

ADOPTED RULES

Adopted rules include new rules, amendments to existing rules, and repeals of existing rules. A rule adopted by a state agency takes effect 20 days after the date on which it is filed with the Secretary of State unless a later date is required by statute or specified in the rule (Government Code, §2001.036). If a rule is adopted without change to the text of the proposed rule, then the *Texas Register* does not republish the rule text here. If a rule is adopted with change to the text of the proposed rule, then the final rule text is included here. The final rule text will appear in the Texas Administrative Code on the effective date.

TITLE 26. HEALTH AND HUMAN SERVICES

PART 1. HEALTH AND HUMAN SERVICES COMMISSION

CHAPTER 554. NURSING FACILITY REQUIREMENTS FOR LICENSURE AND MEDICAID CERTIFICATION

SUBCHAPTER X. REQUIREMENTS FOR MEDICAID-CERTIFIED FACILITIES

26 TAC §554.2312

The Texas Health and Human Services Commission (HHSC) adopts the repeal of §554.2312, concerning Surety Bonds or Letters of Credit.

The repeal of §554.2312 is adopted without changes to the proposed text as published in the March 17, 2023, issue of the *Texas Register* (48 TexReg 1517). This rule will not be republished.

BACKGROUND AND PURPOSE

The purpose of the adopted repeal is to align the Texas Administrative Code to current HHSC policies and procedures concerning surety bonds or letters of credit. The repealed rule provided an optional procedure for issuing a surety bond to expedite the release of vendor holds. Under the repealed rule, the surety bond may only be issued after all cost reports have been submitted and recoupments pertaining to staffing have been paid in full. HHSC's standard procedure is to release the vendor hold after the provider submits the cost report and pays any recoupment in full. Recoupments are offset against new claims or held payments. The standard procedure is efficient, and providers have not used the optional surety bond procedure to expedite the release of vendor holds. The repealed rule was last amended in 2004.

PUBLIC COMMENT

The 31-day comment period ended April 17, 2023.

During this period, HHSC did not receive any comments regarding the proposed repeal.

STATUTORY AUTHORITY

The repeal is adopted under Texas Government Code §531.0055, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, and Texas Human Resources Code §32.021 and Texas Government Code §531.021(a), which authorize HHSC to administer the federal medical assistance (Medicaid) program in Texas; and Texas Government Code §531.021(b-1), which establishes HHSC as

the agency responsible for adopting reasonable rules governing the determination of fees, charges, and rates for medical assistance payments under the Texas Human Resources Code Chapter 32.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on July 17, 2023.

TRD-202302564

Karen Ray
Chief Counsel

Health and Human Services Commission

Effective date: August 6, 2023

Proposal publication date: March 17, 2023

For further information, please call: (512) 867-7817



TITLE 31. NATURAL RESOURCES AND CONSERVATION

PART 2. TEXAS PARKS AND WILDLIFE DEPARTMENT

CHAPTER 53. FINANCE

The Texas Parks and Wildlife Commission in a duly noticed meeting on May 25, 2023, adopted amendments to 31 TAC §§53.4 - 53.6, concerning Fees, new §53.18, concerning License Issuance Procedures, Fees, Possession, and Exemption Rules - Provisions for Digital Products, and new §53.60, concerning Stamps, without changes to the proposed text as published in the April 21, 2023, issue of the *Texas Register* (48 TexReg 2042). The rules will not be republished.

The amendments and new sections will, in conjunction with adopted amendments to §§65.7, 65.8, 65.10, 65.42, 65.64 and new §57.984, published elsewhere in this issue of the *Texas Register*, function to create and implement provisions for use of a digital version of the youth hunting license, digital tags for lifetime resident hunting licenses and lifetime resident fishing licenses, and a digital version of the exempt angler red drum tag.

The 87th Texas Legislature (2021) enacted House Bill (H.B.) 3081, which authorized the commission to develop and implement a program for the issuance of digital tags for animals, including birds, to holders of hunting licenses authorizing the taking of those animals. The department accordingly initiated a pilot program in 2022 to determine the public receptivity to and logistical feasibility of the concept of digital licenses, stamp endorse-

ments, and tags for hunting and fishing, which resulted in the creation of digital versions of the super combination hunting and "all water" fishing license and the lifetime resident super combination hunting and "all water" fishing package (47 TexReg 1888).

