PROPOSED RULES

Proposed rules include new rules, amendments to existing rules, and repeals of existing rules. A state agency shall give at least 30 days' notice of its intention to adopt a rule before it adopts the rule. A state agency shall give all interested persons a reasonable opportunity to submit data, views, or arguments, orally or in writing (Government Code, Chapter 2001).

Symbols in proposed rule text. Proposed new language is indicated by underlined text. [~~Square brackets and strikethrough~~] indicate existing rule text that is proposed for deletion. "(No change)" indicates that existing rule text at this level will not be amended.

TITLE 7. BANKING AND SECURITIES

PART 6. CREDIT UNION DEPARTMENT

CHAPTER 91. CHARTERING, OPERATIONS, MERGERS, LIQUIDATIONS

SUBCHAPTER G. LENDING POWERS

7 TAC §91.709, §91.714

The Credit Union Commission proposes amendments to §91.709, Member Business and Commercial Loans, and §91.714, Leasing.

EXPLANATION OF AND JUSTIFICATION FOR THE RULES

The proposed amendments, identified as a part of the Credit Union Department's quadrennial rule review process, would delete a reference in subsection (b) of §91.714 to acquisition of property for the purpose of leasing it, already prohibited by §91.401, and make non-substantive changes to both rules, including clarifications to §91.709 regarding the concept of controlling interests in commercial loans and to §91.714 by adding a reference to §91.401 to ensure consistency between these sections that both address ownership and leasing of real property by a credit union.

COST TO REGULATED PERSONS. This rule proposal is not subject to Texas Government Code §2001.0045 concerning increasing costs to regulated persons because this agency is a self-directed semi-independent (SDSI) agency under Finance Code Chapter 16 and is therefore exempt under §2001.0045(c)(8).

GOVERNMENT GROWTH IMPACT STATEMENT. In compliance with Texas Government Code §2001.0221, the Department has prepared a government growth impact statement.

For each year of the first five years that the rules as amended will be in effect, the rules will not:

--create or eliminate a government program;

--require the creation of new employee positions or the elimination of existing employee positions;

--require an increase or decrease in future legislative appropriations to the Department;

--require an increase or decrease in fees paid to the Department;

--create new regulations;

--expand, limit, or repeal existing regulations;

--increase or decrease the number of individuals subject to the rule's applicability;

--positively or adversely affect this state's economy.

ENVIRONMENTAL RULE ANALYSIS. The proposed rules are not "major environmental rules" as defined by Government Code, §2001.0225. The proposed rules are not specifically intended to protect the environment or to reduce risks to human health from environmental exposure. Therefore, a regulatory environmental analysis is not required.

FISCAL IMPACT ON STATE AND LOCAL GOVERNMENTS. Robert Etheridge, Commissioner, has determined that for the first five-year period the proposed amendments are in effect, there are no reasonably foreseeable implications relating to cost or revenues of state or local governments under Government Code §2001.024(a)(4) as a result of enforcing or administering these amendments as proposed.

PUBLIC BENEFIT/COST NOTE. Mr. Etheridge has determined, pursuant to Government Code §2001.024(a)(5), that for the first five-year period the amended rules are in effect, the public benefit is increased clarity, consistency, and readability of the rules. He has further determined there will be no probable economic cost to the credit union system or to persons required to comply with the rules.

IMPACT ON LOCAL EMPLOYMENT OR ECONOMY. There is no reasonably anticipated effect on a local economy for the first five years that the proposed amendments are in effect. Therefore, no economic impact statement, local employment impact statement, or regulatory flexibility analysis is required under Texas Government Code §§2001.022 or 2001.024(a)(6).

ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS FOR SMALL BUSINESSES, MICROBUSINESSES, AND RURAL COMMUNITIES. Mr. Etheridge has also determined that for each year of the first five years the proposed amendments are in effect, there will be no reasonably forecasted adverse economic effect on small businesses, micro-businesses, or rural communities as a result of implementing these amendments, and, therefore, no regulatory flexibility analysis, as specified in Texas Government Code §2006.002, is required.

TAKINGS IMPACT ASSESSMENT. No private real property interests are affected by this proposal, and the proposal does not restrict or limit an owner's right to his or her property that would otherwise exist in the absence of government action. Therefore, the amendments do not constitute a taking under Texas Government Code §2007.043.

REQUEST FOR PUBLIC COMMENT. The Department is requesting public comments on the proposed amendments and information related to the cost, benefit, or effect of the proposed rules, including any applicable data, research, or analysis, from any person required to comply with the proposed rule or any other interested person. Please include an explanation of how and why the submitted information is specific to the proposed rules. Please do not submit copyrighted, confidential, or proprietary information. Written comments on the proposed amendments may be submitted in writing to Devon Bijansky, General Counsel, Credit Union Department, 914 East Anderson Lane, Austin, Texas 78752-1699 or by email to CUDMail@cud.texas.gov. To be considered, a written comment must be received within 30 days after publication of the proposal in the *Texas Register*.

STATUTORY AUTHORITY. The amendments are proposed pursuant to Texas Finance Code, §15.402, which authorizes the Commission to adopt reasonable rules for administering Texas Finance Code, Title 2, Chapter 15 and Title 3, Subtitle D. Authority to adopt these amendments is found also in Texas Finance Code §123.103.

STATUTORY SECTIONS AFFECTED. The statutory provisions affected by the proposed amendments are contained in Texas Finance Code Chapter 15 and Title 3, Subtitle D, particularly Finance Code §123.103.

§91.709. Member Business and Commercial Loans.

(a) Definitions. Definitions in TEX. FIN. CODE §121.002, are incorporated herein by reference. As used in this section, the following words and terms shall have the following meanings, unless the context clearly indicates otherwise.

(1) - (2) (No change.)

(3) "Controlling interest [~~Control~~]" means an interest in which a person directly or indirectly, or acting through or together with one or more other persons [~~who~~]:

(A) owns [~~own~~], controls [~~control~~], or has [~~have~~] the power to vote twenty-five (25) percent or more of any class of voting securities of another person;

(B) controls [~~control~~], in any manner, the election of a majority of the directors, trustees, or other persons exercising similar functions of another person; or

(C) has [~~have~~] the power to exercise a controlling influence over the management or policies of another person.

(4) - (11) (No change.)

(b) - (h) (No change.)

(i) Aggregation and Attribution for Commercial Loans.

(1) - (2) (No change.)

(3) Common Enterprise.

(A) Description. A common enterprise is considered to exist and commercial loans to separate borrowers will be aggregated when:

(i) the expected source of repayment for each loan or extension of credit is the same for each borrower and neither borrower has another source of income from which the loan (together with the borrower's other obligations) may be fully repaid. An employer will not be treated as a source of repayment under this subparagraph because of wages and salaries paid to an employee[~~,~~] unless the loans or extensions of credit are made [~~the standards of clause (ii) of this subparagraph are met~~]:

[~~(ii)~~] [~~the loans or extension of credit are made:~~]

(I) to borrowers who have a controlling interest in the employer [~~who are related directly or indirectly through control~~] as defined by subsection (a) of this section; and

(II) substantial financial interdependence exists between or among the borrowers. Substantial financial interdependence is deemed to exist when fifty (50) percent or more of one borrower's gross receipts or gross expenditures (on an annual basis) are derived from transactions with the other borrower. Gross receipts and expenditures include gross revenues/expenses, intercompany loans, dividends, capital contributions, and other similar receipts or payments;

(ii) [~~(iii)~~] separate persons borrow from a credit union to acquire a business of enterprise of which those borrowers will own more than fifty (50) percent of the voting securities of voting interest, in which case a common enterprise is deemed to exist between the borrowers for purposes of combining the acquisition loans; or

(iii) [~~(iv)~~] the Department determines, based upon an evaluation of the facts and circumstances of particular transactions, that a common enterprise exists.

(B) - (C) (No change.)

(j) - (m) (No change.)

§91.714. Leasing.

(a) (No change.)

(b) Permissible activities. Subject to the limitations of this section §91.401 of this title (relating to Credit Union Ownership of Property), a credit union may engage in leasing activities. These activities include [~~becoming the legal or beneficial owner of tangible personal property or real property for the purpose of leasing such property,~~] obtaining an assignment of a lessor's interest in a lease of such property[~~,~~] and incurring obligations incidental to its position as the legal or beneficial owner and lessor of the leased property.

(c) - (h) (No change.)

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on March 27, 2026.

TRD-202601394
Robert Etheridge
Commissioner
Credit Union Department
Earliest possible date of adoption: May 10, 2026
For further information, please call: (512) 837-9236

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SUBCHAPTER J. CHANGES IN CORPORATE STATUS

7 TAC §91.1003

The Credit Union Commission proposes amendments to §91.1003, Mergers/Consolidations.

EXPLANATION OF AND JUSTIFICATION FOR THE RULES

The Credit Union Commission proposes amendments to 7 TAC §91.1003, Mergers and Consolidations. The proposed amendments would prohibit merger inducements and require merger-related financial arrangements (both as defined in the rule) to be disclosed to members before they vote on a merger. The amendments would also revise certain requirements for approval by the Department, increase consistency between the Texas and federal requirements for mergers, and make non-substantive changes for clarity and readability. These changes would better ensure that the member vote on a merger takes place without undue influence and increase transparency by ensuring that any merger-related financial arrangements are disclosed to the members before voting.

COST TO REGULATED PERSONS. This rule proposal is not subject to Texas Government Code §2001.0045 concerning increasing costs to regulated persons because this agency is a self-directed semi-independent (SDSI) agency under Finance Code Chapter 16 and is therefore exempt under §2001.0045(c)(8).

GOVERNMENT GROWTH IMPACT STATEMENT. In compliance with Texas Government Code §2001.0221, the Department has prepared a government growth impact statement.

For each year of the first five years that the rules as amended will be in effect, the rules will not:

--create or eliminate a government program;

--require the creation of new employee positions or the elimination of existing employee positions;

--require an increase or decrease in future legislative appropriations to the Department;

--require an increase or decrease in fees paid to the Department;

--create new regulations;

--expand, limit, or repeal existing regulations;

--increase or decrease the number of individuals subject to the rule's applicability;

--positively or adversely affect this state's economy.

ENVIRONMENTAL RULE ANALYSIS. The proposed rules are not "major environmental rules" as defined by Government Code, §2001.0225. The proposed rules are not specifically intended to protect the environment or to reduce risks to human health from environmental exposure. Therefore, a regulatory environmental analysis is not required.

FISCAL IMPACT ON STATE AND LOCAL GOVERNMENTS. Robert Etheridge, Commissioner, has determined that for the first five-year period the proposed amendments are in effect, there are no reasonably foreseeable implications relating to cost or revenues of state or local governments under Government Code §2001.024(a)(4) as a result of enforcing or administering these amendments as proposed.

PUBLIC BENEFIT/COST NOTE. Mr. Etheridge has determined, pursuant to Government Code §2001.024(a)(5), that for the first five-year period the amended rules are in effect, the public benefit is increased clarity, consistency, and readability of the rules. He has further determined that there will be no probable economic cost to the credit union system or to persons required to comply with the rules.

IMPACT ON LOCAL EMPLOYMENT OR ECONOMY. There is no reasonably anticipated effect on a local economy for the first five years that the proposed amendments are in effect. Therefore, no economic impact statement, local employment impact statement, or regulatory flexibility analysis is required under Texas Government Code §§2001.022 or 2001.024(a)(6).

ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS FOR SMALL BUSINESSES, MICROBUSINESSES, AND RURAL COMMUNITIES. Mr. Etheridge has also determined that for each year of the first five years the proposed amendments are in effect, there will be no reasonably forecasted adverse economic effect on small businesses, micro-businesses, or rural communities as a result of implementing these amendments, and, therefore, no regulatory flexibility analysis, as specified in Texas Government Code §2006.002, is required.

TAKINGS IMPACT ASSESSMENT. No private real property interests are affected by this proposal, and the proposal does not restrict or limit an owner's right to his or her property that would otherwise exist in the absence of government action. Therefore, the amendments do not constitute a taking under Texas Government Code §2007.043.

REQUEST FOR PUBLIC COMMENT. The Department is requesting public comments on the proposed amendments and information related to the cost, benefit, or effect of the proposed rules, including any applicable data, research, or analysis, from any person required to comply with the proposed rule or any other interested person. Please include an explanation of how and why the submitted information is specific to the proposed rules. Please do not submit copyrighted, confidential, or proprietary information. Written comments on the proposed amendments may be submitted in writing to Devon Bijansky, General Counsel, Credit Union Department, 914 East Anderson Lane, Austin, Texas 78752-1699 or by email to CUDMail@cud.texas.gov. To be considered, a written comment must be received within 30 days after publication of the proposal in the *Texas Register*.

STATUTORY AUTHORITY. The amendments are proposed pursuant to Texas Finance Code, §15.402, which authorizes the Commission to adopt reasonable rules for administering Texas Finance Code, Chapter 15 and Title 3, Subtitle D. Authority to adopt these amendments is found also in Texas Finance Code §122.1531 and 122.156.

STATUTORY SECTIONS AFFECTED. The statutory provisions affected by the proposed amendments are contained in Texas Finance Code Chapter 15 and Title 3, Subtitle D, particularly Finance Code §§122.005, and 122.151-.156.

§91.1003. Mergers/Consolidations.

(a) Definitions. The following words and terms, when used in this section, shall have the following meanings, unless the context clearly indicates otherwise.

(1) Acquirer [~~credit union~~]--The credit union that will continue in operation after the merger/consolidation.

(2) Acquiree [~~credit union~~]--The credit union that will cease to exist as an operating credit union at the time of the merger/consolidation.

(3) Covered person--The chief executive officer (CEO) or person acting in a similar capacity; the four most highly compensated employees other than the CEO, and any member of the board of directors or supervisory committee.

(4) [~~(3)~~] Merger inducement--Any payment of money, the distribution of property, or other economic benefit offered, provided, or promised to a member of the Acquiree that is conditioned on the member voting, refraining from voting, or voting in a particular manner on a proposed merger or the successful completion of a merger. A merger inducement does not include: [~~A promise by a credit union to~~

~~pay to the members of another credit union a sum of money or other material benefit upon the successful completion of a merger of the two credit unions.~~]

(A) a dividend or interest payment distributed proportionally among members based on each member's applicable account balance relative to the total balances on which the dividend or interest is paid;

(B) an interest rebate distributed proportionally among members based on each member's share of the total interest paid to the credit union; or

(C) dividends, interest, or other payments made in the ordinary course of business that are generally available to members and not tied to the proposed merger/consolidation;

(D) products, services, or pricing available to all members of Acquirer and Acquiree;

(E) nominal promotional items distributed in the ordinary course of business;

(F) access to products, services, or facilities of Acquirer following the merger/consolidation, including expanded branch access or service offerings;

(G) merger-related financial arrangements for the Acquiree's CEO and the four most highly compensated employees other than the CEO; or

(H) benefits to members of the board of directors that are permissible under 7 TAC §91.502 (relating to Director/Committee Member Fees, Insurance, Reimbursable Expenses, and Other Authorized Expenditures).

(5) Merger-related financial arrangement--Any agreement, arrangement, or understanding under which a covered person, or an entity affiliated with a covered person, receives or is entitled to receive a substantial increase in compensation or benefits that is contingent upon, related to, or provided in connection with the completion of a merger/consolidation, including:

(A) any increase in compensation or benefits provided to the covered person during the 24 months preceding the date on which the boards of directors of Acquirer and Acquiree approve the plan for merger/consolidation; and

(B) any increase in compensation or benefits that will be provided to the covered person in connection with the merger/consolidation; and

(C) the aggregate value of all increases in direct or indirect compensation, including salary, bonuses, leave, deferred compensation, accelerated or early payment of retirement benefits, or any other financial reward, excluding compensation or benefits available to all employees of the Acquirer on identical terms and conditions.

(6) [~~(4)~~] Substantial--An amount exceeding the greater of 15% of a person's existing compensation or 15% of the value of the person's existing benefits, or $10,000. [~~that is large in size, value, or importance. For purposes of this section, an amount is substantial if it exceeds $1,000.00 in total.~~]

(b) Merger/Consolidation; No Inducements. Two or more credit unions organized under the laws of this state, another state, or the United States, may merge/consolidate, in whole or in part, with each other, or into a newly incorporated credit union to the extent permitted by applicable law, subject to the requirements of this rule. An Acquirer may not directly or indirectly, including through a credit union service organization, an affiliate, a contractor, or other third party, offer, provide, arrange, or promise a merger inducement to any member of the Acquiree. [~~A credit union may not offer a merger inducement to another credit union's members as a means of promoting a merger of the two credit unions.~~]

(c) Notice of Intent to Merge/Consolidate. The Acquirer and Acquiree [~~credit unions~~] shall notify the commissioner in writing of their intent to merge/consolidate within ten days after their [~~the credit unions~~] boards of directors formally agree in principle to a proposition to merge/consolidate.

(d) Plan for Merger/Consolidation. Upon approval of a proposition for merger/consolidation by the boards of directors, the Acquirer and Acquiree [~~credit unions~~] must prepare a plan for the proposed merger/consolidation. The plan shall include:

(1) The terms and conditions of the merger/consolidation including a detailed description of all merger-related financial arrangements [~~any substantial remuneration, such as bonuses, deferred compensation, early payout of retirement benefits, severance packages, retainers, services agreements, or other substantial financial rewards or benefits that any board member or senior management employee of the acquiree credit union may receive in connection with the merger/consolidation~~];

(2) the current financial reports of each credit union;

(3) the current delinquent loan summaries for each credit union;

(4) [~~(3)~~] the combined financial reports of the Acquirer and Acquiree [~~two or more credit unions~~], including an assessment, in accordance with generally accepted accounting principles, of net worth of each credit union prior to the merger/consolidation and the combined net worth of the Acquirer after the merger/consolidation;

(5) [~~(4)~~] an analysis of the adequacy of the combined Credit [~~Loan and Lease~~] Losses account;

(6) [~~(5)~~] an explanation of any proposed adjustments to the members' shares, or provisions for reserves, dividends, or undivided earnings [~~profits~~];

(7) [~~(6)~~] a summary of the products and services proposed to be available to the members of the Acquirer [~~acquirer credit union~~], with an explanation of any changes from the current products and services provided to the members;

(8) [~~(7)~~] a summary of the advantages and disadvantages of the merger/consolidation;

(9) [~~(8)~~] the projected location of the main office and any branch location(s) after the merger/consolidation and whether any existing office locations will be permanently closed; and

(10) provisions and/or liabilities with respect to notification and payment to creditors; and

(11) [~~(9)~~] any other items deemed critical to the merger/consolidation by the Acquirer's and Acquiree's boards of directors [~~agreement by the boards of directors~~].

(e) Submission of an Application to Merge/Consolidate to Department.

(1) An application for approval of the merger/consolidation will be complete when the following information is submitted to the commissioner:

(A) the merger/consolidation plan, as described in this section;

(B) any proposed agreement, arrangement, or understanding arising from or required to implement the merger/consolidation;

(C) [~~(B)~~] a copy of the corporate resolution of each board of directors approving the merger/consolidation plan;

(D) [~~(C)~~] the proposed Notice of Special Meeting of the members;

(E) [~~(D)~~] a copy of the ballot form to be sent to the members;

[~~(E) the current delinquent loan summaries for each credit union;~~]

(F) a statement as to whether the transaction is subject to the Hart-Scott Rodino Act premerger notification filing requirements; [~~and~~]

(G) board minutes of Acquirer and Acquiree referencing the merger/consolidation during the 24 months preceding board approval of the merger/consolidation plan; [~~a request for a waiver of the requirement that the plan be approved by the members of any of the affected credit unions, in the event the board(s) seek such a waiver, together with a statement of the reason(s) for the waiver(s).~~]

(H) any additional information requested by the commissioner;

(I) a certification executed by the chief executive officers and chairpersons of the Acquirer and Acquiree stating that no merger-related financial arrangements exist other than those disclosed in the Notice of Special Meeting;

(J) for a credit union seeking a waiver of member approval of the merger/consolidation plan, a written request stating the reasons for the waiver; and

(K) for an Acquirer that is not federally insured and does not intend to become federally insured:

(i) a written statement that it is aware of the federal requirements prescribed by 12 U.S.C. 1831t(b), including all notification requirements; and

(ii) proof that its accounts will be insured by the non-federal insurer.

(2) If the Acquirer [~~acquirer credit union~~] is organized under the laws of another state or of the United States, the commissioner may accept an application to merge or consolidate that is prescribed by the state or federal supervisory authority of the Acquirer [~~acquirer credit union~~], provided that the commissioner may require additional information to determine whether to deny or approve the merger/consolidation plan. An [~~The~~] application submitted under this paragraph will be [~~deemed~~] complete upon receipt of all information requested by the commissioner.

(3) Notice of the proposed merger/consolidation must be published in the *Texas Register* and Department Newsletter as prescribed in §91.104 (relating to Public Notice and Comment on Certain Applications).

(f) Commissioner Action on the Application.

(1) The commissioner may grant preliminary approval of an application for merger/consolidation conditioned upon specific requirements being met, but final approval shall not be granted unless such conditions have been met within the time specified in the preliminary approval. If the commissioner determines that a merger/consolidation constitutes an emergency, the commissioner may waive any specific merger plan or application requirements to ensure uninterrupted service to the members.

(2) The commissioner may [~~shall~~] deny an application for merger/consolidation if the commissioner finds any of the following:

(A) the financial condition of the Acquirer [~~acquirer credit union~~] before the merger/consolidation is such that it will likely jeopardize the financial stability of the Acquiree [~~merging credit union~~] or prejudice the financial interests of the members, beneficiaries or creditors of either credit union;

(B) the plan includes a change in the products or services available to members of the Acquiree [~~acquiree credit union~~] that substantially harms the financial interests of the members, beneficiaries or creditors of the Acquiree [~~acquiree credit union~~];

(C) the merger/consolidation is likely to [~~would probably~~] substantially lessen the ability of the Acquirer [~~acquirer credit union~~] to meet the reasonable needs and convenience of members to be served;

(D) the credit unions do not furnish to the commissioner all information requested by the commissioner which is material to the application;

(E) the credit unions fail to obtain any approval required from a federal or state supervisory authority; or

(F) the merger/consolidation would be contrary to law.

(3) For applications to merge/consolidate in which the products and services of the Acquirer [~~acquirer credit union~~] after merger/consolidation are proposed to be substantially the same as those of the Acquirer and Acquiree [~~acquiree and acquirer credit unions~~], the commissioner will presume that the merger/consolidation will not significantly change or affect the availability and adequacy of financial services in the local community.

(g) Procedures for Approval of Merger/Consolidation Plan by the Members of Each Credit Union.

(1) The credit unions have the option of allowing their members to vote on the plan in person at a meeting of the members, by mail ballot, or both. With prior approval of the commissioner, a credit union may accept member votes by an alternative method that is reasonably calculated to ensure each member has an opportunity to vote.

(2) Members shall be given advance notice of the meeting in accordance with the credit union's bylaws. The notice of the meeting shall:

(A) specify the purpose of the meeting and state the date, time, and place of the special meeting;

(B) state the reasons for the proposed merger/consolidation;

(C) contain a summary of the merger/consolidation plan, including: [~~and state that any interested person may obtain more detailed information about the merger from the credit union at its principal place of business, or by any method approved in advance by the commissioner;~~]

(i) a statement on whether the Acquirer has a higher or lower net worth ratio than the Acquiree;

(ii) an indication of whether the members of the Acquiree will receive a share adjustment, dividend, or other distribution of reserves or undivided earnings and a description of the reasons for the decision;

(iii) a description of any changes regarding the change in the members' deposit insurance if the Acquiree is not federally insured;

(iv) a statement that any interested person may obtain more detailed information about the merger/consolidation from the credit union at its principal place of business, or by any method approved in advance by the commissioner; and

(v) a table, provided on a separate page enclosed with the meeting notice, ballot, and plan summary, describing each merger-related financial arrangement, including the covered person involved, their position, the nature and description of the arrangement, and the total amount of any compensation or benefits associated with the arrangement;

(D) provide the names [~~name~~] and street addresses of Acquirer's branch offices after the merger/consolidation [~~location of the acquirer credit union~~]; and

(E) state that members may vote on the merger/consolidation proposal in person or mail ballot or electronically (if the credit union bylaws allow) no later than the date and time established for the meeting called to vote on the merger/consolidation. [~~specify the methods permitted for casting votes; and~~]

[~~(F) if applicable, be accompanied by a mail ballot.~~]

(h) Completion of Merger/Consolidation.

(1) Upon approval of the merger/consolidation plan by the membership, if applicable, the Certificate of Merger/Consolidation shall be completed, signed and submitted to the commissioner for final authority to combine the records. Necessary amendments to the Acquirer's [~~acquirer credit union's~~] articles of incorporation or bylaws shall also be submitted at this time.

(2) Upon receipt of the commissioner's written authorization, the records of the credit unions shall be combined as of the effective date of the merger/consolidation. The board of the directors of the Acquirer [~~acquirer credit union~~] shall certify the completion of the merger/consolidation to the commissioner within 30 days after the effective date of the merger/consolidation.

(3) Upon receipt by the commissioner of the completion of the merger/consolidation certification, any article of incorporation or bylaw amendments will be approved and the charter of the Acquiree [~~acquiree credit union~~] will be canceled.

(i) Other requirements. A federally insured credit union subject to this section must comply with applicable provisions of 12 C.F.R. Part 708b. The commissioner may require documentation demonstrating compliance when considering a merger/consolidation application.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on March 27, 2026.

TRD-202601395
Robert Etheridge
Commissioner
Credit Union Department
Earliest possible date of adoption: May 10, 2026
For further information, please call: (512) 837-9236

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CHAPTER 95. SHARE AND DEPOSITOR INSURANCE PROTECTION
SUBCHAPTER A. INSURANCE REQUIREMENTS

7 TAC §§95.105, 95.108, 95.110

The Credit Union Commission proposes amendments to §95.105, Reporting; §95.108, Examinations; and §95.110, Enforcement; Penalty; and Appeal.

EXPLANATION OF AND JUSTIFICATION FOR THE RULES

The proposed amendments, identified as a part of the Credit Union Department's quadrennial rule review process, make non-substantive changes to the Department's rules. The amendments to §§95.105, Reporting, and 95.110, Enforcement; Penalty; and Appeal, consist of updates to the titles of other sections referenced in the rules as well as minor edits for readability. The amendments to §95.108, Examinations, incorporate provisions from §95.109, Fees and Charges, relating to fees for examinations of insuring organizations, which is being proposed for repeal elsewhere in this issue.

COST TO REGULATED PERSONS. This rule proposal is not subject to Texas Government Code §2001.0045 concerning increasing costs to regulated persons because this agency is a self-directed semi-independent (SDSI) agency under Finance Code Chapter 16 and is therefore exempt under §2001.0045(c)(8).

GOVERNMENT GROWTH IMPACT STATEMENT. In compliance with Texas Government Code §2001.0221, the Department has prepared a government growth impact statement.

For each year of the first five years that the rules as amended will be in effect, the rules will not:

--create or eliminate a government program;

--require the creation of new employee positions or the elimination of existing employee positions;

--require an increase or decrease in future legislative appropriations to the Department;

--require an increase or decrease in fees paid to the Department;

--create new regulations;

--expand, limit, or repeal existing regulations;

--increase or decrease the number of individuals subject to the rule's applicability;

--positively or adversely affect this state's economy.

ENVIRONMENTAL RULE ANALYSIS. The proposed rules are not "major environmental rules" as defined by Government Code, §2001.0225. The proposed rules are not specifically intended to protect the environment or to reduce risks to human health from environmental exposure. Therefore, a regulatory environmental analysis is not required.

FISCAL IMPACT ON STATE AND LOCAL GOVERNMENTS. Robert Etheridge, Commissioner, has determined that for the first five-year period the proposed amendments are in effect, there are no reasonably foreseeable implications relating to cost or revenues of state or local governments under Government Code §2001.024(a)(4) as a result of enforcing or administering these amendments as proposed.

PUBLIC BENEFIT/COST NOTE. Mr. Etheridge has determined, pursuant to Government Code §2001.024(a)(5), that for the first five-year period the amended rules are in effect, the public benefit is increased clarity and readability of the rules. He has further determined there will be no probable economic cost to the credit union system or to persons required to comply with the rule.

IMPACT ON LOCAL EMPLOYMENT OR ECONOMY. There is no reasonably anticipated effect on a local economy for the first five years that the proposed amendments are in effect. Therefore, no economic impact statement, local employment impact statement, or regulatory flexibility analysis is required under Texas Government Code §§2001.022 or 2001.024(a)(6).

ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS FOR SMALL BUSINESSES, MICROBUSINESSES, AND RURAL COMMUNITIES. Mr. Etheridge has also determined that for each year of the first five years the proposed amendments are in effect, there will be no reasonably forecasted adverse economic effect on small businesses, micro-businesses, or rural communities as a result of implementing these amendments, and, therefore, no regulatory flexibility analysis, as specified in Texas Government Code §2006.002, is required.

TAKINGS IMPACT ASSESSMENT. No private real property interests are affected by this proposal, and the proposal does not restrict or limit an owner's right to his or her property that would otherwise exist in the absence of government action. Therefore, the rules do not constitute a taking under Texas Government Code §2007.043.

REQUEST FOR PUBLIC COMMENT. The Department is requesting public comments on the proposed amendments and information related to the cost, benefit, or effect of the proposed rules, including any applicable data, research, or analysis, from any person required to comply with the proposed rule or any other interested person. Please include an explanation of how and why the submitted information is specific to the proposed rules. Please do not submit copyrighted, confidential, or proprietary information. Written comments on the proposed amendments may be submitted in writing to Devon Bijansky, General Counsel, Credit Union Department, 914 East Anderson Lane, Austin, Texas 78752-1699 or by email to CUDMail@cud.texas.gov. To be considered, a written comment must be received within 30 days after publication of the proposal in the *Texas Register*.

STATUTORY AUTHORITY. The amendments are proposed pursuant to Texas Finance Code, §15.402, which authorizes the Commission to adopt reasonable rules for administering Texas Finance Code, Title 2, Chapter 15 and Title 3, Subtitle D.

STATUTORY SECTIONS AFFECTED. The statutory provisions affected by the proposed amendments are contained in Texas Finance Code Chapter 15 and Title 3, Subtitle D, specifically §15.402.

§95.105. Reporting.

(a) Within one hundred days after the close of each [a] fiscal year, an insuring organization shall file with the commissioner [~~annually~~] audited financial statements, prepared in accordance with generally accepted accounting principles, covering that fiscal year. The audited financial statements shall be accompanied by an opinion of an independent certified public accountant. In addition, at least once every three years, the audit shall include an actuarial study of the capital adequacy of the insuring organization.

(b) The provisions of this section are in addition to those prescribed in §91.209 of this title (relating to Call Reports and Other Information Requests [~~Reports and Charges for Late Filing~~]).

§95.108. Examinations.

(a) The department may conduct examinations and investigations within or outside this state to determine whether an insuring organization has engaged, is engaging or is about to engage in any act, practice or transaction which constitutes an unsafe or unsound practice or a violation of any law or rule applicable to the insuring organization.

(b) In lieu of an examination under this section, the commissioner may accept the examination report of another regulator authorized to examine the insuring organization.

(c) If the Department conducts an examination or investigation in accordance with subsection (a) of this section, the insuring organization shall pay the costs as outlined for foreign credit union examinations in §97.113(d)(3) of this title.

(d) At the sole discretion of the Commissioner, the Department may engage professionals to perform and complete any aspect of an examination or investigation. The reasonable expenses and compensation of such professionals shall be paid by the insuring organization.

§95.110. Enforcement; Penalty; and Appeal.

(a) The commissioner may issue a cease and desist order, generally in accordance with Finance Code §122.257(b), (c), (d) and (e), to an officer, employee, director, and/or the insuring organization itself, if the commissioner determines from examination or other credible evidence that the insuring organization has or is operating in an unsafe or unsound manner, or violated or is violating any applicable Texas law or rule of the commission, including causing a credit union to operate in an unsafe or unsound condition as defined by Finance Code §121.002(11)(C). If the insuring organization does not comply with the order, the commissioner may assess an administrative penalty as authorized by Finance Code §122.260, as well as institute procedures to revoke the authority to provide primary share insurance coverage in this state.

(b) An insuring organization may file a notice of appeal of a cease and desist order in accordance with §93.401 of this title (relating to Appeals of Cease and Desist Orders and Orders of Removal [~~Finality and Request for SOAH Hearing~~]).

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on March 27, 2026.

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Robert Etheridge
Commissioner
Credit Union Department
Earliest possible date of adoption: May 10, 2026
For further information, please call: (512) 837-9236

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7 TAC §95.109

The Credit Union Commission proposes the repeal of 7 TAC §95.109, Fees and Charges.

EXPLANATION OF AND JUSTIFICATION FOR THE RULES

The repeal of this section is proposed in order to combine the provisions of this section with §95.108, Examinations, being proposed for amendment elsewhere in this issue so that provisions regarding examinations of insuring organizations and the fees associated with those examinations will be in a single rule.

COST TO REGULATED PERSONS. This proposed repeal is not subject to Texas Government Code §2001.0045 concerning increasing costs to regulated persons because this agency is a self-directed semi-independent (SDSI) agency under Finance Code Chapter 16 and is therefore exempt under §2001.0045(c)(8).

GOVERNMENT GROWTH IMPACT STATEMENT. In compliance with Texas Government Code §2001.0221, the Department has prepared a government growth impact statement.

For each year of the first five years that the rule as amended will be in effect, the proposed repeal will not:

--create or eliminate a government program;

--require the creation of new employee positions or the elimination of existing employee positions;

--require an increase or decrease in future legislative appropriations to the Department;

--require an increase or decrease in fees paid to the Department;

--create new regulations;

--expand, limit, or repeal existing regulations;

--increase or decrease the number of individuals subject to the rule's applicability;

--positively or adversely affect this state's economy.

ENVIRONMENTAL RULE ANALYSIS. The proposed repeal is not a "major environmental rule" as defined by Government Code, §2001.0225. The proposed rule is not specifically intended to protect the environment or to reduce risks to human health from environmental exposure. Therefore, a regulatory environmental analysis is not required.

FISCAL IMPACT ON STATE AND LOCAL GOVERNMENTS. Robert Etheridge, Commissioner, has determined that for the first five-year period the proposed repeal is in effect, there are no reasonably foreseeable implications relating to cost or revenues of state or local governments under Government Code §2001.024(a)(4) as a result of this proposed repeal.

PUBLIC BENEFIT/COST NOTE. Mr. Etheridge has determined, pursuant to Government Code §2001.024(a)(5), that for the first five-year period the proposed repeal is in effect, the public benefit is clarity. He has further determined there will be no probable economic cost to the credit union system or to persons required to comply with the proposed repeal.

IMPACT ON LOCAL EMPLOYMENT OR ECONOMY. There is no reasonably anticipated effect on a local economy for the first five years that the proposed repeal is in effect. Therefore, no economic impact statement, local employment impact statement, or regulatory flexibility analysis is required under Texas Government Code §§2001.022 or 2001.024(a)(6).

ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS FOR SMALL BUSINESSES, MICROBUSINESSES, AND RURAL COMMUNITIES. Mr. Etheridge has also determined that for each year of the first five years the proposed repeal is in effect, there will be no reasonably forecasted adverse economic effect on small businesses, micro-businesses, or rural communities as a result of implementing these amendments, and, therefore, no regulatory flexibility analysis, as specified in Texas Government Code §2006.002, is required.

TAKINGS IMPACT ASSESSMENT. No private real property interests are affected by this proposal, and the proposal does not restrict or limit an owner's right to his or her property that would otherwise exist in the absence of government action. Therefore, the proposal does not constitute a taking under Texas Government Code §2007.043.

REQUEST FOR PUBLIC COMMENT. The Department is requesting public comments on the proposed repeal and information related to the cost, benefit, or effect thereof, including any applicable data, research, or analysis, from any person required to comply with the proposed repeal or any other interested person. Please include an explanation of how and why the submitted information is specific to the proposed repeal. Please do not submit copyrighted, confidential, or proprietary information. Written comments on the proposed amendments may be submitted in writing to Devon Bijansky, General Counsel, Credit Union Department, 914 East Anderson Lane, Austin, Texas 78752-1699 or by email to CUDMail@cud.texas.gov. To be considered, a written comment must be received within 30 days after publication of the proposal in the *Texas Register.*

STATUTORY AUTHORITY. The repeal is proposed pursuant to Texas Finance Code §15.402, which authorizes the Commission to adopt reasonable rules for administering Texas Finance Code, Title 2, Chapter 15 and Title 3, Subtitle D.

STATUTORY SECTIONS AFFECTED. The statutory provisions affected by the proposed amendments are contained in Texas Finance Code Chapter 15 and Title 3, Subtitle D.

§95.109. Fees and Charges.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

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SUBCHAPTER C. GUARANTY CREDIT UNION

7 TAC §§95.302, 95.305, 95.310

The Credit Union Commission proposes amendments to §95.302, Powers; §95.305, Audited Financial Statements; Accounting Procedures; Reports; and §95.310, Fees and Charges.

EXPLANATION OF AND JUSTIFICATION FOR THE RULES

The proposed amendments, identified as a part of the Credit Union Department's quadrennial rule review process, make nonsubstantive corrections to the titles of other rule sections referenced in the rules.

COST TO REGULATED PERSONS. This rule proposal is not subject to Texas Government Code §2001.0045 concerning increasing costs to regulated persons because this agency is a self-directed semi-independent (SDSI) agency under Finance Code Chapter 16 and is therefore exempt under §2001.0045(c)(8).

GOVERNMENT GROWTH IMPACT STATEMENT. In compliance with Texas Government Code §2001.0221, the Department has prepared a government growth impact statement.

For each year of the first five years that the rules as amended will be in effect, the rules will not:

--create or eliminate a government program;

--require the creation of new employee positions or the elimination of existing employee positions;

--require an increase or decrease in future legislative appropriations to the Department;

--require an increase or decrease in fees paid to the Department;

--create new regulations;

--expand, limit, or repeal existing regulations;

--increase or decrease the number of individuals subject to the rule's applicability;

--positively or adversely affect this state's economy.

ENVIRONMENTAL RULE ANALYSIS. The proposed rules are not "major environmental rules" as defined by Government Code, §2001.0225. The proposed rules are not specifically intended to protect the environment or to reduce risks to human health from environmental exposure. Therefore, a regulatory environmental analysis is not required.

FISCAL IMPACT ON STATE AND LOCAL GOVERNMENTS. Robert Etheridge, Commissioner, has determined that for the first five-year period the proposed amendments are in effect, there are no reasonably foreseeable implications relating to cost or revenues of state or local governments under Government Code §2001.024(a)(4) as a result of enforcing or administering these amendments as proposed.

PUBLIC BENEFIT/COST NOTE. Mr. Etheridge has determined, pursuant to Government Code §2001.024(a)(5), that for the first five-year period the amended rules are in effect, the public benefit is accuracy of the rules. He has further determined there will be no probable economic cost to the credit union system or to persons required to comply with the rule.

IMPACT ON LOCAL EMPLOYMENT OR ECONOMY. There is no reasonably anticipated effect on a local economy for the first five years that the proposed amendments are in effect. Therefore, no economic impact statement, local employment impact statement, or regulatory flexibility analysis is required under Texas Government Code §§2001.022 or 2001.024(a)(6).

ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS FOR SMALL BUSINESSES, MICROBUSINESSES, AND RURAL COMMUNITIES. Mr. Etheridge has also determined that for each year of the first five years the proposed amendments are in effect, there will be no reasonably forecasted adverse economic effect on small businesses, micro-businesses, or rural communities as a result of implementing these amendments, and, therefore, no regulatory flexibility analysis, as specified in Texas Government Code §2006.002, is required.

TAKINGS IMPACT ASSESSMENT. No private real property interests are affected by this proposal, and the proposal does not restrict or limit an owner's right to his or her property that would otherwise exist in the absence of government action. Therefore, the rules do not constitute a taking under Texas Government Code §2007.043.

REQUEST FOR PUBLIC COMMENT. The Department is requesting public comments on the proposed amendments and information related to the cost, benefit, or effect of the proposed rules, including any applicable data, research, or analysis, from any person required to comply with the proposed rule or any other interested person. Please include an explanation of how and why the submitted information is specific to the proposed rules. Please do not submit copyrighted, confidential, or proprietary information. Written comments on the proposed amendments may be submitted in writing to Devon Bijansky, General Counsel, Credit Union Department, 914 East Anderson Lane, Austin, Texas 78752-1699 or by email to CUDMail@cud.texas.gov. To be considered, a written comment must be received within 30 days after publication of the proposal in the *Texas Register*.

STATUTORY AUTHORITY. The amendments are proposed pursuant to Texas Finance Code §15.402, which authorizes the Commission to adopt reasonable rules for administering Texas Finance Code, Title 2, Chapter 15 and Title 3, Subtitle D.

STATUTORY SECTIONS AFFECTED. The statutory provisions affected by the proposed amendments are contained in Texas Finance Code Chapter 15 and Title 3, Subtitle D.

§95.302. Powers.

