

# PROPOSED RULES

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

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

## TITLE 1. ADMINISTRATION

### PART 2. TEXAS ETHICS COMMISSION

#### CHAPTER 7. CONTRACTS

##### 1 TAC §§7.1, 7.3, 7.5, 7.7, 7.9, 7.11, 7.55

The Texas Ethics Commission (the TEC) proposes new Texas Ethics Commission Rules in Chapter 7 (relating to Contracts). Specifically, the TEC proposes new rules to codify Vendor Protest Procedures, Vendor Protest Procedures for Vendor Performance Reports, Contract Monitoring, Enhanced Contract Monitoring and Veteran Heroes United in Business (VetHUB) Procedures, including §7.1 regarding Application, §7.3 regarding Definitions, §7.5 regarding Vendor Protest Procedures, §7.7 regarding Contract Monitoring, §7.9 regarding Enhanced Contract Monitoring, §7.11 Veteran heroes United in Businesses (VetHUB), and §7.55 regarding Vendor Protest Procedures for Vendor Performance Reports.

State law requires state agencies to "review and consider for readoption each of its rules ... not later than the fourth anniversary of the date on which the rule takes effect and every four years after that date." Tex. Gov't Code §2001.039. The law further requires agencies to "readopt, readopt with amendments, or repeal a rule as the result of reviewing the rule under this section." *Id.*

The TEC is continuing its comprehensive review with the addition of Chapter 7, regarding Contracts. The addition of these rules seeks to provide clarity on the Commission's contract policies.

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

The General Counsel has also determined that for each year of the first five years the proposed new rules are in effect, the public benefit will be consistency and clarity in the Commission's rules regarding contracts. 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 new rules.

The General Counsel has determined that during the first five years that the proposed new 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 new rules from any member of the public. A written statement should be emailed to [public\\_comment@ethics.state.tx.us](mailto: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 new rules may do so at any Commission meeting during the agenda item relating to the proposed new 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](http://www.ethics.state.tx.us).

The new 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 rules affect Chapter 6 of the Texas Ethics Commission Rules and Chapter 571 of the Government Code.

##### §7.1. Application.

This chapter applies to §2155.076, §2261.202 and §2262.253 of the Government Code.

##### §7.3. Definitions.

(a) Agency--The state agency governed by the Commission, as it functions and operates through the administrative staff hired by the Commission and its executive director.

(b) Commission--The Texas Ethics Commission, as constituted and described in the Texas Constitution, Article 3, §24a and in the Government Code, Chapter 571.

(c) Contract--A written contract between the agency and a contractor, under the terms of which the contractor agrees to provide goods or services to or for the agency.

(d) Executive director--The person employed by the Commission to serve as the agency's chief administrative officer, or any other employee of the Commission acting as the designee of the executive director.

(e) Vendor--A person that offers goods and services in the state.

##### §7.5. Vendor Protest Procedures.

(a) Per Tex. Gov't Code §2155.076, a state agency must adopt procedures for resolving vendor protests related to purchasing issues.

(b) A vendor who submitted a written response to a solicitation and did not receive the award may file a written protest.

(c) A valid protest must be:

(1) In writing and contain:

(A) the specific rule, statute or regulation the protesting vendor alleges the solicitation, contract award or tentative award violated;

(B) a specific description of each action by the agency that the protesting vendor alleges is a violation of the statutory or regulatory provision the protesting vendor identified in subparagraph (A) of this paragraph;

(C) a precise statement of the relevant facts including:

(i) sufficient documentation to establish that the protest has been timely filed;

(ii) a description of the adverse impact to the agency and the state; and

(iii) a description of the resulting adverse impact to the protesting vendor;

(D) a statement of the argument and authorities that the protesting vendor offers in support of the protest;

(E) an explanation of the subsequent action the vendor is requesting.

(2) signed by an authorized representative with the signature notarized; and

(3) filed in the time period specified in this section.

(d) To be considered by the Commission, a protest must be filed:

(1) by the end of the posted solicitation period, if the protest concerns the solicitation documents or actions associated with the publication of solicitation documents;

(2) by the day of the award of a contract resulting from the solicitation, if the protest concerns the evaluation or method of evaluation for a solicitation; or

(3) no later than 10 days after the notice of award, if the protest concerns the award.

(e) In the event of a timely protest or appeal under this section, the Commission shall not proceed further with the solicitation or with the award of the contract unless the Executive Director makes a written determination that the award of the contract without delay is necessary to protect the best interest of the Commission.

(f) Policies and procedures related to this section can be found in the Commission policy on the Commission website.

#### §7.7. Contract Monitoring.

(a) Per Tex. Gov't Code §2261.202, a state agency must adopt a policy that clearly defines the contract monitoring roles and responsibilities.

(b) The contract monitoring roles and responsibilities of the Commission's internal audit staff and other inspection, investigative, or compliance staff are as follows:

(1) The Commission does not have an Internal Auditor. The Executive Director, or Designee, will perform internal audit activities which will include performing audits of the contract management function and systems when they are warranted by the results of risk assessment or included in the audit plan approved by the Commission.

(2) The Administration Division will seek to improve contract compliance by serving as a central repository for agency contracts so the agency can perform contract compliance reviews.

(3) The Administration Division will assist the Requesting Division in monitoring agency contracts in connection with applicable historically underutilized and minority business contract requirements.

(4) The General Counsel Division will seek to improve contract compliance by reviewing and approving each contract.

(5) The Requesting Division will oversee the contract, monitor and report to other appropriate agency divisions regarding contract compliance.

(6) Upon contract close-out the Administration Division will file vendor performance reports, as required by the rules of the Comptroller of Public Accounts in 34 TAC Part 1, Chapter 20, Subchapter C (relating to Procurement), and §20.108 (relating to Vendor Performance Tracking System).

(7) The Commission does not have a criminal enforcement unit. Criminal activity related to agency contracts will be reported to the appropriate authorities as set out in statute.

#### §7.9. Enhanced Contract Monitoring.

(a) Per Tex. Gov't Code §2261.253, a state agency must establish a procedure to identify each contract that requires enhanced or performance monitoring, and submit information on those contracts to the agency's governing body.

(b) Contracts that are subject to enhanced contract monitoring include:

(1) Contracts for the purchase of goods or services that have a value in excess of \$1 million for the life of the contract.

(2) Contracts that are identified based on an internal risk analysis.

(3) Any contracts identified by the Commission, Executive Director, or General Counsel.

(4) Contracts subject to enhanced contract or performance monitoring will be included in reports provided to the Commission.

(5) Contracts will be monitored in accordance with policies and procedures in the Commission's contract management handbook.

(6) The Commission will be notified, as appropriate, of any serious issue or risk that is identified with report to a contract monitored under this rule.

#### §7.11. Veteran Heroes United in Businesses (VetHUB).

In accordance with Tex. Gov't Code §2161.003, the Commission adopts by reference the Texas Comptroller of Public Accounts' rules in Texas Administrative Code, Title 34, Chapter 20, Subchapter D, Division 1 (relating to Historically Underutilized Businesses).

#### §7.55. Vendor Protest Procedures for Vendor Performance Reports.

(a) The Commission is required by §2155.089 and §2262.055 of the Texas Government Code to review a vendor's performance under a contract after the contract is completed or otherwise terminated. Vendor performance must be reported to the Comptroller using the Comptroller's tracking system to rate vendors on an A through F scale, with A being the highest grade.

(b) A vendor who receives a grade lower than a C in the vendor performance tracking system may file a protest regarding the lower grade assigned to the vendor in the system.

(c) Policies and procedures related to this section can be found in the Commission policy on the Commission website.

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

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## CHAPTER 26. POLITICAL AND LEGISLATIVE ADVERTISING

### 1 TAC §26.2, §26.3

The Texas Ethics Commission (the TEC) proposes amendments to Texas Ethics Commission Rules in Chapter 26 (relating to Political and Legislative Advertising). Specifically, the TEC proposes amendments to §26.2 regarding Newsletter of Public Officer of a Political Subdivision and §26.3 regarding Legislative Advertising.

State law requires state agencies to "review and consider for readoption each of its rules ... not later than the fourth anniversary of the date on which the rule takes effect and every four years after that date." Tex. Gov't Code §2001.039. The law further requires agencies to "readopt, readopt with amendments, or repeal a rule as the result of reviewing the rule under this section." Id.

The TEC is continuing its comprehensive review with a review of the TEC's rules regarding political and legislative advertising, which are codified in Chapter 26.

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 political and legislative advertising. 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](mailto: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](http://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 Chapter 255 of the Election Code.

§26.2. *Newsletter of Public Officer of a Political Subdivision.*

For purposes of §255.003 of the Election Code, a newsletter of a public officer of a political subdivision is not political advertising if:

(1) It includes no more than two pictures of a public officer per page and if the total amount of area covered by the pictures is no more than 20 percent of the page on which the pictures appear;

(2) It includes no more than eight personally phrased references (such as the public officer's name, "I", "me", "the city council member") on a page that is 8 ½" x 11" or larger, with a reasonable reduction in the number of such personally phrased references in pages smaller than 8 ½" x 11"; [and]

(3) When viewed as a whole and in the proper context:

(A) is informational rather than self-promotional;

(B) does not advocate passage or defeat of a measure;

and

(C) does not support or oppose a candidate for nomination or election to a public office or office of political party, a political party, or a public officer; and[- ]

(4) Is published more than 60 days before the election.

§26.3. *Legislative Advertising.*

Political advertising as defined by the Election Code, § [Section] 251.001(16) (concerning Definitions), does not constitute legislative advertising under the Government Code, § [Section] 305.027 (concerning Required Disclosure on Legislative Advertising).

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

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## CHAPTER 34. REGULATION OF LOBBYISTS

The Texas Ethics Commission (the TEC) proposes an amendment to Texas Ethics Commission Rules in Chapter 34 (relating to Regulation of Lobbyists).

Specifically, the TEC proposes an amendment in Subchapter A of chapter 34 (regarding General Provisions), including §34.1 regarding Definitions.

The TEC also proposes amendments rules in Subchapter B of Chapter 20 (relating to Registration Required), including §34.41 regarding Expenditure Threshold and §34.43 regarding Compensation and Reimbursement Threshold.

State law requires state agencies to "review and consider for readoption each of its rules ... not later than the fourth anniversary of the date on which the rule takes effect and every four years after that date." Tex. Gov't Code §2001.039. The law further requires agencies to "readopt, readopt with amendments, or repeal a rule as the result of reviewing the rule under this section." *Id.*

The TEC is continuing its comprehensive review with a review of the TEC's rules regarding regulation of lobbyists, which are codified in Chapter 34. These amendments seek to shorten, simplify, and reorganize the rules to eliminate surplusage and improve clarity on these restrictions.

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 regulation of lobbyists. 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 rule's 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](mailto: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](http://www.ethics.state.tx.us).

## SUBCHAPTER A. GENERAL PROVISIONS

### 1 TAC §34.1

The amended rules are proposed under Texas Government Code §571.062, which authorizes the Commission to adopt rules to administer Chapter 305 of the Government Code.

The proposed amended rules affect Chapter 305 of the Government Code.

#### §34.1. Definitions.

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

~~[(1) Communicates directly with, or any variation of that phrase--In Government Code, Chapter 305, and in this chapter includes communication by facsimile transmission.]~~

(1) [(2)] Expenditure--In Government Code, Chapter 305, and in this chapter does not include a payment of less than \$200 that is fully reimbursed by the member of the legislative or executive branch who benefits from the expenditure if the member of the legislative or executive branch fully reimburses the person making the payment before the date the person would otherwise be required to report the payment.

(2) [(3)] Lobby activity--Direct communication with and preparation for direct communication with a member of the legislative or executive branch to influence legislation or administrative action.

(3) [(4)] Registrant--In Government Code, Chapter 305, and in this chapter means a person who is required to register as well as a person who has registered regardless of whether that person's registration was required.

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

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## SUBCHAPTER B. REGISTRATION REQUIRED

### 1 TAC §34.41, §34.43

The amendments are proposed under Texas Government Code §571.062, which authorizes the Commission to adopt rules to administer Chapter 305 of the Government Code.

The proposed rules affect chapter 305 of the Government Code.

#### §34.41. Expenditure Threshold.

(a) A person must register as a lobbyist under chapter 305 of the Texas Government Code, if the person makes total expenditures of more than \$650 [the amount specified in Tex. Gov't Code §305.003(a)(1); as amended by Figure 2 in 1 TAC §18.31] in a calendar quarter, not including expenditures for the person's own travel, food, lodging, or membership dues, on activities described in Government Code §305.006(b) to communicate directly with one or more members of the legislative or executive branch to influence legislation or administrative action.

(b) An expenditure made by a member of the judicial, legislative, or executive branch of state government or an officer or employee of a political subdivision of the state acting in his or her official capacity is not included for purposes of determining whether a person is required to register under Government Code, §305.003(a)(1).

(c) An expenditure made in connection with an event to promote the interests of a designated geographic area or political subdivision is not included for purposes of determining whether a person has crossed the registration threshold in Government Code, §305.003(a)(1), if the expenditure is made by a group that exists for the limited purpose of sponsoring the event or by a person acting on behalf of such a group.

*§34.43. Compensation and Reimbursement Threshold.*

(a) A person must register as a lobbyist under chapter 305 of the Texas Government Code if the person receives, or is entitled to receive under an agreement under which the person is retained or employed, more than \$1,200 [the amount specified in Tex. Gov't Code §305.003(a)(2); as amended by Figure 2 in 1 TAC §18.31] in a calendar quarter in compensation and reimbursement, not including reimbursement for the person's own travel, food, lodging, or membership dues, from one or more other persons to communicate directly with a member of the legislative or executive branch to influence legislation or administrative action.

(b) For purposes of Government Code, §305.003(a)(2), and this chapter, a person is not required to register if the person spends not more than 40 hours for which the person is compensated or reimbursed during a calendar quarter engaging in lobby activity, including preparatory activity as described by §34.3 of this title.

(c) For purposes of Government Code, §305.003(a)(2), and this chapter, a person shall make a reasonable allocation of compensation between compensation for lobby activity and compensation for other activities.

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

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## CHAPTER 45. CONFLICTS OF INTEREST

### 1 TAC §45.3, §45.8

The Texas Ethics Commission (the TEC) proposes an amendment and new rule in Texas Ethics Commission Rules in Chapter 45 (relating to Conflicts of Interest). Specifically, the TEC proposes an amendment to §45.3 regarding Definitions and new §45.8 regarding Additional Disclosures for Texas Comptroller of Public Accounts.

This proposal amends the rules regarding the additional disclosures for the Texas Comptroller.

State law requires state agencies to "review and consider for readoption each of its rules ... not later than the fourth anniversary of the date on which the rule takes effect and every four years after that date." Tex. Gov't Code §2001.039. The law further requires agencies to "readopt, readopt with amendments, or repeal a rule as the result of reviewing the rule under this section." *Id.*

The TEC is continuing its comprehensive review with a review of the TEC's rules regarding conflicts of interest, which are codified in Chapter 45. These amendments seek to provide clarity to cross reference with 1 Texas Administrative Code §20.220.

Amanda Arriaga, General Counsel, has determined that for the first five-year period the proposed amended and new 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 and new rules.

The General Counsel has also determined that for each year of the first five years the proposed amended and new rules are in effect, the public benefit will be consistency and clarity in the Commission's rules regarding conflicts of interest. 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 and new rules.

The General Counsel has determined that during the first five years that the proposed amended and new 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 and new rules from any member of the public. A written statement should be emailed to [public\\_comment@ethics.state.tx.us](mailto: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 and new rules may do so at any Commission meeting during the agenda item relating to the proposed amended and new 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](http://www.ethics.state.tx.us).

The amended and new 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 and new rules affect Section 2155.003 of the Government Code and 1 Texas Administrative Code §20.220.

*§45.3. Definitions.*

(a) Section 2155.003 of the Government Code applies to:

(1) the chief clerk<sub>2</sub>; and

(2) an employee who exercises discretion in connection with a contract, payment, claim, or other pecuniary transaction under the comptroller's purchasing authority, and[.]

(3) the Comptroller.

(b) Under §2155.003 of the Government Code the following words and terms shall have the following meanings:

(1) "Chief clerk" and "employee" includes the spouse or dependent child of the chief clerk or employee.

(2) "Have an interest in" or "in any manner be connected with," is limited to the purchasing authority that was transferred to the

comptroller by §2151.004 of the Government Code, and means a right, share, equitable or legal claim to, or pecuniary interest in, a contract or bid.

(3) "Value," "reward," and "compensation" includes anything with a monetary value of \$5 or more.

(c) Section 2155.003 of the Government Code does not apply to the ownership of stock the value of which does not exceed the lesser of \$25,000 or 5% in any one company, or ownership of shares in a publicly traded mutual fund or similar investment vehicle in which the person does not exercise any discretion regarding the investment of the assets of the fund or other investment vehicle.

§45.8. Additional Disclosures for Texas Comptroller of Public Accounts.

For purposes of this section and §2155.003(e) of the Government Code, the procedure for the required additional disclosure can be found at 1 Texas Administrative Code §20.220 (relating to Additional Disclosure for the Texas Comptroller of Public Accounts).

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

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## CHAPTER 46. DISCLOSURE OF INTERESTED PARTIES

### 1 TAC §46.1, §46.5

The Texas Ethics Commission (the TEC) proposes amendments in Texas Ethics Commission Rules in Chapter 46 (relating to Disclosure of Interested Parties). Specifically, the TEC 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.

State law requires state agencies to "review and consider for readoption each of its rules ... not later than the fourth anniversary of the date on which the rule takes effect and every four years after that date." Tex. Gov't Code §2001.039. The law further requires agencies to "readopt, readopt with amendments, or repeal a rule as the result of reviewing the rule under this section." *Id.*

The TEC is continuing its comprehensive review with a review of the TEC's rules regarding disclosure of interested parties, which are codified in Chapter 46.

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](mailto: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](http://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) ~~[(e)]~~ 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. ~~[eommission 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 [eommission] electronic filing application must be printed, signed by an authorized agency 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 [eommission], in an electronic format prescribed by the Commission [eommission], 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 [eommission] shall make each disclosure of interested parties form filed with the Commission [eommission] under §2252.908(f) of the Government Code available to the public on the Commission's [eommission] Internet website not later than the seventh business day after the date the Commission [eommission] 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 February 12, 2026.

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Amanda Arriaga

General Counsel

Texas Ethics Commission

Earliest possible date of adoption: March 29, 2026

For further information, please call: (512) 463-5800



## TITLE 19. EDUCATION

### PART 1. TEXAS HIGHER EDUCATION COORDINATING BOARD

#### CHAPTER 4. RULES APPLYING TO ALL PUBLIC INSTITUTIONS OF HIGHER EDUCATION IN TEXAS

## SUBCHAPTER B. TRANSFER OF CREDIT, CORE CURRICULUM AND FIELD OF STUDY CURRICULA

### 19 TAC §4.22, §4.41

The Texas Higher Education Coordinating Board (Coordinating Board) proposes amendment to Texas Administrative Code, Title 19, Part 1, Chapter 4, Subchapter B, §4.22, and new §4.41, concerning Transfer of Credit, Core Curriculum and Field of Study Curricula. Specifically, the amendment and new section will implement the transfer reporting requirements outlined in Senate Bill 3039, 89th Texas Legislature, Regular Session.

Texas Education Code, §51.4033, authorizes the Coordinating Board to adopt rules related to transfer reporting for public institutions of higher education in Texas.

Rule 4.22, Authority, amends authority for the subchapter.

Rule 4.41, Requirements and Procedures for Transfer Reporting, is created to implement transfer reporting requirements established during the 89th Texas legislative session. The new rule specifies the data reporting required of institutions and the surveying required of the Coordinating Board.

Elizabeth Mayer, Assistant Commissioner for Academic and Health Affairs, has determined that for each of the first five years the sections are in effect there would be no fiscal implications for state or local governments as a result of enforcing or administering the rules. There are no estimated reductions in costs to the state and to local governments as a result of enforcing or administering the rule. There are no estimated losses or increases in revenue to the state or to local governments as a result of enforcing or administering the rule.

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

Elizabeth Mayer, Assistant Commissioner for Academic and Health Affairs, has also determined that for each year of the first five years the section is in effect, the public benefit anticipated as a result of administering the sections will be streamlined reporting requirements to provide data and recommendations regarding the transferability of credit between public institutions of higher education. There are no anticipated economic costs to persons who are required to comply with the sections as proposed.

#### Government Growth Impact Statement

- (1) the rules will not create or eliminate a government program;
- (2) implementation of the rules will not require the creation or elimination of employee positions;
- (3) implementation of the rules will not require an increase or decrease in future legislative appropriations to the agency;
- (4) the rules will not require an increase or decrease in fees paid to the agency;
- (5) the rules will create a new rule;
- (6) the rules will not limit an existing rule;
- (7) the rules will not change the number of individuals subject to the rule; and
- (8) the rules will not affect this state's economy.

Comments on the proposed rule or information related to the cost, benefit, or effect of the proposed rule, including any applicable data, research or analysis, may be submitted to Elizabeth Mayer, Assistant Commissioner for Academic and Health Affairs, P.O. Box 12788, Austin, Texas 78711-2788, or via email at AHAComments@highered.texas.gov. Comments will be accepted for 30 days following publication of the proposal in the *Texas Register*.

The amendment and new section are proposed under Texas Education Code, Section 51.4033, which provides the Coordinating Board with the authority to adopt rules related to transfer reporting for public institutions of higher education in Texas.

The proposed amendment and new section affects Texas Education Code, Section 51.4033.

*§4.22. Authority.*

The Board is authorized to adopt rules related to the Core Curricula, Field of Study Curricula, and a transfer dispute resolution process under Texas Education Code, §§51.315, 61.052, 61.821 - 61.828, 61.832, and 61.834. The Board is authorized to adopt rules regarding required reporting related to transfer and denial of credit under Texas Education Code, §51.4033 and §51.4035.

*§4.41. Requirements and Procedures for Transfer Reporting.*

(a) Not later than May 1 of each year, each general academic teaching institution shall submit to the Board for the preceding academic year:

(1) Each course in the Lower-Division Academic Course Guide Manual (ACGM) for which a transfer student was not granted academic credit at the receiving institution or academic credit toward the student's declared major, if applicable.

(2) For each course as described in paragraph (1) of this subsection, the institution shall include:

- (A) the institution that awarded the credit;
- (B) the course name;
- (C) the course prefix and number;
- (D) the common course number; and
- (E) the reason academic credit was not granted.

(3) The Board shall limit duplication of CBM reporting for institutions to submit the requirements of subsection (a) of this section.

(b) Not later than May 1 of each even-numbered year, the Board shall conduct a survey of public institutions of higher education to collect the following information:

(1) A description of the institution's efforts related to improving transfer pathways including:

- (A) faculty collaboration;
- (B) targeted program enhancements;
- (C) student outreach, recruitment, and advising;
- (D) development and maintenance of transfer-related website content;
- (E) targeted financial aid and scholarships;
- (F) student success and retention programs; and
- (G) degree program alignment and curriculum coordination.

(2) Identification of existing barriers and emerging issues affecting transfer students at the institution.

(3) The number and outcome of each credit denial dispute received and completed through the institution's dispute resolution process as required by Texas Education Code, §61.826.

(4) An assessment of the institution's progress toward its goals to increase the number, success, and persistence of public junior college transfer students.

(5) Not later than May 1 of each odd-numbered year, the Board shall provide an opportunity for institutions to update any information provided in the same survey during the preceding year.

(c) The Board shall prescribe a uniform reporting template and electronic submission process for the requirements of subsections (a) and (b) of this section to ensure comparability across institutions.

(d) Not later than December 1 of each even-numbered year, the Board shall prepare and submit to the Governor, Legislative Budget Board, House Appropriations Committee, and Senate Finance Committee a statewide evaluation of transfer student success. The evaluation shall include:

(1) An analysis of institutional transfer reporting and performance data, including but not limited to:

- (A) application and admission rates;
- (B) financial aid awarded;
- (C) time-to-degree; and

(D) baccalaureate graduation rates of transfer students, disaggregated by program of enrollment or completion at public junior colleges and receiving institutions.

(2) An analysis of institutional practices to support the academic success of transfer students.

(3) Recommendations for legislative or administrative actions to advance the goals identified in the state's higher education strategic plan.

(e) Not later than February 1 of each year, in accordance with Texas Education Code, §51.4035, the Board shall provide the following information to each institution:

(1) the five majors or degree or certificate programs offered by the institution with the highest number of courses for which academic credit is denied or not applied toward the major or program; and

(2) the five courses for each major or degree or certificate program for which academic credit is most frequently denied because the credit is not applicable toward the major or program.

(f) This section applies to reporting due on or after May 1, 2026.

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

Filed with the Office of the Secretary of State on February 11, 2026.

TRD-202600591



## PART 2. TEXAS EDUCATION AGENCY

### CHAPTER 61. SCHOOL DISTRICTS

#### SUBCHAPTER A. BOARD OF TRUSTEES

#### RELATIONSHIP

##### 19 TAC §61.4

The State Board of Education (SBOE) proposes new §61.4, concerning school district boards of trustees. The proposed new rule would reflect changes made by Senate Bill (SB) 204, 89th Texas Legislature, Regular Session, 2025, to the SBOE's duty to provide training courses for independent school district trustees.

**BACKGROUND INFORMATION AND JUSTIFICATION:** Texas Education Code (TEC), §11.159, Member Training and Orientation, requires the SBOE to provide a training course for school board trustees. Chapter 61, School Districts, Subchapter A, Board of Trustees Relationship, most recently amended effective August 25, 2025, addresses this statutory requirement. School board trustee training under current SBOE rule includes a local school district orientation session; a basic orientation to the TEC; an annual team-building session with the local school board and the superintendent; additional hours of continuing education based on identified needs; training on evaluating student academic performance; training on identifying and reporting potential victims of sexual abuse, human trafficking, and other maltreatment of children; and training on school safety.

In November 2025, the Committee on School Initiatives discussed both an outline of the parental rights training curriculum and the new rule regarding the training. The committee also held a public hearing regarding the training curriculum.

The proposed new rule would establish the purpose of the training, specify the timeline and number of hours required for training based on a board member's length of service, and require that school districts maintain verification of training completion for each school board member.

The SBOE approved the proposed new section for first reading and filing authorization at its January 30, 2026 meeting.

**FISCAL IMPACT:** Steve Lecholop, deputy commissioner for governance, has determined that 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:** Texas Education Agency (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 to add training on parental rights to the existing required trustee training.

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:** Mr. Lecholop has determined that for each year of the first five years the proposal is in effect, the public benefit anticipated as a result of enforcing the proposal would be to describe the requirements for a new parental rights training for school district trustees established by TEC, §11.159(b-2), as added by SB 204, 89th Texas Legislature, Regular Session, 2025. There is no anticipated economic cost to persons who are required to comply with the proposal.

**DATA AND REPORTING IMPACT:** The proposal would have no data or reporting impact.

**PRINCIPAL AND CLASSROOM TEACHER PAPERWORK REQUIREMENTS:** TEA has determined that the proposal would not require a written report or other paperwork to be completed by a principal or classroom teacher.

**PUBLIC COMMENTS:** The SBOE 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 February 27, 2026, and ends at 5:00 p.m. on March 30, 2026. The SBOE will take registered oral and written comments on the proposal at the appropriate committee meeting in April 2026 in accordance with the SBOE board operating policies and procedures. 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 February 27, 2026.

**STATUTORY AUTHORITY.** The new section is proposed under Texas Education Code (TEC), §11.159(b-2), as added by Senate Bill 204, 89th Texas Legislature, Regular Session, 2025, which obligates the State Board of Education (SBOE) to require trustees to complete training on parental rights. The statute also requires the SBOE, with assistance from the Texas Education Agency, to develop the curriculum and materials for the training by April 1, 2026.

**CROSS REFERENCE TO STATUTE.** The new section implements Texas Education Code, §11.159(b-2), as added by Senate Bill 204, 89th Texas Legislature, Regular Session, 2025.

§61.4. Parental Rights Training for School Board Members.

(a) The continuing education required under Texas Education Code (TEC), §11.159(b-2), applies to each member of an independent school district board of trustees.

(b) Each trustee of an independent school district shall complete the training on parental rights developed by the State Board of Education (SBOE).

(1) The purpose of the training is to ensure that each trustee:

(A) understands the constitutional and statutory foundations of parental rights;

(B) recognizes the trustee's duty to parents and children as beneficiaries of the public education trust;

(C) governs in a manner that recognizes a parent's right to direct the upbringing, education, health, and moral training of their child; and

(D) ensures district policies, procedures, and practices comply with all applicable federal and state parental rights laws.

(2) A candidate for school board may complete the training up to one year before he or she is elected or appointed. A newly elected or appointed school board member who did not complete this training in the year preceding election or appointment must complete the training within 120 calendar days after election or appointment.

(3) The training requirement shall be fulfilled by completing the online course developed by the SBOE and provided by the Texas Education Agency.

(4) The continuing education shall be completed annually.

(A) In a board member's first year of service, the training shall be at least five hours in length.

(B) In subsequent years of service, the training shall be at least three hours in length.

(C) In the event of a break in service, a trustee's first year upon reappointment or reelection shall be considered the first year of service for purposes of the training requirements under this section.

(5) Each school district shall maintain verification of completion for each trustee.

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 February 13, 2026.

TRD-202600666

Cristina De La Fuente-Valadez

Director, Rulemaking

Texas Education Agency

Earliest possible date of adoption: March 29, 2026

For further information, please call: (512) 475-1497



**CHAPTER 74. CURRICULUM REQUIREMENTS**

**SUBCHAPTER A. REQUIRED CURRICULUM**

**19 TAC §74.3**

The State Board of Education (SBOE) proposes an amendment to §74.3, concerning the required secondary curriculum. The proposed amendment would update the list of high school courses for personal financial literacy and economics that are required to be offered to students to align with the requirements of House Bill (HB) 27, 89th Texas Legislature, Regular Session, 2025.

**BACKGROUND INFORMATION AND JUSTIFICATION:** In accordance with statutory requirements that the SBOE establish curriculum and graduation requirements, the SBOE has identified high school courses that school districts must offer. For social studies, §74.3 requires school districts to offer United States History Studies Since 1877, World History Studies, United States Government, World Geography Studies, Personal Financial Literacy, Economics with Emphasis on the Free Enterprise System and Its Benefits, and Personal Financial Literacy and Economics.

The 89th Texas Legislature passed HB 27 in 2025, requiring students to successfully complete a one-half credit personal financial literacy course instead of the option to complete either a one-half credit economics course or a one-half credit course in economics and personal financial literacy to satisfy the economics requirement under the Foundation High School Program. The bill changed the current one-half credit economics course to a one-credit course and permits students to select the third social studies credit required for graduation from economics, world geography, or world history. The bill also added new Texas Education Code, §28.025(b-24), requiring the SBOE to allow a student to comply with the personal financial literacy requirement by successfully completing an advanced placement course.

The proposed amendment would update the required secondary social studies course offerings in §74.3 to align with the requirements of HB 27.

The SBOE approved the proposed amendment for first reading and filing authorization at its January 30, 2026 meeting.

**FISCAL IMPACT:** Monica Martinez, associate commissioner for standards and programs, has determined that 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:** Texas Education Agency (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 limit

an existing regulation by eliminating a course from the list of high school courses for social studies that are required to be offered to students.

The proposed rulemaking would not create or eliminate a government program; would not require the creation of new employee positions or elimination of existing employee positions; would not require an increase or decrease in future legislative appropriations to the agency; would not require an increase or decrease in fees paid to the agency; would not create a new regulation; would not expand or repeal an existing regulation; would not increase or decrease the number of individuals subject to its applicability; and would not positively or adversely affect the state's economy.

**PUBLIC BENEFIT AND COST TO PERSONS:** Ms. Martinez has determined that for each year of the first five years the proposal is in effect, the public benefit anticipated as a result of enforcing the proposal would be to ensure the course titles in the required curriculum align with titles in the Texas Essential Knowledge and Skills. There is no anticipated economic cost to persons who are required to comply with the proposal.

**DATA AND REPORTING IMPACT:** The proposal would have no data or reporting impact.

**PRINCIPAL AND CLASSROOM TEACHER PAPERWORK REQUIREMENTS:** TEA has determined that the proposal would not require a written report or other paperwork to be completed by a principal or classroom teacher.

**PUBLIC COMMENTS:** The SBOE 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 February 27, 2026, and ends at 5:00 p.m. on March 30, 2026. The SBOE will take registered oral and written comments on the proposal at the appropriate committee meeting in April 2026 in accordance with the SBOE board operating policies and procedures. 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 February 27, 2026.

**STATUTORY AUTHORITY.** The amendment is proposed under Texas Education Code (TEC), §7.102(c)(4), which requires the State Board of Education (SBOE) to establish curriculum and graduation requirements; TEC, §28.002(a), which identifies the subjects of the required curriculum; and TEC, §28.025(b-1), which requires the SBOE to determine by rule specific courses for graduation under the foundation high school program.

**CROSS REFERENCE TO STATUTE.** The amendment implements Texas Education Code, §§7.102(c)(4), 28.002(a), and 28.025(b-1).

*§74.3. Description of a Required Secondary Curriculum.*

(a) (No change.)

(b) Secondary Grades 9-12.

(1) (No change.)

(2) A school district must offer courses listed in subparagraphs (A)-(J) of this paragraph, unless selection from a list of courses is specified, and maintain evidence that students have the opportunity to take these courses:

(A) - (C) (No change.)

(D) ~~social studies--[United States History Studies Since 1877, World History Studies, United States Government, World Geography Studies, Personal Financial Literacy, Economics with Emphasis on the Free Enterprise System and Its Benefits, and Personal Financial Literacy and Economics;]~~

(i) United States History Studies Since 1877, United States Government, and Personal Financial Literacy; and

(ii) at least two additional social studies courses selected from Economics with Emphasis on the Free Enterprise System and Its Benefits, World Geography Studies, World History Studies, advanced level economics, world geography, world history, and personal financial literacy courses offered as dual credit as referenced in §74.11(i) of this title (relating to High School Graduation Requirements) or a course selected from §74.12(b)(4)(E) of this title (relating to Foundation High School Program);

(E) - (J) (No change.)

(3) The following requirements may be reduced to one by the commissioner of education upon application of a school district with a total high school enrollment of less than 500 students:

(A) the requirement to offer two additional science courses; and

(B) the requirement to offer two additional social studies courses [both Economics with Emphasis on the Free Enterprise System and Its Benefits and Personal Financial Literacy and Economics].

(4) - (5) (No change.)