After conducting an analysis of customer purchasing behavior with respect to digital licenses and products, the department has determined that it is appropriate to offer a digital version of the youth hunting license, the lifetime resident hunting license, and the lifetime fishing license for the license year beginning September 1, 2023. Additionally, the exempt angler red drum tag, which allows persons who are exempt from fishing license and stamp endorsement requirements to harvest red drum, would be available in a digital version.

The amendment to §53.4, concerning Lifetime Licenses, provides for the issuance of digital versions of the lifetime resident hunting and lifetime resident fishing licenses.

The amendment to §53.5, concerning Recreational Hunting Licenses, Stamps, and Tags, provides for the issuance of a digital version of the youth hunting license.

The amendment to §53.6, concerning Recreational Fishing Licenses, Stamps, and Tags, provides for a digital version of the exempt angler red drum tag.

New §53.18, concerning License Issuance Procedures, Fees, Possession, and Exemption Rules - Provisions for Digital Products, adds the youth hunting license, lifetime resident hunting license, and lifetime resident fishing licenses to the applicability of rules in the subchapter with respect to providing proof of licensure for persons who purchase a digital license.

The amendment to §53.60, concerning Stamps, creates exceptions to the current rules regarding possession of required stamps necessary to accommodate the creation of digital licenses.

The department received no comments opposing adoption of the rules.

The department received four comments supporting adoption of the rules.

SUBCHAPTER A. FEES

DIVISION 1. LICENSE, PERMIT, AND BOAT AND MOTOR FEES

31 TAC §§53.4 - 53.6, 53.18

The amendments and new section are adopted under the authority of Parks and Wildlife Code, §42.010, which requires the department to prescribe the form and issuance of hunting licenses authorized under Parks and Wildlife Code, Chapter 42; §42.0101, which authorizes the commission to promulgate rules for the issuance of digital tags for animals, including birds, to holders of hunting licenses authorizing the taking of those animals, including rules allowing a person using a digital tag to create a digital record at the time of the taking of an animal that includes information required by the department as soon as possible after the taking of the animal and requiring a person using a digital tag to retain in the person's possession documentation of a required digital record at all times before the carcass is finally processed; §42.0177, which authorizes the commission to modify or eliminate the tagging, carcass, final destination, and final processing requirements of Chapter 42; §42.006, which authorizes the commission to prescribe requirements relating to possessing a license issued under Chapter 42 by rule; §46.0085,

which authorizes the department to issue tags for finfish species allowed by law to be taken during each year or season from coastal waters of the state to holders of licenses authorizing the taking of finfish species; §46.0086, which authorizes the commission to prescribe tagging requirements for the take of finfish; §50.004, which requires the department to issue and prescribe the form and manner of issuance for combination hunting and fishing licenses, including identification and compliance requirements; §61.052, which requires the commission to regulate the periods of time when it is lawful to hunt, take, or possess game animals, game birds, or aquatic animal life in this state; and §61.054 which requires the commission to specify the means, methods, and places in which it is lawful to hunt, take, or possess game animals, game birds, or aquatic animal life in this state; the species, quantity, age or size, and, to the extent possible, the sex of the game animals, game birds, or aquatic animal life authorized to be hunted, taken, or possessed; and the region, county, area, body of water, or portion of a county where game animals, game birds, or aquatic animal life may be hunted, taken, or possessed.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on July 14, 2023.

