

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY
AGENDA ITEM REQUEST
for Rulemaking Adoption

AGENDA REQUESTED: August 8, 2012

DATE OF REQUEST: July 20, 2012

INDIVIDUAL TO CONTACT REGARDING CHANGES TO THIS REQUEST, IF NEEDED: Charlotte Horn, (512) 239-0779

CAPTION: Docket No. 2011-1685-RUL. Consideration of the adoption of amendments to 30 TAC Chapter 30, Occupational Licenses and Registrations, Subchapter A, Sections 30.24, 30.26, and 30.33.

The adoption would implement House Bill (HB) 965, 82nd Legislature, 2011, Regular Session, relating to Class A and B Public Water System Operators and Class A and B Wastewater Treatment Facility Operators being able to certify their continuing education, when renewing their license. The proposed rules also implement HB 1674, 82nd Legislature, 2011, Regular Session, relating to the issuance or renewal of a license or registration for applicants who have failed to pay child support for six months or more.

Additionally, the proposed rules implement Senate Bill (SB) 1733, 82nd Legislature, 2011, Regular Session, relating to issuance of a license to an applicant who is the spouse of a person serving on active duty as a member of the armed forces of the United States and holds a current license issued by another state. The proposed rules were published in the March 23, 2012, issue of the *Texas Register* (37 TexReg 2003). (Terry Thompson, Kathy Humphreys) (Rule Project No. 2011-044-030-WS)

Brent Wade

Deputy Director

Lynne Haase

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Charlotte Horn

Agenda Coordinator

Copy to CCC Secretary? NO

Texas Commission on Environmental Quality

Interoffice Memorandum

To: Commissioners

Date: July 20, 2012

Thru: Bridget C. Bohac, Chief Clerk
Zak Covar, Executive Director

From: Brent Wade, Deputy Director
Office of Waste

Docket No.: 2011-1685-RUL

Subject: Commission Approval for Rulemaking Adoption
Chapter 30, Occupational Licensing and Registrations
HBs 965 and 1674 and SB 1733: Occupational Licensing
Rule Project No. 2011-044-030-WS

Background and reason(s) for the rulemaking:

House Bill (HB) 965, sponsored by Representative William Callegari, 82nd Legislature, 2011, amended Texas Water Code (TWC), Chapter 37 relating to continuing education requirements for persons holding licenses issued by the Texas Commission on Environmental Quality (TCEQ). HB 1674, sponsored by Representative Jim Jackson, 82nd Legislature, 2011, amended Texas Family Code, §232.0135, relating to procedures for establishment, modification, and enforcement of child support obligations. Additionally, Senate Bill (SB) 1733, sponsored by Senator Leticia Van de Putte, 82nd Legislature, 2011, amended Texas Occupations Code, Chapter 55, relating to the occupational licensing of spouses of members of the military. TWC, §37.002 requires the commission to adopt any rules necessary to administer the provisions of TWC, Chapter 37 and other laws governing occupational licenses and registrations under the commission's jurisdiction.

Scope of the rulemaking:

A.) Summary of what the rulemaking will do:

This rulemaking will allow certain license holders, specifically Class A and B Public Water System Operators and Wastewater Treatment Operators, to certify at the time their license is renewed that they have complied with the commission's continuing education requirements including, but not limited to, internet based continuing education programs for occupational licenses approved by the TCEQ.

This rulemaking will also require that upon notification from a child support agency concerning an individual who has failed to pay child support for six months or more, the commission shall refuse to accept an application for issuance of a license or renewal of an existing license of that applicant. Additionally, this rulemaking will authorize the commission to charge a fee in an amount sufficient to recover the administrative costs incurred for denying or suspending that license.

This rulemaking will allow the commission to issue a license to an applicant who is the spouse of a person serving on active duty as a member of the armed forces of the United

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States and holds a current license issued by another state that has licensing requirements that are substantially equivalent to the requirements for the license issued and regulated by the TCEQ; or within the five years preceding the application date held the license in Texas that expired while the applicant lived in another state for at least six months. The rulemaking will also include provisions to allow alternative demonstrations of competency to meet the requirements for obtaining the license.

B.) Scope required by federal regulations or state statutes:

HB 965 requires that not later than December 1, 2011, the TCEQ adopt rules implementing TWC, §37.008(d), relating to continuing education requirements for certain individuals holding licenses issued by the TCEQ. The rules must provide a method by which the holder of a Class A or Class B public water system operator or domestic wastewater treatment facility operator license may certify the holder's compliance with continuing education requirements.

HB 1674 amends TWC, §232.0135(a) to expand the authority of the commission to take actions against TCEQ licensed or registered individuals that are delinquent on child support payments, by requiring that upon notification from a child support agency concerning an individual who has failed to pay child support for six months or more, the commission refuse to accept an application for issuance of a license or renewal of an existing license of that applicant. HB 1674 also amends TWC, §232.0135(a), to authorize the commission to charge a fee in an amount sufficient to recover the administrative costs incurred for denying or suspending that license.

SB 1733 requires the commission to adopt rules implementing Texas Occupations Code, §55.004, relating to the occupational licensing of spouses of members of the military. The rules shall allow for the issuance of a license to an applicant who is the spouse of a person serving on active duty as a member of the armed forces of the United States and holds a current license issued by another state that has licensing requirements that are substantially equivalent to the requirements for the license issued and regulated by the TCEQ; or within the five years preceding the application date held the license in this state that expired while the applicant lived in another state for at least six months.

C.) Additional staff recommendations that are not required by federal rule or state statute:

None.

Statutory authority:

TWC, §5.013, concerning the General Jurisdiction of the Commission, which establishes the general jurisdiction of the commission; TWC, §5.102, concerning General Powers, which establishes the commission's general authority necessary to carry out its jurisdiction; TWC, §5.103, concerning Rules, which requires the commission to adopt rules necessary to carry out its powers and duties; TWC, §5.105, which provides the commission with the authority to establish and approve all general policy of the commission by rule;

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TWC, §37.002, concerning Rules, which provides that the commission with the authority to adopt rules for various occupational licenses; TWC, §37.003, concerning License or Registration Required, which provides that persons engaged in certain occupations must be licensed by the commission; TWC, §37.005, concerning Issuance and Denial of Licenses and Registration, which requires the commission to establish requirements and uniform procedures for issuing licenses and registrations; TWC, §37.006, concerning Renewal of License or Registration, which requires the commission establish requirements and uniform procedures for renewing licenses and registrations; TWC, §37.008, concerning Training; Continuing Education, which provides that the commission shall approve training programs necessary to qualify for or renew a license; TWC, §37.009 concerning Fees, which provides the commission with the authority to establish and collect fees to cover the cost administering and enforcing the provisions of TWC, Chapter 37; Texas Family Code, §232.0135, concerning Denial of License Renewal, which provides that a child support agency may require that a licensing authority refuse to accept an application for a license renewal for certain individuals; Texas Family Code, §232.014(a) concerning Fee by Licensing Authority which allows the agency to charge a fee in an amount sufficient to recover the administrative costs incurred for denying or suspending that license; and Texas Occupations Code, §55.004, concerning Alternative License Procedure for Military Spouse, which provides that state agencies must provide for alternative methods to license military spouses.

Effect on the:

A.) Regulated community:

This rulemaking does not create a group of affected persons who were not affected previously. There will be no fiscal impact to the regulated community as a result of this rulemaking.

B.) Public:

This rulemaking does not create a group of affected persons who were not affected previously. There will be no fiscal impact to the public as a result of this rulemaking.

C.) Agency programs:

This rulemaking does not create a group of affected persons who were not affected previously. There will be no fiscal impact to agency programs as a result of this rulemaking.

Stakeholder meetings:

No stakeholder meetings were held.

Public comment:

The commission held a public hearing on April 12, 2012. The comment period closed on April 23, 2012. The commission received one comment from the Texas Association of Clean Water Agencies (TACWA). TACWA supported adoption of the rules as proposed.

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Significant changes from proposal:

There were no substantive changes from proposal.

Potential controversial concerns and legislative interest:

There are no potential controversial concerns or legislative interest.

Does this rulemaking affect any current policies or require development of new policies?

This rulemaking will not affect any current policies or require development of new policies.

What are the consequences if this rulemaking does not go forward? Are there alternatives to rulemaking?

If this rulemaking does not go forward, the agency will be noncompliant with implementing HB 965, which requires that not later than December 1, 2011, the TCEQ adopt rules implementing TWC, §37.008(d), HB 1674 which expands the authority of the commission to take actions against TCEQ licensed or registered individuals that are delinquent on child support payments and SB 1733 which requires the commission to adopt rules implementing Texas Occupations Code, § 55.004.

Key points in the adoption rulemaking schedule:

Texas Register proposal publication date: March 23, 2012

Anticipated Texas Register publication date: August 24, 2012

Anticipated effective date: August 30, 2012

Six-month Texas Register filing deadline: September 23, 2012

Agency contacts:

Terry Thompson, Rule Project Manager, 239-6095, Permitting and Registration Support Division

Kathy Humphreys, Staff Attorney, 239-3417

Charlotte Horn, Texas Register Coordinator, 239-0779

Attachments

cc: Chief Clerk, 2 copies
Executive Director's Office
Susana M. Hildebrand, P.E.
Anne Idsal
Curtis Seaton
Tucker Royall
Office of General Counsel
Terry Thompson
Charlotte Horn

The Texas Commission on Environmental Quality (TCEQ, agency, commission) adopts the amendments to §§30.24, 30.26 and 30.33

The amendments to §§30.24, 30.26, and 30.33 as published in the March 23, 2012, issue of the *Texas Register* (37 TexReg 2003) are adopted *without changes* to the proposed text and will not be republished.

Background and Summary of the Factual Basis for the Adopted Rules

The adopted rules implement requirements in House Bill (HB) 965, 82nd Legislature, 2011, relating to Class A and B Public Water System Operators and Class A and B Wastewater Treatment Facility Operators being able to certify, when they renew their license, that they have complied with the commission's continuing education requirements. The adopted rules also implement requirements in HB 1674, 82nd Legislature, 2011, relating to the issuance or renewal of a license or registration for applicants who have failed to pay child support for six months or more. Additionally, the adopted rules implement requirements in Senate Bill (SB) 1733, 82nd Legislature, 2011, relating to issuance of a license to an applicant who is the spouse of a person serving on active duty as a member of the armed forces of the United States and holds a current license issued by another state that has licensing requirements that are substantially equivalent to the requirements of the agency.

This adopted rulemaking will allow Class A and B Public Water System Operators and Class A and B Wastewater Treatment Facility Operators, to certify, when they renew their license, that they have complied with the commission's continuing education requirements. The continuing education options include, but are not limited to, internet based continuing education programs for occupational licenses approved by the TCEQ.

This adopted rulemaking also requires that, upon notification from a child support agency, the commission refuse to accept an application for issuance of a new license or registration, as well as an application for the renewal of an existing license or registration of an applicant who has failed to pay child support for six months or more.

This adopted rulemaking will authorize the commission to charge a fee in an amount sufficient to recover the administrative costs incurred for denying or suspending that license.