(c) (No change.)

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

Filed with the Office of the Secretary of State on February 13, 2026.

TRD-202600667

Cristina De La Fuente-Valadez

Director, Rulemaking

Texas Education Agency

Earliest possible date of adoption: March 29, 2026

For further information, please call: (512) 475-1497



**19 TAC §74.4**

The State Board of Education (SBOE) proposes the repeal of §74.4, concerning English Language Proficiency Standards (ELPS). The proposed repeal would remove the ELPS for Kindergarten-Grade 12 that will be superseded by 19 TAC §120.20, English Language Proficiency Standards, Kindergarten-Grade 3, Adopted 2024, and §120.21, English Language Proficiency Standards, Grades 4-12, Adopted 2024, beginning with the 2026-2027 school year.

**BACKGROUND INFORMATION AND JUSTIFICATION:** In 1998, standards for English as a second language (ESL) for students in Kindergarten-Grade 12 were adopted as part of 19 TAC Chapter 128, Texas Essential Knowledge and Skills for Spanish Language Arts and Reading and English as a Second Language. In a subsequent Title III monitoring visit, the U.S. Department of Education (USDE) indicated that there

was insufficient evidence demonstrating that the ESL standards outlined in 19 TAC Chapter 128 were aligned to state academic content and achievement standards in mathematics, as required by the No Child Left Behind Act (NCLB), §2113(b)(2). In November 2007, the SBOE adopted the ELPS as part of 19 TAC Chapter 74, Curriculum Requirements, to comply with NCLB requirements. The adopted ELPS in §74.4 clarified that state standards in English language acquisition must be implemented as an integral part of the instruction in each foundation and enrichment subject. Additionally, English language proficiency levels of beginning, intermediate, advanced, and advanced high in the domains of listening, speaking, reading, and writing were established as part of the ELPS, as required by NCLB. The superseded second language acquisition standards in 19 TAC Chapter 128 were also repealed in September 2008 during the process of revising the Texas Essential Knowledge and Skills (TEKS) in 19 TAC Chapters 110 and 128.

The SBOE began review and revision of the ELPS in 2019, in accordance with the SBOE's approved TEKS and instructional materials review schedule. Applications to serve on ELPS review work groups were posted on the Texas Education Agency (TEA) website in December 2018, and TEA distributed a survey to collect information from educators regarding the current ELPS. Work groups were convened in March, May, August, September, and October 2019. In September 2019, the USDE indicated that Texas only partially met the requirements of the Elementary and Secondary Education Act of 1965, as amended by the Every Student Succeeds Act, and requested additional evidence that the ELPS are aligned to the state's academic content standards and contain language proficiency expectations needed for emergent bilingual students to demonstrate achievement of the state academic standards appropriate to each grade level/grade band in at least reading language arts, mathematics, and science.

In response to feedback from work group members and the USDE, TEA staff convened a panel of experts in second language acquisition from Texas institutions of higher education to complete an analysis of the work group recommendations and current research on English language acquisition. Based on the panel's findings and direction from the SBOE, TEA executed personal services contracts with the panel members and a representative of an education service center to prepare a draft of revisions to the ELPS. Text of the draft ELPS completed by the expert panel was presented to the SBOE at the June 2023 SBOE meeting.

Applications to serve on the 2023-2024 ELPS review work groups were collected by TEA from June 2023 through January 2024. TEA staff provided SBOE members with applications for approval to serve on ELPS work groups in July, September, and December 2023 and January 2024. ELPS review work groups were convened in August, September, and November 2023 and March 2024 with the charge of reviewing and revising the expert panel's draft. In April 2024, the SBOE held a discussion item on the proposed new ELPS, and in May and June 2024, TEA convened a final work group to complete the recommendations for the new ELPS.

In September 2024, the SBOE adopted new ELPS for implementation in the 2026-2027 school year to ensure the standards are current and comply with federal requirements. The proposed repeal would remove the ELPS in §74.4 that will be superseded by the new ELPS in 19 TAC §120.20 and §120.21 beginning with the 2026-2027 school year.

The SBOE approved the proposed repeal for first reading and filing authorization at its January 30, 2026 meeting.

**FISCAL IMPACT:** Monica Martinez, associate commissioner for standards and programs, has determined that 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 repeal an existing regulation by removing outdated ELPS that will be superseded by a newly adopted set of ELPS.

The proposed rulemaking would not create or eliminate a government program; would not require the creation of new employee positions or elimination of existing employee positions; would not require an increase or decrease in future legislative appropriations to the agency; would not require an increase or decrease in fees paid to the agency; would not create a new regulation; would not expand or limit an existing regulation; would not increase or decrease the number of individuals subject to its applicability; and would not positively or adversely affect the state's economy.

**PUBLIC BENEFIT AND COST TO PERSONS:** Ms. Martinez has determined that for each year of the first five years the proposal is in effect, the public benefit anticipated as a result of enforcing the proposal would be to repeal the ELPS for Kindergarten-Grade 12 that will be superseded by 19 TAC §120.20 and §120.21 beginning with the 2026-2027 school year to avoid confusion. There is no anticipated economic cost to persons who are required to comply with the proposal.

**DATA AND REPORTING IMPACT:** The proposal would have no data or reporting impact.

**PRINCIPAL AND CLASSROOM TEACHER PAPERWORK REQUIREMENTS:** TEA has determined that the proposal would not require a written report or other paperwork to be completed by a principal or classroom teacher.

**PUBLIC COMMENTS:** The SBOE 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 February 27, 2026, and ends at 5:00

p.m. on March 30, 2026. The SBOE will take registered oral and written comments on the proposal at the appropriate committee meeting in April 2026 in accordance with the SBOE board operating policies and procedures. 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 February 27, 2026.

**STATUTORY AUTHORITY.** The repeal is proposed under Texas Education Code (TEC), §7.102(c)(4), which requires the State Board of Education (SBOE) to establish curriculum and graduation requirements; TEC, §28.002(a), which identifies the subjects of the required curriculum; and TEC, §29.051, which establishes bilingual education and special language programs in public schools and provides supplemental financial assistance to help school districts meet the extra costs of the programs.

**CROSS REFERENCE TO STATUTE.** The repeal implements Texas Education Code, §§7.102(c)(4), 28.002(a), and 29.051.

*§74.4. English Language Proficiency Standards.*

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 February 13, 2026.

TRD-202600668

Cristina De La Fuente-Valadez

Director, Rulemaking

Texas Education Agency

Earliest possible date of adoption: March 29, 2026

For further information, please call: (512) 475-1497



## SUBCHAPTER B. GRADUATION REQUIREMENTS

### 19 TAC §74.11, §74.12

The State Board of Education (SBOE) proposes amendments to §74.11 and §74.12, concerning the foundation high school program. The proposed amendments would update high school graduation requirements to align with House Bill (HB) 27, 89th Texas Legislature, Regular Session, 2025, related to personal financial literacy, and Senate Bill (SB) 2314, 89th Texas Legislature, Regular Session, 2025, related to the Texas Higher Education Coordinating Board (THECB) direct admission program.

**BACKGROUND INFORMATION AND JUSTIFICATION:** The 89th Texas Legislature, Regular Session, 2025, passed HB 27, requiring students to successfully complete a one-half credit personal financial literacy course instead of the option to complete either a one-half credit economics course or a one-half credit course in economics and personal financial literacy to satisfy the economics requirement under the Foundation High School Program. The bill changed the current one-half credit economics course to a one-credit course and permits students to select the third social studies credit required for graduation from economics, world geography, or world history. The bill also added new Texas Education Code (TEC), §28.025(b-24), requiring the SBOE to allow a student to comply with the personal financial literacy requirement by successfully completing an advanced placement (AP) course.

The 89th Texas Legislature, Regular Session, 2025, also passed SB 2314, amending the state graduation requirements in TEC, §28.025(c), to require students to elect whether to allow the THECB to share the student's data and education records, as necessary, with institutions of higher education to allow the student to participate in the direct admission program established by THECB.

The proposed amendments would update the high school graduation requirements to align with HB 27 and SB 2314. The proposed amendments would also add language to clarify that students may satisfy a social studies graduation requirement with a comparable AP or IB social studies course selected from 19 TAC Chapter 113 or an advanced level course offered as a dual credit course that does not count toward another credit required for graduation.

The SBOE approved the proposed amendments for first reading and filing authorization at its January 30, 2026 meeting.

**FISCAL IMPACT:** Monica Martinez, associate commissioner for standards and programs, has determined that 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:** Texas Education Agency (TEA) staff prepared a Government Growth Impact Statement assessment for this proposed rulemaking. During the first five years the proposed rulemaking would be in effect, it would expand an existing regulation by adding the requirement that students must elect whether to allow the THECB to share their academic data and education records with institutions of higher education for the direct admission program established by THECB.

The proposed rulemaking would not create or eliminate a government program; would not require the creation of new employee positions or elimination of existing employee positions; would not require an increase or decrease in future legislative appropriations to the agency; would not require an increase or decrease in fees paid to the agency; would not create a new regulation; would not limit or repeal an existing regulation; would not increase or decrease the number of individuals subject to its applicability; and would not positively or adversely affect the state's economy.

**PUBLIC BENEFIT AND COST TO PERSONS:** Ms. Martinez has determined that for each year of the first five years the proposal is in effect, the public benefit anticipated as a result of enforcing the proposal would be to create an additional option for students

to satisfy high school graduation requirements for social studies and would support students to receive more immediate information regarding college admissions to make the college planning process easier. There is no anticipated economic cost to persons who are required to comply with the proposal.

**DATA AND REPORTING IMPACT:** The proposal would have no data or reporting impact.

**PRINCIPAL AND CLASSROOM TEACHER PAPERWORK REQUIREMENTS:** TEA has determined that the proposal would not require a written report or other paperwork to be completed by a principal or classroom teacher.

**PUBLIC COMMENTS:** The SBOE 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 February 27, 2026, and ends at 5:00 p.m. on March 30, 2026. The SBOE will take registered oral and written comments on the proposal at the appropriate committee meeting in April 2026 in accordance with the SBOE board operating policies and procedures. 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 February 27, 2026.

**STATUTORY AUTHORITY.** The amendments are proposed under Texas Education Code (TEC), §7.102(c)(4), which requires the State Board of Education (SBOE) to establish curriculum and graduation requirements; TEC, §28.025(a), which requires the SBOE to determine by rule the curriculum requirements for the foundation high school program that are consistent with the required curriculum and requires the SBOE to designate specific courses that are required for the foundation high school program; TEC, §28.025(b-1)(3), which requires the SBOE to require that the curriculum requirements for the foundation high school program include a requirement that students successfully complete at least one-half credit in personal financial literacy; TEC, §28.025(b-24), as added by House Bill 27, 89th Texas Legislature, Regular Session, 2025, which requires the SBOE to allow a student to comply with the curriculum requirement for a one-half credit in personal financial literacy by successfully completing an advanced placement (AP) course designated by the SBOE as containing substantively similar and rigorous academic content; TEC, §28.025(c)(1), which permits a student to graduate and receive a diploma only if the student successfully completes the curriculum requirements identified by the SBOE under TEC, §28.025(a), and complies with TEC, §§28.0256, 28.0257, and 39.025; and TEC, §28.0257, as added by Senate Bill 2314, 89th Texas Legislature, Regular Session, 2025, which requires a student to elect whether to opt in to allowing the Texas Higher Education Coordinating Board (THECB) to share the student's data and education records, as necessary, with institutions of higher education to allow the student to participate in the direct admissions program established by THECB.

**CROSS REFERENCE TO STATUTE.** The amendments implement Texas Education Code, §§7.102(c)(4); 28.025(a); (b-1)(3); (b-24), as added by House Bill 27, 89th Texas Legislature, Regular Session, 2025; and (c)(1); and 28.0257, as amended by Senate Bill 2314, 89th Texas Legislature, Regular Session, 2025.

§74.11. *High School Graduation Requirements.*

(a) To receive a high school diploma, a student entering Grade 9 in the 2014-2015 school year and thereafter must complete the following:

(1) in accordance with subsection (d) of this section, requirements of the Foundation High School Program specified in §74.12 of this title (relating to Foundation High School Program);

(2) testing requirements for graduation as specified in Chapter 101 of this title (relating to Assessment); and

(3) demonstrated proficiency, in Grade 8 or higher, as determined by the district in which the student is enrolled, in delivering clear verbal messages; choosing effective nonverbal behaviors; listening for desired results; applying valid critical-thinking and problem-solving processes; and identifying, analyzing, developing, and evaluating communication skills needed for professional and social success in interpersonal situations, group interactions, and personal and professional presentations.

(b) Beginning with students enrolled in Grade 12 during the 2021-2022 school year, each student in Grade 12 must complete and submit a free application for federal student aid (FAFSA) or a Texas application for state financial aid (TASFA) before graduating from high school.

(1) A student may graduate under the Foundation High School Program without completing a financial aid application if:

(A) the student's parent or other person standing in parental relation submits a signed form, approved by the Texas Education Agency (TEA), indicating that the parent or other person declines to complete and submit the application or authorizes the student to decline to complete and submit the financial aid application;

(B) the student signs and submits the form described by paragraph (1) of this subsection on the student's own behalf if the student is 18 years of age or older or has been emancipated under Texas Family Code, Chapter 31; or

(C) a school counselor authorizes the student to decline to complete and submit the financial aid application for good cause, as determined by the school counselor.

(2) A school counselor may not indicate that a student has not complied with this subsection if the school district or open-enrollment charter school fails to provide the form described by paragraph (1)(A) of this subsection to the student or the student's parent or guardian.

(c) Beginning with students enrolled in Grade 9 during the 2026-2027 school year, before graduating high school, a student must elect whether or not to allow the Texas Higher Education Coordinating Board (THECB) to share the student's data and education records, as necessary, with institutions of higher education to allow the student to participate in the direct admission program established by the THECB pursuant to TEC, §61.0511(b)(2). A student satisfies this requirement if:

(1) the student provides documentation that the student has established a profile on the My Texas Future website and elected to participate in the direct admission program;

(2) the student's parent or guardian submits a signed form authorizing the student to decline to complete and submit information necessary to participate in the program;

(3) the student is 18 years or older or has had the disabilities of minority removed and signs and submits a form declining to complete and submit information necessary to participate in the program; or

(4) a school counselor authorizes the student in writing to decline to complete and submit the information necessary to participate in the program.

(d) [(e)] A school district shall clearly indicate the distinguished level of achievement under the Foundation High School Program, an endorsement, and a performance acknowledgment on the transcript or academic achievement record (AAR) of a student who satisfies the applicable requirements.

(e) [(d)] A student entering Grade 9 in the 2014-2015 school year and thereafter shall enroll in the courses necessary to complete the curriculum requirements for the Foundation High School Program specified in §74.12 of this title and the curriculum requirements for at least one endorsement specified in §74.13 of this title (relating to Endorsements).

(f) [(e)] A student may graduate under the Foundation High School Program without earning an endorsement if, after the student's sophomore year:

(1) the student and the student's parent or person standing in parental relation to the student are advised by a school counselor of the specific benefits of graduating from high school with one or more endorsements; and

(2) the student's parent or person standing in parental relation to the student files with a school counselor written permission, on a form adopted by [the] TEA, allowing the student to graduate under the Foundation High School Program without earning an endorsement.

(g) [(f)] A student may earn a distinguished level of achievement by successfully completing the curriculum requirements for the Foundation High School Program and the curriculum requirements for at least one endorsement required by the Texas Education Code (TEC), §28.025(b-15), including four credits in science and four credits in mathematics to include Algebra II.

(h) [(g)] An out-of-state or out-of-country transfer student (including foreign exchange students) or a transfer student from a Texas nonpublic school is eligible to receive a Texas diploma but must complete all requirements of this section to satisfy state graduation requirements. Any course credit required in this section that is not completed by the student before he or she enrolls in a Texas school district may be satisfied through the provisions of §74.23 of this title (relating to Correspondence Courses and Distance Learning) and §74.24 of this title (relating to Credit by Examination) or by completing the course or courses according to the provisions of §74.26 of this title (relating to Award of Credit).

(i) [(h)] Elective credits may be selected from the following:

(1) high school courses not required for graduation that are listed in the following chapters of this title:

(A) Chapter 110 of this title (relating to Texas Essential Knowledge and Skills for English Language Arts and Reading);

(B) Chapter 111 of this title (relating to Texas Essential Knowledge and Skills for Mathematics);

(C) Chapter 112 of this title (relating to Texas Essential Knowledge and Skills for Science);

(D) Chapter 113 of this title (relating to Texas Essential Knowledge and Skills for Social Studies);

(E) Chapter 114 of this title (relating to Texas Essential Knowledge and Skills for Languages Other Than English);

(F) Chapter 115 of this title (relating to Texas Essential Knowledge and Skills for Health Education);

(G) Chapter 116 of this title (relating to Texas Essential Knowledge and Skills for Physical Education);

(H) Chapter 117 of this title (relating to Texas Essential Knowledge and Skills for Fine Arts); and

(I) Chapter 127 of this title (relating to Texas Essential Knowledge and Skills for Career Development and Career and Technical Education);

[(J) Chapter 130 of this title (relating to Texas Essential Knowledge and Skills for Career and Technical Education);]

(2) state-approved innovative courses as specified in §74.27 of this title (relating to Innovative Courses and Programs);

(3) Junior Reserve Officer Training Corps (JROTC)--one to four credits;

(4) Driver Education--one-half credit; and

(5) College preparatory English language arts or mathematics courses developed and offered pursuant to the TEC, §28.014.

(j) [(i)] Courses offered for dual credit at or in conjunction with an institution of higher education that provide advanced academic instruction beyond, or in greater depth than, the essential knowledge and skills for the equivalent high school course required for graduation may satisfy graduation requirements, including requirements for required courses, advanced courses, and courses for elective credit as well as requirements for endorsements.

(k) [(j)] A student may not be enrolled in a course that has a required prerequisite unless:

(1) the student has successfully completed the prerequisite course(s);

(2) the student has demonstrated equivalent knowledge as determined by the school district; or

(3) the student was already enrolled in the course in an out-of-state, an out-of-country, or a Texas nonpublic school and transferred to a Texas public school prior to successfully completing the course.

(l) [(k)] A district may exempt a student from a specific career and technical education (CTE) course prerequisite for a CTE course that satisfies a mathematics or science credit if the district determines the student is not using the course to complete a CTE program of study.

(m) [(l)] A district may award credit for a course a student completed without meeting the prerequisites if the student completed the course in an out-of-state, an out-of-country, or a Texas nonpublic school where there was not a prerequisite.

(n) [(m)] A district shall allow a student who successfully completes AP Computer Science A or IB Computer Science Higher Level to satisfy both one advanced mathematics requirement and one languages other than English requirement for graduation.

(o) [(n)] Each school district shall annually report to [the] TEA the names of the locally developed courses, programs, institutions of higher education, and internships in which the district's students have enrolled as authorized by the TEC, §28.002(g-1). [The] TEA shall make available information provided under this subsection to other districts. If a district chooses, it may submit any locally developed course for approval under §74.27 of this title as an innovative course.

(p) [(o)] Each school district shall annually report to [the] TEA the names of cybersecurity courses approved by the board of trustees for credit and the institutions of higher education in which the district's students have enrolled as authorized by the TEC, §28.002(g-3). [The] TEA shall make available information provided under this subsection

to other districts. If a district chooses, it may submit any locally developed course for approval under §74.27 of this title as an innovative course.

(q) [(p)] A school district shall permit a student to comply with the curriculum requirements under the Foundation High School Program by successfully completing appropriate courses in the core curriculum of an institution of higher education (IHE). A student who has completed the core curriculum of an IHE in accordance with TEC, §61.822, as certified by the IHE in accordance with §4.28 of this title (relating to Core Curriculum):

- (1) is considered to have earned an endorsement by successfully completing the appropriate courses for that endorsement;
- (2) is considered to have earned a distinguished level of achievement under the Foundation High School Program; and
- (3) is entitled to receive a high school diploma.

§74.12. *Foundation High School Program.*

(a) Credits. A student must earn at least 22 credits to complete the Foundation High School Program.

(b) Core courses. A student must demonstrate proficiency in the following.

(1) English language arts--four credits. Two of the credits must consist of English I and II. (Students with limited English proficiency who are at the beginning or intermediate level of English language proficiency, as defined by §74.4(d) of this title (relating to English Language Proficiency Standards), may satisfy the English I and English II graduation requirements by successfully completing English I for Speakers of Other Languages and English II for Speakers of Other Languages.) A third credit must consist of English III, a comparable Advanced Placement (AP) English language arts course that does not count toward another credit required for graduation, or a comparable International Baccalaureate (IB) English language arts course that meets all the requirements in §110.33 of this title (relating to English Language Arts and Reading, English III (One Credit), Beginning with School Year 2009-2010). A fourth credit may be selected from one full credit or a combination of two half credits from two different courses, subject to prerequisite requirements, from the following courses:

- (A) English IV;
- (B) Independent Study in English;
- (C) Literary Genres;
- (D) Creative Writing;
- (E) Research and Technical Writing;
- (F) Humanities;
- (G) Public Speaking III;
- (H) Communication Applications, which must be combined with another half credit from the other courses listed in subparagraphs (A)-(G) and (I)-(S) of this paragraph;
- (I) Oral Interpretation III;
- (J) Debate III;
- (K) Independent Study in Speech;
- (L) Independent Study in Journalism;
- (M) Advanced Broadcast Journalism III;
- (N) Advanced Journalism: Newspaper III;
- (O) Advanced Journalism: Yearbook III;

(P) a comparable Advanced Placement (AP) English language arts course that does not count toward another credit required for graduation;

(Q) a comparable International Baccalaureate (IB) English language arts course that meets all the requirements in §110.34 of this title (relating to English Language Arts and Reading, English IV (One Credit), Beginning with School Year 2009-2010);

(R) after the successful completion of English I, II, and III, a locally developed English language arts course or other activity, including an apprenticeship or training hours needed to obtain an industry-recognized credential or certificate that is developed pursuant to the Texas Education Code (TEC), §28.002(g-1);

(S) Business English; and

(T) a college preparatory English language arts course that is developed pursuant to the TEC, §28.014.

(2) Mathematics--three credits. Two of the credits must consist of Algebra I and Geometry.

(A) The additional credit may be selected from one full credit or a combination of two half credits from two different courses, subject to prerequisite requirements, from the following courses or a credit selected from the courses listed in subparagraph (B) of this paragraph:

- (i) Mathematical Models with Applications;
- (ii) Mathematical Applications in Agriculture, Food, and Natural Resources;
- (iii) Digital Electronics;
- (iv) Financial Mathematics;
- (v) Applied Mathematics for Technical Professionals;
- (vi) Accounting II;
- (vii) Manufacturing Engineering Technology II; and
- (viii) Robotics II.

(B) The additional credit may be selected from one full credit or a combination of two half credits from two different courses, subject to prerequisite requirements, from the following courses:

- (i) Algebra II;
- (ii) Precalculus;
- (iii) Advanced Quantitative Reasoning;
- (iv) Independent Study in Mathematics;
- (v) Discrete Mathematics for Problem Solving;
- (vi) Algebraic Reasoning;
- (vii) Statistics;
- (viii) a comparable AP mathematics course that does not count toward another credit required for graduation;
- (ix) AP Computer Science A;
- (x) IB Computer Science Higher Level;
- (xi) Engineering Mathematics;
- (xii) Statistics and Business Decision Making;
- (xiii) Mathematics for Medical Professionals;
- (xiv) Discrete Mathematics for Computer Science;

(xv) pursuant to the TEC, §28.025(b-5), after the successful completion of Algebra II, a mathematics course endorsed by an institution of higher education as a course for which the institution would award course credit or as a prerequisite for a course for which the institution would award course credit. The Texas Education Agency (TEA) shall maintain a current list of courses offered under this clause; and

(xvi) after the successful completion of Algebra I and Geometry, a locally developed mathematics course or other activity, including an apprenticeship or training hours needed to obtain an industry-recognized credential or certificate that is developed pursuant to the TEC, §28.002(g-1).

(C) One credit of a two-credit IB mathematics course selected from Chapter 111 of this title (relating to Texas Essential Knowledge and Skills for Mathematics) may satisfy the additional mathematics credit.

(3) Science--three credits. One credit must consist of Biology or a comparable AP or IB biology course.

(A) One credit must be selected from the following laboratory-based courses:

- (i) Integrated Physics and Chemistry;
- (ii) Chemistry;
- (iii) Physics;
- (iv) Physics for Engineering; and
- (v) a comparable AP or IB chemistry or physics course that does not count toward another credit required for graduation.

(B) The additional credit may be selected from one full credit or a combination of two half credits from two different courses, subject to prerequisite requirements, from the following laboratory-based courses:

- (i) Chemistry;
- (ii) Physics;
- (iii) Aquatic Science;
- (iv) Astronomy;
- (v) Earth Systems Science;
- (vi) Environmental Systems;
- (vii) Specialized Topics in Science;
- (viii) a comparable AP science course that does not count toward another credit required for graduation;
- (ix) Advanced Animal Science;
- (x) Advanced Plant and Soil Science;
- (xi) Anatomy and Physiology;
- (xii) Medical Microbiology;
- (xiii) Pathophysiology;
- (xiv) Food Science;
- (xv) Forensic Science;
- (xvi) Biotechnology I;
- (xvii) Biotechnology II;
- (xviii) Physics for Engineering;

(xix) Scientific Research and Design;

(xx) Engineering Design and Problem Solving;

(xxi) Engineering Science;

(xxii) pursuant to the TEC, §28.025(b-5), after the successful completion of physics, a science course endorsed by an institution of higher education as a course for which the institution would award course credit or as a prerequisite for a course for which the institution would award course credit. The TEA shall maintain a current list of courses offered under this clause;

(xxiii) a locally developed science course or other activity, including an apprenticeship or training hours needed to obtain an industry-recognized credential or certificate that is developed pursuant to the TEC, §28.002(g-1); and

(xxiv) one credit of a two-credit IB science course selected from Chapter 112 of this title (relating to Texas Essential Knowledge and Skills for Science).

(C) Credit may not be earned for both physics and Physics for Engineering to satisfy science credit requirements.

(4) Social studies--three credits.

(A) One credit must consist of United States History Studies Since 1877.

(B) One-half credit must consist of United States Government.

(C) One-half credit must be selected from the following:

(i) Personal Financial Literacy; or

~~[(ii) Economics with Emphasis on the Free Enterprise System and Its Benefits; or]~~

(ii) AP Business with Personal Finance.

~~[(ii) Personal Financial Literacy/Economics.]~~

(D) One credit must be selected from the following:

(i) World History Studies;

(ii) World Geography Studies; [or]

[(iii) Economics with Emphasis on the Free Enterprise System and Its Benefits; or

(iv) [(iii)] a comparable AP or IB world history or world geography course that does not count toward another credit required for graduation.

(E) A comparable AP or IB social studies course selected from Chapter 113 of this title (relating to Texas Essential Knowledge and Skills for Social Studies) or an advanced level course offered as dual credit as referenced in §74.11(i) of this title (relating to High School Graduation Requirements) that does not count toward another credit required for graduation may satisfy a credit identified in subparagraphs (A), (B), (C), or (D) of this paragraph.

(5) Languages other than English (LOTE)--two credits.

(A) The credits may be selected from the following:

(i) any two levels in the same language, including comparable AP or IB language courses that do not count toward another credit required for graduation; or

(ii) two credits in computer programming languages, including computer coding, to be selected from Computer

Science I, II, and III, AP Computer Science Principles, AP Computer Science A, IB Computer Science Standard Level, and IB Computer Science Higher Level.

(B) A single two-credit IB LOTE course may only satisfy one LOTE requirement.

(C) If a student, in completing the first credit of LOTE, demonstrates that the student is unlikely to be able to complete the second credit, the student may substitute another appropriate course as follows:

(i) Special Topics in Language and Culture;

(ii) World History Studies or World Geography Studies for a student who is not required to complete both by the local district;

(iii) another credit selected from Chapter 114 of this title (relating to Texas Essential Knowledge and Skills for Languages Other Than English); or

(iv) computer programming languages, including computer coding.

(D) The determination regarding a student's ability to complete the second credit of LOTE must be agreed to by:

(i) the teacher of the first LOTE credit course or another LOTE teacher designated by the school district, the principal or designee, and the student's parent or person standing in parental relation;

(ii) the student's admission, review, and dismissal (ARD) committee if the student receives special education services under the TEC, Chapter 29, Subchapter A; or

(iii) the committee established for the student under Section 504, Rehabilitation Act of 1973 (29 United States Code, Section 794) if the student does not receive special education services under the TEC, Chapter 29, Subchapter A, but is covered by the Rehabilitation Act of 1973.

(E) A student, who due to a disability, is unable to complete two credits in the same language in a language other than English, may substitute a combination of two credits that are not being used to satisfy another specific graduation requirement selected from English language arts, mathematics, science, or social studies or two credits in career and technical education for the LOTE credit requirements. The determination regarding a student's ability to complete the LOTE credit requirements will be made by:

(i) the student's ARD committee if the student receives special education services under the TEC, Chapter 29, Subchapter A; or

(ii) the committee established for the student under Section 504, Rehabilitation Act of 1973 (29 United States Code, Section 794) if the student does not receive special education services under the TEC, Chapter 29, Subchapter A, but is covered by the Rehabilitation Act of 1973.

(F) A student who successfully completes a dual language immersion/two-way or dual language immersion/one-way program in accordance with §89.1210(d)(3) and (4) of this title (relating to Program Content and Design), §89.1227 of this title (relating to Minimum Requirements for Dual Language Immersion Program Model), and §89.1228 of this title (relating to Two-Way Dual Language Immersion Program Model Implementation) at an elementary school may satisfy one credit of the two credits required in a language other than English.

(i) To successfully complete a dual language immersion program, a student must:

(I) have participated in a dual language immersion program for at least five consecutive school years;

(II) achieve high levels of academic competence as demonstrated by performance of meets or masters grade level on both the mathematics and reading State of Texas Assessments of Academic Readiness (STAAR®) in English or Spanish, as applicable, in at least one grade level; and

(III) achieve proficiency in both English and a language other than English as demonstrated by scores of proficient or higher in the reading and speaking domains on language proficiency or achievement tests in both languages.

(ii) The second credit of a language other than English must be in the same language as the successfully completed dual language immersion program.

(G) A student who successfully completes a course in American Sign Language while in elementary school may satisfy one credit of the two credits required in a language other than English.

(6) Physical education--one credit.

(A) The required credit may be selected from one full credit or a combination of two half credits from two different courses from the following courses:

(i) Lifetime Fitness and Wellness Pursuits;

(ii) Lifetime Recreation and Outdoor Pursuits; and

(iii) Skill-Based Lifetime Activities.

(B) In accordance with local district policy, the required credit may be earned through completion of any Texas essential knowledge and skills-based course that meets the requirement in subparagraph (E) of this paragraph for 100 minutes of moderate to vigorous physical activity per five-day school week and that is not being used to satisfy another specific graduation requirement.

(C) In accordance with local district policy, credit for any of the courses listed in subparagraph (A) of this paragraph may be earned through participation in the following activities:

(i) Athletics;

(ii) Junior Reserve Officer Training Corps (JROTC); and

(iii) appropriate private or commercially sponsored physical activity programs conducted on or off campus. The district must apply to the commissioner of education for approval of such programs, which may be substituted for state graduation credit in physical education. Such approval may be granted under the following conditions.

(I) Olympic-level participation and/or competition includes a minimum of 15 hours per week of highly intensive, professional, supervised training. The training facility, instructors, and the activities involved in the program must be certified by the superintendent to be of exceptional quality. Students qualifying and participating at this level may be dismissed from school one hour per day. Students dismissed may not miss any class other than physical education.

(II) Private or commercially sponsored physical activities include those certified by the superintendent to be of high quality and well supervised by appropriately trained instructors. Student participation of at least five hours per week must be required. Stu-

dents certified to participate at this level may not be dismissed from any part of the regular school day.

(D) In accordance with local district policy, up to one credit for any one of the courses listed in subparagraph (A) of this paragraph may be earned through participation in any of the following activities:

- (i) Drill Team;
- (ii) Marching Band; and
- (iii) Cheerleading.

(E) All substitution activities allowed in subparagraphs (B)-(D) of this paragraph must include at least 100 minutes per five-day school week of moderate to vigorous physical activity.

(F) Credit may not be earned more than once for the courses identified in subparagraph (A)(i) and (iii) of this paragraph. Credit may not be earned more than twice for the course identified in subparagraph (A)(ii) of this paragraph. No more than four substitution credits may be earned through any combination of substitutions allowed in subparagraphs (B)-(D) of this paragraph.

(G) A student who is unable to participate in physical activity due to disability or illness may substitute an academic elective credit (English language arts, mathematics, science, or social studies) or a course that is offered for credit as provided by the TEC, §28.002(g-1), for the physical education credit requirement. The determination regarding a student's ability to participate in physical activity will be made by:

(i) the student's ARD committee if the student receives special education services under the TEC, Chapter 29, Subchapter A;

(ii) the committee established for the student under Section 504, Rehabilitation Act of 1973 (29 United States Code, Section 794) if the student does not receive special education services under the TEC, Chapter 29, Subchapter A, but is covered by the Rehabilitation Act of 1973; or

(iii) a committee established by the school district of persons with appropriate knowledge regarding the student if each of the committees described by clauses (i) and (ii) of this subparagraph is inapplicable. This committee shall follow the same procedures required of an ARD or a Section 504 committee.

(7) Fine arts--one credit.

(A) The credit may be selected from the following courses subject to prerequisite requirements:

- (i) Art, Level I, II, III, or IV;
- (ii) Dance, Level I, II, III, or IV;
- (iii) Music, Level I, II, III, or IV;
- (iv) Music Studies;
- (v) Theatre, Level I, II, III, or IV;
- (vi) Musical Theatre, Level I, II, III, or IV;
- (vii) Technical Theatre, Level I, II, III, or IV;
- (viii) IB Film Standard or Higher Level;
- (ix) Floral Design;
- (x) Digital Art and Animation; and
- (xi) 3-D Modeling and Animation.

(B) In accordance with local district policy, credit may be earned through participation in a community-based fine arts program not provided by the school district in which the student is enrolled. The district must apply to the commissioner of education for approval of such programs, which may be substituted for state graduation credit in fine arts. Approval may be granted if the fine arts program provides instruction in the essential knowledge and skills identified for a fine arts course as defined by Chapter 117, Subchapter C, of this title (relating to High School, Adopted 2013).