TRD-202302551

James Murphy

General Counsel

Texas Parks and Wildlife Department

Effective date: August 15, 2023

Proposal publication date: April 21, 2023

For further information, please call: (512) 389-4775



SUBCHAPTER B. STAMPS

31 TAC §53.60

The amendment is adopted under the authority of Parks and Wildlife Code, §42.010, which requires the department to prescribe the form and issuance of hunting licenses authorized under Parks and Wildlife Code, Chapter 42; §42.0101, which authorizes the commission to promulgate rules for the issuance of digital tags for animals, including birds, to holders of hunting licenses authorizing the taking of those animals, including rules allowing a person using a digital tag to create a digital record at the time of the taking of an animal that includes information required by the department as soon as possible after the taking of the animal and requiring a person using a digital tag to retain in the person's possession documentation of a required digital record at all times before the carcass is finally processed; §42.0177, which authorizes the commission to modify or eliminate the tagging, carcass, final destination, and final processing requirements of Chapter 42; §42.006, which authorizes the commission to prescribe requirements relating to possessing a license issued under Chapter 42 by rule; §46.0085, which authorizes the department to issue tags for finfish species allowed by law to be taken during each year or season from coastal waters of the state to holders of licenses authorizing the taking of finfish species; §46.0086, which authorizes the commission to prescribe tagging requirements for the take of finfish; §50.004, which requires the department to issue and prescribe the form and manner of issuance for combination hunting and fishing li-

censes, including identification and compliance requirements; §61.052, which requires the commission to regulate the periods of time when it is lawful to hunt, take, or possess game animals, game birds, or aquatic animal life in this state; and §61.054 which requires the commission to specify the means, methods, and places in which it is lawful to hunt, take, or possess game animals, game birds, or aquatic animal life in this state; the species, quantity, age or size, and, to the extent possible, the sex of the game animals, game birds, or aquatic animal life authorized to be hunted, taken, or possessed; and the region, county, area, body of water, or portion of a county where game animals, game birds, or aquatic animal life may be hunted, taken, or possessed.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on July 14, 2023.

TRD-202302552

James Murphy

General Counsel

Texas Parks and Wildlife Department

Effective date: August 15, 2023

Proposal publication date: April 21, 2023

For further information, please call: (512) 389-4775



CHAPTER 57. FISHERIES
SUBCHAPTER N. STATEWIDE RECREATIONAL AND COMMERCIAL FISHING
PROCLAMATION
DIVISION 2. STATEWIDE RECREATIONAL FISHING PROCLAMATION

31 TAC §57.984

The Texas Parks and Wildlife Commission in a duly noticed meeting on May 25, 2023, adopted new §57.984, concerning Special Provisions - Digital Exempt Angler Red Drum Tag, without changes to the proposed text as published in the April 21, 2023, issue of the *Texas Register* (48 TexReg 2044). The rule will not be republished.

The new section prescribes the requirements for the take of over-size red drum by persons who are exempt by statute or rule from fishing license possession requirements. The department in adopted new 31 TAC §53.18 (published elsewhere in this issue of the *Texas Register*) has created a digital version of the current exempt angler red drum tag. The proposed new rule is necessary to prescribe the requirements for the execution of the tag. The proposed new rule is also necessary because under ordinary circumstances the provisions would be part of §57.981, concerning Bag, Possession, and Length Limits; however, that section is currently the subject of proposed rulemaking, which makes it unavailable for amendment in time to take effect before the next license year.

The 87th Texas Legislature (2021) enacted House Bill (H.B.) 3081, which authorized the commission to develop and implement a program for the issuance of digital tags for animals, including birds, to holders of hunting licenses authorizing the taking of those animals. The department accordingly initiated a pilot program in 2022 to determine the public receptivity to and legis-

tical feasibility of the concept of digital licenses, stamp endorsements, and tags for hunting and fishing, which resulted in the creation of digital versions of the super combination hunting and "all water" fishing license and the lifetime resident super combination hunting and "all water" fishing package (47 TexReg 1888).

After conducting an analysis of customer purchasing behavior with respect to digital licenses, the department has determined that it is feasible to offer a digital version of the exempt angler red drum tag, which allows persons who are exempt from fishing license and stamp endorsement requirements to harvest red drum, would be available in a digital version.

The department received no comments opposing adoption of the rules.

The department received four comments supporting adoption of the rules.

