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 1. ADMINISTRATION

PART 2. TEXAS ETHICS COMMISSION

CHAPTER 18. GENERAL RULES CONCERNING REPORTS

1 TAC §18.9, §18.13

The Texas Ethics Commission (the Commission) proposes amendments to Texas Ethics Commission Rules in Chapter 18 (relating to General Rules Concerning Reports). Specifically, the Commission proposes amendments to §18.9 regarding Corrected/Amended Reports and §18.13 regarding Fine for a Late Report.

The Commission completed its comprehensive rule review of Chapter 18 in 2025. During that review, the change in §18.9 updates an internal rules citation to be accurate and the change in §18.13 removes an incorrect citation to statute.

Amanda Arriaga, General Counsel, has determined that for the first five-year period the proposed amended rules are in effect, there will be no fiscal implications for state or local government as a result of enforcing or administering the proposed amended rules.

The General Counsel has also determined that for each year of the first five years the proposed amended rules are in effect, the public benefit will be consistency and clarity in the Commission's rules regarding reporting requirements. There will not be an effect on small businesses, microbusinesses or rural communities. There is no anticipated economic cost to persons who are required to comply with the proposed amended rules.

The General Counsel has determined that during the first five years that the proposed amended rules are in effect, they 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 in future legislative appropriations to the agency; require an increase or decrease in fees paid to the agency; expand, limit, or repeal an existing regulation; create a new regulation; increase or decrease the number of individuals subject to the rules' applicability; or positively or adversely affect this state's economy.

The Commission invites comments on the proposed amended rules from any member of the public. A written statement should be emailed to public_comment@ethics.state.tx.us, or mailed or delivered to James Tinley, Executive Director, Texas Ethics Commission, P.O. Box 12070, Austin, Texas 78711-2070. A person who wants to offer spoken comments to the Commission concerning the proposed amended rules may do so at any Commission meeting during the agenda item relating to the proposed amended rules. Information concerning the date, time, and location of Commission meetings is available by telephoning (512) 463-5800 or on the Commission's website at www.ethics.state.tx.us.

The amended rules are proposed under Texas Government Code §571.062, which authorizes the Commission to adopt rules to administer Title 15 of the Election Code and Chapter 571 of the Government Code.

The proposed amended rules affect Title 15 of the Election Code and Chapter 571 of the Government Code.

§18.9. Corrected/Amended Reports.

(a) A filer may correct/amend a report filed with the commission or a local filing authority at any time.

(b) A corrected/amended report must clearly identify how the corrected/amended report is different from the report being corrected/amended.

(c) A filer who files a corrected/amended report must submit an affidavit identifying the information that was corrected/amended.

(d) A corrected/amended report filed with the commission after the original report is due is subject to a late fine as provided by §18.13 of this title (relating to Fine for a Late Report).

(e) Subsection (d) does not apply to:

(1) a lobby registration or report, other than an activities report, that is corrected/amended not later than the 14th business day after the date the filer became aware of the errors or omissions in the original registration or report;

(2) a semiannual report that is corrected/amended before the eighth day after the original report was filed;

(3) a semiannual report that is corrected/amended on or after the eighth day after the original report was filed if:

(A) the correction/amendment is made before a sworn complaint is filed with regard to the subject of the correction/amendment; and

(B) the original report was made in good faith and without an intent to mislead or misrepresent the information contained in the report;

(4) an 8-day Pre-election [~~pre-election~~] report that is corrected/amended in accordance with §18.10 of this title (relating to Guidelines for Substantial Compliance for a Corrected/Amended 8-day Pre-election report [~~Report~~]);

(5) a report other than an 8-day Pre-election [~~pre-election~~] report that is corrected/amended not later than the 14th business day after the date the filer learns the report as originally filed is inaccurate or incomplete if:

(A) the errors or omissions were made in good faith; and

(B) the filer files an affidavit stating that the errors or omissions in the original report were made in good faith.

(f) In this section, "8-day Pre-election [~~pre-election~~] report" has the same meaning assigned by §18.10(d)[~~(c)~~] of this title.

(g) Except as provided by subsections (b) and (c) of this section, this section does not apply to a civil penalty assessed through the sworn complaint or facial compliance review process.

§18.13. Fine for a Late Report.

(a) Except as provided by subsection (b) or (c) of this section, the fine is $500 for:

(1) a late report required to be filed with the commission under Election Code chapter 254 or 257, Government Code chapter 305, or Government Code chapter 572; or

(2) a late report filed with the commission under Local Government Code chapter 159, subchapter C.

(b) The fine for a report due eight days before an election is $500 for the first day the report is late and $100 for each day thereafter that the report is late, up to a maximum fine of $10,000.

(c) The fine for the first semiannual report under Section 254.063[~~, 254.123,~~] or 254.153, Election Code, that is required to be filed by a candidate or political committee following the primary or general election is $500 for the first day the report is late and $100 for each day thereafter that the report is late, up to a maximum fine of $10,000.

(d) A fine assessed under this chapter is in addition to any other sanction assessed under other law.

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 October 19, 2026.

TRD-202604434
Amanda Arriaga
General Counsel
Texas Ethics Commission
Earliest possible date of adoption: December 6, 2026
For further information, please call: (512) 463-5800

♦ ♦ ♦

CHAPTER 46. DISCLOSURE OF INTERESTED PARTIES

1 TAC §46.1, §46.5

The Texas Ethics Commission (the Commission) proposes amendments in Texas Ethics Commission Rules in Chapter 46 (relating to Disclosure of Interested Parties). Specifically, the Commission proposes amendments to §46.1 regarding Definitions and §46.5 regarding Disclosure of Interested Parties Form.

This proposal amends the rules regarding the disclosure of interested parties for certain contracts between governmental entities and business entities.

Amanda Arriaga, General Counsel, has determined that for the first five-year period the proposed amended rules are in effect, there will be no fiscal implications for state or local government as a result of enforcing or administering the proposed amended rules.

The General Counsel has also determined that for each year of the first five years the proposed amended rules are in effect, the public benefit will be consistency and clarity in the Commission's rules regarding disclosure of interested parties. There will not be an effect on small businesses, microbusinesses or rural communities. There is no anticipated economic cost to persons who are required to comply with the proposed amended rules.

The General Counsel has determined that during the first five years that the proposed amended rules are in effect, they 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 in future legislative appropriations to the agency; require an increase or decrease in fees paid to the agency; expand, limit, or repeal an existing regulation; create a new regulation; increase or decrease the number of individuals subject to the rules' applicability; or positively or adversely affect this state's economy.

The Commission invites comments on the proposed amended rules from any member of the public. A written statement should be emailed to public_comment@ethics.state.tx.us, or mailed or delivered to James Tinley, Executive Director, Texas Ethics Commission, P.O. Box 12070, Austin, Texas 78711-2070. A person who wants to offer spoken comments to the Commission concerning the proposed amended rules may do so at any Commission meeting during the agenda item relating to the proposed amended rules. Information concerning the date, time, and location of Commission meetings is available by telephoning (512) 463-5800 or on the Commission's website at www.ethics.state.tx.us.

The amended rules are proposed under Texas Government Code §571.062, which authorizes the Commission to adopt rules to administer Title 15 of the Election Code and Chapter 571 of the Government Code.

The proposed amended rules affect Section 2252.908 of the Government Code.

§46.1. Application.

(a) This chapter applies to §2252.908 of the Government Code.

[~~(b) Section 2252.908 of the Government Code applies only to a contract of a governmental entity or state agency entered into after December 31, 2015, that meets either of the following conditions:~~]

[~~(1) the contract requires an action or vote by the governing body of the entity or agency; or~~]

[~~(2) The value of the contract is at least $1 million.~~]

(b) [~~(c)~~] A contract does not require an action or vote by the governing body of a governmental entity or state agency if:

(1) The governing body has legal authority to delegate to its staff the authority to execute the contract;

(2) The governing body has delegated to its staff the authority to execute the contract; and

(3) The governing body does not participate in the selection of the business entity with which the contract is entered into.

§46.5. Disclosure of Interested Parties Form.

(a) A disclosure of interested parties form required by §2252.908 of the Government Code must be filed on an electronic form prescribed by the Commission. [~~commission that contains the following:~~]

[~~(1) The name of the business entity filing the form and the city, state, and country of the business entity's place of business;~~]

[~~(2) The name of the governmental entity or state agency that is a party to the contract for which the form is being filed;~~]

[~~(3) The name of each interested party and the city, state, and country of the place of business of each interested party;~~]

[~~(4) The identification number used by the governmental entity or state agency to track or identify the contract for which the form is being filed and a short description of the services, goods, or other property used by the governmental entity or state agency provided under the contract; and~~]

[~~(5) An indication of whether each interested party has a controlling interest in the business entity, is an intermediary in the contract for which the disclosure is being filed, or both.~~]

(b) The certification of filing and the completed disclosure of interested parties form generated by the Commission's [~~commission~~] electronic filing application must be printed, signed by an authorized agent of the contracting business entity, and submitted to the governmental entity or state agency that is the party to the contract for which the form is being filed.

(c) A governmental entity or state agency that receives a completed disclosure of interested parties form and certification of filing shall notify the Commission [~~commission~~], in an electronic format prescribed by the Commission [~~commission~~], of the receipt of those documents not later than the 30th day after the date the governmental entity or state agency receives the disclosure.

(d) The Commission [~~commission~~] shall make each disclosure of interested parties form filed with the Commission [~~commission~~] under §2252.908(f) of the Government Code available to the public on the Commission's [~~commission~~] Internet website not later than the seventh business day after the date the Commission [~~commission~~] receives the notice required under subsection (c) of this section.

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 October 19, 2026.

TRD-202604437
Amanda Arriaga
General Counsel
Texas Ethics Commission
Earliest possible date of adoption: December 6, 2026
For further information, please call: (512) 463-5800

♦ ♦ ♦

TITLE 16. ECONOMIC REGULATION

PART 8. TEXAS RACING COMMISSION

CHAPTER 303. GENERAL PROVISIONS

SUBCHAPTER A. ORGANIZATION OF THE COMMISSION

16 TAC §§303.7, 303.8, 303.16

The Texas Racing Commission (Commission) proposes to amend 16 TAC §303.7, concerning Employees; §303.8, concerning Executive Secretary; and §303.16, concerning Historically Underutilized Businesses.

Background and Justification

The proposed amendments to §§303.7, 303.8, and 303.16 are part of the Commission's regulatory efficiency review of its rules in 16 TAC Part 8.

The amendment to §303.7 replaces duplicative subsections with a statutory cross-reference and updates references from "executive secretary" to "executive director."

The amendment to §303.8 renames the Executive Secretary position as the Executive Director, condenses subsection (c), and updates all related references.

The amendment to §303.16 updates the citation to the current version of the Comptroller's rules regarding historically underutilized businesses.

Summary of Proposal

The proposed amendments modernize the rules, remove obsolete language, clarify existing Commission procedures, and update citations without creating a new regulatory program.

Fiscal Note

David Holmes, Executive Director, has determined that, for each year of the first five years the amendments will be in effect, there will be no additional estimated cost to state or local government and no estimated loss or increase in revenue to state or local government as a result of enforcing or administering the amendments. The amendments are not expected to create a measurable fiscal effect because they update citations, terminology, document-availability language, or obsolete language.

Public Benefit and Economic Cost

David Holmes, Executive Director, has determined that, for each year of the first five years the proposed amendments will be in effect, the public benefit anticipated as a result of the proposed amendments will be greater clarity, easier public access to current rule requirements, and a more accurate and efficient body of Commission rules. David Holmes has also determined that, for each year of the first five years the proposed amendments will be in effect, there will be no probable economic cost to persons required to comply with the proposed rules because the proposals do not impose new fees, reporting requirements, or substantive compliance obligations.

Small Business, Micro-Business, and Rural Community Impact

The Commission has determined that the proposed amendments will not have an adverse economic effect on small businesses, micro-businesses, or rural communities because the proposals do not impose new costs, new reporting obligations, or new operational requirements. The proposals therefore do not require preparation of a regulatory flexibility analysis.

Local Employment Impact

The Commission has determined that the proposed amendments will not affect a local economy and therefore no local employment impact statement is required.

Government Growth Impact Statement

For each year of the first five years that the proposed amendments will be in effect, the Commission has determined that the proposals: (1) will not create or eliminate a government program; (2) will not require the creation or elimination of employee positions; (3) will not require an increase or decrease in future legislative appropriations to the Commission; (4) will not require an increase or decrease in fees paid to the Commission; (5) will not create a new regulation; (6) will not expand, limit, or repeal an existing regulation except by streamlining, clarifying, or updating the affected rules; (7) will not increase or decrease the number of individuals subject to the rules' applicability; and (8) will not positively or adversely affect this state's economy.

Takings Impact Assessment

The Commission has determined that the proposed amendments do not affect private real property in a manner that would require a takings impact assessment under Government Code, Chapter 2007.

Public Comment

Written comments on the proposals may be submitted to David Holmes, Executive Director, Texas Racing Commission, by email to rulecomments@txrc.texas.gov. The Commission requests comments on the proposed rules from any interested person and also requests information related to the cost, benefit, or effect of the proposed rules, including any applicable data, research, or analysis. Comments must be received no later than 30 days after publication of the proposals in the *Texas Register*.

Statutory Authority for §303.7 - Employees

The amendment is proposed under Texas Occupations Code, §§2022.051, 2022.052, and 2023.004. Section 2023.004 authorizes the Commission to adopt rules for conducting horse racing or greyhound racing in this state that involves wagering and rules for administering the Texas Racing Act in a manner consistent with the Act.

Cross-Reference to Statutes Implemented or Affected

The proposed amendment implements, interprets, or affects Texas Occupations Code, §§2022.051 and 2022.052.

Statutory Authority for §303.8 - Executive Secretary

The amendment is proposed under Texas Occupations Code, §§2022.051, 2022.056, and 2023.004. Section 2023.004 authorizes the Commission to adopt rules for conducting horse racing or greyhound racing in this state that involves wagering and rules for administering the Texas Racing Act in a manner consistent with the Act.

Cross-Reference to Statutes Implemented or Affected

The proposed amendment implements, interprets, or affects Texas Occupations Code, §§2022.051 and 2022.056.

Statutory Authority for §303.16 - Historically Underutilized Businesses

The amendment is proposed under Texas Occupations Code, §2023.004, and Texas Government Code, Chapter 2161. Section 2023.004 authorizes the Commission to adopt rules for conducting horse racing or greyhound racing in this state that involves wagering and rules for administering the Texas Racing Act in a manner consistent with the Act.

Cross-Reference to Statutes Implemented or Affected

The proposed amendment implements, interprets, or affects Texas Government Code, Chapter 2161.

§303.7. Employees.

(a) The commission shall employ an executive director [~~secretary~~] who shall employ other employees necessary to implement, administer, and enforce the Act.

(b) Employment restrictions. The commission and the executive director are subject to the employment restrictions set forth in Tex. Occ. Code Section 2022.052.

[~~(b) The commission and the executive secretary may not employ or continue to employ a person:~~]

[~~(1) who owns or controls a financial interest in a licensee of the commission;~~]

[~~(2) who is employed by or serves as a paid consultant to a licensee of the commission, an official breed registry, or a Texas trade association, as defined by the Act,§2.071(c), in the field of horse or greyhound racing or breeding;~~]

[~~(3) who owns or leases a race animal that participates in pari-mutuel racing in this state; or~~]

[~~(4) who accepts or is entitled to a part of the purse or Texas-bred incentive award to be paid on a greyhound or a horse in a race held in this state.~~]

[~~(c) The commission and the executive secretary may not employ or continue to employ a person who is residentially domiciled with or related within the first degree by affinity or consanguinity to a person who is ineligible for employment under subsection (b) of this section.~~]

(c) [~~(d)~~] The commission shall employ the executive director [~~secretary~~] and other employees in a manner that reflects the diversity of the population in this state with regard to race, color, creed, handicap, sex, religion, age, and national origin.

§303.8. Executive Director [~~Secretary~~].

(a) The executive director [~~secretary~~] serves at the pleasure of the commission on a full-time basis and may not hold other employment. The executive director [~~secretary~~] shall administer the programs of the agency and has all powers necessary for such administration, as well as any specific duties assigned or functions delegated by the commission.

(b) The executive director [~~secretary~~] shall maintain the records of the commission and ensure the agency's compliance with the open records and records retention laws.

(c) The executive director [~~secretary~~] shall establish the organizational structure of the agency, [~~agency's employees, including the establishment of various divisions within the agency. The executive secretary shall~~] prescribe [~~the~~] employee duties and compensation [~~for all other commission employees,~~] subject to Commission budget [~~the commission's~~] approval, and [~~of the budget. The executive secretary shall~~] adopt personnel policies, [~~and other~~] internal operating policies and procedures, and [~~The executive secretary shall develop the~~] departmental budgets [~~to allocate expenditures within the agency based on the approved agency operating budget~~].

(d) The executive director [~~secretary~~] shall prepare and file all agency reports required by law that are retrospective in nature, such as the annual financial report and periodic reports on performance measures.

(e) The executive director [~~secretary~~] shall enforce the Act, the rules, and the orders of the commission, including determining the method of enforcement, the amount of penalties, the issuance of preliminary reports for administrative penalties, and the development of enforcement guidelines for use by the stewards and racing judges.

(f) The executive director [~~secretary~~] shall issue occupational licenses and training facility licenses in accordance with the criteria established in the Act and the rules. The executive director [~~secretary~~] shall review all applications for racetrack licenses and licenses to conduct race meetings and make a report to the commission regarding the issuance of such licenses.

(g) Except as otherwise provided by a rule of the commission, if the commission places a duty on the executive director [~~secretary~~], by rule or otherwise, the executive director [~~secretary~~] may delegate that duty to another employee of the commission.

§303.16. Historically Underutilized Businesses.

Pursuant to Government Code, §2161.003, the Commission adopts by reference the provisions of 34 TAC Chapter 20, Subchapter D, as amended from time to time. [~~§20.11 et seq.~~]

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 October 22, 2026.

TRD-202604469
David Holmes
Executive Director
Texas Racing Commission
Earliest possible date of adoption: December 6, 2026
For further information, please call: (512) 833-6699

♦ ♦ ♦

16 TAC §303.13

The Texas Racing Commission (Commission) proposes the repeal of 16 TAC §303.13, concerning Seal of the Commission.

Background and Justification

The proposed repeal removes a rule that is no longer needed. The rule describes the form of the Commission seal, but the Commission does not need a separate codified rule for that administrative description.

Summary of Proposal

The proposed repeal removes §303.13 in its entirety.

Fiscal Note

David Holmes, Executive Director, has determined that, for each year of the first five years the repeal will be in effect, there will be no additional estimated cost to state or local government and no estimated loss or increase in revenue to state or local government as a result of enforcing or administering the repeal. The repeal may reduce administrative burden by removing an obsolete or unnecessary rule, but any governmental savings cannot be reliably quantified from the information available to the Commission.

Public Benefit and Economic Cost

David Holmes, Executive Director, has determined that, for each year of the first five years the proposed repeal will be in effect, the public benefit anticipated as a result of the proposed repeal will be a more accurate and efficient body of Commission rules by removing an obsolete administrative provision. David Holmes has also determined that, for each year of the first five years the proposed repeal will be in effect, there will be no probable economic cost to persons required to comply with the repeal because the repeal removes an existing rule and does not impose a new fee, reporting requirement, or substantive compliance obligation.

Small Business, Micro-Business, and Rural Community Impact

The Commission has determined that the proposed repeal will not have an adverse economic effect on small businesses, micro-businesses, or rural communities because the repeal does not impose new costs, new reporting obligations, or new operational requirements. The proposed repeal therefore does not require preparation of a regulatory flexibility analysis.

Local Employment Impact

The Commission has determined that the proposed repeal will not affect a local economy and therefore no local employment impact statement is required.

Government Growth Impact Statement

For each year of the first five years that the proposed repeal will be in effect, the Commission has determined that the proposal: (1) will not create or eliminate a government program; (2) will not require the creation or elimination of employee positions; (3) will not require an increase or decrease in future legislative appropriations to the Commission; (4) will not require an increase or decrease in fees paid to the Commission; (5) will not create a new regulation; (6) will repeal an existing regulation that is no longer necessary and will not otherwise expand or limit an existing regulation; (7) will not increase the number of individuals subject to the rule's applicability; and (8) will not positively or adversely affect this state's economy.

Takings Impact Assessment

The Commission has determined that the proposed repeal does not affect private real property in a manner that would require a takings impact assessment under Government Code, Chapter 2007.

Public Comment

Written comments on the proposal may be submitted to David Holmes, Executive Director, Texas Racing Commission, by email to rulecomments@txrc.texas.gov. The Commission requests comments on the proposed repeal from any interested person and also requests information related to the cost, benefit, or effect of the proposed repeal, including any applicable data, research, or analysis. Comments must be received no later than 30 days after publication of the proposal in the *Texas Register*.

Statutory Authority

The repeal is proposed under Texas Occupations Code, §2023.001 and §2023.004. Section 2023.001 authorizes the Commission to license and regulate all aspects of horse racing and greyhound racing in this state, and §2023.004 authorizes the Commission to adopt rules for conducting racing involving wagering and for administering the Texas Racing Act in a manner consistent with the Act.

Cross-Reference to Statutes Implemented or Affected

The proposed repeal implements, interprets, or affects Texas Occupations Code, Chapter 2023.

§303.13. Seal of the Commission.

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 October 22, 2026.

TRD-202604478
David Holmes
Executive Director
Texas Racing Commission
Earliest possible date of adoption: December 6, 2026
For further information, please call: (512) 833-6699

♦ ♦ ♦

SUBCHAPTER B. POWERS AND DUTIES OF THE COMMISSION

16 TAC §§303.32, 303.34, 303.41

The Texas Racing Commission (Commission) proposes to amend 16 TAC §303.32, concerning Power of Entry; §303.34, concerning Certified Documents; and §303.41, concerning Allocation of Race Dates.

Background and Justification

The proposed amendments to §§303.32, 303.34, and 303.41 are part of the Commission's regulatory efficiency review of its rules in 16 TAC Part 8.

The amendment to §303.32 replaces regulatory text with a statutory cross-reference to Tex. Occ. Code §2023.007.

The amendment to §303.34 replaces regulatory text with a statutory cross-reference to Tex. Occ. Code §2023.060.

The amendment to §303.41 removes obsolete greyhound-racing terminology or requirements, reduces the notice period from 30 to 15 days, adds electronic submission language, and updates references from "executive secretary" to "executive director."

Summary of Proposal

The proposed amendments update statutory citations and cross-references, remove obsolete greyhound-racing terminology, update terminology, and make conforming or clarifying changes so the rules reflect the current codification of the Texas Racing Act and related law.

Fiscal Note

David Holmes, Executive Director, has determined that, for each year of the first five years the amendments will be in effect, there will be no additional estimated cost to state or local government and no estimated loss or increase in revenue to state or local government as a result of enforcing or administering the amendments. The amendments are not expected to create a measurable fiscal effect because they update citations, terminology, document-availability language, or obsolete language.

Public Benefit and Economic Cost

David Holmes, Executive Director, has determined that, for each year of the first five years the proposed amendments will be in effect, the public benefit anticipated as a result of the proposed amendments will be greater clarity, easier public access to current rule requirements, and a more accurate and efficient body of Commission rules. David Holmes has also determined that, for each year of the first five years the proposed amendments will be in effect, there will be no probable economic cost to persons required to comply with the proposed rules because the proposals do not impose new fees, reporting requirements, or substantive compliance obligations.

Small Business, Micro-Business, and Rural Community Impact

The Commission has determined that the proposed amendments will not have an adverse economic effect on small businesses, micro-businesses, or rural communities because the proposals do not impose new costs, new reporting obligations, or new operational requirements. The proposals therefore do not require preparation of a regulatory flexibility analysis.

Local Employment Impact

The Commission has determined that the proposed amendments will not affect a local economy and therefore no local employment impact statement is required.

Government Growth Impact Statement

For each year of the first five years that the proposed amendments will be in effect, the Commission has determined that the proposals: (1) will not create or eliminate a government program; (2) will not require the creation or elimination of employee positions; (3) will not require an increase or decrease in future legislative appropriations to the Commission; (4) will not require an increase or decrease in fees paid to the Commission; (5) will not create a new regulation; (6) will not expand, limit, or repeal an existing regulation except by streamlining, clarifying, or updating the affected rules; (7) will not increase or decrease the number of individuals subject to the rules' applicability; and (8) will not positively or adversely affect this state's economy.

Takings Impact Assessment

The Commission has determined that the proposed amendments do not affect private real property in a manner that would require a takings impact assessment under Government Code, Chapter 2007.

Public Comment

Written comments on the proposals may be submitted to David Holmes, Executive Director, Texas Racing Commission, by email to rulecomments@txrc.texas.gov. The Commission requests comments on the proposed rules from any interested person and also requests information related to the cost, benefit, or effect of the proposed rules, including any applicable data, research, or analysis. Comments must be received no later than 30 days after publication of the proposals in the *Texas Register*.

Statutory Authority for §303.32 - Power of Entry

The amendment is proposed under Texas Occupations Code, §§2023.004 and 2023.007. Section 2023.004 authorizes the Commission to adopt rules for conducting horse racing or greyhound racing in this state that involves wagering and rules for administering the Texas Racing Act in a manner consistent with the Act.

Cross-Reference to Statutes Implemented or Affected

The proposed amendment implements Texas Occupations Code, §2023.007.

Statutory Authority for §303.34 - Certified Documents

The amendment is proposed under Texas Occupations Code, §§2023.004 and 2023.060. Section 2023.004 authorizes the Commission to adopt rules for conducting horse racing or greyhound racing in this state that involves wagering and rules for administering the Texas Racing Act in a manner consistent with the Act.

Cross-Reference to Statutes Implemented or Affected

The proposed amendment implements Texas Occupations Code, §2023.060.

Statutory Authority for §303.41 - Allocation of Race Dates

The amendment is proposed under Texas Occupations Code, §§2023.004, 2029.001, 2029.002, and 2029.003. Section 2023.004 authorizes the Commission to adopt rules for conducting horse racing or greyhound racing in this state that involves wagering and rules for administering the Texas Racing Act in a manner consistent with the Act.

Cross-Reference to Statutes Implemented or Affected

The proposed amendment implements, interprets, or affects Texas Occupations Code, Chapter 2029.

§303.32. Power of Entry.

(a) The power of entry for commission members, authorized agents, stewards, judges, and law enforcement officers is as provided in Tex. Occ. Code Section 2023.007. [~~A member or authorized agent of the commission, a steward or judge, a commissioned officer of the Department of Public Safety who is assigned to work on racing investigations, or a peace officer of the local jurisdiction in which the association maintains a place of business may enter an office, a racetrack, any area on association grounds, or any similar area or other place of business of an association at any time to enforce or administer the Act or commission rules.~~]

(b) An association or an officer, employee, or agent of an association may not refuse or deny a request to enter under this section and may not hinder a person who is conducting an investigation under or attempting to enforce or administer the Act or commission rules.

§303.34. Certified Documents.

The commission may require certification of documents as provided in Tex. Occ. Code Section 2023.060. [~~a document required to be filed with the commission to be certified under penalty of perjury.~~]

§303.41. Allocation of Race Dates.

(a) The commission shall allocate live race dates, including charity days, to each association for such time periods and at such racing locations as the commission determines in accordance with the Act and this section.

(b) Upon its own motion or upon the request of any association, the commission may designate an application period during which the commission shall accept applications for race dates.

(c) The commission shall establish the time period or periods for which it will consider granting race dates.

(d) Upon designation by the commission of an application period under this section, the executive director [~~secretary~~] shall publicize that application period to the affected [~~greyhound and~~] horse racing associations at least 15 [~~30~~] days before the closing date of the period.

(e) The application must be on a form prescribed by the commission. After the request is filed, the executive director [~~secretary~~] may require the association to submit additional information if the executive director [~~secretary~~] determines the additional information is necessary to effectively evaluate the request. Applications and supporting documents under this section may be submitted electronically in a manner prescribed by the Commission.

(f) In allocating race dates under this section, the commission may consider the following factors and the degree to which the association's proposed race meeting will serve to nurture, promote, develop, or improve the horse [~~or greyhound~~] industry in Texas:

(1) the association's current ability to pay all fees and other amounts owed to the commission, to the state, and to local governments;

(2) the association's willingness and ability to comply and past performance in complying with the Rules and the Act;

(3) the current condition of the association's racetrack and facilities for patrons, horses, [~~race animals,~~] and occupational licensees;

(4) the anticipated effect of the proposed race meeting on the continuity of racing during the year;

(5) the live race dates requested by other associations licensed to conduct races for the same species of animal;

(6) the anticipated overall economic effect to the state from the race meeting;

(7) the anticipated effect of the race meeting on the [~~greyhound or~~] horse breeding industry in Texas;

(8) the anticipated effect of scheduled race meetings in neighboring race states on the proposed race meeting; and

(9) the anticipated availability of horses [~~race animals~~] for the race meetings.

(g) The commission shall approve the actual days awarded, and the total number of performances. The commission may require a minimum number of races in a race meet.

(h) An association shall conduct pari-mutuel racing on each race date granted under this section, and in accordance with the race date calendar approved by the Commission, unless the association receives the prior approval of the executive director [~~secretary~~].

(i) If circumstances beyond the control of the association prevent the association from conducting a performance, the commission may award a make-up performance.

(j) Change in Race Date Allocation.

(1) The executive director [~~secretary~~] may permit an association to request additional live race dates after its request under this section has been acted on by the commission if the executive director [~~secretary~~] determines that:

(A) the request includes evidence that granting the additional live race dates will enhance the breeding and training industries for horses [~~or greyhounds~~];

(B) the association's failure to request the live race dates initially was not due to the association's neglect; and

(C) if the request duplicates a request by the association that has already been denied by the commission, changed circumstances exist that necessitate additional consideration by the commission.

(2) An association may request a change to the live race dates granted by the commission provided the association obtains the approval of all associations that are affected by the proposed change.