Finally, this rulemaking will allow the commission to issue a license to an applicant who is the spouse of a person serving on active duty as a member of the armed forces of the United States and holds a current license issued by another state that has licensing requirements that are substantially equivalent to the requirements for the license issued and regulated by the TCEQ. This rulemaking will also allow the agency to issue a license to an applicant who is the spouse of a person serving on active duty as a member of the armed forces of the United States and, within the five years preceding the application

date, held the license in this state that expired while the applicant lived in another state for at least six months. The rulemaking will also include provisions to allow alternative demonstrations of competency to meet the requirements for obtaining a license.

Section by Section Discussion

Subchapter A, Administration of Occupational Licenses and Registrations

The adopted amendment to §30.24, License and Registration Applications for Renewal, will allow Class A and B Public Water System Operators and Wastewater Treatment Operators, to certify at the time they renew their license that they have complied with the commission's continuing education requirements. These continuing education options include, but are not limited to, internet based continuing education programs for occupational licenses approved by the TCEQ.

The adopted amendment to §30.26, Recognition of Licenses from Out-of-State, will allow the commission to issue a license to an applicant who is the spouse of a person serving on active duty as a member of the armed forces of the United States and holds a current license issued by another state that has licensing requirements that are substantially equivalent to the requirements for the license issued and regulated by the TCEQ. The adopted amendment will also allow the commission to issue a license to an applicant who was previously licensed in Texas, but whose license expired while they lived in another state for at least six months. To obtain a license under this provision

the applicant must have been licensed in Texas during the five years preceding their application for a new license. The amendment also includes provisions that allow an applicant to use an alternative demonstration of competency to meet the requirements for obtaining a license.

The adopted amendment to §30.33, License or Registration Denial, Warning, Suspension, or Revocation requires that, if the commission is notified by a child support agency that an individual has failed to pay child support for six months or more, the commission must refuse to accept an applicant's application for a new license, registration or renewal of an existing license. The adopted amendment will also authorize the commission to charge a fee in an amount sufficient to recover the administrative costs incurred for denying or suspending a license.

Final Regulatory Impact Determination

The commission reviewed this rulemaking action in light of the regulatory analysis requirements of Texas Government Code, §2001.0225, and determined that the adopted rules are not subject to that statute. Texas Government Code, §2001.0225 applies only to rules that are specifically intended to protect the environment or reduce risks to human health from environmental exposure. The intent of the adopted rules are to allow Class A and B Public Water System Operators and Class A and B Wastewater Treatment Facility Operators to certify that they have complied with the commission's

continuing education requirements when they renew their licenses; provide special provisions to allow spouses of active duty members of the armed forces obtain occupational licenses based on a license from another state or an expired Texas occupational license; or by demonstrating competency through an alternative method. Finally, the adopted amendments will require that, if the commission is notified by a child support agency that an individual has failed to pay child support for six months or more, the commission must refuse to accept an applicant's application for a new license or renewal of an existing license and would also authorize the commission to charge a fee in an amount sufficient to recover the administrative costs incurred for denying or suspending a license. The adopted rules are not specifically intended to protect the environment or reduce risk to human health from environmental exposure, but rather the intent of the adopted rules are to implement new regulations for the agency's licensing and registration programs that are necessary to ensure more consistent operation and enforcement among the licensing and registration programs that the agency administers. The adopted rules will not adversely affect, in a material way, the economy, a sector of the economy, productivity, competition, jobs, the environment, or the public health and safety of the state or a sector of the state. Thus, the adopted rules do not meet the definition of "a major environmental rule" as defined in Texas Government Code, §2001.0225(g)(3), and thus, do not require a full regulatory impact analysis.

Furthermore, the adopted rules do not meet any of the four applicability requirements listed in Texas Government, §2001.0225(a). Texas Government Code, §2001.0225 applies only to a major environmental rule which: 1) exceeds a standard set by federal law, unless the rule is specifically required by state law; 2) exceeds an express requirement of state law, unless the rule is specifically required by federal law; 3) exceeds a requirement of a delegation agreement or contract between the state and an agency or representative of the federal government to implement a state and federal program; or 4) is adopted solely under the general powers of the agency instead of under a specific state law.

There are no federal standards regulating occupational licensing; however, if there were, these rules are specifically required by HB 965, HB 1674, and SB 1733. These rules do not exceed state law requirements, and state law requires their implementation, not federal law. There are no delegation agreements or contracts between the State of Texas and an agency or representative of the federal government to implement a state and federal program regarding occupational licensing. And finally, these rules are being adopted under specific state laws, in addition to the general powers of the agency.

The commission invited public comment regarding the draft regulatory impact analysis determination during the public comment period. There were no public comments received regarding the draft regulatory impact analysis determination during the public

comment period.

Takings Impact Assessment

The commission evaluated these adopted rules and performed an assessment of whether these adopted rules constitute a taking under Texas Government Code, Chapter 2007. The purpose of the adopted rules is to ensure consistency between the rules and their applicable statutes. Promulgation and enforcement of these adopted rules would be neither a statutory nor a constitutional taking of private real property. Specifically, the subject adopted regulations do not affect a landowner's rights in private real property because this rulemaking does not burden nor restrict or limit the owner's right to property and reduce its value by 25% or more beyond that which would otherwise exist in the absence of the regulations. These adopted rules make legislatively mandated changes to the existing rules and the adopted new regulations do not affect private real property.

Consistency with the Coastal Management Program

The commission reviewed the adopted rules and found that they are neither identified in Coastal Coordination Act Implementation Rules, 31 TAC §505.11(b)(2) or (4), nor will they affect any action/authorization identified in Coastal Coordination Act Implementation Rules, 31 TAC §505.11(a)(6). Therefore, the adopted rules are not subject to the Texas Coastal Management Program.

The commission invited public comment regarding the consistency with the coastal management program during the public comment period. There were no public comments received regarding the consistency with the coastal management program during the public comment period.

Public Comment

The commission held a public hearing on April 12, 2012. The comment period closed on April 23, 2012. The commission received a comment from the Texas Association of Clean Water Agencies (TACWA). TACWA supported adoption of the rules as proposed.

Response to Comment

Comments to Subchapter A: Administration of Occupational Licenses and Registrations

Comment

In regards to the proposed revisions to Subchapter A, TACWA commented that it supported the commission's full adoption of the rules as published in the *Texas Register* on March 23, 2012. In particular, the amendments to Subchapter A, §30.24, that implements HB 965.

Response

The commission acknowledges support of the rules by TACWA. The

commission made no changes to the rules in response to this comment.

**SUBCHAPTER A: ADMINISTRATION OF OCCUPATIONAL
LICENSES AND REGISTRATIONS**

§§30.24, 30.26, 30.33

Statutory Authority

These amendments are adopted under Texas Water Code (TWC), §5.013, concerning the General Jurisdiction of the Commission, which establishes the general jurisdiction of the commission; TWC, §5.102, concerning General Powers, which establishes the commission's general authority necessary to carry out its jurisdiction; TWC, §5.103, concerning Rules, which requires the commission to adopt rules necessary to carry out its powers and duties; TWC, §5.105, which provides the commission with the authority to establish and approve all general policy of the commission by rule; TWC, §37.002, concerning Rules, which provides that the commission with the authority to adopt rules for various occupational licenses; TWC, §37.003, concerning License or Registration Required, which provides that persons engaged in certain occupations must be licensed by the commission; TWC, §37.005, concerning Issuance and Denial of Licenses and Registration, which requires the commission to establish requirements and uniform procedures for issuing licenses and registrations; TWC, §37.006, concerning Renewal of License or Registration, which requires the commission establish requirements and uniform procedures for renewing licenses and registrations; TWC, §37.008, concerning Training; Continuing Education, which provides that the commission shall approve

training programs necessary to qualify for or renew a license; TWC, §37.009 concerning Fees, which provides the commission with the authority to establish and collect fees to cover the cost administering and enforcing the provisions of TWC, Chapter 37; Texas Family Code, §232.0135, concerning Denial of License Renewal, which provides that a child support agency may require that a licensing authority refuse to accept an application for a license renewal for certain individuals; Texas Family Code, §232.014(a), concerning Fee by Licensing Authority, which allows the agency to charge a fee in an amount sufficient to recover the administrative costs incurred for denying or suspending that license; and Texas Occupations Code, §55.004, concerning Alternative License Procedure for Military Spouse, which provides that state agencies must provide for alternative methods to license military spouses.

The adopted rules implement requirements in House Bill (HB) 965, 82nd Legislature, 2011, which amended TWC, §37.008; HB 1674, 82nd Legislature, which amended Texas Family Code, §232.0135 and §232.014; and Senate Bill 1733, 82nd Legislature, 2011, which amended Texas Occupations Code, §55.004.

§30.24. License and Registration Applications for Renewal.

(a) A license or registration may not be renewed if it has been:

(1) expired for more than 30 days and an application has not been received by the executive director or postmarked within 30 days after the expiration date of the license or registration;

(2) revoked; or

(3) replaced by a higher class of license.

(b) Applications for renewal must be made on a standard form provided by the executive director.

(1) The executive director shall mail a renewal application at least 60 days before the license or registration expires to the most recent address provided to the executive director. If a person does not receive a renewal application, the person is not relieved of the responsibility to timely submit a renewal application.

(2) The person is responsible for ensuring that the completed renewal application, the renewal fee, and other required information are submitted to the executive director by the expiration date of the license or registration.

(c) All statements, qualifications, and attachments provided by the applicant that relate to a renewal application shall be true, accurate, complete, and contain no misrepresentation or falsification.

(d) The continuing education which includes, but is not limited to, classroom and training programs made available through the internet used to renew a license must be successfully completed after the issuance date and before the expiration date of the current license. Any training credits completed in excess of the amount required for the renewal period shall not be carried over to the next renewal period.

(e) An individual who holds a license prescribed by Texas Water Code, §26.0301, or Texas Health and Safety Code, §341.033 or §341.034, specifically the holder of a Class A or Class B public water system operator or Class A or B wastewater treatment facility operator license may certify compliance with continuing education requirements prior to or at the time the license is renewed by submitting a continuing education certification form available from the executive director.

(f) [(e)] The executive director may renew a license or registration if the application is received by the executive director or is postmarked within 30 days after the expiration date of the license or registration, and the person meets the requirements for renewal by the expiration date of the license or registration and pays all appropriate

fees. This subsection does not extend the validity period of the license or registration nor grant the person authorization to perform duties requiring a license or registration. This subsection only allows an additional 30 days after the expiration of the license or registration for the person to submit the renewal application, any supporting documentation, and appropriate fees.

(g) [(f)] An individual whose license renewal application is not received by the executive director or is not postmarked within 30 days after the license expiration date may not renew the license and must meet the current education, training, and experience requirements, submit a new application with the appropriate fee, and pass the examination. A person whose registration renewal application is not received by the executive director or is not postmarked within 30 days after the expiration date may not renew the registration and must submit a new application with the appropriate fee and meet all applicable requirements for a new registration.

(h) [(g)] Persons failing to renew their license or registration in a timely manner due to serving on active duty in the United States armed forces outside this state may renew their license within 180 days of returning from active duty by submitting the following:

- (1) a completed renewal application;

(2) a copy of the military orders substantiating the military service during the time the license expired; and

(3) the applicable license renewal fee.

(i) [(h)] For good cause the executive director may extend the 180-day period for individuals serving on active duty in the United States armed forces outside this state seeking to renew their license. Good cause may include, but is not limited to, hospitalization or injury to the licensee.

(j) [(i)] Completion of the required continuing education will be waived for the renewal cycle while the licensee was on active duty service in the United States armed forces outside this state.