The new section is adopted under the authority of Parks and Wildlife Code, §42.006, which authorizes the commission to prescribe requirements relating to possessing a license issued under Chapter 42 by rule; §46.0085, which authorizes the department to issue tags for finfish species allowed by law to be taken during each year or season from coastal waters of the state to holders of licenses authorizing the taking of finfish species; §46.0086, which authorizes the commission to prescribe tagging requirements for the take of finfish; §50.004, which requires the department to issue and prescribe the form and manner of issuance for combination hunting and fishing licenses, including identification and compliance requirements; §61.052, which requires the commission to regulate the periods of time when it is lawful to hunt, take, or possess game animals, game birds, or aquatic animal life in this state; and §61.054, which requires the commission to specify the means, methods, and places in which it is lawful to hunt, take, or possess game animals, game birds, or aquatic animal life in this state; the species, quantity, age or size, and, to the extent possible, the sex of the game animals, game birds, or aquatic animal life authorized to be hunted, taken, or possessed; and the region, county, area, body of water, or portion of a county where game animals, game birds, or aquatic animal life may be hunted, taken, or possessed.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on July 14, 2023.

TRD-202302553

James Murphy

General Counsel

Texas Parks and Wildlife Department

Effective date: August 15, 2023

Proposal publication date: April 21, 2023

For further information, please call: (512) 389-4775



CHAPTER 65. WILDLIFE
SUBCHAPTER A. STATEWIDE HUNTING
PROCLAMATION

The Texas Parks and Wildlife Commission in a duly noticed meeting on May 25, 2023, adopted amendments to 31 TAC §§65.7, 65.8, 65.10, 65.42, and 65.64, concerning the Statewide Hunting Proclamation, without changes to the proposed text as

published in the April 21, 2023, issue of the *Texas Register* (48 TexReg 2046). The rules will not be republished.

The amendments will function, in conjunction with adopted amendments to §§53.4 - 53.6, 53.60, new 53.18, and new §57.984, published elsewhere in this issue of the *Texas Register*, to create and implement provisions for the use of a digital version of the youth hunting license and digital tags for lifetime resident hunting licenses and lifetime resident fishing licenses.

The 87th Texas Legislature (2021) enacted House Bill (H.B.) 3081, which authorized the commission to develop and implement a program for the issuance of digital tags for animals, including birds, to holders of hunting licenses authorizing the taking of those animals. The department accordingly initiated a pilot program in 2022 to determine the public receptivity to and logistical feasibility of the concept of digital licenses, stamp endorsements, and tags for hunting and fishing, which resulted in the creation of digital versions of the super combination hunting and "all water" fishing license and the lifetime resident super combination hunting and "all water" fishing package (47 TexReg 1888).

After conducting an analysis of customer purchasing behavior with respect to digital licenses, the department has determined that it is feasible to offer a digital version of the youth hunting license and the lifetime resident hunting license.

The department received no comments opposing adoption of the rules.

The department received four comments supporting adoption of the rules.

DIVISION 1. GENERAL PROVISIONS

31 TAC §§65.7, 65.8, 65.10

The amendments are adopted under the authority of Parks and Wildlife Code, §42.010, which requires the department to prescribe the form and issuance of hunting licenses authorized under Parks and Wildlife Code, Chapter 42; §42.0101, which authorizes the commission to promulgate rules for the issuance of digital tags for animals, including birds, to holders of hunting licenses authorizing the taking of those animals, including rules allowing a person using a digital tag to create a digital record at the time of the taking of an animal that includes information required by the department as soon as possible after the taking of the animal and requiring a person using a digital tag to retain in the person's possession documentation of a required digital record at all times before the carcass is finally processed; §42.0177, which authorizes the commission to modify or eliminate the tagging, carcass, final destination, and final processing requirements of Chapter 42; §42.006, which authorizes the commission to prescribe requirements relating to possessing a license issued under Chapter 42 by rule; and §61.054 which requires the commission to specify the means, methods, and places in which it is lawful to hunt, take, or possess game animals, game birds, or aquatic animal life in this state; the species, quantity, age or size, and, to the extent possible, the sex of the game animals, game birds, or aquatic animal life authorized to be hunted, taken, or possessed; and the region, county, area, body of water, or portion of a county where game animals, game birds, or aquatic animal life may be hunted, taken, or possessed.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on July 14, 2023.