This subsection applies to any proposed change to the number or format of live race dates.

(3) The executive director [~~secretary~~] may approve an association's request to add, delete, or modify live race dates, provided that the request:

(A) does not add any live race dates that are more than fourteen calendar days preceding the start of the Commission-approved race meet or more than fourteen days following the end of the Commission-approved race meet;

(B) is supported in writing by each breed organization affected by the change;

(C) is supported in writing by each association that is affected by the change; and

(D) in the case of a horse racing association, is supported in writing by the horsemen's organization.

(4) In determining whether to approve a request under this subsection, the executive director [~~secretary~~] may consider the effect that approving the request would have on the workload and budget status of the Commission.

(5) For purposes of this subsection, an allocation of live race performances may be changed in the same manner as a change in the allocation of live race dates.

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 October 22, 2026.

TRD-202604470
David Holmes
Executive Director
Texas Racing Commission
Earliest possible date of adoption: December 6, 2026
For further information, please call: (512) 833-6699

♦ ♦ ♦

SUBCHAPTER D. TEXAS BRED INCENTIVE PROGRAMS
DIVISION 2. PROGRAM FOR HORSES

16 TAC §§303.94 - 303.96

The Texas Racing Commission (Commission) proposes to amend 16 TAC §303.94, concerning Arabian Horse Rules; §303.95, concerning Races for Accredited Texas-Bred Horses; and §303.96, concerning Paint Horse Rules.

Background and Justification

The proposed amendments to §§303.94 - 303.96 are part of the Commission's regulatory efficiency review of its rules in 16 TAC Part 8.

The amendment to §303.94 updates outdated office information by replacing mailing-office language with language directing the public to the Commission's website or Commission office.

The amendment to §303.95 adds a statutory cross-reference to Tex. Occ. Code §2030.003 and updates references from "executive secretary" to "executive director."

The amendment to §303.96 updates outdated office information by replacing mailing-office language with language directing the public to the Commission's website or Commission office.

Summary of Proposal

The proposed amendments update document-availability language, add statutory cross-references, and update terminology to reflect current Commission practices and procedures.

Fiscal Note

David Holmes, Executive Director, has determined that, for each year of the first five years the amendments will be in effect, there will be no additional estimated cost to state or local government and no estimated loss or increase in revenue to state or local government as a result of enforcing or administering the amendments. The amendments are not expected to create a measurable fiscal effect because they update citations, terminology, document-availability language, or obsolete language.

Public Benefit and Economic Cost

David Holmes, Executive Director, has determined that, for each year of the first five years the proposed amendments will be in effect, the public benefit anticipated as a result of the proposed amendments will be greater clarity, easier public access to current rule requirements, and a more accurate and efficient body of Commission rules. David Holmes has also determined that, for each year of the first five years the proposed amendments will be in effect, there will be no probable economic cost to persons required to comply with the proposed rules because the proposals do not impose new fees, reporting requirements, or substantive compliance obligations.

Small Business, Micro-Business, and Rural Community Impact

The Commission has determined that the proposed amendments will not have an adverse economic effect on small businesses, micro-businesses, or rural communities because the proposals do not impose new costs, new reporting obligations, or new operational requirements. The proposals therefore do not require preparation of a regulatory flexibility analysis.

Local Employment Impact

The Commission has determined that the proposed amendments will not affect a local economy and therefore no local employment impact statement is required.

Government Growth Impact Statement

For each year of the first five years that the proposed amendments will be in effect, the Commission has determined that the proposals: (1) will not create or eliminate a government program; (2) will not require the creation or elimination of employee positions; (3) will not require an increase or decrease in future legislative appropriations to the Commission; (4) will not require an increase or decrease in fees paid to the Commission; (5) will not create a new regulation; (6) will not expand, limit, or repeal an existing regulation except by streamlining, clarifying, or updating the affected rules; (7) will not increase or decrease the number of individuals subject to the rules' applicability; and (8) will not positively or adversely affect this state's economy.

Takings Impact Assessment

The Commission has determined that the proposed amendments do not affect private real property in a manner that would require a takings impact assessment under Government Code, Chapter 2007.

Public Comment

Written comments on the proposals may be submitted to David Holmes, Executive Director, Texas Racing Commission, by email to rulecomments@txrc.texas.gov. The Commission requests comments on the proposed rules from any interested person and also requests information related to the cost, benefit, or effect of the proposed rules, including any applicable data, research, or analysis. Comments must be received no later than 30 days after publication of the proposals in the *Texas Register*.

Statutory Authority for §303.94 - Arabian Horse Rules

The amendment is proposed under Texas Occupations Code, §§2021.003, 2023.004, and Chapter 2030. Section 2023.004 authorizes the Commission to adopt rules for conducting horse racing in this state that involves wagering and rules for administering the Texas Racing Act in a manner consistent with the Act.

Cross-Reference to Statutes Implemented or Affected

The proposed amendment implements, interprets, or affects Texas Occupations Code, Chapter 2030.

Statutory Authority for §303.95 - Races for Accredited Texas-Bred Horses

The amendment is proposed under Texas Occupations Code, §§2023.004 and 2030.003. Section 2023.004 authorizes the Commission to adopt rules for conducting horse racing or greyhound racing in this state that involves wagering and rules for administering the Texas Racing Act in a manner consistent with the Act.

Cross-Reference to Statutes Implemented or Affected

The proposed amendment implements, interprets, or affects Texas Occupations Code, §2030.003.

Statutory Authority for §303.96 - Paint Horse Rules

The amendment is proposed under Texas Occupations Code, §§2021.003, 2023.004, and Chapter 2030. Section 2023.004 authorizes the Commission to adopt rules for conducting horse racing or greyhound racing in this state that involves wagering and rules for administering the Texas Racing Act in a manner consistent with the Act.

Cross-Reference to Statutes Implemented or Affected

The proposed amendment implements, interprets, or affects Texas Occupations Code, Chapter 2030.

§303.94. Arabian Horse Rules.

The Commission adopts by reference the rules of the Texas Arabian Breeders Association dated March 25, 2006, regarding the administration of the Texas Bred Incentive Program for Arabian horses. Copies of these rules are available on [~~at~~] the Texas Racing Commission website at www.txrc.texas.gov or by contacting the Commission office[~~, P.O. Box 12080, Austin, Texas 78711, or at the Commission office at 8505 Cross Park Dr., #110, Austin, Texas 78754-4594~~].

§303.95. Races for Accredited Texas-Bred Horses.

On each race day, an association shall provide for the running of races [~~at least two races~~] limited to accredited Texas-bred horses as required by Tex. Occ. Code Section 2030.003 [~~, one of which shall be restricted to maidens~~]. An association may defer the running of required Texas-bred races [~~,~~] with the approval of the executive director [~~secretary~~], provided [~~the running of one or both of the two races required by this section for each race day, but the association must provide that~~] the total number of accredited Texas-bred races conducted in a race meeting equals or exceeds [~~is equal to or greater than~~] twice the total number of race dates in the race meeting, as required by law.

§303.96. Paint Horse Rules.

The commission adopts by reference the rules of the Texas Paint Horse Breeders Association dated September 17, 1996, regarding the administration of the Texas Bred Incentive Program for paint horses. Copies of these rules are available on [~~at~~] the Texas Racing Commission website at www.txrc.texas.gov or by contacting the Commission office.[~~, P.O. Box 12080, Austin, Texas 78711, or at the commission office at 8505 Cross Park Drive, #110, Austin, Texas 78754-4594.~~]

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 October 22, 2026.

TRD-202604471
David Holmes
Executive Director
Texas Racing Commission
Earliest possible date of adoption: December 6, 2026
For further information, please call: (512) 833-6699

♦ ♦ ♦

CHAPTER 307. PROCEEDINGS BEFORE THE COMMISSION

SUBCHAPTER B. CONTESTED CASES

16 TAC §307.34

The Texas Racing Commission (Commission) proposes the repeal of 16 TAC §307.34, concerning Exceptions and Replies.

Background and Justification

The proposed repeal removes §307.34 because it will no longer be necessary upon adoption of amendments to §307.36. The repeal avoids duplicative or unnecessary contested-case procedure language and allows the Commission to maintain the procedure in the rule where Commission consideration of proposals for decision is addressed.

Summary of Proposal

The proposed repeal removes §307.34 in its entirety.

Fiscal Note

David Holmes, Executive Director, has determined that, for each year of the first five years the repeal will be in effect, there will be no additional estimated cost to state or local government and no estimated loss or increase in revenue to state or local government as a result of enforcing or administering the repeal. The repeal may reduce administrative burden by removing an obsolete or unnecessary rule, but any governmental savings cannot be reliably quantified from the information available to the Commission.

Public Benefit and Economic Cost

David Holmes, Executive Director, has determined that, for each year of the first five years the proposed repeal will be in effect, the public benefit anticipated as a result of the proposed repeal will be clearer contested-case procedure and reduced duplication in the Commission's procedural rules. David Holmes has

also determined that, for each year of the first five years the proposed repeal will be in effect, there will be no probable economic cost to persons required to comply with the repeal because the repeal removes an existing rule and does not impose a new fee, reporting requirement, or substantive compliance obligation.

Small Business, Micro-Business, and Rural Community Impact

The Commission has determined that the proposed repeal will not have an adverse economic effect on small businesses, micro-businesses, or rural communities because the repeal does not impose new costs, new reporting obligations, or new operational requirements. The proposed repeal therefore does not require preparation of a regulatory flexibility analysis.

Local Employment Impact

The Commission has determined that the proposed repeal will not affect a local economy and therefore no local employment impact statement is required.

Government Growth Impact Statement

For each year of the first five years that the proposed repeal will be in effect, the Commission has determined that the proposal: (1) will not create or eliminate a government program; (2) will not require the creation or elimination of employee positions; (3) will not require an increase or decrease in future legislative appropriations to the Commission; (4) will not require an increase or decrease in fees paid to the Commission; (5) will not create a new regulation; (6) will repeal an existing procedural regulation that will be unnecessary if proposed amendments to §307.36 are adopted and will not otherwise expand an existing regulation; (7) will not increase the number of individuals subject to the rule's applicability; and (8) will not positively or adversely affect this state's economy.

Takings Impact Assessment

The Commission has determined that the proposed repeal does not affect private real property in a manner that would require a takings impact assessment under Government Code, Chapter 2007.

Public Comment

Written comments on the proposal may be submitted to David Holmes, Executive Director, Texas Racing Commission, by email to rulecomments@txrc.texas.gov. The Commission requests comments on the proposed repeal from any interested person and also requests information related to the cost, benefit, or effect of the proposed repeal, including any applicable data, research, or analysis. Comments must be received no later than 30 days after publication of the proposal in the *Texas Register.*

Statutory Authority

The repeal is proposed under Texas Occupations Code, §§2023.004, 2023.106, 2023.108, and 2023.109; and Texas Government Code, Chapter 2001. Section 2023.004 authorizes the Commission to adopt rules for conducting racing involving wagering and for administering the Texas Racing Act; §2023.106 authorizes rules governing the powers and duties of race meeting officials; §§2023.108 and 2023.109 address final decisions and appeals from race-meeting-official decisions; and Government Code, Chapter 2001 governs state-agency contested-case and rulemaking procedure.

Cross-Reference to Statutes Implemented or Affected

The proposed repeal implements, interprets, or affects Texas Occupations Code, Chapter 2023, Subchapter C, and Texas Government Code, Chapter 2001.

§307.34. Exceptions and Replies.

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 October 22, 2026.

TRD-202604479
David Holmes
Executive Director
Texas Racing Commission
Earliest possible date of adoption: December 6, 2026
For further information, please call: (512) 833-6699

♦ ♦ ♦

SUBCHAPTER D. RULEMAKING

16 TAC §307.101, §307.103

The Texas Racing Commission (Commission) proposes to amend 16 TAC §307.101, concerning Purpose; and §307.103, concerning Petition for Adoption of Rules.

Background and Justification

The proposed amendments to §307.101 and §307.103 are part of the Commission's regulatory efficiency review of its rules in 16 TAC Part 8.

The amendment to §307.101 updates an outdated statutory reference from "the Act, §3.02" to the current Occupations Code citation.

The amendment to §307.103 incorporates a statutory reference, replaces obsolete terms, updates references from "executive secretary" to "executive director," and clarifies who may petition for the adoption of rules.

Summary of Proposal

The proposed amendments update statutory citations and cross-references and clarify existing Commission procedures so the rules reflect the current codification of the Texas Racing Act and related law.

Fiscal Note

David Holmes, Executive Director, has determined that, for each year of the first five years the amendments will be in effect, there will be no additional estimated cost to state or local government and no estimated loss or increase in revenue to state or local government as a result of enforcing or administering the amendments. The amendments are not expected to create a measurable fiscal effect because they update citations, terminology, document-availability language, or obsolete language.

Public Benefit and Economic Cost

David Holmes, Executive Director, has determined that, for each year of the first five years the proposed amendments will be in effect, the public benefit anticipated as a result of the proposed amendments will be greater clarity, easier public access to current rule requirements, and a more accurate and efficient body of Commission rules. David Holmes has also determined that, for each year of the first five years the proposed amendments will be

in effect, there will be no probable economic cost to persons required to comply with the proposed rules because the proposals do not impose new fees, reporting requirements, or substantive compliance obligations.

Small Business, Micro-Business, and Rural Community Impact

The Commission has determined that the proposed amendments will not have an adverse economic effect on small businesses, micro-businesses, or rural communities because the proposals do not impose new costs, new reporting obligations, or new operational requirements. The proposals therefore do not require preparation of a regulatory flexibility analysis.

Local Employment Impact

The Commission has determined that the proposed amendments will not affect a local economy and therefore no local employment impact statement is required.

Government Growth Impact Statement

For each year of the first five years that the proposed amendments will be in effect, the Commission has determined that the proposals: (1) will not create or eliminate a government program; (2) will not require the creation or elimination of employee positions; (3) will not require an increase or decrease in future legislative appropriations to the Commission; (4) will not require an increase or decrease in fees paid to the Commission; (5) will not create a new regulation; (6) will not expand, limit, or repeal an existing regulation except by streamlining, clarifying, or updating the affected rules; (7) will not increase or decrease the number of individuals subject to the rules' applicability; and (8) will not positively or adversely affect this state's economy.

Takings Impact Assessment

The Commission has determined that the proposed amendments do not affect private real property in a manner that would require a takings impact assessment under Government Code, Chapter 2007.

Public Comment

Written comments on the proposals may be submitted to David Holmes, Executive Director, Texas Racing Commission, by email to rulecomments@txrc.texas.gov. The Commission requests comments on the proposed rules from any interested person and also requests information related to the cost, benefit, or effect of the proposed rules, including any applicable data, research, or analysis. Comments must be received no later than 30 days after publication of the proposals in the *Texas Register*.

Statutory Authority for §307.101 - Purpose

The amendment is proposed under Texas Occupations Code, §2023.004. Section 2023.004 authorizes the Commission to adopt rules for conducting horse racing or greyhound racing in this state that involves wagering and rules for administering the Texas Racing Act in a manner consistent with the Act.

Cross-Reference to Statutes Implemented or Affected

The proposed amendment implements, interprets, or affects Texas Occupations Code, §2023.004.

Statutory Authority for §307.103 - Petition for Adoption of Rules

The amendment is proposed under Texas Occupations Code, §2023.004, and Texas Government Code, §2001.021. Section 2023.004 authorizes the Commission to adopt rules for conducting horse racing in this state that involves wagering and rules for administering the Texas Racing Act in a manner consistent with the Act.

Cross-Reference to Statutes Implemented or Affected

The proposed amendment implements, interprets, or affects Texas Government Code, §2001.021.

§307.101. Purpose.

As authorized by Tex. Occ. Code Section 2023.004 [~~the Act, §3.02~~] and other law, the Commission shall adopt rules as authorized and required by law which are necessary for the performance of its duties, to establish standards of conduct for its licensees, to ensure strict compliance with and enforcement of the Act, to ensure uniform practice and procedure, and to provide for public participation, notice of agency actions, and a fair and expeditious determination of matters.

§307.103. Petition for Adoption of Rules.

(a) An interested [~~A~~] person, as defined by Tex. Gov't Code Section 2001.021 may request the Commission to adopt, amend, or repeal a rule by filing the request in writing with the executive director [~~secretary~~].

(b) The request must include:

(1) the full name, address, and telephone number of the person making the request;

(2) the text of the new section or amendment, or a reference to the section proposed for repeal, identified in a manner sufficient to show the context of the new section, amendment, or repeal;

(3) a suggested effective date;

(4) reasons for the proposed action in narrative form in sufficient detail to inform the Commission fully of the facts on which the person relies;

(5) the desired effect of the proposed section, amendment, or repeal;

(6) the fiscal implications of the proposed section, amendment, or repeal to the state, to units of local government, to small businesses, and to individuals, if any; and

(7) the signature of the person or a representative of the person.

(c) The executive director [~~secretary~~] shall inform the Chair of the Commission of each petition for rulemaking filed. The Chair shall determine whether to place the petition on the agenda for a Commission meeting for consideration by the Commission.

(d) Not later than the 60th day after the date a petition under this section is submitted, a state agency shall:

(1) deny the petition in writing, stating its reasons for the denial; or

(2) initiate a rulemaking proceeding under this subchapter.

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 October 22, 2026.

TRD-202604472

David Holmes
Executive Director
Texas Racing Commission
Earliest possible date of adoption: December 6, 2026
For further information, please call: (512) 833-6699

♦ ♦ ♦

CHAPTER 309. RACETRACK LICENSES AND OPERATIONS

SUBCHAPTER A. RACETRACK LICENSES

DIVISION 1. GENERAL PROVISIONS

16 TAC §309.5

The Texas Racing Commission (Commission) proposes to amend 16 TAC §309.5, concerning Restrictions on Licensing.

Background and Justification

The proposed amendment to §309.5, concerning Restrictions on Licensing, is part of the Commission's regulatory efficiency review of its rules in 16 TAC Part 8 and adds cross-reference for navigability.

Summary of Proposal

The proposed amendment modernizes the rule, removes obsolete language, and clarifies existing Commission procedures without creating a new regulatory program.

Fiscal Note

David Holmes, Executive Director, has determined that, for each year of the first five years the amendment will be in effect, there will be no additional estimated cost to state or local government and no estimated loss or increase in revenue to state or local government as a result of enforcing or administering the amendment. The amendment is not expected to create a measurable fiscal effect because it updates citations, terminology, document-availability language, or obsolete language.

Public Benefit and Economic Cost

David Holmes, Executive Director, has determined that, for each year of the first five years the proposed amendment will be in effect, the public benefit anticipated as a result of the proposed amendment will be greater clarity, easier public access to current rule requirements, and a more accurate and efficient body of Commission rules. David Holmes has also determined that, for each year of the first five years the proposed amendment will be in effect, there will be no probable economic cost to persons required to comply with the proposed rule because the proposal does not impose a new fee, reporting requirement, or substantive compliance obligation.

Small Business, Micro-Business, and Rural Community Impact

The Commission has determined that the proposed amendment will not have an adverse economic effect on small businesses, micro-businesses, or rural communities because the proposal does not impose new costs, new reporting obligations, or new operational requirements. The proposal therefore does not require preparation of a regulatory flexibility analysis.

Local Employment Impact

The Commission has determined that the proposed amendment will not affect a local economy and therefore no local employment impact statement is required.

Government Growth Impact Statement

For each year of the first five years that the proposed amendment will be in effect, the Commission has determined that the proposal: (1) will not create or eliminate a government program; (2) will not require the creation or elimination of employee positions; (3) will not require an increase or decrease in future legislative appropriations to the Commission; (4) will not require an increase or decrease in fees paid to the Commission; (5) will not create a new regulation; (6) will not expand, limit, or repeal an existing regulation except by streamlining, clarifying, or updating the affected rule; (7) will not increase or decrease the number of individuals subject to the rule's applicability; and (8) will not positively or adversely affect this state's economy.

Takings Impact Assessment

The Commission has determined that the proposed amendment does not affect private real property in a manner that would require a takings impact assessment under Government Code, Chapter 2007.

Public Comment

Written comments on the proposal may be submitted to David Holmes, Executive Director, Texas Racing Commission, by email to rulecomments@txrc.texas.gov. The Commission requests comments on the proposed rule from any interested person and also requests information related to the cost, benefit, or effect of the proposed rule, including any applicable data, research, or analysis. Comments must be received no later than 30 days after publication of the proposal in the *Texas Register*.

Statutory Authority

The amendment is proposed under Texas Occupations Code, §§2023.004, 2025.101, 2025.201, and 2025.202. Section 2023.004 authorizes the Commission to adopt rules for conducting horse racing in this state that involves wagering and rules for administering the Texas Racing Act in a manner consistent with the Act.

Cross-Reference to Statutes Implemented or Affected

The proposed amendment implements, interprets, or affects Texas Occupations Code, Chapter 2025.

§309.5. Restrictions on Licensing.

(a) Lease. If an applicant for a license to operate a racetrack intends to lease the racetrack facility from another person, the Commission may not grant the license if the Commission determines that:

(1) the lessor would not be qualified to be issued a license; or

(2) the lease is a subterfuge to avoid compliance with the Act or a rule of the Commission.

(b) Reasonable Diligence Required. If the Commission determines that an association is failing to exercise reasonable diligence in preparing a racetrack to begin racing on the date approved by the Commission, the Commission may revoke the license and grant the license to another applicant. See also §309.103 of this title (relating to Construction and Renovation of Racetrack Facilities).

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 October 22, 2026.

TRD-202604473
David Holmes
Executive Director
Texas Racing Commission
Earliest possible date of adoption: December 6, 2026
For further information, please call: (512) 833-6699

♦ ♦ ♦

DIVISION 2. ACTIVE AND INACTIVE RACETRACK LICENSES

16 TAC §309.53

The Texas Racing Commission (Commission) proposes to amend 16 TAC §309.53, concerning Ownership and Management Review of Active Racetrack Licenses.

Background and Justification

The proposed amendment to §309.53, concerning Ownership and Management Review of Active Racetrack Licenses, is part of the Commission's regulatory efficiency review of its rules in 16 TAC Part 8. Remove outdated date references; update 'executive secretary' to 'executive director'.

Summary of Proposal

The proposed amendment updates references from executive secretary to executive director and makes related conforming or clarifying changes.

Fiscal Note

David Holmes, Executive Director, has determined that, for each year of the first five years the amendment will be in effect, there will be no additional estimated cost to state or local government and no estimated loss or increase in revenue to state or local government as a result of enforcing or administering the amendment. The amendment may reduce administrative burden by removing obsolete language, duplicative provisions, or outdated procedures, but any governmental savings cannot be reliably quantified from the information in the proposal.

Public Benefit and Economic Cost

David Holmes, Executive Director, has determined that, for each year of the first five years the proposed amendment will be in effect, the public benefit anticipated as a result of the proposed amendment will be greater clarity, easier public access to current rule requirements, and a more accurate and efficient body of Commission rules. David Holmes has also determined that, for each year of the first five years the proposed amendment will be in effect, there will be no probable economic cost to persons required to comply with the proposed rule because the proposal does not impose a new fee, reporting requirement, or substantive compliance obligation.

Small Business, Micro-Business, and Rural Community Impact

The Commission has determined that the proposed amendment will not have an adverse economic effect on small businesses, micro-businesses, or rural communities because the proposal does not impose new costs, new reporting obligations, or new operational requirements. The proposal therefore does not require preparation of a regulatory flexibility analysis.

Local Employment Impact

The Commission has determined that the proposed amendment will not affect a local economy and therefore no local employment impact statement is required.

Government Growth Impact Statement

For each year of the first five years that the proposed amendment will be in effect, the Commission has determined that the proposal: (1) will not create or eliminate a government program; (2) will not require the creation or elimination of employee positions; (3) will not require an increase or decrease in future legislative appropriations to the Commission; (4) will not require an increase or decrease in fees paid to the Commission; (5) will not create a new regulation; (6) will not expand, limit, or repeal an existing regulation except by streamlining, clarifying, or updating the affected rule; (7) will not increase or decrease the number of individuals subject to the rule's applicability; and (8) will not positively or adversely affect this state's economy.

Takings Impact Assessment

The Commission has determined that the proposed amendment does not affect private real property in a manner that would require a takings impact assessment under Government Code, Chapter 2007.

Public Comment

Written comments on the proposal may be submitted to David Holmes, Executive Director, Texas Racing Commission, by email to rulecomments@txrc.texas.gov. The Commission requests comments on the proposed rule from any interested person and also requests information related to the cost, benefit, or effect of the proposed rule, including any applicable data, research, or analysis. Comments must be received no later than 30 days after publication of the proposal in the *Texas Register.*

Statutory Authority

The amendment is proposed under Texas Occupations Code, §§2023.004, 2025.101, and 2025.107. Section 2023.004 authorizes the Commission to adopt rules for conducting horse racing in this state that involves wagering and rules for administering the Texas Racing Act in a manner consistent with the Act.

Cross-Reference to Statutes Implemented or Affected

The proposed amendment implements, interprets, or affects Texas Occupations Code, Chapter 2025.

§309.53. Ownership and Management Review of Active Racetrack Licenses.

(a) Scheduling of review.

(1) Except as otherwise provided in this subsection, an association holding a racetrack license designated as "Active-Operating" or "Active-Other" shall be subject to an ownership and management review as scheduled by the Commission [~~in calendar year 2013~~].

(2) An association that undergoes or has undergone an ownership and management review in connection with a change of controlling interest in [~~during 2008 or~~] any [~~subsequent~~] year shall be subject to review under this section in the year beginning five years after the Commission approved the change in controlling interest.

(3) An association which receives its original license at any time [~~during or after calendar 2013~~] shall be subject to review under this section in the year beginning five years after its date of original licensure.

(b) Submission requirements. Not later than June 30 of the year in which an association is subject to review, the association shall submit to the Commission:

(1) copies of its current management, concession, and totalisator contracts;

(2) a copy of its current security plan;

(3) for each person owning an interest of at least five percent of the association and for each officer, director, or management committee member who is not currently licensed as an Association Officer or Director by the Commission:

(A) a completed background information form and written authorization for the Commission and the Department of Public Safety to conduct any investigation deemed necessary; and

(B) a set of fingerprints on a form prescribed by the Department of Public Safety, or if the person already has a set of fingerprints classified and on file with the Department of Public Safety, authorization to resubmit those fingerprints to the Federal Bureau of Investigation and the Department of Public Safety for investigation;

(4) a review fee of $5,000, to be held by the Commission in the state treasury in a suspense account until the review is complete or transferred to the Texas Racing Commission Fund as costs are incurred; and

(5) any other information required by the Commission.

(c) Commission review.

(1) The executive director [~~secretary~~] shall prepare a report for the Commission's review summarizing:

(A) the information provided by the association under this section or under §309.152 of this title (relating to Records);

(B) the Commission's inspection reports from the prior five years;

(C) the results of any inspections or investigations conducted by the Commission as part of the review; and

(D) any other information relevant to the ownership or management of the association.

(2) The executive director [~~secretary~~] will separately provide to the Commission the results of any background investigations conducted by the Department of Public Safety.

(3) At the conclusion of each review, the Commission:

(A) may take any action authorized under the Act or the Rules; and

(B) shall schedule the next ownership and management review of the association's license.

(d) Reconciliation of costs. Upon completion of the review, the Commission shall determine its total cost of processing the review, including its administrative costs and any investigative costs that are reimbursable to the Department of Public Safety.

(1) If the actual cost to the Commission of processing the review exceeds the amount of the review fee paid by the association, the Commission shall bill the association for any additional amount, to be paid not later than 30 days after receipt of a bill from the Commission.

(2) If the actual cost to the Commission of processing the review is less than the amount of the review fee paid by the association, the Commission shall refund the excess not later than 30 business days after the Commission's decision on the review becomes final.

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 October 22, 2026.

TRD-202604474
David Holmes
Executive Director
Texas Racing Commission
Earliest possible date of adoption: December 6, 2026
For further information, please call: (512) 833-6699

♦ ♦ ♦

CHAPTER 313. OFFICIALS AND RULES OF HORSE RACING

SUBCHAPTER A. OFFICIALS

DIVISION 2. DUTIES OF STEWARDS

16 TAC §313.25

The Texas Racing Commission (Commission) proposes to amend 16 TAC §313.25, concerning Steward's List.

Background and Justification

Horses can be placed on the steward's list and declared ineligible to start in a race on the basis of poor performance or behavior on the racetrack that endangers the health or safety of other participants in racing. The proposed amendment addresses the eligibility of a horse to start in a race after a positive drug result involving a Class 1 or Class 2 substance, or when the horse is placed on a steward's list or an equivalent list, in another racing jurisdiction. The amendment is intended to protect the integrity of racing, the wagering public, and racing participants by making a horse ineligible to start while a serious medication or drug case is pending adjudication when the positive drug result is supported by a corresponding laboratory data packet, or when the horse is placed on a steward's list or an equivalent list, in another racing jurisdiction.

Summary of Proposal

The proposed amendment adds a new ground for placing a horse on the steward's list when there is a positive drug result with a corresponding laboratory data packet indicating a Class 1 or Class 2 substance, or when the horse is placed on a steward's list or an equivalent list, in another racing jurisdiction until the case is adjudicated or when the horse is removed from the list of the other racing jurisdiction, respectively. The amendment also clarifies that the workout or schooling-race procedure for removal from the steward's list applies to horses listed for poor or inconsistent performance or unsafe racetrack behavior.

Fiscal Note

David Holmes, Executive Director, has determined that, for each year of the first five years the amendment will be in effect, there will be no additional estimated cost to state or local government and no estimated loss or increase in revenue to state or local government as a result of enforcing or administering the amendment. The amendment can be administered through the existing steward's list process and existing Commission drug-testing and adjudication procedures.

Public Benefit and Economic Cost

David Holmes, Executive Director, has determined that, for each year of the first five years the proposed amendment will be in effect, the public benefit anticipated as a result of the proposed amendment will be increased protection of the integrity of racing, improved confidence in the fairness of pari-mutuel racing, and clearer treatment of serious positive drug results pending adjudication. David Holmes has also determined that the proposed amendment does not impose a new fee or general reporting requirement. The amendment may have case-specific economic consequences for persons associated with a horse placed on the steward's list under the new ground because the horse will be ineligible to start until the case is adjudicated; however, any such effect depends on the facts of an individual positive-result case and cannot be uniformly estimated.

