

declaratory ruling  
South Austin Multipurpose Center/  
Austin Travis County Health Department,  
Austin, AO80-0206-002

Additional information may be obtained from John R. Neel, P.O. Box 15023, Austin, Texas 78761, telephone (512) 475-6940.

Filed: February 22, 1980, 11:43 a.m.  
Doc. No. 801420

## Texas Department of Human Resources

**Tuesday, February 26, 1980, 9 a.m.** The Texas Board of Human Resources of the Texas Department of Human Resources made an emergency addition to a meeting held at 706 Banister Lane, Austin. According to the agenda summary, the board will consider payment of federal and state funds for medically necessary abortions performed on women who are eligible for medical assistance under Title XIX of the Social Security Act, as required by federal court order and as directed by the Department of Health, Education and Welfare.

Additional information may be obtained from Bill Woods, 706 Banister Lane, Austin, Texas, telephone (512) 441-3355.

Filed: February 22, 1980, 11:29 a.m.  
Doc. No. 801421

## State Board of Morticians

**Monday-Thursday, March 10-13, 1980, 9 a.m. daily.** The State Board of Morticians will meet at 1513 South IH 35 in Austin. On March 10, the board will conduct a formal hearing concerning State Board of Morticians *v.* Sweeny Funeral Home, Jay H. Johnson; informal hearing in the matter of Ruthmary Price *v.* Angelus Funeral Home; consider letter and other matters pertaining to the Lindholm *v.* Bob Lee Funeral Home complaint; discussion and possibly proposed action on Rule 387.02.00.015; discussion on the seminar of computerization the office attended on February 13 and 14, 1980. On March 11-13, written exams for directors and embalmers will be held at 1001 South IH 35, Austin. Following exam given on March 13, the board will reconvene at 1513 South IH 35 to pass on exams and discuss other business.

Additional information may be obtained from Ann Lloyd, 1513 South IH 35, Austin, Texas 78741, telephone (512) 442-6721.

Filed: February 22, 1980, 3:31 p.m.  
Doc. No. 801441

## Texas Parks and Wildlife Department

**Thursday, March 20, 1980, 2 p.m.** The Parks Division of the Texas Parks and Wildlife Department will meet in Room A-100, 4200 South School Road, Austin. According to the agenda summary, the division will consider a proposal to relocate a certain area of the La Palma park site in Cameron County.

Additional information may be obtained from Dr. Harold Toy, 4200 Smith School Road, Austin, Texas 78744, telephone (512) 475-4995.

Filed: February 21, 1980, 2:40 p.m.  
Doc. No. 801374

## Public Utility Commission of Texas

**Monday, March 3, 1980, 9 a.m.** The Hearings Division of the Public Utility Commission of Texas will conduct a prehearing conference in Suite 450N, 7800 Shoal Creek Boulevard, Austin. The division will consider Docket 3083, the application of Sunbelt Utilities for a rate increase for water and sewer utility service within Harris County.

Additional information may be obtained from Philip F. Ricketts, 7800 Shoal Creek Boulevard, Suite 450N, Austin, Texas 78757, telephone (512) 458-0100.

Filed: February 21, 1980, 2:41 p.m.  
Doc. No. 801373

**Tuesday, March 4, 1980, 9 a.m.** The Public Utility Commission of Texas will meet in Suite 450N, 7800 Shoal Creek Boulevard, Austin. According to the agenda summary, the commission will consider final orders and hear oral argument in the following Dockets: 2778, 2790, 2861, 2582, 2242, 2848, 2965, 2993, 2999, 3029, 3033, 3043, 3044, 3050, 3052, 3059, and 3074.

Additional information may be obtained from Philip F. Ricketts, 7800 Shoal Creek Boulevard, Suite 450N, Austin, Texas 78757, telephone (512) 458-0100.

Filed: February 22, 1980, 3:41 p.m.  
Doc. No. 801439

**Tuesday, March 18, 1980, 1:30 p.m.** The Hearings Division of the Public Utility Commission of Texas will conduct a prehearing in Suite 450N, 7800 Shoal Creek Boulevard, Austin, in Docket 3031, the application of Forty-Eight Water Supply Corporation for a certificate of convenience and necessity within Hill County.

Additional information may be obtained from Philip F. Ricketts, 7800 Shoal Creek Boulevard, Suite 450N, Austin, Texas 78757, telephone (512) 458-0100.

Filed: February 25, 1980, 9:34 a.m.  
Doc. No. 801443

**Monday, April 14, 1980, 10 a.m.** The Hearings Division of the Public Utility Commission of Texas will meet in Suite 450N, 7800 Shoal Creek Boulevard, Austin, to consider hearing on the merits in Docket 2991; petition of Lamb County Electric Cooperative, Inc. for a cease and desist order against Southwestern Public Service Company within Hockley and Lamb Counties.

Additional information may be obtained from Philip F. Ricketts, 7800 Shoal Creek Boulevard, Suite 450N, Austin, Texas 78757, telephone (512) 458-0100.

Filed: February 22, 1980, 9:07 a.m.  
Doc. No. 801438

**Monday, May 5, 1980, 9 a.m.** The Hearings Division of the Public Utility Commission of Texas will conduct a hearing in Suite 450N, 7800 Shoal Creek Boulevard, Austin. The division will consider Docket 3025, the application of Willis Water Company, Inc., for a rate increase within Grayson County.

