

Item 8:

COVER PAGE

Type of Agenda Rule Item:

- Discussion Only:** TEA staff will present rule items with an update, potential future rule changes, and/or seek SBEC direction on potential rule changes. TEA staff will draft rule changes from the board's discussion on the item and start preparing rule text for proposal to the board.
- Proposal:** First SBEC reading (vote). SBEC members will give input on proposed rule text and will approve rule changes that will go out for public comment as a proposed rule with the *Texas Register*. Important to make substantive changes now because only non-substantive changes can be made at adoption.
- ✓ **Adoption:** Second and final SBEC reading (vote). Only non-substantive changes are permissible at adoption phase. If approved will go to SBOE for review and filed as an SBEC rule with *Texas Register* if SBOE takes no action.

Summary:

This item is an adoption of 19 TAC Chapter 234, which is a new chapter that implements recent legislation that allows military service members to substitute experience in a particular trade for the licensure requirement and waives the licensing and application fees paid to the state for military service members, spouses and veterans. This new chapter also consolidates all military-related rules into one chapter, which will streamline future rulemaking.

Statutory Authority:

All of the relevant statutes pertaining to this chapter are listed for you on the agenda title page and the entire statutory language is on Attachment I. This is always helpful in referencing the law the TEA staff was working under when preparing this item.

TEA Staff Recommendation:

To adopt the proposed amendments as presented.

Relevant SBEC Core Principles:

- *We believe well-prepared educators are essential.*
- *We believe flexible and accessible certification programs, held to the same standards of accountability, are essential.*
- *We believe we must continually improve our policies and processes in response to changing needs.*

Item 8:

Consider and Take Appropriate Action on Adoption of Proposed New 19 TAC Chapter 234, Military Service Members, Military Spouses, and Military Veterans

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 new 19 TAC Chapter 234, Military Service Members, Military Spouses, and Military Veterans. The proposed new chapter would address recent legislation, consolidate rules specific to the military community into one chapter, and streamline future military-related rulemaking opportunities. No changes are recommended since published as proposed.

STATUTORY AUTHORITY: The statutory authority for proposed new 19 TAC Chapter 234 is the Texas Education Code (TEC), §§21.041(b)(2) and (4); 21.044(a); and 21.054, as amended by Senate Bill (SB) 1296, 84th Texas Legislature, Regular Session, 2015; and Texas Occupations Code, §§55.001-55.003, 55.005, and 55.006, as amended by SB 1307, 84th Texas Legislature, Regular Session, 2015; 55.004, as amended by SB 1307 and House Bill (HB) 3742, 84th Texas Legislature, Regular Session, 2015; 55.007; 55.008, as amended by SB 1296 and SB 1307, 84th Texas Legislature, Regular Session, 2015; and 55.009, as added by SB 807 and SB 1307, 84th Texas Legislature, Regular Session, 2015.

EFFECTIVE DATE: The proposed effective date of new 19 TAC Chapter 234 would be August 28, 2016 (20 days after filing as adopted with the *Texas Register*). The proposed effective date is also based on the SBEC and SBOE meeting schedules.

PREVIOUS BOARD ACTION: At the February 2016 meeting, the SBEC approved new 19 TAC Chapter 234 for publication in the *Texas Register* as proposed rules.

BACKGROUND INFORMATION AND SIGNIFICANT ISSUES: The 84th Texas Legislature, Regular Session, 2015, passed SB 807, which requires all state licensing agencies to adopt rules that implement the requirements of the Texas Occupations Code, Chapter 55, regarding the licensing of military service members, military spouses, and military veterans and the waiving of licensing and application fees paid to the state. The 84th Texas Legislature also passed SB 1307, which clarifies definitions of military spouses and military veterans in key sections of the Texas Occupations Code, allows for the adoption of rules to establish alternative methods for military groups to meet requirements for licensure, grants the executive director of a state agency to review applicant credentials and waive requirements for licensure, and incorporates the use of verified military service to satisfy apprenticeship requirements for licensure.

In addition, the 84th Texas Legislature passed HB 2014, which allows military service members seeking certification in career and technical education to substitute experience in a particular trade for the license or professional credential in the specific trade.

Proposed new 19 TAC Chapter 234, shown in Attachment II, would consolidate all military-related provisions into one chapter. The military-related provisions currently outlined in 19 TAC §230.15, Certification of Military Service Members, Military Spouses, and Military Veterans, and 19 TAC §232.27, Renewal and Continuing Education Requirements for Military Service Members, would be repealed as applicable from 19 TAC Chapter 230 and 19 TAC Chapter 232. These provisions would be incorporated into the new military chapter as proposed new 19 TAC §234.5 and 19 TAC §234.7, respectively. Proposed new 19 TAC §234.5(g) and (h) would satisfy the provisions in SB 807 and align with current SBEC rules.

Proposed new 19 TAC Chapter 234 would also streamline future military-related rulemaking opportunities by having all military-related provisions in one chapter.