Small Business, Micro-Business, and Rural Community Impact

The Commission has determined that the proposed amendment will not have an adverse economic effect on small businesses, micro-businesses, or rural communities as a class because the proposal does not impose general compliance costs, new fees, or new reporting obligations. Any economic effect on a small or micro-business would be case-specific and limited to circumstances in which a horse is placed on the steward's list after a positive drug result with a corresponding laboratory data packet indicating a Class 1 or Class 2 substance. The proposal therefore does not require preparation of a regulatory flexibility analysis.

Local Employment Impact

The Commission has determined that the proposed amendment will not affect a local economy and therefore no local employment impact statement is required.

Government Growth Impact Statement

For each year of the first five years that the proposed amendment will be in effect, the Commission has determined that the proposal: (1) will not create or eliminate a government program; (2) will not require the creation or elimination of employee positions; (3) will not require an increase or decrease in future legislative appropriations to the Commission; (4) will not require an increase or decrease in fees paid to the Commission; (5) will not create a new government program; (6) will expand an existing regulation by adding a ground for placing a horse on the steward's list based on a Class 1 or Class 2 positive drug result supported by a corresponding laboratory data packet; (7) will not increase or decrease the number of individuals subject to the rule's applicability except as applied in individual positive-result cases; and (8) will not positively or adversely affect this state's economy.

Takings Impact Assessment

The Commission has determined that the proposed amendment does not affect private real property in a manner that would require a takings impact assessment under Government Code, Chapter 2007.

Public Comment

Written comments on the proposal may be submitted to David Holmes, Executive Director, Texas Racing Commission, by email to rulecomments@txrc.texas.gov. The Commission requests comments on the proposed rule from any interested person and also requests information related to the cost, benefit, or effect of the proposed rule, including any applicable data, research, or analysis. Comments must be received no later than 30 days after publication of the proposal in the *Texas Register*.

Statutory Authority

The amendment is proposed under Texas Occupations Code, §§2023.001, 2023.002, 2023.004, and 2023.106. Section 2023.001 authorizes the Commission to license and regulate all aspects of horse racing in this state. Section 2023.002 requires the Commission to regulate and supervise each race meeting in this state that involves wagering on the result of horse racing. Section 2023.004 authorizes the Commission to adopt rules for conducting horse racing in this state that involves wagering and rules for administering the Texas Racing Act in a manner consistent with the Act. Section 2023.106 requires the Commission to adopt rules specifying the powers and duties of race meeting officials, including stewards.

Cross-Reference to Statutes Implemented or Affected

The proposed amendment implements, interprets, or affects Texas Occupations Code, §§2023.001, 2023.002, 2023.004, and 2023.106.

§313.25. Steward's List.

(a) The stewards shall maintain a steward's list of the horses that are ineligible to start in a race because of:

(1) poor or inconsistent performance; [~~or~~]

(2) behavior on the racetrack that endangers the health or safety of other participants in racing;[~~.~~]

(3) positive drug result with corresponding lab data packet indicating a Class 1 or 2 substance; or

(4) placement of the horse on the steward's list, or an equivalent list, in another racing jurisdiction.

(b) To be removed from the steward's list for poor or inconsistent performance or behavior on the racetrack that endangers the health or safety of other participants in racing, a horse must, during a workout or schooling race, perform in a manner satisfactory to show the stewards that the horse:

(1) will no longer pose a threat to other participants; and

(2) will be competitive in a race in which it participates.

(c) A horse placed on the steward's list under subsection (a)(3) of this section must remain on the list until the matter giving rise to the positive drug result has been fully adjudicated. Upon full adjudication, the stewards shall remove the horse from the steward's list unless another basis exists for maintaining the horse on the list.

(d) A horse placed on the steward's list under subsection (a)(4) of this section must remain on the list until the horse is removed from the steward's list of the other racing jurisdiction. Upon removal by the other racing jurisdiction, the stewards shall remove the horse from the steward's list unless another basis exists for maintaining the horse on the list.

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 October 22, 2026.

TRD-202604475

David Holmes
Executive Director
Texas Racing Commission
Earliest possible date of adoption: December 6, 2026
For further information, please call: (512) 833-6699

♦ ♦ ♦

CHAPTER 321. PARI-MUTUEL WAGERING
SUBCHAPTER B. TOTALISATOR REQUIREMENTS AND OPERATING ENVIRONMENT

16 TAC §321.101

The Texas Racing Commission (Commission) proposes to amend 16 TAC §321.101, concerning Totalisator Requirements and Operating Environment.

Background and Justification

The proposed amendment to §321.101, concerning Totalisator Requirements and Operating Environment, is part of the Commission's regulatory efficiency review of its rules in 16 TAC Part 8. Removes specific date reference and updates outdated office information.

Summary of Proposal

The proposed amendment updates the rule's availability-of-documents language by replacing outdated mailing-office language with language directing the public to the Commission's website or the Commission office.

Fiscal Note

David Holmes, Executive Director, has determined that, for each year of the first five years the amendment will be in effect, there will be no additional estimated cost to state or local government and no estimated loss or increase in revenue to state or local government as a result of enforcing or administering the amendment. The amendment is not expected to create a measurable fiscal effect because it updates citations, terminology, document-availability language, or obsolete language.

Public Benefit and Economic Cost

David Holmes, Executive Director, has determined that, for each year of the first five years the proposed amendment will be in effect, the public benefit anticipated as a result of the proposed amendment will be greater clarity, easier public access to current rule requirements, and a more accurate and efficient body of Commission rules. David Holmes has also determined that, for each year of the first five years the proposed amendment will be in effect, there will be no probable economic cost to persons required to comply with the proposed rule because the proposal does not impose a new fee, reporting requirement, or substantive compliance obligation.

Small Business, Micro-Business, and Rural Community Impact

The Commission has determined that the proposed amendment will not have an adverse economic effect on small businesses, micro-businesses, or rural communities because the proposal does not impose new costs, new reporting obligations, or new operational requirements. The proposal therefore does not require preparation of a regulatory flexibility analysis.

Local Employment Impact

The Commission has determined that the proposed amendment will not affect a local economy and therefore no local employment impact statement is required.

Government Growth Impact Statement

For each year of the first five years that the proposed amendment will be in effect, the Commission has determined that the proposal: (1) will not create or eliminate a government program; (2) will not require the creation or elimination of employee positions; (3) will not require an increase or decrease in future legislative appropriations to the Commission; (4) will not require an increase or decrease in fees paid to the Commission; (5) will not create a new regulation; (6) will not expand, limit, or repeal an existing regulation except by streamlining, clarifying, or updating the affected rule; (7) will not increase or decrease the number of individuals subject to the rule's applicability; and (8) will not positively or adversely affect this state's economy.

Takings Impact Assessment

The Commission has determined that the proposed amendment does not affect private real property in a manner that would require a takings impact assessment under Government Code, Chapter 2007.

Public Comment

Written comments on the proposal may be submitted to David Holmes, Executive Director, Texas Racing Commission, by email to rulecomments@txrc.texas.gov. The Commission requests comments on the proposed rule from any interested person and also requests information related to the cost, benefit, or effect of the proposed rule, including any applicable data, research, or analysis. Comments must be received no later than 30 days after publication of the proposal in the *Texas Register*.

Statutory Authority

The amendment is proposed under Texas Occupations Code, §§2023.004, 2024.003, and Chapter 2027. Section 2023.004 authorizes the Commission to adopt rules for conducting horse racing in this state that involves wagering and rules for administering the Texas Racing Act in a manner consistent with the Act.

Cross-Reference to Statutes Implemented or Affected

The proposed amendment implements, interprets, or affects Texas Occupations Code, Chapters 2024 and 2027.

§321.101. Totalisator Requirements and Operating Environment.

Each association shall conduct wagering using a pari-mutuel system approved by the Commission. The pari-mutuel system shall operate in accordance with applicable laws and rules and meet the latest technical standards set forth in the Association of Racing Commissioners International Totalisator Technical Standards [~~as amended in December 2020 and any subsequent amendments~~]. Copies of the Totalisator Technical Standards are available on the Texas Racing Commission website at www.txrc.texas.gov or by contacting the Commission office [~~at the Texas Racing Commission, Austin Headquarters office~~].

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 October 22, 2026.

TRD-202604476

David Holmes
Executive Director
Texas Racing Commission
Earliest possible date of adoption: December 6, 2026
For further information, please call: (512) 833-6699

♦ ♦ ♦

SUBCHAPTER C. REGULATION OF LIVE WAGERING
DIVISION 2. DISTRIBUTION OF PARI-MUTUEL POOLS

16 TAC §321.311, §321.315

The Texas Racing Commission (Commission) proposes the amendment of 16 TAC §321.311, concerning Twin Trifecta; and §321.315, concerning Tri-Superfecta.

Background and Justification

The proposed amendments to §321.311 and §321.315 update how these wagers operate to comply with the Association of Racing Commissioners International Model Rules of Racing, as amended in August 2026. The amendments reference the updated standards governing the operation and placement of these exotic wagers.

Summary of Proposal

The proposed amendments reference the Association of Racing Commissioners International Model Rules of Racing, as amended in August 2026, regarding how Twin Trifecta and Tri-Superfecta wagers must be placed and processed.

Fiscal Note

David Holmes, Executive Director, has determined that, for each year of the first five years the amendments will be in effect, there will be no additional estimated cost to state or local government and no estimated loss or increase in revenue to state or local government as a result of enforcing or administering the amendments. The amendments may reduce administrative burden by using straightforward language to refer to the standards governing the operation and placement of these exotic wagers, removing any further unnecessary language.

Public Benefit and Economic Cost

David Holmes, Executive Director, has determined that, for each year of the first five years the proposed amendments will be in effect, the public benefit anticipated as a result of the proposed amendments will be updating the operation and placement of these exotic-wager rules. David Holmes also determined that, for each of the first five years the proposed amendments will be in effect, there will be no probable economic cost to persons required to comply with the amendments because the amendments only reference the updated standards that govern these wagers.

Small Business, Micro-Business, and Rural Community Impact

The Commission has determined that the proposed amendments will not have an adverse economic effect on small businesses, micro-businesses, or rural communities because the amendments do not impose new costs, new reporting obligations, or new operational requirements. The proposed amendments therefore do not require preparation of a regulatory flexibility analysis.

Local Employment Impact

The Commission has determined that the proposed amendments will not affect a local economy and therefore no local employment impact statement is required.

Government Growth Impact Statement

For each year of the first five years that the proposed amendments will be in effect, the Commission has determined that the proposals: (1) will not create or eliminate a government program; (2) will not require the creation or elimination of employee positions; (3) will not require an increase or decrease in future legislative appropriations to the Commission; (4) will not require an increase or decrease in fees paid to the Commission; (5) will not create a new regulation; (6) will update the placement and operation regulations for Twin Trifecta and Tri-Superfecta wagers and will not otherwise expand existing regulations; (7) will not increase the number of individuals subject to the rules' applicability; and (8) will not positively or adversely affect this state's economy.

Takings Impact Assessment

The Commission has determined that the proposed amendments do not affect private real property in a manner that would require a takings impact assessment under Government Code, Chapter 2007.

Public Comment

Written comments on the proposals may be submitted to David Holmes, Executive Director, Texas Racing Commission, by email to rulecomments@txrc.texas.gov. The Commission requests comments on the proposed amendments from any interested person and also requests information related to the cost, benefit, or effect of the proposed amendments, including any applicable data, research, or analysis. Comments must be received no later than 30 days after publication of the proposals in the *Texas Register*.

Statutory Authority for §321.311 - Twin Trifecta and §321.315 - Tri-Superfecta

The amendment is proposed under Texas Occupations Code, §§2023.002, 2023.004, and 2027.001. Section 2023.002 requires the Commission to regulate and supervise each race meeting in this state that involves wagering; §2023.004 authorizes Commission rules for conducting racing involving wagering and administering the Texas Racing Act; and §2027.001 requires the Commission to adopt written and updated rules regulating pari-mutuel wagering.

Cross-Reference to Statutes Implemented or Affected

The proposed amendment implements, interprets, or affects Texas Occupations Code, Chapter 2027.

§321.311. Twin Trifecta.

[~~(a)~~] The twin trifecta wager shall be placed and processed in accordance with applicable laws and rules and meet the technical standards set forth in the Association of Racing Commissioners International's Model Rules of Racing as amended in August 2026. [~~is not a parlay and has no connection with or relation to the win, place, and show pools shown on the tote board. All tickets on the twin trifecta shall be calculated as a separate pool.~~]

[~~(b) The twin trifecta requires selection of the first three finishers, in exact order, in each of two designated races. Each winning ticket for the first twin trifecta race must be exchanged for a free ticket on the second twin trifecta race to remain eligible for the second-half~~

twin trifecta pool. Such tickets may be exchanged only at designated attended ticket windows before the start of the second twin trifecta race. Winning first-half twin trifecta wagers will receive both an exchange and a monetary payout. Both of the designated twin trifecta races shall be included in one twin trifecta pool.]

[(c) After wagering closes for the first-half of the twin trifecta and commissions have been deducted from the pool, the net pool shall then be divided equally into two separate pools: the first-half twin trifecta pool and the second-half twin trifecta pool.]

[(d) In the first twin trifecta race only, the first-half twin trifecta pool shall be distributed according to the following precedence, based on the official order of finish for the first twin trifecta race:]

[(1) As a single price pool to those whose combination finished in correct sequence as the first three betting interests; but if there are no such wagers, then]

[(2) As a single price pool to those whose combination included, in correct sequence, the first two betting interests; but if there are no such wagers, then]

[(3) As a single price pool to those whose combination included, in correct sequence, the first and third betting interests; but if there are no such wagers, then]

[(4) As a single price pool to those whose combination correctly selected the first-place betting interest; but if there are no such wagers, then]

[(5) As a single price pool to those whose combination included, in correct sequence, the second and third betting interests; but if there are no such wagers, then]

[(6) As a single price pool to those whose combination correctly selected the second-place betting interest; but if there are no such wagers, then]

[(7) As a single price pool to those whose combination correctly selected the third-place betting interest; but if there are no such wagers, then]

[(8) The twin trifecta pool shall be canceled and the entire pool shall be carried forward to the next consecutive performance and combined with that performance's second-half twin trifecta pool.]

[(e) If no first-half twin trifecta ticket selects the first three finishers of that contest in exact order, no exchange tickets for the second-half twin trifecta pool will be issued. In such case, the second-half twin trifecta pool shall be carried forward and added to any existing twin trifecta carryover pool.]

[(f) A first-half twin trifecta ticket that selects the first three finishers of that race in exact order may be exchanged for a ticket selecting the first three finishers of the second twin trifecta race. The second-half twin trifecta pool shall be distributed according to the following precedence, based on the official order of finish for the second twin trifecta race:]

[(1) As a single price pool, including the carryover, to those whose combination finished in correct sequence as the first three betting interests; but if there are no such wagers, then]

[(2) The second-half twin trifecta pool for that race shall be carried forward to the next consecutive performance and shall be combined with that performance's second-half twin trifecta pool.]

[(g) If a winning first-half twin trifecta ticket is not presented for cashing and exchange before the start of the second twin trifecta race, the ticket holder may still collect the monetary value associated with the first-half twin trifecta pool but forfeits all rights to a distribution of the second-half twin trifecta pool.]

[(h) If fewer than six horses of different betting interests leave the paddock for the first twin trifecta race or fewer than six greyhounds start the first twin trifecta race, the twin trifecta shall be canceled and the entire twin trifecta pool for that performance shall be refunded.]

[(i) Before the running of the first twin trifecta race, if due to a scratch the second twin trifecta race has fewer than six horses of different betting interests or fewer than six greyhounds of different betting interests, the twin trifecta shall be canceled and the entire twin trifecta pool for that performance shall be refunded.]

[(j) After the running of the first twin trifecta race, if due to a late scratch, the second twin trifecta race has fewer than six animals of different betting interests that start, all exchange tickets and outstanding first-half winning tickets shall be entitled to the second-half twin trifecta pool for that performance as a single price pool, but not the twin trifecta carryover.]

[(k) Coupled entries and mutuel fields may not be permitted in a twin trifecta horse race unless there are six or more betting interests. Coupled entries or mutuel fields in a twin trifecta race shall race as a single betting interest for the purpose of mutuel pool calculations and payout to the public.]

[(l) If a betting interest in the first twin trifecta race is scratched, all twin trifecta wagers including the scratched betting interest shall be refunded.]

[(m) If a betting interest in the second twin trifecta race is scratched, an announcement concerning the scratch shall be made and a reasonable amount of time shall be provided to exchange tickets that include the scratched betting interest.]

[(n) If there is a dead heat or multiple dead heats in either the first or second twin trifecta race, all twin trifecta wagers selecting the correct order of finish, counting a betting interest involved in a dead heat as finishing in any dead-heated position, shall be a winner. In the case of a dead heat occurring in:]

[(1) the first twin trifecta race, the payout shall be calculated as a profit split; and]

[(2) the second twin trifecta race, the payout shall be calculated as a single price pool.]

[(o) If either of the twin trifecta races are canceled before the first twin trifecta race, or if the first twin trifecta contest is declared "no contest", the entire twin trifecta pool for that performance shall be refunded and the second-half pool shall be canceled.]

[(p) If the second twin trifecta race is canceled or declared "no contest" on a:]

[(1) non-designated mandatory payout performance, all exchange tickets and outstanding first-half winning twin trifecta tickets shall be entitled to the net twin trifecta pool for that performance as a single price pool, but not the twin trifecta carryover. If there are no such tickets, the net twin trifecta pool shall be carried forward to the next consecutive performance and combined with that performance's second-half twin trifecta pool; and]

[(2) designated mandatory payout performance, all exchange tickets and outstanding first-half winning twin trifecta tickets as determined by subsection (s) of this section shall be entitled to the net twin trifecta pool for that performance and the twin trifecta carryover as a single price pool.]

[(q) An association may file a written request for permission to distribute the twin trifecta carryover on a specific performance with the executive secretary. The request must contain justification for the distribution, an explanation of the benefit to be derived, and the intended date and performance for the distribution.]

[(r) Notwithstanding subsections (f) and (t) of this section, on the last performance of a race meeting or on a designated mandatory payout performance, the following precedence will be followed in determining winning tickets for the second-half of the twin trifecta:]

[(1) As a single price pool to those whose combination finished in correct sequence as the first three betting interests; but if there are no such wagers, then]

[(2) As a single price pool to those whose combination included, in correct sequence, the first two betting interests; but if there are no such wagers, then]

[(3) As a single price pool to those whose combination included, in correct sequence, the first and third betting interests; but if there are no such wagers, then]

[(4) As a single price pool to those whose combination correctly selected the first-place betting interest; but if there are no such wagers, then]

[(5) As a single price pool to those whose combination included, in correct sequence, the second and third betting interests; but if there are no such wagers, then]

[(6) As a single price pool to those whose combination correctly selected the second-place betting interest; but if there are no such wagers, then]

[(7) As a single price pool to those whose combination correctly selected the third-place betting interest; but if there are no such wagers, then]

[(8) As a single price pool to holders of valid exchange tickets; but if there are no such persons, then]

[(9) As a single price pool to holders of outstanding first-half winning tickets.]

[(s) Distribution on Mandatory Payout.]

[(1) Notwithstanding subsections (e) and (t) of this section, on the last performance of a race meeting or a designated mandatory payout performance, exchange tickets will be issued for those combinations selecting the greatest number of betting interests in the first twin trifecta race in the following order:]

[(A) As a single price pool to those whose combination finished in correct sequence as the first three betting interests; but if there are no such wagers, then]

[(B) As a single price pool to those whose combination included, in correct sequence, the first two betting interests; but if there are no such wagers, then]

[(C) As a single price pool to those whose combination included, in correct sequence, the first and third betting interests; but if there are no such wagers, then]

[(D) As a single price pool to those whose combination correctly selected the first-place betting interest; but if there are no such wagers, then]

[(E) As a single price pool to those whose combination included, in correct sequence, the second and third betting interests; but if there are no such wagers, then]

[(F) As a single price pool to those whose combination correctly selected the second-place betting interest; but if there are no such wagers, then]

[(G) As a single price pool to those whose combination correctly selected the third-place betting interest.]

[(2) Notwithstanding subsections (e) and (t) of this section, on the last performance of a race meeting or a designated mandatory payout performance, if there are no wagers selecting the finishers in the order described in Paragraph (1) of this subsection and there is a carryover, all first-half tickets are considered winners and the twin trifecta pool for that performance and any existing twin trifecta carryover shall be distributed equally among them.]

[(3) Notwithstanding subsections (e) and (t) of this section, on the last performance of a race meeting or a designated mandatory payout performance, if there are no wagers selecting the finishers in the order described in Paragraph (1) of this subsection and there is no carryover, the twin trifecta shall be canceled and the entire twin trifecta pool shall be refunded.]

[(t) Cap on Carryover.]

[(1) The twin trifecta carryover may be capped at a designated level approved by the executive secretary so that if, at the close of any performance, the amount in the twin trifecta carryover equals or exceeds the designated cap, the twin trifecta carryover will be frozen until it is won or distributed under other provisions of this section. After the twin trifecta carryover is frozen, 50% of the twin trifecta pool shall be distributed to winners of the first twin trifecta race using the following precedence:]

[(A) As a single price pool to those whose combination finished in correct sequence as the first three betting interests; but if there are no such wagers, then]

[(B) As a single price pool to those whose combination included, in correct sequence, the first two betting interests; but if there are no such wagers, then]

[(C) As a single price pool to those whose combination included, in correct sequence, the first and third betting interests; but if there are no such wagers, then]

[(D) As a single price pool to those whose combination correctly selected the first-place betting interest; but if there are no such wagers, then]

[(E) As a single price pool to those whose combination included, in correct sequence, the second and third betting interests; but if there are no such wagers, then]

[(F) As a single price pool to those whose combination correctly selected the second-place betting interest; but if there are no such wagers, then]

[(G) As a single price pool to those whose combination correctly selected the third-place betting interest; but if there are no such wagers, then]

[(H) the twin trifecta shall be canceled and the entire twin trifecta pool for that performance shall be refunded.]

[(2) After the twin trifecta carryover is frozen, exchange tickets will be issued for the second half of the twin trifecta pool, in accordance with paragraph (1) of this subsection. The second-half twin trifecta pool shall be distributed according to the following precedence, based upon the official order of finish for the second twin trifecta race:]

[(A) As a single price pool, including the carryover, to those who received an exchange ticket under paragraph (1)(A) of this

subsection, and whose combination finished in correct sequence as the first three betting interests; but if there are no such tickets, then]

[(B) Fifty percent (50%) of the twin trifecta pool for that performance only shall be distributed in the following precedence:]

[(i) As a single price pool to those whose combination included, in correct sequence, the first three betting interest; but if there are no such wagers, then]

[(ii) As a single price pool to those whose combination included, in correct sequence, the first two betting interests; but if there are no such wagers, then]

[(iii) As a single price pool to those whose combination included, in correct sequence, the first and third betting interests; but if there are no such wagers, then]

[(iv) As a single price pool to those whose combination correctly selected the first-place betting interest; but if there are no such wagers, then]

[(v) As a single price pool to those whose combination included, in correct sequence, the second and third betting interests; but if there are no such wagers, then]

[(vi) As a single price pool to those whose combination correctly selected the second-place betting interest; but if there are no such wagers, then]

[(vii) As a single price pool to those whose combination correctly selected the third-place betting interest; but if there are no such wagers, then]

[(viii) As a single price pool to holders of valid exchange tickets; but if there are no such persons, then]

[(ix) As a single price pool to holders of outstanding first-half winning tickets.]

[(u) The twin trifecta carryover shall be designated for mandatory payout on a specified date and performance only under the following circumstances:]

[(1) on written approval from the executive secretary as provided in subsection (q) of this section;]

[(2) on written approval from the executive secretary when there is a change in the carryover cap or when the twin trifecta is discontinued; and]

[(3) on the closing performance of the race meeting.]

[(v) If the twin trifecta carryover must be held over to the corresponding twin trifecta pool of a subsequent race meeting, the carryover shall be deposited in an interest-bearing account approved by the executive secretary. The twin trifecta carryover plus accrued interest shall be carried over and added to the second-half twin trifecta pool of the following race meeting on a date and performance designated by the executive secretary.]

[(w) The association must obtain written approval from the executive secretary concerning the scheduling and the amount of the cap to be set on the carryover. Any changes to the approved twin trifecta format require prior approval from the executive secretary.]

§321.315. Tri-Superfecta.

[(a)] The tri-superfecta shall be placed and processed in accordance with applicable laws and rules and meet the technical standards set forth in the Association of Racing Commissioners International's Model Rules of Racing as amended in August 2026. [is not a parlay and has no connection with or relation to the win, place, or show pools on the tote board. All tickets on the tri-superfecta shall be calculated as a separate pool.]

[(b) The tri-superfecta requires selection of the first three finishers, in exact order, in the first of two designated races. Each winning ticket for the first tri-superfecta race must be exchanged for a free ticket on the second tri-superfecta race to remain eligible for the second-half tri-superfecta pool. Such tickets may be exchanged only at designated attended ticket windows before the start of the second tri-superfecta race. Winning first-half tri-superfecta wagers will receive both an exchange and a monetary payout. Both of the designated tri-superfecta races shall be included in one tri-superfecta pool.]

[(c) After wagering closes for the first-half of the tri-superfecta and commissions have been deducted from the pool, the net pool shall then be divided equally into two separate pools: the first-half tri-superfecta pool and the second-half tri-superfecta pool.]

[(d) In the first tri-superfecta race only, the first-half tri-superfecta pool shall be distributed according to the following precedence, based upon the official order of finish for the first tri-superfecta race:]

[(1) As a single price pool to those whose combination finished in correct sequence as the first three betting interests; but if there are no such wagers, then]

[(2) As a single price pool to those whose combination included, in correct sequence, the first two betting interests; but if there are no such wagers, then]

[(3) As a single price pool to those whose combination included, in correct sequence, the first and third betting interests; but if there are no such wagers, then]

[(4) As a single price pool to those whose combination correctly selected the first-place betting interest; but if there are no such wagers, then]

[(5) As a single price pool to those whose combination included, in correct sequence, the second and third betting interests; but if there are no such wagers, then]

[(6) As a single price pool to those whose combination correctly selected the second-place betting interest; but if there are no such wagers, then]

[(7) As a single price pool to those whose combination correctly selected the third-place betting interest; but if there are no such wagers, then]

[(8) The tri-superfecta pool shall be canceled and the entire pool shall be carried forward to the next consecutive performance and combined with that performance's second-half tri-superfecta pool.]

[(e) If no first-half tri-superfecta ticket selects the first three finishers of that race in exact order, no exchange tickets for the second-half tri-superfecta pool will be issued and the second-half tri-superfecta pool shall be carried over and added to the tri-superfecta carryover pool.]

[(f) A first-half tri-superfecta ticket that selects the first three finishers of that race in exact order may be exchanged for a ticket selecting the first four finishers of the second tri-superfecta race. The second-half tri-superfecta pool shall be distributed according to the following precedence, based upon the official order of finish for the second tri-superfecta race:]

[(1) As a single price pool, including the carryover, to those whose combination finished in correct sequence as the first four betting interests; but if there are no such tickets, then]

[(2) The second-half tri-superfecta pool for that contest shall be carried forward to the next consecutive performance and shall be combined with that performance's second-half tri-superfecta pool.]

[(g) If a winning first-half tri-superfecta ticket is not presented for cashing and exchange before the start of the second tri-superfecta race, the ticket holder may collect the monetary value associated with the first-half tri-superfecta pool but forfeits all right to a distribution of the second-half tri-superfecta pool.]

[(h) If fewer than six horses of different betting interests leave the paddock for the first tri-superfecta race or fewer than six greyhounds start the first tri-superfecta race, the tri-superfecta contest shall be canceled and the entire tri-superfecta pool for that performance shall be refunded.]

[(i) Before the running of the first tri-superfecta race, if due to a scratch the second tri-superfecta race has fewer than seven horses of different betting interests or fewer than seven greyhounds of different betting interests, the tri-superfecta shall be canceled and the entire tri-superfecta pool for that performance shall be refunded.]

[(j) After the running of the first tri-superfecta race, if due to a late scratch, the second tri-superfecta race has fewer than seven horses of different betting interests that start or has fewer than seven greyhounds of different betting interests that start, all exchange tickets and outstanding first-half winning tickets shall be entitled to the second-half tri-superfecta pool for that performance as a single price pool, but not the tri-superfecta carryover.]

[(k) Coupled entries and mutuel fields may not be permitted in a tri-superfecta horse contest unless there are six or more betting interests and seven or more betting interests in the second race. Coupled entries or mutuel fields in a tri-superfecta race shall race as a single betting interest for the purpose of mutuel pool calculations and payout to the public.]

[(l) If a betting interest in the first tri-superfecta race is scratched, all tri-superfecta wagers including the scratched betting interest shall be refunded.]

[(m) If a betting interest in the second tri-superfecta race is scratched, an announcement concerning the scratch shall be made and a reasonable amount of time shall be provided to exchange tickets that include the scratched betting interest.]

[(n) If there is a dead heat or multiple dead heats in either the first or second tri-superfecta race, all tri-superfecta wagers selecting the correct order of finish, counting a betting interest involved in a dead heat as finishing in any dead-heated position, shall be a winner. In the case of a dead heat occurring in:]

[(1) the first tri-superfecta race, the payout shall be calculated as a profit split; and]

[(2) the second tri-superfecta race, the payout shall be calculated as a single price pool.]

[(o) If either of the tri-superfecta races are canceled prior to the first tri-superfecta race, or if the first tri-superfecta race is declared "no contest", the entire tri-superfecta pool for that performance shall be refunded and the second-half pool shall be canceled.]