Additional information may be obtained from Philip F. Ricketts, 7800 Shoal Creek Boulevard, Suite 450N, Austin, Texas 78757, telephone (512) 458-0100.

Filed: February 21, 1980, 2:43 p.m.  
Doc. No. 801371

## Railroad Commission of Texas

**Monday, February 25, 1980, 9 a.m.** The Gas Utilities Division of the Railroad Commission of Texas made an emergency addition to a meeting held in Room 107, 1124 South IH 35, Austin. The addition involves consideration of Gas Utilities Dockets 2349, 2350, 2351, and 2352. Consideration on less than seven days notice is warranted because the effective date of the proposed increase in February 25, 1980.

Additional information may be obtained from Lucia Sturdevant, P.O. Drawer 12967, Austin, Texas, telephone (512) 445-1126.

Filed: February 22, 1980, 3:53 p.m.  
Doc. No. 801433

**Monday, February 25, 1980, 9 a.m.** The Oil and Gas Division of the Railroad Commission of Texas made an emergency addition to the agenda of a meeting held in the first floor auditorium, 1124 South IH 35, Austin. The addition concerned consideration of Docket 82,394, exception to Statewide Rule 37, by Kimball Production Company and Watson and Cox, State Gas Unit, 640 acres, Well 1-8, Section 8, Block 18, University Lands Survey, War-wink, S. (Fusselman) Field, Ward County. This matter was properly noticed for the meeting of February 19, 1980, and was passed at that meeting. Consideration on less than seven days notice is required as a matter of urgent public necessity.

Additional information may be obtained from Roger Schultz, P.O. Drawer 12967, Austin, Texas 78711, telephone (512) 445-1282.

Filed: February 22, 1980, 11:51 a.m.  
Doc. No. 801422

**Monday, February 25, 1980, 9 a.m.** The Transportation Division of the Railroad Commission of Texas made an emergency addition to the agenda of a meeting held in Room 107, 1124 South IH 35, Austin. The addition concerned consideration of motions for rehearing in Dockets 006995A4A,

Frozen Food Express, Inc.; 008718A2A, Robert Heath, lessor, joined by Robert Heath Trucking, Inc., lessee; 019713A2A, Zero Lines Transport, Inc.; 0295689A4A, Cox Refrigerated Express, Inc.; 035490A1N, Tom Inman Trucking, Inc.; 035491A1N, Nationwide Carriers, Inc.; 035492A1N, Trans-National Truck, Inc.; and 035535A1N, Caravan Refrigerated Cargo, Inc. These matters were properly noticed for consideration by the commission in open meeting on February 19, 1980, were passed at that meeting, and were considered on less than seven days notice as a matter of urgent public necessity.

Additional information may be obtained from Owen T. Kinney, P.O. Drawer 12967, Austin, Texas 78711.

Filed: February 22, 1980, 11:49 a.m.  
Doc. No. 801423

**Monday, March 3, 1980, 9 a.m.** The Railroad Commission of Texas will meet in the third floor conference room, 1124 South IH 35, Austin. According to the agenda, the commission will go into executive session to discuss personnel actions for all divisions and to consult with its legal staff on prospective and pending litigation pursuant to Sections 2g and 2e of the Act, respectively.

Additional information may be obtained from Carla S. Doyne, 1124 South IH 35, Austin, Texas 78704, telephone (512) 445-1186.

Filed: February 22, 1980, 11:50 a.m.  
Doc. No. 801424

**Monday, March 3, 1980, 9 a.m.** The Automatic Data Processing Division of the Railroad Commission of Texas will meet in the first floor auditorium at 1124 South IH 35, Austin, to consider word processing matters.

Additional information may be obtained from David M. Garlick, P.O. Drawer 12967, Austin, Texas 78711, telephone (512) 445-1204.

Filed: February 22, 1980, 11:50 a.m.  
Doc. No. 801425

**Monday, March 3, 1980, 9 a.m.** The Gas Utilities Division of the Railroad Commission of Texas will meet in Room 107, 1124 South IH 35, Austin. According to the agenda summary, the division will consider Gas Utilities Dockets 1877, 1907, and 2354, and the director's report.

Additional information may be obtained from Lucia Sturdevant, P.O. Drawer 12967, Austin, Texas 78711.

Filed: February 22, 1980, 3:53 p.m.  
Doc. No. 801434

**Monday, March 3, 1980, 9 a.m.** The Liquefied-Petroleum Gas Division of the Railroad Commission of Texas will meet in the first floor auditorium, 1124 South IH 35, Austin, to consider the director's report.

Additional information may be obtained from Guy G. Mathews, P.O. Drawer 12967, Austin, Texas 78711, telephone (512) 445-1189.

Filed: February 22, 1980, 11:50 a.m.  
Doc. No. 801426

**Monday, March 3, 1980, 9 a.m.** The Oil and Gas Division of the Railroad Commission of Texas will meet in the first floor auditorium, 1124 South IH 35, Austin. According to the agenda summary, the division will consider various matters falling within the Railroad Commission's oil and gas regulatory jurisdiction.