TRD-202302554

James Murphy

General Counsel

Texas Parks and Wildlife Department

Effective date: August 15, 2023

Proposal publication date: April 21, 2023

For further information, please call: (512) 389-4775



DIVISION 2 OPEN SEASONS AND BAG LIMITS

31 TAC §§65.42, §65.47

The amendments are adopted under the authority of Parks and Wildlife Code, §42.010, which requires the department to prescribe the form and issuance of hunting licenses authorized under Parks and Wildlife Code, Chapter 42; §42.0101, which authorizes the commission to promulgate rules for the issuance of digital tags for animals, including birds, to holders of hunting licenses authorizing the taking of those animals, including rules allowing a person using a digital tag to create a digital record at the time of the taking of an animal that includes information required by the department as soon as possible after the taking of the animal and requiring a person using a digital tag to retain in the person's possession documentation of a required digital record at all times before the carcass is finally processed; §42.0177, which authorizes the commission to modify or eliminate the tagging, carcass, final destination, and final processing requirements of Chapter 42; §42.006, which authorizes the commission to prescribe requirements relating to possessing a license issued under Chapter 42 by rule; §46.0085, which authorizes the department to issue tags for finfish species allowed by law to be taken during each year or season from coastal waters of the state to holders of licenses authorizing the taking of finfish species; §46.0086, which authorizes the commission to prescribe tagging requirements for the take of finfish; §50.004, which requires the department to issue and prescribe the form and manner of issuance for combination hunting and fishing licenses, including identification and compliance requirements; §61.052, which requires the commission to regulate the periods of time when it is lawful to hunt, take, or possess game animals, game birds, or aquatic animal life in this state; the means, methods, and places in which it is lawful to hunt, take, or possess game animals, game birds, or aquatic animal life in this state; and §61.054 which requires the commission to specify the species, quantity, age or size, and, to the extent possible, the sex of the game animals, game birds, or aquatic animal life authorized to be hunted, taken, or possessed; and the region, county, area, body of water, or portion of a county where game animals, game birds, or aquatic animal life may be hunted, taken, or possessed.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on July 14, 2023.

TRD-202302555

James Murphy
General Counsel
Texas Parks and Wildlife Department
Effective date: August 15, 2023
Proposal publication date: April 21, 2023
For further information, please call: (512) 389-4775



SUBCHAPTER N. MIGRATORY GAME BIRD PROCLAMATION

31 TAC §§65.314 - 65.320

The Texas Parks and Wildlife Commission in a duly noticed meeting on March 24, 2023, adopted amendments to 31 TAC §§65.314 - 65.320, concerning the Migratory Game Bird Proclamation, without changes to the proposed text as published in the February 17, 2023, issue of the *Texas Register* (48 TexReg 832). The rules will not be republished.

The United States Fish and Wildlife Service (Service) issues annual frameworks for the hunting of migratory game birds in the United States. Regulations adopted by individual states may be more restrictive than the federal frameworks but may not be less restrictive. Responsibility for establishing seasons, bag limits, means, methods, and devices for harvesting migratory game birds within Service frameworks is delegated to the Texas Parks and Wildlife Commission (Commission) under Parks and Wildlife Code, Chapter 64, Subchapter C.

With one exception, the amendments specify the season dates for hunting the various species of migratory game birds for 2023-2024 seasons. The rules retain the season structure and bag limits for all species of migratory game birds from last year while adjusting the season dates to allow for calendar shift (i.e., to ensure that seasons open on the desired day of the week), since dates from a previous year do not fall on the same days in following years.

The exception mentioned earlier in this preamble is the amendment to §65.318, concerning Sandhill Crane, which clarifies that the federal sandhill crane permit required by the subsection is not valid unless it is issued by the department (i.e., a federal crane permit issued by another state is not valid to hunt sandhill crane in Texas).

The department received nine comments opposing adoption of the rules as proposed. Of those comments, all nine commenters articulated a reason or rationale for opposing adoption. Those comments, accompanied by the department's response to each, follow. The department notes that several comments consisted of more than one component; therefore, the total number of department responses is greater than the total number of commenters.

