



Texas Department *of* Motor Vehicles

HELPING TEXANS GO. HELPING TEXAS GROW.

TxDMV Board Meeting

8:00 a.m.

Thursday, August 6, 2020

**AGENDA
BOARD MEETING
TEXAS DEPARTMENT OF MOTOR VEHICLES
OPEN MEETING VIA
TELEPHONE CONFERENCE CALL*
PURSUANT TO GOVERNOR'S MARCH 16, 2020, TEMPORARY SUSPENSION OF
CERTAIN OPEN MEETING PROVISIONS**
THURSDAY, AUGUST 6, 2020
8:00 A.M.**

THIS MEETING WILL BE HELD REMOTELY VIA TELEPHONE CONFERENCE CALL*

Instructions for accessing the meeting via Webex:

<https://txdmv.webex.com/txdmv/onstage/g.php?MTID=e0fe9928c087ec30b66cfeeb8473f32d4>

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Event Passcode: 080620

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Link to August 6, 2020, TxDMV Board Meeting Documents:

<https://www.txdmv.gov/about-us/txdmv-board-meetings>

*The public can listen to the meeting via the Webex link or the toll-free number listed above. If you have any technical questions about accessing the meeting, please send an email to Board.Tech.Help@txdmv.gov.

**Action by Governor Greg Abbott pursuant to Texas Government Code Section 418.016

<https://gov.texas.gov/news/post/governor-abbott-allows-virtual-and-telephonic-open-meetings-to-maintain-government-transparency>

All agenda items are subject to possible discussion, questions, consideration, and action by the Board of the Texas Department of Motor Vehicles (Board). Agenda item numbers are assigned for ease of reference only and do not necessarily reflect the order of their consideration by the Board. Presentations may be made by the identified staff or Board member or other staff as needed. The Board reserves the right to discuss any items in executive session where authorized by the Open Meetings Act.

1. Roll Call and Establishment of Quorum

2. Pledges of Allegiance - U.S. and Texas

3. **Chair's Reports** - Chairman Treviño
Vice Chair Appointment of Finance and Audit Committee under Transportation Code, §1001.023(b)(8)
4. **Executive Director's Reports** - Whitney Brewster
 - 8 A. COVID-19 Disaster Response
 - 9 B. [Introduction of Deputy Executive Director - Daniel Avitia](#)
 - C. [Awards, Recognition of Years of Service, and Announcements](#)

CONTESTED CASES

- 10 5. **Denial of Application and Appeal to SOAH under Occupations Code, §2301.651 and 43 Texas Administrative Code §215.141.** MVD Docket Case No. 19-0012705.ENF, SOAH Docket No. 608-20-0638.ENF. [Texas Department of Motor Vehicles v. Johnnie Lloyd, D/B/A Five Star Motors and More](#) - Daniel Avitia
- 23 6. **Denial of Application and Appeal to SOAH under Occupations Code, §2301.251(a), and §2301.651(a); Transportation Code, §503.034(a)(1); and 43 Texas Administrative Code §§215.88(c), 215.89(b)(8), and 215.141.** MVD Docket Case No. 19-0007745.ENF, SOAH Docket No. 608-19-6053.ENF. [Texas Department of Motor Vehicles v. Alvina Taylor, D/B/A A&J Imports, LLC.](#) - Daniel Avitia

RULES - PROPOSALS

- 43 7. [Consumer Protection Advisory Committee \(CPAC\) Recommendations Regarding Refund by Motor Vehicle Dealers and Motor Carriers Transporting Household Goods Rules](#) - Enforcement Division and Presiding Officer Laird Doran
- 47 8. **Chapter 215, Motor Vehicle Distribution** - Corrie Thompson and Brian Ge
Amendments, §215.500
New, §215.504
Chapter 218, Motor Carriers
Amendments, §218.72
(Relating to SB 604, clarifying the refund authority for motor vehicle buyers and lessees; refund to a consumer who paid the motor carrier to transport household goods)
- 61 9. **Chapter 221, Salvage Vehicle Dealers** - Corrie Thompson
New §221.96, Cease and Desist
(Relating to SB 604, establishing process under which board may issue a cease and desist order to prohibit a person from violating statutes, board rules, or board orders, after notice and an opportunity for a hearing)
- 67 10. **Chapter 209, Finance** - Jimmy Archer and Linda M. Flores
Amendments, §209.23

**Chapter 219, Oversize and Overweight
Amendments, §§219.2, 219.11, 219.13 - 219.15, 219.42, 219.43, and 219.61 -
219.63**

(Relating to HB 61, escort flag vehicles including the use of certain lighting equipment; removing escrow account payment for certain types of permits)

- 150** 11. **Chapter 219, Oversize and Overweight Vehicles and Loads** - Jimmy Archer
Amendments, §219.31 and §219.126
Repeal, §219.83

(Relating to HB 2620, movement of oversize or overweight vehicles and enforcement of motor vehicle size and weight limitations)

- 159** 12. **Chapter 206, Management** - Timothy Menke and Sandra Menjivar-Suddeath
New, §206.151

**Chapter 223, Compliance and Investigations Division
New, §223.101**

(Relating to SB 604, risk-based monitoring and prevention of title and registration fraud)

- 170** 13. **Chapter 206, Management** - Tracey Beaver
Amendments, §206.22

**Chapter 215, Motor Vehicle Distribution
Amendments, §215.22 and §215.55**

New, §§215.59 - 215.63

(Relating to SB 604, new Occupations Code §2301.709(d), contested cases; and a petition for rulemaking)

(Informal Working Draft and Request for Informal Comments on Rules Relating to Contested Cases; and Petition for Rulemaking - Published on TxDMV website April 3, 2020 to May 4, 2020)

RULES - ADOPTIONS

- 230** 14. **Chapter 217, Vehicle Titles and Registration** - Jeremiah Kuntz
Amendments, §217.144

(Relating to SB 604, new Transportation Code Chapter 1006, rename Automobile Burglary Theft Prevention Authority to Motor Vehicle Crime Prevention Authority)

- 233** 15. **Chapter 217, Vehicle Titles and Registration** - Jeremiah Kuntz
Amendments, §217.182

(Relating to HB 1548, new Transportation Code §551A.052, Registration; license plates; incorporate legislation to add a new transaction type)

BRIEFING AND ACTION ITEMS

- 16. Finance and Audit Committee Update - Committee Chair Brett Graham**

A. Consideration and Possible Recommendation for Action to Full Board:

- 239** 1. **FY 2022 - 2023 Legislative Appropriations Request, Baseline, and**

technology;

- network security information as described by Section 2059.055(b); or
- the deployment, or specific occasions for implementation, of security personnel, critical infrastructure, or security devices.

20. Action Items from Executive Session

Performance evaluation of Executive Director, including any delegations to a board subcommittee, and modifications to compensation

21. Public Comment

22. Adjournment

The Board will allow an open comment period to receive public comment on any agenda item or other matter that is under the jurisdiction of the Board. No action will be taken on matters that are not part of the agenda for the meeting. For subjects that are not otherwise part of the agenda for the meeting, Board members may respond in accordance with Government Code, Section 551.042 and consider the feasibility of placing the matter on the agenda for a future meeting.

If you want to comment on any agenda item (including an open comment under Item #21), you must send an email to GCO_General@txdmv.gov with one of the following prior to the agenda item being taken up by the Board:

1. a completed registration form (available on the TxDMV webpage for the Board and other public meetings: <https://www.txdmv.gov/about-us/txdmv-board-meetings>); or
2. the following information:
 - a. the agenda item you wish to comment on;
 - b. your name and address, including your city, state, and zip code; and
 - c. who you are representing.

You must wait for the chairman to call on you before you verbally make your comment via the link or the toll-free number listed above. Each speaker will be limited to three minutes, and time allotted to one speaker may not be reassigned to another speaker.

Agenda items may be presented by the named presenters or other TxDMV staff.

Any individual with a disability who plans to attend this meeting and requires auxiliary aids or services should notify the department as far in advance as possible, but no less than two days in advance, so that appropriate arrangements can be made. Contact David Richards by telephone at (512) 465-1423.

I certify that I have reviewed this document and that it conforms to all applicable

Texas Register filing requirements.

CERTIFYING OFFICIAL: Tracey Beaver, General Counsel, (512) 465-5665.

To: Texas Department of Motor Vehicles Board
From: Whitney Brewster, Executive Director
Agenda Item: 4.B
Subject: Introduction of Deputy Executive Director - Daniel Avitia

PURPOSE AND EXECUTIVE SUMMARY

New Deputy Executive Director – Daniel Avitia



Daniel Avitia serves as a deputy executive director of the Texas Department of Motor Vehicles (TxDMV).

In this role, he oversees the day-to-day operations of the department's administrative and motoring services divisions which include Finance and Administration, Human Resources, Information Technology Services, the Motor Vehicle Division and the Office of Administrative Hearings.

A lifelong Texan, Daniel Avitia began his commitment to Texas state government over 25 years ago. Avitia has held various director and administrator positions in state government agencies which include the University of Texas at El Paso, the Texas Department of Assistive and Rehabilitative Services, the Texas Health & Human Services Commission and the Texas Department of Agriculture.

Avitia has focused his professional efforts on strengthening and streamlining operations, building and administering successful teams and continuously improving processes that better support department and customer needs.

Avitia is a graduate of the University of Texas at El Paso and possesses a Bachelor of Arts degree with a concentration in Legal Reasoning, as well as a Master's degree in Public Administration. Avitia is also a graduate of the Governor's Executive Development Program and the Texas Health & Human Services Executive Leadership Program.

Board Meeting Date: 8/6/2020
BRIEFING

To: Texas Department of Motor Vehicles Board
From: Whitney Brewster, Executive Director
Agenda Item: 4.C
Subject: Executive Director's Report – Recognition of Years of Service

RECOMMENDATION

Board Chair and members offer congratulations to employees receiving recognition for an award, reaching a state service milestone, or retirement.

PURPOSE AND EXECUTIVE SUMMARY

The Executive Director announces the name of individuals who retired from the agency and recognizes employees who have reached a state service milestone of 20 years and every five-year increment thereafter. Recognition at the August 6, 2020, Board Meeting for retirements and state service awards include:

- Lance Petri in Finance & Administrative Services Division reached 20 years of state service.
- Lillie Stembridge in Motor Carrier Division reached 20 years of state service.
- Kristy Schultz in Motor Carrier Division reached 25 years of state service.
- Tommy O'Connor in Vehicle Titles and Registration Division reached 30 years of state service.
- Kenny Corzine in Information Technology Services Division reached 35 years of state service.
- Darlene Hancock in Finance & Administrative Services Division reached 35 years of state service.

And, the following individuals recently retired from the agency:

- Chuckie Harris - Finance and Administrative Services Division
- Candy Southerland - Vehicle Titles and Registration Division
- Patti Racicot - Vehicle Titles and Registration Division

FINANCIAL IMPACT

No financial impact.

BACKGROUND AND DISCUSSION

No additional background and discussion.

Board Meeting Date: 8/6/2020
ACTION ITEM

To: Texas Department of Motor Vehicles Board
From: Daniel Avitia, Deputy Executive Director
Agenda Item: 5
Subject: Denial of Application and Appeal to SOAH under Occupations Code, § 2301.651 and 43 Texas Administrative Code § 215.141. MVD Docket Case No. 19-0012705.ENF, SOAH Docket No. 608-20-0638.ENF. *Texas Department of Motor Vehicles v. Johnnie Lloyd, D/B/A Five Star Motors and More*

RECOMMENDATION

Staff recommends the Board adopt the Findings of Fact, Conclusions of Law, and proposed decision in the Administrative Law Judge's (ALJ) Proposal for Decision (PFD), and enter an order approving Johnnie Lloyd d/b/a Five Star Motors and More's application for a motor vehicle dealer's General Distinguishing Number (GDN).

PURPOSE AND EXECUTIVE SUMMARY

The State Office of Administrative Hearings (SOAH) issued a PFD for consideration by the Board of the Texas Department of Motor Vehicles (Board). The Board may now consider and approve a Final Order.

FINANCIAL IMPACT

None.

BACKGROUND AND DISCUSSION

The Respondent, Johnnie Lloyd, was 36 years old when he applied for a GDN license on March 15, 2019. In the criminal history section of the application he provided information about one felony conviction in October 2007.

The standard background check identified two other criminal convictions in June 2004 and September 2005 that he did not disclose on the GDN application. He was then asked to disclose the details and provide evidence of fitness.

The Licensing Committee denied Mr. Lloyd's license application after reviewing the circumstances including the mitigating facts and information provided by Mr. Lloyd. Key factors for considering the applicant as unfit and denying licensure included the following:

1. Failure of Mr. Lloyd to disclose his complete criminal history on the application;
2. Multi-year pattern of serious felony convictions directly related to the licensed occupation:
 - 2004 – Possession of a Controlled Substance, 3rd Degree Felony
 - 2005 – Possession with Intent to Deliver a Controlled Substance, 3rd Degree Felony

- 2007 – Possession with intent to Deliver Controlled Substances, 1st Degree Felony. Mr. Lloyd was convicted in 2009, and sentenced to 35 years confinement. He was released in May 2014, and remains on parole.

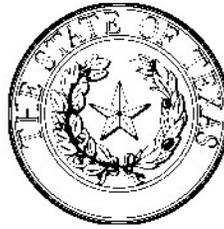
3. Insufficient evidence of rehabilitation; Mr. Lloyd provided one letter from his parole officer and one tax return.

MVD referred the denied application to the Enforcement Division, and Mr. Lloyd was sent the Notice of Department Decision (NODD) recommending denial of the GDN application in August 2019. The Enforcement Division referred the contested case matter to SOAH, and provided notice of the hearing to Mr. Lloyd. The hearing on the merits was on December 11, 2019, and the record closed on the same date. The PFD was issued on February 10, 2020.

Additional evidence of rehabilitation was provided at the hearing including two recommendation letters, proof of court fee payment, and a completion certificate for substance abuse treatment dated February 3, 2015. Based on the evidence admitted, the ALJ found that Mr. Lloyd has rehabilitated himself and is fit for licensure, and recommended a license be issued to him.

The following documents are attached to this Executive Summary for consideration by the Board:

1. Proposal for Decision, February 10, 2020.



State Office of Administrative Hearings

Kristofer Monson
Chief Administrative Law Judge

February 10, 2020

Daniel Avitia, Director
Motor Vehicle Division
Texas Department of Motor Vehicles
4000 Jackson Avenue
Austin, TX 78731

VIA INTERAGENCY MAIL

RE: **SOAH Docket No. 608-20-0638.ENF; MVD Docket No. 19-0012705.ENF/ The Texas Department of Motor Vehicles, Enforcement Division v. Johnnie Lloyd D/B/A Five Star Motors and More**

Dear Mr. Avitia:

Please find enclosed a Proposal for Decision in this case. It contains my recommendation and underlying rationale.

Exceptions and replies may be filed by any party in accordance with 1 Tex. Admin. Code § 155.507, a SOAH rule which may be found at www.soah.state.tx.us.

Sincerely,

A handwritten signature in black ink that reads "Beth Bierman".

Beth Bierman
Administrative Law Judge

BB/db
Enclosure

cc: Johnnie Lloyd, 8503 Valencia Avenue, Unit 3, Lubbock, TX, 79424-4912 - **VIA REGULAR MAIL**
Johnnie Lloyd, 701 N. Ithaca Avenue, Apt 2423, Lubbock, TX, 79415 - **VIA REGULAR MAIL**
Brian Coats, Attorney, Enforcement Division, Texas Department of Motor Vehicles, Motor Vehicle Division, 400 Jackson Ave., Austin, TX 78731 - **VIA INTERAGENCY MAIL**
Melinda Moreno, Docket Clerk, Texas Department of Motor Vehicle, 4000 Jackson Avenue, Austin, Texas 78731 - **VIA INTERAGENCY MAIL** (with 1 hearing CD; Hearing on the Merits)

**SOAH DOCKET NO. 608-20-0638.ENF
MVD NO. 19-0012705.ENF**

TEXAS DEPARTMENT OF MOTOR VEHICLES	§	BEFORE THE STATE OFFICE
	§	
	§	
v.	§	OF
	§	
JOHNNIE LLOYD D/B/A FIVE STAR MOTORS AND MORE, Applicant	§	ADMINISTRATIVE HEARINGS

PROPOSAL FOR DECISION

The staff (Staff) of the Texas Department of Motor Vehicles (Department) seeks to deny the application of Johnnie Lloyd d/b/a Five Star Motors and More, for a Dealer General Distinguishing Number (GDN) to sell used vehicles. Staff contends Mr. Lloyd's application should be denied because of his criminal history. In this Proposal for Decision (PFD), the Administrative Law Judge (ALJ) concludes that Mr. Lloyd's application should be approved.

I. JURISDICTION, NOTICE, AND PROCEDURAL HISTORY

There are no issues of notice or jurisdiction in this proceeding. Therefore, these matters are addressed in the Findings of Fact and Conclusions of Law without further discussion.

The hearing was held December 11, 2019, before ALJ Beth Bierman in Austin, Texas. Staff was represented by Patrick Coats, Enforcement Division attorney. Mr. Lloyd appeared and represented himself. The record closed and the hearing concluded that day.

II. DISCUSSION

A. Applicable Law

The Board of the Department is responsible for ensuring that the distribution, sale or leasing of motor vehicles is conducted as required by chapter 2301 of the Texas Occupations Code

(Code) and the Board's rules.¹ A person may not act as a dealer without being licensed by the Department.²

The Department may deny an application for a GDN if the applicant has been convicted of an offense that directly relates to the duties and responsibilities of a GDN, or that is not directly related to the occupation, but was committed less than five years before the date of application.³

Chapter 53 of the Code provides the framework for licensing agencies to use in evaluating license-holders and applicants for licensure who have criminal convictions. Section 53.021(a)(1) of the Code provides that a licensing agency may deny a license if the person has been convicted of an offense that directly relates to the duties and responsibilities of the licensed occupation.⁴

Consistent with Code § 53.025, the Department has adopted a rule that lists certain crimes as being directly related to the licenses the Department regulates. These directly-related crimes include drug-related crimes listed in the Texas Controlled Substances Act found in the Texas Health and Safety Code chapter 481.⁵ Pertinent to the facts of this case are the offenses of Possession of Controlled Substance Penalty Group (PG) 1 and Possession with Intent to Deliver a Controlled Substance PG 1.⁶

In deciding whether to deny an application for a license because of a conviction, the Department must ascertain whether the applicant is fit to perform the duties and discharge the responsibilities of the profession despite his criminal history. In making this determination, the Department is required to consider the following factors set forth in Code § 53.023(a):

¹ Tex. Occ. Code § 2301.151.

² Tex. Occ. Code § 2301.251.

³ 43 Tex. Admin. Code §§ 215.88(i)(1)-(2), (j), .89(b)(2); *see also* Tex. Occ. Code §§ 53.021-.022. Mr. Lloyd submitted his application to the Department on March 15, 2019. The version of the Department's rules and the applicable statutes, including Texas Occupations Code chapter 53, in effect on that date apply to this case and are cited in this Proposal for Decision (PFD).

⁴ Tex. Occ. Code § 53.021(a)(1). The criteria to be used by an agency in determining whether a crime is directly related to the occupation are listed in Texas Occupations Code § 53.022 and are discussed below in the text.

⁵ 43 Tex. Admin. Code § 215.88(j)(37).

⁶ Tex. Health and Safety Code § 481.112.

- (1) the extent and nature of the person's past criminal activity;
- (2) the age of the person when the crime was committed;
- (3) the amount of time that has elapsed since the person's last criminal activity;
- (4) the conduct and work activity of the person before and after the criminal activity;
- (5) evidence of the person's rehabilitation or rehabilitative effort while incarcerated or after release; and
- (6) other evidence of the person's fitness, including letters of recommendation from:
 - (A) prosecutors and law enforcement and correctional officers who prosecuted, arrested, or had custodial responsibility for the person;
 - (B) the sheriff or chief of police in the community where the person resides; and
 - (C) any other person in contact with the convicted person.⁷

The Department must also consider the following factors:

- (1) the nature and seriousness of the crime;
- (2) the relationship of the crime to the purposes for requiring a license to engage in the occupation;
- (3) the extent to which a license might offer an opportunity to engage in further criminal activity of the same type as that in which the person previously had been involved; and
- (4) the relationship of the crime to the ability, capacity, or fitness required to perform the duties and discharge the responsibilities of the licensed occupation.⁸

An applicant has the responsibility, to the extent possible, to obtain and provide to the licensing authority the recommendations of the prosecution, law enforcement, and correctional

⁷ Tex. Occ. Code § 53.023(a).

⁸ Tex. Occ. Code §§ 53.022, .023(a).

authorities discussed above.⁹ Additionally, an applicant shall furnish proof in the form required by the licensing authority that he has: (1) maintained a record of steady employment; (2) supported his dependents; (3) maintained a record of good conduct; and (4) paid all outstanding court costs, supervision fees, fines, and restitution ordered in any criminal case in which the applicant has been convicted.¹⁰

The Department has the burden of proof to show the basis for denying Mr. Lloyd's application.¹¹ Mr. Lloyd has the burden of proof to show that he is fit to be licensed despite his criminal history.¹²

B. Evidence

Staff presented the testimony of Department Background Research Analyst Lucie Prieto, and offered nine exhibits, which were admitted. Mr. Lloyd testified on his own behalf and offered one exhibit, which was admitted. Crystal Franco also testified in support of Mr. Lloyd.

1. Undisputed Facts

On March 19, 2019, Mr. Lloyd submitted his application for a GDN to the Department's Motor Vehicle Division.¹³ The Department reviewed his application and determined he failed to meet the requirements for a GDN license due to his criminal history. Specifically, the Department's investigator found that Mr. Lloyd's criminal history included:

- On or about September 24, 2004, in the 140th Judicial District Court, Lubbock County, Texas, Mr. Lloyd pleaded guilty to, and was convicted of, the felony offense of Possession of Controlled Substance PG I in Case No. 2004-406737. The offense was committed on June 25, 2004, in a drug-free zone. Mr. Lloyd was sentenced to five years' confinement, but the imposition of the sentence was suspended and he was placed on community supervision for a period of five years.

⁹ Tex. Occ. Code § 53.023(b).

¹⁰ Tex. Occ. Code § 53.023(c).

¹¹ 1 Tex. Admin. Code § 155.427.

¹² Tex. Occ. Code § 53.023(b)-(c); 1 Tex. Admin. Code § 155.427.

¹³ Staff Exs. 4-5.

Mr. Lloyd's probation was revoked on January 26, 2006, for probation violations, including committing the offense of Possession of Marijuana <2 oz. on July 7, 2005; failing to report for three months; failing to pay court costs, supervision fees, restitution, and attorney fees; failing to submit to an evaluation of skill levels; and failing to complete the Drug Offender Program.¹⁴

- On or about January 26, 2006, in the 140th Judicial District Court, Lubbock County, Texas, Mr. Lloyd pleaded guilty to, and was convicted of, the lesser included felony offense of Possession of a Controlled Substance PG 1 in Case No. 2005-410345. The offense was committed on September 9, 2005, in a drug-free zone. Mr. Lloyd was sentenced to four years' confinement.¹⁵
- On or about February 19, 2009, in the 140th Judicial District Court, Lubbock County, Texas, Mr. Lloyd pleaded guilty to, and was convicted of, the felony offense of Possession with Intent to Deliver a Controlled Substance PG 1 in Case No. 2007-418284. The offense was committed October 23, 2007, in a drug-free zone. Mr. Lloyd was sentenced to thirty-five years' confinement.¹⁶

Mr. Lloyd was paroled from prison on May 2, 2014, and will remain on parole until 2030.¹⁷

2. Ms. Prieto's Testimony

Ms. Prieto reviews applications submitted to the Department that contain criminal background fitness issues. She reviewed Mr. Lloyd's application and discovered three felony drug-related convictions that were directly related to the occupation of a dealer. She noted that although it has been almost ten years since Mr. Lloyd's last criminal offense, he was not paroled from prison until 2014.

In support of its position that the drug offenses were directly related to the occupation of a dealer, Staff provided a copy of the Department's guidelines as outlined in the Texas Register adopting the guidelines.¹⁸ For offenses under the Texas Controlled Substances Act, the guidelines state that the offenses directly related to the occupation because licensees conduct business

¹⁴ Staff Ex. 1.

¹⁵ Staff Ex. 2.

¹⁶ Staff Ex. 3.

¹⁷ Staff Ex. 7 at 12.

¹⁸ 39 Tex. Reg. 7996, 8010 (2014).

transactions in-person with the general public in situations that present potential for unobserved, intimidating, threatening, or confrontational behavior, possibly in secluded locations and possibly at late hours.

Ms. Prieto testified that Mr. Lloyd's offenses were not youthful indiscretions, having been committed when Mr. Lloyd was between the ages of approximately 20 to 25 years old. In response to Staff's request for more information regarding Mr. Lloyd's rehabilitation, Mr. Lloyd provided additional copies of court documents related to his prior offenses; a letter from his parole officer, dated April 25, 2019; and a copy of his 2018 tax return showing that he supports two minor children.¹⁹ According to his parole officer, Mr. Lloyd has completed substance abuse treatment, which includes AA/NA classes, and has been employed since August 15, 2016, with Llano Logistics. Mr. Lloyd has reported for random urinalysis screenings and has not had a positive test. He has also made payments on his supervision fees and has lived in an approved residence since July 2017. Mr. Lloyd has also reported on his scheduled reporting dates and has been present during scheduled home visits.

Mr. Lloyd later provided two letters of recommendation to Staff, one from Dena Jones, the manager of Beehive Homes, and one from Jessica Rios.²⁰ Ms. Prieto acknowledged that the letter from Ms. Jones was positive. Ms. Jones described Mr. Lloyd as conscientious, hard-working, dedicated, and honest. Ms. Jones had known Mr. Lloyd for approximately six months, having employed Mr. Lloyd to perform automobile detailing on her vehicle. Ms. Prieto stated that she was unable to contact Ms. Rios to confirm the information in her letter.

3. Mr. Lloyd's Testimony

Mr. Lloyd testified that he supports two minor sons, ages seven and nine, and his partner, Ms. Franco. After he was released from prison, he has been consistently employed and working as a painter, a landscaper, an automotive detailer, and a commercial laundry service. Mr. Lloyd has taken substance abuse classes as a condition of his parole. He did not deny his criminal history

¹⁹ Staff Exs. 6-7.

²⁰ Staff Ex. 8.

and stated that he was trying to better himself and provide for his family. Although he believed that he had paid all court-related costs for his three convictions, he apparently still owes between \$263 and \$286 for each of the three convictions.²¹ He maintained that he is trying to support his family, and that he was fit to be licensed by the Department given his efforts since his release.

4. Ms. Franco's Testimony

Ms. Franco is the mother of Mr. Lloyd's two children. She testified that they have been together since he was released from prison, and that Mr. Lloyd has worked every day to provide for her and the two children. She supported his application for a license and believed that the prior convictions occurred before Mr. Lloyd had matured.

III. ANALYSIS

Mr. Lloyd's three drug-related convictions are directly related to the occupation of a GDN licensee under the Department's guidelines. Therefore, his convictions may constitute grounds for the Department to deny him a license under Code § 53.021(a). Nevertheless, the factors in Code § 53.023 must be considered to determine whether he is fit to be licensed despite his criminal history.

Mr. Lloyd has three criminal convictions spanning a period of approximately five years when Mr. Lloyd was in his early to mid-twenties. The convictions all pertain to illegal drugs, which shows a pattern of criminal activity rather than an isolated incident. Mr. Lloyd's criminal activity occurred when he was approximately 20 to 25 years old, when he was a young adult, so his actions cannot fully be construed to be a result of youthful indiscretion. He is now approximately 35 years old. Mr. Lloyd's last criminal activity occurred approximately 12 years ago, but he was incarcerated for almost half of that time period. He was not committed an offense since his release from prison in 2014. He remains on parole until 2030.

²¹ Staff Ex. 9.

According to his parole officer, he has maintained steady employment, and he supports his family. Mr. Lloyd is current with his payments for supervision but still owes nominal amounts for court costs on his three prior convictions. He has reported for all random drug screens and has not produced a positive test result. Mr. Lloyd has also reported on his scheduled reporting dates and has been present during scheduled home visits.

After weighing the evidence and considering the totality of the applicable factors for licensure, the ALJ finds that Mr. Lloyd's application should be granted. There is no doubt that Mr. Lloyd's convictions were serious and directly related to the occupation. Nonetheless, since his release from prison approximately five years ago, Mr. Lloyd has met every requirement of his parole, including most significantly not missing or failing a random drug screen. He has been employed and has supported his family. All these factors weigh in his favor and lead the ALJ to conclude that Mr. Lloyd is fit to perform the duties and discharge the responsibilities of a dealer despite his criminal history. Thus, the ALJ concludes the Department should grant his application. In support of this determination, the ALJ makes the following findings of fact and conclusions of law.

IV. FINDINGS OF FACT

1. On or about March 19, 2019, Johnnie Lloyd d/b/a Five Star Motors and More, submitted an application to the Texas Department of Motor Vehicles – Motor Vehicle Division (Department) for a Dealer General Distinguishing Number (GDN) to sell used vehicles.
2. The Department staff (Staff) conducted a review of Mr. Lloyd's application and determined the application should be denied because of Mr. Lloyd's criminal history.
3. On or about September 24, 2004, in the 140th Judicial District Court, Lubbock County, Texas, Mr. Lloyd pleaded guilty to, and was convicted of, the felony offense of Possession of Controlled Substance PG 1 in Case No. 2004-406737. The offense was committed on June 25, 2004, in a drug-free zone. Mr. Lloyd was sentenced to five years' confinement, but the imposition of the sentence was suspended and he was placed on community supervision for a period of five years. Mr. Lloyd's probation was revoked January 26, 2006, for probation violations, including committing the offense of Possession of Marijuana <2 oz. on July 7, 2005; failing to report for three months; failing to pay court costs, supervision fees, restitution, and attorney fees; failing to submit to an evaluation of skill levels; and failing to complete the Drug Offender Program.
4. On or about January 26, 2006, in the 140th Judicial District Court, Lubbock County, Texas, Mr. Lloyd pleaded guilty to, and was convicted of, the lesser included felony offense of

- Possession of a Controlled Substance PG 1 in Case No. 2005-410345. The offense was committed on September 9, 2005, in a drug-free zone. Mr. Lloyd was sentenced to four years' confinement.
5. On or about February 19, 2009, in the 140th Judicial District Court, Lubbock County, Texas, Mr. Lloyd pleaded guilty to, and was convicted of, the felony offense of Possession with Intent to Deliver a Controlled Substance PG 1 in Case No. 2007-418284. The offense was committed October 23, 2007, in a drug-free zone. Mr. Lloyd was sentenced to thirty-five years' confinement.
 6. Mr. Lloyd was paroled from prison on May 2, 2014, and will remain on parole until 2030.
 7. Mr. Lloyd is currently about 35 years old. He was approximately 20 to 25 years old at the time of the offenses.
 8. As of the date of hearing, more than 10 years have passed since Mr. Lloyd's last criminal conviction.
 9. During parole, Mr. Lloyd has completed substance abuse treatment, which includes AA/NA classes, and has been employed since August 15, 2016, with Llano Logistics. He has also worked as a painter, a landscaper, an automobile detailer, and as an employee in a commercial laundry. Mr. Lloyd has reported for random urinalysis screenings and has not had a positive test. He has also made payments on his supervision fees and has lived in an approved residence since July 2017.
 10. Mr. Lloyd submitted letters of recommendation from Dena Jones, the manager of Beehive Homes, and from Jessica Rios. Ms. Jones described Mr. Lloyd as conscientious, hard-working, dedicated, and honest. Ms. Jones had known Mr. Lloyd for approximately six months, having employed Mr. Lloyd to perform automobile detailing on her vehicle. Ms. Rios's letter of recommendation could not be confirmed.
 11. Mr. Lloyd supports his partner and their two minor children.
 12. Mr. Lloyd had not paid all of the court fees associated with his convictions. He still owes approximately \$263 to \$286 for each conviction.
 13. Since his release from prison approximately five years ago, Mr. Lloyd has met every requirement of his parole, including not missing or failing a random drug screen, making his payments, and reporting for every random drug screen and appointment. He has been employed and has supported his family.
 14. Despite Mr. Lloyd's criminal history, he has established he is currently fit to have a GDN.
 15. On August 9, 2019, staff (Staff) of the Department notified Mr. Lloyd that it was proposing to deny his application.
 16. Mr. Lloyd timely requested a hearing.

17. On October 17, 2019, Staff mailed a notice of hearing to Mr. Lloyd by U.S. mail, certified mail, and email.
18. The notice of hearing stated the date, time, place, and nature of the hearing; the legal authority and jurisdiction under which the hearing was to be held; the particular sections of the statutes and rules involved; and a short, plain, statement of the factual matters asserted or an attachment that incorporates by reference the factual matters asserted in the complaint or petition filed with the state agency.
19. The hearing was held December 11, 2019, before Administrative Law Judge Beth Bierman in Austin, Texas. Staff was represented by Patrick Coats, Enforcement Division attorney. Mr. Lloyd appeared and represented himself. The record closed and the hearing concluded that day.

V. CONCLUSIONS OF LAW

1. The Department has jurisdiction over motor vehicle dealers pursuant to Texas Occupations Code ch. 2301 and Texas Transportation Code ch. 503.
2. The State Office of Administrative Hearings has jurisdiction over all matters related to conducting a contested case in this matter, including the preparation of a Proposal for Decision with proposed Findings of Fact and Conclusions of Law, under Texas Government Code ch. 2003.
3. Mr. Lloyd received proper and timely notice of hearing. Tex. Gov't Code §§ 2001.051-.052.
4. A person may not legally engage in the business of a dealer without a GDN. Tex. Occ. Code § 2301.251(a); Tex. Transp. Code § 503.21.
5. Mr. Lloyd's crimes directly relate to the duties and responsibilities of a dealer, which constitutes grounds to deny the application. Tex. Occ. Code § 53.021(a); 43 Tex. Admin. Code §§ 215.88(i), (j)(37), .89(b)(2).
6. Mr. Lloyd is presently fit to perform the duties and discharge the responsibilities of a GDN licensee. Tex. Occ. Code § 53.023; 43 Tex. Admin. Code § 215.89(a).
7. The application should be granted.

SIGNED February 10, 2020.



BETH BIERMAN
ADMINISTRATIVE LAW JUDGE
STATE OFFICE OF ADMINISTRATIVE HEARINGS

To: Texas Department of Motor Vehicles Board
From: Daniel Avitia, Deputy Executive Director
Agenda Item: 6
Subject: Denial of Application and Appeal to SOAH under Occupations Code, §§ 2301.251(a), and 2301.651(a); Transportation Code, § 503.034(a)(1); and 43 Texas Administrative Code §§ 215.88(c), 215.89(b)(8), and 215.141. MVD Docket Case No. 19-0007745.ENF, SOAH Docket No. 608-19-6053.ENF. *Texas Department of Motor Vehicles v. Alvina Taylor, D/B/A A&J Imports, LLC.*

RECOMMENDATION

Staff recommends the Board adopt the Findings of Fact, Conclusions of Law, and proposed decision in the Administrative Law Judge's (ALJ) Proposal for Decision (PFD), as amended in the ALJ's exception letter, and enter an order approving Alvina Taylor d/b/a A&J Imports, LLC's application for a motor vehicle dealer's General Distinguishing Number (GDN).

PURPOSE AND EXECUTIVE SUMMARY

The State Office of Administrative Hearings (SOAH) issued a PFD for consideration by the Board of the Texas Department of Motor Vehicles (Board). The Board may now consider and approve a Final Order.

FINANCIAL IMPACT

None.

BACKGROUND AND DISCUSSION

Alvina Taylor is the spouse of Jason Taylor. Jason Taylor applied for a General Distinguishing Number (GDN) in April 2018, under the business name of All Seasonz Imports, LLC, listing Mr. Taylor as a 50% owner and Mrs. Taylor as a 50% owner.

Mr. Taylor withdrew the application in July 2018, after being informed that the department intended to deny the license. The department's decision to deny a license was based on Mr. Taylor's failure to disclose his complete criminal history, and the extent of his criminal history.

Mrs. Taylor then applied for a GDN in January 2019 under the business name of A&J Imports, LLC, listing herself as 100% owner. The Texas Administrative Code § 215.88(c)(1) and (3) states that the terms "applicant" or "person" includes a person's spouse with a community property interest in the entity to be licensed, and under § 215.89(b)(8), the department may deny a person's license application if the applicant is affiliated with a person who is ineligible for licensure.

The Motor Vehicle Division (MVD) Licensing Committee denied the license application based on Mr. Taylor's criminal conviction history which included:

1. 1998 - Retail Fraud 1st Degree Felony
2. 1999 - Police Officer Fleeing Felony
3. 2000 - Two felony counts of Financial Transaction Device Stealing/Retaining without Consent
4. 2005 - Two federal crimes: Conspiracy to Distribute Controlled Substances and Laundering of Monetary Instruments; convicted in 2007, confined for 42 months, and complete probation in July 2012.

MVD referred the denied application to the Enforcement Division, and Mrs. Taylor was sent the Notice of Department Decision (NODD) recommending denial of the GDN application on March 22, 2019. The Enforcement Division referred the contested case matter to SOAH, and provided notice of hearing to Mrs. Taylor on July 23, 2019. The hearing on the merits was on November 8, 2019, and the record closed on November 25, 2019. The PFD was issued on January 27, 2020.

The ALJ found that Mr. Taylor has rehabilitated himself and was now fit for licensure, and recommended a license be issued to Mrs. Taylor. The Enforcement Division filed exceptions to correct the procedural history and errors in five Findings of Fact. The respondent did not file exceptions. The ALJ issued an exceptions letter on July 9, 2020, making five of the six requested changes. These updates to correct the record did not impact the legal analysis, or the ALJ's overall conclusion that a license should be issued to Mrs. Taylor.

The following documents are attached to this Executive Summary for consideration by the Board:

1. Proposal for Decision, November 12, 2019;
2. ALJ's Exceptions Letter, July 9, 2020.



State Office of Administrative Hearings

Kristofer Monson
Chief Administrative Law Judge

January 27, 2020

Daniel Avitia, Director
Motor Vehicle Division
Texas Department of Motor Vehicles
4000 Jackson Avenue
Austin, TX 78731

VIA INTERAGENCY MAIL

RE: **Docket No. 608-19-6053.ENF; MVD Docket No. 19-0007745 / *The Texas Department of Motor Vehicles, Enforcement Division v. Alvina Taylor d/b/a A&J Imports, LLC***

Dear Mr. Avitia:

Please find enclosed a Proposal for Decision in this case. It contains my recommendation and underlying rationale.

Exceptions and replies may be filed by any party in accordance with 1 Tex. Admin. Code § 155.507, a SOAH rule which may be found at www.soah.state.tx.us.

Sincerely,

A handwritten signature in black ink, appearing to read "Rudy Calderon", with a long horizontal flourish extending to the right.

Rudy Calderon
Administrative Law Judge

RC/nm
Enclosure

cc: Damien Shores, Attorney, Enforcement Division, Texas Department of Motor Vehicles, Motor Vehicle Division, 400 Jackson Ave., Austin, TX 78731 - **VIA REGULAR MAIL**
Alvina Taylor, d/b/a A&J Imports, LLC., 12950 Fuqua Street, Houston, TX 77034 - **VIA REGULAR MAIL**
Melinda Moreno, Docket Clerk, Texas Department of Motor Vehicle, 4000 Jackson Avenue, Austin, Texas 78731 - **VIA INTERAGENCY MAIL** (with 1 hearing CD; Certified Exhibits)

**SOAH DOCKET NO. 608-19-6053.ENF
MVD NO. 19-0007745**

TEXAS DEPARTMENT OF MOTOR VEHICLES ENFORCEMENT DIVISION	§ § § § § § § § §	BEFORE THE STATE OFFICE
v.		OF
ALVINA TAYLOR, D/B/A A&J IMPORTS, LLC, Applicant		ADMINISTRATIVE HEARINGS

PROPOSAL FOR DECISION

The staff (Staff) of the Texas Department of Motor Vehicles (Department) seeks to deny the application of Alvina Taylor, d/b/a A&J Imports, LLC (A&J), for a Dealer General Distinguishing Number (GDN) to sell used vehicles. Staff contends Mrs. Taylor's application should be denied because of her husband's, Jason Taylor's, criminal history. In this Proposal for Decision (PFD), the Administrative Law Judge (ALJ) finds that Mrs. Taylor's application should be approved.

I. JURISDICTION, NOTICE, AND PROCEDURAL HISTORY

There are no issues of notice or jurisdiction in this proceeding. Therefore, these matters are addressed in the Findings of Fact and Conclusions of Law without further discussion.

The hearing was held November 8, 2019, before ALJ Rudy Calderon in Austin, Texas. Staff was represented by Damien Shores, Enforcement Division attorney. Mrs. Taylor appeared and represented herself. The record was held open until November 25, 2019, for Respondent to submit additional documentation.

II. DISCUSSION

Mrs. Taylor submitted her application for a GDN on January 10, 2019. On March 22, 2019, the Department proposed to deny her application, and Mrs. Taylor timely requested a hearing.

Staff presented the testimony of Background Research Analyst Lucie Prieto and Jason Taylor and offered 17 exhibits, which were admitted. Mrs. Taylor offered six exhibits which were admitted. Mrs. Taylor testified on her own behalf and offered no exhibits.

A. Applicable Law

The Department is authorized to deny, revoke, or suspend a license, and assess a civil penalty, if the applicant or licensee: is convicted of an offense that directly relates to the duties or responsibilities of the occupation; is determined by the Department to be unfit to hold a license; or omits information or makes a material misrepresentation in any application or other documentation filed with the Department.¹

The Department is authorized to deny an application if the applicant has been convicted of an offense that directly relates to the duties and responsibilities of a GDN. The Department may deny an application after consideration of the factors listed in Texas Occupations Code §§ 53.022 and 53.023, and the guidelines issued by the Department pursuant to Occupations Code § 53.025.² Further, even if an applicant has not been convicted of a crime “directly related to” the profession and that does not directly relate to the duties and responsibilities of the licensed application, the Department may deny an application if the applicant has been convicted of an offense that was committed less than five years before the date the applicant applied for a license.³

¹ 43 Tex. Admin. Code § 215.141(b)(16), (17), (21); *See* Tex. Occ. Code § 2301.651.

² 43 Tex. Admin. Code § 215.88(i)(1).

³ 43 Tex. Admin. Code § 215.88(i)(2).

Additionally, the Department will consider denying an application for a license based on an applicant's spouse's criminal history if the applicant's spouse will have a community property interest in the entity licensed or to be licensed by the Department.⁴

In determining a person's fitness for licensure, the Department will consider: (1) the requirements of Texas Occupations Code (Code) chapter 53; (2) the provisions of Texas Occupations Code § 2301.651; (3) any specific statutory licensing requirements; (4) mitigating factors; and (5) other evidence of a person's fitness as allowed by law, including the standards identified in the Department's rule on fitness.⁵ The Department may determine that a person is unfit to perform the duties and discharge the responsibilities of a license holder and may, after notice and opportunity for hearing, deny a person's license application.⁶ Further, the Department may determine a person is unfit to hold a license if a person's spouse has been subject to denial of a license by the Department in the past.⁷ Additionally, the Department may deny a person's application if the person is a business entity that is operated, managed, or otherwise controlled by a relative or family member and that person could be considered unfit or ineligible for licensure.⁸

In deciding whether to deny an application because of a conviction, the Department must determine whether that person nonetheless is fit to perform the duties and discharge the responsibilities of the licensed profession. In addition to the factors listed in Code § 53.022, the Department is required to consider the following factors set forth in Code § 53.023:

- (1) the extent and nature of the person's past criminal activity;
- (2) the age of the person when the crime was committed;
- (3) the amount of time that has elapsed since the person's last criminal activity;
- (4) the conduct and work activity of the person before and after the criminal activity;

⁴ 43 Tex. Admin. Code § 215.88(c)(3).

⁵ 43 Tex. Admin. Code § 215.89(a)(1)-(5).

⁶ 43 Tex. Admin. Code § 215.89(b).

⁷ 43 Tex. Admin. Code § 215.89(b)(8).

⁸ 43 Tex. Admin. Code § 215.89(10).

- (5) evidence of the person's rehabilitation or rehabilitative effort while incarcerated or after release; and
- (6) other evidence of the person's fitness, including letters of recommendation from:
 - (A) prosecutors and law enforcement and correctional officers who prosecuted, arrested, or had custodial responsibility for the person;
 - (B) the sheriff or chief of police in the community where the person resides; and
 - (C) any other person in contact with the convicted person.⁹

An applicant has the responsibility, to the extent possible, to obtain and provide to the licensing authority, in this case the Department, the recommendations of the prosecution, law enforcement, and correctional authorities discussed above.¹⁰ Additionally, an applicant must furnish proof in the form required by the licensing authority that she has:

- (1) maintained a record of steady employment;
- (2) supported her dependents;
- (3) maintained a record of good conduct; and
- (4) paid all outstanding court costs, supervision fees, fines, and restitution ordered in any criminal case in which the applicant has been convicted.¹¹

B. Evidence

On January 10, 2019, Mrs. Taylor submitted her application for a GDN to the Department's Motor Vehicle Division. The Department reviewed Mrs. Taylor's application and determined she was ineligible for licensure due to her husband's criminal history and the denial of Mr. Taylor's GDN Application.

⁹ Tex. Occ. Code § 53.023(a).

¹⁰ Tex. Occ. Code § 53.023(b).

¹¹ Tex. Occ. Code § 53.023(c).

Specifically, the Department found that on or about November 29, 2007, in the United States District Court, Eastern District of Michigan, Mr. Taylor was convicted of Conspiracy to Possess with Intent to Distribute Controlled Substances and Conspiracy to Launder Monetary Instruments in Case No. 05CR80617-14, as well as three felony convictions in Michigan state court between 1999 and 2000.¹² Additionally, the Department argues that Mr. Taylor had submitted a GDN application on April 10, 2018, for All Seasonz Imports, LLC (All Seasonz), but withdrew his application after being informed that his Application had been recommended for denial based on his criminal history and failure to disclose that history on his application.¹³ The Department argues that due to these circumstances, and the fact that Mr. Taylor is married to Mrs. Taylor, Mrs. Taylor should be denied a GDN. The Department offered no evidence as to Mrs. Taylor's criminal history or her individual fitness to hold a GDN.

1. Lucie Prieto's testimony

In her capacity as a Background Research Analyst, Ms. Prieto testified that she had conducted a background check on Mr. Taylor as a part of his application for a GDN for All Seasonz, and a separate background check on Mrs. Taylor as part of her application for a GDN for A&J Imports, LLC (A&J). She explained that the recommendation to deny Mrs. Taylor's application was based on her husband's criminal history and falsification of his All Seasonz application, which contained crimes directly related to a GDN.

Ms. Prieto testified that during her background check of Mr. Taylor, she discovered that Mr. Taylor had not fully disclosed his criminal history on his application. She stated that Mr. Taylor disclosed one federal conviction for Conspiracy to Launder Monetary Instruments, but not a second related conviction for Conspiracy to Possess with Intent to Distribute Controlled Substances. Mr. Taylor was convicted of both charges on November 29, 2007.

¹² Staff Ex. 6.

¹³ Staff Ex. 12.

Ms. Prieto further testified that Mr. Taylor had several state convictions, including 3 felonies, spanning the time between 1999 and 2000. Additionally, Ms. Prieto stated that Mr. Taylor currently owed \$1,935.00 in restitution and court costs stemming from one of the state court convictions dating back to 1999.¹⁴ Evidence presented by the Department showed that Mr. Taylor was released from supervision for his federal conviction on July 31, 2012.¹⁵

Ms. Prieto also testified that Mr. Taylor had submitted 3 letters of reference, including one from a detective in the Houston Police Department, but that these letters were not given as much consideration as they may have due to the fact that none mentioned having knowledge of Mr. Taylor's criminal history and only spoke to his character at the time they were written. Ms. Prieto also testified that she had notified Mr. Taylor of the Department's intention to deny his application and that Mr. Taylor subsequently withdrew his application and that he had received a refund of his application fee.¹⁶

Mr. Taylor's application for All Seasonz shows that ownership of the LLC was allocated as 50% to Mr. Taylor and 50% to Mrs. Taylor. The application for A&J reflects that Mrs. Taylor owns 100% of the LLC. Additionally, Ms. Prieto testified that Mrs. Taylor submitted a sworn statement that Mr. Taylor would have no duties or responsibilities associated with A&J and that she alone was the sole owner of the business.¹⁷

Additionally, Ms. Prieto testified that Mrs. Taylor had hired a third party, X-Pert Auto Title, to handle the application process for A&J and that it was not uncommon for applicants to do so. Ms. Prieto offered no testimony as to Mrs. Taylor's criminal history, nor did the Department offer any exhibits of Mrs. Taylor's criminal history or individual fitness to hold a GDN. Ms. Prieto testified that the recommendation to deny Mrs. Taylor's application was due to her relationship with Mr. Taylor.

¹⁴ Staff Ex. 19.

¹⁵ Staff Ex. 11.

¹⁶ Staff Ex. 12.

¹⁷ Staff Ex. 2.

2. Jason Taylor's testimony

Mr. Taylor was called as a witness by the Department. During his testimony, Mr. Taylor contended that the application he submitted for All Seasonz was submitted by a third party vendor whom he had hired to submit his application and handle the licensing process. He testified that he hired Innovative Tax to handle the paperwork since he did not know anything about the process. Mr. Taylor testified that after his release from prison, he attended culinary school and is currently a caterer and food truck owner and had catered an event for Innovative Tax where he came into contact with them. He further testified that his contact at Innovative Tax was Ms. Ebony Fleming. Mr. Taylor stated that all matters relating to the application of All Seasonz, including the submittal of the application itself, was handled by Innovative Tax. Mr. Taylor further testified that Mrs. Taylor had also hired a third party, X-Pert Auto Title, to handle the GDN application process.¹⁸

Mr. Taylor testified that Innovative Tax asked him about his criminal history in the past ten years and in response, he provided documentation about his federal felony conviction, but not his prior Michigan state convictions because they fell outside the ten-year window. He testified that he was not intentionally being deceitful in his responses to the criminal history portion of the application because he did not fill out the application and was relying on Innovative Tax to do so. He testified that he had provided Innovative Tax with his email information and phone number in order for Innovative Tax to communicate with the Department on his behalf. Additionally, Mr. Taylor testified that he was unaware of any outstanding court costs or restitution until just prior to the hearing and that he believed he did not owe these costs and restitution. He stated that he was in contact with the Michigan state court and was attempting to resolve the matter.

In addition to his testimony, Mr. Taylor offered letters of recommendation from three people who referenced his criminal history and a cookbook that he had authored.¹⁹

¹⁸ Staff Ex. 13.

¹⁹ Respondent's Exs. 2-6.

Finally, Mr. Taylor testified that when notified by the Department of their intention to deny his application, he withdrew it and requested a refund of the Application fee.

3. Alvina Taylor's Testimony

Mrs. Alvina Taylor testified briefly and stated that she had no criminal history, has worked as an accountant since graduating college, and was not married to, nor involved with, Mr. Taylor during his criminal activity. She stated she would be the sole owner of A&J and that Mr. Taylor would have no duties or responsibilities concerning the business.²⁰ She testified that Mr. Taylor was focused on his catering and food truck business.

4. Department's Additional Argument

In addition to the reasoning laid out by the Department during Ms. Prieto's testimony, the Department also argued that since Mr. Taylor's All Seasonz Application was denied, A&J's application should also be denied under 30 Texas Administrative Code §215.89(b)(8). The Department argued that since Mr. Taylor is a "person" as defined under 30 Texas Administrative Code §215.88(c)(3), because he has a community property interest in A&J, his All Seasonz application denial makes A&J's application subject to 30 Texas Administrative Code §215.89(b)(8) which states "a person...whose current or previous license, permit, or other authorization issued by any local, state, or federal regulatory authority has been subject to...denial" may be found unfit to hold a GDN and their Application denied.

C. ALJ's Analysis

The Department's denial of Mrs. Taylor's application for a GDN for A&J rests solely on her marriage to Mr. Taylor and his criminal history and previous GDN Application denial for All Seasonz.

²⁰ Staff Ex. 2.

The Department made no attempt to address Mrs. Taylor's fitness to hold a GDN and in not doing so, the ALJ must conclude that the Department has no issue with Mrs. Taylor's fitness independent of Mr. Taylor. The issue before SOAH, then, is whether Mr. Taylor's criminal history, the failure of Mr. Taylor to disclose his entire criminal history on his GDN application for All Seasonz, his outstanding court costs and fees owed from a 1999 felony Michigan state court conviction, and the Department's subsequent denial of Mr. Taylor's application warrants the denial of Mrs. Taylor's GDN Application who, considered alone, would be granted a GDN. The ALJ finds that Mrs. Taylor's GDN application for A&J should be granted and in reaching that decision, relies on the analysis below.

1. Mr. Taylor's State Court Convictions and Outstanding Court Costs and Fees

The ALJ finds that Mr. Taylor's 1999-2000 felony convictions, while directly related to the duties and responsibilities of a GDN holder, are so remote in time, twenty years, that they do not warrant consideration in this matter.

As for the outstanding court costs and restitution owed, the ALJ finds Mr. Taylor's testimony credible that he was unaware of the money owed until shortly before the hearing date. The exhibits show that Mr. Taylor paid the court cost and restitution associated with two of the three felony convictions and the ALJ finds it reasonable that having done so, Mr. Taylor believed he owed nothing more to the Michigan court. Additionally, the exhibits show that the Department itself was unaware of the outstanding balance until two weeks prior to the hearing on the merits. No evidence was presented that the outstanding balance was brought to Mr. Taylor's attention during the All Seasonz application process and was only discovered by the Department in preparation for the hearing on the merits in this A&J matter.²¹ Mr. Taylor was not given an opportunity to cure this deficiency during his own application process for All Seasonz, nor was it brought to Mrs. Taylor's attention during the A&J Application process.

²¹ Staff Ex. 19.

Therefore, the ALJ concludes that Mr. Taylor's outstanding balance owed to Michigan should not be considered in reaching a determination in this matter.

2. Mr. Taylor's Federal Conviction and Fitness

The Department showed and Mr. Taylor admitted that in November 2007, he was convicted of Conspiracy to Possess with Intent to Distribute Controlled Substances and Conspiracy to Launder Monetary Instruments in Case No. 05CR80617-14, in the United States District Court, Eastern District of Michigan. Exhibits and testimony show that Mr. Taylor was released from supervision in July 2012.

While these convictions are not as remote in time as his state convictions, the crimes occurred well over ten years ago and there is no evidence of any further criminal activity since that time. In fact, there is ample evidence that since his conviction and release from supervision, Mr. Taylor has rehabilitated himself. The Department offered letters of reference submitted by Mr. Taylor and Mr. Taylor offered additional letters of reference at the hearing showing his good standing in the community. While the letters offered by the Department did not reference his past criminal activity, the letters offered by Mr. Taylor at hearing did. All the letters, including one from a Houston Police Department detective, showed Mr. Taylor being highly regarded in his community. Also, the ALJ finds Mr. Taylor's testimony that he has turned his life around very credible and compelling. Mr. Taylor even offered into evidence a holiday cookbook he had authored.

These facts lead the ALJ to conclude that Mr. Taylor is currently fit to hold a GDN and any past criminal activity should not be impugned onto Mrs. Taylor and her fitness to hold a GDN.

3. All Seasonz Application Denial

At hearing, the Department presented testimony and exhibits that showed Mr. Taylor applied for a GDN on April 10, 2018, and that the Department notified Mr. Taylor of its intention to deny his application on July 13, 2018, at which time Mr. Taylor withdrew his application and requested a refund of the application fee. The Department argues that the decision to pursue denial of Mr. Taylor's application was based on his criminal history and falsification because he failed to disclose his full criminal history.

At hearing, Mr. Taylor testified that he had hired Innovative Tax to submit his application and submitted documentation to them concerning his federal felony conviction upon their request for his criminal record for the past ten years. He testified that he did not intentionally falsify the application and relied on Innovative Tax's representation that he only needed to disclose his criminal record for the last ten years. The ALJ finds Mr. Taylor's testimony and explanation credible on this issue as evidenced by the fact that Mrs. Taylor also hired a third party, X-Per Auto Title, to submit her application and Ms. Prieto's testimony that it is not uncommon for individuals to hire third parties to handle the application process. Additionally, The Department entered exhibits showing Mr. Taylor attempted to cure this deficiency by submitting additional documentation showing his full criminal history on June 6, 2018.

Additionally, the Department argues that since Mr. Taylor is a "person" as defined by the Department's rules, has a community property interest in A&J, and is a family member, his denial of a GDN weighs into the decision to deny Mrs. Taylor a GDN for A&J as per Department rules. The ALJ finds that the denial of Mr. Taylor's GDN was not a final decision and therefore cannot be considered in determining whether A&J receives a GDN. As evidenced by exhibit 12, Ms. Prieto informed Mr. Taylor that the Department would "pursue denial of the application" and Mr. Taylor had the choice of either withdrawing the application and requesting a refund or pursuing the application further, in which case his application would be forwarded to the enforcement division, at which time he could request a hearing on the matter (Mr. Taylor withdrew the application).

Clearly, this correspondence shows that the denial of Mr. Taylor's application was not a final denial and that Mr. Taylor still had recourse to obtain a GDN. Therefore, Staff's initial denial should not be used as justification for denying Mrs. Taylor's application based on their marriage.

For the above stated reasons, the ALJ finds that Mrs. Taylor's and A&J Imports, LLC's, application for a GDN should be approved.

III. FINDINGS OF FACT

1. On or about April 10, 2018, Jason Taylor, d/b/a All Seasonz, LLC, submitted an application to the Texas Department of Motor Vehicles – Motor Vehicle Division (Department) for a Dealer General Distinguishing Number (GDN) to sell used vehicles.
2. The Department conducted a review of Mr. Taylor's application, and determined the application should be denied because Mr. Taylor failed to disclose his full criminal history on the application and failed to meet the requirements for a GDN due to his criminal history.
3. On the application, Mr. Taylor failed to disclose three felony convictions in Michigan state court dating to between 1999 and 2000.
4. Mr. Taylor disclosed a November 29, 2007, conviction in the United States District Court, Eastern District of Michigan, for Conspiracy to Possess with Intent to Distribute Controlled Substances and Conspiracy to Launder Monetary Instruments in Case No. 05CR80617-14.
5. On or about June 6, 2018, Mr. Taylor submitted documentation to the Department concerning his prior state felony convictions as well as three letters of reference, including one from a Houston Police Department detective, in response to the Department's request for more information concerning his criminal history.
6. On or about July 13, 2018, the Department notified Mr. Taylor of its decision to pursue denial of his GDN application due to his criminal history and failure to disclose his prior state court felony convictions.
7. On or about July 13, 2018, Mr. Taylor withdrew his application and requested a refund of the application fee.

8. On or about May 14, 2019, Alvina Taylor, d/b/a A&J Imports, LLC, submitted an application to the Department for a GDN to sell used vehicles.
9. On or about March 22, 2019, the Department notified Mrs. Taylor of its decision to pursue denial of her GDN application due to her affiliation with Mr. Taylor.
10. Mrs. Taylor is married to Mr. Taylor.
11. On or about March 25, 2019, Mrs. Taylor informed the Department that she would like to pursue obtaining her GDN through the hearing process.
12. On July 23, 2019, Staff mailed a notice of hearing to Mrs. Taylor by U.S. mail, certified mail, and email.
13. The notice of hearing stated the date, time, place, and nature of the hearing; the legal authority and jurisdiction under which the hearing was to be held; the particular sections of the statutes and rules involved; and a short, plain, statement of the factual matters asserted or an attachment that incorporates by reference the factual matters asserted in the complaint or petition filed with the state agency.
14. The hearing was held November 8, 2019, before Administrative Law Judge Rudy Calderon in Austin, Texas. Staff was represented by Damien Shores, Enforcement Division attorney. Mrs. Taylor appeared and represented herself. The hearing concluded that day and the record closed on November 25, 2019.
15. Mr. and Mrs. Taylor married after his criminal activity.
16. As of the date of hearing, 12 years have passed since Mr. Taylor's last criminal conviction.
17. Mr. Taylor hired a third party, Innovative Tax, to submit his application and handle the application process.
18. Mrs. Taylor hired a third party, X-Pert Auto Title, to submit her application and handle the application process.
19. At the time of hearing, Mr. Taylor was working as a caterer and food truck owner.
20. A&J Imports is 100% owned by Mrs. Taylor.
21. Mr. Taylor will have no duties or responsibilities concerning A&J Imports, LLC.

22. At the hearing, Mr. Taylor submitted letters of reference from three individuals, with knowledge of his criminal history, which commend his honesty, trustworthiness, and good reputation in the community.
23. Mr. Taylor has rehabilitated himself.
24. Despite Mr. Taylor's criminal history, he has established he is currently fit to hold a GDN.
25. The Department offered no testimony or exhibits as to Mrs. Taylor's fitness to hold a GDN

IV. CONCLUSIONS OF LAW

1. The Department has jurisdiction over independent motor vehicle dealers pursuant to Texas Occupations Code ch. 2301 and Texas Transportation Code ch. 503.
2. The State Office of Administrative Hearings has jurisdiction over all matters related to conducting a contested case in this matter, including the preparation of a Proposal for Decision with proposed Findings of Fact and Conclusions of Law, under Texas Government Code ch. 2003.
3. Mrs. Taylor received proper and timely notice of hearing. Tex. Gov't Code §§ 2001.051-.052.
4. A GDN constitutes an independent motor vehicle dealer's license, and a person may not legally engage in the business of a dealer without a GDN. Tex. Occ. Code §§ 2301.002(17), 2301.251(a); Tex. Transp. Code § 503.021.
5. Mr. Taylor is a "person" as defined by the Department. 43 Tex. Admin. Code § 215.88(c)(3).
6. Mr. Taylor has a community property interest in A&J Imports, LLC. 43 Tex. Admin. Code § 215.88(c)(3).
7. Mr. Taylor is related to Mrs. Taylor. 43 Tex. Admin. Code § 215.89(b)(10).
8. Mr. Taylor's crimes directly relate to the duties and responsibilities of a dealer, which constitutes grounds to deny his Application. Tex. Occ. Code § 53.021(a); 43 Tex. Admin. Code § 215.88.
9. Mr. Taylor's Application was not denied. 43 Tex. Admin. Code §§ 215.88(b)(8) and 215.89(b)(10).

**SOAH DOCKET NO. 608-19-6053.ENF
MVD CAUSE NO. 19-0007745**

PROPOSAL FOR DECISION

PAGE 15

10. Despite his criminal convictions, Mr. Taylor is fit to perform the duties and discharge the responsibilities of a GDN. 43 Tex. Admin. Code §§ 215.88(i); Tex. Occ. Code §§ 53.023 and 2301.65.
11. The Application should be granted.

SIGNED January 27, 2020.



**RUDY CALDERON
ADMINISTRATIVE LAW JUDGE
STATE OFFICE OF ADMINISTRATIVE HEARINGS**

Board Meeting eBook

August 6, 2020

41

FILED
608-19-6053
7/9/2020 11:09 AM
STATE OFFICE OF
ADMINISTRATIVE HEARINGS
Jessie Harbin, CLERK



ACCEPTED
608-19-6053
7/9/2020 1:19 PM
STATE OFFICE OF
ADMINISTRATIVE HEARINGS
Jessie Harbin, CLERK

State Office of Administrative Hearings

Kristofer Monson
Chief Administrative Law Judge

July 9, 2020

TO: Daniel Avitia, Director
Motor Vehicle Division
Texas Department of Motor Vehicles
4000 Jackson Avenue
Austin, Texas 78731

VIA EFILE TEXAS

**RE: Docket No. 608-19-6053.ENF; Texas Department of Public Safety –
Enforcement Division v. Alvina Taylor D/B/A A&J Imports, LLC.**

Dear Counsel:

The Administrative Law Judge (ALJ) has received and reviewed the Exceptions to Proposal for Decision (PFD) in this case, which were filed with the State Office of Administrative Hearings on February 7, 2020. Before addressing the substance of those exceptions, the ALJ apologizes to the parties and the Texas Department of Public Safety (the Department) for his delay in responding. The ALJ regrets any inconvenience this oversight has caused the parties or the Department.

The Department has submitted six exceptions to the PFD. For the reasons set forth below, the ALJ recommends five changes to the PFD.

In Exception 1, the Department has requests the deletion of the words “and offered no exhibits” contained in the procedural history of the PFD. The ALJ recommends that this change be made.

In Exception 2, the Department requests that Finding of Fact No. 3 be changed to reflect that Mr. Taylor failed to disclose 5 convictions in Michigan state court and failed to disclose his felony conviction in the United States District Court, Eastern District of Michigan. The ALJ recommends this change to Finding of Fact No. 3 be made.

In Exception 3, the Department requests that the words "Conspiracy to Possess with Intent to Distribute Substances" contained in Finding of Fact No. 4 be deleted. The ALJ recommends making this change to Finding of Fact No. 4 be made.

In Exception 4, the Department requests that in Finding of Fact No. 6, July 13, 2018, be changed to July 12, 2019. The ALJ recommends making this change to Finding of Fact No. 6 be made.

In Exception 5, the Department requests that in Finding of Fact No. 8, May 14, 2019, be changed to January 10, 2019. The ALJ recommends making this change to Finding of Fact No. 6 be made.

In Exception 6, the Department requests that Finding of Fact No. 14 be changed to reflect that on August 14, 2019, ALJ Laura Valdez convened a hearing in this matter. While ALJ Valdez did convene a hearing on August 14, 2019, the hearing was adjourned before any testimony or exhibits could be offered in order for the Department to cure a notice deficiency. The ALJ recommends that this change not be made.

With the modification set forth above, the PFD is ready for consideration.

Sincerely,



Rudy Calderon
Administrative Law Judge

RC/nm
Enclosure

xc: Damien Shores, Attorney, Texas Department of Motor Vehicles, Enforcement Division, 4000 Jackson Avenue, Austin, Tx 78731 - **VIA EFILE TEXAS**
Alvina Taylor, A&J Imports, LLC 12950 Fuqua Street, Houston, Tx 77034: - **VIA EFILE TEXAS**
Melinda Moreno, Docket Clerk, Texas Department of Motor Vehicle, 4000 Jackson Avenue, Austin, Texas 78731 - **VIA EFILE TEXAS**

7. Consumer Protection Advisory Committee (CPAC) Guidance Regarding Refund by a Motor Vehicle Dealers and Motor Carriers Transporting Household Goods Rules – Enforcement Division and Presiding Officer Laird Doran

CPAC recommended guidance on parameters for the department to consider when drafting a definition of a refund made by a Motor Vehicle Dealer or Motor Carrier Transporting Household Goods:

A refund constitutes the return or repayment of consideration. Under Section 2301.807, a refund is limited to the amount paid by the consumer, and without inclusion of any additional consideration of damages or harm.

BRIEFING ITEM ONLY: Background Materials From CPAC

CPAC was presented with the following discussion prompts containing high-level scenarios to help in developing the parameters of their guidance to the department in drafting a definition of refund under Transportation Code §643.257 and Occupations Code §2301.807 added by Senate Bill (SB) 604, 86th Legislature, Regular Session (2019). The statutory changes authorize the department to order a motor carrier that violates Chapter 643, or a department rule or order issued under that chapter, to pay a refund to a consumer who paid the motor carrier to transport household goods and allow the board to order a licensee under Chapter 2301 to pay a refund to a buyer or lessee of a motor vehicle. In their discussion, the CPAC members noted that these situations did not provide enough context to make a determination of whether a refund would be proper in any particular fact situation. The situations were presented as background information for CPAC discussion of policy guidance to the department in creating the definition of refund by rule. Each situation will be considered individually based on the facts of that situation.

1. Under what circumstances should TxDMV order a dealer or household good mover to provide a refund?

Proposed Recommendation:

The Department may only order a refund from a person after they have established that a violation was committed as part of the enforcement process outlined in the Department's rules.

2. The Department's authority to order a refund does not have a time limit. In order to treat refunds like already-established sanctions, the department will not limit the ability to order a refund based on how much time has passed since the time of purchase. This should not lead to the department ordering refunds on a lot of old cases because the violations must be proven and as cases age there is less evidence to gather and less likelihood that a case will be pursued.
3. The Department can only order a refund that is tied to a particular violation of the law. The scenarios below could violate one or more Department rules or laws. Should a refund be ordered in these scenarios?
 - a. **Dealer.** The consumer has to purchase one or more 30-day permits because dealer did not transfer title before the buyer tag expired.

Proposed Recommendation:

The department may order a refund where a consumer had to purchase one or more 30-day permits because the dealer failed to transfer title before the buyer tag expired and where nothing outside of the control of the dealer prevented the transfer, like the consumer's actions or a natural disaster.

- b. **Dealer.** The consumer has to make additional payments on a trade-in vehicle to their original lender because dealer was late in making, or did not make, the agreed-upon payoff.

Proposed Recommendation:

The Department may order a refund where a consumer has to make additional payments on a trade-in vehicle to their original lender where the dealer was late in making, or did not make, an agreed-upon payoff within a reasonable timeframe after the consumer submitted all the necessary paperwork for the dealer to legally process the trade-in since those additional payments were already built into the purchase price of the vehicle.

- c. **Dealer.** The consumer has to pay for a safety inspection that should have been completed by the dealer.

Proposed Recommendation:

The Department may order a refund where a consumer explicitly paid a dealer for a safety inspection, and dealer did not complete the inspection or take the vehicle to be inspected, or where a dealer sold a vehicle that they could not have legally sold without first having completed a safety inspection because the safety inspection was built into overall amount that the consumer paid for the vehicle.

- d. **Dealer.** The consumer has out-of-pocket expenses because dealer failed to honor the written "WE OWE" portion of the contract.

Proposed Recommendation:

The Department may order a refund where a consumer has to pay an out-of-pocket expense because a dealer failed to honor the written we-owe portion of the contract. The Department may not order a refund where the dealer agreed to obtain the products or services of a third party for the consumer in the "WE OWE" portion of the contract, obtains the products or services of a third party for the consumer, and the consumer is unhappy with the performance of the third party.

- e. **Dealer.** The consumer has to get a bonded title because dealer could not provide title or did not get a bonded title for the consumer.

Proposed Recommendation:

The Department may order a refund where a consumer has to pay an out-of-pocket expense where a dealer does not provide title or get a bonded title for the consumer when the consumer's actions did not prevent the dealer from providing title because the title is built into the overall amount the consumer paid for the vehicle.

- f. **Dealer.** The consumer is overcharged for TT&L, documentary fees, or a non-government-regulated or mandated fee.

Proposed Recommendation:

The Department may order a refund where a consumer was overcharged for government-regulated fees such as TT&L, and documentary fees, provided the dealer did not already return those fees to the consumer through the regulatory action of another governmental body.

The Department may also order a refund where the consumer is charged an unregulated fee or fees where those fees were made to appear as if they were regulated or mandated by a governmental body.

- g. **Dealer.** The consumer purchases a third-party extended warranty offered by the dealer and the dealer does not submit the paperwork or funds. The consumer needs repairs and discovers they have no warranty.

Proposed Recommendation:

The Department may order a refund of the cost of the third-party extended warranty where a consumer paid a dealer for a third-party warranty, and the dealer failed to obtain said warranty for the consumer. The Department may not order a refund for the cost of repairs because the costs of repairs were not paid to the dealer.

- h. **Household Goods.** Consumer is charged for costs not listed on their tariff after the household goods mover takes possession of the consumer's property; mover refused to unload goods until charges were paid.

Proposed Recommendation:

The Department may order a refund where a consumer is charged for costs not listed under a household goods mover's tariff after the household goods mover takes possession of the consumer's property, and the mover refused to unload the customer's property until those charges were paid.

The Department is further encouraged to refer unregistered carriers to law enforcement authorities.

Board Meeting Date: 8/6/2020
ACTION ITEM

To: Texas Department of Motor Vehicles Board
From: Corrie Thompson, Enforcement Division Director
Brian Ge, Managing Attorney
Agenda Item: 8
Subject: Chapter 215, Motor Vehicle Distribution - Corrie Thompson and Brian Ge
Amendments, §215.500
New, §215.504
Chapter 218, Motor Carriers
Amendments, §218.72
(Relating to SB 604, clarifying the refund authority for motor vehicle buyers and lessees; refund to a consumer who paid the motor carrier to transport household goods)

RECOMMENDATION

Approval to publish the proposed new sections in the *Texas Register* for public comment.

PURPOSE AND EXECUTIVE SUMMARY

The purpose of the proposed amendments to §215.500 and new §218.72 is to implement Senate Bill (SB) 604, 86th Legislature, Regular Session (2019), which amended Occupations Code Chapter 2301 by adding §2301.807 which allows the board to order a licensee under Chapter 2301 to pay a refund to a buyer or lessee of a motor vehicle.

FINANCIAL IMPACT

None

BACKGROUND AND DISCUSSION

The proposed amendment to §215.500 adds §215.500(a)(5) to the existing list of administrative sanctions available to the department. Department enforcement will employ the use of refunds within existing enforcement procedures outlined in Chapter 215.

Proposed new §215.504 permits the board to order a person licensed under Occupations Code Chapter 2301 to issue a refund if, after a proceeding under Chapter 215, it determines the person violated or has violated Occupations Code Chapter 2301 or department rules.

The proposed amendment to §218.72 adds proposed new subsection (d), which adds refunds to the existing list of administrative sanctions available to the department. Department enforcement may order a motor carrier that violates Transportation Code Chapter 643, department rules, or a department order adopted under Transportation Code Chapter 643 to issue a refund to a customer who paid the motor carrier to transport household goods.

TITLE 43. TRANSPORTATION

Proposed Sections

Part 10. Texas Department of Motor Vehicles

Chapter 215 – Motor Vehicle Distribution

1 refund does not include any consideration of damages or harm over the amount paid by the customer.
2 Occupations Code §2301.807 did not extend the department's sanction authority to order damages or
3 restitution. Proposed new §215.504(b) is necessary to explain the meaning of refund in the subsection
4 and clarify that the refund is not a mechanism for restitution or to make the consumer whole; such as,
5 the dealer licensee reimbursing the buyer or lessee for the cost of third-party services in a situation where
6 the buyer or lessee must engage a third-party to complete services not rendered. A refund is a tool that
7 may be used by the department's enforcement division to order a person who has violated Occupations
8 Code Chapter 2301 to refund the customer by giving back or returning money paid or contracted to be
9 paid, if the customer has entered into a financing agreement, because the consumer did not receive a
10 service or item. The refund is limited to funds paid or contracted to be paid to the dealer licensee.

11
12 **FISCAL NOTE AND LOCAL EMPLOYMENT IMPACT STATEMENT.** Linda M. Flores, Chief Financial Officer,
13 has determined that for each year of the first five years the amended and new sections will be in effect,
14 there will be no fiscal impact to state or local governments as a result of the enforcement or
15 administration of the proposal. Corrie Thompson, Director of the Enforcement Division, has determined
16 that there will be no measurable effect on local employment or the local economy as a result of the
17 proposal.

18
19 **PUBLIC BENEFIT AND COST NOTE.** Ms. Thompson has also determined that, for each year of the first five
20 years the amended and new sections are in effect, there are public benefits anticipated from the ability
21 of the board to order refunds.

22 Anticipated Public Benefits. The public benefits anticipated as a result of the proposal include
23 expanding the administrative tools that the board has to sanction dealer licensees that violate the

TITLE 43. TRANSPORTATION

Proposed Sections

Part 10. Texas Department of Motor Vehicles

Chapter 215 – Motor Vehicle Distribution

1 Occupations Code and department rules and providing buyers and lessees a means of receiving a refund
2 of money paid to dealer licensees for overpayments, fees paid for services not rendered, and payments
3 made for products not delivered.

4 Anticipated Costs To Comply With The Proposal. Ms. Thompson anticipates that there will be no
5 costs to comply with these rules. The proposed rules do not create any compliance requirement of cost
6 of compliance on a regulated person. The proposed rules implement a potential statutory sanction
7 provision that the department may order against a person that violates Occupations Code Chapter 2301
8 or a rule adopted under the chapter.

9
10 **ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS.** As required by the
11 Government Code, §2006.002, the department has determined that the proposed new section will not
12 have an adverse economic effect on small businesses, micro-businesses, or rural communities as a result
13 of implementing this rule because it will not create additional requirements or costs on regulated persons.
14 Therefore, the department is not required to prepare a regulatory flexibility analysis under Government
15 Code §2006.002.

16
17 **TAKINGS IMPACT ASSESSMENT.** The department has determined that no private real property interests
18 are affected by this proposal and that this proposal does not restrict or limit an owner's right to property
19 that would otherwise exist in the absence of government action and, therefore, does not constitute a
20 taking or require a takings impact assessment under the Government Code §2007.043.

21
22 **GOVERNMENT GROWTH IMPACT STATEMENT.** The department has determined that during the first five
23 years the proposed amended and new sections are in effect, no government program would be created

TITLE 43. TRANSPORTATION

Proposed Sections

Part 10. Texas Department of Motor Vehicles

Chapter 215 – Motor Vehicle Distribution

1 or eliminated. Implementation of the proposed amended and new sections would not require the
2 creation of new employee positions or elimination of existing employee positions. Implementation would
3 not require an increase or decrease in future legislative appropriations to the department or an increase
4 or decrease of fees paid to the department. The proposed amended and new sections do not create a
5 new regulation, or expand, or repeal an existing regulation. Lastly, the proposed amended and new
6 sections do not affect the number of individuals subject to the rule's applicability and will not affect this
7 state's economy.

8
9 **REQUEST FOR PUBLIC COMMENT.** If you want to comment on the proposal, submit your written
10 comments by 5:00 p.m. CDT on MM, DD, YYYY. A request for a public hearing must be sent separately
11 from your written comments. Send written comments or hearing requests by email to *rules@txdmv.gov*
12 or by mail to Office of General Counsel, Texas Department of Motor Vehicles, 4000 Jackson Avenue,
13 Austin, Texas 78731. If a hearing is held, the department will consider written comments and public
14 testimony presented at the hearing.