[(p) If the second tri-superfecta race is canceled or declared "no contest" on a:]

[(1) non-designated mandatory payout performance, all exchange tickets and outstanding first-half winning tri-superfecta tickets shall be entitled to the net tri-superfecta pool for that performance as a single price pool, but not the tri-superfecta carryover. If there are no such tickets, the net tri-superfecta pool shall be carried over to the next consecutive performance and combined with that performance's second-half tri-superfecta pool; and]

[(2) designated mandatory payout performance, all exchange tickets and outstanding first-half winning tri-superfecta tickets as determined by subsection (s) of this section shall be entitled to the net tri-superfecta pool for that performance and the tri-superfecta carryover as a single price pool.]

[(q) An association may file a written request for permission to distribute the tri-superfecta carryover on a specific performance with the executive secretary. The request must contain justification for the distribution, an explanation of the benefit to be derived, and the intended date and performance for the distribution.]

[(r) Distribution on Mandatory Payout.]

[(1) Notwithstanding subsections (e) and (t) of this section, on the last performance of a race meet or a designated mandatory payout performance, exchange tickets will be issued for those combinations selecting the greatest number of betting interests in the first tri-superfecta race in the following order:]

[(A) As a single price pool to those whose combination finished in correct sequence as the first three betting interests; but if there are no such wagers, then]

[(B) As a single price pool to those whose combination included, in correct sequence, the first two betting interests; but if there are no such wagers, then]

[(C) As a single price pool to those whose combination included, in correct sequence, the first and third betting interests; but if there are no such wagers, then]

[(D) As a single price pool to those whose combination correctly selected the first-place betting interest; but if there are no such wagers, then]

[(E) As a single price pool to those whose combination included, in correct sequence, the second and third betting interests; but if there are no such wagers, then]

[(F) As a single price pool to those whose combination correctly selected the second-place betting interest; but if there are no such wagers, then]

[(G) As a single price pool to those whose combination correctly selected the third-place betting interest.]

[(2) Notwithstanding subsections (e) and (t) of this section, on the last performance of a race meeting or a designated mandatory payout performance, if there are no wagers selecting the finishers in the order described in paragraph (1) of this subsection and there is a carryover, all first-half tickets are considered winners and the tri-superfecta pool for that performance and the tri-superfecta carryover shall be distributed equally among them.]

[(3) Notwithstanding subsections (e) and (t) of this section, on the last performance of a race meeting or a designated mandatory payout performance, if there are no wagers selecting the finishers in the order described in paragraph (1) of this subsection and there is no carryover, the tri-superfecta shall be canceled and the entire tri-superfecta pool shall be refunded.]

[(s) Notwithstanding subsections (f) and (t) of this section, on the last performance of a race meeting or on a designated mandatory payout performance, the following precedence will be followed in determining winning tickets for the second-half of the tri-superfecta:]

[(1) As a single price pool to those whose combination finished in correct sequence as the first four betting interests; but if there are no such wagers, then]

[(2) As a single price pool to those whose combination included, in correct sequence, the first three betting interests; but if there are no such wagers, then]

[(3) As a single price pool to those whose combination included, in correct sequence, the first two betting interests; but if there are no such wagers, then]

[(4) As a single price pool to those whose combination correctly selected the first-place betting interest; but if there are no such wagers, then]

[(5) As a single price pool to those whose combination included, in correct sequence, the second-place betting interests; but if there are no such wagers, then]

[(6) As a single price pool to those whose combination correctly selected the third-place betting interest; but if there are no such wagers, then]

[(7) As a single price pool to those whose combination correctly selected the fourth-place betting interest; but if there are no such wagers, then]

[(8) As a single price pool to holders of valid exchange tickets; but if there are no such persons, then]

[(9) As a single price pool to holders of outstanding first-half winning tickets.]

[(t) Cap on Carryover.]

[(1) The tri-superfecta carryover may be capped at a designated level approved by the executive secretary so that if, at the close of any performance, the amount in the tri-superfecta carryover equals or exceeds the designated cap, the tri-superfecta carryover will be frozen until it is won or distributed under other provisions of this section. After the tri-superfecta carryover is frozen, 50% of the tri-superfecta pool shall be distributed to winners of the first tri-superfecta contest using the following precedence:]

[(A) As a single price pool to those whose combination finished in correct sequence as the first three betting interests; but if there are no such wagers, then]

[(B) As a single price pool to those whose combination included, in correct sequence, the first two betting interests; but if there are no such wagers, then]

[(C) As a single price pool to those whose combination included, in correct sequence, the first and third betting interests; but if there are no such wagers, then]

[(D) As a single price pool to those whose combination correctly selected the first-place betting interest; but if there are no such wagers, then]

[(E) As a single price pool to those whose combination included, in correct sequence, the second and third betting interests; but if there are no such wagers, then]

[(F) As a single price pool to those whose combination correctly selected the second-place betting interest; but if there are no such wagers, then]

[(G) As a single price pool to those whose combination correctly selected the third-place betting interest; but if there are no such wagers, then]

[(H) the tri-superfecta shall be canceled and the entire tri-superfecta pool for that performance shall be refunded.]

[(2) After the tri-superfecta carryover is frozen, exchange tickets will be issued for winning tickets of the first half of the tri-superfecta pool as determined in paragraph (1) of this subsection. The second-half tri-superfecta pool shall be distributed according to the following precedence, based upon the official order of finish for the second tri-superfecta race:]

[(A) As a single price pool, including the carryover, to those who received an exchange ticket under paragraph (1)(A) of this subsection, and whose combination finished in correct sequence as the first four betting interests of the second leg of the tri-superfecta pool; but if there are no such tickets, then]

[(B) Fifty percent (50%) of the tri-superfecta pool for that performance only shall be distributed in the following precedence:]

[(i) As a single price pool to those whose combination include, in correct sequence, the first four betting interests of the second leg of the tri-superfecta pool; but if there are no such wagers, then]

[(ii) As a single price pool to those whose combination included, in correct sequence, the first three betting interests; but if there are no such wagers, then]

[(iii) As a single price pool to those whose combination included, in correct sequence, the first two betting interests; but if there are no such wagers, then]

[(iv) As a single price pool to those whose combination correctly selected the first-place betting interest; but if there are no such wagers, then]

[(v) As a single price pool to those whose combination included, in correct sequence, the second-place betting interests; but if there are no such wagers, then]

[(vi) As a single price pool to those whose combination correctly selected the third-place betting interest; but if there are no such wagers, then]

[(vii) As a single price pool to those whose combination correctly selected the fourth-place betting interest; but if there are no such wagers, then]

[(viii) As a single price pool to holders of valid exchange tickets; but if there are no such persons, then]

[(ix) As a single price pool to holders of outstanding first-half winning tickets.]

[(u) The tri-superfecta carryover shall be designated for mandatory payout on a specified date and performance only under the following circumstances:]

[(1) on written approval from the executive secretary as provided in subsection (q) of this section;]

[(2) on written approval from the executive secretary when there is a change in the carryover cap or when the tri-superfecta is discontinued; and]

[(3) on the last performance of the race meeting.]

[(v) If the tri-superfecta carryover must be held over to the corresponding tri-superfecta pool of a subsequent race meeting, the carryover shall be deposited in an interest-bearing account approved by the executive secretary. The tri-superfecta carryover plus accrued interest shall be carried forward and added to the second-half tri-superfecta

~~pool of the following race meeting on a date and performance designated by the executive secretary.~~]

[~~(w) The association must obtain written approval from the executive secretary concerning the scheduling and the amount of the cap to be set on the carryover. Any changes to the approved tri-superfecta format require prior approval from the executive secretary.~~]

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 October 22, 2026.

TRD-202604477
David Holmes
Executive Director
Texas Racing Commission
Earliest possible date of adoption: December 6, 2026
For further information, please call: (512) 833-6699

♦ ♦ ♦

TITLE 19. EDUCATION

PART 2. TEXAS EDUCATION AGENCY

CHAPTER 74. CURRICULUM REQUIREMENTS

SUBCHAPTER BB. COMMISSIONER'S RULES CONCERNING HIGH SCHOOL GRADUATION

19 TAC §74.1035

The Texas Education Agency (TEA) proposes new §74.1035, concerning the applied sciences pathway program. The proposed new section would implement requirements of House Bill (HB) 20, 89th Texas Legislature, Regular Session, 2025, by defining key terms, outlining program approval and course substitution processes, and identifying program participation requirements.

BACKGROUND INFORMATION AND JUSTIFICATION: HB 20, 89th Texas Legislature, Regular Session, 2025, established the applied sciences pathway program in Texas Education Code (TEC), §29.914, to provide eligible students with opportunities to concurrently earn high school diplomas and certificates from institutions of higher education (IHEs).

Proposed new §74.1035 would implement TEC, §29.914, by establishing requirements for the approval and operation of applied sciences pathway programs. The proposal would identify the purpose of the program; define key terms; establish requirements for program approval, including identification of the industries for which an applied sciences pathway program may be established; establish procedures for course substitution approval; identify student participation requirements; and establish related timelines.

FISCAL IMPACT: Shannon Trejo, deputy commissioner of school programs, 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 create a new regulation by establishing a rule related to implementation of the applied sciences pathway program, in accordance with HB 20, 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 expand, 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: Dr. Trejo 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 providing school districts, open-enrollment charter schools, and IHEs with additional guidance and clarification related to implementation of an applied sciences pathway program.

DATA AND REPORTING IMPACT: The proposed new rule would have a data and reporting impact. Each school district and open-enrollment charter school wishing to implement an applied sciences pathway program would be required to obtain approval for and report participation in an applied sciences pathway program.

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 November 6, 2026, and ends December 7, 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 November 6, 2026. A form for submitting public comments is available on the TEA website at https://tea.texas.gov/laws-and-rules/commissioner-rules-tac/proposed-commissioner-education-rules.

STATUTORY AUTHORITY. The new section is proposed under TEC, §29.914, as added by HB 20, 89th Texas Legislature, Regular Session, 2025, which requires the commissioner of education to establish and administer the applied sciences pathway program to provide opportunities for students to concurrently earn high school diplomas and certificates from IHEs and requires the commissioner to adopt rules as necessary to administer the program.

CROSS REFERENCE TO STATUTE. The new section implements TEC, §29.914, as added by HB 20, 89th Texas Legislature, Regular Session, 2025.

§74.1035. Applied Sciences Pathway Program.

(a) Purpose. The applied sciences pathway program is established under Texas Education Code (TEC), §29.914, to provide opportunities for eligible students to concurrently earn high school diplomas and certificates from institutions of higher education (IHEs).

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

(1) Career and technical education course--A course that is included in a college-level certificate program in an industry approved to be included in an applied sciences pathway program.

(2) Certificate program--A grouping of subject-matter courses which, when satisfactorily completed by a student, will entitle the student to a certificate; a workforce program designed for entry-level employment or for upgrading skills and knowledge within an occupation that serves as a building block and/or exit point for an applied associate degree program as defined in §9.1(7) of this title (relating to Definitions), or documentary evidence, other than a degree, of completion of a course of study at the postsecondary level.

(c) Program approval.

(1) To be approved as an applied sciences pathway program, the program must prepare students for successful job placement in one of the following industries:

(A) automotive technology;

(B) aviation maintenance;

(C) carpentry;

(D) construction management and inspection;

(E) diesel and heavy equipment;

(F) electrical;

(G) electronics technology;

(H) heating, ventilation, and air conditioning;

(I) industrial maintenance and processes;

(J) information technology and cybersecurity;

(K) manufacturing and industrial technology;

(L) masonry;

(M) mechanical and aerospace engineering;

(N) oil and gas exploration and production;

(O) plumbing and pipe fitting;

(P) refining and chemical processes;

(Q) robotics and automation;

(R) sheet metal;

(S) transportation, distribution, and logistics; or

(T) welding.

(2) A school system shall obtain approval from the Texas Education Agency (TEA) before offering an applied sciences pathway program.

(3) Prior to applying for approval, a school system shall establish a formal memorandum of understanding with its partner IHE that clearly delineates the roles and responsibilities of each partner for implementation of the applied sciences pathway program.

(4) Each spring, the program application, timeline, and eligibility criteria shall be made publicly available on the TEA website.

(5) TEA will notify each applicant of program approval or denial no later than July 31st following receipt of a complete application.

(6) TEA shall deny applications that:

(A) are submitted after the published deadline;

(B) are incomplete; or

(C) fail to meet the eligibility criteria.

(7) Once approved, a program shall retain approval status through the end of the 2030-2031 school year.

(d) Course substitutions.

(1) As part of the application process, a school system or its partner IHE shall request approval if the program wishes to substitute credit earned through successful completion of a college-level career and technical education (CTE) course offered by the partnering IHE for a credit required for high school graduation under TEC, §28.025. A request shall be submitted for each college-level CTE course proposed for substitution.

(2) The commissioner of education may approve a course substitution if TEA determines that the college-level CTE course substantially covers the Texas Essential Knowledge and Skills (TEKS) for the course being substituted.

(3) A request for course substitution must include documentation demonstrating the alignment between the college-level course and the TEKS for the course being substituted in a format prescribed by TEA.

(4) A CTE course approved for substitution under this subsection may not satisfy more than one credit toward graduation requirements or be counted in more than one subject area.

(5) Before enrolling a student in a college-level CTE course approved under this section, a school system shall determine that the student possesses the prerequisite knowledge and skills necessary to be successful in the course. A student is not required to complete a high school prerequisite course if the school system determines that the student has demonstrated the necessary prerequisite knowledge and skills.

(e) Program participation requirements.

(1) Before a student may earn substitute credit in English language arts, mathematics, science, or social studies, the student must

perform satisfactorily on each applicable end-of-course assessment required for prior courses in the corresponding subject area within the school system's prescribed course sequence.

(2) For purposes of TEC, §48.005, time spent by a student participating in the program shall be included in the minimum instructional hours required for the student to be considered in average daily attendance.

(3) Participation in the program does not prohibit a student from enrolling in CTE courses or dual credit courses before entering the program.

(f) Expiration. This section expires September 1, 2031.

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 October 26, 2026.

TRD-202604519
Cristina De La Fuente-Valadez
Director, Rulemaking
Texas Education Agency
Earliest possible date of adoption: December 6, 2026
For further information, please call: (512) 475-1497

♦ ♦ ♦

TITLE 34. PUBLIC FINANCE

PART 3. TEACHER RETIREMENT SYSTEM OF TEXAS

CHAPTER 21. PURPOSE AND SCOPE

34 TAC §21.1

The Teacher Retirement System of Texas (TRS) proposes to repeal §21.1 (relating to Statement of Policy) of Chapter 21 (relating to Purpose and Scope) in Title 34, Part 3, of the Texas Administrative Code.

BACKGROUND AND PURPOSE

In TRS' adopted four-year rule review published in the *Texas Register* (51 TexReg 5257) on August 7, 2026 , TRS identified §21.1 as a rule for future repeal because §21.1 provides no substantive requirements that require a rule. For this reason, TRS now proposes to repeal this rule. Further, because §21.1 is the only rule in Chapter 21 of TRS rules, TRS also proposes the repeal of Chapter 21 (relating to Purpose and Scope).

FISCAL NOTE

Don Green, TRS Chief Financial Officer, has determined that for each year of the first five years the proposed repeal will be in effect, there will be no foreseeable fiscal implications to state or local governments as a result of administering the proposed repeal.

PUBLIC COST/BENEFIT

For each year of the first five years the proposed repeal will be in effect, Mr. Green also has determined that the public benefit anticipated as a result of adopting the proposed repeal will be to remove unnecessary rules from the Texas Administrative Code. Mr. Green has also determined that that there is no economic cost to entities or persons required to comply with the proposed repeal. The repeal imposes no new requirements.

ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS

TRS has determined that there will be no adverse economic effect on small businesses, micro-businesses, or rural communities as a result of the proposed repeal. Therefore, neither an economic impact statement nor a regulatory flexibility analysis is required under Government Code §2006.002.

LOCAL EMPLOYMENT IMPACT STATEMENT

TRS has determined that there will be no effect on local employment because of the proposed repeal. Therefore, no local employment impact statement is required under Government Code §2001.022.

GOVERNMENT GROWTH IMPACT STATEMENT

TRS has determined that for the first five years the proposed repeal will be in effect the proposed repeal 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 TRS; will not require an increase or decrease in fees paid to TRS; will not create a new regulation; will not expand or limit an existing regulation; will not increase or decrease the number of individuals subject to the rule's applicability; and will not affect the state's economy.

The proposed repeal does, however, repeal §21.1.

TAKINGS IMPACT ASSESSMENT

TRS has determined that since there are no private real property interests affected by the proposed repeal, a takings impact assessment is not required under Government Code §2007.043.

COSTS TO REGULATED PERSONS

TRS has determined that Government Code §2001.0045 does not apply to the proposed repeal because the proposed repeal does not impose a cost on regulated persons.

COMMENTS

TRS requests written comments regarding the proposed repeal. The comments may include information related to the costs, benefits, or effects of the proposed repeal, including any applicable data, research, or analysis, from any person required to comply with the proposed repeal or any other interested person.

Comments and information regarding the cost, benefit, and effect of the proposed repeal may be submitted in writing to Brian Guthrie, TRS Executive Director, P.O. Box 149676, Austin, Texas 78714-0185. Written comments and cost/benefit information must be received by TRS no later than 30 days after publication of this notice in the *Texas Register.*

STATUTORY AUTHORITY

The repeal of §21.1 is proposed under the authority of Government Code §825.102 which authorizes the TRS Board of Trustees to adopt rules for the eligibility for membership, the administration of the funds of the retirement system, and the transaction of business of the board.

CROSS-REFERENCE TO STATUTE

The proposed repeal of §21.1 implements Government Code §825.102.

§21.1. Statement of Policy.

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 October 26, 2026.

TRD-202604504
Don Green
Chief Financial Officer
Teacher Retirement System of Texas
Earliest possible date of adoption: December 6, 2026
For further information, please call: (512) 542-6506



CHAPTER 25. MEMBERSHIP CREDIT

The Teacher Retirement System of Texas (TRS) proposes amendments to the following rules in Chapter 25 (relating to Membership Credit) in Part 3 of Title 34 of the Texas Administrative Code: §25.66 of Subchapter E (relating to Military Service); §25.75 of Subchapter F (relating to Veteran's (USERRA) Service Credit); and §25.82 of Subchapter G (relating to Purchase of Credit for Out-of-State Service). In addition, TRS proposes to repeal the following rules in Chapter 25 in Part 3 of Title 34 of the Texas Administrative Code: §25.34 of Subchapter B (relating to Compensation); §25.84, and §25.86 of Subchapter G (relating to Purchase of Credit for Out-of-State Service); and §25.163 of Subchapter L (relating to Other Special Service Credit).

BACKGROUND AND PURPOSE

TRS proposes to amend three rules (§§25.66, 25.75, and 25.82) and repeal four rules (§§25.34, 25.84, 25.86, and 25.163) in Chapter 25 of TRS rules to implement the determinations made by the TRS Board of Trustees in TRS's recently adopted rule review (51 TexReg 5257). The proposed amendments are all either minor, nonsubstantive revisions or removals of obsolete provisions. The rules proposed for repeal are no longer necessary for administration of the TRS pension plan.

SECTION-BY-SECTION SUMMARY

TRS proposes to repeal §25.34 (relating to Membership Waiting Period) because the original reason for adopting this rule, the 90-day membership waiting period that existed from September 1, 2003 to September 1, 2005, has expired in law. Members who were subject to this rule may still purchase this service under §25.164 of this title (relating to Credit for Service During School Year With Membership Waiting Period).

The proposed amendments to §25.66 (relating to Application for Military Credit) and §25.75 (relating to Application for Eligible Active Military Duty under the Uniformed Services Employment and Re-Employment Rights Act) are both minor updates to TRS' street address.

The proposed amendments to §25.82 (relating to Cost) deletes subsections (f) and (g) from the rule because the time period to purchase credit for out-of-state service at the fee costs listed has expired.

TRS proposes to repeal §25.84 (relating to Crediting Fees) because the requirement for fees no longer exists in law.

TRS proposes to repeal §25.86 (relating to Computing Average Compensation) because the requirements of this rule already exist in Government Code §823.403.

TRS proposes to repeal §25.163 (relating to Service Credit Purchase) because this rule no longer has substantive requirements, and the original reason for adopting the rule, purchasing service credit under former Government Code §823.405, no longer exists as that statute has been repealed.

FISCAL NOTE

Don Green, TRS Chief Financial Officer, has determined that for each year of the first five years the proposed amended and repealed rules will be in effect, there will be no foreseeable fiscal implications for state or local governments as a result of administering the proposed amended and repealed rules.

PUBLIC COST/BENEFIT

For each year of the first five years the proposed amended and repealed rules will be in effect, Mr. Green also has determined that the public benefit anticipated as a result of adopting the proposed amended and repealed rules will be to remove unnecessary rules and requirements from the Texas Administrative Code and to update outdated references. In addition, Mr. Green has determined that the public will benefit from increased readability of the proposed amended rules.

Mr. Green has also determined that the public will incur no new costs as a result of complying with the proposed amended and repealed rules.

ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS

TRS has determined that there will be no adverse economic effect on small businesses, micro-businesses, or rural communities as a result of the proposed amended and repealed rules. Therefore, neither an economic impact statement nor a regulatory flexibility analysis is required under Government Code §2006.002.

LOCAL EMPLOYMENT IMPACT STATEMENT

TRS has determined that there will be no effect on local employment because of the proposed amended and repealed rules. Therefore, no local employment impact statement is required under Government Code §2001.022.

GOVERNMENT GROWTH IMPACT STATEMENT

TRS has determined that for the first five years the proposed amended and repealed rules are in effect, the proposed amended and repealed rules will not create or eliminate any TRS programs; will not require the creation or elimination of employee positions; will not require an increase or decrease in future legislative appropriations to TRS; will not eliminate any fees currently paid to TRS; will not create a new regulation; will not expand or limit an existing regulation; will not increase or decrease the number of individuals subject to the rules' applicability; and will not affect the state's economy.

The proposed repealed rules, however, will repeal four current TRS rules: §§25.34, 25.84, 25.86, and 25.163.

TAKINGS IMPACT ASSESSMENT

TRS has determined that there are no private real property interests affected by the proposed amended and repealed rules, therefore, a takings impact assessment is not required under Government Code §2007.043.

COSTS TO REGULATED PERSONS

TRS has determined that Government Code §2001.0045 does not apply to the proposed amended and repealed rules because the proposed amended and repealed rules do not impose a cost on regulated persons.

COMMENTS

TRS requests written comments regarding the proposed amendments and repeals. The comments may include information related to the costs, benefits, or effects of the proposed amendments and repeals, including any applicable data, research, or analysis, from any person required to comply with the proposed amendments or repeals or any other interested person.

Comments and information regarding the cost, benefit, and effect of the proposed amendments or repeals may be submitted in writing to Brian Guthrie, TRS Executive Director, P.O. Box 149676, Austin, Texas 78714-0185. Written comments and cost/benefit information must be received by TRS no later than 30 days after publication of this notice in the *Texas Register*.

SUBCHAPTER B. COMPENSATION

34 TAC §25.34

STATUTORY AUTHORITY

The proposed repealed rule is proposed under the authority of Government Code §825.102, which authorizes the board of trustees to adopt rules for the transaction of the business of the board.

CROSS-REFERENCE TO STATUTE

The proposed repealed rule affects the following statutes: Government Code §825.4041, which relates to employer payments.

§25.34. Membership Waiting 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.

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

TRD-202604505
Don Green
Chief Financial Officer
Teacher Retirement System of Texas
Earliest possible date of adoption: December 6, 2026
For further information, please call: (512) 542-6506

♦ ♦ ♦

SUBCHAPTER E. MILITARY SERVICE

34 TAC §25.66

STATUTORY AUTHORITY

The amendments to §25.66 are proposed under the authority of Government Code §825.102, which authorizes the board of trustees to adopt rules for the transaction of the business of the board.

CROSS-REFERENCE TO STATUTE

The proposed amendments to §25.66 affect the following statutes: Chapter 823, Subchapter D, of the Government Code, which provides for the establishment of military service credit with TRS.

§25.66. Application for Military Credit.

Members desiring to make deposits for military credit should request in writing to be billed for the cost of the credit. Requests should be addressed to Teacher Retirement System of Texas, P.O. Box 149676, Austin, Texas 78714-0185 [~~1000 Red River Street, Austin, Texas 78701-2698~~]. Included with the request should be a certified or legible unaltered copy or copies of the member's military service record showing the dates and nature of the member's active duty. The system may require the member to make available to it such other evidence as may be required to establish the member's eligibility for service credit and the amount of deposits due. When the system determines the duty eligible for credit, it shall bill members for the total amounts of deposits and fees due for the credit at the last address of the member of which the system has record. The member must return the bill to the system with the total amount due for the military duty credit or with an installment payment agreement and all subsequent installment payments due. Deposits for military duty credit will not be accepted after date of death, except to the extent permitted under the laws and rules governing installment payments, or date of service retirement of a member.

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 October 26, 2026.

TRD-202604506
Don Green
Chief Financial Officer
Teacher Retirement System of Texas
Earliest possible date of adoption: December 6, 2026
For further information, please call: (512) 542-6506

♦ ♦ ♦

SUBCHAPTER F. VETERAN'S (USERRA) SERVICE CREDIT

34 TAC §25.75

STATUTORY AUTHORITY

The amendments to §25.75 are proposed under the authority of Government Code §825.102, which authorizes the board of trustees to adopt rules for the transaction of the business of the board.

CROSS-REFERENCE TO STATUTE

The proposed amendments to §25.75 affect the following statutes: Chapter 823, Subchapter D, of the Government Code, which provides for the establishment of military service credit with TRS.

§25.75. Application for Eligible Active Military Duty under the Uniformed Services Employment and Re-Employment Rights Act.

Members desiring to make deposits for service or compensation credit for eligible military duty under the Uniformed Services Employment and Re-Employment Rights Act (USERRA) should request in writing to be billed for the cost of the credit. Requests should be addressed to Teacher Retirement System of Texas, P.O. Box 149676, Austin, Texas 78714-0185 [~~1000 Red River Street, Austin, Texas 78701-2698~~]. Included with the request should be a certified or legible unaltered copy or copies of the member's military service record showing the dates

and nature of the member's military duty. Also included with the request should be a certification of the date of the member's application for reemployment with a Teacher Retirement System of Texas (TRS) covered employer or other proof of the date of employment with a TRS covered employer. The system may also require the member to make available to it such other evidence as may be required to establish the member's eligibility under the USERRA and §25.71 of this title (relating to Service Credit for Eligible Active Military Duty under the Uniformed Services Employment and Re-Employment Rights Act) for service credit and the amount of the deposits due. When the system determines the duty is eligible for credit, it shall bill the member for the total amounts of deposits and fees due for the credit at the last address of the member of which the system has record. The member must return the bill to the system with the total amount due for the eligible credit or with an installment payment agreement and all subsequent installment payments due. Deposits for military duty eligible for credit under the USERRA and §25.71 of this title must be made no later than five years after the date of re-employment or application for re-employment, subject to any additional period available under USERRA.

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 October 26, 2026.

TRD-202604507
Don Green
Chief Financial Officer
Teacher Retirement System of Texas
Earliest possible date of adoption: December 6, 2026
For further information, please call: (512) 542-6506

♦ ♦ ♦

SUBCHAPTER G. PURCHASE OF CREDIT FOR OUT-OF-STATE SERVICE

34 TAC §25.82

STATUTORY AUTHORITY

The amendments are proposed under the authority of Government Code §823.401, which relates to the out-of-state service and members' ability to purchase credit based on that service in TRS; and Government Code §825.102, which authorizes the board of trustees to adopt rules for the transaction of the business of the board.

CROSS-REFERENCE TO STATUTE

The proposed amendments affect the following statutes: Government Code §823.401, which relates to the out-of-state service and members' ability to purchase credit based on that service in TRS.

§25.82. Cost.

(a) The [~~Except as provided by subsections (g) and (h) of this section, the~~] cost of establishing out-of-state service credit is the actuarial cost, as determined by TRS, of the additional standard annuity retirement benefits that would be attributable to the out-of-state service credit purchased under this section.

(b) To calculate the actuarial cost, TRS will use the cost factors and method described in §25.302 of this title (relating to Calculation of Actuarial Cost).

(c) The purchase cost described in this section assumes a lump-sum deposit will be made. If deposits are made under an installment agreement, a non-refundable installment fee of 9% applies.

(d) No credit will be applied to the cost of a year of out-of-state service credit for any TRS contributions made in the same school year.

(e) The date of first eligibility to purchase credit for any year of out-of-state service shall be the latest of the following dates:

(1) the date the member received 5 years' credit for service in the public schools of Texas;

(2) the date state law made the out-of-state service available for TRS service credit;

(3) the date in which the member qualified to deposit payment for each year of out-of-state service under the one for two rule in effect until March 20, 1975;

(4) the date the member completed one year of creditable service in the public schools of Texas after relevant out-of-state service.

(f) No deposits for out-of-state service credit may be made before the member accumulates 5 years of credit for service in the public schools of Texas.

[~~(g) A member may establish out-of-state service credit by paying the deposits and fees required in subsection (h) of this section if the member meets all applicable requirements to purchase out-of-state service credit and if:~~]

[~~(1) the person was a member of TRS on December 31, 2005;~~]

[~~(2) the out-of-state service was performed before January 1, 2006, including service in the 2005-2006 school year that began before January 1, 2006; and~~]

[~~(3) the member makes payment for the out-of-state service credit, or enters into an installment agreement for payment, not later than August 31, 2013.~~]

[~~(h) The cost of establishing out-of-state service credit under subsection (g) of this section is 12% per year of the full annual salary rate for the first year of service in Texas which is both after the out-of-state service and after September 1, 1956. Annual salary is limited to $8,400 for years prior to September 1, 1969, and $25,000 for years after September 1969 but before September 1, 1979. For years starting on or after September 1, 1979, TRS will apply any relevant creditable compensation limitations to determine the full salary rate. Cost will not be based on years granted for substitute service. In addition a crediting fee of 8.0% compounded annually of the amount of deposits due and paid shall be charged from the end of the school year in which the member was first eligible to purchase credit for such service until payment for the credit is received.~~]

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 October 26, 2026.