The guaranty credit union, pursuant to Texas Finance Code §15.410(b) and to the powers contained in Subtitle D, Title 3, Texas Finance Code, may:

(1) - (15) (No change.)

(16) Acquire a promissory note or other asset upon which a nonmember is liable, provided such acquisition is made, in the discretion of the guaranty credit union, to protect an inferior lien held by the guaranty credit union, a participating credit union, member of the guaranty credit union or a member of a participating credit union member of the guaranty credit union. Such acquisitions shall not be subject to the restrictions of §91.701 et. seq. of this title (relating to Lending Powers [~~Loans~~]);

(17) - (18) (No change.)

§95.305. Audited Financial Statements; Accounting Procedures; Reports.

(a) - (c) (No change.)

(d) All of the provisions of this section are in addition to those prescribed in §91.209 of this title (relating to Call Reports and Other Information Requests [~~Reports and Charges for Late Filing~~]).

§95.310. Fees and Charges.

(a) A guaranty credit union shall pay the fees prescribed in §97.113 of this title (relating to [~~Operating~~] Fees and Charges) in the same manner as any other credit union chartered under the Act.

(b) (No change.)

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

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Commissioner
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TITLE 16. ECONOMIC REGULATION

PART 2. PUBLIC UTILITY COMMISSION OF TEXAS

CHAPTER 24. SUBSTANTIVE RULES APPLICABLE TO WATER AND SEWER SERVICE PROVIDERS

The Public Utility Commission of Texas (commission) proposes amendments to 16 Texas Administrative Code (TAC) §24.3 relating to Definitions, §24.25, relating to Form and Filing of Tariffs, §24.27, Notice of Intent and Application to Change Rates, §24.41, relating to Cost of Service, and §24.43, relating to Rate Design. The commission also proposes new 16 TAC §24.26, relating to Test Year and §24.28, relating to Review of Test Year.

The proposed new rules will implement Texas Water Code §§13.1831, 13.184(d), and 13.185(l) and (m) as enacted by House Bill (HB) 2712 during the Texas 89th Regular Legislative Session (89R). The proposed amended rules will implement Texas Water Code §§13.185(j), 13.183(a)(1), 13.184(a), 13.185(b), (d)(1), and (j) as amended by HB 2712 (89R), and Texas Water Code §13.185(k) as enacted by HB 2712 (89R). The proposed amended and new rules will enable water and sewer utilities to enter a combined test year or a future test year in a comprehensive base rate proceeding. The proposed rules will also make conforming changes associated with the implementation of a combined test year and future test year. The commission also proposes conforming changes to the Class A Utility Annual Report Form for a utility that elects to use a combined test year or a future test year. The commission also proposes revisions to the Class A, B, C, and D Water and Sewer Annual Report General Instructions (Annual Report General Instructions) to conform with recent electronic filing changes. The proposed rules will also implement Texas Water Code §13.002 of the Texas Water Code, as enacted by Senate Bill (SB) 740, Section 2 (89R) by adding the definition of "public utility agency."

Growth Impact Statement

The agency provides the following governmental growth impact statement for the proposed rule, as required by Texas Government Code §2001.0221. The agency has determined that for each year of the first five years that the proposed rules are in effect, the following statements will apply:

(1) the proposed rules will create a government program and will eliminate a government program;

(2) implementation of the proposed rules will not require the creation of new employee positions and will not require the elimination of existing employee positions;

(3) implementation of the proposed rules will not require an increase and will not require a decrease in future legislative appropriations to the agency;

(4) the proposed rules will not require an increase and will not require a decrease in fees paid to the agency;

(5) the proposed rules will create a new regulation in accordance with the requirements of HB 2712 (89R);

(6) the proposed rules will expand, limit, or repeal an existing regulation;

(7) the proposed rules will not change the number of individuals subject to the rule's applicability; and

(8) the proposed rules will affect this state's economy.

Fiscal Impact on Small and Micro-Businesses and Rural Communities

There is no adverse economic effect anticipated for small businesses, micro-businesses, or rural communities as a result of implementing the proposed rule. Accordingly, no economic impact statement or regulatory flexibility analysis is required under Texas Government Code §2006.002(c).

Takings Impact Analysis

The commission has determined that the proposed rule will not be a taking of private property as defined in chapter 2007 of the Texas Government Code.

Fiscal Impact on State and Local Government

Micah Noon, Rate Analyst, Tariff and Rate Analysis Division has determined that for the first five-year period the proposed rule is in effect, there will be no fiscal implications for the state or for units of local government under Texas Government Code §2001.024(a)(4) as a result of enforcing or administering the sections.

Public Benefits

Mr. Noon has determined that for each year of the first five years the proposed section is in effect the public benefit anticipated as a result of enforcing the section will be the availability of a future test year or combined test year for water and sewer utilities to set rates in accordance with HB 2712 (89R). There will not be any probable economic costs to persons required to comply with the rule under Texas Government Code §2001.024(a)(5).

Local Employment Impact Statement

For each year of the first five years the proposed sections are in effect, there should be no effect on a local economy; therefore, no local employment impact statement is required under Texas Government Code §2001.022.

Costs to Regulated Persons

Texas Government Code §2001.0045(b) does not apply to this rulemaking because the commission is expressly excluded under subsection §2001.0045(c)(7).

Public Hearing

The commission will conduct a public hearing on this rulemaking if requested in accordance with Texas Government Code §2001.029. The request for a public hearing must be received by May 14, 2026. If a request for public hearing is received, commission staff will file in this project a notice of hearing.

Public Comments

Interested persons may file comments electronically through the interchange on the commission's website. Comments must be filed by May 14, 2026. Comments should be organized in a manner consistent with the organization of the proposed rules. The commission invites specific comments regarding the effects of the proposed rule, including the costs associated with, and benefits that will be gained by, implementation of the proposed rule. The commission also requests any data, research, or analysis from any person required to comply with the proposed rule or any other interested person. The commission will consider the information submitted by commenters and the costs and benefits of implementation in deciding whether to modify the proposed rules on adoption. All comments should refer to Project Number 59086.

Each set of comments should include a standalone executive summary as the last page of the filing. This executive summary must be clearly labeled with the submitting entity's name and should include a bulleted list covering each substantive recommendation made in the comments.

In addition to comments on the proposed rule text, the commission requests comments on the following questions concerning the proposed rules and the implementation of HB 2712. Questions for comment should be interpreted broadly and understood to potentially entail future revision to any underlying rule language. Any provision or concept explored in a question for comment indicates that provision or concept is specifically noticed for consideration and review in the rulemaking. Responses to questions for comment, including draft language provided by commenters, are within the scope of such consideration and review. The inclusion of additional analysis, research, or other relevant information is encouraged when responding to questions for comment.

In addition to the proposed revisions to the Class A Annual Report Form and the Annual Report General Instructions in this rulemaking, the commission is contemplating a later rulemaking to update other commission-prescribed forms to accommodate utilities that select a combined test year and a future test year.

The commission has identified the following commission-prescribed forms as potentially requiring changes. While the commission offers no edits to these forms and does not intend to change the forms in this rulemaking project, the commission requests comment from stakeholders to identify any necessary changes. Specifically, the commission requests redline edits or comments recommending changes to the following forms:

Class B Water Sewer Annual Report;

Class C Water Sewer Annual Report;

Class D Water Sewer Annual Report;

Application to Obtain or Amend a Water or Sewer Certificate of Convenience and Necessity (CCN);

Application for Expedited Sale, Transfer, or Merger of a Retail Public Utility;

Application for Sale, Transfer, or Merger of a Retail Public Utility;

Class A Utility Notice of Proposed Rate Change;

Class B and C Utility Notice of Proposed Rate Change;

Class B Rate/Tariff Change Application (Schedule);

Class C Rate/Tariff Change Application (Schedule); and

Class D Rate/Tariff Change Application/Instructions/Notice (Schedule).

If there are other forms that require amendment that are not listed above, identify the additional form and any necessary changes in the same manner as requested in Question 1a.

Texas Water Code §13.185(l) and (m) require a "post test-year report" for a utility that elects to use a "fully projected future test year." In the proposed draft of §24.28, the commission has extended the requirement to perform a test year report to a utility that has elected to use a "combined test year." This is due to the requirement in §13.184(d), which applies to "a utility that uses a future or combined historic and future test year." Specifically, §13.184(d) requires the commission to determine in the *next* rate proceeding for that utility, whether the test year information resulted in rates yielding a fair return and, if so, "require the utility to refund to customers money collected in excess of a rate that would have yielded a fair return during the period in which the excessive rate was collected."

Should the commission extend the post-test year report requirement to a utility that enters a combined test year? Please include the rationale for a response to this question.

Are there alternative methods to ensure forecasted costs and revenues for a combined test year are properly accounted for to facilitate reconciliation in a later base rate proceeding?

SUBCHAPTER A. GENERAL PROVISIONS

16 TAC §24.3

Statutory Authority

The amendment is proposed under Texas Water Code §13.002(16-a), which defines the term "public utility agency" for use in Chapter 13; §13.041(a), which provides the commission the general power to regulate and supervise the business of each public utility within its jurisdiction and to do anything specifically designated or implied by the Texas Water Code that is necessary and convenient to the exercise of that power and jurisdiction; Texas Water Code §13.041(b), which provides the commission with the authority to adopt and enforce rules reasonably required in the exercise of its powers and jurisdiction; §13.1831 which requires a regulatory authority to fix rates for water and sewer services for a Class, A, B, C, or D utility based on a test year that,, among other things, includes historic, future, or combined historic and future data; §13.183(a) which requires the regulatory authority to fix a utility's rates for water and sewer services at a level that will permit the utility a reasonably opportunity to earn a reasonable return on its invested capital used and useful in rendering service to the public, based on test year information, over and above its reasonable and necessary operating expenses; §13.184(a) which prohibits the utility commission from prescribing any rate that will yield more than a fair return on the invested capital used and useful in rendering service to the public based on test year information; §13.184(d), which requires the regulatory authority to require a utility that uses a future or combined historic and future test year, to refund to customers money collected in excess of a rate that would have yielded a fair return during the period in which the excessive rate was collected if the regulatory authority determines in the next rate proceeding for that utility that the test year information used for the utility resulted in the utility's rates yielding more than a fair return on the utility's invested capital used and useful in rendering service to the public; §13.185(b), which requires utility rates to be based on the original cost of property used by and useful to the utility during the test year in providing service, including, if necessary to the financial integrity of the utility, construction work in progress at cost as recorded on the books of the utility; §13.185(d)(1) which requires the regulatory authority to base a utility's expenses on test year information, as determined by commission rules; §13.185(j) which establishes that depreciation expense included in the cost of service includes depreciation on all depreciable utility property owned by the utility except for property provided by explicit customer agreements or funded by customer contributions in aid of construction and requires depreciation on all developer or governmental entity contributed property to be allowed in the cost of service.

Section 13.185(k) which requires the regulatory authority to allow inclusion in the rate base of facilities projected to be in service through the end of the test year; and §13.185(l) which requires a utility that selects a fully projected future test year to, not later than the 30th day after the last day of the last quarter of the test year, to file with the regulatory authority a statement that describes the utility's actual results experienced in the test year; and provides appropriate data to demonstrate the accuracy of the estimates used for the test year and serve a copy of such a statement on all parties of record in the rate proceeding in which the final rate determination using the test year was entered; and §13.185(m) which requires a utility that does not have the results or data required under §13.183(l) to file a notice with the regulatory authority stating the date on which the results or data will be available, serve a copy of that notice on all parties of record in the rate proceeding in which the final rate determination using the test year was entered, and perform the actions described under §13.185(l) as soon as possible after the results or data are available.

Cross Reference to Statute Texas Water Code §§13.002(16-a), 13.041(a) and (b), 13.1831, 13.183(a)(1), §13.184(a) and (d), §13.185(b), (d), (j), (k), (l), and (m).

§24.3. Definitions of Terms.

In this chapter, the following definitions apply unless the context indicates otherwise.

(1) - (9) (No change.)

(10) Combined test year--A test year that includes historic and future data.

(11) [~~(10)~~] Corporation--Any corporation, joint-stock company, or association, domestic or foreign, and its lessees, assignees, trustees, receivers, or other successors in interest, having any of the powers or privileges of corporations not possessed by individuals or partnerships, but does not include municipal corporations unless expressly provided in TWC chapter 13.

(12) [~~(11)~~] Customer--Any entity that purchases services from a retail public utility.

(13) [~~(12)~~] Customer class--A group of customers with similar cost-of-service characteristics that take utility service under a single set of rates.

(14) [~~(13)~~] Customer service line--The pipe connecting the water meter to the customer's point of use or the pipe that conveys sewage from the customer's premises to the service provider's service line.

(15) [~~(14)~~] District--District has the meaning assigned to it by TWC §49.001(a).

(16) [~~(15)~~] Facilities--All the plant and equipment of a retail public utility, including all tangible and intangible real and personal property without limitation, and any and all means and instrumentalities in any manner owned, operated, leased, licensed, used, controlled, furnished, or supplied for, by, or in connection with the business of any retail public utility.

(17) Future test year--A test year that includes only future data.

(18) Historic test year--A test year that includes only historical data.

(19) [~~(16)~~] Inactive connection--A water or wastewater connection is considered to be inactive when the ability to provide water or wastewater service is either physically removed or permanently closed.

(20) [~~(17)~~] Incident of tenancy--Water or sewer service provided to tenants of rental property for which no separate or additional service fee is charged other than the rental payment.

(21) [~~(18)~~]) Landowner--An owner or owners of a tract of land.

(22) [~~(19)~~] Member--A person who holds a membership in a water supply or sewer service corporation and who is a record owner of a fee simple title to property in an area served by a water supply or sewer service corporation, or a person who is granted a membership and who either currently receives or will be eligible to receive water or sewer utility service from the corporation. In determining member control of a water supply or sewer service corporation, a person is entitled to only one vote regardless of the number of memberships the person owns.

(23) [~~(20)~~] Minimum Monthly Charge--The fixed amount billed to a customer each month even if the customer uses no water or wastewater.

(24) [~~(21)~~] Municipality--Cities organized under the general, home rule, or special laws of this state.

(25) [~~(22)~~] Municipally owned utility--Any retail public utility owned, operated, and controlled by a municipality or by a nonprofit corporation whose directors are appointed by one or more municipalities.

(26) [~~(23)~~] Nonfunctioning system or utility--A system that is operating as a retail public utility and:

(A) is required to have a CCN and is operating without a CCN; or

(B) is under supervision in accordance with §24.353 of this title (relating to Supervision of Certain Utilities); or

(C) is under the supervision of a receiver, temporary manager, or has been referred for the appointment of a temporary manager or receiver, in accordance with §24.355 of this title (relating to Operation of Utility that Discontinues Operation or Is Referred for Appointment of a Receiver) and §24.357 of this title (relating to Operation of a Utility by a Temporary Manager).

(27) [~~(24)~~] Person--Natural persons, partnerships of two or more persons having a joint or common interest, mutual or cooperative associations, water supply or sewer service corporations, and corporations.

(28) [~~(25)~~] Point of use--The primary service connection point where water is used or sewage is generated.

(29) [~~(26)~~] Potable water--Water that is suitable for drinking.

(30) [~~(27)~~] Potential connections--Total number of active plus inactive connections.

(31) [~~(28)~~] Premises--A tract of land or real estate including buildings and other appurtenances thereon.

(32) Public utility agency-A public utility agency created under Chapter 572 of the Texas Local Government Code.

(33) [~~(29)~~] Rate--Every compensation, tariff, charge, fare, toll, rental, and classification or any of those items demanded, observed, charged, or collected, whether directly or indirectly, by any retail public utility, for any service, product, or commodity described in TWC §13.002(23), and any rules, regulations, practices, or contracts affecting that compensation, tariff, charge, fare, toll, rental, or classification.

(34) [~~(30)~~] Requested area--The area that a petitioner or applicant seeks to obtain, add to, or remove from a retail public utility's certificated service area.

(35) [~~(31)~~] Retail public utility--Any person, corporation, public utility, water supply or sewer service corporation, municipality, public utility agency, political subdivision or agency operating, maintaining, or controlling in this state facilities for providing potable water service or sewer service, or both, for compensation.

(36) [~~(32)~~] Retail water or sewer utility service--Potable water service or sewer service, or both, provided by a retail public utility to the ultimate consumer for compensation.

(37) [~~(33)~~] Service--Any act performed, anything furnished or supplied, and any facilities or lines committed or used by a retail public utility in the performance of its duties under TWC chapter 13 to its patrons, employees, other retail public utilities, and the public, as well as the interchange of facilities between two or more retail public utilities.

(38) [~~(34)~~] Service area--Area to which a retail public utility is obligated to provide retail water or sewer utility service.

(39) [~~(35)~~] Stand-by fee--A charge, other than a tax, imposed on undeveloped property:

(A) with no water or wastewater connections; and

(B) for which water, sanitary sewer, or drainage facilities and services are available; water supply, wastewater treatment plant capacity, or drainage capacity sufficient to serve the property is available; or major water supply lines, wastewater collection lines, or drainage facilities with capacity sufficient to serve the property are available.

(40) Test year--A consecutive 12-month period that begins on the first day of a calendar or fiscal year quarter selected by a Class A, B, C, or D utility to fix rates that includes historic, future, or combined historic and future data. A test year begins not later than 18 months after the date the utility files the statement of intent to change rates and ends not earlier than 18 months before the date the utility files the statement of intent to change rates. A test year may be a combined test year, a future test year, or a historic test year.

[~~(36) Test year--The most recent 12-month period beginning on the first day of a calendar-or fiscal-year quarter for which operating data for a retail public utility are available.~~]

(41) [~~(37)~~] Tract of land--An area of land that has common ownership and is not severed by other land under different ownership, whether owned by government entities or private parties; such other land includes roads and railroads. A tract of land may be acquired through multiple deeds or shown in separate surveys.

(42) [~~(38)~~] Water and sewer utility, utility, or public utility--Any person, corporation, cooperative corporation, affected county, or any combination of those persons or entities, other than a municipal corporation, public utility agency, water supply or sewer service corporation, or a political subdivision of the state, except an affected county, or their lessees, trustees, and receivers, owning or operating for compensation in this state equipment or facilities for the transmission, storage, distribution, sale, or provision of potable water to the public or for the resale of potable water to the public for any use or for the collection, transportation, treatment, or disposal of sewage or other operation of a sewage disposal service for the public, other than equipment or facilities owned and operated for either purpose by a municipality or other political subdivision of this state or a water supply or sewer service corporation, but does not include any person or corporation not otherwise a public utility that furnishes the services or commodity only to itself or its employees or tenants as an incident of that employee service or tenancy when that service or commodity is not resold to or used by others.

(43) [~~(39)~~] Water supply or sewer service corporation--Any nonprofit corporation organized and operating under TWC chapter 67, that provides potable water or sewer service for compensation and that has adopted and is operating in accordance with bylaws or articles of incorporation which ensure that it is member-owned and member-controlled. The term does not include a corporation that provides retail water or sewer utility service to a person who is not a member, except that the corporation may provide retail water or sewer utility service to a person who is not a member if the person only builds on or develops property to sell to another and the service is provided on an interim basis before the property is sold.

(44) [~~(40)~~] Water use restrictions--Restrictions implemented to reduce the amount of water that may be consumed by customers of the utility due to emergency conditions or drought.

(45) [~~(41)~~] Wholesale water or sewer service--Potable water service or sewer service, or both, provided to a person, political subdivision, or municipality who is not the ultimate consumer of the service.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

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SUBCHAPTER B. RATES AND TARIFFS

16 TAC §§24.25 - 24.28, 24.41, 24.43

Statutory Authority

The amendments and new rules are proposed under Texas Water Code §13.002(16-a), which defines the term "public utility agency" for use in Chapter 13; §13.041(a), which provides the commission the general power to regulate and supervise the business of each public utility within its jurisdiction and to do anything specifically designated or implied by the Texas Water Code that is necessary and convenient to the exercise of that power and jurisdiction; Texas Water Code §13.041(b), which provides the commission with the authority to adopt and enforce rules reasonably required in the exercise of its powers and jurisdiction; §13.1831 which requires a regulatory authority to fix rates for water and sewer services for a Class, A, B, C, or D utility based on a test year that,, among other things, includes historic, future, or combined historic and future data; §13.183(a) which requires the regulatory authority to fix a utility's rates for water and sewer services at a level that will permit the utility a reasonably opportunity to earn a reasonable return on its invested capital used and useful in rendering service to the public, based on test year information, over and above its reasonable and necessary operating expenses; §13.184(a) which prohibits the utility commission from prescribing any rate that will yield more than a fair return on the invested capital used and useful in rendering service to the public based on test year information; §13.184(d), which requires the regulatory authority to require a utility that uses a future or combined historic and future test year, to refund to customers money collected in excess of a rate that would have yielded a fair return during the period in which the excessive rate was collected if the regulatory authority determines in the next rate proceeding for that utility that the test year information used for the utility resulted in the utility's rates yielding more than a fair return on the utility's invested capital used and useful in rendering service to the public; §13.185(b), which requires utility rates to be based on the original cost of property used by and useful to the utility during the test year in providing service, including, if necessary to the financial integrity of the utility, construction work in progress at cost as recorded on the books of the utility; §13.185(d)(1) which requires the regulatory authority to base a utility's expenses on test year information, as determined by commission rules; §13.185(j) which establishes that depreciation expense included in the cost of service includes depreciation on all depreciable utility property owned by the utility except for property provided by explicit customer agreements or funded by customer contributions in aid of construction and requires depreciation on all developer or governmental entity contributed property to be allowed in the cost of service.

Section 13.185(k) which requires the regulatory authority to allow inclusion in the rate base of facilities projected to be in service through the end of the test year; and §13.185(l) which requires a utility that selects a fully projected future test year to, not later than the 30th day after the last day of the last quarter of the test year, to file with the regulatory authority a statement that describes the utility's actual results experienced in the test year; and provides appropriate data to demonstrate the accuracy of the estimates used for the test year and serve a copy of such a statement on all parties of record in the rate proceeding in which the final rate determination using the test year was entered; and §13.185(m) which requires a utility that does not have the results or data required under §13.183(l) to file a notice with the regulatory authority stating the date on which the results or data will be available, serve a copy of that notice on all parties of record in the rate proceeding in which the final rate determination using the test year was entered, and perform the actions described under §13.185(l) as soon as possible after the results or data are available.

Cross Reference to Statute Texas Water Code §§13.002(16-a), 13.041(a) and (b), 13.1831, 13.183(a)(1), §13.184(a) and (d), §13.185(b), (d), (j), (k), (l), and (m).

§24.25. Form and Filing of Tariffs.

(a) (No change.)

(b) Requirements as to size, form, identification, minor changes, and filing of tariffs.

(1) Tariffs filed with applications for CCNs.

(A) - (B) (No change.)

<u>(C) A person under the original rate jurisdiction of the commission who is seeking to obtain or amend an approved tariff or has obtained an approved tariff for the first time must comply with the requirements of §24.26 of this title (relating to Test Year).</u>

~~[(C) A person under the original rate jurisdiction of the commission who has obtained an approved tariff for the first time must file a rate change application within 18 months from the date service begins to revise its rates to be based on a historic test year. Any dollar amount collected under the rates initially approved by the commission that exceeds the revenue requirement established by the commission during the rate change proceeding must be reflected as customer contributed capital going forward as an offset to rate base for ratemaking purposes. A Class D utility must file a rate change application under TWC §13.1872(c)(2) to satisfy the requirements of this subparagraph.]~~

(D) (No change.)

(2) Minor tariff changes. Except for an affected county or a utility under the original rate jurisdiction of a municipality, a utility's approved tariff may not be changed or amended without commission approval. Changes to any fees charged by affiliates, the addition of a new extension policy to a tariff, or modification of an existing extension policy are not minor tariff changes. An affected county may change rates for retail water or sewer service without commission approval, but must file a copy of the revised tariff with the commission within 30 days after the effective date of the rate change.

(A) The commission, or regulatory authority, as appropriate, may approve the following minor changes to utility tariffs:

(i) - (v) (No change.)

(viii) some surcharges as provided in subparagraph (G) of this paragraph; <u>and</u>

(ix) (No change.)

(B) - (G) (No change.)

(3) - (5) (No change.)

(c) - (l) (No change.)

<u>*§24.26. Test Year.*</u>

<u>(a) Applicability. This section applies to a person under the original rate jurisdiction of the commission who is seeking to obtain or amend an approved tariff in accordance with §24.25 of this title (relating to Form and Filing of Tariffs) and establish rates using a test year.</u>

<u>(b) Definitions. The following terms, when used in this section, have the following meanings unless the context indicates otherwise:</u>

<u>(1) Base period--A consecutive 12 calendar month period that ends on or before the date the applicant files its statement of intent to change rates. A base period must include historical data and begin no earlier than five years before the date the statement of intent to change rates was filed.</u>

<u>(2) Future data--Data relied upon by the utility to determine its forecasted, projected, or estimated costs, usage, revenues, adjustments, and other information of the utility that corresponds with the portion of the combined test year that immediately follows the utility filing its statement of intent to change rates, or the future test year, as applicable.</u>

<u>(3) Historical data--Data relied upon by the utility to support its actually incurred costs, usage, revenues, adjustments, and other</u>

information of the utility. Historical data may include, as one component, the utility's annual reports filed in accordance with §24.129 of this title (relating to Water and Sewer Utility Annual Reports).

(c) General requirements for tariffs.

(1) Requirements applicable to new utilities. This paragraph applies only to a utility that has obtained an approved tariff for the first time.

(A) Within 30 months from the date service begins, a utility must file a rate change application to revise its rates to be based on a test year. A Class D utility must file a rate change application under TWC §13.1872(c)(2) to satisfy the requirements of this paragraph.

(B) For a base rate change application that utilizes a historic test year, any dollar amount collected under the rates that were initially approved by the commission that exceeds the revenue requirement established by the commission during the rate change proceeding must, for ratemaking purposes, be reflected as customer contributed capital going forward as an offset to rate base.

(2) Utility designation of test year.

(A) A utility must present a test year that complies with the definition under §24.3(36) of this title (relating to Definitions).

(B) If the test year selected by the utility is a combined test year or a future test year, the test year must include future data and identify a base period.

(3) Application requirements. A utility must provide evidence in its rate change application that its proposed rates are just and reasonable using its selected test year, including providing all information in support of its selected test year used to establish rates. Such information must include:

(A) known and measurable changes which must, at a minimum, include explicit and direct connections between the applicant's test year information and the applicant's audited financial accounts, billing system extracts, or other records such as the utility's annual report under §24.129 of this title;

(B) supporting documentation, testimony, or other relevant information for all provided data, which must at least consist of:

(i) data that substantiates all costs, revenues adjustments, offsets, normalizations, and other changes;

(ii) an identification and explanation of any adjustment, offset, or normalization that includes the quantity and percentage of the change; and

(iii) evidence that all adjustments, offsets, or normalizations for costs, revenues or other changes that would affect rates have been properly accounted for;

(C) if the utility selects a combined test year or a future test year, documentation or testimony supporting the following, presented in the manner described by subparagraph (B) of this paragraph.

(i) For a utility seeking an increase in its revenue requirement that is attributable to inflation, any forecasts, estimates, or projections based on inflation must be separately categorized by, and proportional to an inflation index published by the United States Department of Labor, Bureau of Labor Statistics (e.g., the Gross Domestic Product Price Index (GDPPI) or the Consumer Price Index (CPI)). Information accounting for inflation must be included for, as applicable:

(I) the portion of the combined test year that immediately follows the utility filing its statement of intent to change rates; or

(II) the future test year;

(ii) documentation and explanation supporting the reasonableness of any forecasts, projections or estimates sufficient to substantiate the methodology or calculations associated with each forecast, projection, or estimate (e.g., expected changes in cost and billing determinants, forecasted revenue adjustments) for, as applicable:

(I) the portion of the combined test year that immediately follows the utility filing its statement of intent to change rates; or

(II) the future test year; and

(D) a workpaper index or ledger for the information provided in accordance with subparagraphs (A) - (C) of this paragraph, as applicable, with cross-references identifying information category by page number; and

(E) an attestation by an executive officer or owner of the utility that all information provided under subparagraphs (A) - (E) of this paragraph is true, accurate, and complete.

(d) Base rate change application requirements. A base rate change application must comply with this subsection as well as the form and content requirements included in the commission-prescribed forms and instructions applicable to the utility's class.

(1) Application content based on test year. In addition to the requirements of §24.25 and §24.27 of this title (relating to Form and Filing of Tariffs and Notice of Intent and Application to Change Rates, respectively), a base rate change application must comply with the applicable requirements prescribed under this paragraph based on the utility's selected test year.

(A) Historic test year content requirements. If the applicant selects a historic test year, the application must include information on and comparisons of revenues and costs between:

(i) the historic test year; and

(ii) as specified and applicable in the commission-prescribed forms and instructions applicable to the utility's class:

(I) the calendar years immediately preceding the date the historic test year was entered;

(II) the current year-to-date; and

(III) if available, the calendar year immediately subsequent to the date the historic test year ended.

(B) Combined test year or future test year content requirements. If the applicant selects a combined test year or a future test year, the application must include information on and comparisons of revenues and costs between:

(i) the base period; and

(ii) as applicable, the combined test year or the future test year.

(2) Application content requirements. A base rate change application must, at a minimum:

(A) as applicable for each schedule or workpaper, be itemized by each individual rate or fee, usage, calendar month, type of expense, applicable utility account, and by each customer class;

(B) include the utility's actual costs and revenues, including any adjustments for known and measurable changes, annualizations, or normalizations but excluding inflation;

(C) include any relevant data, attachments, or supplementary materials filed in their native format and, if applicable, with formulas intact; and

(D) be word-searchable.

(e) Review of combined test year or future test year. A combined test year or a future test year will be reviewed by the commission in accordance with §24.28 of this title (relating to Review of Test Year).

§24.27. Notice of Intent and Application to Change Rates.

(a) (No change.)

(b) Contents of the application. An application to change rates is initiated by the filing of the applicable rate filing package, a statement of intent to change rates, and the proposed form and method of notice to customers and other affected entities under subsection (c) of this section.

(1) The application must:

(A) include the commission's rate filing package form; [~~and~~]

(B) include all required schedules;

(C) [~~(2) The application must~~] be based on a test year; and [~~as defined in §24.3(36) of this title (relating to Definitions of Terms).~~]

(D) indicate whether the test year is a historic, future, or combined test year; and.

(E) for an applicant that selects a future or combined test year, include the applicable information required under §24.26 of this title (relating to Test Year).

(2) [~~(3)~~] For an application filed by a Class A utility, the rate filing package, including each schedule, must be supported by pre-filed direct testimony. The pre-filed direct testimony must be filed at the same time as the application to change rates.

(3) [~~(4)~~] For an application filed by a Class B utility, Class C utility, or Class D utility filing under TWC §13.1872(c)(2), the applicable rate filing package, including each schedule, must be supported by affidavit. The affidavit must be filed at the same time as the application to change rates. The utility may file pre-filed direct testimony at the same time as the application to change rates. If the application is set for a hearing, the presiding officer may require the filing of pre-filed direct testimony at a later date.

(4) [~~(5)~~] Proof of notice. Proof of notice in the form of an affidavit stating that proper notice was mailed, e-mailed, or delivered to customers and affected municipalities and stating the dates of such delivery must be filed with the commission by the applicant utility as part of the rate change application.

(c) - (g) (No change.)

§24.28. Review of Test Year.

(a) Applicability This subsection applies to a utility that elects to use a combined test year or a future test year under §24.26 of this title (relating to Test Year).

(b) Post-test year report. A utility that selects a combined test year or future test year or its successor in interest must comply with this paragraph, as applicable. The information required under this subsection must be filed in a compliance docket opened contemporaneously with the utility's comprehensive base rate case.

(1) The written statement required under paragraph (2) of this subsection must be incorporated into, or otherwise included as an attachment to, the utility's next annual report required by §24.129 of this title (relating to Time Between Filings); and

(2) No later than the 30th day after the last day of the last quarter of the combined test year or the future test year the utility must:

(A) file a written statement that:

(i) describes the utility's actual cost and revenue results experienced in the future test year being reported; and

(ii) provides appropriate data to demonstrate the accuracy of the estimates used for the test year;

(B) serve a copy of the written statement described under subparagraph (A)(i) of this paragraph on the parties of record in the rate proceeding in which the final rate determination using the combined test year or the future test year was entered; and

(C) file proof of notice in the form of an affidavit that states notice was properly delivered in accordance with subparagraph (B) of this paragraph.

(3) A utility or its successor in interest that does not have the results or data required to perform the actions listed under paragraph (1) of this subsection by the specified date must:

(A) file a written notice with the commission that:

(i) states the date on which the results or data will be available;

(ii) provides a list of the results or data that are unavailable; and

(iii) a brief explanation of why the results or data are unavailable; and

(B) perform the actions specified by paragraph (1) of this subsection as soon as possible after the results or data are available, but no later than the 60th day after the last day of the last quarter of the combined test year or the future test year.

(c) Commission review of forecasts or projections. The commission will review the actual costs and revenues incurred during the portion of the combined test year that immediately follows the utility filing its statement of intent to change rates or, as applicable, the future test year in the manner described by this subsection.

(1) Accounting of actual costs and revenues.

(A) Only capital projects that the utility reasonably projects to be used and useful in the combined test year or the future test year, as applicable, may be included in rate base unless otherwise authorized by the commission for inclusion as CWIP under §24.41 of this title (relating to Cost of Service).

(B) Costs attributable to extraordinary circumstances within the portion of the combined test year that immediately follows the utility filing its statement of intent to change rates or the future test year, as applicable, may be included in rate base through an adjustment after a showing of good cause by a utility and an evidentiary finding by the commission. For purposes of this clause, the term "extraordinary circumstances" include:

(i) events affecting service to critical customers; or

(ii) natural disasters (e.g., droughts, floods, hurricanes, tornadoes, winter storms) or other system emergencies that result in conditions on the utility's utility system that are likely to result in imminent, significant disruption of service to customers or is imminently likely to endanger life or property.

(2) Retrospective analysis of combined test year or future test year. A utility must file a retrospective analysis in its next comprehensive base rate proceeding filed with the commission.

(A) Contents of retrospective analysis. A retrospective analysis must include the post-test year report required by subsection (b) of this section, supplemented with any additional narratives or explanations that the utility determines are relevant.

(B) Evaluation of retrospective analysis. The commission will review the utility's retrospective analysis in a comprehensive base rate proceeding to determine whether the utility's forecasted costs and revenues reasonably align with the utility's actual costs and revenues and whether revenues yielded a fair return.

(i) The presiding officer will account for a retrospective analysis in the procedural schedule for a comprehensive base rate proceeding, including the appropriate scope of discovery.

(ii) The commission may perform one or more of the following actions at the conclusion of such an evaluation in a comprehensive base rate proceeding upon an evidentiary finding that a utility's actual costs and revenues exceeded the return approved by the commission in the utility's last comprehensive base rate proceeding:

(I) for any customer class, order a refund in accordance with clause (iv) of this subparagraph as necessary to account for any over-collections; or

(II) any other action deemed necessary by the commission to ensure just and reasonable rates.

(iii) The presiding officer may require the utility to provide additional documentation it deems necessary to evaluate the retrospective analysis under this subparagraph, including additional data, studies, or other information.

(iv) If the commission determines the utility's return was excessive and orders a refund in accordance with clause (ii)(I) of this subparagraph, the commission will:

(I) determine the rate for the utility that would have yielded a fair return and require a refund to customers, which must include carrying costs; and

(II) require the utility to refund to customers the difference between the excessive rate and the rate determined by the commission.

(v) Earnings that exceed a utility's fair rate of return must be separately tracked as a regulatory liability that will be subject to refund in the utility's next comprehensive base rate proceeding.

(vi) Carrying costs for a refund will be determined in accordance with this clause:

(I) For the time period beginning with the date on which over-recovery is determined to have begun to the effective date of the new base rates, carrying costs must be calculated using the same rate of return that was applied to the investments in the utility's base rate proceeding that resulted in the over-recovery.

(II) For the time period beginning with the effective date of the new base rates, carrying costs must be calculated using the electric utility's rate of return authorized in the comprehensive base-rate proceeding.

§24.41. Cost of Service.

(a) (No change.)

(b) Allowable expenses. Only those expenses that are reasonable and necessary to provide service to the ratepayers may be included in allowable expenses. In computing a utility's allowable expenses, only the utility's test year expenses [~~as adjusted for known and measurable changes~~] will be considered. A change in rates must be based on a test year as defined in §24.3[~~(37)~~] of this title[~~,~~] (relating to Definitions of Terms) and, as applicable, comply with the requirements of §24.26 (relating to Test Year). Payments to affiliated interests for costs of service, or any property, right, or thing, or for interest expense are not allowed as an expense for cost of service except as provided in Texas Water Code (TWC) §13.185(e).

(1) Components of allowable expenses. Allowable expenses, to the extent they are reasonable and necessary, may include, but are not limited to, the following general categories:

(A) (No change.)

(B) Depreciation expense based on original cost and computed on a straight-line basis over the useful life of the asset as approved by the commission.

(i) Depreciation expense is allowed on all [~~currently used and useful~~] depreciable utility property owned by the utility, including CWIP reasonably projected to be in service during a combined test year or future test year, and depreciable utility plant, property and equipment retired by the utility, subject to the requirements of subparagraph (c)(2)(C) of this section. Depreciation expense is not allowed for property provided under explicit customer agreements or funded by customer contributions in aid of construction. Depreciation expense is allowed for all [~~currently used and useful~~] developer or governmental entity contributed property. A utility must calculate depreciation on a straight-line basis over the expected or remaining life of the asset, but is not required to use the remaining life method if salvage value is zero. A utility that does not use group depreciation and proposes to change the useful life of an asset with an accumulated depreciation balance must not change the accumulated depreciation balance and must adjust depreciation expense going forward based on the changed useful life.

(ii) (No change.)

(C) - (G) (No change.)

(2) (No change.)

(c) Return on rate base. The return on rate base is the rate of return times rate base.

(1) Rate of return. The commission will allow each utility a reasonable opportunity to earn a reasonable rate of return, which is expressed as a percentage of invested capital, and will fix the rate of return in accordance with the following principles.

(A) The return should be reasonably sufficient to assure confidence in the financial soundness of the utility and should be adequate, under efficient and economical management, to maintain and support its credit and enable it to raise the money necessary for the proper discharge of its public duties.

(B) The commission will consider the utility's cost of capital, which is the composite of the cost of the various classes of capital used by the utility.

(i) Debt capital. The cost of debt capital is the actual cost of debt, plus adjustments for premiums, discounts, and refunding and issuance costs.

(ii) Equity capital. For companies with ownership expressed in terms of shares of stock, equity capital commonly consists of the following classes of stock.

(I) Common stock capital. The cost of common stock capital must be based upon a fair return on its value.

(II) Preferred stock capital. The cost of preferred stock capital is its annual dividend requirement, if any, plus an adjustment for premiums, discounts, and cost of issuance.

(C) The commission will consider the efforts and achievements of the utility in the conservation of resources, the quality of the utility's services, the efficiency of the utility's operations, and the quality of the utility's management, along with other relevant conditions and practices.

(D) The commission may consider inflation, deflation, the growth rate of the service area, and the need for the utility to attract new capital.

(2) Rate base. The rate of return is applied to the rate base. Assets retired before June 19, 2009, must be removed from rate base before the rate of return is applied to the rate base. Components to be included in determining the rate base are as follows:

(A) (No change.)

(B) Original cost, less accumulated depreciation, of utility plant, property, and equipment used by and useful to the utility during the test year in providing service.

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

(3) (No change.)

(4) Construction work in progress (CWIP).

(A) This subparagraph applies to a utility that elects to use a historic test year. The inclusion of CWIP is an exceptional form of relief. Under ordinary circumstances, the rate base consists only of those items that are used and useful in providing service to the public. Under exceptional circumstances, the commission may include CWIP in rate base to the extent that the utility has proven that:

(i) [~~(A)~~] the inclusion is necessary to the financial integrity of the utility; and

(ii) [~~(B)~~] major projects under construction have been efficiently and prudently planned and managed.

(B) This subparagraph applies to a utility that elects to use a combined test year or a future test year. The commission will review CWIP to determine the extent the utility projects some or all of CWIP to be in service through the end of the combined test year or future test year. CWIP that the utility projects will be in service by the end of the combined test year or the future test year will be included in rate base. The utility has the burden of proving that:

(i) CWIP is reasonably projected to be in service through the end of the combined test year or future test year; and

(ii) clear and convincing evidence demonstrates that inclusion of CWIP is in the ratepayers' best interest and is necessary to the financial integrity of the utility.

(5) Requirements for post-test year adjustments.

(A) A post-test year adjustment to test year data for known and measurable rate base additions may be considered only if:

(i) the addition represents a plant which would appropriately be recorded for investor-owned utilities in National Association of Regulatory Utility Commissioners (NARUC) account 101 or 102;

(ii) the addition comprises at least 10% of the utility's requested rate base, exclusive of post-test year adjustments and CWIP;

(iii) the addition is in service before the rate year begins; [~~and~~]

(iv) the attendant impacts on all aspects of a utility's operations, including but not limited to, revenue, expenses and invested capital, can with reasonable certainty be identified, quantified and matched. Attendant impacts are those that reasonably result as a consequence of the post-test year adjustment being proposed; and [~~.~~]

(v) the test year is a historic test year.

