

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 16. ECONOMIC REGULATION

PART 1. RAILROAD COMMISSION OF TEXAS

CHAPTER 8. PIPELINE SAFETY REGULATIONS

SUBCHAPTER C. REQUIREMENTS FOR GAS PIPELINES ONLY

16 TAC §8.201

The Railroad Commission of Texas proposes amendments to §8.201, relating to Pipeline Safety and Regulatory Program Fees, to implement House Bill 4042, 89th Texas Legislature (Regular Session, 2025). The bill removes the specification that gas must be natural gas with respect to gas distribution pipelines, gas master-metered pipelines, gas distribution systems, and gas master-metered systems whose operators may be subject to annual pipeline safety and regulatory fees.

The Commission proposes amendments throughout the rule to remove the word "natural" from the rule text.

Stephanie Weidman, Pipeline Safety Director, Oversight and Safety Division, has determined there will be no cost to the Commission as a result of the proposed amendments. Ms. Weidman has determined that for the first five years the amendments will be in effect, there will be no fiscal implications for local governments as a result of enforcing the amendments.

Ms. Weidman has also determined that the public benefit anticipated as a result of enforcing or administering the amendments will ensure consistency with Texas statutes.

Ms. Weidman has determined that for each year of the first five years that the amendments will be in effect, there will be minimal additional economic costs for persons required to comply as a result of Commission adoption of the proposed amendments, namely the affected propane distribution operators. The Commission's most recent information from the calendar year 2024 annual reports indicate there are eight distribution operators with a total of 18,838 service lines; if those operators were paying the fee, the cost would be \$18,838.

In accordance with Texas Government Code, §2006.002, the Commission has determined there will be no adverse economic effect on rural communities, small businesses or micro-businesses resulting from the proposed amendments; although some affected distribution operators may meet the definition of small business under §2006.001, any costs they incur under the amendments may be recovered from their customers pursuant to subsection (b)(3) of this rule; therefore, the Commission has

not prepared the economic impact statement or the regulatory flexibility analysis required under §2006.002.

The Commission has determined that the proposed rulemaking will not affect a local economy; therefore, pursuant to Texas Government Code, §2001.022, the Commission is not required to prepare a local employment impact statement for the proposed rule.

The Commission has determined that the proposed amendments do not meet the statutory definition of a major environmental rule as set forth in Texas Government Code, §2001.0225; therefore, a regulatory analysis conducted pursuant to that section is not required.

During the first five years that the rule would be in effect, the proposed amendments would not: create or eliminate a government program; create or eliminate any employee positions; require an increase or decrease in future legislative appropriations; increase fees paid to the agency; create a new regulation; increase or decrease the number of individuals subject to the rule's applicability; expand, limit, or repeal an existing regulation; or affect the state's economy.

Comments on the proposal may be submitted to Rules Coordinator, Office of General Counsel, Railroad Commission of Texas, P.O. Box 12967, Austin, Texas 78711-2967; online at www.rrc.texas.gov/general-counsel/rules/comment-form-for-proposed-rulemakings; or by electronic mail to rulescoordinator@rrc.texas.gov. The Commission will accept comments until 5:00 p.m., on Monday, December 15, 2025. The Commission finds that this comment period is reasonable because the proposal and an online comment form will be available on the Commission's web site more than two weeks prior to *Texas Register* publication of the proposal, giving interested persons additional time to review, analyze, draft, and submit comments. The Commission encourages all interested persons to submit comments no later than the deadline. The Commission cannot guarantee that comments submitted after the deadline will be considered. For further information, call Ms. Weidman at (512) 463-2519. The status of Commission rulemakings in progress is available at www.rrc.texas.gov/general-counsel/rules/proposed-rules. Once received, all comments are posted on the Commission's website at <https://rrc.texas.gov/general-counsel/rules/proposed-rules/>. If you submit a comment and do not see the comment posted at this link within three business days of submittal, please call the Office of General Counsel at (512) 463-7149. The Commission has safeguards to prevent emailed comments from getting lost; however, your operating system's or email server's settings may delay or prevent receipt.

The Commission proposes the amendments under Texas Natural Resources Code, §81.051 and §81.052, which give the

Commission jurisdiction over all common carrier pipelines in Texas, persons owning or operating pipelines in Texas, and their pipelines and oil and gas wells, and authorize the Commission to adopt all necessary rules for governing and regulating persons and their operations under the jurisdiction of the Commission; and Texas Utilities Code, §121.201, §121.211, §121.213, and §121.214, which authorize the Commission to adopt and collect pipeline safety and regulatory program fees.

Statutory authority: Texas Natural Resources Code, §81.051, §81.052; and Texas Utilities Code, §121.201, §121.211; §121.213, §121.214.

Cross-reference to statute: Texas Natural Resources Code, Chapter 81; and Texas Utilities Code, Chapter 121.

§8.201. Pipeline Safety and Regulatory Program Fees.

(a) Application of fees. Pursuant to Texas Utilities Code, §121.211, the Commission establishes a pipeline safety and regulatory program fee, to be assessed annually against operators of [natural] gas distribution pipelines and pipeline facilities and [natural] gas master metered pipelines and pipeline facilities subject to the Commission's jurisdiction under Texas Utilities Code, Title 3. The total amount of revenue estimated to be collected under this section does not exceed the amount the Commission estimates to be necessary to recover the costs of administering the pipeline safety and regulatory programs under Texas Utilities Code, Title 3, excluding costs that are fully funded by federal sources for any fiscal year.

(b) Gas [Natural gas] distribution systems. The Commission hereby assesses each operator of a [natural] gas distribution system an annual pipeline safety and regulatory program fee of \$1.00 for each service (service line) in service at the end of each calendar year as reported by each system operator on the U.S. Department of Transportation (DOT) Gas Distribution Annual Report, Form PHMSA F7100.1-1 due on March 15 of each year.

(1) Each operator of a [natural] gas distribution system shall calculate the annual pipeline safety and regulatory program total to be paid to the Commission by multiplying the \$1.00 fee by the number of services listed in Part B, Section 3, of Form PHMSA F7100.1-1, due on March 15 of each year.

(2) Each operator of a [natural] gas distribution system shall remit to the Commission on March 15 of each year the amount calculated under paragraph (1) of this subsection. Payments shall be made using the Commission's online application available on the Commission's website.

(3) Each operator of a [natural] gas distribution system shall recover, by a surcharge to its existing rates, the amount the operator paid to the Commission under paragraph (1) of this subsection. The surcharge:

(A) shall be a flat rate, one-time surcharge;

(B) shall not be billed before the operator remits the pipeline safety and regulatory program fee to the Commission;

(C) shall be applied in the billing cycle or cycles immediately following the date on which the operator paid the Commission;

(D) shall not exceed \$1.00 per service or service line; and

(E) shall not be billed to a state agency, as that term is defined in Texas Utilities Code, §101.003.

(4) No later than 90 days after the last billing cycle in which the pipeline safety and regulatory program fee surcharge is billed to

customers, each operator of a [natural] gas distribution system shall file with the Commission's Oversight and Safety Division a report showing:

(A) the pipeline safety and regulatory program fee amount paid to the Commission;

(B) the unit rate and total amount of the surcharge billed to each customer;

(C) the date or dates on which the surcharge was billed to customers; and

(D) the total amount collected from customers from the surcharge.

(5) Each operator of a [natural] gas distribution system that is a utility subject to the jurisdiction of the Commission pursuant to Texas Utilities Code, Chapters 101 - 105, shall file a generally applicable tariff for its surcharge in conformance with the requirements of §7.315 of this title (relating to Filing of Tariffs).

(6) Amounts recovered from customers under this subsection by an investor-owned [natural] gas distribution system or a cooperatively owned [natural] gas distribution system shall not be included in the revenue or gross receipts of the system for the purpose of calculating municipal franchise fees or any tax imposed under Subchapter B, Chapter 182, Tax Code, or under Chapter 122, nor shall such amounts be subject to a sales and use tax imposed by Chapter 151, Tax Code, or Subtitle C, Title 3, Tax Code.

(c) Master [Natural gas master] meter systems. The Commission hereby assesses each [natural gas] master meter system an annual pipeline safety and regulatory program fee of \$100 per master meter system.

(1) Each operator of a [natural gas] master meter system shall remit to the Commission the annual pipeline safety and regulatory program fee of \$100 per master meter system no later than June 30 of each year. Payments shall be made using the Commission's online application available on the Commission's website.

(2) The Commission shall send an invoice to each affected [natural gas] master meter system operator no later than April 30 of each year as a courtesy reminder. The failure of a [natural gas] master meter system operator to receive an invoice shall not exempt the [natural gas] master meter system operator from its obligation to remit to the Commission the annual pipeline safety and regulatory program fee on June 30 each year.

(3) Each operator of a [natural gas] master meter system shall recover as a surcharge to its existing rates the amounts paid to the Commission under paragraph (1) of this subsection.

(4) No later than 90 days after the last billing cycle in which the pipeline safety and regulatory program fee surcharge is billed to customers, each [natural gas] master meter system operator shall file with the Oversight and Safety Division a report showing:

(A) the pipeline safety and regulatory program fee amount paid to the Commission;

(B) the unit rate and total amount of the surcharge billed to each customer;

(C) the date or dates on which the surcharge was billed to customers; and

(D) the total amount collected from customers from the surcharge.

(d) Late payment penalty. If the operator of a [natural] gas distribution system or a [natural gas] master meter system does not

remit payment of the annual pipeline safety and regulatory program fee to the Commission within 30 days of the due date, the Commission shall assess a late payment penalty of 10 percent of the total assessment due under subsection (b) or (c) of this section, as applicable, and shall notify the operator of the total amount due 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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TRD-202503907

Olivia Alland

Attorney, Office of General Counsel

Railroad Commission of Texas

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For further information, please call: (512) 475-1295



PART 4. TEXAS DEPARTMENT OF LICENSING AND REGULATION

CHAPTER 63. FINANCIAL CRIMES INTELLIGENCE CENTER

16 TAC §§63.1 - 63.5

The Texas Department of Licensing and Regulation (Department) proposes new rules at 16 Texas Administrative Code (TAC), Chapter 63, §§63.1 - 63.5, regarding the Financial Crimes Intelligence Center. These proposed changes are referred to as "proposed rules."