TRD-202604508
Don Green
Chief Financial Officer
Teacher Retirement System of Texas
Earliest possible date of adoption: December 6, 2026
For further information, please call: (512) 542-6506

♦ ♦ ♦

34 TAC §25.84, §25.86

STATUTORY AUTHORITY

The repeals are proposed under the authority of Government Code §823.401, which relates to the out-of-state service and members' ability to purchase credit based on that service in TRS; and Government Code §825.102, which authorizes the board of trustees to adopt rules for the transaction of the business of the board.

CROSS-REFERENCE TO STATUTE

The proposed repeals affect the following statutes: Government Code §823.401, which relates to the out-of-state service and members' ability to purchase credit based on that service in TRS.

§25.84. Crediting Fees.
§25.86. Computing Average Compensation.
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 October 26, 2026.

TRD-202604531
Don Green
Chief Financial Officer
Teacher Retirement System of Texas
Earliest possible date of adoption: December 6, 2026
For further information, please call: (512) 542-6506

♦ ♦ ♦

SUBCHAPTER L. OTHER SPECIAL SERVICE CREDIT

34 TAC §25.163

STATUTORY AUTHORITY

The repeal of §25.163 is proposed under the authority of Government Code §825.102, which authorizes the board of trustees to adopt rules for the transaction of the business of the board.

CROSS-REFERENCE TO STATUTE

The proposed repealed rule affects no current TRS statutes as the statutory authority for this type of service credit purchase, Government Code §823.405, was repealed effective January 1, 2006.

§25.163. Service Credit Purchase.
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 October 26, 2026.

TRD-202604509
Don Green
Chief Financial Officer
Teacher Retirement System of Texas
Earliest possible date of adoption: December 6, 2026
For further information, please call: (512) 542-6506

♦ ♦ ♦

CHAPTER 27. TERMINATION OF MEMBERSHIP AND REFUNDS

34 TAC §27.8

The Teacher Retirement System of Texas (TRS) proposes amendments to §27.8 (relating to Reinstatement of Membership and Service Credit by ORP Participants) of Chapter 27 (relating to Termination of Membership and Refunds) in Title 34, Part 3, of the Texas Administrative Code.

BACKGROUND AND PURPOSE

In TRS' adopted four-year rule review published in the *Texas Register* on August 7, 2026 (51 TexReg 5257), TRS identified §27.8 as a rule for future amendment because TRS determined that subsection (a) of the rule is no longer necessary for TRS to administer this section as the election period described in subsection (a) is expired.

FISCAL NOTE

Don Green, TRS Chief Financial Officer, has determined that for each year of the first five years the proposed amendments will be in effect, there will be no foreseeable fiscal implications to state or local governments as a result of administering the proposed amendments.

PUBLIC COST/BENEFIT

For each year of the first five years the proposed repeal will be in effect, Mr. Green also has determined that the public benefit anticipated as a result of adopting the proposed amendments will be to remove unnecessary provisions from the Texas Administrative Code. Mr. Green has also determined that there is no economic cost to entities or persons required to comply with the proposed amendments. The proposed amendments impose no new requirements.

ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS

TRS has determined that there will be no adverse economic effect on small businesses, micro-businesses, or rural communities as a result of the proposed amendments. Therefore, neither an economic impact statement nor a regulatory flexibility analysis is required under Government Code §2006.002.

LOCAL EMPLOYMENT IMPACT STATEMENT

TRS has determined that there will be no effect on local employment because of the proposed amendments. Therefore, no local employment impact statement is required under Government Code §2001.022.

GOVERNMENT GROWTH IMPACT STATEMENT

TRS has determined that for the first five years the proposed amendments will be in effect the proposed repeal 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 TRS; will not require an increase or decrease in fees paid to TRS; will not 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 affect the state's economy.

TAKINGS IMPACT ASSESSMENT

TRS has determined that since there are no private real property interests affected by the proposed amendments a takings impact assessment is not required under Government Code §2007.043.

COSTS TO REGULATED PERSONS

TRS has determined that Government Code §2001.0045 does not apply to the proposed amendments because the proposed amendments do not impose a cost on regulated persons.

COMMENTS

TRS requests written comments regarding the proposed amendments. The comments may include information related to the costs, benefits, or effects of the proposed amendments, including any applicable data, research, or analysis, from any person required to comply with the proposed amendments or any other interested person.

Comments and information regarding the cost, benefit, and effect of the proposed amendments may be submitted in writing to Brian Guthrie, TRS Executive Director, P.O. Box 149676, Austin, Texas 78714-0185. Written comments and cost/benefit information must be received by TRS no later than 30 days after publication of this notice in the *Texas Register.*

STATUTORY AUTHORITY

The amendments to §27.8 are proposed under the authority of Government Code §825.102 which authorizes the TRS Board of Trustees to adopt rules for the eligibility for membership, the administration of the funds of the retirement system, and the transaction of business of the board.

CROSS-REFERENCE TO STATUTE

The proposed amendments to §27.8 implement Government Code §830.106.

§27.8. Reinstatement of Membership and Service Credit by ORP Participants.

~~[(a) A person who was participating in the Optional Retirement Program (ORP) on September 1, 1979, was eligible to elect to become a member of the Teacher Retirement System of Texas (TRS) between September 1, 1979, and September 1, 1980. Any such election was effective on the first day of the month following the month in which it was received by the employer.]~~

(a) ~~[(b)]~~ ORP participants who elected to return to TRS membership between September 1, 1979, and September 1, 1980[~~, under subsection (a) of this section,~~] are eligible to reinstate all previously held TRS credit, except student employment credit, under the provisions of this section only. Reinstatement may occur at any time after resumption of membership in TRS. All eligible credit must be reinstated at one time. If the member's account was withdrawn, the member must pay the accumulated contributions plus a reinstatement fee of 10% per year of the amount due compounded annually from the date of withdrawal to the date of repayment. Reinstatement fees will be credited to the state contribution account. Credit will be reinstated upon application by the member on a form prescribed by TRS and the deposit of all required payments. No credit may be established for service in public education while an ORP participant.

(b) ~~[(c)]~~ Former ORP participants who return or have returned to TRS membership in the retirement system other than by an election under this section must make reinstatement under §27.6 of this title (relating to Reinstatement of an Account).

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 October 26, 2026.

TRD-202604510
Don Green
Chief Financial Officer
Teacher Retirement System of Texas
Earliest possible date of adoption: December 6, 2026
For further information, please call: (512) 542-6506

♦ ♦ ♦

CHAPTER 29. BENEFITS
SUBCHAPTER E. DEFERRED RETIREMENT OPTION PLAN

34 TAC §29.63

The Teacher Retirement System of Texas (TRS) proposes to repeal §29.63 (relating to Deadline for Purchase of Special Service Credit) in Subchapter E of Chapter 29 in Title 34, Part 3, of the Texas Administrative Code.

BACKGROUND AND PURPOSE

In TRS' adopted four-year rule review published in the *Texas Register* on August 7, 2026 (51 TexReg 5257), TRS identified §29.63 as a rule for future repeal because §29.63 contains a deadline for service credit purchases by members who elected to participate in the Deferred Retirement Option Plan (DROP) and states the service credit must be purchased before DROP is elected (with some exceptions). As TRS members have not been able to elect DROP since 2005, a rule containing this deadline is no longer necessary. Further, §29.63(b) also contains a December 31, 2001, deadline for service credit purchases by certain DROP participants, and that deadline has passed.

FISCAL NOTE

Don Green, TRS Chief Financial Officer, has determined that for each year of the first five years the proposed repeal will be in effect, there will be no foreseeable fiscal implications to state or local governments as a result of administering the proposed repeal.

PUBLIC COST/BENEFIT

For each year of the first five years the proposed repeal will be in effect, Mr. Green also has determined that the public benefit anticipated as a result of adopting the proposed repeal will be to remove unnecessary requirements from the Texas Administrative Code. Mr. Green has also determined that that there is no economic cost to entities or persons required to comply with the proposed repeal. The repeal imposes no new requirements.

ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS

TRS has determined that there will be no adverse economic effect on small businesses, micro-businesses, or rural communities as a result of the proposed repeal. Therefore, neither an economic impact statement nor a regulatory flexibility analysis is required under Government Code §2006.002.

LOCAL EMPLOYMENT IMPACT STATEMENT

TRS has determined that there will be no effect on local employment because of the proposed repeal. Therefore, no local em-

ployment impact statement is required under Government Code §2001.022.

GOVERNMENT GROWTH IMPACT STATEMENT

TRS has determined that for the first five years the proposed repeal will be in effect the proposed repeal 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 TRS; will not require an increase or decrease in fees paid to TRS; will not create a new regulation; will not expand or limit an existing regulation; will not increase or decrease the number of individuals subject to the rule's applicability; and will not affect the state's economy.

The proposed repeal does, however, repeal §29.63.

TAKINGS IMPACT ASSESSMENT

TRS has determined that since there are no private real property interests affected by the proposed repeal, a takings impact assessment is not required under Government Code §2007.043.

COSTS TO REGULATED PERSONS

TRS has determined that Government Code §2001.0045 does not apply to the proposed repeal because the proposed repeal does not impose a cost on regulated persons.

COMMENTS

TRS requests written comments regarding the proposed repeal. The comments may include information related to the costs, benefits, or effects of the proposed repeal, including any applicable data, research, or analysis, from any person required to comply with the proposed repeal or any other interested person.

Comments and information regarding the cost, benefit, and effect of the proposed repeal may be submitted in writing to Brian Guthrie, TRS Executive Director, P.O. Box 149676, Austin, Texas 78714-0185. Written comments and cost/benefit information must be received by TRS no later than 30 days after publication of this notice in the *Texas Register.*

STATUTORY AUTHORITY

The repeal of §29.63 is proposed under the authority of Government Code §825.102 which authorizes the TRS Board of Trustees to adopt rules for the eligibility for membership, the administration of the funds of the retirement system, and the transaction of business of the board.

CROSS-REFERENCE TO STATUTE

The proposed repeal of §29.63 affects Subchapter I (relating to Deferred Retirement Option Plan) of Chapter 824 of the Government Code.

§29.63. Deadline for Purchase of Special Service Credit.

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 October 26, 2026.

TRD-202604511

Don Green

Chief Financial Officer

Teacher Retirement System of Texas

Earliest possible date of adoption: December 6, 2026

For further information, please call: (512) 542-6506

♦ ♦ ♦

CHAPTER 31. EMPLOYMENT AFTER RETIREMENT

The Teacher Retirement System of Texas (TRS) proposes amendments to the following rules in Chapter 31 (relating to Employment After Retirement) in Part 3 of Title 34 of the Texas Administrative Code: §31.2 and §31.3 of Subchapter A (relating to General Provisions and Procedures) and §§31.12, 31.13, 31.15, 31.18, and 31.19 of Subchapter B (relating to Employment After Retirement Exceptions). TRS also proposes to repeal §31.16 in Subchapter B of Chapter 31 in Part 3 of Title 34 of the Texas Administrative Code.

BACKGROUND AND PURPOSE

TRS proposes to amend seven rules (§§31.2, 31.3, 31.12, 31.13, 31.15, 31.18, and 31.19) and repeal one rule (§31.16) in Chapter 31 of TRS rules to implement the determinations made by the TRS Board of Trustees in TRS's recently adopted rule review (51 TexReg 5257). The proposed amendments are all either minor, nonsubstantive revisions, or they remove obsolete provisions. TRS also proposes to repeal §31.16 (relating to Federally-funded COVID-19 Personnel) because the statutory authority for this provision expired on February 1, 2025.

SECTION-BY-SECTION SUMMARY

The proposed amendments to §31.2 (relating to Monthly Certified Statements) and §31.3 (relating to Return-to-work Employer Pension Surcharge) delete references to the §31.16 as the statutory authority for that rule, Government Code §824.6021, expired on February 1, 2025. The proposed amendments also make conforming edits and correct typographical errors.

The proposed amendments to §31.12 (relating to Substitute Service) delete the portion of the substitute definition that includes work "on a temporary basis to monitor an in-person class while the classroom teacher temporarily instructs the class virtually." This portion of the substitute employment after retirement (EAR) exception was added to the rule during the COVID-19 pandemic and is now no longer used by TRS-covered employers.

The proposed amendments to §31.13 (relating to One-half Time Employment) and §31.15 (relating to Tutors under Education Code §33.913) to correct minor typographical errors.

TRS proposes to repeal §31.16 (relating to Federally-funded COVID-19 Personnel) as the statutory authority for that rule, Government Code §824.6021, expired on February 1, 2025.

The proposed amendments to §31.18 (relating to Combining EAR Exceptions) and §31.19 (relating to Combining EAR Exceptions and Employer Surcharges) delete references to the §31.16 (relating to Federally-funded COVID-19 Personnel) as the statutory authority for that rule, Government Code §824.6021, expired on February 1, 2025. The proposed amendments also make conforming edits and correct typographical errors.

FISCAL NOTE

Don Green, TRS Chief Financial Officer, has determined that for each year of the first five years the proposed amended and repealed rules will be in effect, there will be no foreseeable fiscal implications for state or local governments as a result of administering the proposed amended and repealed rules.

PUBLIC COST/BENEFIT

For each year of the first five years the proposed amended and repealed rules will be in effect, Mr. Green also has determined that the public benefit anticipated as a result of adopting the proposed amended rules will be to remove unnecessary rules and requirements from the Texas Administrative Code. In addition, Mr. Green has determined that the public will benefit from increased readability of the proposed amended rules.

Mr. Green has also determined that the public will incur no new costs as a result of complying with the proposed amended and repealed rules.

ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS

TRS has determined that there will be no adverse economic effect on small businesses, micro-businesses, or rural communities as a result of the proposed amended and repealed rules. Therefore, neither an economic impact statement nor a regulatory flexibility analysis is required under Government Code §2006.002.

LOCAL EMPLOYMENT IMPACT STATEMENT

TRS has determined that there will be no effect on local employment because of the proposed amended and repealed rules. Therefore, no local employment impact statement is required under Government Code §2001.022.

GOVERNMENT GROWTH IMPACT STATEMENT

TRS has determined that for the first five years the proposed amended and repealed rules are in effect, the proposed amended and repealed rules will not create or eliminate any TRS programs; will not require the creation or elimination of employee positions; will not require an increase or decrease in future legislative appropriations to TRS; will not eliminate any fees currently paid to TRS; will not create a new regulation; will not expand or limit an existing regulation; will not increase or decrease the number of individuals subject to the rules' applicability; and will not affect the state's economy.

The proposed repealed rules, however, will repeal §31.16.

TAKINGS IMPACT ASSESSMENT

TRS has determined that there are no private real property interests affected by the proposed amended and repealed rules, therefore, a takings impact assessment is not required under Government Code §2007.043.

COSTS TO REGULATED PERSONS

TRS has determined that Government Code §2001.0045 does not apply to the proposed amended and repealed rules because the proposed amended and repealed rules do not impose a cost on regulated persons.

COMMENTS

TRS requests written comments regarding the proposed amendments and repeals. The comments may include information related to the costs, benefits, or effects of the proposed amendments and repeals, including any applicable data, research, or analysis, from any person required to comply with the proposed amendments or repeals or any other interested person.

Comments and information regarding the cost, benefit, and effect of the proposed amendments or repeals may be submitted in writing to Brian Guthrie, TRS Executive Director, P.O. Box 149676, Austin, Texas 78714-0185. Written comments and cost/benefit information must be received by TRS no later than 30 days after publication of this notice in the *Texas Register*.

SUBCHAPTER A. GENERAL PROVISIONS AND PROCEDURES

34 TAC §31.2, §31.3

STATUTORY AUTHORITY

The proposed amended rules are proposed under the authority of Government Code §824.604, which authorizes TRS to adopt rules necessary for administering the requirements of Subchapter G of Chapter 824, Government Code, which relates to loss of benefits on resumption of TRS service after retirement; and Government Code §825.102, which authorizes the board of trustees to adopt rules for the transaction of the business of the board.

CROSS-REFERENCE TO STATUTE

The proposed amended rules affect the following statutes: Subchapter G of Chapter 824, Government Code, which relates to loss of benefits on resumption of TRS service after retirement; and Government Code §825.4092, which relates to employer contributions for employed retirees.

§31.2. Monthly Certified Statement.

(a) In accordance with the requirements of Government Code § 824.6022, an employer shall submit to TRS a monthly certified statement of employment for all retirees employed by the employer during each month of a school year.

(b) Employers must submit the monthly certified statement and all required employer surcharges under §31.3 of this title (relating to Return-to-Work Employer Pension Surcharges) for each report month from September through July before the eleventh day of the month following the applicable report month. For the monthly certified statement for the report month of August, the employer shall submit the monthly certified statement and all required employer surcharges before the seventh day of September.

(c) If the due date for submission of a monthly certified statement and required employer surcharges under subsection (b) of this section falls on a weekend or federal holiday, an employer shall submit the monthly certified statement and required employer surcharges on the last business day prior to the due date.

(d) An employer that fails to timely submit a monthly certified statement and all required employer surcharges must also pay all applicable interest and late fees provided in subsections (f) and (g) of this section.

(e) A monthly certified statement is not considered submitted to TRS until it is completed. To be complete, the monthly certified statement must include all the following information regarding a retiree employed by the employer during the report month:

(1) the number of hours and days worked by the retiree;

(2) whether the retiree's employment qualifies as one or more of the following types:

(A) substitute employment;

(B) one-half time or less employment;

(C) employment as a tutor under Section 33.913 of the Education Code;

[(D) employment in a federally-funded COVID-19 personnel position that meets the requirements of Section 824.6021 of the Government Code and §31.16 of this title (relating to Federally-funded COVID-19 Personnel);]

(D) [(E)] full-time employment;

(E) [(F)] trial employment of a disability retiree for up to three months; or

(F) [(G)] any combination of these types;

(3) the amount of gross compensation paid to the retiree during the report month;

(4) the total amount due under §41.4 of this title (relating to Employer Health Benefit Surcharge); and

(5) any other information requested by TRS to administer this chapter.

(f) Employers that fail to timely submit a monthly certified statement, any required employer surcharges, or interest on unpaid amounts as required in this section shall pay to TRS the late fee established in this subsection for each business day that the monthly certified statement is past due. The late fees required to be paid are as follows:

(1) For employers with fewer than 100 employees, the late fee for the first business day the monthly certified statement is past due is $100. For each subsequent business day that the monthly certified statement is past due, the employer shall pay an additional $10.

(2) For employers with at least 100 employees but no more than 500 employees, the late fee for the first business day the monthly certified statement is past due is $250. For each subsequent business day that the monthly certified statement is past due, the employer shall pay an additional $25.

(3) For employers with more than 500 employees but no more than 1,000 employees, the late fee for the first business day the report or documentation is past due is $500. For each subsequent business day that the monthly certified statement is past due, the employer shall pay an additional $50.

(4) For employers with more than 1,000 employees, the late fee for the first business day the monthly certified statement is past due is $1,000. For each subsequent business day that the monthly certified statement is past [pat] due, the employer shall pay an additional $100.

(g) In determining the number of employees for purposes of assessing the late fee in subsection (f) of this section, TRS shall base the fee on the number of employees reflected on the employer's monthly certified statement for May of the preceding school year. New employers will pay late fees for the first school year as provided in subsection (f)(1) of this section.

§31.3. Return-to-Work Employer Pension Surcharge.

(a) For each report month a retiree is employed by an employer for more than 92 hours in a calendar month and that retiree is not exempt from surcharge under subsection (b) of this section, the employer shall pay to TRS a surcharge based on the compensation paid to the retiree during that report month. The criteria used to determine if a retiree is working more than 92 hours in a calendar month are the same as the criteria for determining one-half time employment under §31.13 of this title (relating to One-half Time Employment) even if the retiree's employment also qualifies for an exception under §31.14 of this title (relating to Full-time Employment after 12 Consecutive Month Break in Service), or §31.15 of this title (relating to Tutors under Education Code §33.913).

(b) Employers are not required to submit employer surcharges based on the employment of a retiree during a calendar month if:

(1) the retiree works 92 hours or less during the applicable report month;

(2) the retiree retired prior to September 1, 2005;

(3) the retiree is employed solely as a substitute and that employment meets all the requirements §31.12 of this title (relating to Substitute Service) even if the retiree's substitute employment also qualifies for another exception under Subchapter B of this chapter (relating to Employment After Retirement Exceptions); or

(4) the retiree is employed in multiple positions during the calendar month and does not exceed the limits for such combined employment under §31.19 of this title (relating to Combining EAR Exceptions and Employer Surcharges).[; or

[(5) the retiree's employment is in a position that qualifies as a federally-funded COVID-19 position under §31.16 of this title (relating to Federally-funded COVID-19 Personnel) and Government Code §824.6021.]

(c) The amount of the employer surcharge that an employer must contribute to TRS for each retiree subject to surcharge under this section is equal to the sum of the compensation paid to the retiree during the report month multiplied by the member contribution rate in effect for the report month plus the compensation paid to the retiree during the report month multiplied by the state contribution rate in effect for that report month.

(d) If a retiree is employed concurrently in more than one position, the employer surcharge is owed if the combined employment exceeds the monthly limits described by §31.19 of this title. If the employment is with more than one employer, the employer surcharge is owed by each employer.

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 October 26, 2026.

TRD-202604512
Don Green
Chief Financial Officer
Teacher Retirement System of Texas
Earliest possible date of adoption: December 6, 2026
For further information, please call: (512) 542-6506

♦ ♦ ♦

SUBCHAPTER B. EMPLOYMENT AFTER RETIREMENT EXCEPTIONS

34 TAC §§31.12, 31.13, 31.15, 31.18, 31.19

STATUTORY AUTHORITY

The proposed amended rules are proposed under the authority of Government Code §824.604, which authorizes TRS to adopt rules necessary for administering the requirements of Subchapter G of Chapter 824, Government Code, which relates to loss of benefits on resumption of TRS service after retirement; and Gov-

ernment Code §825.102, which authorizes the board of trustees to adopt rules for the transaction of the business of the board.

CROSS-REFERENCE TO STATUTE

The proposed amended rules affect the following statutes: Subchapter G of Chapter 824, Government Code, which relates to loss of benefits on resumption of TRS service after retirement; and Government Code §825.4092, which relates to employer contributions for employed retirees.

§31.12. Substitute Service.

(a) In this section, "substitute' means a retiree employed by a Texas public educational institution and paid no more than the daily rate of pay for substitutes as set by the employer to work:

(1) on a temporary basis in the place of a current employee(s); or

(2) in a vacant position for no more than 20 days if the retiree was not the last person to hold the vacant position and the retiree has not previously been employed in that vacant position during the same school year.[; ~~or~~]

[~~(3) on a temporary basis to monitor an in-person class while the classroom teacher temporarily instructs the class virtually.~~]

(b) A retiree may be employed in a month solely as a substitute in a public educational institution without forfeiting the annuity payment for that month.

(c) A retiree who reports for duty as a daily substitute during any day and works any portion of that day shall be considered to have worked one day.

(d) A disability retiree may not be employed as a substitute under this section for more than 90 days in a school year. A disability retiree who works more than 90 days in a substitute position shall forfeit the disability retiree's annuity for the month during which the disability retiree exceeded 90 days and in each subsequent month during the same school year that the disability retiree is employed by a Texas public educational institution.

§31.13. One-half Time Employment.

(a) A retiree may be employed by a Texas public educational institution in any position, other than as a substitute, on as much as a one-half time basis without forfeiting annuity payments for the applicable months of employment. In this section, one-half time basis means no more than 92 hours in a calendar month. The total number of hours allowed for that month may be worked in any arrangement or schedule.

(b) Paid time-off, including sick leave, vacation leave, administrative leave, and compensatory time for overtime worked, is employment for purposes of this section and must be included in determining the total amount of time worked in a calendar month and reported to TRS as employment for the calendar month in which it is taken.

(c) For the purpose of this section, employment as an instructor for actual course or lab instruction with an institution of higher education (including community and junior colleges and online coursework) in classes taken by students for college credit or classes that are taken to prepare students for college level work shall be counted as a minimum of two clock hours for each clock hour of instruction or time in the classroom or lab in order to reflect instructional time as well as preparation, grading, and other time typically associated with one hour of instruction. If the employer has established a greater amount of preparation time for each hour in the classroom or lab, the employer's established standard will be used to determine the number of courses or labs a retiree may teach under the exception to loss of annuity provided by this section. The equivalent clock hours computed under this subsection must be equal to or less than the number of work hours authorized in subsection (a) of this section for the retiree to be considered as working on a one-half time basis.

(d) Employment as an instructor of continuing education, adult education, or classes offered to employers or businesses for employee training, that is not measured or expressed in terms of the number of courses; semester or course hours/credits; or instructional units or other units of time rather than clock hours and for which the students or participants do not receive college credit, must be counted based on the number of clock hours worked.

(e) A disability retiree may not be employed on as much as a one-half time basis under this section for more than 90 days in a school year. A disability retiree who works more than 90 days on as much as one-half time basis under this section shall forfeit the disability retiree's annuity for the month during which the disability retiree exceeded 90 days and in each subsequent month during the same school year that the disability retiree is employed by a Texas public educational institution.

(f) For the purposes of calculating the number of days worked by a disability retiree has worked during a school year under this section, working any part of a day counts as working the entire day.

§31.15. Tutors under Education Code §33.913.

(a) Except as provided by §31.18 of this title (relating to Combining EAR Exceptions) and subsection (b) of this section, a retiree may be employed by a Texas public educational institution in a tutoring position that meets the requirements of Section 33.913 of the Education Code for any number of hours or days during a month without being subject to the forfeiture requirements of §31.4 of this title (relating to Employment Resulting in Forfeiture of Retirement Annuity).

(b) A disability retiree may not be employed [~~on~~] as a tutor under this section for more than 90 days in a school year. A disability retiree who works more than 90 days [~~on~~] as a tutor under this section shall forfeit the disability retiree's annuity for the month during which the disability retiree exceeded 90 days and in each subsequent month during the same school year that the disability retiree is employed by a Texas public educational institution.

(c) For the purposes of calculating the number of days worked by a disability retiree has worked during a school year under this section, working any part of a day counts as working the entire day.

§31.18. Combining EAR Exceptions.

(a) If, during a calendar month, a retiree works in a position subject to more than one exception under this subchapter or in multiple positions subject to different exceptions under this subchapter and the retiree does not qualify for the twelve-month separation exception under §31.14 of this title (relating to Full-time Employment after 12 Consecutive Month Break in Service), TRS shall use the following standards to determine whether the retiree's employment still meets the requirements of each applicable exception or if the retiree is subject to §31.4 of this title (Employment Resulting in Forfeiture of Retirement Annuity) based on that employment.

(b) If a retiree combines substitute service under §31.12 of this title (relating to Substitute Service) with one-half time employment under §31.13 of this title (relating to One-half Time Employment) in a calendar month and the retiree's employment in either position does not qualify for any other exceptions under this subchapter, then the retiree may not work more than 11 days combined during that month in the two or more positions.

(c) If, during a calendar month, a retiree works in more than one position and each qualifies as one-half time employment under §31.13 of this title and the retiree's employment in either position does

not qualify for any other exceptions under this subchapter, then the retiree may not work more than 92 total hours in the combined positions.

(d) If a disability retiree combines substitute service under §31.12 of this title, one-half time employment under §31.13 of this title, or employment as a tutor under §31.15 of this title (relating to Tutors under Education Code §33.913) in a school year, each day worked under any of those three exceptions counts toward the maximum of 90 days that a disability retiree may work under any of the exceptions so that a disability retiree may never work more than a total of 90 days combined under the three exceptions.

(e) If, during a calendar month, a retiree works more than one-half time in a position that qualifies for the tutor exception under §31.15 of this title, then the retiree may not work in any other position for a Texas public educational institution without being subject to the forfeiture requirements of §31.4 of this title unless:

(1) the other position qualifies as substitute service and all the retiree's employment under the tutor exception under §31.15 of this title also qualifies as substitute service; or

(2) the other position qualifies for the tutor exception under §31.15 of this title [~~or the COVID-19 position exception under §31.16 of this title (relating to Federally-funded COVID-19 Personnel)~~].

(f) If, during a calendar month, a retiree works in a position that qualifies as substitute or as one-half time or less employment and that position also qualifies for the tutor exception under §31.15 of this title, then the retiree may combine work in that position with any other work that qualifies under the substitute exception under §31.12 of this title and one-half time employment under §31.13 of this title provided the retiree's combined work during the calendar month does not exceed the limits provided by subsection (b) and (c) of this section, as applicable.

[~~(g) If, during a calendar month, a service retiree combines the federally-funded COVID-19 position exception under §31.16 of this title with employment under any other exception under this subchapter, then the service retiree's employment under the federally-funded COVID-19 position exception shall be accounted for separately from the service retiree's employment under any other exception under this subchapter. Hours or days worked under the federally-funded COVID-19 exception do not count toward or impact a retiree's employment under any other exception under this subchapter.~~]

(g) [~~(h)~~] A service retiree employed under the twelve-month separation exception under §31.14 of this title may be employed up to full-time by one or more Texas public educational institutions in one or more positions without limit under this section.

(h) [~~(i)~~] If, during a calendar month, a retiree's position qualifies for more than one exception under this subchapter [~~other than the federally-funded COVID-19 exception under §31.16 of this title~~], the retiree's position shall be subject to all monthly limits on that position under all applicable exceptions. If the limit under the applicable exceptions conflict or if one exception is more restrictive than the other, the least restrictive exception on a retiree's employment after retirement shall apply. [~~If a service retiree's employment qualifies for the federally-funded COVID-19 exception under §31.16 of this title, it shall only be subject to the requirements of that section.~~]

(i) [~~(j)~~] For the purposes of this section, a retiree who works part of a day is considered to have worked the entire day.

§31.19. Combining EAR Exceptions and Employer Surcharges.