(c) Elective courses--five credits. The credits must be selected from the list of courses specified in §74.11(g) or (h) of this title (relating to High School Graduation Requirements) or from a locally developed course or activity developed pursuant to the TEC, §28.002(g-1), for which a student may receive credit and that does not satisfy a specific course requirement.

(d) Substitutions. No substitutions are allowed in the Foundation High School Program, except as specified in this chapter.

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

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Cristina De La Fuente-Valadez

Director, Rulemaking

Texas Education Agency

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For further information, please call: (512) 475-1497



### 19 TAC §74.14

The State Board of Education (SBOE) proposes an amendment to §74.14, concerning performance acknowledgments. The proposed amendment would update the minimum score required for a performance acknowledgement on the SAT, align language related to ACT with language related to SAT, and add the Classic Learning Test® and PSAT 10 to appropriate performance acknowledgments.

**BACKGROUND INFORMATION AND JUSTIFICATION:** The SBOE adopted rules in 19 TAC Chapter 74, Subchapter B, to implement the Foundation High School Program effective July 8, 2014. In April 2018, the SBOE adopted an amendment to update the number of subject tests on the ACT Aspire™ examination that are required to earn a performance acknowledgement and to update the qualifying score on the SAT® exam to a single composite score of 1310. The Committee on Instruction was recently made aware that the amended language that was adopted in 2018 for SAT and ACT is inconsistent.

The proposed amendment would correct the inconsistency in references to SAT and ACT and would add the Classic Learning Test® to appropriate performance acknowledgments.

The proposed amendment would also add the PSAT 10 to the list of performance acknowledgments and change the minimum score required to earn a performance acknowledgment for the SAT from 1350 to 1340.

The SBOE approved the proposed amendment for first reading and filing authorization at its January 30, 2026 meeting.

**FISCAL IMPACT:** Monica Martinez, associate commissioner for standards and programs, has determined that 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:** Texas Education Agency (TEA) staff prepared a Government Growth Impact Statement assessment for this proposed rulemaking. During the first five years the proposed rulemaking would be in effect, it would expand an existing regulation by permitting students to earn a performance acknowledgment related to the Classic Learning Test® and the PSAT 10.

The proposed rulemaking would not create or eliminate a government program; would not require the creation of new employee positions or elimination of existing employee positions; would not require an increase or decrease in future legislative appropriations to the agency; would not require an increase or decrease in fees paid to the agency; would not create a new regulation; would not limit or repeal an existing regulation; would not increase or decrease the number of individuals subject to its applicability; and would not positively or adversely affect the state's economy.

**PUBLIC BENEFIT AND COST TO PERSONS:** Ms. Martinez has determined that for each year of the first five years the proposal is in effect, the public benefit anticipated as a result of enforcing the proposal would be to permit students to earn a performance acknowledgment related to the Classic Learning Test® and the PSAT 10 and to clarify that students may earn a performance acknowledgment for achieving at least a minimum score of 29 on the ACT Aspire™ examination or the ACT PreACT® examination. The proposal would also align the minimum scores required to earn a performance acknowledgment for the ACT and SAT by changing the required score for SAT from 1350 to 1340 in accordance with the ACT/SAT concordance table produced by the College Board and ACT. There is no anticipated economic cost to persons who are required to comply with the proposal.

**DATA AND REPORTING IMPACT:** The proposal would have no data or reporting impact.

**PRINCIPAL AND CLASSROOM TEACHER PAPERWORK REQUIREMENTS:** TEA has determined that the proposal would not require a written report or other paperwork to be completed by a principal or classroom teacher.

**PUBLIC COMMENTS:** The SBOE 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 February 27, 2026, and ends at 5:00 p.m. on March 30, 2026. The SBOE will take registered oral and written comments on the proposal at the appropriate committee meeting in April 2026 in accordance with the SBOE board operating policies and procedures. 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 February 27, 2026.

**STATUTORY AUTHORITY.** The amendment is proposed under Texas Education Code (TEC), §7.102(c)(4), which requires the State Board of Education (SBOE) to establish curriculum and graduation requirements; and TEC, §28.025(c-5), which requires the SBOE to adopt rules permitting a student to earn a performance acknowledgment on the student's transcript for outstanding performance in a dual credit course; in bilingualism and biliteracy; on a college advanced placement test or international baccalaureate examination; on an established, valid, reliable, and nationally norm-referenced preliminary college preparation assessment instrument used to measure a student's progress toward readiness for college and the workplace; on an established, valid, reliable, and nationally norm-referenced assessment instrument used by colleges and universities as part of their undergraduate admissions process; or for earning a state recognized or nationally or internationally recognized business or industry certification or license.

**CROSS REFERENCE TO STATUTE.** The amendment implements Texas Education Code, §7.102(c)(4) and §28.025(c-5).

*§74.14. Performance Acknowledgments.*

(a) A student may earn a performance acknowledgment on the student's transcript for outstanding performance in a dual credit course by successfully completing:

(1) at least 12 hours of college academic courses, including those taken for dual credit as part of the Texas core curriculum, and advanced technical credit courses, including locally articulated courses, with a grade of the equivalent of 3.0 or higher on a scale of 4.0; or

(2) an associate degree while in high school.

(b) A student may earn a performance acknowledgment on the student's transcript for outstanding performance in bilingualism and biliteracy as follows.

(1) A student may earn a performance acknowledgment by demonstrating proficiency in accordance with local school district grading policy in two or more languages by:

(A) completing all English language arts requirements and maintaining a minimum grade point average (GPA) of the equivalent of 80 on a scale of 100; and

(B) satisfying one of the following:

(i) completion of a minimum of three credits in the same language in a language other than English with a minimum GPA of the equivalent of 80 on a scale of 100; or

(ii) demonstrated proficiency in the Texas Essential Knowledge and Skills for Level IV or higher in a language other than English with a minimum GPA of the equivalent of 80 on a scale of 100; or

(iii) completion of at least three credits in foundation subject area courses in a language other than English with a minimum GPA of 80 on a scale of 100; or

(iv) demonstrated proficiency in one or more languages other than English through one of the following methods:

(I) a score of 3 or higher on a College Board Advanced Placement examination for a language other than English; or

(II) a score of 4 or higher on an International Baccalaureate examination for a higher-level language other than English course; or

(III) performance on a national assessment of language proficiency in a language other than English of at least Intermediate High or its equivalent.

(2) In addition to meeting the requirements of paragraph (1) of this subsection, to earn a performance acknowledgment in bilingualism and biliteracy, an emergent bilingual student must also have:

(A) participated in and met the exit criteria for a bilingual or English as a second language (ESL) program; and

(B) scored at the Advanced High level on the Texas English Language Proficiency Assessment System (TELPAS).

(c) A student may earn a performance acknowledgment on the student's transcript for outstanding performance on a College Board Advanced Placement test or International Baccalaureate examination by earning:

(1) a score of 3 or above on a College Board Advanced Placement examination; or

(2) a score of 4 or above on an International Baccalaureate examination.

(d) A student may earn a performance acknowledgment on the student's transcript for outstanding performance on an established, valid, reliable, and nationally norm-referenced preliminary college preparation assessment instrument used to measure a student's progress toward readiness for college and the workplace or on an established valid, reliable, and nationally norm-referenced assessment instrument used by colleges and universities as part of their undergraduate admissions process by:

(1) earning a score on the Preliminary SAT/National Merit Scholarship Qualifying Test (PSAT/NMSQT®) or PSAT 10 that qualifies the student for recognition as a commended scholar or higher by the National Merit Scholarship Corporation or as an awardee of the National Recognition Programs of the College Board;

(2) earning a composite score of at least 442 on the ACT Aspire™ examination;

(3) earning a composite score of at least 29 on the ACT PreACT® examination;

(4) earning a total score of at least 101 on the Classic Learning Test® (CLT) 10;

(5) ~~[(4)]~~ earning a total score of at least 1340 ~~[1350]~~ on the SAT®; ~~[or]~~

(6) ~~[(5)]~~ earning a composite score of at least 29 on the ACT® examination ~~[of 29]~~ (excluding the writing subscore); ~~or~~ ~~[-]~~

(7) earning a total score of at least 96 on the CLT.

(e) A student may earn a performance acknowledgment on the student's transcript for earning a state-recognized or nationally or inter-

ternationally recognized business or industry certification or license as follows.

(1) A student may earn a performance acknowledgment with:

(A) performance on an examination or series of examinations sufficient to obtain a nationally or internationally recognized business or industry certification; or

(B) performance on an examination sufficient to obtain a government-required credential to practice a profession.

(2) Nationally or internationally recognized business or industry certification shall be defined as an industry-validated credential that complies with knowledge and skills standards promulgated by a nationally or internationally recognized business, industry, professional, or government entity representing a particular profession or occupation that is issued by or endorsed by:

(A) a national or international business, industry, or professional organization;

(B) a state agency or other government entity; or

(C) a state-based industry association.

(3) Certifications or licensures for performance acknowledgments shall:

(A) be age appropriate for high school students;

(B) represent a student's substantial course of study and/or end-of-program knowledge and skills;

(C) include an industry-recognized examination or series of examinations, an industry-validated skill test, or demonstrated proficiency through documented, supervised field experience; and

(D) represent substantial knowledge and multiple skills needed for successful entry into a high-skill occupation.

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

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## SUBCHAPTER C. OTHER PROVISIONS

### 19 TAC §74.27

The State Board of Education (SBOE) proposes an amendment to §74.27, concerning innovative courses and programs. The proposed amendment would update the process for review and approval of proposed innovative courses and sunset of existing courses and would update requirements for implementation of approved innovative courses.

BACKGROUND INFORMATION AND JUSTIFICATION: After the SBOE adopted new rules concerning graduation requirements, the previously approved experimental courses were

phased out as of August 31, 1998. Following the adoption of the Texas Essential Knowledge and Skills (TEKS), school districts now submit requests for innovative course approval for courses that do not have TEKS. The process outlined in §74.27 provides authority for the SBOE to approve innovative courses. Each year, the Texas Education Agency (TEA) provides the opportunity for school districts and other entities to submit applications for proposed innovative courses. TEA staff works with applicants to fine tune their applications, which are then submitted to the SBOE Committee on Instruction for consideration.

At the June 2023 meeting, the Committee on Instruction discussed an amendment to §74.27 to add a provision for the sunset of innovative courses that meet certain criteria. The board approved for first reading and filing authorization the proposed amendment to §74.27 at its August-September 2023 meeting. At the November 2023 SBOE meeting, the board approved for second reading and final adoption the proposed amendment to §74.27, which included as a criteria for consideration for sunset a provision that a course must have been approved for at least three years and meet at least one additional criteria. When TEA staff filed the rule as adopted with the *Texas Register*, the filing did not include the provision that a course must have been approved for at least three years and meet at least one additional criteria to be considered for sunset. The amendment became effective February 18, 2024. In order to correct the error made by TEA, the board adopted an additional amendment effective November 10, 2024.

At the September 2025 meeting, the Committee on Instruction discussed the innovative course approval process and asked TEA staff to prepare a possible amendment to the rule for the committee to consider. At the November 2025 SBOE meeting, a proposed amendment to §74.27 was presented for first reading and filing authorization to the Committee on Instruction and recommended for SBOE approval. Due to a procedural error, the item was not approved by the SBOE at its general meeting.

The proposed amendment would set more specific criteria for a course to be considered by the board as an innovative course; establish new timelines for SBOE action related to innovative courses; clarify requirements related to instructional materials for innovative courses; and adjust requirements for implementation of approved innovative courses.

The SBOE approved the proposed amendment for first reading and filing authorization at its January 30, 2026 meeting.

**FISCAL IMPACT:** Monica Martinez, associate commissioner for standards and programs, has determined that there are no additional costs to state or local government, including school districts and open-enrollment charter schools, required to comply with the proposal.

**LOCAL EMPLOYMENT IMPACT:** The proposal has no effect on local economy; therefore, no local employment impact statement is required under Texas Government Code, §2001.022.

**SMALL BUSINESS, MICROBUSINESS, AND RURAL COMMUNITY IMPACT:** The proposal has no direct adverse economic impact for small businesses, microbusinesses, or rural communities; therefore, no regulatory flexibility analysis specified in Texas Government Code, §2006.002, is required.

**COST INCREASE TO REGULATED PERSONS:** The proposal does not impose a cost on regulated persons, another state agency, a special district, or a local government and, therefore, is not subject to Texas Government Code, §2001.0045.

**TAKINGS IMPACT ASSESSMENT:** The proposal does not impose a burden on private real property and, therefore, does not constitute a taking under Texas Government Code, §2007.043.

**GOVERNMENT GROWTH IMPACT:** TEA staff prepared a Government Growth Impact Statement assessment for this proposed rulemaking. During the first five years the proposed rulemaking would be in effect, it would expand an existing regulation by setting more specific criteria for a course to be considered by the board as an innovative course, establishing new timelines for SBOE action related to innovative courses, and further clarifying other components of the rule.

The proposed rulemaking would not create or eliminate a government program; would not require the creation of new employee positions or elimination of existing employee positions; would not require an increase or decrease in future legislative appropriations to the agency; would not require an increase or decrease in fees paid to the agency; would not create a new regulation; would not limit or repeal an existing regulation; would not increase or decrease the number of individuals subject to its applicability; and would not positively or adversely affect the state's economy.

**PUBLIC BENEFIT AND COST TO PERSONS:** Ms. Martinez has determined that for each year of the first five years the proposal is in effect, the public benefit anticipated as a result of enforcing the proposal would be to update the process for review and approval of proposed innovative courses and sunset of existing courses and to update requirements for implementation of approved innovative courses. There is no anticipated economic cost to persons who are required to comply with the proposal.

**DATA AND REPORTING IMPACT:** The proposal would have no data or reporting impact.

**PRINCIPAL AND CLASSROOM TEACHER PAPERWORK REQUIREMENTS:** TEA has determined that the proposal would not require a written report or other paperwork to be completed by a principal or classroom teacher.

**PUBLIC COMMENTS:** The SBOE 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 February 27, 2026, and ends at 5:00 p.m. on March 30, 2026. The SBOE will take registered oral and written comments on the proposal at the appropriate committee meeting in April 2026 in accordance with the SBOE board operating policies and procedures. 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 February 27, 2026.

**STATUTORY AUTHORITY.** The amendment is proposed under Texas Education Code, §28.002(f), which authorizes local school districts to offer courses in addition to those in the required curriculum for local credit and requires the State Board of Education to be flexible in approving a course for credit for high school graduation.

**CROSS REFERENCE TO STATUTE.** The amendment implements Texas Education Code, §28.002(f).

§74.27. *Innovative Courses and Programs.*

(a) A school district may offer innovative courses to enable students to master knowledge, skills, and competencies not included in the essential knowledge and skills of the required curriculum. After the State Board of Education (SBOE) approves an application for a new course or a renewal, a district shall obtain local board approval prior to offering the course.

(1) The SBOE [State Board of Education (SBOE)] may approve discipline-based courses in the foundation or enrichment curriculum and courses that do not fall within any of the subject areas listed in the foundation and enrichment curricula when the applying school district or organization demonstrates at least one of the following: [that the proposed course is academically rigorous and addresses documented student needs.]

(A) is academically rigorous and addresses documented student needs;

(B) applies to a specialized group of students such as students with disabilities or gifted/talented students;

(C) is content agnostic and supports generalized skills that prepare students for career and/or college; or

(D) a need is identified in an emerging career and technical education (CTE) field or related to a regional program of study for a course that does not already exist as a Texas Essential Knowledge and Skills (TEKS)-based course.

(2) The SBOE shall take action related to innovative courses on the following timelines.

(A) An application window shall be made available every two years for new courses.

(B) For existing courses, at the appropriate three-year or four-year mark as described by paragraph (8) of this subsection, the SBOE shall:

(i) invite the applicant to submit updates to be considered as part of a renewal;

(ii) set the course for expiration; or

(iii) initiate a process for the course to become a TEKS-based course.

(C) Notice of an upcoming application opportunity shall be published on the SBOE website at least six months in advance of the start of the application window.

(D) Applications for new courses and renewals shall be posted on the Texas Education Agency (TEA) website for public comment at least 30 days prior to SBOE action.

(E) Applications for new courses and renewals shall be approved not later than the January SBOE meeting for implementation of a course in the subsequent school year.

(3) [(2)] Applications shall not be approved if the proposed course significantly duplicates the content of a TEKS-based [Texas Essential Knowledge and Skills (TEKS)-based] course or can reasonably be taught within an existing TEKS-based course.

(4) [(3)] To request approval from the SBOE, the applying school district or organization must submit a request for approval, including the following information, within the window designated by the SBOE [at least six months before planned implementation that includes]:

(A) a description of the course and its essential knowledge and skills;

(B) the rationale and justification for the request in terms of student need;

(C) data that demonstrates successful piloting of the course in Texas;

[(D) a description of activities, major resources, and materials to be used;]

[(E)] the methods of evaluating student outcomes;

[(F)] the qualifications of the teacher;

[(G)] any training required in order to teach the course and any associated costs;

[(H)] the amount of credit requested; and

[(I)] [(H)] a copy of or electronic access to any teacher resources and student-facing instructional materials required to teach [recommended instructional resources for] the course.

(5) [(4)] To request approval for a career and technical education innovative course, the applying school district or organization must submit with its request for approval evidence that the course is aligned with state and/or regional labor market data.

(6) [(5)] To request approval of a new innovative course, the applying school district or organization must submit with its request for approval evidence that the course has been successfully piloted in its entirety in at least one school in the state of Texas.

(7) [(6)] The requirements of paragraphs (4)(C) [(3)(C)] and (6) [(5)] of this subsection do not apply to the consideration of a course developed to support a program of study in career and technical education.

(8) [(7)] Newly approved innovative courses shall be approved for a period of three years, and courses approved for renewal shall be approved for a period of four [five] years.

(9) [(8)] Following SBOE approval, with [With] the approval of the local board of trustees, a school district may offer, without changes or deletions to the approved standards and instructional materials [content], any state-approved innovative course.

(10) [(9)] TEA [Texas Education Agency] shall review all approved innovative courses once every year [two years] and provide for consideration for sunset a list of innovative courses that have been approved as an innovative course for at least three years and meet at least one of the following criteria:

(A) zero enrollment for the previous two years;

(B) average enrollment of less than 100 students statewide for the previous three years;

(C) student enrollment at an average of fewer than 20 districts or charter schools statewide for the previous three years;

(D) duplicative of another innovative or TEKS-based course; or

(E) approved for implementation as a TEKS-based course.

(b) An ethnic studies course that has been approved by the SBOE as an innovative course shall be considered by the SBOE at a subsequent meeting for inclusion in the TEKS.

(1) Only comprehensive ethnic studies courses in Native American studies, Latino studies, African American studies, and/or Asian Pacific Islander studies, inclusive of history, government, eco-

nomics, civic engagement, culture, and science and technology, shall be considered by the SBOE.

(2) The chair of the Committee on Instruction, in accordance with SBOE Operating Rule 2.5(b), shall collaborate with the board chair to place the item on the next available Committee on Instruction agenda following SBOE approval of the innovative course.

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

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Texas Education Agency

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## CHAPTER 109. BUDGETING, ACCOUNTING, AND AUDITING

The State Board of Education (SBOE) proposes the repeal of §109.25 and amendments to §109.51 and §109.52, concerning budgeting, accounting, and auditing. The proposed repeal would remove §109.25, whose statutory authority, Texas Education Code (TEC), §48.104(j-1), (k), (l), (m), (n), and (o), was removed by House Bill (HB) 2, 89th Texas Legislature, Regular Session, 2025. The proposed amendments would align language in Subchapter D with TEC, §45.208, which no longer requires depository contracts to be submitted to the Texas Education Agency (TEA).

**BACKGROUND INFORMATION AND JUSTIFICATION:** Section 109.25 requires each school district and charter school to report financial information relating to the expenditure of the state compensatory education allotment under the Foundation School Program to TEA. HB 2, 89th Texas Legislature, Regular Session, 2025, repealed the SBOE's authority to direct how the state compensatory education allotment funds are spent and how the funds are reported to TEA. Therefore, the proposed repeal of §109.25 is necessary to implement HB 2.

Section 109.52 establishes the requirement that each school district select at least one bank as a depository and enter into a depository contract with the bank, providing the completed contract to TEA. Section 109.52 also establishes the requirement that a district provide a completed surety bond form to TEA if the depository bank uses a surety bond to secure district deposits. The section includes the depository contract form and surety bond form with the content prescribed by the SBOE. Senate Bill 1376, 86th Texas Legislature, 2019, repealed the requirement for districts to submit certain depository information to TEA. Therefore, §109.52 would be amended to remove filing requirements.

Section 109.51 would be amended to make non-substantive changes to align with language in §109.52.

The SBOE approved the proposed revisions for first reading and filing authorization at its January 30, 2026 meeting.

**FISCAL IMPACT:** Amy Copeland, associate commissioner for school finance, has determined that 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 repeal an existing regulation to remove a rule whose statutory authority has been removed. The proposed rulemaking would also limit an existing regulation to remove the requirement that school districts file certain documents with TEA.

The proposed rulemaking would not create or eliminate a government program; would not require the creation of new employee positions or elimination of existing employee positions; would not require an increase or decrease in future legislative appropriations to the agency; would not require an increase or decrease in fees paid to the agency; would not create a new regulation; would not expand an existing regulation; would not increase or decrease the number of individuals subject to its applicability; and would not positively or adversely affect the state's economy.

**PUBLIC BENEFIT AND COST TO PERSONS:** Ms. Copeland has determined that for each year of the first five years the proposal is in effect, the public benefit anticipated as a result of enforcing the proposal would be to remove an outdated rule and clarify that the requirements and eligibility criteria for school districts and charter schools regarding the execution and management of depository contracts. This clarification promotes transparency, ensures compliance with statutory provisions, and supports sound financial practices in safeguarding public funds. There is no anticipated economic cost to persons who are required to comply with the proposal.

**DATA AND REPORTING IMPACT:** The proposal would have no data or reporting impact.

**PRINCIPAL AND CLASSROOM TEACHER PAPERWORK REQUIREMENTS:** TEA has determined that the proposal would not require a written report or other paperwork to be completed by a principal or classroom teacher.

**PUBLIC COMMENTS:** The SBOE 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 February 27, 2026, and ends at 5:00

p.m. on March 30, 2026. The SBOE will take registered oral and written comments on the proposal at the appropriate committee meeting in April 2026 in accordance with the SBOE board operating policies and procedures. 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 February 27, 2026.

## SUBCHAPTER B. TEXAS EDUCATION AGENCY AUDIT FUNCTIONS

### 19 TAC §109.25

**STATUTORY AUTHORITY.** The repeal is proposed under House Bill 2, Section 7.24, 89th Texas Legislature, Regular Session, 2025, which amended Texas Education Code, §48.104, to repeal the authority of the State Board of Education to direct how the state compensatory education allotments funds are spent and how the expenditures are reported to the Texas Education Agency.

**CROSS REFERENCE TO STATUTE.** The repeal implements House Bill 2, Section 7.24, 89th Texas Legislature, Regular Session, 2025.

*§109.25. State Compensatory Education Program Reporting and Auditing System.*

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

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Director, Rulemaking

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## SUBCHAPTER D. UNIFORM BANK BID OR REQUEST FOR PROPOSAL AND DEPOSITORY CONTRACT

### 19 TAC §109.51, §109.52

**STATUTORY AUTHORITY.** The amendments are proposed under Texas Education Code, §45.208, which requires that a school district use the depository contract prescribed by the State Board of Education and that the depository bank secure the highest daily amount of cash in the bank using a bond or other surety agreements.

**CROSS REFERENCE TO STATUTE.** The amendments implement Texas Education Code, §45.208.

*§109.51. Uniform Depository Bank Bid or Proposal Form.*

(a) At least 60 days before the end of the current depository contract, each school district must decide to use either competitive bidding or a request for proposals to choose a new depository.

(b) At least 30 days before the end of the current depository contract, the district must mail the uniform blank form for the selected

process to each bank located in the district. The district must use either the uniform bid form specified in subsection (c) of this section or the uniform proposal form specified in subsection (d) of this section. The district may add other terms to the uniform bid or proposal form if the added terms do not unfairly restrict competition between banks as stated in ~~the~~ Texas Education Code, §45.206(b). The district must maintain [keep] the selected bid or proposal form ~~in the district]~~ and make it available to the Texas Education Agency upon request.

(c) This subsection provides the uniform bid blank form, entitled "Bid Form for Depository Services."  
Figure: 19 TAC §109.51(c) (No change.)

(d) This subsection provides the uniform proposal blank form, entitled "Proposal Form for Depository Services."  
Figure: 19 TAC §109.51(d) (No change.)

*§109.52. Uniform Depository Bank Contract and Surety Bond Forms.*

(a) Each school district must use the uniform depository contract form as provided in subsection (b) of this section. The district must complete the form ~~and file it electronically with the Texas Education Agency (TEA)]~~ as specified in ~~the~~ Texas Education Code (TEC), §45.208, and in accordance with filing instructions provided on the Texas Education Agency (TEA) [TEA] website. The district must maintain the selected bid or proposal form and make it available to TEA upon request.

(b) This subsection provides the uniform depository contract form, entitled "Depository Contract for Funds of Independent School Districts under the Texas Education Code, Chapter 45, Subchapter G, School District Depositories."  
Figure: 19 TAC §109.52(b) (No change.)

(c) If a district's depository elects a surety bond to secure the district's deposit amounts less any applicable Federal Deposit Insurance Corporation insurance, the depository must complete the surety bond form provided in subsection (d) of this section, attach it to the contract, and file it with the district. The district must maintain [file] a copy of the contract and the surety bond form ~~[with the TEA]~~ as specified in ~~the~~ TEC, §45.208, and in accordance with filing instructions provided on the TEA website. The district must maintain a copy of the contract and the surety bond form and make it available to TEA upon request.

(d) This subsection provides the uniform surety bond form, entitled "Texas School Depository Surety Bond Form."  
Figure: 19 TAC §109.52(d) (No change.)

(e) If ~~the~~ TEA receives a contract form and determines that it is incomplete, ~~the~~ TEA will notify the district.

(f) A district that has no current depository contract in force and filed with ~~the~~ TEA will receive its warrants from ~~the~~ TEA by US mail.

(g) For depository contract filing requirements for charter schools, refer to §100.1063 [§100.1043] of this title (relating to Status and Use of State Funds; Depository Contract).

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 February 13, 2026.

TRD-202600674

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**SUBCHAPTER C. ADOPTIONS BY  
REFERENCE**

**19 TAC §109.41**

The State Board of Education (SBOE) proposes an amendment to §109.41, concerning financial accounting guidelines. The proposed amendment would adopt by reference the updated *Financial Accountability System Resource Guide* (FASRG), which includes annual updates and removes information related to the compensatory education allotment to align with House Bill (HB) 2, 89th Texas Legislature, Regular Session, 2025.

**BACKGROUND INFORMATION AND JUSTIFICATION:** The FASRG describes the rules of financial accounting for school districts, charter schools, and education service centers and is adopted by reference under §109.41. Revisions to the FASRG would align the content with current governmental accounting and auditing standards, remove obsolete requirements, and remove descriptions and discussions of best practices and other non-mandatory elements.

Requirements for financial accounting and reporting are derived from generally accepted accounting principles (GAAP). School districts and charter schools are required to adhere to GAAP. Legal and contractual considerations typical of the government environment are reflected in the fund structure basis of accounting.

An important function of governmental accounting systems is to enable administrators to assure and report on compliance with finance-related legal provisions. This assurance and reporting process means that the accounting system and its terminology, fund structure, and procedures must be adapted to satisfy finance-related legal requirements. However, the basic financial statements of school districts and charter schools should be prepared in conformity with GAAP.

School district and governmental charter school accounting systems shall use the accounting code structure presented in the Account Code Structure section of Module 1 of the FASRG and nonprofit charter school accounting systems shall use the accounting code structure presented in the Accounting Code Structure section of Module 2 of the FASRG. Funds shall be classified and identified on required financial statements by the same code number and terminology provided in the Account Code section of Module 1 FAR Appendices for school districts and governmental charter schools and Module 3 of the FASRG for nonprofit charter schools.

State law provides authority for both the SBOE and the commissioner to adopt rules on financial accounting. To accomplish this, the SBOE and the commissioner each adopt the FASRG by reference under separate rules. The SBOE adopts the FASRG by reference under §109.41, and the commissioner adopts the FASRG by reference under §109.5001.

The following changes would be made to FASRG Modules 1 through 6.

***Module 1, Financial Accounting and Reporting (FAR) and FAR Appendices***

Module 1 aligns with current governmental accounting standards. Proposed Module 1 would include the following changes. Updates would be made to accounting codes and accounting guidance, including the removal of several program intent codes related to state compensatory education, and previous guidance would be clarified, including additional information on shared services arrangements. School districts and charter schools would be required to maintain proper budgeting and financial accounting and reporting systems. In addition, school districts would be required to establish principles and policies to ensure uniformity in accounting in conformity with GAAP established by the Governmental Accounting Standards Board (GASB).

***Module 2, Special Supplement - Charter Schools***

Module 2 aligns with current financial accounting reporting standards. Proposed Module 2 would include the following changes. Updates would be made to accounting codes and accounting guidance, and previous guidance would be clarified. The proposed module would establish financial and accounting requirements for Texas public charter schools to ensure uniformity in accounting in conformity with GAAP. The proposed module would also include current guidance that complements the American Institute of Certified Public Accountants (AICPA) *Audit and Accounting Guide, State and Local Governments* and supplements the *Government Auditing Standards* of the United States Government Accountability Office (GAO). These requirements facilitate preparation of financial statements that conform to GAAP established by the Financial Accounting Standards Board (FASB).

***Module 3, Special Supplement - Non-profit Charter Schools Chart of Accounts***

Module 3 aligns with current financial accounting standards. Proposed Module 3 would include the following changes. Updates would be made to accounting codes and accounting guidance, including the removal of several program intent codes related to state compensatory education, and previous guidance would be clarified. Charter schools would be required to maintain proper budgeting and financial accounting and reporting systems that are in conformity with Texas Education Data Standards in the Texas Student Data Systems Public Education Information Management System. In addition, charter schools would be required to establish principles and policies to ensure uniformity in accounting in conformity with GAAP established by the FASB. The proposed module would also include current auditing guidance that complements the AICPA *Audit and Accounting Guide, State and Local Governments* and supplements the *Government Auditing Standards* of the United States GAO. These requirements facilitate preparation of financial statements that conform to GAAP established by the FASB.

***Module 4, Auditing***

Module 4 aligns with current auditing standards. Proposed Module 4 would include the following changes. Updates would be made to accounting codes and accounting guidance, and previous guidance would be clarified. The proposed module would establish auditing requirements for Texas public school districts and charter schools and include current requirements from TEC, §44.008, as well as Code of Federal Regulations, Title 2, Part 200, Subpart F, Audit Requirements, that implement the federal Single Audit Act. The proposed module would also

include current auditing guidance that complements the AICPA *Audit and Accounting Guide, State and Local Governments* and supplements the *Government Auditing Standards* of the United States GAO. These requirements facilitate preparation of financial statements that conform to GAAP established by the GASB.

#### *Module 5, Purchasing*

Module 5 aligns with current purchasing laws and standards. Proposed Module 5 would include the following changes. Updates would be made to purchasing guidance that has changed from previous legislation, including an increase in the purchasing threshold from \$50,000 to \$100,000 for procurement requirements. Purchasing rules that needed additional explanation would be clarified. School districts and charter schools would be required to establish procurement policies and procedures that align with their unique operating environment and ensure compliance with relevant statutes and policies.

#### *Module 6, Compensatory Education, Guidelines, Financial Treatment, and an Auditing and Reporting System*

Module 6, which provides information to assist school districts and charter schools with using the state compensatory education allotment, would be deleted because HB 2, 89th Texas Legislature, Regular Session, 2025, repealed TEC, §48.104(j-1) and (k)-(o), which set requirements for using the allotment.

The FASRG is posted on the Texas Education Agency (TEA) website at <https://tea.texas.gov/finance-and-grants/financial-accountability/financial-accountability-system-resource-guide>.

The SBOE approved the proposed amendment for first reading and filing authorization at its January 30, 2026 meeting.

**FISCAL IMPACT:** Amy Copeland, associate commissioner for school finance, has determined that there are no additional costs to state or local government, including school districts and open-enrollment charter schools, required to comply with the proposal.

**LOCAL EMPLOYMENT IMPACT:** The proposal has no effect on local economy; therefore, no local employment impact statement is required under Texas Government Code, §2001.022.

**SMALL BUSINESS, MICROBUSINESS, AND RURAL COMMUNITY IMPACT:** The proposal has no direct adverse economic impact for small businesses, microbusinesses, or rural communities; therefore, no regulatory flexibility analysis specified in Texas Government Code, §2006.002, is required.

**COST INCREASE TO REGULATED PERSONS:** The proposal does not impose a cost on regulated persons, another state agency, a special district, or a local government and, therefore, is not subject to Texas Government Code, §2001.0045.

**TAKINGS IMPACT ASSESSMENT:** The proposal does not impose a burden on private real property and, therefore, does not constitute a taking under Texas Government Code, §2007.043.

**GOVERNMENT GROWTH IMPACT:** TEA staff prepared a Government Growth Impact Statement assessment for this proposed rulemaking. During the first five years the proposed rulemaking would be in effect, it would expand and limit an existing regulation. The proposal would amend requirements and provide updated governmental accounting and auditing standards. In some instances, the proposed changes would add information, and in some instances, information would be removed.

The proposed rulemaking would not create or eliminate a government program; would not require the creation of new em-

ployee positions or elimination of existing employee positions; would not require an increase or decrease in future legislative appropriations to the agency; would not require an increase or decrease in fees paid to the agency; would not create a new regulation; would not repeal an existing regulation; would not increase or decrease the number of individuals subject to its applicability; and would not positively or adversely affect the state's economy.

**PUBLIC BENEFIT AND COST TO PERSONS:** Ms. Copeland has determined that for each year of the first five years the proposal is in effect, the public benefit anticipated as a result of enforcing the proposal would be to ensure that the provisions of the FASRG align with current governmental accounting and auditing standards for school districts and charter schools. There is no anticipated economic cost to persons who are required to comply with the proposal.

**DATA AND REPORTING IMPACT:** The proposal would have no data or reporting impact.

**PRINCIPAL AND CLASSROOM TEACHER PAPERWORK REQUIREMENTS:** TEA has determined that the proposal would not require a written report or other paperwork to be completed by a principal or classroom teacher.