(B) - (C) (No change.)

(6) Future test year and combined test year requirements.

(A) A utility that selects a future test year must comply with §24.26 of this title (relating to Test Year), as applicable.

(B) A utility that selects a combined test year must comply with the requirements of §24.26 of this title only for the portion of the combined test year that incorporates future data.

(d) - (g) (No change.)

§24.43. Rate Design.

(a) General. In fixing the rates of a utility, the commission shall fix its overall revenues at a level which will permit such utility a reasonable opportunity to earn a reasonable return on its invested capital used and useful in rendering service to the public, based on test year information, over and above its reasonable and necessary operating expenses (unless an alternative rate method is used as set forth in §24.75 of this title (relating to Alternative Rate Methods), and preserve the financial integrity of the utility.

(b) - (c) (No change.)

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on March 26, 2026.

TRD-202601382
Katelyn Lewis
Projects Coordinator
Public Utility Commission of Texas
Earliest possible date of adoption: May 10, 2026
For further information, please call: (512) 936-7044

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SUBCHAPTER H. CERTIFICATES OF CONVENIENCE AND NECESSITY

16 TAC §24.245, §24.259

The Public Utility Commission of Texas (commission) proposes amendments to 16 Texas Administrative Code (TAC) §24.245, relating to Revocation of a Certificate of Convenience and Necessity or Amendment of a Certificate of Convenience and Necessity by Decertification, Expedited Release or Streamlined Expedited Release, and §24.259, relating to Single Certification in Incorporated or Annexed Areas. The proposed rule will implement Texas Water Code (TWC) §§13.254, 13.2541, and 13.255 as revised by House Bill (HB) 837 (87th Leg. R.S), HB 2442 (88th Leg. R.S), and HB 1318 (89th Leg. R.S). Amendments to §24.245 establish requirements for an expedited release and a streamlined expedited release petitioner to submit a report to the commission, which verifies that compensation was paid by them to the former certificate of convenience and necessity

(CCN) holder. Amendments to §24.259 implement the following process and procedural modifications: establishes requirements for a municipality or franchised utility to submit a report to the commission, verifying compensation paid by it to the former retail public utility; replaces the requirement for the commission to determine compensation for former retail public utility property rendered useless or valueless by single certification with a requirement to determine just and adequate compensation for adverse effects on property remaining in former utility's ownership; and requires that appeals against a final order of the commission granting single certification to a municipality must be filed with the commission before seeking further review. Additionally, clarifying and consistency edits were made to the rule language, including non-substantive revisions to a definition to improve clarity.

Growth Impact Statement

The agency provides the following governmental growth impact statement for the proposed rule, as required by Texas Government Code §2001.0221. The agency has determined that for each year of the first five years that the proposed rule is in effect, the following statements will apply:

(1) the proposed rule will not create a government program and will not eliminate a government program;

(2) implementation of the proposed rule will not require the creation of new employee positions and will not require the elimination of existing employee positions;

(3) implementation of the proposed rule will not require an increase and will not require a decrease in future legislative appropriations to the agency;

(4) the proposed rule will not require an increase and will not require a decrease in fees paid to the agency;

(5) the proposed rule will not create a new regulation;

(6) the proposed rule will not expand, limit, or repeal an existing regulation;

(7) the proposed rule will not change the number of individuals subject to the rule's applicability; and

(8) the proposed rule will not affect this state's economy.

Fiscal Impact on Small and Micro-Businesses and Rural Communities

There is no adverse economic effect anticipated for small businesses, micro-businesses, or rural communities as a result of implementing the proposed rule. Accordingly, no economic impact statement or regulatory flexibility analysis is required under Texas Government Code §2006.002(c).

Takings Impact Analysis

The commission has determined that the proposed rule will not be a taking of private property as defined in chapter 2007 of the Texas Government Code.

Fiscal Impact on State and Local Government

Celia Eaves, Utility Outreach Administrator, Division of Utility Outreach, has determined that for the first five-year period the proposed rule is in effect, there will be no fiscal implications for the state or for units of local government under Texas Government Code §2001.024(a)(4) as a result of enforcing or administering the sections.

Public Benefits

Ms. Eaves has determined that for each year of the first five years the proposed section is in effect the public benefit anticipated as a result of enforcing the section will strengthen compensation reporting requirements for CCN decertification and provide more opportunity to appeal certain commission decisions. There will be no probable economic cost to persons required to comply with the rule under Texas Government Code §2001.024(a)(5).

Local Employment Impact Statement

For each year of the first five years the proposed section is in effect, there should be no effect on a local economy; therefore, no local employment impact statement is required under Texas Government Code §2001.022.

Costs to Regulated Persons

Texas Government Code §2001.0045(b) does not apply to this rulemaking because the commission is expressly excluded under subsection §2001.0045(c)(7).

Public Hearing

The commission staff will conduct a public hearing on this rulemaking if requested in accordance with Texas Government Code §2001.029. The request for a public hearing must be received by April 23, 2026. If a request for public hearing is received, commission staff will file in this project a notice of hearing.

Public Comments

Interested persons may file comments electronically through the interchange on the commission's website. Comments must be filed by April 23, 2026. Comments should be organized in a manner consistent with the organization of the proposed rules. The commission invites specific comments regarding the costs associated with, and benefits that will be gained by, implementation of the proposed rule. The commission also requests any data, research, or analysis from any person required to comply with the proposed rule or any other interested person. The commission will consider the costs and benefits in deciding whether to modify the proposed rules on adoption. All comments should refer to Project Number 59332.

Each set of comments should include a standalone executive summary as the first page of the filing. This executive summary must be clearly labeled with the submitting entity's name and should include a bulleted list covering each substantive recommendation made in the comments.

Statutory Authority

The amendments are proposed under TWC §13.041(a), which provides the commission the general power to regulate and supervise the business of each public utility within its jurisdiction and to do anything specifically designated or implied by the TWC that is necessary and convenient to the exercise of that power and jurisdiction; TWC §13.041(b), which provides the commission with the authority to adopt and enforce rules reasonably required in the exercise of its powers and jurisdiction; TWC §13.254(a-3), which provides the commission the authority to require the reporting of compensation paid by the petitioner to the decertified retail public utility; TWC §13.2541(f), which provides the commission the authority to require the reporting of compensation paid by the petitioner to the CCN holder; TWC §13.255(c-1), which provides the commission the authority to require the reporting of adequate and just compensation paid by the municipality or franchised utility to the former retail public utility; TWC §13.255(c-3), which authorizes a retail public utility to appeal a final order of the commission granting single certification to a municipality.

Cross Reference to Statute: Texas Water Code §13.041(a); §13.041(b); §13.254(a-3); §13.2541(f); §13.255(c-1); and §13.255(c-3).

§24.245. Revocation of a Certificate of Convenience and Necessity or Amendment of a Certificate of Convenience and Necessity by Decertification, Expedited Release, or Streamlined Expedited Release.

(a) - (e) (No change.)

(f) Expedited release.

(1) - (14) (No change.)

(15) If the commission requires an award of compensation to the former CCN holder, the petitioner must file a report verifying that the full amount of compensation has been paid to the former CCN holder. The report must be filed in the same docket in which compensation was awarded within 30 days of payment of compensation.

(g) (No change.)

(h) Streamlined expedited release.

(1) - (8) (No change.)

(9) If the commission requires an award of compensation to the former CCN holder, the petitioner must file a report verifying that the full amount of compensation has been paid to the former CCN holder. The report must be filed in the same docket in which compensation was awarded within 30 days of payment of compensation.

(i) - (l) (No change.)

§24.259. Single Certification in Incorporated or Annexed Areas.

(a) (No change.)

(b) Definitions. In this section, the following words and terms have the definitions provided by this subsection.

(1) Impaired property--Property remaining in the ownership of the current CCN holder after single certification that would sustain damages from or be adversely affected by the transfer of property to the municipality.

(2) Franchised utility--A retail public utility that has been granted a franchise by a municipality to provide service inside the municipal boundaries.

(3) Current CCN holder--The retail public utility that holds a CCN to provide service to the municipality's requested area.

(4) Requested [~~Transferred~~] property--Property that the municipality has requested in its application be transferred to it or to a franchised utility from the current CCN holder, which request is solely for application purposes and does not, by itself, effectuate an actual transfer.

[~~(5) Useless or valueless property--Property that would be rendered useless or valueless to the current CCN holder by single certification.~~]

(c) Notice of intent to provide service in incorporated or annexed area. A municipality that intends to provide service itself or through a franchised utility to all or part of an annexed or incorporated area must [~~shall~~] notify the current CCN holder in writing of the municipality's intent. The written notice to the current CCN holder must [~~shall~~] specify the following information:

(1) the municipality's requested area;

(2) any requested [~~transferred~~] property;

(3) the municipal ordinance or other action that annexed or incorporated the municipality's requested area;

(4) what kind of service will be provided;

(5) whether a municipally owned utility or franchised utility will provide the service; and

(6) the municipally owned utility's or the franchised utility's identity and contact information.

(d) Written agreement regarding service to area. The municipality and the current CCN holder may agree in writing that all or part of the area incorporated or annexed by the municipality may receive service from a municipally owned utility, a franchised utility, or the current CCN holder, or any combination of those entities.

(1) If a franchised utility is to provide service to any part of the area, the franchised utility must [~~shall~~] also be a party to the agreement.

(2) The executed agreement may provide for single or dual certification of all or part of the area incorporated or annexed by the municipality, for the purchase of facilities or property, and may contain any other terms agreed to by the parties.

(3) The executed agreement must [~~shall~~] be filed with the commission. The commission must [~~shall~~] incorporate the agreement's terms into the respective CCNs of the municipality, current CCN holder, and franchised utility, as appropriate.

(e) Application for single certification. If an agreement is not executed within 180 calendar days after the municipality provides written notice under subsection (c) of this section and the municipality intends to provide service to the municipality's requested area, the municipality must [~~shall~~] submit an application to the commission to grant single certification to a municipally owned utility or a franchised utility.

(1) If a franchised utility will provide service to any part of the municipality's requested area, the franchised utility must [~~shall~~] join the application.

(2) The application must [~~shall~~] include all of the information listed in this paragraph.

(A) The application must [~~shall~~] identify the municipal ordinance or other action that annexed or incorporated the municipality's requested area.

(B) The application must [~~shall~~] identify the type of service that will be provided to the municipality's requested area.

(C) The application must [~~shall~~] identify the municipally owned utility or franchised utility that will provide service to the municipality's requested area and, if each will serve part of the area, the area that each will serve.

(D) The application must [~~shall~~] identify contact information for the current CCN holder.

(E) The application must [~~shall~~] demonstrate compliance with the TCEQ's minimum requirements for public drinking water systems if the municipality owns a public drinking water system.

(F) The application must [~~shall~~] demonstrate that at least 180 calendar days have passed since the date that the municipality provided written notice under subsection (c) of this section.

(G) The application must [~~shall~~] identify with specificity any property that the municipality requests be transferred from the current CCN holder.

(H) The application must [~~shall~~] identify the boundaries of the municipality's incorporated area or extraterritorial jurisdiction by providing digital-mapping data in a shapefile (SHP) format georeferenced in either NAD 83 Texas State Plane Coordinate System (US feet) or in NAD 83 Texas Statewide Mapping System (meters). The digital mapping data must [~~shall~~] include a single, continuous polygon record.

(I) The application must [~~shall~~] identify the municipality's requested area by providing mapping information to clearly identify the area the municipality is seeking in accordance with §24.257 of this title relating to Mapping Requirements for Certificate of Convenience and Necessity Application. Commission staff may request additional mapping information after the application is submitted.

(3) Within 30 calendar days of the filing of the application, commission staff must [~~shall~~] file a recommendation regarding whether the application meets the requirements of this subsection.

(f) Notices for single-certification application. The applicant must [~~shall~~] send a copy of the application to the current CCN holder by certified mail or hand-delivery on the same day that the applicant submits the application to the commission.

(g) Response to single-certification application. The current CCN holder must [~~shall~~] file a response to the application for single certification in conformance with this subsection.

(1) The response must [~~shall~~] be filed within 40 calendar days of the filing of the application.

(2) The response must [~~shall~~] state the following information:

(A) whether the single certification is agreed to; and

(B) if there is no agreement for single certification, any conditions that, if met, would cause the current CCN holder to agree to single certification.

(3) In its response, the current CCN holder must [~~shall~~] identify any [~~useless or valueless property, or~~] impaired property[~~,~~] that would result from certification of the municipality's requested area to the municipality.

(4) There is a rebuttable presumption that there is no [~~useless or valueless property or~~] impaired property if the current CCN holder fails to timely respond as required under paragraph (1) of this subsection. Upon motion and proof of service consistent with the requirements of subsection (f) of this section, the presiding officer may issue an order determining that there is no [~~useless or valueless property or~~] impaired property.

(h) Referral to SOAH.

(1) Within 50 calendar days of the filing of the application, a presiding officer must [~~shall~~] determine whether an application for single certification meets the requirements of subsection (e) of this section.

(2) If the presiding officer determines that the application meets the requirements of subsection (e) of this section, the application must [~~shall~~] be referred to the State Office of Administrative Hearings (SOAH) for a hearing. SOAH must [~~shall~~] fix a time and place for a hearing on the application and must [~~shall~~] notify the current CCN holder, municipality, and franchised utility, if any, of the hearing.

(3) Except as provided under paragraph (4) of this subsection, if the presiding officer determines that the application does not meet the requirements of subsection (e) of this section, the applicant must [~~shall~~] supplement its application to correct the identified deficiencies within a timeframe, and under a process, established by the presiding officer.

(4) The application must [~~shall~~] be denied if the municipality fails to demonstrate compliance with the TCEQ's minimum requirements for public drinking water systems. This paragraph does not apply to a municipality that does not own a public drinking water system.

(i) Hearing at SOAH.

(1) The hearing at SOAH must [~~shall~~] be limited to determining what property, if any, is [~~useless or valueless property,~~] impaired property[~~,~~] or requested [~~transferred~~] property.

(2) The current CCN holder bears the burden of proof to demonstrate [~~to prove~~] what property is [~~useless or valueless property or~~] impaired property.

(3) The requested [~~transferred~~] property must [~~shall~~] be limited to the specific property identified in the application.

(4) The SOAH administrative law judge must [~~shall~~] issue a proposal for decision for the commission's consideration.

(j) Interim order. The commission must [~~shall~~] issue an interim order identifying what property, if any, is [~~useless or valueless property,~~] impaired property[~~,~~] or requested [~~transferred~~] property.

(k) Administrative Completeness. Section 24.8 of this title relating to Administrative Completeness does not apply to the determination of administrative completeness under this section. After the commission has issued its interim order under subsection (j) of this section, a presiding officer must [~~shall~~] determine that the application for single certification is administratively complete and must [~~shall~~] establish a procedural schedule that will allow total compensation for any property identified in the interim order to be determined not later than 90 calendar days after the application is determined to be administratively complete.

(l) Valuation of real property. The value of real property that the commission identified in the interim order issued under subsection (j) of this section must [~~shall~~] be determined according to the standards set forth in Texas Property Code, chapter 21, governing actions in eminent domain.

(m) Valuation of personal property. The value of personal property that the commission identified in the interim order issued under subsection (j) of this section must [~~shall~~] be determined according to this subsection.

(1) This subsection is intended to ensure that the compensation to a current CCN holder is just and adequate as provided by these rules.

(2) The following factors must [~~shall~~] be used to value personal property that the commission identified in the interim order issued under subsection (j) of this section:

(A) the impact on the current CCN holder's existing indebtedness and the current CCN holder's ability to repay that debt;

(B) the value of the current CCN holder's service facilities located within the municipality's requested area;

(C) the amount of any expenditures for planning, design, or construction of service facilities outside the incorporated or annexed area that are allocable to service to the municipality's requested area;

(D) the amount of the current CCN holder's contractual obligations allocable to the municipality's requested area;

(E) any demonstrated impairment of service or increase of cost to the current CCN holder's customers that remain after the single certification;

(F) the impact on future revenues lost from existing customers;

(G) necessary and reasonable legal expenses and professional fees;

(H) factors relevant to maintaining the current financial integrity of the current CCN holder; and

(I) other relevant factors as determined by the commission.

(n) Valuation Process.

(1) For an area incorporated by a municipality, the valuation of property that the commission identified in the interim order issued under subsection (j) of this section must [~~shall~~] be determined by a qualified individual or firm serving as an independent appraiser. The independent appraiser must [~~shall~~] be limited to appraising the property that the commission identified in the interim order issued under subsection (j) of this section. The current CCN holder must [~~shall~~] select the independent appraiser by the 21st calendar day after the date of the order determining that the application is administratively complete. The municipality must [~~shall~~] pay the independent appraiser's costs. The independent appraiser must [~~shall~~] file its appraisal with the commission by the 70th calendar day after the date of the order determining that the application is administratively complete. The valuation of property under this paragraph is binding on the commission.

(2) For an area annexed by a municipality, the valuation of property that the commission identified in the interim order issued under subsection (j) of this section must [~~shall~~] be determined by one or more independent appraisers under the process set forth in this paragraph. All independent appraisers must [~~shall~~] be limited to appraising the property that the commission identified in the interim order issued under subsection (j) of this section. All independent appraisers must [~~shall~~] be qualified individuals or firms.

(A) If the current CCN holder and the municipality can agree on an independent appraiser within ten calendar days after the application is found administratively complete, the agreed-upon independent appraiser must [~~shall~~] make a valuation of the property that the commission identified in the interim order issued under subsection (j) of this section.

(i) The agreed-upon independent appraiser must [~~shall~~] file its appraisal with the commission by the 70th calendar day after the date of the order determining that the application is administratively complete.

(ii) A valuation of property under this subparagraph is binding on the commission.

(B) If the current CCN holder and the municipality cannot agree on an independent appraiser within ten calendar days after the application is found administratively complete, the municipality must [~~shall~~] notify the serving CCN holder in writing of the failure to agree.

(i) If the parties still cannot agree within 11 calendar days of the written notification, on the 11th day, the current CCN holder and the municipality must [~~shall~~] each file with the commission a letter appointing a qualified individual or firm to serve as an independent appraiser.

(I) Within 10 business days of their appointment, the independent appraisers must [~~shall~~] meet to reach an agreed valuation of property that the commission identified in the interim order issued under subsection (j) of this section.

(II) If the independent appraisers reach an agreed valuation of property, the agreed valuation under this subclause is binding on the commission.

(ii) If the appraisers cannot agree on a valuation before the 16th business day after the date of their first meeting under this subsection, then both parties must [~~shall~~] file separate appraisals by that date, and either the current CCN holder or the municipality must [~~shall~~] petition the commission to appoint a third appraiser to reconcile the two appraisals.

(I) The commission may delegate authority to appoint the third appraiser.

(II) The third appraiser must [~~shall~~] file an appraisal that reconciles the two other appraisals by the 80th calendar day after the application is found administratively complete.

(III) The third appraiser's valuation may not be less than the lower or more than the higher of the two original appraisals filed under subparagraph (B)(ii) of this paragraph.

(IV) A valuation of property under this clause is binding on the commission.

(C) The current CCN holder and the municipality must [~~shall~~] each pay one-half of the costs of all of the appraisers appointed under this paragraph. Payment must [~~shall~~] be made directly to the appraisers, and proofs of payment must [~~shall~~] be separately filed by the current CCN holder and the prospective retail public utility within 30 calendar days of the date of the invoice.

(o) Action after receipt of appraisals.

(1) An order incorporating the valuation determined under subsection (n) of this section must [~~shall~~] be issued by the 90th calendar day after the application is found administratively complete.

(2) The commission must [~~shall~~] deny the application if the municipality fails to demonstrate compliance with the TCEQ's minimum requirements for public drinking water systems. This paragraph does not apply to a municipality that does not own a public drinking water system.

(3) If the commission does not deny the application, the commission must [~~shall~~] do the following:

(A) determine what property, if any, is [~~useless or valueless property,~~] impaired property[~~,~~] or requested [~~transferred~~] property;

(B) determine the monetary amount that is adequate and just to compensate the current CCN holder for any such [~~useless or valueless property,~~] impaired property[~~,~~] and requested [~~transferred~~] property; [~~and~~]

(C) require the municipality or franchised utility to file a report verifying that the full amount of just and adequate compensation has been paid to the former retail public utility. The report must be filed in the same docket in which compensation was awarded within 30 days of payment of compensation; and

(D) [~~(C)~~] grant single certification to the municipality or franchised utility.

(4) The granting of single certification must [~~shall~~] be effective on the date that

(A) the municipality or franchised utility pays adequate and just compensation under a court order;

(B) the municipality or franchised utility pays an amount into the registry of the court or to the current CCN holder under TWC §13.255(f); or

(C) the Travis County district court's judgment becomes final, if the court's judgment provides that the current CCN holder is not entitled to any compensation.

(5) The commission's order does not transfer any property, except as provided under subsection (u) of this section. Any other transfer of property under this section must [~~shall~~] be obtained only by a court judgment rendered under TWC §13.255(d) or (e).

(6) A presiding officer may issue an order under this section. Any such order must [~~shall~~] be the final act of the commission subject to motions for rehearing under the commission's rules.

(p) Appeal to the commission, district court, district court judgment, and transfer of property.

(1) A retail public utility that is aggrieved by the final order of the commission may file an appeal with the commission in a separate hearing within 7 days after the final order is issued. A retail public utility must file an appeal with the commission before filing an appeal with the district court.

(2) [~~(1)~~] Under TWC §13.255(e), any party that is aggrieved by a final order of the commission under this section may file an appeal with the district court of Travis County within 30 days after the order becomes final.

(3) [~~(2)~~]Under TWC §13.255(d), if the commission's final order is not appealed within 30 days, the municipality may request the Travis County district court to enter a judgment consistent with the commission's order.

(q) (No change.)

(r) Additional requirements regarding certain current CCN holders. The following subsection applies to proceedings under this section in which the current CCN holder meets the criteria of subsection (a)(3)(B) of this section.

(1) The commission or a court, as appropriate, must determine that the service provided by the current CCN holder is substandard or its rates are unreasonable in view of the current CCN holder's reasonable expenses.

(2) If the municipality abandons its application, the commission is authorized to award to the current CCN holder its reasonable expenses incurred to participate in the proceeding addressing the municipality's application, including attorney's fees.

(3) Unless the current CCN holder otherwise agrees, the municipality must [~~shall~~] take all of the current CCN holder's personal and real property that is used and useful to provide service or is eligible to be deemed so in a future rate case.

(s) Notice of single certification. Within 60 days of a transfer of property under a court judgment, the municipality or franchised utility must [~~shall~~] provide written notice to each customer within the service area that is now singly certificated. The written notice must [~~shall~~] provide the following information: the identity of the municipality or franchised utility, the reason for the transfer, the rates to be charged by the municipality or franchised utility, and the effective date of those rates.

(t) Provision of service.

(1) A municipally owned utility or a franchised utility may provide service to all or a portion of an incorporated or annexed area on one of the following dates:

(A) the date that the commission incorporates the terms of an executed agreement filed with the commission under subsection (d)(3) of this section into the CCNs of the municipality, current CCN holder, and franchised utility, if applicable; or

(B) the date that the municipality or franchised utility

(i) pays adequate and just compensation under court order, or

(ii) pays an amount into the registry of the court or to the current CCN holder under TWC §13.255(f).

(2) If the court judgment provides that the current CCN holder is not entitled to any compensation, the grant of single certification must [~~shall~~] go into effect when the court judgment becomes final.

(u) Additional conditions.

(1) If the current CCN holder did not agree in writing to a revocation or amendment sought under this section, then an affected retail public utility may request that the revocation or amendment be conditioned on the following:

(A) ordering the municipality or franchised utility, as applicable, to provide service to the entire service area of the current CCN holder; and

(B) transferring the entire CCN of the current CCN holder to the municipality or franchised utility, as applicable.

(2) The commission must [~~shall~~] order the municipality or franchised utility, as applicable, to provide service to the entire service area of the current CCN holder if the commission finds that the current CCN holder will be unable to provide continuous and adequate service at an affordable cost to the current CCN holder's remaining customers.

(A) The commission must [~~shall~~] order the municipality or franchised utility, as applicable, to provide continuous and adequate service to the remaining customers at a cost comparable to the cost of that service to the municipality's or franchised utility's other customers and must [~~shall~~] establish the terms under which service must be provided.

(B) The commission may order the following terms:

(i) transfer of debt and other contract obligations;

(ii) transfer of real and personal property;

(iii) establishment of interim service rates for affected customers during specified times; and

(iv) other provisions necessary for the just and reasonable allocation of assets and liabilities.

(3) The municipality or franchised utility, as applicable, must [~~shall~~] not charge the affected customers any transfer fee or other fee to obtain service, except

(A) the municipality's or franchised utility's usual and customary rates for monthly service, or

(B) interim rates set by the commission, if applicable.

(4) If the commission orders the municipality or franchised utility, as applicable, to provide service to the entire service area of the current CCN holder, the proceeding must [~~shall~~] not be referred to SOAH for a hearing to determine the [~~useless or valueless property,~~] impaired property[~~,~~] or requested [~~transferred~~] property, and the commission must [~~shall~~] not order compensation to the current CCN holder.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on March 26, 2026.

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Katelyn Lewis
Projects Coordinator
Public Utility Commission of Texas
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For further information, please call: (512) 936-7044

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PART 3. TEXAS ALCOHOLIC BEVERAGE COMMISSION

CHAPTER 35. ENFORCEMENT

16 TAC §35.7

The Texas Alcoholic Beverage Commission (TABC) proposes new rule 16 TAC §35.7, relating to Consumption of Consumable Hemp Products. The proposed rule prohibits a permittee or licensee from authorizing or allowing any person to consume a consumable hemp product (CHP) on any permitted or licensed premises where the consumption of alcoholic beverages is generally prohibited.

TABC is generally tasked with regulating every phase of the business of manufacturing, importing, exporting, transporting, storing, selling, advertising, labeling, and distributing alcoholic beverages. Tex. Alco. Bev. Code §5.31. But the agency is also directed to "supervise and regulate licensees and permittees and their places of business in matters affecting the public." *Id*. §5.33. And that "authority is not limited to matters specifically mentioned in" the Alcoholic Beverage Code. *Id*. TABC must also ensure that the place and manner in which a permittee or licensee conducts its business is consistent with the general welfare, health, peace, morals, and safety of the people and the public sense of decency. *Id*. §§11.61(b)(7), 61.71(a)(16). The proposed rule implements those provisions.

With limited exceptions, the consumption of alcoholic beverages is prohibited on the premises of the following types of permits and licenses: Wine and Malt Beverage Retailer's Off-Premise Permit, Retail Dealer's Off-Premise License, Package Store Permit, and Wine-Only Package Store Permit. This prohibition has long served an important public safety purpose. *See, e.g.*, Bill Analysis, H.B. 877, 68th Leg., R.S. (1983) (discussing problems involving the consumption of alcoholic beverages at off-premise locations). With the recent rise in the use of CHPs, many of which are intoxicating, TABC believes it is necessary to restrict the use of such products at these types of premises for the same public safety reasons that alcohol consumption is prohibited. The proposed rule provides for sanctions to be imposed on a permittee or licensee that authorizes or allows consumption of CHPs in violation of the proposed rule, consistent with Chapter 34 of TABC's rules (16 TAC §§34.1-34.22).

TABC presented the proposed rule at a stakeholder meeting on February 26, 2026, and considered comments received from stakeholders in drafting this proposal.

FISCAL NOTE AND LOCAL EMPLOYMENT IMPACT STATEMENT. Andrea Maceyra, Chief of Regulatory Affairs, has determined that during each year of the first five years the proposed rule is in effect, there will be no fiscal impact on state or local governments because of enforcing or administering the rule. Mrs. Maceyra made this determination because the proposed rule does not add to or decrease state revenues or expenditures, and because local governments are not involved in enforcing or complying with the proposed rule. Mrs. Maceyra also does not anticipate any measurable effect on local employment or the local economy because of this proposal.

PUBLIC BENEFIT AND COST NOTE. For each year of the first five years the proposed rule is in effect, Mrs. Maceyra expects that enforcing or administering the amended rule will have the public benefit of preventing consumption of CHPs at licensed premises not intended and designed for the consumption of intoxicating products. Mrs. Maceyra does not expect the proposed rule will impose economic costs on persons required to comply with the rule.

ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS. TABC has determined that the proposed rule will not have an adverse economic effect on small or micro businesses, or on rural communities. As a result, and in accordance with Government Code §2006.002(c), TABC is not required to prepare a regulatory flexibility analysis.

GOVERNMENT GROWTH IMPACT STATEMENT. TABC has determined that for each year of the first five years that the proposed rule is in effect, it:

- will not create or eliminate a government program;

- will not require the creation of new employee positions or the elimination of existing employee positions;

- will not require an increase or decrease in future legislative appropriations to the agency;

- will not require an increase or decrease in fees paid to the agency;

- will create a new regulation;

- will not expand, limit, or repeal an existing regulation;

- will not increase or decrease the number of individuals subject to the rule's applicability; and

- will not positively or adversely affect the Texas economy.

TAKINGS IMPACT ASSESSMENT. TABC has determined that no private real property interests are affected by this proposal and that this proposal does not restrict or limit an owner's right to property that would otherwise exist in the absence of government action. As a result, this proposal does not constitute a taking or require a takings impact assessment under Government Code §2007.043.

REQUEST FOR PUBLIC COMMENT. TABC requests comments on the proposed amendment from any person interested in the amendment. Additionally, TABC requests information related to the cost, benefit, or effect of the proposed amendment, including any applicable data, research, or analysis, from any person required to comply with the proposed amendment or any other interested person. TABC will consider any written comments on the proposal that are received by TABC no later than 5:00 p.m., central time, May 11, 2026. Send your comments to rules@tabc.texas.gov or to the Office of the General Counsel, Texas Alcoholic Beverage Commission, P.O. Box 13127, Austin, Texas 78711-3127. TABC staff will hold a public hearing to receive oral comments on the proposed rule at 10:00 a.m. on

April 23, 2026. Interested persons should visit TABC's public website at www.tabc.texas.gov or contact TABC Legal Assistant Amada Clopton at (512) 206-3367, prior to the meeting date to receive further instructions.

STATUTORY AUTHORITY. TABC proposes the new rule under Alcoholic Beverage Code §§5.31 and 5.33. Section 5.31 provides that "the commission may exercise all powers, duties, and functions conferred by this code, and all powers incidental, necessary, or convenient to the administration of this code," and further states that "it may prescribe and publish rules necessary to carry out the provisions of this code." Section 5.33 provides that "the commission shall supervise and regulate licensees and permittees and their places of business in matters affecting the public." And that "this authority is not limited to matters specifically mentioned in [the] code."

CROSS-REFERENCE TO STATUTE. The proposed rule implements Alcoholic Beverage Code §§11.61(b)(7) and 61.71(a)(16).

§35.7. Consumption of Consumable Hemp Products.

(a) In this section the terms "consumable hemp product," "licensee," and "permittee" have the meanings assigned by §35.5 of this chapter

(b) A permittee or licensee may not authorize or allow any person to consume a consumable hemp product on a premises covered by a wine and malt beverage retailer's off-premise permit, retail dealer's off-premise license, package store permit, or wine-only package store permit. A permittee or licensee violates this subsection if it knows or, in the exercise of reasonable care, should know of the consumption of consumable hemp products or the likelihood of its occurrence and fails to take reasonable steps to prevent it.

(c) A violation of this section is subject to Chapter 34 of this title and will be assessed a base penalty of $250.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on March 24, 2026.

TRD-202601359
Matthew Cherry
Senior Counsel
Texas Alcoholic Beverage Commission
Earliest possible date of adoption: May 10, 2026
For further information, please call: (512) 206-3491

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CHAPTER 41. AUDITING
SUBCHAPTER B. RECORDKEEPING & REPORTS

16 TAC §41.12

The Texas Alcoholic Beverage Commission (TABC) proposes an amendment to 16 TAC §41.12, relating to Compliance Reporting by License and Permit Holders. Current §41.12(d) provides that TABC may issue a written warning to a permittee or licensee who fails to file a compliance report in a timely manner. The proposed amendment adds new subsection (e), which would permit TABC to issue such a warning without providing the permittee or licensee an opportunity for an administrative hearing.

Section 41.12 generally requires TABC-licensed businesses with a premises in Texas to prepare and file a compliance self-assessment, known as a compliance report, each year. Despite repeated attempts to notify permittees and licensees of their filing obligation, and recent amendments to the rule extending the timeframe to submit compliance reports (49 TexReg 9745 (2024)), a significant number of permittees and licensees still fail to submit their reports to the agency. TABC relies on these reports to fulfill its enforcement obligations under the Alcoholic Beverage Code, and the continued noncompliance has hampered the agency's ability to fulfill those obligations. The agency believes the issuance of written warning letters is warranted in these instances.

TABC rule 16 TAC §34.1(d)(3) currently gives the recipient of any written warning the opportunity to request an administrative hearing challenging the warning at the State Office of Administrative Hearings (SOAH). It often takes SOAH many months to hold a hearing and issue a proposal, and TABC must devote significant time and scarce resources to each hearing. TABC believes these resources can be better spent elsewhere in these types of cases. Furthermore, a hearing to determine whether a permittee or licensee filed a compliance report would seem to be pointless; the report is either filed or not. As such, TABC does not believe an administrative hearing is warranted when issuing a written warning for failure to file compliance reports. Lastly, this specific compliance report warning will not impact a license or permit holder's existing bonds and does not qualify as a violation for purposes of bond forfeiture.

TABC presented the proposed amendment at a stakeholder meeting on February 5, 2026, and considered comments received from stakeholders in drafting this proposal.

FISCAL NOTE AND LOCAL EMPLOYMENT IMPACT STATEMENT. Andrea Maceyra, Chief of Regulatory Affairs, has determined that during each year of the first five years the proposed amendment is in effect, there will be no fiscal impact on state or local governments because of enforcing or administering the amended rule. Mrs. Maceyra made this determination because the proposed amendment does not add to or decrease state revenues or expenditures, and because local governments are not involved in enforcing or complying with the amended rule. Mrs. Maceyra also does not anticipate any measurable effect on local employment or the local economy because of this proposal.

PUBLIC BENEFIT AND COST NOTE. For each year of the first five years the proposed amendment is in effect, Mrs. Maceyra expects that enforcing or administering the amended rule will have the public benefit of increasing permittees' and licensees' rate of compliance with regulatory reporting requirements and conserving TABC resources. Mrs. Maceyra does not expect the proposed amendment will impose economic costs on persons required to comply with the amended rule.

ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS. TABC has determined that the proposed amendment will not have an adverse economic effect on small or micro businesses, or on rural communities. As a result, and in accordance with Government Code §2006.002(c), TABC is not required to prepare a regulatory flexibility analysis.

GOVERNMENT GROWTH IMPACT STATEMENT. TABC has determined that for each year of the first five years that the proposed amendment is in effect, it:

- will not create or eliminate a government program;

- will not require the creation of new employee positions or the elimination of existing employee positions;

- will not require an increase or decrease in future legislative appropriations to the agency;

- will not require an increase or decrease in fees paid to the agency;

- will not create a new regulation;

- will expand, limit, or repeal an existing regulation;

- will not increase or decrease the number of individuals subject to the rule's applicability; and

- will not positively or adversely affect the Texas economy.

TAKINGS IMPACT ASSESSMENT. TABC has determined that no private real property interests are affected by this proposal and that this proposal does not restrict or limit an owner's right to property that would otherwise exist in the absence of government action. As a result, this proposal does not constitute a taking or require a takings impact assessment under Government Code §2007.043.

REQUEST FOR PUBLIC COMMENT. TABC requests comments on the proposed amendment from any person interested in the amendment. Additionally, TABC requests information related to the cost, benefit, or effect of the proposed amendment, including any applicable data, research, or analysis, from any person required to comply with the proposed amendment or any other interested person. TABC will consider any written comments on the proposal that are received by TABC no later than 5:00 p.m., central time, May 11, 2026. Send your comments to rules@tabc.texas.gov or to the Office of the General Counsel, Texas Alcoholic Beverage Commission, P.O. Box 13127, Austin, Texas 78711-3127. TABC staff will hold a public hearing to receive oral comments on the proposed rule at 10:00 a.m. on April 23, 2026. Interested persons should visit TABC's public website at www.tabc.texas.gov or contact TABC Legal Assistant Amada Clopton at (512) 206-3367, prior to the meeting date to receive further instructions.

STATUTORY AUTHORITY. TABC proposes the amendments pursuant to TABC's rulemaking authority under Texas Alcoholic Beverage Code §5.31. Section 5.31 authorizes TABC to prescribe and publish rules necessary to carry out the provisions of the Alcoholic Beverage Code.

CROSS-REFERENCE TO STATUTE. The proposed amendment implements Alcoholic Beverage Code §§ 5.32 and 5.361.

§41.12. Compliance Reporting By License and Permit Holders.

(a) - (d) (No change.)

<u>(e) Notwithstanding §34.1(d)(3) of this title, the commission may issue a written warning as provided in subsection (d) of this section without providing the permittee or licensee an opportunity for an administrative hearing under the Administrative Procedure Act.</u>

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on March 24, 2026.

TRD-202601358

Matthew Cherry
Senior Counsel
Texas Alcoholic Beverage Commission
Earliest possible date of adoption: May 10, 2026
For further information, please call: (512) 206-3491

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PART 4. TEXAS DEPARTMENT OF LICENSING AND REGULATION

CHAPTER 73. ELECTRICIANS

16 TAC §§73.10, 73.21, 73.26, 73.80, 73.110 - 73.112

The Texas Department of Licensing and Regulation (Department) proposes amendments to existing rules at 16 Texas Administrative Code (TAC), Chapter 73, §§73.10, 73.21, 73.26, 73.80, 73.110, and 73.111, and a new rule at §73.112, regarding the Electricians program. These proposed changes are referred to as the "proposed rules."

EXPLANATION OF AND JUSTIFICATION FOR THE RULES

The rules under 16 TAC, Chapter 73, implement Texas Occupations Code, Chapter 1305, Electricians.

The proposed rules are necessary to address a shortage of journeyman electricians and do so by creating an accelerated pathway for graduates of an approved accelerated journeyman electrician education program ("JEEP program").

Under Texas Occupations Code §1305.155, to become a journeyman electrician, an applicant must have 8,000 hours of on-the-job training under the supervision of a master electrician and must pass an examination. The current rule at 16 TAC §73.10 defines "on-the-job training" narrowly to include only "electrical work," which is also defined restrictively by the rule. Historically, the first-time pass rate for the journeyman electrical examination has been less than 30 percent. The combined effect of the arduous on-the-job training requirements and examination policies have contributed to the current shortage of journeymen electricians. Current Department policy allows applicants to sit for the examination after completing 7,000 hours of the statutorily-required 8,000 hours of supervised on-the-job training.

Under Texas Occupations Code §51.4041(a), the Department has the authority to adopt alternative means of determining a person's eligibility for a license, including evaluating the person's education, training, or experience. Texas State Technical College has proposed to offer an intensive hands-on education program to provide students with in-depth knowledge of the current National Electrical Code and to prepare them to take the journeyman electrician examination. Under the proposal, most of the instruction will occur in a laboratory setting under the direct supervision of qualified electricians. Because this type of instruction will be the functional equivalent of on-the-job training, the proposed rules redefine "on-the-job training" to include participation in this type of program. The precise number of hours each student spends to complete the program, including time practicing skills in a laboratory, will vary based on the time it takes the student to master the relevant skills.

Due to the intensive and focused nature of the instruction offered in the program, under the proposed rules, program graduates will ordinarily receive 3,000 hours of on-the-job training credit for JEEP program completion and may receive additional credit for electrical work performed for third parties in an optional cooperative education element.

Also, under the proposed rules, program graduates will be eligible to immediately sit for the journeyman electrical examination and the current policy of authorizing examination after 7,000 hours for other candidates is formalized in rule. Thus, by allowing early examination and providing on-the-job training credit for instruction received, the proposed rules provide an accelerated track to journeyman licensure under the Department's alternative qualification authority. Under the proposed rules, the Executive Director is empowered to extend the period of validity of examination results of JEEP program graduates if good cause is shown, so that the student will retain the benefit of early examination.

The proposed rules establish criteria for approval of a JEEP program and related curriculum, mechanisms for audit and inspection of programs, and set a fee for evaluation of a program for approval. Lastly, the proposed rules correct a statutory reference in a rule and make non-substantive clarifying and stylistic changes to existing rules.

Advisory Board Recommendations

The topics of the proposed JEEP program and the application of the Department's alternative qualification power was discussed at the Electrical Safety and Licensing Advisory Board meetings held on January 29, 2026 and February 25, 2026. The proposed rules were developed with assistance of education and examination and rules workgroups assigned by the presiding officer of the advisory board. Due to time constraints, the proposed rules have not been presented to the full advisory board for recommendation prior to publication in the *Texas Register* for public comment.