Additional information may be obtained from Jan Burris, P.O. Drawer 12967, Austin, Texas 78711, telephone (512) 445-1307.

Filed: February 22, 1980, 11:51 a.m.  
Doc. No. 801427

**Monday, March 3, 1980, 9 a.m.** The Oil and Gas Division of the Railroad Commission of Texas makes an addition to the agenda of a meeting to be held in first floor conference room, 1124 South IH 35, Austin. The division will consider final adoption of an amendment to Rule 051.02.02.013(e)(9). The proposed amendment was published at 4 TexReg 4421.

Additional information may be obtained from John G. Soule, P.O. Drawer 12967, Austin, Texas 78711, telephone (512) 445-1285.

Filed: February 22, 1980, 11:50 a.m.  
Doc. No. 801428

**Monday, March 3, 1980, 9 a.m.** The Oil and Gas Division of the Railroad Commission of Texas has made an addition to the agenda of a meeting to be held in the first floor auditorium, 1124 South IH 35, Austin. According to the agenda summary, the addition concerns consideration of category determinations under Section 102(c)(1)(B), 102(c)(1)(C), 103, 107, and 108 of the Natural Gas Policy Act of 1978.

Additional information may be obtained from Linda D. Carr, P.O. Drawer 12967, Austin, Texas 78711, telephone (512) 445-1273.

Filed: February 22, 1980, 11:52 a.m.  
Doc. No. 801429

**Monday, March 3, 1980, 9 a.m.** The Surface Mining Division of the Railroad Commission of Texas will meet in the first floor auditorium, 1124 South IH 35, Austin. The division will consider the following: permit application approval for Conoco, Inc., (Docket 028) to conduct a uranium surface mining operation at its Tom Retzloff Mine (Site 35) in Atascosa County; a letter to the Office of Surface Mining to request funds for reclamation of three abandoned coal mines—one in Harrison County and two in Maverick County; a cooperative agreement with the Office of Surface Mining to procure funds for sampling and lab work for the Texas Abandoned Mine Program; and director's report.

Additional information may be obtained from J. Randel (Jerry) Hill, P.O. Drawer 12967, Austin, Texas 78711, telephone (512) 445-1176.

Filed: February 22, 1980, 11:49 a.m.  
Doc. No. 801430

**Monday, March 3, 1980, 9 a.m.** The Transportation Division of the Railroad Commission of Texas will meet in Room 107, 1124 South IH 35, Austin. According to the agenda summary, the division will consider various matters falling within the Railroad Commission's transportation regulatory jurisdiction.

Additional information may be obtained from Owen T. Kinney, P.O. Drawer 12967, Austin, Texas 78711, telephone (512) 445-1330.

Filed: February 22, 1980, 11:48 a.m.  
Doc. No. 801431

**Wednesday, March 19, 1980, 9 a.m.** The Oil and Gas Division of the Railroad Commission of Texas will meet at the Hilton Inn, 6000 Middle Fiskville Road, Austin. According to the agenda summary, the division will conduct a statewide oil and gas hearing.

Additional information may be obtained from Harriet Perkins, P.O. Drawer 12967, Austin, Texas 78711, telephone (512) 445-1297.

Filed: February 22, 1980, 11:52 a.m.  
Doc. No. 801432

## School Land Board

**Tuesday, March 4, 1980, 10 a.m.** The School Land Board will meet in Conference Room 831, Stephen F. Austin Building, 1700 North Congress Avenue, Austin, to consider the following items: one pooling agreement amendment; four pooling applications; one excess acreage application; coastal public lands—coastal easements; cabin permit terminations; and coastal public lands report—cabin permit renewals.

Additional information may be obtained from Linda Fisher, 1700 North Congress Avenue, Room 835, Austin, Texas 78701, telephone (512) 475-2071.

Filed: February 25, 1980, 11:53 a.m.  
Doc. No. 801445

## Structural Pest Control Board

**Wednesday, March 5, 1980, 9:30 a.m.** The Structural Pest Control Board will meet in Suite 123, Building H, 5555 North Lamar, Austin. According to the agenda summary, the board will consider approval of minutes of February 20, 1980, board meeting; executive director's report; and a discussion of changes in regulations that need to be made as result of the new legislation.

Additional information may be obtained from Charlie Chapman, 5555 North Lamar, Building H, Suite 123, Austin, Texas 78751, telephone (512) 454-3617.

Filed: February 22, 1980, 3:38 p.m.  
Doc. No. 801440

## University of Texas System

**Thursday, February 28, 1980, 1:30 p.m., and Friday, February 29, 1980, 9 a.m.** The Board of Regents of the University of Texas System will meet in Prudential Building, 10th floor, 1100 Holcombe Boulevard, Houston. According to the agenda summary, the board will consider minutes of December 1979; sale of UT San Antonio combined fee revenue bonds; PUF mineral leases; acquisition of property, Austin and Houston; sale of Huntington property, Galveston, Maverick Building and property associated with Lucher Center, San Antonio, and property in Houston; expansion of Sun Bowl, El Paso; report and recommendations of advisory committee to select president at UT El Paso; budgetary amendments; chancellor's docket; degree programs—UT Arlington, Dallas Health Science Center, Galveston Medical Branch, San Antonio Health Science Center; professional liability insurance for pharmacy students, UT Austin; appointment of endowed professors; student services fee required and optional and housing rates, UT Austin; student services fee required, UT Tyler; academic and developmental matters; buildings and grounds matters including Brackenridge-Deep Eddy Apartments, UT Austin; affiliation agreements; bylaws and rules and regulations of medical staff, Galveston Medical Branch; late registration fee, San Antonio Health Science Center; land and investment matters; amendments to regents' rules and regulations; 1980-81 personnel pay plan; model ground lease for fraternities and sororities; land lease with West Austin Youth Association; leaves of absence; outside employment; patent provisions in agreements; membership of board of trustees of KLRN/KLRU; Central Food Service Facility, Galveston and Houston area; development matters.