EXPLANATION OF AND JUSTIFICATION FOR THE RULES

The rules under 16 TAC, Chapter 63, implement Texas Business and Commerce Code Chapter 607A, Payment Card Skimmers on Electronic Terminals.

The proposed rules implement Senate Bill (SB) 2371, 89th Legislature, Regular Session (2025) which requires merchants to report skimmers on electronic terminals to law enforcement and the Financial Crimes Intelligence Center (FCIC). In these proposed rules, electronic terminals are certain electronic devices, such as point-of-sale terminals, that consumers use to conduct transactions. Skimmers are devices that criminals place on or in electronic terminals and are capable of unlawfully intercepting electronic communications or data to commit fraud. The proposed rules are necessary to establish the procedures merchants must follow when reporting a skimmer to the FCIC and removing the skimmer from electronic terminals.

SECTION-BY-SECTION SUMMARY

The proposed rules create §63.1, Authority. This new rule identifies the authority under which the rules are created.

The proposed rules create §63.2, Definitions. This new rule adds definitions for "Center," "Electronic Terminal," "Merchant," and "Skimmer." The proposed rule in this section establishes what electronic terminals and skimmers are and who is considered a merchant subject to the rules.

The proposed rules create §63.3, Merchant Duties Upon Skimmer Discovery. This new rule sets out what merchants must do

when they discover, or are notified, of a skimmer on an electronic device. The proposed subsection (a) lists the actions a merchant must take upon discovery of a skimmer. Proposed subsection (b) requires merchants to cooperate with law enforcement and the FCIC in the investigation of a suspected or discovered skimmer.

The proposed rules create §63.4, Unauthorized Removal of Skimmers Prohibited. This new rule controls the removal of skimmers by merchants. The proposed subsection (a) specifies the conditions under which merchants may remove skimmers from electronic terminals. Proposed subsection (b) allows merchants to remove skimmers 24 hours after reporting the skimmer if law enforcement or the FCIC has not arrived to remove the skimmer. Proposed subsection (c) sets the procedure that a merchant who is removing a skimmer must follow in order to preserve evidence.

The proposed rules create §63.5, Administrative Sanctions and Penalties. This new rule establishes that violations of Texas Business and Commerce Code, Chapter 607A, this chapter, or any other rule or order may result in penalties and/or sanctions.

FISCAL IMPACT ON STATE AND LOCAL GOVERNMENT

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

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

Mr. Couvillon has determined that for each year of the first five years the proposed rules are in effect, enforcing or administering the proposed rules does not have foreseeable implications relating to costs or revenues of local governments.

LOCAL EMPLOYMENT IMPACT STATEMENT

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

PUBLIC BENEFITS

Mr. Couvillon also has determined that for each year of the first five-year period the proposed rules are in effect, the public benefit will be increased protection by requiring that all discovered skimmers are dealt with consistently and appropriately, which may reduce the financial losses due to skimmer fraud. Merchants are required to report the discovery of skimmers to the FCIC and law enforcement. As a result of reporting, the FCIC will be able to conduct skimmer investigations to ensure that additional skimmers are not present at the retail location.

PROBABLE ECONOMIC COSTS TO PERSONS REQUIRED TO COMPLY WITH PROPOSAL

Mr. Couvillon has determined that for each year of the first five-year period the proposed rules are in effect, there are no anticipated economic costs to persons who are required to comply with the proposed rules.

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

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

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

The proposed rules do not have a fiscal note that imposes a cost on regulated persons, including another state agency, a special district, or a local government. Therefore, the agency is not required to take any further action under Texas Government Code §2001.0045.

GOVERNMENT GROWTH IMPACT STATEMENT

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

1. The proposed rules do not create or eliminate a government program.
2. Implementation of the proposed rules does not require the creation of new employee positions or the elimination of existing employee positions.
3. Implementation of the proposed rules does not require an increase or decrease in future legislative appropriations to the agency.
4. The proposed rules do not require an increase or decrease in fees paid to the agency.
5. The proposed rules create a new regulation. These new regulations are necessary to implement Senate Bill 2371 (Tex. 89th Leg., R.S. 2025).
6. The proposed rules do not expand, limit, or repeal an existing regulation.
7. The proposed rules do not increase or decrease the number of individuals subject to the rules' applicability.
8. The proposed rules do not positively or adversely affect this state's economy.

TAKINGS IMPACT ASSESSMENT

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

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

The Department is requesting public comments on the proposed rules and information related to the cost, benefit, or effect of the proposed rules, including any applicable data, research, or analysis. Any information that is submitted in response to this request

must include an explanation of how and why the submitted information is specific to the proposed rules. Please do not submit copyrighted, confidential, or proprietary information.

Comments on the proposed rules and responses to the request for information may be submitted electronically on the Department's website at https://ga.tdlr.texas.gov:1443/form/Ch63_Rule_Making; by facsimile to (512) 475-3032; or by mail to Shamica Mason, Legal Assistant, Texas Department of Licensing and Regulation, P.O. Box 12157, Austin, Texas 78711. The deadline for comments is 30 days after publication in the *Texas Register*.

STATUTORY AUTHORITY

The proposed rules are proposed under Texas Occupations Code, Chapter 51, which authorizes the Texas Commission of Licensing and Regulation, the Department's governing body, to adopt rules as necessary to implement that chapter and any other law establishing a program regulated by the Department. The proposed rules are also proposed under Texas Business and Commerce Code Chapter 607A.

The statutory provisions affected by the proposed rules are those set forth in Texas Occupations Code, Chapters 51 and Texas Business and Commerce Code Chapter 607A. No other statutes, articles, or codes are affected by the proposed rules.

The legislation that enacted the statutory authority under which the proposed rules are proposed to be adopted is Senate Bill 2371, 89th Legislature, Regular Session (2025).

§63.1. Authority.

This chapter is promulgated under the authority of Texas Business and Commerce Code, Chapter 607A, and Texas Government Code, Chapter 426.

§63.2. Definitions.

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

(1) Center--The Financial Crimes Intelligence Center established by Texas Government Code, Chapter 426.

(2) Electronic Terminal--This term has the meaning assigned by Texas Business and Commerce Code §607A.001 and does not include motor fuel metering devices as defined by Texas Occupations Code §2310.001 or motor fuel unattended payment terminals as defined by Texas Business and Commerce Code §607.001.

(3) Merchant--This term has the meaning assigned by Texas Business and Commerce Code §2.104(a).

(4) Skimmer--A wire or electronic device capable of unlawfully intercepting electronic communications or data to perpetrate fraud as defined by Texas Business and Commerce Code §607A.001.

§63.3. Merchant Duties Upon Skimmer Discovery.

(a) A merchant who discovers or is notified of a skimmer in or on an electronic terminal shall:

(1) immediately make a report to law enforcement of the discovery or notification of the skimmer;

(2) immediately disable the affected electronic terminal and block public access to the electronic terminal until the skimmer has been removed in accordance with §63.4; and

(3) within 24 hours of discovering or being notified of the skimmer, notify the Center using the secure portal on its website, <https://fcic.texas.gov>.

(b) A merchant must cooperate with law enforcement and the Center in the investigation of a suspected or discovered skimmer.

§63.4. Unauthorized Removal of Skimmers Prohibited.

(a) Unless instructed to do so by law enforcement or the Center, a merchant may not remove a skimmer from an electronic terminal except as authorized by subsection (b).

(b) A merchant may remove a skimmer from an electronic terminal if:

(1) The merchant has complied with the requirements of §63.3(a);

(2) More than 24 hours have passed since the merchant notified the Center of the skimmer pursuant to §63.3(a)(3);

(3) Neither law enforcement nor the Center has visited the location to remove the skimmer; and

(4) The merchant follows the removal and transfer procedures outlined in subsection (c).

(c) If removing a skimmer pursuant to subsection (b), a merchant must:

(1) Take photographs or a video recording showing the device situated in the electronic terminal, and of the removal process;

(2) Wear sterile gloves while removing the skimmer;

(3) Place and seal the skimmer in a clear container or bag labeled with the date and time of removal, the full name of the individual removing the skimmer, and the law enforcement case or report number;

(4) Deliver the skimmer to law enforcement; and

(5) Report removal of the skimmer to the Center using the secure portal on its website, <https://fcic.texas.gov>.

§63.5. Administrative Sanctions and Penalties.

If a person or entity violates any provision of Texas Business and Commerce Code, Chapter 607A, this chapter, or any rule or order of the executive director or commission, proceedings may be instituted to impose administrative penalties, administrative sanctions, or both in accordance with the provisions of Texas Business and Commerce Code, Chapter 607A, Texas Occupations Code, Chapter 51, and any associated rules.

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

Filed with the Office of the Secretary of State on November 3, 2025.

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Doug Jennings

General Counsel

Texas Department of Licensing and Regulation

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For further information, please call: (512) 300-8334



TITLE 19. EDUCATION

PART 2. TEXAS EDUCATION AGENCY

CHAPTER 129. STUDENT ATTENDANCE

SUBCHAPTER AA. COMMISSIONER'S RULES

19 TAC §129.1031

The Texas Education Agency (TEA) proposes an amendment to §129.1031, concerning student attendance. The proposed amendment would clarify student eligibility and attendance reporting for off-campus programs and expand the list of entities that may provide those programs.

BACKGROUND INFORMATION AND JUSTIFICATION: Section 129.1031 explains student and funding eligibility for off-campus programs.

The proposed amendment to §129.1031(a) would update the statutory authority from Texas Education Code (TEC), §42.0052 to §48.005(g-1) and §48.007.

New subsection (b) would expand the types of entities that can provide off-campus instructional programs eligible for course credit. In addition to existing provisions, it would include career and technical education providers, student internships, project-based research opportunities, work-based learning opportunities, private schools accredited by recognized accrediting entities, community-based child-care providers meeting criteria under TEC, §29.153, and other off-campus instructional entities approved by the school district.