(k) [(j)] These procedures apply only to individuals on active duty service in the United States armed forces outside this state and not to military contractors.

(l) [(k)] All licensees must notify the executive director of any change in the previously submitted application information within ten days from the date the change occurs.

(m) [(l)] All registration holders must notify the executive director of any change in the previously submitted application information within ten days after the month in which the change occurs.

(n) [(m)] Licenses and registrations that have renewal cycles in transition shall follow the renewal requirements in the applicable subchapter.

(o) [(n)] The executive director shall determine whether an applicant meets the renewal requirements of this subchapter. If all requirements have been met, the executive director shall renew the license or registration and send it to the applicant within 45 days after the date the executive director receives the renewal application.

(p) [(o)] The license or registration shall be valid for the term specified.

(q) [(p)] If the application does not meet the requirements, the executive director shall notify the applicant in writing of the deficiencies within 45 days after the date the executive director receives the renewal application.

(r) [(q)] All deficiencies must be corrected within 30 days of date printed on the notification, or the renewal application shall be considered void after the license expiration date.

(s) [(r)] A person whose license or registration has expired shall not engage in activities that require a license or registration until the license or registration is renewed or a new license or registration has been obtained.

§30.26. Recognition of Licenses from Out-of-State.

(a) Except for landscape irrigators [and installers,] the executive director may waive qualifications, training, or examination for individuals with a good compliance history who hold a current license from another state, territory, or country if that state, territory, or country has requirements equivalent to those in this chapter.

(b) A license may be issued after review and approval of the application, receipt of the appropriate fee, and verification of the license from the corresponding state, territory, or country.

(c) The executive director may waive any of the prerequisites for obtaining a landscape irrigator or installer license, if the applicant is licensed as an irrigator in another jurisdiction that has a reciprocity agreement with the State of Texas.

(d) The executive director may require the applicant to provide information about other occupational licenses and registrations held by the person, including:

(1) the state in which the other license or registration was issued;

(2) the current status of the other license or registration; and

(3) whether the other license or registration was ever denied, suspended, revoked, surrendered, or withdrawn.

(e) The executive director shall issue a license to an applicant who is the spouse of a person serving on active duty as a member of the armed forces of the United States and:

(1) holds a current license issued by another state that has licensing requirements that are substantially equivalent to the requirements for the license; or

(2) within the five years preceding the application date held the license in this state that expired while the applicant lived in another state for at least six months.

(f) In lieu of the standard method(s) of demonstrating competency for a particular license, and based on the applicant's circumstances, the alternative methods

for demonstrating competency may include, but not be limited to, any combination of the following as determined by the executive director:

(1) education;

(2) continuing education;

(3) examinations (written, practical, or a combination of written and practical);

(4) letters of good standing;

(5) letters of recommendation;

(6) work experience; or

(7) other methods or options as determined by the executive director.

§30.33. License or Registration Denial, Warning, Suspension, or Revocation.

(a) The executive director may deny an initial or renewal application for the following reasons.

(1) Insufficiency. The executive director shall notify the applicant of the executive director's intent to deny the application and advise the applicant of the opportunity to file a motion for reconsideration under §50.39 of this title (relating to Motion for Reconsideration). The executive director may determine that an application is insufficient for the following reasons:

(A) failing to meet the licensing or registration requirements of this chapter; or

(B) if an out-of-state licensing program does not have requirements substantially equivalent to those of this chapter.

(2) Cause. After notice and opportunity for a hearing, the commission may deny an application for a license or registration by an applicant who:

(A) provides fraudulent information or falsifies the application;

(B) has engaged in fraud or deceit in obtaining or applying for a license or registration;

(C) has demonstrated gross negligence, incompetence, or misconduct in the performance of activities authorized by a license or registration;

(D) made an intentional misstatement or misrepresentation of fact or information required to be maintained or submitted to the commission by the applicant or by the license or registration holder;

(E) failed to keep and transmit records as required by a statute within the commission's jurisdiction or a rule adopted under such a statute;

(F) at the time the application is submitted, is indebted to the state for a fee, penalty, or tax imposed by a statute within the commission's jurisdiction or a rule adopted under such a statute;

(G) is in default on loans guaranteed by Texas Guaranteed Student Loan Corporation (TGSLC) (the executive director shall proceed as described in Texas Education Code, Chapter 57) if identified by TGSLC and the application is for a renewal license or registration; or

(H) has been convicted of:

(i) an offense that directly relates to the duties and responsibilities of the licensed occupation;

(ii) an offense that does not directly relate to the duties and responsibilities of the licensed occupation and that was committed less than five years before the date the applicant applies for the license;

(iii) an offense listed in Code of Criminal Procedure, Article 42.12, Section 3g; or

(iv) a sexually violent offense, as defined by Code of Criminal Procedure, Article 62.001.

(b) If a person causes, contributes to, or allows a violation of this chapter, the executive director may issue a warning letter. The letter shall be placed in the person's permanent file maintained by the executive director. This letter shall be a warning that further violations or offenses by the person may be grounds for suspension, revocation, enforcement action, or some combination. A warning is not a prerequisite for initiation of suspension, revocation, or enforcement proceedings.

(c) After notice and hearing, the commission may suspend or revoke a license, certificate, or registration on any of the grounds contained in Texas Water Code, §7.303(b).

(d) After notice and hearing, the commission may suspend or revoke a license on the grounds that the individual has been convicted of:

(1) an offense that directly relates to the duties and responsibilities of the licensed occupation;

(2) an offense that does not directly relate to the duties and responsibilities of the licensed occupation and that was committed less than five years before the date the individual applies for the license;

(3) an offense listed in Code of Criminal Procedure, Article 42.12, Section 3g; or

(4) a sexually violent offense, as defined by Code of Criminal Procedure, Article 62.001.

(e) The commission shall revoke the license or registration upon an individual's imprisonment following a felony conviction, felony community supervision revocation, revocation of parole, or revocation of mandatory supervision.

(f) Except as provided by subsection (g) of this section, notwithstanding any other law, the executive director may not consider an individual to have been convicted of an offense for purposes of this section if, regardless of the statutory authorization:

(1) the individual entered a plea of guilty or nolo contendere;

(2) the judge deferred further proceedings without entering an adjudication of guilt and placed the individual under the supervision of the court or an officer under the supervision of the court; and

(3) at the end of the period of supervision, the judge dismissed the proceedings and discharged the individual.

(g) The executive director may consider an individual to have been convicted of an offense for purposes of this section regardless of whether the proceedings were dismissed and the individual was discharged as described by subsection (f) of this

section if, after consideration of the factors described by Texas Occupations Code, §53.022 and §53.023(a), the executive director determines that:

(1) the individual may pose a continued threat to public safety; or

(2) employment of the individual in the licensed occupation would create a situation in which the individual has an opportunity to repeat the prohibited conduct.

(h) After notice and hearing, the commission may revoke a maintenance provider registration on any of the grounds in Texas Health and Safety Code, §366.0515(m).

(i) Failure to pay child support.

(1) The commission may suspend a license or registration if a licensed or registered individual has been identified by the Office of the Attorney General as being delinquent on child support payments (upon receipt of a final order suspending a license or registration, the executive director shall proceed as described in Texas Family Code, Chapter 232).

(2) The commission shall refuse to accept an application for:

(A) issuance of a new license or registration to an individual; or

(B) renewal of an existing license or registration to an individual if:

(i) the individual has failed to pay child support for six months or more;

(ii) the commission is notified by a child support agency, as defined by Texas Family Code, §101.004; and

(iii) the child support agency requests the commission to refuse to accept the application.

(3) The commission shall not accept an application for a license that was refused under paragraph (2) of this subsection until notified by the child support agency that the individual has:

(A) paid all child support arrearages;

(B) established with the child support agency a satisfactory repayment schedule or is in compliance with a court order for payment of the arrearages;

(C) been granted an exemption from this subsection as part of a court-supervised plan to improve the individual's earnings and child support payments;
or

(D) successfully contested the child support agency's request for the commission's denial of issuance or renewal of the license or registration.

(4) The commission may charge a fee in an amount sufficient to recover the administrative costs incurred for denying or suspending that license.

(j) The suspension period for a license or registration suspended in accordance with subsection (i) of this section shall be until:

(1) the court or the Title IV-D agency renders an order vacating or staying an order suspending the license or registration; or

(2) the expiration of the license or registration.

(k) [(j)] After notice and hearing a license or registration may be suspended for a period of up to one year, depending upon the seriousness of the violations. A license or registration shall be revoked after notice and hearing upon a second suspension.

(l) [(k)] The commission may revoke a license or registration after notice and hearing for a designated term or permanently. If a license or registration is revoked a second time, the revocation shall be permanent.

(m) [(l)] The following procedures for renewal apply to persons that have had their license or registration suspended.

(1) If a license or registration expiration date falls within the suspension period, a person may renew the license or registration during the suspension period according to §30.24 of this title (relating to License and Registration Applications for Renewal) and the applicable subchapters.

(2) A license or registration suspended in accordance with subsection (i) of this section may not be renewed during the suspension period. The license or registration may only be renewed if the court or the Title IV-D agency renders an order

vacating or staying an order suspending the license or registration and the license or registration has not expired during the suspension period.

(3) [(2)] After the suspension period has ended, the license or registration shall be automatically reinstated unless the person failed to renew the license or registration during the suspension period.

(n) [(m)] Persons that have had their license or registration revoked shall not have their license or registration reinstated after the revocation period. After the revocation period has ended, a person may apply for a new license or registration according to this chapter.

ORDER ADOPTING AMENDED RULES

Docket No. 2011-1685-RUL

On August 8, 2012, the Texas Commission on Environmental Quality (Commission) adopted amended rules in 30 TAC Chapter 30, concerning Occupational Licenses and Registrations. The proposed rules were published for comment in the March 23, 2012, issue of the Texas Register (37 TexReg 2003).

IT IS THEREFORE ORDERED BY THE COMMISSION that the amended rules are hereby adopted. The Commission further authorizes staff to make any non-substantive revisions to the rules necessary to comply with Texas Register requirements. The adopted rules and the preamble to the adopted rules are incorporated by reference in this Order as if set forth at length verbatim in this Order.

This Order constitutes the Order of the Commission required by the Administrative Procedure Act, Government Code, § 2001.033.

If any portion of this Order is for any reason held to be invalid by a court of competent jurisdiction, the invalidity of any portion shall not affect the validity of the remaining portions.

Issued date:

TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

Bryan W. Shaw, Ph.D., Chairman

(d) The requestor [claimant] shall be the first party to present all relevant evidence desired in support of the claim including the testimony of witnesses.

(e) Following the requestor's [claimant's] presentation of evidence, the other party to the proceeding may present evidence desired to be considered by the arbitrator, including the calling of witnesses.

(f) After each party has presented the evidence desired, the arbitrator may call for additional evidence that the arbitrator [he/she] considers necessary for a proper understanding and determination of the issues.

(g) Each party may present closing statements as desired, but the record may not remain open for written briefs unless requested by the arbitrator.

§144.15. Award of the Arbitrator.

(a) Not later than the seventh day after the last day of arbitration, the arbitrator shall enter the final award which must:

- (1) be in writing;
- (2) be signed and dated by the arbitrator; ~~and~~
- (3) include a statement of the arbitrator's [his/her] decision on the contested issues and the parties' stipulations on uncontested issues;
- (4) be sent to the division and all parties by certified mail, ~~return receipt requested,~~ or personal delivery; and
- (5) be filed as a part of the permanent claim file.