15
16 **STATUTORY AUTHORITY.** The amendment is proposed under Occupations Code §2301.155, which
17 provides the board authority to adopt rules as necessary or convenient to administer Occupations Code
18 Chapter 2301 and to govern practice and procedure before the board and Transportation Code
19 §1002.001, which provides the board of the Texas Department of Motor Vehicles with the authority to
20 adopt rules that are necessary and appropriate to implement the powers and the duties of the
21 department.

22
23 **CROSS REFERENCE TO STATUTE.** Occupations Code §2301.807.

TITLE 43. TRANSPORTATION

Proposed Sections

Part 10. Texas Department of Motor Vehicles

Chapter 215 – Motor Vehicle Distribution

1 **TEXT.**

2 **Subchapter J. Administrative Sanctions**

3 **43 TAC §215.500 and §215.504**

4 §215.500. Administrative Sanctions and Procedures.

5 (a) An administrative sanction may include:

6 (1) denial of an application for a license;

7 (2) suspension of a license;

8 (3) revocation of a license; ~~or~~

9 (4) the imposition of civil penalties; or

10 (5) a refund under §215.504 of this title (concerning buyer or lessee refund).

11 (b) The department shall issue and mail a Notice of Department Decision to a license applicant,
12 license holder, or other person by certified mail, return receipt requested, to the last known address upon
13 a determination under Occupations Code, Chapters 2301 and 2302 or Transportation Code, Chapter 503
14 that:

15 (1) an application for a license should be denied; or

16 (2) administrative sanctions should be imposed.

17 (c) The last known address of a license applicant, license holder, or other person is the last mailing
18 address provided to the department when the license applicant applies for its license, when a license
19 holder renews its license, or when the license holder notifies the department of a change in the license
20 holder's mailing address.

21 (d) The Notice of Department Decision shall include:

22 (1) a statement describing the department decision and the effective date;

23 (2) a description of each alleged violation;

TITLE 43. TRANSPORTATION

Proposed Sections

Part 10. Texas Department of Motor Vehicles

Chapter 215 – Motor Vehicle Distribution

- 1 (3) a description of each administrative sanction being proposed;
- 2 (4) a statement regarding the legal basis for each administrative sanction;
- 3 (5) a statement regarding the license applicant, license holder, or other person's right to
- 4 request a hearing;
- 5 (6) the procedure to request a hearing, including the deadline for filing; and
- 6 (7) notice to the license applicant, license holder, or other person that the proposed
- 7 decision and administrative sanctions in the Notice of Department Decision will become final on the date
- 8 specified if the license applicant, license holder, or other person fails to timely request a hearing.

9 (e) The license applicant, license holder, or other person must submit, in writing, a request for a

10 hearing under this section. The department must receive a request for a hearing within 26 days of the

11 date of the Notice of Department Decision.

12 (f) If the department receives a timely request for a hearing, the department will set a hearing

13 date and give notice to the license applicant, license holder, or other person of the date, time, and location

14 of the hearing.

15 (g) If the license applicant, license holder, or other person does not make a timely request for a

16 hearing or enter into a settlement agreement within 27 days of the date of the Notice of Department

17 Decision, the department decision becomes final.

18 §215. 504. Buyer or Lessee Refund.

19 (a) The board may order a person to issue a refund if, after a proceeding under this chapter, it

20 determines the person violated or has violated Occupations Code Chapter 2301 or department rules.

21 (b) Under this section, a refund is the return of any percentage ordered by the department of

22 funds paid, or contracted to be paid, to a person, whether those funds are documented as a separate

TITLE 43. TRANSPORTATION

Proposed Sections

Part 10. Texas Department of Motor Vehicles

Chapter 215 – Motor Vehicle Distribution

1 line item or part of the overall amount paid by a consumer. Refund may include overpayments, fees paid
2 for services not rendered, and payments made for products not delivered.

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

5 Issued at Austin, Texas, on M DD, YYYY.

6 _____
7 Tracey Beaver, General Counsel

DRAFT

TITLE 43. TRANSPORTATION

Proposed Section

Part 10. Texas Department of Motor Vehicles

Chapter 218 – Motor Carriers

1 household mover takes possession of the customer's property. Proposed new §218.72(d)(2)(B) clarifies
2 that a refund does not include any consideration of damages or harm over the amount paid by the
3 customer. Proposed new §218.72(d)(2)(A) and (B) are necessary to clarify that a refund is not a mechanism
4 for restitution or to make the consumer whole, such as a household good mover reimbursing the
5 consumer for the cost of third-party services to complete services not rendered by the mover. A refund
6 is a tool that may be used by the department's enforcement division to order a household good mover to
7 refund the customer by returning money paid, or contracted to be paid, because they did not receive a
8 service or item. The refund all circumstance would be limited to funds paid or contracted to be paid to
9 the household goods mover.

10
11 **FISCAL NOTE AND LOCAL EMPLOYMENT IMPACT STATEMENT.** Linda M. Flores, Chief Financial Officer,
12 has determined that for each year of the first five years the amendment will be in effect, there will be no
13 fiscal impact to state or local governments as a result of the enforcement or administration of the
14 proposal. Corrie Thompson, Director of the Enforcement Division, has determined that there will be no
15 measurable effect on local employment or the local economy as a result of the proposal.

16
17 **PUBLIC BENEFIT AND COST NOTE.** Ms. Thompson has also determined that, for each year of the first five
18 years the amended section is in effect, there are public benefits anticipated from the ability of the
19 department to order refunds.

20 Anticipated Public Benefits. The public benefits anticipated as a result of the proposal include
21 expanding the administrative tools that the department has to sanction household good movers that
22 violate the Transportation Code and department rules and providing consumers a means of receiving a
23 refund of money paid to household good movers for overpayments, fees paid for services not rendered,

TITLE 43. TRANSPORTATION

Proposed Section

Part 10. Texas Department of Motor Vehicles

Chapter 218 – Motor Carriers

1 and fees paid for charges not listed on the household mover's tariff after the household mover takes
2 possession of the customer's property.

3 Anticipated Costs to Comply with the Proposal. Ms. Thompson anticipates that there will be no
4 costs to comply with these rules. The proposed rule does not create any compliance requirement of cost
5 of compliance on a regulated person. The proposed rule implements a potential statutory penalty
6 provision that the department may order against a person who violates Transportation Code Chapter 643
7 or a rule adopted under the chapter.

8
9 **ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS.** As required by the
10 Government Code §2006.002, the department has determined that the proposed new amendment will
11 not have an adverse economic effect on small businesses, micro-businesses, or rural communities as a
12 result of implementing this rule because it will not create additional requirements or costs on regulated
13 persons. Therefore, the department is not required to prepare a regulatory flexibility analysis under
14 Government Code §2006.002.

15
16 **TAKINGS IMPACT ASSESSMENT.** The department has determined that no private real property interests
17 are affected by this proposal and that this proposal does not restrict or limit an owner's right to property
18 that would otherwise exist in the absence of government action and, therefore, does not constitute a
19 taking or require a takings impact assessment under the Government Code §2007.043.

20
21 **GOVERNMENT GROWTH IMPACT STATEMENT.** The department has determined that during the first five
22 years the proposed amendment is in effect, no government program would be created or eliminated.
23 Implementation of the proposed amendments will not require the creation of new employee positions or

TITLE 43. TRANSPORTATION

Proposed Section

Part 10. Texas Department of Motor Vehicles

Chapter 218 – Motor Carriers

1 elimination of existing employee positions. Implementation would not require an increase or decrease in
2 future legislative appropriations to the department or an increase or decrease of fees paid to the
3 department. The proposed amendment does not create a new regulation, or expand, or repeal an existing
4 regulation. Lastly, the proposed amendment does not affect the number of individuals subject to the rule's
5 applicability and will not affect this state's economy.

6
7 **REQUEST FOR PUBLIC COMMENT.** If you want to comment on the proposal, submit your written
8 comments by 5:00 p.m. CDT on MM, DD, YYYY. A request for a public hearing must be sent separately
9 from your written comments. Send written comments or hearing requests by email to *rules@txdmv.gov*
10 or by mail to Office of General Counsel, Texas Department of Motor Vehicles, 4000 Jackson Avenue,
11 Austin, Texas 78731. If a hearing is held, the department will consider written comments and public
12 testimony presented at the hearing.

13
14 **STATUTORY AUTHORITY.** The amendment is proposed under Transportation Code §643.003, which
15 provides the department authority to adopt rules to administer Chapter 643 and Transportation Code
16 §1002.001, which provides the board of the Texas Department of Motor Vehicles with the authority to
17 adopt rules that are necessary and appropriate to implement the powers and the duties of the
18 department.

19
20 **CROSS REFERENCE TO STATUTE.** Transportation Code §643.257.

21 **TEXT**

22 **Subchapter F. Enforcement**

23 **43 TAC §218.72**

TITLE 43. TRANSPORTATION

Proposed Section

Part 10. Texas Department of Motor Vehicles

Chapter 218 – Motor Carriers

1 §218.72. Administrative Sanctions.

2 (a) Grounds for suspension and revocation. Transportation Code, §643.252 provides the grounds
3 for which the department can suspend or revoke a certificate of registration issued under Transportation
4 Code, Chapter 643.

5 (b) Department of Public Safety enforcement recommendations.

6 (1) The department may suspend or revoke a certificate of registration of a motor carrier
7 upon a written request by the Department of Public Safety, if a motor carrier:

8 (A) has an unsatisfactory safety rating under 49 C.F.R., Part 385; or

9 (B) has multiple violations of Transportation Code, Chapter 644, a rule adopted
10 under that chapter, or Transportation Code, Title 7, Subtitle C.

11 (2) A request under paragraph (1) of this subsection must include documentation showing
12 the violation.

13 (c) Probation.

14 (1) The department may probate any suspension ordered under this section.

15 (2) In determining whether to probate a suspension, the department will review:

16 (A) the seriousness of the violation;

17 (B) prior violations by the motor carrier;

18 (C) whether the department has previously probated a suspension for the motor
19 carrier;

20 (D) cooperation by the motor carrier in the investigation and enforcement
21 proceeding; and

22 (E) the ability of the motor carrier to correct the violations.

TITLE 43. TRANSPORTATION

Proposed Section

Part 10. Texas Department of Motor Vehicles

Chapter 218 – Motor Carriers

1 (3) The department shall set the length of the probation based on the seriousness of the
2 violation and previous violations by the motor carrier.

3 (4) The department will require that the motor carrier report monthly to the department
4 any information necessary to determine compliance with the terms of the probation.

5 (5) The department may revoke the probation and order the initial suspension and
6 administrative penalty if the motor carrier fails to abide by any terms of the probation

7 (d) Refund.

8 (1) The department may order a motor carrier that violates Transportation Code Chapter 643,
9 department rules, or a department order adopted under Transportation Code Chapter 643 to issue a
10 refund to a customer who paid the motor carrier to transport household goods.

11 (2) Under this subsection, a refund is the return of any percentage of funds paid, or contracted to
12 be paid, to a motor carrier transporting household goods, whether those funds are documented as a
13 separate line item or included in the overall amount paid by a customer.

14 (A) A refund includes overpayments, fees paid for services not rendered, and fees paid
15 for charges not listed on the household mover's tariff after the household mover takes possession of the
16 customer's property.

17 (B) A refund does not include any consideration of damages or harm over the amount
18 paid by the customer.

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

21 Issued at Austin, Texas, on M DD, YYYY.

22
23

Tracey Beaver, General Counsel

Board Meeting Date: 8/6/2020
ACTION ITEM

To: Texas Department of Motor Vehicles Board
From: Corrie Thompson, Enforcement Division Director
Agenda Item: 9
Subject: Chapter 221, Salvage Vehicle Dealers - Corrie Thompson
New §221.96, Cease and Desist
(Relating to SB 604, establishing process under which board may issue a cease and desist order to prohibit a person from violating statutes, board rules, or board orders, after notice and an opportunity for a hearing)

RECOMMENDATION

Approval to publish the proposed new section in the *Texas Register* for public comment.

PURPOSE AND EXECUTIVE SUMMARY

The purpose of propose new section §221.96 is to implement Senate Bill (SB) 604, 86th Legislature, Regular Session (2019), which amended Occupations Code Chapter 2302 by adding §2302.355 authorizing the department’s board (board) to issue cease and desist orders under the chapter.

FINANCIAL IMPACT

None

BACKGROUND AND DISCUSSION

The new section permits the board to issue cease and desist orders if it appears that a violation of Occupations Code Chapter 2302, the department’s rules, or an order from the department under Occupations Code Chapter 2302 is occurring.

- New §221.96(a) clarifies that a cease and order may only be issued if the board reasonably believes a person who is not licensed under Occupations Code Chapter 2302 is violating that chapter or a rule or order adopted under that chapter.
- New §221.96(b) permits the board to require a person to cease and desist from committing a violation or from engaging in any practice regulated by the board as necessary to prevent the violation and requires that the order contain a notice that a request for a hearing may be filed.
- New §221.96(c) permits a person to whom a cease and desist order is issued to file a written request for a hearing before the board not later than the 10th day after the date of receipt of the order. Proposed new §221.96(c) clarifies that the order is final unless a request for hearing is timely filed. Proposed new §221.96(c) is necessary to provide an opportunity for hearing while balancing the need for quick resolution of the hearing and the finality of the order.

TITLE 43. TRANSPORTATION

Proposed Section

Part 10. Texas Department of Motor Vehicles

Chapter 221 – Salvage Vehicle Dealers

1 Proposed new §221.96(c) permits a person to whom a cease and desist order is issued to file a
2 written request for a hearing before the board not later than the 10th day after the date of receipt of the
3 order. The written request for a hearing may be filed with the department electronically, through the
4 mail, or in person. The request may be in any written form, but should state that a hearing is requested.
5 Proposed new §221.96(c) clarifies that the order is final unless a request for hearing is timely filed.
6 Proposed new §221.96(c) is necessary to provide an opportunity for hearing while balancing the need for
7 quick resolution of the hearing and the finality of the order. The 10-day deadline for request for hearing
8 balances those needs providing time to respond while providing a timeline for efficient and timely
9 resolution.

10 **FISCAL NOTE AND LOCAL EMPLOYMENT IMPACT STATEMENT.** Linda M. Flores, Chief Financial Officer,
11 has determined that for each year of the first five years the amendment will be in effect, there will be no
12 fiscal impact to state or local governments as a result of the enforcement or administration of the
13 proposal. Corrie Thompson, Director of the Enforcement Division, has determined that there will be no
14 measurable effect on local employment or the local economy as a result of the proposal.

15 **PUBLIC BENEFIT AND COST NOTE.** Ms. Thompson has also determined that, for each year of the first five
16 years the amended section is in effect, there are public benefits anticipated from the ability of the board
17 to issue cease and desist orders.

18 Anticipated Public Benefits. The public benefits anticipated as a result of the proposal include
19 expanding the administrative tools that the board has to prevent and limit violations of the Occupations
20 Code and the department's rules and providing individuals that are issued a cease and desist order notice
21 that they may be in violation of the law and a chance for a hearing.

22 Anticipated Costs to Comply With The Proposal. Ms. Thompson anticipates that there will be no
23 costs to comply with these rules.

TITLE 43. TRANSPORTATION

Proposed Section

Part 10. Texas Department of Motor Vehicles

Chapter 221 – Salvage Vehicle Dealers

1 **ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS.** As required by the
2 Government Code, §2006.002, the department has determined that the proposed new section will not
3 have an adverse economic effect on small businesses, micro-businesses, or rural communities as a result
4 of implementing this rule. Therefore, the department is not required to prepare a regulatory flexibility
5 analysis under Government Code, §2006.002.

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

10 **GOVERNMENT GROWTH IMPACT STATEMENT.** The department has determined that during the first five
11 years the proposed new section is in effect, no government program would be created or eliminated.
12 Implementation of the proposed new section would not require the creation of new employee positions
13 or elimination of existing employee positions. Implementation would not require an increase or decrease
14 in future legislative appropriations to the department or an increase or decrease of fees paid to the
15 department. The proposed new section does not create a new regulation, or expand, or repeal an existing
16 regulation. Lastly, the proposed new section does not affect the number of individuals subject to the rule's
17 applicability and will not affect this state's economy.

18 **REQUEST FOR PUBLIC COMMENT.** If you want to comment on the proposal, submit your written
19 comments by 5:00 p.m. CDT on MM, DD, YYYY. A request for a public hearing must be sent separately
20 from your written comments. Send written comments or hearing requests by email to *rules@txdmv.gov*
21 or by mail to Office of General Counsel, Texas Department of Motor Vehicles, 4000 Jackson Avenue,
22 Austin, Texas 78731. If a hearing is held, the department will consider written comments and public
23 testimony presented at the hearing.

TITLE 43. TRANSPORTATION

Proposed Section

Part 10. Texas Department of Motor Vehicles

Chapter 221 – Salvage Vehicle Dealers

1 **STATUTORY AUTHORITY.** The amendment is proposed under Transportation Code §1002.001 which
2 provides the board of the Texas Department of Motor Vehicles with the authority to adopt rules that are
3 necessary and appropriate to implement the powers and the duties of the department; and more
4 specifically, Occupations Code §2302.255 which provides the board authority to issue a cease and desist
5 order prohibiting a person not licensed under Occupations Code Chapter 2302 from violating that chapter,
6 an administrative rule, or an order adopted under that chapter.

7 **CROSS REFERENCE TO STATUTE.** Occupations Code, §2302.255 and Transportation Code, §1002.001.

8 **TEXT**

9 **Subchapter E. Administrative Procedures**

10 **43 TAC §221.96**

11 §221.96. Cease and Desist Order.

12 (a) The board may issue a cease and desist order if the board reasonably believes a person who
13 is not licensed under Occupations Code Chapter 2302 is violating that chapter or a rule or order adopted
14 under that chapter.

15 (b) A cease and desist order may require a person to cease and desist from committing a violation
16 or from engaging in any practice regulated by the board as necessary to prevent the violation. The order
17 must contain a notice that a request for hearing may be filed under this section.

18 (c) A person to whom a cease and desist order is issued may file a written request for a hearing
19 before the board. The order is final unless a request for hearing is timely filed. The person must file the
20 hearing request not later than the 10th day after the date of receipt of the order.

TITLE 43. TRANSPORTATION

Proposed Section

Part 10. Texas Department of Motor Vehicles

Chapter 221 – Salvage Vehicle Dealers

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

3 Issued at Austin, Texas, on M DD, YYYY.

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Tracey Beaver, General Counsel

DRAFT

To: Texas Department of Motor Vehicles Board
From: Jimmy Archer, Motor Carrier Division Director
Linda M. Flores, Chief Financial Officer
Agenda Item: 10
Subject: Chapter 209, Finance
Amendments, §209.23
Chapter 219, Oversize and Overweight
§§219.2, 219.11, 219.13 - 219.15, 219.42, 219.43, and 219.61 - 219.63
(Relating to HB 61, escort flag vehicles including the use of certain lighting equipment; removing escrow account payment for certain types of permits)

RECOMMENDATION

Approval to publish the proposed amendments in the *Texas Register* for public comment.

PURPOSE AND EXECUTIVE SUMMARY

The purpose of amendments to Title 43 TAC Chapter 219, Subchapters A, B, D, and E is to conform the rules to House Bill (HB) 61, 86th Legislature, Regular Session, effective September 1, 2019. House Bill 61 added a new definition for "escort flag vehicle" under Transportation Code §547.305 and provided the operator of an escort flag vehicle with the option of equipping the escort flag vehicle with alternating or flashing blue and amber lights.

Amendments to Title 43 TAC §219.11(f) are necessary to streamline department processes to improve program efficiency by eliminating two escrow account payment methods for customers that purchase oversize or overweight permits. One of the escrow account payment methods requires department personnel to manually process payments, and the second escrow account payment method requires department personnel to reconcile the payment records.

Amendments to §209.23 conform to proposed amendments to Title 43 TAC §219.11 by deleting the reference to the use of escrow accounts for oversize overweight vehicle permits.

FINANCIAL IMPACT

None

BACKGROUND AND DISCUSSION

To implement H.B. 61, the term, "escort vehicle" is changed to the term "escort flag vehicle" throughout Title 43 TAC Chapter 219.

Proposed amendments to §219.15(f)(3)(C) track the statutory language in Transportation Code §547.305, which permits an escort flag vehicle to be equipped with alternating or flashing blue and amber lights. Transportation Code §547.305(e-3) is permissive, allowing escort flag vehicles to be equipped with alternating or flashing blue and amber lights. Transportation Code §623.099(c)(1) already required that escort flag vehicles have two lights flashing simultaneously or one rotating amber beacon of not less than eight inches when escorting a manufactured house. Transportation Code §623.129 already requires that escort flag vehicles have two lights flashing simultaneously or one rotating amber beacon of not less than eight inches when escorting a portable building and compatible cargo because the requirements under Transportation Code §623.099 apply to the movement of these vehicles. Transportation Code §623.008(b) allows the

department to require a person operating under a permit issued under the subtitle to use one or more escort flag vehicles if required by the Texas Department of Transportation or for the safe movement over roads of an oversize or overweight vehicle. Transportation Code §547.305(e-3) adds that the flashing lights for an escort vehicle may be alternating flashing blue and amber lights, and it controls under Government Code §311.025(a) to the extent of a conflict with §623.099 because §547.305(e-3) is the latest legislative enactment.

Proposed amendments to §219.2 delete the term "permit account card" and renumber the remaining definitions because the department is proposing to eliminate this form of payment for an oversize or overweight permit.

Proposed amendments to §219.11(f) eliminate both permit account cards and escrow accounts (together referred to as "escrow accounts") as methods of payment for oversize or overweight permits in order to improve efficiency by encouraging the use of electronic payment methods and reducing the amount of transactions that department personnel must manually process or reconcile.

The proposed amendment to §209.23 deletes the reference to the use of escrow accounts to conform to the proposed amendments to §219.11(f).

1 **PROPOSAL OF**

2 **SUBCHAPTER B. PAYMENT OF FEES FOR DEPARTMENT GOODS AND SERVICES**

3 **43 TAC §209.23**

4 **INTRODUCTION.** The Texas Department of Motor Vehicles (the department) proposes an amendment to
5 Title 43 TAC §209.23, concerning payment of fees for department goods and services. The amendment is
6 necessary to conform §209.23 to proposed amendments to Title 43 TAC §219.11, which is also proposed
7 in this issue of the *Texas Register*.

8 **EXPLANATION.**

9 The proposed amendment to §209.23 is necessary to remove unnecessary citations to statutes
10 and to conform §209.23 to proposed amendments to Title 43 TAC §219.11, which is also proposed in this
11 issue of the *Texas Register*. Amendments to §219.11(f)(1)(A) and (B) are proposed to remove two escrow
12 account payment methods for purchasing oversize/overweight permits in order to streamline department
13 processes to improve program efficiency.

14 The proposed amendment to §209.23 deletes most of the language regarding the use of escrow
15 accounts, including use of permit account cards for payment for oversize overweight vehicle permits. The
16 amendment removes unnecessary citations to statutes and conforms §209.23 to the proposed
17 amendments to §219.11(f)(1)(A) and (B), which remove escrow accounts as an acceptable payment
18 method for oversize/overweight permits.

19 **FISCAL NOTE AND LOCAL EMPLOYMENT IMPACT STATEMENT.** Linda M. Flores, Chief Financial Officer,
20 has determined that for each year of the first five years the amendment will be in effect, there will be no
21 fiscal impact to state or local governments as a result of the enforcement or administration of the
22 proposal. Jimmy Archer, Director of the Motor Carrier Division, has determined that there will be no
23 measurable effect on local employment or the local economy as a result of the proposal.

TITLE 43. TRANSPORTATION

Proposed Section

Part 10. Texas Department of Motor Vehicles

Chapter 209 - Finance

1 **PUBLIC BENEFIT AND COST NOTE.** Mr. Archer has also determined that, for each year of the first five years
2 the amended section is in effect, there is an anticipated public benefit because the amendment conforms
3 §209.23 to proposed amendments to §219.11.

4 Mr. Archer also anticipates that regulated persons will incur no additional costs to comply with
5 the proposed rule because the amendment conforms §209.23 to the proposed amendments in §219.11.

6 **ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS.** As required by Government
7 Code §2006.002, the department has determined that the proposed amendment will not have an adverse
8 economic effect on small businesses, micro-business, and rural communities because it conforms §209.23
9 to the proposed amendments in §219.11 and does not add additional requirements to regulated persons.
10 Therefore, the department is not required to prepare a regulatory flexibility analysis under Government
11 Code §2006.002.

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

16 **GOVERNMENT GROWTH IMPACT STATEMENT.** The department has determined that each year of the
17 first five years the proposed amendment is in effect, the proposed rule:

18 will not create or eliminate a government program;

19 will not require the creation of new employee positions or the elimination of existing employee
20 positions;

21 will not require an increase or decrease in future legislative appropriations to the department;

22 will not require an increase or decrease in fees paid to the department;

23 will not create new regulations;

TITLE 43. TRANSPORTATION

Proposed Section

Part 10. Texas Department of Motor Vehicles

Chapter 209 - Finance

- 1 will not expand existing regulations;
- 2 will repeal existing regulations to conform with §219.11;
- 3 will not increase or decrease the number of individuals subject to the rule's applicability; and
- 4 will not positively or adversely affect the Texas economy.

5 REQUEST FOR PUBLIC COMMENT.

6 If you want to comment on the proposal, submit your written comments by 5:00 p.m. CDT on MM, DD,
7 YYYY. A request for a public hearing must be sent separately from your written comments. Send written
8 comments or hearing requests by email to *rules@txdmv.gov* or by mail to Office of General Counsel, Texas
9 Department of Motor Vehicles, 4000 Jackson Avenue, Austin, Texas 78731. If a hearing is held, the
10 department will consider written comments and public testimony presented at the hearing.

11 **STATUTORY AUTHORITY.** The department proposes an amendment to §209.23 under Transportation
12 Code §1001.009 and §1002.001.

13 Transportation Code §1001.009 authorizes the Board of the Texas Department of Motor Vehicles
14 (board) to adopt rules regarding the method of collection of a fee for any goods or services provided by
15 the department. Transportation Code §1002.001 authorizes the board to adopt rules that are necessary
16 and appropriate to implement the powers and the duties of the department under the Transportation
17 Code.

18 **CROSS REFERENCE TO STATUTE.** Transportation Code Chapters 502, 621, 622, 623, 643, and 645.

19 **TEXT.**

20 SUBCHAPTER B. PAYMENT OF FEES FOR DEPARTMENT GOODS AND SERVICES**21 43 TAC §209.23**

22 §209.23. Methods of Payment.

23 (a) All fees for department goods and services and any fees required in the administration of any

TITLE 43. TRANSPORTATION

Proposed Section

Part 10. Texas Department of Motor Vehicles

Chapter 209 - Finance

1 department program shall be paid to the department with a method of payment accepted by the
2 department at the point of sale, which may be:

3 (1) a valid debit or credit card, approved by the department, and issued by a financial
4 institution chartered by a state or the United States, or a nationally recognized credit organization;

5 (2) electronic funds transfer;

6 (3) a personal check, business check, cashier's check, or money order, payable to the
7 Texas Department of Motor Vehicles, except that a personal or business check is not an acceptable
8 method of payment of fees under Transportation Code, §502.094;

9 (4) cash in United States currency, paid in person; or

10 (5) by an escrow account, established with the department for the specific purpose of
11 paying fees [~~required by Transportation Code, Chapters 502, 621, 622, 623, 643, or 645. Use of an escrow~~
12 ~~account includes use of a Permit Account Card (PAC) for payment of Oversize/Overweight vehicle permit~~
13 ~~fees, as authorized by §219.11(f)(1)(A) of this title (relating to General Oversize/Overweight Permit~~
14 ~~Requirements and Procedures)].~~

15 (b) Persons paying the department by credit card or Automated Clearing House (ACH) shall pay
16 any applicable service charge per transaction.

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

19 Issued at Austin, Texas, on M DD, YYYY.

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Tracey Beaver, General Counsel

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PROPOSAL OF

SUBCHAPTER A. GENERAL PROVISIONS

43 TAC §219.2

SUBCHAPTER B. GENERAL PERMITS

43 TAC §§219.11, 219.13-219.15

SUBCHAPTER D. PERMITS FOR OVERSIZE AND OVERWEIGHT OIL WELL RELATED VEHICLES

43 TAC §219.42 and §219.43

**SUBCHAPTER E. PERMITS FOR OVERSIZE AND OVERWEIGHT UNLADEN LIFT EQUIPMENT MOTOR
VEHICLES**

43 TAC §§219.61-219.63

INTRODUCTION. The Texas Department of Motor Vehicles (department) proposes amendments to Title 43 TAC §§219.2, 219.11, 219.13-219.15, 219.42, 219.43, and 219.61 - 219.63, concerning: 1) payment methods for oversize or overweight permits to streamline department processes; and 2) escort flag vehicles to conform the rules to Transportation Code §547.305(e-3) and (f)(1), as added by House Bill (HB) 61, 86th Legislature, Regular Session (2019).

EXPLANATION.

Amendments to Title 43 TAC Subchapters A, B, D, and E are necessary to conform the rules to HB 61, 86th Legislature, Regular Session (2019). House Bill 61 added a new definition for "escort flag vehicle" under Transportation Code §547.305 and provided the operator of an escort flag vehicle with the option of equipping the escort flag vehicle with alternating or flashing blue and amber lights.

TITLE 43. TRANSPORTATION

Proposed Sections

Part 10. Texas Department of Motor Vehicles

Chapter 219 - Oversize and Overweight Vehicles and Loads

1 Amendments to Title 43 TAC §219.11(f) are necessary to streamline department processes to
2 improve program efficiency by eliminating two escrow account payment methods for customers that
3 purchase oversize or overweight permits. One of the escrow account payment methods requires
4 department personnel to manually process payments, and the second escrow account payment method
5 requires department personnel to reconcile the payment records.

6 Transportation Code §547.305(f)(1) defines an "escort flag vehicle" as a vehicle that precedes or
7 follows an oversize or overweight vehicle to facilitate the safe movement of the oversize or overweight
8 vehicle over roads. To implement HB 61, the term, "escort vehicle" is changed to the term "escort flag
9 vehicle" throughout Title 43 TAC Chapter 219.

10 Transportation Code §547.305(e-3) is permissive, allowing escort flag vehicles to be equipped
11 with alternating or flashing blue and amber lights. Transportation Code §623.099(c)(1) already requires
12 that escort flag vehicles have two lights flashing simultaneously or one rotating amber beacon of not less
13 than eight inches when escorting a manufactured house. Transportation Code §623.129 already requires
14 that escort flag vehicles have two lights flashing simultaneously or one rotating amber beacon of not less
15 than eight inches when escorting a portable building and compatible cargo because the requirements
16 under Transportation Code §623.099 apply to the movement of these vehicles. Transportation Code
17 §623.008(b) allows the department to require a person operating under a permit issued under the subtitle
18 to use one or more escort flag vehicles if required by the Texas Department of Transportation or for the
19 safe movement over roads of an oversize or overweight vehicle. Transportation Code §547.305(e-3) adds
20 that the flashing lights for an escort flag vehicle may be alternating flashing blue and amber lights, and it
21 controls under Government Code §311.025(a) to the extent of a conflict with §623.099 because
22 §547.305(e-3) is the latest legislative enactment.

23 Proposed amendments to §219.2 add the word "flag" to the term "escort vehicle" to define

TITLE 43. TRANSPORTATION

Proposed Sections

Part 10. Texas Department of Motor Vehicles

Chapter 219 - Oversize and Overweight Vehicles and Loads

1 "escort flag vehicle" as a vehicle that precedes or follows an oversize or overweight vehicle to facilitate
2 the safe movement of the oversize or overweight vehicle over roads. This change is necessary to track the
3 statutory language in Transportation Code §547.305(f)(1) and clarify the use of the term throughout Title
4 43 TAC Chapter 219. Proposed amendments to §219.2 delete the term "permit account card" and
5 renumber the remaining definitions because the department is proposing to eliminate this form of
6 payment for an oversize or overweight permit.

7 Proposed amendments throughout §219.11 add the word "flag" to the term "escort vehicle" to
8 conform to the definition of the term "escort flag vehicle" under Transportation Code §547.305(f)(1).
9 Proposed amendment to §219.11(k)(7)(B) track the statutory language in Transportation Code §547.305,
10 which permits an escort flag vehicle to be equipped with alternating or flashing blue and amber lights.

11 Proposed amendments to §219.15(f)(3)(C) track the statutory language in Transportation Code
12 §547.305, which permits an escort flag vehicle to be equipped with alternating or flashing blue and amber
13 lights.

14 Proposed amendments to §§219.13-219.15, 219.42, 219.43, 219.61-219.63 add the word "flag"
15 to the term "escort vehicle" to clarify that the use of the term throughout the chapter is as defined under
16 proposed amended §219.2 regarding an "escort flag vehicle."

17 Proposed amendments to §219.11(f) eliminate both permit account cards and escrow accounts
18 (together referred to as "escrow accounts") as methods of payment for oversize or overweight permits.

19 **FISCAL NOTE AND LOCAL EMPLOYMENT IMPACT STATEMENT.** Linda M. Flores, Chief Financial Officer,
20 has determined that for each year of the first five years the amendments will be in effect, there will be no
21 fiscal impact to state or local governments as a result of the enforcement or administration of the
22 proposal. The proposal does not add to or decrease state revenues or expenditures, and local
23 governments are not involved in enforcing or complying with the proposed rule. Jimmy Archer, Director

TITLE 43. TRANSPORTATION

Proposed Sections

Part 10. Texas Department of Motor Vehicles

Chapter 219 - Oversize and Overweight Vehicles and Loads

1 of the Motor Carrier Division, does not anticipate any measurable effect on local employment or the local
2 economy as a result of this proposal.

3 **PUBLIC BENEFIT AND COST NOTE.** Mr. Archer has also determined that, for each year of the first five years
4 the amended sections are in effect, there are anticipated public benefits.

5 Anticipated Public Benefits. The public benefits anticipated as a result of the proposal include
6 conforming the rules to existing law under to Transportation Code §547.305(e-3) and (f)(1). The public
7 benefits of removing the escrow account payment methods for purchasing an oversize or overweight
8 permit include improved efficiency by encouraging the use of electronic payment methods and reducing
9 the amount of transactions that department personnel must manually process or reconcile.

10 Anticipated Costs to Comply with the Proposal. Mr. Archer anticipates that regulated entities will
11 not incur costs as a result of the proposed rules.

12 The proposed amendments do not directly impose any fees for using the following payment
13 methods: credit card, Automatic Clearing House (ACH), check, money order, cashier's check, and cash.
14 The cost, if any, in this proposal is the difference between using an escrow account and another authorized
15 method of payment.

16 Each payment method may result in an indirect cost to a customer from the customer's third-
17 party vendor (such as the bank's fee for a cashier's check), or it may result in a direct cost to a customer
18 if a customer pays in cash by traveling to one of the department's Regional Service Centers to pay.

19 The department anticipates that the customer will have the information necessary to determine
20 as a business decision its own costs and the customer's business needs. Because the department does
21 not impose additional fees, the customer will be in the best place to determine the most efficient way to
22 pay for an oversize or overweight permit.

TITLE 43. TRANSPORTATION

Proposed Sections

Part 10. Texas Department of Motor Vehicles

Chapter 219 - Oversize and Overweight Vehicles and Loads

1 **ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS.** As required by Government
2 Code, §2006.002, the department has determined that the proposed amendments will not have an
3 adverse economic effect on small businesses, micro-business, and rural communities because the
4 proposed amendments conform Title 43 TAC Chapter 219, Subchapters A, B, D, and E to Transportation
5 Code §547.305(e-3) and (f)(1) and do not add additional requirements to regulated persons. Although the
6 department proposes to remove two methods of payment for oversize or overweight permits, customers
7 will continue to have alternative methods of payment, including methods that cost less than the methods
8 the department proposes to remove.

9 The department currently accepts the following methods of payment for oversize or overweight
10 permits for online purchases through the Texas Permitting and Routing Optimization System (TxPROS):
11 credit card, ACH, check, money order, cashier's check, cash, escrow accounts administered by the
12 department, and the Permit Account Card (PAC), which is an escrow account administered by Frost Bank.
13 The department currently accepts these same methods of payment, except for the ACH, for purchases of
14 oversize or overweight permits by non-online methods, such as applications submitted by facsimile. To
15 determine whether the proposed removal of the two escrow methods of payment would have an adverse
16 economic effect on small businesses, the department analyzed the total direct and indirect costs to a
17 customer to buy one of three different permits using the current methods of payment¹:

¹ For the purposes of this analysis, the department excluded any setup fees or monthly service or maintenance fees charged by the third-party service providers, as well as the requirement for a customer to make an initial deposit of \$305 with the department to set up an escrow account that the department administers under §219.11(f). Setup fees and monthly service or maintenance fees varied too much, based on the type of account or how much money a customer has in their account. Some banks waive monthly service or maintenance fees, based on the type of account. The department assumed that the customers who pay by check already have a checking account and that they use the checking account to write checks for other purchases, so the department did not factor in the cost for buying printed checks. The department also assumed that the average customer must drive 20 miles to pick up a money order or cashier's check, and that the average customer must drive 50 miles to the closest Regional Service Center if they want to pay by cash. For mileage costs, the department used the state's automobile mileage reimbursement rate of \$0.57.5 per mile, which amounts to \$11.50 for 20 miles and \$28.75 for 50 miles. For

TITLE 43. TRANSPORTATION

Proposed Sections

Part 10. Texas Department of Motor Vehicles

Chapter 219 - Oversize and Overweight Vehicles and Loads

Method of Payment	Indirect Costs for Method of Payment, based on Examples Provided by Third-Party Vendors or Sample Calculations	Hay Permit – \$10	General Single-Trip Permit for Gross Weight between 120,001 and 160,000 Pounds – \$285	Intermodal Shipping Container Port Permit – \$6,000
Credit Card	Only accepted via Texas.gov, which charges 25¢ plus 2.25% of total transaction.	\$10.48	\$291.67	\$6,135.26
ACH	Elavon fee: \$0.15 per transaction up to 250,000 transactions per year ²	\$10.15	\$285.15	\$6,000.15
Check	NA	\$10.00	\$285.00	\$6,000.00
Money Order	The U.S. Postal Service fee, based on dollar amount: \$1.25 for \$0.01 to \$500.00 \$1.75 for \$500.01 to \$1,000.00 Cost to drive to Post Office.	\$22.75	\$297.75	\$6,022.00
Cashier's Check	Wells Fargo fee: \$10.00 each Cost to drive to bank.	\$31.50	\$306.50	\$6,021.50
Cash	Cost to drive to one of the department's 16 Regional Service Centers	\$38.75	\$313.75	\$6,028.75

purposes of this analysis, the department chose the cheapest oversize or overweight permit, the most expensive oversize or overweight permit, and one of the most commonly purchased oversize or overweight permits.

² Fees vary based on the contract.

TITLE 43. TRANSPORTATION

Proposed Sections

Part 10. Texas Department of Motor Vehicles

Chapter 219 - Oversize and Overweight Vehicles and Loads

Method of Payment	Indirect Costs for Method of Payment, based on Examples Provided by Third-Party Vendors or Sample Calculations	Hay Permit – \$10	General Single-Trip Permit for Gross Weight between 120,001 and 160,000 Pounds – \$285	Intermodal Shipping Container Port Permit – \$6,000
Escrow Account Administered by the Department	\$5.00 administrative fee for each deposit. Deposits are made via check, money order, cashier's check, commercial check, cash, and wire.	\$15, plus any costs for method of payment used for deposit.	\$290, plus any costs for method of payment used for deposit.	\$6,005, plus any costs for method of payment used for deposit.
PAC	Frost Bank charges \$1.00 per permit transaction.	\$11.00	\$286.00	\$6,001.00

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The department determined that there will not be an adverse economic effect on small or micro-businesses as a result of the enforcement or administration of amendments to §219.11(f). A total of 30,529 customers purchased oversize and/or overweight permits in the last twelve months. The department was unable to obtain information regarding the number of customers affected by this proposal that qualify as a small business or a micro-business under Government Code 2006.002. However, out of 30,529 customers who purchased oversize and/or overweight permits in the last twelve months, the department estimates that a majority of them are small or micro-businesses that may be affected by this proposal. Also, in the last 14 months, only 317 customers purchased oversize or overweight permits using an escrow account that the department administers. In the last 14 months, only 225 customers purchased oversize or overweight permits using the PAC. The cost of compliance will not vary between large businesses and small or micro-businesses. As demonstrated in the calculations above, customers will continue to have methods of payment that are cheaper than the two methods of payment that the department proposes to remove.

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1 The objective of this proposal is to enable more department transactions to be done
2 electronically, which should make the program more efficient. The proposal removes two oversize or
3 overweight permit escrow account payment methods that require physical handling by the department.
4 Although Frost Bank administers the PAC escrow accounts, the department's staff must engage in a
5 month-end reconciliation process for payments made by PAC. The proposal allows customers to continue
6 using other payment methods to purchase the permits with no additional fees imposed by the
7 department, including: payment by credit card, ACH, check, money order, cashier's check, and cash. The
8 customer is in the best position to make the business decision to determine which method of payment is
9 most suitable and cost-effective for their business practices.

10 The department balanced the needs of providing cost-effective payment options for customers
11 with the goal of improving program efficiency by having more transactions processed electronically. The
12 department determined that due to the other available payment options, terminating escrow accounts
13 will improve program efficiency.

14 The department determined that the proposal will not have an adverse economic effect on rural
15 communities because the department does not charge municipalities for oversize or overweight permits.
16 As a result, and in accordance with Government Code §2006.002(c), it is not necessary for the department
17 to address rural communities in its regulatory flexibility analysis.

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

22 **GOVERNMENT GROWTH IMPACT STATEMENT.** The department has determined that each year of the
23 first five years the proposed amendments are in effect, the proposed amendments:

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- 1 will not create or eliminate a government program;
- 2 will not require the creation of new employee positions or the elimination of existing employee
- 3 positions;
- 4 will not require an increase or decrease in future legislative appropriations to the department;
- 5 will not require an increase or decrease in fees paid to the department;
- 6 will not create new regulations;
- 7 will not expand existing regulations;
- 8 will repeal existing regulations;
- 9 will not increase or decrease the number of individuals subject to the rule's applicability; and
- 10 will not positively or adversely affect the Texas economy.

11 REQUEST FOR PUBLIC COMMENT.

12 If you want to comment on the proposal, submit your written comments by 5:00 p.m. CDT on MM, DD,
13 YYYY. A request for a public hearing must be sent separately from your written comments. Send written
14 comments or hearing requests by email to *rules@txdmv.gov* or by mail to Office of General Counsel, Texas
15 Department of Motor Vehicles, 4000 Jackson Avenue, Austin, Texas 78731. If a hearing is held, the
16 department will consider written comments and public testimony presented at the hearing.

17 **STATUTORY AUTHORITY.** The department proposes amendments under Transportation Code §§623.002,
18 1001.009, and 1002.001.

19 Transportation Code §632.002 authorizes the board of the Texas Department of Motor Vehicles
20 (board) to adopt rules as necessary to implement Transportation Code Chapter 623.

21 Transportation Code §1001.009 authorizes the board to adopt rules regarding the method of
22 collection of a fee for any goods or services provided by the department.

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1 Transportation Code §1002.001 authorizes the board to adopt rules that are necessary and
2 appropriate to implement the powers and the duties of the department under the Transportation Code.

3 **CROSS REFERENCE TO STATUTE.** Transportation Code §547.305, Chapter 621, and Chapter 623.

4 **TEXT.**

5 **Subchapter A. General Provisions**

6 **43 TAC §219.2**

7 §219.2. Definitions.

8 (a) The definitions contained in Transportation Code, Chapters 621, 622, and 623 apply to this
9 chapter. In the event of a conflict with this chapter, the definitions contained in Transportation Code,
10 Chapters 621, 622, and 623 control.

11 (b) The following words and terms, when used in this chapter, will have the following meanings,
12 unless the context clearly indicates otherwise.

13 (1) Annual permit--A permit that authorizes movement of an oversize and/or overweight
14 load for one year commencing with the effective date.

15 (2) Applicant--Any person, firm, or corporation requesting a permit.

16 (3) Axle--The common axis of rotation of one or more wheels whether power-driven or
17 freely rotating, and whether in one or more segments.

18 (4) Axle group--An assemblage of two or more consecutive axles, with two or more wheels
19 per axle, spaced at least 40 inches from center of axle to center of axle, equipped with a weight-equalizing
20 suspension system that will not allow more than a 10% weight difference between any two axles in the
21 group.

22 (5) Board--The Board of the Texas Department of Motor Vehicles.

23 (6) Closeout--The procedure used by the department to terminate a permit, issued under

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1 Transportation Code, §623.142 or §623.192 that will not be renewed by the applicant.

2 (7) Complete identification number--A unique and distinguishing number assigned to
3 equipment or a commodity for purposes of identification.

4 (8) Concrete pump truck--A self-propelled vehicle designed to pump the concrete product
5 from a ready mix truck to the point of construction.

6 (9) Crane--Any unladen lift equipment motor vehicle designed for the sole purpose of
7 raising, shifting, or lowering heavy weights by means of a projecting, swinging mast with an engine for
8 power on a chassis permanently constructed or assembled for such purpose.

9 (10) Credit card--A credit card approved by the department.

10 (11) Daylight--The period beginning one-half hour before sunrise and ending one-half
11 hour after sunset.

12 (12) Department--The Texas Department of Motor Vehicles.

13 (13) Digital signature--An electronic identifier intended by the person using it to have the
14 same force and effect as a manual signature. The digital signature shall be unique to the person using it.

15 (14) Director--The Executive Director of the Texas Department of Motor Vehicles or a
16 designee not below the level of division director.

17 (15) District--One of the 25 geographical areas, managed by a district engineer of the
18 Texas Department of Transportation, in which the Texas Department of Transportation conducts its
19 primary work activities.

20 (16) District engineer--The chief executive officer in charge of a district of the Texas
21 Department of Transportation.

22 (17) Electronic identifier--A unique identifier which is distinctive to the person using it, is
23 independently verifiable, is under the sole control of the person using it, and is transmitted in a manner

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1 that makes it infeasible to change the data in the communication or digital signature without invalidating
2 the digital signature.

3 (18) Escort flag vehicle--~~[A motor vehicle used to warn traffic of the presence of an~~
4 ~~oversize and/or overweight vehicle]~~ A vehicle that precedes or follows an oversize or overweight vehicle
5 to facilitate the safe movement of the oversize or overweight vehicle over roads.

6 (19) Four-axle group--Any four consecutive axles, having at least 40 inches from center of
7 axle to center of axle, whose extreme centers are not more than 192 inches apart and are individually
8 attached to or articulated from, or both, to the vehicle by a weight equalizing suspension system.

9 (20) Gauge--The transverse spacing distance between tires on an axle, expressed in feet
10 and measured to the nearest inch, from center-of-tire to center-of-tire on an axle equipped with only two
11 tires, or measured to the nearest inch from the center of the dual wheels on one side of the axle to the
12 center of the dual wheels on the opposite side of the axle.

13 (21) Gross weight--The unladen weight of a vehicle or combination of vehicles plus the
14 weight of the load being transported.

15 (22) Height pole--A device made of a non-conductive material, used to measure the height
16 of overhead obstructions.

17 (23) Highway maintenance fee--A fee established by Transportation Code, §623.077,
18 based on gross weight, and paid by the permittee when the permit is issued.

19 (24) Highway use factor--A mileage reduction figure used in the calculation of a permit
20 fee for a permit issued under Transportation Code, §623.142 and §623.192.

21 (25) Hubometer--A mechanical device attached to an axle on a unit or a crane for
22 recording mileage traveled.

23 (26) HUD number--A unique number assigned to a manufactured home by the U.S.

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1 Department of Housing and Urban Development.

2 (27) Indirect cost share--A prorated share of administering department activities, other
3 than the direct cost of the activities, including the cost of providing statewide support services.

4 (28) Load-restricted bridge--A bridge that is restricted by the Texas Department of
5 Transportation, under the provisions of Transportation Code, §621.102, to a weight limit less than the
6 maximum amount allowed by Transportation Code, §621.101.

7 (29) Load-restricted road--A road that is restricted by the Texas Department of
8 Transportation, under the provisions of Transportation Code, §621.102, to a weight limit less than the
9 maximum amount allowed by Transportation Code, §621.101.

10 (30) Machinery plate--A license plate issued under Transportation Code, §502.146.

11 (31) Manufactured home--Manufactured housing, as defined in Occupations Code,
12 Chapter 1201, and industrialized housing and buildings, as defined in Occupations Code, §1202.002, and
13 temporary chassis systems, and returnable undercarriages used for the transportation of manufactured
14 housing and industrialized housing and buildings, and a transportable section which is transported on a
15 chassis system or returnable undercarriage that is constructed so that it cannot, without dismantling or
16 destruction, be transported within legal size limits for motor vehicles.

17 (32) Motor carrier--A person that controls, operates, or directs the operation of one or
18 more vehicles that transport persons or cargo over a public highway in this state, as defined by
19 Transportation Code, §643.001.

20 (33) Motor carrier registration (MCR)--The registration issued by the department to
21 motor carriers moving intrastate, under authority of Transportation Code, Chapter 643.

22 (34) Nighttime--The period beginning one-half hour after sunset and ending one-half hour
23 before sunrise, as defined by Transportation Code, §541.401.

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1 (35) Nondivisible load or vehicle--

2 (A) Any load or vehicle exceeding applicable length or weight limits which, if
3 separated into smaller loads or vehicles, would:

4 (i) compromise the intended use of the vehicle, i.e., make it unable to
5 perform the function for which it was intended;

6 (ii) destroy the value of the load or vehicle, i.e., make it unusable for its
7 intended purpose; or

8 (iii) require more than eight workhours to dismantle using appropriate
9 equipment. The applicant for a nondivisible load permit has the burden of proof as to the number of
10 workhours required to dismantle the load.

11 (B) Emergency response vehicles, including those loaded with salt, sand,
12 chemicals or a combination thereof, with or without a plow or blade attached in front, and being used for
13 the purpose of spreading the material on highways that are or may become slick or icy.

14 (C) Casks designed for the transport of spent nuclear materials.

15 (D) Military vehicles transporting marked military equipment or materiel.

16 (36) Oil field rig-up truck--An unladen vehicle with an overweight single steering axle,
17 equipped with a winch and set of gin poles used for lifting, erecting, and moving oil well equipment and
18 machinery.

19 (37) Oil well servicing unit--An oil well clean-out unit, oil well drilling unit, or oil well
20 swabbing unit, which is mobile equipment, either self-propelled or trailer-mounted, constructed as a
21 machine used solely for cleaning-out, drilling, servicing, or swabbing oil wells, and consisting in general of,
22 but not limited to, a mast, an engine for power, a draw works, and a chassis permanently constructed or
23 assembled for this purpose.

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1 (38) One trip registration--Temporary vehicle registration issued under Transportation
2 Code, §502.095.

3 (39) Overdimension load--A vehicle, combination of vehicles, or vehicle and its load that
4 exceeds maximum legal width, height, length, overhang, or weight as set forth by Transportation Code,
5 Chapter 621, Subchapters B and C.

6 (40) Overhang--The portion of a load extending beyond the front or rear of a vehicle or
7 combination of vehicles.

8 (41) Overheight--A vehicle or load that exceeds the maximum height specified in
9 Transportation Code, §621.207.

10 (42) Overlength--A vehicle, combination of vehicles, or a vehicle or vehicle combination
11 and its load that exceed(s) the maximum length specified in Transportation Code, §§621.203, 621.204,
12 621.205, and 621.206.

13 (43) Oversize load--A vehicle, combination of vehicles, or a vehicle or vehicle combination
14 and its load that exceed(s) maximum legal width, height, length, or overhang, as set forth by
15 Transportation Code, Chapter 621, Subchapter C.

16 (44) Overweight--A vehicle, combination of vehicles, or a vehicle or vehicle combination
17 and its load that exceed(s) the maximum weight specified in Transportation Code, §621.101.

18 (45) Overwidth--A vehicle or load that exceeds the maximum width specified in
19 Transportation Code, §621.201.

20 (46) Permit--Authority for the movement of an oversize and/or overweight vehicle,
21 combination of vehicles, or a vehicle or vehicle combination and its load, issued by the department under
22 Transportation Code, Chapter 623.

23 ~~[(47) Permit account card (PAC)--A debit card that can only be used to purchase a permit~~

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1 and which is issued by a financial institution that is under contract to the department and the Comptroller
2 of Public Accounts.]

3 (47) [(48)] Permit officer--An employee of the department who is authorized to issue an
4 oversize/overweight permit.

5 (48) [(49)] Permit plate--A license plate issued under Transportation Code, §502.146, to a
6 crane or an oil well servicing vehicle.

7 (49) [(50)] Permitted vehicle--A vehicle, combination of vehicles, or vehicle and its load
8 operating under the provisions of a permit.

9 (50) [(51)] Permittee--Any person, firm, or corporation that is issued an
10 oversize/overweight permit by the department.

11 (51) [(52)] Pipe box--A container specifically constructed to safely transport and handle
12 oil field drill pipe and drill collars.

13 (52) [(53)] Portable building compatible cargo--Cargo, other than a portable building unit,
14 that is manufactured, assembled, or distributed by a portable building unit manufacturer and is
15 transported in combination with a portable building unit.

16 (53) [(54)] Portable building unit--The pre-fabricated structural and other components
17 incorporated and delivered by the manufacturer as a complete inspected unit with a distinct serial number
18 whether in fully assembled, partially assembled, or kit (unassembled) configuration when loaded for
19 transport.

20 (54) [(55)] Principal--The person, firm, or corporation that is insured by a surety bond
21 company.

22 (55) [(56)] Roll stability support safety system--An electronic system that monitors vehicle
23 dynamics and estimates the stability of a vehicle based on its mass and velocity, and actively adjusts

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1 vehicle systems including the throttle and/or brake(s) to maintain stability when a rollover risk is detected.

2 (56) [(57)] Shipper's certificate of weight--A form approved by the department in which
3 the shipper certifies to the maximum weight of the shipment being transported.

4 (57) [(58)] Single axle--An assembly of two or more wheels whose centers are in one
5 transverse vertical plane or may be included between two parallel transverse planes 40 inches apart
6 extending across the full width of the vehicle.

7 (58) [(59)] Single-trip permit--A permit issued for an overdimension load for a single
8 continuous movement over a specific route for an amount of time necessary to make the movement.

9 (59) [(60)] State highway--A highway or road under the jurisdiction of the Texas
10 Department of Transportation.

11 (60) [(61)] State highway system--A network of roads and highways as defined by
12 Transportation Code, §221.001.

13 (61) [(62)] Surety bond--An agreement issued by a surety bond company to a principal
14 that pledges to compensate the Texas Department of Transportation for any damage that might be
15 sustained to the highways and bridges by virtue of the operation of the equipment for which a permit was
16 issued. A surety bond is effective the day it is issued and expires at the end of the state fiscal year, which
17 is August 31st. For example, if you obtain a surety bond on August 30th, it will expire the next day at
18 midnight.

19 (62) [(63)] Tare weight--The empty weight of any vehicle transporting an overdimension
20 load.

21 (63) [(64)] Temporary vehicle registration--A 72-hour temporary vehicle registration, 144-
22 hour temporary vehicle registration, or one-trip registration.

23 (64) [(65)] Three-axle group--Any three consecutive axles, having at least 40 inches from

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1 center of axle to center of axle, whose extreme centers are not more than 144 inches apart, and are
2 individually attached to or articulated from, or both, to the vehicle by a weight equalizing suspension
3 system.

4 (65) ~~[(66)]~~ Time permit--A permit issued for a specified period of time under §219.13 of
5 this title (relating to Time Permits).

6 (66) ~~[(67)]~~ Tire size--The inches of lateral tread width.

7 (67) ~~[(68)]~~ Traffic control device--All traffic signals, signs, and markings, including their
8 supports, used to regulate, warn, or control traffic.

9 (68) ~~[(69)]~~ Trailer mounted unit--An oil well clean-out, drilling, servicing, or swabbing unit
10 mounted on a trailer, constructed as a machine used for cleaning out, drilling, servicing, or swabbing oil
11 wells, and consisting in general of, but not limited to, a mast, an engine for power, a draw works, and a
12 chassis permanently constructed or assembled for this purpose.

13 (69) ~~[(70)]~~ Truck--A motor vehicle designed, used, or maintained primarily for the
14 transportation of property.

15 (70) ~~[(71)]~~ Truck blind spot systems--Vehicle-based sensor devices that detect other
16 vehicles or objects located in the vehicle's adjacent lanes. Warnings can be visual, audible, vibrating, or
17 tactile.

18 (71) ~~[(72)]~~ Trunnion axle--Two individual axles mounted in the same transverse plane,
19 with four tires on each axle, that are connected to a pivoting wrist pin that allows each individual axle to
20 oscillate in a vertical plane to provide for constant and equal weight distribution on each individual axle
21 at all times during movement.

22 (72) ~~[(73)]~~ Trunnion axle group--Two or more consecutive trunnion axles whose centers
23 are at least 40 inches apart and which are individually attached to or articulated from, or both, to the

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1 vehicle by a weight equalizing suspension system.

2 (73) ~~[(74)]~~ Two-axle group--Any two consecutive axles whose centers are at least 40
3 inches but not more than 96 inches apart and are individually attached to or articulated from, or both, to
4 the vehicle by a weight equalizing suspension system.

5 (74) ~~[(75)]~~ TxDOT--Texas Department of Transportation.

6 (75) ~~[(76)]~~ Unit--Oil well clean-out unit, oil well drilling unit, oil well servicing unit, and/or
7 oil well swabbing unit.

8 (76) ~~[(77)]~~ Unladen lift equipment motor vehicle--A motor vehicle designed for use as lift
9 equipment used solely to raise, shift, or lower heavy weights by means of a projecting, swinging mast with
10 an engine for power on a chassis permanently constructed or assembled for such purpose.

11 (77) ~~[(78)]~~ USDOT Number--The United States Department of Transportation number.

12 (78) ~~[(79)]~~ Variable load suspension axles--Axles, whose controls must be located outside
13 of and be inaccessible from the driver's compartment, that can be regulated, through the use of hydraulic
14 and air suspension systems, mechanical systems, or a combination of these systems, for the purpose of
15 adding or decreasing the amount of weight to be carried by each axle during the movement of the vehicle.

16 (79) ~~[(80)]~~ Vehicle identification number--A unique and distinguishing number assigned
17 to a vehicle by the manufacturer or by the department in accordance with Transportation Code, §501.032
18 and §501.033.

19 (80) ~~[(81)]~~ Water Well Drilling Machinery--Machinery used exclusively for the purpose of
20 drilling water wells, including machinery that is a unit or a unit mounted on a conventional vehicle or
21 chassis.

22 (81) ~~[(82)]~~ Weight-equalizing suspension system--An arrangement of parts designed to
23 attach two or more consecutive axles to the frame of a vehicle in a manner that will equalize the load

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1 between the axles.

2 (82) ~~[(83)]~~ Windshield sticker--Identifying insignia indicating that a permit has been issued
3 in accordance with Subchapter C of this chapter.

4 (83) ~~[(84)]~~ Year--A time period consisting of 12 consecutive months that commences with
5 the effective date stated in the permit.

6 (84) ~~[(85)]~~ 72-hour temporary vehicle registration--Temporary vehicle registration issued
7 by the department authorizing a vehicle to operate at maximum legal weight on a state highway for a
8 period not longer than 72 consecutive hours, as prescribed by Transportation Code, §502.094.

9 (85) ~~[(86)]~~ 144-hour temporary vehicle registration--Temporary vehicle registration
10 issued by the department authorizing a vehicle to operate at maximum legal weight on a state highway
11 for a period not longer than 144 consecutive hours, as prescribed by Transportation Code, §502.094.

12 **SUBCHAPTER B. General Permits**

13 **43 TAC §§219.11, 219.13-219-219.15**

14 §219.11. General Oversize/Overweight Permit Requirements and Procedures.

15 (a) Purpose and scope. This section contains general requirements relating to
16 oversize/overweight permits, including single-trip permits. Specific requirements for each type of
17 specialty permit are provided for in this chapter.

18 (b) Prerequisites to obtaining an oversize/overweight permit. Unless exempted by law or this
19 chapter, the following requirements must be met prior to the issuance of an oversize/overweight permit.

20 (1) Commercial motor carrier registration or surety bond. Prior to obtaining an
21 oversize/overweight permit, an applicant permitted under the provisions of Transportation Code, Chapter
22 623, Subchapter D, must be registered as a commercial motor carrier under Chapter 218 of this title
23 (relating to Motor Carriers) or, if not required to obtain a motor carrier registration, file a surety bond

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1 with the department as described in subsection (n) of this section.

2 (2) Vehicle registration. A vehicle registered with a permit plate will not be issued an
3 oversize/overweight permit under this subchapter. A permitted vehicle operating under this subchapter
4 must be registered with one of the following types of vehicle registration:

5 (A) current Texas license plates that indicate the permitted vehicle is registered
6 for maximum legal gross weight or the maximum weight the vehicle can transport;

7 (B) Texas temporary vehicle registration;

8 (C) current out of state license plates that are apportioned for travel in Texas; or

9 (D) foreign commercial vehicles registered under Texas annual registration.

10 (c) Permit application.

11 (1) An application for a permit shall be made in a form and by the method prescribed by
12 the department, and at a minimum shall include the following:

13 (A) name, address, telephone number, and email address (if requested) of the
14 applicant;

15 (B) applicant's customer identification number;

16 (C) applicant's MCR number or USDOT Number, if applicable;

17 (D) complete load description, including maximum width, height, length,
18 overhang, and gross weight;

19 (E) complete description of vehicle, including truck year, make, license plate
20 number and state of issuance, and vehicle identification number, if required;

21 (F) vehicle axle and tire information including number of axles, distance between
22 axles, axle weights, number of tires, and tire size for overweight permit applications; and

23 (G) any other information required by law.

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1 (2) Applications transmitted electronically are considered signed if a digital signature is
2 transmitted with the application and intended by the applicant to authenticate the application.

3 (A) The department may only accept a digital signature used to authenticate an
4 application under procedures that comply with any applicable rules adopted by the Department of
5 Information Resources regarding department use or acceptance of a digital signature.

6 (B) The department may only accept a digital signature to authenticate an
7 application if the digital signature is:

8 (i) unique to the person using it;

9 (ii) capable of independent verification;

10 (iii) under the sole control of the person using it; and

11 (iv) transmitted in a manner that will make it infeasible to change the
12 data in the communication or digital signature without invalidating the digital signature.

13 (d) Maximum permit weight limits.

14 (1) General. An overweight permitted vehicle will not be routed over a load-restricted
15 bridge when exceeding the posted capacity of the bridge, unless a special exception is granted by TxDOT,
16 based on an analysis of the bridge performed by a TxDOT approved licensed professional engineer or by
17 TxDOT. Any analysis by a non-TxDOT engineer must have final approval from TxDOT.

18 (A) An axle group must have a minimum spacing of four feet, measured from
19 center of axle to center of axle, between each axle in the group to achieve the maximum permit weight
20 for the group.

21 (B) The maximum permit weight for an axle group with spacing of five or more
22 feet between each axle will be based on an engineering study of the equipment conducted by TxDOT.

23 (C) A permitted vehicle will be allowed to have air suspension, hydraulic

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1 suspension, and mechanical suspension axles in a common weight equalizing suspension system for any
2 axle group.

3 (D) The department may permit axle weights greater than those specified in this
4 section, for a specific individual permit request, based on an engineering study of the route and hauling
5 equipment performed by a TxDOT approved licensed professional engineer or by TxDOT. Any analysis by
6 a non-TxDOT engineer must have final approval from TxDOT.

7 (E) A permitted vehicle or combination of vehicles may not exceed the
8 manufacturer's rated tire carrying capacity, unless expressly authorized in the language on the permit
9 based on an analysis performed by a TxDOT approved licensed professional engineer or by TxDOT. Any
10 analysis by a non-TxDOT engineer must have final approval from TxDOT.

11 (F) Two or more consecutive axle groups having an axle spacing of less than 12
12 feet, measured from the center of the last axle of the preceding group to the center of the first axle of the
13 following group, will be reduced by 2.5% for each foot less than 12 feet.

14 (2) Maximum axle weight limits. Maximum permit weight for an axle or axle group is
15 based on 650 pounds per inch of tire width or the following axle or axle group weights, whichever is the
16 lesser amount:

17 (A) single axle--25,000 pounds;

18 (B) two axle group--46,000 pounds;

19 (C) three axle group--60,000 pounds;

20 (D) four axle group--70,000 pounds;

21 (E) five axle group--81,400 pounds;

22 (F) axle group with six or more axles--determined by TxDOT based on an
23 engineering study of the equipment, which will include the type of steering system used, the type of axle

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1 suspension, the spacing distance between each axle, the number of tires per axle, and the tire size on
2 each axle; or

3 (G) trunnion axles--30,000 pounds per axle if the trunnion configuration has:

4 (i) two axles;

5 (ii) eight tires per axle;

6 (iii) axles a minimum of 10 feet in width; and

7 (iv) at least five feet of spacing between the axles, not to exceed six feet.

8 (3) Weight limits for load restricted roads. Maximum permit weight for an axle or axle
9 group, when traveling on a load restricted road, will be based on 650 pounds per inch of tire width or the
10 following axle or axle group weights, whichever is the lesser amount:

11 (A) single axle--22,500 pounds;

12 (B) two axle group--41,400 pounds;

13 (C) three axle group--54,000 pounds;

14 (D) four axle group--63,000 pounds;

15 (E) five axle group--73,260 pounds;

16 (F) axle group with six or more axles--determined by TxDOT based on an
17 engineering study of the equipment, which will include the type of steering system used, the type of axle
18 suspension, the spacing distance between each axle, the number of tires per axle, and the tire size on
19 each axle;

20 (G) trunnion axles--54,000 pounds; and

21 (H) two or more consecutive axle groups having an axle spacing of less than 12
22 feet, measured from the center of the last axle of the preceding group to the center of the first axle of the
23 following group will be reduced by 2.5% for each foot less than 12 feet.

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1 (e) Permit issuance.

2 (1) General. Upon receiving an application in the form prescribed by the department, the
3 department will review the permit application for the appropriate information and will then determine
4 the most practical route based on information provided by TxDOT.

5 (2) Routing.

6 (A) A permitted vehicle will be routed over the most practical route available
7 taking into consideration:

8 (i) the size and weight of the overdimension load in relation to vertical
9 clearances, width restrictions, steep grades, and weak or load restricted bridges;

10 (ii) the geometrics of the roadway in comparison to the overdimension
11 load;

12 (iii) sections of highways restricted to specific load sizes and weights due
13 to construction, maintenance, and hazardous conditions;

14 (iv) traffic conditions, including traffic volume;

15 (v) route designations by municipalities in accordance with
16 Transportation Code, §623.072;

17 (vi) load restricted roads; and

18 (vii) other considerations for the safe transportation of the load.

19 (B) When a permit applicant desires a route other than the most practical, more
20 than one permit will be required for the trip unless an exception is granted by the department.

21 (3) Movement to and from point of origin or place of business. A permitted vehicle will
22 be allowed to:

23 (A) move empty oversize and overweight hauling equipment to and from the job

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1 site; and

2 (B) move oversize and overweight hauling equipment with a load from the
3 permitted vehicle's point of origin to pick up a permitted load, and to the permitted vehicle's point of
4 origin or the permittee's place of business after dropping off a permitted load, as long as:

5 (i) the load does not exceed legal size and weight limits under
6 Transportation Code, Chapters 621 and 622; and

7 (ii) the transport complies with the permit, including the time period
8 stated on the permit.

9 (f) Payment of permit fees, refunds.

10 (1) Payment methods. All permit applications must be accompanied by the proper fee,
11 which shall be payable as provided by §209.23 of this title (relating to Methods of Payment).

12 ~~[(A) Permit Account Card (PAC). Application for a PAC should be made directly to
13 the issuing institution. A PAC must be established and maintained according to the contract provisions
14 stipulated between the PAC holder and the financial institution under contract to the department and the
15 Comptroller of Public Accounts.]~~

16 ~~[(B) Escrow accounts. A permit applicant may establish an escrow account with
17 the department for the specific purpose of paying any fee that is related to the issuance of a permit under
18 this subchapter.]~~

19 ~~[(i) A permit applicant who desires to establish an escrow account shall
20 complete and sign an escrow account agreement, and shall return the completed and signed agreement
21 to the department with a check in the minimum amount of \$305, which shall be deposited to the
22 appropriate fund by the department with the Comptroller of Public Accounts. In lieu of submitting a check
23 for the initial deposit to an applicant's escrow account, the applicant may transfer funds to the~~

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1 ~~department electronically.]~~

2 ~~[(ii) Upon initial deposit, and each subsequent deposit made by the~~
3 ~~escrow account holder, \$5 will be charged as an escrow account administrative fee.]~~

4 ~~[(iii) The escrow account holder is responsible for monitoring of the~~
5 ~~escrow account balance.]~~

6 ~~[(iv) An escrow account holder must submit a written request to the~~
7 ~~department to terminate the escrow account agreement. Any remaining balance will be returned to the~~
8 ~~escrow account holder.]~~

9 (2) Refunds. A permit fee will not be refunded after the permit number has been issued
10 unless such refund is necessary to correct an error made by the permit officer.

11 (g) Amendments. A permit may be amended for the following reasons:

12 (1) vehicle breakdown;

13 (2) changing the intermediate points in an approved permit route;

14 (3) extending the expiration date due to conditions which would cause the move to be
15 delayed;

16 (4) changing route origin or route destination prior to the start date as listed on the
17 permit;

18 (5) changing vehicle size limits prior to the permit start date as listed on the permit,
19 provided that changing the vehicle size limit does not necessitate a change in the approved route; and

20 (6) correcting any mistake that is made due to permit officer error.

21 (h) Requirements for overwidth loads.

22 (1) Unless stated otherwise on the permit, an overwidth load must travel in the outside
23 traffic lane on multi-lane highways, when the width of the load exceeds 12 feet.

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1 (2) Overwidth loads are subject to the escort requirements of subsection (k) of this
2 section.

3 (3) A permitted vehicle exceeding 16 feet in width will not be routed on the main lanes of
4 a controlled access highway, unless an exception is granted by TxDOT, based on a route and traffic study.
5 The load may be permitted on the frontage roads when available, if the movement will not pose a safety
6 hazard to other highway users.

7 (4) An applicant requesting a permit to move a load exceeding 20 feet wide will be
8 furnished with a proposed route. The applicant must physically inspect the proposed route to determine
9 if the vehicle and load can safely negotiate it, unless an exception is granted based on a route and traffic
10 study conducted by TxDOT. A permit application and the appropriate fee are required for every route
11 inspection.

12 (A) The applicant must notify the department in writing whether the vehicle and
13 load can or cannot safely negotiate the proposed route.

14 (B) If any section of the proposed route is unacceptable, the applicant shall
15 provide the department with an alternate route around the unacceptable section.

16 (C) Once a route is decided upon and a permit issued, the permit may not be
17 amended unless an exception is granted by the department.

18 (i) Requirements for overlength loads.

19 (1) Overlength loads are subject to the escort requirements stated in subsection (k) of this
20 section.

21 (2) A single vehicle, such as a motor crane, that has a permanently mounted boom is not
22 considered as having either front or rear overhang as a result of the boom because the boom is an integral
23 part of the vehicle.

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1 (3) When a single vehicle with a permanently attached boom exceeds the maximum legal
2 length of 45 feet, a permit will not be issued if the boom projects more than 25 feet beyond the front
3 bumper of the vehicle, or when the boom projects more than 30 feet beyond the rear bumper of the
4 vehicle, unless an exception is granted by TxDOT, based on a route and traffic study.

5 (4) Maximum permit length for a single vehicle is 75 feet.

6 (5) A load extending more than 20 feet beyond the front or rearmost portion of the load
7 carrying surface of the permitted vehicle must have a rear escort flag vehicle, unless an exception is
8 granted by TxDOT, based on a route and traffic study.

9 (6) A permit will not be issued for an oversize vehicle and load with:

10 (A) more than 25 feet front overhang; or

11 (B) more than 30 feet rear overhang, unless an exception is granted by TxDOT,
12 based on a route and traffic study.

13 (7) An applicant requesting a permit to move an oversize vehicle and load exceeding 125
14 feet overall length will be furnished with a proposed route. The applicant must physically inspect the
15 proposed route to determine if the oversize vehicle and load can safely negotiate it, unless an exception
16 is granted based on a route and traffic study conducted by TxDOT. A permit application and the
17 appropriate fee are required for every route inspection.

18 (A) The applicant must notify the department in writing whether the oversize
19 vehicle and load can or cannot safely negotiate the proposed route.

20 (B) If any section of the proposed route is unacceptable, the applicant shall
21 provide the department with an alternate route around the unacceptable section.

22 (C) Once a route is decided upon and a permit issued, the permit may not be
23 amended unless an exception is granted by the department.

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1 (8) A permitted vehicle that is not overwidth or overheight, and does not exceed 150 feet
2 overall length, may be moved in a convoy consisting of not more than four overlength permitted vehicles.

3 A permitted vehicle that is not overwidth or overheight that exceeds 150 feet, but does not exceed 180
4 feet overall length, may be moved in a convoy consisting of not more than two overlength permitted
5 vehicles. Convoys are subject to the requirements of subsection (k) of this section. Each permitted
6 vehicle in the convoy must:

7 (A) be spaced at least 1,000 feet, but not more than 2,000 feet, from any other
8 permitted vehicle in the convoy; and

9 (B) have a rotating amber beacon or an amber pulsating light, not less than eight
10 inches in diameter, mounted at the rear top of the load being transported.

11 (j) Requirements for overheight loads.

12 (1) Overheight loads are subject to the escort requirements stated in subsection (k) of this
13 section.

14 (2) An applicant requesting a permit to move an oversize vehicle and load with an overall
15 height of 19 feet or greater will be furnished with a proposed route. The applicant must physically inspect
16 the proposed route to determine if the oversize vehicle and load can safely negotiate it, unless an
17 exception is granted based on a route and traffic study conducted by TxDOT. A permit application and the
18 appropriate fee are required for every route inspection.

19 (A) The applicant must notify the department in writing whether the oversize
20 vehicle and load can or cannot safely negotiate the proposed route.

21 (B) If any section of the proposed route is unacceptable, the applicant shall
22 provide the department with an alternate route around the unacceptable section.

23 (C) Once a route is decided upon and a permit issued, the permit may not be

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1 amended unless an exception is granted by the department.

2 (k) Escort flag vehicle requirements. Escort flag vehicle requirements are provided to facilitate the
3 safe movement of permitted vehicles and to protect the traveling public during the movement of
4 permitted vehicles. A permittee must provide for escort flag vehicles and law enforcement assistance
5 when required by TxDOT. The requirements in this subsection do not apply to the movement of
6 manufactured housing, portable building units, or portable building compatible cargo.

7 (1) General.

8 (A) Applicability. The operator of an escort flag vehicle shall, consistent with
9 applicable law, warn the traveling public when:

10 (i) a permitted vehicle must travel over the center line of a narrow bridge
11 or roadway;

12 (ii) a permitted vehicle makes any turning movement that will require the
13 permitted vehicle to travel in the opposing traffic lanes;

14 (iii) a permitted vehicle reduces speed to cross under a low overhead
15 obstruction or over a bridge;

16 (iv) a permitted vehicle creates an abnormal and unusual traffic flow
17 pattern; or

18 (v) in the opinion of TxDOT, warning is required to ensure the safety of
19 the traveling public or safe movement of the permitted vehicle.

20 (B) Law enforcement assistance. Law enforcement assistance may be required by
21 TxDOT to control traffic when a permitted vehicle is being moved within the corporate limits of a city, or
22 at such times when law enforcement assistance would provide for the safe movement of the permitted
23 vehicle and the traveling public.

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1 (C) Obstructions. It is the responsibility of the permittee to contact utility
2 companies, telephone companies, television cable companies, or other entities as they may require, when
3 it is necessary to raise or lower any overhead wire, traffic signal, street light, television cable, sign, or other
4 overhead obstruction. The permittee is responsible for providing the appropriate advance notice as
5 required by each entity.

6 (2) Escort requirements for overwidth loads. Unless an exception is granted based on a
7 route and traffic study conducted by TxDOT, an overwidth load must:

8 (A) have a front escort flag vehicle if the width of the load exceeds 14 feet, but
9 does not exceed 16 feet, when traveling on a two lane roadway;

10 (B) have a rear escort flag vehicle if the width of the load exceeds 14 feet, but
11 does not exceed 16 feet, when traveling on a roadway of four or more lanes; and

12 (C) have a front and a rear escort flag vehicle for all roads, when the width of the
13 load exceeds 16 feet.

14 (3) Escort requirements for overlength loads. Unless an exception is granted by TxDOT,
15 based on a route and traffic study, overlength loads must have:

16 (A) a front escort flag vehicle when traveling on a two lane roadway if the vehicle
17 exceeds 110 feet overall length, but does not exceed 125 feet overall length;

18 (B) a rear escort flag vehicle when traveling on a multi-lane highway if the vehicle
19 exceeds 110 feet overall length, but does not exceed 125 feet overall length; and

20 (C) a front and rear escort flag vehicle at all times if the permitted vehicle exceeds
21 125 feet overall length.

22 (4) Escort requirements for overheight loads. Unless an exception is granted by TxDOT,
23 based on a route and traffic study, overheight loads must have:

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1 (A) a front escort flag vehicle equipped with a height pole to ensure the vehicle
2 and load can clear all overhead obstructions for any permitted vehicle that exceeds 17 feet in height; and

3 (B) a front and rear escort flag vehicle for any permitted vehicle exceeding 18 feet
4 in height.

5 (5) Escort requirements for permitted vehicles exceeding legal limits in more than one
6 dimension. When a load exceeds more than one dimension that requires an escort under this subsection,
7 front and rear escort flag vehicles [~~escorts~~] will be required unless an exception is granted by TxDOT.

8 (6) Escort requirements for convoys. Convoys must have a front escort flag vehicle and a
9 rear escort flag vehicle on all highways at all times.

10 (7) General equipment requirements. The following special equipment requirements
11 apply to permitted vehicles and escort flag vehicles that are not motorcycles.

12 (A) An escort flag vehicle must be a single unit with a gross vehicle weight (GVW)
13 of not less than 1,000 pounds nor more than 10,000 pounds.