SECTION-BY-SECTION SUMMARY

The proposed rules amend §73.10, Definitions. The statutory reference in paragraph (3), pertaining to the definition of "career and technology education program" is corrected to Texas Occupations Code §1305.1575(a)(1). A definition of the term "Accelerated Journeyman Electrician Education Program" is provided in new paragraph (12). Existing paragraphs (12) through (30) are renumbered as (13) through (31), respectively. The definition of "on-the-job training," currently found in paragraph (23) is moved to paragraph (24) and a sentence is added to include hours earned in the JEEP program in the definition. Additionally, throughout the section, the word "licensee" is replaced with the term "license holder" and male pronouns are replaced with gender-neutral pronouns for stylistic consistency. Lastly, the word "while," in relation to the performance of electrical sign work, is inserted in the definition of Electrical Sign Apprentice currently found in paragraph (22) and moved to paragraph (23), for clarity.

The proposed rules amend §73.21, Licensing Requirements--Examinations. Two new subsections, (b) and (c) are inserted, and existing subsection (b) is re-lettered as (d). New subsection (b) allows applicants to sit for the journeyman electrician examination after either completing 7,000 hours of on-the-job training or completing the JEEP program. New subsection (c) allows the Executive Director, for JEEP program graduates, to extend the period that the test results are valid, if good cause is shown.

The proposed rules amend §73.26, Documentation of Required On-The-Job Training. New subsection (e) is inserted to establish when and how an applicant will receive on-the-job training credit for completion of the JEEP program, including how electrical work performed under an optional cooperative program is treated. Language is added to existing subsection (a) to recognize the exception in new subsection (e). Stylistic changes are made to the language in subsections (b) and (c) for clarity and consistency.

The proposed rules amend §73.80, Fees. Subsection (f) is amended to reflect that a $90 fee will be charged for the evaluation of a prospective JEEP program for approval. Subsection (g) is amended to reflect that the waiver of renewal fees, currently extended to instructors in career and technology education programs for residential wiremen, will now be also extended to instructors of JEEP programs.

The proposed rules amend §73.110, Career and Technology Education Program Requirements. The phrase "residential wiremen" is added to the title of the section for clarity. New subsection (a) is inserted, with language distinguishing the program from the new JEEP program and clarifying that certain restrictions under that section do not apply to the JEEP program. Existing subsections are re-lettered.

The proposed rules amend §73.111, Compliance with Career and Technology Education Program Requirements. The phrase "residential wiremen" is added to the section title for clarity. New subsection (a) is inserted, with language clarifying that the rule does not apply to the JEEP program. Existing subsections are re-lettered.

The proposed rules add new §73.112, Accelerated Journeyman Electrician Education Program. Subsection (a) states the authority for and applicability of the section, and cites to both program statutes and the Department's alternative qualification statute as sources of authority. Subsection (b) states general requirements for the program, including that both the curriculum and program must be approved by the Department. Subsection (c) provides information related to curriculum approval. Subsection (d) states required elements of a curriculum. Subsection (e) establishes minimum instructional hours and hands-on instruction requirements. Subsection (f) establishes requirements for a program to apply for approval. Subsection (g) requires an approved program to notify the Department of changes related to the program. Subsection (h) provides for audits and inspections. Subsection (i) provides for rescission of approval. Subsection (j) clarifies that denial or recission of approval does not constitute a contested case under the Administrative Procedure Act (Texas Government Code, Chapter 2001). Subsection (k) clarifies how approval will impact current students in a program. Subsection (l) establishes how credit will be awarded and gives the Executive Director authority to award greater credit than generally provided in the subsection.

FISCAL IMPACT ON STATE AND LOCAL GOVERNMENT

Tony Couvillon, Senior Policy Research and Budget Analyst, has determined that for each year of the first five years the proposed rules are in effect, there are no estimated additional costs or reductions in costs to state or local government as a result of enforcing or administering the proposed rules.

Mr. Couvillon has also determined that for each year of the first five years the proposed rules are in effect, there is no estimated increase or loss in revenue to the state or local government as a result of enforcing or administering the proposed rules.

Mr. Couvillon has determined that for each year of the first five years the proposed rules are in effect, there will be some decrease in revenue to the state government stemming from the waiver of license renewal fees for JEEP program instructors and an increase in revenue to the state government related to the fees for JEEP program approval. Because it is not known at this time how many license holders will become instructors and avail themselves of this provision or how many programs will apply and pay the fee, the net impact on revenue cannot be estimated, however, it is not expected to be significant. No other increase or loss in revenue to state government is expected.

Mr. Couvillon has determined that for each year of the first five years the proposed rules are in effect, there will be costs to community college districts that choose to establish and seek approval of a JEEP program. These costs will vary by district and cannot be estimated at this time. No other implications relating to costs or revenues of local governments are anticipated.

LOCAL EMPLOYMENT IMPACT STATEMENT

Because Mr. Couvillon has determined that the proposed rules will not affect a local economy, the agency is not required to prepare a local employment impact statement under Texas Government Code §2001.022.

PUBLIC BENEFITS

Mr. Couvillon also has determined that for each year of the first five-year period the proposed rules are in effect, the public benefit will be addressing a shortage of qualified electricians to facilitate the construction and maintenance of homes and buildings and providing an accelerated pathway for individuals to qualify for work as journeyman electricians.

PROBABLE ECONOMIC COSTS TO PERSONS REQUIRED TO COMPLY WITH PROPOSAL

Mr. Couvillon has determined that for each year of the first five-year period the proposed rules are in effect, there will be additional costs to persons who are required to comply with the proposed rules. Prospective JEEP programs will incur start-up costs in establishing a program that complies with the proposed rules and will be required to pay the $90 fee for approval. Approved programs will also have costs associated with complying with audits or inspections. Because these costs will vary from program to program, they cannot be estimated for a particular individual.

FISCAL IMPACT ON SMALL BUSINESSES, MICRO-BUSINESSES, AND RURAL COMMUNITIES

There will be no adverse economic effect on small businesses, micro-businesses, or rural communities as a result of the proposed rules. Because the agency has determined that the proposed rule will have no adverse economic effect on small businesses, micro-businesses, or rural communities, preparation of an Economic Impact Statement and a Regulatory Flexibility Analysis, as detailed under Texas Government Code §2006.002, is not required.

ONE-FOR-ONE REQUIREMENT FOR RULES WITH A FISCAL IMPACT

The proposed rules have a fiscal note that imposes a cost on regulated persons, including another state agency, a special district, or a local government; however, the proposed rules fall under the exception for rules that are necessary to protect the health, safety, and welfare of the residents of this state under §2001.0045(c)(6). Therefore, the agency is not required to take any further action under Texas Government Code §2001.0045.

GOVERNMENT GROWTH IMPACT STATEMENT

Pursuant to Texas Government Code §2001.0221, the agency provides the following Government Growth Impact Statement for the proposed rules. For each year of the first five years the proposed rules will be in effect, the agency has determined the following:

1. The proposed rules do not create or eliminate a government program.

2. Implementation of the proposed rules does not require the creation of new employee positions or the elimination of existing employee positions.

3. Implementation of the proposed rules does not require an increase or decrease in future legislative appropriations to the agency.

4. The proposed rules do require an increase or decrease in fees paid to the agency. The proposed rules require prospective programs to pay a $90 fee for evaluation for approval and authorize the waiver of license renewal fees for instructors.

5. The proposed rules create a new regulation. The rules authorize instructional programs to apply for approval as a JEEP program.

6. The proposed rules expand, limit, or repeal an existing regulation. The proposed rules expand an existing regulation by adding completion of a JEEP program as a pathway to a journeyman electrician license.

7. The proposed rules increase or decrease the number of individuals subject to the rules' applicability. The proposed rules increase the number of individuals eligible for waiver of license renewal fees and create an alternative pathway to licensure.

8. The proposed rules do not positively or adversely affect this state's economy.

TAKINGS IMPACT ASSESSMENT

The Department has determined that no private real property interests are affected by the proposed rules and the proposed rules do not restrict, limit, or impose a burden on an owner's rights to his or her private real property that would otherwise exist in the absence of government action. As a result, the proposed rules do not constitute a taking or require a takings impact assessment under Texas Government Code §2007.043.

PUBLIC COMMENTS AND INFORMATION RELATED TO THE COST, BENEFIT, OR EFFECT OF THE PROPOSED RULES

The Department is requesting public comments on the proposed rules and information related to the cost, benefit, or effect of the proposed rules, including any applicable data, research, or analysis. Any information that is submitted in response to this request must include an explanation of how and why the submitted information is specific to the proposed rules. Please do not submit copyrighted, confidential, or proprietary information.

Comments on the proposed rules and responses to the request for information may be submitted electronically on the Department's website at https://ga.tdlr.texas.gov:1443/form/ELE_Rule_Making; by facsimile to (512) 475-3032; or by mail to Shamica Mason, Legal Assistant, Texas Department of Licensing and Regulation, P.O. Box 12157, Austin, Texas 78711. The deadline for comments is 30 days after publication in the *Texas Register.*

STATUTORY AUTHORITY

The proposed rules are proposed under Texas Occupations Code, Chapters 51 and 1305, which authorize the Texas Commission of Licensing and Regulation, the Department's governing body, to adopt rules as necessary to implement these chapters and any other law establishing a program regulated by the Department.

The statutory provisions affected by the proposed rules are those set forth in Texas Occupations Code, Chapters 51 and 1305. No other statutes, articles, or codes are affected by the proposed rules.

§73.10. Definitions.

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise.

(1) Assumed name--A name used by a business as defined in the Business and Commerce Code.

(2) Business affiliation--The business organization to which a master license holder's [~~licensee may assign his or her~~] license may be assigned.

(3) Career and technology education program--An educational program, defined in Texas Occupations Code §1305.1575(a)(1) [~~§1302.5037(a)(1) of the Act~~], focused on electrical training and either:

(A) offered by a public high school under Subchapter F, Chapter 29, Education Code; or

(B) offered by a private high school or institution of higher education and determined by the department to be similar to a program described by subparagraph (A) of this paragraph.

(4) Employee--An individual who performs tasks assigned by the individual's [~~to him by his~~] employer. The employee is subject to the deduction of social security and federal income taxes from the employee's [~~his~~] pay. An employee may be full time, part time, or seasonal.

(5) Employer--One who employs the services of employees, pays their wages, deducts the required social security and federal income taxes from the employee's pay, and directs and controls the employee's performance.

(6) Filed--A document is deemed to have been filed with the department on the date that the document has been received by the department or, if the document has been mailed to the department, the date a postmark is applied to the document by the U.S. Postal Service.

(7) General Supervision--Exercise of oversight by a master electrician on behalf of an electrical contractor, or electrical sign contractor, or by a master sign electrician on behalf of an electrical sign contractor of performance by all classes of electrical license holders [~~licensees~~] of electrical work bearing responsibility for the work's compliance with applicable codes under Texas Occupations Code, Chapter 1305.

(8) On-Site Supervision--Exercise of supervision of electrical work or electrical sign work by a licensed individual other than an electrical apprentice. Continuous supervision of an electrical apprentice is not required, though the on-site supervising license holder [~~licensee~~] is responsible for review and inspection of the electrical apprentice's work to ensure compliance with any applicable codes or standards.

(9) Electrical Contractor--A person~~,~~ or entity, licensed as an electrical contractor, that is in the business of performing "Electrical Contracting" as defined by Texas Occupations Code, §1305.002(5).

(10) Master Electrician--An individual, licensed as a master electrician, who on behalf of an electrical contractor, electrical sign contractor, or employing governmental entity, performs "Electrical Work" as defined by Texas Occupations Code, §1305.002(11).

(11) Journeyman Electrician--An individual, licensed as a journeyman electrician, who works under the general supervision of a master electrician, on behalf of an electrical contractor, or employing governmental entity, while performing "Electrical Work" as defined by Texas Occupations Code, §1305.002(11).

(12) Accelerated Journeyman Electrician Education Program--A program approved by the department as provided under §73.112 of this chapter, designed to prepare an individual to pass the required examination and for rapid entry into the profession of journeyman electrician.

(13) [~~(12)~~] Electrical Apprentice--An individual, licensed as an apprentice who works under the on-site supervision of a master electrician, journeyman electrician, or residential wireman, on behalf of an electrical contractor or employing governmental entity performing "Electrical Work" as defined by Texas Occupations Code, §1305.002(11).

(14) [~~(13)~~] Electrical Sign Contractor--A person, or entity, licensed as an electrical sign contractor, that is in the business of performing "Electrical Sign Contracting" as defined by Texas Occupations Code, §1305.002(9).

(15) [~~(14)~~] Institution of higher education--An "institution of higher education" or a "private or independent institution of higher education," as those terms are defined by §61.003, Education Code.

(16) [~~(15)~~] Master Sign Electrician--An individual, licensed as a master sign electrician, who, on behalf of an electrical sign contractor, performs "Electrical Sign Work" as defined in paragraph 21 [~~(20)~~].

(17) [~~(16)~~] Journeyman Sign Electrician--An individual, licensed as a journeyman sign electrician, who works under the general supervision of a master electrician or a master sign electrician, on behalf of an electrical sign contractor, while performing "Electrical Sign Work" as defined in paragraph 21 [~~(20)~~].

(18) [~~(17)~~] Residential Wireman--An individual, licensed as a residential wireman, who works under the general supervision of a master electrician, on behalf of an electrical contractor, or employing governmental entity, while performing electrical work that is limited to electrical installations in single family and multifamily dwellings not exceeding four stories, as defined by Texas Occupations Code, §1305.002(13).

(19) [~~(18)~~] Maintenance Electrician--An individual, licensed as a maintenance electrician, who works under the general supervision of a master electrician, on behalf of an electrical contractor, or employing governmental entity while performing "Electrical Maintenance Work" as defined in paragraph 20 [~~(19)~~].

(20) [~~(19)~~] Electrical Maintenance Work--The replacement, or repair of existing electrical appurtenances, apparatus, equipment, machinery, or controls used in connection with the use of electrical energy in, on, outside, or attached to a building, residence, structure, property, or premises. All replacements or repairs must be of the same rating and type as the existing installation. No improvements may be made that are necessary to comply with applicable codes under Texas Occupations Code, Chapter 1305. Electrical maintenance work does not include the installation of any new electrical appurtenances, apparatus, equipment, machinery, or controls beyond the scope of any existing electrical installation.

(21) [~~(20)~~] Electrical Sign Work--Any labor or material used in manufacturing, installing, maintaining, extending, connecting or reconnecting an electrical wiring system and its appurtenances, apparatus or equipment used in connection with signs, outline lighting, awnings, signals, light emitting diodes, and the repair of existing outdoor electric discharge lighting, including parking lot pole lighting. This also includes the installation of an electrical service integral to an isolated sign and/or outline lighting installation.

(22) [~~(21)~~] Work Involved in the Manufacture of Electrical Equipment--Work involved in the manufacture of electrical equipment includes on and off-site manufacture, commissioning, testing, calibration, coordination, troubleshooting, evaluation, repair or retrofits with components of the same ampacity, maintenance and servicing of electrical equipment within their enclosures performed by authorized employees, or authorized representatives of electrical equipment manufacturers and limited to the type of products they manufacture.

(23) [~~(22)~~] Electrical Sign Apprentice--An individual, licensed as an electrical sign apprentice who works under the on-site supervision of a master electrician, a master sign electrician, or a journeyman sign electrician, on behalf of an electrical sign contractor while performing "Electrical Sign Work" as defined by this chapter.

(24) [~~(23)~~] On-the-job Training--Training or experience gained under the supervision of an appropriate license holder [~~licensee~~], as prescribed by Texas Occupations Code Chapter 1305, while performing electrical work as defined by Texas Occupations Code, §1305.002(11). The term includes hours earned toward on-the-job training requirements through an accelerated journeyman electrician education program, where permitted by rule.

(25) [~~(24)~~] Residential Appliance Installer--An individual, licensed as a residential appliance installer, who on behalf of a residential appliance installation contractor, performs electrical work that is limited to residential appliance installation including residential pool-related electrical installation and maintenance as defined by Texas Occupations Code, §1305.002(12-b).

(26) [~~(25)~~] Residential Appliance Installation Contractor--A person or entity licensed as a residential appliance installation contractor, that is in the business of residential appliance installation including pool-related electrical installation and maintenance as defined by Texas Occupations Code §1305.002(12-d).

(27) [~~(26)~~] Residential Appliance--Electrical equipment that performs a specific function, and is installed as a unit in a dwelling by direct connection to an existing electrical circuit, such as water heaters, kitchen appliances, or pool-related electrical device. The term does not include general use equipment such as service equipment, other electrical power production sources, or branch circuit overcurrent protection devices not installed in the listed appliance or listed pool-related electrical device.

(28) [~~(27)~~] Offer to perform--To make a written or oral proposal, to contract in writing or orally to perform electrical work or electrical sign work, to advertise in any form through any medium that a person or business entity is an electrical contractor, electrical sign contractor, or residential appliance installation contractor or that implies in any way that a person or business entity is available to contract for or perform electrical work, electrical sign work, or residential appliance installation work.

(29) [~~(28)~~] Electro Mechanical Integrity--The condition of an electrical product, electrical system, or electrical equipment installed in accordance with its intended purpose and according to standards at least as strict as the standards provided by the National Electrical Code, the manufacturer's specifications, any listing or labeling on the product, and all other applicable codes or ordinances.

(30) [~~(29)~~] Journeyman Lineman--An individual who engages in electrical work involving the maintenance and operation of equipment associated with the transmission and distribution of electricity from the electricity's original source to a substation for further distribution.

(31) [~~(30)~~] Journeyman Industrial Electrician--An individual who engages in electrical work exclusively at a business that operates a chemical plant, petrochemical plant, refinery, natural gas plant, natural gas treating plant, pipeline, or oil and gas exploration and production operation.

§73.21. Licensing Requirements--Examinations.

(a) To obtain a license by examination issued under this chapter:

(1) An individual applicant must submit a completed application, all necessary documentation, and appropriate fees to the Texas Department of Licensing and Regulation for review and determination of examination eligibility.

(2) An individual applicant must achieve a passing score on an examination approved by the executive director of the Texas Department of Licensing and Regulation.

(b) To be eligible to sit for examination as a journeyman electrician, an applicant must:

(1) Complete 7,000 hours of the on-the-job training required under Texas Occupations Code §1305.155; or

(2) Have completed an approved accelerated journeyman electrician education program under §73.112 and submitted an application on a form prescribed by the department to establish eligibility.

(c) The Executive Director may for good cause shown extend the expiration period under §60.56 of the validity of examination results of an applicant who is approved to take an examination under subsection (b)(2) of this section.

(d) [~~(b)~~] To obtain a license without examination, an applicant must have been licensed for the preceding year by a municipality or regional licensing authority that has terminated its licensing program and have applied for a state issued license within ninety days of the date the program stopped issuing or renewing licenses.

§73.26. Documentation of Required On-The-Job Training.

(a) Except as otherwise provided in this chapter, an [~~An~~] applicant for a license which requires on-the-job training under Occupations Code Chapter 1305 must [~~may~~] verify that the applicant [~~he or she~~] has completed on-the-job training by submitting the department's experience verification form with the license application.

(b) When an applicant or the department requests verification of on-the-job training of an applicant from a license holder [~~licensee~~] who is authorized by Occupations Code Chapter 1305 to verify on-the-job training, the license holder [~~licensee~~] must provide the verification within 30 calendar days of the request. The licensee must verify only on-the-job training within the licensee's knowledge. The licensee must verify the dates of on-the-job training, describe the work performed by the applicant, specify the name of the business under which the applicant's work was performed, and provide any other information required on the department's form.

(c) An applicant for a journeyman lineman license must verify that the applicant [~~he or she~~] has completed the apprenticeship required by Occupations Code Chapter 1305 by submitting verification in a form acceptable to the department.

(d) An applicant for a residential wireman license who has completed a career and technology education program must verify completion by submitting verification in a form acceptable to the department.

(e) An applicant for a journeyman license who has completed an approved accelerated journeyman electrician education program in accordance with Rule §73.112 will, upon submitting verification of completion in a form acceptable to the department, receive credit for on-the-job training, as provided in that rule. Applicants may additionally receive credit for electrical work performed in an optional cooperative education course under such a program, which must be verified, and will be awarded, as otherwise provided in this section.

§73.80. Fees.

(a) Application fees:

(1) Master Electrician--$45

(2) Master Sign Electrician--$45

(3) Journeyman Electrician--$30

(4) Journeyman Sign Electrician--$30

(5) Journeyman Lineman Electrician--$30

(6) Residential Wireman--$20

(7) Maintenance Electrician--$20

(8) Electrical Contractor--$110

(9) Electrical Sign Contractor--$110

(10) Electrical Apprentice--$20

(11) Electrical Sign Apprentice--$20

(12) Residential Appliance Installer--$30

(13) Residential Appliance Installation Contractor--$110

(14) Apprentice Training Program Registration--$95

(15) Journeyman Industrial Electrician--$30

(b) Renewal fees:

(1) Master Electrician--$50 for licenses expiring before February 1, 2014; $45 for licenses expiring on or after February 1, 2014

(2) Master Sign Electrician--$50 for licenses expiring before February 1, 2014; $45 for licenses expiring on or after February 1, 2014

(3) Journeyman Electrician--$35 for licenses expiring before February 1, 2014; $30 for licenses expiring on or after February 1, 2014

(4) Journeyman Sign Electrician--$35 for licenses expiring before February 1, 2014; $30 for licenses expiring on or after February 1, 2014

(5) Journeyman Lineman Electrician--$30

(6) Residential Wireman--$25 for licenses expiring before February 1, 2014; $20 for licenses expiring on or after February 1, 2014

(7) Maintenance Electrician--$25 for licenses expiring before February 1, 2014; $20 for licenses expiring on or after February 1, 2014

(8) Electrical Contractor--$115 for licenses expiring before February 1, 2014; $110 for licenses expiring on or after February 1, 2014

(9) Electrical Sign Contractor--$115 for licenses expiring before February 1, 2014; $110 for licenses expiring on or after February 1, 2014

(10) Electrical Apprentice--$20

(11) Electrical Sign Apprentice--$20

(12) Residential Appliance Installer--$40 for licenses expiring before February 1, 2014; $30 for licenses expiring on or after February 1, 2014

(13) Residential Appliance Installation Contractor--$115 for licenses expiring before February 1, 2014; $110 for licenses expiring on or after February 1, 2014.

(14) Journeyman Industrial Electrician--$30

(c) Late Renewal Fees. Late renewal fees for licenses issued under this chapter are provided under §60.83 of this title (relating to Late Renewal Fees).

(d) Revised/Duplicate License/Certificate/Permit/Registration fees:

(1) All licenses except as set out below--$25

(2) Electrical Apprentice--$20

(3) Electrical Sign Apprentice--$20

(4) Residential Wireman--$20

(5) Maintenance Electrician--$20

(e) All fees are non-refundable.

(f) The fee for a determination under §73.111 or §73.112 is $90.

(g) The department will waive the license renewal fee for a master electrician, journeyman electrician, or residential wireman who provides proof, in a manner prescribed by the department, of having served as an instructor of a course within a career and technology education program or accelerated journeyman electrician education program for at least one academic semester during that renewal period.

§73.110. Career and Technology Education Program Requirements--Residential Wiremen.

(a) Applicability. This section applies to a program for residential wiremen instruction established under Texas Occupations Code §1305.1575 and to applicants seeking licensure under that program. This section, including the restrictions in subsection (g), does not apply to applicants under Rule §73.112 (pertaining to an accelerated journeyman electrician education program).

(b) [~~(a)~~] Texas Occupations Code Section §1305.157 provides a pathway to the residential wireman license for persons who complete a career and technology education program. Under [~~Pursuant to~~] §1305.1575, the department is required to:

(1) establish standards for the essential knowledge and skills of career and technology education programs offered in Texas public high schools; and

(2) determine on a case-by-case basis whether educational programs offered by private high schools and institutions of higher education are similar to career and technology education programs offered in Texas public high schools.

(c) [~~(b)~~] A career and technology education program must be designed to ensure that students obtain the essential knowledge and skills set out in the following cross-referenced rules of the Texas Education Agency. The minimum number of academic semesters required for each course is also noted. Students enrolled in courses identified in paragraphs (2) and (3) below must be provided hands-on practical instruction, including interactive lab work, for at least 80 percent of total classroom time. A career and technology education program may not allow students to obtain credit by examination.

(1) Principles of Construction; Texas Administrative Code Title 19, Part 2, Chapter 130, Subchapter B, §130.43; one credit.

(2) Electrical Technology I; Texas Administrative Code Title 19, Part 2, Chapter 130, Subchapter B, §130.57; one credit.

(3) Electrical Technology II; Texas Administrative Code Title 19, Part 2, Chapter 130, Subchapter B, §130.58; two credits.

(4) Practicum in Construction Technology and Extended Practicum in Construction Technology; Texas Administrative Code Title 19, Part 2, Chapter 130, Subchapter B, §§130.64 and 130.69; three total credits.

(A) At least 80 percent of a student's time in a practicum must be spent outside of the classroom and working under the supervision of a department-licensed master electrician, on behalf of a department-licensed electrical contractor.

(B) A high school or institution of higher education offering a career and technology education program under this section must implement procedures allowing a student to earn course credit for work performed outside of the classroom under the supervision of a department-licensed master electrician and on behalf of a department-licensed electrical contractor.

(d) [~~(c)~~] A career and technology education program will not be recognized by the department unless it is instructed by a department-licensed master electrician, journeyman electrician, or residential wireman.

(e) [~~(d)~~] A career and technology education program offered by an institution of higher education may not be more stringent than a program offered by a public high school.

(f) [~~(e)~~] The department will recognize an educational program offered by a private high school or institution of higher education as a "career and technology education program" if the department determines that the educational program substantially complies with the requirements of this section.

(g) [~~(f)~~] Hours spent completing a program described by this section may not be credited toward any on-the-job training required to apply for another type of license under this chapter.

§73.111. Compliance with Career and Technology Education Program Requirements--Residential Wiremen.

(a) This section applies to a career and technology education program established under Texas Occupations Code §1305.1575.

(b) [~~(a)~~] A private high school or institution of higher education that implements an educational program under §73.110 must request a determination whether the program substantially complies with that section's requirements by:

(1) submitting the request in a manner prescribed by the department;

(2) providing copies of course materials requested by the department;

(3) providing the names and license numbers of all master electricians, journeyman electricians, or residential wiremen who will be supervising or instructing students; and

(4) paying the applicable fee.

(c) [~~(b)~~] After receiving a positive determination under subsection (a), a private high school or institution of higher education must inform the department, in a manner prescribed by the department, of any substantial change to the program.

(d) [~~(c)~~] Upon a finding that an educational program does not substantially comply with §73.110, the department may rescind its determination.

(e) [~~(d)~~] A determination or decision under this section is not a contested case under Texas Government Code, Chapter 2001, and may not be appealed.

§73.112. Accelerated Journeyman Electrician Education Program.

(a) Authority and Applicability. This section is adopted under the authority of Texas Occupations Code, §§51.4041(a), 1305.102, and 1305.152. This section applies to approved programs, to students in these programs, and to prospective programs seeking approval as an accelerated journeyman electrician education program.

(b) General Requirements. Applicants for licensure as journeymen electricians may receive credit toward the on-the-job training requirements of Texas Occupations Code §1305.155 under this section for completion of an accelerated journeyman electrician education program approved by the department under this section. Both the individual program and the curriculum must be approved by the department. The department may consult with the advisory board in determining whether to approve a program or curriculum.

(c) Department approval of curriculum. The department may approve a generally required curriculum for use by programs under this section. Upon approval of a curriculum, the department will publish the curriculum on the department's website. The department may revise the curriculum at any time and, in evaluating a program for approval, may approve variations from the generally approved curriculum.

(d) Required elements of curriculum. The curriculum must include extensive training on the current National Electrical Code, electrical safety, methods of electrical work, and compliance with Texas Occupations Code, Chapter 1305 and this chapter. All instruction must be provided by a qualified journeyman or master electrician licensed in this state.

(e) Hands-on training. The curriculum must include intensive hands-on training in a laboratory or similar environment of at least 1,480 hours. At least 80 percent of the curriculum must incorporate a significant hands-on training element. Any hands-on training must be generally supervised by a master electrician licensed in this state.

(f) Approval of program required. A person seeking to offer a program under this section must request approval by:

(1) submitting the request in a manner prescribed by the department;

(2) providing copies of course materials requested by the department;

(3) providing the names and license numbers of all electricians who will be supervising or instructing students; and

(4) paying the applicable fee.

(g) An approved program must immediately notify the department of any substantial change to the program.

(h) The department may audit an approved program, inspect the facility in which instruction occurs, and demand the production of records related to the instruction of students. Failure of a program to cooperate with an audit or inspection is grounds for a finding that the program no longer complies with department requirements.

(i) Upon a finding that an approved program does not substantially comply with department requirements, the department may rescind its approval.

(j) A determination or decision under this section is not a contested case under Texas Government Code, Chapter 2001, and may not be appealed.

(k) Effect of program approval. Unless otherwise ordered by the Executive Director, the approval of a program under this section applies to all students enrolled in the program, including those who began participation prior to program approval.

(l) Credit toward on-the-job training requirements.

(1) The Executive Director may order the award of on-the-job training credit hours in a manner that exceeds the amount otherwise prescribed by this section.

(2) Unless otherwise ordered by the Executive Director, applicants who begin but fail to complete a program will not receive credit for program hours completed. This exclusion does not apply to properly supervised electrical work performed in an optional cooperative program under the auspices of a program under this section.

(3) A graduate of a program established under this section will receive credit of 3,000 hours toward the on-the-job training requirements of Texas Occupations Code §1305.155. The department will credit these hours both toward the journeyman license application and any subsequent applications for a master electrician license.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on March 30, 2026.

TRD-202601402
Deanne Rienstra
Interim General Counsel
Texas Department of Licensing and Regulation
Earliest possible date of adoption: May 10, 2026
For further information, please call: (512) 463-7750

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TITLE 19. EDUCATION

PART 1. TEXAS HIGHER EDUCATION COORDINATING BOARD

CHAPTER 1. AGENCY ADMINISTRATION

SUBCHAPTER A. GENERAL PROVISIONS

19 TAC §§1.9, 1.13, 1.16

The Texas Higher Education Coordinating Board (Coordinating Board) proposes amendments to Texas Administrative Code, Title 19, Part 1, Chapter 1, Subchapter A, §§1.9, 1.13, and 1.16, concerning General Provisions. Specifically, this amendment will make minor conforming changes.

Texas Education Code, §61.035, authorizes the Coordinating Board to engage in rulemaking involving compliance monitoring. Texas Education Code, §61.027, provides the Coordinating Board with general rule making authority.

Rule 1.9, Training for Members of Governing Boards and Board Trustees, adds a requirement that members of governing boards provide a sworn statement to the Board that they understand their duties and responsibilities in accordance with statutory changes made by Senate Bill 37, 89th Texas Legislature, Regular Session, updating Texas Education Code, Section 61.084.

Rule 1.13, Internal Audit and Compliance Monitoring, adds a definition for Coordinating Board and distinguishes the duties of the Board itself and the Board staff. The amendment also adds a reference to §13.525 and provides that a compliance monitoring plan must be presented to the full Board rather than the Agency Operations Committee.

Rule 1.16, Contracts, Including Grants, for Materials and/or Services, provides that written notifications be provided to the Board Secretary rather than the Agency Operations Committee.

Doug Brock, General Counsel, has determined that for each of the first five years the sections are in effect there would be no fiscal implications for state or local governments as a result of enforcing or administering the rules. There are no estimated reductions in costs to the state and to local governments as a result of enforcing or administering the rule. There are no estimated losses or increases in revenue to the state or to local governments as a result of enforcing or administering the rule.

There is no impact on small businesses, micro businesses, and rural communities. There is no anticipated impact on local employment.

Doug Brock, General Counsel, has also determined that for each year of the first five years the section is in effect, the public benefit anticipated as a result of administering the section will be to remove obligations to provide plans and notifications to the chair of a committee that no longer meets and replace the Board Secretary as the recipient of those plans and notifications, to align the rule with current compliance monitoring procedures, and to add a requirement mandated by recent legislation. There are no anticipated economic costs to persons who are required to comply with the sections as proposed.

Government Growth Impact Statement

(1) the rules will not create or eliminate a government program;

(2) implementation of the rules will not require the creation or elimination of employee positions;

(3) implementation of the rules will not require an increase or decrease in future legislative appropriations to the agency;

(4) the rules will not require an increase or decrease in fees paid to the agency;

(5) the rules will not create a new rule;

(6) the rules will not limit an existing rule;

(7) the rules will not change the number of individuals subject to the rule; and

(8) the rules will not affect this state's economy.

Comments on the proposed rule or information related to the cost, benefit, or effect of the proposed rule, including any applicable data, research or analysis, may be submitted to Doug Brock, General Counsel, P.O. Box 12788, Austin, Texas 78711-2788, or via email at RulesComments@highered.texas.gov. Comments will be accepted for 30 days following publication of the proposal in the *Texas Register*.

The amendment is proposed under Texas Education Code, Sections 61.027, 61.035, and 61.084, which provide the Coordinating Board with the authority to make rules generally and specifically related to compliance monitoring and Board Training.

The proposed amendment affects Texas Education Code, Sections 61.035 and 61.084.

§1.9. Training for Members of Governing Boards and Board Trustees.

(a) The Board shall provide a training program for members of institutional governing boards in accordance with provisions set forth in Texas Education Code, §61.084 and §61.0841.

(b) The Board may prescribe an alternative training program for members of governing boards as permitted in §61.084.

(c) A registration fee will be paid by training program participants in an amount adequate to cover the costs incurred by the Board and any other state agencies the Board enlists in providing the program. Such amount will be determined prior to each training program.

(d) The Board shall provide, as part of the training program, an intensive short orientation course developed under Texas Education Code, §61.0841. The orientation course shall be offered as an online interactive course and may also be offered in the form of a written document or in a one-on-one or group setting.

(e) A governing board member of a public institution of higher education who holds an appointive position must attend such intensive short orientation course developed under Texas Education Code, §61.0841, as well as any available training course sponsored or coordinated by the Office of the Governor with a curriculum designed for training newly appointed state officers, board members, or high-level executive officials. A governing board member holding an appointive position must attend those courses the first time they are offered following the date the member takes the oath of office. A governing board member may have additional time to attend such courses if the member for good cause is unable to attend the courses the first time they are offered.

(f) Any member of the governing board of an institution of higher education who holds an appointive position and whose first year of service on the governing board begins on or after January 1, 2016, shall not vote on a budgetary or personnel matter related to system administration or institutions of higher education until the member completes the intensive short orientation course developed under Texas Education Code, §61.0841.

(g) Upon completion of the training program, a member of a governing board is responsible for submitting to the Board a sworn statement affirming the governing board member's understanding of his or her duties and responsibilities. [~~The Board is responsible for documenting governing board members' completion of the training program requirements.~~]

§1.13. Internal Auditor and Compliance Monitoring.

(a) Internal Auditor.

(1) The Board shall appoint an internal auditor.

(2) The internal auditor shall report directly to the Board on all matters except for those administrative matters that require the decision of the Commissioner.

(3) The Board shall receive the advice and counsel of the Commissioner regarding matters of termination, discipline, transfer, or reclassification or changes in powers, duties or responsibilities of the internal auditor.

(4) The internal auditor shall develop an annual audit plan, conduct audits as specified in the audit plan and document deviations, and discuss audit reports with the Administration and Financial Planning Committee of the Board.

(5) The internal auditor shall provide all audit reports directly to the Board.

(b) Compliance Monitoring.

(1) Definitions. The following words and terms, when used in this section, shall have the following meaning:

(A) Board--The governing body of the agency known as the Texas Higher Education Coordinating Board.

(B) Commissioner--The Commissioner of Higher Education, the Chief Executive Officer of the Board.

(C) Coordinating Board--The agency known as the Higher Education Coordinating Board and its staff.

(D) [~~(C)~~] Institution of Higher Education--Defined in Texas Education Code, §61.003.

(E) [~~(D)~~] Private or Independent Institution of Higher Education--Defined in Texas Education Code, §61.003.

(F) [~~(E)~~] Student Financial Assistance--Includes grants, scholarships, loans, and work study.

(G) [~~(F)~~] Desk review--An administrative review by the Board that is based on information reported by an institution of higher education or private or independent institution of higher education, including supplemental information required by the Board for the purposes of compliance monitoring, except that the term does not include information or accompanying notes gathered by the Board during a site visit.

(H) [~~(G)~~] Site visit--An announced or unannounced in-person visit by a representative of the Board to an institution of higher education or private or independent institution of higher education for the purposes of compliance monitoring.

(2) Purpose. The purpose of the Board's risk assessment process and compliance methodologies is to maximize the effectiveness of monitoring funds allocated by the Board and data reported to the Board. The agency-wide, risk-based compliance monitoring function is established for:

(A) funds allocated by the Board to institutions of higher education, private or independent institutions of higher education, and other entities, including student financial assistance funds, academic support grants, and any other grants, to ensure that those funds are distributed in accordance with applicable law and Board rule; and

(B) data reported by institutions of higher education to the Board and used by the Board for funding or policymaking decisions, including data used for formula funding allocations, to ensure the data are accurately and consistently reported.

(3) The Board delegates the Board's duties outlined in this Rule to the Commissioner.

(4) [~~(3)~~] After considering potential risks and the Board's resources, the Coordinating Board shall review a reasonable portion of the total funds allocated by the Board and of data reported to the Board. The Coordinating Board shall use various levels of monitoring, according to risk, ranging from checking reported data for errors and inconsistencies to conducting comprehensive audits, including site visits. Audit methodology shall be commensurate with the assessed risk.

(5) [~~(4)~~] The Coordinating Board's risk-based approach shall be implemented to address the diversity of institutions of higher

education and private or independent institutions of higher education in Texas. The Coordinating Board shall develop audit and compliance monitoring methodologies, such as Desk Reviews and data analysis, that are commensurate with assessed risk and that are reflective of institutional differences. The Coordinating Board's risk-based approach to compliance monitoring shall consider the following factors relating to an institution of higher education or private or independent institution of higher education:

(A) the amount of student financial assistance or grant funds allocated to the institution by the Board;

(B) whether the institution is required to obtain and submit an independent audit;

(C) the institution's internal controls;

(D) the length of time since the institution's last desk review or site visit;

(E) past misuse of funds or misreported data by the institution;

(F) in regard to data verification, whether the data reported to the Board by the institution is used for determining funding allocations; and

(G) other factors as considered appropriate by the Coordinating Board.

(6) [~~(5)~~] The annual compliance monitoring plan that results from the Coordinating Board's risk assessment shall be presented to the full Board [~~Board's Agency Operations Committee~~] each July, seeking approval of the plan for the following fiscal year. Significant changes to the annual plan that may occur during each fiscal year shall be presented for ratification at the next scheduled Board meeting [~~Agency Operations Committee meeting~~].

(7) [~~(6)~~] The Coordinating Board shall train compliance monitoring staff to ensure that the staff has the ability to monitor both funds compliance and data reporting accuracy. Program staff in other [~~Board~~] divisions who conduct limited monitoring and contract administration shall coordinate with the compliance monitoring function to identify risks and avoid duplication.

(8) [~~(7)~~] If the Coordinating Board determines through its compliance monitoring function that funds awarded by the Board to an institution of higher education or private or independent institution of higher education have been misused or misallocated by the institution, the Coordinating Board shall present its determination to the institution's governing board and chief executive officer, or to the institution's chief executive officer if the institution is a private or independent institution of higher education, and provide an opportunity for a response from the institution. Following the opportunity for response, the Coordinating Board shall report its determination and the institution's response, together with any recommendations, to the institution's governing board or chief executive officer, as applicable, the governor, and the Legislative Budget Board.

(9) [~~(8)~~] If the Coordinating Board determines through its compliance monitoring function that an institution of higher education has included errors in the institution's data reported for formula funding, the Coordinating Board:

(A) for a public junior college, may adjust the appropriations made to the college for a fiscal year as necessary to account for the corrected data in accordance with the procedure set forth in §13.525 of this title (relating to Commissioner Review of Required Reporting; Data Reporting Errors); and

(B) for a general academic teaching institution, a medical and dental unit, or a public technical institute, shall calculate a revised appropriation amount for the applicable fiscal year based on the corrected data and report that revised amount to the governor and Legislative Budget Board for consideration as the basis for budget execution or other appropriate action, and to the comptroller.