(b) The award entered is final and binding on all parties. Except as provided by Labor Code §410.121 [the Texas Workers' Compensation Act, Article 8308-6.28,] there is no right of appeal or judicial review.

(c) The arbitrator's award is a final order of the division [commission].

(d) For the purposes of correcting a clerical error, an arbitrator retains jurisdiction of the award for 20 days after the date of the award.

§144.16. Requesting a Copy of the Record.

A party or the employer may request a copy of the electronic recording of the arbitration proceeding from the division [commission]. The requestor [requester] shall pay the cost of the duplication, as established by the division [commission].

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State on March 12, 2012.

TRD-201201374

Dirk Johnson

General Counsel

Texas Department of Insurance, Division of Workers' Compensation

Earliest possible date of adoption: April 22, 2012

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



TITLE 30. ENVIRONMENTAL QUALITY

PART 1. TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

CHAPTER 30. OCCUPATIONAL LICENSES AND REGISTRATIONS

SUBCHAPTER A. ADMINISTRATION OF OCCUPATIONAL LICENSES AND REGISTRATIONS

30 TAC §§30.24, 30.26, 30.33

The Texas Commission on Environmental Quality (TCEQ, agency, or commission) proposes amendments to §§30.24, 30.26, and 30.33.

Background and Summary of the Factual Basis for the Proposed Rules

The proposed rules implement requirements in House Bill (HB) 965, 82nd Legislature, 2011, relating to Class A and B Public Water System Operators and Class A and B Wastewater Treatment Facility Operators being able to certify, when they renew their license, that they have complied with the commission's continuing education requirements. The proposed rules also implement requirements in HB 1674, 82nd Legislature, 2011, relating to the issuance or renewal of a license or registration for applicants who have failed to pay child support for six months or more. Additionally, the proposed rules implement requirements in Senate Bill (SB) 1733, 82nd Legislature, 2011, relating to issuance of a license to an applicant who is the spouse of a person serving on active duty as a member of the armed forces of the United States and holds a current license issued by another state that has licensing requirements that are substantially equivalent to the requirements of the agency.

This proposed rulemaking would allow Class A and B Public Water System Operators and Class A and B Wastewater Treatment Facility Operators, to certify, when they renew their license, that they have complied with the commission's continuing education requirements. The continuing education options include, but are not limited to, internet based continuing education programs for occupational licenses approved by the TCEQ.

This proposed rulemaking also requires that, upon notification from a child support agency, the commission refuse to accept an application for issuance of a new license or registration, as well as an application for the renewal of an existing license or registration of an applicant who has failed to pay child support for six months or more. This proposed rulemaking would authorize the commission to charge a fee in an amount sufficient to recover the administrative costs incurred for denying or suspending that license.

Finally, this rulemaking would allow the commission to issue a license to an applicant who is the spouse of a person serving on active duty as a member of the armed forces of the United States and holds a current license issued by another state that has licensing requirements that are substantially equivalent to the requirements for the license issued and regulated by the TCEQ. This rulemaking would also allow the agency to issue a license to an applicant who is the spouse of a person serving on active duty as a member of the armed forces of the United States and, within the five years preceding the application date, held the license in this state that expired while the applicant lived in another state for at least six months. The rulemaking would also include provisions to allow alternative demonstrations of competency to meet the requirements for obtaining a license.

Section by Section Discussion

Subchapter A, Administration of Occupational Licenses and Registrations

The proposed amendment to §30.24, License and Registration Applications for Renewal, would allow Class A and B Public Water System Operators and Wastewater Treatment Operators, to certify at the time they renew their license that they have complied with the commission's continuing education requirements. These continuing education options include, but are not limited to, internet based continuing education programs for occupational licenses approved by the TCEQ.

The proposed amendment to §30.26, Recognition of Licenses from Out-of-State, would allow the commission to issue a license to an applicant who is the spouse of a person serving on active duty as a member of the armed forces of the United States and holds a current license issued by another state that has licensing requirements that are substantially equivalent to the requirements for the license issued and regulated by the TCEQ. The proposed amendment would also allow the commission to issue a license to an applicant who was previously licensed in Texas, but whose license expired while they lived in another state for at least six months. To obtain a license under this provision the applicant must have been licensed in Texas during the five years preceding their application for a new license. The amendment also includes provisions that allow an applicant to use an alternative demonstration of competency to meet the requirements for obtaining a license.

The proposed amendment to §30.33, License or Registration Denial, Warning, Suspension, or Revocation requires that, if the commission is notified by a child support agency that an individual has failed to pay child support for six months or more, the commission must refuse to accept an applicant's application for a new license, registration or renewal of an existing license. The proposed amendment would also authorize the commission to charge a fee in an amount sufficient to recover the administrative costs incurred for denying or suspending a license.

Fiscal Note: Costs to State and Local Government

Nina Chamness, Analyst, Strategic Planning and Assessment, has determined that, for the first five-year period the proposed rules are in effect, no significant fiscal implications are anticipated for the agency or other units of state or local government as a result of administration or enforcement of the proposed rules.

The proposed rules would implement legislation from the 82nd Legislature concerning the agency's occupational licensing function as follows.

HB 965

The proposed rules would provide a way for Class A and B Public Water System Operators and Wastewater Treatment Operators, to self-certify that they have complied with the agency's continuing education requirements at the time their license is renewed. Under current rules, approved trainers certify that continuing education requirements have been met. The agency will modify current procedures and forms to allow for self-certification and does not expect to experience any significant fiscal impact as a result of the proposed rules.

HB 1674

The proposed rules would expand the agency's authority to suspend the license of an individual, when notified by a child support agency that the individual has failed to pay child support for six

months or more. Under the proposed rules, the agency would refuse to accept an application for the issuance of a license or for the renewal of an existing license until notified by a child support agency to lift the suspension. The proposed rules would also allow the agency to charge a fee to cover the administrative costs of denying or suspending a license in these circumstances. The administrative fee would be a minimal amount, perhaps as much as \$20, and would not have a significant fiscal impact on agency revenue or expenditures.

SB 1733

The proposed rules would allow the agency to issue a license to an applicant who is the spouse of a person serving on active duty as a member of the armed forces of the United States if two conditions are met. Those conditions are: 1) if the spouse holds a current license issued by another state with licensing requirements substantially equivalent to the requirements for a license issued and regulated by the agency; and 2) if within five years preceding the application date, the spouse held a license in Texas that expired while the applicant lived in another state for at least six months. Under the proposed rules, if the agency reciprocates a license, individuals would save the cost of training which could range from \$350 to \$400 per course. The agency would implement the proposed rules with currently available resources and, as a result, does not expect to experience any significant fiscal impact.

The proposed rules are not expected to have a significant fiscal impact on units of state or local government if they currently pay for the application, testing, and training costs of individuals in their employ. Any additional costs or cost savings as a result of the proposed rules are expected to be minimal.

Public Benefits and Costs

Nina Chamness also determined that for each year of the first five years the proposed rules are in effect, the public benefit anticipated from the changes seen in the proposed rules will be compliance with state law and enhanced child support collection efforts.

Individuals may experience fiscal impacts as a result of the proposed rules. Whether the proposed rules have a significant fiscal impact on individuals would depend on the circumstances of each individual. Self-certification of training for Class A and B Public Water System Operators and Wastewater Treatment Operators is expected to be convenient for individuals, but the cost of training courses is expected to be equivalent to current costs incurred. Administrative fees for suspending licenses of individuals delinquent in child support payment are expected to be minimal in nature. Military spouses may not have to pay separate training costs if the agency is able to reciprocate a license or renew a license under the proposed rules. Savings could be as much as \$350 to \$400 per course, but total cost savings will depend on the number of courses that are required for each type of license.

Businesses that pay training and licensing costs for employees are not expected to experience significant fiscal impact as a result of the proposed rules.

Small Business and Micro-Business Assessment

No adverse fiscal implications are anticipated for small or micro-businesses as a result of the proposed rules. Small businesses are expected to experience the same fiscal impacts as those experienced by a large business that pays for training and licensing of their employees.

Small Business Regulatory Flexibility Analysis

The commission has reviewed this proposed rulemaking and determined that a small business regulatory flexibility analysis is not required because the proposed rules are required to comply with state law and do not adversely affect a small or micro-business in a material way for the first five years that the proposed rules are in effect.

Local Employment Impact Statement

The commission has reviewed this proposed rulemaking and determined that a local employment impact statement is not required because the proposed rules do not adversely affect a local economy in a material way for the first five years that the proposed rules are in effect.

Draft Regulatory Impact Analysis Determination

The commission reviewed this rulemaking action in light of the regulatory analysis requirements of Texas Government Code, §2001.0225, and determined that the proposed rules are not subject to that statute. Texas Government Code, §2001.0225 applies only to rules that are specifically intended to protect the environment or reduce risks to human health from environmental exposure. The intent of the proposed rules is to allow Class A and B Public Water System Operators and Class A and B Wastewater Treatment Facility Operators to certify that they have complied with the commission's continuing education requirements when they renew their licenses; provide special provisions to allow spouses of active duty members of the armed forces obtain occupational licenses based on a license from another state or an expired Texas occupational license; or by demonstrating competency through an alternative method. Finally, the proposed amendments would require that, if the commission is notified by a child support agency that an individual has failed to pay child support for six months or more, the commission must refuse to accept an applicant's application for a new license or renewal of an existing license and would also authorize the commission to charge a fee in an amount sufficient to recover the administrative costs incurred for denying or suspending a license. The proposed rules are not specifically intended to protect the environment or reduce risk to human health from environmental exposure, but rather the intent of the proposed rules are to implement new regulations for the agency's licensing and registration programs that are necessary to ensure more consistent operation and enforcement among the licensing and registration programs that the agency administers. The proposed rules would not adversely affect, in a material way, the economy, a sector of the economy, productivity, competition, jobs, the environment, or the public health and safety of the state or a sector of the state. Thus, the proposed rules do not meet the definition of "a major environmental rule" as defined in Texas Government Code, §2001.0225(g)(3), and thus, do not require a full regulatory impact analysis.

Furthermore, the proposed rules do not meet any of the four applicability requirements listed in Texas Government Code, §2001.0225(a). Texas Government Code, §2001.0225 applies only to a major environmental rule which: 1) exceeds a standard set by federal law, unless the rule is specifically required by state law; 2) exceeds an express requirement of state law, unless the rule is specifically required by federal law; 3) exceeds a requirement of a delegation agreement or contract between the state and an agency or representative of the federal government to implement a state and federal program; or 4) is adopted

solely under the general powers of the agency instead of under a specific state law.

There are no federal standards regulating occupational licensing; however, if there were, these rules are specifically required by HB 965, HB 1674 and SB 1733. These rules do not exceed state law requirements, and state law requires their implementation, not federal law. There are no delegation agreements or contracts between the State of Texas and an agency or representative of the federal government to implement a state and federal program regarding occupational licensing. And finally, these rules are being proposed under specific state laws, in addition to the general powers of the agency.

Written comments on the draft regulatory impact analysis determination may be submitted to the contact person at the address listed under the Submittal of Comments section of this preamble.