(a) If, during a calendar month, a retiree works in a position subject to more than one exception under this subchapter or in multiple positions subject to different exceptions under this subchapter, TRS shall use the following standards to determine whether the retiree's employment requires an employer to pay the return-to-work pension surcharge under §31.3 of this title (relating to Return-to-Work Employer Pension Surcharges).

(b) If a retiree combines substitute service under §31.12 of this title (relating to Substitute Service) with one-half time employment under §31.13 of this title (relating to One-half Time Employment) in a calendar month, then the employer employing the retiree must remit the employer surcharge to TRS if the retiree works more than 11 total days in both positions combined.

(c) If, during a calendar month, a retiree combines substitute service under §31.12 of this title with work that qualifies for the tutor exception under §31.15 of this title (relating to Tutors under Education Code §33.913), then the employer must remit the employer surcharge to TRS based on that combined employment unless:

(1) all of the retiree's employment under the tutor exception also qualifies as substitute service; or

(2) the retiree's non-substitute employment under the tutor exception does not exceed 92 hours in the calendar month when not combined with the retiree's substitute service and the retiree's total employment does not exceed 11 total days worked under both exceptions during the month.

(d) If, during a calendar month, a retiree combines one-half time employment under §31.13 of this title with non-substitute work under the tutor exception under §31.15 of this title, the employer must remit the employer surcharge to TRS if the retiree works more than 92 combined hours in all positions. If the retiree's employment under the tutor exception also qualifies as substitute service, then the employer must remit the employer surcharge if the retiree works more than 11 total days during the month in the combined tutor position and the non-tutor one-half time position.

[~~(e) If, during a calendar month, a service retiree combines the federally-funded COVID-19 position exception under §31.16 of this title (relating to Federally-funded COVID-19 Personnel) solely with employment that qualifies as substitute service under §31.12 of this title, then an employer is not required to remit an employer surcharge to TRS for that retiree.~~]

[~~(f) If, during a calendar month, a service retiree combines the federally-funded COVID-19 position exception under §31.16 of this title with one-half time employment under §31.13 of this title, any hours worked by a retiree under the federally-funded COVID-19 exception will not count toward the 92 hours under the one-half time employment exception that a retiree may work before the employer must remit the employer surcharge.~~]

[~~(g) If, during a calendar month, a service retiree combines the federally-funded COVID-19 position exception under §31.16 of this title with work under the full-time employment after a twelve-month separation exception under §31.14 of this title (relating to Full-time Employment after 12 Consecutive Month Break in Service), any hours or days worked by a retiree under the federally-funded COVID-19 exception will not count toward the determination of whether the retiree worked more than 92 total hours during that month and the employer surcharge is due for that month.~~]

[~~(h) If, during a calendar month, a service retiree combines non-substitute work under either the tutor exception under §31.15 of this title with work under the federally-funded COVID-19 position exception under §31.16 of this title, any hours or days the retiree works under the federally-funded COVID-19 position exception shall not be counted in determining whether the retiree's worked more than 92 hours during the month and the employer surcharge is due for that month.~~]

~~[(i) If, during a calendar month, a retiree's employment in a position qualifies for the federally-funded COVID-19 position exception under §31.16 of this title and another exception under this subchapter that is subject to surcharge, work performed in that position is not subject to surcharge so long as the work continues to qualify for the federally-funded COVID-19 position exception.]~~

(e) [~~(j)~~] If, during a calendar month, a retiree's employment in a position that qualifies for as substitute service under §31.12 of this title and another exception under this subchapter that is subject to surcharge, work performed in that position is not subject to surcharge so long as the work continues to qualify as substitute service and is not combined with work in another position that is subject to surcharge during the same month.

(f) [~~(k)~~] For the purposes of this section, a retiree who works part of a day is considered to have worked the entire day.

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 October 26, 2026.

TRD-202604513
Don Green
Chief Financial Officer
Teacher Retirement System of Texas
Earliest possible date of adoption: December 6, 2026
For further information, please call: (512) 542-6506

♦ ♦ ♦

34 TAC §31.16

STATUTORY AUTHORITY

The proposed repealed rule is proposed under the authority of Government Code §824.604, which authorizes TRS to adopt rules necessary for administering the requirements of Subchapter G of Chapter 824, Government Code, which relates to loss of benefits on resumption of TRS service after retirement; and Government Code §825.102, which authorizes the board of trustees to adopt rules for the transaction of the business of the board.

CROSS-REFERENCE TO STATUTE

The proposed repealed rule affects the following statutes: Subchapter G of Chapter 824, Government Code, which relates to loss of benefits on resumption of TRS service after retirement; and Government Code §825.4092, which relates to employer contributions for employed retirees.

§31.16. Federally-funded COVID-19 Personnel.

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 October 27, 2026.

TRD-202604540
Don Green
Chief Financial Officer
Teacher Retirement System of Texas
Earliest possible date of adoption: December 6, 2026
For further information, please call: (512) 542-6506

♦ ♦ ♦

CHAPTER 39. PROOF OF AGE

34 TAC §39.1

The Teacher Retirement System of Texas (TRS) proposes to repeal §39.1 (relating to Establishment of Date of Birth) of Chapter 39 (relating to Proof of Age) in Title 34, Part 3, of the Texas Administrative Code.

BACKGROUND AND PURPOSE

In TRS' adopted four-year rule review published in the *Texas Register* on August 7, 2026 (51 TexReg 5257), TRS identified §39.1 as a rule for future repeal because §39.1 provides no substantive requirements that require a rule. For this reason, TRS now proposes to repeal this rule. Further, because §39.1 is the only rule in Chapter 39 of TRS rules, TRS also proposes the repeal of Chapter 39.

FISCAL NOTE

Don Green, TRS Chief Financial Officer, has determined that for each year of the first five years the proposed repeal will be in effect, there will be no foreseeable fiscal implications to state or local governments as a result of administering the proposed repeal.

PUBLIC COST/BENEFIT

For each year of the first five years the proposed repeal will be in effect, Mr. Green also has determined that the public benefit anticipated as a result of adopting the proposed repeal will be to remove an unnecessary rule from the Texas Administrative Code. Mr. Green has also determined that there is no economic cost to entities or persons required to comply with the proposed repeal. The repeal imposes no new requirements.

ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS

TRS has determined that there will be no adverse economic effect on small businesses, micro-businesses, or rural communities as a result of the proposed repeal. Therefore, neither an economic impact statement nor a regulatory flexibility analysis is required under Government Code §2006.002.

LOCAL EMPLOYMENT IMPACT STATEMENT

TRS has determined that there will be no effect on local employment because of the proposed repeal. Therefore, no local employment impact statement is required under Government Code §2001.022.

GOVERNMENT GROWTH IMPACT STATEMENT

TRS has determined that for the first five years the proposed repeal will be in effect the proposed repeal 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 TRS; will not require an increase or decrease in fees paid to TRS; will not create a new regulation; will not expand or limit an existing regulation; will not increase or decrease the number of individuals subject to the rule's applicability; and will not affect the state's economy.

The proposed repeal does, however, repeal §39.1.

TAKINGS IMPACT ASSESSMENT

TRS has determined that since there are no private real property interests affected by the proposed repeal, a takings impact assessment is not required under Government Code §2007.043.

COSTS TO REGULATED PERSONS

TRS has determined that Government Code §2001.0045 does not apply to the proposed repeal because the proposed repeal does not impose a cost on regulated persons.

COMMENTS

TRS requests written comments regarding the proposed repeal. The comments may include information related to the costs, benefits, or effects of the proposed repeal, including any applicable data, research, or analysis, from any person required to comply with the proposed repeal or any other interested person.

Comments and information regarding the cost, benefit, and effect of the proposed repeal may be submitted in writing to Brian Guthrie, TRS Executive Director, P.O. Box 149676, Austin, Texas 78714-0185. Written comments and cost/benefit information must be received by TRS no later than 30 days after publication of this notice in the *Texas Register.*

STATUTORY AUTHORITY

The repeal of §39.1 is proposed under the authority of Government Code §825.102 which authorizes the TRS Board of Trustees to adopt rules for the eligibility for membership, the administration of the funds of the retirement system, and the transaction of business of the board.

CROSS-REFERENCE TO STATUTE

The proposed repeal of §39.1 implements Government Code §825.102.

§39.1. Establishment of Date of Birth.

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 October 26, 2026.

TRD-202604514
Don Green
Chief Financial Officer
Teacher Retirement System of Texas
Earliest possible date of adoption: December 6, 2026
For further information, please call: (512) 542-6506

♦ ♦ ♦

CHAPTER 43. CONTESTED CASES

The Teacher Retirement System of Texas (TRS) proposes amendments to the following rules in Chapter 43 (relating to Contested Cases) in Part 3 of Title 34 of the Texas Administrative Code: §§43.1 - 43.3, and 43.5 of Subchapter A (relating to General Administration) and §43.106 of Subchapter B (relating to Requests for Adjudicative Hearing). TRS also proposes to repeal Subchapter C (relating to Hearings Not Docketed at SOAH) of Chapter 43 in Part 3 of Title 34 of the Texas Administrative Code and the following rules in Subchapter C: §§43.201 - 43.228.

BACKGROUND AND PURPOSE

TRS proposes to amend five rules (§§43.1 - 43.3, 43.5, and 43.106) and repeal twenty-eight rules (§§43.201 - 43.228) in Chapter 43 of TRS rules to implement the determinations made by the TRS Board of Trustees in TRS's recently adopted rule review published in the *Texas Register* on August 7, 2026 (51 TexReg 5257). The proposed amendments are all either minor, nonsubstantive revisions or conforming amendments necessary because of the proposed repealed rules. The rules proposed for repeal are no longer necessary for administration of the TRS pension plan.

SECTION-BY-SECTION SUMMARY

The proposed amendments to §§43.1 (relating to Applicability), 43.2 (relating to Definitions), 43.5 (relating to Extensions), and 43.106 (relating to Authority to Grant Relief) delete references to administrative law judges not affiliated with the State Office of Administrative Hearings (SOAH) because TRS does not employ or contract with administrative law judges not affiliated with SOAH and, instead, dockets all contested case hearings at SOAH.

For the same reason, TRS proposes to repeal §§43.201 (relating to Applicability), 43.202 (relating to Form of Pleadings), 43.203 (relating to Filing of Pleadings and Amendments), 43.204 (relating to Briefs), 43.205 (relating to Motions), 43.206 (relating to Discovery), 43.207 (relating to Notice of Hearing and Other Action), 43.208 (relating to Agreements to be in Writing), 43.209 (relating to Motion for Consolidation), 43.210 (relating to Additional Parties), 43.211 (relating to Appearance and Representation), 43.212 (relating to Lead Counsel), 43.213 (relating to Powers of the Administrative Law Judge), 43.214 (relating to Prehearing Conference and Orders), 43.215 (relating to Conduct of Hearing), 43.216 (relating to General Admissibility), 43.217 (relating to Exhibits), 43.218 (relating to Pre-filed Direct Testimony in Disability Appeal Proceedings), 43.219 (relating to Limit on Number of Witnesses), 43.220 (relating to Failure to Appear), 43.221 (relating to Conduct and Decorum at Hearing), 43.222 (relating to Official Notice), 43.223 (relating to Recording of the Hearing; Certified Language Interpreter), 43.224 (relating to Dismissal Without Hearing), 43.225 (relating to Summary Disposition), 43.226 (relating to The Record), 43.227 (relating to Findings of Fact), and 43.228 (relating to Reopening of Hearing). All of these rules only apply to hearings for which TRS employs or contracts with an administrative law judge not affiliated with SOAH, and, as stated, TRS does not use such a process.

TRS proposes to amend §43.3 (relating to Filing of Documents) in order to remove reference to administrative law judges not affiliated with SOAH and to update TRS' street address to its current street address.

FISCAL NOTE

Don Green, TRS Chief Financial Officer, has determined that for each year of the first five years the proposed amended and proposed repealed rules will be in effect, there will be no foreseeable fiscal implications for state or local governments as a result of administering the proposed amended and repealed rules.

PUBLIC COST/BENEFIT

For each year of the first five years the proposed amended and repealed rules will be in effect, Mr. Green also has determined that the public benefit anticipated as a result of adopting the proposed amended and repealed rules will be to remove outdated references and unnecessary rules from TRS rules. In addition,

Mr. Green has determined that the public will benefit from increased readability of the proposed amended rules.

Mr. Green has also determined that the public will incur no new costs as a result of complying with the proposed amended and repealed rules.

ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS

TRS has determined that there will be no adverse economic effect on small businesses, micro-businesses, or rural communities as a result of the proposed amended and repealed rules. Therefore, neither an economic impact statement nor a regulatory flexibility analysis is required under Government Code §2006.002.

LOCAL EMPLOYMENT IMPACT STATEMENT

TRS has determined that there will be no effect on local employment because of the proposed amended and repealed rules. Therefore, no local employment impact statement is required under Government Code §2001.022.

GOVERNMENT GROWTH IMPACT STATEMENT

TRS has determined that for the first five years the proposed amended and repealed rules are in effect, the proposed amended and repealed rules will not create or eliminate any TRS programs; will not require the creation or elimination of employee positions; will not require an increase or decrease in future legislative appropriations to TRS; will not eliminate any fees currently paid to TRS; will not create a new regulation; will not expand or limit an existing regulation; will not increase or decrease the number of individuals subject to the rules' applicability; and will not affect the state's economy.

The proposed repealed rules, however, will repeal §§43.201 - 43.228.

TAKINGS IMPACT ASSESSMENT

TRS has determined that there are no private real property interests affected by the proposed amended and repealed rules, therefore, a takings impact assessment is not required under Government Code §2007.043.

COSTS TO REGULATED PERSONS

TRS has determined that Government Code §2001.0045 does not apply to the proposed amended and repealed rules because the proposed amended and repealed rules do not impose a cost on regulated persons.

COMMENTS

TRS requests written comments regarding the proposed amendments and repeals. The comments may include information related to the costs, benefits, or effects of the proposed amendments and repeals, including any applicable data, research, or analysis, from any person required to comply with the proposed amendments or repeals or any other interested person.

Comments and information regarding the cost, benefit, and effect of the proposed amendments or repeals may be submitted in writing to Brian Guthrie, TRS Executive Director, P.O. Box 149676, Austin, Texas 78714-0185. Written comments and cost/benefit information must be received by TRS no later than 30 days after publication of this notice in the *Texas Register*.

SUBCHAPTER A. GENERAL ADMINISTRATION

34 TAC §§43.1 - 43.3, 43.5

STATUTORY AUTHORITY

The proposed amended rules are proposed under the authority of Government Code §825.102, which authorizes the Board to adopt rules for eligibility for membership, the administration of the funds of the retirement system, and the transaction of business of the Board; and Government Code §825.115(b), which authorizes the Board to adopt rules relating to the authority of the Board to make a final decision in a contested case or delegate its authority.

CROSS-REFERENCE TO STATUTE

The proposed amended rules affect Government Code §825.115, which authorizes the Board to adopt rules relating to the authority of the Board to make a final decision in a contested case or delegate its authority.

§43.1. Applicability.

(a) The procedures of this chapter apply only to administrative decisions, appeals, and adjudicative hearings relating to the TRS pension plan, unless rules relating to other programs specifically adopt by reference the provisions of this chapter.

(b) The procedures of this chapter do not apply to determinations of whether a domestic relations order is a qualified domestic relations order (QDRO) under Chapter 47 of this title (relating to Qualified Domestic Relations Orders). Appeals relating to QDROs are subject to the requirements of Chapter 47.

(c) If a contested case under this chapter is referred to the State Office of Administrative Hearings (SOAH) for adjudicative hearing, then during the period of time the case is before SOAH, the procedural rules for SOAH (1 TAC Chapter 155) shall apply unless inconsistent with applicable statutes or constitutional provisions. [~~If a matter is referred for an adjudicative hearing to a hearing official not affiliated with SOAH, then the rules of Subchapter C of this chapter (relating to Hearings Not Docketed at SOAH) shall apply to the conduct of the hearing while pending before the hearing official.~~]

§43.2. Definitions.

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

(1) Administrative law judge--An individual appointed to conduct the adjudicative hearing in a contested case. [~~The deputy director may refer an appeal to be heard by an administrative law judge employed by the State Office of Administrative Hearings or may employ, select, or contract for the services of another administrative law judge or hearing examiner to conduct a hearing.~~]

(2) Appeal--A formal request to the executive director or board, as applicable under this chapter, to reverse or modify a final administrative decision by the chief benefit officer or the Medical Board on a matter over which TRS has jurisdiction and authority to grant relief.

(3) Board--The Board of Trustees of TRS.

(4) Chief Benefit Officer--The Chief Benefit Officer of TRS or person acting in that position.

(5) Contested case--A proceeding in which the legal rights, duties, or privileges of a party are to be determined by TRS after an opportunity for adjudicative hearing on a matter over which TRS has jurisdiction and authority to grant relief and the relief sought does not conflict with the terms of the pension plan.

(6) Deputy Director--The Deputy Director of TRS or person acting in that position.

(7) Executive director--The executive director of TRS or person acting in that position; when the executive director determines that a need exists, the executive director at his or her discretion may designate a person to accomplish the duties assigned in this chapter to the executive director.

(8) Final administrative decision--An action, determination, or decision by the chief benefit officer or the Medical Board, as applicable, based on review of a person's request on an administrative basis (i.e., without an adjudicative hearing).

(9) Final decision of TRS--A decision that may not be appealed further within TRS, either because of exhaustion of all opportunities for appeal within TRS or because of a failure to appeal the decision further within TRS in the manner provided for in this chapter.

(10) Medical board--The medical board appointed by the TRS board of trustees under Government Code §825.204.

(11) Member--A person who is a member, retiree, or beneficiary of TRS.

(12) Order--The whole or a part of the final disposition of an appeal, whether affirmative, negative, injunctive, or declaratory in form, of the executive director, deputy director, or the board in a contested case.

(13) Party--Each person named or admitted in a contested case.

(14) Person--Any natural person or other legal entity.

(15) Pleading--A written document that is submitted by a party, by TRS staff, or by a person seeking to participate in a case as a party and that requests procedural or substantive relief, makes claims or allegations, presents legal arguments, or otherwise addresses matters involved in a contested case.

(16) SOAH--The State Office of Administrative Hearings.

(17) State Office of Administrative Hearings--The state agency established by Chapter 2003, Government Code, which may serve as the forum for the conduct of an adjudicative hearing upon referral of an appeal by TRS.

(18) Third party respondent or petitioner--A person joined as an additional party to a proceeding; a party shall be designated as either a third party respondent or third party petitioner based on whether the person opposes the action requested in the petition or supports it or whether the person's interests are aligned with petitioner or respondent.

(19) TRS--The Teacher Retirement System of Texas.

(20) Trustee--One of the members of the board.

(21) With prejudice--Barring a subsequent contested case on the same claim, allegation, or cause of action.

§43.3. Filing of Documents.

(a) All documents relating to any appeal of a final administrative decision shall be filed with the deputy director at TRS, P.O. Box 149676, Austin, Texas 78714-0185 [~~1000 Red River Street, Austin, Texas 78701-2698~~]. A document may be filed with TRS by hand-delivery, courier-receipted delivery, facsimile transmission, or regular, certified, or registered mail. A document is deemed filed when mailed if it is received by TRS within a timely manner under Rule 5 of the Texas Rules of Civil Procedure and the sender provides adequate proof of the mailing date.

(b) If the deputy director has docketed an appeal and referred it for adjudicative hearing at SOAH, documents shall be filed in accordance with the procedural rules of SOAH and served upon TRS in accordance with those rules.

[~~(c) If the deputy director has docketed an appeal and referred it to an administrative law judge or other hearing official not affiliated with SOAH, documents shall be filed with the administrative law judge and a copy provided to the TRS docket clerk during the time the matter is pending before the administrative law judge.~~]

§43.5. Extensions.

(a) Unless otherwise provided by statute, the time for filing pleadings or other documents may be extended, upon the filing of a motion, prior to the expiration of the applicable period of time, showing that there is good cause for such extension of time and that the need for the extension is not caused by the neglect, indifference, or lack of diligence of the party making the motion.

(b) A copy of any such motion shall be served upon all other parties of record to the proceeding contemporaneously with its filing.

(c) In the case of filings that initiate a proceeding or that are made before an appeal has been referred for an adjudicative hearing, the deputy director will determine whether good cause exists and whether an extension should be granted.

(d) In the case of filings made in a proceeding after TRS has referred the appeal for an adjudicative hearing, rules governing hearings before SOAH will control so long as the matter is before SOAH.

[~~(e) If a matter is referred for an adjudicative hearing to a hearing official not affiliated with SOAH, then the rules of this chapter shall apply to the conduct of the hearing while pending before the hearing official.~~]

(e) [~~(f)~~] For matters returned by an administrative law judge [~~or hearing examiner~~] to TRS, either through dismissal from the adjudicative hearing docket or through issuance of a proposal for decision, the executive director may determine whether good cause exists and whether an extension should be granted.

(f) [~~(g)~~] The executive director is authorized to rule on motions for extensions on matters directed to the Board if no Board meeting is scheduled before the expiration of the applicable period of time.

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 October 26, 2026.

TRD-202604515
Don Green
Chief Financial Officer
Teacher Retirement System of Texas
Earliest possible date of adoption: December 6, 2026
For further information, please call: (512) 542-6506

♦ ♦ ♦

SUBCHAPTER B. REQUESTS FOR ADJUDICATIVE HEARING

34 TAC §43.106

STATUTORY AUTHORITY

The proposed amended rule is proposed under the authority of Government Code §825.102, which authorizes the Board to adopt rules for eligibility for membership, the administration of the funds of the retirement system, and the transaction of business of the Board; and Government Code §825.115(b), which authorizes the Board to adopt rules relating to the authority of the Board to make a final decision in a contested case or delegate its authority.

CROSS-REFERENCE TO STATUTE

The proposed amended rule affects Government Code §825.115, which authorizes the Board to adopt rules relating to the authority of the Board to make a final decision in a contested case or delegate its authority.

§43.106. Authority to Grant Relief.

(a) At any time before an appeal is referred for adjudicative hearing, the chief benefit officer or, in the matter of certification for disability retirement, the Medical Board may grant the relief sought by the petitioner and dismiss the appeal, provided that the interests of other individual parties are not adversely affected and the relief does not conflict with the terms of the pension plan.

(b) If the granted appeal has been referred to SOAH, the parties shall request that the SOAH administrative law judge dismiss the case from the SOAH docket in accordance with SOAH rules. [~~If the granted appeal was referred for an adjudicative hearing to a hearing official not affiliated with SOAH, then the rules of Subchapter C of this chapter (relating to Hearings Not Docketed at SOAH) shall apply to the dismissal of the case.~~]

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 October 26, 2026.

TRD-202604516
Don Green
Chief Financial Officer
Teacher Retirement System of Texas
Earliest possible date of adoption: December 6, 2026
For further information, please call: (512) 542-6506

♦ ♦ ♦

SUBCHAPTER C. HEARINGS NOT DOCKETED AT SOAH

34 TAC §§43.201 - 43.228

STATUTORY AUTHORITY

The proposed repealed rules are proposed under the authority of Government Code §825.102, which authorizes the Board to adopt rules for eligibility for membership, the administration of the funds of the retirement system, and the transaction of business of the Board; and Government Code §825.115(b), which authorizes the Board to adopt rules relating to the authority of the Board to make a final decision in a contested case or delegate its authority.

CROSS-REFERENCE TO STATUTE

The proposed repealed rules affect Government Code §825.115, which authorizes the Board to adopt rules relating to the authority of the Board to make a final decision in a contested case or delegate its authority.

§43.201. Applicability.
§43.202. Form of Pleadings.
§43.203. Filing of Pleadings and Amendments.
§43.204. Briefs.
§43.205. Motions.
§43.206. Discovery.
§43.207. Notice of Hearing and Other Action.
§43.208. Agreements to be in Writing.
§43.209. Motion for Consolidation.
§43.210. Additional Parties.
§43.211. Appearance and Representation.
§43.212. Lead Counsel.
§43.213. Powers of the Administrative Law Judge.
§43.214. Prehearing Conference and Orders.
§43.215. Conduct of Hearing.
§43.216. General Admissibility.
§43.217. Exhibits.
§43.218. Pre-filed Direct Testimony in Disability Appeal Proceedings.
§43.219. Limit on Number of Witnesses.
§43.220. Failure to Appear.
§43.221. Conduct and Decorum at Hearing.
§43.222. Official Notice.
§43.223. Recording of the Hearing; Certified Language Interpreter.
§43.224. Dismissal without Hearing.
§43.225. Summary Disposition.
§43.226. The Record.
§43.227. Findings of Fact.
§43.228. Reopening of 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 October 26, 2026.

TRD-202604517
Don Green
Chief Financial Officer
Teacher Retirement System of Texas
Earliest possible date of adoption: December 6, 2026
For further information, please call: (512) 542-6506

♦ ♦ ♦

CHAPTER 47. QUALIFIED DOMESTIC RELATIONS ORDERS

34 TAC §47.16

The Teacher Retirement System of Texas (TRS) proposes to repeal §47.16 (relating to Effective Date of TRS Review of Orders) of Chapter 47 (relating to Qualified Domestic Relations Orders) in Title 34, Part 3, of the Texas Administrative Code.

BACKGROUND AND PURPOSE

In TRS' adopted four-year rule review published in the *Texas Register* on August 7, 2026 (51 TexReg 5257), TRS identified §47.16 as a rule for future repeal because TRS has determined

that no domestic relations orders remain that could be subject to this rule. For this reason, TRS now proposes to repeal this rule.

FISCAL NOTE

Don Green, TRS Chief Financial Officer, has determined that for each year of the first five years the proposed repeal will be in effect, there will be no foreseeable fiscal implications to state or local governments as a result of administering the proposed repeal.

PUBLIC COST/BENEFIT

For each year of the first five years the proposed repeal will be in effect, Mr. Green also has determined that the public benefit anticipated as a result of adopting the proposed repeal will be to remove an unnecessary rule from the Texas Administrative Code. Mr. Green has also determined that there is no economic cost to entities or persons required to comply with the proposed repeal. The repeal imposes no new requirements.

ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS

TRS has determined that there will be no adverse economic effect on small businesses, micro-businesses, or rural communities as a result of the proposed repeal. Therefore, neither an economic impact statement nor a regulatory flexibility analysis is required under Government Code §2006.002.

LOCAL EMPLOYMENT IMPACT STATEMENT

TRS has determined that there will be no effect on local employment because of the proposed repeal. Therefore, no local employment impact statement is required under Government Code §2001.022.

GOVERNMENT GROWTH IMPACT STATEMENT

TRS has determined that for the first five years the proposed repeal will be in effect the proposed repeal 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 TRS; will not require an increase or decrease in fees paid to TRS; will not create a new regulation; will not expand or limit an existing regulation; will not increase or decrease the number of individuals subject to the rule's applicability; and will not affect the state's economy.

The proposed repeal does, however, repeal §47.16

TAKINGS IMPACT ASSESSMENT

TRS has determined that since there are no private real property interests affected by the proposed repeal, a takings impact assessment is not required under Government Code §2007.043.

COSTS TO REGULATED PERSONS

TRS has determined that Government Code §2001.0045 does not apply to the proposed repeal because the proposed repeal does not impose a cost on regulated persons.

COMMENTS

TRS requests written comments regarding the proposed repeal. The comments may include information related to the costs, benefits, or effects of the proposed repeal, including any applicable data, research, or analysis, from any person required to comply with the proposed repeal or any other interested person.

Comments and information regarding the cost, benefit, and effect of the proposed repeal may be submitted in writing to Brian Guthrie, TRS Executive Director, P.O. Box 149676, Austin, Texas 78714-0185. Written comments and cost/benefit information must be received by TRS no later than 30 days after publication of this notice in the *Texas Register.*

STATUTORY AUTHORITY

The repeal of §47.16 is proposed under the authority of Government Code §825.102 which authorizes the TRS Board of Trustees to adopt rules for the eligibility for membership, the administration of the funds of the retirement system, and the transaction of business of the board.

CROSS-REFERENCE TO STATUTE

The proposed repeal of §47.16 implements Government Code §825.102.

§47.16. Effective Date of TRS Review of Orders.

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 October 26, 2026.

TRD-202604518
Don Green
Chief Financial Officer
Teacher Retirement System of Texas
Earliest possible date of adoption: December 6, 2026
For further information, please call: (512) 542-6506

♦ ♦ ♦

PART 4. EMPLOYEES RETIREMENT SYSTEM OF TEXAS

CHAPTER 79. SOCIAL SECURITY

The Employees Retirement System of Texas (ERS) proposes amendments to 34 Texas Administrative Code (TAC) Chapter 79, Social Security, by amending §79.3 (Reporting Procedures) and repealing §79.4 (Reporting Periods), §79.5 (Examination of Records), §79.7 (Correction of Errors and Collection of Accounts Due), §79.9 (Reporting Official), §79.11 (State Holidays), §79.13 (Sick Pay Adjustments to Covered Wages), and §79.15 (Reporting Errors).

ERS was created by the Texas Constitution and administers a constitutional trust fund, as currently set forth in Tex. Const. art. XVI, §67. ERS is further organized pursuant to Title 8, Tex. Gov't Code, as well as 34 Texas Administrative Code, §§61.1 *et seq.*

The amendments and repeal of specified sections, removes obsolete language which references the reporting of wages to ERS by local political subdivisions participating in the Social Security and Medicare programs, as well as social security reporting by state agencies. As background, the Federal Social Security Act was expanded in 1951 to allow states to enter into voluntary agreements with the Social Security Administration (SSA) for Social Security coverage for state employees and to extend coverage to employees of local political subdivisions (cities, counties, utility districts, etc.) through separate amendments to the state's single agreement with the SSA. Initially, local political subdivisions reported Social Security and Medicare wages to ERS, which in turn necessitated administrative rules governing reporting. However, local political subdivisions now report wages di-

rectly to the Internal Revenue Service (IRS). Consequently, ERS no longer receives or audits wage reports from local political subdivisions, and the agency's role in program administration is largely limited to assisting local political subdivisions with obtaining coverage, drafting or modifying amendments to the state's agreement with the SSA, and maintaining existing agreements. ERS no longer takes the actions described in these rules, and the obsolete language can be removed without impact to program administration. Further, adoption of the proposed amendments does not require any change in practice among local political divisions, state agencies, ERS, or the IRS and will serve to better align the rules with current requirements.