New subsection (c) would add eligibility criteria required for a student to participate in an off-campus program.

New subsection (c)(1) would add eligibility criteria needed for students participating in off-campus programs provided by institutions of higher education.

New subsection (c)(1)(A) would state that eligible students must have parental approval for the specific program unless they are 18 or older.

New subsection (c)(2) would add criteria that students participating in an off-campus program not provided by an institution of higher education must meet.

New subsection (c)(2)(A) would add that students need to have parental approval for the specific program unless they are 18 or older.

New subsection (c)(2)(B) would add that students must meet the eligibility requirements adopted by a school district or open-enrollment charter school for participation in off-campus programs.

The proposed amendment to subsection (d)(1) would clarify language to include students participating part time in an off-campus program.

New subsection (d)(2) would be added to explain that, for students enrolled full time in an off-campus program, the school district or charter school would set a specific time to take attendance in coordination with the program. The district or charter would also have the flexibility to choose a different attendance time for certain student groups separate from the district's usual schedule.

The proposed amendment to subsection (d)(3) would specify that alternate attendance-taking times may not be changed once they are selected unless permitted by TEA.

The proposed amendment to subsection (e) would remove the term "college" and replace it with broader language concerning any entity providing an off-campus program.

New subsection (e)(1) would be added to state that the school district or charter school is responsible for ensuring that any approved off-campus program complies with all applicable requirements set by the TEC or other relevant authorities.

New subsection (e)(1)(A) would be added to include student enrollment requirements.

New subsection (e)(1)(B) would be added to include assessments required by provisions of TEC, Chapter 39.

New subsection (e)(2) would be added to specify requirements for attendance and assessment and accountability purposes.

New subsection (e)(2)(A) would be added to require a student participating part time in an off-campus program to remain enrolled in their district or charter school campus.

New subsection (e)(2)(B) would be added to require a student participating full time in an off-campus program to be enrolled in a campus with a county district campus number (CDCN) established by the school district or charter school to fulfill serving full-time students under this section. A CDCN may be granted for one or more off-campus providers. An application for a new CDCN for a full-time off-campus program must meet all requirements for new CDCNs.

New subsection (e)(2)(B)(i) would be added to indicate that, if performance of the full-time program results in the revocation of the CDCN for discretionary or mandatory reasons under TEC, Chapter 39A, and other statutes, a school district or charter school is not eligible for funding under this section under the revoked CDCN until TEA reauthorizes the school district or charter school to receive a CDCN for that off-campus provider to serve full-time students.

New subsection (e)(2)(B)(ii) would be added to indicate charter schools must also meet expansion criteria and receive approval for an additional campus prior to requesting a new CDCN for a full-time off-campus program.

New subsection (e)(2)(C) would be added to authorize a full-time off-campus program to operate without a separate CDCN if the number of students enrolled in a full-time off-campus programs will not meet the threshold to generate an accountability rating for the campus. A district or charter school operating a full-time off-campus program must enroll these students in an existing campus.

New subsection (e)(3) would be added indicating revocation of eligibility of a district or charter school to receive funding if the commissioner determines the performance or health and safety of students participating in the program is no longer satisfactory.

FISCAL IMPACT: Marian Schutte, deputy associate commissioner for authorizing and policy, has determined that for the first five-year period the proposal is in effect, there are no additional costs to state or local government, including school districts and open-enrollment charter schools, required to comply with the proposal.

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

SMALL BUSINESS, MICROBUSINESS, AND RURAL COMMUNITY IMPACT: The proposal has no direct adverse economic

impact for small businesses, microbusinesses, or rural communities; therefore, no regulatory flexibility analysis, specified in Texas Government Code, §2006.002, is required.

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

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

GOVERNMENT GROWTH IMPACT: TEA staff prepared a Government Growth Impact Statement assessment for this proposed rulemaking. During the first five years the proposed rulemaking would be in effect, it would expand an existing regulation by expanding the list of entities that may provide off-campus programs.

It 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. Schutte 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 provide school districts with clarifications on attendance reporting for off-campus programs, expand the types of programs eligible to offer off-campus learning opportunities, and explain student eligibility requirements. 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: TEA requests public comments on the proposal, including, per Texas Government Code, §2001.024(a)(8), information related to the cost, benefit, or effect of the proposed rule and any applicable data, research, or analysis, from any person required to comply with the proposed rule or any other interested person. The public comment period on the proposal begins November 14, 2025, and ends December 15. A request for a public hearing on the proposal submitted under the Administrative Procedure Act must be received by the commissioner of education not more than 14 calendar days after notice of the proposal has been published in the *Texas Register* on November 14, 2025. 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), §48.005(g-1), which requires the commissioner to adopt rules to calculate average daily attendance for students in a blended learning programs where instruc-

tion is supplemented with learning opportunities, including internships, externships, and apprenticeships; and TEC, §48.007, which requires the commissioner to adopt verification and reporting procedures concerning time spent by students participating in instructional programs provided off campus by an entity other than a school district or an open-enrollment charter school.

CROSS REFERENCE TO STATUTE. The amendments implement Texas Education Code, §48.005(g-1) and §48.007.

§129.1031. Reporting Off-Campus Programs.

(a) In accordance with ~~[the]~~ Texas Education Code (TEC), §48.005(g-1) and §48.007 ~~[§42.0052]~~, a board of trustees of a school district or a governing body of a charter holder may adopt a policy that allows a student to participate in an off-campus instructional program.

(b) Off-campus instructional programs shall be provided ~~[The program must be provided only]~~ by:

(1) an institution of higher education that is accredited by one of the regional accrediting associations specified in §74.25 of this title (relating to High School Credit for College Courses);

(2) an entity providing career and technical education courses;

(3) an entity providing student internships;

(4) an entity providing project-based research opportunities;

(5) an entity providing other work-based learning opportunities;

(6) a private school accredited by an entity recognized by the commissioner of education as an accrediting entity for private schools in Texas;

(7) a community-based child-care provider who meets criteria established in TEC, §29.153; or

(8) other off-campus education instruction entities that the district permits to provide course credit for students.

(c) ~~[(b)]~~ To be eligible to participate in an off-campus program, a student must meet the following eligibility criteria. [:]

(1) Students participating in an off-campus program provided by an institution of higher education must:

~~[(4)]~~ [be in Grade 11 or 12;]

(A) unless they are 18 years of age or older, have parental approval for the specific off-campus program;

(B) [(2)] have demonstrated college readiness as outlined in the requirements for participation in dual credit programs in the student attendance accounting handbook adopted under §129.1025 of this title (relating to Adoption by Reference: Student Attendance Accounting Handbook);

(C) [(3)] meet any eligibility requirements adopted by the institution of higher education specified in §74.25 of this title; and

(D) [(4)] have the approval of the high school principal or other school official designated by the school district or open-enrollment charter school.

(2) Students participating in an off-campus program not provided by an institution of higher education must:

(A) unless they are 18 years of age or older, have parental approval for the specific off-campus program; and

(B) meet any eligibility requirements adopted by the school district or open-enrollment charter school for participation in off-campus programs.

(d) ~~[(e)]~~ Funding eligibility for a student participating in an off-campus program will include time instructed in the off-campus program.

(1) For students participating part time in an off-campus program, a [A] campus may choose an alternate attendance-taking time for a group of students that is scheduled to be off-campus during the regular attendance-taking time. The alternate attendance-taking time will be in effect for the period of days or weeks for which the group is scheduled to be off-campus during the regular attendance-taking time (for example, for the semester or for the duration of employment).

(2) For students participating full time in an off-campus program, a school district or open-enrollment charter school in collaboration with an off-campus program shall establish a regular attendance-taking time. The school district or charter school may choose an alternate attendance-taking time for a group of students that differs from the district or charter school's regular attendance-taking time.

(3) Unless otherwise permitted by the Texas Education Agency (TEA), this [This] alternate attendance-taking time may not be changed once it is selected for a particular group of students.

(4) If attendance is taken at an off-campus location, the school district must ensure that attendance is taken in accordance with the student attendance accounting handbook adopted under §129.1025 of this title.

(c) ~~[(d)]~~ For a school district or an open-enrollment charter school to receive Foundation School Program funding for a student participating in an off-campus program under this section, the district or charter school must have documentation of an agreement between the district or charter school and the entity providing the off-campus program [college].

(1) The school district or open-enrollment charter school is responsible for ensuring the off-campus program approved under this section complies with any requirements that the TEC or other applicable authority requires that apply for an off-campus program, including, but not limited to:

(A) student enrollment requirements; and

(B) assessments as required by provisions of TEC, Chapter 39;

(2) For attendance and assessment and accountability purposes:

(A) students participating part time in an off-campus program shall remain enrolled in their district or charter school campus; and

(B) except as authorized by subparagraph (C) of this paragraph, students participating full time in an off-campus program shall be enrolled in a campus with a county district campus number (CDCN) established by the school district or charter school for the sole purpose of serving full-time students under this section. A CDCN may be granted for one or more off-campus providers. An application for a new CDCN for a full-time off-campus program must meet all requirements for new CDCNs set forth by TEA.

(i) If performance of the full-time program results in the revocation of the CDCN, for discretionary or mandatory reasons under TEC, Chapter 39A, and other statutes, a school district or charter school is not eligible for funding under this section under the revoked CDCN until TEA reauthorizes the school district or charter school to

receive a CDCN for that off-campus provider to serve full-time students.

(ii) Charter schools must also meet expansion criteria and receive approval for an additional campus prior to requesting a new CDCN for a full-time off-campus program.

(C) TEA may authorize a full-time off-campus program to operate without a separate CDCN as required by subparagraph (B) of this paragraph if the number of students enrolled in a full-time off-campus program will not meet the threshold to generate an accountability rating for the campus. A school district or charter school operating a full-time off-campus program must enroll these students in an existing campus.

(3) The commissioner may revoke the eligibility of a school district or charter school to receive funding under this section if the commissioner determines the performance or health and safety of students participating in the off-campus program is no longer satisfactory.