Takings Impact Assessment

The commission evaluated these proposed rules and performed an assessment of whether these proposed rules constitute a taking under Texas Government Code, Chapter 2007. The purpose of the proposed rules is to ensure consistency between the rules and their applicable statutes. Promulgation and enforcement of these proposed rules would be neither a statutory nor a constitutional taking of private real property. Specifically, the subject proposed regulations do not affect a landowner's rights in private real property because this rulemaking does not burden nor restrict or limit the owner's right to property and reduce its value by 25% or more beyond that which would otherwise exist in the absence of the regulations. These proposed rules make legislatively mandated changes to the existing rules and the proposed new regulations do not affect private real property.

Consistency with the Coastal Management Program

The commission reviewed the proposed rules and found that they are neither identified in Coastal Coordination Act Implementation Rules, 31 TAC §505.11(b)(2) or (4), nor will they affect any action/authorization identified in Coastal Coordination Act Implementation Rules, 31 TAC §505.11(a)(6). Therefore, the proposed rules are not subject to the Texas Coastal Management Program.

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

Announcement of Hearing

The commission will hold a public hearing on this proposal in Austin on April 12, 2012, at 10:00 a.m. in Building E, Room 201S, at the commission's central office located at 12100 Park 35 Circle. The hearing is structured for the receipt of oral or written comments by interested persons. Individuals may present oral statements when called upon in order of registration. Open discussion will not be permitted during the hearing; however, commission staff members will be available to discuss the proposal 30 minutes prior to the hearing.

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

Submittal of Comments

Written comments may be submitted to Charlotte Horn, MC 205, Office of Legal Services, Texas Commission on Environ-

mental Quality, P.O. Box 13087, Austin, Texas 78711-3087 or faxed to (512) 239-4808. Electronic comments may be submitted at: <http://www5.tceq.texas.gov/rules/ecomments/>. File size restrictions may apply to comments being submitted via the eComments system. All comments should reference Rule Project Number 2011-044-030-WS. The comment period closes April 23, 2012. Copies of the proposed rule-making can be obtained from the commission's Web site at http://www.tceq.texas.gov/nav/rules/propose_adopt.html. For further information, please contact Terry Thompson, Occupational Licensing Section, (512) 239-6095.

Statutory Authority

These amendments are proposed under Texas Water Code (TWC), §5.013, concerning the General Jurisdiction of the Commission, which establishes the general jurisdiction of the commission; TWC, §5.102, concerning General Powers, which establishes the commission's general authority necessary to carry out its jurisdiction; TWC, §5.103, concerning Rules, which requires the commission to adopt rules necessary to carry out its powers and duties; TWC, §5.105, which provides the commission with the authority to establish and approve all general policy of the commission by rule; TWC, §37.002, concerning Rules, which provides that the commission with the authority to adopt rules for various occupational licenses; TWC, §37.003, concerning License or Registration Required, which provides that persons engaged in certain occupations must be licensed by the commission; TWC, §37.005, concerning Issuance and Denial of Licenses and Registration, which requires the commission to establish requirements and uniform procedures for issuing licenses and registrations; TWC, §37.006, concerning Renewal of License or Registration, which requires the commission establish requires and uniform procedures for renewing licenses and registrations; TWC, §37.008, concerning Training; Continuing Education, which provides that the commission shall approve training programs necessary to qualify for or renew a license; TWC, §37.009 concerning Fees, which provides the commission with the authority to establish and collect fees to cover the cost administering and enforcing the provisions of TWC, Chapter 37; Texas Family Code, §232.0135, concerning Denial of License Renewal, which provides that a child support agency may require that a licensing authority refuse to accept an application for a license renewal for certain individuals; Texas Family Code, §232.014(a), concerning Fee by Licensing Authority, which allows the agency to charge a fee in an amount sufficient to recover the administrative costs incurred for denying or suspending that license; and Texas Occupations Code, §55.004, concerning Alternative License Procedure for Military Spouse, which provides that state agencies must provide for alternative methods to license military spouses.

The proposed rules implement requirements in House Bill (HB) 965, 82nd Legislature, 2011, which amended Texas Water Code, §37.008; HB 1674, 82nd Legislature, which amended Texas Family Code, §232.0135 and §232.014; and Senate Bill 1733, 82nd Legislature, 2011, which amended Texas Occupations Code, §55.004.

§30.24. License and Registration Applications for Renewal.

- (a) A license or registration may not be renewed if it has been:
- (1) expired for more than 30 days and an application has not been received by the executive director or postmarked within 30 days after the expiration date of the license or registration;
 - (2) revoked; or

- (3) replaced by a higher class of license.

(b) Applications for renewal must be made on a standard form provided by the executive director.

(1) The executive director shall mail a renewal application at least 60 days before the license or registration expires to the most recent address provided to the executive director. If a person does not receive a renewal application, the person is not relieved of the responsibility to timely submit a renewal application.

(2) The person is responsible for ensuring that the completed renewal application, the renewal fee, and other required information are submitted to the executive director by the expiration date of the license or registration.

(c) All statements, qualifications, and attachments provided by the applicant that relate to a renewal application shall be true, accurate, complete, and contain no misrepresentation or falsification.

(d) The continuing education which includes, but is not limited to, classroom and training programs made available through the internet used to renew a license must be successfully completed after the issuance date and before the expiration date of the current license. Any training credits completed in excess of the amount required for the renewal period shall not be carried over to the next renewal period.

(e) An individual who holds a license prescribed by Texas Water Code, §26.0301, or Texas Health and Safety Code, §341.033 or §341.034, specifically the holder of a Class A or Class B public water system operator or Class A or B wastewater treatment facility operator license may certify compliance with continuing education requirements prior to or at the time the license is renewed by submitting a continuing education certification form available from the executive director.

(f) ~~(e)~~ The executive director may renew a license or registration if the application is received by the executive director or is postmarked within 30 days after the expiration date of the license or registration, and the person meets the requirements for renewal by the expiration date of the license or registration and pays all appropriate fees. This subsection does not extend the validity period of the license or registration nor grant the person authorization to perform duties requiring a license or registration. This subsection only allows an additional 30 days after the expiration of the license or registration for the person to submit the renewal application, any supporting documentation, and appropriate fees.

(g) ~~(f)~~ An individual whose license renewal application is not received by the executive director or is not postmarked within 30 days after the license expiration date may not renew the license and must meet the current education, training, and experience requirements, submit a new application with the appropriate fee, and pass the examination. A person whose registration renewal application is not received by the executive director or is not postmarked within 30 days after the expiration date may not renew the registration and must submit a new application with the appropriate fee and meet all applicable requirements for a new registration.

(h) ~~(g)~~ Persons failing to renew their license or registration in a timely manner due to serving on active duty in the United States armed forces outside this state may renew their license within 180 days of returning from active duty by submitting the following:

- (1) a completed renewal application;
- (2) a copy of the military orders substantiating the military service during the time the license expired; and
- (3) the applicable license renewal fee.

(i) [(h)] For good cause the executive director may extend the 180-day period for individuals serving on active duty in the United States armed forces outside this state seeking to renew their license. Good cause may include, but is not limited to, hospitalization or injury to the licensee.

(j) [(i)] Completion of the required continuing education will be waived for the renewal cycle while the licensee was on active duty service in the United States armed forces outside this state.

(k) [(j)] These procedures apply only to individuals on active duty service in the United States armed forces outside this state and not to military contractors.

(l) [(k)] All licensees must notify the executive director of any change in the previously submitted application information within ten days from the date the change occurs.

(m) [(l)] All registration holders must notify the executive director of any change in the previously submitted application information within ten days after the month in which the change occurs.

(n) [(m)] Licenses and registrations that have renewal cycles in transition shall follow the renewal requirements in the applicable subchapter.

(o) [(n)] The executive director shall determine whether an applicant meets the renewal requirements of this subchapter. If all requirements have been met, the executive director shall renew the license or registration and send it to the applicant within 45 days after the date the executive director receives the renewal application.

(p) [(o)] The license or registration shall be valid for the term specified.

(q) [(p)] If the application does not meet the requirements, the executive director shall notify the applicant in writing of the deficiencies within 45 days after the date the executive director receives the renewal application.

(r) [(q)] All deficiencies must be corrected within 30 days of date printed on the notification, or the renewal application shall be considered void after the license expiration date.

(s) [(r)] A person whose license or registration has expired shall not engage in activities that require a license or registration until the license or registration is renewed or a new license or registration has been obtained.

§30.26. *Recognition of Licenses from Out-of-State.*

(a) Except for landscape irrigators [and installers,] the executive director may waive qualifications, training, or examination for individuals with a good compliance history who hold a current license from another state, territory, or country if that state, territory, or country has requirements equivalent to those in this chapter.

(b) A license may be issued after review and approval of the application, receipt of the appropriate fee, and verification of the license from the corresponding state, territory, or country.

(c) The executive director may waive any of the prerequisites for obtaining a landscape irrigator or installer license, if the applicant is licensed as an irrigator in another jurisdiction that has a reciprocity agreement with the State of Texas.

(d) The executive director may require the applicant to provide information about other occupational licenses and registrations held by the person, including:

(1) the state in which the other license or registration was issued;

(2) the current status of the other license or registration; and

(3) whether the other license or registration was ever denied, suspended, revoked, surrendered, or withdrawn.

(e) The executive director shall issue a license to an applicant who is the spouse of a person serving on active duty as a member of the armed forces of the United States and:

(1) holds a current license issued by another state that has licensing requirements that are substantially equivalent to the requirements for the license; or

(2) within the five years proceeding the application date held the license in this state that expired while the applicant lived in another state for at least six months.

(f) In lieu of the standard method(s) of demonstrating competency for a particular license, and based on the applicant's circumstances, the alternative methods for demonstrating competency may include, but not be limited to, any combination of the following as determined by the executive director:

(1) education;

(2) continuing education;

(3) examinations (written, practical, or a combination of written and practical);

(4) letters of good standing;

(5) letters of recommendation;

(6) work experience; or

(7) other methods or options as determined by the executive director.

§30.33. *License or Registration Denial, Warning, Suspension, or Revocation.*

(a) The executive director may deny an initial or renewal application for the following reasons.

(1) **Insufficiency.** The executive director shall notify the applicant of the executive director's intent to deny the application and advise the applicant of the opportunity to file a motion for reconsideration under §50.39 of this title (relating to Motion for Reconsideration). The executive director may determine that an application is insufficient for the following reasons:

(A) failing to meet the licensing or registration requirements of this chapter; or

(B) if an out-of-state licensing program does not have requirements substantially equivalent to those of this chapter.

(2) **Cause.** After notice and opportunity for a hearing, the commission may deny an application for a license or registration by an applicant who:

(A) provides fraudulent information or falsifies the application;

(B) has engaged in fraud or deceit in obtaining or applying for a license or registration;

(C) has demonstrated gross negligence, incompetence, or misconduct in the performance of activities authorized by a license or registration;

(D) made an intentional misstatement or misrepresentation of fact or information required to be maintained or submitted to the commission by the applicant or by the license or registration holder;

(E) failed to keep and transmit records as required by a statute within the commission's jurisdiction or a rule adopted under such a statute;

(F) at the time the application is submitted, is indebted to the state for a fee, penalty, or tax imposed by a statute within the commission's jurisdiction or a rule adopted under such a statute;

(G) is in default on loans guaranteed by Texas Guaranteed Student Loan Corporation (TGSLOC) (the executive director shall proceed as described in Texas Education Code, Chapter 57) if identified by TGSLOC and the application is for a renewal license or registration; or

(H) has been convicted of:

(i) an offense that directly relates to the duties and responsibilities of the licensed occupation;

(ii) an offense that does not directly relate to the duties and responsibilities of the licensed occupation and that was committed less than five years before the date the applicant applies for the license;

(iii) an offense listed in Code of Criminal Procedure, Article 42.12, Section 3g; or

(iv) a sexually violent offense, as defined by Code of Criminal Procedure, Article 62.001.