GOVERNMENT GROWTH IMPACT STATEMENT

ERS has determined that during the first five-year period the amendments and repeals will be in effect:

(1) the proposed amendments and repeals will not create or eliminate a government program;

(2) implementation of the proposed amendments and repeals will not require the creation of new employee positions or eliminate existing employee positions;

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

(4) the proposed amendments and repeals will not require an increase or decrease in fees paid to the agency;

(5) the proposed amendments and repeals will not create a new rule or regulation;

(6) the proposed amendments amends and repeals existing rules;

(7) the proposed amendments and repeals will not increase or decrease the number of individuals subject to the rules' applicability; and

(8) the proposed amendments and repeals will not positively or adversely affect the state's economy.

Mrs. Anne Allensworth, Enterprise Efficiency Director, has determined that for the first five-year period the amendments and repeals are in effect, there will be no fiscal implication for state or local government or local economies as a result of enforcing or administering the amended or repealed rules; and small businesses, micro-businesses, and rural communities will not be affected.

The proposed amendments and repeals do not constitute a taking. Mrs. Allensworth has also determined that, to her knowledge, there are no known anticipated economic effects for persons who are required to comply with the amendments and repeals as proposed, and the proposed amendments and repeals do not impose a cost on regulated persons.

Mrs. Allensworth also determined that for each year of the first five years the amendments and repeals are in effect, the public benefit anticipated as a result of adopting the amendments and repeals would be that rules connected with the program would better reflect current federal and state administrative requirements.

Comments on the proposed amendments and repeals may be submitted to Cynthia C. Hamilton, General Counsel and Chief Compliance Officer, Employees Retirement System of Texas, P.O. Box 13207, Austin, Texas 78711-3207, or you may email Ms. Hamilton at *General.Counsel@ers.texas.gov*. The deadline for receiving comments is Monday, December 6, 2026, at 10:00 a.m.

34 TAC §79.3

The amendments are proposed pursuant to Tex. Gov't Code §606.023 and §606.070, which explicitly authorize the ERS Board of Trustees to (1) adopt rules that it finds necessary to govern the application for and the eligibility of employees of a political subdivision to obtain social security coverage and (2) adopt rules and require state agencies to file reports regarding social security coverage for state employees. This explicit authority includes implied authority to amend and repeal such rules.

No other statutes are affected by the proposed amendments.

§79.3. Reporting Procedures.

An employing entity that is subject to Tex. Gov't Code Chapter 606 shall submit [~~Each reporting entity shall make reports and payment in such manner and form as the executive director may require for periods prior to January 1, 1987, regular reports to ERS are required. On and after January 1, 1987, only such~~] reports to ERS as [~~may be~~] requested by the executive director in order to administer the provisions of Chapter 606 [~~or designee are required~~]. On and after January 1, 1987, including retroactive periods, all employing entities also have payment and reporting responsibilities directly to the Internal Revenue Service (IRS).

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 October 19, 2026.

TRD-202604435
Cynthia C. Hamilton
General Counsel and Chief Compliance Officer
Employees Retirement System of Texas
Earliest possible date of adoption: December 6, 2026
For further information, please call: (877) 275-4377

♦ ♦ ♦

34 TAC §§79.4, 79.5, 79.7, 79.9, 79.11, 79.13, 79.15

The repeal is proposed pursuant to Tex. Gov't Code §606.023 and §606.070, which explicitly authorize the ERS Board of Trustees to (1) adopt rules that it finds necessary to govern the application for and the eligibility of employees of a political subdivision to obtain social security coverage and (2) adopt rules and require state agencies to file reports regarding social security coverage for state employees. This explicit authority includes implied authority to amend and repeal such rules.

No other statutes are affected by the proposed repeal.

§79.4. Reporting Procedures.

§79.5. Examination of Records.

§79.7. Correction of Errors and Collection of Accounts Due.

§79.9. Reporting Official.

§79.11. State Holidays.

§79.13. Sick Pay Adjustments to Covered Wages.

§79.15. Reporting Errors.

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 October 19, 2026.

TRD-202604436
Cynthia C. Hamilton
General Counsel and Chief Compliance Officer
Employees Retirement System of Texas
Earliest possible date of adoption: December 6, 2026
For further information, please call: (877) 275-4377

♦ ♦ ♦

CHAPTER 82. HEALTH SERVICES IN STATE OFFICE COMPLEXES

The Employees Retirement System of Texas (ERS) proposes amendments to 34 Texas Administrative Code (TAC) Chapter 82, concerning Health Services in State Office Complexes, by amending §82.1 (Definitions), §82.3 (Administration), and §82.5 (Eligibility) and repealing §82.7 (Enrollment and Participation) and §82.9 (Termination).

ERS was created by the Texas Constitution and administers a constitutional trust fund, as currently set forth in Tex. Const. art. XVI, §67. ERS is further organized pursuant to Title 8, Tex. Gov't Code, as well as 34 Texas Administrative Code, §§61.1 *et seq.*

Amendments are proposed to §82.1 (Definitions) to update and refine language in the definitions, to eliminate a definition that is unnecessary because the same term ("board") is defined in Chapter 61, and to remove unnecessary language referencing a specific piece of legislation and legislative session; to §82.3 (Administration) to remove obsolete and duplicative language and to combine language from another section (§82.9) regarding the delegation of authority from the Board of Trustees to the Executive Director to continue or terminate a facility; to §82.5 (Eligibility) to remove duplicative language; to §82.7 (Enrollment and Participation) to remove a section that consists entirely of unnecessary language; and to §82.9 (Termination) to remove unnecessary language that repeats the program's enabling statute and to allow for the remaining language regarding the Executive Director's authority to be combined into §82.3. Adoption of the proposed amendments will not require any change in practice among state agencies, providers, or ERS, and will only serve to better align program rules with established practice.

GOVERNMENT GROWTH IMPACT STATEMENT

ERS has determined that during the first five-year period the amendments will be in effect:

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

(2) implementation of the proposed amendments will not require the creation of new employee positions or eliminate existing employee positions;

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

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

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

(6) the proposed amendments will not expand an existing rule or regulation;

(7) the proposed amendments will not increase or decrease the number of individuals subject to the rules' applicability; and

(8) the proposed amendments will not positively or adversely affect the state's economy.

Mrs. Anne Allensworth, Enterprise Efficiency Director, has determined that for the first five-year period the amendments are in effect, there will be no fiscal implication for state or local government or local economies as a result of enforcing or administering the amended rules; and small businesses, micro-businesses, and rural communities will not be affected.

The proposed amendments do not constitute a taking. Mrs. Allensworth has also determined that, to her knowledge, there are no known anticipated economic effects for persons who are required to comply with the amendments as proposed, and the proposed amendments do not impose a cost on regulated persons.

Mrs. Allensworth also determined that for each year of the first five years the amendments are in effect, the public benefit anticipated as a result of adopting the amendments would be that program rules will better reflect established program administration.

Comments on the proposed amendments may be submitted to Cynthia C. Hamilton, General Counsel and Chief Compliance Officer, Employees Retirement System of Texas, P.O. Box 13207, Austin, Texas 78711-3207, or you may email Ms. Hamilton at *General.Counsel@ers.texas.gov*. The deadline for receiving comments is Monday, December 6, 2026, at 10:00 a.m.

34 TAC §§82.1, 82.3, 82.5

The amendments are proposed under Tex. Gov't Code §671.001(c), which authorizes the ERS Board of Trustees to adopt rules necessary for the implementation of the program for providing health services in state office complexes. This explicit authority includes implied authority to amend and repeal such rules.

No other statutes are affected by the proposed amendments.

§82.1. Definitions.

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

(1) Act--The Texas Employees Group Benefits Act, Tex. Ins. Code [~~Act of the 77th Legislature, 2001, as amended, Insurance Code,~~] Chapter 1551.

[~~(2) Board--The board of trustees of the Employees Retirement System of Texas.~~]

(2) [~~(3)~~] Employee--A person authorized by the Act to participate in the GBP [~~program~~] as an employee.

(3) [~~(4)~~] Executive director [~~Director~~]--The executive director of the Employees Retirement System of Texas.

(4) [~~(5)~~] GBP--The Texas employees group benefits program provided by [~~Employees Group Benefits Program as established~~

by the board pursuant to] the Act and known as the Group Benefits Program.

(5) [(6)] Nurse practitioner [Practitioner]--A licensed advanced practice registered nurse as defined by Tex. Occ. Code §301.152(a) [§301.152, Occupations Code].

(6) [(7)] Pilot program [Program]--The program authorized under Tex. Gov't Code § 671.001 [House Bill 952, 79th Texas Legislature, Regular Session, and codified at Chapter 671, Texas Government Code, wherein the viability of an on-site nurse practitioner to provide authorized on-site health services for state employees is to be evaluated].

(7) [(8)] Supervising physician [Physician]--A licensed physician who performs [will perform] supervisory functions under Tex. Occ. Code Chapter 157 with regard to a [as described by §157.052(c), Occupations Code, for the] nurse practitioner.

§82.3. Administration.

[The board shall implement and administer all aspects of the pilot program and determine any future expansion or continuation of the pilot program as authorized by Chapter 671, Texas Government Code. This includes the authority to execute contracts as necessary, to establish operating procedures, hours of operation, applicable fees and co-payments, administrative costs, and all other administrative and operational functions for the pilot program.] The executive director is vested with the authority to implement and make all administrative decisions related to the pilot program, including authority to continue or terminate a facility [that are vested in the board, including the determination of any future expansion or continuation of the pilot program as authorized by Chapter 671, Texas Government Code, subject to the basic and general policies, rules and regulations and appellate jurisdiction of the board].

§82.5. Eligibility and Participation.

Eligibility for participation in the pilot program is [shall be] limited to employees [of the state of Texas] who are enrolled in the GBP[, pursuant to Subchapter C, Chapter 1551, Insurance Code. Retirees and their dependents and dependents of employees are not eligible for participation].

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 October 19, 2026.

TRD-202604438
Cynthia C. Hamilton
General Counsel and Chief Compliance Officer
Employees Retirement System of Texas
Earliest possible date of adoption: December 6, 2026
For further information, please call: (877) 275-4377

♦ ♦ ♦

34 TAC §82.7, §82.9

The repeals are proposed under Tex. Gov't Code §671.001(c), which authorizes the ERS Board of Trustees to adopt rules necessary for the implementation of the program for providing health services in state office complexes. This explicit authority includes implied authority to amend and repeal such rules.

No other statutes are affected by the proposed repeals.

§82.7. Enrollment and Participation.

§82.9. Termination.

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 October 19, 2026.

TRD-202604439
Cynthia C. Hamilton
General Counsel and Chief Compliance Officer
Employees Retirement System of Texas
Earliest possible date of adoption: December 6, 2026
For further information, please call: (877) 275-4377

♦ ♦ ♦

CHAPTER 85. FLEXIBLE BENEFITS

34 TAC §85.1, §85.3

The Employees Retirement System of Texas (ERS) proposes amendments to 34 Texas Administrative Code (TAC) Chapter 85, concerning Flexible Benefits, by amending §85.1 (Introduction and Definitions) and §85.3. (Eligibility and Participation).

ERS was created by the Texas Constitution and administers a constitutional trust fund, as currently set forth in Tex. Const. art. XVI, §67. ERS is further organized pursuant to Title 8, Tex. Gov't Code, as well as 34 Texas Administrative Code §§61.1 *et seq.*

Amendments are proposed to §85.1 and §85.3 to allow participants in the dependent care flexible spending plan to incur eligible expenses after termination of employment. Rule amendments are required in order to effectuate this change to the plan. Additional amendments are included as cleanup changes to §85.1 and §85.3.

GOVERNMENT GROWTH IMPACT STATEMENT

ERS has determined that during the first five-year period the amended rules will be in effect:

(1) the proposed amendments will not eliminate a government program;

(2) implementation of the proposed amendments will not require the creation of new employee positions or eliminate existing employee positions;

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

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

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

(6) the proposed amendments will expand an existing rule or regulation in a manner that is beneficial to participants;

(7) the proposed amendments will not increase or decrease the number of individuals subject to the rules' applicability; and

(8) the proposed amendments will not positively or adversely affect the state's economy.

Mr. Blaise Duran, Director of Group Benefits, has determined that for the first five-year period the rules are in effect, there will be no fiscal implications for state or local government or local

economies as a result of enforcing or administering the rules; and small businesses, micro-businesses, and rural communities will not be affected.

The proposed amendments do not constitute a taking. Mr. Duran has also determined that, to his knowledge, the only known anticipated economic effect is that people impacted by the amendments will have increased opportunities to avoid the forfeiture of funds deposited into their dependent care flexible spending accounts.

Mr. Duran also determined that the public benefit anticipated as a result of enforcing the proposed rule would be to allow for the reimbursement of additional expenses after termination of employment and thereby limit forfeitures. Currently, members who leave employment are unable to use dependent care flexible spending contributions for services incurred after the date of termination, which results in the forfeiture of those funds.

Comments on the proposed amendments and rules may be submitted to Cynthia C. Hamilton, General Counsel and Chief Compliance Officer, Employees Retirement System of Texas, P.O. Box 13207, Austin, Texas 78711-3207, or you may email Ms. Hamilton at *General.Counsel@ers.texas.gov*. The deadline for receiving comments is Monday, December 7, 2026, at 10:00 a.m.

The amendments are proposed under Tex. Gov't Code §815.102, which authorizes the ERS Board of Trustees (Board) to adopt rules necessary for the administration of the funds of the retirement system and regarding the transaction of any other business of the Board; Tex. Ins. Code §1551.206, which authorizes the Board to develop, implement, and administer flexible spending accounts and include any benefit that may be included under federal law; and Tex. Ins. Code §1551.458, which authorizes the Board to adopt rules regarding flexible spending accounts.

No other statutes are affected by the proposed amendments and rules.

§85.1. Introduction and Definitions.

(a) Summary. The purpose of these rules is to govern the flexible benefits program. These rules constitute the Plan document for the State of Texas Employees Flexible Benefit Program (TexFlex). The flexible benefits plan (the plan) includes reimbursement account arrangements with optional benefits available for selection by participants as described in the plan and these rules. The plan is intended to be qualified under the Internal Revenue Code (the Code), §125, as amended from time to time, and is intended to continue as long as it qualifies under §125 and is advantageous to the state and institutions of higher education employees. Optional benefits offered under the plan for individual selection consist only of a choice between cash and certain statutory nontaxable fringe benefits as defined in the Code, §125, and regulations promulgated under the Code, §125. The plan may also include separate benefits as defined in the Code, §132, and regulations promulgated under the Code, §132, separate from the cafeteria plan, and governed by individual plan documents.

(b) Applicability of rules.

(1) These rules are applicable only to employees, as defined in this chapter [~~these rules~~], and terminated employees, as described in §85.3(a)(3)(B) and (b)(1)(B) and (C) of this chapter [~~title (relating to Eligibility and Participation)~~].

(2) An employee who retired or separated from employment prior to September 1, 1988, shall not be entitled to benefits under the provisions of the plan and these rules, unless the employee is rehired and then becomes eligible for benefits.

(c) Definitions. The following words and terms when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise, and wherever appropriate, the singular includes the plural, the plural includes the singular, and the use of any gender includes the other gender.

(1) Act--The state law that authorized the establishment of a flexible benefits plan and is designated in the Texas Insurance Code, Chapter 1551, as amended.

(2) Account--A record keeping account established by the Employees Retirement System of Texas or its designee in the name of each participant for the purpose of accounting for contributions made to the account and benefits paid to a participant.

(3) Active duty--The expenditure of time and energy in the service of an employer as defined in these rules. An employee will be considered to be on active duty on each day of a regular paid vacation or on a non-work day, on which the employee is not disabled, if the employee was on active duty on the last preceding work day.

(4) Board of trustees--The board of trustees of the Employees Retirement System of Texas (ERS).

(5) Code--The Internal Revenue Code, as amended from time to time.

(6) Compensation--A participant's base salary, including amounts that would otherwise qualify as compensation but are not received directly by the participant pursuant to a good faith, voluntary, written or electronic salary reduction agreement in order to finance payments to a deferred compensation or tax sheltered annuity program specifically authorized by state law or to finance benefit options under this plan, plus longevity and hazardous duty pay and including non-monetary compensation, the value of which is determined by the Employees Retirement System of Texas, but excluding overtime pay.

(7) Debit Card--A bank issued convenience card or similar technology approved by the plan administrator and permitted to be used by participants as an optional method to pay for eligible transactions. Use of the card is governed by the plan administrator and issuing financial institution. The card is referred to as the Flex Debit Card.

(8) Dependent--An individual who qualifies as a dependent under the Code, §152, and when applicable taking into account the Code, §105, or any individual who is:

(A) except as provided by §85.6(b)(3) of this title, a dependent of the participant who is under the age of 13 and with respect to whom the participant is entitled to an exemption under the Code, §151, or, is otherwise, a qualifying individual as provided in the Code, §21; or

(B) a dependent or spouse of the participant who is physically or mentally incapable of caring for himself or herself.

(9) Dependent care reimbursement account--The bookkeeping account maintained by the plan administrator or its designee used for crediting contributions to the account and accounting for benefit payments from the account.

(10) Dependent care reimbursement plan--A separate plan under the Code, §129, adopted by the board of trustees, and designed to provide payment or reimbursement for dependent care expenses as described in §85.5(c) of this title (relating to Benefits).

(11) Dependent care expenses--Expenses incurred by a participant which:

(A) are incurred for the care of a dependent of the participant;

(B) are paid or payable to a dependent care service provider or to the participant as reimbursement for such expenses; and

(C) are incurred to enable the participant to be gainfully employed for any period for which there are one or more dependents with respect to the participant. Dependent care expenses shall not include expenses incurred for the services outside the participant's household for the care of a dependent, unless such dependent is a dependent under the age of 13 (or through age 14 as provided by §85.6(b)(3) of this title) with respect to when the participant is entitled to a tax deduction under the Code, §151, or a dependent who is physically or mentally incapable of self support. In the event that the expenses are incurred outside the dependent's household, the dependent must spend at least eight hours each day in the participant's household. Dependent care expenses shall be deemed to be incurred at the time the services to which the expenses relate are rendered.

(12) Dependent care service provider--A person or a dependent care center (as defined in the Code, §21) who provides care or other services described in the definition of "dependent care expenses" in this section, but shall not include:

(A) a related individual described in the Code, §129; or

(B) a dependent care center which does not meet the requirements of the Code, §21.

(13) Effective date of the plan--September 1, 1988.

(14) Election form--A paper or electronic form provided by the Employees Retirement System of Texas that is an agreement by and between the employer and the participant, entered into prior to an applicable period of coverage, in which the participant agrees to a reduction in compensation for purposes of purchasing benefits under the plan.

(15) Eligible employee--An employee who has satisfied the conditions for eligibility to participate in the plan in accordance with the plan and §85.3(a)(1), and (b)(1) of this title (relating to Eligibility and Participation), and, to the extent necessary, a retired or terminated employee who is entitled to benefit payments under the plan.

(16) Employee--A person who is eligible to participate in the Texas Employees Group Benefits Program as an employee.

(17) Employer--The State of Texas, its agencies, commissions, institutions of higher education, and departments, or other governmental entity whose employees are authorized to participate in the Texas Employees Group Benefits Program.

(18) Expenses incurred--Expenses for services received or performed and for which the participant is legally responsible.

(19) Executive director--The executive director of the Employees Retirement System of Texas.

(20) Flexible benefit dollars--The dollars available to a participant which may be used for purposes of purchasing benefits under the plan.

(21) General purpose health care reimbursement account--The account described in §85.5(b)(1).

(22) Grace period -- A time period lasting until the fifteenth day of the third calendar month immediately following the end of the plan year, during which participants may continue to incur eligible expenses for reimbursement from the prior plan year's account balance. The grace period applies to the dependent care reimbursement plan, except as limited by §85.6 and §85.3(a)(3)(B) of this chapter. The grace period does not apply to a health care reimbursement plan.

~~[(22) Grace period--A two (2) month and 15 day period, adopted by the TexFlex plan pursuant to IRS Notice 2005-42, immediately following the end of the plan year during which participants may continue to incur expenses for reimbursement from the prior year account balance. The grace period does not apply to a health care reimbursement plan year that begins on or after September 1, 2014, but does apply to the dependent care reimbursement plan, except as limited by §85.6(b)(2) of this title.]~~

(23) Health care expenses--Any expenses incurred by a participant, or by a spouse or dependent of such participant, for health care as described in or authorized in accordance with the Code, §105 and §213, but only to the extent that the participant or other person incurring the expense is not reimbursed for the expense by insurance or other means. The types of expenses include, but are not limited to, amounts paid for hospital bills, doctor bills, prescription drugs, hearing exams, vision exams, and eye exams.

(24) Health care reimbursement account--The bookkeeping account maintained by the plan administrator or its designee used for crediting contributions to the account and accounting for benefit payments from the account.

(25) Health care reimbursement plan--A separate plan, under the Code, §105, adopted by the board of trustees, and designed to provide health care expense reimbursement as described in §85.5(b) of this title (relating to Benefits).

(26) Institution of higher education--All public community/junior colleges, senior colleges or universities, or any other agency of higher education within the meaning and jurisdiction of the Education Code, Chapter 61, except the University of Texas System and the Texas A&M University System.

(27) Leave of absence without pay--The status of an employee who is certified monthly by an agency or institution of higher education administrator to be absent from duty for an entire calendar month, and who does not receive any compensation for that month.

(28) Limited purpose health care reimbursement account--The account described in §85.5(b)(3).

(29) Option--Any specific benefit offering under the plan.

(30) Participant--An eligible employee who has elected to participate in the plan for a period of coverage.

(31) Period of coverage--The plan year during which coverage of benefits under the plan is available to and elected by a participant; however, an employee who becomes eligible to participate during the plan year may elect to participate for a period lasting until the end of the current plan year. In such case, the interval commencing on such employee's entry date and ending as of the last day of the current period of coverage shall be deemed to be such participant's period of coverage.

(32) Plan--The flexible benefits plan established and adopted by the board of trustees pursuant to the laws of the state of Texas and any amendments which may be made to the plan from time to time. The plan is referred to herein as TexFlex, and is comprised of a dependent care reimbursement plan, a health care reimbursement plan, an insurance premium conversion plan, and a qualified transportation benefit plan.

(33) Plan administrator--The board of trustees of the Employees Retirement System of Texas or its designee.

(34) Plan year--A 12-month period beginning September 1 and ending August 31.

(35) Run-out period--The period following the end of the plan year between September 1 and December 31, during which participants may file claims for reimbursement of expenses incurred during the plan year.

(36) Statutory nontaxable benefit--A benefit provided to a participant under the plan, which is not includable in the participant's taxable income by reason of a specific provision in the Code and is permissible under the plan in accordance with the Code, §125.

(37) Spouse--The person to whom the participant is married. Spouse does not include a person separated from the participant under a decree of divorce, or annulment.

(38) TexFlex--The flexible benefits plan adopted by the board of trustees.

(39) Texas Employees Group Benefits Program (GBP)--The employee insurance benefits program administered by the Employees Retirement System of Texas, pursuant to Texas Insurance Code, Chapter 1551. The program consists of health, voluntary accidental death and dismemberment, optional term life, dependent term life, short and long term disability, vision, and dental insurance coverages.

(40) Third Party Administrator or TPA--The vendor, administrator or firm selected by the plan administrator to perform the day-to-day administrative responsibilities of the TexFlex program for participants of the Texas Employees Group Benefits Program who enroll in either the health care reimbursement plan, dependent care reimbursement plan or both.

§85.3. Eligibility and Participation.

(a) Dependent care reimbursement plan.

(1) Eligibility. Any employee eligible to participate in the Texas Employees Group Benefits Program may elect to participate in the dependent care reimbursement plan [~~account~~].

(2) Participation.

(A) An eligible employee [~~who is eligible under paragraph (1) of this subsection~~] may elect to participate by [~~completing and~~] submitting an election form [~~either in writing or electronically~~] on, or within 30 days after, the date on which the employee begins active duty. Upon submitting [~~An employee, upon executing~~] an election form [~~for participation~~], an employee is [~~either in writing or electronically, shall be deemed to have consented to and be~~] bound by all the terms, conditions, and limitations of the plan, [~~any and all amendments hereto,~~] any administrative rules adopted by the plan administrator, and any decision [~~or determinations~~] made by the plan administrator with respect to participant [~~the participant's~~] eligibility, obligations, rights, and benefits [~~available~~] under the plan. An election made on the date on which the employee begins active duty becomes effective on that date. An election made after the date on which the employee begins active duty becomes effective on the first day of the month following the date on which the employee begins active duty.

(B) An eligible employee who experiences [~~is otherwise eligible to participate in the Texas Employees Group Benefits Program but who declined participation in the dependent care reimbursement account prior to the beginning of a plan year, and who, after the beginning of a plan year, has~~] a qualifying life event, as described [~~defined~~] in §85.7(c) of this chapter [~~title (relating to Enrollment)~~], may elect to participate in the dependent care reimbursement plan [~~account~~] as provided in §85.7(c) [~~of this title~~].

(C) A participant who experiences a qualifying life event as described in §85.7(c) of this chapter may change or revoke their election to participate in the dependent care reimbursement plan during the plan year as provided in §85.7(c).

[~~(C) A qualifying life event as defined in §85.7(c) of this title will permit a change or revocation of participation during the plan year as provided in §85.7(c) of this title.~~]

(D) An eligible employee may elect to participate in the dependent care reimbursement plan [~~shall have an opportunity to enroll~~] or change an election [~~benefit options~~] during the annual enrollment period. The annual enrollment period occurs [~~shall be~~] prior to the beginning of each [~~a~~] new plan year. Elections and changes in elections made during the annual enrollment period become effective on the first day of the next plan year.

(E) The plan administrator shall maintain and update the participant enrollment records. Any and all changes will be communicated to the TPA via weekly file transfer protocol (FTP), tapes or other selected media.

(3) Duration of participation.

(A) An employee's election to participate [~~or to waive participation~~] in the dependent care reimbursement plan is [~~shall be~~] irrevocable for the plan year unless there is a qualifying life event as described [~~defined~~] in §85.7(c) of this chapter [~~title~~]. Automatic re-enrollment for subsequent plan years is governed by §85.7(a)(6) of this chapter.

(B) An employee whose employment has terminated, voluntarily or involuntarily, and who had a dependent care reimbursement account at the time of termination:

(i) retains the account through the end of the current plan year;

(ii) cannot make further contributions to the account after the date of termination;

(iii) may incur eligible dependent care expenses through the end of the current plan year, up to the amount of their remaining account balance, but may not incur such expenses during a grace period; and

(iv) may submit claims through December 31 following the close of the current plan year.

(C) [~~(B)~~] An employee returning to active duty following termination of employment[~~,~~] or [~~following~~] a period of [~~approved~~] leave without pay may[~~, during the same plan year shall~~] reinstate the employee's election to participate in the dependent care reimbursement plan if the employee was participating in the plan [~~in effect~~] on the employee's last previous active duty date and the employee returns to active duty during the same plan year. The employee may elect to reinstate the previous election [~~Reinstatement becomes effective on the date on which the employee resumes active duty, unless the employee requests a change~~] in the same manner as a new election under §85.3(a)(2)(A) [~~as provided in §85.7(c)~~] of this chapter, and the election will become effective as provided in that section [~~title~~].

(b) Health care reimbursement plan.

(1) Eligibility.

(A) Any employee eligible to participate in the Texas Employees Group Benefits Program may elect to participate in a health care reimbursement account, except that an employee participating in a consumer directed health plan with a health savings account, as permitted under Subchapter J, Chapter 1551, Insurance Code, may only

participate in the limited purpose health care reimbursement account described by §85.5(b)(3), of this title (relating to Benefits). Only participants in a consumer directed health plan are eligible to elect to participate in the limited purpose health care reimbursement account described by §85.5(b)(3) of this title.

(B) Prior to September 1, 2014, an employee whose employment has been terminated, voluntarily or involuntarily, and who had a health care reimbursement account at the time of termination, shall retain the health care reimbursement account for the applicable period of election. The terminated employee must pre-pay, on a monthly basis, the elected amount and any administrative fee for the plan year. Payments are due on the first day of each month and must be received no later than the 30th day of the month. Failure to pay will automatically cancel enrollment.

(C) On and after September 1, 2014, the employee's period of coverage ends on the date of termination of employment.

(2) Participation.

(A) An employee who is eligible under paragraph (1) of this subsection may elect to participate by completing and submitting an election form either in writing or electronically on, or within 30 days after, the date on which the employee begins active duty. An employee, upon executing an election form for participation, either in writing or electronically, shall be deemed to have consented to and be bound by all the terms, conditions, and limitations of the plan, any and all amendments hereto, any administrative rules adopted by the plan administrator, and any decision or determinations made by the plan administrator with respect to the participant's eligibility, obligations, rights and benefits available under the plan. An election made by an employee to participate in the health care reimbursement plan shall be effective on the date that the employee's coverage in a GBP health benefit plan begins. But if an employee opts out or waives GBP health coverage as provided in §81.8 of this title (relating to Waiver of Health Coverage), the employee's election shall become effective on the first day of the calendar month following 60 days of employment.

(B) An employee who is eligible but who declined participation in the health care reimbursement account prior to the beginning of a plan year, and who, after the beginning of a plan year, has a qualifying life event, as defined in §85.7(c) of this title, may elect to participate in a health care reimbursement account as provided in §85.7(c) of this title.

(C) A qualifying life event as defined in §85.7(c) of this title will permit the following changes in election during the plan year, as provided in §85.7(c) of this title:

(i) an increase in the election amount, if the increase is consistent with the qualifying life event; or

(ii) a decrease in the election or election amount, if the decrease is consistent with the qualifying life event.