One commenter opposed adoption and stated that the daily bag limit for white-fronted geese should be eight birds. The department disagrees with the comment and responds that under the federal frameworks, the maximum allowable bag limit for white-fronted geese is three. No changes were made as a result of the comment. One commenter opposed adoption and stated that the north zone duck season should run from January 28 until February 11. The department disagrees with the comment and responds that under federal frameworks, duck seasons in Texas cannot extend beyond January 31. No changes were made as a result of the comment. One commenter opposed adoption and

stated that there should be a bag limit for snow geese during the Light Geese Conservation Order. The department disagrees with the comment and responds that by federal rule, there is no bag limit for light geese during the Light Geese Conservation Order. No changes were made as a result of the comment.

One commenter opposed adoption and stated that the season for dark geese should be delayed by one week, like it was in years past, and that structuring the season to benefit outfitters in Knox and Haskell counties is ridiculous. The department disagrees with the comment and responds that the season as adopted is intended to provide the greatest amount of hunting opportunity while dark geese are present in large numbers, and reflects the preferences of hunters and landowners, not outfitters in any particular county. No changes were made as a result of the comment.

One commenter opposed adoption and stated that sandhill crane and goose seasons should end concurrently, like it used to be. The department disagrees with the comment and responds that because sandhill crane and goose zones are geographically different, there is no way to have goose seasons and sandhill crane seasons end concurrently on a statewide basis without curtailing hunting opportunity; however, the seasons do end concurrently in the Eastern Zone. No changes were made as a result of the comment.

One commenter opposed adoption and stated that outfitters should be licensed and there should be a limit on the number of outfitters allowed to operate in particular areas. The department disagrees with the comment and responds that the commission does not have statutory authority to regulate the business of outfitters or hunting guides. No changes were made as a result of the comment.

One commenter opposed adoption and stated that duck season in the north zone should end on January 31 instead of January 28. The department disagrees with the comment and responds that the season as adopted utilizes the entirety of the season days for duck hunting available to Texas under the federal frameworks and is scheduled in such a fashion as to include as many weekends as possible in order to provide maximum hunting opportunity. No changes were made as a result of the comment.

One commenter opposed adoption and stated that duck season should be extended into February. The department disagrees with the comment and responds that under the federal frameworks duck seasons cannot extend past January 31. No changes were made as a result of the comment.

One commenter opposed adoption and stated that it makes no sense to lower the bag limit for light geese during the regular season only to eliminate it during the Light Goose Conservation Order. The department disagrees with the comment and responds that the daily bag limit for the regular season has not been lowered and remains the same as for the previous four years. No changes were made as a result of the comment.

One commenter opposed adoption and stated that the daily bag limit for pintails should be two. The department disagrees with the comment and responds that under the federal frameworks, the maximum daily bag limit for pintails is one. The department believes that the bag limit as adopted will not result in negative population impacts to pintails. No changes were made as a result of the comment.

One commenter opposed adoption and stated that the hunting of sandhill cranes should be allowed in Jefferson County. The

department disagrees with the comment and responds that federal rules do not allow for crane hunting in the southeast portion of Texas, including Jefferson County. No changes were made as a result of the comment.

One commenter opposed adoption and stated that the season for mottled ducks should be closed. The department disagrees with the comment and responds that it is the policy of the commission to adopt the most liberal seasons and bag limits allowable under the federal frameworks, unless there is biological justification not to do so. The department believes that the bag limit as adopted will not result in negative population impacts to mottled ducks. No changes were made as a result of the comment.

The department received 19 comments supporting adoption of the rules as proposed.

The amendments are adopted under Parks and Wildlife Code, Chapter 64, which authorizes the Commission and the Executive Director to provide the open season and means, methods, and devices for the hunting and possessing of migratory game birds.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on July 14, 2023.

TRD-202302550

James Murphy

General Counsel

Texas Parks and Wildlife Department

Effective date: August 3, 2023

Proposal publication date: February 17, 2023

For further information, please call: (512) 389-4775



TITLE 34. PUBLIC FINANCE

PART 6. TEXAS MUNICIPAL RETIREMENT SYSTEM

CHAPTER 127. MISCELLANEOUS RULES

The Board of Trustees (Board) of the Texas Municipal Retirement System (TMRS or the System) adopts the repeal of current 34 TAC Chapter 127 (Chapter 127), relating to miscellaneous rules as published in the May 19, 2023, issue of the *Texas Register* (48 TexReg 2557). TMRS also adopts the replacement of the current Chapter 127 with the adopted new Chapter 127, also relating to miscellaneous rules as published in the May 19, 2023, issue of the *Texas Register* (48 TexReg 2557). The repeals will not be republished.