(10) [~~(9)~~] To the extent not prohibited by law or other external provision, the Board shall eliminate requirements of institutions to conduct audits of funds administered by the Board as defined in this subsection. In conducting the compliance monitoring function, the Board may partner with internal audit offices at institutions of higher education and private or independent institutions of higher education, as institutional resources allow, to examine the institutions' use of funds allocated by, and data reported to, the Board. To avoid duplication of effort and assist the Board in identifying risk, an internal auditor at an institution shall notify the Board of any audits conducted by the auditor or other third party auditors involving funds administered by the Board or data reported to the Board, as defined in this subsection. Such notification shall include a copy of the final audit report being sent to the Board's Director, Internal Audit and Compliance, within 30 days of the date such final audit reports are sent to the institution's governing board and/or chief executive officer, the Texas State Auditor's Office, the Governor's Office, the Legislative Budget Board, or other similar stakeholders. [~~The final audit report should be addressed to: Texas Higher Education Coordinating Board, Director, Internal Audit and Compliance, 1200 East Anderson Lane, Austin, Texas 78752.~~]

(11) [~~(10)~~] Private or independent institutions of higher education must provide to the Board the institution's external audit involving funds administered by the Board. The private or independent institution of higher education's external audit must comply with the Board's rules under this subchapter for auditing those funds.

(12) [~~(11)~~] The Coordinating Board may seek technical assistance from the state auditor in establishing the compliance monitoring function. The state auditor may periodically audit the Coordinating Board's compliance monitoring function as the state auditor considers appropriate.

§1.16. Contracts, Including Grants, for Materials and/or Services.

(a) The Board delegates to the Commissioner authority to approve and enter into all payable and receivable Agreements, including contracts, grants, and other agreements, and interagency contracts for which the Agreement, inclusive of all amendments, totals $5 million or less.

(1) The Commissioner is authorized to approve and sign all Agreements that total up to $5 million, inclusive of all amendments subject to the notification requirements in paragraph (2) of this subsection.

(2) The Commissioner shall provide written notification to the Board Chair, Board Vice Chair, and Board Secretary [~~Chair of the Agency Operations committee~~] of any Agreement that totals $1 million or more, inclusive of all amendments, prior to execution of the Agreement.

(3) For each contract for the purchase of goods or services that has a value exceeding $1 million, there must be contract reporting requirements that provide information on the following:

(A) compliance with financial provisions and delivery schedules under the contract;

(B) corrective action plans required under the contract and the status of any active corrective action plan; and

(C) any liquidated damages assessed or collected under the contract.

(D) Verification is required of:

(i) the accuracy of any information reported under this subsection that is based on information provided by a contractor; and

(ii) the delivery time of goods or services scheduled for delivery under the contract.

(b) Any Agreement exceeding $5 million, inclusive of all amendments, requires Board approval prior to execution of the contract or other Agreement, except those described in paragraph (1) of this subsection. The Commissioner is authorized to sign an Agreement or amendment that totals more than $5 million that has been approved by the Board.

(1) Agreements exceeding $5 million that the agency is required by law to enter into, i.e., those that are appropriated to the agency as non-discretionary funding to a third party, do not require Board approval and are delegated to the Commissioner for approval and signature.

(2) For each contract for the purchase of goods or services that has a value totaling $5 million or more, the procurement director must:

(A) verify in writing that the solicitation and purchasing methods and contractor selection process comply with state law and agency policy; and

(B) submit to the Board information on any potentially significant issue that may arise in the solicitation, purchasing, or contractor selection process.

(c) In addition to the Commissioner, the following employees have authority to approve an Agreement:

(1) A Deputy or Associate Commissioner if the Agreement, inclusive of all amendments, totals $100,000 or less.

(2) An Assistant Commissioner, in addition to a Deputy or Associate Commissioner, with primary oversight of a particular Agreement if the Agreement, inclusive of all amendments, totals $10,000 or less.

(d) The Commissioner shall provide a report to the Board, at least quarterly, describing all Agreements entered into by the agency during the preceding quarter, the total of which, inclusive of all amendments, is $10,000 or greater.

(e) The Board shall, in an open meeting, consider any material change to all contracts for goods or services awarded under Texas Government Code, Chapter 2155. A material change to a contract includes extending the length or postponing the completion of a contract for six months or more; or increasing the total consideration to be paid under a contract by at least 10 percent, including by substituting certain goods, materials, products, or services. Goods are supplies, materials, or equipment. Services are the furnishing of skilled or unskilled labor or professional work but do not include a professional service subject to Subchapter A, Chapter 2254, Texas Government Code, service of a state employee, consulting service or service of a consultant as defined by Subchapter B, Chapter 2254, or the service of a public utility.

(f) Agency staff shall utilize THECB's Procurement and Contract Management Handbook or Grant Management guidelines and the THECB's Risk Assessment tool to determine which Agreements require enhanced contract or grant monitoring.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on March 30, 2026.

TRD-202601403
Douglas Brock
General Counsel
Texas Higher Education Coordinating Board
Earliest possible date of adoption: May 10, 2026
For further information, please call: (512) 427-6375

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SUBCHAPTER F. LEAVE POOLS

19 TAC §1.126, §1.127

The Texas Higher Education Coordinating Board (Coordinating Board) proposes new rules in Texas Administrative Code, Title 19, Part 1, Chapter 1, Subchapter F, §1.126 and §1.127, concerning Leave Pools. Specifically, this new section will update and align the sick leave pool rule with statute, move it to a more appropriate place in the chapter, and add a rule for the family leave pool.

Texas Government Code, Chapter 661, Subchapters A and A-1, authorizes the Coordinating Board to engage in rulemaking involving sick leave pools and family leave pools.

Rule 1.126, Sick Leave Pool for Board Employees, designates the sick leave pool administrator and provides that the pool will be administered in accordance with policy.

Rule 1.127, Family Leave Pool for Board Employees, designates the family leave pool administrator and provides that the pool will be administered in accordance with policy.

Glenn Tramel, Assistant Commissioner for People Operations, has determined that for each of the first five years the sections are in effect there would be no fiscal implications for state or local governments as a result of enforcing or administering the rules. There are no estimated reductions in costs to the state and to local governments as a result of enforcing or administering the rule. There are no estimated losses or increases in revenue to the state or to local governments as a result of enforcing or administering the rule.

There is no impact on small businesses, micro businesses, and rural communities. There is no anticipated impact on local employment.

Glenn Tramel, Assistant Commissioner for People Operations, has also determined that for each year of the first five years the section is in effect, the public benefit anticipated as a result of administering the section will be to update and align the sick leave pool rule with statute, move it to a more appropriate place in the chapter, and to add a rule for the family leave pool. There are no anticipated economic costs to persons who are required to comply with the sections as proposed.

Government Growth Impact Statement

(1) the rules will not create or eliminate a government program;

(2) implementation of the rules will not require the creation or elimination of employee positions;

(3) implementation of the rules will not require an increase or decrease in future legislative appropriations to the agency;

(4) the rules will not require an increase or decrease in fees paid to the agency;

(5) the rules will create a new rule;

(6) the rules will not limit an existing rule;

(7) the rules will not change the number of individuals subject to the rule; and

(8) the rules will not affect this state's economy.

Comments on the proposed rule or information related to the cost, benefit, or effect of the proposed rule, including any applicable data, research or analysis, may be submitted to Kimberly Fuchs, Assistant General Counsel, P.O. Box 12788, Austin, Texas 78711-2788, or via email at RulesComments@highered.texas.gov. Comments will be accepted for 30 days following publication of the proposal in the *Texas Register*.

The new sections are proposed under Texas Government Code, Sections 661.002(c) and 661.022(c), which provide the Coordinating Board with the authority to adopt rules regarding the operation of a sick leave pool and a family leave pool for Coordinating Board employees.

The proposed rules affect Texas Government Code, Sections 661.002 and 661.022.

§1.126. Sick Leave Pool for Board Employees.

A sick leave pool is established to alleviate hardship caused to an employee and the employee's family if a catastrophic illness or injury forces the employee to exhaust all leave time earned by that employee and to lose compensation from the state.

(1) The Assistant Commissioner for People Operations is designated as the pool administrator.

(2) The pool with be operated according to the Coordinating Board's Policies and Procedures.

(3) Operation of the pool shall be consistent with Texas Government Code, Chapter 661.

§1.127. Family Leave Pool for Board Employees.

A family leave pool is established to provide eligible employees more flexibility in bonding with and caring for children during a child's first year following birth, adoption, or foster placement, and caring for a seriously ill family member or the employee's own serious illness, including pandemic-related illnesses or complications caused by a pandemic.

(1) The Assistant Commissioner for People Operations is designated as the pool administrator.

(2) The pool with be operated according to the Coordinating Board's Policies and Procedures.

(3) Operation of the pool shall be consistent with Texas Government Code, Chapter 661.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

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Douglas Brock

General Counsel

Texas Higher Education Coordinating Board

Earliest possible date of adoption: May 10, 2026

For further information, please call: (512) 427-6116

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SUBCHAPTER AA. SICK LEAVE POOL

19 TAC §1.900

The Texas Higher Education Coordinating Board (Coordinating Board) proposes the repeal of Texas Administrative Code, Title 19, Part 1, Chapter 1, Subchapter AA, §1.900, concerning the Sick Leave Pool. Specifically, this repeal will be done in conjunction with a new set of rules that will be located in a more appropriate subchapter and will be better aligned with the statute.

Texas Government Code, Chapter 661, Subchapter A, authorizes the Coordinating Board to engage in rulemaking involving the sick leave pool.

Glenn Tramel, Assistant Commissioner for People Operations, has determined that for each of the first five years the section is in effect there would be no fiscal implications for state or local governments as a result of enforcing or administering the rule. There are no estimated reductions in costs to the state and to local governments as a result of enforcing or administering the rule. There are no estimated losses or increases in revenue to the state or to local governments as a result of enforcing or administering the rule.

There is no impact on small businesses, micro businesses, and rural communities. There is no anticipated impact on local employment.

Glenn Tramel, Assistant Commissioner for People Operations, has also determined that for each year of the first five years the section is in effect, the public benefit anticipated as a result of administering the section will be to move the rule to a more appropriate subchapter and align it with the statute. There are no anticipated economic costs to persons who are required to comply with the sections as proposed.

Government Growth Impact Statement

(1) the rule will not create or eliminate a government program;

(2) implementation of the rule will not require the creation or elimination of employee positions;

(3) implementation of the rule will not require an increase or decrease in future legislative appropriations to the agency;

(4) the rule will not require an increase or decrease in fees paid to the agency;

(5) the rule will not create a new rule;

(6) the rule will not limit an existing rule;

(7) the rule will not change the number of individuals subject to the rule; and

(8) the rule will not affect this state's economy.

Comments on the proposed rule or information related to the cost, benefit, or effect of the proposed rule, including any applicable data, research or analysis, may be submitted to Kimberly Fuchs, Assistant General Counsel, P.O. Box 12788, Austin, Texas 78711-2788, or via email at RulesComments@highered.texas.gov. Comments will be accepted for 30 days following publication of the proposal in the *Texas Register*.

The repeal is proposed under Texas Government Code, Section 661.002(c), which provides the Coordinating Board with the authority to adopt rules regarding the operation of a sick leave pool for Coordinating Board employees.

The proposed repeal affects Texas Government Code, Section 661.002.

§1.900. Sick Leave Pool for Board Employees.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

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Douglas Brock
General Counsel
Texas Higher Education Coordinating Board
Earliest possible date of adoption: May 10, 2026
For further information, please call: (512) 427-6193

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CHAPTER 2. ACADEMIC AND WORKFORCE EDUCATION

SUBCHAPTER P. APPROVAL PROCESS AND CRITERIA FOR OFF-CAMPUS EDUCATION AT PUBLIC UNIVERSITIES AND HEALTH-RELATED INSTITUTIONS

19 TAC §§2.380 - 2.384, 2.386, 2.388, 2.389

The Texas Higher Education Coordinating Board (Coordinating Board) proposes amendments to Texas Administrative Code, Title 19, Part 1, Chapter 2, Subchapter P, §§2.380 - 2.384, and §2.386, and new §2.388 and §2.389, concerning Approval Process and Criteria for Off-Campus Education at Public Universities and Health-Related Institutions. Specifically, these amendments and new sections will incorporate and make more efficient the Coordinating Board's approval processes for off-campus education at public two-year colleges (other than technical colleges). The existing rules for public two-year colleges in Chapter 4, Subchapter Q, are simultaneously being repealed. Off-campus rules for public technical colleges are simultaneously being proposed in Chapter 11, Subchapter B, for consistency.

The Coordinating Board is authorized by Texas Education Code (TEC), §61.0512(a), which requires Coordinating Board approval for a new certificate or degree program, TEC, §61.0512(g), which requires prior approval from the Coordinating Board to offer off-campus courses, and TEC, §51.981, which establishes criteria for approval of off-campus employer requested programs.

Subchapter P title is amended to incorporate public two-year colleges.

Section 2.380, Purpose and Applicability, is amended to indicate the rules also apply to a public two-year college other than a technical college.

Section 2.382, Definitions, is amended to distinguish in the definition of "Off-Campus Educational Site" the difference between public two-year colleges other than technical colleges (outside the institution's service area) and public universities and health-related institutions (away from the main campus). The section is also amended to include definitions for "Main Campus" and "Employer Requested Off-Campus Program".

Section 2.383, Standards and Criteria for Delivery of Courses and Programs at an Off-Campus Educational Site, is amended for additional clarity and to reference Coordinating Board approval of off-campus educational sites, as applicable to branch campuses for community colleges.

Section 2.384, Notification Required for Off-Campus Delivery of Courses, Certificates, and Less than Fifty Percent (50%) Content of a Degree Program, is amended for language consistency within the rules.

Section 2.388, Employer Requested Off-Campus Programs, establishes procedures and criteria to establish an employer requested off-campus non-credit or credit program.

Section, 2.389, Effective Date of Rules, specifies the rules are applicable to approvals on or after September 1, 2026.

Daniel Pérez, Associate Commissioner for Academic Innovation and Success, has determined that for each of the first five years the sections are in effect there would be no fiscal implications for state or local governments as a result of enforcing or administering the rules. There are no estimated reductions in costs to the state and to local governments as a result of enforcing or administering the rule. There are no estimated losses or increases in revenue to the state or to local governments as a result of enforcing or administering the rule.

There is no impact on small businesses, micro businesses, and rural communities. There is no anticipated impact on local employment.

Daniel Pérez, Associate Commissioner for Academic Innovation and Success, has also determined that for each year of the first five years the section is in effect, the public benefit anticipated as a result of administering the section will be the consolidated and aligned processes for community colleges and universities to request approval of the delivery of off-campus education as required by Texas Education Code, §61.0512(g). There are no anticipated economic costs to persons who are required to comply with the sections as proposed.

Government Growth Impact Statement

(1) the rules will not create or eliminate a government program;

(2) implementation of the rules will not require the creation or elimination of employee positions;

(3) implementation of the rules will not require an increase or decrease in future legislative appropriations to the agency;

(4) the rules will not require an increase or decrease in fees paid to the agency;

(5) the rules will create a new rule;

(6) the rules will not limit an existing rule;

(7) the rules will not change the number of individuals subject to the rule; and

(8) the rules will not affect this state's economy.

Comments on the proposed rule or information related to the cost, benefit, or effect of the proposed rule, including any applicable data, research or analysis, may be submitted Daniel Pérez, Associate Commissioner for Academic Innovation and Success, P.O. Box 12788, Austin, Texas 78711-2788, or via email at AHA-Comments@highered.texas.gov. Comments will be accepted for 30 days following publication of the proposal in the *Texas Register*.

The amendment and new sections are proposed under Texas Education Code, Sections 61.0512(g), and 51.981, which provides the Coordinating Board with the authority to approve off-campus credit courses and employer requested off-campus programs.

The proposed amendment and new sections affect Texas Education Code, Sections 61.0512(g), and 51.981.

§2.380. Purpose and Applicability.

This subchapter establishes rules for a public two-year college other than a technical college, public university, or public health-related institution [~~an institution of higher education, other than a community, technical, or state college,~~] to obtain approval to offer a course, certificate program, or degree programs at an off-campus educational site.

§2.381. Authority.

Texas Education Code, §61.002, charges the Board with "the elimination of costly duplication in program offerings, faculties, and physical plants." Texas Education Code, §61.0512(a), requires Board approval for a new certificate or degree program. Texas Education Code, §61.0512(g), states that institutions may offer off-campus credit courses only with prior approval from the Coordinating Board. Texas Education Code, §51.981, establishes criteria for approval of off-campus employer requested programs.

§2.382. Definitions.

The following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise.

(1) Off-Campus Degree Program--A degree program in which fifty percent (50%) or more of required instruction or coursework is in-person at an off-campus educational site.

(2) Off-Campus Educational Site--An additional location, which may include a branch campus or a center, approved by the institution's Board-recognized accreditor in accordance with 34 C.F.R. §600.32, and: [~~that is away from the main campus where an institution delivers the required instruction for a credit course, certificate, or degree program in person.~~]

(A) For public universities and health-related institutions, an off-campus educational site is any site away from the main campus where the required instruction or coursework for a credit course, certificate, or degree program is delivered in-person.

(B) For public two-year colleges other than a technical college, an off-campus educational site is any site outside of the institution's service area where required instruction or coursework for a credit course, certificate, or degree program is delivered in person.

(3) Main Campus--The primary campus or campuses of an institution of higher education providing instruction and supported by on-site administration, also referred to as on-campus.

(4) Employer Requested Off-Campus Program--A degree or certificate program and site requested by an employer pursuant to Texas Education Code, Chapter 51, §51.981.

§2.383. Standards and Criteria for Delivery of Courses and Programs at an Off-Campus Educational Site.

Each institution of higher education providing off-campus education shall:

(1) Comply with the standards, criteria, and approval requirements of a [~~one of the~~] Board-recognized accrediting organization [~~organizations~~] as defined in §4.192 of this title (relating to Recognized Accrediting Organizations);

(2) Operate an off-campus educational site only as authorized by statute or in accordance with the institution's accreditation standards, and if applicable, approved by the Coordinating Board; [~~by the legislature or in accordance with the institution's accreditation standards;~~]

(3) Ensure each off-campus educational site is of sufficient quality for the programs and courses offered;

(4) Provide each student with equivalent academic support services as a student enrolled in an on-campus course or program;

(5) Ensure students in off-campus courses and programs satisfy equivalent institutional enrollment requirements as on-campus students; and

(6) Select and evaluate faculty teaching at an off-campus educational site by equivalent standards, review, and approval procedures used by the institution to select and evaluate faculty responsible for on-campus courses and programs.

§2.384. Notification Required for Off-Campus Delivery of Courses, Certificates, and Less than Fifty Percent (50%) Content of a Degree Program.

(a) The provisions under this section are subject to Notification Only as outlined in §2.4 of this Chapter, (relating to Types of Approval Required).

(b) [~~(a)~~] Not less than once a year in a manner prescribed by the Board, an institution of higher education shall notify the Coordinating Board of an off-campus educational site at which a course, certificate, or less than fifty percent (50%) of a new degree program is offered.

(c) [~~(b)~~] Internship, clinical, dual credit and study abroad sites are exempt from the requirements of this section.

§2.386. Approval Required for Off-Campus Delivery of an Existing Degree Program.

(a) An institution of higher education shall request to offer an existing degree program as an Off-Campus Degree Program under the procedures and approvals pursuant to §2.9 of this chapter (relating to Revisions and Modifications to an Approved Program).

(b) The Coordinating Board shall [~~will~~] provide an opportunity for informal comment on the proposed off-campus delivery of the program in accordance with §2.7 of this chapter (relating to Informal Notice and Comment on Proposed Local Programs).

§2.388. Employer Requested Off-Campus Programs.

(a) To establish an employer requested off-campus, non-credit, or credit program, an employer shall first solicit, in writing, an agreement with an institution of higher education within the uniform state service region or a public junior college's service area, as applicable, where the employer requested off-campus educational site is located.

(b) If the institution initially solicited for an agreement under subsection (a) of this section does not finalize an offer to enter into an agreement with the employer that meets the employer's specifications for the off-campus program within six weeks of the initial written offer, the employer may enter into an agreement with another institution of higher education without prior approval of the Coordinating Board.

(c) If the employer requested off-campus program is a new degree or certificate program, an institution of higher education shall request Coordinating Board approval of the new degree or certificate program, in accordance with the requirements of this chapter concerning approval of new degree and certificate programs, prior to delivery of the employer requested off-campus program.

(d) If the employer requested off-campus program is an existing program that will be modified for the purpose of delivery for the employer, an institution shall follow the program modification requirements set forth in this chapter.

(e) An institution of higher education shall notify the Coordinating Board of the employer-requested program under the provisions of §§2.384 - 2.386 of this subchapter (relating to Notification Required for Off-Campus Delivery of Courses, Certificates, and Less than Fifty Percent (50%) Content of a Degree Program, Approval Required for Off-Campus Delivery of a New Degree Program, and Approval Required for Off-Campus Delivery of an Existing Degree Program, respectively).

§2.389. Effective Date of Rules.

The effective date of this subchapter is September 1, 2026. These rules apply to approvals on or after September 1, 2026.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

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Douglas Brock
General Counsel
Texas Higher Education Coordinating Board
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For further information, please call: (512) 427-6299

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19 TAC §2.388

The Texas Higher Education Coordinating Board (Coordinating Board) proposes the repeal of Texas Administrative Code, Title 19, Part 1, Chapter 2, Subchapter P, §2.388, concerning Effective Date of Rules. Specifically, this repeal will allow the agency to insert a new section into the subchapter.

The Coordinating Board is authorized by Texas Education Code, §61.0512(g) and §51.981, to approve off-campus credit courses.

Daniel Pérez, Associate Commissioner for Academic Innovation and Success, has determined that for each of the first five years the sections are in effect there would be no fiscal implications for state or local governments as a result of enforcing or administering the rules. There are no estimated reductions in costs to the state and to local governments as a result of enforcing or administering the rule. There are no estimated losses or increases in revenue to the state or to local governments as a result of enforcing or administering the rule.

There is no impact on small businesses, micro businesses, and rural communities. There is no anticipated impact on local employment.

Daniel Pérez, Associate Commissioner for Academic Innovation and Success, has also determined that for each year of the first five years the section is in effect, the public benefit anticipated as the result of administering the section will be better organized administrative rules related to off-campus education. There are no anticipated economic costs to persons who are required to comply with the sections as proposed.

Government Growth Impact Statement

(1) the rules will not create or eliminate government program;

(2) implementation of the rules will not require the creation or elimination of employee positions;

(3) implementation of the rules will not require an increase or decrease in future legislative appropriations to the agency;

(4) the rules will not require an increase or decrease in fees paid to the agency;

(5) the rules will not create a new rule;

(6) the rules will not limit an existing rule;

(7) the rules will not change the number of individuals subject to the rule; and

(8) the rules will not affect this state's economy.

Comments on the proposed rule or information related to the cost, benefit, or effect of the proposed rule, including any applicable data, research or analysis, may be submitted to Daniel Pérez, Associate Commissioner for Academic Innovation and Success, P.O. Box 12788, Austin, Texas 78711-2788, or via email at AHAComments@highered.texas.gov. Comments will be accepted for 30 days following publication of the proposal in the *Texas Register*.

The repeal is proposed under Texas Education Code, Sections 61.0512(g) and 51.981, which provides the Coordinating Board with the authority to approve off-campus credit courses.

The proposed repeal affects Texas Education Code, Sections 61.0512(g) and 51.981.

§2.388. Effective Date of Rules.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

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Douglas Brock
General Counsel
Texas Higher Education Coordinating Board
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CHAPTER 4. RULES APPLYING TO ALL PUBLIC INSTITUTIONS OF HIGHER EDUCATION IN TEXAS

SUBCHAPTER Q. APPROVAL OF OFF-CAMPUS AND SELF-SUPPORTING

COURSES AND PROGRAMS FOR PUBLIC INSTITUTIONS

19 TAC §§4.270 - 4.279

The Texas Higher Education Coordinating Board (Coordinating Board) proposes the repeal of Texas Administrative Code, Title 19, Part 1, Chapter 4, Subchapter Q, §§4.270 - 4.279, concerning Approval of Off-Campus and Self-Supporting Courses and Programs for Public Institutions. Specifically, rules relating to approval of self-supporting courses and programs have been replaced in Chapter 2, Subchapter O. Rules relating to the approval of off-campus courses and programs for public universities and health-related institutions have been replaced in Chapter 2, Subchapter P, and will be amended at the same time as this repeal to include public junior colleges. Rules relating to approval for off-campus courses and programs at Texas state technical colleges will be adopted in Chapter 11, Subchapter B, at the same time as this repeal.

Texas Education Code (TEC), §61.002, charges the Coordinating Board with "the elimination of costly duplication in program offerings, faculties, and physical plants." TEC, §61.0512(a), requires Coordinating Board approval for a new certificate or degree program. TEC, §61.0512(g), states that institutions may offer off-campus credit courses only with prior approval from the Coordinating Board.

Daniel Pérez, Associate Commissioner for Academic Innovation and Success, has determined that for each of the first five years the sections are in effect there would be no fiscal implications for state or local governments as a result of enforcing or administering the rules. There are no estimated reductions in costs to the state and to local governments as a result of enforcing or administering the rule. There are no estimated losses or increases in revenue to the state or to local governments as a result of enforcing or administering the rule.

There is no impact on small businesses, micro businesses, and rural communities. There is no anticipated impact on local employment.

Daniel Pérez, Associate Commissioner for Academic Innovation and Success, has also determined that for each year of the first five years the section is in effect, the public benefit anticipated as a result of administering the section will be the simplification of the approval and reporting requirements for off-campus education for institutions. There are no anticipated economic costs to persons who are required to comply with the sections as proposed.

Government Growth Impact Statement

(1) the rules will not create or eliminate a government program;

(2) implementation of the rules will not require the creation or elimination of employee positions;

(3) implementation of the rules will not require an increase or decrease in future legislative appropriations to the agency;

(4) the rules will not require an increase or decrease in fees paid to the agency;

(5) the rules will not create a new rule;

(6) the rules will not limit an existing rule;

(7) the rules will not change the number of individuals subject to the rule; and

(8) the rules will not affect this state's economy.

Comments on the proposed rule or information related to the cost, benefit, or effect of the proposed rule, including any applicable data, research or analysis, may be submitted to Daniel Pérez, Associate Commissioner for Academic Innovation and Success, P.O. Box 12788, Austin, Texas 78711-2788, or via email at AHAComments@highered.texas.gov. Comments will be accepted for 30 days following publication of the proposal in the *Texas Register*.

The repeal is proposed under Texas Education Code, Section 61.0512(g), which states that institutions may offer off-campus credit courses only with prior approval from the Coordinating Board.

The proposed repeal affects Texas Education Code, Sections 61.0512(g) and 51.661.

§4.270. Purpose.

§4.271. Authority.

§4.272. Definitions.

§4.273. General Provisions.

§4.274. Standards and Criteria for Institutions.

§4.275. Standards and Criteria for Off-Campus and Self-Supporting Programs.

§4.276. Standards and Criteria for Off-Campus and Self-Supporting Courses.

§4.277. Standards and Criteria for Off-Campus and Self-Supporting Faculty.

§4.278. Functions of Regional Councils.

§4.279. Formula Funding General Provisions.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

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Douglas Brock
General Counsel
Texas Higher Education Coordinating Board
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For further information, please call: (512) 427-6299

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SUBCHAPTER W. RESEARCH SECURITY AND FOREIGN ADVERSARY RESTRICTIONS

19 TAC §4.356

The Texas Higher Education Coordinating Board (Coordinating Board) proposes new rules in Texas Administrative Code, Title 19, Part 1, Chapter 4, Subchapter W, §4.356, concerning Gifts of De Minimis Value. Specifically, this new section will establish a definition for gifts of "de minimis value", in accordance with statutory changes made by House Bill 127, 89th Texas Legislature, Regular Session, updating Texas Education Code (TEC) Chapters 51 and 51B.

The Coordinating Board is required by TEC, §51B.051(a) to, in consultation with the Higher Education Research Security Council, determine by rule what constitutes a gift of "de minimis value."

The Coordinating Board has consulted with the Higher Education Research Security Council in proposing this rule.

Rule 4.356, Gifts of De Minimis Value, implements TEC, §51B.051(a), by defining "de minimis value" for purposes of the statutory restriction on accepting gifts from a foreign source of a foreign adversary as defined in §51B.001. The rule limits de minimis value to non-cash items under $50 that are unsolicited, non-recurring, and not offered in exchange for any official action (i.e., nominal promotional items), and specifies that cash or cash equivalents, travel or related hospitality, honoraria, non-public discounts, recurring or decision-linked items, and items with unclear source or intent are not de minimis regardless of the amount.

Glenna Bruun, Associate Commissioner for Public Affairs, has determined that for each of the first five years the sections are in effect there would be no fiscal implications for state or local governments as a result of enforcing or administering the rules. There are no estimated reductions in costs to the state and to local governments as a result of enforcing or administering the rule. There are no estimated losses or increases in revenue to the state or to local governments as a result of enforcing or administering the rule.

There is no impact on small businesses, micro businesses, and rural communities. There is no anticipated impact on local employment.

Glenna Bruun, Associate Commissioner for Public Affairs, has also determined that for each year of the first five years the section is in effect, the public benefit anticipated as a result of administering the section will be providing institutions of higher education a clear standard for "de minimis value" that supports compliance with restrictions on gifts from foreign adversary sources. There are no anticipated economic costs to persons who are required to comply with the sections as proposed.

Government Growth Impact Statement

(1) the rules will not create or eliminate a government program;

(2) implementation of the rules will not require the creation or elimination of employee positions;

(3) implementation of the rules will not require an increase or decrease in future legislative appropriations to the agency;

(4) the rules will not require an increase or decrease in fees paid to the agency;

(5) the rules will create a new rule;

(6) the rules will not limit an existing rule;

(7) the rules will not change the number of individuals subject to the rule; and

(8) the rules will not affect this state's economy.

Comments on the proposed rule or information related to the cost, benefit, or effect of the proposed rule, including any applicable data, research or analysis, may be submitted to Glenna Bruun, Associate Commissioner for Public Affairs, P.O. Box 12788, Austin, Texas 78711-2788, or via email at er@highered.texas.gov. Comments will be accepted for 30 days following publication of the proposal in the *Texas Register*.

The new section is proposed under Texas Education Code, Section 51B.051(a), which requires the Coordinating Board to, in consultation with the Higher Education Research Security Council, determine by rule what constitutes a gift of "de minimis value."

The proposed new section affects Texas Administrative Code, Title 19, Part 1, Chapter 4, Subchapter W.

§4.356. Gifts of De Minimis Value.

(a) For purposes of Texas Education Code, §51B.051, which restricts institutions of higher education and their employees from accepting gifts from a foreign source of a foreign adversary unless the gift is of de minimis value, a "gift of de minimis value" means a non-cash item with a value of less than $50 that is unsolicited, non-recurring, and not offered in exchange for any official action (i.e., a nominal promotional item).

(b) The following are not gifts of de minimis value:

(1) cash or cash equivalents (including gift cards);

(2) travel, lodging, meals, or entertainment;

(3) honoraria;

(4) discounts not publicly available;

(5) anything recurring, tied to a business decision, or that could reasonably be viewed as influencing official action; or

(6) anything where the source, intent, or circumstances are unclear.

(c) The acceptance of a gift of de minimis value by an institution of higher education or an employee of an institution of higher education from a foreign source of a foreign adversary as defined in Texas Education Code, §51B.001, does not violate Texas Education Code, §51B.051.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

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Douglas Brock
General Counsel
Texas Higher Education Coordinating Board
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For further information, please call: (512) 427-6116

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CHAPTER 6. HEALTH EDUCATION, TRAINING, AND RESEARCH FUNDS

SUBCHAPTER E. TEXAS EMERGENCY AND TRAUMA CARE EDUCATION PARTNERSHIP PROGRAM

19 TAC §§6.91 - 6.96

The Texas Higher Education Coordinating Board (Coordinating Board) proposes the repeal of Texas Administrative Code, Title 19, Part 1, Chapter 6, Subchapter E, §§6.91 - 6.96, concerning the Texas Emergency and Trauma Care Education Partnership Program. Specifically, this repeal will remove duplicate administrative rules that have been revised and moved to Chapter 10, Subchapter H.

Texas Education Code, Chapter 61, Subchapter HH, §§61.9801 - 61.9807, authorizes the Coordinating Board to adopt rules to administer the Texas Emergency Trauma Care Education Partnership Program.

Daniel Pérez, Associate Commissioner for Academic Innovation and Success, has determined that for each of the first five years the sections are in effect there would be no fiscal implications for state or local governments as a result of enforcing or administering the rules. There are no estimated reductions in costs to the state and to local governments as a result of enforcing or administering the rule. There are no estimated losses or increases in revenue to the state or to local governments as a result of enforcing or administering the rule.

There is no impact on small businesses, micro businesses, and rural communities. There is no anticipated impact on local employment.

Daniel Pérez, Associate Commissioner for Academic Innovation and Success, has also determined that for each year of the first five years the section is in effect, the public benefit anticipated as the result of administering the section will be removing duplicate administrative rules that have been replaced in Chapter 10, Subchapter H. There are no anticipated economic costs to persons who are required to comply with the sections as proposed.

Government Growth Impact Statement

(1) the rules will not create or eliminate a government program;

(2) implementation of the rules will not require the creation or elimination of employee positions;

(3) implementation of the rules will not require an increase or decrease in future legislative appropriations to the agency;

(4) the rules will not require an increase or decrease in fees paid to the agency;

(5) the rules will not create a new rule;

(6) the rules will not limit an existing rule;

(7) the rules will not change the number of individuals subject to the rule; and

(8) the rules will not affect this state's economy.

Comments on the proposed rule or information related to the cost, benefit, or effect of the proposed rule, including any applicable data, research or analysis, may be submitted to Daniel Pérez, Associate Commissioner for Academic Innovation and Success, P.O. Box 12788, Austin, Texas 78711-2788, or via email at AHAComments@highered.texas.gov. Comments will be accepted for 30 days following publication of the proposal in the *Texas Register*.

The repeal is proposed under Texas Education Code, Chapter 61, Subchapter HH, Sections 61.9801 - 61.9807, which authorizes the Coordinating Board to adopt rules to administer the Texas Emergency Trauma Care Education Partnership Program.

The proposed repeal affects Texas Education Code, Sections 61.9801 - 61.9807.

§6.91. Purpose.

§6.92. Authority.

§6.93. Definitions.

§6.94. Eligibility.

§6.95. Selection for Funding.

§6.96. General Information.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

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Douglas Brock
General Counsel
Texas Higher Education Coordinating Board
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For further information, please call: (512) 427-6299

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CHAPTER 11. TEXAS STATE TECHNICAL COLLEGE SYSTEM
SUBCHAPTER C. OFF-CAMPUS RULES FOR TEXAS STATE TECHNICAL COLLEGE SYSTEM

19 TAC §§11.40 - 11.48

The Texas Higher Education Coordinating Board (Coordinating Board) proposes new rules in Texas Administrative Code, Title 19, Part 1, Chapter 11, Subchapter C, §§11.40 - 11.48, concerning Off-Campus Rules for Texas State Technical College System. Specifically, the new rules are designed to streamline and consolidate processes related to notification and approval of off-campus courses, certificates, and programs for the Texas State Technical College System. The new rules replace existing rules in Chapter 4, Subchapter Q, relating to the delivery of off-campus courses, certificates, and programs for community and technical colleges, which will be repealed under separate rulemaking.

Texas Education Code (TEC), §61.002, charges the Coordinating Board with "the elimination of costly duplication in program offerings, faculties, and physical plants." TEC, §61.0512(a), requires the Coordinating Board approval for a new certificate or degree program. TEC, §61.0512(g), states that institutions may offer off-campus credit courses only with prior approval from the Coordinating Board.

Section 11.40, Definitions, provides words and terms relevant to approval of and delivery of certificate and degree programs at off-campus educational sites.

Section 11.41, Standards and Criteria for Delivery of Courses and Programs at an Off-Campus Educational Site, establishes required criteria that a technical college must comply with to offer off-campus education. These criteria align with state and federal standards and ensure that each student enrolled in an off-campus degree program has access to the same quality of education as on-campus students.

Section 11.42, Notification Required for Off-Campus Delivery of Courses, Certificates, and Less than Fifty Percent (50%) Content of a Degree Program, establishes procedures for a technical college to notify the Coordinating Board of its intent to offer off-campus education, including instruction that does not meet the fifty percent (50%) content threshold. The section also identifies which site types are not required as part of the notification. This requirement is new but ensures statutory compliance with as minimal data collection as possible.

Section 11.43, Approval Required for Off-Campus Delivery of a New Certificate or Degree Program, establishes approval procedures for a technical college seeking approval for a new certificate or degree program that will be offered at an off-campus location. This section does not represent a departure from current practice for technical colleges.

Section 11.44, Approval Required for Off-Campus Delivery of an Existing Certificate or Degree Program, establishes procedures for a technical college seeking approval for an existing certificate or degree program to be offered at an off-campus location. This requirement is not new and removes the institutional requirement to submit a 50-mile notification prior to submission to the Coordinating Board. The Coordinating Board will send out a regional informal notice for a 30-day comment period for an off-campus request, which it does with new degree programs.

Section 11.45, Modifications and Phase Out of An Off-Campus Certificate or Degree Program, establishes procedures for making a modification to a certificate and degree program offered at an off-campus educational site.

Section 11.46, Statutory Exemptions from Program Approval, delineates Texas counties that are exempt from program approval requirements.

Section 11.47, Requirements for an Employer Requested Program, establishes the procedures that a technical college must follow related to TEC, §51.981.

Section 11.48, Effective Dates of Rules, specifies that the rules are effective beginning September 1, 2026.

Dr. Tina Jackson, Assistant Commissioner for Workforce Education, has determined that for each of the first five years the sections are in effect there would be no fiscal implications for state or local governments as a result of enforcing or administering the rules. There are no estimated reductions in costs to the state and to local governments as a result of enforcing or administering the rules. There are no estimated losses or increases in revenue to the state or to local governments as a result of enforcing or administering the rules.

There is no impact on small businesses, micro businesses, and rural communities. There is no anticipated impact on local employment.

Dr. Tina Jackson, Assistant Commissioner for Workforce Education, has also determined that for each year of the first five years the sections are in effect, the public benefit anticipated as a result of administering the sections will streamline and consolidate processes related to notification and approval of off-campus courses, certificates, and programs for the Texas State Technical College System. There are no anticipated economic costs to persons who are required to comply with the sections as proposed.

Government Growth Impact Statement

(1) the rules will not create or eliminate a government program;

(2) implementation of the rules will not require the creation or elimination of employee positions;

(3) implementation of the rules will not require an increase or decrease in future legislative appropriations to the agency;

(4) the rules will not require an increase or decrease in fees paid to the agency;

(5) the rules will create a new rule;

(6) the rules will not limit an existing rule;

(7) the rules will not change the number of individuals subject to the rules; and

(8) the rules will not affect this state's economy.

Comments on the proposed rules or information related to the cost, benefit, or effect of the proposed rules, including any applicable data, research or analysis, may be submitted to Dr. Tina Jackson, Assistant Commissioner for Workforce Education, P.O. Box 12788, Austin, Texas 78711-2788, or via email at Tina.Jackson@highered.texas.gov. Comments will be accepted for 30 days following publication of the proposal in the *Texas Register*.

The new sections are proposed under Texas Education Code, Sections 61.1002, 61.0512(a), and 61.0512(g), which provide the Coordinating Board with the authority to eliminate duplication in program offerings, faculties, and physical plans; requires board approval of new certificate and degree programs; and states that institutions may offer off-campus credit courses only with board prior approval, respectively.

The proposed new sections affect Texas Administrative Code, Chapter 11, Subchapter C.

§11.40. Definitions.

The following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise.

(1) Career and Technical Education--Career and technical education shall mean the same as technical-vocational education for the purpose of this subchapter.

(2) Employer Requested Certificate or Degree Program and Site--A career and technical education certificate or degree program and site requested by an employer pursuant to Texas Education Code, Chapter 51, §51.981.

(3) Off-Campus Certificate Program--A career and technical education certificate program in which fifty percent (50%) or more of required instruction or coursework is in-person at an off-campus educational site.

(4) Off-Campus Degree Program--A degree program in which fifty percent (50%) or more of required instruction or coursework is in-person at an off-campus educational site.

(5) Off-Campus Educational Site--An additional location, which is any site away from the technical college's main campus, approved by the technical college's Board-recognized accreditor in accordance with 34 C.F.R. §600.32, and where required instruction for a career and technical education credit course, certificate, or degree program is delivered in person.

(6) Main Campus--The primary campus of each technical college as set forth in Texas Education Code, Chapter 135, §135.02(a).

(7) Technical College--A main campus of the Texas State Technical College System.

§11.41. Standards and Criteria for Delivery of Courses and Programs at an Off-Campus Educational Site.

Each technical college providing off-campus career and technical education shall meet the requirements specified in §2.383 of this title (relating to Standards and Criteria for Delivery of Courses and Programs at an Off-Campus Educational Site).

§11.42. Approval Required for Off-Campus Delivery of Courses, Certificates, and Less than Fifty Percent (50%) Content of a Degree Program.

(a) The provisions under this section are subject to Notification Only approval as set out in Chapter 2, Subchapter L (relating to the Approval Process for a Career and Technical Education Certificate), and Subchapter K (relating to the Approval Process for an Applied Associate Degree) and §2.4 of this title, (relating to Types of Approval Required).