(D) An eligible employee shall have an opportunity to enroll or to change benefit options during the annual enrollment period. The annual enrollment period shall be prior to the beginning of a new plan year. Elections and changes in elections made during the annual enrollment period become effective on the first day of the plan year.

(E) The plan administrator shall maintain and update the participant enrollment records. Any and all changes will be communicated to the TPA via weekly file transfer protocol (FTP), tapes or other selected media.

(F) If an eligible employee elects to enroll in a consumer directed health plan with a health savings account, any unspent flexible benefit plan dollars in the employee's health care reimbursement account at the end of the previous plan year shall automatically be transferred to and carryover into a limited purpose account as described by §85.5(b)(3) of this title, up to the maximum carryover permitted by the IRS. Such carryover shall comply with §85.7(g) of this title. Any flexible benefit plan dollars remaining that exceed the maximum carryover permitted by the IRS will be forfeited by the employee.

(3) Duration of participation.

(A) Except as otherwise provided in paragraph (2)(C)(ii) or (D) of this subsection, an employee's election to or not to participate in a health care reimbursement account shall be irrevocable for the plan year.

(B) An employee returning to active duty following termination of employment, or following a period of leave without pay, during the same plan year shall reinstate the election in effect on the employee's last previous active duty date. Reinstatement becomes effective on the date on which the employee resumes active duty, unless the employee requests a change in election as provided in §85.7(c) of this title or a different requirement is imposed by the Family and Medical Leave Act of 1993 (FMLA).

(C) For plan years beginning before September 1, 2014, an employee who is enrolled in a health care reimbursement account who terminates employment during the plan year must retain the health care account for the remainder of the plan year and prepay premiums or make monthly premium payments due for the remainder of the plan year, as described in paragraph (1)(B) of this subsection.

(D) For plan years beginning on and after September 1, 2014, an employee who is enrolled in a health care reimbursement account who terminates employment during the plan year does not retain the health care account for the remainder of the plan year. The employee's period of coverage ends on the date of termination. An employee may only file a claim for reimbursement for expenses incurred before the date of termination.

(E) Notwithstanding any provision to the contrary in this Plan, if an employee goes on a qualifying unpaid leave under the Family Medical Leave Act (FMLA), to the extent required by the FMLA, the plan administrator will continue to maintain the employee's health care reimbursement account on the same terms and conditions as though he were still an active employee (i.e., the plan administrator or its designee will continue to provide benefits to the extent the employee opts to continue his coverage). If the employee opts to continue his coverage, the employee shall pay his or her contribution in the same manner as a participant on the non-FMLA leave, including payment with after-tax dollars while on leave. The employee may also be given the option to pre-fund all or a portion of the contribution for the expected duration of the leave on a pre-tax salary reduction basis out of his pre-leave compensation by making a special election to that effect prior to the date such compensation would normally be made available to him (provided, however, that pre-tax dollars may not be utilized to fund coverage during the next plan year).

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 October 26, 2026.

TRD-202604527

Cynthia C. Hamilton
General Counsel and Chief Compliance Officer
Employees Retirement System of Texas
Earliest possible date of adoption: December 6, 2026
For further information, please call: (877) 275-4377

♦ ♦ ♦

TITLE 37. PUBLIC SAFETY AND CORRECTIONS

PART 5. TEXAS BOARD OF PARDONS AND PAROLES

CHAPTER 145. PAROLE

SUBCHAPTER A. PAROLE PROCESS

37 TAC §145.16

The Texas Board of Pardons and Paroles proposes amendments to 37 TAC Chapter 145, §145.16, concerning the parole process. The amendments are proposed to promote simplicity and clarity.

Marsha Moberley, Chair of the Board, determined that for each year of the first five-year period the proposed amendments are in effect, no fiscal implications exist for state or local government as a result of enforcing or administering this section.

Ms. Moberley also has determined that for each year of the first five years the proposed amendments are in effect, the public benefit anticipated as a result of enforcing the amendments will be to reduce the number of times victims will be notified of the parole panel's reconsideration of an offender's parole review. There will be no effect on small businesses, micro-businesses or rural areas. There is no anticipated economic cost to persons required to comply with the amended rule as proposed. No regulatory flexibility analysis required by HB 3430 is necessary.

An Economic Impact Statement and Regulatory Flexibility Analysis is not required because the proposed amendments will not have an economic effect on micro-businesses, small businesses, or rural communities as defined in Texas Government Code, Section 2006.001(2).

Government Growth Impact Statement. In compliance with Texas Government Code §2001.0221, the Board has prepared a government growth impact statement. Unless indicated below, for each year of the first five years that the rule will be in effect, the rule 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 agency; lead to an increase or decrease in the 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, or positively or adversely affect this state's economy.

Comments should be directed to Jennifer Childress, General Counsel, Texas Board of Pardons and Paroles, 209 W. 14th Street, Suite 500, Austin, Texas 78701, or by e-mail to Jennifer.childress@tdcj.texas.gov. Written comments from the general public should be received within 30 days of the publication of this proposal.

The amended rule is proposed under §§508.036 and 508.0441, Texas Government Code. Section 508.036 requires the board to adopt rules relating to the decision-making processes used by the board and parole panels; and §508.0441 provides the board with the authority to consider and order release on parole or mandatory supervision.

No other statutes, articles or codes are affected by these amendments.

§145.16. Action upon Special Review--Release Approved.

(a) Responses received from trial officials or victims that did not provide input prior to the [~~after a release to parole or release to mandatory supervision~~] decision being rendered shall be considered as information not previously available to the parole panel. Provided that release to parole or mandatory supervision has not occurred, the responses shall be referred to the parole panel or to the Board office corresponding to the parole panel that rendered the release to parole or release to mandatory supervision decision. A case reviewed by a parole panel, pursuant to the receipt of information not previously available to the parole panel, may then:

(1) be continued in a release to parole or release to mandatory supervision status with or without additional conditions of release imposed; or

(2) have the release to parole or release to mandatory supervision decision withdrawn and the next review date set by the parole panel in accordance with applicable provisions of Chapter 145 of this title (relating to Parole Process).

(b) Nothing in this rule is intended to restrict a parole panel member from reconsidering a release vote to parole or mandatory supervision.

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 October 23, 2026.

TRD-202604498
Richard Gamboa
Technical Writer
Texas Board of Pardons and Paroles
Earliest possible date of adoption: December 6, 2026
For further information, please call: (512) 406-5309

♦ ♦ ♦

CHAPTER 146. REVOCATION OF PAROLE OR MANDATORY SUPERVISION

37 TAC §§146.3, 146.5, 146.6, 146.8

The Texas Board of Pardons and Paroles proposes the repeal to 37 TAC Chapter 146, §§146.3, 146.5, 146.6 and 146.8, concerning the violation of parole or mandatory supervision. The proposed repeals are the result of a review that concluded the rules are redundant of the Board's policies and procedures.

Marsha Moberley, Chair of the Board, determined that for each year of the first five-year period the proposed repeals are in effect, no fiscal implications exist for state or local government as a result of enforcing or administering this section.

Ms. Moberley also has determined that for each year of the first five years the proposed repeals are in effect, the public benefit anticipated as a result of enforcing the amendments will be to reduce the number of times victims will be notified of the parole

panel's reconsideration of an offender's parole review. There will be no effect on small businesses, micro-businesses or rural areas. There is no anticipated economic cost to persons required to comply with the amended rule as proposed. No regulatory flexibility analysis required by HB 3430 is necessary.

An Economic Impact Statement and Regulatory Flexibility Analysis is not required because the proposed repeals will not have an economic effect on micro-businesses, small businesses, or rural communities as defined in Texas Government Code, Section 2006.001(2).

Government Growth Impact Statement. In compliance with Texas Government Code §2001.0221, the Board has prepared a government growth impact statement. Unless indicated below, for each year of the first five years that the repeals will be in effect, the repeals 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 agency; lead to an increase or decrease in the 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, or positively or adversely affect this state's economy.

Comments should be directed to Jennifer Childress, General Counsel, Texas Board of Pardons and Paroles, 209 W. 14th Street, Suite 500, Austin, Texas 78701, or by e-mail to Jennifer.childress@tdcj.state.tx.us. Written comments from the general public should be received within 30 days of the publication of this proposal.

The repeals are proposed under §§508.036 and 508.0441, Texas Government Code. Section 508.036 requires the board to adopt rules relating to the decision-making processes used by the board and parole panels; and §508.0441 provides the board with the authority to consider and order release on parole or mandatory supervision.

No other statutes, articles or codes are affected by these repeals.

§146.3. Right to Counsel.

§146.5. Procedure after Waiver of Revocation Hearing.

§146.6. Scheduling of Preliminary Hearing.

§146.8. Scheduling of Revocation Hearings.

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 October 23, 2026.

TRD-202604500
Richard Gamboa
Technical Writer
Texas Board of Pardons and Paroles
Earliest possible date of adoption: December 6, 2026
For further information, please call: (512) 406-5309

♦ ♦ ♦

CHAPTER 148. SEX OFFENDER CONDITIONS OF PAROLE OR MANDATORY SUPERVISION

37 TAC §§148.41 - 148.45, 148.48, 148.55

The Texas Board of Pardons and Paroles proposes amendments to 37 TAC Chapter 148, §§148.41, 148.42, 148.43, 148.44, 148.45, 148.48, and 148.55 concerning sex offender conditions of parole or mandatory supervision. Rules 148.41, 148.42, 148.43, 148.44, 148.45, 148.48, and 148.55 within this chapter are identical to existing rules in Chapter 147. To eliminate redundancy, these rules were amended to incorporate a cross-reference to Chapter 147.

Marsha Moberley, Board Chair, determined that for each year of the first five-year period the proposed amendments are in effect, no fiscal implications exist for state or local government as a result of enforcing or administering these sections.

Ms. Moberley also has determined that during the first five years the proposed amendments are in effect, the public benefit anticipated as a result of enforcing the amendments to these sections will be the effective administration of sex offender conditions hearings. There will be no effect on small businesses, micro-businesses or rural areas. There is no anticipated economic cost to persons required to comply with the amended rules as proposed. The amendments 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; does not create a new regulation; does not expand, limit, or repeal an existing regulation; 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.

An Economic Impact Statement and Regulatory Flexibility Analysis is not required because the proposed amendments will not have an economic effect on micro-businesses, small businesses, or rural communities as defined in Texas Government Code §2006.001(2).

Comments should be directed to Jennifer Childress, General Counsel, Texas Board of Pardons and Paroles, 209 W. 14th Street, Suite 500, Austin, Texas 78701, or by e-mail to jennifer.childress@tdcj.texas.gov. Written comments from the general public should be received within 30 days of the publication of this proposal.

The amended rules are adopted under Texas Government Code Sections 508.036(b), 508.0441(a)(5), 508.045(c), 508.281, 508.2811, and 508.283. Section 508.036(b) requires the board to adopt rules relating to the decision-making processes used by the Board and parole panels. Section 508.0441(a)(5) vests the Board with the authority to determine the continuation, modification, and revocation of parole or mandatory supervision. Section 508.045(c) provides parole panels with the authority to conduct parole revocation and mandatory supervision revocation hearings; and to grant, deny, revoke parole or mandatory supervision. Sections 508.281 and 508.2811 relate to hearings to determine violations of the releasee's parole or mandatory supervision. Sections 508.282 and 508.283 concern deadlines and sanctions for parole revocation and mandatory supervision revocation hearings.

No other statutes, articles, or codes are affected by these amendments.

§148.41. Public Hearings.

Public Hearings as specified in §147.1(a) and (b) of this title (relating to Public Hearings) is incorporated by reference.

[(a) All hearings on matters not confidential or privileged by law, or both, shall be open to the public.]

[(b) Appropriate federal and state constitutional provisions, statutes, regulations, and judicial precedent establishing the confidential or privileged nature of the information presented shall be given effect by the Hearing Officer. As a result, the Hearing Officer shall have the authority to close the hearing to the extent necessary to protect against the improper disclosure of confidential or privileged information.]

[(c) To give effect to subsection (b) of this section, the Hearing Officer shall have the authority to close the hearing to the extent necessary to protect against the improper disclosure of confidential and/or privileged information.]

§148.42. Authority of Hearing Officers.

The Authority of Hearings Officers as specified in §147.2, of this title (relating to Authority of Hearing Officers) is incorporated by reference.

[(a) A Hearing Officer shall have the following authority:]

[(1) to administer oaths;]

[(2) to examine witnesses;]

[(3) to rule on the admissibility of evidence;]

[(4) to rule on motions and objections;]

[(5) to recess any hearing from time to time and place to place;]

[(6) to reopen, upon request of a parole panel, or reconvene, or both, any hearing;]

[(7) to issue on behalf of the Board subpoenas and other documents authorized by and signed by a Board Member in accordance with statutory authority;]

[(8) to maintain order and decorum throughout the course of any proceedings;]

[(9) to collect documents and exhibits comprising the record of the hearing;]

[(10) to prepare the report of the hearing for the parole panel to make disposition of the case; and]

[(11) to determine the weight to be given to particular evidence or testimony and to determine the credibility of witnesses.]

[(b) If a Hearing Officer fails to complete an assigned case, another Hearing Officer may complete the case without the necessity of duplicating any duty or function performed by the previous Hearing Officer.]

§148.43. Ex Parte Consultations.

Ex Parte Consultations as specified in §147.3 of this title (relating to Ex Parte Consultations) is incorporated by reference. [Unless required for the disposition of matters authorized by law, Hearing Officers, Board Members and Parole Commissioners assigned to render a decision may not directly or indirectly, initiate, permit, nor consider communications in connection with any issue of fact or law with any party, except on notice and opportunity for all parties to participate.]

§148.44. Motions.

Motions as specified in §147.4 of this title (relating to Motions) is incorporated by reference. [Unless made during a hearing, motions shall be made in writing, set forth the relief or order sought, and shall be filed with the Hearing Officer assigned to conduct the hearing. Motions based on matters which do not appear of record shall be supported by affidavit.]

§148.45. Witnesses.

Witnesses as specified in §147.5 of this title (relating to Witnesses) is incorporated by reference.

[(a) The Hearing Officer may determine whether a witness may be excused under the rule that excludes witnesses from the hearing.]

[(1) In no event shall the Hearing Officer exclude from the hearing a party under the authority of this section. For these purposes, the term "party" means the definition in §141.111 of this title (relating to Definition of Terms) and includes:]

[(A) the releasee;]

[(B) the releasee's attorney; and]

[(C) no more than one representative of the Division who has acted or served in the capacity of supervising, advising, or agent officer in the case.]

[(2) When the Hearing Officer determines that an individual who is present at the hearing and intended to be called by a party as a witness has no relevant, probative, noncumulative testimony to offer on any material issue of fact or law, then the Hearing Officer, in their his sound discretion, may determine that such individual should not be placed under the rule and excluded from the hearing.]

[(b) All witnesses who testify in person are subject to cross-examination unless the Hearing Officer specifically finds good cause for lack of confrontation and cross-examination.]

[(c) Witnesses personally served with a subpoena and who fail to appear at the hearing may present testimony by written statement upon a favorable good cause determination by the Hearing Officer.]

§148.48. Record.

Record as specified in §147.6 of this title (relating to Record) is incorporated by reference.

[(a) The record in any case includes all pleadings, motions, and rulings; evidence received or considered; matters officially noticed; questions and offers of proof, objections, and rulings on them; all relevant Division documents, staff memoranda, or reports submitted to or considered by the Hearing Officer involved in making the decision; and any decision, opinion, or report by the Hearing Officer presiding at the hearing.]

[(b) All hearings shall be electronically recorded in their entirety.]

[(c) The hearing record is made a part of the official parole record maintained by the Division. All requests for copies of the hearing report or hearing recording shall be addressed to the Division.]

§148.55. Procedure after Motion to Reopen Is Granted; Time; Rights of the Releasee; Final Disposition.

(a) When the parole panel disposes of a releasee's motion to reopen under §148.54 of this title (relating to Releasee's Motion to Reopen Hearing) by granting the motion to reopen the hearing, the case shall be disposed of or referred to a parole panel or designee of the Board for final disposition in accordance with this section and the previous disposition of the case made by the parole panel under §148.53 of this title (relating to Final Board Disposition), shall be set aside, and shall be of no force and effect.

(b) The purpose of the further proceedings before the parole panel or designee of the Board under this section shall be as specified

by the parole panel in its order granting the releasee's motion to reopen pursuant to §148.54 of this title.

(c) When the parole panel or designee of the Board convenes the reopening of the hearing, it shall have [~~before it~~] the [~~entire~~] record of the original hearing, any prior reopenings, releasees motion and any confidential Board transmittals. [~~previously compiled in the case, including:~~]

[~~(1) the record, report, and decision of the hearing under §148.52 of this title (relating to Hearing) collected or prepared by the parole panel or designee of the Board originally assigned to the case;~~]

[~~(2) any amendments, supplements, or modifications of the record, report, or decision as developed through prior reopenings of the case;~~]

[~~(3) the releasee's motion to reopen the hearing pursuant to §148.54 of this title; and~~]

[~~(4) any transmittal submitted to the parole panel with the recommendation from Board staff. Any transmittal submitted to the parole panel by the General Counsel constitutes legal advice that is confidential under law and shall not be released to the public as part of the hearing packet.~~]

(d) At the conclusion of the proceedings before the parole panel or designee of the Board, or within a reasonable time thereafter, the parole panel shall make final disposition of the case by taking one of the following actions in any manner warranted by the evidence:

(1) continue the parole panel's action; or

(2) withdraw the imposition of the special condition.

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 October 23, 2026.

TRD-202604501
Richard Gamboa
Technical Writer
Texas Board of Pardons and Paroles
Earliest possible date of adoption: December 6, 2026
For further information, please call: (512) 406-5309

♦ ♦ ♦

37 TAC §148.51

The Texas Board of Pardons and Paroles proposes the repeal to 37 TAC Chapter 148, §148.51 sex offender conditions of parole and mandatory supervision. The proposed repeal is the result of a review that concluded the rules are redundant and more appropriately contained in the Board's policies and procedures.

Marsha Moberley, Chair of the Board, determined that for each year of the first five-year period the proposed amendments are in effect, no fiscal implications exist for state or local government as a result of enforcing or administering this section.

Ms. Moberley also has determined that for each year of the first five years the proposed amendments are in effect, the public benefit anticipated as a result of enforcing the amendments will be to reduce the number of times victims will be notified of the parole panel's reconsideration of an offender's parole review. There will be no effect on small businesses, micro-businesses or rural areas. There is no anticipated economic cost to persons required to comply with the amended rule as proposed. No regulatory flexibility analysis required by HB 3430 is necessary.

An Economic Impact Statement and Regulatory Flexibility Analysis is not required because the proposed amendments will not have an economic effect on micro-businesses, small businesses, or rural communities as defined in Texas Government Code, Section 2006.001(2).

Government Growth Impact Statement. In compliance with Texas Government Code §2001.0221, the Board has prepared a government growth impact statement. Unless indicated below, for each year of the first five years that the rule will be in effect, the rule 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 agency; lead to an increase or decrease in the 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, or positively or adversely affect this state's economy.

Comments should be directed to Jennifer Childress, General Counsel, Texas Board of Pardons and Paroles, 209 W. 14th Street, Suite 500, Austin, Texas 78701, or by e-mail to . Written comments from the general public should be received within 30 days of the publication of this proposal.

The amended rule is proposed under §§508.036 and 508.0441, Texas Government Code. Section 508.036 requires the board to adopt rules relating to the decision-making processes used by the board and parole panels; and §508.0441 provides the board with the authority to consider and order release on parole or mandatory supervision.

No other statutes, articles or codes are affected by this repeal.

§148.51. Scheduling of 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 October 23, 2026.

TRD-202604502
Richard Gamboa
Technical Writer
Texas Board of Pardons and Paroles
Earliest possible date of adoption: December 6, 2026
For further information, please call: (512) 406-5309

♦ ♦ ♦

PART 13. TEXAS COMMISSION ON FIRE PROTECTION

CHAPTER 421. STANDARDS FOR CERTIFICATION

37 TAC §421.9

The Texas Commission on Fire Protection (Commission) proposes an amendment to 37 Texas Administrative Code, Chapter 421, Standards for Certification, concerning §421.9, Designation of Fire Protection Duties.

Background and Purpose

The purpose of the proposed amendment is to conform §421.9 to Texas Government Code, Chapter 419. The amendment adds a new subsection (e) providing that a person designated as a part-time fire protection employee is subject to Texas Government Code §419.0321, and deletes the former subsection (e).

Fiscal Note and Impact on State and Local Government

Michael Wisko, Agency Chief, has determined that for each year of the first five-year period these rules are in effect, there will be no fiscal impact on state or local government as a result of enforcing or administering these rules.

Public Benefit and Cost Note

Mr. Wisko has also determined that for each of the first five years these rules are in effect, the anticipated public benefit will be improved clarity and consistency in commission rules. There are no anticipated economic costs to individuals required to comply with the proposed rules.

Local Economy Impact Statement

There is no anticipated effect on local employment or the local economy for the first five years the rules are in effect; therefore, no local employment impact statement is required under Texas Government Code §2001.022.

Economic Impact on Small Businesses, Micro-Businesses, and Rural Communities

The Commission has determined that there will be no effect on small or micro-businesses or rural communities as a result of implementing these rules; therefore, no economic impact statement or regulatory flexibility analysis is required under Texas Government Code §2006.002.

Government Growth Impact Statement

Under Texas Government Code §2001.0221, the Commission has determined that during the first five years the rules are in effect:

The rules will not create or eliminate a government program;

The rules will not create or eliminate any existing employee positions;

The rules will not require an increase or decrease in future legislative appropriations;

The rules will not result in an increase or decrease in fees paid to the agency;

The rules will not create a new regulation;

The rules will not expand, limit, or repeal an existing regulation;

The rules will not increase the number of individuals subject to the rule; and

The rules are not anticipated to have an adverse effect on the state's economy.

Takings Impact Assessment

The Commission has determined that the proposed rules do not restrict or burden private real-property rights and therefore do not constitute a taking under Texas Government Code §2007.043.

Costs to Regulated Persons

The proposed rules do not impose additional costs on regulated persons, including another state agency, a special district, or a local government, and therefore are not subject to Texas Government Code §2001.0045.

Environmental Impact Statement

The Commission has determined that the proposed rules do not require an environmental impact analysis because the rules are not major environmental rules under Texas Government Code §2001.0225.

Request for Public Comment

Comments on the proposed rules may be submitted in writing within 30 days of publication of this notice in the *Texas Register* to:

Frank King, General Counsel

Texas Commission on Fire Protection

P.O. Box 2286, Austin, Texas 78768

Email: frank.king@tcfp.texas.gov

Statutory Authority

The amendment is proposed under Texas Government Code §419.008, which authorizes the Commission to adopt rules for the administration of its powers and duties, and Texas Government Code §419.032, which authorizes the Commission to adopt rules relating to the appointment and certification of fire protection personnel.

Cross Reference To Statute

The proposed amendment affects Texas Government Code §419.0321. No other statutes, articles, or codes are affected by this proposal.

§421.9. Designation of Fire Protection Duties.

(a) An individual who performs one or more fire protection duties, listed in the Texas Government Code, §419.021(3)(C), for a fire department of local government entity shall be designated to only one of the following categories:

(1) fire protection personnel;

(2) a part-time fire protection employee; or

(3) a volunteer fire fighter or other auxiliary fire fighter.

(b) A fire department regulated by the Commission may not designate the same person under more than one category under this section. The designation shall be made on the records of the department, and the designation shall be made available for inspection by the Commission or sent to the Commission on request.

(c) A fire department regulated by the Commission shall report the appointment of fire protection personnel to a regulated discipline via the Commission's online management program, or the appropriate form if available. Fire protection personnel who are assigned to a regulated discipline as part of their regularly assigned duties shall be appointed to that discipline with the Commission. No individual may be appointed to a discipline without approval by the Commission. The Commission shall not approve an initial appointment to a regulated discipline until it has reviewed and approved a person's fingerprint-based criminal history record. Termination of fire protection personnel or part-time fire protection employees shall be reported to the Commission via the Commission's online management program, or the appropriate form if available within 14 calendar days of the action. In the case of termination, the employing entity shall report an individual's last known home address to the Commission. A Removal from Appointment form may be submitted without the employee's signature.

(d) A fire department may not in a calendar year compensate, reimburse, or provide benefits to a person the department has designated as a volunteer or other auxiliary fire fighter in an amount that is equal to or more than what a person receives working 2,080 hours at the federal minimum wage.

(e) A person designated as a part-time fire protection employee under this section is subject to Section 419.0321.

~~[(e) A person certified as fire protection personnel in one fire department may be employed and designated as a part-time fire protection employee in another fire department without additional certification as a part-time fire protection employee.]~~

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 October 21, 2026.

TRD-202604467
Mike Wisko
Agency Chief
Texas Commission on Fire Protection
Earliest possible date of adoption: December 6, 2026
For further information, please call: (512) 936-3812

♦ ♦ ♦

CHAPTER 429. FIRE INSPECTOR AND PLAN EXAMINER

SUBCHAPTER B. MINIMUM STANDARDS FOR PLAN EXAMINER

37 TAC §429.203

The Texas Commission on Fire Protection (Commission) proposes an amendment to 37 Texas Administrative Code, Chapter 429, Fire Inspector and Plan Examiner, concerning §429.203, Minimum Standards for Plan Examiner I Certification.

Background and Purpose

The purpose of the proposed amendment is to rename the Plan Examiner I certification as Fire Plans Examiner throughout §429.203. The change conforms the section to the companion amendments to §429.201 and §429.205 published in the August 14, 2026, issue of the *Texas Register*. There is no other substantive change to the text of the section.

Fiscal Note and Impact on State and Local Government

Michael Wisko, Agency Chief, has determined that for each year of the first five-year period these rules are in effect, there will be no fiscal impact on state or local government as a result of enforcing or administering these rules.

Public Benefit and Cost Note

Mr. Wisko has also determined that for each of the first five years these rules are in effect, the anticipated public benefit will be improved clarity and consistency in commission rules. There are no anticipated economic costs to individuals required to comply with the proposed rules.

Local Economy Impact Statement

There is no anticipated effect on local employment or the local economy for the first five years the rules are in effect; therefore, no local employment impact statement is required under Texas Government Code §2001.022.

Economic Impact on Small Businesses, Micro-Businesses, and Rural Communities

The Commission has determined that there will be no effect on small or micro-businesses or rural communities as a result of implementing these rules; therefore, no economic impact statement or regulatory flexibility analysis is required under Texas Government Code §2006.002.

Government Growth Impact Statement

Under Texas Government Code §2001.0221, the Commission has determined that during the first five years the rules are in effect:

The rules will not create or eliminate a government program;

The rules will not create or eliminate any existing employee positions;

The rules will not require an increase or decrease in future legislative appropriations;

The rules will not result in an increase or decrease in fees paid to the agency;

The rules will not create a new regulation;

The rules will not expand, limit, or repeal an existing regulation;

The rules will not increase the number of individuals subject to the rule; and

The rules are not anticipated to have an adverse effect on the state's economy.

Takings Impact Assessment

The Commission has determined that the proposed rules do not restrict or burden private real-property rights and therefore do not constitute a taking under Texas Government Code §2007.043.

Costs to Regulated Persons

The proposed rules do not impose additional costs on regulated persons, including another state agency, a special district, or a local government, and therefore are not subject to Texas Government Code §2001.0045.

Environmental Impact Statement

The Commission has determined that the proposed rules do not require an environmental impact analysis because the rules are not major environmental rules under Texas Government Code §2001.0225.

Request for Public Comment

Comments on the proposed rules may be submitted in writing within 30 days of publication of this notice in the *Texas Register* to:

Frank King, General Counsel

Texas Commission on Fire Protection

P.O. Box 2286, Austin, Texas 78768

Email: frank.king@tcfp.texas.gov

Statutory Authority

The amendment is proposed under Texas Government Code §419.008, which authorizes the Commission to adopt rules for the administration of its powers and duties, and Texas Government Code §419.032, which authorizes the Commission to adopt rules relating to the appointment and certification of fire protection personnel.

Cross Reference To Statute

No other statutes, articles, or codes are affected by this proposal.

§429.203. Minimum Standards for Fire Plans Examiner [~~Plan Examiner I~~] Certification.

In order to be certified as a Plan Examiner I, an individual must:

(1) hold certification as a Basic Inspector; and

(2) possess valid documentation as a Fire Plans Examiner [~~Plan Examiner I~~] from either:

(A) the International Fire Service Accreditation Congress; or

(B) the National Board on Fire Service Professional Qualifications issued by the Texas A&M Engineering Extension Service using the 2009 or later edition of the NFPA standard applicable to this discipline and meeting the requirements as specified in §439.1(a)(2) of this title (relating to Requirements-General); or

(3) complete a Commission-approved Fire Plans Examiner [~~Plan Examiner I~~] training program and successfully pass the Commission examination as specified in Chapter 439 of this title (relating to Examinations for Certification). An approved training program shall consist of one of the following:

(A) completion of the Commission-approved Fire Plans Examiner [~~Plan Examiner I~~] Curriculum, as specified in the Commission's Certification Curriculum Manual; or

(B) successful completion of an out-of-state, NFA, and/or military training program which has been submitted to the Commission for evaluation and found to meet the minimum requirements as listed in the Commission-approved Fire Plans Examiner [~~Plan Examiner I~~] Curriculum as specified in the Commission's Certification Curriculum Manual; or

(C) documentation of the receipt of a Fire Plans Examiner [~~Plan Examiner I~~] certificate issued by the State Firemen's and Fire Marshals' Association of Texas that is deemed equivalent to a Commission-approved Fire Plans Examiner [~~Plan Examiner I~~] curriculum.

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 October 21, 2026.

TRD-202604468
Mike Wisko
Agency Chief
Texas Commission on Fire Protection
Earliest possible date of adoption: December 6, 2026
For further information, please call: (512) 936-3812

♦ ♦ ♦