**PUBLIC COMMENTS:** The SBOE 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 February 27, 2026, and ends at 5:00 p.m. on March 30, 2026. The SBOE will take registered oral and written comments on the proposal at the appropriate committee meeting in April 2026 in accordance with the SBOE board operating policies and procedures. 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 February 27, 2026.

**STATUTORY AUTHORITY.** The amendment is proposed under Texas Education Code (TEC), §7.102(c)(32), which requires the State Board of Education (SBOE) to adopt rules concerning school district budgets and audits of school district fiscal accounts as required under TEC, Chapter 44, Subchapter A; TEC, §44.001(a), which requires the commissioner to establish advisory guidelines relating to the fiscal management of a school district. TEC, §44.001(b), requires the commissioner to report annually to the SBOE the status of school district fiscal management as reflected by the advisory guidelines and by statutory requirements; TEC, §44.007(a), which requires the board of trustees of each school district to adopt and install a standard school fiscal accounting system that conforms with generally accepted accounting principles. TEC, §44.007(b), requires the accounting system to meet at least the minimum requirements prescribed by the commissioner, subject to review and comment by the state auditor. TEC, §44.007(c), requires a record to be kept of all revenues realized and of all expenditures made during the fiscal year for which a budget is adopted. A report of the revenues and expenditures for the preceding fiscal year is required to be filed with the agency on or before the date set by the SBOE. TEC, §44.007(d), requires each district, as part of the report required by TEC, §44.007, to include management, cost accounting, and financial information in a format prescribed by the SBOE in a manner sufficient to

enable the board to monitor the funding process and determine educational system costs by district, campus, and program; and TEC, §44.008(b), which requires the independent audit to meet at least the minimum requirements and be in the format prescribed by the SBOE, subject to review and comment by the state auditor. The audit must include an audit of the accuracy of the fiscal information provided by the district through the Public Education Information Management System.

CROSS REFERENCE TO STATUTE. The amendment implements Texas Education Code, §§7.102(c)(32); 44.001(a) and (b); 44.007(a)-(d); and 44.008(b).

§109.41. *Financial Accountability System Resource Guide.*

The rules for financial accounting are described in the official Texas Education Agency (TEA) publication *Financial Accountability System Resource Guide*, Version 20 [19], which is adopted by this reference as the agency's official rule. A copy is available on the TEA website with information related to financial compliance.

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 February 13, 2026.

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Cristina De La Fuente-Valadez

Director, Rulemaking

Texas Education Agency

Earliest possible date of adoption: March 29, 2026

For further information, please call: (512) 475-1497



## SUBCHAPTER EE. COMMISSIONER'S RULES CONCERNING FINANCIAL ACCOUNTING GUIDELINES

### 19 TAC §109.5001

The Texas Education Agency (TEA) proposes an amendment to §109.5001, concerning financial accounting guidelines. The proposed amendment would adopt by reference the *Financial Accountability System Resource Guide* (FASRG), Version 20, which would include annual updates and remove information related to the compensatory education allotment to align with House Bill (HB) 2, 89th Texas Legislature, Regular Session, 2025.

**BACKGROUND INFORMATION AND JUSTIFICATION:** The FASRG describes the rules of financial accounting for school districts, charter schools, and education service centers and is adopted by reference under §109.5001. Revisions to the FASRG would align the content with current governmental accounting and auditing standards, remove obsolete requirements, and remove descriptions and discussions of best practices and other non-mandatory elements.

Requirements for financial accounting and reporting are derived from generally accepted accounting principles (GAAP). School districts and charter schools are required to adhere to GAAP. Legal and contractual considerations typical of the government environment are reflected in the fund structure basis of accounting.

An important function of governmental accounting systems is to enable administrators to assure and report on compliance with finance-related legal provisions. This assurance and reporting process means that the accounting system and its terminology, fund structure, and procedures must be adapted to satisfy finance-related legal requirements. However, the basic financial statements of school districts and charter schools should be prepared in conformity with GAAP.

School district and governmental charter school accounting systems shall use the accounting code structure presented in the Account Code Structure section of Module 1 of the FASRG, and nonprofit charter school accounting systems shall use the accounting code structure presented in the Accounting Code Structure section of Module 2 of the FASRG. Funds shall be classified and identified on required financial statements by the same code number and terminology provided in the Account Code section of Module 1 FAR Appendices for school districts and governmental charter schools and Module 3 of the FASRG for nonprofit charter schools.

The FASRG, Version 20, contains six modules on the following topics: Module 1, Financial Accounting and Reporting (FAR) and FAR Appendices; Module 2, Special Supplement - Charter Schools; Module 3, Special Supplement - Non-profit Charter Schools Chart of Accounts; Module 4, Auditing; Module 5, Purchasing; and Module 6, Compensatory Education, Guidelines, Financial Treatment, and an Auditing and Reporting System.

State law provides authority for both the State Board of Education (SBOE) and the commissioner to adopt rules on financial accounting. To accomplish this, the SBOE and the commissioner each adopt the FASRG by reference under separate rules. The SBOE adopts the FASRG by reference under 19 TAC §109.41, and the commissioner adopts the FASRG by reference under §109.5001.

The following changes would be made to FASRG Modules 1-6.

#### *Module 1, Financial Accounting and Reporting (FAR) and FAR Appendices*

Module 1 aligns with current governmental accounting standards. Proposed Module 1 would include the following changes. Updates would be made to accounting codes and accounting guidance, including the removal of several program intent codes related to state compensatory education, and previous guidance would be clarified, including additional information on shared services arrangements. School districts and charter schools would be required to maintain proper budgeting and financial accounting and reporting systems. In addition, school districts would be required to establish principles and policies to ensure uniformity in accounting in conformity with GAAP established by the Governmental Accounting Standards Board (GASB).

#### *Module 2, Special Supplement - Charter Schools*

Module 2 aligns with current financial accounting reporting standards. Proposed Module 2 would include the following changes. Updates would be made to accounting codes and accounting guidance, and previous guidance would be clarified. The proposed module would establish financial and accounting requirements for Texas public charter schools to ensure uniformity in accounting in conformity with GAAP. The proposed module would also include current guidance that complements the American Institute of Certified Public Accountants (AICPA) *Audit and Accounting Guide, State and Local Governments* and supplements the *Government Auditing Standards* of the

United States Government Accountability Office (GAO). These requirements facilitate preparation of financial statements that conform to GAAP established by the Financial Accounting Standards Board (FASB).

### *Module 3, Special Supplement - Non-profit Charter Schools Chart of Accounts*

Module 3 aligns with current financial accounting standards. Proposed Module 3 would include the following changes. Updates would be made to accounting codes and accounting guidance, including the removal of several program intent codes related to state compensatory education, and previous guidance would be clarified. Charter schools would be required to maintain proper budgeting and financial accounting and reporting systems that are in conformity with Texas Education Data Standards in the Texas Student Data System Public Education Information Management System. In addition, charter schools would be required to establish principles and policies to ensure uniformity in accounting in conformity with GAAP established by the FASB. The proposed module would also include current auditing guidance that complements the AICPA *Audit and Accounting Guide, State and Local Governments* and supplements the *Government Auditing Standards* of the United States GAO. These requirements facilitate preparation of financial statements that conform to GAAP established by the FASB.

### *Module 4, Auditing*

Module 4 aligns with current auditing standards. Proposed Module 4 would include the following changes. Updates would be made to accounting codes and accounting guidance, and previous guidance would be clarified. The proposed module would establish auditing requirements for Texas public school districts and charter schools and include current requirements from TEC, §44.008, as well as Code of Federal Regulations, Title 2, Part 200, Subpart F, Audit Requirements, that implement the federal Single Audit Act. The proposed module would also include current auditing guidance that complements the AICPA *Audit and Accounting Guide, State and Local Governments* and supplements the *Government Auditing Standards* of the United States GAO. These requirements facilitate preparation of financial statements that conform to GAAP established by the GASB.

### *Module 5, Purchasing*

Module 5 aligns with current purchasing laws and standards. Proposed Module 5 would include the following changes. Updates would be made to purchasing guidance that has changed from previous legislation, including an increase in the purchasing threshold from \$50,000 to \$100,000 for procurement requirements. Purchasing rules that needed additional explanation would be clarified. School districts and charter schools would be required to establish procurement policies and procedures that align with their unique operating environment and ensure compliance with relevant statutes and policies.

### *Module 6, Compensatory Education, Guidelines, Financial Treatment, and an Auditing and Reporting System*

Module 6, which provides information to assist school districts and charter schools with using the state compensatory education allotment, would be deleted because HB 2, 89th Texas Legislature, Regular Session, 2025, repealed TEC, §48.104(j-1) and (k)-(o), which set requirements for using the allotment.

The FASRG is posted on the TEA website at <https://tea.texas.gov/finance-and-grants/financial-accountability/financial-accountability-system-resource-guide>.

**FISCAL IMPACT:** Amy Copeland, associate commissioner for school finance, has determined that there are no additional costs to state or local government, including school districts and open-enrollment charter schools, required to comply with the proposal.

**LOCAL EMPLOYMENT IMPACT:** The proposal has no effect on local economy; therefore, no local employment impact statement is required under Texas Government Code, §2001.022.

**SMALL BUSINESS, MICROBUSINESS, AND RURAL COMMUNITY IMPACT:** The proposal has no direct adverse economic impact for small businesses, microbusinesses, or rural communities; therefore, no regulatory flexibility analysis, specified in Texas Government Code, §2006.002, is required.

**COST INCREASE TO REGULATED PERSONS:** The proposal does not impose a cost on regulated persons, another state agency, a special district, or a local government and, therefore, is not subject to Texas Government Code, §2001.0045.

**TAKINGS IMPACT ASSESSMENT:** The proposal does not impose a burden on private real property and, therefore, does not constitute a taking under Texas Government Code, §2007.043.

**GOVERNMENT GROWTH IMPACT:** TEA staff prepared a Government Growth Impact Statement assessment for this proposed rulemaking. During the first five years the proposed rulemaking would be in effect, it would expand and limit an existing regulation. The proposal would amend requirements and provide updated governmental accounting and auditing standards. In some instances, the proposed changes would add information, and in some instances, information would be removed.

The proposed rulemaking would not create or eliminate a government program; would not require the creation of new employee positions or elimination of existing employee positions; would not require an increase or decrease in future legislative appropriations to the agency; would not require an increase or decrease in fees paid to the agency; would not create a new regulation; would not repeal an existing regulation; would not increase or decrease the number of individuals subject to its applicability; and would not positively or adversely affect the state's economy.

**PUBLIC BENEFIT AND COST TO PERSONS:** Ms. Copeland has determined that for each year of the first five years the proposal is in effect, the public benefit anticipated as a result of enforcing the proposal would be to ensure that the provisions of the FASRG align with current governmental accounting and auditing standards for school districts and charter schools. There is no anticipated economic cost to persons who are required to comply with the proposal.

**DATA AND REPORTING IMPACT:** The proposal would have no data and reporting impact.

**PRINCIPAL AND CLASSROOM TEACHER PAPERWORK REQUIREMENTS:** TEA has determined that the proposal would not require a written report or other paperwork to be completed by a principal or classroom teacher.

**PUBLIC COMMENTS:** TEA requests public comments on the proposal, including, per Texas Government Code, §2001.024(a)(8), information related to the cost, benefit, or effect of the proposed rule and any applicable data, research, or analysis, from any person required to comply with the

proposed rule or any other interested person. The public comment period on the proposal begins February 27, 2026, and ends March 30, 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 February 27, 2026. A form for submitting public comments is available on the TEA website at [https://tea.texas.gov/About\\_TEA/Laws\\_and\\_Rules/Commissioner\\_Rules\\_\(TAC\)/Proposed\\_Commissioner\\_of\\_Education\\_Rules/](https://tea.texas.gov/About_TEA/Laws_and_Rules/Commissioner_Rules_(TAC)/Proposed_Commissioner_of_Education_Rules/).

**STATUTORY AUTHORITY.** The amendment is proposed under Texas Education Code (TEC), §7.055(b)(32), which requires the commissioner of education to perform duties in connection with the public school accountability system as prescribed by TEC, Chapters 39 and 39A; TEC, §44.001(a), which requires the commissioner to establish advisory guidelines relating to the fiscal management of a school district; TEC, §44.001(b), which requires the commissioner to report annually to the State Board of Education (SBOE) the status of school district fiscal management as reflected by the advisory guidelines and by statutory requirements; TEC, §44.007(a), which requires the board of trustees of each school district to adopt and install a standard school fiscal accounting system that conforms with generally accepted accounting principles; TEC, §44.007(b), which requires the accounting system to meet at least the minimum requirements prescribed by the commissioner, subject to review and comment by the state auditor; TEC, §44.007(c), which requires a record to be kept of all revenues realized and of all expenditures made during the fiscal year for which a budget is adopted. A report of the revenues and expenditures for the preceding fiscal year is required to be filed with the agency on or before the date set by the SBOE; TEC, §44.007(d), which requires each district, as part of the report required by TEC, §44.007, to include management, cost accounting, and financial information in a format prescribed by the SBOE in a manner sufficient to enable the board to monitor the funding process and determine educational system costs by district, campus, and program; and TEC, §44.008(b), which requires the independent audit to meet at least the minimum requirements and be in the format prescribed by the SBOE, subject to review and comment by the state auditor. The audit must include an audit of the accuracy of the fiscal information provided by the district through the Texas Student Data System Public Education Information Management System.

**CROSS REFERENCE TO STATUTE.** The amendment implements Texas Education Code, §§7.055(b)(32); 44.001(a) and (b); 44.007(a)-(d); and 44.008(b).

§109.5001. *Financial Accountability System Resource Guide.*

The rules for financial accounting are described in the official Texas Education Agency (TEA) publication *Financial Accountability System Resource Guide, Version 20 [49]*, which is adopted by this reference as the agency's official rule. A copy is available on the TEA website with information related to financial compliance.

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 February 13, 2026.

TRD-202600675

Cristina De La Fuente-Valadez

Director, Rulemaking

Texas Education Agency

Earliest possible date of adoption: March 29, 2026

For further information, please call: (512) 475-1497



## TITLE 22. EXAMINING BOARDS

### PART 23. TEXAS REAL ESTATE COMMISSION

#### CHAPTER 537. PROFESSIONAL AGREEMENTS AND STANDARD CONTRACTS

##### **22 TAC §§537.20, 537.22, 537.28, 537.30 - 537.32, 537.37, 537.43, 537.46, 537.62, 537.63, 537.68, 537.69**

The Texas Real Estate Commission (TREC) proposes amendments to 22 TAC §537.20, Standard Contract Form TREC No. 9-17, Unimproved Property Contract; §537.22, Standard Contract Form TREC No. 11-8, Addendum for "Back-Up" Contract; §537.28, Standard Contract Form TREC No. 20-18, One to Four Family Residential Contract (Resale); §537.30, Standard Contract Form TREC No. 23-19, New Home Contract (Incomplete Construction); §537.31, Standard Contract Form TREC No. 24-19, New Home Contract (Completed Construction); §537.32, Standard Contract Form TREC No. 25-16, Farm and Ranch Contract; §537.37, Standard Contract Form TREC No. 30-17, Residential Condominium Contract (Resale); §537.43, Standard Contract Form TREC No. 36-10, Addendum for Property Subject to Mandatory Membership in a Property Owners Association; §537.46, Standard Contract Form TREC No. 39-10, Amendment to Contract; §537.62, Standard Contract Form TREC No. 55-0, Seller's Disclosure Notice; §537.63, Standard Contract Form TREC No. OP-L, Addendum for Seller's Disclosure of Information on Lead-Based Paint and Lead-Based Paint Hazards as Required by Federal Law; new rule to 22 TAC §537.68, Standard Contract Form TREC No. 61-0, Water Notice: Seller's Disclosure about Groundwater and Surface Water Rights; and new rule to 22 TAC §537.69, Standard Contract Form TREC No. 62-0, Seller's Notice to Buyer of Removal of Contingency Under Addendum for "Back-Up" Contract, in Chapter 537, Professional Agreements and Standard Contracts.

Each of the rules correspond to contract forms adopted by reference. Texas real estate license holders are generally required to use forms promulgated by TREC when negotiating contracts for the sale of real property. These forms are drafted and recommended for proposal by the Texas Real Estate Broker-Lawyer Committee, an advisory body consisting of six attorneys appointed by the President of the State Bar of Texas, six brokers appointed by TREC, and one public member appointed by the governor. The Texas Real Estate Broker-Lawyer Committee recommended revisions to the contract forms adopted by reference under the proposed amendments and new rules. The changes listed below apply to all contract forms unless specified otherwise. Paragraph numbers referenced are from the *One to Four Family Residential Contract (Resale)*.

The term "generators" has been added to Paragraph 2B, Improvements, to reflect the increased prevalence of generators on properties.

In Paragraph 5A(2), a definition of "Legal Holiday" has been added to provide better clarity. The term is also capitalized in the *Addendum for "Back-Up" Contract*.

In Paragraph 5 and the receipt page, as well as the *Addendum for "Back-Up" Contract*, the terms "option fee," "earnest money," and "contract" are now in lower case because they are not considered defined terms.

In the Commission's recent Special-Purpose Review by the Sunset Advisory Commission, Sunset directed the Commission to add language to contract forms to provide prospective buyers with relevant information on groundwater and surface water rights associated with a property. To that end, a new Paragraph 7(l) has been added to the contract forms and a new *Water Notice: Seller's Disclosure About Groundwater and Surface Water Rights* has been created.

The Sunset Advisory Commission also directed, as part of that review, that the TREC Seller's Disclosure Notice be updated to: (i) provide a prospective buyer with information on whether the property is presently covered by insurance, including windstorm insurance, and whether the current seller has been unable to insure their property for any reason; (ii) inform a prospective buyer if there is a private road on or adjoining the property that the prospective buyer would be financially responsible for maintaining; (iii) provide a prospective buyer with information on the existence of aboveground storage tanks on the property that are more than 500 gallons and have stored petroleum products or other chemicals; and (iv) tell a prospective buyer whether their property is located in a conservation easement. The Seller's Disclosure Notice is updated to reflect those directives.

In light of changes to industry practices surrounding compensation, Paragraph 12 has been reworded and reorganized and a new Paragraph 12B has been added related to brokerage compensation. The *Amendment to Contract* form has been updated to align with these changes and Paragraph 8B has also been removed. Additionally, the disclosure at the bottom of Page 10 related to compensation between brokers has been removed to help eliminate confusion.

Spurred by recent law changes related to the federal Financial Crimes Enforcement Network or FinCEN, language has been added to Paragraph 20B, which requires the parties to provide information needed by the escrow agent for any governmental reporting requirements and requires the buyer to pay any charges associated with gathering and reporting such information.

Paragraph 21 (Notices) was amended to clarify the acceptable delivery methods and that notices are effective when sent to a party or that party's agent. The revised paragraph also provides more options for buyer, seller, and agent contact information. A change is made to the seller's disclosure notice reference in Paragraph 7B for consistency in terminology.

To streamline and improve usability, the committee recommended that all addenda and notices be incorporated into Paragraph 22 and reorganized into clearly labeled categories: Financial, Leases, Additional Tests and Reports, Statutory Disclosures and Notices, and Other. Several references requiring addenda to be attached were removed from Paragraph 6, and one subsection--Paragraph 6(E)(12)--was struck entirely to reduce redundancy.

The Broker Information page has been further reorganized with updated formatting and terminology to better reflect industry practice.

The terms "Listing Broker" and "Other Broker" have been replaced with the terms "Seller's Broker" and "Buyer's Broker" in the *Farm and Ranch Contract* and the *Addendum for Seller's Disclosure of Information on Lead-Based Paint and Lead-Based Paint Hazards as Required by Federal Law*.

Paragraph H of the *Addendum for "Back-Up" Contract* is also revised to change the timing of the Amended Effective Date. A new *Seller's Notice to Buyer of Removal of Contingency under Addendum for "Back-Up" Contract* has been drafted, which may be used in conjunction with the Addendum.

The *Addendum for Property Subject to Mandatory Membership in a Property Owners Association* has been modified in Paragraph A(2) so that the buyer is not obligated to provide subdivision information to a seller under that provision. Clarifying language is also added to Paragraph C to address any conflicts that may arise. The term "Effective Date" is also capitalized in the form.

Abby Lee, General Counsel, has determined that for the first five-year period the proposed amendments are in effect there will be no fiscal implications for the state or for units of local government as a result of enforcing or administering the sections. There is no adverse economic effect anticipated for small businesses, micro-businesses, rural communities, or local or state employment as a result of implementing the proposed amendments. There is no significant economic cost anticipated for persons who are required to comply with the proposed amendments. Accordingly, no Economic Impact Statement or Regulatory Flexibility Analysis is required.

Ms. Lee also has determined that for each year of the first five years the sections as proposed are in effect, the public benefits anticipated as a result of adopting the sections as proposed will be improved clarity and greater transparency for members of the public and license holders who use these contract forms.

For each year of the first five years the proposed amendments and new rules are in effect, the amendments 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;
- require an increase or decrease in fees paid to the agency;
- create a new regulation;
- expand, limit or repeal an existing regulation;
- increase or decrease the number of individuals subject to the rule's applicability; or
- positively or adversely affect the state's economy.

The Commission requests comments on the proposal, including information related to the cost, benefit, or effect of the proposed rules, including any applicable data, research, or analysis, from any person required to comply with the proposal or any other interested person, which may be submitted through the online comment submission form at <https://www.trec.texas.gov/rules-and-laws/comment-on-proposed-rules>, to Abby Lee, General Counsel, Texas Real Estate Commission, P.O. Box 12188, Austin, Texas 78711-2188, or via email to [general.counsel@trec.texas.gov](mailto:general.counsel@trec.texas.gov). The deadline for comments is 30 days after publication in the *Texas Register*.

The amendments and new rules are proposed under Texas Occupations Code, §1101.151, which authorizes the Texas Real Estate Commission to adopt and enforce rules necessary to administer Chapters 1101 and 1102; and to establish standards of conduct and ethics for its license holders to fulfill the purposes of Chapters 1101 and 1102 and ensure compliance with Chapters 1101 and 1102. The amendments and rules are also adopted under Texas Occupations Code, §1101.155, which authorizes the Commission to adopt rules in the public's best interest that require license holders to use contract forms prepared by the Texas Real Estate Broker-Lawyer Committee and adopted by the Commission.

The statute affected by these amendments and new rules is Texas Occupations Code, Chapter 1101. No other statute, code or article is affected by the amendments and new rules.

§537.20. *Standard Contract Form TREC No. 9-18 [9-17], Unimproved Property Contract.*

The Texas Real Estate Commission (Commission) adopts by reference standard contract form TREC No. 9-18 [9-17] approved by the Commission in 2026 [2024] for mandatory use in the sale of unimproved property where the intended use is for one to four family residences.

§537.22. *Standard Contract Form TREC No. 11-9 [11-8], Addendum for "Back-Up" Contract.*

The Texas Real Estate Commission (Commission) adopts by reference standard contract form TREC No. 11-9 [11-8] approved by the Commission in 2026 [2024] for mandatory use as an addendum to be attached to promulgated forms of contracts which are second or "back-up" contracts.

§537.28. *Standard Contract Form TREC No. 20-19 [20-18], One to Four Family Residential Contract (Resale).*

The Texas Real Estate Commission (Commission) adopts by reference standard contract form TREC No. 20-19 [20-18] approved by the Commission in 2026 [2024] for mandatory use in the resale of residential real estate.

§537.30. *Standard Contract Form TREC No. 23-20 [23-19], New Home Contract (Incomplete Construction).*

The Texas Real Estate Commission (Commission) adopts by reference standard contract form TREC No. 23-20 [23-19] approved by the Commission in 2026 [2024] for mandatory use in the sale of a new home where construction is incomplete.

§537.31. *Standard Contract Form TREC No. 24-20 [24-19], New Home Contract (Completed Construction).*

The Texas Real Estate Commission (Commission) adopts by reference standard contract form TREC No. 24-20 [24-19] approved by the Commission in 2026 [2024] for mandatory use in the sale of a new home where construction is completed.

§537.32. *Standard Contract Form TREC No. 25-17 [25-16], Farm and Ranch Contract.*

The Texas Real Estate Commission (Commission) adopts by reference standard contract form TREC No. 25-17 [25-16] approved by the Commission in 2026 [2024] for mandatory use in the sale of a farm or ranch.

§537.37. *Standard Contract Form TREC No. 30-18 [30-17], Residential Condominium Contract (Resale).*

The Texas Real Estate Commission (Commission) adopts by reference standard contract form TREC No. 30-18 [30-17] approved by the Commission in 2026 [2024] for mandatory use in the resale of a residential condominium unit.

§537.43. *Standard Contract Form TREC No. 36-11 [36-10], Addendum for Property Subject to Mandatory Membership in a Property Owners Association.*

The Texas Real Estate Commission (Commission) adopts by reference standard contract form TREC No. 36-11 [36-10] approved by the Commission in 2026 [2022] for mandatory use as an addendum to be added to promulgated forms in the sale of property subject to mandatory membership in an owners' association.

§537.46. *Standard Contract Form TREC No. 39-11 [39-10], Amendment to Contract.*

The Texas Real Estate Commission (Commission) adopts by reference standard contract form TREC No. 39-11 [39-10] approved by the Commission in 2026 [2024] for mandatory use as an amendment to promulgated forms of contracts.

§537.62. *Standard Contract Form TREC No. 55-1 [55-0], Seller's Disclosure Notice.*

The Texas Real Estate Commission (Commission) adopts by reference standard contract form TREC No. 55-1 [55-0] approved by the Commission in 2026 [2023] for voluntary use to fulfill the disclosure requirements of Texas Property Code §5.008.

§537.63. *Standard Contract Form TREC No. 56-0 [OP-L], Addendum for Seller's Disclosure of Information on Lead-Based Paint and Lead-Based Paint Hazards as Required by Federal Law.*

The Texas Real Estate Commission (Commission) adopts by reference standard contract form TREC No. 56-0 [OP-L] approved by the Commission in 2026 [2011] for voluntary use to comply with federal regulation to furnish a lead paint disclosure in properties constructed prior to 1978.

§537.68. *Standard Contract Form TREC No. 61-0, Water Notice: Seller's Disclosure about Groundwater and Surface Water Rights.*

The Texas Real Estate Commission (Commission) adopts by reference standard contract form TREC No. 61-0 approved by the Commission in 2026 for mandatory use to provide information regarding groundwater and surface water rights associated with the property.

§537.69. *Standard Contract Form TREC No. 62-0, Seller's Notice to Buyer of Removal of Contingency Under Addendum for "Back-Up" Contract.*

The Texas Real Estate Commission (Commission) adopts by reference standard contract form TREC No. 62-0 approved by the Commission in 2026 for voluntary use as a notice to a buyer under a "back-up" contract that the first contract is terminated, and the back-up contract is now the primary contract.

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 February 12, 2026.

TRD-202600651

Abby Lee

General Counsel

Texas Real Estate Commission

Earliest possible date of adoption: March 29, 2026

For further information, please call: (512) 936-3057



## TITLE 30. ENVIRONMENTAL QUALITY

# PART 1. TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

## CHAPTER 293. WATER DISTRICTS

The Texas Commission on Environmental Quality (TCEQ, agency, or commission) proposes amendments to §§293.11, 293.12, 293.15, 293.32, 293.41, 293.59, 293.63, 293.81, and 293.91.

### Background and Summary of the Factual Basis for the Proposed Rules

During the 87th Texas Legislature (2021), House Bill (HB) 1410 was passed and requires amendments to 30 Texas Administrative Code (TAC) Chapter 293 to implement the enacted legislation.

During the 88th Texas Legislature (2023), HB 2815, HB 3437, HB 3507, Senate Bill (SB) 1397, and SB 938 were passed and require amendments 30 TAC Chapter 293 to implement the enacted legislation.

This rulemaking reflects changes to Local Government Code (LGC), §375.022 enacted in HB 2815, which allows a Municipal Management District (MMD) to request that a succeeding board of directors be elected under LGC, §375.0645 instead of being appointed under LGC, §375.064.

This rulemaking reflects changes to LGC, §375.025(c), enacted in HB 2815, which require MMDs to complete the Creation Notice Actions and Requirements described by and pursuant to Texas Water Code (TWC), §49.011.

This rulemaking reflects changes to TWC, §49.011(a), enacted in HB 2815, that adds LGC, §375, to the list of TWC Chapters (36, 50, 51, 54, 55, 58, 65, and 66) which define the required documentation for an application for creation of a district to be submitted to the commission.

This rulemaking reflects changes to TWC, §54.030(b), enacted in HB 2815, that repealed amendments to TWC, §54.030(b) in HB 2914, 86th Legislature, Regular Session, 2019. Rule amendments remove outdated references to HB 2914 from 30 TAC §293.15(a)(1) and delete 30 TAC §293.15(c) and its subsections. Bill revisions affect application requirements for the conversion of a district in 30 TAC Chapter 293 enacted in HB 2815.

This rulemaking reflects changes to TWC, §49.316, enacted in HB 2815, that requires a district that's being divided to submit the final order to the commission and file the order with the real property records of the county.

This rulemaking reflects changes to TWC, §57.059, enacted in HB 2815, that stipulates that a director of a Levee Improvement district must: "(1) be at least 18 years old; (2) own land subject to taxation in the district or be a qualified voter in the district; (3) if the director is elected, be a qualified voter of the precinct in the district established by the commissioners court under TWC, §57.058, from which the director is elected."

This rulemaking reflects changes to TWC, §49.4645(a), enacted in SB 938, which adds El Paso County to the list of counties in which water districts can issue bonds to be supported by ad valorem taxes for recreational facilities.

This rulemaking reflects changes to TWC, §49.4645(a-1), enacted in HB 1410 (87th Legislative Session) that allows a district to have a debt to valuation ratio for recreational facilities of up to 3% (up from 1%) provided the district meets certain criteria.

This rulemaking reflects changes to TWC, §49.18, enacted in HB 2815, which adds Austin, Brazos, Liberty, Grimes, Wharton and Walker Counties to the list of counties with a maximum projected tax rate limit of \$1.50. It also adds Bastrop, Bell, Blanco, Burnet, Caldwell, Gillespie, Kendall, Lee, and Milam Counties to the list of counties with a maximum projected tax rate limit of \$1.20.

This rulemaking reflects changes to TWC, §49.273(d) and (e), enacted in HB 3507, which requires a district to advertise for projects with a value greater than \$150,000. Additionally, HB 3507 requires a district to solicit written competitive bids from at least three bidders for contracts over \$25,000 but not more than \$150,000. The district is not required to advertise for bids for contracts over \$25,000 but no more than \$150,000.

This rulemaking reflects changes to TWC, §49.011(b), enacted in SB 1397, that requires the commission to provide notice to each state representative and state senator who represents the area inside the proposed district.

This rulemaking reflects changes to TWC, §49.273(i), enacted in HB 3437, which allows a district to approve change orders that involve an increase or decrease of \$150,000 or less.

### Section by Section Discussion

#### *§293.11, Information Required to Accompany Applications for Creation of Districts*

The commission proposes to amend §293.11(j)(1) by adding (G) allowing the succeeding board of directors of a MMD to be elected, rather than appointed, to implement changes made to LGC §375.022 and §375.0645 made by HB 2815.

#### *§293.12, Creation Notice Actions and Requirements*

The commission proposes to amend §293.12(a) to require the commission to notify the chief clerk that a creation application for a MMD is administratively complete. The commission proposes to delete §293.12(g) relating to hearing requirements for Municipal Management Districts to implement changes to LGC, Chapter 375, Municipal Management Districts made by HB 2815 and to reorder the subsequent subsections. The commission proposes to add new subsection (h) which requires the executive director to notify each state representative and state senator who represents an area inside the proposed district's boundaries that the petition has been filed to implement the statutory changes made by SB 1397.

#### *293.15, Addition of Wastewater and/or Drainage Powers and Conversion of Districts into Municipal Utility Districts*

The commission proposes to amend §293.15(b)(1) by removing outdated references to TWC, §54.030(b). Amendments made by HB 2914 of the 86th legislative session to TWC, §54.030(b) were repealed by HB 2815. The commission proposes to delete existing language in §293.15(c) and §293.15(d) to remove outdated references to TWC, §54.030(b) which were repealed by HB 2815. Subsequent subsections were renumbered. The commission proposes to add §293.15(b)(5) which requires evidence that the resolution on conversion was mailed to the Texas State Senator(s) and State Representative(s) who represent the area in which the district is located be included with application material.

#### *§293.32, Qualifications of Directors*

The commission proposes to add new §293.32(a)(2) which requires the director of a levee improvement district created under TWC, Chapter 57: (A) to be at least 18 years old; own land sub-

ject to taxation in the district or be a qualified voter in the district; and if the director is elected, be a qualified voter of the precinct in the district established by the commissioners court under TWC, §57.058 from which the director is elected. This addition is to implement the changes made to TWC, §57.059 by HB 2815. Subsequent paragraphs are renumbered.

#### §293.41, *Approval of Projects and Issuance of Bonds*

The commission proposes to amend §293.41(e) to add El Paso County to the list of counties in which water districts can authorize recreational debt supported by ad valorem taxes to implement changes made to TWC, §49.4645 made by SB 938. The commission also proposes to amend §293.41(e)(4) to remove language struck in TWC, §49.4645 made by SB 1410. The commission also proposes to amend §293.41(e)(5) to increase allowable recreational debt to valuation ratio from 1% to up to 3% if the district has a ratio of debt to certified assessed valuation of 10% or less, obtains an acceptable credit rating as defined in §293.47(b)(4) on its proposed bond issue, obtains a credit enhanced rating as defined in §293.57(b)(5) on its proposed bond issue, or has a contract with a political subdivision or an entity acting on behalf of a political subdivision under which the political subdivision or the entity agrees to provide to the district taxes or other revenues, as consideration for the district's development or acquisition of the facility to implement changes made to TWC, §49.4645 made by HB 1410, 87th Legislature.