(b) Not less than once a year in a manner prescribed by the Board, a technical college shall notify the Coordinating Board of an off-campus educational site at which a career and technical education course, certificate, or less than fifty percent (50%) of required instruction and coursework for a degree program is offered.

(c) Internship, clinical, dual credit, and study abroad sites are exempt from the requirements of this section.

§11.43. Approval Required for Off-Campus Delivery of a New Certificate or Degree Program.

(a) A technical college shall obtain Coordinating Board approval prior to delivery of a new career and technical education certificate or degree program designated as an Off-Campus Degree Program or an Off-Campus Certificate Program. A request for a new Off-Campus Certificate or Degree Program is subject to the approval requirements set forth in Chapter 2, Subchapter L (relating to the Approval Process for a Career and Technical Education Certificate), and Subchapter K (relating to the Approval Process for an Applied Associate Degree).

(b) The technical college shall provide to the Coordinating Board in its request for approval the name and address of the proposed off-campus educational site where the Off-Campus Degree Program or Off-Campus Certificate Program would be delivered if approved.

(c) The Coordinating Board shall provide informal notice and opportunity to comment to institutions of higher education that offer substantially similar programs in the region on the proposed off-campus delivery of the program in accordance with §2.7 of this title (relating to Informal Notice and Comment on Proposed Local Programs).

§11.44. Approval Required for Off-Campus Delivery of an Existing Certificate or Degree Program.

(a) A technical college shall request to offer an existing career and technical education certificate or degree program as an Off-Campus Degree Program or an Off-Campus Certificate Program. A request for a new Off-Campus Certificate or Degree Program is subject to the approval requirements set forth in Chapter 2, Subchapter L (relating to the Approval Process for a Career and Technical Education Certificate) and Subchapter K (relating to the Approval Process for an Applied Associate Degree).

(b) The Coordinating Board shall provide informal notice and opportunity to comment to institutions of higher education that offer substantially similar programs in the region on the proposed off-campus delivery of the program in accordance with §2.7 of this title (relating to Informal Notice and Comment on Proposed Local Programs).

§11.45. Modifications and Phase Out of an Off-Campus Certificate and Degree Program.

A technical college may request revision, modification or phase out of an approved career and technical education certificate or degree program offered at an off-campus educational site as set out in Chapter 2, Subchapter L (relating to the Approval Process for a Career and Technical Education Certificate) and Subchapter K (relating to the Approval Process for an Applied Associate Degree).

§11.46. Statutory Exemptions from Program Approval.

Approval of career and technical education programs under this section does not apply to Brown, McLennan, Cameron, Fort Bend, Comal, Denton, Guadalupe, Williamson, and Potter Counties.

§11.47. Requirements for an Employer Requested Program.

(a) A technical college must meet the requirements specified in §2.388 of this title (relating to an Employer Requested Program).

(b) For the purpose of this subsection, a technical college shall comply with §§11.42 - 11.45 (relating to Approval Required for Off-Campus Delivery of Courses, Certificates, and Less than Fifty Percent (50%) Content of a Degree Program, Approval Required for Off-Campus Delivery of a New Certificate or Degree Program, Approval Required for Off-Campus Delivery of an Existing Certificate or Degree Program, and Modifications and Phase Out of An Off-Campus Certificate and Degree Program, respectfully).

§11.48. Effective Date of Rules.

The effective date of this subchapter is September 1, 2026. These rules apply to approvals on or after September 1, 2026.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

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Douglas Brock
General Counsel
Texas Higher Education Coordinating Board
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For further information, please call: (512) 427-6209

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CHAPTER 13. FINANCIAL PLANNING
SUBCHAPTER J. TEXAS FUND FOR GEOGRAPHY EDUCATION

19 TAC §§13.180 - 13.186

The Texas Higher Education Coordinating Board (Coordinating Board) proposes the repeal of Texas Administrative Code, Title 19, Part 1, Chapter 13, Subchapter J, §§13.180 - 13.186, concerning the Texas Fund for Geography Education. Specifically, this repeal removes rules for a fund that has been dissolved.

Texas Education Code, §61.027, authorizes the Coordinating Board to adopt and repeal rules. The fund to which the rules apply has been dissolved, and the Coordinating Board has determined that the rules are no longer required.

Daniel Pérez, Associate Commissioner for Academic Innovation and Success, has determined that for each of the first five years the sections are in effect there would be no fiscal implications for state or local governments as a result of enforcing or administering the rules. There are no estimated reductions in costs to the state and to local governments as a result of enforcing or administering the rules. There are no estimated losses or increases in revenue to the state or to local governments as a result of enforcing or administering the rules.

There is no impact on small businesses, micro businesses, and rural communities. There is no anticipated impact on local employment.

Daniel Pérez, Associate Commissioner for Academic Innovation and Success, has also determined that for each year of the first five years the section is in effect, the public benefit anticipated as a result of administering the section will be removing rules for a fund that has been dissolved. There are no anticipated economic costs to persons who are required to comply with the sections as proposed.

Government Growth Impact Statement

(1) the rules will not create or eliminate a government program;

(2) implementation of the rules will not require the creation or elimination of employee positions;

(3) implementation of the rules will not require an increase or decrease in future legislative appropriations to the agency;

(4) the rules will not require an increase or decrease in fees paid to the agency;

(5) the rules will not create a new rule;

(6) the rules will not limit an existing rule;

(7) the rules will not change the number of individuals subject to the rule; and

(8) the rules will not affect this state's economy.

Comments on the proposed rule or information related to the cost, benefit, or effect of the proposed rule, including any applicable data, research or analysis, may be submitted to Daniel Pérez, Associate Commissioner for Academic Innovation and Success, P.O. Box 12788, Austin, Texas 78711-2788, or via email at AHA-Comments@highered.texas.gov. Comments will be accepted for 30 days following publication of the proposal in the *Texas Register*.

The repeal is proposed under Texas Education Code, Section 61.027, which provides the Coordinating Board with the authority to adopt and repeal rules.

The proposed repeal affects Texas Education Code, §§61.9681-61.9684.

§13.180. Authority, Scope, and Purpose.

§13.181. Definitions.

§13.182. Agreement with National Geographic Society.

§13.183. Dissolution of the Fund.

§13.184. Advisory Committee.

§13.185. Procedures for Solicitation and Recommendation of Grant Proposals.

§13.186. Eligibility.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

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Douglas Brock

General Counsel

Texas Higher Education Coordinating Board

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PART 2. TEXAS EDUCATION AGENCY

CHAPTER 89. ADAPTATIONS FOR SPECIAL POPULATIONS

SUBCHAPTER AA. COMMISSIONER'S RULES CONCERNING SPECIAL EDUCATION SERVICES

DIVISION 2. CLARIFICATION OF PROVISIONS IN FEDERAL REGULATIONS

19 TAC §§89.1050, 89.1055, 89.1096

The Texas Education Agency (TEA) proposes amendments to §§89.1050, 89.1055, and 89.1096, concerning special education services. The proposed amendments would update statutory authority and clarify current program practices and requirements in accordance with House Bill (HB) 2, Senate Bill (SB) 568, and SB 2, 89th Texas Legislature, Regular Session, 2025.

BACKGROUND INFORMATION AND JUSTIFICATION: Section 89.1050 defines the criteria for the admission, review, and dismissal (ARD) committee.

The proposed amendment to subsection (a) would align reference to federal and state law by adding new statutory references and repealing statutory references in accordance with HB 2 and SB 568, 89th Texas Legislature, Regular Session, 2025.

The proposed amendment to subsection (c)(1)(I) would add criteria for a career and technical education (CTE) representative of the ARD committee to be knowledgeable about the availability of CTE programs offered in the district.

The proposed amendment to subsection (c)(2) would add reference 19 TAC §89.1131, Qualifications of Special Education, Related Service, and Paraprofessional Personnel, to describe the certification and licensure requirements for special education personnel.

Proposed new subsection (c)(3) would establish that a prekindergarten teacher who is dual certified in general education and special education and is responsible for implementing the child's individualized education program (IEP) could represent both the general and special education teacher requirements of the ARD committee.

The proposed amendment to subsection (c)(4)(A)-(C) would clarify ARD committee requirements for teachers of students with visual impairments, who are deaf or hard of hearing or who are deaf-blind.

A proposed amendment to subsection (d) would update the timeframe for a school district to provide parents with written notice of the ARD committee meeting from 5 school days to 10 calendar days.

The proposed amendment to subsection (e) would clarify a requirement for school districts to provide the parent notice of scheduling options for the ARD committee meeting within 10 school days of receipt of a written request for a meeting.

Subsections (f) and (g) would be modified to update terminology and align with the proposed amendment to change the timeframe to 10 calendar days.

Proposed new subsections (h)-(j) would clarify school district requirements for providing required information, parent notice, and ARD committee procedures when residential placements or changes in the location of special education and related services are considered, consistent with applicable state and federal law.

Section 89.1055 establishes criteria for the IEP.

The proposed amendment to subsection (a) would clarify that all elements of the rule must be followed.

The proposed amendment to subsection (b) would clarify the timeline for review of the annual IEP.

Proposed new subsection (c)(1)-(4) would clarify the information that must be included in the present levels of academic achievement and functional performance.

The proposed amendment to subsection (d) would clarify the responsibilities of the ARD committee in establishing annual goals.

The proposed amendment to subsection (d)(1)(i) and (ii) would clarify when an annual goal is needed.

The proposed amendment to subsection (d)(2)(i)-(iii) would clarify when short-term objectives are needed as a part of the annual goal.

Proposed new subsection (e)(1)-(3) would add criteria for the service delivery schedule.

Proposed new subsection (f) would add documentation of minutes a student spends in and out of the general education setting.

Proposed new subsection (g) would establish progress monitoring for the IEP and contingencies for making up any specially designed instruction missed due to emergencies, staffing shortages, or other unforeseen circumstances.

The proposed amendment to subsection (i)(2) would clarify that alternative state assessment documentation must be completed and included in the child's IEP.

The proposed amendment to subsection (j) would clarify what services are needed for extended school year services.

The proposed amendment to subsection (k) would update a statutory cross reference to align with current state law.

The proposed amendment to subsection (n), including new paragraphs (1)-(9), would establish criteria to be included in the IEP for students who are identified as having a specific learning disability (SLD) in dyslexia.

Proposed new subsection (o) would establish the documentation needed if portions of subsection (n) are not applicable to a student.

Proposed new subsection (p) would establish the documentation needed in the IEP if a student meets eligibility criteria for SLD in basic reading or reading fluency explaining why/how the student did not meet criteria for dyslexia.

Proposed new subsection (q)(1) and(2) would establish criteria to be included in the IEP for students identified as SLD in dysgraphia.

Proposed new subsection (r) would establish criteria for school districts related to School Health and Related Services (SHARS) reimbursement.

The proposed amendment to subsection (t) would clarify the language in accordance with current practice.

The proposed amendment to subsection (t)(4) would clarify language related to a functional vocational evaluation in accordance with current practice.

The proposed amendment to subsection (w), including paragraph (1), would clarify language, related to the first IEP to be in effect for students when they turn 18 years old, in accordance with current practice.

The proposed amendment to subsection (y) would clarify the language in accordance with current practice by updating the phrase "native language" to "primary language."

The proposed amendment to subsection (z)(3) would clarify the language in accordance with current practice by replacing "administrator" with "representative of the school district identified in §89.1050."

The proposed amendments to subsection (aa)(1)-(3) would clarify the language in accordance with current practice by updating the phrase "native language" to "primary language."

The proposed amendments to subsection (bb) would establish a timeframe for giving a parent the final IEP.

Proposed new subsection (cc)(4) would set criteria for extending timelines for transfer students if they are absent.

Section 89.1096 establishes provisions of services for students placed by their parents in private schools or facilities.

An amendment to the title of the section is proposed for clarification to align with SB 2, 89th Texas Legislature, Regular Session, 2025.

The proposed amendment to subsection (a) would align state rules with federal Individuals with Disabilities Education Act (IDEA) requirements by clarifying that parentally placed private school students do not have an individual entitlement to special education services.

The proposed amendment to subsection (a)(1) would clarify the use of the rule.

The proposed amendment to subsection (a)(1)(B) would clarify that the public school evaluating the child determines if a school is a private school.

The proposed amendment to subsection (b) would clarify when a district does not have to provide educational services to a parentally placed private school student.

Existing subsection (c), related to dual enrollment of a student aged 3 or 4, would be removed.

The proposed amendment to re-lettered subsection (c) would clarify when a parent can request an individualized services plan.

Proposed new subsections (d)-(j) would establish new regulations based on SB 2, 89th Texas Legislature, Regular Session, 2025. The proposed new language would clarify the IEP criteria used to determine eligibility for participation in the Texas Education Savings Account under Texas Education Code, §29.3615, including the minimum components of an IEP developed solely for eligibility purposes, which also allowing the use of an IEP written in compliance with the IDEA.

FISCAL IMPACT: Jennifer Alexander, associate commissioner of special populations and student supports, has determined that for the first five-year period the proposal is in effect, there are no additional costs to state or local government, including school districts and open-enrollment charter schools, required to comply with the proposal.

LOCAL EMPLOYMENT IMPACT: The proposal has no effect on local economy; therefore, no local employment impact statement is required under Texas Government Code, §2001.022.

SMALL BUSINESS, MICROBUSINESS, AND RURAL COMMUNITY IMPACT: The proposal has no direct adverse economic impact for small businesses, microbusinesses, or rural communities; therefore, no regulatory flexibility analysis, specified in Texas Government Code, §2006.002, is required.

COST INCREASE TO REGULATED PERSONS: The proposal does not impose a cost on regulated persons, another state agency, a special district, or a local government and, therefore, is not subject to Texas Government Code, §2001.0045.

TAKINGS IMPACT ASSESSMENT: The proposal does not impose a burden on private real property and, therefore, does not constitute a taking under Texas Government Code, §2007.043.

GOVERNMENT GROWTH IMPACT: TEA staff prepared a Government Growth Impact Statement assessment for this proposed rulemaking. During the first five years the proposed rulemaking would be in effect, it would expand existing regulations. The proposed amendments would expand ARD committee and IEP requirements; establish the IEP criteria used to determine eligibility for participation in the Texas Education Savings Account program; and update statutory cross references to align with HB 2 and SB 568, 89th Texas Legislature, Regular Session, 2025.

The proposed rulemaking would not create or eliminate a government program; would not require the creation of new employee positions or elimination of existing employee positions; would not require an increase or decrease in future legislative appropriations to the agency; would not require an increase or decrease in fees paid to the agency; would not create a new regulation; would not limit or repeal an existing regulation; would not increase or decrease the number of individuals subject to its applicability; and would not positively or adversely affect the state's economy.

PUBLIC BENEFIT AND COST TO PERSONS: Ms. Alexander has determined that for each year of the first five years the proposal is in effect, the public benefit anticipated as a result of enforcing the proposal would be to define the criteria requirements for the ARD committee in §89.1050; establish criteria requirements for the IEP in §89.1055; and in §89.1096, to establish provisions of services for students placed by their parents in private schools or facilities and establish the IEP requirements used to determine eligibility for participation in the Texas Education Savings Account program, which is different than IEPs used in schools under IDEA. There is no anticipated economic cost to persons who are required to comply with the proposal.

DATA AND REPORTING IMPACT: The proposal would have no data and reporting impact.

PRINCIPAL AND CLASSROOM TEACHER PAPERWORK REQUIREMENTS: TEA has determined that the proposal would not require a written report or other paperwork to be completed by a principal or classroom teacher.

PUBLIC COMMENTS: TEA requests public comments on the proposal, including, per Texas Government Code, §2001.024(a)(8), information related to the cost, benefit, or effect of the proposed rule and any applicable data, research, or analysis, from any person required to comply with the proposed rule or any other interested person. The public comment period on the proposal begins April 10, 2026, and ends May 11, 2026. A form for submitting public comments is available on the TEA website at https://tea.texas.gov/About_TEA/Laws_and_Rules/Commissioner_Rules_(TAC)/Proposed_Commissioner_of_Education_Rules/. Public hearings will be conducted to solicit testimony and input on the proposed amendments at 9:30 a.m. on April 23 and 24, 2026. The public may participate in either hearing virtually by linking to the hearing at https://us02web.zoom.us/j/83220111674. Anyone wishing to testify must be present at 9:30 a.m. and indicate to TEA staff their intent to comment and are encouraged to also send written testimony to sped@tea.texas.gov. Each hearing will conclude once all who have signed in have been given the opportunity to comment. Questions about the hearing should be directed to Derek Hollingsworth, Special Populations Policy and Compliance, Derek.Hollingsworth@tea.texas.gov.

STATUTORY AUTHORITY. The amendments are proposed under Texas Education Code (TEC), §29.001, as amended by House Bill (HB) 2 and Senate Bill (SB) 568, 89th Texas Legislature, Regular Session, 2025, which establishes criteria for the implementation of special education law; TEC, §29.003, as amended by HB 2 and SB 568, 89th Texas Legislature, Regular Session, 2025, which requires the Texas Education Agency (TEA) to develop eligibility criteria for students receiving special education services; TEC, §29.004, which establishes criteria for completing full individual and initial evaluations of a student for purposes of special education services; TEC, §29.005, as amended by HB 2 and SB 568, 89th Texas Legislature, Regular Session, 2025, which establishes criteria for developing a student's individualized education program (IEP) prior to a student enrolling in a special education program; TEC, §29.010, as amended by HB 2 and SB 568, 89th Texas Legislature, Regular Session, 2025, which requires TEA to develop and implement a monitoring system for school district compliance with federal and state laws regarding special education; TEC, §29.011, which requires the commissioner to adopt procedures for compliance with federal requirements relating to transition services for students enrolled in special education programs; TEC, §29.0111, which appropriates state transition planning to begin for a student no later than the student turning 14 years of age; TEC, §29.012, as amended by HB 2 and SB 568, 89th Texas Legislature, Regular Session, 2025, which requires the commissioner to develop and implement procedures for compliance with federal requirements relating to transition services for students enrolled in a special education program; TEC, §29.026, as added by HB 2 and SB 568, 89th Texas Legislature, Regular Session, 2025, which establishes rulemaking authority for the commissioner as necessary to implement TEC, Chapter 29, Subchapter A; TEC, §29.3615, as added by HB 2 and SB 568, 89th Texas Legislature, Regular Session, 2025, which establishes IEP evaluations for a student who is not enrolled in a school district or open-enrollment charter school; TEC, §38.003, as amended by HB 2 and SB 568, 89th Texas Legislature, Regular Session, 2025, which establishes criteria for the screening and treatment for dyslexia and related disorders; Texas Government Code, §392.002, which requires the use of person first respectful language; 34 CFR, §300.101, which defines the requirement for all children residing in the state between the ages of 3-21 to have a free appropriate public education available; 34 CFR, §300.129, which establishes criteria for the state responsibility regarding children in private schools; 34 CFR, §300.131, which establishes child find for parentally placed private school children with disabilities; 34

CFR, §300.132, which establishes the basic requirement for the provision of services for parentally placed private school children with disabilities; 34 CFR, §300.133, which establishes criteria for expenditures; 34 CFR, §300.136, which establishes criteria for compliance; 34 CFR, §300.139, which establishes the criteria for location of services and transportation; 34 CFR, §300.142, which establishes criteria for use of personnel; 34 CFR, §300.143, which prohibits separate classes; 34 CFR, §300.307, which establishes the criteria for determining specific learning disabilities; 34 CFR, §300.310, which establishes criteria for observation to document the child's academic performance and behavior in the areas of difficulty; 34 CFR, §300.311, which establishes criteria for specific documentation for the eligibility determination; 34 CFR, §300.320, which defines the IEP; 34 CFR, §300.322, which establishes criteria for parent participation; and 34 CFR, §300.323, which establishes criteria for when IEPs must be in effect.

CROSS REFERENCE TO STATUTE. The amendments implement Texas Education Code (TEC), §§29.001, as amended by House Bill (HB) 2 and Senate Bill (SB) 568, 89th Texas Legislature, Regular Session, 2025; 29.003, as amended by HB 2 and SB 568, 89th Texas Legislature, Regular Session, 2025; 29.004; 29.005, as amended by HB 2 and SB 568, 89th Texas Legislature, Regular Session, 2025; 29.010, as amended by HB 2 and SB 568, 89th Texas Legislature, Regular Session, 2025; 29.011; 29.0111; 29.012, as amended by HB 2 and SB 568, 89th Texas Legislature, Regular Session, 2025; 29.026, as added by HB 2 and SB 568, 89th Texas Legislature, Regular Session, 2025; 29.3615, as added by HB 2 and SB 568, 89th Texas Legislature, Regular Session, 2025; and 38.003, as amended by HB 2 and SB 568, 89th Texas Legislature, Regular Session, 2025; Texas Government Code, §392.002; and 34 Code of Federal Regulations (CFR), §§300.101, 300.129, 300.131, 300.132, 300.133, 300.136, 300.139, 300.142, 300.143, 300.307, 300.310, 300.311, 300.320, 300.322, and 300.323.

§89.1050. The Admission, Review, and Dismissal Committee.

(a) Each school district must establish an admission, review, and dismissal (ARD) committee for each eligible student with a disability and for each student for whom a full individual and initial evaluation is conducted pursuant to §89.1011 of this title (relating to Full Individual and Initial Evaluation). The ARD committee is the individualized education program (IEP) team defined in federal law and regulations, including, specifically, 34 Code of Federal Regulations (CFR), §300.321. The ARD committee [~~school district~~] is responsible for all of the functions for which the IEP team is responsible under federal and state law and regulations [~~and for which the ARD committee is responsible under state law~~], including the following:

(1) 34 CFR, §§300.320-300.325, and Texas Education Code (TEC), §29.005 (individualized education programs);

(2) 34 CFR, §§300.145-300.147 (relating to placement of eligible students in private schools by a school district);

(3) 34 CFR, §§300.132, 300.138, and 300.139 (relating to the development and implementation of service plans for eligible students placed by parents in private school who have been designated to receive special education and related services);

(4) 34 CFR, §300.530 and §300.531, and TEC, §37.004 (disciplinary placement of students with disabilities);

(5) 34 CFR, §§300.302-300.306 (relating to evaluations, re-evaluations, and determination of eligibility);

(6) 34 CFR, §§300.114-300.117 (relating to least restrictive environment);

[~~(7) TEC, §28.006 (Reading Diagnosis);~~]

(7) [~~(8)~~] TEC, §28.0211 (Satisfactory Performance on Assessment Instruments Required; Accelerated Instruction);

(8) [~~(9)~~] TEC, §28.0212 (Junior High or Middle School Personal Graduation Plan);

(9) [~~(10)~~] TEC, §28.0213 (Intensive Program of Instruction);

(10) TEC, §28.025 (High School Diploma and Certificate; Academic Achievement Record);

(11) TEC, Chapter 29, Subchapter A;

(12) TEC, §29.048 (Admission, Review and Dismissal Committee Duties);

(13) [~~(11)~~] TEC, Chapter 29, Subchapter I (Programs for Students Who Are Deaf or Hard of Hearing);

(14) TEC, Chapter 30, Subchapters A, B, and C;

[~~(12) TEC, §30.002 (Education for Children with Visual Impairments);~~]

[~~(13) TEC, §30.003 (Support of Students Enrolled in the Texas School for the Blind and Visually Impaired or Texas School for the Deaf);~~]

(15) [~~(14)~~] TEC, §33.081 (Extracurricular Activities);

[~~(15) TEC, §37.004 (Placement of Students with Disabilities);~~]

(16) TEC, §37.307 (Placement and Review of Student with Disability);

(17) TEC, §38.034 (School Health and Related Services Program; Eligibility for Audiology Services);

(18) TEC, §39.023 (Adoption and Administration of Instruments);

(19) TEC, §39.025 (Secondary-Level Performance Required); and

[~~(17) TEC, Chapter 39, Subchapter B (Assessment of Academic Skills); and~~]

(20) [~~(18)~~] TEC, §48.102 (Special Education).

(b) For a student from birth through two years of age with a visual impairment or who is deaf or hard of hearing, an individualized family services plan meeting must be held in place of an ARD committee meeting in accordance with 34 CFR, §§300.320-300.324, and the memorandum of understanding between the Texas Education Agency and the Texas Health and Human Services Commission. For students three years of age and older, school districts must develop an IEP.

(c) ARD committee membership.

(1) ARD committees must include the following:

(A) the parents, as defined by 34 CFR, §300.30, of the student;

(B) not less than one general education teacher of the student (if the student is, or may be, participating in the general education environment) who must, to the extent practicable, be a teacher who is responsible for implementing a portion of the student's IEP;

(C) not less than one special education teacher of the student, or where appropriate, not less than one special education provider of the student;

(D) a representative of the school district who:

(i) is qualified to provide, or supervise the provision of, specially designed instruction to meet the unique needs of students with disabilities;

(ii) is knowledgeable about the general education curriculum; and

(iii) is knowledgeable about the availability of resources of the school district;

(E) an individual who can interpret the instructional implications of evaluation results, who may be a member of the committee described in subparagraphs (B)-(D) and (F) of this paragraph;

(F) at the discretion of the parent or the school district, other individuals who have knowledge or special expertise regarding the student, including related services personnel, as appropriate;

(G) whenever appropriate, the student with a disability;

(H) to the extent appropriate, with the consent of the parents or a student who has reached the age of majority, a representative of any participating agency that is likely to be responsible for providing or paying for transition services;

(I) when considering initial or continued placement of a student in career and technical education (CTE), a representative from CTE who is knowledgeable about the availability of CTE programs offered in the district, who may be a member of the committee described in subparagraphs (B) and (D) of this paragraph [~~career and technical education (CTE), preferably the teacher, when considering initial or continued placement of a student in CTE~~]; and

(J) a professional staff member who is on the language proficiency assessment committee who may be a member of the committee described in subparagraphs (B) and (C) of this paragraph, if the student is identified as emergent bilingual.

(2) The special education teacher or special education provider that participates in the ARD committee meeting must be appropriately certified or licensed as required by 34 CFR, §300.156, and further described in §89.1131 of this title (relating to Qualifications of Special Education, Related Service, and Paraprofessional Personnel).

(3) If a teacher is dual certified in general education and special education and is serving as a prekindergarten teacher, and the teacher is or would be the only general education teacher responsible for implementing the child's IEP, that teacher may represent both the general and special education teacher as required by paragraph (1)(B) and (C) of this subsection.

(4) [~~(3)~~] If the student is:

(A) a student with a suspected or documented visual impairment, the ARD committee must include a teacher who is certified in the education of students with visual impairments who may be a member of the committee described in paragraph (1)(C) of this subsection;

(B) a student who is suspected or documented to be deaf or hard of hearing, the ARD committee must include a teacher who is certified in the education of students who are deaf or hard of hearing who may be a member of the committee described in paragraph (1)(C) of this subsection;

(C) a student with suspected or documented deaf-blindness, the ARD committee must include either a teacher who is certified in the education of students with visual impairments and a teacher who is certified in the education of students who are deaf or hard of hearing, or a teacher with a deafblind certification, who may be a member of the committee described in paragraph (1)(C) of this subsection; or

(D) a student who is suspected or identified with dyslexia, when determining initial or continued eligibility, the ARD committee must include a professional who meets the requirements of TEC, §29.0031(b), and §74.28 of this title (relating to Students with Dyslexia and Related Disorders), including any handbook adopted in the rule.

(5) [~~(4)~~] An ARD committee member is not required to attend an ARD committee meeting if the conditions of either 34 CFR, §300.321(e)(1), regarding attendance, or 34 CFR, §300.321(e)(2), regarding excusal, have been met.

(d) The school district must take steps to ensure that one or both parents are present at each ARD committee meeting or are afforded the opportunity to participate, including notifying the parents of the meeting early enough to ensure that they will have an opportunity to attend and scheduling the meeting at a mutually agreed upon time and place. Additionally, a school district must allow parents who cannot attend an ARD committee meeting in person to participate in the meeting through other methods such as through telephone calls or video conferencing. The school district must provide the parents with written notice of the ARD committee meeting that meets the requirements in 34 CFR, §300.322, at least 10 calendar [~~five school~~] days before the meeting unless the parents agree to a shorter timeframe.

(e) Within 10 school days of [~~Upon~~] receipt of a written request for an ARD committee meeting from a parent, the school district must:

(1) provide the parent notice of scheduling options for [~~schedule and convene~~] a meeting in accordance with the procedures in subsection (d) of this section; or

(2) [~~within five school days,~~] provide the parent with written notice explaining why the district refuses to convene a meeting.

(f) The school district must provide the parent with a written notice required under subsection (d) or (e)(2) of this section in the parent's primary [~~native~~] language, unless it is clearly not feasible to do so. If the parent's primary [~~native~~] language is not a written language, the school district must take steps to ensure that the notice is translated orally or by other means to the parent in his or her primary [~~native~~] language or other mode of communication so that the parent understands the content of the notice.

(g) Whenever a school district proposes or refuses to initiate or change the identification, evaluation, or educational placement of a student or the provision of a free appropriate public education to the student, the school district must provide prior written notice as required in 34 CFR, §300.503, including providing the notice in the parent's primary [~~native~~] language or other mode of communication. This notice must be provided to the parent at least 10 calendar [~~five school~~] days before the school district proposes or refuses the action unless the parent agrees to a shorter timeframe.

(h) When a new, proposed, or existing residential placement is discussed at a student's ARD committee meeting, the materials under TEC, §29.0056, must be provided to student's parent.

(i) When a school district is considering a change in the location of the provision of a student's special education and related services as documented in the student's IEP, the district must determine whether the change would substantially or materially alter the student's educational program. A proposed change in location must be communicated to the parent as soon as reasonably possible. When the proposed change would constitute a change in educational placement with any of the following being true, the school district must hold an ARD committee meeting and provide the parent prior written notice under 34 CFR, §300.503:

(1) the proposed change in location would revise the student's IEP;

(2) the proposed change in location would decrease the extent to which the student is educated with nondisabled peers, consistent with the least restrictive environment requirements in 34 CFR, §§300.114-300.116;

(3) the proposed change in location would alter the student's access to non-academic or extracurricular services or activities, as described in 34 CFR, §300.117; or

(4) the proposed change in location represents a different point on the continuum of alternative placements required under 34 CFR, §300.115.

(j) If the parent believes the factors in subsection (i) of this section apply to any proposed change in location, the parent may submit a written request for an ARD committee meeting and the district must respond in accordance with subsection (e) of this section.

§89.1055. Individualized Education Program.

(a) The individualized education program (IEP) developed by the admission, review, and dismissal (ARD) committee for each student with a disability must comply with the requirements of 34 Code of Federal Regulations (CFR), §300.320 and §300.324, and include all applicable information under Texas Education Code (TEC), §29.0051, and this section.

(b) A student's IEP must be reviewed by the student's ARD committee at least annually, which means no later than 365 days after the date of the last annual review.

(c) A statement of the student's present levels of academic achievement and functional performance (PLAAFP) must:

(1) include how the student's disability affects the student's involvement and progress in the general education curriculum, or, for preschool children, how the disability affects the student's participation in appropriate activities;

(2) address all disability conditions and related services needs;

(3) identify what the student is expected to do in the general education curriculum in academic areas and baseline data that describes the student's current skills; and

(4) describe baseline data that describes the student's current skills or behaviors in functional areas.

(d) [~~(b)~~] To be considered a measurable annual goal under 34 CFR, §300.320(a)(2), a goal must include the components of a timeframe, condition, behavior, and criterion. The ARD committee must consider the unique needs of the student and the curriculum standards to determine where in the curriculum the student may encounter barriers due to the disability or disabilities. An annual goal must be developed in areas where a critical need is identified and must not simply be restatements of the student's enrolled grade level essential knowledge and skills as described by Chapters 110-117 and 120 of this title (relating to Texas Essential Knowledge and Skills for English Language Arts and Reading, Texas Essential Knowledge and Skills for Mathematics, Texas Essential Knowledge and Skills for Science, Texas Essential Knowledge and Skills for Social Studies, Texas Essential Knowledge and Skills for Languages Other Than English, Texas Essential Knowledge and Skills for Health Education, Texas Essential Knowledge and Skills for Physical Education, Texas Essential Knowledge and Skills for Fine Arts, and Other Texas Essential Knowledge and Skills). While at least one measurable annual goal is required, the number of annual goals will be determined by the ARD committee after examination of the student's PLAAFP [~~present levels of academic achievement and functional performance~~] and areas of need.

(1) Annual goals are also required in the following circumstances:

(A) when the content of a subject/course is modified, whether the content is taught in a general or special education setting, in order to address how the content is modified; or [~~and~~]

(B) when a special education teacher or service provider is designated as the teacher of record or is the provider solely responsible for delivering academic or functional instruction or related services.

[~~(B) when a student is removed from the general education setting for a scheduled period of time but the content of the subject/course is not modified (e.g., a student who is progressing on enrolled grade level curriculum but requires a more restrictive environment for a period of time due to behavioral concerns).~~]

(2) Short-term objectives/benchmarks, used as intermediary steps or milestones toward accomplishing an annual goal, may be included in a measurable annual goal but cannot be used as the criterion to indicate mastery of the annual goal. An ARD committee may choose to use short-term objectives/benchmarks for any student but must use them if the ARD committee has determined that a student will not participate in the general state assessment. Guidelines for short-term[~~. Short-term~~] objectives/benchmarks are as follows:

(A) at least two short-term objectives/benchmarks must be included in an annual goal;

(B) each short-term objective/benchmark must include a timeframe, condition, behavior, and criterion; and

(C) each short-term objective/benchmark within an annual goal must have distinct time frames and differ in at least one additional component to ensure clarity and individualized progress monitoring.

[~~(A) must be included in an annual goal if the ARD committee has determined that a student will not participate in the general state assessment; and~~]

[~~(B) regardless of whether the objectives/benchmarks are related to a student not participating the general state assessment, cannot be used as the criterion to indicate mastery of the annual goal.~~]

(e) The ARD committee must document in the student's IEP the service delivery schedule that specifies the projected date for the beginning of the specially designed instruction and any related services that will be provided to the student, as well as the following for all specially designed instruction and related services:

(1) frequency, which is how often the specially designed instruction or related service will be provided within a designated time frame;

(2) duration, which is the length of each session, if applicable, or any determined or anticipated end date of instruction or service; and

(3) location/classroom setting, which is whether the specially designed instruction or related service will be provided in a general educational location/classroom/setting or a special education location/classroom/setting.

(f) The IEP must document on average how many minutes in the student's instructional day is spent in a location/classroom/setting outside of the general education location/classroom/setting. The IEP must also document the percentage of the student's instructional day, on average, that the student spends in a general education location/classroom/setting.

(g) In addition to regular progress monitoring of the implementation of a student's IEP and the student's measurable annual goals, the school district must have procedures in place on how it will document compliance with the provision of any student's specially designed instruction and related services, including supplementary aids and services, and how the district will attempt to make up any student's missed specially designed instruction or related services and contingencies for emergencies, staffing issues, or other unforeseen circumstances.

(h) [~~(c)~~] The IEP must include a statement of any individual appropriate and allowable accommodations in the administration of assessment instruments developed in accordance with TEC, §39.023(a)-(c), or districtwide assessments of student achievement (if the district administers such optional assessments) that are necessary to measure the academic achievement and functional performance of the student on the assessments.

(i)[~~(d)~~] If the ARD committee determines that the student will not participate in a general statewide or districtwide assessment of student achievement (or part of an assessment), the following requirements must be met.

(1) The IEP must include a statement explaining:

(A) why the student cannot participate in the general assessment; and

(B) why the particular alternate assessment selected is appropriate for the student. [~~, and~~]

(2) The Texas Education Agency's alternate assessment participation requirements form, if one is made available to school districts, must be completed and included in the student's IEP to document the statement required under this subsection.

(j) [~~(e)~~] If the ARD committee determines that the student is in need of extended school year (ESY) services, as described in §89.1065 of this title (relating to Extended School Year Services), then the IEP must identify [~~which of the goals and objectives in~~] the IEP services that will be addressed during ESY services.

(k) [~~(f)~~] For students with visual impairments, from birth through 21 years of age, the IEP or individualized family services plan must also meet the requirements of TEC, §30.002 [~~§30.002(e)~~] .

(l) [~~(g)~~] For students with autism eligible under §89.1040(c)(1) of this title (relating to Eligibility Criteria), the strategies described in this subsection must be considered, at least annually based on peer-reviewed, research-based educational programming practices to the extent practicable and, when needed, addressed in the IEP:

(1) extended educational programming (for example: extended day and/or ESY [~~extended school year~~] services that consider the duration of programs/settings based on data collected related to behavior, social skills, communication, academics, and self-help skills);

(2) daily schedules reflecting minimal unstructured time and active engagement in learning activities (for example: lunch, snack, and recess periods that provide flexibility within routines; adapt to individual skill levels; and assist with schedule changes, such as changes involving substitute teachers and pep rallies);

(3) in-home and community-based training or viable alternatives that assist the student with acquisition of social, behavioral, communication, and self-help skills (for example: strategies that facilitate maintenance and generalization of such skills from home to school, school to home, home to community, and school to community);

(4) positive behavior support strategies based on relevant information, for example:

(A) antecedent manipulation, replacement behaviors, reinforcement strategies, and data-based decisions; and

(B) a behavioral intervention plan developed from a functional behavioral assessment that uses current data related to target behaviors and addresses behavioral programming across home, school, and community-based settings and is implemented and reviewed in accordance with subsection (s) [~~(j)~~] of this section;

(5) beginning at any age, consistent with subsection (u) [~~(l)~~] of this section, futures planning for integrated learning and training, living, work, community, and educational environments that considers skills necessary to function in current and post-secondary environments, including self-determination and self-advocacy skills;

(6) parent/family training and support, provided by qualified personnel with experience in autism, that, for example:

(A) provides a family with skills necessary for a student to succeed in the home/community setting;

(B) includes information regarding resources (for example: parent support groups, workshops, videos, conferences, and materials designed to increase parent knowledge of specific teaching/management techniques related to the student's curriculum); and

(C) facilitates parental carryover of in-home training (for example: strategies for behavior management and developing structured home environments and/or communication training so that parents are active participants in promoting the continuity of interventions across all settings);

(7) suitable staff-to-student ratio appropriate to identified activities and as needed to achieve social/behavioral progress based on the student's developmental and learning level (acquisition, fluency, maintenance, generalization) that encourages work towards individual independence as determined by, for example:

(A) adaptive behavior evaluation results;

(B) behavioral accommodation needs across settings; and

(C) transitions within the school day;

(8) communication interventions, including language forms and functions that enhance effective communication across settings (for example: augmentative, incidental, and naturalistic teaching);

(9) social skills supports and strategies based on social skills assessment/curriculum and provided across settings (for example: [~~e.g.,~~] peer-based instruction and intervention, video modeling, social narratives, and role playing);

(10) professional educator/staff support (for example: training provided to personnel who work with the student to ensure [~~assure~~] the correct implementation of techniques and strategies described in the IEP); and

(11) teaching strategies based on peer-reviewed [~~peer reviewed~~], research-based practices for students with autism (for example: those associated with discrete-trial training, visual supports, applied behavior analysis, structured learning, augmentative communication, or social skills training).

(m) [~~(h)~~] If the ARD committee determines that services are not needed in one or more of the areas specified in subsection (l) [~~(g)~~] of this section, the IEP must include a statement to that effect and the basis upon which the determination was made.

(n) [~~(i)~~] For students identified with the specific learning disability of dyslexia [~~or a related disorder~~] eligible under §89.1040(c)(9) of this title [~~(relating to Eligibility Criteria)~~], the IEP must also be developed and implemented in accordance with law, this section, and the requirements under §74.28 of this title (relating to Students with Dyslexia and Related Disorders), including any handbook adopted under §74.28 of this title [~~in the rule~~]. This includes documentation of:

(1) the determination by the ARD committee that the student meets eligibility as a child with a disability due to the specific learning disability of dyslexia and the need for evidence-based dyslexia instruction, which is a special education service;

(2) the presence and involvement of the dyslexia member required by TEC, §29.0031, as noted by the signature in the IEP documenting the member's presence and involvement at the ARD committee meeting;

(3) decisions around appropriate reading instruction, which must include the program name and all components and delivery of dyslexia instruction as identified under §74.28 of this title, including any handbook adopted in the rule;

(4) how the district's evidence-based dyslexia instruction program addresses the required components of dyslexia instruction and whether the student's PLAAFP or other areas of the IEP show evidence that the program must be supplemented with a focus on one or more components;

(5) how the program addresses the required instructional delivery methods and whether the student's PLAAFP or other areas of the IEP show evidence that the program must be supplemented to meet the student's needs;

(6) the fidelity statements/requirements that are included with the program and how those will be delivered and/or intensified for the student;

(7) a fully trained provider of dyslexia instruction identified under §74.28 of this title being assigned to implement the program for the student;

(8) whether the IEP goal progress report will meet the requirements for the dyslexia progress report required under TEC, §29.0031(d), or whether a separate progress report will be communicated to a parent; and

(9) the student's parent being notified, either at the ARD committee meeting or by another method, of the Talking Book Program administered by the Texas State Library of Archives Commission and other available audio book services as required by TEC, §29.0031(e).