Additional information may be obtained from Betty Anne Thedford, P.O. Box N, Austin, Texas 78712, telephone (512) 471-1265.

Filed: February 22, 1980, 1:55 p.m.  
Doc. No. 801418

## Texas Water Commission

**Monday, February 25, 1980, 10 a.m.** The Texas Water Commission made an emergency addition to the agenda of a meeting held in Room 118, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. According to the agenda summary, the addition concerned reapproval of an application by Charterwood Municipal Utility District of Harris County for approval of a \$2,690,000 bond issue.

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

Filed: February 21, 1980, 3:22 p.m.  
Doc. No. 801367



**Monday, March 3, 1980, 10 a.m.** The Texas Water Commission will meet in Room 118, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. According to the agenda summary, the commission will consider the following items: application for district bond issue, applications for water quality permit, and renewals, voluntary cancellation of water quality permit, dismissal of claim, voluntary cancellation and dismissal of claim, extension of time applications, approval of plans and specifications, and filing and setting of hearing dates.

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

Filed: February 21, 1980, 3:22 p.m.  
Doc. No. 801368

## Regional Agencies

### Meetings Filed February 21, 1980

**The Brazos River Authority**, Board of Directors, Lake Management Committee, will meet at the Lake Supervisor's Office, Possum Kingdom Lake, on February 29, 1980, at 11 a.m. Further information may be obtained from Mike Bukala, P.O. Box 7555, Waco, Texas 76710, telephone (817) 776-1441.

**The Brazos Valley MHMR Center**, Executive Committee, Board of Trustees, met in emergency session at 202 East 27th, Bryan, on February 22, 1980, at 2 p.m. Further information may be obtained from Dr. Linda S. Davis, 202 East 27th, Bryan, Texas 77801, telephone (713) 779-2000.

**The Greater East Texas Health System Agency**, Executive Committee, met at Dogwood Country Club, Highway 190, Woodville, on February 28, 1980, at 7:30 p.m. Further information may be obtained from Larry D. Lacy, 2900 North, Suite 202, Beaumont, Texas 77702, telephone (713) 892-6962.

**The Heart of Texas Region MHMR Center**, Board of Trustees, met in the conference room, Cameron Building, 110 South 12th, Waco, on February 26, 1980, at 3 p.m. Further information may be obtained from Sue Richardson, P.O. Box 1277, Waco, Texas 76703, telephone (817) 752-3451.

Doc. No. 801370

### Meetings Filed February 22, 1980

**The Central Texas Council of Governments**, Executive Committee, met at 302 East Central, Belton, on February 28, 1980, at 10:30 a.m. Further information may be obtained from Walton B. Reedy, P.O. Box 720, Belton, Texas 76513, telephone (817) 939-1801.

**The CETA Consortium, Region XI**, McLennan County Non-Urban Administration Unit, met at the county courthouse, Waco, on February 28, 1980, at 10 a.m. Further information may be obtained from Nancy Miller, 130 North 6th Street, Waco, Texas, telephone (817) 756-1851.

**The Lubbock Regional MHMR Center**, met at 1210 Texas Avenue, Lubbock, on February 26, 1980, at 4:30 a.m. Further information may be obtained from Gene Menefee, 1210 Texas Avenue, Lubbock, Texas, telephone (806) 763-4213.

**The Middle Rio Grande Development Council**, A-95 Project Review Committee, met in the City Council Chambers, City Hall, Uvalde, on February 27, 1980, at 2 p.m. Further information may be obtained from Elia G. Santos, P.O. Box 1461, Del Rio, Texas 78840, telephone (512) 775-1581.

**The Middle Rio Grande Development Council**, Board of Directors, will meet at Uvalde Civic Center, Uvalde, on February 29, 1980, at 2:30 p.m. Further information may be obtained from Elia G. Santos, P.O. Box 1461, Del Rio, Texas 78840, telephone (512) 775-1581.