REPEAL OF CURRENT CHAPTER 127

TMRS repeals the following rules: 34 TAC §127.1, Procedures for Release of Board Records; 34 TAC §127.2, Payment to Beneficiaries of Decedents; 34 TAC §127.3, Conformity with Internal Revenue Code: Preservation of Benefits; 34 TAC §127.4, Credited Service under the Uniformed Services Employment and Reemployment Rights Act; 34 TAC §127.6, Acceptance of Rollovers and Transfers; 34 TAC §127.7, Rollovers of Plan Distributions; 34 TAC §127.8, Plan Limitations; 34 TAC §127.9, Authorization of Certain Payments in Accordance with the Pension Protection Act of 2006; and 34 TAC §127.10, Conformity with Internal Revenue Code: Additional Provisions.

ADOPTION OF NEW CHAPTER 127

The Board of TMRS adopts new 34 TAC Chapter 127, §§127.1, 127.3 - 127.13, relating to miscellaneous rules, without changes to the proposed text as published in the May 19, 2023, issue of the *Texas Register* (48 TexReg 2557). The rules will not be republished.

The Board of TMRS adopts the following new Chapter 127 rules: 34 TAC §127.1, Procedures for Release of Board Records; 34 TAC §127.3, Conformity with Internal Revenue Code: Preservation of Benefits; 34 TAC §127.4, Credited Service under the Uniformed Services Employment and Reemployment Rights Act; 34 TAC §127.5, Prorating of Contributions Based on Compensation Limited by Internal Revenue Code §401(a)(17); 34 TAC §127.6, Acceptance of Rollovers and Transfers; 34 TAC §127.7, Rollovers of Plan Distributions; 34 TAC §127.8, Plan Limitations; 34 TAC §127.9, Authorization of Certain Payments in Accordance with the Pension Protection Act of 2006; 34 TAC §127.10, Conformity with Internal Revenue Code: Additional Provisions; 34 TAC §127.11, Required Minimum Distributions: General Rule, Forfeiture and Reinstatement; 34 TAC §127.12, Refund of Unrecovered Contributions; and 34 TAC §127.13, Late Contributions Sent Electronically.

BACKGROUND AND PURPOSE

New Chapter 127 is adopted to update, modernize, and provide clarification to its rules relating to miscellaneous subjects. Statutes specific to TMRS are found in Title 8, Subtitle G, Chapters 851 through 855, Texas Government Code (the "TMRS Act"). TMRS may promulgate rules it deems necessary to implement the TMRS Act. In addition, the repeal and replacement of Chapter 127 is adopted as a result of TMRS' rule review, which was conducted pursuant to Texas Government Code §2001.039.

Six provisions of the adopted new Chapter 127 rules are unchanged from existing rules; these six rules are found in new 34 TAC §127.3, Conformity with Internal Revenue Code: Preservation of Benefits; 34 TAC §127.4, Credited Service under the Uniformed Services Employment and Reemployment Rights Act; 34 TAC §127.6, Acceptance of Rollovers and Transfers; 34 TAC §127.7, Rollovers of Plan Distributions; 34 TAC §127.8, Plan Limitations; and 34 TAC §127.9, Authorization of Certain Payments in Accordance with the Pension Protection Act of 2006. Two adopted new rules are amendments to the current rules to better clarify how the System interprets and administers benefits and to update references to laws or other TMRS rules that have been amended; these are 34 TAC §127.1, Procedures for Release of Board Record and 34 TAC §127.10, Conformity with Internal Revenue Code: Additional Provisions. Two adopted new rules are new clarifications of internal procedures: 34 TAC §127.12, Refund of Unrecovered Contributions and 34 TAC §127.13, Late Contributions Sent Electronically. Substantive changes, however, are adopted in the two remaining new rules, which changes are described as follows: adds a provision clarifying current practice for the proration of contributions subject to the compensation limit in Internal Revenue Code §401(a)(17) (in §127.5, Prorating of Contributions Based on Compensation Limited by Internal Revenue Code §401(a)(17)); and adds new procedures to comply with Internal Revenue Code §401(a)(9) and related regulations regarding required minimum distributions (in §127.11, Required Minimum Distributions: General Rule, Forfeiture and Reinstatement).