[(e) The off-campus program approved under this section must comply with rules adopted by the Texas Higher Education Coordinating Board in the Texas Administrative Code, Title 19, Part 1, with respect to teacher qualifications.]

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 November 3, 2025.

TRD-202503975

Cristina De La Fuente-Valadez

Director, Rulemaking

Texas Education Agency

Earliest possible date of adoption: December 14, 2025

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



TITLE 28. INSURANCE

PART 2. TEXAS DEPARTMENT OF INSURANCE, DIVISION OF WORKERS' COMPENSATION

CHAPTER 128. BENEFITS--CALCULATION OF AVERAGE WEEKLY WAGE

28 TAC §§128.3, 128.5 - 128.7

INTRODUCTION. The Texas Department of Insurance, Division of Workers' Compensation (DWC) proposes to amend 28 TAC §§128.3 and 128.5 - 128.7, concerning calculating the average weekly wage (AWW). The proposed amendments implement Texas Labor Code Sections 408.041, 408.042, 408.043, 408.044, and 408.0446 which govern calculating and adjusting an employee's average weekly wage for workers' compensation benefits. DWC posted for comment an informal working draft of the amendments and considered all the comments received.

EXPLANATION. The proposed amendments to Sections 128.3, 128.6, and 128.7 are to correct obsolete references and update the text for plain language and agency style. The proposed

amendments to Section 128.5 changes the process for insurance carriers to request adjustments to a seasonal employee's average weekly wage and get wage information from seasonal employees.

Section 128.3 sets out the method for calculating AWW for all benefits paid to full-time injured employees, as well as AWW for temporary income benefits for all employees. Section 128.3 implements Labor Code §§408.041 and 408.042.

Section 128.6 sets out the method for calculating AWW for injured employees who are minors, apprentices, trainees, or students on the date of injury. Section 128.6 implements Labor Code §408.044.

Section 128.7 sets out the method for calculating AWW for school district employees. Section 128.7 implements Labor Code §408.0446.

Section 128.5 defines seasonal employees and tells how to compute AWW for seasonal employees. It also provides that the AWW may be adjusted to reflect the seasonal wages that the employee could reasonably have expected to earn based on earnings from the corresponding time periods of previous years. Section 128.5 implements Labor Code §408.043 and provides, in part, that the AWW for a seasonal employee is adjusted as often as necessary to reflect the wages the employee could reasonably have expected to earn during the period that temporary income benefits are paid. Amending §128.5 is necessary to provide instructions for insurance carriers to request wage information from seasonal employees and give guidance if there is a dispute over calculating the AWW for seasonal employees.

Previously, insurance carriers could request that DWC provide them with wage information from the Texas Workforce Commission (TWC). Because of changes to data-sharing contracts between TWC and DWC, DWC is prohibited from sharing wage information from TWC's system. Since January 2021, DWC received 12 requests from insurance carriers to get wage information. Half of these requests were not fulfilled because the insurance carrier did not give proper notice to the injured employee. During this same period, DWC received 20 requests to adjust the AWW for seasonal employees. Eighteen requests were denied because the insurance carrier did not give proper notice to the injured employee and the wage information the insurance carrier submitted did not support the proposed wage adjustment. Two requests were withdrawn.

Under the proposed rule, if the employee does not provide the requested wage information or request a benefit review conference within 14 days after the employee receives notice from the insurance carrier, the insurance carrier may ask DWC to issue a subpoena for the seasonal employee's wage information to determine if the AWW should be increased or decreased to more accurately reflect the seasonal nature of the employment. Employees must respond to the subpoena. If the employee does not respond to the subpoena, insurance carriers are still able to use the other available methods of discovery to obtain wage information and may submit relevant wage information that it obtained by methods other than DWC subpoena. The rule also allows an employee or insurance carrier to request a contested case hearing if the employee or insurance carrier disputes DWC's decision on the request to adjust the AWW.

The proposed amendments also include nonsubstantive editorial and formatting changes that make updates for plain language and agency style to improve the rule's clarity.

FISCAL NOTE AND LOCAL EMPLOYMENT IMPACT STATEMENT. Deputy Commissioner for Claims and Customer Services Erica De La Cruz has determined that during each year of the first five years the proposed amendments are in effect, there will be no measurable fiscal impact on state and local governments as a result of enforcing or administering the sections, other than that imposed by the statute. Although DWC will no longer receive the \$15 fee for processing wage information requests, the impact to agency revenue is negligible because of the low number of requests for wage information. There will be no measurable fiscal impact on state and local governments as a result of enforcing or administering the sections because local governments are not involved in enforcing or complying with the proposed amendments.

Deputy Commissioner De La Cruz does not anticipate any measurable effect on local employment or the local economy as a result of this proposal.

PUBLIC BENEFIT AND COST NOTE. For each year of the first five years the proposed amendments are in effect, Deputy Commissioner De La Cruz expects that enforcing and administering the proposed amendments will have the public benefits of promoting compliance with the Workers' Compensation Act, as well as ensuring that DWC's rules conform to Labor Code §§408.041, 408.042, 408.043, 408.044, and 408.0446 and are current and accurate, which promotes transparent and efficient regulation.

Deputy Commissioner De La Cruz expects that the proposed amendments will not increase the cost to comply with Labor Code §§408.041, 408.042, 408.043, 408.044, and 408.0446 because they do not impose requirements beyond those in the statutes. Labor Code §408.043 requires that the AWW for a seasonal employee is adjusted as often as necessary to reflect the wages the employee could reasonably have expected to earn during the period that temporary income benefits are paid. Labor Code §408.041 provides the calculation for AWW and contemplates the use of the employee's wage information. Insurance carriers may choose to serve a subpoena and may incur a cost to serve it. However, the costs of serving a subpoena are attributable to the insurance carrier's choice to serve a subpoena, the laws related to service of subpoenas, and the fees established by those the law authorizes to serve a subpoena. As a result, the costs associated with getting the employee's wage information and serving a subpoena do not result from the enforcement or administration of the proposed amendments.

ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS. DWC has determined that the proposed amendments will not have an adverse economic effect or a disproportionate economic impact on small or micro businesses, or on rural communities because the proposed amendments clarify the process for getting seasonal employee wage information and make editorial changes, changes to update obsolete references, or updates for plain language and agency style. The proposed issuance of subpoenas for seasonal employee wage information does not change the people the rule affects or impose additional costs because the injured employee could provide the wage information, and it is up to the insurance carrier to choose to request a subpoena. As a result, and in accordance with Government Code §2006.002(c), DWC is not required to prepare a regulatory flexibility analysis.

EXAMINATION OF COSTS UNDER GOVERNMENT CODE §2001.0045. DWC has determined that this proposal does not impose a possible cost on regulated persons. As a result, no

additional rule amendments are required under Government Code §2001.0045.

GOVERNMENT GROWTH IMPACT STATEMENT. DWC has determined that for each year of the first five years that the proposed amendments are in effect, the proposed rule:

- will not create or eliminate a government program;
- will not require the creation of new employee positions or the elimination of existing employee positions;
- will not require an increase or decrease in future legislative appropriations to the agency;
- will not require an increase in fees paid to the agency;
- will not create a new regulation;
- will expand, limit, or repeal an existing regulation;
- will not increase or decrease the number of individuals subject to the rule's applicability; and
- will not positively or adversely affect the Texas economy.

DWC made these determinations because the proposed rule enhances efficiency and clarity of producing evidence of wages; conforms the language to current agency structure, practice, and related rules; and makes editorial changes for plain language and agency style. The proposed amendments do not change the people the rule affects or impose additional costs.

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

REQUEST FOR INFORMATION AND PUBLIC COMMENT. DWC requests public comments on the proposal, including information related to the cost, benefit, or effect of the proposal and any applicable data, research, and analysis. DWC will consider any written comments on the proposal that DWC receives no later than 5:00 p.m., Central time, on December 15, 2025. Send your comments to RuleComments@tdi.texas.gov; or to Texas Department of Insurance, Division of Workers' Compensation, Legal Services, MC-LS, P.O. Box 12050, Austin, Texas 78711-2050.

To request a public hearing on the proposal, submit a request before the end of the comment period to RuleComments@tdi.texas.gov; or to Texas Department of Insurance, Division of Workers' Compensation, Legal Services, MC-LS, P.O. Box 12050, Austin, Texas 78711-2050. The request for public hearing must be separate from any comments.

STATUTORY AUTHORITY. DWC proposes §§128.3 and 128.5 - 128.7 under Labor Code §§402.00111, 402.00116, 402.00128, 402.061, 408.041, 408.042, 408.043, 408.044, and 408.0446.

Labor Code §402.00111 provides that the commissioner of workers' compensation shall exercise all executive authority, including rulemaking authority under Title 5 of the Labor Code.

Labor Code §402.00116 provides that the commissioner of workers' compensation shall administer and enforce this title, other workers' compensation laws of this state, and other laws granting jurisdiction to or applicable to DWC or the commissioner.

Labor Code §402.00128 describes the general powers and duties of the commissioner, including to hold hearings; issue subpoenas to compel the attendance of witnesses and the production of documents; take testimony directly or by deposition or interrogatory; and prescribe the form, manner, and procedure for the transmission of information to the division.

Labor Code §402.061 provides that the commissioner of workers' compensation shall adopt rules as necessary to implement and enforce the Texas Workers' Compensation Act.

Labor Code §408.041 provides the calculation for AWW.

Labor Code §408.042 provides the calculation for AWW for part-time employees or employees with multiple employment, among other things.

Labor Code §408.043 provides in part that the AWW for a seasonal employee is adjusted as often as necessary to reflect the wages the employee could reasonably have expected to earn during the period that temporary income benefits are paid.

Labor Code §408.044 provides that the calculation for AWW must be adjusted to reflect the level of expected wages during the period that the benefits are payable for employees that are minors, apprentices, trainees, or students at the time of the injury.

Labor Code §408.0446 provides the calculation of AWW for school district employees.