(b) If a person causes, contributes to, or allows a violation of this chapter, the executive director may issue a warning letter. The letter shall be placed in the person's permanent file maintained by the executive director. This letter shall be a warning that further violations or offenses by the person may be grounds for suspension, revocation, enforcement action, or some combination. A warning is not a prerequisite for initiation of suspension, revocation, or enforcement proceedings.

(c) After notice and hearing, the commission may suspend or revoke a license, certificate, or registration on any of the grounds contained in Texas Water Code, §7.303(b).

(d) After notice and hearing, the commission may suspend or revoke a license on the grounds that the individual has been convicted of:

(1) an offense that directly relates to the duties and responsibilities of the licensed occupation;

(2) an offense that does not directly relate to the duties and responsibilities of the licensed occupation and that was committed less than five years before the date the individual applies for the license;

(3) an offense listed in Code of Criminal Procedure, Article 42.12, Section 3g; or

(4) a sexually violent offense, as defined by Code of Criminal Procedure, Article 62.001.

(e) The commission shall revoke the license or registration upon an individual's imprisonment following a felony conviction, felony community supervision revocation, revocation of parole, or revocation of mandatory supervision.

(f) Except as provided by subsection (g) of this section, notwithstanding any other law, the executive director may not consider an individual to have been convicted of an offense for purposes of this section if, regardless of the statutory authorization:

(1) the individual entered a plea of guilty or nolo contendere;

(2) the judge deferred further proceedings without entering an adjudication of guilt and placed the individual under the supervision of the court or an officer under the supervision of the court; and

(3) at the end of the period of supervision, the judge dismissed the proceedings and discharged the individual.

(g) The executive director may consider an individual to have been convicted of an offense for purposes of this section regardless of whether the proceedings were dismissed and the individual was discharged as described by subsection (f) of this section if, after consideration of the factors described by Texas Occupations Code, §53.022 and §53.023(a), the executive director determines that:

(1) the individual may pose a continued threat to public safety; or

(2) employment of the individual in the licensed occupation would create a situation in which the individual has an opportunity to repeat the prohibited conduct.

(h) After notice and hearing, the commission may revoke a maintenance provider registration on any of the grounds in Texas Health and Safety Code, §366.0515(m).

(i) Failure to pay child support.

(1) The commission may suspend a license or registration if a licensed or registered individual has been identified by the Office of the Attorney General as being delinquent on child support payments (upon receipt of a final order suspending a license or registration, the executive director shall proceed as described in Texas Family Code, Chapter 232).

(2) The commission shall refuse to accept an application for:

(A) issuance of a new license or registration to an individual; or

(B) renewal of an existing license or registration to an individual if:

(i) the individual has failed to pay child support for six months or more;

(ii) the commission is notified by a child support agency, as defined by Texas Family Code, §101.004; and

(iii) the child support agency requests the commission to refuse to accept the application.

(3) The commission shall not accept an application for a license that was refused under paragraph (2) of this subsection until notified by the child support agency that the individual has:

(A) paid all child support arrearages;

(B) established with the child support agency a satisfactory repayment schedule or is in compliance with a court order for payment of the arrearages;

(C) been granted an exemption from this subsection as part of a court-supervised plan to improve the individual's earnings and child support payments; or

(D) successfully contested the child support agency's request for the commission's denial of issuance or renewal of the license or registration.

(4) The commission may charge a fee in an amount sufficient to recover the administrative costs incurred for denying or suspending that license.

(j) The suspension period for a license or registration suspended in accordance with subsection (i) of this section shall be until:

(1) the court or the Title IV-D agency renders an order vacating or staying an order suspending the license or registration; or

(2) the expiration of the license or registration.

(k) [(†)] After notice and hearing a license or registration may be suspended for a period of up to one year, depending upon the seriousness of the violations. A license or registration shall be revoked after notice and hearing upon a second suspension.

(l) [(*)] The commission may revoke a license or registration after notice and hearing for a designated term or permanently. If a license or registration is revoked a second time, the revocation shall be permanent.

(m) [(‡)] The following procedures for renewal apply to persons that have had their license or registration suspended.

(1) If a license or registration expiration date falls within the suspension period, a person may renew the license or registration during the suspension period according to §30.24 of this title (relating to License and Registration Applications for Renewal) and the applicable subchapters.

(2) A license or registration suspended in accordance with subsection (i) of this section may not be renewed during the suspension period. The license or registration may only be renewed if the court or the Title IV-D agency renders an order vacating or staying an order suspending the license or registration and the license or registration has not expired during the suspension period.

(3) [(2)] After the suspension period has ended, the license or registration shall be automatically reinstated unless the person failed to renew the license or registration during the suspension period.

(n) [(‡)] Persons that have had their license or registration revoked shall not have their license or registration reinstated after the revocation period. After the revocation period has ended, a person may apply for a new license or registration according to this chapter.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

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Texas Commission on Environmental Quality

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For further information, please call: (512) 239-0779



CHAPTER 114. CONTROL OF AIR POLLUTION FROM MOTOR VEHICLES

The Texas Commission on Environmental Quality (TCEQ, agency, or commission) proposes amendments to §§114.6, 114.312, and 114.314 - 114.319; the repeal of §114.313; and new §114.313.

If adopted, the revisions would be submitted to the United States Environmental Protection Agency (EPA) as revisions to the state implementation plan (SIP).

Background and Summary of the Factual Basis for the Proposed Rules

The current state regulations for Texas low emission diesel (TxLED) under Chapter 114 require that all diesel as defined under §114.6 that is sold or supplied for use in a compression-ignition engine operating in any of the 110 central and eastern Texas counties listed in §114.319 must comply with the specifications for aromatic hydrocarbons and cetane number as listed in §114.312 or one of the other compliance options listed under this section. This regulation includes all diesel used as fuel for on-road motor vehicles and non-road equipment. The TxLED regulations also apply to marine distillate fuels, i.e., Marine Distillate fuel X (DMX), Marine Distillate fuel A (DMA), and Marine Gas Oil (MGO), when these marine distillate fuels are used in the 1997 Houston-Galveston-Brazoria (HGB) ozone nonattainment area counties of Brazoria, Chambers, Fort Bend, Galveston, Harris, Liberty, Montgomery, and Waller. Diesel producers are also allowed to produce TxLED in accordance with an alternative emission reduction plan (AERP) as specified under §114.318. TxLED producers and importers are required to register with the TCEQ as specified under §114.314 and to submit quarterly reports to the TCEQ as specified under §114.316. There are 114 producers and importers currently registered under the TxLED program. The total nitrogen oxides (NO_x) emission reduction benefit from TxLED in 2018 from all 110 counties currently regulated is estimated to be approximately 5.62 tons per day (tpd) from on-road vehicle use and 7.54 tpd from non-road equipment use. The estimated NO_x emission reduction benefit in 2018 from TxLED marine diesel in the 1997 eight-county HGB ozone nonattainment area is approximately 0.89 tpd.

The purpose for the proposed rulemaking is to address the following issues.

Alternative Diesel Formulations

The TCEQ has currently approved 20 alternative diesel formulations in accordance with the testing requirements specified under §114.315 that producers and importers may use to produce TxLED, with 18 of these formulations requiring the use of a diesel additive. All but one of the additive-based alternative diesel formulations for TxLED were approved under the testing procedures specified under §114.315(c). In 2010, approximately 36% of all TxLED was reported to have been produced using the additive-based alternative diesel formulations approved by the TCEQ. Approximately 24% of all TxLED in 2010 was reported to have been produced using an additive-based alternative diesel formulation for California diesel approved by the California Air Resources Board (CARB) that producers are allowed to use under §114.312(e) to produce TxLED.

The TCEQ process to approve an alternative diesel formulation for TxLED under §114.315(c) includes review and approval of test protocols prior to emissions testing, observation of the emissions testing at the testing facilities, review of the final test reports from the testing facilities describing the results of the emissions testing, and determining whether the emissions test results satisfy the criteria specified in §114.315(c) that allows the TCEQ to approve the formulation. The TCEQ is also required to request the EPA's consultation when proposing to approve an alternative diesel formulation for TxLED.

The TCEQ approval and review process specified in §114.315(c) has resulted in fiscal and staff resource challenges for the agency. The professional services needed to validate the

AN ACT

relating to procedures for establishment, modification, and enforcement of child support obligations.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 154.187(c), Family Code, is amended to read as follows:

(c) An employer who has received an order or notice under this subchapter shall provide to the sender, by first class mail not later than the 40th [~~30th~~] day after the date the employer receives the order or notice, a statement that the child:

(1) has been enrolled in the employer's health insurance plan or is already enrolled in another health insurance plan in accordance with a previous child support or medical support order to which the employee is subject; or

(2) cannot be enrolled or cannot be enrolled permanently in the employer's health insurance plan and provide the reason why coverage or permanent coverage cannot be provided.

SECTION 2. Section 154.303(b), Family Code, is amended to read as follows:

(b) The parent, the child, if the child is 18 years of age or older, or other person may not transfer or assign the cause of action to any person, including a governmental or private entity or agency, except for an assignment made to the Title IV-D agency under Section 231.104 or in the provision of child support enforcement

1 services under Section 159.307.

2 SECTION 3. Section 156.401, Family Code, is amended by
3 amending Subsection (a) and adding Subsection (a-2) to read as
4 follows:

5 (a) Except as provided by Subsection (a-1), (a-2), or (b),
6 the court may modify an order that provides for the support of a
7 child, including an order for health care coverage under Section
8 154.182, if:

9 (1) the circumstances of the child or a person
10 affected by the order have materially and substantially changed
11 since the earlier of:

12 (A) the date of the order's rendition; or

13 (B) the date of the signing of a mediated or
14 collaborative law settlement agreement on which the order is based;
15 or

16 (2) it has been three years since the order was
17 rendered or last modified and the monthly amount of the child
18 support award under the order differs by either 20 percent or \$100
19 from the amount that would be awarded in accordance with the child
20 support guidelines.

21 (a-2) A court or administrative order for child support in a
22 Title IV-D case may be modified as provided under Section
23 233.013(c) to provide for medical support of a child.

24 SECTION 4. Section 157.162, Family Code, is amended by
25 amending Subsection (c) and adding Subsection (c-1) to read as
26 follows:

27 (c) The movant may attach to the motion a [A] copy of a [the]

1 payment record. The movant may subsequently update that payment
2 record at the hearing. If a payment record was attached to the
3 motion as authorized by this subsection, the payment record, as
4 updated if applicable, [attached to the motion is evidence of the
5 facts asserted in the payment record and] is admissible to prove:

- 6 (1) the dates and in what amounts payments were made;
7 (2) the amount of any accrued interest;
8 (3) the cumulative arrearage over time; and
9 (4) the cumulative arrearage as of the final date of
10 the record.

11 (c-1) A [show whether payments were made. The] respondent
12 may offer [controverting] evidence controverting the contents of a
13 payment record under Subsection (c).