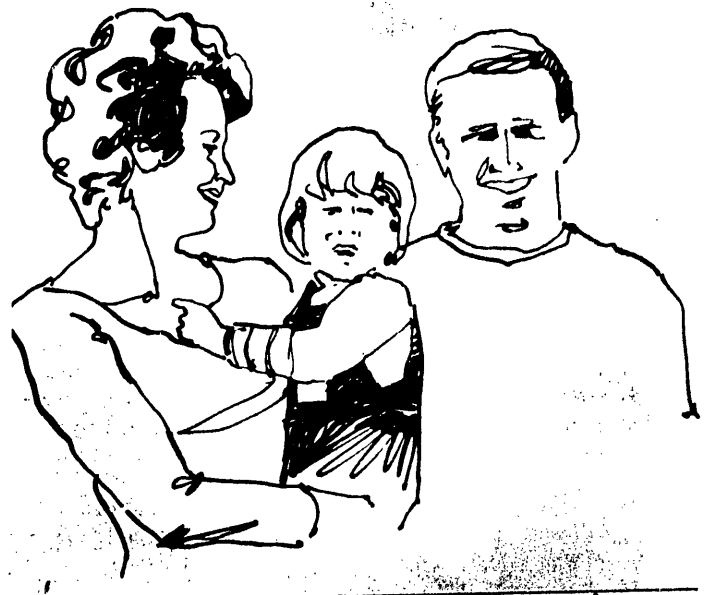
**The Tri-Region Health Systems Agency**, Concho Valley Maternal and Child Health Task Force, will meet at First City National Bank of San Angelo, 124 West Beauregard, San Angelo, on March 6, 1980, at 7 p.m. Further information may be obtained from David Brown, 2642 Post Oak Road, Abilene, Texas 79605, telephone (915) 698-9481.

Doc. No. 801436

### Meetings Filed February 25, 1980

**The Education Service Center, Region XX**, Board of Directors, met in emergency session at 1550 N.E. Loop 410, San Antonio, on February 27, 1980, at 3 p.m. Further information may be obtained from Dr. Dwain M. Estes, 1550 N.E. Loop 410, San Antonio, Texas 78209, telephone (512) 828-3551.

Doc. No. 801444



## Texas Department of Agriculture

### Consultant Contract Award

In compliance with Article 6252-11c, Texas Revised Civil Statutes Annotated, notice is hereby given that a contract has been awarded for consulting services to provide technical assistance and consultation on state agricultural energy alternatives, development, and conservation in cooperation with the United States Department of Agriculture, Office of the Governor of Texas, and related agricultural and energy agencies. This work involves planning, directing, and coordinating the program and demands an extensive knowledge of agriculture, relevant energy programs, and policies that affect this program. This contract has been awarded to Dr. John E. Hutchison, No. 123, 601 West 11th Street, Austin, Texas 78701, for a maximum value of not to exceed \$36,000 per annum. The contract commences January 1, 1980, and extends through August 31, 1981. Notice of the consultant proposal request was published in the November 13, 1979, issue of the *Texas Register*.

Dr. Hutchison has been previously employed as a consultant by the Texas Department of Agriculture within the last two years.

Documents, films, recordings, or reports of intangible results are due upon request of the commissioner of agriculture.

Issued in Austin, Texas, on February 21, 1980.

Doc. No. 801392      J. R. Almond, Jr.  
Contracts Administration  
Texas Department of Agriculture

Filed: February 21, 1980, 4:50 p.m.

For further information, please call (512) 475-1761.

## Texas Energy and Natural Resources Advisory Council

### Consultant Proposal Request

**Description of Project Objectives.** In accordance with the Texas Energy Development Act of 1977, Article 4413(47b), Vernon's Annotated Civil Statutes, as amended by Senate Bill 921, 66th Legislature, Regular Session, and pursuant to rules adopted for administration of the Energy Development Act (4 TexReg 4604), TENRAC is soliciting proposals for lignite research, development, and demonstration (RD&D).

Lignite currently provides approximately 16% of Texas' electric power. This percentage is expected to grow significantly in the next decade. Technology for the large scale combustion of lignite (greater than  $1 \times 10^9$  Btu/hr) is currently available and/or is being researched and developed by the electric utility industry, equipment manufacturers, and the federal government. Technologies for smaller scale uses of lignite, such as the production of steam in industrial boilers and the conversion of lignite to a combustible gas which can be substituted for natural gas, are less well developed. Additionally, the control of environmental impacts from lignite use and increased knowledge of the characteristics of the state's lignite resource are matters of public concern and importance.

Given the above factors and the expected importance of lignite in Texas' future, the Advisory Committee on Lignite Research, Development, and Demonstration was established by the Texas Energy Advisory Council to examine the appropriate role of state involvement in lignite RD&D. A copy of the committee's report is available through the TENRAC library. Based on the committee's recommendations as contained in its report, the following solicitations are being made.

**Specific Project Areas.** Proposals in the following lignite areas are requested. It is anticipated that TENRAC funding for university studies related to lignite characterization will become available in the near future and that such proposals will be solicited at that time. Additional proposals may be solicited at a later date.

**SPI No. 80-L-2.** Research and/or development of advanced technologies for the use of lignite as an industrial fuel. Advanced technologies are defined as any technology (1) not currently in widespread use in the U.S. and (2) offering potential economic and environmental advantages to existing, commercial technologies. Such technologies include but are not limited to gasification, fluidized bed combustion, and beneficiation.

**SPI No. 80-L-3.** Demonstration of advanced technologies for the use of lignite as an industrial fuel. Advanced technologies are defined as any technology (1) not currently in widespread use in the U.S. and (2) offering potential economic and environmental advantages to existing, commercial technologies. Such technologies include but are not limited to gasification, fluidized bed combustion, and beneficiation.