(o) If the ARD committee determines that one or more of the areas specified in subsection (n)(3)-(6) of this section are not applicable to the student, the IEP must include a statement to that effect and the basis upon which the determination was made.

(p) A district is prohibited from identifying a specific learning disability as one solely in basic reading or reading fluency as a means to circumvent the requirements for students identified with dyslexia. If a specific learning disability in basic reading or reading fluency is not also identified as dyslexia, the IEP must document why and how the committee came to that conclusion.

(q) For students identified with the specific learning disability of dysgraphia eligible under §89.1040(c)(9) of this title, the IEP must also be developed and implemented in accordance with law, this section, and the requirements under §74.28 of this title, including any handbook adopted under §74.28 of this title. This includes documentation of:

(1) the determination by the ARD committee that the student meets eligibility as a child with a disability due to the specific learning disability of dysgraphia and the need for special education and related services; and

(2) decisions around appropriate writing instruction, including whether the student needs explicit, systematic instruction in handwriting; handwriting and spelling; or handwriting, spelling, and written expression.

(r) For students whose special education and related services also meet the criteria for medical and transportation services eligible for reimbursement under the School Health and Related Services (SHARS) Medicaid program, and the district is or expects to become an eligible provider, the student's IEP must document those services the district plans to submit for SHARS reimbursement determined to be both necessary for a free appropriate public education for purposes of compliance with the Individuals with Disabilities Education Act and medically necessary and reasonable for purposes of Medicaid reimbursement. Each student's IEP shall contain the necessary information to comply with the requirements set by the Texas Health and Human Services Commission to help ensure that submissions for reimbursement are accurate.

(s) [~~(j)~~] If the ARD committee determines that a behavior improvement plan or a behavioral intervention plan is appropriate for a student, that plan must be included as part of the student's IEP and provided to each teacher with responsibility for educating the student. If a behavior improvement plan or a behavioral intervention plan is included as part of a student's IEP, the ARD committee shall review the plan at least annually, and more frequently if appropriate, to address:

(1) changes in a student's circumstances that may impact the student's behavior, such as:

(A) the placement of the student in a different educational setting;

(B) an increase or persistence in disciplinary actions taken regarding the student for similar types of behavioral incidents;

(C) a pattern of unexcused absences; or

(D) an unauthorized, unsupervised departure from an educational setting; or

(2) the safety of the student or others.

(t) [~~(k)~~] Not later than the first IEP to be in effect when the student turns 14 years of age, the ARD committee must discuss [~~consider~~] and [~~, if appropriate,~~] address the following issues in the IEP:

(1) appropriate student involvement in the student's transition to life outside the public school system;

(2) appropriate involvement in the student's transition by the student's parents and other persons invited to participate by:

(A) the student's parents; or

(B) the school district in which the student is enrolled;

(3) appropriate postsecondary education options, including preparation for postsecondary-level coursework;

(4) whether a [~~an appropriate~~] functional vocational evaluation is appropriate;

(5) appropriate circumstances for facilitating a referral of a student or the student's parents to a governmental agency for services or public benefits, including a referral to a governmental agency to place the student on a waiting list for public benefits available to the student such as a waiver program established under the Social Security Act (42 U.S.C. Section 1396n(c)), §1915(c); and

(6) the use and availability of appropriate:

(A) supplementary aids, services, curricula, and other opportunities to assist the student in developing decision-making skills; and

(B) supports and services to foster the student's independence and self-determination, including a supported decision-making agreement under Texas Estates Code, Chapter 1357.

(u) [~~(l)~~] Beginning not later than the first IEP to be in effect when the student turns 14 years of age, or younger if determined appropriate by the ARD committee, the IEP must include:

(1) appropriate measurable postsecondary goals based upon age-appropriate transition assessments related to training, education, employment, and, where appropriate, independent living skills; and

(2) the transition services, including courses of study, needed to assist the student in reaching the postsecondary goals.

(v) [~~(m)~~] The goals included in a student's IEP to comply with subsection (u) [~~(l)~~] of this section are intended to comply with the requirements in TEC, §29.011(a)(6) and (8).

(w) [~~(n)~~] Beginning not later than the first IEP to be in effect when the student turns 18 years of age (see §89.1049 of this title (relating to Parental Rights Regarding Adult Students) for notice requirement of transfer of rights), the ARD committee must discuss [~~consider~~] and [~~, if appropriate,~~] address the following issues in the student's IEP:

(1) appropriate involvement in the student's transition and future by the student's parents and other persons, if the parent or other person:

(A) is invited to participate by the student or the school district in which the student is enrolled; or

(B) has the student's consent to participate pursuant to a supported decision-making agreement under Texas Estates Code, Chapter 1357; and

(2) the availability of age-appropriate instructional environments, including community settings or environments that prepare the student for postsecondary education or training, competitive integrated employment, or independent living, in coordination with the student's transition goals and objectives.

(x) [~~(o)~~] A student's ARD committee shall review at least annually the issues described in subsections (t), (u), and (w) [~~(k), (l), and (n)~~] of this section and, if necessary, update the portions of the student's IEP that address those issues.

(y) [~~(p)~~] All members of the ARD committee must have the opportunity to participate in a collaborative manner in developing the IEP. The school district must take all reasonable actions necessary to ensure that the parent understands the proceedings of the ARD committee meeting, including arranging for an interpreter for parents who are deaf or hard of hearing or whose primary [~~native~~] language is a language other than English. A decision of the ARD committee concerning required elements of the IEP must be made by mutual agreement if possible. The ARD committee may agree to an annual IEP or an IEP of shorter duration.

(1) When mutual agreement about all required elements of the IEP is not achieved, the parent who disagrees must be offered a single opportunity to recess and reconvene the ARD committee meeting. The period of time for reconvening the ARD committee meeting must not exceed ten school days, unless the parties mutually agree otherwise. The ARD committee must schedule the reconvened meeting at a mutually agreed upon time and place. The opportunity to recess and reconvene is not required when the student's presence on the campus presents a danger of physical harm to the student or others or when the student has committed an expellable offense or an offense that may lead to a placement in a disciplinary alternative education program. The requirements of this subsection do not prohibit the ARD committee from recessing an ARD committee meeting for reasons other than the failure to reach mutual agreement about all required elements of an IEP.

(2) During the recess, the ARD committee members must consider alternatives, gather additional data, prepare further documentation, and/or obtain additional resource persons who may assist in enabling the ARD committee to reach mutual agreement.

(3) If a recess is implemented as provided in paragraph (1) of this subsection and the ARD committee still cannot reach mutual agreement, the school district must implement the IEP that it has determined to be appropriate for the student.

(4) Each member of the ARD committee who disagrees with the IEP developed by the ARD committee is entitled to include a statement of disagreement in the IEP.

(z) [~~(q)~~] The written statement of the IEP must document the decisions of the ARD committee with respect to issues discussed at each ARD committee meeting. The written statement must also include:

(1) the date of the meeting;

(2) the name, position, and signature of each member participating in the meeting; and

(3) an indication of whether the child's parents, the adult student, if applicable, and the representative of the school district as identified in §89.1050(c)(1)(D) of this title (relating to The Admission, Review, and Dismissal Committee) [~~administrator~~] agreed or disagreed with the decisions of the ARD committee.

(aa) [~~(r)~~] If the student's parent is unable to speak English and the parent's primary [~~native~~] language is Spanish, the school district must provide a written copy or audio recording of the student's IEP translated into Spanish. If the student's parent is unable to speak English and the parent's primary [~~native~~] language is a language other than Spanish, the school district must make a good faith effort to provide a written copy or audio recording of the student's IEP translated into the parent's primary [~~native~~] language.

(1) For purposes of this subsection, a written copy of the student's IEP translated into Spanish or the parent's primary [~~native~~] language means that all of the text in the student's IEP in English is accurately translated into the target language in written form. The IEP translated into the target language must be a comparable rendition of the IEP in English and not a partial translation or summary of the IEP in English.

(2) For purposes of this subsection, an audio recording of the student's IEP translated into Spanish or the parent's primary [~~native~~]

language means that all of the content in the student's IEP in English is orally translated into the target language and recorded with an audio device. A school district is not prohibited from providing the parent with an audio recording of an ARD committee meeting at which the parent was assisted by an interpreter as long as the audio recording provided to the parent contains an oral translation into the target language of all of the content in the student's IEP in English.

(3) If a parent's primary [~~native~~] language is not a written language, the school district must take steps to ensure that the student's IEP is translated orally or by other means to the parent in his or her primary [~~native~~] language or other mode of communication.

(bb) [~~(4)~~] A [~~Under 34 CFR, §300.322(f),~~ ~~a~~] school district must give a parent a written copy of the student's finalized IEP at no cost to the parent as soon as possible, but no later than within 10 school days after the date on which it is finalized. If [~~. A school district meets this requirement by providing a parent with a written copy of the student's IEP in English or by providing a parent with~~] a written translation of the student's IEP in the parent's primary [~~native~~] language in accordance with subsection (aa)(1) of this section will exceed 10 school days, the district must inform the parent and provide it to the parent as soon as the written translation is available. The district must document internally the date on which the IEP was provided to the parent and how it was provided (e.g., web portal, email, mail) [~~paragraph (1) of this subsection~~].

(cc) [~~(s)~~] A school district must comply with the following for a student who is new to the school district.

(1) When a student transfers to a new school district within the state in the same school year and the parents or previous school district verifies that the student had an IEP that was in effect in the previous district, the new school district must meet the requirements of 34 CFR, §300.323(e), by either adopting the student's IEP from the previous school district or developing, adopting, and implementing a new IEP. The timeline for adopting the previous IEP or developing, adopting, and implementing a new IEP is 20 school days from the date the student is verified as being a student eligible for special education services.

(2) When a student transfers from a school district in another state in the same school year and the parents or previous school district verifies that the student had an IEP that was in effect in the previous district, the new school district must, if determined necessary, conduct a full individual and initial evaluation and make an eligibility determination and, if appropriate, develop, adopt, and implement a new IEP, within the timelines established in §89.1011 of this title (relating to Full and Individual Initial Evaluation). If the school district determines that an evaluation is not necessary, the timeline for the new district to develop, adopt, and implement a new IEP is 20 school days from the date the student is verified as being a student eligible for special education services.

(3) Students who register in a new school district in the state during the summer when students are not in attendance for instructional purposes, the provisions of paragraphs (1) and (2) of this subsection apply based on whether the students are coming from an in-state or out-of-state school district. All other provisions in this subsection apply to these students.

(4) If a student is absent from school on three or more days between the date the student is verified as being a student eligible for special education services and 20 school days, that period described by paragraphs (1) and (2) of this subsection may be extended by the number of school days equal to the number of school days during that period on which the student was absent.

(5) [~~(4)~~] In accordance with 34 CFR, §300.323(g), the new school district must take reasonable steps to promptly obtain the student's records from the previous school district, and, in accordance with TEC, §25.002, and 34 CFR, §300.323(g), the previous school district must furnish the new school district with a copy of the student's records, including the student's special education records, not later than the 10th working day after the date a request for the information is received by the previous school district.

(6) [~~(5)~~] If a parent hasn't already provided verification of eligibility and the new school district has been unable to obtain the necessary verification records from the previous district by the 15th working day after the date a request for the records was submitted by the new district to the previous district, the new school district must seek verification from the student's parent. If the parent provides verification, the new school district must comply with all paragraphs of this subsection. The new school district is encouraged to ask the parent to provide verification of eligibility before the 15th working day after the date a request for the records was submitted by the new district to the previous district. If the parent is unwilling or unable to provide such verification, the new district must continue to take reasonable steps to obtain the student's records from the previous district and provide any services comparable to what the student received at the previous district if they communicate those to the new district.

(7) [~~(6)~~] For the purposes of this subsection, "verify" means that the new school district has received a copy of the student's IEP that was in effect in the previous district. The first school day after the new district receives a copy of the student's IEP that was in effect in the previous district begins the timelines associated with paragraphs (1) and (2) of this subsection.

(8) [~~(7)~~] While the new school district waits for verification, the new school district must take reasonable steps to provide, in consultation with the student's parents, services comparable to those the student received from the previous district if the new school district has been informed by the previous school district of the student's special education and related services and placement.

(9) [~~(8)~~] Once the new school district receives verification that the student had an IEP in effect at the previous district, comparable services must be provided to a student during the timelines established under paragraphs (1) and (2) of this subsection. Comparable services include provision of ESY services if those services are identified in the previous IEP or if the new district has reason to believe that the student would be eligible for ESY services.

§89.1096. Provision of Services for Parentally Placed Private School Children with Disabilities [~~Students Placed by their Parents in Private Schools or Facilities~~].

(a) In [~~Except as specifically provided in this section, in~~] accordance with 34 Code of Federal Regulations (CFR), §300.137, no eligible student who has been placed by his or her parent(s) in a private school or facility has an individual right to receive some or all of the special education and related services that the student would receive if he or she were enrolled in a public school. A [~~district. Except as specifically set forth in this section, a~~] school district's obligations with respect to students placed by their parents in private schools are governed by 34 CFR, §§300.130-300.144.

(1) For purposes of this section [~~subsections (a) and (d) of this section only~~], private school is defined as a private elementary or secondary school, including any pre-school, religious school, and institutional day or residential school, that:

(A) as required by 34 CFR, §300.13 and §300.130, is a nonprofit entity that meets the definition of nonprofit in 34 CFR, §77.1; and

(B) as determined by the public school evaluating the child for eligibility as a child with a disability under the Individuals with Disabilities Education Act (IDEA) based on documentation obtained by the public school, parent, or private school, provides elementary or secondary education that incorporates an adopted curriculum designed to meet basic educational goals, including scope and sequence of courses, and formal review and documentation of student progress.

(2) A home school must meet the requirements of paragraph (1)(B) of this subsection, but not paragraph (1)(A) of this subsection, to be considered a private school for purposes of subsections (a) and (d) of this section.

(b) When a student has been determined to be a child with a disability under IDEA but [~~who~~] has been placed by his or her parents directly in a private school or facility, [~~is referred to the local school district, the local district shall convene~~] an admission, review, and dismissal (ARD) committee meeting of the district of the child's residence will [~~to~~] determine whether the district can offer the student a free appropriate public education (FAPE). If the district determines that it can offer a FAPE to the student or if the parent declares that FAPE is not at issue when requesting an evaluation, the district is not responsible for providing educational services to the student, except as provided in 34 CFR, §§300.130-300.144, and [~~or~~] subsection (c) [~~(e)~~] of this section, until such time as the parents choose to enroll the student in public school full time.

[~~(c) Parents of an eligible student ages 3 or 4 shall have the right to "dual enroll" their student in both the public school and the private school beginning on the student's third birthday and continuing until the end of the school year in which the student turns five or until the student is eligible to attend a district's public school kindergarten program, whichever comes first, subject to paragraphs (1)-(3) of this subsection. The public school district where a student resides is responsible for providing special education and related services to a student whose parents choose dual enrollment.~~]

[~~(1) The student's ARD committee shall develop an individualized education program (IEP) designed to provide the student with a FAPE in the least restrictive environment appropriate for the student.~~]

[~~(2) From the IEP, the parent and the district shall determine which special education and/or related services will be provided to the student and the location where those services will be provided, based on the requirements concerning placement in the least restrictive environment set forth in 34 CFR, §§300.114-300.120, and the policies and procedures of the district.~~]

[~~(3) For students served under the provisions of this subsection, the school district shall be responsible for the employment and supervision of the personnel providing the service, providing the needed instructional materials, and maintaining pupil accounting records. Materials and services provided shall be consistent with those provided for students enrolled only in the public school and shall remain the property of the school district.~~]

(c) [~~(d)~~] Parents of a parentally placed private school child with a disability [~~an eligible student ages 3 or 4 who decline dual enrollment for their student~~] may request an individualized [a] services plan (ISP) as described in 34 CFR, §§300.130-300.144. The public school district where the private school is located is responsible for the development and implementation of an ISP [~~a services plan,~~] if the student is designated to receive services under 34 CFR, §300.132.

(d) The individualized education program (IEP) for purposes of Texas Education Code (TEC), §29.3615, when the child is not enrolled in public school must, at minimum, include the following components:

(1) a statement of the special education and related services and service delivery schedule that includes frequency, duration, and location, as well as the supplementary aids and services that would be provided to the child to enable the child to be involved in and progress in the child's enrolled grade level curriculum and to be educated and participate with children without disabilities to the maximum extent appropriate for the child's needs;

(2) an explanation of the extent, if any, to which the child would not participate with children without disabilities in a general education classroom;

(3) a statement of any individual appropriate accommodations or modifications that would be necessary for the child to make progress in the child's enrolled grade level curriculum; and

(4) the instructional arrangement or tiered funding level that is used to calculate the state special education funding allotment as determined by the decisions in paragraphs (1)-(3) of this subsection.

(e) At the ARD committee meeting at which eligibility is determined for a child who is not enrolled in public school, the ARD committee must develop the IEP described by subsection (d) or (f) of this section if the child's parent has requested one because the parent is interested in applying for the education savings account program under TEC, Chapter 29, Subchapter J.

(f) An IEP written in compliance with TEC, §29.005, and 34 CFR, §300.320, may also be used for purposes of eligibility under TEC, §29.3615.

(g) A child who is not enrolled in public school at the time of application to the education savings account program described by TEC, Chapter 29, Subchapter J, but who previously attended public school within the last three school years and had an IEP in effect during the current school year or in at least one of the previous two school years will be reported as eligible under TEC, §29.3615, if an instructional arrangement or tiered funding level was reported through the Public Education Information Management System by the public school where the child was previously enrolled in at least one of those school years. When there are different instructional arrangements or tiered funding levels reported for one or more of the three school years, the instructional arrangement or tiered funding level that was most recently reported will be reported as eligible under TEC, §29.3615.

(h) A child who had an IEP in effect in one or both of the previous school years at the time of application to the education savings account program described by TEC, Chapter 29, Subchapter J, but who is currently still enrolled in public school without an IEP in effect will not be reported as eligible under TEC, §29.3615.

(i) The IEP developed solely for purposes of TEC, §29.3615, under subsection (d) of this section is not subject to appeal.

(j) If a parent does not agree with the ARD committee's determination of eligibility for special education and related services, the parent may use the dispute resolution processes available under IDEA, Part B, 34 CFR, §300.1. et. seq., as applicable.

[~~(e) The school district shall provide special transportation with federal funds only when the ARD committee determines that the condition of the student warrants the service in order for the student to receive the special education and related services (if any) set forth in the IEP.~~]

[~~(f) Complaints regarding the implementation of the components of the student's IEP that have been selected by the parent and~~

~~the district under subsection (c) of this section may be filed with the Texas Education Agency under the procedures in 34 CFR, §§300.151-300.153. Additionally, parents may request mediation as outlined in 34 CFR, §300.506. The procedures in 34 CFR, §§300.300, 300.504, 300.507, 300.508, and 300.510-300.518 (relating to due process hearings) do not apply to complaints regarding the implementation of the components of the student's IEP that have been selected by the parent and the district under subsection (c).]~~

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on March 30, 2026.

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For further information, please call: (512) 475-1497

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CHAPTER 103. HEALTH AND SAFETY
SUBCHAPTER CC. COMMISSIONERS RULES CONCERNING SAFE SCHOOLS

19 TAC §103.1209

The Texas Education Agency (TEA) proposes an amendment to §103.1209, concerning mandatory school drills. The proposed amendment would implement Senate Bill (SB) 57, 89th Texas Legislature, Regular Session, 2025, by establishing requirements to ensure school systems provide equal access to safety during emergency incidents, required drills, and district-approved exercises for students and district personnel with access and functional needs.

BACKGROUND INFORMATION AND JUSTIFICATION: Section 103.1209 requires that school districts and open-enrollment charter schools conduct emergency drills in accordance with Texas Education Code (TEC), §37.114.

SB 57, 89th Texas Legislature, Regular Session, 2025, amended TEC, §37.1086, to require the commissioner to establish rules related to accommodations for students with an individualized education program or a plan created under the Rehabilitation Act of 1973 (29 U.S.C. Section 794), Section 504, during a mandatory school drill required under TEC, §37.114. The proposed amendment would make the following changes to implement SB 57.

In subsection (b), definitions would be added to align with requirements ensuring equal access to safety for students and staff with disabilities during required drills and emergency events.

New subsection (d) would be added to ensure students with access and functional needs participate in required drills, and it would provide guidance and considerations for ensuring equal access to safety.

FISCAL IMPACT: James Finley, deputy chief of school safety and security, has determined that for the first five-year period the proposal is in effect, there are no additional costs to state or local government, including school districts and open-enrollment charter schools, required to comply with the proposal.

LOCAL EMPLOYMENT IMPACT: The proposal has no effect on local economy; therefore, no local employment impact statement is required under Texas Government Code, §2001.022.

SMALL BUSINESS, MICROBUSINESS, AND RURAL COMMUNITY IMPACT: The proposal has no direct adverse economic impact for small businesses, microbusinesses, or rural communities; therefore, no regulatory flexibility analysis, specified in Texas Government Code, §2006.002, is required.

COST INCREASE TO REGULATED PERSONS: The proposal does not impose a cost on regulated persons, another state agency, a special district, or a local government and, therefore, is not subject to Texas Government Code, §2001.0045.

TAKINGS IMPACT ASSESSMENT: The proposal does not impose a burden on private real property and, therefore, does not constitute a taking under Texas Government Code, §2007.043.

GOVERNMENT GROWTH IMPACT: TEA staff prepared a Government Growth Impact Statement assessment for this proposed rulemaking. During the first five years the proposed rulemaking would be in effect, it would expand an existing regulation by adding requirements to ensure equal access to safety for students and staff with disabilities during required drills and emergency events.

The proposed rulemaking would not create or eliminate a government program; would not require the creation of new employee positions or elimination of existing employee positions; would not require an increase or decrease in future legislative appropriations to the agency; would not require an increase or decrease in fees paid to the agency; would not create a new regulation; would not limit or repeal an existing regulation; would not increase or decrease the number of individuals subject to its applicability; and would not positively or adversely affect the state's economy.

PUBLIC BENEFIT AND COST TO PERSONS: Mr. Finley has determined that for each year of the first five years the proposal is in effect, the public benefit anticipated as a result of enforcing the proposal would be to ensure equal access to safety for students and staff with disabilities during required drills and emergency events. There is no anticipated economic cost to persons who are required to comply with the proposal.

DATA AND REPORTING IMPACT: The proposal would have no data and reporting impact.

PRINCIPAL AND CLASSROOM TEACHER PAPERWORK REQUIREMENTS: TEA has determined that the proposal would not require a written report or other paperwork to be completed by a principal or classroom teacher.

PUBLIC COMMENTS: TEA requests public comments on the proposal, including, per Texas Government Code, §2001.024(a)(8), information related to the cost, benefit, or effect of the proposed rule and any applicable data, research, or analysis, from any person required to comply with the proposed rule or any other interested person. The public comment period on the proposal begins April 10, 2026, and ends May 11, 2026. A request for a public hearing on the proposal submitted under the Administrative Procedure Act must be received by the commissioner of education not more than 14 calendar days after notice of the proposal has been published in the *Texas Register* on April 10, 2026. A form for submitting public comments is available on the TEA website at https://tea.texas.gov/About_TEA/Laws_and_Rules/Commissioner_Rules_(TAC)/Proposed_Commissioner_of_Education_Rules/.

STATUTORY AUTHORITY. The amendment is proposed under Texas Education Code (TEC), §37.114, which requires the commissioner of education to provide best practices for conducting emergency drills and exercises and to designate the number and type of mandatory school drills to be conducted each semester of the school year; and TEC, §37.1086, as amended by Senate Bill 57, 89th Texas Legislature, Regular Session, 2025, which requires the Texas Education Agency to develop by rule recommendations and guidelines regarding accommodations for a student with an individualized education program or a plan created under the Rehabilitation Act of 1973 (29 U.S.C. Section 794), Section 504, during a mandatory school drill.

CROSS REFERENCE TO STATUTE. The amendment implements Texas Education Code, §37.114; and §37.1086, as amended by Senate Bill 57, 89th Texas Legislature, Regular Session, 2025.

§103.1209. Mandatory School Drills.

(a) Requirement. Each school system [~~district and open-enrollment charter school~~] shall conduct emergency safety drills in accordance with Texas Education Code (TEC), §37.114. Drills do not include persons role playing as active aggressors or other simulated threats.

(b) Definitions and related terms. The following words and terms related to drills and exercises, when used in this section, shall have the following meanings, unless the context clearly indicates otherwise. These definitions do not apply to an active threat exercise, which is defined in TEC, §37.1141, and associated rules, if any.

(1) General terms.

(A) Active aggressor--An individual actively engaged in killing or attempting to kill people in a confined and populated area.

(B) Drill--A set of procedures that test a single, specific operation or function. Drills do not include persons role playing as active aggressors or other simulated threats. Drill examples include evacuating for a fire or locking down from an internal threat.

(C) Exercise--An instrument to train for, assess, practice, and improve performance in mitigation, prevention, preparedness, response, and recovery in a risk-free environment. While drills and exercises may overlap in some aspects, discussion-based and operation-based exercises are often more in depth and multi-faceted.

(D) Individuals with access and functional needs--Persons who may have temporary or permanent additional needs in functional areas, including, but not limited to, maintaining independence, communication, transportation, supervision, and medical care, as well as students with an individualized education program (IEP) created under the Individuals with Disabilities Act (20 U.S.C. Section 1400, et seq.) or a plan created under the Rehabilitation Act of 1973 (29 U.S.C. Section 794), Section 504.

(E) School system--This term includes traditional independent or consolidated public school districts and open-enrollment charter schools.

(2) Terms defining the level of exercise.

(A) Full-scale exercise--Typically the most complex and resource-intensive type of exercise. It involves multiple agencies, organizations, and jurisdictions and validates many facets of preparedness. This exercise often includes many players operating under cooperative systems such as the Incident Command System (ICS) or Unified Command. Resources and staff are mobilized as needed. All actions are taken as if the emergency is real. A full-scale exercise is the most time-consuming activity in the exercise continuum and is a multiagency, multijurisdictional effort in which all resources are deployed. A full-scale exercise tests collaborations among the agencies and participants, public information systems, communication systems, and equipment. An Emergency Operations Center is established by either law enforcement or fire services, and the ICS is activated. Because of all the logistics and resources needed for a full-scale exercise, it often takes a year to plan and is not held often. Usually, a school system [~~school district or an open-enrollment charter school~~] is not the organizer of such an exercise, but it [~~the district or charter school~~] would play a critical role in both function and potential facility use.

(B) Functional exercise--Designed to validate and evaluate capabilities, multiple functions and/or sub-functions, or interdependent groups of functions. A functional exercise is typically focused on exercising plans, policies, procedures, and staff members involved in management, direction, command, and control functions. It allows participants to practice their specific roles or functions in an emergency. This type of exercise is conducted in a realistic, real-time simulated environment and often includes simulators (individuals who assist with the facilitation of the exercise) and follows a master scenario events list that dictates additional information, occurrences, or activities that affect the exercise scenario.

(C) Seminar exercise--A discussion-based exercise designed to orient participants to new or updated plans, policies, or procedures through informal discussions. Seminar exercises are often used to impart new information and formulate new ideas.

(D) Tabletop exercise--A small group discussion that walks through a scenario and the courses of action a school will need to take before, during, and after an emergency to lessen the impact on the school community. Participants problem-solve together through a detailed discussion of roles, responsibilities, and anticipated courses of action. A tabletop exercise leverages a defined scenario to direct discussion and may need an experienced facilitator depending on the complexity and objectives of the exercise.

(E) Workshop exercise--A type of discussion-based exercise focused on increased participant interaction and achieving or building a product (e.g., plans or policies). A workshop exercise is typically used to test new ideas, processes, or procedures; train groups in coordinated activities; and obtain consensus. A workshop exercise often uses breakout sessions to explore parts of an issue with smaller groups.

(3) Terms defining the type of drill.

(A) Evacuation drill--A response action school systems [~~schools~~] take to quickly move students and staff from one place to another. The primary objective of an evacuation is to ensure that all staff, students, and visitors can quickly move away from the threat. Evacuation examples include a bomb threat or internal gas leak.

(B) Fire [~~evacuation~~] drill--A method of practicing how a building would be vacated in the event of a fire. The purpose of fire drills in buildings is to ensure that everyone knows how to exit safely as quickly as possible.

(C) Lockdown drill--A response action school systems [~~schools~~] take to secure (close, latch, and lock) interior portions of school buildings and grounds during incidents that pose an immediate threat of violence inside the school. The primary objective is to quickly ensure all [~~school~~] students, staff, and visitors are secured away from immediate danger.

(D) Secure drill--A response action school systems [~~schools~~] take to secure (close, latch, and lock) the perimeter of school buildings and grounds during incidents that pose a threat or hazard outside of the school building. This type of drill uses the security of the physical facility to act as protection to deny entry.

(E) Shelter [~~Shelter-in-place~~] for hazardous materials (hazmat) drill--A response action school systems [~~schools~~] take to quickly move students, staff, and visitors indoors, perhaps for an extended period of time, because it is safer inside the building than outside. Affected individuals may be required to move to rooms without windows or to rooms that can be sealed. Examples of a shelter-in-place for hazmat drill include train derailment with chemical release or smoke from a nearby fire.

(F) Shelter for severe weather drill--A response action school systems [~~schools~~] take to quickly move students, staff, and visitors indoors, perhaps for an extended period of time, because it is safer inside the building than outside. For severe weather, depending on the type and/or threat level (watch versus warning), affected individuals may be required to move to rooms without windows on the lowest floor possible or to a weather shelter.

(c) Frequency. TEC, §37.114(2), requires the commissioner of education to designate the number of mandatory school drills to be conducted each semester of the school year, not to exceed eight drills each semester and sixteen drills for the entire school year. Neither this rule, nor the law, precludes a school system [~~district or an open-enrollment charter school~~] from conducting more drills as deemed necessary and appropriate [~~by the district or charter school~~]. Following is the required minimum frequency of drills by type.

(1) Secure drill--One per school year.

(2) Lockdown drill--Two per school year (once per semester).

(3) Evacuation drill--One per school year.

(4) Shelter [~~Shelter-in-place~~] drill (for either severe weather or hazmat) --One per school year.

(5) Fire [~~evacuation~~] drill--School systems [~~districts and open-enrollment charter schools~~] should consult with the local authority having jurisdiction (e.g., fire marshal) and comply with its requirements and recommendations. If a school system [~~district~~] does not have a local authority or has not adopted a fire code, it shall conduct four drills per school year (two per semester).

(d) Equal access. In accordance with TEC, §37.108 and §37.1086, school systems must provide equal access to safety during emergency incidents, required drills, and district-approved exercises for students and district personnel with access and functional needs. Students with access and functional needs must participate in required drills.

(1) School systems must designate a person to ensure each campus has reviewed all IEPs and Section 504 plans to identify students who require accommodations to have access to safety and security during drills and emergency situations.

(2) School systems must acknowledge that all IEP or Section 504 plans for students in the school system who require accommodations to access safety and security during drills and emergency situations are considered when drafting their multihazard emergency operations plan (EOP). Accommodations to ensure access to safety and security must be documented locally and shared with appropriate campus-level personnel and the school system's Safety and Security Committee.

(3) EOP updates must avoid using personal identifying information, in accordance with the Family Educational Rights and Privacy Act.

(4) Ensuring equal access to safety during emergency incidents, required drills, and approved exercises shall include:

(A) incorporating recommendations from the Texas Education Agency's (TEA's) Guidelines for Multihazard Emergency Operations, as posted on the TEA website;

(B) informing and training staff about emergency response protocols and encouraging educators to discuss emergency procedures with parents (or those standing in parental relation) as part of IEP meetings and/or other reviews;

(C) identifying pre-evacuation sites that are accessible to students and staff with disabilities;

(D) developing a schedule of daily activities and classes that identify where students and staff with access needs are located during each period of the day;

(E) planning a primary and secondary evacuation route from each location students and staff members are during the day; and

(F) classroom storage of disability-related supplies, assistive equipment, and tools needed during emergency incidents, required drills, or district-approved exercises (e.g., a go kit).

(5) Only staff members can assume the responsibility of assisting students during drills and emergency situations.

(6) School systems must additionally consider the following:

(A) the classroom location and placement of students with disabilities. School systems should evaluate the accessibility of nearby exits, proximity to the school nurse, and classroom placement in multi-story buildings;

(B) the benefit of incorporating both audible and visual elements in alarm systems for fire, public address systems, severe weather notifications, and lockdown alerts;

(C) the availability of medicines or medical devices during drills and emergency situations. School systems should make alternative arrangements to meet these needs if medicines or medical devices may be unavailable; and

(D) using lessons learned from required drills to identify gaps and update existing multihazard EOPs.

(e) [~~(d)~~] Best practices for conducting drills and exercises. This subsection highlights best practices for conducting drills and exercises. For more information about best practices, refer to Texas School Safety Center guidance.

(1) Drills and exercises should be designed and conducted in accordance with guidance and best practice resources provided by the Texas School Safety Center.

(2) Drill and exercise design should include purpose, goals, and objectives that are stated in plans for each type of drill. Purpose, goals, and objectives should be developed with input from all sectors of the school community. Input in planning should be sought from multiple stakeholder perspectives for each type of drill and exercise, including from:

(A) the [~~district or charter~~] school system's School Safety and Security Committee;

(B) first responders;

(C) mental and behavioral health professionals;

(D) students and families; and

(E) staff, including non-traditional teachers, coaches, trade instructors, custodians, and food service workers.

(3) Drill and exercise design elements should include:

(A) physical and psychological safety for all participants;

(B) planning in a trauma-informed manner to maximize learning and to minimize potential trauma for students and staff;

(C) providing advance notification of drills and exercises;

(D) planning for post-drill or after-action reviews of each drill and exercise; and

(E) ensuring drills and exercises are age and developmentally appropriate with the understanding that more complex drills and exercises will require a hierarchy of learning to achieve or obtain more advanced goals or objectives.

(4) Exercises are more complex than drills. It is recommended that school systems start with discussion-based exercises and work up to operation-based exercises. Discussion-based exercises include seminar exercises, tabletop exercises, and workshop exercises. Operation-based exercises include functional exercises and full-scale exercises. Exercises can be used for:

(A) testing and validating policies, plans, procedures, training, equipment, and interagency agreements;

(B) clarifying and training personnel in roles and responsibilities;

(C) improving interagency coordination and communications;

(D) identifying gaps in resources;

(E) improving individual performance; and

(F) identifying opportunities for improvement.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on March 30, 2026.

TRD-202601419
Cristina De La Fuente-Valadez
Director, Rulemaking
Texas Education Agency
Earliest possible date of adoption: May 10, 2026
For further information, please call: (512) 475-1497

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TITLE 34. PUBLIC FINANCE

PART 1. COMPTROLLER OF PUBLIC ACCOUNTS

CHAPTER 9. PROPERTY TAX ADMINISTRATION

SUBCHAPTER M. LOCAL GOVERNMENT RELIEF FOR DISABLED VETERANS EXEMPTION

34 TAC §9.4321, §9.4323

The Comptroller of Public Accounts proposes amendments to §9.4321, concerning definitions and §9.4323, concerning application.

The amendments to §9.4321 update existing definitions for "local government" and "qualified local government."

The amendments to §9.4323 update the mapping requirement in subsection (b)(1), update the name of the report in subsection (b)(2)(B) and add a requirement for an applicant to provide the most recent decennial census data in subsection (b)(6).

The legislation enacted within the last four years that provides the statutory authority for these sections is House Bill 2894, 89th Legislature, R.S., 2025.

Brad Reynolds, Chief Revenue Estimator, has determined that during the first five years that the proposed amendments are in effect, the amended rules: will not create or eliminate a government program; will not require the creation or elimination of employee positions; will not require an increase or decrease in future legislative appropriations to the agency; will not require an increase or decrease in fees paid to the agency; will not increase or decrease the number of individuals subject to the rules' applicability; and will not positively or adversely affect this state's economy. This proposal amends existing rules.

Mr. Reynolds also has determined that the proposed amended rules would have no fiscal impact on the state government, on units of local government, or individuals. The proposed amendments would benefit the public by improving the clarity and implementation of the sections. There would be no anticipated economic cost to the public. The proposed amendments would have no fiscal impact on small businesses or rural communities.

You may submit comments on the proposal or information related to the cost, benefit, or effect of the proposal, including any applicable data, research or analysis, to Shannon Murphy, Director, Property Tax Assistance Division, P.O. Box 13528, Austin, Texas 78711 or to the email address: ptad.rulecomments@cpa.texas.gov. The comptroller must receive your comments or other information no later than 30 days from the date of publication of the proposal in the *Texas Register*.

These amendments are proposed under Local Government Code, §140.011(i), which requires the comptroller to adopt rules necessary to implement Local Government, Code §140.011 (Local Governments Disproportionately Affected by Property Tax Relief for Disabled Veterans).

These amendments implement Local Government Code, §140.011 (Local Governments Disproportionately Affected by Property Tax Relief for Disabled Veterans).

§9.4321. Definitions.

The following phrases, words, and terms, when used in this subchapter shall have the following meanings, unless the context clearly indicates otherwise.

(1) Account--The account created by Local Government Code, §140.011(h) from which disabled veteran assistance payments are made.

(2) Adjacent--Having a common endpoint or border. The fact that a road separates a city and a United States military installation does not prevent a city and military installation from being considered adjacent.

(3) Applicant--A local government that has applied for a payment.

(4) Comptroller--The Comptroller of Public Accounts for the State of Texas.

(5) Exemption amount--The total appraised value of all property located in the local government that is granted an exemption from taxation under Tax Code, §11.131 for the tax year in which the fiscal year begins and for which the applicant is requesting payment.

(6) Fiscal year--The fiscal year of the applicant unless otherwise indicated.

(7) General fund revenue--Revenue generated by a local government from the following sources during a fiscal year and deposited in the dedicated general operating fund of the local government during that fiscal year:

(A) ad valorem taxes;

(B) sales and use taxes;

(C) franchise taxes, fees, or assessments charged for use of the local government's right-of-way;

(D) building and development fees, including permit and inspection fees;

(E) court fines and fees;

(F) other fees, assessments, and charges; and

(G) interest earned by the local government.

(8) Independent audit--An audit required by law to be prepared for the applicant for the fiscal year for which the applicant is requesting payment which verifies amounts of general fund revenue by source.

(9) Local government--

(A) a municipality [~~adjacent to a United States military installation~~]; or

(B) a county [~~in which a United States military installation is wholly or partly located~~].

(10) Lost ad valorem tax revenue or lost property tax revenue--For a fiscal year for which the applicant is requesting payment, the product of the property tax rate adopted by the applicant for the tax year in which that fiscal year begins and the exemption amount.

(11) Payment--A disabled veteran assistance payment paid to a qualified local government from the account in an amount calculated by subtracting 1.0% of the local government's general fund revenue for a fiscal year from the local government's lost property tax revenue for that fiscal year.

(12) Qualified local government--A local government entitled to a disabled veteran assistance payment under Local Government Code, §140.011. A local government is a qualified local government for a fiscal year if the amount of lost property tax revenue is equal to or greater than: [~~2.0% of the applicant's general fund revenue for that fiscal year.~~]

(A) 2.0% of the applicant's general fund revenue for that fiscal year if the local government is:

(i) a municipality adjacent to a United States military installation; or

(ii) a county in which a United States military installation is wholly or partly located.

(B) 10% of the local government's general fund revenue for that fiscal year if the local government is:

(i) a municipality in a county in which a United States military installation is wholly or partly located and the municipality has a population of more than 370,000 but not more than 380,000 or a population of 83,000 but not more than 84,000;

(ii) a municipality in a county with a population of less than 25,000 that is adjacent to two counties that contain the same United States Army installation, neither of which has a population greater than 400,000; or

(iii) a county with a population of less than 25,000 that is adjacent to two counties that contain the same United States Army installation, neither of which has a population greater than 400,000.

§9.4323. Application.

(a) In order to receive payment under this subchapter, an applicant must submit a completed application. The completed application must be received no earlier than February 1 nor later than April 1 of the year following the end of a fiscal year for which the applicant is seeking a payment under this subchapter.

(b) A completed application must include the following items:

(1) A map showing that:

(A) [~~if the applicant is a municipality,~~] the municipality is adjacent to a United States military installation or the municipality is located in a county in which a United States military installation is wholly or partly located; [~~or~~]

(B) [~~if the applicant is a county,~~] a United States military installation is wholly or partly located within the [~~that~~] county;[~~.~~]

(C) the municipality is located in a county that is adjacent to two counties that contain the same United States Army installation; or

(D) the county is adjacent to two counties that contain the same United States Army installation.

(2) Documentation to substantiate the sources and amounts of general fund revenues listed on the application. That documentation must be:

(A) an independent audit covering the fiscal year for which the applicant is requesting payment;

(B) an [~~a comprehensive~~] annual comprehensive financial report covering the fiscal year for which the applicant is requesting payment; or

(C) documentation from the applicant's internal auditor or financial officer certifying that the information submitted is true and correct to the best of their knowledge.

(3) If the documentation listed in paragraph (2) of this subsection does not substantiate all of the sources and amounts of general fund revenues listed on the application, the applicant must submit additional documentation to substantiate the sources and amounts of general fund revenue which is certified by a city, county or independent auditor.