14 (B) An escort flag vehicle must be equipped with two flashing amber lights; [~~or~~]
15 one rotating amber beacon of not less than eight inches in diameter [~~;~~]; or alternating or flashing blue and
16 amber lights, each of which must be visible from all directions [~~affixed to the roof of the escort vehicle,~~
17 ~~which must be visible to the front, sides, and rear of the escort vehicle]~~ while actively engaged in escort
18 duties for the permitted vehicle.

19 (C) An escort flag vehicle must display a sign, on either the roof of the vehicle, or
20 the front and rear of the vehicle, with the words "OVERSIZE LOAD" or "WIDE LOAD." The sign must be
21 visible from the front and rear of the vehicle while escorting the permitted load. The sign must meet the
22 following specifications:

23 (i) at least five feet, but not more than seven feet in length, and at least

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1 12 inches, but not more than 18 inches in height;

2 (ii) the sign must have a yellow background with black lettering;

3 (iii) letters must be at least eight inches, but not more than 10 inches high

4 with a brush stroke at least 1.41 inches wide; and

5 (iv) the sign must be visible from the front or rear of the vehicle while
6 escorting the permitted vehicle, and the signs must not be used at any other time.

7 (D) An escort flag vehicle must maintain two-way communications with the
8 permitted vehicle and other escort flag vehicles involved with the movement of the permitted vehicle.

9 (E) Warning flags must be either red or orange fluorescent material, at least 12
10 inches square, securely mounted on a staff or securely fastened by at least one corner to the widest
11 extremities of an overwidth permitted vehicle, and at the rear of an overlength permitted vehicle or a
12 permitted vehicle with a rear overhang in excess of four feet.

13 (8) Equipment requirements for motorcycles.

14 (A) An official law enforcement motorcycle may be used as a primary escort flag
15 vehicle for a permitted vehicle traveling within the limits of an incorporated city, if the motorcycle is
16 operated by a highway patrol officer, sheriff, or duly authorized deputy, or municipal police officer.

17 (B) An escort flag vehicle must maintain two-way communications with the
18 permitted vehicle and other escort flag vehicles involved with the movement of the permitted vehicle.

19 (I) Restrictions.

20 (1) Restrictions pertaining to road conditions. Movement of a permitted vehicle is
21 prohibited when road conditions are hazardous based upon the judgment of the operator and law
22 enforcement officials. Law enforcement officials shall make the final determination regarding whether or
23 not conditions are hazardous. Conditions that should be considered hazardous include, but are not limited

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1 to:

2 (A) visibility of less than 2/10 of one mile; or

3 (B) weather conditions such as wind, rain, ice, sleet, or snow.

4 (2) Daylight and night movement restrictions.

5 (A) A permitted vehicle may be moved only during daylight hours unless:

6 (i) the permitted vehicle is overweight only;

7 (ii) the permitted vehicle is traveling on an interstate highway and does

8 not exceed 10 feet wide and 100 feet long, with front and rear overhang that complies with legal

9 standards; or

10 (iii) the permitted vehicle meets the criteria of clause (ii) of this

11 subparagraph and is overweight.

12 (B) An exception may be granted allowing night movement, based on a route and

13 traffic study conducted by TxDOT. Escort flag vehicles [Escorts] may be required when an exception

14 allowing night movement is granted.

15 (3) Holiday restrictions. The maximum size limits for a permit issued under Transportation

16 Code, Chapter 623, Subchapter D, for holiday movement is 14 feet wide, 16 feet high, and 110 feet long,

17 unless an exception is granted based on a route and traffic study conducted by TxDOT. The department

18 may restrict holiday movement of specific loads based on a determination that the load could pose a

19 hazard for the traveling public due to local road or traffic conditions.

20 (4) Curfew restrictions. The operator of a permitted vehicle must observe the curfew

21 movement restrictions of any city or county in which the vehicle is operated. However, only the curfew

22 restrictions listed on the permit apply to the permit.

23 (m) General provisions.

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1 (1) Multiple commodities.

2 (A) Except as provided in subparagraph (B) of this paragraph, when a permitted
3 commodity creates a single overdimension, two or more commodities may be hauled as one permit load,
4 provided legal axle weight and gross weight are not exceeded, and provided an overdimension of width,
5 length or height is not created or made greater by the additional commodities. For example, a permit
6 issued for the movement of a 12 foot wide storage tank may also include a 10 foot wide storage tank
7 loaded behind the 12 foot wide tank provided that legal axle weight and gross weight are not exceeded,
8 and provided an overdimension of width, length or height is not created.

9 (B) When the transport of more than one commodity in a single load creates or
10 makes greater an illegal dimension of length, width, or height the department may issue an oversize
11 permit for such load subject to each of the following conditions.

12 (i) The permit applicant or the shipper of the commodities files with the
13 department a written certification by the Texas Economic Development and Tourism Office, attesting that
14 issuing the permit will have a significant positive impact on the economy of Texas and that the proposed
15 load of multiple commodities therefore cannot be reasonably dismantled. As used in this clause the term
16 significant positive impact means the creation of not less than 100 new full-time jobs, the preservation of
17 not less than 100 existing full-time jobs, that would otherwise be eliminated if the permit is not issued, or
18 creates or retains not less than one percent of the employment base in the affected economic sector
19 identified in the certification.

20 (ii) Transport of the commodities does not exceed legal axle and gross
21 load limits.

22 (iii) The permit is issued in the same manner and under the same
23 provisions as would be applicable to the transport of a single oversize commodity under this section;

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1 provided, however, that the shipper and the permittee also must indemnify and hold harmless the
2 department, its board members, officers, and employees from any and all liability for damages or claims
3 of damages including court costs and attorney fees, if any, which may arise from the transport of an
4 oversized load under a permit issued pursuant to this subparagraph.

5 (iv) The shipper and the permittee must file with the department a
6 certificate of insurance on a form prescribed by the department, or otherwise acceptable to the
7 department, naming the department, its board members, officers, and employees as named or additional
8 insurers on its comprehensive general liability insurance policy for coverage in the amount of \$5 million
9 per occurrence, including court costs and attorney fees, if any, which may arise from the transport of an
10 oversized load under a permit issued pursuant to this subparagraph. The insurance policy is to be procured
11 from a company licensed to transact insurance business in the State of Texas.

12 (v) The shipper and the permittee must file with the department, in
13 addition to all insurance provided in clause (iv) of this subparagraph, a certificate of insurance on a form
14 prescribed by the department, or otherwise acceptable to the department, naming the department, its
15 board members, officers, and employees as insurers under an auto liability insurance policy for the benefit
16 of said insurers in an amount of \$5 million per accident. The insurance policy is to be procured from a
17 company licensed to transact insurance business in the State of Texas. If the shipper or the permittee is
18 self-insured with regard to automobile liability then that party must take all steps and perform all acts
19 necessary under the law to indemnify the department, its board members, officers, and employees as if
20 the party had contracted for insurance pursuant to, and in the amount set forth in, the preceding sentence
21 and shall agree to so indemnify the department, its board members, officers, and employees in a manner
22 acceptable to the department.

23 (vi) Issuance of the permit is approved by written order of the board

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1 which written order may be, among other things, specific as to duration and routes.

2 (C) An applicant requesting a permit to haul a dozer and its detached blade may
3 be issued a permit, as a non-dismantable load, if removal of the blade will decrease the overall width of
4 the load, thereby reducing the hazard to the traveling public.

5 (2) Oversize hauling equipment. A vehicle that exceeds the legal size limits, as set forth by
6 Transportation Code, Chapter 621, Subchapter C, may only haul a load that exceeds legal size limits unless
7 otherwise noted in this subchapter, but such vehicle may haul an overweight load that does not exceed
8 legal size limits, except for the special exception granted in §219.13(c)(3) of this title (relating to Time
9 Permits).

10 (n) Surety bonds.

11 (1) General. The following conditions apply to surety bonds specified in Transportation
12 Code, §623.075.

13 (A) The surety bond must:

14 (i) be made payable to the Texas Department of Transportation with the
15 condition that the applicant will pay the Texas Department of Transportation for any damage caused to
16 the highway by the operation of the equipment covered by the surety bond;

17 (ii) be effective the day it is issued and expires at the end of the state
18 fiscal year, which is August 31st. For example, if you obtain a surety bond on August 30th, it will expire
19 the next day at midnight.

20 (iii) include the complete mailing address and zip code of the principal;

21 (iv) be filed with the department and have an original signature of the
22 principal;

23 (v) have a single entity as principal with no other principal names listed;

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1 and

2 (vi) A non-resident agent with a valid Texas insurance license may issue a
3 bond on behalf of an authorized insurance company when in compliance with Insurance Code, Chapter
4 4056.

5 (B) A certificate of continuation will not be accepted.

6 (C) The owner of a vehicle bonded under Transportation Code, §623.075 or
7 §623.163, that damages the state highway system as a result of the permitted vehicle's movement will be
8 notified by certified mail of the amount of damage and will be given 30 days to submit payment for such
9 damage. Failure to make payment within 30 days will result in TxDOT placing the claim with the attorney
10 general for collection.

11 (D) The venue of any suit for a claim against a surety bond for the movement of
12 a vehicle permitted under the provisions of Transportation Code, Chapter 623, Subchapter D, will be any
13 court of competent jurisdiction in Travis County.

14 (2) Permit surety bonds.

15 (A) A surety bond required under the provisions of Transportation Code, Chapter
16 623, Subchapter D, must be submitted on the department's standard surety bond form in the amount of
17 \$10,000.

18 (B) A facsimile or electronic copy of the surety bond is acceptable in lieu of the
19 original surety bond, for a period not to exceed 10 days from the date of its receipt in the department. If
20 the original surety bond has not arrived in the department by the end of the 10 days, the applicant will
21 not be issued a permit until the original surety bond has been received in the department.

22 (C) The surety bond requirement does apply to the delivery of farm equipment to
23 a farm equipment dealer.

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1 (D) A surety bond is required when a dealer or transporter of farm equipment or
2 a manufacturer of farm equipment obtains a permit.

3 (E) The surety bond requirement does not apply to driving or transporting farm
4 equipment which is being used for agricultural purposes if it is driven or transported by or under the
5 authority of the owner of the equipment.

6 (F) The surety bond requirement does not apply to a vehicle or equipment
7 operated by a motor carrier registered with the department under Transportation Code, Chapters 643 or
8 645 as amended.

9
10 §219.13. Time Permits.

11 (a) General information. Applications for time permits issued under Transportation Code, Chapter
12 623, and this section shall be made in accordance with §219.11(b) and (c) of this title (relating to General
13 Oversize/Overweight Permit Requirements and Procedures). Permits issued under this section are
14 governed by the requirements of §219.11(e)(1).

15 (b) 30, 60, and 90 day permits. The following conditions apply to time permits issued for overwidth
16 or overlength loads, or overlength vehicles, under this section.

17 (1) Fees. The fee for a 30-day permit is \$120; the fee for a 60-day permit is \$180; and the
18 fee for a 90-day permit is \$240. All fees are payable in accordance with §219.11(f). All fees are non-
19 refundable.

20 (2) Validity of Permit. Time permits are valid for a period of 30, 60, or 90 calendar days,
21 based on the request of the applicant, and will begin on the effective date stated on the permit.

22 (3) Weight/height limits. The permitted vehicle may not exceed the weight or height limits
23 set forth by Transportation Code, Chapter 621, Subchapters B and C.

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1 (4) Registration requirements for permitted vehicles. Time permits will not be issued to a
2 vehicle or vehicle combination that is registered with temporary vehicle registration.

3 (5) Vehicle indicated on permit. The permit will indicate only the truck or truck-tractor
4 transporting the load; however, any properly registered trailer or semi-trailer is covered by the permit.

5 (6) Permit routes. The permit will allow travel on a statewide basis.

6 (7) Restrictions.

7 (A) The permitted vehicle must not cross a load restricted bridge or load restricted
8 road when exceeding the posted capacity of the road or bridge.

9 (B) The permitted vehicle may travel through highway construction or
10 maintenance areas if the dimensions do not exceed the construction restrictions as published by the
11 department.

12 (C) The permitted vehicle is subject to the restrictions specified in §219.11(l), and
13 the permittee is responsible for obtaining from the department information concerning current
14 restrictions.

15 (8) Escort requirements. Permitted vehicles are subject to the escort requirements
16 specified in §219.11(k).

17 (9) Transfer of time permits. Time permits issued under this subsection are non-
18 transferable between permittees or vehicles.

19 (10) Amendments. With the exception of time permits issued under subsection (e)(4) of
20 this section, time permits issued under this subsection will not be amended except in the case of permit
21 officer error.

22 (c) Overwidth loads. An overwidth time permit may be issued for the movement of any load or
23 overwidth trailer, subject to subsection (a) of this section and the following conditions:

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1 (1) Width requirements.

2 (A) A time permit will not be issued for a vehicle with a width exceeding 13 feet.

3 (B) When multiple items are hauled at the same time, the items may not be
4 loaded in a manner that creates a width greater than the width of the widest item being hauled.

5 (2) Weight, height, and length requirements.

6 (A) The permitted vehicle shall not exceed legal weight, height, or length
7 according to Transportation Code, Chapter 621, Subchapters B and C.

8 (B) When multiple items are hauled at the same time, the items may not be
9 loaded in a manner that creates:

10 (i) a height greater than 14 feet;

11 (ii) an overlength load; or

12 (iii) a gross weight exceeding the legal gross or axle weight of the vehicle
13 hauling the load.

14 (3) Movement of overwidth trailers. When the permitted vehicle is an overwidth trailer,
15 it will be allowed to:

16 (A) move empty to and from the job site; and

17 (B) haul a load from the permitted vehicle's point of origin to pick up a permitted
18 load, and to the permitted vehicle's point of origin or the permittee's place of business after dropping off
19 a permitted load, as long as:

20 (i) the load does not exceed legal size and weight limits under
21 Transportation Code, Chapters 621 and 622; and

22 (ii) the transport complies with the permit, including the time period
23 stated on the permit.

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1 (4) Use in conjunction with other permits. An overwidth time permit may be used in
2 conjunction with an overlength time permit.

3 (d) Overlength loads. An overlength time permit may be issued for the transportation of
4 overlength loads or the movement of an overlength self-propelled vehicle, subject to subsection (a) of
5 this section and the following conditions:

6 (1) Length requirements.

7 (A) The maximum overall length for the permitted vehicle may not exceed 110
8 feet.

9 (B) The department may issue a permit under Transportation Code, §623.071(a)
10 for an overlength load or an overlength self-propelled vehicle that falls within the definition of a
11 nondivisible load or vehicle.

12 (2) Weight, height and width requirements.

13 (A) The permitted vehicle may not exceed legal weight, height, or width according
14 to Transportation Code, Chapter 621, Subchapters B and C.

15 (B) A permit will not be issued when the load has more than 25 feet front
16 overhang, or more than 30 feet rear overhang.

17 (3) Use in conjunction with other permits. An overlength time permit may be used in
18 conjunction with an overwidth time permit.

19 (4) Emergency movement. A permitted vehicle transporting utility poles will be allowed
20 emergency night movement for restoring electrical utility service, provided the permitted vehicle is
21 accompanied by a rear escort flag vehicle.

22 (e) Annual permits.

23 (1) General information. All permits issued under this subsection are subject to the

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1 following conditions.

2 (A) Fees for permits issued under this subsection are payable as described in
3 §219.11(f).

4 (B) Permits issued under this subsection are not transferable.

5 (C) Vehicles permitted under this subsection shall be operated according to the
6 restrictions described in §219.11(l). The permittee is responsible for obtaining information concerning
7 current restrictions from the department.

8 (D) Vehicles permitted under this subsection may not travel over a load restricted
9 bridge or load restricted road when exceeding the posted capacity of the road or bridge.

10 (E) Vehicles permitted under this subsection may travel through any highway
11 construction or maintenance area provided the dimensions do not exceed the construction restrictions as
12 published by the department.

13 (F) With the exception of permits issued under paragraph (5) of this subsection,
14 vehicles permitted under this subsection shall be operated according to the escort requirements
15 described in §219.11(k).

16 (2) Implements of husbandry. An annual permit may be issued for an implement of
17 husbandry being moved by a dealer in those implements, and for harvesting equipment being moved as
18 part of an agricultural operation. Permits issued under this paragraph are subject to the conditions
19 described in paragraph (1) of this subsection.

20 (A) The fee for a permit issued under this paragraph is \$270, plus the highway
21 maintenance fee specified in Transportation Code, §623.077.

22 (B) The time period will be for one year and will start on the effective date stated
23 on the permit.

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1 (C) The maximum width may not exceed 16 feet; maximum height may not
2 exceed 16 feet; maximum length may not exceed 110 feet; and maximum weight may not exceed the
3 limits stated in §219.11(d).

4 (D) Unless stated otherwise on the permit, the permitted vehicle must travel in
5 the outside traffic lane on multi-lane highways, when the width of the load exceeds 12 feet.

6 (E) The permitted vehicle must be registered in accordance with Transportation
7 Code, Chapter 502, for maximum weight for the vehicle or vehicle combination, as set forth by
8 Transportation Code, Chapter 621.

9 (3) Water well drilling machinery. The department may issue annual permits under
10 Transportation Code, §623.071, for water well drilling machinery and equipment that fall within the
11 definition of a nondivisible load or vehicle. Permits issued under this paragraph are subject to the
12 conditions described in paragraph (1) of this subsection.

13 (A) The fee for a permit issued under this paragraph is \$270, plus the highway
14 maintenance fee specified in Transportation Code, §623.077 for an overweight load.

15 (B) A water well drilling machinery permit is valid for one year from the effective
16 date stated on the permit.

17 (C) The maximum dimensions may not exceed 16 feet wide, 14 feet 6 inches high,
18 110 feet long, and maximum weight may not exceed the limits stated in §219.11(d).

19 (D) The permitted vehicle must be registered in accordance with Transportation
20 Code, Chapter 502, for the maximum weight of the vehicle, as set forth by Transportation Code, Chapter
21 621.

22 (E) A permit issued under this section authorizes a permitted vehicle to operate
23 only on the state highway system.

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1 (4) Envelope vehicle permits.

2 (A) The department may issue an annual permit under Transportation Code,
3 §623.071(c), to a specific vehicle, for the movement of superheavy or oversize equipment that falls within
4 the definition of a nondivisible load. This permit may not be used for a container, including a trailer or an
5 intermodal container, loaded with divisible cargo. Unless otherwise noted, permits issued under this
6 paragraph are subject to the conditions described in paragraph (1) of this subsection.

7 (i) Superheavy or oversize equipment operating under an annual
8 envelope vehicle permit may not exceed:

9 (I) 12 feet in width;

10 (II) 14 feet in height;

11 (III) 110 feet in length; or

12 (IV) 120,000 pounds gross weight.

13 (ii) Superheavy or oversize equipment operating under an annual
14 envelope vehicle permit may not transport a load that has more than 25 feet front overhang, or more
15 than 30 feet rear overhang.

16 (iii) The fee for an annual envelope vehicle permit is \$4,000, and is non-
17 refundable.

18 (iv) The time period will be for one year and will start on the effective
19 date stated on the permit.

20 (v) This permit authorizes operation of the permitted vehicle only on the
21 state highway system.

22 (vi) The permitted vehicle must comply with §219.11(d)(2) and (3).

23 (vii) The permitted vehicle or vehicle combination must be registered in

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1 accordance with Transportation Code, Chapter 502, for maximum weight as set forth by Transportation
2 Code, Chapter 621.

3 (viii) A permit issued under this paragraph is non-transferable between
4 permittees.

5 (ix) A permit issued under this paragraph may be transferred from one
6 vehicle to another vehicle in the permittee's fleet provided:

7 (I) the permitted vehicle is destroyed or otherwise becomes
8 permanently inoperable, to an extent that it will no longer be utilized, and the permittee presents proof
9 that the negotiable certificate of title or other qualifying documentation has been surrendered to the
10 department; or

11 (II) the certificate of title to the permitted vehicle is transferred
12 to someone other than the permittee, and the permittee presents proof that the negotiable certificate of
13 title or other qualifying documentation has been transferred from the permittee.

14 (x) A single-trip permit, as described in §219.12 of this title (relating to
15 Single-Trip Permits Issued Under Transportation Code, Chapter 623, Subchapter D), may be used in
16 conjunction with an annual permit issued under this paragraph for the movement of vehicles or loads
17 exceeding the height or width limits established in subparagraph (A) of this paragraph. The department
18 will indicate the annual permit number on any single-trip permit to be used in conjunction with a permit
19 issued under this paragraph, and permittees will be assessed a fee of \$60 for the single-trip permit.

20 (B) The department may issue an annual permit under Transportation Code,
21 §623.071(d), to a specific motor carrier, for the movement of superheavy or oversize equipment that falls
22 within the definition of a nondivisible load. This permit may not be used for a container, including a trailer
23 or an intermodal container, loaded with divisible cargo. Unless otherwise noted, permits issued under this

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1 paragraph are subject to the conditions described in paragraph (1) of this subsection and subparagraphs
2 (A)(i)-(viii) of this paragraph. A permit issued under this paragraph may be transferred from one vehicle
3 to another vehicle in the permittee's fleet provided:

4 (i) that no more than one vehicle is operated at a time; and

5 (ii) the original certified permit is carried in the vehicle that is being
6 operated under the terms of the permit.

7 (C) An annual envelope permit issued under subparagraph (B) of this paragraph
8 will be sent to the permittee via registered mail, or at the permittee's request and expense overnight
9 delivery service. This permit may not be duplicated. This permit will be replaced only if:

10 (i) the permittee did not receive the original permit within seven business
11 days after its date of issuance;

12 (ii) a request for replacement is submitted to the department within 10
13 business days after the original permit's date of issuance; and

14 (iii) the request for replacement is accompanied by a notarized statement
15 signed by a principle or officer of the permittee acknowledging that the permittee understands the permit
16 may not be duplicated and that if the original permit is located, the permittee must return either the
17 original or replacement permit to the department.

18 (D) A request for replacement of a permit issued under subparagraph (B) of this
19 paragraph will be denied if the department can verify that the permittee received the original.

20 (E) Lost, misplaced, damaged, destroyed, or otherwise unusable permits will not
21 be replaced. A new permit will be required.

22 (5) Annual manufactured housing permit. The department may issue an annual permit for
23 the transportation of new manufactured homes from a manufacturing facility to a temporary storage

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1 location, not to exceed 20 miles from the point of manufacture, in accordance with Transportation Code,
2 §623.094. Permits issued under this paragraph are subject to the requirements of paragraph (1),
3 subparagraphs (A), (B), (C), (D), (E), and (G), of this subsection.

4 (A) A permit shall contain the name of the company or person authorized to be
5 issued permits by Transportation Code, Chapter 623, Subchapter E.

6 (B) The fee for a permit issued under this paragraph is \$1,500. Fees are non-
7 refundable, and shall be paid in accordance with §219.11(f).

8 (C) The time period will be for one year from the effective date stated on the
9 permit.

10 (D) The permitted vehicle must travel in the outside traffic lane on multi-lane
11 highways when the width of the load exceeds 12 feet.

12 (E) The permitted vehicle must be registered in accordance with Transportation
13 Code, Chapter 502.

14 (F) Authorized movement for a vehicle permitted under this section shall be valid
15 during daylight hours only as defined by Transportation Code, §541.401.

16 (G) The permitted vehicle must be operated in accordance with the escort
17 requirements described in §219.14(f) of this title (relating to Manufactured Housing, and Industrialized
18 Housing and Building Permits).

19 (H) Permits issued under this section are non-transferable between permittees.

20 (6) Power line poles. An annual permit will be issued under Transportation Code, Chapter
21 622, Subchapter E, for the movement of poles required for the maintenance of electric power
22 transmission and distribution lines. Permits issued under this paragraph are subject to the conditions
23 described in paragraph (1) of this subsection.

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- 1 (A) The fee for the permit is \$120.
- 2 (B) The time period will be for one year and will start on the effective date stated
3 on the permit.
- 4 (C) The maximum length of the permitted vehicle may not exceed 75 feet.
- 5 (D) The width, height and gross weight of the permitted vehicle may not exceed
6 the limits set forth by Transportation Code, Chapter 621.
- 7 (E) Vehicles permitted under this paragraph may not travel over a load restricted
8 bridge or load zoned road when exceeding posted limits.
- 9 (F) The permitted vehicle must be registered in accordance with Transportation
10 Code, Chapter 502, for maximum weight as set forth by Transportation Code, Chapter 621.
- 11 (G) Movement will be between the hours of sunrise and sunset; however, the
12 limitation on hours of operation does not apply to a vehicle being operated to prevent interruption or
13 impairment of electric service, or to restore electric service that has been interrupted. When operated at
14 night, a vehicle permitted under this subsection must be accompanied by a rear escort vehicle.
- 15 (H) The permitted vehicle may not travel during hazardous road conditions as
16 stated in §219.11(l)(1)(A) and (B) except to prevent interruption or impairment of electric service, or to
17 restore electric service that has been interrupted.
- 18 (I) The speed of the permitted vehicle may not exceed 50 miles per hour.
- 19 (J) The permitted vehicle must display on the extreme end of the load:
- 20 (i) two red lamps visible at a distance of at least 500 feet from the rear;
- 21 (ii) two red reflectors that indicate the maximum width and are visible,
22 when light is insufficient or atmospheric conditions are unfavorable, at all distances from 100 to 600 feet
23 from the rear when directly in front of lawful lower beams of headlamps; and

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1 (iii) two red lamps, one on each side, that indicate the maximum
2 overhang, and are visible at a distance of at least 500 feet from the side of the vehicle.

3 (7) Cylindrically shaped bales of hay. An annual permit may be issued under
4 Transportation Code, §623.017, for the movement of vehicles transporting cylindrically shaped bales of
5 hay. Permits issued under this paragraph are subject to the conditions described in paragraph (1) of this
6 subsection.

7 (A) The permit fee is \$10.

8 (B) The time period will be for one year, and will start on the effective date stated
9 on the permit.

10 (C) The maximum width of the permitted vehicle may not exceed 12 feet.

11 (D) The length, height, and gross weight of the permitted vehicle may not exceed
12 the limits set forth by Transportation Code, Chapter 621.

13 (E) Movement is restricted to daylight hours only.

14 (F) The permitted vehicle must be registered in accordance with Transportation
15 Code, Chapter 502, for maximum weight, as set forth by Transportation Code, Chapter 621.

16 (8) Overlength load or vehicles. An annual overlength permit may be issued for the
17 transportation of a nondivisible overlength load or the movement of a nondivisible overlength vehicle or
18 combination of vehicles under Transportation Code, §623.071(c-1). This permit is subject to the portions
19 of subsections (a), (b), and (d) of this section that are not limited to the fee or duration for the 30, 60, and
20 90 day permits.

21

22 §219.14. Manufactured Housing, and Industrialized Housing and Building Permits.

23 (a) General information.

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1 (1) A manufactured home that exceeds size limits for motor vehicles as defined by
2 Transportation Code, Chapter 621, Subchapters B and C, must obtain a permit from the department.

3 (2) Pursuant to Transportation Code, Chapter 623, Subchapter E, a permit may be issued
4 to persons registered as manufacturers, installers, or retailers with the Texas Department of Housing and
5 Community Affairs or motor carriers registered with the department under Transportation Code, Chapter
6 643.

7 (3) The department may issue a permit to the owner of a manufactured home provided
8 that:

9 (A) the same owner is named on the title of the manufactured home and
10 towing vehicle;

11 (B) or the owner presents a lease showing that the owner of the
12 manufactured home is the lessee of the towing vehicle.

13 (b) Application for permit.

14 (1) The applicant must complete the application and shall include the manufactured
15 home's HUD label number, Texas seal number, or the complete identification number or serial number of
16 the manufactured home, and the overall width, height, and length of the home and the towing vehicle in
17 combination. If the manufactured home is being moved to or from a site in this state where it has been,
18 or will be, occupied as a dwelling, the permit must also show the name of the owner of the home, the
19 location from which the home is being moved, and the location to which the home is being delivered.

20 (2) A permit application for industrialized housing or industrialized building that does not
21 meet the definition in Occupations Code, §1202.002 and §1202.003 shall be submitted in accordance with
22 §219.11(c) of this title (relating to General Oversize/Overweight Permit Requirements and Procedures).

23 (c) Amendments to permit. Amendments can only be made to change intermediate points

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1 between the origination and destination points listed on the permit.

2 (d) Payment of permit fee. The cost of the permit is \$40, payable in accordance with §219.11(f).

3 (e) Permit provisions and conditions.

4 (1) The overall combined length of the manufactured home and the towing vehicle
5 includes the length of the hitch or towing device.

6 (2) The height is measured from the roadbed to the highest elevation of the manufactured
7 home.

8 (3) The width of a manufactured home includes any roof or eaves extension or overhang
9 on either side.

10 (4) A permit will be issued for a single continuous movement not to exceed five days.

11 (5) Movement must be made during daylight hours only and may be made on any day
12 except New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas
13 Day.

14 (6) The department may limit the hours for travel on certain routes because of heavy
15 traffic conditions.

16 (7) The department will publish any limitations on movements during the national
17 holidays listed in this subsection, or any limitations during certain hours of heavy traffic conditions, and
18 will make such publications available to the public prior to the limitations becoming effective.

19 (8) The permit will contain the route for the transportation of the manufactured home
20 from the point of origin to the point of destination.

21 (9) The route for the transportation must be the most practical route as described in
22 §219.11(e), except where construction is in progress and the permitted vehicle's dimensions exceed the
23 construction restrictions as published by the department, or where bridge or overpass width or height

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1 would create a safety hazard.

2 (10) The department will publish annually a map or list of all bridges or overpasses which,
3 due to height or width, require an escort flag vehicle to stop oncoming traffic while the manufactured
4 home crosses the bridge or overpass.

5 (11) A permittee may not transport a manufactured home with a void permit; a new
6 permit must be obtained.

7 (f) Escort requirements.

8 (1) A manufactured home exceeding 12 feet in width must have a rotating amber beacon
9 of not less than eight inches in diameter mounted somewhere on the roof at the rear of the manufactured
10 home, or may have two five-inch flashing amber lights mounted approximately six feet from ground level
11 at the rear corners of the manufactured home. The towing vehicle must have one rotating amber beacon
12 of not less than eight inches in diameter mounted on top of the cab. These beacons or flashing lights must
13 be operational and luminiferous during any permitted move over the highways, roads, and streets of this
14 state.

15 (2) A manufactured home with a width exceeding 16 feet but not exceeding 18 feet must
16 have a front escort flag vehicle on two-lane roadways and a rear escort flag vehicle on roadways of four
17 or more lanes.

18 (3) A manufactured home exceeding 18 feet in width must have a front and a rear escort
19 vehicle on all roadways at all times.

20 (4) The escort flag vehicle must:

21 (A) have one red 16 inch square flag mounted on each of the four corners of the
22 vehicle;

23 (B) have a sign mounted on the front and rear of the vehicle displaying the words

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1 "WIDE LOAD" in black letters at least eight inches high with a brush stroke at least 1.41 inches wide against
2 a yellow background;

3 (C) have ~~[an amber light or lights, visible from both front and rear,]~~ mounted on
4 top of the vehicle and visible from both the front and rear [in one of the following configurations]:

5 (i) two simultaneously flashing lights; ~~[or]~~

6 (ii) one rotating amber beacon of not less than eight inches in diameter;

7 or

8 (iii) alternating or flashing blue and amber lights; and

9 (D) maintain two-way communications with the permitted vehicle and other
10 escort flag vehicles involved with the movement of the permitted vehicle.

11 (5) Two transportable sections of a multi-section manufactured home, or two single
12 section manufactured homes, when towed together in convoy, may be considered one home for purposes
13 of the escort flag vehicle requirements, provided the distance between the two units does not exceed
14 1,000 feet.

15 (6) An escort flag vehicle must comply with the requirements in §219.11(k)(1) and
16 §219.11(k)(7)(A).

17

18 §219.15. Portable Building Unit Permits.

19 (a) General information.

20 (1) A vehicle or vehicle combination transporting one or more portable building units and
21 portable building compatible cargo that exceed legal length or width limits set forth by Transportation
22 Code, Chapter 621, Subchapters B and C, may obtain a permit under Transportation Code, Chapter 623,
23 Subchapter F.

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1 (2) In addition to the fee required by subsection (d), the department shall collect an
2 amount equal to any fee that would apply to the movement of cargo exceeding any applicable width
3 limits, if such cargo were moved in a manner not governed by this section.

4 (b) Application for permit. Applications shall be made in accordance with §219.11(c) of this title
5 (relating to General Oversize/Overweight Permit Requirements and Procedures).

6 (c) Permit issuance. Permit issuance is subject to the requirements of §219.11(b)(2),(e) and (g).

7 (d) Payment of permit fee. The cost of the permit is \$15, with all fees payable in accordance with
8 §219.11(f). All fees are non-refundable.

9 (e) Permit provisions and conditions.

10 (1) A portable building unit may only be issued a single-trip permit.

11 (2) Portable building units may be loaded end-to-end to create an overlength permit load,
12 provided the overall length does not exceed 80 feet.

13 (3) Portable building units must not be loaded side-by-side to create an overwidth load,
14 or loaded one on top of another to create an overheight load.

15 (4) Portable building units must be loaded in a manner that will create the narrowest
16 width for permit purposes and provide for greater safety to the traveling public.

17 (5) The permit will be issued for a single continuous movement from the origin to the
18 destination for an amount of time necessary to make the move, not to exceed 10 consecutive days.

19 (6) Movement of the permitted vehicle must be made during daylight hours only.

20 (7) A permittee may not transport portable building units or portable building compatible
21 cargo with a void permit; a new permit must be obtained.

22 (f) Escort requirements.

23 (1) A portable building unit or portable building compatible cargo with a width exceeding

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1 16 feet but not exceeding 18 feet must have a front escort flag vehicle on two-lane roadways and a rear
2 escort flag vehicle on roadways of four or more lanes.

3 (2) A portable building unit or portable building compatible cargo exceeding 18 feet in
4 width must have a front and a rear escort flag vehicle on all roadways at all times.

5 (3) The escort flag vehicle must:

6 (A) have one red 16 inch square flag mounted on each of the four corners of the
7 vehicle;

8 (B) have a sign mounted on the front and rear of the vehicle displaying the words
9 "WIDE LOAD" in black letters at least eight inches high with a brush stroke at least 1.41 inches wide against
10 a yellow background;

11 (C) have ~~[an amber light or lights, visible from both front and rear,]~~ mounted on
12 top of the vehicle and visible from both front and rear, [and which must be] two simultaneously flashing
13 lights, ~~[or]~~ one rotating amber beacon of not less than eight inches in diameter, or alternating or flashing
14 blue and amber lights; and

15 (D) maintain two-way communications with the permitted vehicle and other
16 escort flag vehicles involved with the movement of the permitted vehicle.

17 (4) An escort flag vehicle must comply with the requirements in §219.11(k)(1) and
18 §219.11(k)(7)(A).

19

20 **SUBCHAPTER D. Permits for Oversize and Overweight Oil Well Related Vehicles**

21 **43 TAC §219.42 and §219.43**

22 §219.42. Single-Trip Mileage Permits.

23 (a) General information.

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1 (1) Permits issued under this section are subject to the requirements of §219.41 of this
2 title (relating to General Requirements).

3 (2) A single-trip mileage permit:

4 (A) is limited to a maximum of seven consecutive days;

5 (B) routes the vehicle from the point of origin to the point of destination and has
6 the route listed on the permit; and

7 (C) allows the unit to be returned to the point of origin on the same permit,
8 provided the return trip is made within the time period stated in the permit.

9 (3) A unit exceeding 175,000 pounds gross weight must:

10 (A) have front and rear escort flag vehicles to prevent traffic from traveling beside
11 the unit as it crosses a bridge;

12 (B) cross all multi-lane bridges by centering the unit on a lane line;

13 (C) cross all two-lane bridges in the center of the bridge; and

14 (D) cross each bridge at a speed not greater than 20 miles per hour.

15 (4) A unit exceeding 12 feet in width must be centered in the outside traffic lane of any
16 highway that has paved shoulders.

17 (b) Maximum permit weight limits.

18 (1) The maximum permit weight for any single axle must not exceed 30,000 pounds or
19 850 pounds per inch of tire width, whichever is less.

20 (2) The maximum permit weight for any group of axles on a unit will be determined by
21 calculating the "W" weight for the group, using the formulas shown in Figure 2: 43 TAC §219.42(f), titled
22 "Maximum Permit Weight Formulas," and comparing the calculated "W" weight with the corresponding
23 "W" weight that is established in Figure 1: 43 TAC §219.42(f), titled "Maximum Permit Weight Table."

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1 (3) The maximum permit weight per inch of tire width for axles that are steerable must
2 not exceed 950 pounds, and the maximum permit weight per inch of tire width for axles that are not
3 steerable must not exceed 850 pounds.

4 (4) A unit that does not have any group of axles that exceeds the limits established in
5 Figure 1: 43 TAC §219.42(f), "Maximum Permit Weight Table," and Figure 2: 43 TAC §219.42(f), "Maximum
6 Permit Weight Formulas" will be permitted with a single-trip mileage or quarterly hubometer permit for
7 travel on any route that does not include a load restricted bridge.

8 (5) A unit that has any group of axles that exceeds the limits established by Figure 1: 43
9 TAC §219.42(f), "Maximum Permit Weight Table," and Figure 2: 43 TAC §219.42(f), "Maximum Permit
10 Weight Formulas" will be eligible, on an individual case-by-case basis, for a single-trip mileage permit only;
11 permit approval or denial will be based on a detailed route study and an analysis conducted by TxDOT of
12 each bridge on the proposed travel route to determine if the road(s) and bridge(s) are capable of
13 sustaining the movement.

14 (6) A road or bridge that has been analyzed and determined to be incapable of sustaining
15 the unit will be excluded from the permit route.

16 (c) Permit application and issuance.

17 (1) An application for a single-trip mileage permit under this section must be made in
18 accordance with §219.41(b) of this title and shall also include the origin and destination points of the unit.

19 (2) Upon receipt of the application, the department will review and verify unit size and
20 weight information, check route and mileage to be traveled, compute the permit fee, and advise the
21 applicant of the permit fee.

22 (3) Upon receipt of the permit fee, the department will advise the applicant of the permit
23 number, and will provide a copy of the permit to the applicant.

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1 (d) Permit fees and refunds.

2 (1) Minimum fee. The minimum fee for a single-trip mileage permit is either the calculated
3 permit fee or \$31, whichever is the greater amount.

4 (2) Permit fee calculation. The fee for a single-trip mileage permit is calculated by
5 multiplying the number of miles traveled, the highway use factor, and the total rate per mile, and then
6 adding the indirect cost share to the product.

7 (A) Highway use factor. The highway use factor for a single trip mileage permit is
8 0.6.

9 (B) Total rate per mile. The total rate per mile is the combined mileage rates for
10 width, height, and weight for the unit. For a trailer mounted unit, the total rate per mile is based on the
11 overall width, overall height, and all axle weights, including the truck-tractor axles.

12 (i) The mileage rate for width is \$.06 per mile for each foot (or fraction
13 thereof) above legal width.

14 (ii) The mileage rate for height is \$.04 per mile for each foot (or fraction
15 thereof) above legal height.

16 (iii) The mileage rate for a single axle or any axle within a group that
17 exceeds 20,000 pounds, but is less than or equal to 25,000 pounds, is calculated by multiplying \$.045
18 times the amount by which the axle or axle group weight exceeds the legal weight for the axle or axle
19 group and dividing the resultant figure by 1,000 pounds.

20 (iv) The mileage rate for a single axle or any axle within a group that
21 exceeds 25,000 pounds, but is less than or equal to 30,000 pounds, is calculated by multiplying \$.055
22 times the amount by which the axle or axle group weight exceeds the legal weight for the axle or axle
23 group and dividing the resultant figure by 1,000 pounds.

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1 (3) Permit fees for trailer mounted units.

2 (A) The permit fee for a trailer mounted unit is based on the overall width, overall
3 height, and all axle weights, including the truck-tractor axles.

4 (B) A unit with two or more axle groups that do not have a spacing of at least 12
5 feet between the closest axles of the opposing groups must have the permit fee calculated by the
6 following method.

7 (i) The axle group with the lowest weight will have the axle closest to the
8 next axle group temporarily disregarded from its group in order to create a spacing of at least 12 feet
9 between the two groups for fee calculation purposes.

10 (ii) An axle group will not have more than one axle disregarded.

11 (iii) The permit fee for the axle group with the temporarily disregarded
12 axle must be based on the actual weight of the entire axle group minus the legal weight for the remaining
13 axles of the group.

14 (4) Refunds. Fees for permits issued under this section are non-refundable.

15 (e) Amendments. A single-trip mileage permit may not be amended unless an exception is granted
16 by the department.

17 (f) Weight table and formulas. The following table entitled "Maximum Permit Weight Table" is
18 Figure 1: 43 TAC §219.42(f), and the list of formulas entitled, "Maximum Permit Weight Formulas," is
19 Figure 2: 43 TAC §219.42(f).

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22

23 §219.43. Quarterly Hubometer Permits.

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1 (a) General information.

2 (1) Permits issued under this section are subject to the requirements of §219.41 of this
3 title (relating to General Requirements).

4 (2) A quarterly hubometer permit:

5 (A) is effective for three consecutive months;

6 (B) allows the unit to travel on all state-maintained highways; and

7 (C) allows the unit to travel on a state-wide basis.

8 (3) A unit permitted under this subsection must not exceed any of the following
9 dimensions:

10 (A) 12 feet in width;

11 (B) 14 feet, 6 inches in height; and

12 (C) 95 feet in length.

13 (4) With the exception of units that are overlength only, a unit operated with a permit
14 issued under this section must be equipped with a hubometer. The permittee must maintain the
15 hubometer in good working condition.

16 (5) A unit exceeding 175,000 pounds gross weight must:

17 (A) have front and rear escort flag vehicles to prevent traffic from traveling beside
18 the unit as it crosses a bridge;

19 (B) cross all multi-lane bridges by centering the unit on a lane line;

20 (C) cross all two-lane bridges in the center of the bridge; and

21 (D) cross each bridge at a speed not greater than 20 miles per hour.

22 (b) Maximum permit weight limits.

23 (1) The maximum permit weight for any single axle must not exceed 30,000 pounds or

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1 850 pounds per inch of tire width, whichever is less.

2 (2) The maximum permit weight for any group of axles on a unit will be determined by
3 calculating the "W" weight for the group, using the formulas in Figure 2: 43 TAC §219.42(f), "Maximum
4 Permit Weight Formulas," and comparing the calculated "W" weight with the corresponding "W" weight
5 that is established in Figure 1: 43 TAC §219.42(f), "Maximum Permit Weight Table."

6 (3) The maximum permit weight per inch of tire width for axles that are steerable must
7 not exceed 950 pounds, and the maximum permit weight per inch of tire width for axles that are not
8 steerable must not exceed 850 pounds.

9 (4) A unit that does not have any group of axles that exceeds the limits established in
10 Figure 1: 43 TAC §219.42(f), "Maximum Permit Weight Table," and Figure 2: 43 TAC §219.42(f), "Maximum
11 Permit Weight Formulas" will be permitted with a single-trip mileage or quarterly hubometer permit for
12 travel on any route that does not include a load restricted bridge.

13 (5) A unit that has any group of axles that exceeds the limits established by Figure 1: 43
14 TAC §219.42(f), "Maximum Permit Weight Table," and Figure 2: 43 TAC §219.42(f), "Maximum Permit
15 Weight Formulas" will be eligible, on an individual case-by-case basis, for a single-trip mileage permit only;
16 permit approval or denial will be based on a detailed route study and an analysis conducted by TxDOT of
17 each bridge on the proposed travel route to determine if the road(s) and bridge(s) are capable of
18 sustaining the movement.

19 (6) A bridge that has been analyzed and determined to be incapable of sustaining the unit
20 will be excluded from the permit route.

21 (c) Initial permit application and issuance.

22 (1) An application for an initial quarterly hubometer permit under this section must be
23 made in accordance with §219.41(b) of this title. In addition, the applicant must provide the current

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1 hubometer mileage reading and an initial \$31 processing fee.

2 (2) Upon verification of the unit information and receipt of the permit fee, the
3 department will provide a copy of the permit to the applicant, as well as a renewal application.

4 (d) Permit renewals and closeouts.

5 (1) An application for a permit renewal or closeout must be made on a form and in the
6 manner prescribed by the department.

7 (2) Upon receipt of the renewal application, the department will verify unit information,
8 check mileage traveled on the last permit, calculate the new permit fee, and advise the applicant of the
9 permit fee.

10 (e) Permit fees.

11 (1) Minimum fee. The minimum fee for a quarterly hubometer permit is either the
12 calculated permit fee or \$31, whichever is the greater amount.

13 (2) Fees for overlength units. A unit that is overlength only must obtain a quarterly
14 hubometer permit with a fee of \$31, but is not required to have a hubometer.

15 (3) Quarterly hubometer permit fee calculation. The permit fee for a quarterly hubometer
16 permit is calculated by multiplying the hubometer mileage, the highway use factor, and the total rate per
17 mile, and then adding the indirect cost share to the product.

18 (A) Hubometer mileage. Mileage for a quarterly hubometer permit is determined
19 by the unit's current hubometer mileage reading minus the unit's hubometer mileage reading from the
20 previous quarterly hubometer permit.

21 (B) Highway use factor. The highway use factor for a quarterly hubometer permit
22 is 0.3.

23 (C) Total rate per mile. The total rate per mile is the combined mileage rates for

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1 width, height, and weight for the unit. The rate per mile for a trailer mounted unit is based on the overall
2 width, overall height, and all axle weights, including the truck-tractor axles.

3 (i) The mileage rate for width is \$.06 per mile for each foot (or fraction
4 thereof) above legal width.

5 (ii) The mileage rate for height is \$.04 per mile for each foot (or fraction
6 thereof) above legal height.

7 (iii) The mileage rate for a single axle or any axle within a group that
8 exceeds 20,000 pounds, but is less than or equal to 25,000 pounds, is calculated by multiplying \$.045
9 times the amount by which the axle or axle group weight exceeds the legal weight for the axle or axle
10 group and dividing the resultant figure by 1,000 pounds.

11 (iv) The mileage rate for a single axle or any axle within a group that
12 exceeds 25,000 pounds, but is less than or equal to 30,000 pounds, is calculated by multiplying \$.055
13 times the amount by which the axle or axle group weight exceeds the legal weight for the axle or axle
14 group and dividing the resultant figure by 1,000 pounds.

15 (4) Permit fees for trailer mounted units.

16 (A) The permit fee for a trailer mounted unit is based on the overall width, overall
17 height, and all axle weights, including the truck-tractor axles.

18 (B) A unit with two or more axle groups that does not have a spacing of at least
19 12 feet between the closest axles of the opposing groups must have the permit fee calculated by the
20 following method.

21 (i) The axle group with the lowest weight will have the axle closest to the
22 next axle group temporarily disregarded from its group in order to create a spacing of at least 12 feet
23 between the two groups for fee calculation purposes.

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1 (ii) An axle group will not have more than one axle disregarded.

2 (iii) The permit fee for the axle group with the temporarily disregarded
3 axle must be based on the actual weight of the entire axle group minus the legal weight for the remaining
4 axles of the group.

5 (f) Amendments. A quarterly hubometer permit may be amended only to indicate:

6 (1) a new hubometer serial number; or

7 (2) a new license plate number.

8

9 **SUBCHAPTER E. Permits for Oversize and Overweight Unladen Lift Equipment Motor Vehicles**

10 **43 TAC §§219.61-219.63**

11 §219.61. General Requirements for Permits for Oversize and Overweight Unladen Lift Equipment Motor
12 Vehicles.

13 (a) General information.

14 (1) Unless otherwise noted, permits issued under this subchapter are subject to the
15 requirements of this section.

16 (2) Cranes are eligible for an annual permit under this subchapter.

17 (3) Cranes are also eligible for the following permits under this subchapter at weights
18 above those established by §219.11(d)(2) of this title (relating to General Oversize/Overweight Permit
19 Requirements and Procedures):

20 (A) single-trip mileage permits; and

21 (B) quarterly hubometer permits.

22 (4) If a truck-tractor is used to transport a trailer-mounted crane, the combination of
23 vehicles is limited to the dimensions and weights listed in this subchapter.

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1 (b) Permit application. An application shall be made on a form and in a manner prescribed by the
2 department. The applicant shall provide all applicable information, including:

3 (1) name, address, telephone number, and email address (if requested) of the applicant;

4 (2) year and make of the crane;

5 (3) vehicle identification number of the crane;

6 (4) width, height, and length of the crane;

7 (5) crane axle and tire information, including the number of axles, distance between axles,
8 gauge per axle, axle weights, number of tires, and tire size; and

9 (6) any other information required by law.

10 (c) Payment of permit fees. Fees for permits issued under this subchapter are payable as described
11 in §219.11(f).

12 (d) Restrictions.

13 (1) A crane permitted under this subchapter is subject to the restrictions specified in
14 §219.11(l)(1), (3), and (4), and the permittee is responsible for obtaining information concerning current
15 restrictions from the department.

16 (2) A crane permitted under this subchapter may travel through highway construction or
17 maintenance areas provided the dimensions do not exceed the construction restrictions as published by
18 the department.

19 (3) A crane permitted under this subchapter may only be operated during daylight, unless:

20 (A) the crane is overweight only; or

21 (B) the crane complies with one of the following, regardless of whether the crane
22 is overweight:

23 (i) the crane does not exceed nine feet in width, 14 feet in height, or 65

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1 feet in length; or

2 (ii) the crane is accompanied by a front and rear escort flag vehicle and

3 does not exceed:

4 (I) 10 feet, 6 inches in width;

5 (II) 14 feet in height; or

6 (III) 95 feet in length.

7 (e) Transferability. Unless otherwise noted, a permit issued under this subchapter may not be
8 transferred between cranes or between permittees.

9 (f) Escort requirements. In addition to any other escort requirements specified in this subchapter,
10 cranes permitted under this subchapter are subject to the escort requirements specified in §219.11(k).

11 (g) Properly secured equipment. A crane permitted under this subchapter may travel with
12 properly secured equipment, such as outriggers, booms, counterweights, jibs, blocks, balls, cribbing,
13 outrigger pads, and outrigger mats, in accordance with the manufacturer's specifications to the extent
14 the equipment is necessary for the crane to perform its intended function, provided the axle weights, axle
15 group weights, and gross weight do not exceed the maximum permit weights listed in this subchapter.

16
17 §219.62. Single Trip Mileage Permits.

18 (a) General information.

19 (1) Permits issued under this section are subject to the requirements of §219.61 of this
20 title (relating to General Requirements for Permits for Oversize and Overweight Unladen Lift Equipment
21 Motor Vehicles).

22 (2) A single-trip mileage permit:

23 (A) is limited to a maximum of seven consecutive days;

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1 (B) is routed from the point of origin to the point of destination and has the route
2 listed on the permit; and

3 (C) allows the crane to be returned to the point of origin on the same permit,
4 provided the return trip is made within the time period stated in the permit.

5 (3) A crane exceeding 175,000 pounds gross weight must:

6 (A) have front and rear escort flag vehicles to prevent traffic from traveling beside
7 the crane as it crosses a bridge;

8 (B) cross all multi-lane bridges by centering the crane on a lane line;

9 (C) cross all two-lane bridges in the center of the bridge; and

10 (D) cross each bridge at a speed not greater than 20 miles per hour.

11 (4) A crane exceeding 12 feet in width must be centered in the outside traffic lane of any
12 highway that has paved shoulders.

13 (5) Except as otherwise provided in this section, the permitted crane must not cross a
14 load-restricted bridge when exceeding the posted capacity of the bridge.

15 (b) Maximum permit weight limits.

16 (1) The maximum permit weight for any single axle must not exceed 30,000 pounds or
17 850 pounds per inch of tire width, whichever is less.

18 (2) The maximum permit weight for any group of axles on a crane is determined by
19 calculating the "W" weight for the group, using the formulas shown in Figure 2: 43 TAC §219.62(f),
20 "Maximum Permit Weight Formulas," and comparing the calculated "W" weight with the corresponding
21 "W" weight that is established in Figure 1:43 TAC §219.62(f), "Maximum Permit Weight Table."

22 (3) The maximum permit weight per inch of tire width for axles that are steerable must
23 not exceed 950 pounds, and the maximum permit weight per inch of tire width for axles that are not

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1 steerable must not exceed 850 pounds.

2 (4) An applicant with a crane that has any group of axles that exceeds the limits
3 established by Figure 1: 43 TAC §219.62(f), "Maximum Permit Weight Table," and Figure 2: 43 TAC
4 §219.62(f), "Maximum Permit Weight Formulas," must comply with the following process and
5 requirements:

6 (A) submit the following to the department to determine if a permit can be issued:

7 (i) a detailed diagram, on a form prescribed by the department, which
8 illustrates the required information listed in §219.61(b)(5);

9 (ii) the exact beginning and ending points relative to a state highway; and

10 (iii) the name and contact information of the applicant's TxDOT-approved
11 licensed professional engineer.

12 (B) The department will select and provide the applicant with a tentative route
13 based on the size of the crane, excluding the weight. The applicant must inspect the tentative route and
14 advise the department, in writing, that the route is capable of accommodating the crane.

15 (C) Before the department will issue a permit, the applicant's TxDOT-approved
16 licensed professional engineer must submit to TxDOT a written certification that includes a detailed
17 structural analysis of the bridges on the proposed route demonstrating that the bridges and culverts on
18 the travel route are capable of sustaining the crane. The certification must be approved by TxDOT and
19 submitted to the department before the department will issue the permit.

20 (c) Permit application and issuance.

21 (1) An application for a single-trip mileage permit under this section must be made in
22 accordance with §219.61(b) of this title and must also include the origin and destination points of the
23 crane.

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1 (2) Upon receipt of the application, the department will review and verify size and weight
2 information, check the route and mileage to be traveled, compute the permit fee, and advise the applicant
3 of the permit fee.

4 (3) Upon receipt of the permit fee, the department will advise the applicant of the permit
5 number and will provide a copy of the permit to the applicant.

6 (d) Permit fees and refunds.

7 (1) Minimum fee. The minimum fee for a single-trip mileage permit is either the calculated
8 permit fee or \$31, whichever is the greater amount.

9 (2) Permit fee calculation. The permit fee for a single-trip mileage permit is calculated by
10 multiplying the number of miles traveled, the highway use factor, and the total rate per mile, and then
11 adding the indirect cost share to the product.

12 (A) Highway use factor. The highway use factor for a single-trip mileage permit is
13 0.6.

14 (B) Total rate per mile. The total rate per mile is the combined mileage rates for
15 width, height, and weight for the crane. The rate per mile for a trailer-mounted crane is based on the
16 overall width, overall height, and all axle weights, including the truck-tractor axles.

17 (i) The mileage rate for width is \$.06 per mile for each foot (or fraction
18 thereof) above legal width.

19 (ii) The mileage rate for height is \$.04 per mile for each foot (or fraction
20 thereof) above legal height.

21 (iii) The mileage rate for a single axle or any axle within a group that
22 exceeds 20,000 pounds, but is less than or equal to 25,000 pounds, is calculated by multiplying \$.045
23 times the amount by which the axle or axle group weight exceeds the legal weight for the axle or axle

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1 group and dividing the resultant figure by 1,000 pounds.

2 (iv) The mileage rate for a single axle or any axle within a group that
3 exceeds 25,000 pounds, but is less than or equal to 30,000 pounds, is calculated by multiplying \$.055
4 times the amount by which the axle or axle group weight exceeds the legal weight for the axle or axle
5 group and dividing the resultant figure by 1,000 pounds.

6 (3) Exceptions to fee computations. A crane with two or more axle groups that does not
7 have a spacing of at least 12 feet between the closest axles of the opposing groups must have the permit
8 fee calculated by the following method.

9 (A) The axle group with the lowest weight will have the axle closest to the next
10 axle group temporarily disregarded from its group in order to create a spacing of at least 12 feet between
11 the two groups for fee calculation purposes.

12 (B) An axle group will not have more than one axle disregarded.

13 (C) The permit fee for the axle group with the temporarily disregarded axle must
14 be based on the actual weight of the entire axle group minus the legal weight for the remaining axles of
15 the group.

16 (4) Refunds. Fees for permits issued under this section are non-refundable.

17 (e) Amendments. A single-trip mileage permit issued under this section may not be amended unless an
18 exception is granted by the department.

19 (f) Weight table and formulas. The following table entitled "Maximum Permit Weight Table" is Figure 1:
20 43 TAC §219.62(f), and the list of formulas entitled "Maximum Permit Weight Formulas," is Figure 2: 43
21 TAC §219.62(f).

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1

2 §219.63. Quarterly Hubometer Permits.

3 (a) General information.

4 (1) Permits issued under this section are subject to the requirements of §219.61 of this
5 title (relating to General Requirements for Permits for Oversize and Overweight Unladen Lift Equipment
6 Motor Vehicles).

7 (2) A quarterly hubometer permit:

8 (A) is effective for three consecutive months;

9 (B) allows the crane to travel on all state-maintained highways; and

10 (C) allows the crane to travel on a state-wide basis.

11 (3) A crane permitted under this section must not exceed any of the following dimensions:

12 (A) 12 feet in width;

13 (B) 14 feet, 6 inches in height; or

14 (C) 95 feet in length.

15 (4) With the exception of cranes that are overlength only, cranes operated with a
16 quarterly hubometer permit must be equipped with a hubometer. The permittee must maintain the
17 hubometer in good working condition.

18 (5) A crane exceeding 175,000 pounds gross weight must:

19 (A) have front and rear escort flag vehicles to prevent traffic from traveling beside
20 the crane as it crosses a bridge;

21 (B) cross all multi-lane bridges by centering the crane on a lane line;

22 (C) cross all two-lane bridges in the center of the bridge; and

23 (D) cross each bridge at a speed not greater than 20 miles per hour.

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1 (6) The permitted crane must not cross a load-restricted bridge when exceeding the
2 posted capacity of the bridge.

3 (7) The permit may be amended only to indicate:

4 (A) a new hubometer serial number; or

5 (B) a new license plate number.

6 (b) Maximum permit weight limits.

7 (1) The maximum permit weight for any single axle must not exceed 30,000 pounds or
8 850 pounds per inch of tire width, whichever is less.

9 (2) The maximum permit weight for any group of axles on a crane will be determined by
10 calculating the "W" weight for the group, using the formulas in Figure 2: 43 TAC §219.62(f), "Maximum
11 Permit Weight Formulas," and comparing the calculated "W" weight with the corresponding "W" weight
12 that is established in Figure 1 :43 TAC §219.62(f), "Maximum Permit Weight Table."

13 (3) The maximum permit weight per inch of tire width for axles that are steerable must
14 not exceed 950 pounds, and the maximum permit weight per inch of tire width for axles that are not
15 steerable must not exceed 850 pounds.

16 (4) A crane that has any group of axles that exceeds the limits established by Figure 1 :43
17 TAC §219.62(f), "Maximum Permit Weight Table," and Figure 2: 43 TAC §219.62(f), "Maximum Permit
18 Weight Formulas," is not eligible for a permit under this section; however, it is eligible for a permit under
19 §219.62 of this title (relating to Single-Trip Mileage Permits).

20 (c) Initial permit application and issuance.

21 (1) An application for an initial quarterly hubometer permit must be made in accordance
22 with §219.61(b) of this title. In addition, the applicant must provide the current hubometer mileage
23 reading and an initial \$31 processing fee.

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1 (2) Upon verification of the crane information and receipt of the permit fee, the
2 department will provide a copy of the permit to the applicant, and will also provide a renewal application
3 form to the applicant.

4 (d) Permit renewals and closeouts.

5 (1) An application for a permit renewal or closeout must be made on a form and in a
6 manner prescribed by the department.

7 (2) Upon receipt of the renewal application, the department will verify crane information,
8 check mileage traveled on the last permit, calculate the new permit fee, and advise the applicant of the
9 permit fee.

10 (e) Permit fees.

11 (1) Minimum fee. The minimum fee for a quarterly hubometer permit is either the
12 calculated permit fee or \$31, whichever is the greater amount.

13 (2) Fees for overlength cranes. A crane that is overlength only is not required to have a
14 hubometer. The fee for this permit is \$31.

15 (3) Quarterly hubometer permit fee calculation. The permit fee for a quarterly hubometer
16 permit is calculated by multiplying the hubometer mileage, the highway use factor, and the total rate per
17 mile, and then adding the indirect cost share to the product.

18 (A) Hubometer mileage. Mileage for a quarterly hubometer permit is determined
19 by the crane's current hubometer mileage reading minus the crane's hubometer mileage reading from
20 the previous quarterly hubometer permit.

21 (B) Highway use factor. The highway use factor for a quarterly hubometer permit
22 is 0.3.

23 (C) Total rate per mile. The total rate per mile is the combined mileage rates for

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1 width, height, and weight for the crane.

2 (i) The mileage rate for width is \$.06 per mile for each foot (or fraction
3 thereof) above legal width.

4 (ii) The mileage rate for height is \$.04 per mile for each foot (or fraction
5 thereof) above legal height.

6 (iii) The mileage rate for a single axle or any axle within a group that
7 exceeds 20,000 pounds, but is less than or equal to 25,000 pounds, is calculated by multiplying \$.045
8 times the amount by which the axle or axle group weight exceeds the legal weight for the axle or axle
9 group and dividing the resultant figure by 1,000 pounds.

10 (iv) The mileage rate for a single axle or any axle within a group that
11 exceeds 25,000 pounds, but is less than or equal to 30,000 pounds, is calculated by multiplying \$.055
12 times the amount by which the axle or axle group weight exceeds the legal weight for the axle or axle
13 group and dividing the resultant figure by 1,000 pounds.

14 (4) Special fee provisions. A crane with two or more axle groups that do not have a spacing
15 of at least 12 feet between the closest axles of the opposing groups must have the permit fee calculated
16 by the following method.

17 (A) The axle group with the lowest weight will have the axle closest to the next
18 axle group temporarily disregarded from its group in order to create a spacing of at least 12 feet between
19 the two groups for fee calculation purposes.

20 (B) An axle group will not have more than one axle disregarded.

21 (C) The permit fee for the axle group with the temporarily disregarded axle must be based
22 on the actual weight of the entire axle group minus the legal weight for the remaining axles of the group.

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

3 Issued at Austin, Texas, on M DD, YYYY.

4
5

Tracey Beaver, General Counsel

DRAFT

To: Texas Department of Motor Vehicles Board
From: Jimmy Archer, Motor Carrier Division Director
Agenda Item: 11
Subject: Chapter 219, Oversize and Overweight Vehicles and Loads
Amendments, §219.31 and §219.126
Repeal, §219.83
(Relating to HB 2620, movement of oversize or overweight vehicles and enforcement of motor vehicle size and weight limitations)

RECOMMENDATION

Approval to publish the proposed amendments and repeal in the *Texas Register* for public comment.

PURPOSE AND EXECUTIVE SUMMARY

The purpose of the proposed amendments is to conform the rules to amendments to Transportation Code §623.272 and §623.321 added by House Bill 2620, 86th Legislature, Regular Session (2019) regarding the shipper's certificates of weight and the timber permit.

The proposal repeals §219.83 because it duplicates language found in Transportation Code §623.271 and §623.274. Also, some of the language in §219.83 is inconsistent with Transportation Code §623.274, which was also amended by House Bill 2620.

FINANCIAL IMPACT

None

BACKGROUND AND DISCUSSION

The proposal amends §219.31(a) to conform with Transportation Code §623.321 by authorizing the current timber permit to be used to transport equipment used to load timber on a vehicle.

The proposal amends §219.126 to conform with Transportation Code §623.272. The amendment says the department may also investigate and impose a fine on a shipper who does not provide a shipper's certificate of weight as required under Transportation Code §623.274(b).

TITLE 43. TRANSPORTATION

Proposed Sections

Part 10. Texas Department of Motor Vehicles

Chapter 219 - General Oversize/Overweight Permit Requirements and Procedures

1 The proposal repeals §219.83 because it duplicates language found in Transportation Code
2 §623.271 and §623.274. Also, some of the language in §219.83 is inconsistent with Transportation Code
3 §623.274.

4 **FISCAL NOTE AND LOCAL EMPLOYMENT IMPACT STATEMENT.** Linda M. Flores, Chief Financial Officer,
5 has determined that for each year of the first five years the amendments and repeal will be in effect, there
6 will be no fiscal impact to state or local governments as a result of the enforcement or administration of
7 the proposal. Jimmy Archer, Director of the Motor Carrier Division, has determined that there will be no
8 measurable effect on local employment or the local economy as a result of the proposal.

9 **PUBLIC BENEFIT AND COST NOTE.** Mr. Archer has also determined that, for each year of the first five
10 years the amended and repealed sections are in effect, the public will benefit because the rules will be
11 consistent with current statutes.

12 Anticipated Costs. Mr. Archer anticipates that there will be no costs to comply with these rules
13 because the proposed amendments conform to Transportation Code §623.321 and §623.272 and do not
14 create any additional requirement or cost on a regulated person. Also, the repeal duplicates language
15 found in Transportation Code §623.271 and §623.274, and some of the language is inconsistent with
16 Transportation Code §623.274.

17 **ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS.** As required by Government
18 Code, §2006.002, the department has determined that the proposed amendments and repeal will not
19 have an adverse economic effect on small businesses, micro-business, and rural communities because the
20 proposal conforms the rules to statute and does not impose any additional requirements or cost on a
21 regulated person. Therefore, the department is not required to prepare a regulatory flexibility analysis
22 under Government Code, §2006.002.

TITLE 43. TRANSPORTATION

Proposed Sections

Part 10. Texas Department of Motor Vehicles

Chapter 219 - General Oversize/Overweight Permit Requirements and Procedures

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

5 **GOVERNMENT GROWTH IMPACT STATEMENT.** The department has determined that each year of the
6 first five years the proposed amendments are in effect, the proposed rule:

7 will not create or eliminate a government program;

8 will not require the creation of new employee positions or the elimination of existing employee
9 positions;

10 will not require an increase or decrease in future legislative appropriations to the department;

11 will not require an increase or decrease in fees paid to the department;

12 will not create new regulations;

13 will not expand existing regulations;

14 will repeal existing regulations;

15 will not increase the number of individuals subject to the rule's applicability; and

16 will not positively or adversely affect the Texas economy.

17 **REQUEST FOR PUBLIC COMMENT.**

18 If you want to comment on the proposal, submit your written comments by 5:00 p.m. CDT on MM, DD,
19 YYYY. A request for a public hearing must be sent separately from your written comments. Send written
20 comments or hearing requests by email to rules@txdmv.gov or by mail to Office of General Counsel, Texas
21 Department of Motor Vehicles, 4000 Jackson Avenue, Austin, Texas 78731. If a hearing is held, the
22 department will consider written comments and public testimony presented at the hearing.

TITLE 43. TRANSPORTATION

Proposed Sections

Part 10. Texas Department of Motor Vehicles

Chapter 219 - General Oversize/Overweight Permit Requirements and Procedures

1 **STATUTORY AUTHORITY.** The department proposes amendments under Transportation Code §623.002,
2 which authorizes the Texas Department of Motor Vehicles Board (board) to adopt rules for the
3 administration of Transportation Code Chapter 623; and Transportation Code §1002.001 which authorizes
4 the board to adopt rules that are necessary and appropriate to implement the powers and the duties of
5 the department.

6 **CROSS REFERENCE TO STATUTE.** Transportation Code §§ 623.272, 623.274, and 623.321.

7 **TEXT.**

8 **SUBCHAPTER C. PERMITS FOR OVER AXLE AND OVER GROSS WEIGHT TOLERANCES**

9 **43 TAC §219.31**

10 §219.31. Timber Permits.

11 (a) Purpose. This section prescribes the requirements and procedures regarding the annual permit
12 for the operation of a vehicle or combination of vehicles that will be used to transport unrefined timber,
13 wood chips, [ø] woody biomass, or equipment used to load timber on a vehicle under the provisions of
14 Transportation Code, Chapter 623, Subchapter Q.

15 (b) Application for permit.

16 (1) To qualify for a timber permit, a person must submit an application to the department.

17 (2) The application shall be in a form prescribed by the department and at a minimum,
18 will require the following:

19 (A) name, address, telephone number, and email address (if requested) of the
20 applicant;

21 (B) name of contact person and telephone number or email address;

22 (C) vehicle information, including vehicle year, make, license plate number and
23 state of issuance, and vehicle identification number; and

TITLE 43. TRANSPORTATION

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Chapter 219 - General Oversize/Overweight Permit Requirements and Procedures

1 (D) a list of timber producing counties described in Transportation Code,
2 §623.321(a), in which the vehicle or combination of vehicles will be operated.

3 (3) The application shall be accompanied by:

4 (A) the total annual permit fee required by statute; and

5 (B) a blanket bond or irrevocable letter of credit as required by Transportation
6 Code, §623.012, unless the applicant has a current blanket bond or irrevocable letter of credit on file with
7 the department that complies with Transportation Code, §623.012.

8 (4) Fees for permits issued under this section are payable as required by §219.11(f) of this
9 title (relating to General Oversize/Overweight Permit Requirements and Procedures).

10 (c) Issuance and placement of permit and windshield sticker; restrictions.

11 (1) A permit and a windshield sticker will be issued once the application is approved, and
12 each will be mailed to the applicant at the address contained in the application.

13 (2) The windshield sticker shall be affixed to the inside of the windshield of the vehicle in
14 accordance with the diagram printed on the back of the sticker and in a manner that will not obstruct the
15 vision of the driver. Any attempt to remove the sticker from the windshield will render the sticker void
16 and will require a new permit and sticker.

17 (3) A replacement sticker for a lost, stolen, or mutilated windshield sticker may be issued,
18 provided that the permittee submits a request on a form approved by the department which shall include
19 a statement, signed by the permittee, affirming that the sticker was lost, stolen, or mutilated. The
20 replacement sticker shall only be valid for the permitted vehicle.

21 (d) Notification. The financially responsible party as defined in Transportation Code, §623.323(a),
22 shall electronically file the notification document described by §623.323(b) with the department via the
23 form on the department's website.

TITLE 43. TRANSPORTATION

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Chapter 219 - General Oversize/Overweight Permit Requirements and Procedures

1 (e) Transfer of permit. An annual permit issued under this section is not transferable between
2 vehicles.

3 (f) Amendments. An annual permit issued under this section will not be amended except in the
4 case of department error.

5 (g) Termination of permit. An annual permit issued under this section will automatically
6 terminate, and the windshield sticker must be removed from the vehicle:

7 (1) on the expiration of the permit;

8 (2) when the lease of the vehicle expires;

9 (3) on the sale or other transfer of ownership of the vehicle for which the permit was
10 issued;

11 (4) on the dissolution or termination of the partnership, corporation, or other legal entity
12 to which the permit was issued; or

13 (5) if the permittee fails to timely replenish the bond or letter of credit as required by
14 Transportation Code, §623.012.

15 (h) Restrictions. Permits issued under this section are subject to the restrictions in §219.11(l) of
16 this title.

17 SUBCHAPTER H. ENFORCEMENT

18 43 TAC §219.126

19 §219.126. Administrative Proceedings.

20 (a) The department may investigate and impose an administrative penalty on a shipper who does
21 not provide a shipper's certificate of weight as required under Transportation Code §623.274(b) or
22 provides false information on a shipper's certificate of weight that the shipper delivers to a person
23 transporting a shipment.

TITLE 43. TRANSPORTATION

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Part 10. Texas Department of Motor Vehicles

Chapter 219 - General Oversize/Overweight Permit Requirements and Procedures

1 (b) The notice and hearing requirements of §219.124 of this title (relating to Administrative
2 Proceedings) apply to the imposition of an administrative penalty under this section.

3 (c) The amount of an administrative penalty imposed under this section is calculated in the same
4 manner as the amount of an administrative penalty imposed under §219.121 of this title (relating to
5 Administrative Penalties).

SUBCHAPTER F. COMPLIANCE**43 TAC §219.83**

6
7
8 ~~[(a) For a shipper's certificate of weight to be valid, the shipper must:]~~

9 ~~[(1) certify that the information contained on the form used for the shipper's certificate
10 of weight is accurate; and]~~

11 ~~[(2) deliver the certificate to the motor carrier or other person transporting the shipment
12 before:]~~

13 ~~(A) the motor carrier or person applies for an overweight permit under this chapter; or]~~

14 ~~(B) the motor carrier or person begins to transport the shipment if the motor
15 carrier or person does not apply for an overweight permit because of the information in the certificate.]~~

16 ~~[(b) A motor carrier who holds an annual envelope permit issued under this chapter may rely on
17 the shipper's certificate of weight to determine whether the shipment requires an additional overweight
18 permit.]~~

19 ~~[(c) It is an affirmative defense to an administrative enforcement action under this chapter for the
20 failure of a person or the holder of a permit to obtain the required overweight permit that the person
21 relied on a valid shipper's certificate of weight.]~~

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Part 10. Texas Department of Motor Vehicles

Chapter 219 - General Oversize/Overweight Permit Requirements and Procedures

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

3 Issued at Austin, Texas, on M DD, YYYY.

4
5

Tracey Beaver, General Counsel

DRAFT

To: Texas Department of Motor Vehicles Board
From: Timothy Menke, Compliance & Investigations Division Director
Sandra Menjivar-Suddeath, Internal Audit Division Director
Agenda Item: 12
Subject: Chapter 206, Management
New, §206.151
Chapter 223, Compliance and Investigations Division
New, §223.101
(Relating to SB 604, risk-based monitoring and prevention of title and registration fraud)

RECOMMENDATION

Approval to publish the proposed new sections in the *Texas Register* for public comment.

PURPOSE AND EXECUTIVE SUMMARY

The purpose of the proposed new §206.151 and §223.101 is to implement Transportation Code §520.004(4), as enacted in Senate Bill 604, 86th Legislature, Regular Session (2019). Transportation Code §520.004(4), which requires the department, by rule, to establish a risk-based system of monitoring and preventing fraudulent activity related to vehicle registration and titling in order to efficiently allocate resources and personnel. The requirement is included within Sunset Advisory Commission's Change in Statute Recommendation 2.4, as stated in the Sunset Staff Report with Commission Decisions, 2018-2019, 86th Legislature (2019).

To implement Transportation Code §520.004(4) in line with the Sunset recommendation, the department has developed internal and external risk-based monitoring systems. The internal system is proposed in §206.151 and is overseen through department management and the Internal Audit Division. The external system is proposed in §223.101 overseen through by the department's Compliance and Investigations Division. Each system rule is placed in its appropriate chapter based on its focus.

FINANCIAL IMPACT

None

BACKGROUND AND DISCUSSION

Proposed new §206.151 and §223.101 outline the internal and external risk-based monitoring systems generally, to allow flexibility for change over time and because detailed disclosure of the of the means and methods that the department's system could be used to evade the monitoring. The monitoring system does not add additional requirements or costs on any regulated person.

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Chapter 206 - Management

1 overseen through by the department's Compliance and Investigations Division. Each system rule is placed
2 in its appropriate chapter based on its focus.

3 Proposed new §206.151 outlines the program generally, to allow flexibility for change over time
4 and because detailed disclosure of the of the means and methods that the department's system could be
5 used to evade the monitoring. The monitoring system does not add additional requirements or costs on
6 any regulated person.

7 **FISCAL NOTE AND LOCAL EMPLOYMENT IMPACT STATEMENT.** Linda M. Flores, Chief Financial Officer,
8 has determined that for each year of the first five years the proposed new section will be in effect, there
9 will be no fiscal impact to state or local governments as a result of the enforcement or administration of
10 the proposal. Sandra Menjivar-Suddeath, Director of the Internal Audit Division, has determined that
11 there will be no measurable effect on local employment or the local economy as a result of the proposal.

12 **PUBLIC BENEFIT AND COST NOTE.** Ms. Menjivar-Suddeath has also determined that, for each year of the
13 first five years the proposed new section is in effect, the public benefits include establishing a risk-based
14 system of monitoring and preventing fraudulent activity related to vehicle registration and titling in order
15 to efficiently allocate resources and personnel.

16 Mr. Menjivar-Suddeath anticipates that there will be no additional costs on regulated persons to
17 comply with these rules, because the rules do not establish any additional requirements on regulated
18 person.

19 **ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS.** As required by Government
20 Code, §2006.002, the department has determined that the proposed new section will not have an adverse
21 economic effect on small businesses, micro-businesses, or rural communities because the proposal
22 imposes no additional requirements, and has no financial effect, on any small businesses, micro-

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1 businesses, or rural communities. Therefore, the department is not required to prepare a regulatory
2 flexibility analysis under Government Code §2006.002.

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

7 **GOVERNMENT GROWTH IMPACT STATEMENT.** The department has determined that each year of the first
8 five years the proposed new section is in effect, the proposed rule:

9 will not create or eliminate a government program;

10 will not require the creation of new employee positions or the elimination of existing employee
11 positions;

12 will not require an increase or decrease in future legislative appropriations to the department;

13 will not require an increase or decrease in fees paid to the department;

14 will create new regulation §206.151 to implement Transportation Code §520.004(4);

15 will not expand existing regulations;

16 will not repeal existing regulations;

17 will not increase or decrease the number of individuals subject to the rule's applicability; and

18 will not positively or adversely affect the Texas economy.

19 **REQUEST FOR PUBLIC COMMENT.**

20 If you want to comment on the proposal, submit your written comments by 5:00 p.m. CST on MM, DD,
21 YYYY. A request for a public hearing must be sent separately from your written comments. Send written
22 comments or hearing requests by email to rules@txdmv.gov or by mail to Office of General Counsel, Texas

TITLE 43. TRANSPORTATION

Proposed Sections

Part 10. Texas Department of Motor Vehicles

Chapter 206 - Management

1 Department of Motor Vehicles, 4000 Jackson Avenue, Austin, Texas 78731. If a hearing is held, the
2 department will consider written comments and public testimony presented at the hearing.

3 **STATUTORY AUTHORITY.** The department proposes new section to §206.151 under Transportation Code
4 §§520.003, 520.004, and §1002.001.

5 Transportation Code §520.003 authorizes the department to adopt rules to administer
6 Transportation Code Chapter 520.

7 Transportation Code §520.004 requires the department to establish by rule a risk-based system
8 of monitoring and preventing fraudulent activity related to vehicle registration and titling in order to
9 efficiently allocate resources and personnel.