CROSS-REFERENCE TO STATUTE. Section 128.3 implements Labor Code §408.041, Section 128.5 implements Labor Code §408.043, Section 128.6 implements Labor Code §408.043, enacted by House Bill (HB) 752, 73rd Legislature, Regular Session (1993), and amended by HB 7, 79th Legislature, Regular Session (2005). Section 128.7 implements Labor Code §408.0446, enacted by HB 2600, 77th Legislature, Regular Session (2001), and amended by HB 7, 79th Legislature, Regular Session (2005).

§128.3. Average Weekly Wage Calculation for Full-Time Employees, and for Temporary Income Benefits for All Employees.

(a) All income benefits for full-time employees are based on upon an average weekly wage calculated according to this rule. A full-time employee is one who regularly works at least 30 hours per week and whose [that] schedule is comparable to other employees of that company or [and/or] other employees in the same business or vicinity who are considered full-time.

(b) Temporary income benefits are based on an average weekly wage that [which] is calculated according to this rule for all employees. However, the average weekly wage for determining temporary income benefits of seasonal employees may be periodically adjusted as set out in §128.5(c) of this title ([relating to] Average Weekly Wage Calculation for Seasonal Employees).

(c) The average weekly wage for impairment income, supplemental income, lifetime income, and death benefits must [shall] be calculated according to this section concerning full-time employees, §128.4 of this title ([relating to] Average Weekly Wage Calculation for Part-Time Employees), or §128.5 of this title ([relating to] Average Weekly Wage Calculation for Seasonal Employees). The average weekly wage for an employee who is also a minor, an apprentice, a trainee, or a student must [shall] be adjusted for determining these income benefits (but not temporary income benefits), according to the procedure described in §128.6 of this title ([relating to] Average Weekly Wage Adjustment for Certain Employees Who Are Also Minors, Apprentices, Trainees, or Students).

(d) If an employee has worked for 13 weeks or more before [prior to] the date of injury, or if the wage at the time of injury has not been fixed or cannot be determined, the wages paid to the employee for the 13 weeks immediately preceding the injury are added together and divided by 13. The quotient is the average weekly wage for that employee.

(e) If an employee has worked for less than 13 weeks before [prior to] the date of injury, the wages paid to that employee are not considered. Instead, the wages used for the average weekly wage calculation are those paid by the employer to a similar employee who performs similar services, but who earned wages for at least 13 weeks. If there is no similar employee at the employer's business, the calculation is based on wages paid to a similar employee who performed similar services in the same vicinity, for at least 13 weeks. When a similar employee is identified, the wages paid to that person for the 13 weeks immediately preceding the injury are added together, and divided by 13. The quotient is the average weekly wage for the injured employee.

(f) For purposes of computing average weekly wage under subsection (e) of this section, the following definitions apply:

(1) a similar employee is a person with training, experience, and skills and wages that are comparable to the injured employee. Age, gender, and race must [shall] not be considered;

(2) similar services are tasks performed or services rendered that are comparable in nature to, and in the same class as, those performed by the injured employee, and that are comparable in the number of hours normally worked.

(g) If the methods [set forth] in this rule cannot be applied reasonably due to the irregularity of the employment or, if the employee has lost time from work, without remuneration, during the [said] 13-week period due to illness, weather, or other cause beyond the control of the employee, the commissioner [commission] may determine the employee's average weekly wage by any method that is [it considers] fair, just, and reasonable to all parties and consistent with the methods established under this section.

§128.5. Average Weekly Wage Calculation for Seasonal Employees.

(a) A seasonal employee is an employee who, as a regular course of the employee's conduct, engages in seasonal or cyclical employment [which may or may not be agricultural in nature,] that does not continue throughout the entire year.

(b) The average weekly wage used to determine temporary income benefits for seasonal employees must [shall] be determined according to the procedure described in §128.3(d) or (e) of this title ([relating to] Average Weekly Wage Calculation for Full-Time Employees, and for Temporary Income Benefits for All Employees), subject to the periodic adjustment described in this rule.

(c) The average weekly wage for computing temporary income benefits may be increased or decreased as often as necessary to [more accurately reflect the seasonal nature of the employment, if such an adjustment would more accurately] reflect the wages the employee could reasonably have expected to earn during the period that temporary income benefits are paid. To adjust the average weekly wage: [Evidence of earnings shall be submitted at the time an adjustment is requested. The evidence should include proof of the employee's earnings in corresponding time periods of previous years. In case of a dispute, the commission shall set a benefit review conference to consider whether an adjustment should be made.]

(1) The insurance carrier must notify the employee and the division of its intent to adjust the average weekly wage for temporary income benefits under this subsection. The notice must contain all the information on the division's specimen form, located on the division's

website at www.tdi.texas.gov/wc, including claim information, the notice of intent to adjust the average weekly wage, and the requester's information.

(2) The employee must provide the insurance carrier documents showing the employee's wages in previous years during the corresponding time periods.

(3) If the employee does not provide the requested wage information within 14 days after the employee receives the notice, the insurance carrier may request that the division issue a subpoena for the requested wage history. If the employee does not respond to the subpoena for wage information within 14 days of receiving the subpoena, the insurance carrier may file a request to adjust the average weekly wage under paragraph (4) of this subsection.

(4) The insurance carrier must file with the division the request to adjust the average weekly wage and provide a copy to the employee. The request must contain all the information on the division's specimen form, located on the division's website at www.tdi.texas.gov/wc, including claim information, the notice of intent to adjust the average weekly wage, the request to adjust the average weekly wage, and the requester's information.

(A) The insurance carrier must submit evidence of earnings at the time the insurance carrier requests an adjustment. The evidence should include proof of the employee's earnings in the corresponding time periods of previous years.

(B) The insurance carrier may not make the adjustment until the division approves the request.

(C) The claimant or insurance carrier may appeal DWC's determination by requesting a contested case hearing through the dispute resolution process outlined in Chapters 140 - 144 of this title.

(d) The average weekly wage used to determine impairment income benefits, lifetime income benefits, supplemental income benefits, or death benefits for a seasonal employee must ~~shall~~ be calculated by:

(1) adding together the total wages received by the employee in the 12 months preceding the date of injury and dividing the result by 50; or

(2) if it is impractical to compute the average weekly wage as provided by paragraph (1) of this subsection, another fair, just, and reasonable method as determined in a contested case hearing ~~[benefit review conference]~~ if requested by the person claiming income benefits or the insurance carrier.

§128.6. Average Weekly Wage Adjustment for Certain Employees Who Are Also Minors, Apprentices, Trainees, or Students.

(a) To ~~[In order to]~~ adjust average weekly wage under this rule, for purposes of computing impairment income, supplemental income, lifetime income, and death benefits, an injured employee must ~~fit~~ ~~[come within]~~ one of the following definitions, on the date of injury:

(1) a minor is an employee less than 18 years of age and not emancipated by marriage or judicial action, and is also an apprentice, trainee, or student;

(2) an apprentice is an employee learning a skilled trade or art by practical experience under the direction of a skilled crafts person or artisan;

(3) a trainee is an employee undergoing systematic instruction and practice in some art, trade, or profession with a view ~~toward~~ ~~[towards]~~ proficiency in it; and

(4) a student is an employee enrolled in a course of study or instruction in a high school, college, university, or other institute of higher education or technical training.

(b) The average weekly wage used to determine temporary income benefits for a minor, apprentice, trainee, or student must ~~shall~~ be computed according to §128.3 of this title ~~relating to~~ Average Weekly Wage Calculation for Full-Time Employees, and for Temporary Income Benefits for All Employees), and may not be adjusted. The basic average weekly wage for other income and death benefits must ~~shall~~ be calculated depending on ~~upon~~ whether the employee worked full-time, part-time, or as a seasonal employee, and may be adjusted as described in this section.

(c) The average weekly wage of an employee who is less than 18 years of [a] age, but not a minor as defined in this section, must ~~shall~~ not be adjusted.

(d) The average weekly wage used to determine impairment income benefits, supplemental income benefits, lifetime income benefits, or death benefits for an employee defined under subsection (a) of this section must ~~shall~~ be adjusted on the basis of this rule if the employee also proves that:

(1) the employee's employment or earnings at the time of the injury were limited primarily because of apprenticeship, continuing formal training, or education that can be reasonably calculated to enhance the employee's future wages; and

(2) the employee's wages would reasonably be expected to change during the period for which the impairment income, supplemental income, lifetime income, and death benefits are payable not to exceed three years after the date of injury.

(e) An insurance carrier and the person claiming income benefits may agree to adjust the average weekly wage used to compute impairment income benefits, lifetime income benefits, supplemental income benefits, or death benefits for an employee who meets the requirements of subsections (a) and (d) of this section. The adjustment must ~~shall~~ not reflect the level of the expected wages for a period in excess of three years after the date of injury.

(f) If an insurance carrier and the person claiming income benefits dispute the need for, or the amount of, an adjustment for expected wage levels, the division will ~~commission shall~~ schedule a contested case hearing through the dispute resolution process outlined in Chapters 140 - 144 of this title ~~[benefit review conference]~~. The division will ~~commission shall~~ then consider the evidence submitted by the insurance carrier and the claimant. Objective, documentary, or expert evidence is favored over testimony of interested parties[;] in determining a fair and just expected wage level ~~[an expected wage level which is fair and just]~~.

§128.7. Average Weekly Wage for School District Employees.

(a) This rule applies only to school district employees injured on or after December 1, 2001. The calculations in this rule apply to the portion of the employee's average weekly wage ~~AWW~~ based on ~~upon~~ the employee's employment with the school district where the school district is: the "Claim Employer" as that term is used in §122.5 of this title ~~relating to~~ Employee's Multiple Employment Wage Statement). The average weekly wage ~~AWW~~ of a school district employee injured before December 1, 2001, is computed using the law and ~~commission~~ rules in effect on the date of the injury.

(b) For determining the amount of temporary income benefits of school district employees under Texas Labor Code Chapter 504, the average weekly wage ~~AWW~~ is computed on the basis of wages earned in a week. "Wages earned in a week" are equal to the amount that would be deducted from an employee's salary if the employee were absent

from work for one week and the employee did not have personal leave available to compensate the employee for lost wages for that week. For this calculation, "wages" includes only pecuniary wages.

