

Item 5:**Adoption of Proposed Amendments to 19 TAC Chapter 229, Accountability System for Educator Preparation Programs, §229.9, Fees for Educator Preparation Program Approval and Accountability, and Chapter 230, Professional Educator Preparation and Certification, Subchapter G, Certificate Issuance Procedures, §230.101, Schedule of Fees for Certification Services****DISCUSSION AND ACTION**

SUMMARY: This item provides the State Board for Educator Certification (SBEC) an opportunity to adopt, subject to State Board of Education (SBOE) review, proposed amendments to 19 TAC Chapter 229, Accountability System for Educator Preparation Programs, §229.9, Fees for Educator Preparation Program Approval and Accountability, and Chapter 230, Professional Educator Preparation and Certification, Subchapter G, Certificate Issuance Procedures, §230.101, Schedule of Fees for Certification Services. As part of its report to the 83rd Texas Legislature, Regular Session, 2013, the Sunset Advisory Commission recommended a management action that fees in rule for educator certification and educator preparation programs (EPPs) be evaluated and adjusted to cover costs and ensure equity. The proposed amendments to 19 TAC §229.9 and §230.101 would adjust certain fees to more adequately cover costs and increase the equity of fees across different types of fee payers. No changes are recommended since published as proposed.

STATUTORY AUTHORITY: The statutory authority for 19 TAC §229.9 and §230.101 is Texas Education Code (TEC), §21.041(c) and (d), and Texas Occupations Code, §53.105.

EFFECTIVE DATE: The proposed effective date of the proposed amendments to 19 TAC §229.9 and §230.101 would be September 1, 2015.

PREVIOUS BOARD ACTION: The SBEC adopted 19 TAC §229.9 effective April 18, 2010. As part of the reorganization of 19 TAC Chapter 230, the SBEC adopted 19 TAC §230.101 effective August 12, 2012. At the October 24, 2014 meeting, the SBEC approved amendments to 19 TAC §229.9 and §230.101 for publication in the *Texas Register* as proposed rules.

BACKGROUND INFORMATION AND SIGNIFICANT ISSUES: As part of its report to the 83rd Texas Legislature, Regular Session, 2013, the Sunset Advisory Commission recommended an evaluation of the fee structure for educator certification and EPPs and that adjustments be made to ensure that the fees in rule more adequately cover costs and are equitable across fee payers.

The proposed amendments, shown on Attachments II and III, reflect discussions held during a stakeholder meeting with the Educator Preparation Advisory Committee on August 22, 2014,

and with other stakeholders at meetings in September and October 2014. Following the October 2014 SBEC meeting, additional stakeholder meetings were held in November and December 2014. Following is a description of the recommended changes based on an analysis of the actual costs of services.

Fees for EPP Approval and Accountability

Section 229.9 would be amended to increase the fees for new EPP applications and new EPP approvals to more adequately provide for the administrative cost of approving EPPs. The ten-year reapplication fee for an EPP would be removed because the ten-year renewal approval process was removed from rule when the SBEC adopted an amendment to 19 TAC §228.10, Approval Process, in August 2014. The five-year continuing approval visit fee would be replaced with an annual continuing approval fee to more adequately provide for the administrative cost of renewing the approval of EPPs. The annual continuing approval fee would be based on a three-year average of candidates completing an EPP and the number of approved certification fields offered by an EPP. The fee charged for a monitoring or technical visit would also be increased to more adequately provide for the administrative cost of appropriately ensuring the accountability of EPPs. No adjustments to the fees for the addition of a new certification field, the addition of clinical teaching, or the addition of each new class of certificate are recommended. No changes are recommended since published as proposed.

Schedule of Fees for Certification Services

Section 230.101 would be amended to decrease the fee for a request for preliminary criminal history evaluation to adequately cover the cost of performing this evaluation based on the number of evaluations that are currently requested. Other fees would also be decreased to offset the increase in fees for EPP approval and accountability. A maintenance fee for individuals who hold lifetime certificates is not recommended. No changes are recommended since published as proposed.