#### §293.59, *Economic Feasibility of Project*

The commission proposes to amend §293.59(k)(3)(A) by adding Austin, Brazos, Grimes, Liberty, Wharton, and Walker Counties to the list of counties with a maximum tax rate limit of \$1.50 to implement changes made to TWC, §49.181 by HB 2815. The commission proposes to amend §293.59(k)(3)(B) by adding Bastrop, Bell, Blanco, Burnet, Caldwell, Gillespie, Kendall, Lee, and Milam Counties to the list of counties with a maximum tax rate limit of \$1.20 to implement changes made to TWC, §49.181 by HB 2815. The commission proposes to amend §293.59(k)(4)(A) by adding Austin, Brazos, Grimes, Liberty, Wharton, and Walker Counties to the list of counties with combined no-growth maximum tax rate limit of \$2.50 to implement changes made to TWC, §49.181 by HB 2815. The commission proposes to amend §293.59(k)(4)(B) by adding Bastrop, Bell, Blanco, Burnet, Caldwell, Gillespie, Kendall, Lee, and Milam Counties to the list of counties with combined no-growth maximum tax rate limit of \$2.20 to implement changes made to TWC, §49.181 by HB 2815. The commission proposes to amend §293.59(k)(11)(C)(i) by adding Austin, Brazos, Grimes, Liberty, Walker, and Wharton Counties to the list of counties with a combined no-growth tax rate limit specifically attributable to water, sewage, drainage, recreational facilities, and roads of \$1.50 to implement changes made to TWC, §49.181 by HB 2815. The commission proposes to amend §293.59(k)(11)(C)(ii) by adding Bastrop, Bell, Blanco, Burnet, Caldwell, Gillespie, Kendall, Lee, and Milam Counties to the list of counties with a combined no-growth tax rate limit specifically attributable to water, sewage, drainage, recreational facilities, and roads of \$1.20 to implement changes made to TWC, §49.181 by HB 2815.

#### §293.63, *Contract Documents for Water District Projects*

The commission proposes to amend §293.63(8) to raise the contract value that triggers the requirement to advertise projects from over \$75,000 to over \$150,000, as well as raise the contract value that triggers the requirement to solicit written com-

petitive bids from over \$25,000 but not more than \$75,000 to over \$25,000 but not more than \$150,000 to implement changes made to TWC, §49.273 by HB 3507.

#### §293.81, *Change Order*

The commission proposes to amend §293.81(2)- (3) to revise the limit for change orders with no commission approval from \$50,000 to \$150,000 to conform with changes to TWC, §49.273 enacted in HB 3437.

#### §293.91, *Reporting by Districts*

The commission proposes to add new §293.91(a)(7) to require submittal of an order dividing a district within 30 days after the date of adoption of the order dividing a district. This addition implements changes to TWC, §49.316, enacted in HB 2815.

#### Fiscal Note: Costs to State and Local Government

Kyle Girten, Analyst in the Budget and Planning Division, has determined that for the first five-year period the proposed rules are in effect, no fiscal implications are anticipated for the agency or for other units of state or local government as a result of administration or enforcement of the proposed rule.

#### Public Benefits and Costs

Mr. Girten determined that for each year of the first five years the proposed rules are in effect, the public benefit will be consistency and compliance with state law, specifically HB 2815, HB 3437, SB 938, HB 3507, and SB 1397 from the 88th Regular Legislative Session (2023) and HB 1410 from the 87th Regular Legislative Session (2021). The proposed rulemaking is not anticipated to result in fiscal implications for individuals.

#### Local Employment Impact Statement

The commission reviewed this proposed rulemaking and determined that a Local Employment Impact Statement is not required because the proposed rulemaking does not adversely affect a local economy in a material way for the first five years that the proposed rule is in effect.

#### Rural Communities Impact Assessment

The commission reviewed this proposed rulemaking and determined that the proposed rulemaking does not adversely affect rural communities in a material way for the first five years that the proposed rules are in effect. The amendments would apply statewide and have the same effect in rural communities as in urban communities.

#### Small Business and Micro-Business Assessment

No adverse fiscal implications are anticipated for small or micro-businesses due to the implementation or administration of the proposed rule for the first five-year period the proposed rules are in effect.

#### Small Business Regulatory Flexibility Analysis

The commission reviewed this proposed rulemaking and determined that a Small Business Regulatory Flexibility Analysis is not required because the proposed rule does not adversely affect a small or micro-business in a material way for the first five years the proposed rules are in effect.

#### Government Growth Impact Statement

The commission prepared a Government Growth Impact Statement assessment for this proposed rulemaking. The proposed rulemaking does not create or eliminate a government program

and will not require an increase or decrease in future legislative appropriations to the agency. The proposed rulemaking does not require the creation of new employee positions, eliminate current employee positions, nor require an increase or decrease in fees paid to the agency. The proposed rulemaking amends an existing regulation, and it does not create, expand, repeal, or limit this regulation. The proposed rulemaking does not increase or decrease the number of individuals subject to its applicability. During the first five years, the proposed rule should not impact positively or negatively the state's economy.

Written comments concerning the cost, benefit, or effect of the proposed rule, including any applicable data, research, or analysis may be submitted to the contact person at the address listed under the Submittal of Comments section of this preamble.

#### Draft Regulatory Impact Analysis Determination

The commission reviewed the proposed rulemaking in light of the regulatory analysis requirements of Texas Government Code (TGC), §2001.0225 and determined that the rulemaking is not subject to §2001.0225 because it does not meet the definition of a "Major environmental rule" as defined in the Texas Administrative Procedure Act. A "Major environmental rule" is a rule that is specifically intended to protect the environment or reduce risks to human health from environmental exposure, and that may adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, or the public health and safety of the state or a sector of the state.

This rulemaking does not meet the statutory definition of a "Major environmental rule" because it is not the specific intent of the rule to protect the environment or reduce risks to human health from environmental exposure. The primary purpose of the proposed rulemaking is to implement legislative changes enacted by: HB 1410 from the 87th Texas Legislature; and HB 2815, HB 3437, HB 3507, SB 938, and SB 1397 from the 88th Texas Legislature.

HB 1410 allows water districts to have a debt to valuation ratio between 1% and 3%, inclusive, if certain criteria are met.

HB 2815 revises the petition and notice requirements for the creation of MMDs; changes how the Commission evaluates the financial feasibility of projects for which a district seeks to issue bonds; changes the process for converting into, dividing, and consolidating Municipal Utility Districts (MUDs); and changes the eligibility requirements to be a district director.

HB 3437 increases the maximum dollar amount that an employee or official of a district may approve in a change order.

HB 3507 changes the threshold amounts that determine when a district may solicit bids and when a district must advertise contract letting in a newspaper.

SB 938 adds El Paso County to a list of counties in which water districts may issue bonds for recreational facilities.

SB 1397 requires that the commission provide notice of district application to each state senator and state representative who represents the area inside the proposed district's boundaries.

The proposed rules would substantially advance this purpose by amending the Chapter 293 rules to incorporate the new statutory requirements.

In addition, the rulemaking does not meet the statutory definition of a "Major environmental rule" because the proposed rules will not adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, or

the public health and safety of the state or a sector of the state. The cost of complying with the proposed rules is not expected to be significant with respect to the economy.

Furthermore, the proposed rulemaking is not subject to TGC, §2001.0225 because it does not meet any of the four applicability requirements listed in TGC, §2001.0225(a). There are no federal standards governing the areas of construction finances, director qualifications, recreational facility bonds, and notice to state legislators, with respect to water districts. Second, the proposed rulemaking does not exceed an express requirement of state law. Third, the proposed rulemaking does not exceed a requirement of a delegation agreement or contract between the state and an agency or representative of the federal government to implement a state and federal program. Finally, the proposed rulemaking will be adopted pursuant to the commission's specific authority in TWC, §12.081, which allows the commission to issue rules necessary to supervise districts and authorities. Therefore, the rules are not adopted solely under the commission's general powers.

The commission invites public comment of the draft regulatory impact analysis determination. Written comments on the draft regulatory impact analysis determination may be submitted to the contact person at the address listed under the SUBMITTAL OF COMMENTS section to this preamble.

#### Takings Impact Assessment

The commission evaluated the proposed rules and performed an analysis of whether the proposed rules constitute a taking under TGC, Chapter 2007. The primary purpose of the proposed rulemaking is to implement legislative changes enacted by HB 1410 from the 87th Texas Legislature; and HB 2815, HB 3437, HB 3507, SB 938, and SB 1397 from the 88th Texas Legislature.

HB 1410 allows water districts to have a debt to valuation ratio between 1% and 3%, inclusive, if certain criteria are met.

HB 2815 revises the petition and notice requirements for the creation of MMDs; changes how the Commission evaluates the financial feasibility of projects for which a district seeks to issue bonds; changes the process for converting into and dividing Municipal Utility Districts (MUDs); and changes the eligibility requirements to be a district director for Levee Improvement Districts.

HB 3437 increases the maximum dollar amount that an employee or official of a district may approve in a change order.

HB 3507 changes the threshold amounts that determine when a district may solicit bids and when a district must advertise contract letting in a newspaper.

SB 938 adds El Paso County to a list of counties in which water districts may issue bonds for recreational facilities.

SB 1397 requires that the commission provide notice of district application to each state senator and state representative who represents the area inside the proposed district's boundaries.

The proposed rules would substantially advance this purpose by amending the Chapter 293 rules to incorporate the new statutory requirements.

Promulgation and enforcement of these proposed rules would be neither a statutory nor a constitutional taking of private real property. The proposed rules do not affect a landowner's rights in private real property because this rulemaking does not relate to or have any impact on an owner's rights to property. This

proposed rulemaking will primarily affect districts, especially in the areas of creations/conversions, projects, and authority; this would not be an effect on private real property. Therefore, the adopted rulemaking would not constitute a taking under TGC, Chapter 2007.

#### Consistency with the Coastal Management Program

The commission reviewed the proposed rulemaking and found that the sections proposed for amendments are neither identified in Coastal Coordination Act implementation rules, 31 TAC §29.11(b)(2) or (4), nor will the amendments affect any action or authorization identified in Coastal Coordination Act implementation rules, 31 TAC §29.11(a)(6). Therefore, the proposed rulemaking is not subject to the Texas Coastal Management Program.

Written comments on the consistency of this rulemaking may be submitted to the contact person at the address listed under the Submittal of Comments section of this preamble.

#### Announcement of Hearing

The commission will hold two hybrid virtual and in-person public hearing on this proposal in Austin on March 16, 2026 and March 26, 2026, at 2:00 pm in Building E Room 201S at the commission's central office located at 12100 Park 35 Circle. The hearing is structured for the receipt of oral or written comments by interested persons. Individuals may present oral statements when called upon in order of registration. Open discussion will not be permitted during the hearing; however, commission staff members will be available to discuss the proposal 30 minutes prior to the hearing.

Individuals who plan to attend the first hearing virtually and want to provide oral comments and/or want their attendance on record must register by March 12, and for the second hearing by March 24, 2026. To register for the hearing, please email [Rules@tceq.texas.gov](mailto:Rules@tceq.texas.gov) and provide the following information: your name, your affiliation, your email address, your phone number, and whether or not you plan to provide oral comments during the hearing. Instructions for participating in the hearing will be sent on March 13, 2026 and March 25, 2026, to those who register for the hearing.

For the public who do not wish to provide oral comments but would like to view the first hearing may do so at no cost at:

<https://events.teams.microsoft.com/event/e31ba8a7-3785-4fc3-be53-881cb6209591@871a83a4-a1ce-4b7a-8156-3bcd93a08fba>

For the public who do not wish to provide oral comments but would like to view the second hearing may do so at no cost at:

<https://events.teams.microsoft.com/event/a5dcc953-b294-400e-b8ba-7e20a78c9a69@871a83a4-a1ce-4b7a-8156-3bcd93a08fba>

Persons who have special communication or other accommodation needs who are planning to attend the hearing should contact Sandy Wong, Office of Legal Services at (512) 239-1802 or 1-800-RELAY-TX (TDD). Requests should be made as far in advance as possible.

#### Submittal of Comments

Written comments may be submitted to Corey Bowling, MC 205, Office of Legal Services, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087, or faxed to [fax4808@tceq.texas.gov](mailto:fax4808@tceq.texas.gov). Electronic comments may be submitted at: <https://tceq.commentinput.com/comment/search>. File

size restrictions may apply to comments being submitted via the TCEQ Public Comments system. All comments should reference Rule Project Number 2025-009-293-OW. The comment period closes at 11:59 p.m. on March 30, 2026. Please choose one of the methods provided to submit your written comments.

Copies of the proposed rulemaking can be obtained from the commission's website at [https://www.tceq.texas.gov/rules/propose\\_adopt.html](https://www.tceq.texas.gov/rules/propose_adopt.html). For further information, please contact Jacob Houston, Districts Section, (512) 239-3582, [Jacob.Houston@tceq.texas.gov](mailto:Jacob.Houston@tceq.texas.gov).

## SUBCHAPTER B. CREATION OF WATER DISTRICTS

### 30 TAC §§293.11, 293.12, 293.15

#### Statutory Authority

This rulemaking is proposed under Local Government Code (LGC), §§375.022, 375.025, and 375.0645 and Texas Water Code (TWC), §§49.011, 49.316, 49.4645, 49.181, 49.273, 54.030, and 57.059.

The proposed rulemaking implements the following legislation: LGC, §375.022 in House Bill (HB) 2815; LGC, §375.0645(a) - (f) in HB 2815; LGC, §375.025(c) in HB 2815; TWC, §49.011(a) in HB 2815; TWC, §49.011(b) in SB 1397; TWC, §49.316(a) - (l) in HB 2815; TWC, §49.4645(a) in SB 938; TWC, §49.181(f-1)(1) and (2) in HB 2815; TWC, §49.273(d) and (e) in HB 3507; TWC, §49.273(i) in HB 3437; TWC, §54.030(b) in HB 2815; TWC, §57.059(a) in HB 2815; and TWC, §49.4645(a) and (a-1) in HB 1410 (87th Legislature).

*§293.11. Information Required to Accompany Applications for Creation of Districts.*

(a) Creation applications for all types of districts, excluding groundwater conservation districts, shall contain the following:

(1) \$700 nonrefundable application fee;

(2) if a proposed district's purpose is to supply fresh water for domestic or commercial use or to provide wastewater services, roadways, or drainage, a certified copy of the action of the governing body of any municipality in whose extraterritorial jurisdiction the proposed district is located, consenting to the creation of the proposed district, under Texas Local Government Code, §42.042. If the governing body of any such municipality fails or refuses to grant consent, the petitioners must show that the provisions of Texas Local Government Code, §42.042, have been followed;

(3) if city consent was obtained under paragraph (2) of this subsection, provide the following:

(A) evidence that the application conforms substantially to the city consent; provided, however, that nothing in this chapter shall prevent the commission from creating a district with less land than included in the city consent; and

(B) evidence that the city consent does not place any conditions or restrictions on a district other than those permitted by Texas Water Code (TWC), §54.016(e) and (i);

(4) a statement by the appropriate secretary or clerk that a copy of the petition for creation of the proposed district was received by any city in whose corporate limits any part of the proposed district is located;

(5) evidence of submitting a creation petition and report to the appropriate commission regional office;

(6) if substantial development is proposed, a market study and a developer's financial statement;

(7) if the petitioner is a corporation, trust, partnership, or joint venture, a certificate of corporate authorization to sign the petition, a certificate of the trustee's authorization to sign the petition, a copy of the partnership agreement or a copy of the joint venture agreement, as appropriate, to evidence that the person signing the petition is authorized to sign the petition on behalf of the corporation, trust, partnership, or joint venture;

(8) a vicinity map;

(9) unless waived by the executive director, for districts where substantial development is proposed, a certification by the petitioning landowners that those lienholders who signed the petition or a separate document consenting to the petition, or who were notified by certified mail, are the only persons holding liens on the land described in the petition;

(10) if the petitioner anticipates recreational facilities being an intended purpose, a detailed summary of the proposed recreational facility projects, projects' estimated costs, and proposed financing methods for the projects as part of the preliminary engineering report; and

(11) other related information as required by the executive director.

(b) Creation application requirements and procedures for TWC, Chapter 36, Groundwater Conservation Districts, are provided in Subchapter C of this chapter (relating to Special Requirements for Groundwater Conservation Districts).

(c) Creation applications for TWC, Chapter 51, Water Control and Improvement Districts, within two or more counties shall contain items listed in subsection (a) of this section and the following:

(1) a petition as required by TWC, §51.013, requesting creation signed by the majority of persons holding title to land representing a total value of more than 50% of value of all land in the proposed district as indicated by tax rolls of the central appraisal district, or if there are more than 50 persons holding title to land in the proposed district, the petition can be signed by 50 of them. The petition shall include the following:

(A) name of district;

(B) area and boundaries of district;

(C) constitutional authority;

(D) purpose(s) of district;

(E) statement of the general nature of work and necessity and feasibility of project with reasonable detail; and

(F) statement of estimated cost of project;

(2) evidence that the petition was filed with the office of the county clerk of the county(ies) in which the district or portions of the district are located;

(3) a map showing the district boundaries, metes and bounds, area, physical culture, and computation sheet for survey closure;

(4) a preliminary plan (22 - 24 inches by 36 inches or digital data in electronic format) showing the location of existing facilities including highways, roads, and other improvements, together with the location of proposed utility mains and sizing, general drainage patterns, principal drainage ditches and structures, utility plant sites, recreational areas, commercial and school sites, areas within the 100-year flood

plain and 100-year floodway, and any other information pertinent to the project including an inventory of any existing water, wastewater, or drainage facilities;

(5) a preliminary engineering report including the following as applicable:

(A) a description of existing area, conditions, topography, and proposed improvements;

(B) land use plan;

(C) 100-year flood computations or source of information;

(D) existing and projected populations;

(E) tentative itemized cost estimates of the proposed capital improvements and itemized cost summary for anticipated bond issue requirement;

(F) projected tax rate and water and wastewater rates;

(G) an investigation and evaluation of the availability of comparable service from other systems including, but not limited to, water districts, municipalities, and regional authorities;

(H) an evaluation of the effect the district and its systems and subsequent development within the district will have on the following:

(i) land elevation;

(ii) subsidence;

(iii) groundwater level within the region;

(iv) recharge capability of a groundwater source;

(v) natural run-off rates and drainage; and

(vi) water quality;

(I) a table summarizing overlapping taxing entities and the most recent tax rates by those entities; and

(J) complete justification for creation of the district supported by evidence that the project is feasible, practicable, necessary, will benefit all of the land and residents to be included in the district, and will further the public welfare;

(6) a certificate by the central appraisal district indicating the owners and tax valuation of land within the proposed district as reflected on the county tax rolls as of the date of the petition or any amended petition. If the tax rolls do not show the petitioner(s) to be the owners of the majority of value of the land within the proposed district, then the petitioner(s) shall submit to the executive director a certified copy of the deed(s) tracing title from the person(s) listed on the central appraisal district certificate as owners of the land to the petitioner(s) and any additional information required by the executive director necessary to show accurately the ownership of the land to be included in the district;

(7) affidavits by those persons desiring appointment by the commission as temporary or initial directors, showing compliance with applicable statutory requirements of qualifications and eligibility for temporary or initial directors, in accordance with TWC, §49.052 and §51.072;

(8) if the application includes a request for approval of a fire plan, information meeting the requirements of §293.123 of this title (relating to Application Requirements for Fire Department Plan Approval), except for a certified copy of a district board resolution,

references to a district board having adopted a plan, and the additional \$100 filing fee; and

(9) other information as required by the executive director.

(d) Creation applications for TWC, Chapter 54, Municipal Utility Districts, shall contain items listed in subsection (a) of this section and the following:

(1) a petition containing the matters required by TWC, §54.014 and §54.015, signed by persons holding title to land representing a total value of more than 50% of the value of all land in the proposed district as indicated by tax rolls of the central appraisal district. The petition shall include the following:

(A) name of district;

(B) area and boundaries of district described by metes and bounds or lot and block number, if there is a recorded map or plat and survey of the area;

(C) necessity for the work;

(D) statement of the general nature of work proposed; and

(E) statement of estimated cost of project;

(2) evidence that the petition was filed with the office of the county clerk of the county(ies) in which the district or portions of the district are located;

(3) a map showing the district boundaries in metes and bounds, area, physical culture, and computation sheet for survey closure;

(4) a preliminary plan (22 - 24 inches by 36 inches or digital data in electronic format) showing the location of existing facilities including highways, roads, and other improvements, together with the location of proposed utility mains and sizing, general drainage patterns, principal drainage ditches and structures, utility plant sites, recreational areas, commercial and school sites, areas within the 100-year flood plain and 100-year floodway, and any other information pertinent to the project including an inventory of any existing water, wastewater, or drainage facilities;

(5) a preliminary engineering report including as appropriate:

(A) a description of existing area, conditions, topography, and proposed improvements;

(B) land use plan;

(C) 100-year flood computations or source of information;

(D) existing and projected populations;

(E) tentative itemized cost estimates of the proposed capital improvements and itemized cost summary for anticipated bond issue requirement;

(F) projected tax rate and water and wastewater rates;

(G) an investigation and evaluation of the availability of comparable service from other systems including, but not limited to, water districts, municipalities, and regional authorities;

(H) an evaluation of the effect the district and its systems and subsequent development within the district will have on the following:

(i) land elevation;

(ii) subsidence;

(iii) groundwater level within the region;

(iv) recharge capability of a groundwater source;

(v) natural run-off rates and drainage; and

(vi) water quality;

(I) a table summarizing overlapping taxing entities and the most recent tax rates by those entities; and

(J) complete justification for creation of the district supported by evidence that the project is feasible, practicable, necessary, and will benefit all of the land to be included in the district;

(6) a certificate by the central appraisal district indicating the owners and tax valuation of land within the proposed district as reflected on the county tax rolls as of the date of the petition. If the tax rolls do not show the petitioner(s) to be the owners of the majority of value of the land within the proposed district, then the petitioner(s) shall submit to the executive director a certified copy of the deed(s) tracing title from the person(s) listed on the central appraisal district certificate as owners of the land to the petitioner(s) and any additional information required by the executive director necessary to show accurately the ownership of the land to be included in the district;

(7) a certified copy of the action of the governing body of any municipality in whose corporate limits or extraterritorial jurisdiction that the proposed district is located, consenting to the creation of the proposed district under TWC, §54.016. For districts to be located in the extraterritorial jurisdiction of any municipality, if the governing body of any such municipality fails or refuses to grant consent, the petitioners must show that the provisions of TWC, §54.016 have been followed;

(8) for districts proposed to be created within the corporate boundaries of a municipality, evidence that the city will rebate to the district an equitable portion of city taxes to be derived from the residents of the area proposed to be included in the district if such taxes are used by the city to finance elsewhere in the city services of the type the district proposes to provide. If like services are not to be provided, then an agreement regarding a rebate of city taxes is not necessary. Nothing in this subsection is intended to restrict the contracting authorization provided in Texas Local Government Code, §402.014;

(9) affidavits by those persons desiring appointment by the commission as temporary directors, showing compliance with applicable statutory requirements of qualifications and eligibility for temporary directors, in accordance with TWC, §§49.052, 54.022, and 54.102;

(10) if the application includes a request for approval of a fire plan, information meeting the requirements of §293.123 of this title, except for a certified copy of a district board resolution, references to a district board having adopted a plan, and the additional \$100 filing fee;

(11) if the petition within the application includes a request for road powers, information meeting the requirements of §293.202(b) of this title (relating to Application Requirements for Commission Approval); and

(12) other data and information as the executive director may require.

(e) Creation applications for TWC, Chapter 55, Water Improvement Districts, within two or more counties shall contain items listed in subsection (a) of this section and the following:

(1) a petition containing the matters required by TWC, §55.040, signed by persons holding title to more than 50% of all land

in the proposed district as indicated by county tax rolls, or by 50 qualified property taxpaying electors. The petition shall include the following:

- (A) name of district; and
- (B) area and boundaries of district;

(2) a map showing the district boundaries in metes and bounds, area, physical culture, and computation sheet for survey closure;

(3) a preliminary plan (22 - 24 inches by 36 inches or digital data in electronic format) showing the location of existing facilities including highways, roads, and other improvements, together with the location of proposed utility mains and sizing, general drainage patterns, principal drainage ditches and structures, utility plant sites, recreational areas, commercial and school sites, areas within the 100-year flood plain and 100-year floodway, and any other information pertinent to the project including an inventory of any existing water, wastewater, or drainage facilities;

(4) a preliminary engineering report including as appropriate:

(A) a description of existing area, conditions, topography, and proposed improvements;

(B) land use plan;

(C) 100-year flood computations or source of information;

(D) existing and projected populations;

(E) tentative itemized cost estimates of the proposed capital improvements and itemized cost summary for anticipated bond issue requirement;

(F) projected tax rate and water and wastewater rates;

(G) an investigation and evaluation of the availability of comparable service from other systems including, but not limited to, water districts, municipalities, and regional authorities;

(H) an evaluation of the effect the district and its systems and subsequent development within the district will have on the following:

(i) land elevation;

(ii) subsidence;

(iii) groundwater level within the region;

(iv) recharge capability of a groundwater source;

(v) natural run-off rates and drainage; and

(vi) water quality;

(I) a table summarizing overlapping taxing entities and the most recent tax rates by those entities; and

(J) complete justification for creation of the district supported by evidence that the project is practicable, would be a public utility, and would serve a beneficial purpose;

(5) a certificate by the central appraisal district indicating the owners and tax valuation of land within the proposed district as reflected on the county tax rolls as of the date of the petition. If the tax rolls do not show the petitioner(s) to be the owners of the majority of the land within the proposed district, then the petitioner(s) shall submit to the executive director a certified copy of the deed(s) tracing title from the person(s) listed on the central appraisal district certificate as owners

of the land to the petitioner(s) and any additional information required by the executive director necessary to show accurately the ownership of the land to be included in the district;

(6) if the application includes a request for approval of a fire plan, information meeting the requirements of §293.123 of this title, except for a certified copy of a district board resolution, references to a district board having adopted a plan, and the additional \$100 filing fee; and

(7) other data and information as the executive director may require.

(f) Creation applications for TWC, Chapter 58, Irrigation Districts, within two or more counties, shall contain items listed in subsection (a) of this section and the following:

(1) a petition containing the matters required by TWC, §58.013 and §58.014, signed by persons holding title to land representing a total value of more than 50% of the value of all land in the proposed district as indicated by county tax rolls, or if there are more than 50 persons holding title to land in the proposed district, the petition can be signed by 50 of them. The petition shall include the following:

(A) name of district;

(B) area and boundaries;

(C) provision of the Texas Constitution under which district will be organized;

(D) purpose(s) of district;

(E) statement of the general nature of the work to be done and the necessity, feasibility, and utility of the project, with reasonable detail; and

(F) statement of the estimated costs of the project;

(2) evidence that the petition was filed with the office of the county clerk of the county(ies) in which the district or portions of the district are located;

(3) a map showing the district boundaries in metes and bounds, area, physical culture, and computation sheet for survey closure;

(4) a preliminary plan (22 - 24 inches by 36 inches or digital data in electronic format) showing as applicable the location of existing facilities including highways, roads, and other improvements, together with the location of proposed irrigation facilities, general drainage patterns, principal drainage ditches and structures, sites, areas within the 100-year flood plain and 100-year floodway, and any other information pertinent to the project;

(5) a preliminary engineering report including the following as applicable:

(A) a description of existing area, conditions, topography, and proposed improvements;

(B) land use plan, including a table showing irrigable and non-irrigable acreage;

(C) copies of any agreements, meeting minutes, contracts, or permits executed or in draft form with other entities including, but not limited to, federal, state, or local entities or governments or persons;

(D) tentative itemized cost estimates of the proposed capital improvements and itemized cost summary for anticipated bond issue requirement;

(E) proposed budget including projected tax rate and/or fee schedule and rates;

(F) an investigation and evaluation of the availability of comparable service from other systems including, but not limited to, water districts, municipalities, and regional authorities;

(G) an evaluation of the effect the district and its systems will have on the following:

- (i) land elevation;
- (ii) subsidence;
- (iii) groundwater level within the region;
- (iv) recharge capability of a groundwater source;
- (v) natural run-off rates and drainage; and
- (vi) water quality;

(H) a table summarizing overlapping taxing entities and the most recent tax rates by those entities; and

(I) complete justification for creation of the district supported by evidence that the project is feasible, practicable, necessary, and will benefit all of the land and residents to be included in the district and will further the public welfare;

(6) a certificate by the central appraisal district indicating the owners and tax valuation of land within the proposed district as reflected on the county tax rolls as of the date of the petition or any amended petition. If the tax rolls do not show the petitioner(s) to be the owners of the majority of value of the land within the proposed district, then the petitioner(s) shall submit to the executive director a certified copy of the deed(s) tracing title from the person(s) listed on the central appraisal district certificate as owners of the land to the petitioner(s) and any additional information required by the executive director necessary to show accurately the ownership of the land to be included in the district;

(7) affidavits by those persons desiring appointment by the commission as temporary or initial directors, showing compliance with applicable statutory requirements of qualifications and eligibility for temporary or initial directors, in accordance with TWC, §58.072; and

(8) other data as the executive director may require.

(g) Creation applications for TWC, Chapter 59, Regional Districts, shall contain items listed in subsection (a) of this section and the following:

(1) a petition, as required by TWC, §59.003, signed by the owner or owners of 2,000 contiguous acres or more; or by the county commissioners court of one, or more than one, county; or by any city whose boundaries or extraterritorial jurisdiction the proposed district lies within; or by 20% of the municipal districts to be included in the district. The petition shall contain:

(A) a description of the boundaries by metes and bounds or lot and block number, if there is a recorded map or plat and survey of the area;

(B) a statement of the general work, and necessity of the work;

(C) estimated costs of the work;

(D) name of the petitioner(s);

(E) name of the proposed district; and

(F) if submitted by at least 20% of the municipal districts to be included in the regional district, such petition shall also include:

(i) a description of the territory to be included in the proposed district; and

(ii) endorsing resolutions from all municipal districts to be included;

(2) evidence that a copy of the petition was filed with the city clerk in each city where the proposed district's boundaries cover in whole or part;

(3) if land in the corporate limits or extraterritorial jurisdiction of a city is proposed, documentation of city consent or documentation of having followed the process outlined in TWC, §59.006;

(4) a preliminary engineering report including as appropriate:

(A) a description of existing area, conditions, topography, and proposed improvements;

(B) land use plan;

(C) 100-year flood computations or source of information;

(D) existing and projected populations;

(E) tentative itemized cost estimates of the proposed capital improvements and itemized cost summary for anticipated bond issue requirement;

(F) projected tax rate and water and wastewater rates; and

(G) an investigation and evaluation of the availability of comparable service from other systems including, but not limited to, water districts, municipalities, and regional authorities;

(5) affidavits by those persons desiring appointment by the commission as temporary or initial directors, showing compliance with applicable statutory requirements of qualifications and eligibility for temporary or initial directors, as required by TWC, §49.052 and §59.021;

(6) if the application includes a request for approval of a fire plan, information meeting the requirements of §293.123 of this title, except for a certified copy of a district board resolution, references to a district board having adopted a plan, and the additional \$100 filing fee; and

(7) other information as the executive director may require.

(h) Creation applications for TWC, Chapter 65, Special Utility Districts, shall contain items listed in subsection (a) of this section and the following:

(1) a certified copy of the resolution requesting creation, as required by TWC, §65.014 and §65.015, signed by the president and secretary of the board of directors of the water supply or sewer service corporation, and stating that the corporation, acting through its board of directors, has found that it is necessary and desirable for the corporation to be converted into a district. The resolution shall include the following:

(A) a description of the boundaries of the proposed district by metes and bounds or by lot and block number, if there is a recorded map or plat and survey of the area, or by any other commonly recognized means in a certificate attached to the resolution executed by a licensed engineer;

(B) a statement regarding the general nature of the services presently performed and proposed to be provided, and the necessity for the services;

(C) name of the district;

(D) the names of not less than five and not more than 11 qualified persons to serve as the initial board;

(E) a request specifying each purpose for which the proposed district is being created; and

(F) if the proposed district also seeks approval of an impact fee, a request for approval of an impact fee and the amount of the requested fee;

(2) the legal description accompanying the resolution requesting conversion of a water supply or sewer service corporation, as defined in TWC, §65.001(10), to a special utility district that conforms to the legal description of the service area of the corporation as such service area appears in the certificate of public convenience and necessity held by the corporation. Any area of the corporation that overlaps another entity's certificate of convenience and necessity must be excluded unless the other entity consents in writing to the inclusion of its dually certified area in the district;

(3) a plat showing boundaries of the proposed district as described in the petition;

(4) a preliminary plan (22 - 24 inches by 36 inches or digital data in electronic format) showing the location of existing facilities including highways, roads, and other improvements, together with the location of proposed utility mains and sizing, general drainage patterns, principal drainage ditches and structures, utility plant sites, recreational areas, commercial and school sites, areas within the 100-year flood plain and 100-year floodway, and any other information pertinent to the project including an inventory of any existing water or wastewater facilities;

(5) a preliminary engineering report including the following information unless previously provided to the commission:

(A) a description of existing area, conditions, topography, and any proposed improvements;

(B) existing and projected populations;

(C) for proposed system expansion:

(i) tentative itemized cost estimates of any proposed capital improvements and itemized cost summary for any anticipated bond issue requirement; and

(ii) an investigation and evaluation of the availability of comparable service from other systems including, but not limited to, water districts, municipalities, and regional authorities;

(D) water and wastewater rates;

(E) projected water and wastewater rates;

(F) an evaluation of the effect the district and its system and subsequent development within the district will have on the following:

(i) land elevation;

(ii) subsidence;

(iii) groundwater level within the region;

(iv) recharge capability of a groundwater source;

(v) natural run-off rates and drainage; and

(vi) water quality; and

(G) complete justification for creation of the district supported by evidence that the project is feasible, practicable, necessary, and will benefit all of the land to be included in the district;

(6) a certified copy of a certificate of convenience and necessity held by the water supply or sewer service corporation applying for conversion to a special utility district;

(7) a certified copy of the most recent financial report prepared by the water supply or sewer service corporation;

(8) if requesting approval of an existing capital recovery fee or impact fee, supporting calculations and required documentation regarding such fee;

(9) certified copy of resolution and an order canvassing election results, adopted by the water supply or sewer service corporation, which shows:

(A) an affirmative vote of a majority of the membership to authorize conversion to a special utility district operating under TWC, Chapter 65; and

(B) a vote by the membership in accordance with the requirements of TWC, Chapter 67, and the Texas Non-Profit Corporation Act, Texas Civil Statutes, Articles 1396-1.01 to 1396-11.01, to dissolve the water supply or sewer service corporation at such time as creation of the special utility district is approved by the commission and convey all the assets and debts of the corporation to the special utility district upon dissolution;

(10) affidavits by those persons named in the resolution for appointment by the commission as initial directors, showing compliance with applicable statutory requirements of qualifications and eligibility for temporary or initial directors, in accordance with TWC, §49.052 and §65.102, where applicable;

(11) if the application includes a request for approval of a fire plan, information meeting the requirements of §293.123 of this title, except for a certified copy of a district board resolution, references to a district board having adopted a plan, and the additional \$100 filing fee; and

(12) other information as the executive director requires.