10 Transportation Code §1002.001, authorizes the board to adopt rules that are necessary and
11 appropriate to implement the powers and the duties of the department.

12 **CROSS REFERENCE TO STATUTE.** Transportation Code §520.004.

13 **TEXT.**

14 **SUBCHAPTER H. RISK-BASED MONITORING AND PREVENTING FRAUDULENT ACTIVITY**

15 **43 TAC §206.151**

16 §206.151. Internal Risk-Based Monitoring System.

17 The department shall establish a risk-based system of monitoring and preventing fraudulent
18 activity related to vehicle registration and titling in order to efficiently allocate resources and personnel,
19 including:

20 (1) establishing a risk-based system of monitoring the department's regional service
21 centers;

22 (2) developing criteria to determine varying risk levels for the department's internal fraud
23 monitoring functions to strategically allocate resources and personnel;

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1 (3) reviewing the department's methods for collecting and evaluating related
2 information; and

3 (4) developing and providing training to department staff.

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

6 Issued at Austin, Texas, on Month Day, YYYY.

7 _____
8 Tracey Beaver, General Counsel

DRAFT

TITLE 43. TRANSPORTATION

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Part 10. Texas Department of Motor Vehicles

Chapter 223 - Compliance and Investigations Division

1 overseen through by the department's Compliance and Investigations Division. Each system rule is placed
2 in its appropriate chapter based on its focus.

3 Proposed new §223.101 outlines the program generally, to allow flexibility for change over time
4 and because detailed disclosure of the of the means and methods that the department's system could be
5 used to evade the monitoring. The monitoring system does not add additional requirements or costs on
6 any regulated person.

7 **FISCAL NOTE AND LOCAL EMPLOYMENT IMPACT STATEMENT.** Linda M. Flores, Chief Financial Officer,
8 has determined that for each year of the first five years the proposed new section will be in effect, there
9 will be no fiscal impact to state or local governments as a result of the enforcement or administration of
10 the proposal. Timothy Menke, Director of the Compliance and Investigations Division, has determined
11 that there will be no measurable effect on local employment or the local economy as a result of the
12 proposal.

13 **PUBLIC BENEFIT AND COST NOTE.** Mr. Menke has also determined that, for each year of the first five
14 years the proposed new section is in effect, the public benefits include establishing a risk-based system of
15 monitoring and preventing fraudulent activity related to vehicle registration and titling in order to
16 efficiently allocate resources and personnel.

17 Mr. Menke anticipates that there will be no additional costs on regulated persons to comply with
18 these rules, because the rules do not establish any additional requirements on regulated person.

19 **ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS.** As required by Government
20 Code, §2006.002, the department has determined that the proposed new section will not have an adverse
21 economic effect on small businesses, micro-businesses, or rural communities because the proposal
22 imposes no additional requirements, and has no financial effect, on any small businesses, micro-

TITLE 43. TRANSPORTATION

Proposed Sections

Part 10. Texas Department of Motor Vehicles

Chapter 223 - Compliance and Investigations Division

1 businesses, or rural communities. Therefore, the department is not required to prepare a regulatory
2 flexibility analysis under Government Code §2006.002.

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

7 **GOVERNMENT GROWTH IMPACT STATEMENT.** The department has determined that each year of the first
8 five years the proposed new section is in effect, the proposed rule:

9 will not create or eliminate a government program;

10 will not require the creation of new employee positions or the elimination of existing employee
11 positions;

12 will not require an increase or decrease in future legislative appropriations to the department;

13 will not require an increase or decrease in fees paid to the department;

14 will create new regulation §223.101 to implement Transportation Code §520.004(4);

15 will not expand existing regulations;

16 will not repeal existing regulations;

17 will not increase or decrease the number of individuals subject to the rule's applicability; and

18 will not positively or adversely affect the Texas economy.

19 **REQUEST FOR PUBLIC COMMENT.**

20 If you want to comment on the proposal, submit your written comments by 5:00 p.m. CST on MM, DD,
21 YYYY. A request for a public hearing must be sent separately from your written comments. Send written
22 comments or hearing requests by email to rules@txdmv.gov or by mail to Office of General Counsel, Texas

TITLE 43. TRANSPORTATION

Proposed Sections

Part 10. Texas Department of Motor Vehicles

Chapter 223 - Compliance and Investigations Division

1 Department of Motor Vehicles, 4000 Jackson Avenue, Austin, Texas 78731. If a hearing is held, the
2 department will consider written comments and public testimony presented at the hearing.

3 **STATUTORY AUTHORITY.** The department proposes new §223.101 under Transportation Code
4 §§520.003, 520.004, and §1002.001.

5 Transportation Code §520.003 authorizes the department to adopt rules to administer
6 Transportation Code Chapter 520.

7 Transportation Code §520.004 requires the department to establish by rule a risk-based system
8 of monitoring and preventing fraudulent activity related to vehicle registration and titling in order to
9 efficiently allocate resources and personnel.

10 Transportation Code §1002.001, authorizes the board to adopt rules that are necessary and
11 appropriate to implement the powers and the duties of the department.

12 **CROSS REFERENCE TO STATUTE.** Transportation Code §520.004.

13 **TEXT.**

14 **SUBCHAPTER B. RISK-BASED MONITORING AND PREVENTING FRAUDULENT ACTIVITY**

15 **43 TAC §223.101**

16 §223.101. External Risk-Based Monitoring System.

17 The department's Compliance and Investigations Division shall establish a risk-based system of
18 monitoring and preventing fraudulent activity related to vehicle registration and titling in order to
19 efficiently allocate resources and personnel, including:

20 (1) establishing a risk-based system of monitoring counties and their contractors;

21 (2) developing criteria to determine varying risk levels for the department's fraud
22 monitoring functions to strategically allocate resources and personnel;

To: Texas Department of Motor Vehicles Board
From: Tracey Beaver, General Counsel
Agenda Item: 13
Subject: Chapter 206, Management Amendments, §206.22
Chapter 215, Motor Vehicle Distribution Amendments, §215.22 and §215.55
New, §§215.59 - 215.63
(Relating to SB 604, new Occupations Code §2301.709(d), contested cases; and a petition for rulemaking)
(Informal Working Draft and Request for Informal Comments on Rules Relating to Contested Cases; and Petition for Rulemaking - Published on TxDMV website April 3, 2020 to May 4, 2020)

RECOMMENDATION

Approval to publish the rules in the *Texas Register* for public comment.

PURPOSE AND EXECUTIVE SUMMARY

The proposed amendments and new sections establish standards for the board's review of a contested case under new Occupations Code §2301.709(d), specify the role of division personnel in managing contested cases before a person delegated power from the board under Occupations Code §2301.154, and respond, in part, to a petition for rulemaking submitted by Mr. William Crocker.

FINANCIAL IMPACT

There will be no fiscal implications related to the proposed amendments and new sections.

BACKGROUND AND DISCUSSION

The proposed amendments and new sections include language:

- specifying the deadline for the parties to a contested case to request oral argument;
- specifying the requirements for submitting any written presentation aids;
- stating the department will not accept any written proposed orders, proposals for decision, new findings of fact, or conclusions of law;
- specifying a minimum amount of time that parties to a contested case are allotted to make a presentation to the board;
- specifying the role of division personnel in managing contested cases before the board or a person delegated power from the board under Occupations Code §2301.154, including advising on procedural matters;
- specifying appropriate conduct and discussion by the board regarding proposals for decision issued by administrative law judges;
- setting forth clear expectations limiting arguments and discussion under Occupations Code §2301.709(b) to evidence in the record of the contested case hearing held by the administrative law judge;
- clarifying the prohibited communications, which are called *ex parte* communications;

- setting forth and clarifying circumstances to distinguish between using industry expertise and representing or advocating for an industry when reviewing a case under Occupations Code §2301, Subchapter O, Hearings Procedures; and
- responding, in part, to the petition for rulemaking.

Mr. Crocker submitted the attached petition for rulemaking in which he requested the department to make the following amendments to 43 TAC §206.22 regarding contested cases that are presented to the board for a final decision:

1. granting each party to a contested case a minimum of 20 minutes to make a presentation to the board, including time spent presenting a rebuttal and excluding time spent responding to questions;
2. only authorizing the board members and the executive director to question any person making a presentation to the board;
3. prohibiting any presentations, board discussions, and final decision from including or being based on information that is not in the administrative record from the State Office of Administrative Hearings (SOAH); and
4. authorizing department staff to advise the board on the interpretation and application of any statute, regulation, or department procedure, but prohibiting department staff from recommending a final decision to the board.

COMMENTS

On April 3, 2020, the department posted on its website an informal draft of the amendments and new sections for public comment. The comment period closed on May 4, 2020. The department received the attached written comments requesting changes to the informal working draft from: William R. Crocker, Attorney at Law; J. Bruce Bennett with Cardwell, Hart & Bennett, LLP; Wm. David Coffey, III and Martin Alaniz with Coffey & Alaniz, PLLC; Phil Elam, Executive Director of the Texas Recreational Vehicle Association; Susan G. White with Shackelford, Bowen, McKinley & Norton, LLP; and Buddy Ferguson with Barack Ferrazzano Kirschbaum & Nagelberg LLP.

The department considered the comments in preparing this proposal.

WM. R. CROCKER

ATTORNEY AT LAW

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AUSTIN, TEXAS 78767

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February 5, 2019

STE. 1014
807 BRAZOS
AUSTIN, TEXAS 78701

Ms. Whitney Brewster
Executive Director
Texas Department of Motor Vehicles
4000 Jackson Ave.
Austin, TX 78731

Re: Suggested Rule for Protested Case Arguments, Presentations

Dear Ms. Brewster:

As you know, through the last few years I have been involved in the presentation of several protested cases to the DMV Board. Sometimes the presenters have been allowed three minutes for and three minutes against the adoption of a Proposal for Decision from the State Office of Administrative Hearings (SOAH). Other times, the presenters have been allowed more time, presumably by suspension of rules.

Decisions of the Board in contested cases can affect both the lives and the fortunes of your licensees. In some instances, many millions of dollars are resting on the decision of the Board. In many contested cases, the parties will have spent hundreds of thousands of dollars in the course of preparing and trying the case to SOAH. Unfortunately, the SOAH judges normally do not have any expertise in the complex motor vehicle manufacturing and selling industries. The Board is presumed to have that expertise. But the Board cannot try the cases and cannot be present when they are tried. The Board's decision must be made on the SOAH recommendation and the presentations by the parties to the contested cases. It is unfair to the Board and to the parties to have the presentations to the Board limited to three minutes.

In order to remedy that unfairness to the degree possible, I have drafted the enclosed amendment to the existing DMV rules to allow a more complete presentation and a more fair presentation. My recommendations for changes to the existing rule are highlighted on the attached copy so they can be easily identified.

I have circulated this amendment among all of the practitioners I know who handle DMV contested cases affecting franchised dealers, both those who represent the manufacturers and those who represent the dealers. The only responses I have received have been favorable. I have received no negative responses.

Ms. Whitney Brewster

Page 2

I would appreciate it if you would initiate the necessary process for review and possible adoption of the amendment. I will make myself available to you and your staff at any time to discuss the proposed amendment and would appreciate the opportunity to so.

If you have any preliminary questions or concerns you want to discuss, please do not hesitate to let me know. Your thoughts will be welcomed.

Yours very truly,



Wm. R. Crocker

WRC:tc

Enclosure

Texas Administrative Code

Next Rule>>

<u>TITLE 43</u>	TRANSPORTATION
<u>PART 10</u>	TEXAS DEPARTMENT OF MOTOR VEHICLES
<u>CHAPTER 206</u>	MANAGEMENT
<u>SUBCHAPTER B</u>	PUBLIC MEETINGS AND HEARINGS
RULE §206.22	Public Access to Board Meetings

(a) Posted agenda items. A person may speak before the board on any matter on a posted agenda by submitting a request, in a form and manner as prescribed by the department, prior to the matter being taken up by the board. A person speaking before the board on an agenda item will be allowed an opportunity to speak:

- (1) prior to a vote by the board on the item; and
- (2) for a maximum of three minutes, except as provided in subsections (d)(6) and (f)(1) of this section.

(b) Open comment period.

(1) At the conclusion of the posted agenda of each regular business meeting, the board shall allow an open comment period, not to exceed one hour, to receive public comment on any other matter that is under the jurisdiction of the board.

(2) A person desiring to appear under this subsection shall complete a registration form, as provided by the department, prior to the beginning of the open comment period.

(3) Except as provided in subsection (d)(6) of this section, each person shall be allowed to speak for a maximum of three minutes for each presentation in the order in which the speaker is registered.

(c) Disability accommodation. Persons with disabilities, who have special communication or accommodation needs and who plan to attend a meeting, may contact the department in Austin to request auxiliary aids or services. Requests shall be made at least two days before a meeting. The department shall make every reasonable effort to accommodate these needs.

(d) Conduct and decorum. The board shall receive public input as authorized by this section, subject to the following guidelines.

(1) Questioning of those making presentations shall be reserved to board members and the department's administrative staff.

(2) Organizations, associations, or groups are encouraged to present their commonly held views, and same or similar comments, through a representative member where possible.

(3) Presentations shall remain pertinent to the issue being discussed.

(4) A person who disrupts a meeting shall leave the meeting room and the premises if ordered to do so by the chair.

(5) Time allotted to one speaker may not be reassigned to another speaker.

(6) The time allotted for presentations or comments under this section may be increased or decreased by the chair, or in the chair's absence, the vice chair, as may be appropriate to assure opportunity for the maximum number of persons to appear.

(e) Waiver. Subject to the approval of the chair, a requirement of this section may be waived in the public interest if necessary for the performance of the responsibilities of the board or the department.

(f) When contested cases are presented to the Board for final decision, the following rules shall be applicable:

(1) Each party shall be allowed a minimum of 20 minutes to make a presentation to the Board.

(2) Any party intervening in support of a party shall share that party's time for presentation.

(3) The party with the burden of proof in the contested case shall be first to make its presentation and may reserve a portion of its 20 minutes to present a rebuttal of the presentation of the other party and/or a closing statement.

(4) Only the members of the Board and the Executive Director may question any person making a presentation on behalf of a party and may do so while the presentation is being made or after the presentation has been made. The person making the presentation for an opposing party shall be given an opportunity to rebut an answer presented on behalf of a party. The time a person making a presentation on behalf of a party is being asked or is responding to a question shall not be counted as a part of that party's time to make its presentation to the Board. Presentations, Board discussions and final decisions may not include or be based on information not in the administrative record.

(5) The department staff may advise the Board on the interpretation and application of any statute, regulation or department procedure, but shall not recommend a final decision to the Board.

WM. R. CROCKER

ATTORNEY AT LAW

P. O. BOX 1418

AUSTIN, TEXAS 78767



Ms. Whitney Brewster
Executive Director
Texas Department of Motor Vehicles
4000 Jackson Ave.
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May 4, 2020

For Email Transmission Only

To: Tracey.Beaver@txdmv.gov

Ms. Tracey Beaver, General Counsel
Office of the General Counsel
Texas Department of Motor Vehicles
4000 Jackson Avenue
Austin, Texas 78731

In re: Proposed Rule Relating to Oral Presentations to
the Board of the DMV Prior to Final Decisions
On Contested Cases

Dear Ms. Beaver,

Thank you for extending the opportunity to comment on the proposed amendments to the Board's Rules which have been drafted to deal with the above-referenced subject.

I would again urge you to consider the amendments I prepared to 43 TAC 206.22 and submitted to Executive Director Whitney Brewster on February 5, 2019 and then discussed with both you and her and your respective assistants on March 5, 2019.

The amendments I proposed are simple, clear and straightforward. They deal only with the provision of an opportunity for parties to a contested case to make a short oral presentation to the Board before the Board renders a Final Decision on the case, and how that presentation should be conducted.

The necessity for such an oral presentation cannot be overemphasized. So much can be at stake in contested cases, which only the Board can decide, that more than once parties have spent in excess of a million dollars in the preparation and trial of a contested case. Contested cases regularly involve extensive discovery, expensive expert witnesses, complicated analyses of extensive facts, hearings that extend through weeks, and extensive briefs for the benefit of SOAH Administrative Law Judges.

With all the materials relative to each meeting which must be read and digested, the Board can hardly be expected to absorb the extensive record of a hearing and an equally extensive Proposal for Decision prepared by SOAH Administrative Law Judges who may or may not have an understanding of the business of distributing and selling motor vehicles. The parties deserve an opportunity to present, and the Board definitely deserves an opportunity to hear, a brief summation of each contested case before rendering a decision which can profoundly affect the lives, livelihood and property of the parties.

The Board has, and is obligated to exercise, immense power over an industry which "vitally affects the general economy of the state and the public interest and welfare of its citizens."¹ The Board is charged with "the exercise of the state's police power to ensure a sound system of distributing and selling motor vehicles ...".² It is unfair to the parties in contested cases, to the people of the state of Texas, and to the Board members themselves, to compel the Board members to exercise that power without having heard a brief summary of each side in every contested case they must decide.

I urge you again to consider the amendments I have proposed to §206.22 of the Board's Rules, a highlighted copy of which is attached.

Yours very truly,



Wm. R. Crocker

¹ §2301.001 Texas Occupations Code

² Ibid.

Texas Administrative Code

[Next Rule>>](#)

TITLE 43	TRANSPORTATION
PART 10	TEXAS DEPARTMENT OF MOTOR VEHICLES
CHAPTER 206	MANAGEMENT
SUBCHAPTER B	PUBLIC MEETINGS AND HEARINGS
RULE §206.22	Public Access to Board Meetings

(a) Posted agenda items. A person may speak before the board on any matter on a posted agenda by submitting a request, in a form and manner as prescribed by the department, prior to the matter being taken up by the board. A person speaking before the board on an agenda item will be allowed an opportunity to speak:

(1) prior to a vote by the board on the item; and

(2) for a maximum of three minutes, except as provided in subsections (d)(6) and (f)(1) of this section.

(b) Open comment period.

(1) At the conclusion of the posted agenda of each regular business meeting, the board shall allow an open comment period, not to exceed one hour, to receive public comment on any other matter that is under the jurisdiction of the board.

(2) A person desiring to appear under this subsection shall complete a registration form, as provided by the department, prior to the beginning of the open comment period.

(3) Except as provided in subsection (d)(6) of this section, each person shall be allowed to speak for a maximum of three minutes for each presentation in the order in which the speaker is registered.

(c) Disability accommodation. Persons with disabilities, who have special communication or accommodation needs and who plan to attend a meeting, may contact the department in Austin to request auxiliary aids or services. Requests shall be made at least two days before a meeting. The department shall make every reasonable effort to accommodate these needs.

(d) Conduct and decorum. The board shall receive public input as authorized by this section, subject to the following guidelines.

(1) Questioning of those making presentations shall be reserved to board members and the department's administrative staff.

(2) Organizations, associations, or groups are encouraged to present their commonly held views, and same or similar comments, through a representative member where possible.

(3) Presentations shall remain pertinent to the issue being discussed.

(4) A person who disrupts a meeting shall leave the meeting room and the premises if ordered to do so by the chair.

(5) Time allotted to one speaker may not be reassigned to another speaker.

(6) The time allotted for presentations or comments under this section may be increased or decreased by the chair, or in the chair's absence, the vice chair, as may be appropriate to assure opportunity for the maximum number of persons to appear.

(e) Waiver. Subject to the approval of the chair, a requirement of this section may be waived in the public interest if necessary for the performance of the responsibilities of the board or the department.

(f) When contested cases are presented to the Board for final decision, the following rules shall be applicable:

(1) Each party shall be allowed a minimum of 20 minutes to make a presentation to the Board.

(2) Any party intervening in support of a party shall share that party's time for presentation.

(3) The party with the burden of proof in the contested case shall be first to make its presentation and may reserve a portion of its 20 minutes to present a rebuttal of the presentation of the other party and/or a closing statement.

(4) Only the members of the Board and the Executive Director may question any person making a presentation on behalf of a party and may do so while the presentation is being made or after the presentation has been made. The person making the presentation for an opposing party shall be given an opportunity to rebut an answer presented on behalf of a party. The time a person making a presentation on behalf of a party is being asked or is responding to a question shall not be counted as a part of that party's time to make its presentation to the Board. Presentations, Board discussions and final decisions may not include or be based on information not in the administrative record.

(5) The department staff may advise the Board on the interpretation and application of any statute, regulation or department procedure, but shall not recommend a final decision to the Board.

CARDWELL, HART & BENNETT, L.L.P.

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May 4, 2020

*Via Email (rules@txdmv.gov)*Ms. Tracey Beaver
General Counsel
Texas Department of Motor Vehicles
4000 Jackson Avenue
Austin, Texas 78731Re: Informal Working Draft and Request for Informal Comments on Rules
Relating to Contested Cases.

Dear Ms. Beaver:

Thank you for the opportunity to submit informal comments on the Staff's working draft of proposed rules for the Board's review of a proposal for decision in a contested case. Attached are suggested revisions (in redline) to the working draft of the following rules:

1. **43 T.A.C. § 215.59.** Section 2001.062(a)(2) of the Tex. Gov't Code ("APA") gives the parties to a contested case the opportunity to "present briefs to the officials who are to render the decision," *i.e.*, the board. The suggested revision to subsection (a) of § 215.59 establishes a schedule for presenting written briefs to the board. The suggested revision to subsection (b) would allow a board member to obtain a recommended final decision from the department. Aside from the board's three dealer members and the one manufacturer/distributor member, the other area of agency expertise is in the department. Understandably, a public member of the board with limited background or experience in the motor vehicle industry would find a recommendation from the department helpful in deciding what action should be taken in the case to reach a final decision. For that reason, the suggested revision to subsection (b) permits a board member to ask the department for a written recommendation before the board meeting, but also requires the department's recommendation to be shared with the other board members and with the parties.

2. **43 T.A.C. § 215.60.** Section 2001.060 of the APA sets forth the contents of the administrative record in a contested case. The record made at SOAH is not the

entire administrative record, but only a subset of it. Oral argument and discussion at the board meeting should not, therefore, be confined solely to the SOAH record. For example, cases have arisen in the past, and could in the future, where the board decides to remand the case to SOAH for the taking of additional evidence based on information submitted to the board by a party or the department after the SOAH proceeding had ended.

The suggested revision to subsection (a) of § 215.60, therefore, limits arguments and discussion to the administrative record unless a party contends that the case should be remanded to SOAH for the taking of additional evidence.

The suggested revision to subsection (b) requires each party to assist the board in its review of the case by informing the board if another party violates subsection (a) in its oral presentation. Given the time constraints placed on parties in making oral presentations, especially in cases with voluminous records, it seems unfair to make the party risk waiving error by failing to object during the other party's oral presentation. For that reason, revised subsection (b) would provide that the party's failure to object to another party's violation of subsection (a) does not waive the error.

3. **43 T.A.C. § 215.61.** The suggested revision to subsection (b) recognizes that oral argument is not mandatory in every contested case and that the board may decide not to hear oral argument in a particular case. As to the order of presentation, it might be difficult in some cases to identify which party is "adversely affected" by the proposal for decision. A proposed decision could adversely affect both parties and a dispute could arise concerning which party was most adversely affected. On the other hand, identifying the party with the burden of proof is rarely difficult to determine. The suggested revision, therefore, provides that if oral argument is granted, then the party with the burden of proof has the right to open and close the oral presentations. Each side would be given a minimum of 20 minutes to make its respective argument, and the party with the burden of proof could reserve up to 5 minutes of its allotted time to make a rebuttal argument.

4. **43 T.A.C. § 215.62.** The suggested revision to subsection (a) tracks the language of § 2001.058(e) of the APA. The suggested revision to subsection (b) allows the board to ask questions about matters in the administrative record or conducive to the issuance of a final order, including, but not limited to, a remand to SOAH. The suggested revision to subsection (c) tracks the language of § 2301.709(d)(5) and would eliminate the remaining language.

Thank you again for the opportunity to submit these comments.

Very truly yours,

A handwritten signature in blue ink, appearing to read 'J. Bruce Bennett', with a long horizontal flourish extending to the right.

J. Bruce Bennett

Enclosure

Review of Contested Cases

43 TAC § 215.59

§215.59 Role of Department [Staff] in Managing Board's Review of Contested Cases.

(a) At least thirty (30) days [two weeks] prior to a board meeting during which the board will review a contested case and hear oral argument, department [staff] will notify the parties regarding the opportunity to present written briefs to the board, to attend the meeting and present [provide] oral argument. A party's written brief must be filed with the department and served on all parties in accordance with § 215.30 and § 215.49 of this title not less than twenty (20) days before the board meeting. Any reply brief must be filed with the department and served on all parties in accordance with § 215.30 and § 215.49 of this title not less than ten (10) days before the board meeting.

(b) Except as prohibited by Government Code §2001.061, and §215.22 of this title (relating to Prohibited Communications), the department [staff] may advise the board regarding the contested case review. [However, staff] The department shall not recommend a final decision unless the department is a party to the contested case or unless a board member requests a written recommendation from the department at least three (3) days before the meeting at which the contested case will be reviewed. A department recommendation, if any, made in response to a board member's request shall be provided to all board

members and be served by the department on all parties prior to the board meeting in accordance with § 215.49 of this title.

Limiting Arguments and Discussion to Evidence in the Administrative Record
43 TAC §215.60

§215.60 Limiting Arguments and Discussion to Evidence in the Administrative Record.

(a) The parties to a contested case under review and in which oral argument will be heard by the board must limit their arguments and discussion in any written brief or oral presentation to the board to matters contained [evidence] in the [SOAH] administrative record, unless a party contends that the case should be remanded to SOAH for the taking of additional evidence.

(b) During its oral presentation to the board, a [Each] party [is responsible for] shall assist the board in its review of the contested case by informing the board [objecting] when another party has argued or discussed evidence in its brief or oral presentation in violation of subsection (a) of this rule. [attempts to make arguments or discuss evidence that is not contained in the SOAH administrative record.] A party's failure to inform the board of another party's violation of subsection (a) of this rule shall not constitute a waiver of the violation or preclude the complaining party from raising the violation as a ground for rehearing in a motion for rehearing

of the board's final order or decision and in a petition for judicial review of the board's final order or decision.

Order of Presentation to the Board for Review of a Contested Case

43 TAC §215.61

§215.61 Order of Presentations to the Board for Review of a Contested Case.

(a) The department [s staff] will present the procedural history and summary of the contested case.

(b) If the Board decides to hear oral argument from the parties to the contested case, then the party or parties with the burden of proof [The party that is adversely affected shall have [has] the opportunity to present oral argument [its case] first and shall be given collectively a minimum of twenty (20) minutes in which to make the oral argument, and may reserve up to five (5) minutes of the allotted time in which to present a rebuttal argument. [(c)] The other party or parties shall then have an opportunity to respond. and shall be given collectively a minimum of twenty (20) minutes in which to make the oral argument. [If there are more than one other party, each party will have an opportunity to respond in alphabetical order based on the name of the party in the pleadings in the SOAH administrative record. (d) Each party then has an opportunity to provide a rebuttal.]

Board Conduct and Discussion When Reviewing a Contested Case

43 TAC § 215.62

§215.62 Board Conduct and Discussion When Reviewing a Contested Case.

(a) The board will conduct its review of a contested case in compliance with Occupations Code Chapter 2301 and Government Code Chapter 2001, including the limitations on changing a finding of fact or conclusion of law made by the administrative law judge and the limitations on vacating or modifying an order issued by the administrative law judge. ~~[and the prohibition on considering evidence outside of the SOAH administrative record.]~~

(b) Board members may question a party or the department about [any party on] any matter that is relevant to the proposal for decision, that is in the administrative record, or conducive to the issuance of a final order, including but not limited to, a remand of the case to SOAH for further proceedings. ~~[and evidence contained in the SOAH administrative record]~~

(c) When reviewing a contested case, board members shall distinguish between using industry expertise and representing or advocating for an industry. ~~[Board members may use their industry expertise to help them understand the case and make effective decisions. However, board members are not advocates for a particular industry. Board members are public servants who take an oath to~~

~~preserve, protect, and defend the Constitution and laws of the United States and Texas.]~~

WM. DAVID COFFEY, III
BOARD CERTIFIED ADMINISTRATIVE LAW
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May 4, 2020

Via Email (rules@txdmv.gov)

Tracey Beaver, General Counsel
Office of General Counsel
Texas Department of Motor Vehicles
4000 Jackson Avenue, Bldg. 1
Austin, TX 78731

RE: Comments to TxDMV Informal Draft Rule Posting for 43 TAC §§ 206.22, 215.22, 215.55, 215.59-215.62

Dear Ms. Beaver

These comments by Coffey & Alaniz, PLLC on the Texas Department of Motor Vehicles (TxDMV) informal working draft of rules to establish standards for reviewing a case under Texas Occupations Code § 2301.709(d) issued by the agency on April 2, 2020, are offered in the interest of its clients.

Mr. Coffey has been practicing as an attorney before this agency and its predecessors (TMVC, MVD) for over 30 years and Mr. Alaniz for over 12 years, representing franchised new motor vehicle dealers. Our comments are informed by our unique experience in the industry and a practical understanding of the unintended effects such rules may have on the parties and practitioners before this agency.

Under Tex. Occ. Code § 2301.153(a)(7) the TxDMV Board has the power to “specify and govern appearance, practice, and procedures before the board.” Additionally, the agency is commanded to adopt certain standards for reviewing a case under Tex. Occ. Code § 2301.709(d), which states that “[t]he board shall adopt rules and policies that establish standards for reviewing a case under this subchapter....” Section 2301.709(d) includes five subsections describing the specific types of rules and policies that the agency must specify and address.

Rejected Petitioned Amendments to Rule § 206.22, Public Access to Board Meetings

- *Re-Consider and Adopt Mr. Crocker’s Amendments to Rule § 206.22*

First, we begin with the notably absent proposed rule amendments to 43 TAC § 206.22 as outlined in the petition for rulemaking submitted by Mr. William Crocker on February 5, 2019 (attached). Mr. Crocker’s proposed amendments were well taken. The agency should not have rejected Mr. Crocker’s proposed amendments and we urge their re-consideration and adoption.

- *Minimum 20-Minute Contested Case Presentation – Proposed § 206.22(f)*

We recommend that the agency reconsider and include Mr. Crocker’s proposed changes in subsection (f), specifically the minimum of 20 minutes for a party to make a presentation to the Board when a contested case is presented to the Board for final decision.

We agree with Mr. Crocker that “[i]t is unfair to the Board and to the parties to have the presentations to the Board limited to three minutes.” Three minutes is woefully inadequate. It virtually ensures that there will be no serious consideration of SOAH’s proposal for decision and that the Board’s role as final decision maker will be minimized.

A minimum 20-minute time limit still allows the Board the discretion to increase the time allotted based on the circumstances of each individual case while preserving due process for the parties. One example would include an additional 10 minutes for rebuttal in a more complex case. The 20-minute minimum for parties to contested cases also does not conflict with the 3-minute allotment for public comments under existing subsection (b)(3).

The apparent inclination by some to shorten presentations to the Board seems to be informed by the fact that parties have already had a chance to litigate before SOAH. This, however, is a poor substitute for an opportunity to present evidence and argument to the Board. SOAH is not a final decision maker. The Board is. SOAH is not empowered to make policy decisions for the Board. Only the Board can do that. In order for the Board to best do its job, the parties must be allowed the opportunity to argue the importance of the evidence presented to SOAH so that the Board can make an informed decision. This takes time and cannot be done in a 3-minute soundbite.

The urgency for this change is highlighted in Mr. Crocker’s petition, but the issue has affected our clients and practice before the Board as well. For example, recently one of our clients was noticed that it would be limited to a mere 10-minute opportunity for oral argument on a lengthy contested case before the Board. This is an outrageous limitation considering the fact that it was a termination case where the distributor is attempting to terminate a dealer of greater than 50 years standing. Additionally, the case included a counter-complaint that was not afforded equal or additional time in oral argument and which we would be forced to not defend in order to use all the limited time for the termination defense.

As Mr. Crocker stated in his petition, “[i]n many contested cases, the parties will have spent hundreds of thousands of dollars in the course of preparing and trying the case to SOAH.” The same is true in our case where the dealer is facing the loss of a 50-year investment and multimillion dollar motor vehicle franchise.

This is why we believe that a minimum of 20 minutes to present a party’s case with 10 minutes for rebuttal is a reasonable bare minimum.

- *Allow the Use of Presentation Aids*

Additionally, to build on Mr. Crocker’s proposal, we also recommend that the agency include language to allow parties to present to the Board with presentation aids such as poster boards or PowerPoint presentations. These have recently started to be prohibited by the agency.

We believe that that these presentation aids are necessary to assist the Board in understanding the complexities of these cases. Too often, SOAH ignores or downplays evidence that does not fit its narrative or support its proposed outcome. Without the opportunity to present important evidence in the form of presentation aids, the Board will make decisions based on a one-sided (SOAH’s) view of the evidence. Any presentation aid, of course, would be limited to items in the administrative record such as exhibits and data admitted at SOAH.

Again, the Board cannot adequately consider the evidence on which it must base its policy decisions unless it has been presented with that evidence outside the filter of the SOAH PFD. Therefore, the Board should not prohibit the use of presentation aids in the oral argument of contested cases.

Powers, Authority, and Responsibilities of TxDMV Board

The TxDMV Board is tasked with the duty and expertise of administering, enforcing, and interpreting Chapter 2301 of the Texas Occupations Code. Its powers are broad for executing that duty as follows:

- Under Tex. Occ. Code § 2301.151(a), “[t]he board has the exclusive original jurisdiction to regulate those aspects of the distribution, sale, or lease of motor vehicles that are governed by [Chapter 2301]....”¹
- Under Tex. Occ. Code § 2301.151(b), “[t]he board may take any action that is specifically designated or implied under this chapter or that is necessary or convenient to the exercise of the power and jurisdiction granted under [the board’s exclusive original jurisdiction].”²
- Under Tex. Occ. Code § 2301.152, the Board has the duty to “ensure that the distribution, sale, and lease of motor vehicles is conducted as required by this chapter and board rules” and to “prevent fraud, unfair practices, discrimination, impositions, and other abuses in connection with the distribution and sale of motor vehicles.”³
- The general powers of the Board are laid out in Tex. Occ. Code § 2301.153, which includes “[n]otwithstanding any other provision of law, the board has all powers necessary, incidental, or convenient to perform a power or duty expressly granted under this chapter,....”

¹ Tex. Occ. Code § 2301.151(a).

² Tex. Occ. Code § 2301.151(b).

³ Tex. Occ. Code § 2301.152(a)(1), (3), and (5).

Therefore, we caution that any administrative rules that seek to undermine or reduce the Board's existing powers and duties would be in conflict with the chapter itself.

An understanding of the motor vehicle industry is necessary in exercising those powers and duties. The complexities of a franchised dealer's multi-faceted business are numerous and the public benefits from the Board's expertise. SOAH has no special expertise in this industry. The Board, with its industry participants, does.

Agencies are considered to have expertise over the matters that they regulate since, "[a]n administrative agency is created to centralize expertise in a certain regulatory area and, thus, is to be given a large degree of latitude by the courts in the methods by which it accomplishes its regulatory function."⁴

According to Professor Ronald Beal:

The [SOAH] ALJ is mandated to apply the existing legal standard to the underlying or basic facts and to propose an order to the agency. Ultimately, however, the agency is charged with the implementation and application of the policy and may substitute judgment for that of the ALJ as to the ultimate fact findings as long as it is set forth in a reasonable and legally correct manner.⁵

Consequently, the TxDMV Board is more than just a rubber stamp for SOAH proposals for decision or the legislature would have vested SOAH with the final order authority and creation of policy under Chapter 2301.

Proposed Amendment to Rule § 215.22, Prohibited Communications

Under Tex. Occ. Code § 2301.709(d)(4), the rules must "address ex parte communications." We do not have any specific objection to the proposed amendments to Rule § 215.22, Prohibited Communications, and believe it complies with the statutory mandate.

Proposed Amendment to Rule § 215.55, Final Decision

We do not have any objection or opinion on the proposed amendments to Rule § 215.55, Final Decision.

New Rule § 215.59, Role of Department Staff in Managing Board's Review of Contested Cases

Under Tex. Occ. Code § 2301.709(d)(1), the rules must "specify the role of division personnel in managing contested cases before the board or a person delegated power under Section 2301.154, including advising on procedural matters."

⁴ See *Public Util. Comm'n v. GTE-Southwest, Inc.*, 901 S.W.2d 401, 409 (Tex. 1995) (quoting *City of Corpus Christi v. Public Util. Comm'n*, 572 S.W.2d 290, 297 (Tex. 1978)); See also e.g., *Ford Motor Co. v. Butnaru*, 157 S.W.3d 142, 147 (Tex. App.—Austin 2005) ("[t]he supreme court also determined that the Butnarus' claims raise issues within the Board's special competence and expertise.").

⁵ RONALD L. BEAL, TEX. ADMIN. PRAC. & PROC. § 8.3.2[a] (2016).

We support the addition of Rule § 215.59, Role of Department Staff in Managing Board's Review of Contested Cases, specifically the inclusion of subsection (b) which states that "staff shall not recommend a final decision unless the department is a party to the contested case." The Proposal for Decision from the SOAH Administrative Law Judge should be the only recommendation for a final order that the Board considers.

We believe that the proposed rule complies with the statutory mandate under Tex. Occ. Code § 2301.709(d)(1). We do believe, however, that any staff recommendation should be made available to the affected parties prior to argument before the Board. This is a fundamental tenet of due process.

New Rule § 215.60, Limiting Arguments and Discussion to Evidence in the Admin Record

Under Tex. Occ. Code § 2301.709(d)(3), the rules must "specify clear expectations limiting arguments and discussion under Subsection (b) to evidence in the record of the contested case hearing held by the administrative law judge."

We do not have any specific objection to the current language in the addition of Rule § 215.60, Limiting Arguments and Discussion to Evidence in the Administrative Record.

We do note, however, that the rule doesn't account for, clarify, or address a circumstance where a party is arguing that the error under Tex. Gov't Code § 2001.058(e) is that the SOAH ALJ did not admit certain evidence presented. SOAH's evidentiary rulings should be allowed to be addressed and discussed at oral argument since they may be an issue on a motion for rehearing or a basis for remand on appeal.

New Rule § 215.61, Order of Presentations to the Board for Review of a Contested Case

There is no specific subsection that this new rule applies to other than generally the Tex. Occ. Code § 2301.709(d) mandate that "[t]he board shall adopt rules and policies that establish standards for reviewing a case under this subchapter."

We do not have an objection to the addition of Rule § 215.61, Order of Presentations to the Board for Review of a Contested Case, and agree that a party that is adversely affected should have the opportunity to present its case first to the Board on oral argument with an opportunity for rebuttal.

We do note, however, that the new proposed rule does not account for a case where *Party A* wins on one cause of action and *Party B* wins on another cause of action. In that case, both parties would theoretically get to go first and get a rebuttal. We recommend additional language to clarify that situation and/or allow the Board to have the discretion for presentation order in that event.

New Rule § 215.62, Board Conduct and Discussion When Reviewing a Contested Case

Under Tex. Occ. Code § 2301.709(d)(2), the rules must “specify appropriate conduct and discussion by the board or a person delegated power from the board under Section 2301.154 regarding proposals for decision issued by administrative law judges.”

Under Tex. Occ. Code § 2301.709(d)(5), the rules must “distinguish between using industry expertise and representing or advocating for an industry when reviewing a case under this subchapter.”

We do not object to the current language in the addition of Rule § 215.62, Board Conduct and Discussion When Reviewing a Contested Case, and it is in compliance with Tex. Occ. Code §§ 2301.709(d)(2) and (5).

We hope that the TxDMV takes our comments into serious consideration before moving forward with adopting any of these proposed rules and rule amendments.

Please let us know if you have any questions.

Sincerely,

By:



Wm. David Coffey, III
Attorney at Law
Coffey & Alaniz, PLLC

By:



Martin Alaniz
Attorney at Law
Coffey & Alaniz, PLLC

Enclosure

ATTACHMENT

Petition for Rulemaking submitted by
Mr. William Crocker on February 5,
2019

WM. R. CROCKER

ATTORNEY AT LAW

P. O. BOX 1418

AUSTIN, TEXAS 78767

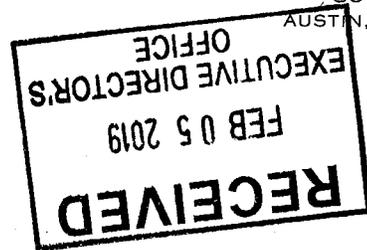
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FAX: 512-474-2540

E-MAIL: CROCKERLAW@EARTHLINK.NET

February 5, 2019

STE. 1014
807 BRAZOS
AUSTIN, TEXAS 78701

Ms. Whitney Brewster
Executive Director
Texas Department of Motor Vehicles
4000 Jackson Ave.
Austin, TX 78731

Re: Suggested Rule for Protested Case Arguments, Presentations

Dear Ms. Brewster:

As you know, through the last few years I have been involved in the presentation of several protested cases to the DMV Board. Sometimes the presenters have been allowed three minutes for and three minutes against the adoption of a Proposal for Decision from the State Office of Administrative Hearings (SOAH). Other times, the presenters have been allowed more time, presumably by suspension of rules.

Decisions of the Board in contested cases can affect both the lives and the fortunes of your licensees. In some instances, many millions of dollars are resting on the decision of the Board. In many contested cases, the parties will have spent hundreds of thousands of dollars in the course of preparing and trying the case to SOAH. Unfortunately, the SOAH judges normally do not have any expertise in the complex motor vehicle manufacturing and selling industries. The Board is presumed to have that expertise. But the Board cannot try the cases and cannot be present when they are tried. The Board's decision must be made on the SOAH recommendation and the presentations by the parties to the contested cases. It is unfair to the Board and to the parties to have the presentations to the Board limited to three minutes.

In order to remedy that unfairness to the degree possible, I have drafted the enclosed amendment to the existing DMV rules to allow a more complete presentation and a more fair presentation. My recommendations for changes to the existing rule are highlighted on the attached copy so they can be easily identified.

I have circulated this amendment among all of the practitioners I know who handle DMV contested cases affecting franchised dealers, both those who represent the manufacturers and those who represent the dealers. The only responses I have received have been favorable. I have received no negative responses.

Page 2

I would appreciate it if you would initiate the necessary process for review and possible adoption of the amendment. I will make myself available to you and your staff at any time to discuss the proposed amendment and would appreciate the opportunity to so.

If you have any preliminary questions or concerns you want to discuss, please do not hesitate to let me know. Your thoughts will be welcomed.

Yours very truly,



Wm. R. Crocker

WRC:tc

Enclosure

Texas Administrative Code

Next Rule>>

<u>TITLE 43</u>	TRANSPORTATION
<u>PART 10</u>	TEXAS DEPARTMENT OF MOTOR VEHICLES
<u>CHAPTER 206</u>	MANAGEMENT
<u>SUBCHAPTER B</u>	PUBLIC MEETINGS AND HEARINGS
<u>RULE §206.22</u>	Public Access to Board Meetings

(a) Posted agenda items. A person may speak before the board on any matter on a posted agenda by submitting a request, in a form and manner as prescribed by the department, prior to the matter being taken up by the board. A person speaking before the board on an agenda item will be allowed an opportunity to speak:

- (1) prior to a vote by the board on the item; and
- (2) for a maximum of three minutes, except as provided in subsections (d)(6) and (f)(1) of this section.

(b) Open comment period.

(1) At the conclusion of the posted agenda of each regular business meeting, the board shall allow an open comment period, not to exceed one hour, to receive public comment on any other matter that is under the jurisdiction of the board.

(2) A person desiring to appear under this subsection shall complete a registration form, as provided by the department, prior to the beginning of the open comment period.

(3) Except as provided in subsection (d)(6) of this section, each person shall be allowed to speak for a maximum of three minutes for each presentation in the order in which the speaker is registered.

(c) Disability accommodation. Persons with disabilities, who have special communication or accommodation needs and who plan to attend a meeting, may contact the department in Austin to request auxiliary aids or services. Requests shall be made at least two days before a meeting. The department shall make every reasonable effort to accommodate these needs.

(d) Conduct and decorum. The board shall receive public input as authorized by this section, subject to the following guidelines.

(1) Questioning of those making presentations shall be reserved to board members and the department's administrative staff.

(2) Organizations, associations, or groups are encouraged to present their commonly held views, and same or similar comments, through a representative member where possible.

(3) Presentations shall remain pertinent to the issue being discussed.

(4) A person who disrupts a meeting shall leave the meeting room and the premises if ordered to do so by the chair.

(5) Time allotted to one speaker may not be reassigned to another speaker.

(6) The time allotted for presentations or comments under this section may be increased or decreased by the chair, or in the chair's absence, the vice chair, as may be appropriate to assure opportunity for the maximum number of persons to appear.

(e) Waiver. Subject to the approval of the chair, a requirement of this section may be waived in the public interest if necessary for the performance of the responsibilities of the board or the department.

(f) When contested cases are presented to the Board for final decision, the following rules shall be applicable:

(1) Each party shall be allowed a minimum of 20 minutes to make a presentation to the Board.

(2) Any party intervening in support of a party shall share that party's time for presentation.

(3) The party with the burden of proof in the contested case shall be first to make its presentation and may reserve a portion of its 20 minutes to present a rebuttal of the presentation of the other party and/or a closing statement.

(4) Only the members of the Board and the Executive Director may question any person making a presentation on behalf of a party and may do so while the presentation is being made or after the presentation has been made. The person making the presentation for an opposing party shall be given an opportunity to rebut an answer presented on behalf of a party. The time a person making a presentation on behalf of a party is being asked or is responding to a question shall not be counted as a part of that party's time to make its presentation to the Board. Presentations, Board discussions and final decisions may not include or be based on information not in the administrative record.

(5) The department staff may advise the Board on the interpretation and application of any statute, regulation or department procedure, but shall not recommend a final decision to the Board.



10816 Crown Colony Drive, Suite 200
Austin, TX 78747 • www.trva.org
P 512-327-4514 • F 512-327-4516
Phil Elam • Executive Director

Serving the RV industry since 1974.

May 4, 2020

Ms. Tracy Beaver, General Counsel
Texas Department of Motor Vehicles
6084000 Jackson Ave.
Austin, TX 78731

Via: email to rules@txdmv.gov

Re: Informal Working Draft and Request for Informal Comments on Rules Relating to Contested Cases; and Petition for Rulemaking, Texas Administrative Code, Title 43, Chapter 215, Subchapter B, §215.22 and §215.55; §§215.59 - 215.62

Dear Ms. Beaver:

Thank you for allowing us to submit a comment on the informal working draft and request for informal comments regarding rules for Contested Cases.

TRVA's Interest in the Issue

The Texas Recreational Vehicle Association (TRVA) is a statewide trade association of Texas businesses involved in the recreational vehicle industry. Our membership includes licensed recreational vehicle dealers, licensed dealer repair and service facilities and RV parks located throughout the State of Texas. Our members include small family operations as well as companies with multiple locations.

TRVA's members are part of the Texas motor vehicle industry. The recreational vehicle business provides over four billion dollars annually to the Texas economy and provides transportation and shelter services to the state. Our industry members are classified as essential businesses under Governor Abbott's orders in the COVID 19 period. As our state begins the uphill task of trying to regain momentum, our members' contribution to the Texas economy will be even more important.

TRVA appreciates your request to comment on the informal draft. Contested cases under Chapter 2301 involving members will directly affect their ability to continue in business and serve the public.

1. Proposed changes in the informal draft.



In general, TRVA believes that the draft additions regarding ex parte communications, limiting argument to the record, providing two weeks' notice of a hearing, right of rebuttal, Board members' right to ask questions and the role of Board members' expertise would be appropriate. The draft should be amended to address issues raised by Mr. Crocker, as set forth below.

2. Additional changes proposed by Mr. William Crocker.

TRVA concurs with and supports the additional changes proposed by Mr. Crocker. The opportunity to make a presentation in a contested case is fundamentally different from the general opportunity to comment on items on the Board's agenda. A contested case determines important rights and obligations of the parties in an adversarial proceeding. Members who have invested heavily in a workforce, facility and inventory may have it all at risk based on the result of a contested hearing. A contested case should have a reasonable presentation standard separate from the three minutes allowed for general comments.

Due process and fairness to the parties require that they be given adequate time to present their case, with the future of their businesses often on the line. Due process requires that the parties' counsel have sufficient time to address the evidence in the record, the administrative law judge's findings of fact and any technical errors in them, the administrative law judge's conclusions of law and whether the administrative law judge properly applied and interpreted applicable law, agency rules, written policies, and prior administrative decisions, and the proposal for decision. Likewise, in determining a contested case the Board's members should be allowed to have the benefit of adequate presentations by both parties and the opportunity to ask questions, in order to have confidence in making the difficult decisions that will affect the regulated businesses and their employees and customers.

In addition to the need to provide due process and fairness, it is important that citizens have confidence that they will be given a reasonable opportunity to present their case. No one would want to invest their life's work and savings to a business only to have it at risk in a hearing without enough time to present the case to the ultimate decision-maker and answer the decision-maker's questions.

To both allow due process and fairness and to ensure that our citizens know that they will get a full and fair hearing, the rules should set a different standard for contested cases than the three minutes allowed for comment on more general agenda items. We understand that the Chair has discretion to extend the time and appreciate the discretion that has been exercised to allow additional time on past matters. However, due process and fairness are served by an assurance of a reasonable time for fair presentation. The proposal of twenty minutes per side, to be allocated between initial presentation and rebuttal, and sometimes to be divided among parties when there are multiple parties on side, seems a reasonable standard. Even a fifteen-minute standard for situations in which there is only one party per side would be more appropriate than a three-minute standard.



The Board should adopt a reasonable time for each party to a contested case to present its case. Doing so will assist in fulfilling the Board's role in preserving a vigorous and fair marketplace in an industry that the Legislature has declared to be vital to the public interest of the state.¹

The Texas Recreational Vehicle Association appreciates the opportunity to submit its comment and will be glad to provide any further information on the draft or any actual proposed changes.

Respectfully submitted,



Executive Director
Texas Recreational Vehicle Association

¹ Tex. Occ. Code §2301.001. CONSTRUCTION; PURPOSE. The distribution and sale of motor vehicles in this state vitally affects the general economy of the state and the public interest and welfare of its citizens. This chapter shall be liberally construed to accomplish its purposes, including the exercise of the state's police power to ensure a sound system of distributing and selling motor vehicles through:

- (1) licensing and regulating manufacturers, distributors, converters, and dealers of motor vehicles; and
- (2) enforcing this chapter as to other persons to provide for compliance with manufacturer's warranties and to prevent fraud, unfair practices, discrimination, impositions, or other abuse of the people of this state.



Susan G. White, Esq.
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swhite@shackelford.law

May 4, 2020

Ms. Whitney Brewster
Executive Director
Texas Department of Motor Vehicles
Motor Vehicle Division
4000 Jackson Street
Austin, Texas 78731

RE: Suggested Rule for Protested Case Arguments, Presentations

Dear Ms. Brewster:

Please accept this letter as my support for the February 5, 2019 correspondence from Mr. Wm. R. Crocker, along with his proposed revision to 43 T.A.C. Sec. 206.22 (the addition of (f)(1)).

While it has been some time since I have had the privilege of presenting a protested case matter to the Board, in the past, when I have done so, neither I nor my former deceased partner David Sapp were ever limited to three (3) minutes in which to present our argument to the Board. To echo Mr. Crocker's sentiment, many times these are complex cases in which millions of dollars are at stake, and hundreds of thousands (if not millions) of dollars have been spent litigating the matter. To not allow ample opportunity to present the matter to the Board is detrimental to *all* parties involved.

I respectfully request that Mr. Crocker's proposed amendment be adopted.

If you have any questions, I would be happy to hear from you.

Best regards,



Susan G. White

From: [Buddy Ferguson](#)
To: [Zz - Resource - GCO Rules](#)
Subject: Informal Draft of Proposed Rules ----Comments
Date: Monday, May 4, 2020 4:57:41 PM

Ms. Beaver,

Below are my informal comments on the informal working draft of rule changes to 215.22, 215.55, 215.59 to 215.62:

215.22:

215.22(a)-----I realize the following is beyond the proposed informal draft. But if we are going to amend the rule, it makes sense to consider global changes that may work with the changes that are being considered.

The use of the terms “of record” and “authorized” appear to create gray areas in which communications could occur. For example, consider an attorney who is not an attorney of record. Could that attorney engage in an ex parte communication? Probably not if they were an authorized representative of the party. But what about a situation where a party is a member of an association and someone who is a part of that association takes it upon themselves to have ex parte communications?

The purpose of not allowing ex parte communications is to keep a level playing field so the parties and the public are aware of what information influenced the decision makers.

Perhaps the best fix is to begin rule 215.22 with the phrase, “*No person shall engage in, directly or indirectly,*”

Let me add that I have read Mr. Crocker’s proposed changes as contained in the April 2, 2020 Board meeting e-book. I have great respect for Mr. Crocker. I agree that three minutes is not enough time to discuss a case. However, I’m not sure 20 minutes would be appropriate either. But rather than get caught up on how much time is allowed, the rules should be focused on the fact that the discussion and presentations should be limited to those matters set forth in Section 2301.058(e) of the Government Code. That is the section that discusses when it is appropriate for a state agency to change a finding of fact, a conclusion or law or to vacate, or modify an order issue by a SOAH ALJ. I fear that Mr. Crocker’s proposal, while correct on the surface about how much time is needed, merely leads the Board back into issues that were the subject of the last Sunset Review and Legislative Session. The days of the Board acting as some type of unbridled fact finder ended long ago. It is time for the Board to acknowledge the limitations that have been placed on them (and other agencies) by the Texas Legislature and limit discussions and presentations to the issues set forth in Section 2301.058(e). To do otherwise, just leads to Board meetings where even those with the best of intentions go astray.

Section 215.59(b): Section 2001.061 of the Government Code is written such that communications are prohibited unless allowed by rule. Perhaps the better wording would be for the

rule to written in light of that verbiage. I would suggest the following:

Unless permitted under Section 2001.061 of the Government Code and Section 215.22 of this title, departmental staff may not advise the board regarding a contest case.

As to the second sentence of 215.59(b), I am assuming that is being stated to allow the department to argue for a final decision as a party with notice to all. In that context, I have no problem with it.

Section 215.60---Limiting Argument and Discussion to Evidence in the Administrative Record.

Section 215.60(a): I am not sure what the SOAH Administrative Record means. Is it simply the evidence that was admitted? What if evidence was excluded and the party submitted an Offer of Proof? Isn't that a part of the SOAH Administrative Record? (See Tex. Government Code 2001.060(4)) Granted it is not admitted evidence but I do not think a party should be allowed to argue to the board unadmitted evidence that is contained in an "offer of proof". Perhaps the word "admitted" should be added in subsection (a) before the word "evidence".

Section 215.60(b): Why put the burden on the non-offending party to object? Does it create a waiver if they do not object? It should not. The law is clear that the board is not to consider evidence that was not admitted. So adding a burden to the party who is not violating the rules seems backwards.

Plus, once an objection is made, who is going to decide if something is in the record or outside the record? Do we really want the board's time taken up with acting like a judge on what is or is not in a record that they have not read? Again, a party should not be allowed to go outside the evidence that was admitted into the record. Clearly, the board is not supposed to consider facts or evidence that was not admitted into the record. I'm just not sure we want to shift the burden to the other party to object and for the board to then make a ruling. It seems like the party that goes outside the record should bear the consequences of their actions—which could be raised in a Motion for Rehearing or on appeal.

Section 215.61—Order of Presentation

Section 215.61(b) ---I have always thought that the party with the burden of proof should get to open and close. The Texas Rules of Civil Procedure follow that model. If there are multiple sections of the code in question and the burden of proof falls on different parties, I think the party with the burden should get to open and close on those items. The burden of proof is indeed a "burden" and the party with that obligation should not be given the advantage of opening and closing.

Section 215.61(c) ----Usually the parties that are aligned are able to come to some agreement on order of presentation. I think that option needs to be considered and provided for within the rules.

Section 215.61(d) ----Only the party with the burden of proof should get rebuttal.

Section 215.62---Board Conduct and Discussion When Reviewing a Contested Case

Section 215.62(b)---As worded, the proposed language seems susceptible to at least two meanings. I would suggest that the rule be rewritten to state:

“Board members may question a party on any matter that is both (i) relevant to the proposal for decision and (ii) contained in the evidence admitted by the SOAH ALJ.”

Section 216.62(c)---I understand that Tex. Occupations Code section 2301.709 requires the board to adopt rules to distinguish between using industry expertise and representing or advocating for an industry when reviewing a case under the subchapter. However, if a board member starts to inject into the discussion their industry experience, it is highly likely that they will be bringing in evidence that is not contained in record from the contested case hearing. As such, I would recommend that the emphasis be on that issue and the proposed rule be as follows:

Board members may use industry expertise to help them understand the case and make effective decisions. However, board members may not discuss their expertise or experience so as to allow the board’s discussion or a party’s argument to go beyond the evidence admitted by the administrative law judge.

Thank you for your consideration.

Lloyd “Buddy” Ferguson | T. 512.514.6906 | F. 312.984.3150 | buddy.ferguson@bfkn.com
Barack Ferrazzano Kirschbaum & Nagelberg LLP | 7000 North MOPAC Expressway, Suite 200 |
Austin, Texas 78731 | bfkn.com

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PROPOSAL OF

SUBCHAPTER B. PUBLIC MEETINGS AND HEARINGS

43 TAC §206.22

INTRODUCTION. The Texas Department of Motor Vehicles (department) proposes amendments to Title 43 TAC §206.22 regarding contested cases. These amendments are necessary to implement Occupations Code §2301.709(d) and to respond to a petition for rulemaking.

On April 3, 2020, the department posted on its website an informal draft of the amendments for public comment. The department received and considered comments in preparing this proposal.

EXPLANATION. Amendments to §206.22 are proposed in response to William Crocker's petition for rulemaking dated February 5, 2019 regarding minimum time limits for parties to a contested case to make presentations to the board of the Texas Department of Motor Vehicles (board) when the board reviews a contested case before issuing a final order. Amendments to §206.22 are also proposed in response to informal comments in response to the informal draft of the amendments that the department posted on its website. Amendments are further proposed to implement Occupations Code §2301.709(d). Lastly, amendments add a reference in §206.22(a) and (b)(3) to the current exception in subsection (e), which authorizes the board chairman to grant a person more than three minutes to speak to the board on an agenda item. The amendments provide the parties with an adequate amount of time to make their initial presentation and rebuttal, authorize the board chairman to grant each party additional time, require an intervening party in support of another party to share in that party's time, and clarify that time spent by a party responding to any board questions is not counted against their time. The amendments are consistent with the time limits allotted to parties for many contested cases that were presented to the board during the last year.

TITLE 43. TRANSPORTATION

Proposed Section

Part 10. Texas Department of Motor Vehicles

Chapter 206 - Management

1 The chairman currently has the authority under §206.22(e) to grant each party more than three
2 minutes to present their case; however, Mr. Crocker and many informal commenters who commented on
3 the department's informal draft of Title 43 TAC §215.61 requested the department to amend §206.22 to
4 give each party a minimum of 20 minutes to present their case to the board. The department declines to
5 grant each party a minimum of 20 minutes. In the *Sunset Advisory Commission Staff Report with Final*
6 *Results, 2018 -2019, 86th Legislature*, the Sunset Advisory Commission warned the board that the board
7 is not authorized to relitigate contested cases. The State Office of Administrative Hearings (SOAH)
8 proceedings provide the parties to a contested case an opportunity to make arguments and produce
9 evidence in accordance with standard processes under the Texas Administrative Procedure Act,
10 Government Code Chapter 2001. SOAH proceedings can last from hours to weeks, depending on the
11 complexity of the case. The department's proposed amendments give each party an adequate amount of
12 time to present their case to the board for most cases, while providing the chairman with the authority to
13 grant more time for cases that warrant more time, consistent with the board's role under Government
14 Code §2001.058(e).

15 **FISCAL NOTE AND LOCAL EMPLOYMENT IMPACT STATEMENT.** Linda M. Flores, Chief Financial Officer,
16 has determined that for each year of the first five years the amendments will be in effect, there will be no
17 fiscal impact to state or local governments as a result of the enforcement or administration of the
18 proposal. Daniel Avitia, Deputy Executive Director, has determined that there will be no measurable effect
19 on local employment or the local economy as a result of the proposal.

20 **PUBLIC BENEFIT AND COST NOTE.** Mr. Avitia has also determined that, for each year of the first five years
21 the amended section is in effect, there is an anticipated public benefit because the amendments give each
22 party an adequate amount of time to present their case to the board for most cases, while providing the
23 chairman with the authority to grant more time for cases that warrant more time.

TITLE 43. TRANSPORTATION

Proposed Section

Part 10. Texas Department of Motor Vehicles

Chapter 206 - Management

1 Anticipated Costs To Comply With The Proposal. Mr. Avitia anticipates that there will be no costs
2 to comply with these amendments. Parties to a contested case have an opportunity, rather than a
3 requirement, to make an oral presentation to the board.

4 **ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS.** As required by Government
5 Code §2006.002, the department has determined that the proposed amendments will not have an
6 adverse economic effect on small businesses, micro-business, and rural communities because parties to
7 a contested case have an opportunity, rather than a requirement, to make an oral presentation to the
8 board. Therefore, the department is not required to prepare a regulatory flexibility analysis under
9 Government Code §2006.002.

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

14 **GOVERNMENT GROWTH IMPACT STATEMENT.** The department has determined that each year of the
15 first five years the proposed amendments are in effect, no government program would be created or
16 eliminated. Implementation of the proposed amendments would not require the creation of new
17 employee positions or elimination of existing employee positions. Implementation would not require an
18 increase or decrease in future legislative appropriations to the department or an increase or decrease of
19 fees paid to the department. The proposed amendments do not create a new regulation, or expand, limit,
20 or repeal an existing regulation. Lastly, the proposed amendments do not affect the number of individuals
21 subject to the rule's applicability and will not affect this state's economy.

22 **REQUEST FOR PUBLIC COMMENT.**

TITLE 43. TRANSPORTATION

Proposed Section

Part 10. Texas Department of Motor Vehicles

Chapter 206 - Management

1 If you want to comment on the proposal, submit your written comments by 5:00 p.m. CDT on
2 MM, DD, YYYY. A request for a public hearing must be sent separately from your written comments. Send
3 written comments or hearing requests by email to *rules@txdmv.gov* or by mail to Office of General
4 Counsel, Texas Department of Motor Vehicles, 4000 Jackson Avenue, Austin, Texas 78731. If a hearing is
5 held, the department will consider written comments and public testimony presented at the hearing.

6 **STATUTORY AUTHORITY.** The department proposes amendments under Occupations Code
7 §2301.153(a)(8), which authorizes the board to adopt rules; Occupations Code §2301.155, which
8 authorizes the board to adopt rules as necessary or convenient to administer Occupations Code Chapter
9 2301 and to govern practice and procedure before the board; Occupations Code §2301.709(d), which
10 authorizes the board to adopt rules that establish standards for reviewing a case under Occupations Code
11 Chapter 2301, Subchapter O; Occupations Code §2302.051, which authorizes the board to adopt rules as
12 necessary to administer Occupations Code Chapter 2302; Transportation Code §502.091, which
13 authorizes the department to adopt and enforce rules to carry out the International Registration Plan;
14 Transportation Code §623.002, which authorizes the board to adopt rules that are necessary to enforce
15 Transportation Code Chapter 623; Transportation Code §643.003, which authorizes the department to
16 adopt rules to administer Transportation Code Chapter 643; Government Code §2001.004(1), which
17 authorizes a state agency to adopt rules of practice that state the nature and requirements of all available
18 formal and informal procedures; and Transportation Code §1002.001, which authorizes the board to
19 adopt rules that are necessary and appropriate to implement the powers and the duties of the
20 department.

21 **CROSS REFERENCE TO STATUTE.** Occupations Code §§2301.001, 2301.153(a)(1) and (a)(7), and Chapter
22 2301, Subchapter O; Occupations Code §2302.354 and §2302.355; Transportation Code §§502.091,

TITLE 43. TRANSPORTATION

Proposed Section

Part 10. Texas Department of Motor Vehicles

Chapter 206 - Management

1 623.271 -623.272, 643.251 -643.257, §1004.002; and Government Code Chapter 2001, Subchapters C and
2 F.

3 **TEXT.**

4 **SUBCHAPTER B. PUBLIC MEETINGS AND HEARINGS**

5 **43 TAC §206.22**

6 §206.22. Public Access to Board Meetings.

7 (a) Posted agenda items. A person may speak before the board on any matter on a posted agenda
8 by submitting a request, in a form and manner as prescribed by the department, prior to the matter being
9 taken up by the board. A person speaking before the board on an agenda item will be allowed an
10 opportunity to speak:

11 (1) prior to a vote by the board on the item; and

12 (2) for a maximum of three minutes, except as provided in subsections [~~subsection~~] (d)(6),
13 (e), and (f) of this section.

14 (b) Open comment period.

15 (1) At the conclusion of the posted agenda of each regular business meeting, the board
16 shall allow an open comment period, not to exceed one hour, to receive public comment on any other
17 matter that is under the jurisdiction of the board.

18 (2) A person desiring to appear under this subsection shall complete a registration form,
19 as provided by the department, prior to the beginning of the open comment period.

20 (3) Except as provided in subsections [~~subsection~~] (d)(6) and (e) of this section, each
21 person shall be allowed to speak for a maximum of three minutes for each presentation in the order in
22 which the speaker is registered.

TITLE 43. TRANSPORTATION

Proposed Section

Part 10. Texas Department of Motor Vehicles

Chapter 206 - Management

1 (c) Disability accommodation. Persons with disabilities, who have special communication or
2 accommodation needs and who plan to attend a meeting, may contact the department in Austin to
3 request auxiliary aids or services. Requests shall be made at least two days before a meeting. The
4 department shall make every reasonable effort to accommodate these needs.

5 (d) Conduct and decorum. The board shall receive public input as authorized by this section,
6 subject to the following guidelines.

7 (1) Questioning of those making presentations shall be reserved to board members and
8 the department's administrative staff.

9 (2) Organizations, associations, or groups are encouraged to present their commonly held
10 views, and same or similar comments, through a representative member where possible.

11 (3) Presentations shall remain pertinent to the issue being discussed.

12 (4) A person who disrupts a meeting shall leave the meeting room and the premises if
13 ordered to do so by the chair.

14 (5) Time allotted to one speaker may not be reassigned to another speaker.

15 (6) The time allotted for presentations or comments under this section may be increased
16 or decreased by the chair, or in the chair's absence, the vice chair, as may be appropriate to assure
17 opportunity for the maximum number of persons to appear.

18 (e) Waiver. Subject to the approval of the chair, a requirement of this section may be waived in
19 the public interest if necessary for the performance of the responsibilities of the board or the department.

20 (f) Contested Cases. The parties to a contested case under review by the board will be allowed an
21 opportunity to provide oral argument to the board, subject to the following limitations and conditions.

22 (1) Each party shall be allowed a maximum of 10 minutes for their initial presentation.

23 (2) Each party shall be allowed a maximum of 5 minutes for rebuttal.

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Proposed Section

Part 10. Texas Department of Motor Vehicles

Chapter 206 - Management

1 (3) Any party that is intervening in support of another party shall share that party's time.

2 (4) Time spent by a party responding to any board questions is not counted against their
3 time.

4 (5) Time spent objecting when another party allegedly attempts to make arguments or
5 discuss evidence that is not contained in the SOAH administrative record is not counted against the
6 objecting party's time.

7 (6) The board chairman is authorized to grant each party additional time.

8 (7) A party must timely comply with the requirements of §215.59 of this title (relating to
9 Request for Oral Argument) before it is authorized to provide oral argument to the board.

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

12 Issued at Austin, Texas, on MM DD, YYYY.

13 _____
14 Tracey Beaver, General Counsel

TITLE 43. TRANSPORTATION

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Part 10. Texas Department of Motor Vehicles

Chapter 215 - Motor Vehicle Distribution

1 authorized under Occupations Code Chapter 2301. New §215.22(b) is further proposed in response to a
2 petition for rulemaking dated February 5, 2019 requesting the department to prohibit department staff
3 from providing any recommendations to the board on contested cases. However, when the department
4 is a party to the contested case, department staff are authorized to recommend a final decision, just as
5 any other party is authorized to recommend a final decision, provided the recommendation does not
6 come in the form of a written final order, a proposal for decision, new findings of fact, or conclusions of
7 law.

8 The department further proposes to renumber the current §215.22(b) to §215.22(c) and to make
9 a conforming amendment to new §215.22(c) because not all cases under Occupations Code Chapter 2301
10 have a hearing officer.

11 Proposed amendments to §215.55 are necessary to conform with §215.58 under which the board
12 delegated final order authority in certain cases.

13 Proposed new §§215.59 - 215.63 are necessary to implement Occupations Code §2301.709(d),
14 which requires the board to adopt rules that establish standards for reviewing a case under Occupations
15 Code Chapter 2301, Subchapter O regarding hearing procedures. Section 2301.709(d) requires the rules
16 to: 1) specify the role of the department's personnel in managing contested cases before the board,
17 including advising on procedural matters; 2) specify appropriate conduct and discussion by the board
18 regarding proposals for decisions issued by administrative law judges; 3) specify clear expectations
19 limiting arguments and discussion on contested cases in which the board allows oral argument; 4) address
20 ex parte communications; and 5) distinguish between using industry expertise and representing or
21 advocating for an industry when the board is reviewing a contested case under Occupations Code Chapter
22 2301, Subchapter O regarding hearing procedures.

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1 At this time, the department declines to adopt rules under Occupations Code §2301.709(d)(2) to
2 specify the appropriate conduct and discussion by a person delegated power from the board under
3 Occupations Code §2301.154 regarding proposals for decision issued by administrative law judges. Under
4 43 TAC §215.88, the board only delegated power under Occupations Code §2301.154 in cases in which
5 there has not been a decision on the merits, so there will not be a proposal for decision issue by an
6 administrative law judge in the delegated cases.

7 Proposed new §215.59 is consistent with the department's current practice, including the practice
8 of having department staff provide a recommendation to the board when the department is a party to
9 the contested case. In response to an informal commenter's request for 30-days' notice of the date of a
10 board meeting to review the contested case, the department modified its informal working draft language
11 to increase the notice to at least 30-days' notice. The proposed new §215.59 is consistent with the
12 department's current practice of requiring a party to timely request oral argument before being granted
13 the privilege of providing oral argument. The board has the discretion on whether to allow oral arguments
14 under Occupations Code §2301.709(b). The department and the board chairman need to know in advance
15 whether a party wants to provide oral argument so the department and the chairman can efficiently
16 organize and schedule the board meeting, including the order in which certain agenda items are heard.

17 One informal commenter on §215.59 and §215.60 requested the opportunity for the parties to
18 file briefs. The department proposes new §215.60 to authorize the parties to submit written presentation
19 aids; however, the department limited the number of pages to a total of six pages: four pages for the
20 initial presentation aid, and two pages for any rebuttal presentation aids. Also, the department proposes
21 uniform standards for the size and appearance of the presentation aids so the aids will fit into the board
22 book that the department provides to the board, the board members can easily read the presentation
23 aids, the parties have a clear understanding of what is allowed, and the parties can be held to the same

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1 standard to avoid an unfair advantage. Further, the department will not accept any written orders,
2 proposals for decision, new findings of fact or conclusions of law from a party to the contested case. In
3 the *Sunset Advisory Commission Staff Report with Final Results, 2018 - 2019, 86th Legislature, the Sunset*
4 *Advisory Commission* warned the board that the board is not authorized to relitigate contested cases. The
5 State Office of Administrative Hearings (SOAH) proceedings provide the parties to a contested case an
6 opportunity to make arguments and produce evidence in accordance with standard processes under the
7 Texas Administrative Procedure Act, Government Code Chapter 2001. SOAH proceedings can last from
8 hours to weeks, depending on the complexity of the case. The department does not want to impose any
9 unnecessary burdens on the board under Government Code §2001.141(e).

10 Proposed new §215.60 also requires the parties to timely provide their presentation aids to the
11 department and all other parties. The department needs the presentation aids in advance so the
12 department can include them in the board book that the department provides to the board members and
13 so the department can advise the board. The other parties need the presentation aids in advance so they
14 can provide a rebuttal presentation aid if needed and prepare for any oral argument. The department also
15 renumbered the remaining new §§215.61 - 215.63 after adding new §215.60, which was not included in
16 the informal working draft.

17 One informal commenter on the informal working draft of §215.59 and §215.60 requested a
18 requirement for department staff to provide a recommendation upon a board member's request. The
19 department declines to impose a requirement for department staff to provide a recommendation upon a
20 board member's request because it would place a new burden on department staff, and the board is
21 responsible for deciding the final order.

22 Some informal comments on the informal working draft of §215.59(b) stated it was acceptable
23 for department staff to provide a recommendation to the board on cases in which the department is a

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1 party; however, one comment stated that the recommendation should be made available to the affected
2 parties prior to the board meeting under the fundamental tenant of due process. On cases in which the
3 department is a party to the contested case, the department's current practice is to provide the
4 department's recommendations in the board book, which is posted on the department's website prior to
5 each board meeting. Another informal comment on §215.59(b) stated that communications are
6 prohibited unless allowed by rule. The department disagrees with this comment. Occupations Code
7 §2301.709(d) does not require a board rule to give the department staff authority to communicate with
8 the board on contested cases because Government Code §2001.061, Government Code §2001.090, and
9 case law already provide the authority for department staff to do so. Proposed new §215.22(b)
10 acknowledges the authority and limitations under existing law for department staff to communicate with
11 board members regarding contested cases. Proposed new §215.62(a) complies with the requirement in
12 Occupations Code §2301.709(d)(1) for the board's rule to specify the role of division personnel in
13 managing contested cases before the board regarding advice on procedural matters.

14 Proposed new §215.61(a) reminds the parties to a contested case that they must limit their
15 arguments and discussion to evidence that is contained in the SOAH administrative record. Proposed new
16 §215.61(a) complies with Occupations Code §2301.709(d)(3), which requires the board to adopt rules that
17 specify clear expectations limiting arguments and discussion to evidence in the SOAH administrative
18 record. Proposed new §215.61(b) states each party is responsible for objecting when another party
19 attempts to make arguments or engage in discussion regarding evidence that is not contained in the SOAH
20 administrative record. The department received informal comments on the informal draft rule §215.60(b),
21 requesting the department to delete the language in proposed new §215.61(b), or to say that the failure
22 to object does not waive the violation or preclude the complaining party from raising the issue as a ground
23 for a rehearing in a motion for rehearing of the board's final order or in a petition for judicial review of

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1 the board's final order. The department declines to amend §215.61(b) in response to the informal
2 comments, and the department won't provide legal advice regarding the impact of a failure to object on
3 a motion for rehearing or an appeal. Timely objections to arguments or discussion about evidence that is
4 outside of the SOAH administrative record are necessary to allow board members to appropriately and
5 efficiently review and decide contested cases. Timely objections give our board the opportunity to make
6 a decision on the spot and to say on the record whether they did or didn't consider the evidence, which
7 could avoid an unnecessary motion for rehearing or petition for judicial review. The board chairman has
8 the authority to preside over board meetings and to make rulings on motions and points of order under
9 Transportation Code §1001.023(b)(1).

10 The department also received informal comments on the informal working draft of §215.60,
11 requesting the department to add language regarding the authority for a party to make an argument or
12 to provide information outside of SOAH's administrative record if the party contends the case should be
13 remanded to SOAH. The department made the requested change in proposed new §215.61(a); however,
14 the propose change is limited to arguments requesting the board to remand the case to SOAH. Although
15 Government Code §2001.058(e) does not expressly authorize the board to remand a contested case to
16 SOAH, SOAH's administrative rule (Title 1 TAC §155.153(b)(13)) contemplates remands, and SOAH decides
17 whether a remand is appropriate.

18 An informal commenter requested the board to amend the informal working draft of §215.60 to
19 address a circumstance in which a party is arguing error under Government Code §2001.058(e) when the
20 SOAH administrative law judge fails to admit certain evidence presented, while another informal
21 commenter requested the board to add the word "admitted" before the word "record." In response to
22 the informal comments, the department added language to proposed new §215.61(a) to require the
23 parties to limit their arguments and discussion to evidence in the SOAH administrative record, consistent

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1 with the scope of the board's authority to take action under Government Code §2001.058(e). The addition
2 of this language is sufficient to address the comments because §2001.058(e) establishes the boundaries
3 on the board's authority regarding review of contested cases.

4 Proposed new §215.62 sets out the order of presentations to the board for review of a contested
5 case. The department received informal comments on the informal working draft of §215.61, requesting
6 the department to modify the language to say the party with the burden of proof shall have the
7 opportunity to present oral argument first, and the department received comments stating the party that
8 is adversely affected should have the opportunity to present oral argument first. The department declines
9 to modify the proposed language that says the party who is adversely affected has the opportunity to
10 present oral argument first. By having the adversely affected party present first, it helps to focus the
11 board's review on issues the board is authorized to address, and it recognizes the SOAH administrative
12 law judge's role in assessing the evidence and making a recommendation in the proposal for decision.
13 Also, the Texas Rules of Civil Procedure do not apply to the presentation before the board.

14 An informal comment on the informal working draft of §215.61 requested an amendment that
15 says only the party with the burden of proof should have the authority to make a rebuttal presentation.
16 The department declines to make the requested change to proposed new §215.62, which gives all parties
17 an equal opportunity to make a rebuttal presentation. In response to an informal comment requesting
18 the addition of language to clarify that the board has the authority to decide the order if both parties lose
19 on an issue at SOAH, the department added the requested language. The department declines to add
20 language to give aligned parties the authority to agree on the order of presentation because the
21 department's proposed language provides certainty on the order of presentation. The board has authority
22 to allow presentation aids that are consistent with the SOAH administrative record and the board's
23 authority under Government Code §2001.058(e).