14 SECTION 5. Section 157.263, Family Code, is amended by
15 adding Subsection (b-1) to read as follows:

16 (b-1) In rendering a money judgment under this section, the
17 court may not reduce or modify the amount of child support
18 arrearages but, in confirming the amount of arrearages, may allow a
19 counterclaim or offset as provided by this title.

20 SECTION 6. Sections 157.311(1) and (4), Family Code, are
21 amended to read as follows:

- 22 (1) "Account" means:
23 (A) any type of a demand deposit account,
24 checking or negotiable withdrawal order account, savings account,
25 time deposit account, [~~money market~~] mutual fund account,
26 certificate of deposit, or any other instrument of deposit in which
27 an individual has a beneficial ownership either in its entirety or

1 on a shared or multiple party basis, including any accrued interest
2 and dividends; and

3 (B) an [a-life] insurance policy, including a
4 life insurance policy or annuity contract, in which an individual
5 has a beneficial ownership or [~~liability insurance~~] against which
6 an individual may file [~~has filed~~] a claim or counterclaim.

7 (4) "Financial institution" has the meaning assigned
8 by 42 U.S.C. Section 669a(d)(1) and includes a depository
9 institution, depository institution holding company as defined by
10 12 U.S.C. Section 1813(w), credit union, benefit association,
11 [~~liability or life~~] insurance company, [~~money market~~] mutual fund,
12 and any similar entity authorized to do business in this state.

13 SECTION 7. Section 157.317(a), Family Code, is amended to
14 read as follows:

15 (a) A child support lien attaches to all real and personal
16 property not exempt under the Texas Constitution or other law,
17 including:

18 (1) an account in a financial institution;

19 (2) a retirement plan, including an individual
20 retirement account; [~~and~~]

21 (3) the proceeds of an [a-life] insurance policy,
22 including the proceeds from a life insurance policy or annuity
23 contract and the proceeds from the sale or assignment of life
24 insurance or annuity benefits, a claim for compensation [~~negligence~~
25 ~~or personal injury~~], or a [~~an insurance~~] settlement or award for the
26 claim for compensation, due to or owned by the obligor; and

27 (4) property seized and subject to forfeiture under

1 Chapter 59, Code of Criminal Procedure.

2 SECTION 8. Subchapter G, Chapter 157, Family Code, is
3 amended by adding Section 157.3271 to read as follows:

4 Sec. 157.3271. LEVY ON FINANCIAL INSTITUTION ACCOUNT OF
5 DECEASED OBLIGOR. (a) Subject to Subsection (b), the Title IV-D
6 agency may, not earlier than the 90th day after the date of death of
7 an obligor in a Title IV-D case, deliver a notice of levy to a
8 financial institution in which the obligor was the sole owner of an
9 account, regardless of whether the Title IV-D agency has issued a
10 child support lien notice regarding the account.

11 (b) The Title IV-D agency may not deliver a notice of levy
12 under this section if probate proceedings relating to the obligor's
13 estate have commenced.

14 (c) The notice of levy must:

15 (1) identify the amount of child support arrearages
16 determined by the Title IV-D agency to be owing and unpaid by the
17 obligor on the date of the obligor's death; and

18 (2) direct the financial institution to pay to the
19 Title IV-D agency, not earlier than the 45th day or later than the
20 60th day after the date of delivery of the notice, an amount from
21 the assets of the obligor or from funds due to the obligor that are
22 held or controlled by the institution, not to exceed the amount of
23 the child support arrearages identified in the notice.

24 (d) Not later than the 35th day after the date of delivery of
25 the notice, the financial institution must notify any other person
26 asserting a claim against the account that:

27 (1) the account has been levied on for child support

1 arrearages in the amount shown on the notice of levy; and

2 (2) the person may contest the levy by filing suit and
3 requesting a court hearing in the same manner that a person may
4 challenge a child support lien under Section 157.323.

5 (e) A person who contests a levy under this section, as
6 authorized by Subsection (d)(2), may bring the suit in:

7 (1) the district court of the county in which the
8 property is located or in which the obligor resided; or

9 (2) the court of continuing jurisdiction.

10 (f) The notice of levy may be delivered to a financial
11 institution as provided by Section 59.008, Finance Code, if the
12 institution is subject to that law or may be delivered to the
13 registered agent, the institution's main business office in this
14 state, or another address provided by the institution under Section
15 231.307.

16 (g) A financial institution may deduct its fees and costs,
17 including any costs for complying with this section, from the
18 deceased obligor's assets before paying the appropriate amount to
19 the Title IV-D agency.

20 SECTION 9. Sections 158.203(b) and (b-1), Family Code, are
21 amended to read as follows:

22 (b) An employer with 50 [~~250~~] or more employees shall remit
23 a payment required under this section by electronic funds transfer
24 or electronic data interchange not later than the second business
25 day after the pay date.

26 (b-1) An employer with fewer than 50 [~~250~~] employees may
27 remit a payment required under this section by electronic funds

1 transfer or electronic data interchange. A payment remitted by the
2 employer electronically must be remitted not later than the date
3 specified by Subsection (b).

4 SECTION 10. The heading to Section 158.503, Family Code, is
5 amended to read as follows:

6 Sec. 158.503. DELIVERY OF ADMINISTRATIVE WRIT TO EMPLOYER;
7 FILING WITH COURT OR MAINTAINING RECORD.

8 SECTION 11. Section 158.503, Family Code, is amended by
9 amending Subsections (a) and (b) and adding Subsection (b-1) to
10 read as follows:

11 (a) An administrative writ of withholding issued under this
12 subchapter may be delivered to an [~~obligor, obligee, and~~] employer
13 by mail or by electronic transmission.

14 (b) The Title IV-D agency shall:

15 (1) not [~~Not~~] later than the third business day after
16 the date of delivery of the administrative writ of withholding to an
17 employer, [~~the Title IV-D agency shall~~] file a copy of the writ,
18 together with a signed certificate of service, in the court of
19 continuing jurisdiction; or

20 (2) maintain a record of the writ until all support
21 obligations of the obligor have been satisfied or income
22 withholding has been terminated as provided by this chapter.

23 (b-1) The certificate of service required under Subsection
24 (b)(1) may be signed electronically. [~~This subsection does not~~
25 apply to the enforcement under Section 158.501(c) of a support
26 order rendered by a tribunal of another state.]

27 SECTION 12. Section 231.015, Family Code, is amended to

1 read as follows:

2 Sec. 231.015. INSURANCE REPORTING PROGRAM. (a) In
3 consultation with the Texas Department of Insurance and
4 representatives of the insurance industry in this state, including
5 insurance trade associations, the Title IV-D agency by rule shall
6 operate a program [~~to improve the enforcement of child support,~~
7 ~~including the use of child support liens under Chapter 157. The~~
8 ~~program shall provide for procedures, including data matches,~~]
9 under which insurers [~~insurance companies~~] shall cooperate with the
10 Title IV-D agency in identifying obligors who owe child support
11 arrearages and [~~or who~~] are subject to liens for child support
12 arrearages to intercept certain [~~liability~~] insurance settlements
13 or awards for claims in satisfaction of the arrearage amounts.

14 (b) An insurer [~~insurance company~~] that provides
15 information or responds to a notice of child support lien or levy
16 under Subchapter G, Chapter 157, or acts in good faith to comply
17 with procedures established by the Title IV-D agency under this
18 section is not liable for those acts under any law to any person.

19 SECTION 13. Subchapter B, Chapter 231, Family Code, is
20 amended by adding Section 231.124 to read as follows:

21 Sec. 231.124. CHILD SUPPORT ARREARAGES PAYMENT INCENTIVE
22 PROGRAM. (a) The Title IV-D agency may establish and administer a
23 payment incentive program to promote payment by obligors who are
24 delinquent in satisfying child support arrearages assigned to the
25 Title IV-D agency under Section 231.104(a).

26 (b) A program established under this section must provide to
27 a participating obligor a credit for every dollar amount paid by the

1 obligor on interest and arrearages balances during each month of
2 the obligor's voluntary enrollment in the program. In establishing
3 a program under this section, the Title IV-D agency by rule must
4 prescribe:

5 (1) criteria for a child support obligor's initial
6 eligibility to participate in the program;

7 (2) the conditions for a child support obligor's
8 continued participation in the program;

9 (3) procedures for enrollment in the program; and

10 (4) the terms of the financial incentives to be
11 offered under the program.

12 (c) The Title IV-D agency shall provide eligible obligors
13 with notice of the program and enrollment instructions.

14 SECTION 14. Section 231.307, Family Code, is amended by
15 amending Subsection (d) and adding Subsection (g) to read as
16 follows:

17 (d) A financial institution providing information or
18 responding to a notice of child support lien or levy provided under
19 Subchapter G, Chapter 157, or otherwise acting in good faith to
20 comply with the Title IV-D agency's procedures under this section
21 may not be liable under any federal or state law for any damages
22 that arise from those acts.

23 (g) This section does not apply to an insurer subject to the
24 reporting requirements under Section 231.015.

25 SECTION 15. The heading to Section 232.0135, Family Code,
26 is amended to read as follows:

27 Sec. 232.0135. DENIAL OF LICENSE ISSUANCE OR RENEWAL.

1 SECTION 16. Sections 232.0135(a), (b), (c), and (d), Family
2 Code, are amended to read as follows:

3 (a) A child support agency, as defined by Section 101.004,
4 may provide notice to a licensing authority concerning an obligor
5 who has failed to pay child support for six months or more that
6 requests the authority to refuse to accept an application for
7 issuance of a license to the obligor or renewal of an existing [~~the~~
8 license of the obligor.

9 (b) A licensing authority that receives the information
10 described by Subsection (a) shall refuse to accept an application
11 for issuance of a license to the obligor or renewal of an existing
12 [~~the~~] license of the obligor until the authority is notified by the
13 child support agency that the obligor has:

- 14 (1) paid all child support arrearages;
15 (2) established with the agency a satisfactory
16 repayment schedule or is in compliance with a court order for
17 payment of the arrearages;
18 (3) been granted an exemption from this subsection as
19 part of a court-supervised plan to improve the obligor's earnings
20 and child support payments; or
21 (4) successfully contested the denial of issuance or
22 renewal of license under Subsection (d).

23 (c) On providing a licensing authority with the notice
24 described by Subsection (a), the child support agency shall send a
25 copy to the obligor by first class mail and inform the obligor of
26 the steps the obligor must take to permit the authority to accept
27 the obligor's application for license issuance or renewal.

1 (d) An obligor receiving notice under Subsection (c) may
2 request a review by the child support agency to resolve any issue in
3 dispute regarding the identity of the obligor or the existence or
4 amount of child support arrearages. The agency shall promptly
5 provide an opportunity for a review, either by telephone or in
6 person, as appropriate to the circumstances. After the review, if
7 appropriate, the agency may notify the licensing authority that it
8 may accept the obligor's application for issuance or renewal of
9 license. If the agency and the obligor fail to resolve any issue in
10 dispute, the obligor, not later than the 30th day after the date of
11 receiving notice of the agency's determination from the review, may
12 file a motion with the court to direct the agency to withdraw the
13 notice under Subsection (a) and request a hearing on the motion.
14 The obligor's application for license issuance or renewal may not
15 be accepted by the licensing authority until the court rules on the
16 motion. If, after a review by the agency or a hearing by the court,
17 the agency withdraws the notice under Subsection (a), the agency
18 shall reimburse the obligor the amount of any fee charged the
19 obligor under Section 232.014.