(c) For determining the amount of temporary income benefits of a school district employee, the average weekly wage must [AWW shall] be computed as follows.

(1) For a school district employee working under a written contract with the school district, the average weekly wage must [AWW shall] be computed by dividing the amount the employee would have been paid had the employee fully completed the terms of the contract (including any stipend the employee was earning or scheduled to receive under the contract) by:

(A) the number of days that the employee was required to work under that contract and multiplied by five (if the contract has specified the number of work days); or

(B) the number of months that the contract was to cover and then dividing the result by 4.34821.

(2) For a school district employee who is employed on a nonwritten [non-written] contract basis (i.e., hourly, daily, salaried, or other basis), the average weekly wage must [AWW shall] be computed by dividing the total gross wages earned in the previous 13-week period immediately preceding the date of injury by 13.

(d) The average weekly wage [AWW] for computing temporary income benefits may be increased or decreased to more accurately reflect wages the school district employee reasonably could expect to earn during the period for which temporary income benefits are paid.

(1) An insurance carrier [~~earrier~~] may adjust the average weekly wage [AWW] based on evidence of earnings.

(2) A school district employee may request adjustments by submitting evidence of earnings to the insurance carrier.

(3) For a period a school district employee would not have earned wages, the average weekly wage [AWW] may be adjusted to zero and no minimum benefit payment may be required.

(e) For determining the amount of impairment income benefits, lifetime income benefits, supplemental income benefits, or death benefits, the average weekly wage must [AWW shall] be computed in accordance with this subsection using only pecuniary wages.

(1) The insurance carrier must [shall] add together the total wages earned by the school district employee during the 12 months immediately preceding the injury and dividing the result by 50 weeks.

(2) If the school district employee provides wage information from other employers for whom the employee worked in the 12 months immediately preceding the injury, these wages must [shall] be included in the calculation of the average weekly wage [AWW]. Note that for injuries on or after July 1, 2002, the effect of wages from a Non-Claim Employer (as the term is defined in §122.5 of this title ([~~relating to~~] Employee's Multiple Employment Wage Statement)) on the employee's average weekly wage [AWW] is governed by §128.1(h)(2) of this title ([~~relating to~~] Average Weekly Wage: General Provisions).

(f) In the event the school district employee or insurance [and/or] carrier believes that the average weekly wage [AWW] computed based on the calculations in this rule does not reflect the true average weekly wage [AWW], the employee and insurance carrier may enter into a written agreement regarding the average weekly wage [AWW] or request a contested case hearing through the dispute resolution process outlined in Chapters 140 - 144 of this title [benefit review conference].

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

Filed with the Office of the Secretary of State on October 29, 2025.

TRD-202503952

Kara Mace

General Counsel

Texas Department of Insurance, Division of Workers' Compensation

Earliest possible date of adoption: December 14, 2025

For further information, please call: (512) 804-4703



TITLE 34. PUBLIC FINANCE

PART 1. COMPTROLLER OF PUBLIC ACCOUNTS

CHAPTER 3. TAX ADMINISTRATION SUBCHAPTER V. FRANCHISE TAX

34 TAC §3.586

The Comptroller of Public Accounts proposes an amendment to §3.586, concerning margin: nexus. The amendment provides guidance on determining economic nexus for certain entities.

The comptroller adds paragraph (3) to the economic nexus provision in subsection (f) to provide that a foreign taxable entity that apportions its margin using a method other than gross receipts must use gross receipts as sourced to Texas under §3.591(e) and (f) of this title (relating to Margin: Apportionment) to determine economic nexus.

Brad Reynolds, Chief Revenue Estimator, has determined that during the first five years that the proposed amended rule is in effect, the rule: will not create or eliminate a government program; will not require the creation or elimination of employee positions; will not require an increase or decrease in future legislative appropriations to the agency; will not require an increase or decrease in fees paid to the agency; will not increase or decrease the number of individuals subject to the rule's applicability; and will not positively or adversely affect this state's economy.

Mr. Reynolds also has determined that the proposed amended rule would benefit the public by providing additional guidance on determining economic nexus. This rule is proposed under Tax Code, Title 2, and does not require a statement of fiscal implications for small businesses or rural communities. The proposed amended rule would have no significant fiscal impact on the state government, units of local government, or individuals. There would be no anticipated significant economic cost to the public.

You may submit comments on the proposal to Jenny Burleson, Director, Tax Policy Division, P.O. Box 13528 Austin, Texas 78711 or to the email address: tp.rule.comments@cpa.texas.gov. The comptroller must receive your comments no later than 30 days from the date of publication of the proposal in the *Texas Register*.

This amendment is proposed under Tax Code, §111.002 (Comptroller's Rules; Compliance; Forfeiture), which provides the comptroller with the authority to prescribe, adopt, and enforce

rules relating to the administration and enforcement of the provisions of Tax Code, Title 2.

The amendment implements Tax Code, §171.001 (Tax Imposed).

§3.586. *Margin: Nexus.*

(a) **Effective date.** The provisions of this section apply to franchise tax reports originally due on or after January 1, 2008, unless otherwise noted.

(b) **Foreign taxable entity.** A taxable entity that is not chartered or organized in Texas.

(c) **Nexus.** A taxable entity is subject to Texas franchise tax when it has sufficient contact with this state to be taxed without violating the United States Constitution. Nexus is determined on an individual taxable entity level.

(d) **Physical presence.** Some specific activities that subject a taxable entity to Texas franchise tax include, but are not limited to, the following:

(1) **advertising:** entering Texas to purchase, place, or display advertising when the advertising is for the benefit of another and in the ordinary course of business (e.g., the foreign taxable entity makes signs and brings them into Texas, sets them up, and maintains them);

(2) **consignments:** having consigned goods in Texas;

(3) **contracting:** performance of a contract in Texas regardless of whether the taxable entity brings its own employees into the state, hires local labor, or subcontracts with another;

(4) **delivering:** delivering into Texas items it has sold;

(5) **employees or representatives:** having employees or representatives in Texas doing the business of the taxable entity;

(6) **federal enclaves:** doing business in any area within Texas, even if the area is leased by, owned by, ceded to, or under the control of the federal government;

(7) **franchisors:** entering into one or more contracts with persons, corporations, or other business entities located in Texas, by which:

(A) the franchisee is granted the right to engage in the business of offering, selling, or distributing goods or services under a marketing plan or system prescribed in substantial part by the franchisor; and

(B) the operation of a franchisee's business pursuant to such plan is substantially associated with the franchisor's trademark, service mark, trade name, logotype, advertising, or other commercial symbol designating the franchisor or its affiliate.

(8) **holding companies:** maintaining a place of business in Texas or managing, directing, and/or performing services in Texas for subsidiaries or investee entities;

(9) **inventory:** having an inventory in Texas or having spot inventory for the convenient delivery to customers, even if the bulk of orders are filled from out of state;

(10) **leasing:** leasing tangible personal property which is used in Texas;

(11) **loan production activities:** soliciting sales contracts or loans, gathering financial data, making credit checks, collecting accounts, repossessing property or performing other financial activities in Texas through employees, independent contractors, or agents, regardless of whether they reside in Texas;

(12) **partners:**

(A) acting as a general partner in a general partnership that is doing business in Texas;

(B) acting as a general partner in a limited partnership that is doing business in Texas (a foreign taxable entity that is a limited partner in a limited partnership does not have physical presence in Texas, if that is the limited partner's only connection with Texas);

(13) **place of business:** maintaining a place of business in Texas;

(14) **processing:** assembling, processing, manufacturing, or storing goods in Texas;

(15) **real estate:** holding, acquiring, leasing, or disposing of any property located in Texas;

(16) **services,** including, but not limited to the following:

(A) providing any service in Texas, regardless of whether the employees, independent contractors, agents, or other representatives performing the services reside in Texas;

(B) maintaining or repairing property located in Texas whether under warranty or by separate contract;

(C) installing, erecting, or modifying property in Texas;

(D) conducting training classes, seminars or lectures in Texas;

(E) providing any kind of technical assistance in Texas, including, but not limited to, engineering services; or

(F) investigating, handling or otherwise assisting in resolving customer complaints in Texas.

(17) **shipment:** sending materials to Texas to be stored awaiting orders for their shipment;

(18) **shows and performances:** the staging of or participating in shows, theatrical performances, sporting events, or other events within Texas;

(19) **solicitation:** having employees, independent contractors, agents, or other representatives in Texas, regardless of whether they reside in Texas, to promote or induce sales of the foreign taxable entity's goods or services;

(20) **telephone listing:** having a telephone number that is answered in Texas; or

(21) **transportation:**

(A) carrying passengers or freight (any personal property including oil and gas transmitted by pipeline) from one point in Texas to another point within the state, if pickup and delivery, regardless of origination or ultimate destination, occurs within Texas; or

(B) having facilities and/or employees, independent contractors, agents, or other representatives in Texas, regardless of whether they reside in Texas:

(i) for storage, delivery, or shipment of goods;

(ii) for servicing, maintaining, or repair of vehicles, trailers, containers, and other equipment;

(iii) for coordinating and directing the transportation of passengers or freight; or

(iv) for doing any other business of the taxable entity.

(e) Texas use tax permit. A foreign taxable entity with a Texas use tax permit is presumed to have nexus in Texas and is subject to Texas franchise tax. If the entity has overcome this presumption, the beginning date is determined under subsection (g)(2)(A) or (C) of this section.

(f) Economic nexus.

(1) For each federal income tax accounting period ending in 2019 or later, a foreign taxable entity has nexus in Texas and is subject to Texas franchise tax, even if it has no physical presence in Texas, if during that federal income tax accounting period, it had gross receipts from business done in Texas of \$500,000 or more, as sourced under §3.591(e) and (f) of this title (relating to Margin: Apportionment).