**SPI No. 80-L-4.** Research and/or development related to particulate control systems. Particulate control systems as defined herein include both precombustion beneficiation and postcombustion flue gas cleaning. Preference will be given to proposals which are science (i.e., technology) oriented. Areas of interest include but are not limited to (1) the relationships between lignite and/or lignite ash and the performance of particulate control systems, (2) chemical and/or physical mechanisms of solids removal or capture in particulate control systems with emphasis on the significance of the mechanisms to lignite, (3) characterization of lignites and/or lignite ashes as related to the operation of existing particulate control systems, and (4) technical and economic evaluation of alternate particulate control systems with regard to several typical lignites.

**SPI No. 80-L-5.** Research, development, and/or demonstration related to the disposal or use of solid wastes from existing or advanced (e.g., atmospheric fluidized bed combustion) technologies for lignite combustion. Preference will be given to proposals directed at solid waste recovery and use. Proposals may be science, technology, or policy oriented. Specific attention should be directed at the impact of the Resource Conservation and Recovery Act of 1976 (Public Law 94-580) on the use of lignite.

**SPI No. 80-L-6.** Research, development, and/or demonstration related to environmental issues not included in SPI 80-L-4 or 80-L-5. Proposals submitted under this SPI should discuss (1) the significance to Texas of the issue at which the study is directed, (2) the potential impact of the issue on lignite development, and (3) earlier studies pertinent to the proposed study. Such studies may be science, technology, or

policy oriented. Should funds be limited for environmental studies, preference will be given to 80-L-4 and 80-L-5.

**Funding.** TENRAC expects to fund several projects but not necessarily one under each SPI nor limited to one under any SPI. Cost sharing with proposers and third-party interests is encouraged and will strengthen a proposal's potential for selection. The reasonableness of budget will be considered in proposal evaluation. Total funding expected to be contracted through August 1981 as a result of this solicitation is approximately \$270,000. Projects extending beyond August 1981 are invited, but funding after that date is contingent upon appropriation of funds by the 67th Texas Legislature.

**Eligibility.** The following criteria are established for eligibility of proposers:

(1) Texas-based proposers will be given priority consideration and only in unusual circumstances will this priority be disregarded.

(2) Projects to be conducted in Texas will be given priority consideration and only in unusual circumstances will this priority be disregarded.

(3) Individual members of the council, TENRAC staff, or their immediate families are not eligible.

**Proposal Content.** Voluminous proposals are not desired. It is suggested that the body of proposals for research and development be limited to 25 pages, plus appendices. Proposers considering submission of a proposal for demonstration should contact TENRAC by not later than March 15, 1980, to obtain additional information on proposal preparation and submission deadline. Research and development proposals should include the following:

(1) Cover page. The cover page should include the project title; SPI number; name and address of proposer(s); name, address, and telephone number of person(s) to be contacted concerning technical and contractual questions; and signature of proposer's authorized representative(s).

(2) Proposal summary. The proposal summary should include a summary of complete project, highlighting activities for which TENRAC participation is requested, role of proposer(s) and other major participants, total time and funds involved, and TENRAC funds requested.

(3) Technical section. The technical section should include a description of the project including objectives, technical description, significance to Texas within the next 25 years, economic and environmental considerations, proprietary aspects of project, and other materials as appropriate.

(4) Administrative section. The administrative section should include the organizational structure and responsibilities of major participants and key individuals and project time schedule showing major milestones and project reporting (except in special circumstances, project status reports will be required every other month).

(5) Financial section. The financial section should include the total project budget itemized by major cost category (salaries and wages, fringe benefits, materials and supplies, capital equipment, travel, subcontracts, other direct costs, indirect costs, fee), by state fiscal year, and by major project components (as appropriate) detailing proposed use of TENRAC funds, source of other funds, and proposed contracting mechanism.

(5) Qualification section. The qualification section should include a summary of qualifications of major organizational participants and key individuals, highlighting

relevant experience. Resumes should be placed in the appendix.

(6) Appendices. Appendices should be included as appropriate.

**Review Criteria and Procedures.** Evaluation of submitted proposals will be in accordance with rules adopted for administration of the Energy Development Act cited above.

**Deadline and Address for Proposal Submission.** In order to be considered, 10 copies of a proposal must be received in Room 900, 411 West 13th Street, Austin, Texas 78701, no later than 5 p.m. April 9, 1980.

**Target Date for Contract Awards.** It is anticipated that contract awards will be made about May 10, 1980.

**Schedule for Completion.** Work to be compensated with current funding must be completed by not later than August 31, 1981. Projects for longer periods are invited, but authorization of additional funds are subject to appropriation by the 67th Texas Legislature. All projects will provide a draft final report or comprehensive technical progress report by not later than May 1, 1981.

**Designation of Contact Person for Additional Information.** Address questions and requests for additional information to David M. White, Texas Energy and Natural Resources Advisory Council, 411 West 13th Street, Room 900, Austin, Texas 78701, telephone (512) 475-5588 or STS 822-5588.

Issued in Austin, Texas, on February 22, 1980.

Doc. No. 801413 Roy R. Ray, Jr., Manager  
Technology Development Section  
Texas Energy and Natural Resources  
Advisory Council

Filed: February 22, 1980, 11:53 a.m.