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1 Proposed new §215.63 addresses board conduct and discussion when reviewing a contested case.
2 The department received an informal comment on the informal working draft of §215.62, requesting the
3 department to add language to §215.62(a) that says the board will conduct its review of a contested case
4 under Occupations Code Chapter 2301, as well as language limiting the authority for the board to vacate
5 or modify an order issued by the administrative law judge. The department declines to add the requested
6 language to proposed new §215.63 because the additions are unnecessary. Chapter 215 implements
7 Occupations Code Chapter 2301, which also authorizes the board to enforce Transportation Code Chapter
8 503. Also, Government Code Chapter 2001 governs the board's review of a contested case. Also, the SOAH
9 administrative law judge does not issue the final order in contested cases under Chapter 215, so it is
10 unnecessary to add language regarding the board's authority to vacate or modify an order issued by the
11 administrative law judge.

12 An informal commenter requested the department to add language to the informal working draft
13 of §215.62(b) to say the board may question the department about any matter that is relevant to a
14 proposal for decision, any matter that is in the administrative record, and any matter that is conducive to
15 the issuance of a final order. The department added language to proposed new §215.63(b); however, the
16 questions must be consistent with the scope of the board's authority to take action under Government
17 Code §2001.058(e). In response to the comment, the department also clarified that the board has the
18 authority to question any party on any matter that is relevant to the proposal for decision, as well as
19 evidence contained in the SOAH administrative record. The department added language to proposed new
20 §215.63(b) in response to an informal comment requesting the department to add language to allow
21 board members to ask questions regarding a request to remand the contested case to SOAH.

22 In response to comments to add and delete language in the informal working draft of proposed
23 new §215.62(c) regarding the requirement for the board to distinguish between using their industry

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1 expertise and representing or advocating for an industry, the department added a clause proposed new
2 §215.63(c) stating the board must do so consistent with the scope of the board's authority to take action
3 under Government Code §2001.058(e). The department declines to amend proposed §215.63 to say that
4 only members of the board and the executive director may question a person making a presentation on
5 behalf of a party, as requested by one informal commenter. Current §206.22(d)(1) only authorizes board
6 members and the department's administrative staff to question the people making a presentation to the
7 board. The chairman has the authority to preside over board meetings under Transportation Code
8 §1001.023(b)(1), including the authority to determine who has the floor to speak during a board meeting.
9 The department wants to preserve the chairman's flexibility to preside over board meetings.

10 **FISCAL NOTE AND LOCAL EMPLOYMENT IMPACT STATEMENT.** Linda M. Flores, Chief Financial Officer,
11 has determined that for each year of the first five years the amendments and new sections will be in
12 effect, there will be no fiscal impact to state or local governments as a result of the enforcement or
13 administration of the proposal. Daniel Avitia, Deputy Executive Director, has determined that there will
14 be no measurable effect on local employment or the local economy as a result of the proposal.

15 **PUBLIC BENEFIT AND COST NOTE.** Mr. Avitia has also determined that, for each year of the first five years
16 the amended and new sections are in effect, there is an anticipated public benefit because parties to a
17 contested case will have more clarity regarding their rights, their obligations, and the board's authority
18 regarding a contested case that is presented at a board meeting.

19 Anticipated Costs To Comply With The Proposal. Mr. Avitia anticipates that there will be no costs
20 to comply with these rules. Parties to a contested case have an opportunity, rather than a requirement,
21 to make an oral presentation to the board and to provide presentation aids to the board.

22 **ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS.** As required by Government
23 Code §2006.002, the department has determined that the proposed amendments and new sections will

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1 not have an adverse economic effect on small businesses, micro- business, and rural communities because
2 parties to a contested case have an opportunity, rather than a requirement, to make an oral presentation
3 to the board and to provide presentation aids to the board. Therefore, the department is not required to
4 prepare a regulatory flexibility analysis under Government Cod, §2006.002.

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

9 **GOVERNMENT GROWTH IMPACT STATEMENT.** The department has determined that each year of the
10 first five years the proposed amendments and new sections are in effect, no government program would
11 be created or eliminated. Implementation of the proposed amendments and new sections would not
12 require the creation of new employee positions or elimination of existing employee positions.
13 Implementation would not require an increase or decrease in future legislative appropriations to the
14 department or an increase or decrease of fees paid to the department. The proposed amendments and
15 new sections include a new regulation that makes each party responsible for objecting when another
16 party attempts to make arguments or engage in discussion regarding evidence that is not contained in the
17 SOAH administrative record. The proposed amendments and new sections do not limit or repeal an
18 existing regulation. Lastly, the proposed amendments and new sections do not affect the number of
19 individuals subject to the rule's applicability and will not affect this state's economy.

20 **REQUEST FOR PUBLIC COMMENT.** If you want to comment on the proposal, submit your written
21 comments by 5:00 p.m. CDT on MM, DD, YYYY. A request for a public hearing must be sent separately
22 from your written comments. Send written comments or hearing requests by email to *rules@txdmv.gov*
23 or by mail to Office of General Counsel, Texas Department of Motor Vehicles, 4000 Jackson Avenue,

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1 Austin, Texas 78731. If a hearing is held, the department will consider written comments and public
2 testimony presented at the hearing.

3 **STATUTORY AUTHORITY.** The department proposes amendments and new sections under Occupations
4 Code §§2301.153(a)(8), which authorizes the board to adopt rules; Occupations Code §2301.155, which
5 authorizes the board to adopt rules as necessary or convenient to administer Occupations Code Chapter
6 2301 and to govern practice and procedure before the board; Occupations Code §2301.709(d), which
7 authorizes the board to adopt rules that establish standards for reviewing a case under Occupations Code
8 Chapter 2301, Subchapter O; Government Code §2001.004(1), which authorizes a state agency to adopt
9 rules of practice that state the nature and requirements of all available formal and informal procedures;
10 and Transportation Code §1002.001, which authorizes the board to adopt rules that are necessary and
11 appropriate to implement the powers and the duties of the department.

12 **CROSS REFERENCE TO STATUTE.** Occupations Code §§2301.001, 2301.151, 2301.152, 2301.153(a)(1),
13 (a)(7), (a)(8), and Chapter 2301, Subchapter O; and Government Code Chapter 2001, Subchapters C and
14 F.

15 **TEXT.**

16 **SUBCHAPTER B. ADJUDICATIVE PRACTICE AND PROCEDURE**

17 **43 TAC §215.22 and §215.55**

18 §215.22. Prohibited Communications.

19 (a) No person, party, attorney of record, or authorized representative in any contested case shall
20 engage in, [~~make,~~] directly or indirectly, any ex parte communication, in violation of Government Code,
21 §2001.061, concerning the [~~merits of the~~] contested case with [~~to~~] the board or hearing officer assigned
22 to render a decision or make findings of fact and conclusions of law in a contested case.

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1 (b) Except as prohibited by Government Code, §2001.061, department staff may advise the board,
2 the hearing officer, and a person delegated power from the board under Occupations Code, §2301.154
3 regarding the contested case and any procedural matters. However, staff shall not recommend a final
4 decision to the board unless the department is a party to the contested case.

5 (c) Violations of this section shall be promptly reported to the hearing officer, as applicable, and
6 the general counsel of the department. The general counsel shall ensure that a copy or summary of the
7 ex parte communication is included with the record of the contested case and that a copy is forwarded to
8 all parties or their authorized representatives. The general counsel may take any other appropriate action
9 otherwise provided by law.

10

11 §215.55. Final Decision.

12 (a) Except as provided by §215.58 of this title (relating to Delegation of Final Order Authority), the
13 [The] board has final order authority in a contested case initiated by a complaint filed before January 1,
14 2014, under Occupations Code, §2301.204 or §§2301.601 - 2301.613.

15 (b) The hearings examiner has final order authority in a contested case filed on or after January 1,
16 2014, under Occupations Code, §2301.204 or §§2301.601 - 2301.613.

17 (c) Except as provided by subsections (a) and (b) of this section and §215.58 of this title (relating
18 to Delegation of Final Order Authority), the board has final order authority in a contested case filed under
19 Occupations Code, Chapter 2301 or under Transportation Code, Chapter 503.

20 (d) An order shall be deemed final and binding on all parties and all administrative remedies are
21 deemed to be exhausted as of the effective date, unless a motion for rehearing is filed with the
22 appropriate authority as provided by law.

23

SUBCHAPTER B. ADJUDICATIVE PRACTICE AND PROCEDURE

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1 §§215.59 - §215.622 §215.59. Request for Oral Argument.

3 (a) At least 30 days prior to the date of a board meeting during which the board will review a
4 contested case, department staff shall notify the parties regarding the opportunity to attend and provide
5 oral argument concerning a proposal for decision before the board.

6 (b) If a party wants to provide oral argument at the board meeting, it must submit a written
7 request for oral argument to the department's Office of General Counsel at least 14 days prior to the date
8 of the board meeting at which the party's contested case will be considered.

9 (c) If a party timely submits a written request for oral argument, that party may present oral
10 argument at the board meeting. If a party fails to timely submit a written request for oral argument, that
11 party shall not present oral argument at the board meeting.

12
13 §215.60. Presentation Aids.

14 (a) The department will not accept any written proposed orders, proposals for decision, new
15 findings of fact or conclusions of law from a party to the contested case.

16 (b) If a party wants to provide a presentation aid to the board, it must provide the presentation
17 aid to the department and all other parties in accordance with §215.30 of this title (Relating to Filing of
18 Documents) and §215.49 of this title (Relating to Service of Pleadings, Petitions, Briefs, and Other
19 Documents) at least 21 days prior to the date of the board meeting. If a party wants to provide a rebuttal
20 presentation aid to the board, it must provide the rebuttal presentation aid to the department and all
21 other parties in accordance with §215.30 of this title (Relating to Filing of Documents) and §215.49 of this
22 title (Relating to Service of Pleadings, Petitions, Briefs, and Other Documents) at least 14 days prior to the
23 date of the board meeting. If a party fails to timely provide a presentation aid to the department or any

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1 other party, the department shall not provide the presentation aid to the board and the party shall not
2 provide the presentation aid to the board at the board meeting.

3 (c) For the purposes of this section, presentation aids are defined as written materials, such as a
4 document or PowerPoint slides, which contain a party's arguments and discussion of evidence, laws, and
5 rules regarding the contested case. Presentation aids shall be limited to evidence contained in the SOAH
6 administrative record and consistent with the scope of the board's authority to take action under
7 Government Code §2001.058(e). However, any party may argue that the board should remand the case
8 to SOAH.

9 (d) All information in the presentation aids shall include a cite to the SOAH administrative record
10 on all points to specifically identify where the information is located. Presentation aids shall not include
11 any proposed findings of fact or conclusions of law.

12 (e) Presentation aids shall be single-sided, double-spaced, 8.5 inches by 11 inches, and at least 12-
13 point type. Initial presentation aids are limited to four pages, and rebuttal presentation aids are limited
14 to two pages for a total of six pages. If a party provides the department with a presentation aid that
15 contains more pages than the maximum allowed, the department shall not provide the presentation aid
16 to the board and the party shall not provide the presentation aid to the board at the board meeting.

17
18 §215.61. Limiting Arguments and Discussion to Evidence in the Administrative Record.

19 (a) The parties to a contested case under review by the board shall limit their arguments and
20 discussion to evidence in the SOAH administrative record, and their arguments and discussion shall be
21 consistent with the scope of the board's authority to take action under Government Code §2001.058(e).
22 However, any party may argue that the board should remand the case to SOAH.

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1 (b) Each party is responsible for objecting when another party attempts to make arguments or
2 engage in discussion regarding evidence that is not contained in the SOAH administrative record.

3

4 §215.62. Order of Presentations to the Board for Review of a Contested Case.

5 (a) The department's staff will present the procedural history and summary of the contested case.

6 (b) The party that is adversely affected has the opportunity to present its case first. However, the
7 board chairman is authorized to determine the order of each party's presentation in the event of the
8 following:

9 (1) it is not clear which party is adversely affected;

10 (2) it appears as though more than one party is adversely affected; or

11 (3) different parties are adversely affected by different portions of the contested case
12 under review.

13 (c) The other party or parties then have an opportunity to respond. If there are more than one
14 other party, each party will have an opportunity to respond in alphabetical order based on the name of
15 the party in the pleadings in the SOAH administrative record.

16 (d) Each party then has an opportunity to provide a rebuttal.

17 (e) A party must timely comply with the requirements of §215.59 of this title (relating to Request
18 for Oral Argument) before it is authorized to provide oral argument to the board.

19

20 §215.63. Board Conduct and Discussion When Reviewing a Contested Case.

21 (a) The board shall conduct its review of a contested case in compliance with Government Code
22 Chapter 2001, including the limitations on changing a finding of fact or conclusion of law made by the

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1 administrative law judge at SOAH, and the prohibition on considering evidence outside of the SOAH
2 administrative record.

3 (b) Board members may question any party or the department on any matter that is relevant to
4 the proposal for decision or the evidence contained in the SOAH administrative record; however, any
5 questions shall be consistent with the scope of the board's authority to take action under Government
6 Code §2001.058(e), and the communication must comply with §215.22 of this title (Relating to Prohibited
7 Communications). In addition, board members are authorized to ask questions regarding arguments or a
8 request to remand the case to SOAH.

9 (c) Board members may use their industry expertise to help them understand the case and make
10 effective decisions, consistent with the scope of the board's authority to take action under Government
11 Code §2001.058(e). However, board members are not advocates for a particular industry. Board members
12 are public servants who take an oath to preserve, protect, and defend the Constitution and laws of the
13 United States and Texas.

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

16 Issued at Austin, Texas, on MM DD, YYYY.

17 _____
18 Tracey Beaver, General Counsel

Board Meeting Date: 8/6/2020
ACTION ITEM

To: Texas Department of Motor Vehicles Board
From: Jeremiah Kuntz, Vehicle Titles and Registration Director
Agenda Item: 14
Subject: Adoption of Rules under Title 43, Texas Administrative Code
Chapter 217, Vehicle Titles and Registration
Amendments, §217.144
(Relating to Identification Number Inspection)

RECOMMENDATION

Approval to publish the adoption of amended §217.144 in the *Texas Register*.

PURPOSE AND EXECUTIVE SUMMARY

The amended section implements Senate Bill (SB) 604, 86th Legislature, Regular Session (2019). Senate Bill 604 changed the name of the "Automobile Burglary and Theft Prevention Authority" to the "Motor Vehicle Crime Prevention Authority." The amendments do not change the nature or substance of the training requirements for individuals performing identification number inspections, but merely update the name of one of the required training courses.

FINANCIAL IMPACT

None

BACKGROUND AND DISCUSSION

The amendments include:

- §217.144 - updates the citation to Transportation Code, §501.0321.
- §217.144(1) - updates the name of a required training from "Motor Vehicle Burglary and Theft Investigator Training" to "Motor Vehicle Crime Investigator Training" to reflect the new name of the training and also changes the reference to the "Automobile Burglary and Theft Prevention Authority" to the "Motor Vehicle Crime Prevention Authority."

The proposal was published in the *Texas Register* on April 17, 2020. The comment period closed on May 18, 2020. No comments were received.

If the board adopts the new section and amendments during its August 6, 2020, open meeting, staff anticipates:

- publication in the August 21, 2020 issue of the *Texas Register*; and
- an effective date of August 26, 2020

TITLE 43. TRANSPORTATION

Part 10. Texas Department of Motor Vehicles

Chapter 217 – Vehicle Titles and Registration

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Subchapter G. Inspections

43 TAC §217.144

§217.144. Identification Number Inspection.

In addition to any other requirement specified by Transportation Code, §501.0321, a person is qualified to perform an inspection under Transportation Code, §501.0321, [~~Transportation Code,~~] if that person has completed one of the following training programs:

(1) Intermediate or Advanced Motor Vehicle Crime [~~Burglary and Theft~~] Investigator Training provided by the Motor Vehicle Crime Prevention Authority [~~Texas Automobile Burglary and Theft Prevention Authority~~];

(2) Auto Theft School (Parts 1 and 2) provided by the Texas Department of Public Safety;

or

(3) Auto Theft Course provided by the National Insurance Crime Bureau.

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

Issued at Austin, Texas, on MM DD, YEAR.

Tracey Beaver, General Counsel

To: Texas Department of Motor Vehicles Board
From: Jeremiah Kuntz, Vehicle Titles & Registration Division Director
Agenda Item: 15
Subject: Chapter 217, Vehicle Titles and Registration
Amendments, §217.182
(Relating to HB 1548, new Transportation Code §551A.052, Registration; license plates; incorporate legislation to add a new transaction type)

RECOMMENDATION

Approval to publish the adopted new and amended sections in the *Texas Register*.

PURPOSE AND EXECUTIVE SUMMARY

The amendments add issuance of an off-highway vehicle license plate under Transportation Code §551A.052 to the list of registration transactions. Counties may charge a processing and handling fee for processing registration transactions under §217.185. Processing and handling fees are authorized in Transportation Code §502.1911. An administrative fee to cover the costs of issuing an off-highway vehicle license plate is authorized in Transportation Code §504.002(b). The amendments also conform the use of the term "license plate" in the section.

FINANCIAL IMPACT

None

BACKGROUND AND DISCUSSION

The primary purpose of the proposal is to implement the legislative goal of authorizing the department, if necessary, to adopt fees to cover costs of issuing license plates.

The amendment to §217.182(5) and §217.182(6) inserts the word "license" before plate. This amendment is necessary to accurately reflect that an administrative fee is being assessed for a golf cart, neighborhood electric vehicle, or off-highway vehicle issued a package delivery vehicle license plate under Transportation Code §551.452 or §551.402, as applicable, and to achieve consistency of the use of the term "license plate" in the rule.

New §217.182(7) adds issuance of an off-highway vehicle license plate under Transportation Code §551A.052 to the list of registration transactions for which a processing and handling fee may be collected.

COMMENTS

The proposal was published in the *Texas Register* on April 17, 2020. The comment period closed on May 18, 2020. The department received written comments requesting changes in the proposed text from: the Lubbock County Tax Assessor-Collector.

If the board adopts the amendments during its August 6, 2020, open meeting, staff anticipates:

- Publication in the August 21, 2020 issue of the *Texas Register*; and
- An effective date of August 26, 2020



Ronnie Keister
Lubbock County Tax Assessor-Collector
916 Main Street, Suite 102
PO Box 10536
Lubbock, TX 79408-3536
806.775.1344
taxoffice@lubbockcounty.gov

May 18, 2020

Office of General Counsel
Texas Department of Motor Vehicles
4000 Jackson Avenue
Austin, TX 78731

Via Email to: rules@txdmv.gov

SUBJECT: Response to TxDMV 43 TAC § 217.182 – Fees

TxDMV Board Members and Agency Leadership:

Please accept this letter as official notice of support for proposed rule for chapter 217 relating to registration fees.

The collection of the current County Road and Bridge Fees are not mentioned in the proposal. The fees should be collected and remitted to each county.

The concern listed needs to be addressed prior to the approval of this rule. Please call me if you have any additional questions.

Respectfully,

A handwritten signature in blue ink, appearing to read "Ronnie Keister".

Ronnie Keister

Tax Assessor-Collector

ADOPTION OF**SUBCHAPTER I. FEES****43 TAC §217.182**

INTRODUCTION. The Texas Department of Motor Vehicles adopts amendments to Title 43 Texas Administrative Code (TAC) §217.182 concerning Registration Transactions. These amendments implement Transportation Code, §504.002, as amended by House Bill (HB) 1548, 86th Legislature, Regular Session (2019). The department adopts §217.182 without changes to the proposed rule text in the April 17, 2020 issue of the *Texas Register* (45 TexReg 2535).

EXPLANATION.

The amendment to §217.182(5) inserts the word "license" before plate. This amendment is necessary to accurately reflect that an administrative fee is being assessed for a golf cart license plate under Transportation Code §551.402, and to achieve consistency throughout the entire rule in the use of the term "license plate."

The amendment to §217.182(6) inserts the word "license" before plate. This amendment is necessary to accurately reflect that an administrative fee is being assessed for a golf cart, neighborhood electric vehicle, or off-highway vehicle issued a package delivery vehicle license plate under Transportation Code §551.452 and to achieve consistency throughout the entire rule in the use of the term "license plate."

New §217.182(7) adds issuance of an off-highway vehicle license plate under Transportation Code §551A.052, to the list of registration transactions. A registration transaction is a transaction for which an administrative fee, called a processing and handling fee, is assessed to cover the costs of collecting fees for issuing license plates and other resignation insignia. The administrative fee to cover the costs of issuing an off-highway vehicle license plate is authorized in Transportation Code §504.002(b) as amended by HB 1548 86th Legislature, Regular Session (2019). Processing and handling fees are authorized in

1 Transportation Code §502.1911. For purposes of Transportation Code §551.452 and §551A.052, off-
2 highway vehicles are defined in Transportation Code §551A.001.

3 **SUMMARY OF COMMENTS.** The department received one comment on the proposal. The Lubbock
4 County Tax Assessor-Collector commented in support of the proposal with changes.

5 **§217.182**

6 **Comment.**

7 A commenter noted that County Road and Bridge Fees were not mentioned in the proposal. The
8 commenter added that the County Road and Bridge Fees should be collected and remitted to each county.

9 **Agency Response.**

10 The department agrees with the comment to the extent that County Road and Bridge Fees are
11 not mentioned in the proposal. The proposal provides that an off-highway vehicle license plate under
12 Transportation Code §551A.052 is a registration transaction in §217.182, and makes two changes for
13 consistent references. The proposal does not affect the collection or remittance of County Road and
14 Bridge Fees. Addressing the collection or remittance of county road and bridge fees in this adoption would
15 involve matters not noticed in the proposal. As such, the department makes no changes based on this
16 comment.

17 **STATUTORY AUTHORITY.** The department proposes amendments to §217.182 under Transportation
18 Code, §§504.002(b), 551.402(c), and 551A.052(c).

19 Transportation Code §504.002 authorizes the department to charge a fee to cover the costs of
20 issuing license plates for golf carts or off-highway vehicles in an amount established by rule.

21 Transportation Code §551.402 requires the department to adopt rules establishing a procedure
22 to issue license plates for golf carts and charge a fee not to exceed \$10.

1 Transportation Code §551A.052 requires the department to adopt rules establishing a procedure
2 to issue license plates for unregistered off-highway vehicles and charge a fee not to exceed \$10.

3 Transportation Code §1002.001 authorizes the board to adopt rules that are necessary and
4 appropriate to implement the powers and the duties of the department.

5 **CROSS REFERENCE TO STATUTE.** Transportation Code, Chapters 502, 504, and 551A.

6 **TEXT.**

7 **SUBCHAPTER I. FEES**

8 **43 TAC §217.182**

9 §217.182. Registration Transaction.

10 As used in this subchapter, a "registration transaction" is a registration or registration renewal under
11 Transportation Code, Chapter 502, or a transaction to issue the following:

12 (1) a registration, registration renewal, or permit issued under Transportation Code,
13 Chapter 502, Subchapter C (Special Registrations);

14 (2) a license plate issued under Transportation Code, §502.146;

15 (3) a temporary additional weight permit under Transportation Code, §502.434;

16 (4) a license plate or license plate sticker under Transportation Code, §§504.501, 504.502,
17 504.506, or 504.507;

18 (5) a golf cart license plate under Transportation Code, §551.402; or

19 (6) a package delivery vehicle license plate under Transportation Code, §551.452.

20 (7) an off-highway vehicle license plate under Transportation Code, §551A.052.

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

23 Issued at Austin, Texas, on M DD, YEAR.

Title 43. TRANSPORTATION

Adopted Sections

Part 10. Texas Department of Motor Vehicles

Page 4 of 4

Chapter 217 - Vehicle Titles and Registration

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Tracey Beaver, General Counsel

DRAFT

Board Meeting Date: 8/5/2020
ACTION ITEM

To: Texas Department of Motor Vehicles Board
From: Linda M. Flores, CPA, Chief Financial Officer, Finance & Administrative Services Division Director
Agenda Item: 16.A.1
Subject: Recommended FY 2022-2023 Legislative Appropriations Request, Baseline and Exceptional Items

RECOMMENDATION

Approval of the TxDMV's legislative appropriations request for Fiscal Years (FY) 2022-2023. The TxDMV has developed a total request of \$328.3 million that includes a baseline of on-going operations and six exceptional items for consideration and approval.

PURPOSE AND EXECUTIVE SUMMARY

The Texas Department of Motor Vehicles (TxDMV) appropriations requests for the upcoming biennium, FY 2022-2023 includes 1) a baseline request for on-going operations of \$310.8 million and capital items and 2) an exceptional item request for six new initiatives to achieve its goals, strategies and objectives during the next biennium. The baseline request reflects the same baseline as the FY 2020-2021 biennium and the amount estimated in June. The total exceptional items amount to \$17.5 million and reflects a slight increase over the preliminary amounts from June.

FINANCIAL IMPACT

TxDMV is a net-revenue-generating agency for the state. The agency's budget request is supported by revenue collections. The staff estimates that TxDMV will collect \$3.9 billion for the State while retaining \$310.8 million for baseline agency operations over the biennium. The majority of the Legislative Appropriations Request (LAR) will be funded from the TxDMV Fund 0010. The LAR also includes General Revenue (GR) funding for baseline and an exceptional item request for the Motor Vehicle Crime Prevention Authority.

BACKGROUND AND DISCUSSION

The baseline budget request of \$310.8 million reflects no change from the \$310.8 million baseline request presented to the board in June 2020.

Exceptional items total \$17.5 million and includes an increase of \$354,989 from the amount presented in June 2020. Cost estimates were refined for new substations in Dallas and Houston as well as the MVCPA Fee and Refund unit.

The baseline capital budget includes funding for Automation (\$8.1 million), Registration and Titling System improvements online service enhancements; replacement of computer equipment in the counties and at TxDMV headquarters (\$12.1 million); cybersecurity projects (\$400k); four fleet vehicles (\$90k); renovations and repairs at the regional service centers (\$500k); and ongoing costs for the Data Center Services contract (\$22.3 million).



Staff is proposing to submit a total of six (6) exceptional items, which if approved, result in increases to the baseline budget. The exceptional item requests total \$17.5 million and include 11.0 FTEs. The exceptional item requests include:

- \$6.2 million for the planning and design of a new Building 5 at the TxDMV headquarters campus
- \$3.5 million for the acquisition and support of an Accounts Receivable System; costs include 2.0 FTEs
- \$5.2 million for the development of a Complaint Management System
- \$2.03 million to open new Regional Service Center substations in Dallas and Houston; costs include 6.0 FTEs
- \$560K to fund 3.0 FTEs and associated operating costs for a Motor Vehicle Crime Prevention Authority (MVCPA) Fee and Refund Unit. This exceptional item would be funded by General Revenue appropriations.

The recommended LAR continues five riders that currently exist in the FY 2020-2021 budget. The riders for FY 2022-2023 will include the appropriation of Special License Plate Fees, Unexpended Balance Authority for Automation Funds, Federal Grants and Matching Funds, Headquarters Capital Maintenance, and the carry-forward authority of operating funds between the biennium.

Texas Department of Motor Vehicles



Recommended FY 2022 - 2023 Legislative Appropriations Request, Baseline and Exceptional Items Summary

Legislative Appropriations Request Process

Legislative Appropriations Request (LAR) - The LAR is the agency’s biennial funding budget request. The agency solicits information from all levels of management in order to identify future program needs and situations unique to each division. Advanced planning and comprehensive involvement provides the agency with the most complete budget information.

- The LAR begins with the base reconciliation and covers two separate fiscal years. The LAR becomes the basis for consideration of agency funding by the Legislature for the FY 2022-2023 biennium, covering September 1, 2021 through August 31, 2023.

The LAR is divided into two components:

Baseline — funding necessary to maintain existing operations and existing capital projects; and,

Exceptional items — desired services above the baseline request.

Timeline



Baseline Development Process (Base Reconciliation) - The FY 2019-2021 Base Reconciliation requires TxDMV to reconcile its original appropriations by method of finance and the full-time equivalent (FTE) positions to fiscal year 2019 expended, fiscal year 2020 estimated, and fiscal year 2021 budgeted amounts. The following table shows an estimated biennial baseline calculation of approximately \$310.8 million. That amount includes \$25.7 million in GR for Motor Vehicle Crime Prevention Authority (MVCPA) (previously Automobile Burglary and Theft Prevention Authority (ABTPA)), \$283.6 million for the TxDMV Fund and the remainder in Federal Funds). These amounts will be sufficient to fund the baseline FY 2022-2023 budget request. The Base Reconciliation was submitted to the Legislative Budget Board (LBB) on May 21, 2020.

Estimated FY 2022-23 Base Calculation	
2020 Estimated Expenditures	158,047,088
2021 Budget	172,117,856
Total 2020-21	330,164,943
Less - TxDMV Automation UB (GR/Fund 0010)	(19,223,148)
Less - Additional ITD Grant Revenue estimated in FY 2020	(181,075)
Estimated FY2022-23 Baseline	310,760,720

Key Differences from the June Preliminary LAR to the August Recommend LAR

Baseline

- In June 2020 the Preliminary LAR included a base request for FY 2022-2023 of \$310.8 million
- The Recommended LAR will continue to reflect an estimated base amount of FY 2022-2023 amount of \$310.8 million.
- The primary changes from June to August are reallocations between strategies to better align costs to functions and address critical needs in the Indirect Administration strategies such as facilities maintenance costs for cleaning services.

Items of Appropriations	June Preliminary LAR			Recommended Request			Variance
	FY 2022	FY 2023	Biennial Total	FY 2022	FY 2023	Biennial Total	
Goal A. Optimize Services and Systems							
Strategy A.1.1. – Titles, Registrations, and Plates	72,974,245	72,077,418	145,051,663	71,757,920	71,659,680	143,417,600	(1,634,063)
Strategy A.1.2. – Vehicle Dealer Licensing	4,169,189	4,182,971	8,352,160	4,059,971	4,059,971	8,119,942	(232,218)
Strategy A.1.3. – Motor Carrier Permits & Credentials	9,270,184	9,152,569	18,422,753	9,031,570	9,031,571	18,063,141	(359,612)
Strategy A.1.4. – Technology Enhancement & Automation	9,306,276	2,714,575	12,020,851	10,838,152	2,704,575	13,542,727	1,521,876
Strategy A.1.5. – Customer Contact Center	3,327,875	3,269,094	6,596,969	3,269,094	3,269,094	6,538,188	(58,781)
Total, Goal A: Optimize Services and Systems	99,047,769	91,396,627	190,444,396	98,956,707	90,724,891	189,681,598	(762,798)
Goal B. Protect the Public							
Strategy B.1.1. – Enforcement	7,467,087	7,117,718	14,584,805	6,891,577	6,891,578	13,783,155	(801,650)
Strategy B.2.1. – Automobile Theft Prevention	12,835,851	12,835,851	25,671,702	12,835,851	12,835,851	25,681,702	-
Total, Goal B: Protect the Public	20,302,938	19,953,569	40,256,507	19,727,428	19,727,429	39,454,857	(801,650)
Goal C: Indirect Administration							
Strategy C.1.1. – Central Administration	8,602,518	8,602,518	17,205,036	9,249,658	9,219,238	18,468,896	1,263,860
Strategy C.1.2. – Information Resources	26,792,398	25,918,345	52,710,743	26,373,345	25,436,907	51,810,252	(900,491)
Strategy C.1.3. – Other Support Services	5,007,348	5,136,690	10,144,038	5,445,834	5,899,283	11,345,117	1,201,079
Total, Goal C: Indirect Administration	40,402,264	39,657,553	80,059,817	41,068,837	40,555,428	81,624,265	1,564,448
Total Department of Motor Vehicles	159,752,971	151,007,749	310,760,720	159,752,972	151,007,748	310,760,720	-
Method of Finance							
General Revenue (GR) Fund 0001	12,835,851	12,835,851	25,671,702	12,835,851	12,835,851	25,671,702	-
Texas Department of Motor Vehicles Fund 0010	146,173,370	137,428,148	283,601,518	146,173,371	137,428,147	283,601,518	-
Federal Funds	743,750	743,750	1,487,500	743,750	743,750	1,487,500	-
Total Method of Finance	159,752,971	151,007,749	310,760,720	159,752,972	151,007,748	310,760,720	-
Full Time Equivalents (FTEs)			802.0			802.0	

Key Differences From the June Preliminary LAR to the August Recommend LAR

Exceptional Items

- The key differences from the June Preliminary LAR for exceptional items include a finalization of the priority order of the requests and minor adjustments in the cost estimates for the Dallas and Houston RSC request and the MVCPA Fee Collection Unit.

Division	Exceptional Item	Description	Biennial Request	
			FTE	Amount
Finance & Administrative Services	New Building 5	To demolish Building 5 on the TxDMV Camp Hubbard campus and construct a new building in the same location. Based on an assessment completed by the Texas Facilities Commission (TFC), the age and physical condition of Building 5 is such that a tear-down and rebuilding is a more cost-effective approach than repairing and renovating. Funding in the FY 2022-2023 biennium would provide for planning and design services, with construction funding to follow in FY 2024-2025.		6,187,500
Finance & Administrative Services	Accounts Receivables Systems	Deploy the Centralized Accounting and Payroll/Personnel Systems (CAPPS) Accounts Receivables module to allow for better tracking of accounts receivables balances and to help insure that revenue collection is maximized. Currently the collection and monitoring of receivable accounts is done through 18 different applications. However, none of the systems are designed for conducting accounts receivable activities. The decentralized accounts receivable function and multiple systems have limited TxDMV's ability to properly monitor or conduct accounts receivable activities. Costs include one-time external contract services, temporary support during deployment, and two (2) ongoing FTEs.	2.0	3,472,958

Division	Exceptional Item	Description	Biennial Request	
			FTE	Amount
Consumer Relations/ Enforcement/ Motor Carrier/ Motor Vehicle /Information Technology Services	Complaint Management System (CMS)	Develop and maintain a new complaint management system which would include data on the status of complaints, complaint procedures, and documentation of complaints. This item also includes coalescing complaints into a single repository for greater efficiency, instead of the current process of storing complaints in separate systems. Includes costs for funding for external contract services.		5,225,712
Vehicles, Titles and Registration (VTR)	New Dallas RSC Substation	To fund a new Dallas Regional Service Center (RSC) substation. The TxDMV Dallas/Carrollton RSC is currently located at 1925 Beltline Road, Suite 100, Carrollton, Texas and is housed in approximately 7,865 square feet of leased space with a staff of 22.5 employees. The Dallas RSC is expected to outgrow their current facility by 2028. In anticipation of future growth, and to better serve customers, this request is to open a new Dallas RSC substation office. An analysis of historical customer flow indicates the new location is best fit in southeast Dallas. Funding includes the build out of a new facility and operating costs for two (2) additional FTEs.	2.0	700,470 855,970
Vehicles, Titles, and Registration (VTR)	New Houston RSC Substation	To fund a new Houston Regional Service Center (RSC) substation. The Houston RSC is currently located at 2110 East Governors Circle, Houston, Texas with a staff of 28.5 employees. The Houston RSC is expected to outgrow their current facility by 2028. In anticipation of future growth, and to better serve customers, this request is to open a new Houston RSC substation office. An analysis of historical customer flow indicates the new location is best fit in southeast Houston. Funding includes the build out of a new facility and operating costs for four (4) additional FTEs.	4.0	998,244 1,180,119
Motor Vehicle Crime Prevention Authority	Fee and Refund Unit	The Motor Vehicle Crime Prevention Authority (MVCPA) is requesting to add 3 positions to maintain that insurers that sell any form of motor vehicle insurance are aware and comply with the MVCPA Fee requirements. These new positions will provide analysis, audit, outreach and education to insurers. Funding includes salaries and operating costs for three (3) FTEs.	3.0	542,386 560,000
Total Exceptional Items			11.00	17,127,270

Division	Exceptional Item	Description	Biennial Request	
			FTE	Amount
				17,482,259
Totals by Method of Finance				
General Revenue			3.0	542,386 560,000
TxDMV Fund			8.0	16,584,884 16,922,259
TOTAL			11.00	17,127,270 17,482,259

Comparison of FY 2020-2021 to Estimated Baseline for FY 2022-2023

The baseline represents the amount necessary to maintain existing agency operations. The table below depicts the department's current appropriations of \$310.8 million which is estimated to be \$310.8 million for the upcoming 2022-2023 biennium. The Legislative Budget Board (LBB) will approve the baseline target for FY 2022-2023 in late July or early August. The overall economic conditions for the state as a result of the COVID-19 event could have a major impact on the targets established by the LBB. It is also anticipated the Legislature may implement a zero-based budget approach for the development of the FY 2022-2023 appropriation request.

Appropriation Summary	Approved Appropriation		Estimated Base Appropriation	
	FY 2020	FY 2021	FY 2022	FY 2023
Goal A: Optimize Services and Systems	99,047,769	91,396,627	98,956,707	90,724,891
Goal B: Protect the Public	20,302,938	19,953,569	19,727,428	19,727,429
Goal C: Indirect Administration	38,402,264	41,657,553	41,068,837	40,555,428
Total Appropriations	157,752,971	153,007,749	159,752,972	151,007,748
Method of Finance				
General Revenue	12,835,851	12,835,851	12,835,851	12,835,851
TxDMV Fund	144,173,370	139,428,148	146,173,371	137,428,147
Federal Reimbursements	743,750	743,750	743,750	743,750
Total Method of Finance	157,752,971	153,007,749	159,752,972	151,007,748
FTE	802	802	802	802

FY 2022-2023 Estimated Revenue Collections by Fund

TxDMV is a net-revenue-generating agency for the state, collecting revenues from registrations, licenses, titles, permits, and credentials. Revenues collected by TxDMV are deposited into the State Highway Fund (Fund 0006), which is the primary source of funding for the state's transportation and infrastructure system; TxDMV Fund (Fund 0010); and General Revenue Fund (Fund 0001). For the FY 2020-2021 biennium, TxDMV estimates it will deposit approximately \$3.75 billion in total revenues: \$3.26 billion to State Highway Fund 0006; \$319 million to TxDMV Fund 0010; and \$209 million to General Revenue Fund 0001. In the FY 2022-2023 biennium, TxDMV projects collections of \$3.33 billion to be deposited to State Highway Fund 0006; \$332 million to TxDMV Fund 0010; and \$213 million to General Revenue Fund 0001.

Expected TxDMV Revenue Collections				
Fund Type	FY 2020	FY 2021	FY 2022	FY 2023
State Highway Fund 0006	\$ 1,529,590,000	\$ 1,738,975,000	\$ 1,653,783,000	\$ 1,679,226,000
TxDMV Fund 0010	\$ 153,940,000	\$ 166,282,000	\$ 164,031,000	\$ 167,832,000
General Revenue Fund 0001	\$ 103,205,000	\$ 106,359,000	\$ 105,362,000	\$ 107,724,000
Total	\$ 1,786,735,000	\$ 2,011,616,000	\$ 1,923,176,000	\$ 1,954,782,000

The table below reflects projected revenues to TxDMV Fund 0010 for the four-year period beginning in FY 2020 broken out by major categories, using moderate growth projections.

TxDMV Revenue Forecast				
Category	FY 2020	FY 2021	FY 2022	FY 2023
Motor Vehicle Titles	\$ 35,768,000	\$ 39,563,000	\$ 40,749,000	\$ 41,972,000
Motor Vehicle Registration	\$ 33,849,000	\$ 34,223,000	\$ 35,080,000	\$ 35,959,000
Motor Carrier - Oversize / Overweight	\$ 15,294,000	\$ 15,600,000	\$ 15,930,000	\$ 16,248,000
Business Dealer Licenses	\$ 7,316,000	\$ 7,682,000	\$ 7,036,000	\$ 7,388,000
Processing and Handling Fee	\$ 52,022,000	\$ 59,327,000	\$ 55,305,000	\$ 56,135,000
Miscellaneous Fees	\$ 9,691,000	\$ 9,887,000	\$ 9,931,000	\$ 10,130,000
Total	\$ 153,940,000	\$ 166,282,000	\$ 164,031,000	\$ 167,832,000

The TxDMV Fund 0010 balance is projected to be at \$208.0 million at the end of the FY 2020-2021 biennium. The table below illustrates that the balance at the end of the FY 2022-2023 biennium will be sufficient to fund the requested exceptional items.

FY 2019-2023 Pro Forma Summary					
	FY 2019 Actual	FY 2020 Estimated	FY 2021 Budgeted	FY 2022 Requested	FY 2023 Requested
Beginning Balance	120,376,647	177,879,702	194,496,146	208,049,998	196,120,997
Capital UB Authority	21,300,224	18,968,806	19,110,107		
MVCPA Grant UB Authority	360,679				
Subtotal	142,037,550	196,848,508	213,606,253	208,049,998	196,120,997
Revenues					
General Revenue (MVCPA)	12,835,851	12,835,851	12,835,851	12,835,851	12,835,851
TxDMV Fund	171,701,323	153,940,000	166,282,000	164,031,000	167,832,000
Federal Reimbursement	224,258	924,825	743,750	743,750	743,750
Total Revenues	184,761,432	167,700,676	179,861,601	177,610,601	181,411,601
Total Income	326,798,982	364,549,184	393,467,854	385,660,599	377,532,598
Obligations					
Operating Expenses	132,044,078	153,747,087	167,883,856	155,349,972	146,516,748
Credit Card Service Fees	4,643,141	4,151,000	4,234,000	4,403,000	4,491,000
Employee Benefits	12,232,061	12,154,951	13,300,000	13,300,000	13,300,000
Total Obligations	148,919,280	170,053,038	185,417,856	173,052,972	164,307,748
Fund Balance					
Exceptional Items					
Exceptional Items TxDMV Fund				16,206,630	715,629
Exceptional Items General Revenue				280,000	280,000
Total Exceptional Items				16,486,630	995,629
Revised Ending Fund Balance	177,879,702	194,496,146	208,049,998	196,120,997	212,229,221

Motor Vehicle Crime Prevention Authority Fee Collections

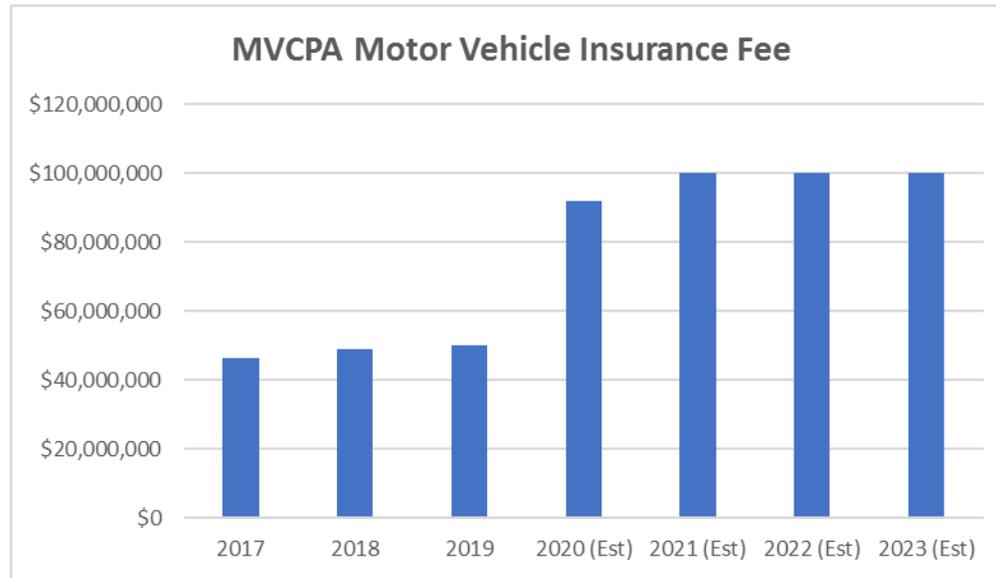
The Motor Vehicle Crime Prevention Authority (MVCPA) has fostered a state-wide cooperative network of law enforcement groups, prosecutors, insurance industry representatives, local tax assessor-collectors, and concerned citizens to combat vehicle theft and burglary through enforcement, prevention, public information, and education initiatives. In addition to providing guidance and oversight, MVCPA awards financial grants to agencies, organizations, and concerned parties in an effort to raise public awareness of vehicle theft and burglary and implement education and prevention initiatives.

The predecessor of the Motor Vehicle Crime Prevention Authority (MVCPA) was established by the 72nd Texas Legislature in 1991 as the Automobile Theft Prevention Authority (ATPA). It was one of the nation's first statewide efforts to reduce auto theft. The 80th Legislature expanded the ATPA mission to include combating motor vehicle burglary and changed the name to the Automobile Burglary and Theft Prevention Authority. The 86th Legislature changed the name to the Motor Vehicle Crime Prevention Authority and added fraud-related motor vehicle crime to its mission. To better align the operation and improve coordination with the Texas Department of Motor Vehicles (TxDMV), the enabling statute for the MVCPA was codified in the Texas Transportation Code. Under the recodification the MVCPA is required to:

1. Collect a \$4 fee for every motor vehicle insured in Texas.
2. Issue grants to law enforcement agencies and other statutorily designated groups to combat motor vehicle crime.
3. Develop, collect and monitor performance data on arrests, recovery of vehicles and cases cleared and other performance measures for motor vehicle crime.
4. Report annually to the Texas Legislature fiscal and program data.
5. Develop a biennial statewide Plan of Operation to combat motor vehicle crime.
6. Examine and make determinations for refunds to insurers that overpay the \$4 per vehicle fee.

House Bill (HB) 2048, passed during the 86th Legislature, increased the fee that motor vehicle insurance companies pay per motor vehicle year from \$2.00 to \$4.00. HB 2048 also changed the allocation of the fee revenue to MVCPA from 50% of the \$2.00 fee to 20% of the \$4.00 fee.

The following charts illustrates the recent trend in the MVPCA motor vehicle insurance fee collections and estimates for the FY 2022-2023 biennium.



FY 2022-2023 Baseline Budget Appropriations Request by Strategy

The following table illustrates the estimated baseline budget appropriations by strategy. The baseline represents the amount of money necessary to maintain existing operations across the agency. The LBB approves the baseline target for each agency. The key variances between the FY2020-2021 appropriation and the FY 2022-2023 amount are adjustments between strategies to better align costs with functions.

Items of Appropriations	Appropriation			Recommended Request			Variance
	FY 2020	FY 2021	Biennial Total	Base FY 2022	Base FY 2023	Biennial Total	
Goal A. Optimize Services and Systems							
Strategy A.1.1. – Titles, Registrations, and Plates	72,974,245	72,077,418	145,051,663	71,757,920	71,659,680	143,417,600	(1,634,063)
Strategy A.1.2. – Vehicle Dealer Licensing	4,169,189	4,182,971	8,352,160	4,059,971	4,059,971	8,119,942	(232,218)
Strategy A.1.3. – Motor Carrier Permits & Credentials	9,270,184	9,152,569	18,422,753	9,031,570	9,031,571	18,063,141	(359,612)
Strategy A.1.4. – Technology Enhancement & Automation	9,306,276	2,714,575	12,020,851	10,838,152	2,704,575	13,542,727	1,521,876
Strategy A.1.5. – Customer Contact Center	3,327,875	3,269,094	6,596,969	3,269,094	3,269,094	6,538,188	(58,781)
Total, Goal A: Optimize Services and Systems	99,047,769	91,396,627	190,444,396	98,956,707	90,724,891	189,681,598	(762,798)
Goal B. Protect the Public							
Strategy B.1.1. – Enforcement	7,467,087	7,117,718	14,584,805	6,891,577	6,891,578	13,783,155	(801,650)
Strategy B.2.1. – Automobile Theft Prevention	12,835,851	12,835,851	25,671,702	12,835,851	12,835,851	25,681,702	-
Total, Goal B: Protect the Public	20,302,938	19,953,569	40,256,507	19,727,428	19,727,429	39,454,857	(801,650)
Goal C: Indirect Administration							
Strategy C.1.1. – Central Administration	8,220,092	8,602,518	16,822,610	9,249,658	9,219,238	18,468,896	1,263,860
Strategy C.1.2. – Information Resources	26,935,545	25,918,345	52,853,890	26,373,345	25,436,907	51,810,252	(900,491)
Strategy C.1.3. – Other Support Services	3,246,627	7,136,690	10,383,317	5,445,834	5,899,283	11,345,117	1,201,079
Total, Goal C: Indirect Administration	38,402,264	41,657,553	80,059,817	41,068,837	40,555,428	81,624,265	1,564,448
Total Department of Motor Vehicles	157,752,971	153,007,749	310,760,720	159,752,972	151,007,748	310,760,720	
Method of Finance							
General Revenue (GR) Fund 0001	12,835,851	12,835,851	25,671,702	12,835,851	12,835,851	25,671,702	-
Texas Department of Motor Vehicles Fund 0010	144,173,370	139,428,148	283,601,518	146,173,371	137,428,147	283,601,518	-
Federal Funds	743,750	743,750	1,487,500	743,750	743,750	1,487,500	-
Total Method of Finance	157,752,971	153,007,749	310,760,720	159,752,972	151,007,748	310,760,720	
Full Time Equivalents (FTEs)			802.0			802.0	

FY 2022-2023 Capital Budget Project Summary Baseline

The following table illustrates FY 2022-2023 Capital budget:

Capital Budget	Biennial Appropriation	Recommended Biennial Base Request
	FY 2020-2021	FY 2022-2023
TxDMV Automation System	\$ 6,566,078	\$ 8,133,578
Growth and Enhancement – Agency Operations Support	1,614,996	1,614,996
Technology Replacement and Upgrades - Regional Support for County Tax Assessor Collector Offices	10,025,000	10,025,000
PC Replacement	451,600	541,600
Cybersecurity Initiative Projects	400,000	400,000
Transportation – Replacement Vehicles	180,000	90,000
RSC Maintenance and Repair	500,000	500,000
Consumer Protection and Enforcement Tracking	567,500	-
Infrastructure Improvements	1,000,000	-
Data Center Consolidation	22,288,028	22,288,028
Total Capital Budget	43,593,202	43,593,202
Method of Finance		
Texas Department of Motor Vehicles Fund 0010	\$ 43,593,202	\$ 43,593,202
Total Method of Finance	\$ 43,593,202	\$ 43,593,202

FY 2022-2023 Capital Budget Descriptions

TxDMV Automation – The TxDMV Automation develops information technology assets to improve customer services and improve access to agency programs for customers and the public. This initiative is supported by the \$0.50 automation fee. The FY2022-2023 Automation project will focus on maintenance and upgrades to the Registration and Titling System (RTS) and expanding online applications.

Growth and Enhancement – Agency Equipment – This appropriation provides funding for activities that enhance or expand information resources in TxDMV individual program areas. Items included in this appropriation are telephone and communication system replacements and upgrades; and software licenses for enterprise applications.

County Equipment Technology Replacement and Upgrades – This appropriation provides funding to deploy and maintain printers, computers, monitors, laptops, cash drawers, and printer toner deployed at county tax assessor-collector (TAC) offices throughout the state. These funds also maintain connectivity between the county TAC offices and the TxDMV Registration and Titling System, as well as connectivity throughout statewide TxDMV offices.

PC Replacement - The PC Replacement project consists of funding for computer, printer and laptops replacement.

Cybersecurity Initiative - This project provides funding for initiatives to improve security for statewide information technology systems.

Vehicles – Funding to provide for the replacement of 4 vehicles. The vehicles would be used to support investigation activities in the Enforcement and Compliance and Investigations (CID) divisions.

RSC Maintenance and Repair – Funding to update a two medium-sized Regional Service Centers (RSC) in order to standardize the look of TxDMV facilities across the state.

Data Center Services – This appropriation supports information technology infrastructure assets and functions through statutorily required participation in the State Data Center maintained by the Texas Department of Information Resources (DIR). The Data Center Services (DCS) program enables state agencies to access data center computing as a managed service. DCS fees are based on a consumption based model with costs varying based on statewide usage of DCS services.

FY 2022-2023 Recommended Exceptional Item Requests

The following table is a preliminary list of exceptional items that will be requested by TxDMV for the FY 2022-2023 biennium. Exceptional items are those desired services above the baseline request. Detailed information on the exceptional items contained in Appendix A.

Division	Exceptional Item	Description	Biennial Request	
			FTE	Amount
Finance & Administrative Services	New Building 5	To demolish Building 5 on the TxDMV Camp Hubbard campus and construct a new building in the same location. Based on an assessment completed by the Texas Facilities Commission (TFC), the age and physical condition of Building 5 is such that a tear-down and rebuilding is a more cost-effective approach than repairing and renovating. Funding in the FY 2022-2023 biennium would provide for planning and design services, with construction funding to follow in FY 2024-2025.		6,187,500
Finance & Administrative Services	Accounts Receivables Systems	Deploy the Centralized Accounting and Payroll/Personnel Systems (CAPPS) Accounts Receivables module to allow for better tracking of accounts receivables balances and to help insure that revenue collection is maximized. Currently the collection and monitoring of receivable accounts is done through 18 different applications. However, none of the systems are designed for conducting accounts receivable activities. The decentralized accounts receivable function and multiple systems have limited TxDMV's ability to properly monitor or conduct accounts receivable activities. Costs include one-time external contract services, temporary support during deployment, and two (2) ongoing FTEs.	2.0	3,472,958
Consumer Relations/ Enforcement/ Motor Carrier/ Motor Vehicle /Information Technology Services	Complaint Management System (CMS)	Develop and maintain a new complaint management system which would include data on the status of complaints, complaint procedures, and documentation of complaints. This item also includes coalescing complaints into a single repository for greater efficiency, instead of the current process of storing complaints in separate systems. Includes costs for funding for external contract services.		5,225,712

Division	Exceptional Item	Description	Biennial Request	
			FTE	Amount
Vehicles, Titles, and Registration (VTR)	New Dallas RSC Substation	To fund a new Dallas Regional Service Center (RSC) substation. The TxDMV Dallas/Carrollton RSC is currently located at 1925 Beltline Road, Suite 100, Carrollton, Texas and is housed in approximately 7,865 square feet of leased space with a staff of 22.5 employees. The Dallas RSC is expected to outgrow their current facility by 2028. In anticipation of future growth, and to better serve customers, this request is to open a new Dallas RSC substation office. An analysis of historical customer flow indicates the new location is best fit in southeast Dallas. Funding includes the build out of a new facility and operating costs for two (2) additional FTEs.	2.0	855,970
Vehicles, Titles, and Registration (VTR)	New Houston RSC Substation	To fund a new Houston Regional Service Center (RSC) substation. The Houston RSC is currently located at 2110 East Governors Circle, Houston, Texas with a staff of 28.5 employees. The Houston RSC is expected to outgrow their current facility by 2028. In anticipation of future growth, and to better serve customers, this request is to open a new Houston RSC substation office. An analysis of historical customer flow indicates the new location is best fit in southeast Houston. Funding includes the build out of a new facility and operating costs for four (4) additional FTEs.	4.0	1,180,119
Motor Vehicle Crime Prevention Authority	Fee and Refund Unit	The Motor Vehicle Crime Prevention Authority (MVCPA) is requesting to add 3 positions to maintain that insurers that sell any form of motor vehicle insurance are aware and comply with the MVCPA Fee requirements. These new positions will provide analysis, audit, outreach and education to insurers. Funding includes salaries and operating costs for three (3) FTEs.	3.0	560,000
Total Exceptional Items			11.00	17,482,259
Totals by Method of Finance				
General Revenue			3.0	560,000
TxDMV Fund			8.0	16,922,259
TOTAL			11.00	17,482,259

Riders

A “rider” is a legislative directive or appropriation inserted in the General Appropriations Act (GAA) following the Items of appropriation for an agency or, in the special or general provisions of the act. A rider provides direction, expansion, restriction, legislative intent, or an appropriation. A rider may be requested by an agency or may be drafted and inserted by the legislature.

For the FY 2022-2023 LAR, the agency, at minimum, intends to request five riders to assist in its operations.

Riders Previously Approved in FY 2020-2021 and Re-requested for FY 2022-2023

- ***Special License Plate Fees*** – this rider provides additional appropriations each year of the biennium for the purpose of making payments to the contract vendor for the marketing and sale of personalized license plates. The rider also allows for unexpended balances to be carried forward into the next fiscal year of the biennium for the same purposes. This rider was included in the FY 2020-2021 General Appropriation Act.
- ***Capital Projects - Automation—Unexpended Balance Authority*** – this rider will allow the agency to spend money appropriated for Automation capital projects during both years of the biennium. The agency is requesting that any unexpended funds appropriated for capital projects at the end of FY 2021 be carried forward to the new biennium beginning FY 2022 for the agency’s use. This rider was included in the FY 2020-2021 General Appropriation Act.
- ***Federal Grants and State Matching Funds*** – this rider allows the agency to spend any unexpended balances of state match funds for federal grants from FY 2021 in FY 2022. This rider was included in the FY 2020-2021 General Appropriation Act.
- ***Unexpended Balance Authority within the Biennium*** – this rider would allow the agency to spend any unexpended balances in appropriations between the fiscal years. This rider was included in the FY 2020-2021 General Appropriation Act.
- ***Capital Projects - HQ Maintenance—Unexpended Balance Authority*** – this rider will allow the agency to spend money appropriated for capital projects for headquarters maintenance during both years of the biennium. The agency is requesting that any unexpended funds appropriated for capital projects at the end of FY 2021 be carried forward to the new biennium beginning FY 2022 for the agency’s use.

Appendix A – Exceptional Item Detail

2022-2023 LAR Exceptional Item Request Schedule				
Division:	FAS		Division Director:	Linda Flores
Item Name:	Building 5 Replacement		Item Priority:	1
Strategy:	C.1.3 Other Support Services			
Code	Total Exceptional Item Request	Requested		
		2022	2023	
	Objects of Expense:			
5000	Capital Expenditures	\$ 6,187,500	-	
	Total, Objects of Expense	\$ 6,187,500	-	
	Method of Financing:			
001	General Revenue			
010	TxDMV Fund	\$ 6,187,500	-	
8082	Federal Reimbursements			
	Total, Method of Finance	\$ 6,187,500	-	
Number of Full-time Equivalent Positions (FTE):				
Detail for Capital Appropriation Items: (included in above amounts)				
5001	Acquisition of Land and Other Real Property			
5002	Construction of Buildings and Facilities	\$ 6,187,500		
5003	Repairs or Rehabilitation			
5005	Acquisition of Information Resources Technologies	\$ -		
5006	Transportation Items			
5007	Acquisition of Capital Equipment and Items			
7000	Data Center Consolidation Services	\$ -	\$ -	-
	Total, Capital Appropriation Items	\$ 6,187,500	\$ -	-
Detail on Object of Expenses and FTEs: (Included above)				

2022-2023 LAR Exceptional Item Request Schedule				
Division:	FAS	Division Director: Linda Flores		
Item Name:	Building 5 Replacement	Item Priority: 1		
Strategy:	C.1.3 Other Support Services			
Code	Total Exceptional Item Request	Requested		
		2022	2023	
Detail for Capital Appropriation Items: (included above)				
		FY 2022-2023	FY 2024-2025	
	Architectural Engineering Services	\$ 3,750,000	\$ -	
	Environmental Services	\$ 468,750	\$ -	
	Surveying Services	\$ 937,500	\$ -	
	Geotech Engineers	\$ 468,750	\$ -	
	Utility Connections	\$ -	\$ 250,000	
	Demolition and clean up	\$ -	\$ 1,875,000	
	Utility Improvements (CH7)	\$ -	\$ 250,000	
	CH5 Construction	\$ -	\$ 46,875,000	
	Moving Expenses	\$ -	\$ 330,554	
	Swing Space rental for staff	\$ -	\$ 7,200,000	
	New Modular Furniture	\$ -	\$ 1,466,500	
	Contingency	\$ 562,500	\$ 5,824,705	
		\$ 6,187,500	\$ 64,071,759	
Description/Justification (2000 character limit) □				
<p>In 2019 the department requested the Texas Facilities Commission (TFC) perform multiple building assessments to determine the overall condition (i.e. mechanical, plumbing, electrical, HVAC, environmental quality, etc.) of all buildings located on the Camp Hubbard Campus. On February 26, 2020 TxDMV received the final report and overview of each building's age, size, estimated repair and replacement costs, and then used this information to develop the Facility Condition Index (FCI). FCI is used to determine the physical condition of a facility expressed by the ratio of repair costs to replacement value of the facility (See Exhibit A at the end of this document for FCI details). Building 1 FCI = 153% and Building 5 FCI = 134%. Both building 1 & 5 were built in 1955 and due to their age and current conditions, it is more expensive to repair the buildings than to replace them. Based on these findings, TFC recommends demolishing Building 5 and constructing a new building in the same location. Current building code permits a maximization of the existing space with a 5-story structure at 37,500 sf per floor. The proposed building has a gross square footage of 187,500 which exceeds what DMV currently occupies, 166,158 sf for both buildings 1 and 5. Costs are allocated across two (2) bienniums, with design and planning in FY 2022-2023 and construction in FY 2024-2025.</p>				

Replacement of Building 5

In 2019 the department requested the Texas Facilities Commission (TFC) perform multiple building assessments to determine the overall condition (i.e. mechanical, plumbing, electrical, HVAC, environmental quality, etc.) of all buildings located on the Camp Hubbard Campus. On February 26, 2020 we received the final report and overview of each building's age, size, estimated repair and replacement costs, and then used this information to develop the Facility Condition Index (FCI). FCI is used to determine the physical condition of a facility expressed by the ratio of repair costs to replacement value of the facility (See Exhibit A at the end of this document for FCI details). Building 1 FCI = 153% and Building 5 FCI = 134%. Both building 1 & 5 were built in 1955 and due to their age and current conditions, it is more expensive to repair the buildings than to replace them. Based on these findings, TFC recommends demolishing Building 5 and constructing a new building in the same location. Current building code permits a maximization of the existing space with a 5-story structure at 37,500 sf per floor. The proposed building has a gross square footage of 187,500 which exceeds what DMV currently occupies, 166,158 sf for both buildings 1 and 5.

Texas Department of Motor Vehicles

2022-23 LAR Exceptional Item Request Schedule

Division: Finance & Administrative Services		Division Director: Linda Flores			
Item Name: CAPPs Accounts Receivable Implementation		Item Priority: 2			
Strategy:	C.1.1 Central Administration				
Code	Total Exceptional Item Request	Requested			
		2022	2023		
	Objects of Expense:				
1001	Salaries	\$ 111,304	\$ 111,304		
1002	Other Personnel Costs	\$ 557	\$ 557		
2001	Professional Fees & Services (includes DCS)	\$ 3,234,784	\$ -		
2009	Other Operating Expense	\$ 12,226	\$ 2,226		
	Total, Objects of Expense	\$ 3,358,871	\$ 114,087		
	Method of Financing:				
010	TxDMV Fund	\$ 3,358,871	\$ 114,087		
	Total, Method of Finance	\$ 3,358,871	\$ 114,087		
Number of Full-time Equivalent Positions (FTE):					
Detail for Capital Appropriation Items: (included in above amounts)					
5005	Acquisition of Information Resources Technologies	\$ 3,234,784			
	Total, Capital Appropriation Items	\$ 3,234,784	\$ -		
Detail on Object of Expenses and FTEs: (Included above)					
<u>Recommend use of Exceptional Item Cost Worksheet for calculations</u>					
Salary		FTE	Monthly Salary	FY 2022	FY 2023
	Job Class New Positions				
	Accountant V	1.00	\$ 5,301	\$ 63,616	\$ 63,616
	Accountant III	1.00	\$ 3,974	\$ 47,688	\$ 47,688

Texas Department of Motor Vehicles

2022-23 LAR Exceptional Item Request Schedule

Division:	Finance & Administrative Services	Division Director:	Linda Flores		
Item Name:	CAPPS Accounts Receivable Implementation	Item Priority:	2		
Strategy:	C.1.1 Central Administration				
Code	Total Exceptional Item Request	Requested			
		2022	2023		
Other Expenses (list line items)		Unit Cost	Units	FY 2022	FY 2023
	Other Operating - Training 1% of salary/yr per FTE		-	\$ 1,113	\$ 1,113
	Other Operating - Cubicles \$5,000 per FTE	\$ 5,000	2.00	\$ 10,000	\$ -
	Other Operating - Payroll Health Contribution 1% (Legislatively Mandated)			\$ 1,113	\$ 1,113
	Other Personnel - Employee Retirement Contribution .5% (Legislatively Mandated)			\$ 557	\$ 557
Subtotal, Detail on Object of Expenses and FTEs				\$ 124,087	\$ 114,087
Detail for Capital Appropriation Items: (included above)					
Professional Fees	CAPPS Implementation Fees to CPA	\$ 500,000.00	1	500,000	
Professional Fees	1 Project Manager	\$ 116.00	2,080	241,280	
Professional Fees	1 IT Business Analyst	\$ 106.00	2,080	220,480	
Professional Fees	6 IT Contractor/Programmers	\$ 100.00	12,480	1,248,000	
Professional Fees	1 IT System Integrations Tester	\$ 82.00	2,080	170,560	
Professional Fees	IT Contingency (20%)			376,064	
Professional Fees	1 Temp Staff to Backfill CAPPS Security	\$ 75.00	2,080	156,000	
Professional Fees	1 Temp Staff to Backfill Revenue Acct	\$ 50.00	2,080	104,000	
Professional Fees	1 Temp Staff to Backfill Revenue Acct V	\$ 55.00	2,080	114,400	
Professional Fees	1 Temp Staff to Backfill Revenue Acct IV	\$ 50.00	2,080	104,000	
Professional Fees	Total Professional Fees			3,234,784	-

2022-2023 LAR Exceptional Item Request Schedule				
Division: Finance & Administrative Services		Division Director: Linda Flores		
Item Name: CAPPs Accounts Receivable Implementation		Item Priority: 2		
Strategy:	C.1.1 Central Administration			
Code	Total Exceptional Item Request	Requested		
		2022	2023	
Description/Justification (2000 character limit) <input type="checkbox"/>				
<p>At TxDMV, the collection and monitoring of receivable accounts is done through 18 different applications. However, none of the systems are designed for conducting accounts receivable activities. The decentralized accounts receivable function and multiple systems have limited TxDMV's ability to properly monitor or conduct accounts receivable activities. Deploying the CAPPs Accounts Receivable module and integrating it with existing TxDMV applications will allow for better tracking of accounts receivable balances and will help insure that revenue collection is maximized. Included in the estimated costs for this project are implementation fees payable to Comptroller of Public Accounts, 1 project manager, 1 IT Business Analyst, 6 IT Programmers, 1 IT System Integrations Tester & 4 additional contractors to backfill the day to day duties of FAS subject matter experts while they work primarily on the CAPPs deployment. Due to the large number of systems TxDMV will be integrating with the CAPPs Accounts Receivable (A/R) module, significant IT programming resources are required. Additionally, once the CAPPs A/R module is live, 2 additional permanent FTE's within the FAS organization will be required to centrally manage the accounts receivable reporting process for the entire Department; while collection efforts continue to remain as decentralized functions within the program areas.</p>				

Accounts Receivable System

At TxDMV, the collection and monitoring of accounts receivable function is spread across six divisions and eighteen (18) different system applications. The divisions include Enforcement, Information Technology Services, Motor Carrier, Motor Vehicle, Vehicle Titles and Registration, and Finance and Administrative Services. TxDMV has 28 receivable accounts where payments are collected in advance or in arrears of services rendered. The collection and monitoring of receivable accounts are performed through 18 different applications, however none of the systems were designed to manage accounts receivable activities.

The decentralized accounts receivable function and multiple systems have limited TxDMV's ability to properly monitor or conduct accounts receivable activities. Deploying the CAPPS Accounts Receivable (A/R) module and integrating it with existing TxDMV applications will allow for better tracking of accounts receivable balances and will help insure that revenue collection is maximized.

Two additional staff are included in the request to centrally manage, reconcile and report Department-wide accounts receivable.

2022-2023 LAR Exceptional Item Request Schedule				
Division:	Enforcement		Division Director:	Corrie Thompson
Item Name:	Complaint Management System		Item Priority:	3
Strategy:	A.1.4 Technology Enhancement and Automation			
Code	Total Exceptional Item Request	Requested		
		2022	2023	
	Objects of Expense:			
2001	Professional Fees & Services (includes DCS)	\$ 2,090,712		
2009	Other Operating Expense	\$ 3,135,000		-
	Total, Objects of Expense	\$ 5,225,712		-
	Method of Financing:			
010	TxDMV Fund	\$ 5,225,712		-
	Total, Method of Finance	\$ 5,225,712		-
Number of Full-time Equivalent Positions (FTE):				
Detail for Capital Appropriation Items: (included in above amounts)				
5005	Acquisition of Information Resources Technologies	\$ 5,225,712		
	Total, Capital Appropriation Items	\$ 5,225,712	\$	-
Professional Fee	Acquisition of Information Resource Tech	\$ 2,090,712		
Contract Svcs	Vendor Costs	\$ 3,000,000		
Software	Software	\$ 135,000		
Description/Justification (2000 character limit) ☐				
Sunset Recommendation Develop and maintain a complaint management system which would include data on the status of complaints, complaint procedures, and documentation of complaints.				

Complaint Management System

As a customer-focused agency, it is important for the department to have easy access to a clear view of its customers' satisfaction, and a key indicator of the customer experience is the number of complaints.

As noted in the department's recent Sunset report, each division has its own complaint handling process without consistent central reporting or analysis of complaint trends. Additionally, complaints are stored in separate individual systems which complicates the ability to capture consistent information across the organization. This approach creates risk that the department may not adequately address complaints and that management does not have the ability to obtain a holistic view of customer service issues. This approach also increases the time to respond and resolve complaints due to the manner in which complaints are managed.

This funding request supports the development and maintenance of a new complaint management system which includes data on the status of complaints, complaint procedures, and documentation of complaints. This request also includes merging complaints into a single repository for greater efficiency, instead of the current process of storing complaints in separate systems. The system will streamline the complaint handling process and allow TxDMV's customers and stakeholders to benefit from reducing the time needed to resolve a complaint. The system will help facilitate the creation a centralized complaint intake process, assist tracking complaints as they move through the process to identify bottlenecks, and enable timely notification to complainants as to progress of their complaint.

2022-23 LAR Exceptional Item Request Schedule					
Division:	Vehicle Titles & Registration		Division Director:	Jeremiah Kuntz	
Item Name:	Dallas Regional Service Center Substation		Item Priority:	4	
Strategy:	A.1.1 Titles Registration and Plates				
Code	Total Exceptional Item Request	Requested			
		2022	2023		
	Objects of Expense:				
1001	Salaries	110,702		110,702	
1002	Other Personnel Costs	554		554	
2001	Professional Fees & Services (includes DCS)	50,000		-	
2003	Consumable Supplies	600		600	
2005	Travel	6,400		6,400	
2006	Rent - Building	122,100		122,100	
2009	Other Operating Expense	17,484		2,274	
5000	Capital Expenditures	305,500		-	
	Total, Objects of Expense	613,340		242,630	
	Method of Financing:				
001	General Revenue				
010	TxDMV Fund	613,340		242,630	
8082	Federal Reimbursements				
	Total, Method of Finance	613,340		242,630	
	Number of Full-time Equivalent Positions (FTE):		2.0		2.0
Detail for Capital Appropriation Items: (included in above amounts)					
5001	Acquisition of Land and Other Real Property				
5002	Construction of Buildings and Facilities	\$ 255,500			
5005	Acquisition of Information Resources Technologies	\$ 50,000			
7000	Data Center Consolidation Services	\$ -		\$ -	
	Total, Capital Appropriation Items	\$ 305,500		\$ -	
Detail on Object of Expenses and FTEs: (Included above)					
<u>Recommend use of Exceptional Item Cost Worksheet for calculations.</u>					
Salary		FTE	Monthly Salary	FY 2022	FY 2023
	Job Class New Positions				
	Manager II	1.00	6,066	72,789	72,789
	Customer Service Rep III	1.00	3,159	37,914	37,914
Travel	Supervisor travel = \$200/day*16 days/year			6,400	6,400

2022-2023 LAR Exceptional Item Request Schedule					
Division:	Vehicle Titles & Registration			Division Director:	Jeremiah Kuntz
Item Name:	Dallas Regional Service Center Substation			Item Priority:	4
Strategy:	A.1.1 Titles Registration and Plates				
Code	Total Exceptional Item Request			Requested	
				2022	2023
Travel	Supervisor travel = \$200/day*16 days/year			6,400	6,400
Other Expenses (list line items)		Unit Cost	Units	FY 2022	FY 2023
	Consumable Supplies \$300/yr per FTE	300	2.00	600	600
	Other Operating - share of xerox rental \$30/FTE	30	2.00	60	60
	Other Operating - Training 1% of salary/yr per FTE	0	-	1,107	1,107
	Other Operating - Chair \$350 per FTE	350	2.00	700	
	Other Operating - Computer, printer, monitor phone	2,255	2.00	4,510	
	Other Operating - Cubicles \$5,000 per FTE	5,000	2.00	10,000	
	Other Operating - Payroll Health Contribution 1% (Legislatively Mandated)			1,107	1,107
	Other Personnel - Employee Retirement Contribution .5% (Legislatively Mandated)			554	554
Subtotal, Detail on Object of Expenses and FTEs				\$ 135,740	\$ 120,530
Detail for Capital Appropriation Items: (included above)					
	Buildout of new location			255,500	
	Furniture			50,000	

2022-2023 LAR Exceptional Item Request Schedule			
Division: Vehicle Titles & Registration		Division Director: Jeremiah Kuntz	
Item Name: Dallas Regional Service Center Substation		Item Priority: 4	
Strategy:	A.1.1 Titles Registration and Plates		
Code	Total Exceptional Item Request	Requested	
		2022	2023
Description/Justification (2000 character limit) <input type="checkbox"/>			
<p>The TxDMV Dallas/Carrollton Regional Service Center (RSC) is currently located at 1925 Beltline Road, Suite 100, Carrollton, Texas and is housed in approximately 7,865 square feet of leased space with a staff of 22.5 employees. The Dallas RSC is expected to outgrow their current facility by 2028. In anticipation of future growth, and to better serve our customers, the Vehicle Titles and Registration Division is recommending we open a new Dallas RSC substation office. An analysis of historical customer flow indicates the new location is best fit in southeast Dallas. It is estimated that approximately 50% of the current Dallas RSC customer base would utilize the new location. An additional supervisor would be required to oversee the location. One existing coordinator and half of the existing staff would be reassigned to the new location. One additional customer service representative is needed to adequately staff the new</p>			
External/Internal Factors (2000 character limit)			
<p>Texas added more population in the past twelve months than any other state. The growth is forecasted to continue at, or above, the current rate. Much of this population settled, and will continue to settle, in the Dallas-Fort Worth metroplex. As the population expands, the demands for the services of TxDMV regional service centers also increases. Additional resources are required, as described herein, to meet those demands proactively to ensure the department continues to provide exceptional services to its customers. By creating a third location in the metroplex rather than expanding our current location, the department will be positioned closer to its customers, thereby enhancing the customer experience, reducing traffic congestion, and protecting the environment.</p>			

Dallas Regional Service Center Substation

The **Dallas RSC** is expected to outgrow their current facility by 2028. In anticipation of future growth, and to better serve our customers, the Vehicle Titles and Registration Division is recommending a new Dallas RSC substation office. An analysis of historical customer flow indicates the new location is best situated in southeast Dallas. It is estimated that approximately 50% of the current Dallas RSC customer base would utilize the new location. Two new staff are included in this request--a supervisor would be required to oversee the location and one additional customer service representative. Existing staff would also be reassigned to adequately staff the new location.

2022-23 LAR Exceptional Item Request Schedule					
Division: Vehicle Titles & Registration			Division Director: Jeremiah Kuntz		
Item Name: Houston Regional Service Center Substation			Item Priority: 5		
Strategy: A.1.1 Titles Registration and Plates					
Code	Total Exceptional Item Request			Requested	
				2022	2023
Objects of Expense:					
1001	Salaries			186,529	186,529
1002	Other Personnel Costs			933	933
2001	Professional Fees & Services (includes DCS)			50,000	-
2003	Consumable Supplies			1,200	1,200
2005	Travel			6,400	6,400
2006	Rent - Building			160,000	160,000
2009	Other Operating Expense			34,270	3,850
5000	Capital Expenditures			381,875	-
Total, Objects of Expense				821,207	358,912
Method of Financing:					
001	General Revenue				
010	TxDMV Fund			821,207	358,912
8082	Federal Reimbursements				
Total, Method of Finance				821,207	358,912
Number of Full-time Equivalent Positions (FTE):				4.0	4.0
Detail for Capital Appropriation Items: (included in above amounts)					
5005	Acquisition of Information Resources Technologies			\$ 50,000	
Total, Capital Appropriation Items				\$ 50,000	\$ -
Detail on Object of Expenses and FTEs: (Included above)					
<u>Recommend use of Exceptional Item Cost Worksheet for calculations.</u>					
Salary		FTE	Monthly Salary	FY 2022	FY 2023
	Job Class New Positions				
		1.00	6,066	72,789	72,789
		3.00	3,159	113,741	113,741

2022-23 LAR Exceptional Item Request Schedule					
Division: Vehicle Titles & Registration			Division Director: Jeremiah Kuntz		
Item Name: Houston Regional Service Center Substation			Item Priority: 5		
Strategy:	A.1.1 Titles Registration and Plates				
Code	Total Exceptional Item Request			Requested	
				2022	2023
Travel	Supervisor travel = \$200/day*16 days/year			6,400	6,400
Expenses (list line items)			Unit Cost	Units	FY 2022
	Consumable Supplies \$300/yr per FTE		300	4.00	1,200
	Other Operating - share of xerox rental \$30/FTE		30	4.00	120
	Other Operating - Training 1% of salary/yr per FTE		0	-	1,865
	Other Operating - Chair \$350 per FTE		350	4.00	1,400
	Other Operating - Computer, printer, monitor phone		2,255	4.00	9,020
	Other Operating - Cubicles \$5,000 per FTE		5,000	4.00	20,000
	Other Operating - Payroll Health Contribution 1% (Legislatively Mandated)				1,865
	Other Personnel - Employee Retirement Contribution .5% (Legislatively Mandated)				933
Subtotal, Detail on Object of Expenses and FTEs					\$ 229,332
Detail for Capital Appropriation Items: (included above)					\$ 198,912
	Buildout of new location				331,875
	Furniture				50,000
					-
					-

2022-2023 LAR Exceptional Item Request Schedule			
Division:	Vehicle Titles & Registration	Division Director:	Jeremiah Kuntz
Item Name:	Houston Regional Service Center Substation	Item Priority:	5
Strategy:	A.1.1 Titles Registration and Plates		
Code	Total Exceptional Item Request	Requested	
		2022	2023
Description/Justification (2000 character limit) <input type="checkbox"/>			
The Houston Regional Service Center (RSC) is currently located at 2110 East Governors Circle, Houston, Texas with a staff of 28.5 employees. The Houston RSC is expected to outgrow their current facility by 2028. In anticipation of future growth, and to better serve our customers, Vehicle Titles and Registration Division is recommending we open a new Houston RSC substation office. An analysis of historical customer flow indicates the new location is best fit in southeast Houston. It is estimated that approximately 50% of the current Houston RSC customer base would utilize the new location. An additional supervisor would be required to oversee the location. One existing coordinator and one-third of the existing staff would be reassigned to the new location. Three additional customer service representatives are needed to adequately staff the new location.			