(2) For purposes of this subsection, gross receipts means all revenue reportable by a taxable entity on its federal return, without deduction for the cost of property sold, materials used, labor performed, or other costs incurred.

(3) The economic nexus threshold in paragraph (1) of this subsection is based on gross receipts and it applies to a foreign taxable entity that apportions its margin using a method other than gross receipts, such as the apportionment methods described in §3.591(c)(1) or (2) of this title.

(g) Beginning date.

(1) Prior to Jan. 1, 2019, a foreign taxable entity begins doing business in Texas on the date the entity has physical presence as described in subsection (d) of this section.

(2) On or after Jan. 1, 2019, a foreign taxable entity begins doing business in Texas on the earliest of:

(A) the date the entity has physical presence as described in subsection (d) of this section;

(B) the date the entity obtains a Texas use tax permit if obtained on or after Jan. 1, 2019 or Jan. 1, 2019, if the entity obtained a use tax permit prior to that date; or

(C) the first day of the federal income tax accounting period ending in 2019 or later in which the entity had gross receipts from business done in Texas of \$500,000 or more.

(h) Trade shows. See §3.583 of this title (relating to Margin: Exemptions) for information concerning exemption for certain trade show participants under Tax Code, §171.084.

(i) Public Law 86-272. Public Law 86-272 (15 United States Code §§381 - 384) does not apply to the Texas franchise tax.

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

Filed with the Office of the Secretary of State on October 30, 2025.

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Jenny Burleson

Director, Tax Policy

Comptroller of Public Accounts

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For further information, please call: (512) 475-2220



TITLE 37. PUBLIC SAFETY AND CORRECTIONS

PART 5. TEXAS BOARD OF PARDONS AND PAROLES

CHAPTER 143. EXECUTIVE CLEMENCY

SUBCHAPTER A. FULL PARDON AND

RESTORATION OF RIGHTS OF CITIZENSHIP

37 TAC §143.11

The Texas Board of Pardons and Paroles proposes amendments to 37 TAC Chapter 143, Subchapter A, concerning full pardon and restoration of rights of citizenship, §143.11. The amendments proposed are to provide edits for sentence structure, and for uniformity and consistency throughout the rules.

Marsha Moberley, Chair of the Board, determined that for each year of the first five-year period the proposed amendments are in effect, no fiscal implications exist for state or local government as a result of enforcing or administering these sections.

Ms. Moberley also has determined that during the first five years the proposed amendments are in effect, the public benefit anticipated as a result of enforcing the amendments to these sections will be the effective administration of sex offender conditions hearings. There will be no effect on small businesses, micro-businesses or rural areas. There is no anticipated economic cost to persons required to comply with the amended rules as proposed. The amendments will not create or eliminate a government program; will not require the creation or elimination of employee positions; will not require an increase or decrease in future legislative appropriations to the agency; will not require an increase or decrease in fees paid to the agency; does not create a new regulation; does not expand, limit, or repeal an existing regulation; will not increase or decrease the number of individuals subject to the rules' applicability; and will not positively or adversely affect this state's economy.

An Economic Impact Statement and Regulatory Flexibility Analysis is not required because the proposed amendments will not have an economic effect on micro-businesses, small businesses, or rural communities as defined in Texas Government Code, Section 2006.001(2).

Comments should be directed to Bettie Wells, General Counsel, Texas Board of Pardons and Paroles, 209 W. 14th Street, Suite 500, Austin, Texas 78701, or by e-mail to bettie.wells@tdcj.texas.gov. Written comments from the general public should be received within 30 days of the publication of this proposal.

The amended rules are proposed under the Texas Constitution, Article 4, Section 11, and the Code of Criminal Procedure, Article 48.01 and Article 48.03. Article 4, Section 11, Texas Constitution authorizes the Board to make clemency recommendations to the Governor. Articles 48.01 and Article 48.03, Code of Criminal Procedure, authorize the Board to make clemency recommendations to the Governor.

No other statutes, articles, or codes are affected by these amendments.

§143.11. Request of the Governor.

The Board shall consider a recommendation for a full pardon and if applicable, [or] request for restoration of firearm rights in any case upon the request of the governor [Governor] as authorized by [Texas] Government Code, Section 508.050.

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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Richard Gamboa

Technical Writer

Texas Board of Pardons and Paroles

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For further information, please call: (512) 406-5309



SUBCHAPTER B. CONDITIONAL PARDON

37 TAC §143.24

The Texas Board of Pardons and Paroles proposes amendments to 37 TAC Chapter 143, Subchapter B, concerning conditional pardon, §143.24. The amendments proposed are to provide edits for sentence structure, and for uniformity and consistency throughout the rules.

Marsha Moberley, Chair of the Board, determined that for each year of the first five-year period the proposed amendments are in effect, no fiscal implications exist for state or local government as a result of enforcing or administering these sections.

Ms. Moberley also has determined that during the first five years the proposed amendments are in effect, the public benefit anticipated as a result of enforcing the amendments to these sections will be the effective administration of sex offender conditions hearings. There will be no effect on small businesses, micro-businesses or rural areas. There is no anticipated economic cost to persons required to comply with the amended rules as proposed. The amendments will not create or eliminate a government program; will not require the creation or elimination of employee positions; will not require an increase or decrease in future legislative appropriations to the agency; will not require an increase or decrease in fees paid to the agency; does not create a new regulation; does not expand, limit, or repeal an existing regulation; will not increase or decrease the number of individuals subject to the rules' applicability; and will not positively or adversely affect this state's economy.

An Economic Impact Statement and Regulatory Flexibility Analysis is not required because the proposed amendments will not have an economic effect on micro-businesses, small businesses, or rural communities as defined in Texas Government Code, Section 2006.001(2).

Comments should be directed to Bettie Wells, General Counsel, Texas Board of Pardons and Paroles, 209 W. 14th Street, Suite 500, Austin, Texas 78701, or by e-mail to bettie.wells@tdcj.texas.gov. Written comments from the general public should be received within 30 days of the publication of this proposal.

The amended rules are proposed under the Texas Constitution, Article 4, Section 11, and the Code of Criminal Procedure, Article 48.01 and Article 48.03. Article 4, Section 11, Texas Constitution authorizes the Board to make clemency recommendations to the Governor. Articles 48.01 and Article 48.03, Code of Criminal Procedure, authorize the Board to make clemency recommendations to the Governor.

No other statutes, articles, or codes are affected by these amendments.

§143.24. Request of the Governor.

The Board shall consider a recommendation for conditional pardon in any case upon the request of the Governor as authorized by [Texas] Government Code, Section 508.050.

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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Richard Gamboa

Technical Writer

Texas Board of Pardons and Paroles

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SUBCHAPTER C. REPRIEVE

37 TAC §143.33, §143.34

The Texas Board of Pardons and Parole (Board) proposes the repeal of Title 37, Chapter 143, Subchapter C. Reprieve, §143.33 and §143.34. The proposed repeal is the result of a review of the subchapter pursuant to the four-year rule review prescribed by §2001.039 Government Code.

The repeal of §143.33 is warranted because the civil courts have the right to subpoena someone to attend or appear before them, making the rule unnecessary. The repeal of §143.34 is warranted because the Board has the statutory authority to release an offender due to their medical condition.

Marsha Moberley, Chair of the Board, determined that for each year of the first five-year period the proposed repeals are in effect, no fiscal implications exist for state or local government as a result of enforcing or administering these sections.

Ms. Moberley also has determined that during the first five years the proposed repeals are in effect, the public benefit anticipated as a result of enforcing the repeals of these sections will be the effective administration of sex offender conditions hearings. There will be no effect on small businesses, micro-businesses or rural areas. There is no anticipated economic cost to persons required to comply with the repealed rules as proposed. The repeals will not create or eliminate a government program; will not require the creation or elimination of employee positions; will not require an increase or decrease in future legislative appropriations to the agency; will not require an increase or decrease in fees paid to the agency; does not create a new regulation; does not expand, limit, or repeal an existing regulation; will not increase or decrease the number of individuals subject to the rules' applicability; and will not positively or adversely affect this state's economy.

An Economic Impact Statement and Regulatory Flexibility Analysis is not required because the proposed repeals will not have an economic effect on micro-businesses, small businesses, or rural communities as defined in Texas Government Code, Section 2006.001(2).

Comments should be directed to Bettie Wells, General Counsel, Texas Board of Pardons and Paroles, 209 W. 14th Street, Suite 500, Austin, Texas 78701, or by e-mail to bet-tie.wells@tdcj.texas.gov. Written comments from the general public should be received within 30 days of the publication of this proposal.

The repeal is proposed under §508.036(b)(1) Government Code, which provides authority for the Board adopt rules relating to the decision-making processes used by the Board and parole panels.

No other statutes, articles, or codes are affected by these repeals.

§143.33. *Emergency Reprieve to Attend Civil Court Proceedings.*

§143.34. *Emergency Medical Reprieve.*

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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Richard Gamboa

Technical Writer

Texas Board of Pardons and Paroles

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SUBCHAPTER D. REPRIEVE FROM EXECUTION

37 TAC §143.42

The Texas Board of Pardons and Paroles proposes amendments to 37 TAC Chapter 143, Subchapter D, concerning reprieve from execution, §143.42. The amendments proposed are to provide edits for grammar, uniformity and consistency throughout the rules, and to reiterate the Governor's statutory authority regarding reprieves.

Marsha Moberley, Chair of the Board, determined that for each year of the first five-year period the proposed amendments are in effect, no fiscal implications exist for state or local government as a result of enforcing or administering these sections.

Ms. Moberley also has determined that during the first five years the proposed amendments are in effect, the public benefit anticipated as a result of enforcing the amendments to these sections will be the effective administration of sex offender conditions hearings. There will be no effect on small businesses, micro-businesses or rural areas. There is no anticipated economic cost to persons required to comply with the amended rules as proposed. The amendments will not create or eliminate a government program; will not require the creation or elimination of employee positions; will not require an increase or decrease in future legislative appropriations to the agency; will not require an increase or decrease in fees paid to the agency; does not create a new regulation; does not expand, limit, or repeal an existing regulation; will not increase or decrease the number of individuals subject to the rules' applicability; and will not positively or adversely affect this state's economy.