FISCAL IMPACT: TEA staff has determined that there are fiscal implications as a result of the proposed amendments to 19 TAC §229.9 and §230.101. The following fiscal implications are based on costs for state government (education service centers, public universities, and state colleges), local government (public community colleges, counties, and school districts), persons (individuals), and small businesses and microbusinesses (EPPs) for fiscal years (FYs) 2015-2019. The proposed decreases in the fee structure in 19 TAC §230.101 would cover the cost of the proposed increases in the fee structure in 19 TAC §229.9 so there is neither a projected increase nor a projected loss in revenue for the TEA.

The proposed amendment to 19 TAC §229.9 would increase educator preparation programs' accountability and program management fees to more adequately cover TEA costs and more equitably distribute fees across fee payers. Currently, all EPPs pay a \$1,500 fee every five years to maintain accreditation. The proposed amendment to 19 TAC §229.9 would remove the five-year continuing approval fee and add an annual continuing approval fee that would range from \$2,300 to \$9,200. The proposed annual continuing approval fee is based on a four-tiered, two-part formula, which includes a three-year average number of completers and the number of certification fields offered by each program. For FY 2015 there would be no anticipated fiscal implications since the proposed amendment to §229.9 would not take effect until September 1, 2015. The TEA estimates the total costs for state government-operated EPPs at \$369,600 in FY

2016, \$371,100 in FY 2017, \$374,100 in FY 2018, and \$369,600 in FY 2019 for other operating costs. The TEA estimates the total costs for local government-operated EPPs at \$9,400 in FY 2016, \$11,600 in FY 2017, \$9,300 in FY 2018, and \$11,600 in FY 2019. These estimates for local government-operated EPPs have been updated since the October 24, 2014 SBEC meeting. The TEA estimates the total costs for small businesses and microbusinesses that operate EPPs at \$170,100 in FY 2016, \$159,600 in each year for FY 2017 and FY 2018, and \$168,600 in FY 2019.

There would be an anticipated economic impact for small businesses and microbusinesses that serve as approved EPPs. It is estimated that the proposed amendment to §229.9 would affect between 1-100 small businesses and 1-100 microbusinesses (businesses with 20 or fewer employees). The projected economic impact would be for compliance costs such as an increase in continuing approval fees.

The proposed fees are structured to mitigate costs for small businesses and microbusinesses by charging based on the average number of completers prepared or certified by the EPP, so that smaller programs pay less in fees than do larger programs. Three alternatives that would further minimize the adverse impacts on small businesses and microbusinesses include:

1. Add a base tier for the three-year average number of completers that is a lower cost (\$1,000) than the first tier (\$1,500) and place small businesses and microbusinesses at the next lowest tier after applying the formula.
2. Add a base tier for the number of certification fields offered that is a lower cost (\$500) than the first tier (\$800) and place small businesses and microbusinesses at the next lowest tier after applying the formula.
3. Add base tiers for the three-year average number of completers and the number of certification fields offered that are lower than the first tiers and place small businesses and microbusinesses at the next lowest tier after applying the formula.

In accordance with Texas Government Code, §2006.002, TEA staff conducted a regulatory flexibility analysis and assessed alternatives to the proposed amendment to §229.9, as described earlier in this item, that would diminish the impact on small businesses and microbusinesses; however, it is not possible to provide regulatory flexibility on this matter for the reasons that follow.

The methods assessed for mitigating costs to small businesses and microbusinesses, if implemented, would increase the costs of administering the rule and, therefore, would increase the costs that must be covered by fees from EPPs, requiring an increase in fees to all EPPs, accordingly. Thus, efforts to mitigate costs to small businesses and microbusinesses would actually result in increased costs to all EPPs, including small businesses. Moreover, these alternatives would further increase costs for local and state government-operated EPPs.

The proposed amendment to 19 TAC §230.101 would decrease fees for educator certification services to more appropriately cover costs. The TEA staff anticipates that the proposed amendment would create a cost savings for individuals who pay a fee for these services. For FY 2015 there would be no anticipated fiscal implications since the proposed amendment to 19 TAC §230.101 would not take effect until September 1, 2015. However, in each year for FYs

2016-2019, the TEA estimates the total savings for persons at \$851,000. There is no direct adverse economic impact for small businesses and microbusinesses; therefore, no regulatory flexibility analysis, specified in Texas Government Code, §2006.002, is required.