Houston Regional Service Center Substation

As the Texas population expands, the demands for the services of TxDMV regional service centers in the Houston metroplex also increases. Additional resources are required to meet those demands proactively to ensure the department continues to provide exceptional services to its customers. By creating a second location in the Houston area rather than expanding the current location, the department will be positioned closer to its customers, thereby reducing wait times, traffic congestion and protecting the environment.

2022-23 LAR Exceptional Item Request Schedule						
Division:	Motor Vehicle Crime Prevention Authority			Division Director:	Bryan Wilson	
Item Name:	Collections and Refund Unit			Item Priority:	6	
Strategy:	B.2.1 Motor Vehicle Crime Prevention Authority					
Code	Total Exceptional Item Request			Requested		
				2022	2023	
	Objects of Expense:					
1001	Salaries			244,000	244,000	
1002	Other Personnel Costs			1,220	1,220	
2003	Consumable Supplies			900	900	
2005	Travel			6,095	6,095	
2009	Other Operating Expense			27,785	27,785	
	Total, Objects of Expense			280,000	280,000	
	Method of Financing:					
001	General Revenue					
010	TxDMV Fund			280,000	280,000	
8082	Federal Reimbursements					
	Total, Method of Finance			280,000	280,000	
Number of Full-time Equivalent Positions (FTE):						
Detail for Capital Appropriation Items: (included in above amounts)						
	Total, Capital Appropriation Items			\$ -	\$ -	
Detail on Object of Expenses and FTEs: (Included above)						
<u>Recommend use of Exceptional Item Cost Worksheet for calculations.</u>						
Salary		FTE	Monthly Salary	FY 2022	FY 2023	
	Tax Manager	1.00	\$ 9,417	113,000	113,000	
	Auditor V	1.00	6,000	72,000	72,000	
	Program Specialist IV	1.00	4,917	59,000	59,000	
Travel	Method of calculation			6,095	6,095	

2022-23 LAR Exceptional Item Request Schedule					
Division: Motor Vehicle Crime Prevention Authority		Division Director: Bryan Wilson			
Item Name: Collections and Refund Unit		Item Priority: 6			
Strategy:	B.2.1 Motor Vehicle Crime Prevention Authority				
Code	Total Exceptional Item Request	Requested			
		2022	2023		
Expenses (list line items)	Unit Cost	Units	FY 2022	FY 2023	
	Consumable Supplies \$300/yr per FTE	300	3.00	900	900
	Other Operating - share of copier rental \$30/FTE	30	3.00	90	90
	Other Operating - Training 1% of salary/yr per FTE	0	-	2,440	2,440
	Other Operating - Chair \$350 per FTE	350	3.00	1,050	-
	Other Operating - Computer, printer, monitor phone	2,255	3.00	6,765	-
	Other Operating - Cubicles \$5,000 per FTE	5,000	3.00	15,000	-
	Other Operating - Payroll Health Contribution 1% (Legislatively Mandated)			2,440	2,440
	Other Personnel - Employee Retirement Contribution .5% (Legislatively Mandated)			1,220	1,220
	Other Operating - Miscellaneous items, contracts				22,815
Subtotal, Detail on Object of Expenses and FTEs			\$ 280,000	\$ 280,000	

Motor Vehicle Crime Prevention Authority (MVCPA) Fee and Refund Unit

In 2019, the Auto Burglary Theft Prevention Authority name changed to the Motor Vehicle Crime Prevention Authority (MVCPA) and its responsibilities were expanded to include **fraud-related motor vehicle crime**. The insurance fee increased to \$4 with 20% to be appropriated to the Authority and 60% going to emergency and trauma centers. MVCPA works with the Comptroller of Public Accounts, Texas Department of Insurance (TDI), insurance companies and insurance trade associations to ensure all motor vehicle insurers are in full compliance with the law regarding the collection of the fee.

The goal of this request is to create the Motor Vehicle Crime Prevention Insurance Fee and Refund Unit. The employees will ensure equitable collection practices to provide fair market conditions for all insurers. The unit will also assist insurers with the MVCPA fee compliance and focus on accurate and timely collections and refunds of fees. All positions will be funded through MVCPA appropriations.

Board Meeting Date: 8/5/2020

ACTION ITEM

To: Texas Department of Motor Vehicles Board
From: Linda M. Flores, CPA, Chief Financial Officer, Finance & Administrative Services Division Director
Agenda Item: 16.A.2
Subject: Recommended FY 2021 Operating Budget

RECOMMENDATION

1. Approval of the Recommended FY 2021 Operating Budget.
2. Approval for the Executive Director to negotiate and execute the routine and required contracts contained in Part VI of the document and specific approval of the following contract:
 - a. American Association of Motor Vehicle Administrators (AAMVA) National Motor Vehicle Title Information System (NMVTIS). This contract allows the agency to maintain access to AAMVA NMVTIS for the period of September 1, 2020 through August 31, 2021.
3. Approval to transfer \$2.7 million from Automation capital line to the Data Center Consolidation capital line item and to request authority from the Legislative Budget Board (LBB) and the Governor's Office Budget and Policy Division (GOBP) to exceed the 25% transfer limit to utilize Data Center Services (DCS) Managed Application Services (MAS). The department has two projects that can be developed using DCS vendors—1) Statewide Web Dealer Adoption and 2) External Website Web Server Cloud Solution.

PURPOSE AND EXECUTIVE SUMMARY

The Texas Department of Motor Vehicles (TxDMV) develops annual operating budgets based on approved biennial appropriations. The recommended FY 2021 operating budget implements the second year of appropriations for the 2020-2021 biennium adjusted for eligible carryforward of unspent balances. This recommended operating budget includes \$181.7 million and is structurally balanced to support recurring expenses throughout the department organization.

FINANCIAL IMPACT

The department's recommended FY 2021 operating budget of \$181.7 million will be primarily supported by TxDMV Fund 0010 collections, whose estimated revenue for FY 2021 is \$166.2 million. In addition to the TxDMV Fund 0010, the department's budget is also funded by a combination of General Revenue appropriations (\$12.8 million), estimates of carryforward of FY 2020 Automation balances (\$13.7 million); other Capital balances (\$5.4 million); the estimated carryforward of unspent operating funds as allowed under Rider 10 (\$9.6 million); and federal reimbursements (\$743,750). This recommended budget document includes a list of contracts that will be funded as part of the FY 2021 budget.



BACKGROUND AND DISCUSSION

Revenues

Estimated FY 2021 TxDMV Fund 0010 revenue of \$166.2 million includes collections from the processing and handling fee estimated to be \$59.3 million, \$91.3 million associated with titles and registration fees and \$15.6 million in fees for oversize/overweight permits. The staff estimates that TxDMV will collect approximately \$2.0 billion for the State in all funds during FY 2021.

Appropriations

The FY 2021 recommended operating budget is \$181.7 million and is based on the appropriations by the 86th Legislature's Senate/House Conference Committee adjusted for eligible carryforward of unspent balances. The attached budget document includes baseline funding for 802 full time equivalents (FTE), online fulfillment of vehicle registrations, license plate production, the Data Center Services (DCS) contract with the Department of Information Resources, vehicle replacements and other projects. The 86th Legislature's approved recommendations included an additional 23 full time equivalents (FTE) and funding which continue in FY 2021:

- Information Technology Division Development and Maintenance Improvements – 12 new FTEs (\$915K)
- Information Technology Division Infrastructure Improvements (\$850K)
- Consumer Relations Division Customer Service Enhancement – 9 new FTEs (\$418K)
- Consumer Protection and Tracking Resources (\$97,500)
- Statewide Cost Allocation Plan (SWCAP) increases (\$1.1M)
- Regional Service Center Capital (\$250K)
- Digital License Plates funding – 2 new FTEs (\$112K)

FY 2021 also includes the second year of riders related to the use of unexpended balances for federal grants and state matching funds, TxDMV HQ Security and Badge System, TxDMV HQ Maintenance, and balances within the biennium.

Unexpended Balance Capital Authority

In addition to \$17.9 million in Fiscal Year 2021 capital appropriations, the recommended capital budget includes \$19.1 million in estimated unexpended balance carry-forward from FY 2020 capital projects. The carry-forward consists of \$12.4 million in Fiscal Year 2020 TxDMV Automation balances and \$6.7 million in FY 2020 carry forward from other capital projects, with HQ Maintenance being the largest component of other capital.

The Automation balances will be utilized for the completion of the Web Lien, Statewide Web Dealer Adoption, Call Center, RTS Testing Tools, and Computer Aided Software Testing (CAST) software projects, along with funding an unallocated reserve for future initiatives.

Rider 10 Unexpended Balance Authority

The FY 2021 Recommended Budget also includes an estimated \$9.6 million in carry-forward from FY 2020 appropriations. This carry-forward is authorized by TxDMV Rider 10 ***Unexpended Balances Within the Biennium***, which allows unspent balances to carry forward from FY 2020 to FY 2021. The carry-forward will be used to address continued department operations.



Contract Requiring Board Approval

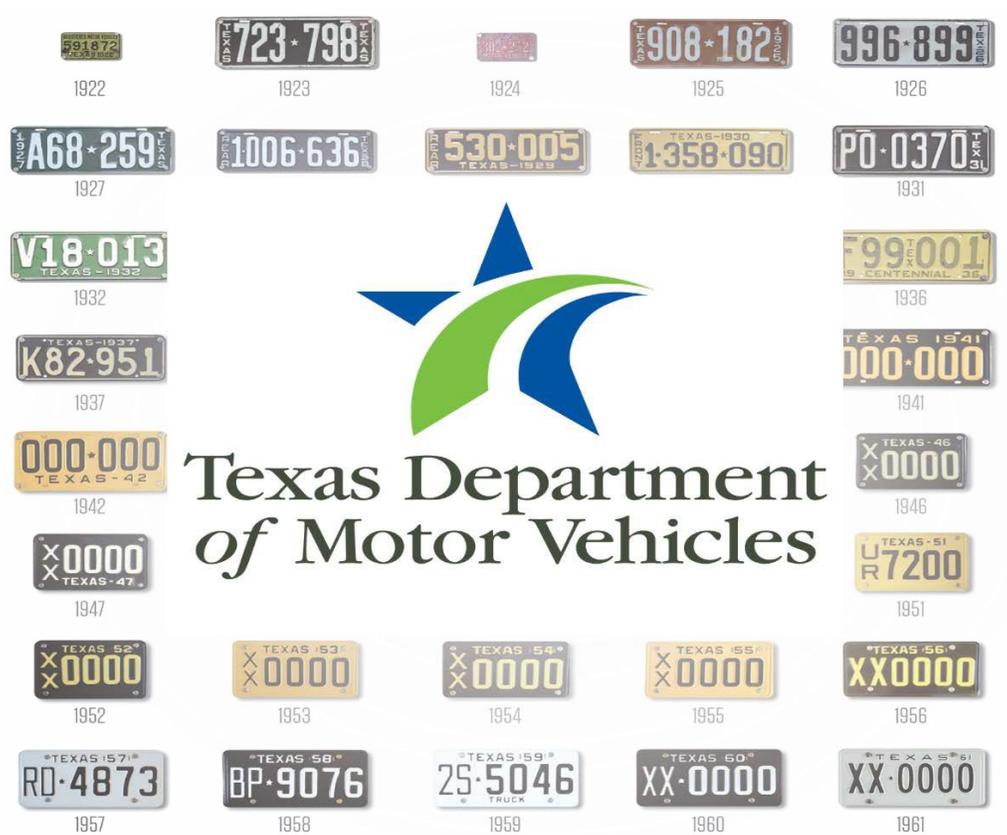
The department's resolution adopting contract approval procedures specifies that the Executive Director must obtain board approval for contracts \$200,000 or more prior to award or renewal unless specifically excluded. The contract listed below requires Board approval for the award and/or renewal and for the proposed contract amount for Fiscal Year 2021.

American Association of Motor Vehicle Administrators – This contract (\$377,702) provides online access to meet the TxDMV's obligation to receive and report information to the National Motor Vehicle Title Information System (NMVTIS) as required by federal statute. NMVTIS serves as a repository of information related to vehicles that have been in the possession of auto recyclers, junk yards and salvage yards. States and consumers use the information to ensure that junk or salvage vehicles are not later resold and ensures that vehicle identification numbers (VINs) from destroyed vehicles are never used for stolen vehicles.

Board Approval for FY 2021 Data Center Consolidation (DCS)

The department plans to transfer \$2.7 million from the Automation capital line item to the DCS capital line item to complete the Web Dealer Statewide adoption project and the External Website Web Server Cloud Solution project. The transfer exceeds the DCS capital appropriation more than 25%. The General Appropriations Act requires state agencies to obtain approval from the governing board, Governor's Office Budget and Policy Division (GOBP) and the Legislative Budget Board (LBB) prior to the transfer.

FY 2021 Recommended Operating Budget



August 5, 2020



Texas Department of Motor Vehicles

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Texas Department *of* Motor Vehicles

Part I: Executive Summary and Fiscal Year 2020-2021
Legislative Appropriations Request and Approved
Budget



Texas Department *of* Motor Vehicles

Executive Summary

The FY 2021 Operating Budget document's purpose is to provide the TxDMV Board and executive management with a detailed description outlining how the department plans to spend its money for the upcoming fiscal year.

The document is an internal, organizational reference designed to provide information on the total dollars available for use, how those amounts are determined, where those dollars are allocated, as well as the amounts of revenues available to support its expenditures.

For FY 2021, the TxDMV Operating Budget proposes total expenditures of \$181.7 million, which includes \$153.0 million in funds appropriated by the Legislature for FY 2021 and approximately \$28.7 million in funds that can be spent for the same purposes from previous years, known as "carry-forward" funds.

Highlights of TxDMV's FY 2021 Operating Budget include:

- \$88.6 million for core program activities;
- \$37.0 million for capital;
- \$20.4 million for agency-wide purposes;
- \$18.0 million for Information Technology;
- \$17.7 million for central administration; and

TxDMV estimates that TxDMV Fund revenues to total \$166.3 million in FY 2021, which is the primary source of revenue available to support its operations, plus an additional \$12.8 million appropriated from the General Revenue Fund to support the operations of the MVCPA program.

The FY 2021 Operating Budget is described in the detailed sections included in this report.



Texas Department of Motor Vehicles

Fiscal Year 2020-2021 Legislative Appropriations Request and Approved Budget

Every two years, each state agency submits to the Legislative Budget Board (LBB), and the Office of the Governor (OOG), its request for money it anticipates needing to fund its programs and operations. This request is known as the Legislative Appropriations Request (LAR).

In August 2018, the Texas Department of Motor Vehicles (TxDMV) submitted an LAR totaling \$359.1 million: \$321.5 million in its baseline (the funding amount needed to continue its current program and operations) plus an additional request of \$37.6 million in exceptional items (items that are not currently funded, but that an agency anticipates it will need for the future.)

The LAR is subject to both legislative and gubernatorial approval. The final, approved amounts are included in the state's final budget bill, known as the General Appropriations Act (GAA).

For a more complete history of the TxDMV's appropriations, refer to Appendix 1 of this document.

The FY 2020-2021 GAA is the starting point for the department's FY 2021 operating budget. The final approved biennial budget totaled \$309.4 million: \$300.9 million baseline; \$8.5 million in exceptional items; and \$1.4 million in riders (items the legislature approves that may authorize an agency to spend additional amounts); \$10.7 million less than originally requested.

The following table details the adjustments made during the legislative process.



Texas Department of Motor Vehicles

FY 2020-2021 TxDMV LAR Compared to Final Approved GAA

	Legislative Appropriations Request (LAR)	Enrolled FY 2020-2021
A. Goal: Optimize Services and Systems		
A.1.1. Strategy: Titles, Registrations, and Plates	\$ 142,682,844	\$ 145,051,663
A.1.2. Strategy: Vehicle Dealer Licensing	\$ 8,294,710	\$ 8,352,160
A.1.3. Strategy: Motor Carrier Permits & Credentials	\$ 18,296,274	\$ 18,422,753
A.1.4. Strategy: Technology Enhancement & Automation	\$ 11,949,000	\$ 12,020,851
A.1.5. Strategy: Customer Contact Center	\$ 5,653,804	\$ 6,596,969
Total, Goal A: Optimize Services and Systems	\$ 186,876,632	\$ 190,444,396
B. Goal: Protect the Public		
B.1.1. Strategy: Enforcement	\$ 13,920,886	\$ 14,584,805
B.2.1. Strategy: Motor Vehicle Crime Prevention	\$ 38,917,804	\$ 25,671,702
Total, Goal B: Protect the Public	\$ 52,838,690	\$ 40,256,507
C. Goal: Indirect Administration		
C.1.1. Strategy: Central Administration	\$ 16,354,086	\$ 16,467,357
C.1.2. Strategy: Information Resources	\$ 49,228,344	\$ 52,997,037
C.1.3. Strategy: Other Support Services	\$ 16,165,848	\$ 10,595,423
Total, Goal C: Indirect Administration	\$ 81,748,278	\$ 80,059,817
Grand Total, Department of Motor Vehicles	\$ 321,463,600	\$ 310,760,720
Difference		\$ (10,702,880)
Detail for Adjustments to Fiscal Year 2020-2021 LAR Request		
A.1.1 Titles, Registrations, and Plates		
Approval of Rider Contingency for Digital License Plates	\$	1,383,994
A.1.5 Customer Contact Center		
Approval of Exceptional Item - Customer Service Enhancement	\$	904,005
B.1.1. Strategy: Enforcement		
Approval of Exceptional Item - Consumer Protection and Tracking	\$	567,500
B.2.1. Strategy: Motor Vehicle Crime Prevention		
Exceptional Items not Funded - Expansion of MVCPA Grants	\$	(13,246,102)
C.1.2. Strategy: Information Resources		
Approval of Exceptional Item - IT Maintenance and Development	\$	1,922,568
Approval of Exceptional Item - IT Infrastructure	\$	2,700,000
Reduction in Baseline Data Center Services	\$	(1,186,845)
C.1.3. Strategy: Other Support Services		
Reduction in Baseline for Headquarters (HQ) Badge & Security and HQ Furniture	\$	(650,000)
Reduction in Baseline for HQ Capital	\$	(5,000,000)
Multiple Strategies		
Approval of Exceptional Item - Statewide Cost Allocation Plan (SWCAP)	\$	1,902,000
Total Adjustments to Fiscal Year 2020-2021 LAR Request	\$	(10,702,880)



Texas Department of Motor Vehicles

Exceptional Items and Riders in the TxDMV FY 2020-2021 Budget

Exceptional Items: The TxDMV originally submitted five exceptional items in August 2018. Prior to a legislative session, agencies can revisit their original exceptional item requests. Subsequently, in January 2019, TxDMV revised its exceptional item request to nine items. The table below details the TxDMV's revised exceptional items considered during the legislative process.

Of the nine requested exceptional items, six were approved and three were not.

Priority	Exceptional Items	TxDMV Baseline Biennial Request		Conference Committee HB1 Biennial Amounts	
		FTEs	Amount	FTEs	Amount
1	Information Technology Infrastructure Improvements		\$ 2,700,000		\$ 2,700,000
2	Information Technology Development and Maintenance	12.0	\$ 1,922,568	12.0	\$ 1,922,568
3	Consumer Protection and Tracking		\$ 567,500		\$ 567,500
4	Customer Service Enhancement	9.0	\$ 904,005	9.0	\$ 904,005
5	Statewide Cost Allocation Plan		\$ 1,902,000		\$ 1,902,000
6	Headquarters Facility		\$ 5,112,000		\$ -
7	Regional Service Center Capital		\$ 500,000		\$ 500,000
	Subtotal TxDMV Fund	21.0	\$ 13,608,073	21.0	\$ 8,496,073
1	MVCPA Crime Reduction Strategy		\$ 6,600,000		\$ -
2	MVCPA Grants		\$ 17,400,000		\$ -
	Subtotal General Revenue		\$ 24,000,000		\$ -
	Total	21.0	\$ 37,608,073	21.0	\$ 8,496,073

Riders - A rider provides specific instructions regarding the expenditure or collection of funds by an agency. It may or may not include additional funding to an agency. In addition to specific riders in an agency's bill pattern, several provisions in the General Appropriations Act (GAA), Article IX, authorize agencies to increase or decrease appropriations.



Texas Department of Motor Vehicles

TxDMV Riders Approved for FY 2020-2021	
Special License Plates – This rider provides additional appropriations each year of the biennium for making payments to the contract vendor for the marketing and sale of specialty license plates. The rider also allows for unexpended balances to be carried forward into the next fiscal year of the biennium for the same purposes.	Approved
Texas Department of Motor Vehicles Fund Report – This rider requires the department to submit an annual report on TxDMV Fund 0010 expenditures/revenues to the Legislative Budget Board.	Approved
Unexpended Balance and Capital Authority – TxDMV Automation System – This rider allows the department to carry forward any unexpended funds appropriated in Strategy A.1.4, Technology Enhancement and Automation, for the TxDMV Automation System capital budget projects remaining at the end of FY 2019 and expended for the same purpose to the new biennium beginning September 1, 2019.	Approved
Unexpended Balance – Federal Grants and State Matching Funds – This rider allows the department to spend unexpended balances of state matching funds for federal grants from FY 2020 in FY 2021.	Approved
Unexpended Balance – TxDMV Headquarters Security and Badge System - This rider allows the department to carry forward any unexpended funds appropriated for the Headquarters Security and Badge System remaining at the end of FY 2019 to the new biennium.	Approved
Unexpended Balance – TxDMV Headquarters Maintenance Projects – This rider allows the department to carry forward to the new biennium beginning September 1, 2019 any unexpended funds appropriated in Strategy C.1.3, Other Support Services capital budget projects for the Headquarters Maintenance Projects Capital remaining at the end of FY 2019.	Approved
Unexpended Balance Within the Biennium – This rider allows the department to carry forward any unexpended funds appropriated to TxDMV at the end of FY 2020 for the same purpose for the new fiscal year beginning September 1, 2020.	Approved
Contingency Rider for HB 1711/SB 604 – This rider provides an appropriation for legislation relating to the issuance of digital license plates. This rider appropriates a total of \$1,383,994 over the FY 2020-2021 biennium and includes an increase of 2.0 FTEs	Approved



Texas Department *of* Motor Vehicles

Part II: Fiscal Year 2021 Recommended Operating Budget



Texas Department of Motor Vehicles

Fiscal Year 2021 Recommended Operating Budget by Appropriation

The General Appropriations Act (GAA) has appropriated \$153.0 million for TxDMV use in FY 2021. This amount funds the TxDMV FY 2021 annual operations. The GAA also authorizes the department to spend additional amounts for carry-forward balances and other allowable costs under certain circumstances, at an estimated amount of \$28.7 million. This results in a grand total of \$181.7 million to support TxDMV operations for FY 2021. The following chart depicts the TxDMV FY 2021 budget by Program Goal and Strategy. This recommended budget includes adjustments between strategies for position transfers and increases to appropriations for Benefit Replacement Pay (BRP) (see Budget Terms and Definitions) and estimated carry-forward of FY 2020 unexpended capital balances.

The following table reflect the amounts approved by the 86th Legislature including estimated carry-forward of capital balances and operating balances from FY 2020. The operating balance carry-forward estimate of \$9.6 million is allowed under the authority granted during the 86th Legislative Session in Rider 10 **Unexpended Balances Within the Biennium**. This rider allows TxDMV to carry forward from FY 2020 to FY 2021 any unspent funds in any operating appropriation.



Texas Department of Motor Vehicles

Operating Budget by Appropriation

	FY 2021 Recommended Operating Budget
A. Goal: Optimize Services and Systems	
A.1.1. Strategy: Titles, Registrations, and Plates	\$ 72,077,418
A.1.2. Strategy: Vehicle Dealer Licensing	\$ 4,182,971
A.1.3. Strategy: Motor Carrier Permits & Credentials	\$ 9,152,569
A.1.4. Strategy: Technology Enhancement & Automation	\$ 2,714,575
A.1.5. Strategy: Customer Contact Center	\$ 3,269,094
Total, Goal A: Optimize Services and Systems	\$ 91,396,627
B. Goal: Protect the Public	
B.1.1. Strategy: Enforcement	\$ 7,117,718
B.2.1. Strategy: Motor Vehicle Crime Prevention Authority	\$ 12,835,851 *
Total, Goal B: Protect the Public	\$ 19,953,569
C. Goal: Indirect Administration	
C.1.1. Strategy: Central Administration	\$ 8,247,265
C.1.2. Strategy: Information Resources	\$ 26,061,492
C.1.3. Strategy: Other Support Services	\$ 7,348,796
Total, Goal C: Indirect Administration	\$ 41,657,553
Total TxDMV Appropriation Budget	\$ 153,007,749
Other Adjustments	
Estimated Increase for Benefit Replacement Pay	\$ 65,728
Projected Unexpended Balance Carry-Forward (UB) from FY 2020	
Capital - TxDMV Automation Systems	\$ 12,459,373
Capital - Other Capital	\$ 6,650,734
Rider 10 Operating Adjustment Carry Forward (UB)	\$ 9,600,000
Total, Other Adjustments	\$ 28,775,835
Total TxDMV Operating Budget	\$ 181,783,584
Method of Finance	
General Revenue Fund (includes estimated Automation UB)	\$ 6,101,596
TxDMV Fund (includes estimated Automation and Other Capital UB)	\$ 174,938,238
Federal Reimbursements	\$ 743,750
Total, Method of Finance	\$ 181,783,584

* FY 2021 amount for Motor Vehicle Crime Prevention Authority may be adjusted for legislative reductions. Submitted reduction plan includes a proposed reduction of \$468,709 in FY 2021. Final decisions on reduction plan is pending.



Texas Department of Motor Vehicles

Fiscal Year 2021 Expenditure Budget Highlights

Summary

The department's FY 2021 recommended operating budget totals \$181.7 million. Appropriations for current Automation and Other Capital projects are continued for FY 2021 as well as carry-forward of unspent funds from FY 2020.

TxDMV Strategies and Goals

TxDMV strategies are allocated through three broad categories to support its operations: 1) core functions that are public-facing, 2) technology enhancements and automation primarily supporting the core functions and 3) indirect costs that are integral to the operations of any state agency.

- Core Functions include:
 - Providing title, registration and specialty license plate services (Goal 1, Strategy A.1.1.)
 - Regulating vehicle dealer licensing (Goal 1, Strategy A.1.2.)
 - Issuing motor carrier permits and credentials (operating authority) (Goal 1, Strategy A.1.3.)
 - Responding to customer inquiries through the Contact Center (Goal 1, Strategy A.1.5.)
 - Performing enforcement activities of the TxDMV regulated community and conducting investigations, including those of fraud, waste and abuse (Goal 2, Strategy B.1.1.)
 - Assisting in the prevention of motor vehicle burglary and theft (Goal 2, Strategy B.2.1.)

The core functions of the department represent approximately 65% of TxDMV's total baseline request, or approximately \$118.2 million of the FY 2021 Recommended Budget.

- Technology Enhancements and Automation and Information Resources include:
 - Upgrades, enhancements and deployment of systems that primarily support the department's core functions and its partners and the department resources dedicated to supporting these systems (Goal 1, Strategy A.1.4.; Goal 3, Strategy C.1.2.).

Technology enhancements and automation and Information Resources represent about 26.0% of TxDMV's FY 2021 Recommended Budget, or \$47.7 million.

- Indirect Administration includes:
 - Central Administration includes the department's support functions such as human resources, financial services, government and strategic communications, project management and other offices and support services that are critical to the maintaining day-to-day operations of the TxDMV. (Goal 3, Strategies C.1.1. and C.1.3.)

Total Indirect Administration represents approximately 9.0% of TxDMV's FY 2021 Recommended Budget, or \$15.8 million. Central Administration totals 4.7% of the department's entire FY 2021 Recommended Budget.

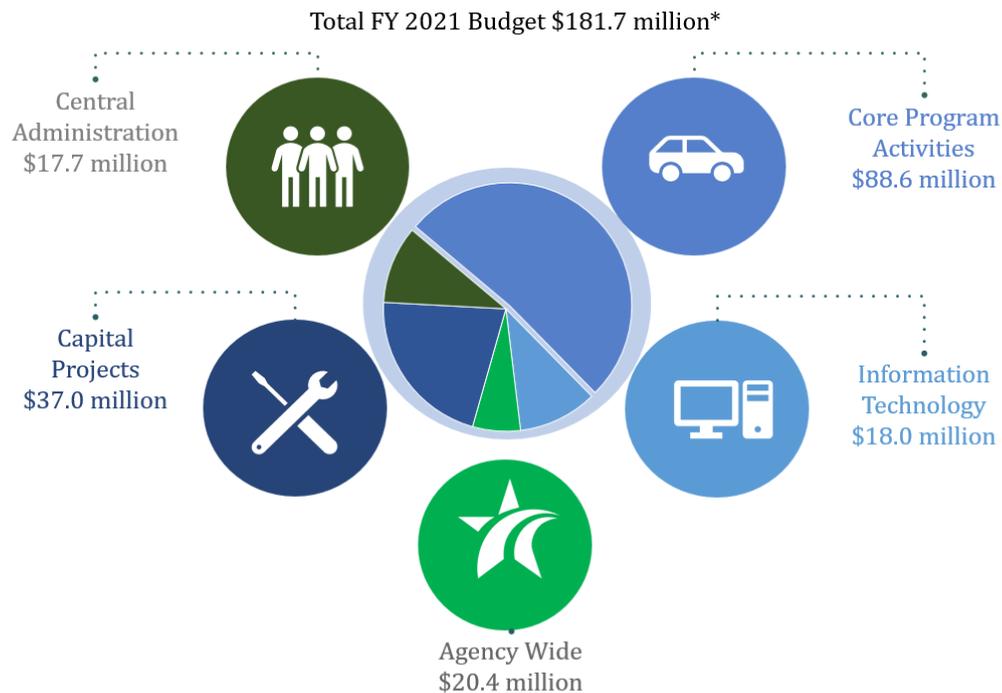


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Major considerations integrated in the department's appropriations include amounts necessary to cover the impact of payroll growth for the state pension systems and employee group benefits, continuation of upgrades and enhancements of automation and technology projects and facilities maintenance.

External factors such as statewide population growth and the national and state economic environments have been considered. The impact of COVID-19 is another major driver to be considered in FY 2021. As most of the services provided by the TxDMV are consumer-driven, the department is diligent in monitoring changes to the state and national economies. Any significant changes in trends are evaluated by executive management for the impact on departmental services. This is necessary to ensure continuity of service delivery and appropriate staffing.

Maintaining current levels of funding in core areas have been determined to be critical to the efficiency and effectiveness of TxDMV's operations.



* (excludes Fringe Benefits and BRP)



Texas Department of Motor Vehicles

Core Program Activities: \$88.6 million

Program administration includes the department's core program areas such as MVCPA, Motor Vehicle Licensing, Motor Carrier programs (Oversize/Overweight and Texas IRP), Enforcement, Compliance and Investigations, Lemon Law (including management and administrative hearings), Consumer Relations, the Office of Administrative Hearings, and Vehicle Titles and Registration activities including Digital License Plate.

Capital Projects: \$37.0 million

Major technology capital initiatives include continued appropriations that will be utilized for addressing Registration and Titling System (RTS) defects and batch-scheduling processes. Funding is also approved for the continuation of Data Center Services (DCS), County Technology and Agency Growth and Enhancement. Other initiatives in FY 2021 include Regional Service Center (RSC) improvements, replacement vehicles and Headquarter maintenance projects that will be funded through the carry-forward funds from FY 2020.

Agency-Wide: \$20.4 million

Provides funding for department expenses such as fringe benefits and special programs, MyPlates and credit card payments. MyPlates is a third-party vendor that designs, markets and sells specialty license plates. This is a revenue-generating contract. Agency-Wide also includes reserves for unanticipated expenditures.

Information Technology: \$18.0 million

Provides administrative oversight of all department technology functions and projects.

Central Administration: \$17.7 million

Provides funding for Executive Management and Administrative Services such as Finance and Administrative Services, General Counsel, Human Resources, Government and Strategic Communications, Internal Audit and Board Support.



Texas Department of Motor Vehicles

Fiscal Year 2021 Recommended Operating Budget by Category

The table below outlines the FY 2021 recommended operating budget by TxDMV budget categories. The allocations represent estimates of anticipated costs based on prior year expenditures and planned expenditures.

2021 Estimated TxDMV Budget by Budget Category

Budget Category	FY 2021 Recommended Operating Budget
Salaries and Wages	\$ 44,741,445
Benefit Replacement Pay	\$ 65,728
Other Personnel Costs	\$ 1,172,835
Professional Fees and Services	\$ 36,696,194
Fuels & Lubricants	\$ 81,000
Consumable Supplies	\$ 1,383,675
Utilities	\$ 4,468,755
Travel In-State	\$ 472,013
Travel Out-of-State	\$ 99,175
Rent - Building	\$ 901,694
Rent - Machine and Other	\$ 346,062
Purchased Contract Services	\$ 29,541,904
Advertising & Promotion	\$ 138,000
Computer Equipment Software	\$ 1,052,738
Fees & Other Charges	\$ 5,167,735
Freight	\$ 839,175
Maintenance & Repair	\$ 4,120,905
Memberships & Training	\$ 289,084
Other Expenses	\$ 15,988,319
Postage	\$ 12,140,498
Reproduction & Printing	\$ 5,504,216
Services	\$ 3,653,015
Grants	\$ 12,293,618
Other Capital	\$ 625,800
Total	\$ 181,783,584

A description of the budget categories is in Appendix C.



Texas Department of Motor Vehicles

Legislative Reduction Plan

In May 2020, the Office of the Governor, the Legislature and the Legislative Budget Board (LBB) requested agencies to submit written plans identifying a five percent reduction to their General Revenue appropriations during FY 2020-2021. For TxDMV, the reduction requirement applies to the Motor Vehicle Crime Prevention Authority (MVCPA) appropriation, as that is the only TxDMV appropriation funded by General Revenue. The calculated amount of the reduction was \$1,283,585 for the 2020-2021 biennium.

In June 2020, MVCPA submitted a reduction plan that met the criteria of the reduction plan. The following table details the proposed reductions in FY 2020 and FY 2021.

Proposed MVCPA Reductions for FY 2020 and FY 2021

Budget Item	FY20 Amount	FY21 Amount	Statutory or Other Impact of Reduction
<i>Rent- Building</i>	-\$4,000	-\$7,000	Suspend renting meeting spaces.
<i>Travel</i>	-\$7,300	-\$3,000	All other FY 2020 travel is suspended including site visits to monitor grant activities, conferences and staff training. One essential trip scheduled in August. FY 2021 travel will be reduced.
<i>Consumables/ Other Operating</i>	-\$74,700	-\$30,000	Suspend for FY 2020 and reduce for FY 2021 expenses for educational programs designed to inform motor vehicle owners of methods of preventing motor vehicle burglary or theft and fraud-related motor vehicle crime. This function is required by Transportation Code 1006.154(a)(3). Reduce Motor Vehicle Crime Investigator training expenses. Suspend or reduce professional or training membership expenses.
<i>Grants</i>	-\$728,876	-\$428,709	Reduce grant award funds used to fund local law enforcement officers and their operating expenses in taskforces. This function is required by Transportation Code 1006.154(a)(1), (2), (3) & (5). Suspend Rapid Response Strikeforce grants used to increase law enforcement officers conducting border and port security operations ¹ and combating use of stolen vehicles in human trafficking.
FY Total Reduction	-\$814,876	-\$468,709	Total Biennial Reduction: -\$1,283,585

¹ Spending requirements for border and port security in GAA Article IX, 17.07 will be met but reduced.



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Part III: Fiscal Year 2021 Recommended Capital Projects



Texas Department of Motor Vehicles

Fiscal Year 2021 Recommended Capital Budget

The following chart categorizes the uses for the capital budget and identifies three significant areas for FY 2021. The FY 2021 Capital budget includes approximately \$18 million in new funding as approved in the General Appropriations Act and an estimated \$19 million in carry-forward of funds from FY 2020.

The FY 2021 Recommended Capital Budget also requests the approval of a transfer of funds from the Automation System capital budget to the Data Center Consolidation capital budget in the amount of \$2.7 million to cover project-related data center expenditures for the Statewide Web Dealer Adoption project and the External Website project. The transfer will require approval from the Legislative Budget Board and the Governor's Office to exceed the 25% allowable capital transfer limit.

Fiscal Year 2021 Recommended Capital Budget

TxDMV Capital Project Appropriations	FY 2021	
Fiscal Year 2021 Appropriation	\$	17,908,031
Estimated Unexpended Balance Carry-Forward	\$	19,110,107
Total Capital Appropriations	\$	37,018,138
TxDMV Automation System ¹	FY 2021 Preliminary Operating Budget	
RTS Defects*	\$	2,600,000
Re-Architect RTS Batch Cycle*	\$	1,066,078
Web Lien*	\$	2,023,348
Cybersecurity*	\$	109,208
RTS Enhancements*	\$	161,740
Statewide Web Dealer Adoption*	\$	133,968
Unallocated*	\$	6,318,877
TxDMV Automation System Subtotal	\$	12,413,219
Other Technology Projects		
Growth and Enhancements - Agency Operations Support	\$	807,498
Technology Replacement & Upgrades - County Support	\$	5,025,000
PC Replacement	\$	225,800
Data Center Consolidation**	\$	12,758,387
Consumer Protection and Tracking*	\$	540,500
Application Improvements*	\$	1,000,000
Cybersecurity*	\$	216,956
Other Technology Projects Subtotal	\$	20,574,141
Other Capital Projects		
Vehicle Replacement	\$	90,000
Regional Service Center	\$	250,000
HQ Maintenance (Unexpended Balance)*	\$	3,690,778
Other Capital Projects Subtotal	\$	4,030,778
TxDMV Total Capital Budget	\$	37,018,138

1. The TxDMV Automation project includes project funds for FY 2021, which will be funded from budget balances remaining at year end of FY 2020.

* - Project funded through Unexpended Balance (UB) carry-forward from FY 2020

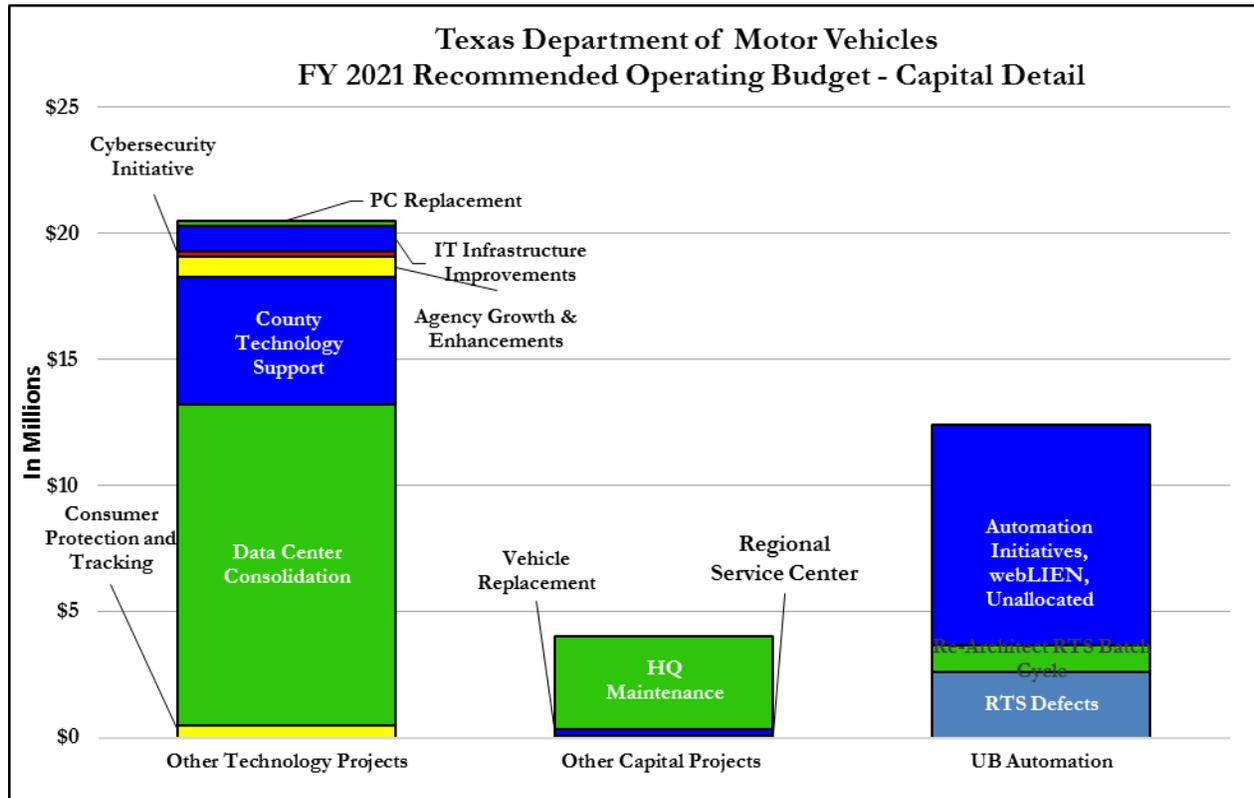
** - Project includes transfer of \$2.7 million in FY 2020 from Automation for Statewide Web Dealer Adoption and External Web Site Design charges



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Capital Project Details

The chart below depicts the uses and allocations of the capital budget to help illustrate where funds are being allocated and to which project.



TxDMV Automation Systems Project (estimated \$12.4 million unexpended balance carry-forward)

TxDMV is developing information technology assets to improve customer services and access to agency programs for the public through the TxDMV Automation System Project. This project encompasses entire agency operations to take advantage of operational efficiencies. This project also allows data sharing between department functions to improve customer service. As the project continues to be refined, the initiatives in FY 2021 that will be addressed through the TxDMV Automation Systems Project are as follows:

Capital Appropriations:

RTS Defect and Batch Cycle Processes –In June 2013, TxDMV entered into a contract with Deloitte Consulting LLP to refactor the former Registration and Titling System (RTS) by converting the code from a mainframe program to a JAVA web-based system. The system



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holds nearly 100 million current and archived vehicle registration and titling records. The contract with them consisted of multiple work streams that continued through FY 2018.

The RTS Refactoring project, which began implementation in May 2015, is currently fully deployed to TxDMV headquarters staff, the Regional Service Centers and all 254 counties.

Starting in FY 2020 and continuing into FY 2021, the Automation Project will focus on two initiatives, identifying and resolving the remaining outstanding issues and defects for statewide roll-out of the RTS System and a re-architect of the RTS batch cycle processes to enhance functionality of the system for the agency.

Project Continuation (funded from Unexpended Balances):

webLIEN Project – webLIEN is an expansion of the current Electronic Lien and Title (ELT) system providing lienholders with an internet-enabled application. The application will facilitate the recording and removal of liens electronically.

Automation Initiatives – Several automation and technology initiatives will carry forward for completion in FY 2021.

- **Statewide Web Dealer Adoption** – this project is to increase the statewide adoption of the Web Dealer application by fixing product defects and making enhancements to the application to effectively meet the statutory requirements of Senate Bill 604, from the 86th Legislative Session, that mandates Web Dealer will be available to all motor vehicle dealers in the State of Texas.
- **Cybersecurity Project** – this project provides several initiatives to enhance and improve TxDMV cybersecurity and technology security, such as increase the levels of encryption and authentication for TxDMV systems.

Technology Replacement & Upgrades for Counties (\$5.0 million)

This appropriation provides funding to maintain printers, computers, monitors, laptops, cash drawers, and other related equipment deployed at county tax assessor-collector offices throughout the state. Additionally, it provides funding to support point-to-point connectivity to the agency's Registration and Titling System for all 254 counties and their 508 primary and substation locations.

Data Center Consolidation (\$12.7 million)

This appropriation supports information technology infrastructure assets and functions through statutorily required participation in the State Data Center maintained by the Department of Information Resources. Also included are costs for printing and mailing of registration processed online. This allows TxDMV to fund data center services resulting from continued efforts to build an IT infrastructure and the implementation of the RTS enhancements.



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Agency Growth and Enhancements (\$0.8 million)

This line item includes replacement of peripheral devices; telephone system replacements and upgrades; replacement and upgrades of network equipment; the development of a VOIP (Voice over Internet Protocol) infrastructure; and the software licenses for enterprise applications. Additionally, the project includes division-level imaging and document management in the development of workgroup applications.

PC Replacement (\$0.2 million)

The PC Replacement project was contained in Growth & Enhancement in previous years. It has now been separated into a unique capital line item. This project includes replacement of desktop computers, desktop printers and laptops.

Cybersecurity Initiative (\$0.2 million)

This project provides funding for initiatives to improve security for statewide information technology systems. Initiatives include the acquisition of malware and email security tools and the implementation of a managed security service provider through the DIR Data Center Services contract. Funding in FY 2021 reflects a carry-forward of unexpended balances from FY 2020

Consumer Protection and Tracking (\$0.5 million)

This project allows the department to implement a proactive, risk-based approach to enforcement and fraud detection through leveraging technology. Specifically, this item will fund three initiatives: 1) construction of a public-facing database for case histories for motor vehicle and motor carrier licenses; 2) enhancements to the existing case management system to improve reporting of motor vehicle and motor carrier enforcement data, including complaints by source and license type, nature of complaint, resolution by allegation type and enhanced reporting of cases referred to the State Office of Administrative Hearings; and 3) provision of the newly established Compliance and Investigations Division with software tools to help detect and assist in the investigation of auto theft, auto fraud, curbstoning, insurance fraud, scofflaws and unlicensed businesses. The department plans to acquire software that will automate identification of vulnerabilities, trends and other indicators of fraud and criminal behavior, including activity on online classifieds, e-commerce and social media websites.

IT Application Improvements (\$1.0 million)

This item provides funding to implement identified improvements that will facilitate a comprehensive, holistic approach in application development, maintenance and updating of TxDMV information technology infrastructure. Professional fees will be used to implement testing improvements to facilitate the creation of self-service test data, obtaining automated testing tools and creating automated tests. Additionally, funding is needed for application development to build out self-service password reset functionality in the Registration and Titling System and Motor Vehicle Inquiry Network (MVINET) and to modify International Registration Plan System (IRP) to reduce errors.



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Other Capital Projects (\$4.0 million)

This category consists of three projects for TxDMV. The fleet will be increased by eight vehicles that will support investigation activities in the Enforcement Division and Compliance and Investigations Division (CID).

Additionally, two medium-sized Regional Service Centers (RSCs) will be updated to standardize the look of TxDMV facilities across the state.

Finally, the TxDMV HQ Maintenance and Repair project includes funding for several major projects such as weatherization, roof repair and internal and external upgrades for the building, including several hard walled office constructions complete with HVAC, electrical and cabling needs. Funding in FY 2021 is from the carry-forward of unexpended balances from FY 2020.



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Part IV: TxDMV Revenues



Texas Department of Motor Vehicles

Fiscal Year 2018-2021 Revenue Summary

TxDMV collects revenues from registrations, licenses, titles, permits and credentials for deposit into the State Highway Fund (Fund 0006), the General Revenue Fund (Fund 0001) and the TxDMV Fund (Fund 0010).

Total revenue collections are estimated to be \$2.011 billion in FY 2021 in **all funds** combined.

FY 2021 revenue estimates shown below are conservative projections determined by the department during FY 2020.

Fiscal Year 2018-2021 Revenue Summary

<i>Revenue Fund and Fee Categories</i>	<i>FY 2018 Actual</i>	<i>FY 2019 Actual</i>	<i>FY 2020 Estimated</i>	<i>FY 2021 Estimated</i>
<u>General Revenue Fund 0001</u>				
Motor Vehicle Certificates of Title	\$ 37,095,019	\$ 36,014,610	\$ 32,598,000	\$ 34,394,000
Motor Vehicle Registration	\$ 15,960,844	\$ 16,769,958	\$ 16,482,000	\$ 16,767,000
Motor Carrier - Oversize/Overweight	\$ 49,399,440	\$ 52,334,080	\$ 45,444,000	\$ 46,353,000
Motor Carrier Credentialing	\$ 5,954,605	\$ 6,100,069	\$ 5,910,000	\$ 5,974,000
Miscellaneous Revenue	\$ 4,091,610	\$ 3,674,467	\$ 2,771,000	\$ 2,871,000
Total Fund 0001 Revenue	\$ 112,501,518	\$ 114,893,185	\$ 103,205,000	\$ 106,359,000
<u>State Highway Fund 0006</u>				
Motor Vehicle Certificates of Title	\$ 9,764,464	\$ 8,584,810	\$ 7,545,000	\$ 8,757,000
Motor Vehicle Registration	\$ 1,516,742,393	\$ 1,550,457,840	\$ 1,407,591,000	\$ 1,613,475,000
Motor Carrier - Oversize/Overweight	\$ 116,627,035	\$ 129,723,304	\$ 114,454,000	\$ 116,743,000
Total Fund 0006 Revenue	\$ 1,643,133,892	\$ 1,688,765,954	\$ 1,529,590,000	\$ 1,738,975,000
<u>Texas Department of Motor Vehicles Fund 0010</u>				
Motor Vehicle Certificates of Title	\$ 43,441,426	\$ 43,119,638	\$ 35,768,000	\$ 39,563,000
Motor Vehicle Registration	\$ 38,696,773	\$ 36,664,581	\$ 33,849,000	\$ 34,223,000
Motor Carrier - Oversize/Overweight	\$ 15,349,386	\$ 16,916,066	\$ 15,294,000	\$ 15,600,000
Motor Vehicle Business Licenses	\$ 8,157,612	\$ 7,906,911	\$ 7,316,000	\$ 7,682,000
Miscellaneous Revenue	\$ 7,709,165	\$ 10,085,561	\$ 9,691,000	\$ 9,887,000
Processing and Handling Fee	\$ 58,271,922	\$ 56,758,468	\$ 52,022,000	\$ 59,327,000
Total Fund 0010 Revenue	\$ 171,626,284	\$ 171,451,224	\$ 153,940,000	\$ 166,282,000
TOTAL REVENUE DEPOSITS TO FUNDS 0001, 0006, AND 0010	\$ 1,927,261,695	\$ 1,975,110,363	\$ 1,786,735,000	\$ 2,011,616,000

TxDMV revenue collections are expected to dip in the current biennium (fiscal years 2020–2021) as compared to the previous biennium. The decline is primarily attributable to COVID-19 events, including fee



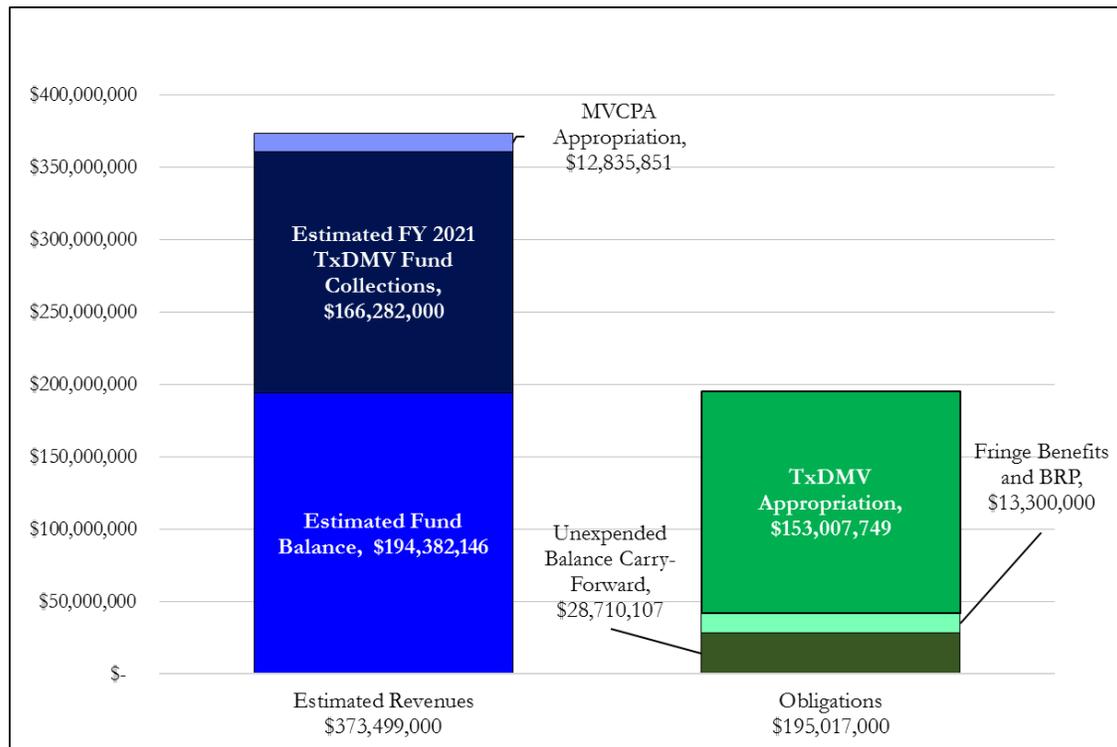
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waivers, extensions and economic impacts. In fiscal year 2019, TxDMV collected \$1.98 billion in total revenue. This comprised \$1.69 billion to the State Highway Fund; \$114.89 million to the General Revenue Fund; and \$171.45 million to the TxDMV Fund. In fiscal year 2020, total revenue collections are estimated to be \$1.79 billion; with State Highway Fund collections of \$1.53 billion; General Revenue Fund collections of \$103.21 million; and TxDMV Fund estimated revenue collections of \$153.94 million.

In the FY 2020–2021 biennium, TxDMV Fund revenue collections are projected to total \$320.22 million, 6.7% less when compared to the previous biennium. Again, this decline is attributable to COVID-19 events.

Fiscal Year 2021 TxDMV Estimated Revenues vs. Obligations

TxDMV will have sufficient amounts available to support TxDMV operations. Amounts available include General Revenue of \$12.8 million for the Motor Vehicle Crime Prevention Authority (MVCPA) plus TxDMV Fund 0010 beginning fund balance of \$194.3 million plus collections of \$166.3 million. The chart below reflects that available funds are sufficient to cover TxDMV operations and fringe benefits for FY 2021.





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Fiscal Year 2021 Motor Vehicle Crime Prevention Authority **Estimated Revenues**

The Motor Vehicle Crime Prevention Authority (MVCPA) is a separate entity administratively attached to TxDMV. MVCPA is governed by a five-member, gubernatorial appointed board. MVCPA is required to collect a \$4 fee on all motor vehicles covered by any form of motor vehicle insurance sold in Texas. The funds collected are statutorily directed as follows:

- 20% appropriated to the authority for the use of MVCPA duties;
- 20% to the credit of the general revenue fund, to be used only for criminal justice purposes; and
- 60% deposited to the credit of the designated trauma facility and emergency medical services account to be used only for the criminal justice purpose of funding designated trauma facilities, county and regional emergency medical services, and trauma care systems that provide trauma care and emergency medical services to victims of accidents resulting from traffic offenses.

SB 604, 86th Legislature, Regular Session changed the name to the Motor Vehicle Crime Prevention Authority, clarified the role of TxDMV relating to MVCPA in carrying-out the duties of the MVCPA and added fraud-related motor vehicle crime to its mission to better align the operation and improve coordination with the TxDMV. Included in the legislation, MVCPA is required to, among other items:

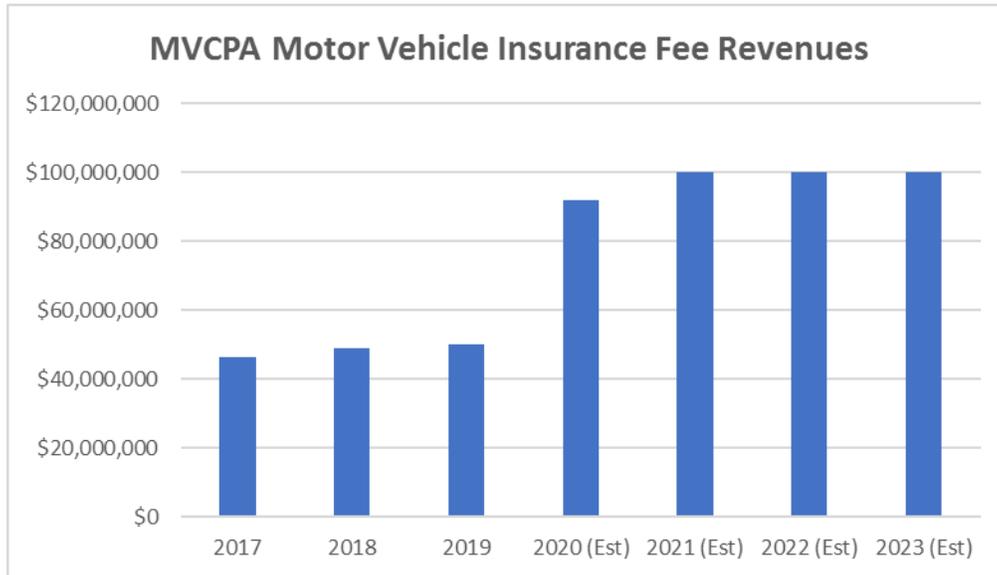
1. Collect a \$4 fee for every motor vehicle insured in Texas.
2. Issue grants to law enforcement agencies and other statutorily designated groups to combat motor vehicle crime.
3. Develop, collect and monitor performance data on arrests, recovery of vehicles and cases cleared and other performance measures for motor vehicle crime.
4. Report annually to the Texas Legislature fiscal and program data.
5. Develop a biennial statewide Plan of Operation to combat motor vehicle crime.
6. Examine and make determinations for refunds to insurers that overpay the \$4 per vehicle fee.

The MVCPA issues grants to foster a state-wide cooperative network of law enforcement groups, prosecutors, insurance industry representatives, local tax assessor-collectors and concerned citizens to combat vehicle crime through enforcement, prevention, public information and education initiatives. The MVCPA grants also provide border and port security operations to prevent stolen vehicles from going into Mexico.



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The following charts illustrates the six-year trend in the MVPCA motor vehicle insurance fee collections and a comparison of fees collected to MVPCA appropriations.



*Estimated revenues for 2020 and 2021 reflect fee increase from \$2 to \$4

MVPCA Fees and Appropriations

Fiscal Year	MVPCA Fees	Amount Appropriated to MVPCA	Amount to Trauma Center Account	Amount Remaining in General Revenue
2016	\$46,068,858	\$14,904,340	\$0	\$31,164,518
2017	\$46,436,967	\$14,920,849	\$0	\$31,516,118
2018	\$49,083,185	\$14,920,849	\$0	\$34,162,336
2019	\$50,042,957	\$12,835,851	\$0	\$37,207,106
2020*	\$91,745,420	\$12,835,851	\$55,047,252	\$23,862,317
2021*	\$100,085,913	\$12,835,851	\$60,051,548	\$27,198,514

* FY 2020 and 2021 Fees are estimated



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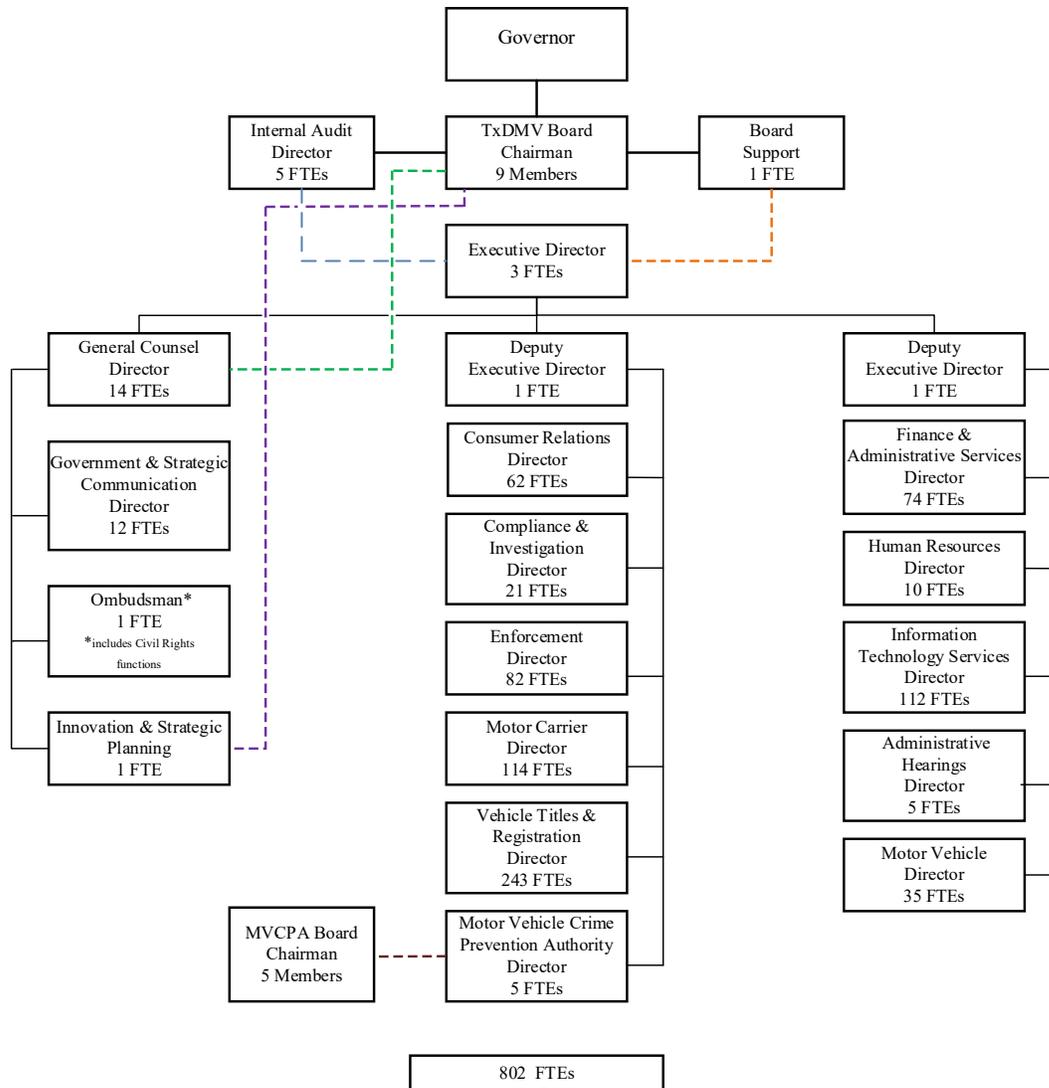
Part V TxDMV Organizational Chart



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TxDMV Organizational Chart

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Part VI – Fiscal Year 2021 Contracts



Texas Department of Motor Vehicles

Fiscal Year 2021 Contract Summary

The department executes contracts that are statutorily required and executes contracts that are not required by law but enable it to perform its duties and operations. The Board's approval of the Operating Budget constitutes approval of any contracts listed in the Operating Budget. Procedures for Board contract procedures may be found in Appendix A, of this document.

The department will execute approximately 217 new contracts and renewals of existing contracts that are not statutorily required but assist TxDMV in performing its operations.

The department anticipates the renewal of 16 statutorily required contracts in Fiscal Year 2021.

The Fiscal Year 2021 budget currently includes:

- 17 contracts of more than \$200,000
- 11 contracts between \$100,000-\$200,000
- 169 contracts of less than \$100,000
- 20 IT Staff Augmentation contracts

Total of 217 new and renewal contracts not statutorily required

- 16 statutorily required contracts

Grand Total of 233 contracts

The following pages detail both statutorily required and optional contracts by division, vendor, purpose, contract period and amount.

Note:

The contracts listed on the following pages are subject to change based on the final terms and conditions negotiated.



Texas Department of Motor Vehicles

Contracts Requiring Board Approval

The contracts listed below require Board approval for the award and/or renewal and proposed contract amounts for Fiscal Year 2021. Additional procurements may be conducted during the fiscal year and will be presented to the Board individually upon occurrence.

Division	Vendor	Purpose	Contract Period		FY 2021 Contract Amount	Total Contract Amount as of FY 2021
			Award	Expire		
Vehicle Titles and Registration	American Association of Motor Vehicle Administration	Information systems title check through AAMVA	10/1/2018	9/30/2021	\$ 377,702	\$ 1,746,398
Total					\$ 377,702	\$ 1,746,398

Board Approval Action for FY 2021 Data Center Consolidation

Data Center Consolidation (DCS) is a unique capital line item contained in a state agency's appropriation. The Data Center provides statewide services for mainframe, server, network, data center and print/mail services. DCS also offers Managed Application Services (MAS) through pre-approved vendor for application development. TxDMV has two automation efforts 1) Web Dealer Statewide Adoption Project and 2) External Website Web Server Cloud Solution Project that are funded in the Automation capital line item that can be developed with the assistance of MAS vendors.

The TxDMV FY 2021 DCS appropriation is \$10.6 million. As mentioned above, the cost for the two projects is \$2.7 million and is appropriated in the Automation capital line and is available to transfer to the DCS capital line, however, the result of the transfer is that it exceeds the DCS appropriation more than 25%.

The transfer from one capital appropriation to another capital appropriation more than 25% requires state agencies to seek specific approvals (outlined in the General Appropriations Act, Article IX, Section 14.03 (h)) from its board and oversight agencies such as the Governor's Office Budget and Policy (GOBP) and the Legislative Budget Board (LBB).

TxDmv requests the approval to seek authority to exceed the 25% transfer limit to utilize Managed Application Services (MAS) contractors for the Statewide Web Dealer Adoption Project and the External Website Web Server Cloud Solution Project.



Texas Department of Motor Vehicles

Statutorily Required Contracts

Contracts required by statute include the State Office of Administrative Hearings (contested cases), the State Office of Risk Management, Workers Compensation, vehicle liability insurance and property insurance and the Texas Department of Criminal Justice (manufacturing of license plates, registration stickers and placards, etc.). Line items below represent anticipated statutorily required contracts for the upcoming fiscal year.

Term Contracts are contracts negotiated by the Texas Comptroller of Public Accounts (CPA) for use by all state agencies. These competitively bid contracts include goods and services such as photocopier leases, automated mailing services, printing services, consumable office supplies and Point-of-Sale registration paper. State agencies have little or no negotiation authority for these contracts.

Division	Vendor	Purpose	Contract Period		FY 2021 Contract Amount	Total Contract Amount as of FY 2021
			Award	Expire		
Agency Wide	State Office of Risk Management	Workers compensation & Risk management service	9/1/2018	8/31/2021	\$ 87,638	\$ 467,212
Capital Projects	Texas Dept. of Information Resources	Data Center Services	7/8/2014	8/31/2021	\$ 11,412,233	\$ 68,168,976
Capital Projects	Texas Dept. of Information Resources	Texas by Texas through Texas.Gov	9/1/2020	8/31/2021	\$ 1,102,088	\$ 1,102,088
Finance and Administrative Services	Alliant Insurance Services	Fleet liability ins premium	5/13/2016	8/31/2021	\$ 26,970	\$ 75,870
Finance and Administrative Services	Arthur J Gallagher Risk Management Services, Inc	Property Liability insurance per State Office of Risk Management	9/1/2016	8/31/2021	\$ 13,000	\$ 40,028
Finance and Administrative Services	Open Text	Digital Imaging services	9/1/2016	8/31/2021	\$ 3,415,875	\$ 17,120,198
Finance and Administrative Services	Texas Dept of Criminal Justice	Manufacturing of License Plates/Stickers	9/1/2016	8/31/2021	\$ 17,832,733	\$ 102,192,651
Finance and Administrative Services	Texas State Library	Records Storage	9/1/2016	8/31/2021	\$ 5,000	\$ 58,000
Finance and Administrative Services	Workquest	Janitorial/Custodial Services at Regional Service Centers	7/1/2017	6/30/2021	\$ 241,512	\$ 1,223,227
Finance and Administrative Services	Workquest	HQ Janitorial Services	9/1/2016	8/31/2020	\$ 405,300	\$ 1,156,180
Finance and Administrative Services	Workquest	Transportation/freight services for plates provided by Southeast Vocational Alliance (SVA) Services	9/1/2016	8/31/2020	\$ 715,000	\$ 3,030,077
Finance and Administrative Services	TX Comptroller of Public Accounts	Fleet mgmt system support fee	5/11/2015	8/31/2020	\$ 407	\$ 3,254
Information Technology Services	Texas Dept. of Information Resources	Web Hosting Texas.Gov	9/1/2016	8/31/2021	\$ 67,000	\$ 3,228,614
Motor Vehicle	State Office of Administrative Hearings	Interagency contract for administrative hearings	9/1/2015	8/31/2020	\$ 164,438	\$ 609,960
Vehicle Titles and Registration	Taylor Communications	Vehicle Registration Decals	4/16/2015	4/15/2021	\$ 4,118,782	\$ 24,016,099
Vehicle Titles and Registration	Workquest	Specialty license plates mail preparation & mailing service	9/1/2016	8/31/2021	\$ 743,603	\$ 4,201,873
Total					\$ 40,351,579	\$ 226,694,307



Texas Department of Motor Vehicles

Contracts Greater than \$200K

The following contracts have a cumulative cost value of more than \$200,000. In accordance with the Board Resolution Adopting Contract Approval Procedures, these contracts are excluded from Board approval procedures. These contracts include (1) routine operations; (2) procured from the Texas Council on Competitive Government (CCG); (3) Texas Department of Information Resources (DIR); and (4) Texas Procurement and Support Services (TPASS).

Division	Vendor	Purpose	Contract Period		FY 2021 Contract Amount	Total Contract Amount as of FY 2021
			Award	Expire		
Capital Projects	Insight Public Sector Inc.	County refresh and ongoing maintenance of County equipment	8/7/2017	8/6/2021	\$ 300,000	\$ 7,861,134
Finance and Administrative Services	Ragsdale-Brook	Houston RSC	6/26/2014	8/31/2024	\$ 284,678	\$ 3,880,860
Finance and Administrative Services	Workquest	Toner for County Tax-Assessor Collector offices	9/1/2017	8/31/2021	\$ 1,000,000	\$ 4,200,000
Finance and Administrative Services	TBD	HQ Security Services	9/1/2019	8/31/2021	\$ 1,000,000	\$ 1,250,000
Finance and Administrative Services	Texas Dept of Transportation	Interagency contract between TxDMV & TxDOT Year 2	9/1/2018	8/31/2021	\$ 1,000,000	\$ 2,000,000
Finance and Administrative Services	Sigma Surveillance	Security System	9/1/2019	8/31/2021	\$ 244,000	\$ 317,867
Finance and Administrative Services	TBD	Facilities Services for COVID 19 - electrostatic fogging and on-demand cleaning services	9/1/2020	8/31/2021	\$ 652,000	\$ 652,000
Information Technology Services	CDW	Cisco Smart Net	7/29/2016	10/31/2020	\$ 443,443	\$ 1,445,095
Information Technology Services	Carahsoft	Salesforce eLicensing Annual license fees	8/31/2017	8/30/2021	\$ 1,152,000	\$ 4,411,573
Information Technology Services	Explore	IRP Maintenance	4/1/2017	3/31/2021	\$ 336,300	\$ 1,649,476
Capital Projects	Insight Public Sector Inc.	Network services	4/2/2020	8/31/2021	\$ 478,980	\$ 957,960
Motor Carrier	Promiles Software Development Corp.	TxPROS software maintenance	5/12/2016	8/31/2021	\$ 603,180	\$ 3,619,080
Motor Carrier	Southwest Research Institute	TxCVIEW Annual Support	3/31/2014	8/31/2021	\$ 600,000	\$ 4,443,157
Vehicle Titles & Registration	RR Donnelly Company	Title Paper	3/6/2016	3/8/2021	\$ 327,902	\$ 3,106,242
Vehicle Titles & Registration	Taylor Communications	VTR RTS-500 Form	9/1/2017	8/31/2021	\$ 602,250	\$ 2,824,100
Vehicle Titles & Registration	Pitney Bowes	Postage	9/1/2016	8/31/2021	\$ 11,800,000	\$ 51,562,586
Total					\$ 20,824,734	\$ 94,181,130



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Contracts Greater than \$100K but less than \$200K

Contracts, including Statewide Contracts that have an annual cost value from \$100,000 to \$200,000 (Commodities over \$25,000 and Services over \$100,000 must be reviewed by the Texas Comptroller of Public Accounts; Government Code 2156.121) may be delegated to the agency by the Texas Comptroller of Public Accounts. If delegated, these are executed at the executive director's discretion within budget guidelines and in accordance with established procurement contract laws, rules, regulations and policies of oversight agencies. The executive director will report contract executions to the board.

Division	Vendor	Purpose	Contract Period		FY 2021 Contract Amount	Total Contract Amount as of FY 2021
			Award	Expire		
Internal Audit	TBD	Temporary staffing	9/1/2020	8/31/2021	\$ 150,016	\$ 150,016
Finance and Administrative Services	Purple Tree LLC	Dallas/Carrollton RSC	6/18/2013	3/31/2021	\$ 126,534	\$ 1,177,073
Finance and Administrative Services	Voyager Fleet Systems Inc.	Fleet fuel and maintenance	4/4/2014	8/31/2021	\$ 154,000	\$ 1,091,276
Finance and Administrative Services	Pitney Bowes	Agency postage	9/1/2017	8/31/2021	\$ 175,000	\$ 700,000
Finance and Administrative Services	Multiple	Cleaning Services for Headquarters	9/1/2020	8/31/2021	\$ 192,000	\$ 192,000
Information Technology Services	Voice Products Inc	Communication Maintenance	9/1/2018	8/31/2021	\$ 136,556	\$ 400,496
Information Technology Services	Red River Consulting Services	External Website Renovation	2/1/2019	1/31/2021	\$ 142,000	\$ 225,000
Information Technology Services	Solid Border	Security Software	10/21/2016	8/31/2021	\$ 188,210	\$ 855,398
Information Technology Services	National Auto Research Division	Web Portal Services	6/1/2017	5/31/2021	\$ 108,000	\$ 741,250
Information Technology Services	Dell	Innowake Software Maintenance	9/1/2020	8/31/2021	\$ 167,511	\$ 335,021
Vehicle Titles and Registration	Workquest	Temporary staffing	4/1/2020	12/31/2020	\$ 129,692	\$ 169,926
Total					\$ 1,519,503	\$ 5,887,440



Texas Department of Motor Vehicles

Contracts Less than \$100K

Contracts, including Statewide Contracts under \$100,000 annually for services and \$25,000 for commodities are delegated to state agencies by the Texas Comptroller of Public Accounts (Government Code 2155.132). These include but are not limited to competitively bid contracts for goods and services that are executed at the executive director's discretion within budget guidelines and in accordance with established procurement contract laws, rules, regulations and policies of oversight agencies.

Category	Division	Vendor	Purpose	Contract Period		FY 2021 Contract Amount	Total Contract Amount as of FY 2021
				Award	Expire		
Temporary Staffing	Enforcement	Workquest	Temporary staffing	2/14/2020	10/31/2020	\$ 26,637	\$ 116,007
	Finance and Administrative Services	Workquest	Temporary staffing	7/8/2019	12/31/2019	\$ 27,680	\$ 51,890
Building Leases	Finance and Administrative Services	Burnham Properties LTD	El Paso RSC	7/3/2014	10/31/2019	\$ 56,565	\$ 103,706
	Information Technology Services	Texas Dept. of Information Resources	Data Recovery Center	4/16/2014	4/30/2021	\$ 12,000	\$ 24,000
	Finance and Administrative Services	Corpus Christi Regional Transportation	Corpus Christi RSC	4/1/2017	3/31/2020	\$ 45,324	\$ 71,489
	Finance and Administrative Services	4015 Limited Partnership	CPA Warehouse	5/1/2015	4/30/2020	\$ 20,337	\$ 40,674
	Finance and Administrative Services	Tony Martin Trustee	Waco RSC	4/2/2012	8/31/2020	\$ 38,226	\$ 76,452
	Finance and Administrative Services	Riverbend Complex LLC	Ft. Worth RSC	7/1/2015	9/30/2020	\$ 77,625	\$ 155,250
	Finance and Administrative Services	Herrero & Company LLC	San Antonio RSC	5/1/2017	4/30/2027	\$ 81,825	\$ 163,650
Information Technology	Information Technology Services	SHI Govt Solutions	GoTo Webinar	5/18/2015	5/18/2020	\$ 7,151	\$ 21,460
	Information Technology Services	Smarty Streets	Address Lookup	7/1/2016	6/30/2021	\$ 10,000	\$ 37,400
Employee Resources	Human Resources	Alliance	Employee Assistance Program (EAP)	1/1/2017	12/31/2020	\$ 27,847	\$ 122,745
Accounting Services	MVCPA	Texas Comptroller of Public Accounts (CPA)	Collection and Reporting of MVCPA related fees	9/1/2017	8/31/2021	\$ 10,000	\$ 30,000
Other Services	Multiple	On the Record Reporting & Transcription	Reporting and Transcription Services	11/1/2017	8/31/2020	\$ 23,893	\$ 62,393
HQ Landscaping	Finance and Administrative Services	TBD	HQ Landscaping	9/1/2019	8/31/2021	\$ 30,134	\$ 75,000
Cellular Services	Multiple	AT&T Wireless	Cellular Services	9/1/2017	8/31/2021	\$ 94,402	\$ 352,871
Total						\$ 589,646	\$ 1,504,984



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Summary of Contracts Grouped by Category

The following table is a summary of contracts that are less than \$100,000 grouped by similar category and not itemized as shown on Page 36.