An Economic Impact Statement and Regulatory Flexibility Analysis is not required because the proposed amendments will not have an economic effect on micro-businesses, small businesses, or rural communities as defined in Texas Government Code, Section 2006.001(2).

Comments should be directed to Bettie Wells, General Counsel, Texas Board of Pardons and Paroles, 209 W. 14th Street, Suite 500, Austin, Texas 78701, or by e-mail to bet-tie.wells@tdcj.texas.gov. Written comments from the general public should be received within 30 days of the publication of this proposal.

The amended rules are proposed under the Texas Constitution, Article 4, Section 11, and the Code of Criminal Procedure, Article 48.01 and Article 48.03. Article 4, Section 11, Texas Constitution authorizes the Board to make clemency recommendations to the Governor. Articles 48.01 and Article 48.03, Code of Criminal Procedure, authorize the Board to make clemency recommendations to the Governor.

No other statutes, articles, or codes are affected by these amendments.

§143.42. *Reprieve Recommended by the Board.*

The Board will consider a reprieve of execution from death sentence upon receipt of a written application on [in] behalf of an offender. The individual filing such application, if other than the offender, may be required to demonstrate that the individual [he/she] is authorized by the offender to file such application. Any such application shall be addressed to the Texas Board of Pardons and Paroles [Parole] and contain the following information:

- (1) the name of the applicant, execution number, together with any other pertinent identifying information;
- (2) identification of the applicant's agents, if any, who are presenting the application;
- (3) certified copies of the indictment, judgment, verdict of the jury, and sentence in the case, including official documentation verifying the scheduled execution date, if said information is not contained in the sentence;
- (4) a brief statement of the offense for which the offender has been sentenced to death;
- (5) a brief statement of the appellate history of the case, including its current status;
- (6) a brief statement of the legal issues which have been raised during the judicial progress of the case;
- (7) the requested length of duration of the reprieve, which shall be in increments of 30 days that is, 30, 60, 90, and 120 [ete-], unless a different duration is requested upon the basis of the grounds for the application set forth pursuant to paragraph (8) of this section; and,
- (8) all grounds upon the basis of which the reprieve is requested; provided that such grounds shall not call upon the Board to decide technical questions of law which are properly presented via the judicial process.

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

Filed with the Office of the Secretary of State on October 31, 2025.



SUBCHAPTER E. COMMUTATION OF SENTENCE

37 TAC §143.54, §143.58

The Texas Board of Pardons and Paroles proposes amendments to 37 TAC Chapter 143, Subchapter E, concerning commutation of sentence, §143.54 and §143.58. The amendments proposed are to provide edits for grammar and for uniformity and consistency throughout the rules.

Marsha Moberley, Chair of the Board, determined that for each year of the first five-year period the proposed amendments are in effect, no fiscal implications exist for state or local government as a result of enforcing or administering these sections.

Ms. Moberley also has determined that during the first five years the proposed amendments are in effect, the public benefit anticipated as a result of enforcing the amendments to these sections will be the effective administration of sex offender conditions hearings. There will be no effect on small businesses, micro-businesses or rural areas. There is no anticipated economic cost to persons required to comply with the amended rules as proposed. The amendments will not create or eliminate a government program; will not require the creation or elimination of employee positions; will not require an increase or decrease in future legislative appropriations to the agency; will not require an increase or decrease in fees paid to the agency; does not create a new regulation; does not expand, limit, or repeal an existing regulation; will not increase or decrease the number of individuals subject to the rules' applicability; and will not positively or adversely affect this state's economy.

An Economic Impact Statement and Regulatory Flexibility Analysis is not required because the proposed amendments will not have an economic effect on micro-businesses, small businesses, or rural communities as defined in Texas Government Code, Section 2006.001(2).

Comments should be directed to Bettie Wells, General Counsel, Texas Board of Pardons and Paroles, 209 W. 14th Street, Suite 500, Austin, Texas 78701, or by e-mail to bettie.wells@tdcj.texas.gov. Written comments from the general public should be received within 30 days of the publication of this proposal.

The amended rules are proposed under the Texas Constitution, Article 4, Section 11, and the Code of Criminal Procedure, Article 48.01 and Article 48.03. Article 4, Section 11, Texas Constitution authorizes the Board to make clemency recommendations to the Governor. Articles 48.01 and Article 48.03, Code of Criminal Procedure, authorize the Board to make clemency recommendations to the Governor.

No other statutes, articles, or codes are affected by these amendments.

§143.54. Commutation for Jail Time Served before Sentence for Felony Conviction.

The Board will consider a written application for commutation, on a felony conviction, resulting in credit for time served in jail from the time of sentence only if the applicant has been continuously in jail during the entire period for which the application is made and only upon receipt in writing of the following information from the judge of the court of conviction:

- (1) the name of the convicted defendant;
- (2) the cause number and court in which the conviction occurred;
- (3) a statement that it was the intent of the sentencing judge, at the time of sentencing, that the applicant be given credit for the jail time served, but that such credit was not given through oversight or error, as the case may be;
- (4) a statement of the exact number of days, months, or years which should be credited on the sentence;
- (5) a statement that the applicant was continuously in custody and in jail for the total credit period requested; and
- (6) a request that the Board make favorable recommendation to the Governor that such time credit be allowed.

§143.58. Request of the Governor.

The Board shall investigate and consider a recommendation of commutation of sentence in any case, upon the written request of the Governor as authorized by [Texas] Government Code Section 508.050.

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 F. REMISSION OF FINES AND FORFEITURES

37 TAC §143.72, §143.74

The Texas Board of Pardons and Paroles proposes amendments to 37 TAC Chapter 143, Subchapter F, concerning remission of fines and forfeitures, §143.72 and §143.74. The amendments proposed are to provide edits for clarity and for uniformity and consistency throughout the rules.

Marsha Moberley, Chair of the Board, determined that for each year of the first five-year period the proposed amendments are in effect, no fiscal implications exist for state or local government as a result of enforcing or administering these sections.

Ms. Moberley also has determined that during the first five years the proposed amendments are in effect, the public benefit anticipated as a result of enforcing the amendments to these sections will be the effective administration of sex offender conditions hearings. There will be no effect on small businesses, micro-businesses or rural areas. There is no anticipated economic cost to persons required to comply with the amended rules as

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

An Economic Impact Statement and Regulatory Flexibility Analysis is not required because the proposed amendments will not have an economic effect on micro-businesses, small businesses, or rural communities as defined in Texas Government Code, Section 2006.001(2).

Comments should be directed to Bettie Wells, General Counsel, Texas Board of Pardons and Paroles, 209 W. 14th Street, Suite 500, Austin, Texas 78701, or by e-mail to bettie.wells@tdcj.texas.gov. Written comments from the general public should be received within 30 days of the publication of this proposal.

The amended rules are proposed under the Texas Constitution, Article 4, Section 11, and the Code of Criminal Procedure, Article 48.01 and Article 48.03. Article 4, Section 11, Texas Constitution authorizes the Board to make clemency recommendations to the Governor. Articles 48.01 and Article 48.03, Code of Criminal Procedure, authorize the Board to make clemency recommendations to the Governor.

No other statutes, articles, or codes are affected by these amendments.

§143.72. Remission of Fine after Reprieve.

The Board will consider recommending to the Governor remission of fine after satisfactory completion of a reprieve of fine upon receipt of a written application from the applicant or person acting for the applicant [him] and a recommendation of a majority of the trial officials, to be furnished upon official letterhead of each official.

§143.74. Request of the Governor.

The Board shall consider a written request for remission of fine or forfeiture in any case upon the request of the Governor as authorized by [Texas] Government Code, Section 508.050.

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. RESTORATION OF DRIVER'S LICENSE

37 TAC §143.81

The Texas Board of Pardons and Paroles proposes amendments to 37 TAC Chapter 143, Subchapter G, concerning restoration of driver's license, §143.81. The amendments proposed are to provide edits for sentence structure.

Marsha Moberley, Chair of the Board, determined that for each year of the first five-year period the proposed amendments are in effect, no fiscal implications exist for state or local government as a result of enforcing or administering these sections.

Ms. Moberley also has determined that during the first five years the proposed amendments are in effect, the public benefit anticipated as a result of enforcing the amendments to these sections will be the effective administration of sex offender conditions hearings. There will be no effect on small businesses, micro-businesses or rural areas. There is no anticipated economic cost to persons required to comply with the amended rules as proposed. The amendments will not create or eliminate a government program; will not require the creation or elimination of employee positions; will not require an increase or decrease in future legislative appropriations to the agency; will not require an increase or decrease in fees paid to the agency; does not create a new regulation; does not expand, limit, or repeal an existing regulation; will not increase or decrease the number of individuals subject to the rules' applicability; and will not positively or adversely affect this state's economy.

An Economic Impact Statement and Regulatory Flexibility Analysis is not required because the proposed amendments will not have an economic effect on micro-businesses, small businesses, or rural communities as defined in Texas Government Code, Section 2006.001(2).

Comments should be directed to Bettie Wells, General Counsel, Texas Board of Pardons and Paroles, 209 W. 14th Street, Suite 500, Austin, Texas 78701, or by e-mail to bettie.wells@tdcj.texas.gov. Written comments from the general public should be received within 30 days of the publication of this proposal.

The amended rules are proposed under the Texas Constitution, Article 4, Section 11, and the Code of Criminal Procedure, Article 48.01 and Article 48.03. Article 4, Section 11, Texas Constitution authorizes the Board to make clemency recommendations to the Governor. Articles 48.01 and Article 48.03, Code of Criminal Procedure, authorize the Board to make clemency recommendations to the Governor.

No other statutes, articles, or codes are affected by these amendments.

§143.81. Preliminary Requirements.

The Board will consider recommending to the Governor restoration of a driver's or commercial operator's license only after denial of an application for an occupational driver's or commercial operator's license by the district court having jurisdiction. [;] The [the] applicant must furnish an official statement of the reason(s) for the court's denial.

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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