(i) Creation applications for TWC, Chapter 66, Stormwater Control Districts, shall contain items listed in subsection (a) or this section and the following:

(1) a petition as required by TWC, §§66.014 - 66.016, requesting creation of a storm water control district signed by at least 50 persons who reside within the boundaries of the proposed district or signed by a majority of the members of the county commissioners court in each county or counties in which the district is proposed. The petition shall include the following:

(A) a boundary description by metes and bounds or lot and block number if there is a recorded map or plat and survey;

(B) a statement of the general nature of the work proposed and an estimated cost of the work proposed; and

(C) the proposed name of the district;

(2) a map showing the district boundaries in metes and bounds, area, physical culture, and computation sheet for survey closure;

(3) a preliminary engineering report including:

(A) a description of the existing area, conditions, topography, and proposed improvements;

(B) preliminary itemized cost estimate for the proposed improvements and associated plans for financing such improvements;

(C) a listing of other entities capable of providing same or similar services and reasons why those are unable to provide such services;

(D) copies of any agreements, meeting minutes, contracts, or permits executed or in draft form with other entities including, but not limited to, federal, state, or local entities or governments or persons;

(E) an evaluation of the effect the district and its projects will have on the following:

- (i) land elevations;
- (ii) subsidence/groundwater level and recharge;
- (iii) natural run-off rates and drainage; and
- (iv) water quality;

(F) a table summarizing overlapping taxing entities and the most recent tax rates by those entities; and

(G) complete justification for creation of the district supported by evidence that the project is feasible, practical, necessary, and will benefit all the land to be included in the district;

(4) affidavits by those persons desiring appointment by the commission as temporary or initial directors, showing compliance with applicable statutory requirements of qualifications and eligibility for temporary or initial directors, in accordance with TWC, §49.052 and §66.102, where applicable; and

(5) other data as the executive director may require.

(j) Creation applications for Texas Local Government Code, Chapter 375, Municipal Management Districts in General, shall contain the items listed in subsection (a) of this section and the following:

(1) a petition requesting creation signed by owners of a majority of the assessed value of real property in the proposed district that would be subject to assessment by the district. The petition shall include the following:

(A) a boundary description by metes and bounds, by verifiable landmarks, including a road, creek, or railroad line, or by lot and block number if there is a recorded map or plat and survey;

(B) purpose(s) for which district is being created;

(C) general nature of the work, projects or services proposed to be provided, the necessity for those services, and an estimate of the costs associated with such;

(D) name of proposed district, which must be generally descriptive of the location of the district, followed by "Management District" or "Improvement District;"

(E) list of proposed initial directors and experience and term of each; ~~and~~

(F) a resolution of municipality in support of creation; ~~and~~ [-]

(G) if applicable, a request that the succeeding board of directors be elected in accordance with Texas Local Government Code §375.0645, instead of being appointed in accordance with Texas Local Government Code §375.064.

(2) a preliminary plan or report providing sufficient details on the purpose and projects of district as allowed in Texas Local Government Code, Chapter 375, including budget, statement of expenses, revenues, and sources of such revenues;

(3) a certificate by the central appraisal district indicating the owners and tax valuation of land within the proposed district as reflected on the county tax rolls as of the date of the petition or any amended petition. If the tax rolls do not show the petitioner(s) to be the owners of the majority of value of the land within the proposed district, then the petitioner(s) shall submit to the executive director a certified copy of the deed(s) tracing title from the person(s) listed on the central appraisal district certificate as owners of the land to the petitioner(s) and any additional information required by the executive director necessary to show accurately the ownership of the land to be included in the district;

(4) affidavits by those persons desiring appointment by the commission as initial directors, showing compliance with applicable statutory requirements of qualifications and eligibility for initial directors, in accordance with Texas Local Government Code, §375.063; and

(5) if the application includes a request for approval of a fire plan, information meeting the requirements of §293.123 of this title, except for a certified copy of a district board resolution, references to a district board having adopted a plan, and the additional \$100 filing fee.

#### §293.12. *Creation Notice Actions and Requirements.*

(a) On receipt by the executive director of all required documentation associated with an application for creation of a district by the commission in accordance with Texas Water Code (TWC), Chapter 51, multi-county Water Control and Improvement Districts or single-county Water Control and Improvement Districts requesting additional powers; Chapter 54, Municipal Utility Districts; Chapter 55, Water Improvement Districts; Chapter 58, multi-county Irrigation Districts; Chapter 59, Regional Districts; Chapter 65, Special Utility Districts; ~~and~~ Chapter 66, Stormwater Control Districts; and Texas Local Government Code, Chapter 375, Municipal Management Districts, the executive director shall notify the chief clerk that the application is administratively complete.

(b) For those applications described in subsection (a) of this section, the chief clerk shall send a copy of a notice to the applicant indicating that an application has been received and notifying interested persons of the procedures for requesting a public hearing. The applicant shall cause the notice to be published as follows:

(1) notice must be published once a week for two consecutive weeks in a newspaper regularly published or circulated in the county or counties where the district is proposed to be located with the last publication not later than the 30th day before the date on which the commission may act on the application; and

(2) not later than the 30th day before the date on which the commission may act on the application, the notice must be posted on the bulletin board used for posting legal notices in each county in which all or part of the proposed district is to be located.

(c) For those applications described in subsection (a) of this section, the commission may act on an application without holding a public hearing if a public hearing is not requested by the commission, the executive director, or an affected person in the manner prescribed by commission rule during the 30 days following the final publication of notice under this section. If the commission determines that a public hearing is necessary, the chief clerk shall advise all parties of the time and place of the hearing. The commission is not required to provide public notice of a hearing under this subsection.

(d) For a petition for the creation of a Special Utility District in accordance with TWC, Chapter 65, which includes transfer of the certificate of public convenience and necessity, the applicant shall also, unless waived by executive director, mail copies of the notice to customers of the water supply corporation and other affected parties at least 120 days prior to approval. Such notice shall include the following:

- (1) name and business address of the district;
- (2) a description of the service area involved;
- (3) the anticipated effect of the conversion on the operation or the rates and services provided to customers; and
- (4) a statement that if a hearing is granted, persons may attend the hearing and participate in the process.

(e) If a petition for the creation of a Special Utility District in accordance with TWC, Chapter 65, contains a request for approval of an impact fee, the applicant shall comply with the notice provisions of §293.173 of this title (relating to Impact Fee Notice Actions and Requirements).

(f) Regardless of whether a public hearing is held or not, for an application for creation of a Special Utility District in accordance with TWC, Chapter 65, the commission may only consider a purpose for which the district is being created that is specified in the resolution.

~~[(g) The hearing action and notice requirements for Local Government Code, Chapter 375, Municipal Management Districts In General, are as follows.]~~

~~[(1) The chief clerk shall send a copy of the notice of hearing to all counties in which the proposed district is located and all municipalities which have extraterritorial jurisdiction in the county or counties in which the proposed district is located and which have formally requested notice of creation of all districts in their county or counties. The chief clerk shall prepare a certificate indicating that notice was properly mailed to any such counties and/or municipalities.]~~

~~[(2) The chief clerk shall send a copy of the notice of hearing to the petitioners, or their agents, who shall:]~~

~~[(A) cause the notice to be published in a newspaper with general circulation in the municipality in which the proposed district is located once a week for two consecutive weeks with the first publication being at least 31 days prior to the date of the commission hearing;]~~

~~[(B) send the notice of the hearing by certified mail, return receipt requested, to all property owners within the district at least 30 days before the hearing.]~~

~~[(g) [(h) Upon receipt of a petition to create a district under TWC, Chapter 54, all of which is to be located outside the corporate limits of a municipality, the executive director shall notify the commissioners court of any county in which the proposed district is to be located that the petition has been filed.~~

~~[(h) Upon receipt of a petition described in subsections (a) and (d), the executive director shall notify each state representative and state senator who represents an area inside the proposed district's boundaries that the petition has been filed.~~

*§293.15. Addition of Wastewater and/or Drainage Powers and Conversion of District into Municipal Utility Districts.*

(a) Any water improvement district, water control and improvement district, fresh water supply district, levee improvement district, irrigation district or any other conservation and reclamation district or any special utility district created under the Texas Consti-

tution, Article XVI, §59, may be converted into a municipal utility district operating under the Texas Water Code (TWC), Chapter 54.

(b) The application for the conversion of a district shall be accompanied by the following:

(1) a ~~[certified]~~ copy of the resolution adopted by the board of directors in accordance with TWC, ~~[[§54.030(b) as amended by House Bill (HB) 2914, 86th Texas Legislature, 2019 and] §54.030(d)]~~. The resolution required by this paragraph may be submitted after the hearing required by TWC, §54.030(b) as amended by HB 2590, 86th Texas Legislature, 2019];

(2) a \$700 application fee;

(3) unless waived by the executive director, a preliminary plan (22 - 24 inches by 36 inches or digital data in electronic format) showing the location of existing facilities including highways, roads, and other improvements together with the location of proposed utility mains and sizing, general drainage patterns, principal drainage ditches and structures, utility plant sites, recreational areas, commercial and school sites, areas within the 100-year flood plain, and any other information pertinent to the project;

(4) unless waived by the executive director, a preliminary engineering report including:

(A) a description of existing area, conditions, topography, and proposed improvements;

(B) land use plan;

(C) 100-year flood computations or source of information;

(D) existing and projected populations;

(E) tentative itemized cost estimates of the proposed capital improvements, if any and itemized cost summary for anticipated bond issue requirements;

(F) projected tax rate and water and wastewater rates; and

(G) total tax assessments on all land within the district; and

(5) evidence the resolution was mailed to each state senator and representative who represents the area in which the district is located;

(6) [(5)] other data and information as the executive director may require.

~~[(e) Prior to commission action on the application for conversion the following requirements shall be met with evidence of such compliance filed with the chief clerk:]~~

~~[(1) Notice of the conversion application filed with the commission shall be given by publishing notice in a newspaper with general circulation in the county or counties in which the district is located. The notice shall be published once a week for two consecutive weeks. The notice shall:]~~

~~[(A) set out the resolution provided in subsection (b)(1) of this section in full; and]~~

~~[(B) notify all interested persons how they may offer comments to the commission for or against the proposal contained in the resolution.]~~

~~[(2) Notice of the hearing to be conducted by the district's board as required by TWC, §54.030(b) as amended by HB 2590, shall~~

be given by publishing notice of the hearing in a newspaper with general circulation in the district. The notice shall be published once a week for two consecutive weeks. The notice shall:]

and] [(A) set out the resolution adopted by the district in full;

[(B) notify all interested persons how they may offer comments to the district's board for or against the proposal contained in the resolution.]

[(3) The district shall file its resolution requesting conversion with the city secretary or clerk of each city, in whose corporate limits or extraterritorial jurisdiction any part of the district is located, concurrently with submitting its application for conversion to the commission.]

[(d) After the hearing required by TWC, §54.030(b) as amended by HB 2590, the resolution required by TWC, §54.030(d) shall be filed with the commission and mailed to each state senator and representative who represents the area in which the district is located.]

[(c) [(e)] A special utility district formed pursuant to the TWC, Chapter 65, which applies for conversion to a district having taxing authority that provides water, wastewater, or other public utility services, must comply with the requirements of Texas Local Government Code, §42.042.

[(d) [(f)] Any water improvement district, water control and improvement district, fresh water supply district, levee improvement district, irrigation district, or any other conservation and reclamation district or any special utility district created under the Texas Constitution, Article XVI, §59, may obtain additional wastewater and/or drainage powers.

[(e) [(g)] The application for the addition of wastewater and/or drainage powers shall be accompanied by the following:

(1) a certified copy of the resolution adopted by the board of directors requesting the commission to hold a hearing on the question of the addition of wastewater and/or drainage powers for the district;

(2) a \$700 application fee;

(3) unless waived by the executive director, a preliminary plan (22 - 24 inches by 36 inches or digital data in electronic format) showing the location of existing facilities including highways, roads, and other improvements together with the location of proposed utility mains and sizing, general drainage patterns, principal drainage ditches and structures, utility plant sites, recreational areas, commercial and school sites, areas within the 100-year flood plain, and any other information pertinent to the project;

(4) unless waived by the executive director, a preliminary engineering report including:

(A) a description of existing area, conditions, topography, and proposed improvements;

(B) land use plan;

(C) 100-year flood computations or source of information;

(D) existing and projected populations;

(E) tentative itemized cost estimates of the proposed capital improvements, if any and itemized cost summary for anticipated bond issue requirements;

(F) projected tax rate and water and wastewater rates; and

(G) total tax assessments on all land within the district; and

(5) other data and information as the executive director may require.

[(f) [(h)] Prior to the hearing for the addition of wastewater and/or drainage powers, the following requirements shall be met with evidence of such compliance filed with the chief clerk at or prior to the hearing:

(1) Notice of the hearing in a form issued by the chief clerk shall be given by publishing notice in a newspaper with general circulation in the county or counties in which the district is located. The notice shall be published once a week for two consecutive weeks with the first publication to be made not less than 14 days before the time set for the hearing. The notice shall:

(A) state the time and place of the hearing;

and (B) set out the resolution adopted by the district in full;

(C) notify all interested persons to appear and offer testimony for or against the proposed contained in the resolution.

(2) The district shall file its resolution requesting additional powers with the city secretary or clerk of each city, in whose corporate limits or extraterritorial jurisdiction any part of the district is located, concurrently with submitting its application to 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.

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Texas Commission on Environmental Quality

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For further information, please call: (512) 239-2678



## SUBCHAPTER D. APPOINTMENT OF DIRECTORS

### 30 TAC §293.32

#### Statutory Authority

The rulemaking is proposed under Local Government Code (LGC), §§375.022, 375.025, and 375.0645 and Texas Water Code (TWC), §§49.011, 49.316, 49.4645, 49.181, 49.273, 54.030, and 57.059.

The proposed rulemaking implements the following legislation: LGC, §375.022 in House Bill (HB) 2815; LGC, §375.0645(a) - (f) in HB 2815; LGC, §375.025(c) in HB 2815; TWC, §49.011(a) in HB 2815; TWC, §49.011(b) in SB 1397; TWC, §49.316(a) - (l) in HB 2815; TWC, §49.4645(a) in SB 938; TWC, §49.181(f-1)(1) and (2) in HB 2815; TWC, §49.273(d) and (e) in HB 3507; TWC, §49.273(i) in HB 3437; TWC, §54.030(b) in HB 2815; TWC, §57.059(a) in HB 2815; and TWC, §49.4645(a) and (a-1) in HB 1410 (87th Legislature).

§293.32. *Qualifications of Directors.*

(a) Unless otherwise provided, an applicant for appointment as a director must be at least 18 years old, a resident citizen of Texas, and either own land subject to taxation in the district or be a qualified voter within the district.

(1) A director of a fresh water supply district created under Texas Water Code (TWC), Chapter 53:

(A) must be:

- (i) a resident of this state;
- (ii) an owner of taxable property in the district; and
- (iii) at least 18 years of age; or

(B) must be a registered voter of the district.

(2) A director of a levee improvement district created under TWC, Chapter 57 must:

(A) be at least 18 years old;

(B) own land subject to taxation in the district or be a qualified voter in the district; and

(C) if the director is elected, be a qualified voter of the precinct in the district established by the commissioners court under TWC, §57.058 from which the director is elected.

(3) [~~2~~] A director of a regional district created for the purposes defined under TWC, §59.004 must be at least 18 years old and a resident of this state, but need not be a landowner or qualified voter within the district.

(4) [~~3~~] A director of a special utility district created for the purposes defined under TWC, §65.012, must be a resident citizen of this state and either own land subject to taxation in the district, or be a user of the facilities of the district or be a qualified voter in the district.

(5) [~~4~~] A director of a stormwater control district created for the purposes defined under TWC, §66.012, must reside within the boundaries of the proposed district but need not be a landowner or qualified voter within the district.

(6) [~~5~~] A director of a groundwater conservation district must be a registered voter in the precinct that the person represents pursuant to TWC, §36.059(b).

(7) [~~6~~] A person cannot be appointed to fill a vacancy on the board of a municipal utility district, under TWC, Chapter 54, if the person:

(A) resigned from that board:

- (i) within two years preceding the vacancy date; or
- (ii) on or after the vacancy date but before the vacancy is filled; or

(B) was defeated in a directors election held by that district in the two years preceding the vacancy date.

(8) [~~7~~] A director shall not be a developer of property in the district, or be related within the third degree of affinity or consanguinity to a developer of property in the district, any other member of the governing board of the district, or the manager, engineer, or attorney for the district, or other person providing professional services to the district.

(9) [~~8~~] A director shall not be an employee of any developer of property in the district, or any director, manager, engineer, attorney, or other person providing professional services to the district,

or a developer of property in the district in connection with the district or property located in the district.

(b) As used in this section, a developer of property in the district means any person who owns land located within a district covered under this section and who has divided or proposes to divide the land into two or more parts for the purpose of laying out any subdivision or any tract of land or any addition to any town or city, or for laying out suburban lots or building lots, or any lots, streets, alleys, or parks or other portions intended for public use, or the use of purchasers or owners of lots fronting thereon or adjacent thereto. (See TWC, §49.052(d).)

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

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## SUBCHAPTER E. ISSUANCE OF BONDS

### 30 TAC §293.41, §293.59

#### Statutory Authority

The rulemaking is proposed under Local Government Code (LGC), §§375.022, 375.025, and 375.0645 and Texas Water Code (TWC), §§49.011, 49.316, 49.4645, 49.181, 49.273, 54.030, and 57.059.

The proposed rulemaking implements the following legislation: LGC, §375.022 in House Bill (HB) 2815; LGC, §375.0645(a) - (f) in HB 2815; LGC, §375.025(c) in HB 2815; TWC, §49.011(a) in HB 2815; TWC, §49.011(b) in SB 1397; TWC, §49.316(a) - (l) in HB 2815; TWC, §49.4645(a) in SB 938; TWC, §49.181(f-1)(1) and (2) in HB 2815; TWC, §49.273(d) and (e) in HB 3507; TWC, §49.273(i) in HB 3437; TWC, §54.030(b) in HB 2815; TWC, §57.059(a) in HB 2815; and TWC, §49.4645(a) and (a-1) in HB 1410 (87th Legislature).

#### §293.41. Approval of Projects and Issuance of Bonds.

(a) Bonds, as referred to in this subchapter, include any bonds authorized to be issued by the Texas Water Code (TWC) or special statute, and are represented by an instrument issued in bearer or registered form. This section does not apply to:

(1) refunding bonds, if the commission issued an order approving the issuance of the bonds or notes that originally financed the project;

(2) refunding bonds that are issued by a district under an agreement between the district and a municipality allowing the issuance of the district's bonds to refund bonds issued by the municipality to pay the cost of financing facilities;

(3) bonds issued to and approved by the Farmers Home Administration, the United States Department of Agriculture, the North American Development Bank, or the Texas Water Development Board, or successor agencies;

(4) refunding bonds issued to refund bonds described by paragraph (3) of this subsection;

(5) bonds issued by a public utility agency created under Local Government Code, Chapter 572, any of the public entities participating in which are districts, if at least one of those districts is a district described by subsection (d)(1)(E) of this section; or

(6) bonds issued by a district to finance a project for which the commission has not adopted rules requiring review and approval.

(b) This subchapter does apply to revenue notes to the extent described in §293.80(d) of this title (relating to Revenue Notes) and contract tax obligations to the extent described in §293.89 of this title (relating to Contract Tax Obligations).

(c) The commission has the statutory responsibility to approve projects relating to the issuance and sale of bonds for districts as defined in TWC, §49.001(1), and other districts where specifically required by law.

(d) This subchapter does not apply to:

(1) a district if:

(A) the boundaries include one entire county;

(B) the district was created by a special act of the legislature; and

(i) the district is located entirely within one county and entirely within one or more home-rule municipalities;

(ii) the total taxable value of the real property and improvements to the real property, zoned by one or more home-rule municipalities for residential purposes and located within the district, does not exceed 25% of the total taxable value of all taxable property in the district, as shown by the most recent certified appraisal tax roll prepared by the appraisal district for the county; and

(iii) the district was not required by law to obtain commission approval of its bonds before September 1, 1995;

(C) the district is a special water authority as defined by TWC, §49.001(8);

(D) the district is governed by a board of directors appointed in whole or part by the governor, a state agency, or the governing body or chief elected official of a municipality or county and does not provide, or propose to provide, water, wastewater, drainage, reclamation, or flood control services to residential retail or commercial customers as its principal function; or

(E) the district:

(i) is a municipal utility district operating under TWC, Chapter 54, that includes territory in only two counties;

(ii) has outstanding long-term indebtedness that is rated BBB or better by a nationally recognized rating agency for municipal securities; and

(iii) has at least 5,000 active water connections; or

(F) the district:

(i) is a conservation and reclamation district created under the *Texas Constitution*, Article 16, §59, that includes territory in at least three counties; and

(ii) has the rights, privileges, and functions applicable to a river authority under TWC, Chapter 30; or

(2) a public utility agency created under Local Government Code, Chapter 572, any of the public entities participating in which

are districts, if at least one of those districts is a district described by paragraph (1)(E) of this subsection.

(e) A district located within Bastrop, Bexar, Brazoria, El Paso, Fort Bend, Galveston, Harris, Montgomery (except for a district all or part of which is located in Montgomery County and includes land within a planned community of at least 15,000 acres, of which a majority of the developed acreage is subject to restrictive covenants containing ad valorem assessments), Travis, Waller, or Williamson Counties may submit bond applications, which include recreational facilities that are supported by taxes, in accordance with TWC, §49.4645.

(1) Bond applications submitted under this subsection must include a copy of a district's park plan as required under TWC, §49.4645(b), in addition to other application requirements under §293.43 of this title (relating to Application Requirements). The park plan is to be signed and sealed by a registered landscape architect, a licensed professional engineer, or any other design professional allowed by law to engage in landscape architecture.

(2) Bond applications submitted under this subsection may include:

(A) forests, greenbelts, open spaces, and native habitat;

(B) sidewalks, trails, paths, boardwalks, and fitness trail equipment, subject to the following restrictions:

(i) the sidewalks, trails, paths, boardwalks, and fitness trail equipment unrelated to golf courses;

(ii) the sidewalks, trails, paths, boardwalks, and fitness trail equipment located outside of the right-of-way required by applicable government agencies for streets, unless a district has completed and financed at least 90% of its projected water, wastewater, and drainage facilities to serve residential development within the district; and

(iii) if a district has completed and financed at least 90% of its projected water, wastewater, and drainage facilities to serve residential development within the district prior to the annexation of land, the location restriction in clause (ii) of this subparagraph only applies to annexed land;

(C) pedestrian bridges and underpasses that are less than 200 feet in length and not related to golf courses;

(D) outdoor ballfields, including, but not limited to, soccer, football, baseball, softball, and lacrosse, outdoor skate/roller blade facilities, associated scoreboards, and bleachers designed for less than 500 people per field or per skate/roller blade facility;

(E) parks (outdoor playground facilities and associated ground surface material, picnic tables, benches, barbeque grills, fire pits, fireplaces, trash receptacles, drinking water fountains, open-air pavilions/gazebos, open-air amphitheaters/assembly facilities designed for less than 500 people, open-air shade structures, restrooms and changing rooms, concession stands, water playgrounds, recreational equipment storage facilities, and emergency call boxes);

(F) amenity lakes, and associated water features, docks, piers, overlooks, and non-motorized boat launches subject to §293.44(a)(24) of this title (relating to Special Considerations);

(G) amenity/recreation centers, outdoor tennis courts, and outdoor basketball courts if the district has funded water, wastewater, and drainage facilities to serve at least 90% of the residential development within the district;

(H) fences no higher than eight feet that are located within public right-of-way or district sites/easements and are along

streets if the district has funded water, wastewater, and drainage facilities to serve at least 90% of the residential development within the district; and

(I) landscaping (including, but not limited to, trees, shrubs, and berms) and associated irrigation, fences, information signs/kiosks, lighting (except street lighting), and parking related to items listed in subparagraphs (A) through (G) of this paragraph.

(3) Bond applications submitted under this subsection shall not include:

(A) indoor or outdoor swimming pools, pool decks, and associated equipment or storage facilities;

(B) golf courses, clubhouses, and related structures or facilities;

(C) air conditioned buildings, gymnasiums, spas, fitness centers, and habitable structures, except as allowed in paragraph (2) of this subsection;

(D) sound barrier walls;

(E) retaining walls used for roadway purposes;

(F) fences, such as for subdivisions and lots, which are not related to district facilities, except as allowed in paragraph (2) of this subsection;

(G) signs and monuments, such as for subdivisions and developments, which are not related to district facilities; and

(H) street lighting, except for a district operating under TWC, Chapter 54, pursuant to TWC, §54.236, as amended.

(4) Except as provided in subsection (5), a [A] district's outstanding principal debt (bonds, notes, and other obligations), supported by ad valorem taxes, for recreational facilities may not exceed 1% of the taxable value of property in the district, as supported by a certificate from the central appraisal district, at the time of issuance of the debt [or exceed the estimated cost provided in the park plan required under TWC, §49.4645(b), whichever is smaller. If supported by contract taxes under TWC, §49.108, the outstanding principal debt (bonds, notes, and other obligations) may not exceed an amount equal to 1% of the value of the taxable property in the district or districts making payments under the contract]. An estimate of the value provided by the central appraisal district may be used to establish the value of the taxable property in the district or districts.

(5) A district's outstanding bonds, notes, and other obligations, supported by ad valorem taxes, for recreational facilities may exceed 1% but not 3% of the taxable value of property in the district or, if supported by contract taxes under TWC, §49.108, the taxable value of property in the districts making payments under the contract, if the district;

(A) has a ratio of debt to certified assessed valuation of 10% or less;

(B) obtains an acceptable credit rating as defined in §293.47(b)(4) of this title on its proposed bond issue;

(C) obtains a credit enhanced rating as defined in §293.47(b)(5) of this title on its proposed bond issue; or

(D) has a contract with a political subdivision or an entity acting on behalf of a political subdivision under which the political subdivision or the entity agrees to provide to the district taxes or other revenues, as consideration for the district's development or acquisition of the facility, including a contract under TWC, §49.108.

(6) [(5)] A district may submit a bond application that proposes to fund recreational facilities only after or at the same time a district has funded water, wastewater, and/or drainage facilities, depending on a district's authorized functions, to serve the section that includes the recreational facilities or to serve areas along roads that are either adjacent to the recreational facilities or are necessary to provide access to the recreational facilities.

(7) [(6)] Plans and specifications for recreational facilities must be signed and sealed by a registered landscape architect, a licensed professional engineer, or any other design professional allowed by law to engage in landscape architecture.

§293.59. *Economic Feasibility of Project.*

(a) In addition to determining the engineering feasibility of a project, the commission shall also determine the economic feasibility of each proposed bond issue, bond amendment, and extension of time application for a bond issue. The staff of the commission shall use the following sections in making economic feasibility analysis. In its written recommendations to the commission, which analyze the particular application, the staff shall always address the economic feasibility.

(b) Economic feasibility is the determination of whether the land values, existing improvements, and projected improvements in the district will be sufficient to support a reasonable tax rate for debt service payments for existing and proposed bond indebtedness while maintaining competitive utility rates. Utility rates that do not exceed the rates of the largest city in the geographic area in which the district is located are conclusively deemed to be competitive. Economic feasibility is influenced by many factors and varies widely depending on economic conditions, the real estate market, the number of competing projects, and geographic location.

(c) Projected debt service tax rate is the tax rate required to meet the projected annual debt service requirement using projected assessed valuations and an appropriate tax collection rate. The projected annual debt service requirement shall include the previous and proposed debt. The projected debt service tax rate for any bond issue shall be shown in the cash flow table as a level or decreasing tax rate.

(d) No-growth debt service tax rate is the tax rate required to meet projected annual debt service requirements using the current assessed value and a 100% tax collection rate. The current value is determined by either:

(1) the most recent certificate of assessed valuation from the central appraisal district; or

(2) a certificate of estimated assessed valuation from the central appraisal district. Projected annual debt service requirements shall include the previous and proposed debt. The no-growth debt service tax rate for any bond issue shall be shown on the cash flow table as a level or decreasing tax rate.

(e) Combined no-growth tax rate is the sum of the following:

(1) no-growth debt service tax rate of the district;

(2) projected no-growth debt service tax rate of all overlapping entities specifically attributable to water, wastewater, drainage, or recreational facilities that are smaller in size than a county, and for roads if the entity is a road district or road utility district smaller in size than a county commissioner's precinct. (In other words, for road districts or road utility districts that are as large as one county commissioner's precinct, the road district tax is not counted.);

(3) an equivalent surcharge tax rate for water and wastewater surcharge, if any;

(4) city tax rate specifically attributable to water, sewage, drainage, and recreational facilities if the district is located within a city;

(5) current or proposed district or overlapping maintenance tax levy, if any;

(6) contract tax, if any; and

(7) less any equivalent tax rebate or other payments.

(f) Combined projected tax rate is the sum of the following:

(1) projected debt service tax rate of the district;

(2) projected debt service tax rate of all overlapping entities specifically attributable to water, wastewater, drainage, recreational facilities, and for roads if the entity is a road district or road utility district smaller in size than a county commissioner's precinct;

(3) an equivalent surcharge tax rate for water and wastewater surcharge, if any;

(4) city tax rate specifically attributable to water, sewage, drainage, and recreational facilities if the district is located within a city;

(5) current or proposed district or overlapping maintenance tax levy, if any;

(6) contract tax, if any; and

(7) less any equivalent tax rebate or other payment.

(g) A surcharge is a flat charge in addition to rates imposed on residents receiving water and/or wastewater service from resources of a city or other entity and supplied through district facilities. Surcharge revenues are placed in the district's debt service fund and are intended to be used to meet the debt service requirement on the district's bonds.

(h) For districts collecting surcharge revenues, the equivalent surcharge tax rate shall be calculated as follows.

(1) For residential development with similar house prices: Figure 1: 30 TAC §293.59 (h)(1) (No change.)

(2) For mixed-use development and diverse house prices: Figure 2: 30 TAC §293.59 (h)(2) (No change.)

(3) For purposes of this calculation, no adjustments shall be made for projected collection rate of the surcharge, interest earnings on the surcharge account, or other factors.

(i) For districts receiving a rebate for taxes paid to a city or other entity for water, wastewater, drainage, recreational, or road service, the equivalent tax rebate shall be calculated as follows: Figure 3: 30 TAC §293.59(i) (No change.)

(j) The assessed value is the appraised value after considering exemptions and special valuations and is the amount to which the tax rate is applied to determine the total tax levy.

(k) For a district's first bond issue, the following paragraphs apply except that paragraphs (5), (6), (8), and (10) of this subsection are only applicable to a district that has a developer as defined by Texas Water Code (TWC), §49.052(d).

(1) The district shall provide the current and projected tax rates of all entities levying or proposing to levy taxes on land within the district and a comparison of such taxes with the total tax levy on all competing projects in the same market area, as defined in the market study, if applicable, shall be provided.

(2) A cash flow analysis to determine the projected debt service revenue and projected tax rate shall be provided. It should include the following assumptions.

(A) Each ending debt service balance in the cash flow analysis will be not less than 25% of the following year's debt service requirement.

(B) Interest income will only be shown on the ending debt service balance for the first two years.

(C) A 90% tax collection rate shall be used in all the projected tax rate calculations and a 100% tax collection rate shall be used in the no-growth tax rate calculations.

(D) The projected tax rate shall be level or decreasing for the life of the bonds.

(3) The combined projected tax rate must not exceed the following:

(A) \$1.50 in Austin, Brazos, Grimes, Liberty, Walker, Wharton, Chambers, Harris, Galveston, Montgomery, Fort Bend, Waller, and Brazoria Counties;

(B) \$1.20 in Bastrop, Bell, Blanco, Burnet, Caldwell, Gillespie, Kendall, Lee, Milam, Dallas, Denton, Collin, Tarrant, Travis, Hays, Williamson, Comal, and Guadalupe Counties; or

(C) \$1.00 in all other counties.

(4) The combined no-growth tax rate must not exceed the following:

(A) \$2.50 in Austin, Brazos, Grimes, Liberty, Walker, Wharton, Chambers, Harris, Galveston, Montgomery, Fort Bend, Waller, and Brazoria Counties;

(B) \$2.20 in Bastrop, Bell, Blanco, Burnet, Caldwell, Gillespie, Kendall, Lee, Milam, Dallas, Denton, Collin, Tarrant, Travis, Hays, Williamson, Comal, and Guadalupe Counties; or

(C) \$2.00 for all other counties.

(5) The following apply to the central appraisal district certificate.

(A) If the valuations contained in the certificate of certified assessed valuation are at least 25% higher than those contained in the previous year's certified valuation, a written explanation from the district of such increase and a detailed calculation demonstrating how the value was derived shall be provided.

(B) In determining the projected or no-growth tax rates, a certificate of estimated assessed valuation may be used under the following conditions:

(i) the developer or landowner to receive bond proceeds shall certify, represent, and agree that it will not challenge and attempt to reduce its valuations below the values shown on the certificate for the life of the bonds;

(ii) if the valuation contained in the certificate of estimated taxable valuation is at least 25% higher than that contained in the most recent certified valuation, a written explanation from the district of such increase shall be provided;

(iii) if the estimated taxable valuation results in an exemption from §293.47 of this title (relating to Thirty Percent of District Construction Costs To Be Paid by Developer) and the final certificate of taxable value is not sufficient for an exemption from that section, the developer will be obligated to refund to the district the difference in the bond issue requirement without developer contribution

and with developer contribution plus interest at the bond interest rate to the district; and

(iv) developed land values will not be used in the commission's analysis for lots that do not have completed water, wastewater, and drainage facilities and roads constructed to county or city standards, as applicable, at the time of development.

(6) At the time of commission approval, the following shall apply:

(A) all underground water, wastewater, and drainage facilities to be financed with proceeds from the proposed bond issue or necessary to serve the projected build-out used to support the feasibility of the subject bond issue, shall be at least 95% complete as certified by the district's engineer;

(B) all groundwater, surface water, waste discharge permits, or other permits needed to secure capacity to support the projected build-out shall have been obtained;

(C) sufficient lift station, water plant, and sewage treatment plant capacity, as applicable depending on the type of district, to serve the connections projected for a period of not less than 18 months shall be either 95% complete as certified by the district's engineer or available in existing plants in accordance with executed contracts for capacity in plant(s) owned by other entities (but in no event less than 50,000 gallons per day water plant and sewage treatment plant capacity);

(D) water supply, lift station, and wastewater treatment capacity needed to support the projected build-out used to support the feasibility of the subject bond application must be existing or funds for that capacity must be included in the bond issue or secured by a letter of credit or other acceptable guarantees approved by the executive director; and

(E) all street and road construction to provide access to the areas provided with utilities to be financed with proceeds from the proposed bond issue, or necessary to serve the projected build-out used to support the feasibility of the subject bond issue, must be 95% complete as certified by the district's engineer. All streets and roads shall be constructed in accordance with city or county standards, as appropriate.