Category	Purpose	FY 2021 Average Contract Amount	FY 2021 Contract Amount	Total Combined Contract Amount as of FY 2021
Memberships & Licenses 27 Contracts Subscriptions 35 Contracts	Bar Dues \$5,875 Memberships \$65,845 Subscriptions \$397,748	\$ 7,957.08	\$ 469,468	\$ 1,369,014
Technology, Hardware/Software Maintenance 15 Contracts	Technology, Hardware/Software Maintenance \$109,447	\$ 9,949.73	\$ 109,447	\$ 723,033
Copier Leases 59 Contracts	59 Copiers \$158,746	\$ 3,174.92	\$ 158,746	\$ 1,492,978
Service Contracts 17 Contracts	Mailing \$97,000 Broadband Services \$7,694 Other \$90,051	\$ 6,296	\$ 194,745	\$ 2,702,087
			Total	\$ 932,406
				\$ 6,287,112



Texas Department of Motor Vehicles

IT Staff Augmentation Contracts

Generally, contracts over \$200,000 must be reviewed and approved by the TxDMV Board; however, the TxDMV Board resolution adopting contract approval procedures excludes from approval those contracts with DIR for routine operations. The following list of Information Technology-related staff augmentation contracts for 2021 are for informational purposes only.

Note that contract amounts are subject to change based on agency needs and the final terms and conditions negotiated.

Division	Vendor	Purpose	Contract Period		Primary Project	FY 2021 Contract Amount	Total Contract Amount
			Award	Expire			
Information Technology	DIR/DCS	Technology Services Staff Augmentation	9/1/2020	8/31/2021	DCS	\$ 228,800	\$ 228,800
Information Technology	Apex Systems	Technology Services Staff Augmentation	9/1/2020	8/31/2021	IT Operating	\$ 208,832	\$ 208,832
Information Technology	NF Consulting	Technology Services Staff Augmentation	9/1/2020	8/31/2021	DLP	\$ 200,720	\$ 200,720
Information Technology	Nipun Systems	Technology Services Staff Augmentation	9/1/2020	8/31/2021	RTS Defects	\$ 208,832	\$ 208,832
Information Technology	NF Consulting	Technology Services Staff Augmentation	9/1/2020	8/31/2021	RTS Defects	\$ 235,040	\$ 235,040
Information Technology	Nipun Systems	Technology Services Staff Augmentation	9/1/2020	8/31/2021	MyPlates	\$ 201,760	\$ 201,760
Information Technology	NF Consulting	Technology Services Staff Augmentation	9/1/2020	8/31/2021	DLP	\$ 199,680	\$ 199,680
Information Technology	NF Consulting	Technology Services Staff Augmentation	9/1/2020	8/31/2021	DLP	\$ 201,760	\$ 201,760
Information Technology	NF Consulting	Technology Services Staff Augmentation	9/1/2020	8/31/2021	RTS Defects	\$ 208,832	\$ 208,832
Information Technology	Bansar Technologies	Technology Services Staff Augmentation	9/1/2020	8/31/2021	RTS Defects	\$ 187,221	\$ 187,221
Information Technology	Sistema Technologies	Technology Services Staff Augmentation	9/1/2020	8/31/2021	MCCS	\$ 176,800	\$ 176,800
Information Technology	Capital Systems	Technology Services Staff Augmentation	9/1/2020	8/31/2021	RTS Defects	\$ 197,600	\$ 197,600
Information Technology	Bansar Technologies	Technology Services Staff Augmentation	9/1/2020	8/31/2021	RTS Defects	\$ 200,574	\$ 200,574
Information Technology	Apex Systems	Technology Services Staff Augmentation	9/1/2020	8/31/2021	RTS Defects	\$ 200,574	\$ 200,574
Information Technology	Workquest	Technology Services Staff Augmentation	9/1/2020	8/31/2021	RTS Defects	\$ 198,224	\$ 198,224
Information Technology	Apex Systems	Technology Services Staff Augmentation	9/1/2020	8/31/2021	RTS Defects	\$ 200,574	\$ 200,574
Information Technology	Apex Systems	Technology Services Staff Augmentation	9/1/2020	8/31/2021	RTS Defects	\$ 200,574	\$ 200,574
Information Technology	Apex Systems	Technology Services Staff Augmentation	9/1/2020	8/31/2021	RTS Defects	\$ 200,574	\$ 200,574
Information Technology	NF Consulting	Technology Services Staff Augmentation	9/1/2020	8/31/2021	New Project	\$ 260,000	\$ 260,000
Information Technology	Nipun Systems	Technology Services Staff Augmentation	9/1/2020	8/31/2021	County Sandbox	\$ 241,966	\$ 241,966
						\$ 4,158,939	\$ 4,158,939



Texas Department *of* Motor Vehicles

Appendix A: TxDMV Appropriations History



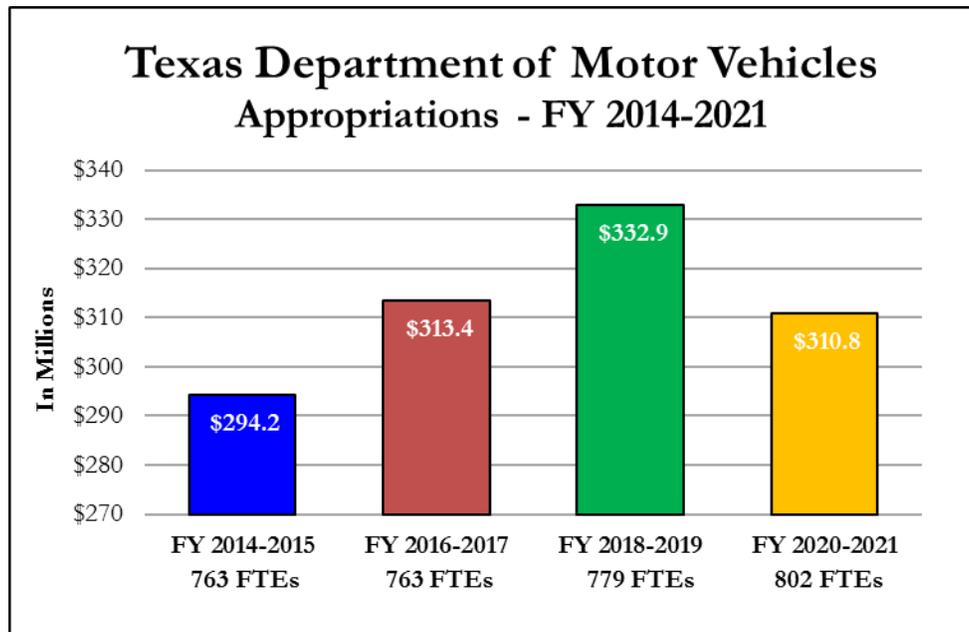
Texas Department of Motor Vehicles

Texas Department of Motor Vehicles - Appropriations History

Since the department's creation in FY 2009, TxDMV appropriations have more than doubled, from an original \$142.9 million to 310.7 million in FY 2020-2021. In FY 2012-2013, the department's appropriation increased due to the addition of the Motor Carrier Oversize/Overweight permitting program after passage of SB 1420 (82nd Legislature). Appropriations in subsequent years include additional funding for Automation Capital and license plate production. In 2013, with the passage of HB 1692, 83rd Legislature, Regular Session, the department established the Office of Administrative Hearings to conduct contested case hearings for "Lemon Law" and warranty performance disputes internally, rather than referring such cases to the State Office of Administrative Hearings.

In FY 2016-2017, the department's appropriations increased almost 7% from FY 2014-2015. The department received funds in FY 2016-2017 to cover higher license plate production and volume costs, relocation of two Regional Service Centers (RSCs) and the Bull Creek campus. In addition, the department's ongoing Automation Project (including information technology separation efforts) was fully funded.

The following table illustrates the TxDMV appropriation and FTE history since the FY 2014-2015 biennium.



The 85th Legislature provided funding for FY 2018-2019 in an approved amount of \$332.9 million, a 6% increase over the FY 2016-2017 biennium. The increase in FY 2018-2019 is primarily driven by the approval of funding for TxDMV Headquarters (HQ) maintenance costs (\$9.8 million).



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TxDMV received funding for a Special Investigations Unit, renamed to Compliance & Investigations (\$1.9 million) to address more complicated motor vehicle crimes that are often not detected or investigated but cost the state considerable losses in both dollars and public confidence. Some of the crimes are related to other serious criminal enterprises, such as auto theft, illegal drug and human trafficking.

The department received appropriations from the TxDMV Fund to create a function that specializes in these more complicated types of theft and fraud in an effort to assist law enforcement and protect citizens in a more timely and effective manner. The appropriation included an additional 13 FTEs, as well as funds for four

vehicles, travel and related expenses. The department hired the division director in January 2018 and began operations in June 2018.

TxDMV Facilities - Background

In the department's FY 2016-2017 Legislative Appropriations Request to the 84th Legislature, TxDMV presented two options, through exceptional item requests, to consolidate and relocate its headquarters operations. The first option was the request to purchase land and construct a building and the second option was the request to lease commercial space to house TxDMV's headquarters operations. During the course of the session, the 84th Legislature included in the General Appropriations Act \$57.9 million to purchase land and construct a building through the Texas Facilities Commission. However, the request was ultimately not approved. Discussions between the Governor's Office, the Texas Department of Transportation (TxDOT) and TxDMV ultimately led to the development of a long-term low-cost solution to house TxDMV headquarters staff. As a result, Motor Carrier Division staff were relocated to Building 6, 5th Floor on Camp Hubbard on January 2018. SB 1349, 85th Legislature, Regular Session granted TxDMV authority to buy, improve, sell and lease property. SB 1349 also gave TxDOT legal authority to donate two tracts of property (Tract 1 is Camp Hubbard Buildings 1 through 5 and Tract 2 is Camp Hubbard Buildings 6 through 10 and the associated parking of both tracts) to TxDMV via negotiations and the sale of real property through the General Land Office.

Since the creation of the TxDMV as a separate state agency, its headquarters facilities have been housed in TxDOT-owned facilities. These properties were located on Jackson Avenue (known as Camp Hubbard) and Bull Creek Road in Austin. As part of the appropriation, three additional FTEs were approved to handle facilities and maintenance needs related to the property. TxDMV will collaborate with TxDOT to transition facilities maintenance tasks and costs at Camp Hubbard to TxDMV.

The department was appropriated \$9.8 million for the biennium (FY 2018-2019) to begin undertaking maintenance-related expenses associated with the buildings occupied by TxDMV staff.

In FY 2020-2021, the department's total appropriations decreased by 7.1% from the previous biennium. The decrease was primarily a result of the complete elimination of an appropriation for Texas.gov service fees and an overall reduction in one-time capital project funding. Decreases in the capital funding are the result of several capital projects ending, including RTS refactoring, which will be transitioning into maintenance. The main source of funding is the TxDMV Fund, while the Motor Vehicle Crime Prevention Authority (MVCPA), previously named Automobile Theft and Prevention Authority, will continue to be funded through General Revenue.

TxDMV carefully reviewed each program and budget strategy to determine the value of each dollar requested. The department's appropriations for the FY 2020-2021 biennium is \$310.8 million, \$157.8 million in FY 2020 and \$153.0 million in FY 2021, with 802 FTEs.

As the TxDMV moves into the FY 2022-2023 biennium and prepares for the future, the primary catalyst for enhancing service delivery will be technology-driven changes. To support these changes, the department recognizes the need to concentrate on emerging hardware and software needs as well as the human resources required to implement, sustain and support technological advances. TxDMV will also need to address how best to educate customers to fully utilize new technologies available. Finally, the department recognizes its need to



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increase its efforts to combat motor vehicle crime, not only with an increase in existing grants, but also with an expansion of the scope of the program. Many of these issues were addressed in the recommendations included in the *Sunset Advisory Commission's Staff Report* and are supported by the TxDMV Board and executive management.

The department's approved FY 2020-21 appropriations increase program efficiencies and effectiveness, align with state executive leadership direction and include recommendations from the Sunset Commission's Staff Report. TxDMV will work to ensure that improvements in its operations maximize service delivery to the TxDMV's customers in the upcoming biennium.

The department's FY 2020-2021 appropriations include additional funding for:

- Information Technology Services Division Development and Maintenance Improvements - 12 FTEs; \$1.9 million
- Information Technology Services Division Infrastructure Improvements - \$2.7 million
- Consumer Protection and Tracking Resources - \$567,500
- Consumer Service Enhancement - 9 FTEs; \$904,005
- Statewide Cost Allocation Plan (SWCAP) increase - \$1.9 million
- Regional Service Centers Capital - \$500,000
- Rider contingency - 2 FTEs and \$1.4 million for the implementation of digital license plates

The department's request for headquarters renovations (\$5.1 million) was not approved. These funds would have accommodated renovations to two floors in Building 1. However, the department received a rider that allows the carry-forward of unspent HQ Capital dollars into the new biennium. This will allow the department to continue needed repairs to Building 1's infrastructure such as weatherization and the repair of Building 5's roof.

Finally, TxDMV received riders that provide the department with enhanced flexibility in efficiently and effectively spending its appropriations as well as providing the department with additional tools for planning and aligning its expenditures with its needs.



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Appendix B: Purchasing Contract Resolution



Texas Department of Motor Vehicles

BOARD OF THE TEXAS DEPARTMENT OF MOTOR VEHICLES

CONTRACT APPROVAL PROCEDURES

Revised May 2, 2019

The Board of the Texas Department of Motor Vehicles (Board) finds it necessary to adopt procedures relating to contracts executed on behalf of the Texas Department of Motor Vehicles (department). The Executive Director (or designee) has the authority to sign and/or approve contracts on behalf of the department without Board approval, to the extent this contract approval procedures does not require prior Board approval and Board approval is not required by law. The Board authorizes the Executive Director to adopt separate internal procedures to assist with the implementation of this contract approval procedures.

Procurement Process:

The department may enter into the procurement process to acquire goods and/or services without consultation or prior Board approval provided that the department complies with the General Contract Approval procedures below.

General Contract Approval:

Department contracts must be submitted to the Board by the Executive Director (or designee) for review and approval prior to execution and/or award if:

- the contract or contract renewal exceeds \$200,000.
- a change order, individually or in combination with other change orders (other than the exercise of available renewal options), increases the original contract by twenty-five percent or more, as long as the dollar amount of the change order is \$50,000 or more.
- any change order, individually or in combination with other change order (other than the exercise of available renewal options), increases the original contract by \$100,000 or more.

At the discretion of the Executive Director (or designee), the department may request the Board consider any contract of any amount.

Exclusions:

The department is not required to obtain approval for any grants awarded to the department or awarded by the department or any contracts which do not obligate the department to pay, such as the contract for the TexasSure program.

The following department contracts are for routine operations and are excluded from the contract approval procedures listed above:



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Statewide Procurement Division (SPD) Contracts	Lawn Services
Department of Information Resources (DIR) Contracts	Janitorial Services
Council on Competitive Government (CCG) Contracts	Vehicles
Hardware/Software Maintenance	Leased Copiers
Vehicle Registration Renewal Notices	Copier Maintenance
Vehicle Titles	Trash Disposal
TXMAS Contracts ¹	Interagency/Interlocal Agreements ²
Registration Stickers	Software - Off-the shelf
Equipment Maintenance	Set-Aside Contracts ³
Temporary Staff Services	Postage
Security Services	

Emergency Procurements:

In the event a contract is needed on an emergency basis, the Executive Director (or designee) will contact the Board Chairman or the Finance and Audit Committee for approval to execute such a contract and will brief the full Board at the next regularly scheduled Board meeting.

An emergency procurement is an unforeseeable situation requiring a procurement and the possible execution and/or award of a contract to:

- prevent a hazard to life, health, safety, welfare, or property;
- avoid undue additional costs to the state; or
- avoid undue delay to any department operations.

Budgeting and Reporting:

Even though the routine contracts listed above are excluded from Board review, the Executive Director (or designee) must still ensure that all contracts are within budget guidelines and adhere to all established procurement contract laws, rules, regulations and policies of oversight agencies.

No later than August 31st of each fiscal year, the Chief Financial Officer (or designee) shall submit to the Board an annual report which identifies all agency contracts which are expected to exceed \$200,000 in the next fiscal year. This report shall include, but not be limited to, vendor name, contract purpose, contract amount, and contract duration. Additionally, the Chief Financial Officer (or designee) shall state whether sufficient funds are available in the agency's proposed operating budget for such contracts.

¹ Texas Multiple Award Schedule (TXMAS) contracts are contracts that have been developed from contracts awarded by the federal government or any other governmental entity of any state.

² However, the interagency contract between TxDMV and the Texas Department of Transportation pursuant to House Bill 3097 from the 81st Regular Legislative Session and/or Senate Bill 1420 from the 82nd Regular Legislative Session is excluded from this exclusion. So the department must obtain Board approval for this contract prior to execution of such contract, to the extent the dollar amount triggers the requirement for Board approval.

³ Set-aside contracts are a specific set of contracts for which a competitive procurement is not required, such as contracts for commodities or services that are available from Texas Correctional Industries and the Central Nonprofit Agency under contract with the Texas Workforce Commission (TWC). Currently, TIBH Industries, Inc. is the Central Nonprofit Agency under contract with TWC.

Contract Approval Procedures



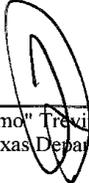
Texas Department of Motor Vehicles

Funds for the department's contracts are first considered when the Board reviews and approves the department's operating budget. The Board's approval of the operating budget constitutes approval of any contracts listed in the operating budget. After the Board approves the operating budget, the department's Executive Director (or designee) is authorized to execute such contracts according to established procurement and contract laws, rules, regulations and policies of oversight agencies.

IT IS THEREFORE ORDERED by the Board that these contract approval procedures are adopted. The contract approval procedures dated November 03, 2016, and titled *Board of the Texas Department of Motor Vehicles, Contract Approval Procedures* is rescinded, effective May 2, 2019.

The Department is directed to take necessary steps to implement the actions authorized in this contract approval procedures.

May 2, 2019



Guillermo "Memo" Treviño, Chair
Board of the Texas Department of Motor Vehicles

Contract Approval Procedures



Texas Department *of* Motor Vehicles

Appendix C: Budget Category Definitions



Texas Department of Motor Vehicles

Budget Category Definitions

In Alphabetical Order

Advertising and Promotion – Includes radio/media ads, posters, signage, brochures, flyer production, and other promotional items.

Benefit Replacement Pay – Benefit Replacement Pay (BRP) is compensation authorized by the Texas Legislature to offset the loss of state-paid Social Security contributions. See budget terms and definitions for further explanation.

Capital – Expenditures related to the acquisitions, lease-purchase or ancillary cost (including contracts) associated with a capital items/projects over \$100,000.

Computer Equipment – The purchase and replacement of personal information technology equipment and peripherals such as workstations, monitors, keyboards, and laptops.

Consumables – Standard consumable costs required to run the day-to-day operations of the agency such as paper, pens, pencils, media discs and USB drives, paper clips and staples.

Contract Services – Services outsourced to third party entities for the benefit of the agency such as MyPlates and Standard Register.

Exceptional Items – The Legislative Budget Board (LBB) distributes instructions to state agencies and higher-education entities in the preparation of its biennial appropriations request. State agencies determine its baseline request by compiling actual/estimated/budgeted expenditures for the current biennium with specific guidance from the LBB. The baseline computation is approved by the LBB and the Governor's Office and becomes the basis for the next biennium's appropriations. Programs and/or services not included in the baseline request are considered exceptional items and may be submitted for consideration.

Fees and Other Charges – Credit card processing fees, employee health insurance fees, State Office of Risk Management insurance charges, and court filing fees.

Freight – Goods transported in bulk by truck, train, ship, or aircraft. For example, the costs to transport license plates to county tax offices.

Fuels and Lubricants – Fleet maintenance and operation costs related to oil changes and refueling fleet vehicles.

Grants – Pass-through funds designated for use by city, county, and other state agencies for a specific, contractual requirement.

Maintenance and Repair – Expenditures related to the upkeep of agency facilities, equipment, and software used on agency systems for annual application support such as e-Tags and International Registration Plan (IRP).



Texas Department of Motor Vehicles

Memberships and Training – Fees for training courses and conference registrations for agency staff. Also included are expenditures for memberships for agency personnel such as Texas Association of Public Purchasers, American Association of Motor Vehicle Administrators (AAMVA) and the National Board of Motor Vehicle Boards and Commissions.

Other Expenses – Includes office furniture and equipment, and miscellaneous non-categorized costs such as employee awards, publication purchases, parts, promotional items, and non-capitalized tools. Also included in this category is a portion of the funding for TxDMV Automation and Growth and Enhancement.

Postage – Includes costs of metered mailing for license plates, registration renewal notices, and titles; and includes the cost of the rental of agency post office boxes.

Professional Fees – Work, requiring specific expertise, provided by third party professionals holding specific certifications and qualifications.

Rent – Building/Rent – Machine, Other – Costs associated with procurement of project facilities such as office rental, off-site training rooms; and costs associated with the rental of office equipment such as postage meters and copy machines.

Reproduction and Printing – Includes all agency printed materials primarily used in registration renewal notices and titles such as notification inserts, envelopes, and title paper.

Salary – Includes staff compensation and interns, longevity pay, health insurance contributions, and retirement contributions. Does not include contract workers who are not a part of the organization's normal payroll.

Services – Includes costs associated with services provided to TxDMV through subscription such as National Motor Vehicle Title Information System (NMVTIS) and LexisNexis.

Travel (In-State/Out-of-State) – that which has official state business purpose, attending approved job-related training, working on behalf of or officially representing the department. Includes transportation, meals and accommodations, and travel per-diems.

Utilities – Costs associated with providing services at facility locations and/or HQ such as electricity, telephone, water, and natural gas.



Texas Department *of* Motor Vehicles

Appendix D: Budget Terms and Definitions



Texas Department of Motor Vehicles

Budget Terms and Definitions

Annual Operating Budget – An agency’s Annual Operating Budget represents a one-year financial plan supporting the agency’s business operations and addresses base operating requirements and adjustments. The budget covers funding for each division and reflects the most appropriate method of finance and strategy for core activities and continuing programs. The TxDMV Recommended Operating Budget reflects FY 2021 appropriations as identified in the 86th Legislature, Conference Committee. The agency’s Annual Operating Budget covers a one-year period from September 1 through August 31.

Appropriation – Refers to funding or associated full-time equivalent (FTE) positions authorized for specific fiscal years and provisions for spending authority.

Appropriation Year (AY) – Refers to the specific fiscal year for which an appropriation is made. The appropriation year dictates the year to which the expenditure is authorized/charged.

Base Request – The base request represents the basis for the agency’s biennial budget. The base request cannot exceed the appropriated amount established by the legislature through the prior biennial GAA, adjusted for Article IX appropriation adjustments.

Benefit Replacement Pay – Benefit Replacement Pay (BRP) is compensation authorized by the Texas Legislature to offset the loss of state-paid Social Security contributions. SB 102, 74th Legislature, eliminated the state-paid Social Security payment, effective December 31, 1995. After this date, eligible employees began receiving a supplement known as BRP in place of the state-paid Social Security payment. Eligible employees include those that were employed by the state and subject to FICA taxes on August 31, 1995, and have been continuously employed by the state since that date; employees that left the state but returned within 30 consecutive calendar days and those that retired before June 1, 2005, and returned to work with the state before September 30, 2005.

Biennium – Two-year funding cycle for legislative appropriations.

Capital Budget – The portion of an agency’s appropriation that is restricted to expenditures for designated capital construction projects, capital acquisitions or projects.

Centralized Accounting and Payroll/Personnel System (CAPPS) – CAPPS is the official name of the statewide Enterprise Resource Planning (ERP) system created by the Comptroller of Public Accounts (CPA) ProjectONE team. CAPPS will replace legacy systems with a single software solution for financial and Human Resources (HR)/Payroll Administration for Texas state agencies. The modules for TxDMV’s CAPPS include: Asset Management; General Ledger/Commitment Control (Budget); Payables; Purchasing/eProcurement; HR and Payroll Administration.

Expended – Refers to the actual dollars or positions utilized by an agency or institution during a completed fiscal year; a goal or strategy; an object of expense; or an amount from a method of finance.



Texas Department of Motor Vehicles

General Appropriations Act (GAA) – The law that appropriates biennial funding to state agencies and higher-education institutions for specific fiscal years and sets provisions for spending authority.

General Revenue (GR) (Fund 0001) – The fund that receives state tax revenues and fees considered available for general spending purposes and certified as such by the Comptroller of Public Accounts.

Federal Funds/Grants – Funds received from the United States government by state agencies and institutions that are appropriated to those agencies for the purposes for which the federal grant, allocation, payment or reimbursement was made.

Fiscal Year (FY) – September 1 through August 31, and specified by the calendar year in which the fiscal year ends. For example, FY 2020 runs from September 1, 2019 through August 31, 2020.

Full-Time Equivalents (FTEs) – Units of measure that represent the monthly average number of state personnel working 40 hours per week.

Lapsed Funds – The unobligated balance in an item of appropriation that has not been encumbered at the end of a fiscal year or at the end of the biennium. Appropriations expire if they are 1) not obligated by August 31 of the appropriation year in which they were made or 2) not expended within two years following the last day of the annual year.

Line-item – An element of spending authority granted to an agency or institution in an appropriations bill. It is, literally, a line in the General Appropriations Act specifying an agency's appropriations for a specific designated use. In Texas, the governor may veto a line-item.

Method of Finance – This term usually appears as a heading for a table that lists the sources and amounts authorized for financing certain expenditures or appropriations made in the General Appropriations Act (GAA). A source is either a "fund" or "account" established by the comptroller or a category of revenues or receipts (e.g., federal funds).

Processing and Handling Fee – In accordance with HB. 2202, 83rd Legislature, Regular Session, in June 2016, effective January 1, 2017, a new Processing and Handling (P&H) fee for registration activities was adopted. The P&H fee is set at an amount (\$4.75) sufficient to cover the costs of registration services.

Rider – Sets specific instructions regarding the expenditure or collection of funds by an agency.

Salary Budget – Fiscal year salaries include projected annual costs based on prior year actual salaries with adjustments for vacancies, merits and projected longevity costs.

State Highway Fund (Fund 0006) – Constitutionally created fund that dedicates net revenues from motor vehicle registration fees and taxes on motor fuels and lubricants. Revenue in the State Highway Fund is used for highway construction and maintenance, acquisition of right-of-ways and law enforcement on public roads.



Texas Department *of* Motor Vehicles

TxDMV Fund (Fund 0010) – SB 1512, 84th Legislature, Regular Session, re-created the TxDMV Fund outside of the GR Fund and directed the agency to change its deposit schedule beginning in FY 2017. SB 1512 also redirected the revenues previously identified in HB 2202, 83rd Legislature, Regular Session, associated with certain TxDMV fees to be deposited to the credit of the newly established TxDMV Fund. MVCPA, however, continues to be self-funded through the collection of a \$4 fee on insurance policy renewals and its fees are deposited to the credit of the General Revenue Fund.

Unexpended Balance (UB) or Carry-Forward – The amount left in an item of appropriation at the end of an appropriation period and includes only that part of the appropriation, if any, which has not had an obligation or commitment made by the agency in charge of spending the appropriation. The term also refers to the amount of an appropriation, a fund or a category of revenue which is brought forward (appropriated) to the succeeding fiscal year. Agencies must have legislative authority to move funds from one year to the next and/or from one biennium to the next biennium.



Texas Department *of* Motor Vehicles

Appendix E: Finance and Administrative Services Contacts



Texas Department *of* Motor Vehicles

Finance and Administrative Services Contacts

Linda M. Flores, Chief Financial Officer
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E. Ann Pierce, Assistant Division Director, Administrative Services
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Laura Fowler, Financial Analyst
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Steve Sandoval, Financial Analyst
512-465-1448

Planning

Lisa Conley, Planner
512-465-4186

To: Texas Department of Motor Vehicles Board
From: Sandra Menjivar-Suddeath, Internal Audit Division Director
Agenda Item: 16.A.3
Subject: Fiscal Year (FY) 2021 First Six Month Internal Audit Plan

RECOMMENDATION

To approve the FY 2021 First Half Internal Audit Plan.

PURPOSE AND EXECUTIVE SUMMARY

The Texas Department of Motor Vehicles Board approves the Internal audit plan each year to be in compliance with the Texas Internal Audit Act (Texas Government Code 2102.008). The FY 2021 Internal Audit plan provides information for the entire fiscal year, including an hour analysis and the potential engagements; however, IAD is only requesting approval on the engagements, divisional initiatives, and added-value services for the first six months. The plan includes nine engagements, divisional initiatives, and added-value services for the first six months.

FINANCIAL IMPACT

No Financial Impact.

BACKGROUND AND DISCUSSION

The TxDMV Board approves the Internal audit plan each year to be in compliance with the Texas Internal Audit Act (Texas Government Code 2102.008). The FY 2021 Internal Audit plan provides information for the entire fiscal year, including an hour analysis and the potential engagements; however, IAD is only requesting approval on the engagements, divisional initiatives, and added-value services for the first six months. IAD is requesting approval for only the six months because it will allow IAD to better address any unforeseen risks that appear in the fiscal year. IAD plans to request approval on the second six month in early 2021.

First Half Engagements

IAD identified nine engagements that it will conduct during the first six months of the fiscal year. Out of the nine engagements, four engagements are required and five engagements are risk-based. The five risk-based engagements are tied to the four themes presented in the June Finance & Audit Committee meeting: Transformation, Information Technology, Human Resources, and Procurement and Supply Chain Management:

- **Procurement Measures:** An engagement will review procurement timelines and measures.
- **Telecommuting:** An engagement will evaluate the implementation of the telecommuting program, including mechanisms established to monitor remote workers.
- **Employee Relations:** An engagement will review processes set up to deal with employee performance issues.
- **License Plate Manufacturing and Monitoring:** An engagement will review the contract with the Texas Department of Criminal Justice (TDCJ) for the manufacturing of license plates, disabled placards, and other

items. The engagement would review the processes established for the manufacturing, storage, disbursement, and monitoring of the manufacturing and supply of manufactured goods.

- **Information Technology Change Management:** A co-sourced engagement will review the change management processes within the Information Technology Services Division. Change management includes, but is not limited to implementation of new functionality, interruption of service, repair of existing functionality, and the removal of existing functionality.

The four required engagements include the Annual Audit Activities Report, Quality Assurance and Improvement Program – Internal Assessment, Quality Assurance and Improvement Program – External Assessment, and the Audit Recommendation Implementation Status Follow-Up.

The nine engagements are estimated to take 3,265 hours.

Divisional Initiatives and Added-Value Services

In addition to the engagements, IAD conducts other value-added services and works on divisional initiatives to improve IAD's effectiveness and efficiency. Initiatives and Added-Value Services include Key Risk Indicators, Staff Development Plans and Training, training, Fraud, Waste, and Abuse Items, external coordination, and advisory services/participation.

Contingency Engagement

The first half plan also includes contingency engagements that could be done in lieu of one of the first half engagements or could be done in the second half of the fiscal year. The contingency engagements are the following: Strategic Communication, Payment Card Industry Compliance, Staff Retention and Recruitment, Strategic Purchasing, or a placeholder engagement.

The placeholder engagement is to allow the Department and division flexibility if a risk occurs that requires immediate review prior to the creation and approval of the second half engagement. This placeholder engagement would only be used if the Finance & Audit Committee Chair and Board Chair agree that the risk needs to be immediately reviewed. Finance & Audit Committee members would brief on the new risk and plan changes as well.



Texas Department
of Motor Vehicles
HELPING TEXANS GO. HELPING TEXAS GROW.

Fiscal Year (FY) 2021 First Half Internal Audit Plan

Internal Audit Division

August 2020

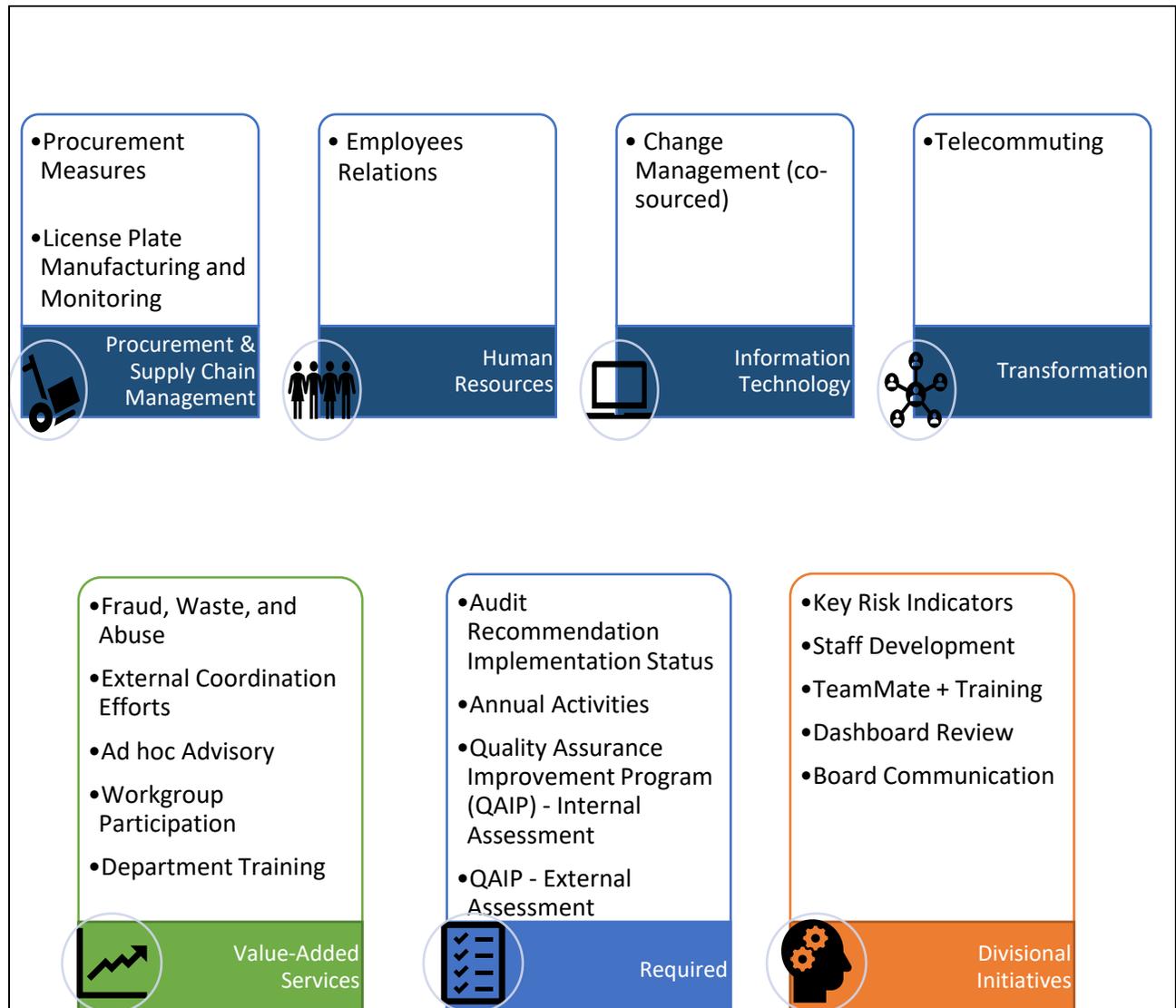
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FY 2021 First Half Summary

The Internal Audit Division (IAD) audit plan for fiscal year (FY) 2021 is divided into two six-month plans. IAD moved to a six-month audit plan to allow for flexibility as Texas Department of Motor Vehicles' (TxDMV) risks change rapidly. The audit plan for the first half of the fiscal year includes five risk-based engagements and four required engagements tied to five themes. In addition, the plan includes division initiatives, and added-value services. The first half summary is illustrated in figure 1.

Figure 1. First Half Audit Plan Summary



Engagement and Services Information



Risk-Based Engagements

- **Procurement Measures:** This engagement will review procurement timelines and measures.
- **Telecommuting:** This engagement will evaluate the implementation of the telecommuting program, including mechanisms established to monitor remote workers.
- **Employee Relations:** This engagement will review processes set up to deal with employee performance issues.
- **License Plate Manufacturing and Monitoring:** This engagement will review the contract with the Texas Department of Criminal Justice (TDCJ) for the manufacturing of license plates, disabled placards, and other items. The engagement would review the processes established for the manufacturing, storage, disbursement, and monitoring of the manufacturing and supply of manufactured goods.
- **Information Technology Change Management*:** This co-sourced engagement will review the change management processes within the Information Technology Services Division. Change management includes, but is not limited to implementation of new functionality, interruption of service, repair of existing functionality, and the removal of existing functionality.



Required Engagements

- **Audit Recommendation Implementation Status Follow-Up:** Verification of the implementation status for internal and external audit recommendation.
- **Annual Activities:** A statutorily required report that summarizes previous fiscal year's internal audit activities.
- **Quality Assurance and Improvement Program – Internal Assessment:** An internal review to determine whether the division complied with audit standards and to provide information on the division's performance.
- **Quality Assurance and Improvement Program – External Assessment:** An external review to determine the division's compliance with internal audit standards. The review occurs every three years and the division must prepare a self-assessment report.

*This engagement is dependent on the availability of the vendor.



Divisional Initiatives

- **Key Risk Indicators:** IAD will be finalizing and providing quarterly reporting on the following indicators:
 - *Fraud Indicators:* IAD will monitor leave balances and payment information.
 - *Regional Service Center (RSC) Transactions:* IAD will be monitoring RSC transactions to identify potential fraud.
 - *Procurement and Contract Management Monitoring:* IAD will monitor procurement and high-risk contracts.
- **TeamMate Transition:** IAD will transition to TeamMate +, a web-based, audit software at the beginning of the fiscal year. Staff will receive training and provide support to the Department staff.
- **Staff Development Plans and Training:** IAD staff take training and create development plans to obtain required knowledge, skills, and abilities.
- **Dashboard Report Development:** IAD will develop an interactive dashboard style report to provide more focused information on results.
- **Board Communication:** IAD will continue refining dashboards and other items to provide a snapshot of the Department's risk management and governance information.



Added – Value Services

- **Fraud, Waste, and Abuse (FWA) Items:** IAD is responsible for reviewing, tracking, and investigating any internal FWA allegations, including those received through the State Auditor's Office Hotline.
- **External Coordination Efforts:** IAD coordinates and facilitates any external audits. External coordination efforts include providing audit status update and coordinating responses.
- **Ad hoc Advisory:** IAD sets aside 150 hours to address any short-term assessment or information requests by TxDMV staff during the first half of the fiscal year.
- **Workgroup Participation:** IAD participates in TxDMV work groups to help identify any unforeseen risk in enterprise projects or activities.
- **Department Training:** IAD provides training to help TxDMV staff understand their responsibilities for audits, recommendation implementation, and preventing fraud, waste, and abuse.

Detailed Engagement Information

Engagements

Tables 1 and 2 provide information on the risk-based and required engagements that will be conducted in the first half of the FY 2021. The information includes engagement name, engagement hours, TxDMV strategic goal alignment, impacted division(s), and background. The background includes information on how the engagement ties to Committee of Sponsoring Organizations of the Treadway Commission (COSO) framework. Information on COSO can be found in Scope and Methodology section, under the [Committee of Sponsoring Organizations of the Treadway Commission \(COSO\) Methodology](#). Table 1 provides information on the risk-based engagement and table 2 provides information on the required engagements.

Table 1. Risk-Based Engagements

Engagement Area	Hours	Strategic Goal(s)	Impacted Division(s)	Background
Telecommuting	700	Optimized Services and Innovation	Department-wide Human Resources Division	Telecommuting, or remote work, has become the standard in the COVID-19 environment. Telecommuting must be set up properly to be effective for the organization and employees. Set up includes processes for monitoring employee productivity, program usage, and whether program objectives were properly articulated. This engagement ties to COSO elements of Control Environment, Risk Assessment, Control Activities, and Monitoring.
Employee Relations	680	Performance Driven	Human Resources Division	Employee relations involves creating and maintaining a positive environment between the organization, its managers, and employees, where employees feel engaged and are accountable for their work. When employees may not be performing at expected levels, processes should exist to help management and the employee achieve output expectations. This engagement ties to COSO elements of Control Environment, Control Activities, Information and Communication, and Monitoring.

Engagement Area	Hours	Strategic Goal(s)	Impacted Division(s)	Background
Procurement Measures	750	Optimized Services and Innovation	Finance & Administrative Services Division	Procurements, or purchases, conducted by the Department range from consumable goods to complex information technology products. Regardless of the procurement, timelines, roles, and measures should be established to measure the effectiveness and performance of the procurement function. This engagement ties to COSO elements of Control Environment, Risk Assessment, Control Activities, and Monitoring.
License Plate Manufacturing and Monitoring	850	Optimized Services and Innovation Customer Centric Performance Driven	Finance & Administrative Services Division Vehicle Titles & Registration Division Compliance & Investigations Division	The Department contracts with the Texas Department of Criminal Justice (TDCJ) to manufacture license plates, disabled placards, and other items. The Department's contract outlines the minimum requirements of goods produced and responsibilities between the departments. The goods are produced at the Wynne Unit, a facility owned and operated by the TDCJ. TxDMV has staff at the Wynne Unit to oversee the manufacturing, storage, and disbursement of manufactured goods. The engagement will be coordinated with the TDCJ's internal audit division. This engagement ties to COSO elements of Risk Assessment, Control Activities, and Monitoring.
Information Technology Change Management	N/A	Performance Driven	Information Technology Services Division	The engagement was selected using the Cybersecurity roadmap and will co-sourced. Change management is the process that ensures all changes are processed in a controlled manner, including standard changes and emergency maintenance relating to information technology. Changes include, but are not limited to interruption of service, implementation of new functionality, and the repair and/or removal of existing functionality. This engagement is

Engagement Area	Hours	Strategic Goal(s)	Impacted Division(s)	Background
				contingent on vendor availability. This engagement ties to COSO elements of Control Activities and Monitoring.

Table 2. Required Engagements

Engagement Area	Hours	Strategic Goal(s)	Impacted Division(s)	Background
Annual Audit Activities	35	Performance Driven	Department-wide	A statutorily required review that summarizes internal activities conducted in FY 2020. The State Auditor's Office prescribes the report format and information.
Quality Assurance and Improvement Program – Internal Assessment	75	Performance Driven	Internal Audit Division	An internal assessment to determine compliance with audit standards and provide information on IAD's performance. IAD's performance includes an evaluation of Key Performance Indicators and Capability Model.
Quality Assurance and Improvement Program – External Assessment	50	Performance Driven	Internal Audit Division	Every three years, the division is required to obtain an External Assessment (Peer Review) on whether the internal audit function complies with the applicable professional auditing standards in all material aspects. The division produces a self-assessment report and the report is used to obtain information on how the IAD meets applicable auditing standards.
Audit Recommendation Implementation Status Follow-Up	125	Optimized Services and Innovation Customer Centric Performance Driven	Department-wide	An engagement to verify if outstanding audit recommendations have been fully implemented. Quarterly reporting for internal audit recommendations will be done.

Contingency Engagements

Table 3 denotes the potential engagements that could be done in the second half of the fiscal year or performed during the first half of the fiscal year if one of the risk-based engagements cannot be done.

Table 3. Contingency

Engagement Area	Strategic Goal(s)	Impacted Division(s)	Preliminary Engagement Information
Strategic Communication	Customer Centric Performance Driven	Government & Strategic Communication	The Department provides written communications, in various forms, to customers and employees with key information that impact the operations internally and externally and to employees. With the need to communicate quickly and effectively, processes should exist to ensure effective communication. This engagement ties to COSO elements of Control Environment and Information and Communication.
Payment Card Industry (PCI)	Performance Driven	Information Technology Services Division	The Department accepts credit cards and is required to meet PCI standards. This potential audit would evaluate PCI compliance with one of the 12 requirements. This audit was identified as an area of review in the Cybersecurity roadmap. This engagement ties to COSO elements of Risk Assessment, Control Activities, and Monitoring.
Staff Retention and Recruitment	Optimized Services and Innovation Performance Driven	Human Resources Division	Staff retention and recruitment begins with processes and policies that help divisions identify the talent needed to achieve organizational goals. It also includes those divisions using available policies and processes to keep employees. This engagement ties to COSO elements of Control Environment, Risk Assessment, Control Activities, Information and Communication, and Monitoring.
Strategic Purchasing	Optimized Services and Innovation Performance Driven	Finance & Administrative Services Division	Purchasing is a key component to ensure the Department's needs and objectives are met. Without a purchasing strategy, needs and objectives may not be met. This includes key purchases, such as technology purchases. This engagement ties to COSO elements of Control Environment, Risk Assessment, Control Activities, Information and Communication, and Monitoring.

Engagement Area	Strategic Goal(s)	Impacted Division(s)	Preliminary Engagement Information
Contract Development	Optimized Services and Innovation	Finance & Administrative Services Division Office of General Counsel	The state continues to evolve its procurement and contract rules and regulation and has begun focusing more on the development of contracts. This engagement would review processes that exist to develop contracts and amend contracts. This engagement ties to COSO elements of Control Environment, Risk Assessment, Control Activities, Information and Communication, and Monitoring.
Placeholder	TBD	TBD	In case a risk emerges that requires immediate review, this engagement will be used to substitute one of the risk-based engagements. This engagement will only be conducted in consultation with the Finance & Audit Committee Chair and members and the Board Chair.

Scope and Methodology

Scope

The Internal Audit Plan covers activities and engagements for the first half of the fiscal year, September 2020 through January 2021, and identifies potential engagements for the second half of the fiscal year.

Risk Assessment

Risk Methodology

The audit plan was developed using a risk-based methodology, which incorporated input from TxDMV board members, executive management, division management, and risks identified by audit staff through previous fiscal year engagements and observations. IAD also analyzed TxDMV information and reviewed internal audit and industry publications to identify and rank potential audit topics by risk. In addition, IAD collected information on the potential controls that were in place to mitigate the identified risks.

Each risk was reviewed using approved Department risk guidance that included the following factors:

- Revenue or expense impact
- Asset or liability impact
- Operational effectiveness and efficiency impact
- Legal or regulatory impact
- Brand or reputational impact
- Degree of change in the program, function, or process
- Degree of complexity
- Degree of centralization
- Control design strength

247 Department risks have been identified through the risk assessment, including an additional 75 risks that had not been identified in previous risk assessments or were new risks due to the changing environments. Each risk identified was scored using the above factors to determine the engagements for the first half of fiscal year 2021 and contingency engagements.

The risk scores ranged from zero, which is the lowest risk score, to ten, which is the highest risk score. Table 4 provides information on the risk scores for each item.

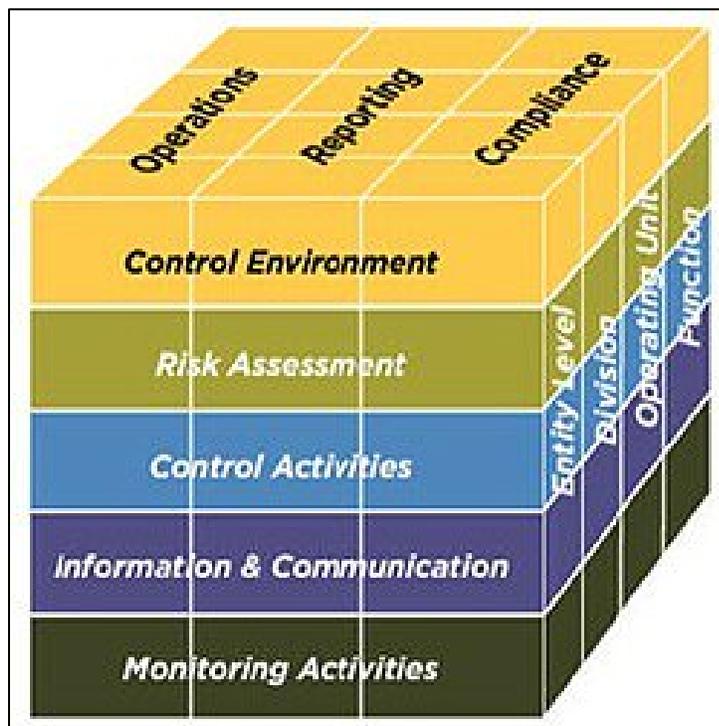
Table 4. Risk Scores

Very Low Risk	Low Risk	Medium Risk	High Risk	Very High Risk
0 - 1.5	1.5 – 2.5	2.5 – 3.5	3.5 – 4.5	4.5 +

Committee of Sponsoring Organizations of the Treadway Commission (COSO) Methodology

Once all risks were reviewed and ranked, the audit team evaluated each risk using the COSO *Internal Control – Integrated Framework*. The framework integrates three broad objectives (Operations, Reporting, and Compliance) and ties those objectives to risks and controls through five internal control components and four structural levels as depicted in Figure 2, COSO cube. The COSO cube depicts how the internal controls framework has a direct relationship between objectives, the components needed to achieve objectives, and a typical organizational structure.

Figure 2. COSO Cube



The definition for the COSO Internal Control Components are as follows:

- **Control Environment:** The foundation for an internal control system. The Control Environment is a set of standards, processes, and structures that provide the basis for carrying out internal control across the organization. It provides the discipline and structure to help an entity achieve its objectives. The TxDMV Board and executive management establish the tone at the top regarding the importance of internal control including expected standards of conduct.

- **Risk Assessment:** The processes used to determine how risk is to be managed. TxDMV management assesses the risks facing the entity as it seeks to achieve its objectives.
- **Control Activities:** The actions TxDMV management established through policies and procedures to achieve objectives and respond to risks in the internal control system, which includes information systems.
- **Information and Communication:** The quality of information TxDMV management and staff generate and use to communicate and support the internal control system on an ongoing and iterative basis.
- **Monitoring:** The activities TxDMV management established to assess the quality of performance over time. The activities include ongoing evaluations, separate evaluations, or some combination of the two. The activities are used to ascertain whether each of the five components of internal control, are present and functioning.

Themes

For the FY 2021, the Internal Audit Division introduced “themes” to help organize and categorize the internal audit plan. The themes include: Human Resources, Transformation, Information Technology, and Procurement & Supply Chain Management. In addition, the themes were significantly impacted by COVID-19:

- **Transformation:** Areas where new solutions are needed to address the post COVID-19 environment, which poses difficult problems that significantly disrupt current operations.
- **Human Resources:** Areas within human resources that play a critical role in ensuring our organization has a competitive advantage in hiring and retaining staff, as well as improving morale and coaching staff.
- **Information Technology:** Areas where the spread of new technologies, data collection methodologies, and automation increases risks to our organization and customers.
- **Procurement & Supply Chain Management:** Areas in procurement and supply chain that are critical to ensure costs are being contained and services/goods are provided on time and as needed.

Hour Analysis

Hours were calculated using historical data and auditor’s judgement. Hours are an estimate and could be adjusted. IAD anticipates about 1700 hours available for required and risk-based engagements for the second half of the fiscal year.

Board Meeting Date: 8/5/2020
BRIEFING

To: Texas Department of Motor Vehicles Board
From: Linda M. Flores, CPA, Chief Financial Officer, Finance & Administrative Services Division Director
Agenda Item: 16.B.1
Subject: Financial Impacts of COVID-19 on TxDMV

RECOMMENDATION

Briefing Only

PURPOSE AND EXECUTIVE SUMMARY

TxDMV is required by the Legislative Budget Board and the Governor's Office to prepare monthly reports on the financial impact to TxDMV from the COVID-19 event. The monthly reporting addresses the impact on revenue collections and on expenditures for COVID-19 response. TxDMV also submitted a 5% savings plan for its General Revenue funded appropriation in response to the economic conditions resulting from the COVID-19 event.

FINANCIAL IMPACT

The COVID-19 event has impacted TxDMV financially in three distinct areas: revenue collections, expenditures for COVID-19 response, and mandated appropriation reductions.

BACKGROUND AND DISCUSSION

REVENUE DISCUSSION

In response to requests from the Legislative Budget Board and other entities, TxDMV has developed new estimated FY 2020 revenue changes from previous projections used for board reporting. TxDMV has actual revenue information for September 2019 to June 2020 (ten months), and uses estimates for July through August 2020 (two months). Current expectations include:

- a loss of \$12,734,000 to General Revenue Fund 0001;
- a loss of \$175,922,000 to State Highway Fund 0006; and
- a loss of \$22,219,000 to TxDMV Fund 0010.

TxDMV updates monthly estimates with monthly actuals as each month progresses.

The analysis considers incorporating proclamations from the Texas governor stating that certain fees/permits are suspended or outright waived from March 16 until 60 days after TxDMV notifies the public that its services have recommenced as normal; this includes the reopening of county tax assessor-collector offices and TxDMV regional service centers to in-person customer activity. It is assumed, for this analysis, that TxDMV and county activity will resume as normal on August 1, with most fee or permit suspensions and waivers ending September 30.

Even though many fee streams are not directly affected or named by the national, state, or local measures, the economic changes will affect many fee collections. It is assumed that TxDMV revenue collections will see an interim decrease, but will not return to previously projected levels even within the current fiscal year.

EXPENDITURE DISCUSSION

Through the end of June 2020 TxDMV expended a total of \$1,473,381 in response to COVID-19. The expenditures are primarily from staff time for planning and preparation of COVID-19 response activities, the acquisition of personal protective equipment (PPE) items for employees and customers, cleaning supplies, and facility preparation activities such as cleaning and defogging services and the installation of plexiglass partitions for public areas.

The total projected cost for COVID-19 response is estimated to be \$1,706,486 through the end of FY 2020. The year-end estimate assumes continued staff time through the middle of July and continued cleaning services and cleaning supply/PPE replenishment through the end of the fiscal year.

A detailed month-by-month obligation table is included in the Financial Impact of COVID-19 Supplement.

Financial Impacts of COVID-19

REVENUE FORECASTS

The red figures shown in the table below are the changes from FY 2020 revenue projections. The table compares original FY 2020 forecasts to new estimates impacted by the COVID-19 pandemic.

Funds 0001, 0006, and 0010 Projected FY 2020 Revenue Impact				
Combined Revenue (Funds 0001, 0006, and 0010)	Waived	Postponed until FY 2021	Economic Impact	Expected Variance within FY 2020
Motor Vehicle Certificates of Title	\$ (7,020,000)	\$ -	\$ (6,407,070)	\$ (13,427,070)
Motor Vehicle Registration	\$ (16,944,000)	\$ (109,530,000)	\$ (34,882,527)	\$ (161,356,527)
Motor Carrier - Oversize/Overweight	\$ -	\$ -	\$ (29,228,152)	\$ (29,228,152)
Motor Carrier Credentialing	\$ -	\$ -	\$ (250,982)	\$ (250,982)
Motor Vehicle Business Licenses	\$ -	\$ -	\$ (749,218)	\$ (749,218)
Miscellaneous Revenue	\$ -	\$ -	\$ (922,113)	\$ (922,113)
Processing and Handling Fee	\$ (934,000)	\$ (4,838,000)	\$ 830,773	\$ (4,941,227)
Total Combined Funds	\$ (24,898,000)	\$ (114,368,000)	\$ (71,609,289)	\$ (210,875,289)
General Revenue Fund (Fund 0001)	Waived	Postponed until FY 2021	Economic Impact	Expected Variance within FY 2020
Motor Vehicle Certificates of Title	\$ -	\$ -	\$ (3,776,990)	\$ (3,776,990)
Motor Vehicle Registration	\$ -	\$ -	\$ (456,230)	\$ (456,230)
Motor Carrier - Oversize/Overweight	\$ -	\$ -	\$ (7,936,598)	\$ (7,936,598)
Motor Carrier Credentialing	\$ -	\$ -	\$ (250,982)	\$ (250,982)
Miscellaneous Revenue	\$ -	\$ -	\$ (312,932)	\$ (312,932)
Total General Revenue Fund	\$ -	\$ -	\$ (12,733,732)	\$ (12,733,732)
State Highway Fund (Fund 0006)	Waived	Postponed until FY 2021	Economic Impact	Expected Variance within FY 2020
Motor Vehicle Certificates of Title	\$ -	\$ -	\$ (1,125,980)	\$ (1,125,980)
Motor Vehicle Registration	\$ (16,944,000)	\$ (109,530,000)	\$ (29,161,078)	\$ (155,635,078)
Motor Carrier - Oversize/Overweight	\$ -	\$ -	\$ (19,161,411)	\$ (19,161,411)
Total State Highway Fund	\$ (16,944,000)	\$ (109,530,000)	\$ (49,448,469)	\$ (175,922,469)
TxDMV Fund (Fund 0010)	Waived	Postponed until FY 2021	Economic Impact	Expected Variance within FY 2020
Motor Vehicle Certificates of Title	\$ (7,020,000)	\$ -	\$ (1,504,100)	\$ (8,524,100)
Motor Vehicle Registration	\$ -	\$ -	\$ (5,265,219)	\$ (5,265,219)
Motor Carrier - Oversize/Overweight	\$ -	\$ -	\$ (2,130,142)	\$ (2,130,142)
Motor Vehicle Business Licenses	\$ -	\$ -	\$ (749,218)	\$ (749,218)
Miscellaneous Revenue	\$ -	\$ -	\$ (609,181)	\$ (609,181)
Processing and Handling Fee	\$ (934,000)	\$ (4,838,000)	\$ 830,773	\$ (4,941,227)
Total TxDMV Fund	\$ (7,954,000)	\$ (4,838,000)	\$ (9,427,087)	\$ (22,219,087)

Note: Of the \$155.6 million shown as a revenue loss/variance within FY 2020 for State Highway Fund 0006 registration fees, \$109.5 million is revenue that is postponed and is expected to be deposited in FY 2021. The associated processing and handling fee on registration transactions is effectively postponed as well, with \$4.8 million of the FY 2020 \$4.9 million loss/variance (in Fund 0010) expected to be deposited in FY 2021.

Projected FY 2020 Revenue Impact of TxDMV Fees Waived or Postponed

Fee	Statutory Citation	Fund	Payer of Fee	Waived/Postponed	Fee-Loss Estimate	Postponed until FY 2021
Delinquent Title Transfer Penalty	501.146(a)	0010	Dealer	waived	\$ (1,283,000)	\$ -
Delinquent Title Transfer Penalty	501.146	0010	Individual	waived	\$ (5,737,000)	\$ -
Temporary Permit (72-hour)	502.094(c)(2)	0006	Motor Carrier	waived*	\$ (2,633,000)	\$ -
Temporary Permit (144-hour)	502.094(c)(2)	0006	Motor Carrier	waived*	\$ (6,791,000)	\$ -
Temporary Permit (30-Day)	502.095(e)(2)(B)	0006	Individual	waived*	\$ (7,520,000)	\$ -
Processing and Handling Fee	502.1911(b)	0010	Individual	postponed/waived	\$ (934,000)	\$ (4,838,000)
Annual-Registration Fee	502.252-502.256	0006	Individual	postponed	\$ -	\$ (109,530,000)
					\$ (24,898,000)	\$ (114,368,000)

Of the \$210.9 million decline in projected FY 2020 revenue presented (shown on page 1), the majority (\$114.4 million) is expected to be deposited in FY 2021. Of the \$96.5 million projected revenue loss, \$71.6 million is attributed to a decline in economic activity (including lower oil prices), and \$24.9 million from a direct waiver of fees.

There was no postponement amount in last meeting's submittal, because the date used then for the public announcement of the resumption of normal operations (June 1) would have allowed for deferred registration revenues to be deposited within FY 2020.

* This fee was waived per governor proclamation (30-day) and for vehicles engaged in virus-relief efforts (72-hour and 144-hour).

General Observations - TxDMV has FY 2020 actual revenues by month for September 2019 through June 2020 (ten months) broken down by fund (0001, 0006, and 0010) and revenue category. Estimates are used for July 2020 through August 2020 (two months).

TxDmv considered numerous factors when putting the figures together. We will update monthly estimates with monthly actuals as each month progresses and update estimates as needed with new estimates. TxDMV will continue to monitor and update actual revenues, activity, and projections on an ongoing basis.

Return to Normal Operations Start Date - The analysis incorporates proclamations from the Texas governor stating that certain fees/permits are suspended or outright waived from March 16 until 60 days after TxDMV notifies the public that its services have re-commenced as normal; this includes the reopening of county tax assessor-collector offices and TxDMV regional service centers to in-person customer activity. Therefore, to perform this revenue analysis for certain fees, it is necessary to assume a future, to-be-determined date for resumption of normal operations. Accordingly, it is assumed for calculations in this analysis that TxDMV will announce resumption of normal operations on August 1, with most fee/permit suspensions and waivers ending September 30, 2020. (Note: The assumed starting date for public announcement of the resumption of normal operations might change in future submittals of this exercise.)

Economic Impacts - Even though many fee streams are not directly affected or named by the state measures, the economic changes will affect many fee collections (for example, a decrease in dealer-licensing activity from licensee customers not purchasing/renewing their licenses). It is assumed that some of TxDMV's revenue collections will see an interim decrease, but might not return to previously projected "normal" levels even within the current fiscal year.

EXPENDITURE IMPACTS OF COVID-19 PANDEMIC

The total expended amount related to COVID-19 response through the end of June is \$1,473,381. The expenditures are primarily from staff time for planning and responding to Covid-19 activities, the acquisition of personal protective equipment (ppe) items for employees and customers, cleaning supplies, and facility preparation activities such as cleaning and disinfecting fogging services and the installation of plexiglass partitions for public areas.

The total projected cost for the department’s response to the pandemic is \$1,706,486. The year-end estimate assumes continued staff time through the middle of July and continued cleaning services and cleaning supplies/ppp replenishment through August 31, 2020.

The following table provides monthly actuals for March through June by Object of Expense and expenditure estimates for the remaining months of FY 2020.

TxDMV COVID 19 Obligations by Month								
Object of Expense	Description	Actuals				Estimated		Total
		March	April	May	June	July	August	
1001	Salaries and Wages	\$ 238,247.50	\$ 262,130.47	\$ 184,298.49	\$ 131,119.04	\$ 135,489.67	\$ -	\$ 951,285.17
1002	Other Personnel costs	\$ 1,191.24	\$ 1,310.65	\$ 677.45	\$ 338.72	\$ -	\$ -	\$ 3,518.06
2001	Professional Fees and Services	\$ -	\$ 114,889.58	\$ (69,588.12)	\$ 9,625.30	\$ -	\$ -	\$ 54,926.76
2002	Fuels and Lubricants	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
2003	Consumable Supplies	\$ 898.62	\$ 12,802.14	\$ 124,310.26	\$ 15,008.29	\$ 3,950.11	\$ -	\$ 156,969.42
2004	Utilities	\$ 3,762.44	\$ 20,533.02	\$ 3,502.31	\$ 1,417.20	\$ 461.65	\$ -	\$ 29,676.62
2005	Travel	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
2006	Rent - Building	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
2007	Rent - Machine and Other	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
2008	Debt Service	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
2009	Other Operating Expense	\$ 23,272.18	\$ 40,981.23	\$ 324,362.87	\$ 28,289.91	\$ 59,806.11	\$ 33,397.50	\$ 510,109.80
3001	Client Services	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
3002	Food for Persons - Wards of State	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
4000	Grants	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
5000	Capital Expenditures	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
		\$ 267,371.98	\$ 452,647.09	\$ 567,563.26	\$ 185,798.46	\$ 199,707.54	\$ 33,397.50	\$ 1,706,485.83
Fund 0001		\$ 1,589.82	\$ 879.53	\$ 30,271.60	\$ 293.34	\$ 289.00	\$ -	\$ 33,323.28
Fund 0010		\$ 265,782.16	\$ 451,767.57	\$ 537,291.66	\$ 185,505.13	\$ 199,418.54	\$ 33,397.50	\$ 1,673,162.55
		\$ 267,371.98	\$ 452,647.09	\$ 567,563.26	\$ 185,798.46	\$ 199,707.54	\$ 33,397.50	\$ 1,706,485.83

To: Texas Department of Motor Vehicles Board
From: Linda M. Flores, CPA, Chief Financial Officer, Finance & Administrative Services Division Director
Agenda Item: 16.B.2
Subject: FY 2020 Third Quarter Financial Report (BRIEFING ONLY) – Linda M. Flores and Sergio Rey

PURPOSE

The TxDMV Board is briefed quarterly on revenue collections and department expenditures. This report contains sections detailing year-to-date status as well as actual versus projections of revenues and expenditures. The year-to-date report includes a section dedicated to the TxDMV Fund and a section with information on Motor Vehicle Crime Prevention Authority (MVCPA) fee collections that support the MVCPA program. An additional section provides information about the TxDMV Mid-Year Budget process.

Attached is the FY 2020 financial summary report for the period ending May 31, 2020.

EXECUTIVE SUMMARY

The TxDMV is self-sufficient and supports all its expenditures through revenues deposited to TxDMV Fund 0010, except for the Motor Vehicle Crime Prevention Authority (MVCPA). MVCPA is fully funded through fees deposited to the credit of the General Revenue Fund.

As of the end of the third quarter of FY 2020, the key highlights of the department's revenues and expenditures are:

- The department's total revenue deposits (all funds) were \$1.3 billion, a 7.2% decrease compared to the third quarter of FY 2019.
- TxDMV Fund 0010 collections totaled \$117.4 million, a 7.0% decrease compared to third-quarter FY 2019.
- All-fund (General Revenue Fund and TxDMV Fund) expenditures (including obligations and encumbrances) totaled \$131.9 million. This includes expenditures associated with COVID-19 in the amount of \$1.3 million.
- The department collected sufficient revenue in FY 2020 to support its expenditures during the same period.
- The ending TxDMV Fund 0010 balance at May 31, 2020, was \$153.2 million. Inclusion of encumbrances adjusts the net balance to \$126.1 million.

FINANCIAL SUMMARY

TOTAL REVENUES (All Funds)

TxDMV revenue deposits totaled \$1.3 billion through the third quarter of FY 2020. This amount comprises:

- \$ 1.15 billion for the State Highway Fund (Fund 0006);
- \$ 79.46 million for the General Revenue Fund (Fund 0001); and
- \$ 117.39 million for the TxDMV Fund (Fund 0010).

TxDMV FUND 0010 REVENUES

FY 2020 collections for TxDMV Fund 0010 totaled \$117,391,590. This amount comprises revenues from titles, registered vehicles, license plates, oversize/overweight permits, motor vehicle business licenses, processing and handling fees, and miscellaneous fees.

TxDMV Fund 0010 revenues decreased by 7.0% compared to FY 2019. The decrease in FY 2020 revenues compared to FY 2019 is attributable to the fee waivers and decline in economic activity related to COVID-19.

EXPENDITURES/OBLIGATIONS

Obligations through May 31, 2020, totaled \$131.9 million (\$96.4 million in expenditures and \$35.5 million in encumbrances) for all funds. Significant expenditure categories continue to include salaries, contract services for plate production, printing costs for Vehicle Titles and Registration Division forms, postage, and Data Center Services costs. Included in expenditures is \$3.5 million for contract payments to MyPlates, the specialty-plates vendor. Contract payments to MyPlates are contingent upon revenues collected.

The department incurred \$1.3 million in obligations related to the COVID-19 response. The majority of the cost is related to staff time responding to operational issues, i.e., planning and implementing new policies/procedures, modifying facilities for customer service and disinfecting services. Overall expenditures to address the pandemic are estimated to total \$1.7 million by the end of the fiscal year August 31st.

The FY 2020 capital project budget obligations include expenditures of approximately \$10.4 million and encumbrances of approximately \$8.5 million, for a total obligated amount of \$18.9 million. This includes \$10.9 million in obligations for Data Center Services; \$4.4 million for Automation; and \$1.7 million for County Technology. The remaining capital obligations are for agency support in vehicle replacement, technology, and facilities. The FY 2020 capital project budget includes \$18.9 million in funds carried forward from FY 2019; the majority of the carry forward is for the Automation capital budget.

The FY 2020 budget includes funding for exceptional items that were approved by the Legislature during the 86th Legislative Session. The exceptional items approved include nine new full-time equivalents (FTEs) and associated funding for the Consumer Relations Division, and twelve new FTEs for the Information Technology Services Division. The Legislature also approved a contingency rider for the implementation of a digital license plate program that included two FTEs for the Vehicle Titles and Registration Division. Administrative rules to establish the digital plate program have been approved and a vendor Request for Proposal (RFP) is currently being prepared. The digital license plate program is anticipated to be implemented by the end of the calendar year.

MyPlates

The current (third) specialty-plates marketing contract executed with MyPlates runs from November 19, 2019, to December 31, 2025, with an option to renew the contract for an additional six-year term. The contract includes a minimum guarantee of \$25 million into the General Revenue Fund from the sale of personalized and non-personalized new vendor specialty plates, as well as 5% of the revenue from the renewal of these plates, during the term of the contract.

General Revenue Fund 0001 deposits associated with the MyPlates contract from November 19, 2019, to May 31, 2020, totaled \$7.4 million. Of this \$7.4 million, \$3.3 million counts toward the \$25 million contract guarantee.



Texas Department of Motor Vehicles

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3rd Quarter Financial Report ending May 31, 2020 Fiscal Year 2020



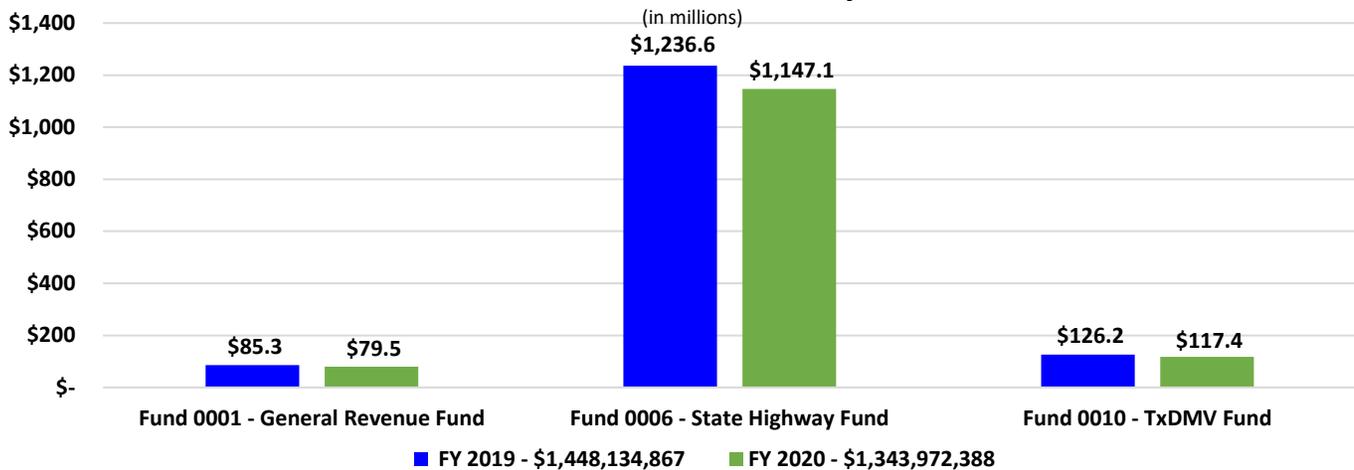
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Actual Revenue (All Funds)

September through May FY 2020 Overall Revenue Collections

FY 2019 and FY 2020 Year-over-Year Revenue by Fund



The Texas Department of Motor Vehicles (TxDMV) is trending year-to-date to collect \$1.8 billion in FY 2020, significantly below the originally forecasted amount of \$2.0 billion. This represents 10.6% less than the originally projected FY 2020 total, and 9.5% below FY 2019 collections. However, it is expected that \$114.4 million of the FY 2020 drop from original projections is registration (and the associated processing and handling fee) revenue that will be *postponed* per governor proclamation and collected in FY 2021 as discussed on page 9. Excluding this estimated postponement amount, TxDMV deposits in FY 2020 actually represent a loss of 4.8% from projections rather than the above-mentioned 10.6%. Through the first two quarters the state had experienced a strong start to the collections of revenue, and TxDMV was on track to meet its revenue projections. COVID-19 has affected the state's economy, including reduced auto sales and downward impacts to the oil-and-gas sector as a result of low oil prices.

Revenue collected for all three funds totaled \$1,343,972,388 through the third quarter of FY 2020. This was a decrease of 7.2% over the same time period of FY 2019. The amount of revenue collected for each fund in FY 2020 consisted of: Fund 0001, General Revenue Fund, \$79,456,190; Fund 0006, State Highway Fund, \$1,147,124,608; and Fund 0010, TxDMV Fund, \$117,391,590. These fees include: Motor Vehicle Certificates of Title, Motor Vehicle Registration, Motor Carrier Oversize/Overweight, Motor Carrier Credentialing, Motor Vehicle Business Licenses, Processing and Handling Fee, and miscellaneous revenues.

Based on activity through the third quarter, TxDMV revenue deposits in FY 2020 in each of the three funds are not expected to meet projections.

FY 2020 versus FY 2019 Year-to-Date Comparison

Revenue Category	Year over Year		
	FY 2019 Actual	FY 2020 Actual	% Difference
Motor Vehicle Certificates of Title	\$ 64,512,865	\$ 59,689,326	-7.5%
Motor Vehicle Registration	1,175,456,815	1,091,444,211	-7.1%
Motor Carrier Oversize/Overweight	145,328,992	135,347,017	-6.9%
Motor Carrier Credentialing	5,280,819	5,126,054	-2.9%
Motor Vehicle Business Licenses	5,997,305	5,433,327	-9.4%
Miscellaneous Revenue	10,098,818	9,525,215	-5.7%
Processing and Handling Fee	41,459,252	37,407,237	-9.8%
Total	\$ 1,448,134,867	\$ 1,343,972,388	-7.2%



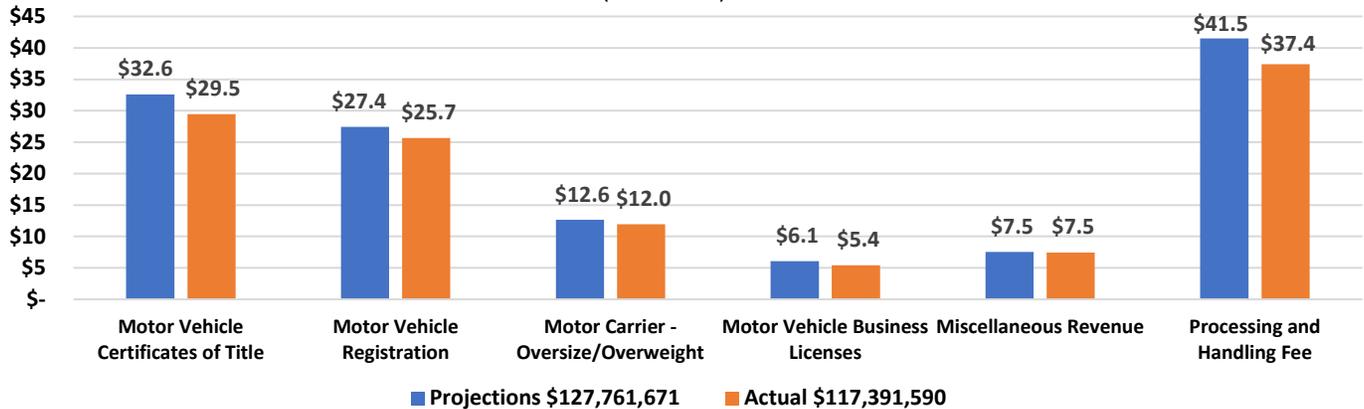
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TxDMV Fund 0010 Financial Status Highlights

**September through May FY 2020
TxDMV Fund 0010 Highlights**

Actuals vs Projections (in millions)



- Overall TxDMV Fund (0010) revenues for FY 2020 compared to FY 2019 are projected to decrease by 10.2%. Excluding the effect of \$4.8 million in processing and handling fee revenue *postponed* until FY 2021, the projected drop from FY 2019 is only 7.4%. The original TxDMV Fund forecast (\$176.2 million) will not be met for FY 2020.
- TxDmv Fund revenue collections totaled \$117.4 million, which was 7.0% lower (\$8.8 million) than collections during the same time period of FY 2019. This represented: a 7.0% decrease in title revenue, a 4.8% decrease in registration revenue, a 6.4% decrease in oversize/overweight revenue, a 9.4% decrease in motor vehicle business license revenue, a 1.1% increase in miscellaneous revenue, and a 9.8% decrease in processing and handling fee revenue.
- TxDmv Fund deposits were below original projections by 8.1% (\$10.4 million) through the third quarter of FY 2020.

FY 2020 Activity-to-date



TxDmv Fund 0010 Balance

	Year-to-date
Beginning Fund Balance	\$ 126,750,987
Fund 0010 Revenue	
Motor Vehicle Certificates of Title	\$ 29,460,311
Motor Vehicle Registration	\$ 25,675,135
Motor Carrier - Oversize/Overweight	\$ 11,954,911
Motor Vehicle Business Licenses	\$ 5,433,327
Miscellaneous Revenue	\$ 7,460,668
Processing and Handling Fee	\$ 37,407,237
Total Revenue	\$ 117,391,590
Fund 0010 Expenditures	
TxDmv Operational Expenditures	\$ 81,796,017
Fringe Benefits	\$ 9,181,295
Total Operational Expenditures	\$ 90,977,312
Ending Fund Balance, May 31, 2020	\$ 153,165,264
Adjustment for Encumbrances	\$ 27,045,017
Adjusted Net Cash Balance	\$ 126,120,247



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**Motor Vehicle Crime
Prevention Authority**

September through May FY 2020

Motor Vehicle Crime Prevention Authority

Fiscal Year 2021 Motor Vehicle Crime Prevention Authority Estimated Revenues

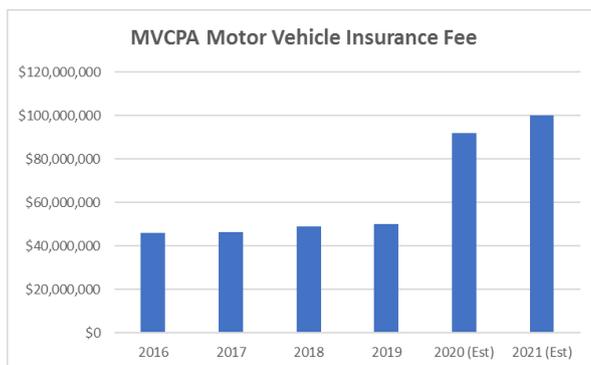
The Motor Vehicle Crime Prevention Authority (MVCPA) has fostered a state-wide cooperative network of law enforcement groups, prosecutors, insurance industry representatives, local tax assessor-collectors, and concerned citizens to combat vehicle theft and burglary through enforcement, prevention, public information, and education initiatives. In addition to providing guidance and oversight, MVCPA awards financial grants to agencies, organizations, and concerned parties in an effort to raise public awareness of vehicle theft and burglary and implement education and prevention initiatives.