20 SECTION 17. Section 232.014(a), Family Code, is amended to
21 read as follows:

22 (a) A licensing authority may charge a fee to an individual
23 who is the subject of an order suspending license or of an action of
24 a child support agency under Section 232.0135 to deny issuance or
25 renewal of license in an amount sufficient to recover the
26 administrative costs incurred by the authority under this chapter.

27 SECTION 18. Section 233.012, Family Code, is amended to

1 read as follows:

2 Sec. 233.012. INFORMATION REQUIRED TO BE PROVIDED AT
3 NEGOTIATION CONFERENCE. At the beginning of the negotiation
4 conference, the child support review officer shall review with the
5 parties participating in the conference information provided in the
6 notice of child support review and inform the parties that:

7 (1) the purpose of the negotiation conference is to
8 provide an opportunity to reach an agreement on a child support
9 order;

10 (2) if the parties reach an agreement, the review
11 officer will prepare an agreed review order to be effective
12 immediately on being confirmed by the court, as provided by Section
13 233.024;

14 (3) a party does not have to sign a review order
15 prepared by the child support review officer but that the Title IV-D
16 agency may file a review order without the agreement of the parties;

17 (4) the parties may sign a waiver of the right to
18 service of process;

19 (5) a party may file a request for a court hearing on a
20 nonagreed order not later than [~~at any time before~~] the 20th day
21 after the date a copy of the petition for confirmation of the order
22 is delivered to the party [~~filed~~]; and

23 (6) a party may file a motion for a new trial not later
24 than [~~at any time before~~] the 30th day after an order is confirmed
25 by the court.

26 SECTION 19. Section 233.013, Family Code, is amended by
27 adding Subsection (c) to read as follows:

1 (c) Notwithstanding Subsection (b), the Title IV-D agency
2 may, at any time and without a showing of material and substantial
3 change in the circumstances of the parties, file a child support
4 review order that has the effect of modifying an existing order for
5 child support to provide medical support for a child if the existing
6 order does not provide health care coverage for the child as
7 required under Section 154.182.

8 SECTION 20. Section 1108.101, Insurance Code, is amended to
9 read as follows:

10 Sec. 1108.101. ASSIGNMENT GENERALLY. (a) This chapter
11 does not prevent an insured, owner, or annuitant from assigning, in
12 accordance with the terms of the policy or contract:

13 (1) any benefits to be provided under an insurance
14 policy or annuity contract to which this chapter applies; or

15 (2) any other rights under the policy or contract.

16 (b) A benefit or right described by Subsection (a) assigned
17 by an insured, owner, or annuitant after a child support lien notice
18 has been filed against the insured, owner, or annuitant by the Title
19 IV-D agency continues to be subject to the child support lien after
20 the date of assignment. The lien continues to secure payment of all
21 child support arrearages owed by the insured, owner, or annuitant
22 under the underlying child support order, including arrearages that
23 accrue after the date of assignment.

24 SECTION 21. Section 411.1271, Government Code, is amended
25 by adding Subsection (b-1) and amending Subsection (c) to read as
26 follows:

27 (b-1) The office of the attorney general is entitled to

1 obtain from the Department of Public Safety, the Federal Bureau of
2 Investigation identification division, or another law enforcement
3 agency criminal history record information maintained by the
4 department or agency that relates to a person who owes child support
5 in a Title IV-D case, as defined by Section 101.034, Family Code,
6 for the purposes of locating that person and establishing,
7 modifying, or enforcing a child support obligation against that
8 person.

9 (c) Criminal history record information obtained by the
10 office of the attorney general under this section [~~Subsection (a)~~
11 ~~or (b)~~] may not be released or disclosed to any person except on
12 court order or with the consent of the person who is the subject of
13 the criminal history record information.

14 SECTION 22. Section 34.04(a), Tax Code, is amended to read
15 as follows:

16 (a) A person, including a taxing unit and the Title IV-D
17 agency, may file a petition in the court that ordered the seizure or
18 sale setting forth a claim to the excess proceeds. The petition
19 must be filed before the second anniversary of the date of the sale
20 of the property. The petition is not required to be filed as an
21 original suit separate from the underlying suit for seizure of the
22 property or foreclosure of a tax lien on the property but may be
23 filed under the cause number of the underlying suit.

24 SECTION 23. Article 59.06(a), Code of Criminal Procedure,
25 is amended to read as follows:

26 (a) Except as provided by Subsection (k), all forfeited
27 property shall be administered by the attorney representing the

1 state, acting as the agent of the state, in accordance with accepted
2 accounting practices and with the provisions of any local agreement
3 entered into between the attorney representing the state and law
4 enforcement agencies. If a local agreement has not been executed,
5 the property shall be sold on the 75th day after the date of the
6 final judgment of forfeiture at public auction under the direction
7 of the county sheriff, after notice of public auction as provided by
8 law for other sheriff's sales. The proceeds of the sale shall be
9 distributed as follows:

10 (1) to any interest holder to the extent of the
11 interest holder's nonforfeitable interest; ~~and~~

12 (2) after any distributions under Subdivision (1), if
13 the Title IV-D agency has filed a child support lien in the
14 forfeiture proceeding, to the Title IV-D agency in an amount not to
15 exceed the amount of child support arrearages identified in the
16 lien; and

17 (3) the balance, if any, after the deduction of court
18 costs to which a district court clerk is entitled under Article
19 59.05(f) and, after that deduction, the deduction of storage and
20 disposal costs, to be deposited not later than the 30th day after
21 the date of the sale in the state treasury to the credit of the
22 general revenue fund.

23 SECTION 24. Section 157.262, Family Code, is repealed.

24 SECTION 25. Section 233.017(c), Family Code, is repealed.

25 SECTION 26. Section 154.187(c), Family Code, as amended by
26 this Act, applies to an order or notice received by an employer on
27 or after the effective date of this Act. An order or notice

1 received by an employer before the effective date of this Act is
2 governed by the law in effect on the date the order or notice was
3 received, and the former law is continued in effect for that
4 purpose.

5 SECTION 27. Sections 156.401(a-2) and 233.013(c), Family
6 Code, as added by this Act, apply to each child support order,
7 regardless of whether the order was rendered before, during, or
8 after the effective date of this Act.

9 SECTION 28. Section 157.162, Family Code, as amended by
10 this Act, applies to a motion for child support enforcement filed on
11 or after the effective date of this Act. A motion filed before the
12 effective date of this Act is governed by the law in effect on the
13 date the motion was filed, and the former law is continued in effect
14 for that purpose.

15 SECTION 29. Section 157.263(b-1), Family Code, as added by
16 this Act, applies to a motion for enforcement of child support that
17 is pending before a trial court on or filed on or after the
18 effective date of this Act.

19 SECTION 30. Section 158.203, Family Code, as amended by
20 this Act, applies to child support payments withheld by an employer
21 on or after the effective date of this Act.

22 SECTION 31. Section 158.503, Family Code, as amended by
23 this Act, applies to an administrative writ of withholding issued
24 on or after the effective date of this Act.

25 SECTION 32. Section 1108.101(b), Insurance Code, as added
26 by this Act, applies to an assignment made on or after the effective
27 date of this Act. An assignment made before the effective date of

1 this Act is governed by the law in effect on the date the assignment
2 was made, and the former law is continued in effect for that
3 purpose.

4 SECTION 33. Article 59.06(a), Code of Criminal Procedure,
5 as amended by this Act, applies to a sale of forfeited property that
6 occurs on or after the effective date of this Act. A sale that
7 occurs before the effective date of this Act is governed by the law
8 in effect on the date the property was sold, and the former law is
9 continued in effect for that purpose.

10 SECTION 34. This Act takes effect September 1, 2011.

President of the Senate

Speaker of the House

I certify that H.B. No. 1674 was passed by the House on March 30, 2011, by the following vote: Yeas 146, Nays 0, 1 present, not voting; and that the House concurred in Senate amendments to H.B. No. 1674 on May 16, 2011, by the following vote: Yeas 143, Nays 0, 1 present, not voting.

Chief Clerk of the House

I certify that H.B. No. 1674 was passed by the Senate, with amendments, on May 4, 2011, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

APPROVED: _____

Date

Governor

AN ACT

relating to continuing education requirements for persons holding licenses issued by the Texas Commission on Environmental Quality.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 37.008, Water Code, is amended by amending Subsection (c) and adding Subsection (d) to read as follows:

(c) The commission may recognize, prepare, or administer continuing education programs for license holders, including continuing education programs made available through the Internet.

(d) The commission by rule shall provide a method for a person who holds a license prescribed by Section 26.0301 of this code or Section 341.033 or 341.034, Health and Safety Code, to certify at the time the license is renewed that the license holder has complied with the commission's continuing education requirements.

SECTION 2. Not later than December 1, 2011, the Texas Commission on Environmental Quality shall adopt rules implementing Section 37.008(d), Water Code, as added by this Act. The rules must provide a method by which the holder of a Class A or Class B public water system operator or domestic wastewater treatment facility operator license may certify the holder's compliance with continuing education requirements.

SECTION 3. This Act takes effect September 1, 2011.

President of the Senate

Speaker of the House

I certify that H.B. No. 965 was passed by the House on April 7, 2011, by the following vote: Yeas 144, Nays 0, 1 present, not voting.

Chief Clerk of the House

I certify that H.B. No. 965 was passed by the Senate on May 12, 2011, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

APPROVED: _____

Date

Governor

AN ACT

relating to the occupational licensing of spouses of members of the military.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. The heading to Chapter 55, Occupations Code, is amended to read as follows:

CHAPTER 55. [~~RENEWAL OF~~] LICENSE WHILE ON MILITARY DUTY AND FOR MILITARY SPOUSE

SECTION 2. Chapter 55, Occupations Code, is amended by adding Section 55.004 to read as follows:

Sec. 55.004. ALTERNATIVE LICENSE PROCEDURE FOR MILITARY SPOUSE. (a) A state agency that issues a license shall adopt rules for the issuance of the license to an applicant who is the spouse of a person serving on active duty as a member of the armed forces of the United States and:

(1) holds a current license issued by another state that has licensing requirements that are substantially equivalent to the requirements for the license; or

(2) within the five years preceding the application date held the license in this state that expired while the applicant lived in another state for at least six months.

(b) Rules adopted under this section must include provisions to allow alternative demonstrations of competency to meet the requirements for obtaining the license.

1 (c) The executive director of a state agency may issue a
2 license by endorsement in the same manner as the Texas Commission of
3 Licensing and Regulation under Section 51.404 to an applicant
4 described by Subsection (a).

5 SECTION 3. This Act takes effect immediately if it receives
6 a vote of two-thirds of all the members elected to each house, as
7 provided by Section 39, Article III, Texas Constitution. If this
8 Act does not receive the vote necessary for immediate effect, this
9 Act takes effect September 1, 2011.

President of the Senate

Speaker of the House

I hereby certify that S.B. No. 1733 passed the Senate on April 19, 2011, by the following vote: Yeas 31, Nays 0; and that the Senate concurred in House amendment on May 27, 2011, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

I hereby certify that S.B. No. 1733 passed the House, with amendment, on May 23, 2011, by the following vote: Yeas 142, Nays 0, one present not voting.

Chief Clerk of the House

Approved:

Date

Governor