PUBLIC AND STUDENT BENEFIT: The public and student benefit anticipated as a result of the proposed amendments would be an increased equity of fees across the different types of fee payers.

PROCEDURAL AND REPORTING IMPLICATIONS: The proposed amendments would have no procedural and reporting implications.

LOCALLY MAINTAINED PAPERWORK REQUIREMENTS: The proposed amendments would have no locally maintained paperwork requirements.

PUBLIC COMMENTS: The public comment period on the proposal began November 14, 2014, and ended December 15, 2014. At the time this item was prepared, no comments had been received. Any comments received will be provided to the SBEC under separate cover prior to the January 9, 2015 special meeting. The SBEC will take registered oral and written comments on this item at the January 9, 2015 special meeting in accordance with the SBEC board operating policies and procedures.

ALTERNATIVES: None.

OTHER COMMENTS AND RELATED ISSUES: None.

ASSOCIATE COMMISSIONER'S RECOMMENDATION: I recommend that the State Board for Educator Certification:

Approve for adoption, subject to State Board of Education review, the proposed amendments to 19 TAC Chapter 229, Accountability System for Educator Preparation Programs, §229.9, Fees for Educator Preparation Program Approval and Accountability, and Chapter 230, Professional Educator Preparation and Certification, Subchapter G, Certificate Issuance Procedures, §230.101, Schedule of Fees for Certification Services, with an effective date of September 1, 2015.

Respectfully submitted,

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Staff Members Responsible: Tim Miller, Director
Educator Preparation Programs

Marilyn Cook, Director
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- Attachments:**
- I. Statutory Citations
 - II. Text of Proposed Amendment to 19 TAC Chapter 229, Accountability System for Educator Preparation Programs, §229.9, Fees for Educator Preparation Program Approval and Accountability
 - III. Text of Proposed Amendment to 19 TAC Chapter 230, Professional Educator Preparation and Certification, Subchapter G, Certificate Issuance Procedures, §230.101, Schedule of Fees for Certification Services

ATTACHMENT I**Statutory Citations Relating to Proposed Amendments to 19 TAC Chapter 229, Accountability System for Educator Preparation Programs, §229.9, Fees for Educator Preparation Program Approval and Accountability, and Chapter 230, Professional Educator Preparation and Certification, Subchapter G, Certificate Issuance Procedures, §230.101, Schedule of Fees for Certification Services****Texas Education Code, §21.041, Rules; Fees (excerpts):**

- (c) The board shall propose a rule adopting a fee for the issuance and maintenance of an educator certificate that, when combined with any fees imposed under Subsection (d), is adequate to cover the cost of administration of this subchapter.
- (d) The board may propose a rule adopting a fee for the approval or renewal of approval of an educator preparation program, or for the addition of a certificate or field of certification to the scope of a program's approval. A fee imposed under this subsection may not exceed the amount necessary, as determined by the board, to provide for the administrative cost of approving, renewing the approval of, and appropriately ensuring the accountability of educator preparation programs under this subchapter.

Texas Occupations Code, §53.105, Fees:

A licensing authority may charge a person requesting an evaluation under this subchapter a fee adopted by the authority. Fees adopted by a licensing authority under this subchapter must be in an amount sufficient to cover the cost of administering this subchapter.

ATTACHMENT II
Text of Proposed Amendment to 19 TAC

Chapter 229. Accountability System for Educator Preparation Programs

§229.9. Fees for Educator Preparation Program Approval and Accountability.

An educator preparation program requesting approval and continuation of accreditation status shall pay the applicable fee from the following list.