The predecessor of the Motor Vehicle Crime Prevention Authority (MVCPA) was established by the 72nd Texas Legislature in 1991 as the Automobile Theft Prevention Authority (ATPA). It was one of the nation's first statewide efforts to reduce auto theft. The 80th Legislature expanded the ATPA mission to include combating motor vehicle burglary and changed the name to the Automobile Burglary and Theft Prevention Authority. The 86th Legislature changed the name to the Motor Vehicle Crime Prevention Authority and added fraud-related motor vehicle crime to its mission. To better align the operation and improve coordination with the Texas Department of Motor Vehicles (TxDMV), the enabling statute for the MVCPA was codified in the Texas Transportation Code. Under the recodification the MVCPA is required to:

- Collect a \$4 fee for every motor vehicle insured in Texas.
- Issue grants to law enforcement agencies and other statutorily designated groups to combat motor vehicle crime.
- Develop, collect and monitor performance data on arrests, recovery of vehicles and cases cleared and other performance measures for motor vehicle crime.
- Report annually to the Texas Legislature fiscal and program data.
- Develop a biennial statewide Plan of Operation to combat motor vehicle crime.
- Examine and make determinations for refunds to insurers that overpay the \$4 per vehicle fee.

House Bill (HB) 2048, passed during the 86th Legislature, increased the fee that motor vehicle insurance companies pay per motor vehicle year from \$2.00 to \$4.00. HB 2048 also changed the allocation of the fee revenue to MVCPA from 50% of the \$2.00 fee to 20% of the \$4.00 fee.

The following charts illustrates the six-year trend in the MVPCA motor vehicle insurance fee collections and a comparison of fees collected to MVCPA appropriations.



MVCPA Fees and Appropriations

Fiscal Year	MVCPA Fees	Amount Appropriated to MVCPA	Amount Remaining in General Revenue
2016	\$46,068,858	\$14,904,340	\$31,164,518
2017	\$46,436,967	\$14,920,849	\$31,516,118
2018	\$49,083,185	\$14,920,849	\$34,162,336
2019	\$50,042,957	\$12,835,851	\$37,207,106
2020*	\$91,745,420	\$12,835,851	\$78,909,569
2021*	\$100,085,913	\$12,835,851	\$87,250,062

* FY 2020 and 2021 Fees are estimated

Year-to-date revenue collected through May is \$40,338,669 with the majority deposited in February. The MVCPA Fees are forecasted to remain flat for 2022 and 2023.

	Actual	Actual	Forecast	Forecast	Forecast	Forecast
	2018	2019	2020 (Est.)	2021 (Est.)	2022 (Est.)	2023 (Est.)
MVCPA Fee	\$49,083,185	\$50,042,957	\$91,745,420	100,085,913	100,085,913	100,085,913



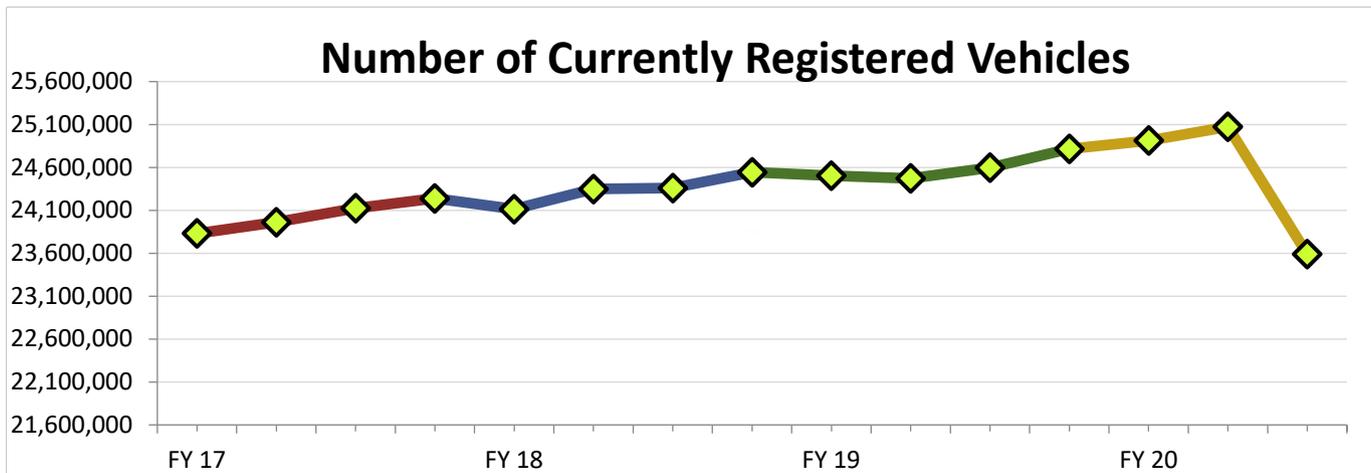
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All Funds (Fund 0001, Fund 0006 and Fund 0010) on Title, Registration, Oversize/Overweight and Processing and Handling Fees

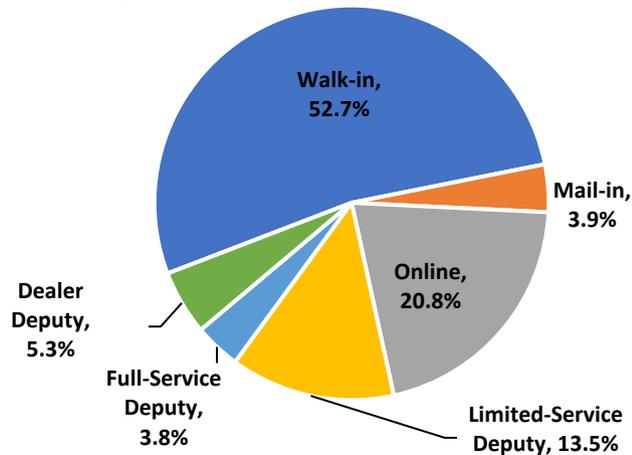
Registration Revenue

- All-funds registration revenue in FY 2020 is now projected to decrease about 9.1% from FY 2019. This is based mostly on the waiver of certain temporary permits and the permitted *deferral* of annual-registration renewals until 60 days after the public announcement of the resumption of normal TxDMV operations (the deferral is expected to postpone registration-revenue collections for many FY 2020 expirations into FY 2021 instead).
- All-funds registration revenue was 7.1% (\$84.0 million) lower than FY 2019 collections. This revenue category will not meet the original FY 2020 projection (\$1.6 billion). The number of registered vehicles went from 25.1 million at the end of February to 23.6 million at the end of May, a decrease of 1.5 million vehicles. The number of registered vehicles will rebound within 60 days after the resumption of normal TxDMV operations.



Processing and Handling Fee

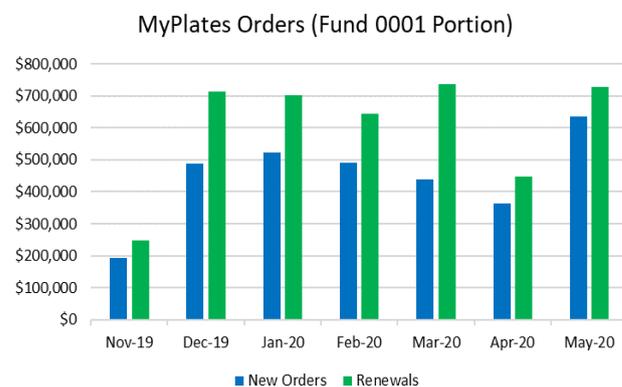
Transaction Mix from Annual Registrations through the 3rd Qtr.



- The majority (52.7%) of annual-registration transactions year-to-date were processed at county offices. Year-to-date online-utilization is 20.8%, a 4.7-percentage-point increase from FY 2019.
- With some county offices closed temporarily, more registration renewals were processed online during the third quarter of FY 2020 than the same period of FY 2019. During the third quarter, online renewals made up 29.1% of the 7.5 million FY 2020 transactions versus 15.8% of the 12.2 million FY 2019 transactions.

Vendor Plates

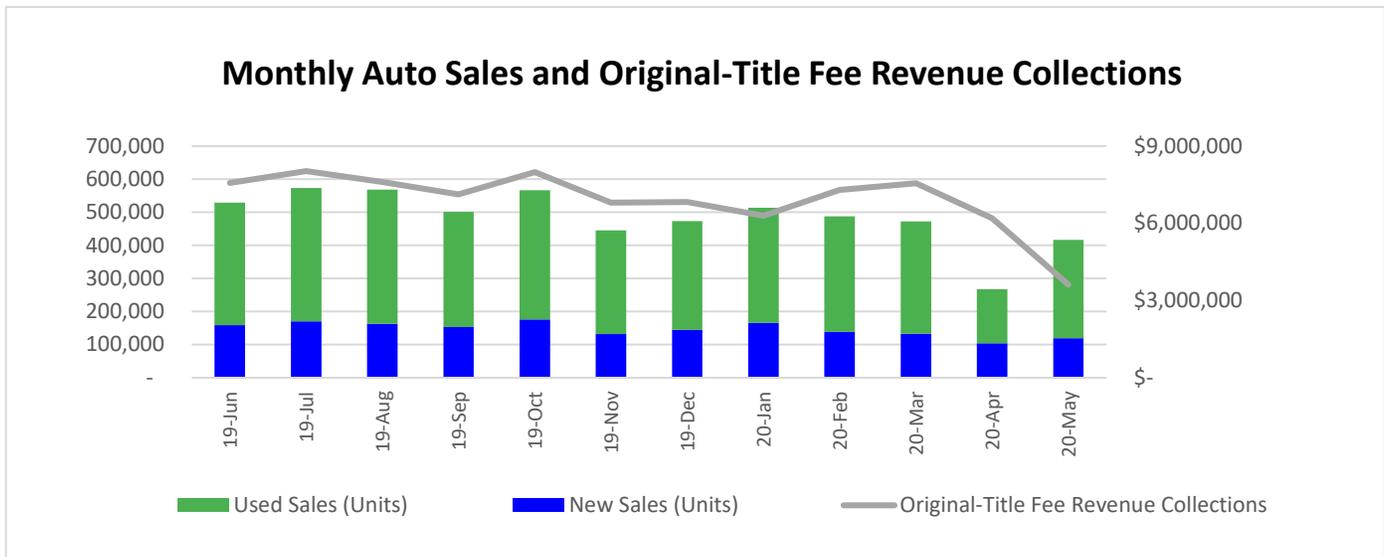
- General Revenue Fund 0001 deposits associated with the (third) MyPlates contract from November 19, 2019, to May 31, 2020, totaled \$7.4 million, of which \$3.3 million counted toward the contract's \$25 million guarantee.
- Since the effective date of the new contract, new orders made up 42.6% of the Fund 0001 mix, and renewals made up 57.4%.



Financial Summary through the Third Quarter

Motor Vehicle Certificates of Title

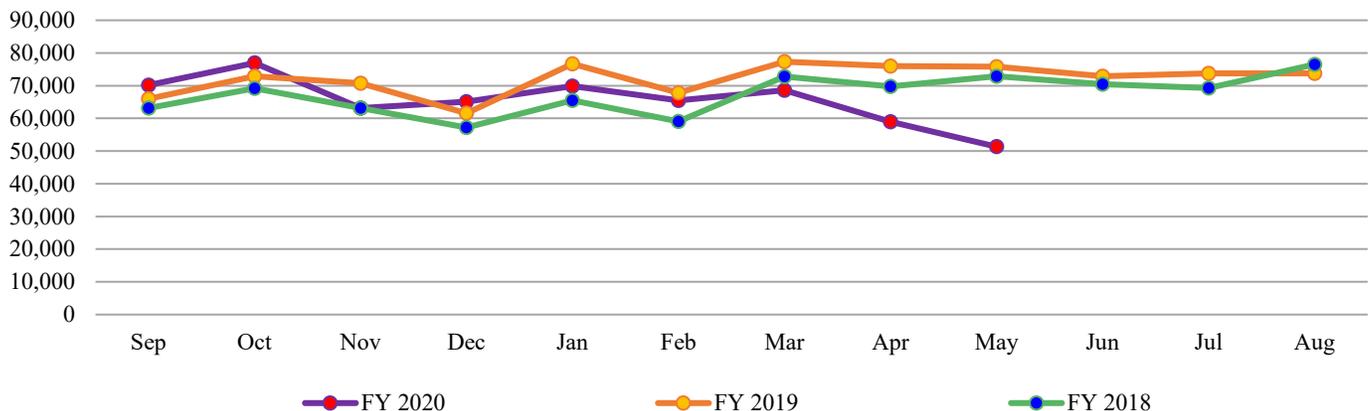
- The agency projects a decline in FY 2020 in all-funds title revenue of 17.6% (\$15.7 million) forecasted through August FY 2020. Due to COVID-19 and the current economic status, original projections for the year will not be met.



- Revenue from the original-title fee makes up the largest component of certificates of title revenue. In FY 2020, revenue was collected from the issuance of about 4.6 million original titles. This is a decrease of 5.3% from the same time period in FY 2019. Original-title issuance is driven by new- and used-vehicle sales.
- Compared to FY 2019, auto sales in FY 2020 decreased by 8.4%, with used-car sales down 9.4% and new-car sales down 5.9%, all contributing to a year-over-year decrease in revenue.

Motor Carrier Oversize/Overweight

Monthly Oversize/Overweight Permit Issuance



- All-funds oversize/overweight permitting revenue was 7.8% (\$11.5 million) under FY 2020 projections. The number of permits issued in FY 2020 year-to-date was 589,694 compared to 644,702 issued in FY 2019, a decrease of 8.5% (55,008 more permits in FY 2019). Recent decreased activity in the oil-and-gas sector has had an impact on the issuance of motor-carrier permits, resulting in lower-than-expected oversize/overweight fee deposits. As a result of recent worldwide events and continued lower oil prices, revenue in this category will not meet FY 2020 expectations.



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TxDMV Budget

Financial Summary through the Third Quarter

September through May FY 2020

TxDMV Fund 0010

The approved budget for FY 2020 includes a number of new initiatives that were authorized during the 86th legislative session.

- Additional Full-Time Equivalents (FTEs) were added for Consumer Relations (9.0 FTEs) and Information Technology Services (12.0 FTEs).
- Capital funding was added for Regional Service Center renovations and upgrades (\$250,000); ITS infrastructure and application improvements (\$1,850,000); and consumer protection and enforcement tracking (\$470,000)
- Funding was also approved in the amount of \$730,000 to address increases in Statewide Cost Allocation Plan costs. These costs are for legislatively mandated reimbursements to the General Revenue Fund for central services provided by the Comptroller of Public Accounts, such as the maintenance of the statewide financial system used by TxDMV.
- A contingency rider was also approved during the 86th legislative session for implementing a digital license plates program. An appropriation in the amount of \$1.2 million was approved for FY 2020 for two new FTEs in the Vehicle Titles and Registration (VTR) Division and technology costs in the ITS Division. Administrative code rules to establish a digital license plate program have been finalized and a Request for Proposal (RFP) to contract with at least one digital license plate vendor is nearing publication. One position has been filled and the second one is anticipated to be filled by the fourth quarter, and the digital license plate program is anticipated to be implemented by the end of calendar year 2020 for eligible vehicles.

As of the end of May FY 2020 total TxDMV obligations for all funds is \$131.9 million, which represents a 4.4% increase over the obligated amount at the end of May FY 2019. The increase over the prior year is attributable to the timing of contracts for services and postage and an overall improvement in the number of filled positions since the beginning of FY 2020. FY 2020 expenditures also include initial obligations related to the COVID-19 pandemic response.

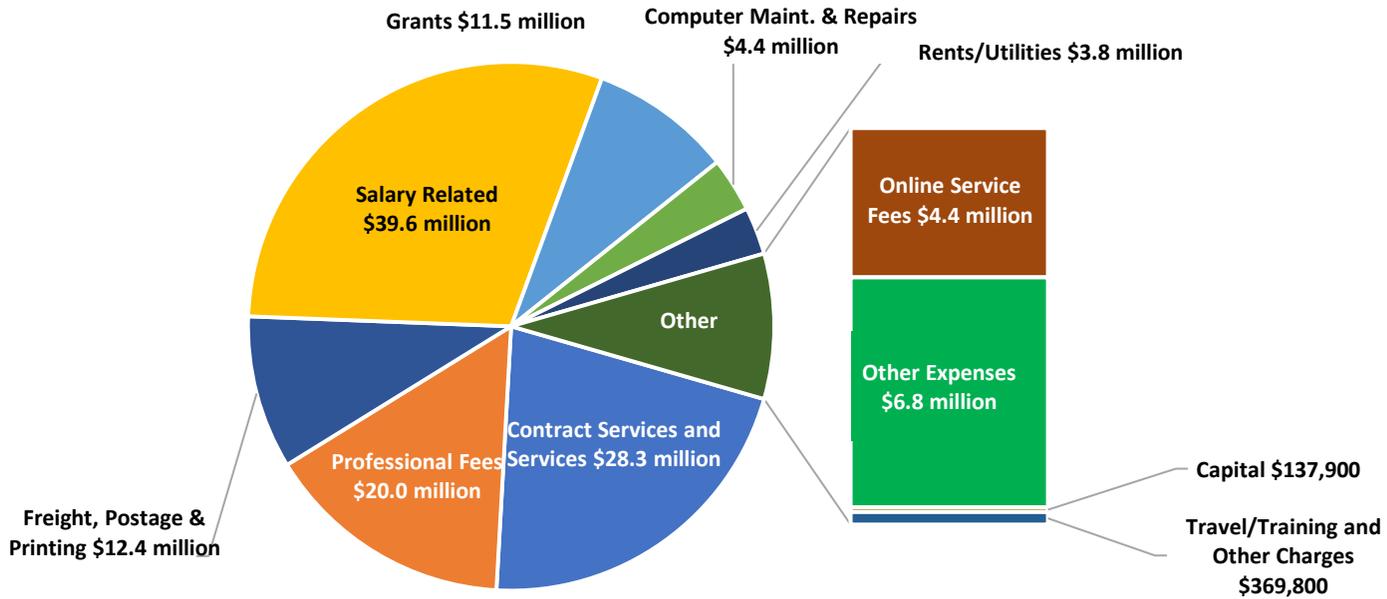
Through the end of May 2020 TxDMV had classified approximately \$1.3 million in obligations related to the COVID-19 response. Those obligations are included in the overall obligation total of \$131.9 million. The majority of expenditures related to the COVID-19 response has been for employee time, directly related to responding to COVID-19 issues; examples include planning meetings and preparing facilities for customer service. Overall expenditures for COVID-19 response are estimated to reach \$1.7 million by the end of the fiscal year in August. Expenses in the fourth quarter will include continued staff time and cleaning services to ensure facilities are safe.

September through May FY 2020

Obligations

- Third-quarter TxDMV obligations for all funds totaled \$131.9 million (expenditures of \$96.4 million and \$35.5 million in encumbrances). Encumbrances are outstanding purchase orders that have been issued for goods and services that will be received and expended in the future.

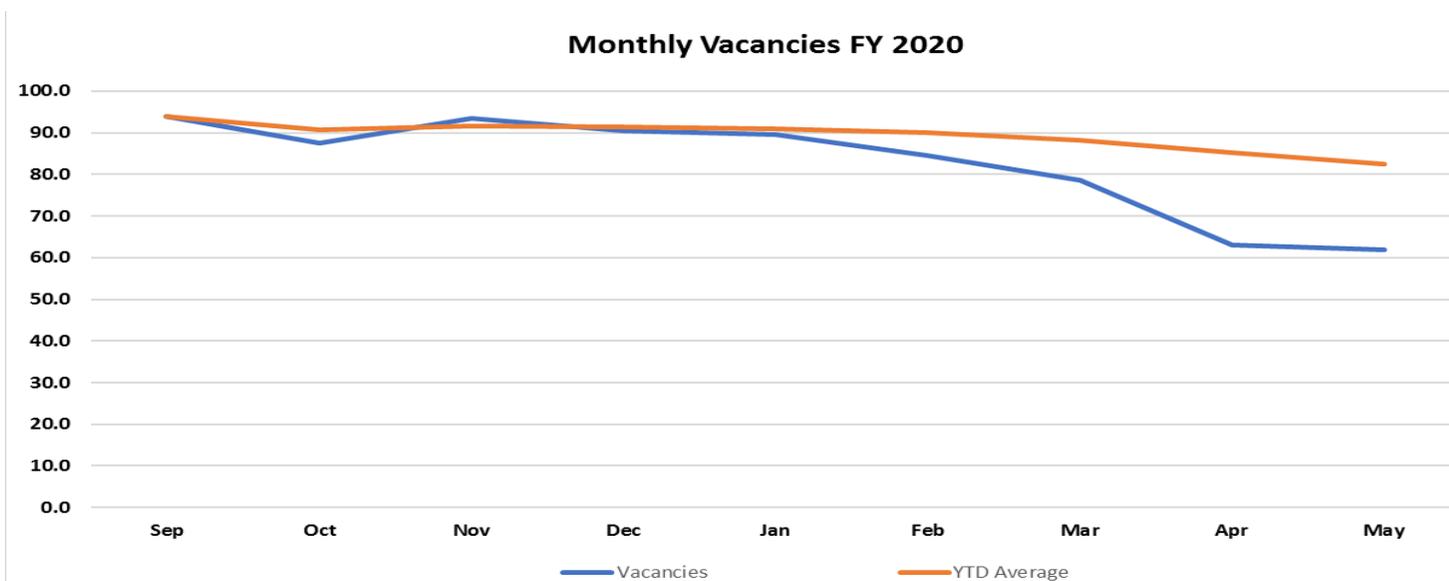
Third Quarter Obligations by Category - All Funds



- Major third-quarter obligations in FY 2020 are listed in the chart above. Obligations for freight/postage/printing (primarily postage/printing), contract services, professional fees, salary related, and grants constitute 90% of the department's obligations for the third quarter.
- Printing expenditures are associated with titling and registration forms and imaging costs. Contract services include costs of license plate production, registration decal production, and MyPlates contract obligations. Professional fees are associated with data center services and capital project contractors working on department technology initiatives.

Full-Time Equivalent

- In FY 2020, the approved department FTE count increased from 779 to 802: nine new FTEs for Consumer Relations, twelve new FTEs for Information Technology Services, and two new FTEs for Vehicle Titles and Registration for digital license plates.
- Overall filled positions have increased from 705.5 FTEs in May 2019 to 740.0 FTEs as of May 2020. Overall staffing since the beginning of FY 2020 has been steadily improving and vacancies have decreased from 93.5 at the end of the first quarter to 62.0 vacancies at the end of the third quarter.



FY 2020 Mid-Year Budget

- The Mid-Year Review is a process where staff assesses the budgetary needs for TxDMV and for individual Divisions to determine if additional resources are available to fund unanticipated cost changes and items not included in the initial budget.
- The review process begins in January and includes Division input and a detailed analysis of TxDMV revenues/expenditures during the year.
- FAS staff prepared estimates of FY 2020 year-end balances and anticipated obligations for the end of the fiscal year. The estimates were based on accumulated data through the end of February 2020, which represents the midpoint of the fiscal year.
- As a result of the analysis, a number of budget actions were approved during the Mid-Year process:
 - Funding in the amount of \$1.5 million was transferred from savings generated by vacant positions to agency reserves. This funding provides for future unanticipated costs and will assist with COVID 19 expenditures.
 - Savings from vacant positions will also be used for one-time merit costs.
 - \$400K was approved during the Mid-Year process to provide funding for a consultant contract to assist with the development of an Accounts Receivable System procurement.
 - Funding was established to address internal FTE reallocations.

In addition to the items above, approval was given to address a number of issues within Division budgets for items not anticipated at the beginning of the fiscal year. These items include:

- Funding to begin the implementation of a fleet vehicle telematics contract, which will allow Fleet Services to gather usage data on TxDMV fleet vehicles.
- One-time costs to develop a Lemon Law educational video to be used by the Office of Administrative Hearings
- Funding for one-time contractor costs in Information Technology and one-time legal services in the Office of General Counsel.

Capital Budget and Projects

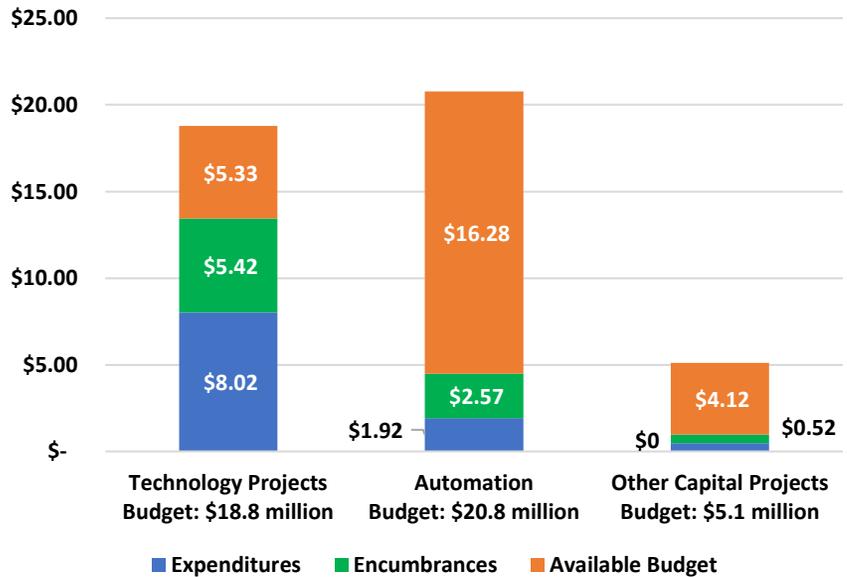
Capital Project Budget Status				
	Revised Budget	Expenditures	Encumbrances	Available Budget
Technology	\$ 18,779,093	\$ 8,023,450	\$ 5,424,554	\$ 5,331,089
Automation	\$ 20,768,139	\$ 1,919,395	\$ 2,565,495	\$ 16,283,249
Other Capital Projects	\$ 5,106,745	\$ 470,064	\$ 515,889	\$ 4,120,792
All Capital Grand Total	\$ 44,653,977	\$ 10,412,909	\$ 8,505,938	\$ 25,735,130

Capital Budget Status

The capital budget totals \$44,653,977.

- Including: Expenditures of \$10.4 million, and encumbrances of \$8.5 million, for a total of \$18.9 million in obligations.
- The budget as of the end of the quarter for capital consists of \$18.9 million carried forward from FY 2019 for Automation and HQ Maintenance projects, and \$25.7 million in new appropriations.
- Detailed information on Technology Projects is shown below, and Automation and Other Capital Project information is on the following page.

Third Quarter Capital Budget Status (in Millions)

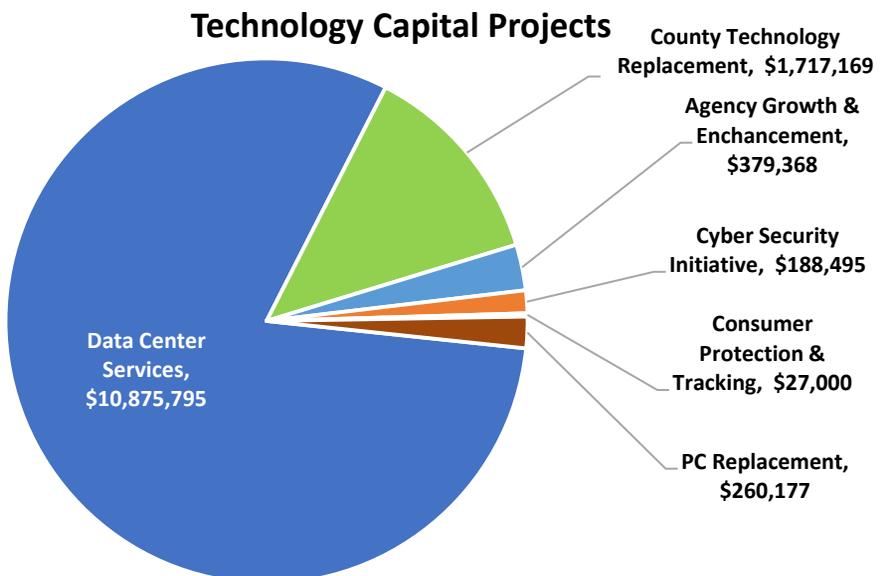


Technology Capital Projects

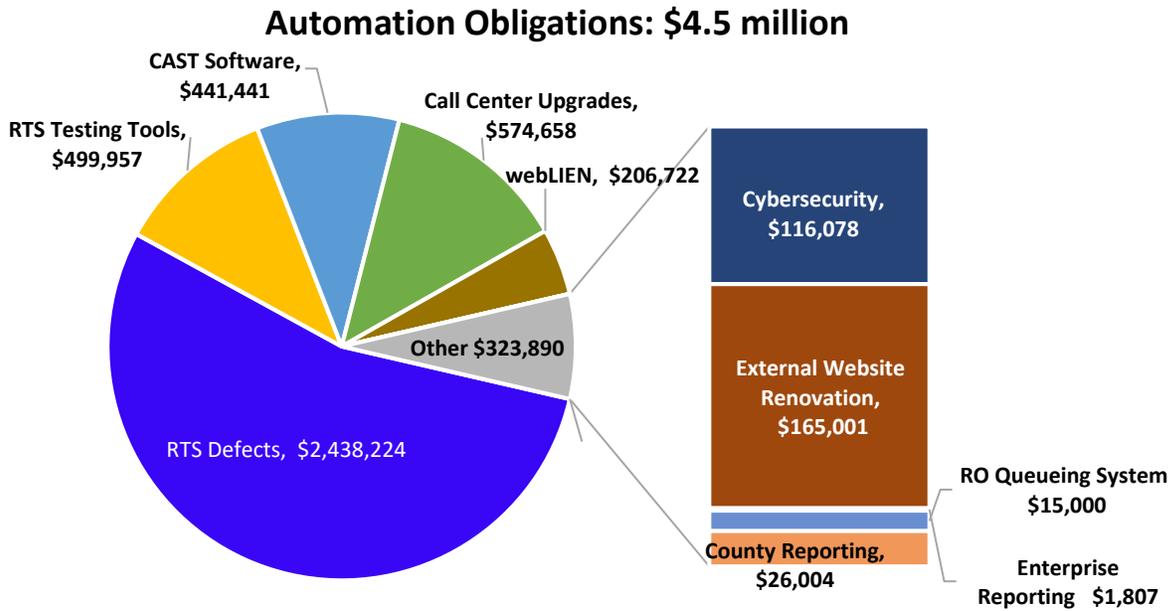
Technology Highlights

The obligations in the Technology category consist of:

- Data Center Services (DCS), the largest single component of the Technology budget (\$10.9 million), provides management of applications, hardware and technology services for TxDMV.
- The majority of expenditures and encumbrances through May 2020 includes Data Center Services, and toner and technical support for the counties. Significant expenditures in County Technology Replacement and PC Replacement include laptops and desktops for the refresh programs.



Automation Capital Projects



- The TxDMV Automation project consists of \$4.5 million in obligations. The primary obligations as of May 2020 are for Registration and Title System (RTS) defects, Computer Aided Software Testing (CAST), RTS Testing Tools, and the Call Center Upgrades Project.
- New projects for FY 2020 include the RTS defects project and the RTS batch cycle improvement project.
- All Automation balances have been transferred into FY 2020 using unexpended-balance authority. Approximately \$9 million remains in Unallocated Reserve at the end of May.
- In the fourth quarter of FY 2020, \$2.7 million will be transferred from Unallocated Reserve to fund the webDEALER Statewide Adoption Project, leaving a balance of \$6.3 million.

Other Capital Projects

- Other Capital Projects budget of \$5.1 million consists of: \$90,000 for agency vehicles, \$76,000 for HQ security/badge, \$250,000 for regional service center maintenance, and \$4.7 million for HQ maintenance.
- HQ maintenance had \$634,000 in obligations as of May 2020. The primary expenditures to date have been for a facility assessment study. Weatherization, roof replacement and security and badge system projects have entered the planning phase with projected completion dates in FY 2021.
- Several HQ Projects within HQ maintenance are in the assessment and vendor procurement stages and these remaining projects have projected completion dates in FY 2021.
- The RSC maintenance capital budget has been used to address facility needs related to COVID-19 response, such as acquiring partitions to provide safety measures between employees and customers.



Texas Department of Motor Vehicles

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Board Meeting Date: 8/5/2020
BRIEFING

To: Texas Department of Motor Vehicles Board
From: Sandra Menjivar-Suddeath, Internal Audit Division Director
Agenda Item: 16.B.3
Subject: Internal Audit Division Status

RECOMMENDATION

Briefing Only – No recommendation.

PURPOSE AND EXECUTIVE SUMMARY

The status update provides information on current Internal Audit Division (IAD) activities. The August 2020 update contains the fiscal year (FY) 2020 Internal Audit Plan status and external coordination efforts.

FINANCIAL IMPACT

None.

BACKGROUND AND DISCUSSION

At every Texas Department of Motor Vehicles Board meeting, IAD provides an update and status on current activities, including the Internal Audit Plan status. The Internal Audit Plan status includes information on the engagement type, the objective(s), anticipated report release date, any results, and the current audit phase. For the August 2020 update, IAD is providing information on the FY 2020 Internal Audit Plan status and external coordination efforts.

Internal Audit Plan Status

The division has completed one engagement and has two engagements in the reporting phase. The FY 2020 Internal Audit Follow-Up is still in fieldwork as it is still reviewing and collecting evidence for internal audit recommendations that were due in the last quarter of FY 2020.

External Coordination Efforts

IAD coordinated or participated in two external audit and assessment items. Reports have not been issued in the audit or assessment.

Internal Audit Activities

IAD staff are participating in the local Institute of Internal Auditors chapter.

Internal Audit Division Status

Fiscal Year (FY) 2020 Audit Plan Status

Engagement	Description and Results	Status
Law Enforcement Information Requests	An advisory service to review law enforcement information request processes throughout the Department. Report being reviewed by management.	Reporting Anticipated release: August 2020
Payment Card Industry Compliance – Requirement 2	An audit to determine whether the Department is compliant with replacing vendor-supplied defaults for system passwords and other security parameters. Report being reviewed by management.	Reporting Anticipated release: September 2020
FY 2021 Risk Assessment and First Six Month Internal Audit Plan	An engagement to identify high risk areas that may warrant review in fiscal year 2021. Risk assessment themes were provided in a previous agenda item.	Completed
FY 2020 Internal Audit Follow Up	This engagement verifies if outstanding audit recommendations have been fully implemented. IAD is reviewing recommendations that were due or implemented between June 1 and August 31, 2020.	Fieldwork Anticipated release: September 2020

External Coordination

- The Texas Department of Public Safety announced they will conduct a Criminal Justice Information Services (CJIS) Security Technical Audit. The audit evaluates the compliance with the technical aspects of the Federal Bureau of Investigation (FBI) CJIS Division policies and regulations.
- A Texas Cybersecurity Framework (TCF) Assessment began in July 2020. The assessment evaluates the Department's overall health of the security program by reviewing policies.

Internal Audit Activities

- Internal Audit Division staff, Frances Barker and Jacob Geray, volunteered to serve on the Institute of Internal Auditors – Austin Chapter committees related to professional development and reporting.

To: Texas Department of Motor Vehicles Board
From: Caroline Love, Government & Strategic Communications Division Director
Agenda Item: 17.A
Subject: Legislative Plans for the 87th Legislative Session

RECOMMENDATION

Briefing Only.

PURPOSE AND EXECUTIVE SUMMARY

This briefing will cover the responsibilities of the board to make recommendations to the legislature on opportunities to improve operations. The briefing will also include key dates for the 87th Legislative Session, as well as the responsibilities of the Government & Strategic Communications Division as it relates to the department's review and analysis of legislation, coordination of the department in legislative hearings and meetings, and providing updates to department leadership and the TxDMV Board.

FINANCIAL IMPACT

No impact.

BACKGROUND AND DISCUSSION

The Government & Strategic Communications Division will provide regular updates leading up to and throughout the session on the status of legislation impacting the department.

To: Texas Department of Motor Vehicles Board
From: Caroline Love, Government & Strategic Communications Division Director
Agenda Item: 17.B
Subject: Alternatively Fueled Vehicle Study Update

RECOMMENDATION

Briefing Only.

PURPOSE AND EXECUTIVE SUMMARY

This briefing will cover highlight the status of the Alternatively Fueled Vehicles Study required for the department to submit to the Legislature by S.B. 604 (86R). The study is to include recommendations on imposing fees for vehicles that do not pay motor fuels taxes.

FINANCIAL IMPACT

No impact.

BACKGROUND AND DISCUSSION

The study is due to the legislature by December 1, 2020. Regular updates will be provided to the board until submission.



To: Texas Department of Motor Vehicles Board
From: Caroline Love, Government & Strategic Communications Division Director
Agenda Item: 17.C
Subject: Digital License Plate Implementation Timeline Update

RECOMMENDATION

Briefing Only.

PURPOSE AND EXECUTIVE SUMMARY

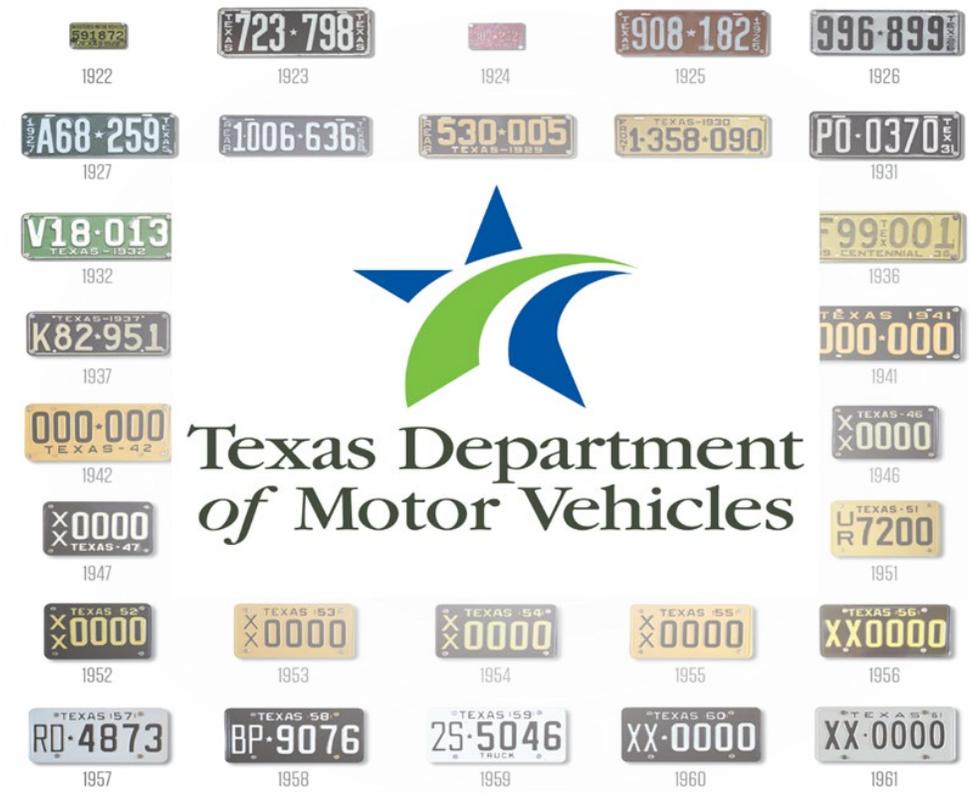
This briefing will cover the department's status of implementing efforts to provide digital license plates for commercial fleet and government fleet vehicles.

FINANCIAL IMPACT

No impact.

BACKGROUND AND DISCUSSION

The department's Sunset legislation, SB 604 (86R), requires the department to provide these plates for these specific vehicles.



Texas Department of Motor Vehicles Legislative and Public Affairs Update

Legislative Plans for the 87th Session – 17.A.



- The Texas Department of Motor Vehicles (TxDMV) Board is charged with considering opportunities to improve the operations of the department and recommending statutory changes to the Texas Legislature under Texas Transportation Code, Section 1001.025.
 - RECOMMENDATIONS TO LEGISLATURE.
 - (a) The board shall consider ways in which the department's operations may be improved and may periodically report to the legislature concerning potential statutory changes that would improve the operation of the department.
 - (b) On behalf of the board, the chair shall report to the governor, the lieutenant governor, the speaker of the house of representatives, and the presiding officers of relevant legislative committees on legislative recommendations adopted by the board and relating to the operation of the department.
- TxDMV's Government and Strategic Communications Division has been working with all the department's divisions and offices to identify statutory changes the board could recommend.
- TxDMV advisory committees, along with department staff and the public; and impacted stakeholders and associations will have opportunities to provide input to ensure stakeholder and consumer inclusivity into the process as well as transparency. Several department stakeholders will help review potential impacts and provide feedback on draft recommended changes.
- Recommendations are planned for presentation to the TxDMV Legislative & Public Affairs Committee, then to the TxDMV Board for discussion in October 2020.

Legislative Plans for the 87th Session – 17.A.



- Agency Process for the Legislative Session
 - **Key Dates for the 87th Legislative Session include:**
 - November 9, 2020: Bill Filing Starts
 - January 12, 2021: First Day of Session
 - March 12, 2021: Last Day to File Legislation
 - May 31, 2021: Sine Die
 - **The Government and Strategic Communications Division (GSC) will:**
 - Identify and follow all legislation filed potentially impacting department operations or processes
 - Meet weekly with the TxDMV Executive Team and department subject matter experts to discuss legislation filed of interest and potential impacts to the department
 - Develop legislative analyses of legislation and work with legislative offices as needed to provide information
 - Develop fiscal impact statements in conjunction with the Finance & Administrative Services and impacted divisions
 - Provide status reports to the Executive Team and TxDMV Board regarding legislation identified with a potential impact
 - Coordinate the department's participation in legislative hearings and meetings
 - Monitor all substantive hearings and floor activities
 - Provide reports to the Executive Team and TxDMV Board on important hearings and floor activities

Alternatively Fueled Vehicles Study Update – 17.B.

- The TxDMV Sunset legislation, S.B. 604 (86R) included a requirement for TxDMV to submit a report to the Legislature by December 1, 2020 with recommendations on imposing fees for alternatively Fueled Vehicles.
- The study is to include:
 - The impact of alternatively fueled vehicles industry on the state;
 - The options available to the state for collecting fees from owners of alternatively fueled vehicles to replace the loss of revenue from motor fuel taxes; and
 - The feasibility and desirability of establishing a fee for alternatively fueled vehicles.
- The other agencies providing input for this study include:
 - The Public Utility Commission of Texas;
 - The Texas Department of Transportation
 - The Department of Public Safety of the State of Texas; and
 - The Texas Commission on Environmental Quality.
- TxDMV staff has met with these agencies on a regular basis to identify the data to be provided by each agency. Agencies are to submit information by the end of the summer for inclusion in a draft report.
- TxDMV staff is working on a draft report containing department-related data.



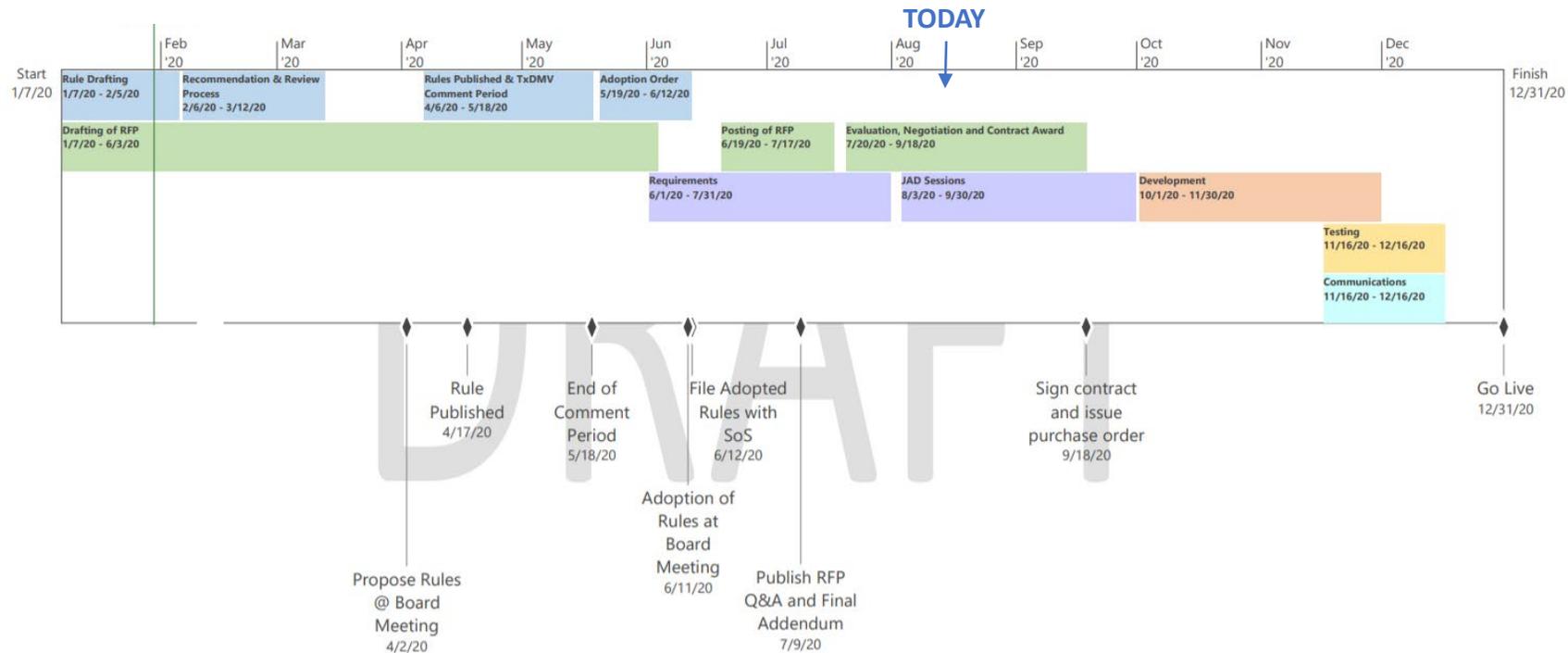
Digital License Plate Timeline Update – 17.C.

- The TxDMV Sunset legislation also included a requirement for TxDMV to allow for commercial fleet and government fleet vehicles to acquire a digital license plate. Department staff remains on track to have these plates available in December 2020.



Digital License Plates Project Timeline

01/30/2020





Questions

Board Meeting Date: 8/6/2020
Choose an item.

To: Texas Department of Motor Vehicles Board
From: Whitney Brewster, Executive Director
Agenda Item: 18
Subject: Appointment of Delegees to Act in the Absence of Executive Director

RECOMMENDATION

Approval for the Executive Director to execute the proposed Authorization for Temporary Acting Executive Directors of The Texas Department of Motor Vehicles.

PURPOSE AND EXECUTIVE SUMMARY

The purpose of the proposed Authorization for Temporary Acting Executive Directors of The Texas Department of Motor Vehicles is to provide a standing delegation order that will govern the operation of the department at times when the executive director is unable or unavailable to perform the duties of the executive director.

FINANCIAL IMPACT

None.

BACKGROUND AND DISCUSSION

Transportation Code section 1001.0411 provides that the executive director may delegate duties or responsibilities as the executive director considers appropriate, provided the delegation does not conflict with applicable law or a resolution of the board. Recently the department has added a second deputy executive director position with oversight responsibilities for various departments. This new position required a reconsideration of how delegations would operate with a second executive director.

The proposed authorization delegates authority to deputy executive directors Shelly Mellot and Daniel Avitia to perform the duties of executive director when the executive director is unable or unavailable in regard to any items that involve the respective divisions under their supervision, providing clear lines of authority and responsibility. The delegation provides that if one of the deputy executive directors is absent the other deputy executive director will perform the duties executive director as to all divisions. If both executive directors are unavailable or unable the delegation passes to the Chief Financial Officer. The delegation of executive director authority is split between two sections, delegation to execute contract documents and delegation to take other required actions.

If approved the Authorization will provide clear lines of succession and responsibility and improved continuity of operations.

AUTHORIZATION FOR TEMPORARY ACTING EXECUTIVE DIRECTORS OF THE TEXAS DEPARTMENT OF MOTOR VEHICLES

The executive director of the Texas Department of Motor Vehicles (TxDMV) has authority to delegate certain duties under Transportation Code Section 1001.0411, as well as other statutes. As the executive director of TxDMV, I delegate the following authority if I am unable or unavailable to perform the duties of the executive director:

I. Delegation to Execute Contract Documents

I delegate the authority to the following individuals, in order of priority, to serve as the temporary acting executive director of TxDMV to execute any contract documents if I am unable or unavailable to perform the duties of the executive director:

Deputy Executive Director Shelly Mellott
Deputy Executive Director Daniel Avitia
Chief Financial Officer

In the event the first listed delegee is unable or unavailable to execute contract documents, the delegation flows to the next listed person who is able and available to do so.

II. Delegation to Execute Non-Contract Documents and to Take Other Requested or Required Action

I delegate the authority to the following individuals to serve as the temporary acting executive director of TxDMV to execute non-contract documents and to take other requested or required action if I am unable or unavailable to perform the duties of the executive director:

1. To Deputy Executive Director Shelly Mellott for:
 - a. Any items that relate to or involve the following divisions: Compliance and Investigations, Consumer Relations, Enforcement, Government and Strategic Communications, Motor Carrier, Motor Vehicle Crime Prevention Authority; and Vehicle Titles and Registration; and
 - b. Any areas or issues that are outside the scope of the authority delegated to Mr. Avitia under this section, such as the Civil Rights Office or communications with external people or entities

that are outside the scope of the authority delegated to Mr. Avitia.

If Ms. Mellott is unable or unavailable to perform these delegated duties, this delegated authority passes to Mr. Avitia. If Mr. Avitia is unable or unavailable to perform these delegated duties, this delegated authority passes to the Chief Financial Officer.

2. To Deputy Executive Director Daniel Avitia for any items that relate to or involve the following divisions: Finance and Administrative Services, Human Resources, Information Technology Services, Motor Vehicle, and Office of Administrative Hearings.

If Mr. Avitia is unable or unavailable to perform these delegated duties, this delegated authority passes to Ms. Mellott. If Ms. Mellott is unable or unavailable to perform these delegated duties, this delegated authority passes to the Chief Financial Officer.

This order supersedes any prior dated orders delegating a designee to serve as the temporary acting executive director of TxDMV. This order does not supersede any prior orders delegating authority for specific actions, such as authority to execute contracts.

I also delegate the authority to execute TxDMV contracts for \$25,000 and below to the Director of Purchasing.

This order does not affect the legal authority or power of the executive director of TxDMV. The executive director retains all authority as the executive director of TxDMV.

Whitney H. Brewster
Executive Director

Date

Board Policy Documents

Governance Process (10/13/11)

Strategic Planning (10/13/11)

Board Vision (4/7/16)

Agency Boundaries (9/13/12)

KPIs (9/12/14)

Texas Department of Motor Vehicles TxDMV Board Governance Policy

1. PURPOSE

The directives presented in this policy address board governance of the Texas Department of Motor Vehicles (TxDMV).

2. SCOPE

The directives presented in this policy apply to the TxDMV Board and TxDMV agency personnel who interact with the Board. The TxDMV Board Governance Policy shall be one that is comprehensive and pioneering in its scope.

3. POLICY

3.1. TxDMV Board Governing Style

The Board shall govern according to the following general principles: (a) a vision for the agency, (b) diversity in points of view, (c) strategic leadership, providing day-to-day detail as necessary to achieve the agency vision, (d) clear distinction of Board and Executive Director roles, (e) collective decision making, (f) react proactively rather than reactively and with a strategic approach. Accordingly:

- 3.1.1. The Board shall provide strategic leadership to TxDMV. In order to do this, the Board shall:
 - 3.1.1.1. Be proactive and visionary in its thinking.
 - 3.1.1.2. Encourage thoughtful deliberation, incorporating a diversity of viewpoints.
 - 3.1.1.3. Work together as colleagues, encouraging mutual support and good humor.
 - 3.1.1.4. Have the courage to lead and make difficult decisions.
 - 3.1.1.5. Listen to the customers and stakeholders needs and objectives.
 - 3.1.1.6. Anticipate the future, keeping informed of issues and trends that may affect the mission and organizational health of the TxDMV.
 - 3.1.1.7. Make decisions based on an understanding that is developed by appropriate and complete stakeholder participation in the process of identifying the needs of the motoring public, motor vehicle industries,

and best practices in accordance with the mission and vision of the agency.

- 3.1.1.8. Commit to excellence in governance, including periodic monitoring, assessing and improving its own performance.
- 3.1.2. The Board shall create the linkage between the Board and the operations of the agency, via the Executive Director when policy or a directive is in order.
- 3.1.3. The Board shall cultivate a sense of group responsibility, accepting responsibility for excellence in governance. The Board shall be the initiator of policy, not merely respond to staff initiatives. The Board shall not use the expertise of individual members to substitute for the judgment of the board, although the expertise of individual members may be used to enhance the understanding of the Board as a body.
- 3.1.4. The Board shall govern the agency through the careful establishment of policies reflecting the board's values and perspectives, always focusing on the goals to be achieved and not the day-to-day administrative functions.
- 3.1.5. Continual Board development shall include orientation of new Board members in the board's governance process and periodic board discussion of how to improve its governance process.
- 3.1.6. The Board members shall fulfill group obligations, encouraging member involvement.
- 3.1.7. The Board shall evaluate its processes and performances periodically and make improvements as necessary to achieve premier governance standards.
- 3.1.8. Members shall respect confidentiality as is appropriate to issues of a sensitive nature.

3.2. TxDMV Board Primary Functions/Characteristics

TxDMV Board Governance can be seen as evolving over time. The system must be flexible and evolutionary. The functions and characteristics of the TxDMV governance system are:

- 3.2.1. Outreach
 - 3.2.1.1. Monitoring emerging trends, needs, expectations, and problems from the motoring public and the motor vehicle industries.
 - 3.2.1.2. Soliciting input from a broad base of stakeholders.

3.2.2. Stewardship

3.2.2.1. Challenging the framework and vision of the agency.

3.2.2.2. Maintaining a forward looking perspective.

3.2.2.3. Ensuring the evolution, capacity and robustness of the agency so it remains flexible and nimble.

3.2.3. Oversight of Operational Structure and Operations

3.2.3.1. Accountability functions.

3.2.3.2. Fiduciary responsibility.

3.2.3.3. Checks and balances on operations from a policy perspective.

3.2.3.4. Protecting the integrity of the agency.

3.2.4. Ambassadorial and Legitimizing

3.2.4.1. Promotion of the organization to the external stakeholders, including the Texas Legislature, based on the vision of the agency.

3.2.4.2. Ensuring the interests of a broad network of stakeholders are represented.

3.2.4.3. Board members lend their positional, professional and personal credibility to the organization through their position on the board.

3.2.5. Self-reflection and Assessment

3.2.5.1. Regular reviews of the functions and effectiveness of the Board itself.

3.2.5.2. Assessing the level of trust within the Board and the effectiveness of the group processes.

3.3. Board Governance Investment

Because poor governance costs more than learning to govern well, the Board shall invest in its governance capacity. Accordingly:

3.3.1. Board skills, methods, and supports shall be sufficient to ensure governing with excellence.

- 3.3.1.1. Training and retraining shall be used liberally to orient new members, as well as maintain and increase existing member skills and understanding.
 - 3.3.1.2. Outside monitoring assistance shall be arranged so that the board can exercise confident control over agency performance. This includes, but is not limited to, financial audits.
 - 3.3.1.3. Outreach mechanisms shall be used as needed to ensure the Board's ability to listen to stakeholder viewpoints and values.
 - 3.3.1.4. Other activities as needed to ensure the Board's ability to fulfill its ethical and legal obligations and to represent and link to the motoring public and the various motor vehicle industries.
- 3.3.2. The Board shall establish its cost of governance and it will be integrated into strategic planning and the agency's annual budgeting process.

3.4. Practice Discipline and Assess Performance

The Board shall ensure the integrity of the board's process by practicing discipline in Board behavior and continuously working to improve its performance. Accordingly:

- 3.4.1. The assigned result is that the Board operates consistently with its own rules and those legitimately imposed on it from outside the organization.
 - 3.4.1.1. Meeting discussion content shall consist solely of issues that clearly belong to the Board to decide or to monitor according to policy, rule and law. Meeting discussion shall be focused on performance targets, performance boundaries, action on items of Board authority such as conduct of administrative hearings, proposal, discussion and approval of administrative rule-making and discussion and approval of all strategic planning and fiscal matters of the agency.
 - 3.4.1.2. Board discussion during meetings shall be limited to topics posted on the agenda.
 - 3.4.1.3. Adequate time shall be given for deliberation which shall be respectful, brief, and to the point.
- 3.4.2. The Board shall strengthen its governing capacity by periodically assessing its own performance with respect to its governance model. Possible areas of assessment include, but are not limited to, the following:
 - 3.4.2.1. Are we clear and in agreement about mission and purpose?

- 3.4.2.2. Are values shared?
- 3.4.2.3. Do we have a strong orientation for our new members?
- 3.4.2.4. What goals have we set and how well are we accomplishing them?
- 3.4.2.5. What can we do as a board to improve our performance in these areas?
- 3.4.2.6. Are we providing clear and relevant direction to the Executive Director, stakeholders and partners of the TxDMV?
- 3.4.3. The Board Chair shall periodically promote regular evaluation and feedback to the whole Board on the level of its effectiveness.

Texas Department of Motor Vehicles Strategic Planning Policy

1. PURPOSE

The directives presented in this policy address the annual Strategic Planning process at the Texas Department of Motor Vehicles (TxDMV).

2. SCOPE

The directives presented in this policy apply to the TxDMV Board and TxDMV agency personnel who interact with the Board. TxDMV Strategic Planning Policy attempts to develop, document and expand its policy that is comprehensive in its scope in regards to the strategic planning process of the Board and the Department beyond that of the state strategic planning process.

3. POLICY

3.1. TxDMV Board Strategic Planning

This policy describes the context for strategic planning at TxDMV and the way in which the strategic plan shall be developed and communicated.

- 3.1.1. The Board is responsible for the strategic direction of the organization, which includes the vision, mission, values, strategic goals, and strategic objectives.
- 3.1.2. TxDMV shall use a 5-year strategic planning cycle, which shall be reviewed and updated annually, or as needed.
- 3.1.3. The 5-year strategic plan shall be informed by but not confined by requirements and directions of state and other funding bodies.
- 3.1.4. In developing strategic directions, the Board shall seek input from stakeholders, the industries served, and the public.
- 3.1.5. The Board shall:
 - 3.1.5.1. Ensure that it reviews the identification of and communication with its stakeholders at least annually.
 - 3.1.5.2. Discuss with agency staff, representatives of the industries served, and the public before determining or substantially changing strategic directions.

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- 3.1.5.3. Ensure it receives continuous input about strategic directions and agency performance through periodic reporting processes.
 - 3.1.6. The Board is responsible for a 5-year strategic plan that shall identify the key priorities and objectives of the organization, including but not limited to:
 - 3.1.6.1. The creation of meaningful vision, mission, and values statements.
 - 3.1.6.2. The establishment of a Customer Value Proposition that clearly articulates essential customer expectations.
 - 3.1.6.3. A Strengths, Weaknesses, Opportunities and Threats (SWOT) Analysis, to be updated annually.
 - 3.1.6.4. An assessment of external factors or trends (i.e., customer needs, political factors, economic factors, industry trends, technology factors, uncertainties, etc.)
 - 3.1.6.5. Development of the specific goals and objectives the Department must achieve and a timeline for action.
 - 3.1.6.6. Identification of the key performance indicators to measure success and the initiatives that shall drive results.
 - 3.1.6.7. Engage staff at all levels of the organization, through the executive director, in the development of the strategic plan through surveys, interviews, focus groups, and regular communication.
 - 3.1.6.8. Ensure the strategic planning process produces the data necessary for LBB/GOBPP state required compliance while expanding and enhancing the strategic plan to support the needs of the TxDMV. The overall strategic plan shall be used as a tool for strategic management.
 - 3.1.7. The Board delegates to the Executive Director the responsibility for **implementing** the agency's strategic direction through the development of agency wide and divisional operational plans.

Texas Department of Motor Vehicles TxDMV Goals and Objectives

1. PURPOSE

The information presented in this policy addresses the goals and key objectives of the Board of the Texas Department of Motor Vehicles (TxDMV) as they relate to the mission, vision, and values of the TxDMV.

2. SCOPE

The scope of this policy is to define the desired state the TxDMV Board is working to achieve. This policy is designed to be inspirational in outlining the desired state of the agency that supports the TxDMV Board vision and meeting agency goals.

3. TxDMV MISSION

To serve, protect and advance the citizens and industries in the state with quality motor vehicle related services.

4. TxDMV VISION

The Texas Department of Motor Vehicles sets the standard as the premier provider of customer service in the nation.

5. TxDMV VALUES

To earn the trust and faith of all citizens of Texas with transparency, efficiency, excellence, accountability, and putting stakeholders first.

- 5.1. **Transparency** – Being open and inclusive in all we do.
- 5.2. **Efficiency** – Being good stewards of state resources by providing products and services in the most cost-effective manner possible.
- 5.3. **Excellence** – Working diligently to achieve the highest standards.
- 5.4. **Accountability** – Accepting responsibility for all we do, collectively and as individuals.
- 5.5. **Stakeholders** – Putting customers and stakeholders first, always.

6. TxDMV GOALS

6.1. GOAL 1 – Performance Driven

The TxDMV shall be a performance driven agency in its operations whether it is in customer service, licensing, permitting, enforcement or rule-making. At all times the TxDMV shall mirror in its performance the expectations of its customers and stakeholder by effective, efficient, customer-focused, on-time, fair, predictable and thorough service or decisions.

6.1.1. Key Objective 1

The TxDMV shall be an agency that is retail-oriented in its approach. To accomplish this orientation TxDMV shall concentrate the focus of the agency on:

- 6.1.1.1. Delivering its products and services to all of its customers and stakeholders in a manner that recognizes that their needs come first. These needs must be positively and proactively met. TxDMV works for and with its customers and stakeholders, not the other way around.
- 6.1.1.2. Operating the agency's licensing and registration functions in a manner akin to how a private, for-profit business. As a private, for-profit business, TxDMV would have to listen to its customers and stakeholders and implement best practices to meet their needs or its services would no longer be profitable or necessary. Act and react in a manner that understands how to perform without a government safety net and going out of business.
- 6.1.1.3. Simplify the production and distribution processes and ease of doing business with the TxDMV. Adapting and maintaining a business value of continuous improvement is central to TxDMV operations and processes.
- 6.1.1.4. All operations of the TxDMV shall stand on their own merits operationally and financially. If a current process does not make sense then TxDMV shall work within legislative and legal constraints to redesign or discard it. If a current process does not make or save money for the state and/or its customers or stakeholders then TxDMV shall work within legislative and legal constraints to redesign or discard it. TxDMV shall operate as efficiently and effective as possible in terms of financial and personnel needs. Divisions should focus on cost savings without sacrificing performance. Division directors are accountable for meeting these needs and applicable measures. All division directors are collectively responsible for the performance of TxDMV as a whole.
- 6.1.1.5. Focus on revenue generation for transportation needs as well as the needs of its customers.
- 6.1.1.6. Decisions regarding the TxDMV divisions should be based on the overriding business need of each division to meet or provide a specific service demand, with the understanding and coordination of overarching agency-wide needs.

- 6.1.1.7. Developing and regularly updating a long-range Statewide Plan describing total system needs, establishing overarching statewide goals, and ensuring progress toward those goals.
- 6.1.1.8. The TxDMV shall establish a transparent, well-defined, and understandable system of project management within the TxDMV that integrates project milestones, forecasts, and priorities.
- 6.1.1.9. The TxDMV shall develop detailed work programs driven by milestones for major projects and other statewide goals for all TxDMV divisions.
- 6.1.1.10. The TxDMV, with input from stakeholders and policymakers, shall measure and report on progress in meeting goals and milestones for major projects and other statewide goals.

6.2. GOAL 2 – Optimized Services and Innovation

The TxDMV shall be an innovative, forward thinking agency that looks for ways to promote the economic well-being and development of the industries it serves as well as the State of Texas within the legislative boundaries that have been established for the agency.

6.2.1. Key Objective 1

The TxDMV shall achieve operational, cultural, structural and financial independence from other state agencies.

- 6.2.1.1. Build the TxDMV identity. This means that TxDMV shall make customers aware of what services we offer and how they can take advantage of those services.
- 6.2.1.2. Build the TxDMV brand. This means that TxDMV shall reach out to the stakeholders, industries we serve and the public, being proactive in addressing and anticipating their needs.
- 6.2.1.3. Determine immediate, future, and long term facility and capital needs. TxDMV needs its own stand-alone facility and IT system as soon as possible. In connection with these needs, TxDMV shall identify efficient and effective ways to pay for them without unduly burdening either the state, its customers or stakeholders.
- 6.2.1.4. All regulations, enforcement actions and decision at TxDMV shall be made in a timely, fair and predictable manner.

6.2.2. Key Objective 2

Provide continuous education training on business trends in the industry with a particular emphasis on activities in Texas.

6.2.3. Key Objective 3

Provide continuous outreach services to all customers and stakeholders to access their respective needs and wants. This includes helping frame legislative or regulatory issues for consideration by other bodies including the legislature.

6.2.4. Key Objective 4

Examine all fees to determine their individual worth and reasonableness of amount. No fee shall be charged that cannot be defended financially and operationally.

6.3. GOAL 3 – Customer-centric

The TxDMV shall be a customer-centric agency that delivers today's services and decisions in a positive, solution-seeking manner while ensuring continuous, consistent and meaningful public and stakeholder involvement in shaping the TxDMV of tomorrow.

6.3.1. Key Objective 1

The TxDMV shall seek to serve its customer base through a creative and retail oriented approach to support the needs of its industries and customers.

6.3.2. Key Objective 2

The TxDMV shall develop and implement a public involvement policy that guides and encourages meaningful public involvement efforts agency-wide.

6.3.3. Key Objective 3

The TxDMV shall develop standard procedures for documenting, tracking, and analyzing customer complaint data. Successful problem resolution metrics should be monitored to support continuous improvement activities that shall permanently improve customer facing processes.

6.3.4. Key Objective 4

The TxDMV shall provide a formal process for staff with similar responsibilities to share best practices information.

6.3.5. Key Objective 5

The TxDMV shall provide central coordination of the Department's outreach campaigns.

6.3.6. Key Objective 6

The TxDMV shall develop and expand user friendly, convenient, and efficient website applications.

6.3.7. Key Objective 7

TxDMV shall timely meet all legislative requests and mandates.

Agency Operational Boundaries as Defined by Department Policies of the TxDMV Board (Board)

The Board is responsible for the policy direction of the agency. The Board's official connection to the day-to-day operation of the Texas Department of Motor Vehicles (TxDMV) and the conduct of its business is through the Executive Director of the TxDMV (ED) who is appointed by the Board and serves at its pleasure. The authority and accountability for the day-to-day operations of the agency and all members of the staff, except those members who report directly to the Board, is the sole responsibility of the ED.

In accordance with its policy-making authority the Board has established the following policy boundaries for the agency. The intent of the boundaries is not to limit the ability of the ED and agency staff to manage the day-to-day operations of the agency. To the contrary, the intent of the boundaries is to more clearly define the roles and responsibilities of the Board and the ED so as to liberate the staff from any uncertainty as to limitations on their authority to act in the best interest of the agency. The ED and staff should have certainty that they can operate on a daily basis as they see fit without having to worry about prior Board consultation or subsequent Board reversal of their acts.

The ED and all agency employees shall act at all times in an exemplary manner consistent with the responsibilities and expectations vested in their positions. The ED and all agency employees shall act in a manner consistent with Board policies as well as with those practices, activities, decisions, and organizational circumstances that are legal, prudent, and ethical. It is the responsibility of the ED to ensure that all agency employees adhere to these boundaries.

Accordingly, the TxDMV boundaries are as follows:

1. The day-to-day operations of the agency should be conducted in a manner consistent with the vision, mission, values, strategic framework, and performance metrics as established by the Board. These elements must not be disregarded or jeopardized in any way.
2. A team-oriented approach must be followed on all enterprise-wide decisions to ensure openness and transparency both internally and externally.
3. The agency must guard against allowing any financial conditions and decision which risk adverse fiscal consequences, compromise Board financial priorities, or fail to

show an acceptable level of foresight as related to the needs and benefits of agency initiatives.

4. The agency must provide timely, accurate, and honest information that will afford the Board, public, stakeholders, executive branch and the legislature the best ability to evaluate all sides of an issue or opportunity before forming an opinion or taking action on it. Any information provided that is intentionally untimely, inaccurate, misleading or one-sided will not be tolerated.
5. The agency must take all reasonable care to avoid or identify in a timely manner all conflicts of interest or even the appearance of impropriety in awarding purchases, negotiating contracts or in hiring employees.
6. The agency must maintain adequate administrative policies and procedures that are understandable and aid in staff recruitment, development and retention.
7. The agency must maintain an organizational structure that develops and promotes the program areas from an enterprise-wide perspective. No organizational silos or sub-agencies will be allowed. We are the TxDMV.
8. The agency must empower its entire staff to deliver a positive customer experience to every TxDMV customer, stakeholder or vendor to reduce their effort and make it easier for them to do business with the TxDMV.
9. The agency must at all times look to flattening its organizational structure to reduce cost as technology advances allow.
10. Agency staff shall anticipate and resolve all issues timely.
11. The agency must maximize the deployment and utilization of all of its assets – people, processes and capital equipment – in order to fully succeed.
12. The agency must not waste the goodwill and respect of our customers, stakeholders, executive branch and legislature. All communication shall be proper, honest, and transparent with timely follow-up when appropriate.
13. The agency should focus its work efforts to create value, make sure that processes, programs, or projects are properly designed, budgeted and vetted as appropriate with outside stakeholders to ensure our assumptions are correct so positive value continues to be created by the actions of the TxDMV.
14. The ED through his or her staff is responsible for the ongoing monitoring of all program and fiscal authorities and providing information to the Board to keep it apprised of all program progress and fiscal activities. This self-assessment must result in a product that adequately describes the accomplishment of all program

goals, objectives and outcomes as well as proposals to correct any identified problems.

15. In advance of all policy decisions that the Board is expected to make, the ED will provide pertinent information and ensure board members understand issues/matters related to the pending policy decision. Additionally, the ED or designee will develop a process for planning activities to be performed leading up to that particular policy decision and the timeframe for conducting these planning activities. It is imperative that the planning process describes not only when Board consideration will be expected but also when prior Board consultation and involvement in each planning activity will occur.
16. In seeking clarification on informational items Board members may directly approach the ED or his or her designee to obtain information to supplement, upgrade or enhance their knowledge and improve the Board's decision-making. Any Board member requests that require substantive work should come to the Board or Committee Chairs for direction.
17. The agency must seek stakeholder input as appropriate on matters that might affect them prior to public presentation of same to the Board.
18. The agency must measure results, track progress, and report out timely and consistently.
19. The ED and staff shall have the courage to admit a mistake or failure.
20. The ED and staff shall celebrate successes!

The Board expects the ED to work with agency staff to develop their written interpretation of each of the boundaries. The ED will then present this written interpretation to the Board prior to discussion between the Board and ED on the interpretation. The Board reserves the right to accept, reject or modify any interpretation. The intent is that the Board and the ED will come to a mutually agreeable interpretation of agency boundaries that will then form the basis of additional written thought on the part of the ED and staff as to how these boundaries will influence the actions of the agency.

GOAL	STRATEGY	#	MEASURE	Baseline	Target	Actual	OWNER
Performance Driven	Effective and efficient services	1	Average processing time for new franchise license applications	45 days	35 days		MVD
		2	Average processing time for franchise renewals	11 days	5 days		MVD
		3	Average processing time of franchise license amendments	20 days	8 days		MVD
		4	Average processing time for new Dealer's General Distinguishing Number (GDN) license applications	35 days	17 days		MVD
		5	Average processing time for GDN renewals	14 days	7 days		MVD
		6	Average processing time for GDN license amendments	19 days	7 days		MVD
		7	Average turnaround time for single-trip routed permits	33.88 mins	32 mins		MCD
		8	Average turnaround time for intrastate authority application processing	1.47 days	1.4 days		MCD
		9	Average turnaround time for apportioned registration renewal applications processing	2 days	2 days		MCD
		10	Average turnaround time to issue salvage or non-repairable vehicle titles	5 days	4 days		VTR
		11	Average time to complete motor vehicle complaints with no contested case proceeding	131 days	120 days		ENF
		12	Average time to complete motor vehicle complaints with contested case proceeding	434 days	400 days		ENF
		13	Average time to complete salvage complaints with no contested case proceeding	131 days	120 days		ENF
		14	Average time to complete salvage complaints with contested case proceeding	434 days	400 days		ENF
		15	Average time to complete motor carrier complaints with no contested case proceeding	297 days	145 days		ENF
		16	Average time to complete motor carrier complaints with contested case proceeding	133 days	120 days		ENF
		17	Average time to complete household goods complaints with no contested case proceeding	432 days	145 days		ENF
		18	Average time to complete household goods complaints with contested case proceeding	371 days	180 days		ENF
		19	Average time to complete Oversize/Overweight (OS/OW) complaints with no contested case proceeding	40 days	35 days		ENF
		20	Average time to complete OS/OW complaints with contested case proceeding	265 days	250 days		ENF
		21	Percent of lemon law cases resolved prior to referral for hearing	76%	60%		ENF
		22	Average time to complete lemon law cases where no hearing is held	147 days	65 days		ENF
		23	Average time to complete lemon law cases where hearing is held	222 days	150 days		ENF
		24	Percent of total renewals and net cost of registration renewal: A. Online B. Mail C. In Person	A. 15% B. 5% C. 80%	A. 16% B. 5% C. 79%		VTR
		25	Total dealer title applications: A. Through Webdealer B. Tax Office	Baseline in development	A. 5% B. 95%		VTR

GOAL	STRATEGY	#	MEASURE	Baseline	Target	Actual	OWNER
Optimized Services and Innovation	Implement appropriate best practices	26	Percent of total lien titles issued: A. Electronic Lien Title B. Standard Lien Title	A. 16% B. 84%	A. 20% B. 80%		VTR
		27	Percent of total OS/OW permits: A. Online (self-issued) B. Online (MCD-issued) C. Phone D. Mail E. Fax	A. 57.47% B. 23.03% C. 11.33% D. 1.76% E. 6.4%	A. 58% or greater B. 25% or greater C. 10% or less D. 1.7% or less E. 5.3% or less		MCD
		28	Average time to complete lemon law and warranty performance cases after referral	Baseline in development	25 days		OAH
		29	Average time to issue a decision after closing the record of hearing	Baseline in development	30 days		OAH
	30	Percent of audit recommendations implemented	Baseline in development	90% annual goal for these recommendations which Internal Audit included in a follow-up audit		IAD	
	31	Percent of projects approved by the agency's governance team that finish within originally estimated time (annual)	57%	100%		EPMO	
	32	Percent of projects approved by the agency's governance team that finish within originally estimated budget (annual)	71%	100%		EPMO/ FAS	
	33	Percent of monitoring reports submitted to Texas Quality Assurance Team (TXQAT) by or before the due date	79%	100%		EPMO	
	34	Percent of project manager compliance with EPMO project management standards based upon internal quality assurance reviews	Baseline in development	100%		EPMO	
	35	Percent of employees due a performance evaluation during the month that were completed on time by division.	Baseline in development	100%		HR	
36	Percent of goals accomplished as stated in the directors performance evaluation	Baseline in development	Measure annually at the end of the fiscal year		EXEC		
37	Employees who rate job satisfaction as above average as scored by the Survey of Employee Engagement (SEE)	3.47 (SEE 2012)	3.65	3.60 (SEE 2013)		HR	
38	Increase in the overall SEE score	337 (SEE 2012)	360	351 (SEE 2013)		HR	
Focus on the internal customer	Focus on the internal customer	39	Percent of favorable responses from customer satisfaction surveys	Baseline in development	90%		EPMO
		40	Annual agency voluntary turnover rate	6.5% (FY 2013)	5.0%		HR
	Increase transparency with external customers	41	Number of education programs conducted and number of stakeholders/customers attending education programs	4.48/80.61	4/80		MCD
		42	Number of education programs conducted and number of stakeholders/customers attending education programs	36/335	42/390		VTR
		43	Number of eLearning training modules available online through the Learning Management System and number of modules completed by stakeholders/customers	eLearning Modules Available - 28 Completed - 735	Available - 31 Completed - 814		VTR

GOAL	STRATEGY	#	MEASURE	Baseline	Target	Actual	OWNER
Customer Center		44	Number of Shows and Exhibits attended to educate stakeholders/customers about TxDMV services and programs	6	7		MVD
		45	Number of education programs conducted and number of stakeholders/customers attending education programs	3/250	3/250		ENF
		46	Number of education programs conducted and number of stakeholders/customers attending education programs	3/150	4/300		ABTPA
		47	Percent of customers and stakeholders who express above average satisfaction with communications to and from TxDMV	Baseline in development	80%		All Divisions
	Excellent Service Delivery	48	Average hold time	9 min	9 min		CRD
		49	Abandoned call rate	22%	20%		CRD
		50	Average hold time	Baseline in development	1 min		ITS
		51	Abandoned call rate	Baseline in development	5%		ITS
		52	Average hold time	Credentialing - 1.6 minutes Permits - 2.08 minutes CFS - 54.38 seconds	Credentialing - 1.5 minutes Permits - 2 minutes CFS - 50 seconds		MCD
		53	Abandoned call rate	Credentialing - 7% Permits - 6.42% CFS - 5.63%	Credentialing - 6% Permits - 5% CFS - 5%		MCD
Key:		Critical	Off Target	On target	Not yet started		
Vision: The Texas Department of Motor Vehicles sets the standard as the premier provider of customer service in the nation.							
Mission: To serve, protect, and advance the citizens and industries in the state with quality motor vehicle related services.							
Philosophy: The Texas Department of Motor Vehicles is customer-focused and performance driven. We are dedicated to providing services in an efficient, effective and progressive manner as good stewards of state resources. With feedback from our customers, stakeholders and employees, we work to continuously improve our operations, increase customer satisfaction and provide a consumer friendly atmosphere.							
Values: We at the Texas Department of Motor Vehicles are committed to: TEXAS-Transparency, Efficiency, EXcellence, Accountability, and Stakeholders.							