Current rule §127.2, Payment to Beneficiaries of Decedents, is repealed as it is no longer necessary for the administration of the System.

COMMENTS

No Comments were received regarding the adoption of the repeal and new Chapter 127.

34 TAC §§127.1 - 127.4, 127.6 - 127.10

STATUTORY AUTHORITY

The repeal of existing Chapter 127 is adopted under the authority granted under the following provisions of the TMRS Act or the Texas Government Code: (i) Government Code §851.006, which allows the Board to adopt rules to allow the System to make payments in accordance with Section 845 of the Pension Protection Act of 2006; (ii) Government Code §852.103, which allows the Board to adopt rules to implement withdrawals of contributions and rollover distributions; (iii) Government Code §853.004, which allows the Board to adopt rules necessary or desirable to implement Chapter 853; (iv) Government Code §853.506, which allows the Board to adopt rules to comply with the Uniformed Services Employment and Reemployment Rights Act; (v) Government Code §854.003, which allows the Board to adopt rules to comply with the distribution requirements of Section 401(a)(9) of the Internal Revenue Code of 1986; and (vi) Government Code §855.102, which allows the Board to adopt rules it finds necessary or desirable for the efficient administration of the System. In addition, the rule changes are adopted as a result of TMRS' rule review, which was conducted pursuant to Texas Government Code §2001.039.

CROSS-REFERENCE TO STATUTES

Texas Government Code:

Chapter 552, §851.001, §851.002, §851.006, §852.103, §853.003, §853.506, §854.002, §854.003, §854.004, §854.007, §854.008, §854.103, §854.502, §855.103, §855.112, §855.115, §855.306, §855.402, and §855.410.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on July 12, 2023.

TRD-202302490

Christine M. Sweeney

Chief Legal Officer

Texas Municipal Retirement System

Effective date: August 1, 2023

Proposal publication date: May 19, 2023

For further information, please call: (512) 225-3710

◆ ◆ ◆
34 TAC §§127.1, 127.3 - 127.13

STATUTORY AUTHORITY

The new Chapter 127 rules are adopted pursuant to the authority granted under the following provisions of the TMRS Act or the Texas Government Code: (i) Government Code §851.006, which allows the Board to adopt rules to allow the System to make payments in accordance with Section 845 of the Pension Protection Act of 2006; (ii) Government Code §852.103, which allows the Board to adopt rules to implement withdrawals of contributions and rollover distributions; (iii) Government Code §853.004, which allows the Board to adopt rules necessary or desirable to implement Chapter 853; (iv) Government Code §853.506, which allows the Board to adopt rules to comply with the Uniformed Services Employment and Reemployment Rights Act; (v) Government Code §854.003, which allows the Board to adopt rules to comply with the distribution requirements of Section 401(a)(9) of the Internal Revenue Code of 1986; (vi) Government Code §855.102, which allows the Board to adopt rules it finds necessary or desirable for the efficient administration of the System; and (vii) Government Code 855.201, which allows the Board to delegate to the executive director powers and duties provided to the Board by the TMRS Act. In addition, the rule changes are adopted as a result of TMRS' rule review, which was conducted pursuant to Texas Government Code §2001.039.

CROSS-REFERENCE TO STATUTES

Texas Government Code: Chapter 522, §851.001, §851.002, §851.006, §852.103, §853.003, §853.506, §854.002, §854.003, §854.004, §854.007, §854.008, §854.103, §854.502, §855.103, §855.112, §855.115, §855.306, §855.402, and §855.410.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on July 12, 2023.

TRD-202302491

Christine M. Sweeney

Chief Legal Officer

Texas Municipal Retirement System

Effective date: August 1, 2023

Proposal publication date: May 19, 2023

For further information, please call: (512) 225-3710