For further information, please call (512) 475-5588.

## Texas Department of Health Texas Department of Human Resources

### Study on Use of Nursing Staff Temporary Services in Hospitals and Nursing Homes

The 66th Legislature of Texas passed Senate Concurrent Resolution No. 87 requesting the Texas Department of Human Resources and the Texas Department of Health to conduct a joint study, with consumer input, of nursing staff temporary services to determine their impact on available manpower and their effect on the cost of health care delivery. Through the resolution the legislature recognized that services which provide temporary medical personnel are draining the market of medical personnel; hospitals and nursing homes are finding it very difficult to find temporary personnel because of heavy employment through temporary services; temporary services' hourly rates substantially exceed wages normally paid; and the Department of Health, Education, and Welfare has questioned whether long-term care facilities should even be permitted to use temporary services for nursing staff.

The joint study is intended to ascertain the degree in which services providing temporary medical personnel are draining the market of medical personnel; the degree of difficulty hospitals and nursing homes are having in finding temporary personnel because of heavy employment through temporary services; the degree in which temporary services' hourly rates exceed wages normally paid; and the current thinking of the Department of Health, Education, and Welfare regarding use of temporary services for nursing staff in long-term care facilities participating in Medicare and Medicaid. The study is also intended to determine the effect of the use of temporary services on the quality of hospital and nursing home care delivered, to find ways for improving temporary services, and to determine ways hospitals and nursing homes can more easily meet their staffing needs through both employed personnel and temporary services.

Through questionnaire the Texas Department of Health has acquired information which, when analyzed, will indicate the extent of the use of temporary services, the effect temporary services have on the capability of the nursing home to employ its own staff, the costs for use of temporary services, and the effect the use of temporary services has on the quality of care delivered by the institution. Representatives of the Texas Department of Health and the Texas Department of Human Resources have visited some agencies providing temporary health care services to gain such information as methods of operation of these services, training and competency of agency personnel, charges for services, and frequency of services to consumers. The departments are also acquiring information on this subject as it relates to other states. To further gain information relating to all aspects of this subject, the Texas Department of Health and the Texas Department of Human Resources will conduct the following public hearings:

Friday, March 7, 1980, at 9:30 a.m.  
Houston Lighting and Power Information Center  
2121 West Loop South (between Westheimer and  
San Felipe)  
Houston

Monday, March 10, 1980, at 9:30 a.m.  
Arlington Community Auditorium  
2800 South Center  
Arlington

Thursday, March 13, 1980, at 10 a.m.  
Mahon Library—Community Room  
1306 9th Street  
Lubbock

Thursday, March 20, 1980, at 1:30 p.m.  
United States Federal Building, Room A-206  
727 East Durango  
San Antonio

The procedures at these hearings will be as follows:

(1) All interested persons will have the opportunity to present testimony and comments which are relevant and material to the subject. No testimony will be heard on other subjects.

(2) While all relevant information is of importance, the presiding officer may find it necessary to establish time limits for speakers and to not hear excessive or repetitious testimony.

(3) Associations or other groups of people should select one spokesperson to present the viewpoints of the association or group.

(4) Persons testifying are strongly urged to reduce their comments and testimony to writing and submit such material to the presiding officer at the hearing.

(5) All testimony, written or verbal, will become a part of the hearing record and will be used by the department staff in its study of this subject.

In addition to the hearings, written public comment on this subject is invited and should be addressed to Raymond T. Moore, M.D., deputy commissioner, Special Health Services, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756. Written comment should be received no later than March 31, 1980.

Issued in Austin, Texas, on February 21, 1980.

Doc. No. 801407      Dan LaFleur  
                                 Attorney  
                                 Texas Department of Health

Filed: February 21, 1980, 4:13 p.m.

For further information, please call (512) 458-7706.

## Texas Health Facilities Commission Applications for Declaratory Ruling, Exemption Certificate, and Transfer and Amendment of Certificate

Notice is hereby given by the Texas Health Facilities Commission of application (including a general project description) for declaratory ruling, exemption certificate, transfer of certificate, and amendment of certificate accepted during the period of February 20-21, 1980.

Should any person wish to become a formal party to any of the above-stated applications, that person must file a request to become a party to the application with the chairman of the commission within 25 days after the application is accepted. The first day for calculating this 25-day period is the first calendar day following the date of acceptance of the application. The 25th day will expire at 5 p.m. on the 25th consecutive day after the date said application is accepted. If the 25th day is a Saturday, Sunday, or state holiday, the last day shall be extended to 5 p.m. of the next day that is not a Saturday, Sunday, or state holiday. A request to become a party should be mailed to the chairman of the commission, P.O. Box 15023, Austin, Texas 78761, and must be received at the commission no later than 5 p.m. of the last day allowed for filing of a request to become a party.

The contents and form of a request to become a party to an application for a declaratory ruling, exemption certificate, transfer of certificate, or amendment of certificate must meet the minimum criteria set out in Rule 315.20.01.050. Failure of a party to supply the minimum necessary information in the correct form will result in a defective request to become a party and such application will be considered uncontested.