- (1) New educator preparation program application (nonrefundable; includes pre-approval visit)-- \$2,000 [~~\$1,000~~].
- (2) New educator preparation program approval (includes post-approval visit)-- \$2,000 [~~\$1,000~~].
- (3) Annual continuing approval fee calculated as follows:
 - (A) Fee based on average number of completers over three years:
 - (i) Tier 1: 0-20 completers--\$1,500;
 - (ii) Tier 2: 21-57 completers--\$3,000;
 - (iii) Tier 3: 58-170 completers--\$4,500; or
 - (iv) Tier 4: more than 170 completers--\$6,000.
 - (B) Fee based on number of certification fields offered by program:
 - (i) Tier 1: 0-25 certification fields--\$800;
 - (ii) Tier 2: 26-40 certification fields--\$1,600;
 - (iii) Tier 3: 41-53 certification fields--\$2,400; or
 - (iv) Tier 4: more than 53 certification fields--\$3,200.
 - (C) The annual continuing approval fee is calculated based on the fee for the number of completers identified in subparagraph (A) of this paragraph plus the fee for the number of certification fields identified in subparagraph (B) of this paragraph.
- ~~[(3) Ten year reapplication for an educator preparation program approved after August 31, 2008 (includes approval visit) \$2,000.]~~
- ~~[(4) Five year continuing approval visit pursuant to §228.10(c) of this title (relating to Approval Process) \$1,500.]~~
- (4) [~~(5)~~] Monitoring or technical assistance visit-- \$2,000 [~~\$1,500~~].
- (5) [~~(6)~~] Addition of new certification field or addition of clinical teaching--\$500.
- (6) [~~(7)~~] Addition of each new class of certificate--\$1,000.

ATTACHMENT III
Text of Proposed Amendment to 19 TAC

Chapter 230. Professional Educator Preparation and Certification

Subchapter G. Certificate Issuance Procedures

§230.101. Schedule of Fees for Certification Services.

- (a) An applicant for a certificate or a school district requesting a permit shall pay the applicable fee from the following list.
- (1) Standard educational aide certificate--\$30.
 - (2) Standard certificate-- \$65 [~~\$75~~].
 - (3) Probationary certificate-- \$40 [~~\$50~~].
 - (4) Addition of certification based on completion of appropriate examination-- \$65 [~~\$75~~].
 - (5) Review of a credential issued by a jurisdiction other than Texas (nonrefundable)-- \$150 [~~\$175~~].
 - (6) Temporary credential based on a credential issued by a jurisdiction other than Texas-- \$40 [~~\$50~~].
 - (7) Emergency permit (nonrefundable)-- \$45 [~~\$55~~].
 - (8) National criminal history check (nonrefundable)--The fee, posted on the Texas Education Agency website, shall vary according to the current cost of fingerprint processing and obtaining national criminal history record information from the Texas Department of Public Safety, its contractors, and the Federal Bureau of Investigation. The same fee will be paid by current certified educators who are subject to a national criminal history check pursuant to the Texas Education Code, §§22.082, 22.0831, and 22.0836.
 - (9) Temporary teacher certificate based on recommendation by an approved Texas school district-- \$40 [~~\$50~~].
 - (10) Review of credentials requiring analysis and research of college or university transcript and degrees for issuance of a temporary certificate (nonrefundable)-- \$150 [~~\$175~~].
 - (11) On-time renewal of standard educational aide certificate--\$10.
 - (12) Additional fee for late renewal of standard educational aide certificate--\$5.
 - (13) Reactivation of an inactive standard educational aide certificate--\$15.
 - (14) Reinstatement following restitution of child support or student loan repayment for standard educational aide certificate--\$20.
 - (15) On-time renewal of a standard certificate (to include any educational aide certificate if held)--\$20.
 - (16) Additional fee for late renewal of a standard certificate--\$10.
 - (17) Reactivation of an inactive standard certificate--\$40; except for an inactivation pursuant to §232.9 of this title (relating to Inactive Status and Late Renewal).
 - (18) Reinstatement following restitution of child support or student loan repayment--\$50.
 - (19) Visiting international teacher certificate--\$50.
 - (20) Request for preliminary criminal history evaluation (nonrefundable)-- \$50 [~~\$150~~].
- (b) The fee for correcting a certificate or permit when the error is not made by the Texas Education Agency shall be equal to the fee for the original certificate or permit.