(4) Documentation to substantiate the exemption amount.

(5) Documentation to substantiate the property tax rate adopted by the applicant for the tax year in which the fiscal year for which the applicant is requesting payment begins.

(6) Most recent decennial census data to substantiate population size for local governments described in Local Government Code, § 140.011(b)(2).

(c) Documentation submitted with the application under subsection (b)(2) - (5) of this section must be highlighted for easy identification of the following values:

(1) the specific total for each general fund revenue source;

(2) the adopted property tax rate; and

(3) the total exemption amount.

(d) The application must be submitted on the comptroller prescribed form. The method in which the application is submitted must conform to the instructions in the comptroller prescribed form.

(e) The application must be signed by an official of the local government that is authorized to bind the local government. The local official must certify that all information in the application is true and correct.

(f) The applicant is responsible for verifying receipt by the comptroller of the completed application and any information requested under §9.4325 of this title (relating to Review by Comptroller).

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on March 24, 2026.

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Victoria North
General Counsel for Fiscal and Agency Affairs
Comptroller of Public Accounts
Earliest possible date of adoption: May 10, 2026
For further information, please call: (512) 475-2220

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TITLE 40. SOCIAL SERVICES AND ASSISTANCE

PART 20. TEXAS WORKFORCE COMMISSION

CHAPTER 800. GENERAL ADMINISTRATION
SUBCHAPTER E. ADVISORY COMMITTEES

40 TAC §§800.170 - 800.172

The Texas Workforce Commission (TWC) proposes the following new sections to Chapter 800, relating to General Administration:

Subchapter E. Advisory Committees, §§800.170 - 800.172

PART I. PURPOSE, BACKGROUND, AND AUTHORITY

The purpose of the proposed Chapter 800 rule change is to establish by rule abolishment dates for TWC's advisory committees in accordance with Texas Government Code, Chapter 2110.

Under the statute, unless prohibited by another state law or federal law or regulation, an advisory committee is automatically abolished on the fourth anniversary of its creation date, unless the state agency by rule designates the date on which the committee will automatically be abolished. The committee may continue in existence after that date only if the agency amends the rule to provide for a different abolishment date.

This rulemaking sets specific abolishment dates for the following TWC advisory committees that are subject to Texas Government Code, Chapter 2110:

--Industry-Based Certifications Advisory Council;

--Jobs and Education for Texans Advisory Committee; and

--Lone Star Workforce of the Future Advisory Board.

Chapter 800, Subchapter E, does not apply to TWC advisory committees that are exempt from the provisions of Texas Government Code, Chapter 2110, because of another state law or a federal law or regulation.

In the development of the proposed rules, TWC's Office of General Counsel consulted the points of contact for each advisory committee affected by this rulemaking.

PART II. EXPLANATION OF INDIVIDUAL PROVISIONS

SUBCHAPTER E. ADVISORY COMMITTEES

TWC proposes new Subchapter E, as follows:

§800.170. Definition

New §800.170 defines "Advisory Committee" as it is defined by Texas Government Code, §2110.001.

§800.171. Creation and Duration of Advisory Committees Created by the Commission

New §800.171 provides the abolishment date of an advisory committee created by TWC in accordance with Texas Government Code, §2110.008(b).

§800.172. Duration of Advisory Committees

New §800.172 sets specific abolishment dates for the applicable TWC advisory committees.

PART III. IMPACT STATEMENTS

Chris Nelson, Chief Financial Officer, has determined that for each year of the first five years the rules will be in effect, the following statements will apply:

There are no additional estimated costs to the state or to local governments expected as a result of enforcing or administering the rules.

There are no estimated cost reductions to the state or to local governments as a result of enforcing or administering the rules.

There are no estimated losses or increases in revenue to the state or local governments as a result of enforcing or administering the rules.

There are no foreseeable implications relating to costs or revenue of the state or local governments as a result of enforcing or administering the rules.

There are no anticipated economic costs to individuals required to comply with the rules.

There is no anticipated adverse economic impact on small businesses, microbusinesses, or rural communities as a result of enforcing or administering the rules.

Based on the analyses required by Texas Government Code, §2001.024, TWC has determined that the requirement to repeal or amend a rule, as required by Texas Government Code, §2001.0045, does not apply to this rulemaking.

Takings Impact Assessment

Under Texas Government Code, §2007.002(5), "taking" means a governmental action that affects private real property, in whole or in part or temporarily or permanently, in a manner that requires the governmental entity to compensate the private real property owner as provided by the Fifth and Fourteenth Amendments to the US Constitution or the Texas Constitution, Section 17 or Section 19, Article I, or restricts or limits the owner's right to the property that would otherwise exist in the absence of the governmental action, and is the producing cause of a reduction of at least 25 percent in the market value of the affected private real property, determined by comparing the market value of the property as if the governmental action is not in effect and the market value of the property determined as if the governmental action is in effect. TWC completed a Takings Impact Assessment for the proposed rulemaking action under Texas Government Code, §2007.043. The primary purpose of this proposed rulemaking action, as discussed elsewhere in this preamble, is to establish by rule abolishment dates for certain TWC advisory committees as allowed under Texas Government Code, Chapter 2110.

The proposed rulemaking action will not create any additional burden on private real property or affect private real property in a manner that would require compensation to private real property owners under the US Constitution or the Texas Constitution. The proposal also will not affect private real property in a manner that restricts or limits an owner's right to the property that would otherwise exist in the absence of the governmental action. Therefore, the proposed rulemaking will not cause a taking under Texas Government Code, Chapter 2007.

Government Growth Impact Statement

TWC has determined that during the first five years the rules will be in effect, they:

--will not create or eliminate a government program;

--will not require the creation or elimination of employee positions;

--will not require an increase or decrease in future legislative appropriations to TWC;

--will not require an increase or decrease in fees paid to TWC;

--will not create a new regulation;

--will not expand, limit, or eliminate an existing regulation;

--will not change the number of individuals subject to the rules; and

--will not positively or adversely affect the state's economy.

Economic Impact Statement and Regulatory Flexibility Analysis

TWC has determined that the rules will not have an adverse economic impact on small businesses or rural communities, as the proposed rules place no requirements on small businesses or rural communities.

Mariana Vega, Director, Labor Market Information, has determined that there is not a significant negative impact upon employment conditions in the state as a result of the rules.

Les Trobman, General Counsel, has determined that for each year of the first five years the rules are in effect, the public benefit anticipated as a result of enforcing the proposed rules will be to provide the public notice of when certain TWC advisory committees will be abolished unless continued by the Commission.

PART IV. REQUEST FOR IMPACT INFORMATION

TWC requests, from any person required to comply with the proposed rules or any other interested person, information related to the cost, benefit, or effect of the proposed rules, including any applicable data, research, or analysis. Please submit the requested information to TWCPolicyComments@twc.texas.gov no later than May 11, 2026.

PART V. PUBLIC COMMENTS

Comments on the proposed rules may be submitted to TWCPolicyComments@twc.texas.gov and must be received no later than May 11, 2026.

PART VI. STATUTORY AUTHORITY

The new rules are proposed under:

--Texas Government Code, §2110.008, which requires a state agency to set by rule an advisory committee abolishment date if the agency chooses to designate such a date.

--Texas Labor Code, §301.0015, which provides TWC with the authority to adopt, amend, or repeal such rules as it deems necessary for the effective administration of TWC services and activities.

The new rules relate to Title 4, Texas Labor Code, particularly Chapter 312, and Title 3, Texas Education Code, particularly Chapter 134 and Chapter 134A.

§800.170. Definition.

In this subchapter, "Advisory Committee" refers to a committee, council, board, commission, task force, or similar entity created by the Commission or by state or federal law to primarily advise the Commission. This definition excludes any advisory committee that is exempt from the advisory committee duration provisions under Texas Government Code, §2110.008.

§800.171. Creation and Duration of Advisory Committees Created by the Commission.

An advisory committee created by the Commission shall be automatically abolished in accordance with Texas Government Code, §2110.008(b), unless the advisory committee is required to remain in effect under state or federal law, or a different date is designated under §800.172 of this subchapter.

§800.172. Duration of Advisory Committees.

(a) The advisory committees listed in subsection (b) of this section are renewed with the abolishment dates noted for each advisory committee and continue to be subject to this subchapter.

(b) List of advisory committees renewed by rule:

(1) Industry-Based Certifications Advisory Council, authorized by Texas Labor Code, §312.002, shall be abolished or reauthorized by rule on or before December 31, 2035, or at such time the legislature takes action to abolish the council in statute.

(2) Jobs and Education for Texans Advisory Committee, authorized by Texas Education Code, §134.003, shall be abolished or reauthorized by rule on or before December 31, 2035, or at such time the legislature takes action to abolish the committee in statute.

(3) Lone Star Workforce of the Future Advisory Board, authorized by Texas Education Code, §134A.004, shall be abolished or reauthorized by rule on or before December 31, 2035, or at such time the legislature takes action to abolish the board in statute.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

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Les Trobman
General Counsel
Texas Workforce Commission
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For further information, please call: (737) 301-9662

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CHAPTER 806. PURCHASES OF PRODUCTS AND SERVICES FROM PEOPLE WITH DISABILITIES
SUBCHAPTER J. TRANSITION AND RETENTION PLANS

40 TAC §§806.100 - 806.104

The Texas Workforce Commission (TWC) proposes the repeal of the following sections of Chapter 806, relating to Purchases of Products and Services from People with Disabilities, as follows:

Subchapter J. Transition and Retention Plans, §§806.100 - 806.104

PART I. PURPOSE, BACKGROUND, AND AUTHORITY

The purpose of the Chapter 806 rulemaking is to repeal Subchapter J, Transition and Retention Plans, because the statute on which the rules in Subchapter J are based expired September 1, 2023.

The Purchasing from People with Disabilities (PPD) program encourages Texas state agencies and political subdivisions to give preference to purchasing products and services offered by community rehabilitation programs (CRPs) that employ people with disabilities, helping them achieve and maintain their independence through gainful employment.

Texas Human Resources Code, §122.0076, requires any CRP participating in the PPD program to pay each worker with a disability who is employed by the CRP at least the federal minimum wage.

Expired Texas Human Resources Code, §122.0075, as set forth by Senate Bill 753, 86th Texas Legislature, Regular Session, 2019, required CRPs that were paying their workers with disabilities less than the federal minimum wage to develop a plan to increase those wages to at least the federal minimum wage in order to continue participating in the PPD program. This statute expired on September 1, 2023, and, consequently, so did the rules under Chapter 806, Subchapter J, which the Commission adopted for the purpose of implementing the CRP minimum wage transition planning requirement.

TWC ensures CRP compliance with the minimum wage requirement under Texas Human Resources Code, §122.0076, through compliance monitoring, which, among other requirements in Chapter 806, requires each participating CRP to file a quarterly employee wage and hour report and for the CRP to recertify for continued PPD program participation every three years.

TWC informed CRPs currently participating in the PPD program of the proposed action to repeal Chapter 806, Subchapter J in its entirety.

PART II. EXPLANATION OF INDIVIDUAL PROVISIONS

SUBCHAPTER J. TRANSITION AND RETENTION PLANS

TWC proposes the repeal of Subchapter J, in its entirety, as follows:

§806.100. Scope and Purpose

§806.101. Requirements for Transition and Retention Plans

§806.102. Extensions for Transition and Retention Plans

§806.103. Withdrawal from the Program

§806.104. New CRPs during the TRP Period

PART III. IMPACT STATEMENTS

Chris Nelson, Chief Financial Officer, has determined that for each year of the first five years the repeal will be in effect, the following statements will apply:

There are no additional estimated costs to the state and to local governments expected as a result of repealing the rules.

There are no estimated cost reductions to the state and to local governments as a result of repealing the rules.

There are no estimated losses or increases in revenue to the state or to local governments as a result of repealing the rules.

There are no foreseeable implications relating to costs or revenue of the state or local governments as a result of repealing the rules.

There are no anticipated economic costs to individuals resulting from the repeal of the rules.

There is no anticipated adverse economic impact on small businesses, microbusinesses, or rural communities resulting from the repeal of the rules.

Based on the analyses required by Texas Government Code, §2001.024, TWC has determined that the requirement to repeal or amend a rule, as required by Texas Government Code, §2001.0045, does apply to this rulemaking.

Takings Impact Assessment

Under Texas Government Code, §2007.002(5), "taking" means a governmental action that affects private real property, in whole or in part or temporarily or permanently, in a manner that requires the governmental entity to compensate the private real property owner as provided by the Fifth and Fourteenth Amendments to the US Constitution or the Texas Constitution, §17 or §19, Article I, or restricts or limits the owner's right to the property that would otherwise exist in the absence of the governmental action, and is the producing cause of a reduction of at least 25 percent in the market value of the affected private real property, determined by comparing the market value of the property as if the governmental action is not in effect and the market value of the property determined as if the governmental action is in effect. TWC completed a Takings Impact Assessment for the proposed rulemaking action under Texas Government Code, §2007.043. The primary purpose of this proposed rulemaking action, as discussed elsewhere in this preamble, is to repeal Chapter 806, Subchapter J in its entirety, because its rules expired on September 1, 2023, and are no longer applicable to the PPD program, as all workers in the PPD program are required to earn at the federal minimum wage, or higher.

The proposed repeal will not create any additional burden on private real property or affect private real property in a manner that would require compensation to private real property owners under the US Constitution or the Texas Constitution. The proposal also will not affect private real property in a manner that restricts or limits an owner's right to the property that would otherwise exist in the absence of the governmental action. Therefore, the proposed rulemaking will not cause a taking under Texas Government Code, Chapter 2007.

Government Growth Impact Statement

TWC has determined that during the first five years the proposed repeal will be in effect, the repeal of the rules:

--will not create or eliminate a government program;

--will not require the creation or elimination of employee positions;

--will not require an increase or decrease in future legislative appropriations to TWC;

--will not require an increase or decrease in fees paid to TWC;

--will not create a new regulation;

--will not expand, limit, or eliminate an existing regulation;

--will not change the number of individuals subject to the rules; and

--will not positively or adversely affect the state's economy.

Economic Impact Statement and Regulatory Flexibility Analysis

TWC has determined that the proposed repeal will not have an adverse economic impact on small businesses or rural communities, as the proposal place no requirements on small businesses or rural communities.

Mariana Vega, Director, Labor Market Information, has determined that there is not a significant negative impact upon employment conditions in the state as a result of the proposed repeal.

Tammy Martin, Director, Vocational Rehabilitation Division, has determined that for each year of the first five years the proposed repeal is in effect, the public benefit anticipated as a result of the repeal will be that individuals with disabilities working in the PPD program will continue earning the federal minimum wage or higher.

PART IV. REQUEST FOR IMPACT INFORMATION

TWC requests, from any interested person, information related to the cost, benefit, or effect of the proposed repeal, including any applicable data, research, or analysis. Please submit the requested information to TWCPolicyComments@twc.texas.gov no later than May 11, 2026.

PART V. PUBLIC COMMENTS

Comments on the proposed repeal may be submitted to TWCPolicyComments@twc.texas.gov and must be received no later than May 11, 2026.

PART VI. STATUTORY AUTHORITY

The repeals are proposed under the authority of:

--Texas Human Resources Code, §122.0075(h), which set a September 1, 2023, expiration date for §122.0075;

--Texas Human Resources Code, §122.013, which grants the Commission authority to adopt rules for the administration of Texas Human Resources Code, Chapter 122; and

--Texas Labor Code, §301.0015(6) and §302.002(d), which provide TWC with the authority to adopt, amend, or repeal such rules as it deems necessary for the effective administration of TWC services and activities.

The proposed repeals relate to Title 8, Texas Human Resources Code, Chapter 122.

§806.100. Scope and Purpose.

§806.101. Requirements for Transition and Retention Plans.

§806.102. Extensions for Transition and Retention Plans.

§806.103. Withdrawal from the Program.

§806.104. New CRPs during the TRP Period.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

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Les Trobman
General Counsel
Texas Workforce Commission
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For further information, please call: (737) 301-9662

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TITLE 43. TRANSPORTATION

PART 1. TEXAS DEPARTMENT OF TRANSPORTATION

CHAPTER 4. EMPLOYMENT PRACTICES

SUBCHAPTER C. EMPLOYMENT AND EDUCATION PROGRAMS

43 TAC §4.21, §4.25

The Texas Department of Transportation (department) proposes the amendments to §4.21 and §4.25, concerning Employment and Education Programs.

EXPLANATION OF PROPOSED AMENDMENTS

This rulemaking makes changes to the department's conditional grant program, which provides financial assistance to eligible economically disadvantaged students who intend to work for the department in civil engineering or another profession for which there is a critical need, to increase flexibility for both applicants and administrators of the program and to provide greater outreach opportunities for the program and increase yearly applications. Overall, the changes to the program will continue to promote educational opportunities in the transportation industry to underprivileged communities.

Amendments to §4.21, Definitions, change the term "academic school year" to "academic year" to provide clarity concerning the use of this term used in the subchapter. The amendments delete the definitions of "available grants" and "student intern program performance evaluation" because they are not used in the rules and delete "Texas resident" as being unnecessary. In the definition of "economically disadvantaged student" the Federal Poverty Guideline limit is increased from 225% to 250% to account for fluctuations of poverty levels and rising costs for education.

Amendments to §4.25, Conditional Grant Program, make several changes to the program. In subsection (d)(3), the application period is changed from an annual to a bi-annual period to allow for greater application flexibility and earlier program entry for students actively obtaining a bachelor's degree. In subsection (e)(1) the word "applicable" is added to provide clearer scoring guidelines since not all criteria set out in subparagraphs (A) - (F) will be required. In subsection (e)(1)(D) "vocational education" is changed to "career and technical education," which is the currently used term. In subsection (g)(3) the total grant amount is increased from $4,000 to $5,000 per semester to account for increasing tuition costs.

The substance of current §4.25(j)(1) is moved into new subsection (i)(2) because it directly relates to the default of the grant agreement. Subsection (i)(2) also provides that college credit hours received while attending high school, will not be considered in determining whether the repayment of grant funds is required if there is a default. This provision is added to clarify that participants who came into the program with dual credit college hours while attending high school will not be held to a different repayment requirement than a person who enters the program as a first-year college student.

FISCAL NOTE

Stephen Stewart, Chief Financial Officer, has determined, in accordance with Government Code, §2001.024(a)(4), that for each of the first five years in which the proposed rules are in effect, there will be no fiscal implications for state or local governments as a result of the department's or commission's enforcing or administering the proposed rules.

LOCAL EMPLOYMENT IMPACT STATEMENT

Dr. Christopher Young, Director, Human Resources Division, has determined that there will be no significant impact on local economies or overall employment as a result of enforcing or administering the proposed rules and therefore, a local employment impact statement is not required under Government Code, §2001.022.

PUBLIC BENEFIT

Dr. Christopher Young, has determined, as required by Government Code, §2001.024(a)(5), that for each year of the first five years in which the proposed rules are in effect, the public benefit anticipated as a result of enforcing or administering the rules will be overall improvements to the department's program review and processes resulting from clearer and more streamlined rules.

COSTS ON REGULATED PERSONS

Dr. Christopher Young, has also determined, as required by Government Code, §2001.024(a)(5), that for each year of that period there are no anticipated economic costs for persons, including a state agency, special district, or local government, required to comply with the proposed rules and therefore, Government Code, §2001.0045, does not apply to this rulemaking.

ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS

There will be no adverse economic effect on small businesses, micro-businesses, or rural communities, as defined by Government Code, §2006.001, and therefore, an economic impact statement and regulatory flexibility analysis are not required under Government Code, §2006.002.

GOVERNMENT GROWTH IMPACT STATEMENT

Dr. Christopher Young has considered the requirements of Government Code, §2001.0221 and anticipates that the proposed rules will have no effect on government growth. He expects that during the first five years that the rule would be in effect:

(1) it would not create or eliminate a government program;

(2) its implementation would not require the creation of new employee positions or the elimination of existing employee positions;

(3) its implementation would not require an increase or decrease in future legislative appropriations to the agency;

(4) it would not require an increase or decrease in fees paid to the agency;

(5) it would not create a new regulation;

(6) it would not expand, limit, or repeal an existing regulation;

(7) it would increase the number of individuals subject to its applicability; and

(8) it would not positively or adversely affect this state's economy.

TAKINGS IMPACT ASSESSMENT

Dr. Christopher Young has determined that a written takings impact assessment is not required under Government Code, §2007.043.

SUBMITTAL OF COMMENTS

Any person that is required to comply with the proposed rule or any other interested person may provide information related to the cost, benefit, or effect of the proposed rule, including any applicable data, research, or analysis, or may submit written comments on the amendments to §4.21 and §4.25. The information or comments must be submitted to Rule Comments, General Counsel Division, Texas Department of Transportation, 125 East 11th Street, Austin, Texas 78701-2483 or to RuleComments@txdot.gov with the subject line "Conditional Grant Program." The deadline for receipt of comments is 5:00 p.m. on May 11, 2026. In accordance with Transportation Code, §201.811(a)(5), a person who submits comments must disclose, in writing with the comments, whether the person does business with the department, may benefit monetarily from the proposed amendments, or is an employee of the department.

STATUTORY AUTHORITY

The amendments are proposed under Transportation Code, §201.101, which provides the Texas Transportation Commission (commission) with the authority to establish rules for the conduct of the work of the department, and more specifically, Education Code, §56.144, which requires the department to adopt rules for the selection for grants under the conditional grant program, and Education Code, §56.145, which authorizes the department to adopt rules to establish conditions under which all or part of a conditional grant is required to be repaid.

CROSS REFERENCE TO STATUTES IMPLEMENTED BY THIS RULEMAKING - Education Code, Chapter 56, Subchapter I.

§4.21. Definitions.

The following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise.

(1) Academic [~~school~~] year--Two academic semesters (i.e., fall semester and spring semester, or if the educational institution is on a trimester system then fall, winter, or spring quarters).

[~~(2) Available grants--The number of grants, based on available funding, the conditional grant coordinator determines may be awarded in an academic year.~~]

(2) [~~(3)~~] College cooperative student--A person who is enrolled in an eligible higher educational institution's cooperative education program.

(3) [~~(4)~~] Commission--Texas Transportation Commission.

(4) [~~(5)~~] Conditional grant--Financial assistance awarded to an eligible student.

(5) [~~(6)~~] Cooperative education program--A plan of education that provides for alternating periods of study and employment during the academic year; working agreements among the department, educational institution and student; paid supervised work experiences related to the student's academic studies or career goals; and experience sufficient in duration to qualify for career entry level position, if applicable.

(6) [~~(7)~~] Cooperative Education Program Standards Form--A form that states the rules of the High School Cooperative Education Program.

(7) [~~(8)~~] Declaration of intent--A signed and notarized document stating that the student intends to work for the department in an eligible profession for two academic years immediately following the date of the student's receipt of an eligible degree.

(8) [~~(9)~~] Department--The Texas Department of Transportation.

(9) [~~(10)~~] Economically disadvantaged student--A student who is a member of a household with a family annual adjusted gross income of not more than 250% [~~225%~~] of the Federal Poverty Level.

(10) [~~(11)~~] Eligible degree--A baccalaureate degree from an accredited public institution in the State of Texas in a field of study that satisfies the department's minimum education requirement for an eligible profession.

(11) [~~(12)~~] Eligible professions--Professions for which the department determines there is a critical need.

(12) [~~(13)~~] Form I-9 Employment Verification--A form attesting to eligibility to work in the United States in compliance with the Immigration Reform and Control Act of 1986.

(13) [~~(14)~~] HSCEP--High School Cooperative Education Program.

(14) [~~(15)~~] Intern--A post-secondary school student who is employed for a specific length of time.

(15) [~~(16)~~] Institution--Any public senior (four-year) college or university of higher education as certified by the Coordinating Board, Texas College and University System in accordance with the Education Code, §61.003.

(16) [~~(17)~~] Stipend--A monthly amount of financial assistance based on financial need which is determined by the financial aid or scholarship office at the student's educational institution.

(17) [~~(18)~~] Student cooperative program performance evaluation--The department's employment evaluation form used to evaluate college cooperative students.

[~~(19) Student intern program performance evaluation--The department's employment evaluation form used to evaluate interns.~~]

[~~(20) Texas resident--A person qualifying as a Texas resident as defined by Texas Higher Education Coordinating Board rule.~~]

§4.25. Conditional Grant Program.

(a) Purpose. This section establishes procedures for the administration of a conditional grant program that will provide financial assistance to eligible economically disadvantaged students who intend to work for the department in civil engineering or any other profession for which the department determines there is a critical need. Authority for the creation of the conditional grant program is contained in Education Code, Chapter 56, Subchapter I.

(b) Program. Upon determination by the executive director or the director's designee, the department may provide financial assistance to eligible students who:

(1) declare an intent to seek a baccalaureate degree from an institution in the State of Texas in a field of study that satisfies the department's minimum education requirement for an eligible profession;

(2) intend to work for the department for the two academic years immediately following the date of the student's receipt of an eligible degree from an institution in the State of Texas; and

(3) exhibit a high level of academic performance.

(c) Eligibility.

(1) Initial eligibility. To be initially eligible for a conditional grant, a student must:

(A) complete and file with the department evidence of household income and, on forms prescribed by the department, a conditional grant application and a declaration of intent to become a member of an eligible profession and work for the department for the two academic years immediately following the date of the student's receipt of an eligible degree;

(B) enroll in an institution;

(C) be a Texas resident as defined by the Texas Higher Education Coordinating Board;

(D) be an economically disadvantaged student; and

(E) have complied with any other requirements adopted by the department.

(2) Maintaining eligibility. In order to maintain eligibility, a student must be enrolled each semester in an institution in a course of instruction leading toward a degree in an eligible profession and, except as provided in paragraph (4) of this subsection, must:

(A) maintain an overall institutional grade point average of at least 2.5 on a four-point scale; and

(B) receive credit for not fewer than 12 hours each semester toward the student's degree program.

(3) Exception.

(A) If, during not more than one semester, a student fails to meet the grade point or credit hour requirements of this subsection, he or she will continue to maintain eligibility.

(B) Subparagraph (A) of this paragraph does not apply to a freshman student, unless the director of the department's Human Resources Division or designee determines that the student has a reasonable opportunity to comply with the requirements of subparagraph [~~Subparagraph~~] (C) of this paragraph. The director will base his or her decision on an overall assessment of the student's freshman academic record.

(C) Students who fail to meet the grade point requirement, but are allowed to maintain eligibility under this paragraph, must receive credit for not fewer than 12 hours each semester and attain a semester grade point average of 2.5 during all semesters thereafter until the student graduates.

(4) Hardship waiver. The department may waive, upon approval of the executive director, the requirement that a student receive credit for not fewer than 12 hours each semester if a student demonstrates hardship. Hardship may involve serious illness, family emergency, or other extraordinary circumstances beyond the control of the student.

(d) Application.

(1) To apply for a conditional grant, a student must submit to the department:

(A) a completed application in a form prescribed by the department; and

(B) a declaration of intent.

(2) The application will require information and documentation relating to residency status, secondary school performance or college performance, the current or intended enrollment institution, the sworn statement as required by subsection (k) of this section, and such other information the department deems necessary to determine eligibility pursuant to subsection (c) of this section.

(3) An application must be submitted by April 1st [~~of each year~~] for the [~~subsequent~~] fall semester of that year or September 1 for the [~~and~~] spring semester of the next year [~~semesters admission~~].

(e) Selection.

(1) Academics. The department will rank applicants according to the following applicable selection criteria:

(A) secondary school or college grade point average;

(B) SAT or ACT score;

(C) honors and awards from, and participation in technical or academic organizations such as Texas Prefreshman Engineering Program, Texas Alliance for Minorities in Engineering, National Honor Society, Debate Team, or Dean's List;

(D) career and technical [~~vocational~~] education;

(E) work experience; and

(F) whether the applicant is the first generation of the applicant's family to attend or graduate from an undergraduate program or from a graduate or professional program.

(2) Financial need. Applicants that meet a minimum academic threshold using the criteria in paragraph (1) of this subsection will be ranked giving highest priority to students who demonstrate the greatest financial need as measured by the Federal Poverty Guidelines.

(f) Grant agreement.

(1) The department will send written notice to applicants selected to receive a grant informing them of the amount to be awarded for the conditional grant as certified by their educational institution.

(2) Each selected student will be required to execute a grant agreement prior to receiving a conditional grant. The grant agreement will be in a form prescribed by the department and will set forth the terms and conditions of the grant, including, but not limited to, the amount of the grant and the requirements of continued eligibility pursuant to subsection (c) of this section.

(g) Conditional grant.

(1) The amount of a conditional grant is the sum of:

(A) the amount of tuition and fees for the student, as certified by the institution; and

(B) a stipend based upon financial need as provided by subsection (h) of this section.

(2) Each semester the department will distribute a conditional grant for each eligible student on receipt of an enrollment report and certification of the amount of tuition, fees, and stipend (if any) for the student from the institution.

(3) The total amount of any one conditional grant may not exceed the certified amount of tuition and fees for the student and a stipend for each whole calendar month in an amount determined by the department, but may not exceed $5,000 [~~$4,000~~] per academic semester based on financial need.

(4) If the amount appropriated to the department for conditional grants is less than the estimated amount of all unpaid conditional grants, the department will proportionally reduce each unpaid conditional grant.

(h) Stipend.

(1) A student desiring to receive a stipend must:

(A) sign a financial information release statement; and

(B) complete the required financial need forms at the institution.

(2) The department will award a stipend to the student upon certification by the institution of the student's certified financial need.

(3) Costs of room and board will be included in the stipend amount.

(i) Default.

(1) The department will declare a student to be in default of the grant agreement and will require the student to repay all conditional grant funds received from the department if the student:

(A) [~~(1)~~] withdraws from the institution; or

(B) [~~(2)~~] fails to comply with one or more requirements of the grant agreement.

(2) The department will terminate the grant agreement but will not require the student to repay any expended funds, if the student is in default of the grant agreement under paragraph (1) of this subsection but has completed fewer than 30 college credit hours, excluding all college credit hours received while attending high school.

(j) Repayment.

[~~(1) If a student fails to meet the requirements of the program or chooses to leave the program before the student's completion of 30 college credit hours, the department will terminate the agreement and the student will not be required to repay any expended funds. If the~~

~~student is declared to be in default of the program agreement after the student's completion of 30 college credit hours, the student is required to repay all funds received from the department.~~]

(1) [~~(2)~~] If a student is required to repay funds pursuant to subsection (i) of this section, the department will establish a repayment schedule of:

(A) 120 equal monthly installments for students who received grants for four years or more;

(B) 96 equal monthly installments for students who received grants for more than three years, but less than four years;

(C) 72 equal monthly installments for students who received grants for more than two years, but less than three years; or

(D) 48 equal monthly installments for students who received grants for less than two years.

(2) [~~(3)~~] The installment is based on the amount owed the department and must be paid each month. Repayments may be made in fewer than the required number of installments.

(3) [~~(4)~~] A student will not be required to begin payments until after the student's expected date of graduation as determined on the date of the determination of default.

(4) [~~(5)~~] A student who completes an eligible degree and does not work for the department for two academic years immediately following the date of the student's receipt of an eligible degree from a Texas institution will be required to:

(A) begin payments three months subsequent to the determination of default; and

(B) pay a minimum monthly installment of $200.

(5) [~~(6)~~] The department will waive repayment of any remaining amounts for a student who defaults and graduates with an eligible degree and honors the original agreement to work for the department in an eligible profession for at least two academic years commencing immediately upon graduation.

(6) [~~(7)~~] The department may temporarily reduce or defer the required payments or extend the prescribed repayment period, upon approval of the executive director, if a student submits a formal request, demonstrates his or her inability to pay due to catastrophic illness or family emergency, and follows all conditional grant requirements during the deferment period. Any reduction, deferral, or extension will not relieve a student of his or her responsibility to repay all funds.

(7) [~~(8)~~] Credit bureau notification. The department will notify the appropriate credit bureaus or agencies if a student fails to repay the department or fails to adhere to the terms of the conditional grant agreement.

(k) Child support statement.

(1) In accordance with the Family Code, §231.006, a child support obligor who is 30 or more days delinquent in paying child support is not eligible to receive funds under this subchapter.

(2) A student shall provide along with the application submitted as required by subsection (d) of this section a signed, sworn statement, in a form and manner prescribed by the department, affirming that the student is not 30 or more days delinquent in providing child support under a court order or a written repayment agreement.

(3) A student who is ineligible under this section shall remain ineligible to receive funds under this subchapter until:

(A) all arrearages have been paid; or

(B) the student is in compliance with a written repayment agreement or court order as to any existing delinquency.

(4) A student who is found to have submitted a falsely sworn statement under this section shall, upon demand, remit to the department all funds received while ineligible under paragraph (1) of this subsection.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on March 25, 2026.

TRD-202601376
James Kirk
Senior General Counsel
Texas Department of Transportation
Earliest possible date of adoption: May 10, 2026
For further information, please call: (512) 416-3180

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CHAPTER 12. PUBLIC DONATION AND PARTICIPATION PROGRAM

SUBCHAPTER A. PUBLIC PARTICIPATION PROGRAMS

The Texas Department of Transportation (department) proposes amendments to §12.2 concerning Definitions and repeal of §12.5 concerning the Landscape Cost Sharing Program.

EXPLANATION OF PROPOSED AMENDMENTS AND REPEAL

This rulemaking repeals §12.5, Landscape Cost Sharing Program, because the program is no longer funded.

The history of the Landscape Cost Sharing Program (program) is not fully documented, but available records indicate that it has been in place since 1985 and was historically funded through an allocation from the Texas Transportation Commission (commission).

The purpose of the program is to allow individuals, private businesses, organizations, and local governments an opportunity to support the aesthetic improvement of the state highway system by sharing the project development, establishment, and maintenance costs of landscaping the state highway system. Section 12.5 sets forth policies and procedures governing the program.

Although no funding has been allocated to the program since approximately 2008, several other programs and mechanisms remain available for individuals, private businesses, and local governments to participate in landscaping projects. These include Advanced Funding Agreements under Chapter 15, Subchapter E, the Adopt-a-Highway for Landscaping Program (§12.4), and the Landscape Partnership Program (§12.7).

Amendments to §12.2, Definitions, delete the definition of "pedestrian landscaping" because the term was used only in the §12.5 program that is being repealed.

Section 12.5, Landscape Cost Sharing Program, is repealed.

FISCAL NOTE

Stephen Stewart, Chief Financial Officer, has determined, in accordance with Government Code, §2001.024(a)(4), that for each of the first five years in which the proposed rules are in effect, there will be no fiscal implications for state or local governments as a result of the department's or commission's enforcing or administering the proposed rules.

LOCAL EMPLOYMENT IMPACT STATEMENT

Jason Pike, Director, Design Division has determined that there will be no significant impact on local economies or overall employment as a result of enforcing or administering the proposed rules and therefore, a local employment impact statement is not required under Government Code, §2001.022.

PUBLIC BENEFIT

Mr. Pike has determined, as required by Government Code, §2001.024(a)(5), that for each year of the first five years in which the proposed rules are in effect, the public benefit anticipated as a result of enforcing or administering the rules will be increased clarity and efficiency within the program by removing a redundant program that is no longer in use.

COSTS ON REGULATED PERSONS

Mr. Pike has also determined, as required by Government Code, §2001.024(a)(5), that for each year of that period there are no anticipated economic costs for persons, including a state agency, special district, or local government, required to comply with the proposed rules and therefore, Government Code, §2001.0045, does not apply to this rulemaking.

ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS

There will be no adverse economic effect on small businesses, micro-businesses, or rural communities, as defined by Government Code, §2006.001, and therefore, an economic impact statement and regulatory flexibility analysis are not required under Government Code, §2006.002.

GOVERNMENT GROWTH IMPACT STATEMENT

Mr. Pike has considered the requirements of Government Code, §2001.0221 and anticipates that the proposed rules will have no effect on government growth. He expects that during the first five years that the rule would be in effect:

(1) it would eliminate a government program;

(2) its implementation would not require the creation of new employee positions or the elimination of existing employee positions;

(3) its implementation would not require an increase or decrease in future legislative appropriations to the agency;

(4) it would not require an increase or decrease in fees paid to the agency;

(5) it would not create a new regulation;

(6) it would repeal an existing regulation;

(7) it would not increase or decrease the number of individuals subject to its applicability; and

(8) it would not positively or adversely affect this state's economy.

TAKINGS IMPACT ASSESSMENT

Mr. Pike has determined that a written takings impact assessment is not required under Government Code, §2007.043.

SUBMITTAL OF INFORMATION AND COMMENTS

Any person that is required to comply with the proposed rule or any other interested person may provide information related to the cost, benefit, or effect of the proposed rule, including any applicable data, research, or analysis, or may submit written comments on the amendments to §12.2 and the repeal of §12.5. The information or comments must be submitted to Rule Comments, General Counsel Division, Texas Department of Transportation, 125 East 11th Street, Austin, Texas 78701-2483 or to RuleComments@txdot.gov with the subject line "Landscape Cost Sharing Program". The deadline for receipt of the information or comments is 5:00 p.m. on May 11, 2026. In accordance with Transportation Code, §201.811(a)(5), a person who makes a submission must disclose, in writing with the submission, whether the person does business with the department, may benefit monetarily from the proposed amendments, or is an employee of the department.

43 TAC §12.2

STATUTORY AUTHORITY

The amendments are proposed under Transportation Code, §201.101, which provides the Texas Transportation Commission (commission) with the authority to establish rules for the conduct of the work of the department, and more specifically, Transportation Code, §392.003, which authorizes the commission to establish rules concerning donations for landscape installation and maintenance.

CROSS REFERENCE TO STATUTES IMPLEMENTED BY THIS RULEMAKING

Transportation Code, §392.003.

§12.2. Definitions.

The following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise.

(1) Adopt-a-Highway coordinator--A district employee responsible for coordinating the Adopt-a-Highway program within the district's counties.

(2) Adopted section--A section of state highway right of way or an airport approved for adoption by a group.

(3) Airport--A publicly-owned airport that is included in the Texas Airport System Plan (TASP).

(4) Aviation Division--A division of the department.

(5) Authorized representative--An individual with the authority to sign agreements for the group or donor.

(6) Commission--The Texas Transportation Commission.

(7) Department--The Texas Department of Transportation.

(8) Design fee--Those engineering or project administration costs or expenses identified prior to the construction of a project.

(9) District--One of the 25 geographical areas, managed by a district engineer, in which the department conducts its primary work activities.

(10) District engineer--The chief executive officer in charge of a district, or his or her designee.

(11) Donation--A contribution of anything of value given to the department.

(12) Donor--The private business or civic organization that donates funds or services for the purpose of participating in the Landscape Cost Sharing or Adopt-a-Freeway Programs.

(13) Family member--Any spouse, sibling, parent, stepparent, grandparent, child, stepchild, aunt, uncle or cousin.

(14) Group--An entity that adopts a section of state highway right of way or an airport.

(15) Highway landscaping--A project design intent which attempts to provide primarily for the installation of native, naturalized, or adapted plant material within the project limits.

(16) Local government--A city or county.

(17) Non-cash contributions--The agreed value of labor, equipment, material, or design services furnished by a local government or donor in support of the project.

[~~(18) Pedestrian landscaping--A project design intent which requires the installation of elements oriented primarily to pedestrian usage, including, but not limited to, parking, curbs, sidewalks, pavers, ramps for the disabled, cycling or jogging trails, benches, trash receptacles, or illumination.~~]

(18) [~~(19)~~] Project concept plan--The preliminary sketches, drawings, details, estimates, and specifications required by the department to illustrate the type of project development and establishment proposed, and as required for the department to determine if the proposed project is a highway landscaping project or a pedestrian landscaping project.]

(19) [~~(20)~~] Project design plan--The final drawings, details, specifications, and estimates as may be required by the department to fully control the work to be performed on the project.

(20) [~~(21)~~] Project development--The initial construction and installation of the landscape items in accordance with the project design plan.

(21) [~~(22)~~] Project establishment--The landscape maintenance activities required to ensure the viability, upkeep, and continued effectiveness of the project.

(22) [~~(23)~~] Project maintenance--The activities performed as determined by the program agreement to ensure the establishment, upkeep, and continued effectiveness of the project.

(23) [~~(24)~~] Sponsor--A local government or other public entity that owns or operates an airport.

(24) [~~(25)~~] Vandalism--Significant and deliberate damage or defacement that renders a sign unreadable or unsightly.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on March 25, 2026.

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James Kirk
Senior General Counsel
Texas Department of Transportation
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For further information, please call: (713) 448-0530

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43 TAC §12.5

STATUTORY AUTHORITY

The repeal is proposed under Transportation Code, §201.101, which provides the Texas Transportation Commission (commission) with the authority to establish rules for the conduct of the work of the department, and more specifically, Transportation Code, §392.003, which authorizes the commission to establish rules concerning donations for landscape installation and maintenance.

CROSS REFERENCE TO STATUTES IMPLEMENTED BY THIS RULEMAKING

Transportation Code, §392.003.

§12.5. Landscape Cost Sharing Program.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

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