The fact that an application is uncontested will not mean that it will be approved. The application will be approved only if the commission determines that it qualifies under the criteria of Sections 3.02 or 3.03 of Article 4418(h), Texas Revised Civil Statutes, and Rules 315.17.04.010-.030, 315.17.05.010-.030, 315.18.04.010-.030, and 315.18.05.010-.030.

In the following list, the applicant and date of acceptance are listed first, the file number second, the relief sought third, and description of the project fourth. EC indicates exemption certificate, DR indicates declaratory ruling, TR indicates transfer of ownership of certificate, AMD indicates amendment of certificate, and CN indicates certificate of need.

Greenleaf Psychiatric Center, Bryan (2/21/80)  
AS80-0117-005

EC—Request authority to reoffer ECT services versus continuation of contractual agreement to offer such service with Bryan Hospital

Heights Physical Therapy Service, Inc., Houston  
(2/21/80)

AS80-0118-028

DR—Request declaratory ruling that neither a certificate of need nor an exemption certificate is required to provide speech therapy as a certified rehabilitation agency for the purpose of obtaining Medicare reimbursement

Issued in Austin, Texas, on February 22, 1980.

Doc. No. 801408      John R. Neel  
                                 General Counsel  
                                 Texas Health Facilities Commission

Filed: February 22, 1980, 11:44 a.m.  
For further information, please call (512) 475-6940.

## Public Utility Commission of Texas Notice of Proposal Deadline Extension

The due date for proposals on computer modeling assistance for the Public Utility Commission published in the February 19, 1980, issue of the *Texas Register* (5 TexReg 611) is hereby extended to March 31, 1980.

Issued in Austin, Texas, on February 22, 1980.

Doc. No. 801391      Philip F. Ricketts  
                                 Secretary of the Commission  
                                 Public Utility Commission of Texas

Filed: February 22, 1980, 8:42 a.m.  
For further information, please call (512) 458-0216.



## March, April, and May Publication Schedule for the *Texas Register*

Listed below are the deadline dates for the March, April, and May issues of the *Texas Register*. Because of printing schedules, material received after the deadline for an issue cannot be published until the next issue. Generally, deadlines for a Tuesday edition of the *Register* are Wednesday and Thursday of the week preceding publication, and deadlines for a Friday edition are Friday of the preceding week and Monday of the week of publication. An asterisk beside a publication date indicates that the deadlines have been moved because of state holidays. Please note that the issue published on April 29 will be an index; no other material will be published in this issue. The *Texas Register* will not be published on May 30.

FOR ISSUE PUBLISHED ON:	ALL COPY EXCEPT NOTICES OF OPEN MEETINGS BY NOON ON:	ALL NOTICES OF OPEN MEETINGS BY NOON ON:
Tuesday, March 4 Friday, March 7 Tuesday, March 11 Friday, March 14 Tuesday, March 18 Friday, March 21 Tuesday, March 25 Friday, March 28	Wednesday, February 27 Friday, February 29 Wednesday, March 5 Friday, March 7 Wednesday, March 12 Friday, March 14 Wednesday, March 19 Friday, March 21	Thursday, February 28 Monday, March 3 Thursday, March 6 Monday, March 10 Thursday, March 13 Monday, March 17 Thursday, March 20 Monday, March 24
Tuesday, April 1 Friday, April 4 Tuesday, April 8 Friday, April 11 Tuesday, April 15 Friday, April 18 Tuesday, April 22 Friday, April 25 Tuesday, April 29	Wednesday, March 26 Friday, March 28 Wednesday, April 2 Friday, April 4 Wednesday, April 9 Friday, April 11 Wednesday, April 16 Thursday, April 17	Thursday, March 27 Monday, March 31 Thursday, April 3 Monday, April 7 Thursday, April 10 Monday, April 14 Thursday, April 17 Friday, April 18
	1ST QUARTERLY INDEX	
Friday, May 2 Tuesday, May 6 Friday, May 9 Tuesday, May 13 Friday, May 16 Tuesday, May 20 Friday, May 23 Tuesday, May 27 Friday, May 30	Friday, April 25 Wednesday, April 30 Friday, May 2 Wednesday, May 7 Friday, May 9 Wednesday, May 14 Friday, May 16 Wednesday, May 21	Monday, April 28 Thursday, May 1 Monday, May 5 Thursday, May 8 Monday, May 12 Thursday, May 15 Monday, May 19 Thursday, May 22
	NO ISSUE PUBLISHED	

The following state holidays fall within the period of this publication schedule:

- Monday, April 21 ..... San Jacinto Day
- Monday, May 26 ..... Memorial Day

The *Texas Register* Division will, as all other state agencies, observe these holidays and will not process or file notices of meetings or other documents.

## TAC Titles Affected in This Issue

The following is a list of the chapters of each title of the *Texas Administrative Code* affected by documents published in this issue of the *Register*. The listings are arranged in the same order as the table of contents of the *Texas Administrative Code*.

### TITLE 1. ADMINISTRATION

#### Part IV. Office of the Secretary of State

Noncodified (004.30.05.401-.415).....	761
Noncodified (004.30.05.420).....	761

### TITLE 16. ECONOMIC REGULATION

#### Part IV. Texas Department of Labor and Standards

Noncodified (063.22.10.015).....	740
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### TITLE 19. EDUCATION

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