(7) At least 25% of the projected value of houses, buildings, and/or other improvements shown in the projected tax rate calculations must be completed prior to advertising for the bond issue. The projections used to satisfy this section shall also be used in the calculations required by paragraphs (2) and (3) of this subsection.

(8) For bonds supported by taxes, a written agreement must be executed between the district and the developer and any other landowner and their respective lenders receiving proceeds of the bonds that permanently waives the right to claim agricultural, open-space, timberland, or inventory valuation for any land, homes, or buildings that they own in the district with respect to taxation by the district. The agreement shall be binding for 30 years on such developer, other landowners, their respective lenders, any related or affiliated entities, and their successors and assignees, unless such exemptions were in effect at the time of the commission's approval of the bond issue and such exemptions were shown in the projected tax rate calculations. Such developer, landowners, and lenders shall record covenants running with the land to such effect, which shall not be modified or released without written authorization of the commission, and shall provide recorded copies to the commission at the time of filing a bond application. If written agreements by owners of developable property who are not receiving bond proceeds are not voluntarily provided, and the ratio of the assessed valuation of their property to the district's

total certified assessed valuation exceeds 10% for any individual or 20% for all combined, the feasibility analysis of the bond issue will be based on a reduced value for such property if not already on the tax rolls at a minimal value.

(9) One or more of the requirements in paragraphs (1) - (8) of this subsection may be waived for good cause by commission order if all of the facilities proposed under a bond issue application are essential because of valid orders, permits, or actions against the district by a governmental agency or court. If only a portion of the bond issue is for facilities essential because of valid orders, permits, or actions against the district by a governmental agency or court and if a waiver of any of the requirements is requested, all nonessential projects may be deleted from the bond issue if not feasible under the other provisions of these rules.

(10) A current market study is required for districts using growth projections to support the feasibility of the bond issue. The market study will meet the guidelines set out in the Bond Application Report Format. The market study provided will specifically address the projected building program for the three years subsequent to filing of the bond application and the period of projected build-out shown in the bond application and the competing projects in the surrounding market area. The study must contain a detailed description of the proposed development and the houses, buildings, and other improvements that are proposed.

(11) Requirements of paragraph (6)(A), (C), and (E) of this subsection, and the requirements of paragraph (7) of this subsection shall not apply in the following cases where:

(A) the no-growth tax rate for a district containing 2,000 acres or more providing only drainage facilities does not exceed \$1.30; the no-growth tax rate of a district providing major water and sewage facilities that it finances by the issuance of its bonds to an area containing 2,000 acres or more does not exceed \$1.30, and the combined no-growth tax rate does not exceed \$2.00; and, the developer has completed a substantial amount of major thoroughfare or other infrastructure to serve the district;

(B) the district has an acceptable credit rating as defined in §293.47(b)(4) of this title or a credit enhanced rating as defined in paragraph (5) of this subsection; or

(C) the district is providing water, wastewater, and drainage facilities and the combined no-growth tax rate of all overlapping entities specifically attributable to water, sewage, drainage, recreational facilities, and roads if the entity is a special district encompassing less than one county commissioner's precinct, if any, does not exceed the following:

(i) \$1.50 in Austin, Brazos, Grimes, Liberty, Walker, Wharton, Chambers, Harris, Galveston, Montgomery, Fort Bend, Waller, and Brazoria Counties;

(ii) \$1.20 in Bastrop, Bell, Blanco, Burnet, Caldwell, Gillespie, Kendall, Lee, Milam, Dallas, Denton, Collin, Tarrant, Travis, Hays, Williamson, Comal, and Guadalupe Counties; or

(iii) \$1.00 in all other counties.

(D) for the exceptions in subparagraph (A) or (C) of this paragraph, the developer shall provide a guarantee for its 30% share of utilities, if required under §293.47 of this title, in the form and manner required by §293.47(g) of this title;

(E) for utilities that are not funded and not complete but necessary to support the feasibility of the bond issue, the developer shall provide a guarantee for 100% of utilities for the exceptions in

subparagraphs (A), (B), or (C) of this paragraph in the form and manner required by §293.47(g) of this title;

(F) for the exceptions in subparagraph (B) or (C) of this paragraph, the developer shall provide a paving guarantee under §293.48 of this title (relating to Street and Utilities Construction by Developer); or

(G) for the exceptions in subparagraph (A) of this paragraph, financial guarantees for the internal subdivision utilities and streets are not required.

(I) For a district's second and subsequent bond issues, subsection (k) of this section shall apply, and the following shall apply except that only paragraph (1) of this subsection applies to districts that do not have a developer as defined by TWC, §49.052(d), or to districts that meet the criteria set out in subsection (k)(11) of this section.

(1) A 90% tax collection rate shall be used in the projected tax rate calculations unless the district demonstrates that its historical collection rate is higher, and a 100% tax collection rate shall be used in the no-growth tax rate calculations.

(2) The water, wastewater, and drainage facilities financed by the district under previous bond issues and all road and street construction to serve such connections shall be at least 95% complete as certified by the district's engineer.

(3) Sufficient lift station, water plant, and sewage treatment plant capacity to serve the connections shown in the tax rate calculations submitted in prior bond issues shall be at least 95% complete as certified by the district's engineer, unless the district is a participant in a regional surface water or wastewater plant, a permit sufficient for the expansion has been issued, and either:

(A) funds are available to finance such capacity and any additional capacity necessary for a feasible expansion;

(B) sufficient capacity is contractually available to serve all such prior connections; or

(C) the plant is under construction with sufficient capacity to serve all such prior connections.

(4) Houses and/or buildings equal to 75% of the projected buildout used in the projected tax rate calculations contained in all prior bond issues shall be completed and may be located on either:

(A) the area developed from the proceeds of the prior bond issues; or

(B) a combination of the area developed from the proceeds of prior bond issues, the proposed bond issue, and future bond issues.

(5) The requirements of subsection (k)(10) of this section shall apply, unless the district requests and the commission, in its discretion waives such requirement for one of the following reasons:

(A) disregarding those areas that had growth projected and were financed in previous bond issues, at least 50% of the value of the houses and/or buildings shown in the build-out schedule and used in the projected tax rate calculations supporting the subject bond issue must be existing;

(B) the district anticipates receiving an acceptable credit rating as defined in §293.47(b)(4) of this title or a credit enhanced rating as defined in §293.47(b)(5) of this title, and such rating must be obtained prior to the sale of bonds; or

(C) the district has a ratio of debt to assessed valuation as provided in §293.47(a)(1) of this title.

(m) Bond issues supported only by revenue from a defined area must be analyzed to assure that the defined area meets the requirements of this section independently of the remainder of the issuing district.

(n) A district may request a variance if it does not meet the guidelines contained in subsections (k) and (l) of this section, and a majority of the district's board of directors finds by resolution that the district will be justified in requesting a variance. The district will be responsible for providing sufficient documentation to justify any request for a variance. The commission will only grant variances in exceptional cases and may deny any request for a variance. The commission shall not grant a variance to the maximum combined projected tax rate or the maximum combined no-growth tax rate specified in subsection (k) of this section for districts that have a developer and the district is financing 100% of construction costs under the criteria set out in §293.47(a) of this title, which would otherwise require 30% developer participation. In determining whether to grant a variance, the following factors shall be considered:

(1) the degree of variation from the guidelines;

(2) the past history of the district with respect to its projections versus actual build-out and compliance with commission rules;

(3) the past history of the developer and related or affiliated entities with respect to its projections versus actual build-out and its compliance with commission rules and agreements with the district and other districts in which it developed land;

(4) other factors peculiar to the district, such as the area in which situated, economic factors, the adjoining competitive developments, and their status;

(5) the financial resources of the developer and its lender and any special commitments, obligations, or expenditures for the project;

(6) past history of the market area in which the project is located; and

(7) other factors that may affect the feasibility of the project.

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

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Amy L. Browning

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## SUBCHAPTER F. DISTRICT ACTIONS RELATED TO CONSTRUCTION PROJECTS AND PURCHASE OF FACILITIES

### 30 TAC §293.63

Statutory Authority

The rulemaking is proposed under Local Government Code (LGC), §§375.022, 375.025, and 375.0645 and Texas Water Code (TWC), §§49.011, 49.316, 49.4645, 49.181, 49.273, 54.030, and 57.059.

The proposed rulemaking implements the following legislation: LGC, §375.022 in House Bill (HB) 2815; LGC, §375.0645(a) - (f) in HB 2815; LGC, §375.025(c) in HB 2815; TWC, §49.011(a) in HB 2815; TWC, §49.011(b) in SB 1397; TWC, §49.316(a) - (l) in HB 2815; TWC, §49.4645(a) in SB 938; TWC, §49.181(f-1)(1) and (2) in HB 2815; TWC, §49.273(d) and (e) in HB 3507; TWC, §49.273(i) in HB 3437; TWC, §54.030(b) in HB 2815; TWC, §57.059(a) in HB 2815; and TWC, §49.4645(a) and (a-1) in HB 1410 (87th Legislature).

§293.63. *Contract Documents for Water District Projects.*

Contract documents for water district construction projects shall be prepared in general conformance with those adopted and recommended by the Texas Section of the American Society of Civil Engineers (latest revision). The following specific requirements must apply, unless otherwise provided by a district's special law.

(1) All contract documents shall be prepared in such a manner as to promote competitive bidding and to ensure that all bids are prepared on a common basis.

(2) The instruction to bidders section of the contract documents shall give special attention to the following items.

(A) The basis of award shall be clearly defined. If alternate proposals are to be considered, the instructions to bidders shall clearly state in which order the alternates will be considered in determining the most advantageous bid. If two or more contracts are to be awarded, the instructions to bidders shall clearly indicate if combined bids, or tied bids, will be allowed, or if each contract will be awarded separately.

(B) The contract should clearly provide that alternate bids will not be considered, unless specifically allowed by instructions to bidders and requested in the proposal form.

(C) Specific notice shall be given that qualifying statements or accompanying qualifying letters will be cause for rejection of the bid.

(D) Provision shall be made for prospective bidders to request additional information, explanations, or interpretations regarding contract documents prior to the bid opening. All requests and answers to all such requests shall be given in writing. Answers will be in addendum form to all prospective bidders.

(3) The district shall require the bidder to whom the district proposes to award the contract to submit a statement of qualifications. The statement shall include such data as the district may reasonably require to determine whether the contractor is responsible and capable of completing the proposed project.

(4) For contracts over \$50,000, the district shall require bidders to submit certified or cashier's checks or a bid bond issued by a surety legally authorized to do business in this state in an amount of at least 2.0% of the total amount of the bid. For a contract greater than \$250,000, the district must accept a bid bond if it meets all requirements. If cashier's checks are required, the checks for all bidders except the three most qualified bidders shall be returned within three days of the bid opening.

(5) The district shall require that bidders submit, along with the bid, the name of the person, firm, or corporation that will execute payment and performance bonds.

(6) The district may establish criteria for acceptability of the surety company issuing payment and performance bonds including, but not limited to:

(A) authorization to do business in Texas; and

(B) authorization to issue payment and performance bonds in the amount required for the contract and:

(i) a rating of at least B from Best's Key Rating Guide; or

(ii) if the surety company does not have any such rating due to the length of time it has been a surety company, the surety company must demonstrate eligibility to participate in the surety bond guarantee program of the United States Small Business Administration and must be an approved surety company listed in the current United States Department of Treasury Circular 570. Such performance and payment bonds shall meet the criteria contained in the rules and regulations promulgated by the United States Department of Treasury with respect to performance and payment bonds for federal jobs, including specifically the rules related to the underwriting limitation. The district shall satisfy itself that such surety company and bonds meet such criteria.

(7) The district shall satisfy itself that all persons executing the bonds are duly authorized by the laws of the State of Texas and the surety company to do so.

(8) For contracts over \$150,000 [~~\$75,000~~], a district's board shall advertise the project once a week for two consecutive weeks. For contracts over \$25,000 but not more than \$150,000 [~~\$75,000~~], a district's board shall solicit written competitive bids on the project from at least three bidders. For contracts not more than \$25,000, a district's board is not required to advertise or seek competitive bids.

(9) A board of a special law district may elect to contract in accordance with the requirements in Texas Water Code, §49.273, even if those requirements conflict with provisions in the district's special law.

(10) A district with a population of more than 100,000 may utilize the design-build procedure for limited projects as provided in Local Government Code, Chapter 271, Subchapter J.

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

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**SUBCHAPTER G. OTHER ACTIONS  
REQUIRING COMMISSION CONSIDERATION  
FOR APPROVAL**

**30 TAC §293.81**

Statutory Authority

The rulemaking is proposed under Local Government Code (LGC), §§375.022, 375.025, and 375.0645 and Texas Water Code (TWC), §§49.011, 49.316, 49.4645, 49.181, 49.273, 54.030, and 57.059.

The proposed rulemaking implements the following legislation: LGC, §375.022 in House Bill (HB) 2815; LGC, §375.0645(a) - (f) in HB 2815; LGC, §375.025(c) in HB 2815; TWC, §49.011(a) in HB 2815; TWC, §49.011(b) in SB 1397; TWC, §49.316(a) - (l) in HB 2815; TWC, §49.4645(a) in SB 938; TWC, §49.181(f-1)(1) and (2) in HB 2815; TWC, §49.273(d) and (e) in HB 3507; TWC, §49.273(i) in HB 3437; TWC, §54.030(b) in HB 2815; TWC, §57.059(a) in HB 2815; and TWC, §49.4645(a) and (a-1) in HB 1410 (87th Legislature).

§293.81. *Change Orders.*

A change order is a change in plans, specifications, or scope of work for construction work that is under contract. For purposes of this section, a variation between estimated quantities and actual quantities or use of supplemental items included in the bid where no change in plans and specifications has occurred is not a change order.

(1) Districts are authorized to issue change orders that are necessary or beneficial to the district as determined by the district's board, which alter the plans, specifications, or scope of work in the contract, subject to the following conditions.

(A) The aggregate of change orders that increase the original contract price more than 25% may be issued only in response to:

- (i) unanticipated conditions encountered during construction, repair, or renovation;
- (ii) changes in regulatory criteria; or
- (iii) coordination with construction of other political subdivisions or entities.

(B) All change orders must be in writing and executed by the district and the contractor and approved by the district's engineer.

(C) The competitive bidding requirements of Texas Water Code, §49.273(d) and (e) shall not apply to change orders issued in accordance with this section.

(2) No commission approval is required if the change order is \$150,000 [~~\$50,000~~] or less. If the change order is more than \$150,000 [~~\$50,000~~], the executive director or his designated representative may approve the change order. For purposes of this section, if either the total additions or total deletions contained in the change order exceed \$150,000 [~~\$50,000~~], even though the net change in the contract price will be \$150,000 [~~\$50,000~~] or less, approval by the executive director is required.

(3) If the change order is \$150,000 [~~\$50,000~~] or less, a copy of the change order signed by the contractor and an authorized representative of the district shall be submitted to the executive director within ten days of the execution date of the change order, together with any revised construction plans and specifications approved by all agencies and entities having jurisdictional responsibilities, i.e., city, county, state, other, if required.

(4) Applications for change orders requiring approval shall include:

(A) a copy of the change order signed by an authorized officer or employee of the district and the contractor, and a resolution or letter signed by the board president indicating concurrence with the proposed change;

(B) revised construction plans and specifications approved by all agencies and entities having jurisdictional responsibilities, i.e., city, county, state, other, if required;

(C) a detailed explanation for the change;

(D) a detailed cost summary showing additions and/or deletions to the approved plans and specifications, and new contract price or cost estimate;

(E) a statement indicating amount and source of funding for the change in plans including how the available funds were generated;

(F) the number of utility connections added or deleted by the change, if any;

(G) certification as to the availability and sufficiency of water supply and wastewater treatment capacities to serve such additional connections;

(H) filing fee in the amount of \$100; and

(I) other information as the executive director or the commission may require.

(5) Copies of all changes in plans, specifications, and supporting documents for all water district projects will be sent directly to the appropriate commission field office, simultaneously with the submittal of the documents to the executive director.

(6) Requirements relating to change orders shall also apply to construction carried out in accordance with §293.46 of this title (relating to Construction Prior to Commission Approval), except commission approval or disapproval will not be given. Change orders which are subject to executive director approval will be evaluated during the bond application review.

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

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## SUBCHAPTER H. REPORTS

### 30 TAC §293.91

#### Statutory Authority

The rulemaking is proposed under Local Government Code (LGC), §§375.022, 375.025, and 375.0645 and Texas Water Code (TWC), §§49.011, 49.316, 49.4645, 49.181, 49.273, 54.030, and 57.059.

The proposed rulemaking implements the following legislation: LGC, §375.022 in House Bill (HB) 2815; LGC, §375.0645(a) - (f) in HB 2815; LGC, §375.025(c) in HB 2815; TWC, §49.011(a) in HB 2815; TWC, §49.011(b) in SB 1397; TWC, §49.316(a) - (l) in HB 2815; TWC, §49.4645(a) in SB 938; TWC, §49.181(f-1)(1) and (2) in HB 2815; TWC, §49.273(d) and (e) in HB 3507; TWC,

§49.273(i) in HB 3437; TWC, §54.030(b) in HB 2815; TWC, §57.059(a) in HB 2815; and TWC, §49.4645(a) and (a-1) in HB 1410 (87th Legislature).

§293.91. *Reporting by Districts.*

(a) All districts are required to submit certain documents and reports to the executive director by the Texas Water Code, Chapter 49, as follows:

(1) a certified copy of the order or legislative act creating the district within 60 days after the date the district is created;

(2) certified copy of the order of the district's governing board changing the boundaries of the district within 60 days after the date of any boundary change together with a linen tracing or other map of equal quality showing the new boundaries;

(3) a written notification to the executive director of the name, mailing address and date of expiration of term of office of any elected or appointed director within 30 days after the date of the election or appointment;

(4) a certified copy of the audit report within 15 days after the date of completion of any audit of the affairs of the district, other than the annual audit required by Water Code, §49.191;

(5) an annual audit report, financial report, or financial dormancy affidavit, as required by §293.94(c), (e), and (f) of this title (relating to Annual financial Reporting Requirements); ~~and~~

(6) an annual filing affidavit, as required by subsection (g) of §293.94 of this title (relating to Annual financial Reporting Requirements), and Water Code, §49.194(d), certifying that all filings of copies of the annual audit report, an annual financial dormancy affidavit, or annual financial report, as applicable, have been completed; ~~and~~[-]

(7) a copy of an order dividing a district within 30 days after the date of adoption of the order dividing the district according to TWC, §49.316.

(b) Districts created pursuant to general law under provisions of the Texas Water Code are subject to specific reporting requirements. Each district should comply carefully with the reporting requirements provided in the Texas Water Code chapter under which it was created. Districts created pursuant to special acts of the Texas Legislature may be subject to specific reporting requirements. Each district so created should comply carefully with any reporting requirements contained in special act of the Texas Legislature under which it was created.

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

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**TITLE 37. PUBLIC SAFETY AND CORRECTIONS**

**PART 1. TEXAS DEPARTMENT OF PUBLIC SAFETY**

**CHAPTER 13. CONTROLLED SUBSTANCES  
SUBCHAPTER G. FORFEITURE AND DESTRUCTION**

**37 TAC §§13.151, 13.153, 13.160, 13.161, 13.165**

The Texas Department of Public Safety (the department) proposes amendments to §§13.151, 13.153, 13.160, 13.161, and 13.165, concerning Forfeiture And Destruction.

The rule changes are proposed for increased safety and efficiency of public safety personnel and property. Specifically, the addition of vape pens, a newer evidence type, to the excess quantity definition is proposed due to the fire hazard surrounding long-term battery storage. Other proposed changes allow for the usage of courts' electronic records when making destruction authorization decisions. In addition, the amendments place clear inventory requirements on law enforcement personnel for controlled substance property prior to destruction or submission to a crime laboratory. It also clarifies that destruction may occur after laboratory analysis without further inventory if the repackaging and seal remain intact and clarifies destruction procedures with no laboratory analysis. Additional amendments remove an outdated requirement to submit a report to the department's Narcotics Regulation Bureau, which no longer exists, and updates the division's name.

Alice Amilhat, Assistant Chief, Crime Laboratory Division, has determined that for each year of the first five-year period these rules are in effect there will be no fiscal implications for state or local government or local economies.

Ms. Amilhat has also determined that there will be no adverse economic effect on small businesses, micro-businesses, or rural communities required to comply with the sections as proposed. There is no anticipated economic cost to individuals who are required to comply with the rules as proposed. There is no anticipated negative impact on local employment.

Ms. Amilhat has determined that for each year of the first five-year period the rules are in effect the public benefit anticipated as a result of these rules will be reduction in fire risk, improved evidence storage and law-enforcement decision-making, and increased efficiency of laboratory operations by reducing resources required for controlled substance destruction.

The department has determined this proposal is not a "major environmental rule" as defined by Texas Government Code, §2001.0225. "Major environmental rule" means a rule the specific intent of which is to protect the environment or reduce risks to human health from environmental exposure and that may adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, or the public health and safety of the state or a sector of the state. This proposal is not specifically intended to protect the environment or reduce risks to human health from environmental exposure.

The department has determined that Chapter 2007 of the Texas Government Code does not apply to this proposal. Accordingly, the department is not required to complete a takings impact assessment regarding this proposal.

The department prepared a Government Growth Impact Statement assessment for this proposed rulemaking. The proposed rulemaking does not create or eliminate a government program; will not require the creation of new employee positions nor eliminate current employee positions; will not require an increase or decrease in future legislative appropriations to the agency; nor will it require an increase or decrease in fees paid to the agency. The proposed rulemaking does not create a new regulation. The proposed rulemaking does not limit or repeal an existing regulation but does expand an existing regulation. The proposed rulemaking does not increase or decrease the number of individuals subject to its applicability. During the first five years the proposed rules are in effect, the proposed rules should not impact positively or negatively the state's economy.

Comments on the proposal may be submitted to Frances Navejas, Crime Laboratory Division, Department of Public Safety, 5800 Guadalupe Street, Austin, Texas 78752, or by email to Frances.Navejas@dps.texas.gov. Email submission only is preferred. Comments must be received no later than thirty (30) days from the date of publication of this proposal. Persons required to comply with the proposed rules or any other interested person may provide information to the department related to the cost, benefit, or effect of the proposed rule, including any applicable data, research, or analysis.

This proposal is made pursuant to Texas Health and Safety Code, §481.003, which authorizes the director to adopt rules to administer and enforce Chapter 481 and §481.154(a)(1) which authorizes the director to adopt reasonable rules and procedures concerning summary forfeiture and summary destruction of controlled substance property or plants.

Texas Health and Safety Code, §481.003 and §481.154(a)(1) are affected by this proposal.

#### §13.151. Subchapter Definitions.

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

(1) Abusable volatile chemical--Has the meaning given that term by the Texas Health and Safety Code, Chapter 485. In addition, abusable volatile chemicals also include any derivative products, such as, glues, aerosol paint, aerosol adhesives, aerosol spray air, and cement adhesives or any other product containing an abusable volatile chemical.

(2) Excess quantity--Unless otherwise modified under §13.157(d) of this title (relating to SOP for Destruction By Laboratory or Agency--Security Control), more than:

- (A) one kilogram of bulk dry evidence, such as powder;
  - (B) 500 milliliters of bulk liquid evidence, such as a chemical precursor or liquid controlled substance;
  - (C) 200 dosage or abuse units of an item, such as tablets, capsules, liquids, or other items so measured;
  - (D) 250 grams of bulk packaged marihuana;
  - (E) five individual controlled substance plants, such as marihuana or peyote; [e¶]
  - (F) five vape cartridges; or
  - (G) [~~F~~] five miscellaneous items of drug or inhalant paraphernalia.
- (3) Hazardous material--An item that:

(A) creates a health or environmental hazard or prohibits safe storage because of its nature and quantity; or

(B) meets the hazardous waste criteria of the United States Environmental Protection Agency (EPA), because of its nature, including its corrosivity, ignitability, reactivity, toxicity, or other hazardous characteristic.

(4) Item--Controlled substance property, controlled substance plant, simulated controlled substance, volatile chemical or related inhalant paraphernalia, or abusable glue, aerosol paint, or related inhalant paraphernalia, as those terms are used in the Texas Health and Safety Code, Chapters 481 - 485.

(5) Laboratory--A crime laboratory located in this state that holds a registration number for the analysis of a controlled substance from the DEA.

(6) Lawful possession--Includes the possession of an item obtained in accordance with state or federal law.

(7) Simulated controlled substance--Has the meaning given that term by the Texas Health and Safety Code, Chapter 482.

(8) SOP--A standard operation procedure established under this subchapter.

#### §13.153. Item Legally Worthless as Criminal Evidence.

(a) Generally. This subchapter describes the documentation and security provisions to use once the decision to destroy has been made.

(b) Reasonable effort. Before a laboratory, law enforcement agency, or peace officer destroys an item under this subchapter, the director recommends but does not require a responsible party to make a reasonable effort to ensure the item:

(1) has no continuing evidentiary value or significance to any pending or contemplated criminal case; or

(2) is in excess quantity.

(c) If case filed. If a criminal case was filed involving an item, the person seeking destruction authorization or contemplating the giving of authorization to destroy must contact the office of the appropriate prosecutor or court or review relevant adjudication records before destruction to determine whether the item has any continuing evidentiary significance.

#### §13.160. Destruction Inventory - Security Control.

(a) Prior to destruction or submission to a laboratory, a law enforcement agency or peace officer must complete a destruction inventory on each item which includes:

(1) the relevant case or file number;

(2) the name of the seizing law enforcement agency or peace officer;

(3) a description of the packaging;

(4) a description of the status of the packaging and seal integrity; and

(5) the count and weight of the item, including the exact nature, kind, and quantity.

(b) [~~(a)~~] Destruction after [After] laboratory analysis. If destruction under this subchapter follows a laboratory analysis process that has resulted in adequate repackaging and sealing of an item, the director will deem a destruction inventory to be sufficient if the laboratory repackaging and seal remain intact prior to destruction. [if #

consists of an inspection, accomplished without breaking the seal, in order to:]

{(1) verify the nature, kind, and quantity of the items sought to be destroyed as compared with the original laboratory submission; and]

{(2) determine the status of the packaging and seal integrity.}]

{(b) No laboratory analysis. If destruction does not follow a laboratory analysis process that has resulted in adequate repackaging and sealing of an item, a destruction inventory must include:}]

{(1) the relevant case or file number;}]

{(2) the name of the seizing law enforcement agency or peace officer;}]

{(3) a description of the packaging;}]

{(4) a description of the status of the packaging and seal integrity; and]

{(5) the count and weight of the item, including the exact nature, kind, and quantity.}]

(c) Destruction after no laboratory analysis or no submission to a laboratory. If no laboratory analysis is conducted and adequate packaging and an unbroken seal remain intact on an item, an additional inventory is not required prior to destruction, and the director will deem the destruction inventory completed under subsection (a) of this section sufficient. If adequate packaging or an unbroken seal does not remain intact, a new destruction inventory as outlined in subsection (a) of this section must be completed prior to destruction.

*§13.161. Witness Responsibility - Security Control.*

(a) Generally. For purposes of accountability, at least two of the witnesses to a destruction under this subchapter must, during a process conducted immediately before the physical destruction of an item:

(1) examine each item in a manner sufficient to complete the destruction inventory required by this subchapter;

(2) compare that destruction inventory with each previous inventory of the item, if required by this subchapter, including one that may have been made as part of an evidence submission form, a laboratory analysis, or as part of the destruction authorization;

(3) examine each package for the integrity or breach of the package or seal;

(4) refuse to destroy an item that reasonably appears to have been tampered with or to be at variance with its purported count or weight; and

(5) ensure destruction of each item as soon as reasonably possible.

(b) Suspicious incident. Each witness must:

(1) investigate a suspicious incident or probable breach of security, including a discrepancy, loss, theft, or other potential diversion of an item to be destroyed; or

(2) report the incident or breach to an appropriate law enforcement agency or peace officer for investigation.

{(c) Registrant security provisions may also apply. The registrant security provisions of this chapter apply if a witness to destruction under this subchapter is also registered individually as a controlled substances registrant or employed by a registrant. If so, the witness is responsible for making a written report to the director through the Nar-

cotics Regulation Bureau of a probable breach of security under those provisions.}]

*§13.165. Communication with Director (Crime Laboratory Division [Lab Service]).*

If a person is required or allowed by this subchapter to make a notification, report, or other written, telephonic, or personal communication to the director, the person must make the communication to the director through the Crime Laboratory Division [Service] at the address indicated in §28.7 of this title (relating to Communications).

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 February 12, 2026.

TRD-202600624

D. Phillip Adkins

General Counsel

Texas Department of Public Safety

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For further information, please call: (512) 424-5848



## CHAPTER 15. DRIVER LICENSE RULES SUBCHAPTER D. DRIVER IMPROVEMENT

### 37 TAC §§15.82 - 15.85

The Texas Department of Public Safety (the department) proposes amendments to §§15.82- 15.85, concerning Driver Improvement. The proposed amendments align the rules with House Bill 4804, 89th Leg., R.S. (2025), which repealed Texas Transportation Code, §521.297(b) and §522.087(b). The amendments are necessary to conform with statutory changes which were required for compliance with Federal Motor Carrier Safety Administration regulations necessitating the elimination of a hearing and appeal process for certain commercial driver license (CDL) disqualifications.

Cynthia Allison, Management Analyst, Driver License Division, has determined that for each year of the first five-year period these rules are in effect there will be no fiscal implications for state or local government or local economies.

Ms. Allison has also determined that there will be no adverse economic effect on small businesses, micro-businesses, or rural communities required to comply with the sections as proposed. There is no anticipated economic cost to individuals who are required to comply with the rules as proposed. There is no anticipated negative impact on local employment.

Ms. Allison has determined that for each year of the first five-year period the rules are in effect the public benefit anticipated as a result of these rules will be the promotion of the state and federal mission to save lives, reduction of crashes and injuries related to commercial motor vehicle operations, and compliance with federal regulations for continued federal highway funds.

The department has determined this proposal is not a "major environmental rule" as defined by Texas Government Code, §2001.0225. "Major environmental rule" means a rule the specific intent of which is to protect the environment or reduce risks to human health from environmental exposure and that may adversely affect in a material way the economy, a sector of the

economy, productivity, competition, jobs, the environment, or the public health and safety of the state or a sector of the state. This proposal is not specifically intended to protect the environment or reduce risks to human health from environmental exposure.

The department has determined that Chapter 2007 of the Texas Government Code does not apply to this proposal. Accordingly, the department is not required to complete a takings impact assessment regarding this proposal.

The department prepared a Government Growth Impact Statement assessment for this proposed rulemaking. The proposed rulemaking does not create or eliminate a government program; will not require the creation of new employee positions nor eliminate current employee positions; will not require an increase or decrease in future legislative appropriations to the agency; nor will it require an increase or decrease in fees paid to the agency. The proposed rulemaking does not create a new regulation. The proposed rulemaking does limit an existing regulation but does not expand or repeal it. The proposed rulemaking does not increase or decrease the number of individuals subject to its applicability. During the first five years the proposed rule is in effect, the proposed rule should not impact positively or negatively the state's economy.

Comments on the proposal may be submitted to Cynthia Allison, Driver License Division, Texas Department of Public Safety, P.O. Box 4087 (MSC 0300), Austin, Texas 78773; by fax to (512) 424-5233, or by email to [DLDrulecomments@dps.texas.gov](mailto:DLDrulecomments@dps.texas.gov). Email submission only is preferred. Comments must be received no later than thirty (30) days from the date of publication of this proposal. Persons required to comply with the proposed rules or any other interested person may provide information to the department related to the cost, benefit, or effect of the proposed rule, including any applicable data, research, or analysis.

This proposal is made pursuant to Texas Government Code, §411.004(3), which authorizes the Public Safety Commission to adopt rules considered necessary for carrying out the department's work; Texas Transportation Code, §521.005, which authorizes the department to adopt rules necessary to administer Chapter 521, Driver's Licenses; Texas Transportation Code §521.291, which authorizes the department to adopt rules to administer Subchapter N, General Provisions Relating to License Denial, Suspension, or Revocation; Texas Transportation Code §522.005, which authorizes the department to adopt rules necessary to administer Chapter 522, Commercial Driver's Licenses; and House Bill 4804, 89th Leg., R.S. (2025), which repeals Texas Transportation Code, §521.297(b) and §522.087(b).

Texas Government Code, §411.004(3); Texas Transportation Code, §521.005, §521.291, §521.297(b), and Subchapter N of Chapter 521; and Texas Transportation Code, §522.005, §522.087(b), and Subchapter H of Chapter 522 are affected by this proposal.

*§15.82. Notice or Order of Suspension, Disqualification or Revocation[; Order of Suspension, Disqualification and Revocation].*

(a) Notice of the department's determination of suspension, disqualification or revocation will be mailed to the licensee's mailing address or address of record by first class mail.

(b) The notification will include the statutory grounds for the department's action and include:[; effective dates of the suspension, disqualification, or revocation, the persons right to a hearing, how to request the hearing, and the time period in which the person can request the hearing.]

(1) the effective date of the suspension or revocation, the person's right to a hearing, how to request the hearing, and the time period in which the person can request the hearing; or

(2) the effective date of the disqualification, except for a disqualification under Texas Transportation Code, §522.081(b)(3) or §522.081(b)(4), which is subject to Chapter 17 of this title (relating to Administrative License Revocation).

(c) The notice of suspension, revocation or disqualification shall be mailed by the department on the date of the notice. It is presumed received five days after that date.

(d) If the licensee does not request a timely hearing or a judge affirms the department's action, the department will mail to the licensee's mailing address or address of record an order of suspension[;] or revocation [or disqualification]. The order will contain the dates of the suspension[;] or revocation[; or disqualification], and any necessary information for the reinstatement of the license. If the department has been notified that the address of record is no longer valid, a notice will not be mailed.

*§15.83. Hearing Requests.*

(a) Hearing request must be in writing, correct and timely. In order to be considered timely, a hearing request containing all the information set forth in subsection (b) of this section must be received by the 15th day after the notice is presumed to have been received, according to the records of the department.

(b) The hearing request must contain the following information:

- (1) full legal name;
- (2) date of birth; and
- (3) driver license number.

(c) The written hearing request must [may] be mailed, e-mailed or faxed to the department's Driver Improvement and Compliance Bureau in Austin at the address, e-mail address or fax number provided on the notice of suspension[;] or revocation [or disqualification].

(d) A hearing request that fails to include one or more of the items of information required by subsection (b) of this section, or provides incorrect information, will not be deemed to be timely or correctly received. Nothing in this section is intended to prevent a person making a hearing request from supplementing or correcting information contained in a hearing request, provided that such supplementation or correction is received by the department before the deadline for requesting a hearing as set out in subsection (a) of this section.

(e) A hearing request that is not delivered to the department in the manner prescribed in subsection (c) of this section will not be honored.

(f) The department shall reject any untimely or incorrectly filed hearing requests. When a hearing request is received and rejected, the department shall mail written notice to the individual that the hearing request was received and rejected, and state the reason for the rejection.

(g) Upon receipt of a timely and correctly submitted hearing request the department shall schedule a hearing on the matter and mail written notification of the hearing date and time.

(h) If the licensee clearly denotes on the hearing request a residence address different than what is on file with the department, the department will schedule the hearing according to the new address. This report of an alternate address will not constitute a change of address

and will not update the licensee's official driver record. The licensee must also file a change of address form with the department, in accordance with Texas Transportation Code, §521.054.

*§15.84. Hearing.*

(a) The hearing will be scheduled by the department in the county of residence as indicated in the department's records at the time the notice was mailed to the individual or as provided by the licensee on the hearing request.

(b) If the licensee is no longer a resident of Texas, the hearing will be scheduled in the last known county of residence, as indicated in the department's records.

(c) A request to reschedule or continue the hearing must be made through the court and the department's hearing examiner. Phone number and addresses of both parties will be provided in the hearing notification.

(d) The presiding officer will make a determination on the evidence provided at the hearing. If the presiding officer affirms the department's recommendation to suspend or revoke the driver license [~~or to disqualify the commercial driver license~~], the length of the suspension or revocation [~~disqualification~~] shall be set according to the appropriate statute. The presiding officer may probate the suspension of a driver license. Revocations [~~and disqualifications~~] cannot be probated.

(e) Evidence from the department may include a certified copy of the driving record, reliable report, or other documents maintained by the department. If the person does not have a Texas driver license the department may introduce a copy of the driver history information maintained by the department.

*§15.85. Appeals.*

(a) A licensee may appeal an affirmative finding by the presiding judge.

(b) The 30-day period for filing an appeal begins the date the department's suspension[~~;~~] or revocation [~~or disqualification~~] order is dated and mailed.

(c) To perfect service on the department of a judicial appeal of a final order of the presiding officer, a defendant must send a file-stamped copy of the defendant's appeal petition certified by the clerk of the court in which the petition is filed, to the department's Driver Improvement and Compliance Bureau at its headquarters in Austin. A suspension will not be stayed until service is perfected according to this subsection.

(d) A 90-day stay will be effective from the date the Driver Improvement and Compliance Bureau receives the certified file-stamped petition. If there has not been a final decision by the appellate court, on the 91st day the department shall impose the suspension, probated suspension, [~~disqualification;~~] or revocation.

(e) If an affirmative finding by the presiding officer is reversed on appeal, the appellant shall notify the department by mailing a file-stamped copy of the judgment from the appellate court to the department's Driver Improvement and Compliance Bureau in Austin. This address is provided on the original notice of suspension[~~;~~] or revocation [~~or disqualification~~]. Upon verification, the department shall lift the suspension[~~;~~] or revocation [~~or disqualification~~], which will be indicated on the individual's driving record.

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

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D. Phillip Adkins

General Counsel

Texas Department of Public Safety

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For further information, please call: (512) 424-5848



## PART 15. TEXAS FORENSIC SCIENCE COMMISSION

### CHAPTER 651. DNA, CODIS, FORENSIC ANALYSIS, AND CRIME LABORATORIES SUBCHAPTER C. FORENSIC ANALYST LICENSING PROGRAM

#### 37 TAC §651.7

The Texas Forensic Science Commission (Commission) proposes an amendment to rule 37 Texas Administrative Code §651.7, Disciplines Exempt from Commission Accreditation Requirements by Administrative Rule to exempt from accreditation requirements examinations or tests performed on non-lethal munitions. This Commission amendment is necessary to reflect a rule proposal made by the Commission at its January 30, 2026 quarterly meeting.

**Reasoned Justification for Rule Amendment.** The rule amendment exempts from accreditation requirements any forensic analysis performed on non-lethal munitions devices commonly used by law enforcement to incapacitate or deter without causing permanent injury or death. Under Article 38.35 of the Code of Criminal Procedure, laboratories conducting firearms/toolmarks analysis must be accredited by the Commission. Because non-lethal munitions testing falls within this category, accreditation is required. However, no accredited providers currently offer this specialized analysis, limiting access for both prosecutors and defendants and creating constitutional due process barriers for defendants.

**One-for-One Rule Requirement for Rules with a Fiscal Impact.** Because Leigh M. Tomlin, Associate General Counsel of the Commission, has determined that the rule does not have a fiscal impact that imposes a cost on a regulated person, including another state agency, a special district, or a local government, the agency is not required to take further action under Government Code § 2001.0045.

**Fiscal Note.** Ms. Tomlin has determined that for each year of the first five years the proposed amendment will be in effect, there will be no fiscal impact to state or local governments as a result of the enforcement or administration of the amendment. The proposed amendment exempts certain non-lethal munitions firearms/toolmarks analysis from mandatory accreditation and licensing requirements.

**Rural Impact Statement.** The Commission expects no adverse economic effect on rural communities as the proposed amendment does not impose any direct costs or fees on municipalities in rural communities. The proposed amendment exempts

certain non-lethal munitions firearms/toolmarks analysis from mandatory accreditation and licensing requirements.

**Public Benefit/Cost Note.** Ms. Tomlin has also determined that for each year of the first five years the proposed amendment is in effect, the anticipated public benefit includes increased access to experts available to evaluate and analyze this type of evidence.

**Economic Impact Statement and Regulatory Flexibility Analysis for Small and Micro Businesses.** As required by the Government Code §2006.002(c) and (f), Ms. Tomlin has determined that the proposed amendment will not have an adverse economic effect on any small or micro business because the rule does not impose any economic costs to these businesses.

**Takings Impact Assessment.** Ms. Tomlin has determined that no private real property interests are affected by this proposal and that this proposal does not restrict or limit an owner's right to property that would otherwise exist in the absence of government action and, therefore, does not constitute a taking or require a takings impact assessment under the Government Code §2007.043.

**Environmental Rule Analysis.** Ms. Tomlin has determined that the proposed rule is not brought with the specific intent to protect the environment or reduce risks to human health from environmental exposure; thus, the Commission asserts that this proposed rule is not a "major environmental rule," as defined by Government Code § 2001.0225. As a result, the Commission asserts that the preparation of an environmental impact analysis, as provided by Government Code §2001.0225, is not required.

**Government Growth Impact Statement.** Ms. Tomlin has determined that for the first five-year period, implementation of the proposed amendment will have no government growth impact as described in Title 34, Part 1, Texas Administrative Code §11.1. Pursuant to the analysis required by Government Code 2001.221(b): 1) the proposed amendment does not create or eliminate a government program; 2) implementation of the proposed amendment does not require the creation of new employee positions or the elimination of existing employee positions; 3) implementation of the proposed amendment does not increase or decrease future legislative appropriations to the agency; 4) the proposed amendment does not require a fee; 5) the proposed amendment does not create a new regulation; 6) the proposed amendment does not expand, limit, or repeal an existing regulation but rather clarifies that a forensic analysis performed on non-lethal munitions is exempt from crime laboratory accreditation requirements; 7) the proposed amendment does not increase the number of individuals subject to regulation; and 8) the proposed amendment has a neutral effect on the state's economy.

**Requirement for Rule Increasing Costs to Regulated Persons.** Ms. Tomlin has determined that there are no anticipated increased costs to regulated persons as the proposed amendment does not impose any fees or costs.

**Public Comment.** The Commission invites comments on the proposal from any member of the public. Please submit comments to Leigh M. Tomlin, 1700 North Congress Avenue, Suite 445, Austin, Texas 78701 or leigh@fsc.texas.gov. Comments must be received by April 14, 2026 to be considered by the Commission.

**Statutory Authority.** The amendment is made in accordance with the Commission's accreditation authority under Code of Criminal Procedure, Art. 38.01 §4-d(c), which establishes that the Com-

mission may add crime laboratory accreditation exemptions, and the Commission's rulemaking authority under Art. 38.01 §3-a, which directs the Commission to adopt rules necessary to implement Code of Criminal Procedure, Art. 38.01.

**Cross reference to statute.** The proposal amends rule 37 Texas Administrative Code §651.7.

*§651.7. Disciplines Exempt from Commission Accreditation Requirements by Administrative Rule.*

(a) The Commission has exempted the following categories of forensic analysis from the accreditation requirement by administrative rule:

- (1) sexual assault examination of a person;
- (2) forensic anthropology, entomology, or botany;
- (3) environmental testing;
- (4) facial or traffic accident reconstruction;
- (5) serial number restoration;
- (6) polygraph examination;
- (7) voice stress, voiceprint, or similar voice analysis;
- (8) statement analysis;
- (9) forensic odontology for purposes of human identification or age assessment, not to include bite mark comparison related to patterned injuries;
- (10) testing and/or screening conducted for sexually transmitted diseases;
- (11) fire scene investigation, including but not limited to cause and origin determinations;
- (12) forensic photography;
- (13) non-criminal paternity testing;
- (14) non-criminal testing of human or nonhuman blood, urine, or tissue, including but not limited to workplace/employment drug testing;
- (15) the location, identification, collection, or preservation of physical evidence at a crime scene;
- (16) crime scene reconstruction;
- (17) confirmatory testing of a human specimen in a laboratory either accredited by the College of American Pathologists (CAP) forensic drug testing program, or certified by the Centers for Medicare and Medicaid Services of the Department of Health and Human Services (HHS/CMS) under the Clinical Laboratory Improvement Amendments of 1988 (CLIA), or the Substance Abuse and Mental Health Services Administration of the Department of Health and Human Services (SAMHSA/HHS) limited to analysis of urine testing for approved classes of drugs. This is for the purposes of referring, offering, or making available treatment, diversion, intervention, or monitoring conducted by or under contract with a community supervision and corrections department, the parole division of the Texas Department of Criminal Justice, the Board of Pardons and Paroles, or another governmental entity. The results of such testing are subsequently entered into evidence in an action to revise or revoke the terms of an individual's bail, bond, community supervision, or parole;
- (18) document examination, including document authentication, physical comparison, and product determination;
- (19) other evidence processing or handling that is excluded under §651.2(2) of this title (relating to Definitions); [ø]

(20) determination of National Integrated Ballistic Information Network (NIBIN) suitability limited to triaging or grouping multiple items of evidence for NIBIN entry and assessing a set of test fires for purposes of NIBIN entry as well as corresponding NIBIN entry. The suitability assessment may include test-firing, but only if no physical modification is made to the firearm other than what occurs during the act of test-firing the weapon, and subject to the condition that the test fire is for NIBIN suitability only and will not be used for comparison purposes or for determination of functionality; or[-]

(21) examination or test performed on non-lethal munitions.

(b) A request for exemption for any discipline not listed in this subsection shall be submitted in writing to 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.

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Leigh Tomlin

Associate General Counsel

Texas Forensic Science Commission

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For further information, please call: (512) 936-0661



### 37 TAC §651.219

The Texas Forensic Science Commission (Commission) proposes an amendment to rule 37 Texas Administrative Code §651.219, Code of Professional Responsibility (Code) to clarify that the Code applies to unaccredited law enforcement agencies performing forensic analysis. The change clarifies that crime laboratory managers at unaccredited law enforcement agencies are not required to comply with the Code. A commission amendment is necessary to reflect a rule proposal made by the Commission at its January 30, 2026 quarterly meeting.

**Reasoned Justification for Rule Amendment.** The Commission's Code governs all licensed forensic analysts and forensic technicians, as well as crime laboratory managers employed by accredited laboratories under the Commission's jurisdiction. It does not extend to managers of forensic science service providers (crime laboratories) working within unaccredited law enforcement agencies. Numerous unaccredited entities encourage employees to pursue voluntary forensic analyst licensure by the Commission, contributing to continued improvement of the integrity and reliability of forensic practices in Texas courts. Licensed analysts and technicians are bound by the Code, whereas their unlicensed supervisors in unaccredited settings are not, given the Commission's limited jurisdiction. This proposed rule amendment clarifies this regulatory distinction, informs the forensic community and the Commission's law enforcement partners, and encourages broader participation in the voluntary licensing program.

**One-for-One Rule Requirement for Rules with a Fiscal Impact.** Leigh M. Tomlin, Associate General Counsel of the Commission, has determined that the rule does not have a fiscal impact that imposes a cost on a regulated person, including another state agency, a special district, or a local government, the agency is

not required to take further action under Government Code § 2001.0045.

**Fiscal Note.** Ms. Tomlin has determined that for each year of the first five years the proposed amendment will be in effect, there will be no fiscal impact to state or local governments as a result of the enforcement or administration of the amendment.

**Rural Impact Statement.** The Commission expects no adverse economic effect on rural communities as the proposed amendment does not impose any direct costs or fees on municipalities in rural communities.

**Public Benefit/Cost Note.** Ms. Tomlin has also determined that for each year of the first five years the proposed amendment is in effect, the anticipated public benefit is to clarify to the forensic community and the Commission's law enforcement partners that, while licensed analysts and technicians are bound by the Code, their unlicensed supervisors in unaccredited crime laboratory settings are not.

**Economic Impact Statement and Regulatory Flexibility Analysis for Small and Micro Businesses.** As required by the Government Code § 2006.002(c) and (f), Ms. Tomlin has determined that the proposed amendment will not have an adverse economic effect on any small or micro business because the rule does not impose any economic costs to these businesses.

**Takings Impact Assessment.** Ms. Tomlin has determined that no private real property interests are affected by this proposal and that this proposal does not restrict or limit an owner's right to property that would otherwise exist in the absence of government action and, therefore, does not constitute a taking or require a takings impact assessment under the Government Code §2007.043.

**Environmental Rule Analysis.** Ms. Tomlin has determined that the proposed rule is not brought with the specific intent to protect the environment or reduce risks to human health from environmental exposure; thus, the Commission asserts that this proposed rule is not a "major environmental rule," and defined by Government Code § 2001.0225. As a result, the Commission asserts that the preparation of an environmental impact analysis, as provided by Government Code §2001.0225, is not required.

**Government Growth Impact Statement.** Ms. Tomlin has determined that for the first five-year period, implementation of the proposed amendment will have no government growth impact as described in Title 34, Part 1, Texas Administrative Code §11.1. Pursuant to the analysis required by Government Code 2001.221(b): 1) the proposed amendment does not create or eliminate a government program; 2) implementation of the proposed amendment does not require the creation of new employee positions or the elimination of existing employee positions; 3) implementation of the proposed amendment does not increase or decrease future legislative appropriations to the agency; 4) the proposed amendment does not require a fee; 5) the proposed amendment does not create a new regulation; 6) the proposed amendment does not expand, limit, or repeal an existing regulation; 7) the proposed amendment does not increase the number of individuals subject to regulation; and 8) the proposed amendment has a neutral effect on the state's economy.

**Requirement for Rule Increasing Costs to Regulated Persons.** Ms. Tomlin has determined that there are no anticipated increased costs to regulated persons as the proposed amendments do not impose any fees or costs.

Public Comment. The Commission invites comments on the proposal from any member of the public. Please submit comments to Leigh M. Tomlin, 1701 North Congress Avenue, Suite 6-107, Austin, Texas 78701 or leigh@fsc.texas.gov. Comments must be received by April 14, 2026 to be considered by the Commission.

Statutory Authority. The amendments are made in accordance with the Commission's forensic analyst licensing authority under Code of Criminal Procedure, Article 38.01 §4-a(d)(1) which requires the Commission to establish rules for qualifications for a forensic analyst license, Code of Criminal Procedure, Article 38.01 §3-b which requires the Commission to adopt a code of professional responsibility to regulate the conduct of persons, laboratories, facilities, and other entities regulated by the Commission, and the Commission's general rulemaking authority under Article 38.01 § 3-a which directs the Commission to adopt rules necessary to implement Code of Criminal Procedure, Art. 38.01.

Cross reference to statute. The proposal amends rule 37 Texas Administrative Code §651.219.

§651.219. *Code of Professional Responsibility.*

(a) Code of Professional Responsibility for Forensic Analysts, Forensic Technicians, and Crime Laboratory Management Subject to the Jurisdiction of the Texas Forensic Science Commission. The Code of Professional Responsibility ("Code") for forensic analysts, forensic technicians, and crime laboratory management defines a framework for promoting integrity and respect for the scientific process and encouraging transparency in forensic analysis. Forensic analysts, forensic technicians, and crime laboratory management subject to the Commission's jurisdiction are expected to abide by this Code in all forensic science-related professional activities regardless of the geographic location where the activities are performed. Because certain components of the Code are best suited to individual forensic analysts or technicians while others are best suited to crime laboratory management, the Code is divided into two sections.

(b) Each person licensed by the Commission [forensic analyst] shall:

- (1) Accurately represent his/her education, training, experience, and areas of expertise.
- (2) Commit to continuous learning in the forensic disciplines and stay abreast of new findings, equipment and techniques to maintain professional competency.
- (3) Promote validation and incorporation of new technologies, guarding against the use of non-valid methods in casework and the misapplication of validated methods.
- (4) Avoid tampering, adulteration, loss, or unnecessary consumption of evidentiary materials.
- (5) Avoid participation in any case where there are personal, financial, employment-related or other conflicts of interest.
- (6) Conduct thorough, fair and unbiased examinations, leading to independent, impartial, and objective opinions and conclusions.
- (7) Make and retain full, contemporaneous, clear and accurate written records of all examinations and tests conducted and conclusions drawn, in sufficient detail to allow meaningful review and assessment by an independent person competent in the field.

(8) Base conclusions on procedures supported by sufficient data, standards and controls, not on political pressure or other outside influence.

(9) Not offer opinions or conclusions that are outside one's expertise.

(10) Prepare reports in clear terms, distinguishing data from interpretations and opinions, and disclosing any relevant limitations to guard against making invalid inferences or misleading the judge or jury.

(11) Not issue reports or other records, or withhold information from reports for strategic or tactical litigation advantage.

(12) Present accurate and complete data in reports, oral and written presentations and testimony based on good scientific practices and valid methods.

(13) Testify in a manner which is clear, straightforward and objective, and avoid phrasing testimony in an ambiguous, biased or misleading manner.

(14) Retain any record, item or object related to a case, such as work notes, data, and peer or technical review information due to potential evidentiary value and pursuant to the laboratory's retention policy.

(15) Communicate honestly and fully with all parties (investigators, prosecutors, defense attorneys, and other expert witnesses), unless prohibited by law.

(16) Document and notify management or quality assurance personnel of adverse events, such as an unintended mistake or a breach of ethical, legal, scientific standards, or questionable conduct.

(17) Ensure reporting, through proper management channels, to all impacted scientific and legal parties of any adverse event that affects a previously issued report or testimony.

(c) Members of [~~crime laboratory~~] management in crime laboratories for which accreditation is required shall:

(1) Encourage a quality-focused culture that embraces transparency, accountability and continuing education while resisting individual blame or scapegoating.

(2) Provide opportunities for forensic analysts to stay abreast of new scientific findings, technology and techniques while guarding against the use of non-valid methods in casework, the misapplication of validated methods or improper testimony regarding a particular analytical method or result.

(3) Maintain case retention and management policies and systems based on the presumption that there is potential evidentiary value for any information related to a case, including work notes, analytical and validation data, and peer or technical review.

(4) Provide clear communication and reporting systems through which forensic analysts may report to management non-conformities in the quality system and other adverse events, such as an unintended mistake or a breach of ethical, legal, scientific standards, or questionable conduct.

(5) Make timely and full disclosure to the Texas Forensic Science Commission of any non-conformance that may rise to the level of professional negligence or professional misconduct.

(6) Provide copies of all substantive communications with the laboratory's national accrediting body to the Commission.

(7) For any laboratory that performs forensic analysis on behalf of the State of Texas, develop and follow a written forensic dis-

closure compliance policy for the purpose of ensuring the laboratory's compliance with article 39.14 of the Texas Code of Criminal Procedure.

(8) Ensure the laboratory's forensic disclosure policy provides clear instructions for identifying and disclosing any exculpatory, impeachment, or mitigating document, item, or information in the possession, custody, or control of the laboratory. The policy should explicitly address how to inform potentially affected recipients of any non-conformances or breaches of law or ethical standards that may adversely affect either a current case or a previously issued report or testimony.

(9) Inform all forensic analysts working on behalf of the laboratory that they may report allegations of professional negligence or professional misconduct to the Texas Forensic Science Commission without fear of adverse employment consequences.

(d) Code of Professional Responsibility Applicability to Crime Laboratory Managers at Entities Not Subject to Accreditation Requirements. Crime laboratory managers at entities that perform testing limited to forensic examinations or tests not subject to accreditation as described by Article 38.35(a)(4)(A),(B), (C), or (D), of the Code of Criminal Procedure are not subject to 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.

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Leigh Tomlin

Associate General Counsel

Texas Forensic Science Commission

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For further information, please call: (512) 936-0661



## SUBCHAPTER G. TEXAS FORENSIC ANALYST APPRENTICESHIP PILOT PROGRAM

### 37 TAC §§651.601 - 651.603

The Texas Forensic Science Commission (Commission) proposes new Subchapter G to establish the Texas Forensic Analyst Apprenticeship Pilot Program (TFAAPP) that includes new rules 1) §651.601 Purpose; 2) §651.602 Definitions; and 3) §651.603 Accredited Crime Laboratory Eligibility Requirements for the TFAAPP.

**Background and Justification.** Subchapter G responds to the 89th Texas Legislature's Senate Bill 1620, which requires the Office of Court Administration (OCA, the agency to which the Commission is administratively attached) to collaborate with the Commission to establish and administer a Texas forensic analyst apprenticeship pilot program focused on increasing the forensic science workforce capacity in the State. Specifically, the bill requires the Commission to adopt eligibility requirements for: (1) individuals who may apply for an apprentice position under the pilot program; and (2) publicly funded accredited crime laboratories that may apply to sponsor an apprentice under the pilot program. The rules proposed herein establish: 1) the TFAAPP program; 2) the components required for an individual to qualify

for an apprenticeship; and 3) the components required for a publicly funded accredited crime laboratory to qualify for an award by the Commission to sponsor an apprenticeship position.

**Fiscal Note.** Leigh M. Tomlin, Associate General Counsel of the Commission, has determined that for each year of the first five years the proposed new rules are in effect, there will be no fiscal impact to state or local governments, as a result of the administration of the proposal. The 89th Texas Legislature allocated specific funding to the OCA under its directive to establish the TFAAPP. TFAAPP funds allotted to the OCA will support the salaries of all selected apprentices across publicly funded laboratories at the state, county, and city level.

**Local Employment Impact Statement.** Pursuant to Texas Government Code §2001.022, the proposed new Subchapter has minimal to no effect on local economy. While the program may support one or two new forensic analyst positions at a local, publicly funded crime laboratory, the program is not necessarily intended to impact the number of available positions in any particular local economy and forensic analysts are selected from a pool of applicants that could be from inside or (more likely) outside any particular local community.

**Public Benefit.** Ms. Tomlin has also determined that for each year of the first five years the new rules are in effect, the anticipated public benefit is increased efficiency and capacity of available forensic scientists for publicly funded crime laboratories to support the State's criminal justice system at the state, county, and city levels. The proposed new subchapter establishes an apprenticeship program focused on increasing the forensic science workforce capacity across publicly funded crime laboratories in the State that face challenges in finding qualified candidates sufficient to support the workload.

**Fiscal Impact on Small and Micro-businesses and Rural Communities.** There is no adverse economic effect anticipated for small businesses, micro-businesses, or rural communities, as a result of implementing the proposed new subchapter. Accordingly, no economic impact statement or regulatory flexibility analysis is required under Texas Government Code §2006.002(c).

**Takings Impact Assessment.** Ms. Tomlin has determined that no private real property interests are affected by this proposal and that this proposal does not restrict or limit an owner's right to property that would otherwise exist in the absence of government action and, therefore, does not constitute a taking or require a takings impact assessment under the Government Code §2007.043.

**Government Growth Impact Statement.** Ms. Tomlin has determined that for the first five-year period, implementation of the proposed new subchapter will have some government growth impact as described in Title 34, Part 1, Texas Administrative Code §11.1. Pursuant to the analysis required by Government Code § 2001.221(b): 1) the proposed new subchapter creates a new government program, the TFAAPP; 2) while implementation of the proposed new subchapter creates new employee positions, the positions are funded by the OCA and awarded to qualifying publicly funded crime laboratories; 3) implementation of the proposed new subchapter does not increase or decrease future legislative appropriations to OCA or the Commission; 4) the proposed new subchapter does not require a fee; 5) the proposed new subchapter does not create a new regulation as participation in the program is voluntary; 6) the proposed new subchapter does not expand, limit, or repeal an existing regulation; 7) the proposed new subchapter does not increase or decrease

the number of individuals subject to regulation; and 8) the proposed new subchapter has minimal to no effect on the State's economy.

**Environmental Rule Analysis.** The Commission has determined that the proposed new subchapter is not brought with specific intent to protect the environment or reduce risks to human health from environmental exposure; thus, the Commission asserts that the proposed rules are not a "major environmental rule," as defined in Government Code §2001.0225. As a result, the Commission asserts the preparation of an environmental impact analysis, as provided by §2001.0225, is not required.

**Request for Public Comment.** The Commission invites comments on the proposal from any member of the public. Please submit comments to Leigh M. Tomlin, 1701 North Congress Avenue, Suite 6-107, Austin, Texas 78701 or leigh@fsc.texas.gov. Comments must be received by April 14, 2026 to be considered by the Commission.

**Statutory Authority.** The Commission proposes the new subchapter G under Government Code §§72.201-.203, and the Commission's general rulemaking authority provided in Code of Criminal Procedure, Article 38.01 §3-a.

**Cross reference to statute.** The proposal affects Government Code §§72.201-.203.

§651.601. Purpose.

Generally. This subchapter contains the Texas Forensic Science Commission's (Commission) Forensic Analyst Apprenticeship Pilot Program rules adopted pursuant to Government Code §§72.201-.203, which requires the Office of Court Administration to collaborate with the Commission to establish and administer a forensic analyst apprenticeship pilot program focused on increasing the forensic science workforce capacity in the State.

§651.602. Definitions.

(a) "Accredited crime laboratory" means a crime laboratory, as that term is defined by Article 38.35, Code of Criminal Procedure, that has been accredited by the Commission.

(b) "Pilot program" means the Texas forensic analyst apprenticeship pilot program established under Government Code §§72.201-.203.

(c) "Apprentice" means an individual employee of an accredited crime laboratory who meets both the employment requirements of the accredited crime laboratory sponsoring the apprentice and the requirements of the pilot program.

§651.603. Accredited Crime Laboratory Eligibility Requirements for Texas Forensic Analyst Apprenticeship Pilot Program.

(a) Eligibility Requirements for Accredited Crime Laboratories. Prioritizing the long-term retention of forensic analysts, the Commission shall award an apprentice position to a publicly- funded accredited crime laboratory that meets the following eligibility requirements. A selected accredited crime laboratory must:

(1) declare itself as a National Institute of Standards and Technology, Organization of Scientific Area Committee for Forensic Science Implementer in the forensic discipline for which the laboratory seeks an apprenticeship position or have a plan for implementation approved by the Commission;

(2) implement a forensic disclosure compliance policy as required under the Code of Professional Responsibility, under §651.219(c)(8) of this chapter (relating to Code of Professional Responsibility);

(3) agree to comply with any financial and administrative reporting requirements set forth by the Office of Court Administration;

(4) ensure selected apprentices meet the requirements of subsection (b) of this section;

(5) document a path for long-term retention of apprentices who successfully complete the pilot program, contingent upon the availability of funding;

(6) if awarded a forensic biology apprenticeship position, demonstrate implementation of probabilistic genotyping software or have a plan for implementation approved by the Commission; and

(7) agree to timely notify the Office of Court Administration and the Commission of any material change in the eligibility or ability of an apprentice to participate in the pilot program.

(b) Eligibility Requirements for Apprentice Applicants. The Commission shall award an apprenticeship position to an individual who meets the following eligibility requirements. Selected apprentices must:

(1) satisfy all employment eligibility requirements of the accredited crime laboratory sponsoring the apprentice;

(2) satisfy the minimum education and specific coursework requirements for licensure established under §651.207 of this chapter (relating to Forensic Analyst and Forensic Technician Licensing Requirements, Including Initial License Term and Fee, Minimum Education and Coursework, General Forensic Examination, Proficiency Monitoring, and Mandatory Legal and Professional Responsibility Training) at the highest level of licensure within the forensic discipline for which the apprentice seeks to participate in the pilot program;

(3) submit written responses to essay question(s) developed by the Commission in collaboration with the Texas Association of Crime Laboratory Directors and the Texas Association of Forensic Quality Assurance Managers; and

(4) provide an oral presentation to personnel designated by the sponsoring pilot program accredited crime laboratory on subject(s) to be developed by the Commission in collaboration with the Texas Association of Crime Laboratory Directors and Texas Association of Forensic Quality Assurance Managers.

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

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Leigh Tomlin

Associate General Counsel

Texas Forensic Science Commission

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For further information, please call: (512) 936-0661

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**TITLE 40. SOCIAL SERVICES AND ASSISTANCE**

**PART 15. TEXAS VETERANS COMMISSION**

## CHAPTER 459. NEW VETERAN-OWNED BUSINESS VERIFICATION LETTERS

### 40 TAC §459.1

The Texas Veterans Commission (Commission) proposes the adoption of new rules for 40 Texas Administrative Code (TAC) Chapter 459 New Veteran-Owned Business Verification Letters, in order to comply with Texas Government Code §434.022.

The Commission has analyzed this proposed rulemaking, and the analysis is described below for each category of analysis performed.

#### PART I. PURPOSE AND BACKGROUND

The Commission proposes new rules for Chapter 459 (§459.1), to outline the process necessary to request a Veteran Verification Letter.

#### PART II. EXPLANATION OF SECTIONS

§459.1 - Documents Needed to Request a Veteran Verification Letter for a New Veteran-Owned Business: Outlines the acceptable documentation needed when requesting a Veteran Verification Letter. Establishes that TVC may not accept any documentation submitted for a VVL if the document is redacted or altered, or if the character of military service is not present.

#### PART III. IMPACT STATEMENTS

##### FISCAL NOTE

Michelle Nall, Chief Financial Officer of the Commission, has determined for each year of the first five years the proposed new rule is in effect, there will not be an increase in expenditures or revenue for state and local government due to administering the new proposed rule.

##### COSTS TO REGULATED PERSONS

Michelle Nall, Chief Financial Officer of the Commission, has determined that there will not be anticipated economic costs for people required to comply with the new proposed rule.

##### LOCAL EMPLOYMENT IMPACT

Charlie C. Osborne, Jr., Director of Veteran Services of the Commission, has determined that the proposed new rule will not significantly impact employment conditions in the state.

##### SMALL BUSINESS, MICRO BUSINESS AND RURAL COMMUNITIES IMPACT

Megan Tamez, Director of the Veterans Entrepreneur Program at the Commission, has determined that the proposed new rule will not adversely affect small businesses, micro-businesses, or rural communities as defined in Texas Government Code §2006.001. As a result, an Economic Impact Statement and Regulatory Flexibility Analysis are not required.

##### PUBLIC BENEFIT

Shawn Deabay, Deputy Executive Director of the Commission, has determined that for each of the first five years the proposed new rule is in effect, the public benefit anticipated due to administering the new rule will more closely align with the Commission's operations.

##### GOVERNMENT GROWTH IMPACT STATEMENT

Shawn Deabay, Deputy Executive Director of the Commission, has also determined that for each year of the first five years that

the proposed new rule is in effect, the following statements will apply:

- (1) The proposed new rule will not create or eliminate a government program.
- (2) Implementation of the proposed new rule will not require creation of new employee positions, or elimination of existing employee positions.
- (3) Implementation of the proposed new rule will not require an increase or decrease in future legislative appropriations to the agency.
- (4) No fees will be created by the proposed new rule.
- (5) The proposed new rule will not require new regulations.
- (6) The proposed new rule has no effect on existing regulations.
- (7) The proposed new rule does not increase the number of individuals subject to the rule's applicability.
- (8) The proposed new rule has no effect on this state's economy.

#### TAKINGS IMPACT ASSESSMENT REQUIRED BY TEXAS GOVERNMENT CODE §2007.043.

The Proposed new rule does not contemplate or authorize a taking by the Commission; therefore, no Takings Impact Assessment is required.

#### PART IV. COMMENTS

Comments on the proposed new rule may be submitted to Texas Veterans Commission, Attention: General Counsel, P.O. Box 12277, Austin, Texas 78711; faxed to (512) 475-2395; or emailed to [rulemaking@tvc.texas.gov](mailto:rulemaking@tvc.texas.gov). Please include "VVL Rule" in the subject line for comments submitted electronically. The Commission must receive comments postmarked no later than 30 days from the date this proposal is published in the *Texas Register*.

#### PART V. STATUTORY AUTHORITY

The new rule is proposed under Texas Government Code §434.010, which authorizes the Commission to adopt rules it considers necessary for its administration.

No other statutes, articles, or codes are affected by this rule.

##### §459.1. Documents Needed to Request a Veteran Verification Letter for a New Veteran-Owned Business.

(a) To request a new Veteran Verification Letter (VVL) for a New Veteran-Owned Business from the Texas Veterans Commission (TVC) under Tax Code §171.0005 (Definition of New Veteran-Owned Business) to verify the individual served in and was honorably discharged from a branch of the United States armed forces, an individual shall submit to TVC a copy of the individual's:

- (1) DD-214;
- (2) NGB-22; or
- (3) NA Form 13038.

(b) TVC may not accept a document submitted by an individual under subsection (a) of this section if:

- (1) the document has any information redacted; or
- (2) the individual's character of military service is not

present.

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

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Thomas Palladino

Executive Director

Texas Veterans Commission

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For further information, please call: (737) 320-4167