FISCAL IMPACT: The TEA staff has determined that there will be fiscal implications for state government as a result of enforcing or administering the proposed new sections.

The estimated cost to the state (TEA) begins with Fiscal Year (FY) 2016 based on the September 1, 2015 effective date of SB 807, 84th Texas Legislature, Regular Session, 2015. Based on current tracking of legislation effective September 1, 2015, the TEA estimates the number of individuals that would apply for certification at 500 for FY 2016, 550 for FY 2017, 605 for FY 2018, 665 for FY 2019, and 731 for FY 2020. The TEA estimates that approximately 75% would apply through the out-of-state route to certification while 25% would apply through the educator preparation program (EPP) route to certification.

For the TEA, the total estimated cost would be \$143,500 for FY 2016, \$157,940 for FY 2017, \$173,500 for FY 2018, \$190,720 for FY 2019, and \$209,752 for FY 2020. The total estimated cost for each year of FY 2016-FY 2020 is based on fees for the out-of-state route to certification (test fees of \$22, credential review fee of \$180, and certificate issuance fees of \$52 and \$78) and the EPP route to certification (test fees of \$22 and certificate issuance fees of \$52 and \$78). For the TEA, the estimated loss in revenue would be \$143,500 for FY 2016, \$157,940 for FY 2017, \$173,500 for FY 2018, \$190,720 for FY 2019, and \$209,752 for FY 2020. This estimate is based on the fees that the TEA would not be collecting.

The TEA staff has determined that there is no additional fiscal impact on local government as a result of enforcing or administering the proposed new sections.

There is an anticipated economic savings to persons who are required to comply with the proposed new sections. For individuals (military service members, military spouses, and military veterans) not required under SB 807 to pay certification fees, the total estimated savings would be approximately \$143,500 for FY 2016, \$157,940 for FY 2017, \$173,500 for FY 2018, \$190,720 for FY 2019, and \$209,752 for FY 2020. Based on current fees an individual would save \$152 or \$332 depending on the route to certification.

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 proposed new 19 TAC Chapter 234 would be implementing statutory provisions for expediting

and facilitating the educator certification of military service members, military spouses, and military veterans.

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

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

PUBLIC COMMENTS: The public comment period on the proposal began March 11, 2016, and ended April 11, 2016. Any comments received will be provided to the SBEC under separate cover prior to the April 15, 2016 meeting. The SBEC will take registered oral and written comments on this item at the April 15, 2016 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, proposed new 19 TAC Chapter 234, Military Service Members, Military Spouses, and Military Veterans, with an effective date of 20 days after filing the adoption notice with the *Texas Register*.

Staff Members Responsible: Marilyn Cook, Director
Educator Certification

Tim Miller, Director
Educator Preparation

Attachments:

- I. Statutory Citations
- II. Text of Proposed New 19 TAC Chapter 234, Military Service Members, Military Spouses, and Military Veterans

ATTACHMENT I**Statutory Citations Relating to Proposed New 19 TAC Chapter 234, Military Service Members, Military Spouses, and Military Veterans****Texas Education Code, §21.041, Rules; Fees (excerpt):**

- (b) The board shall propose rules that:
 - (2) specify the classes of educator certificates to be issued, including emergency certificates;
 - (4) specify the requirements for the issuance and renewal of an educator certificate;

Texas Education Code, §21.044, Educator Preparation (excerpt):

- (a) The board shall propose rules establishing the training requirements a person must accomplish to obtain a certificate, enter an internship, or enter an induction-year program. The board shall specify the minimum academic qualifications required for a certificate.

Texas Education Code, §21.054, Continuing Education, as amended by Senate Bill (SB) 1296, 84th Texas Legislature, Regular Session, 2015:

- (a) The board shall propose rules establishing a process for identifying continuing education courses and programs that fulfill educators' continuing education requirements.
- (b) Continuing education requirements for an educator who teaches students with dyslexia must include training regarding new research and practices in educating students with dyslexia.
- (c) The training required under Subsection (b) may be offered in an online course.
- (d) Continuing education requirements for a classroom teacher must provide that not more than 25 percent of the training required every five years include instruction regarding:
 - (1) collecting and analyzing information that will improve effectiveness in the classroom;
 - (2) recognizing early warning indicators that a student may be at risk of dropping out of school;
 - (3) integrating technology into classroom instruction; and
 - (4) educating diverse student populations, including:
 - (A) students with disabilities, including mental health disorders;
 - (B) students who are educationally disadvantaged;
 - (C) students of limited English proficiency; and
 - (D) students at risk of dropping out of school.
- (e) Continuing education requirements for a principal must provide that not more than 25 percent of the training required every five years include instruction regarding:
 - (1) effective and efficient management, including:
 - (A) collecting and analyzing information;

- (B) making decisions and managing time; and
- (C) supervising student discipline and managing behavior;
- (2) recognizing early warning indicators that a student may be at risk of dropping out of school;
- (3) integrating technology into campus curriculum and instruction; and
- (4) educating diverse student populations, including:
 - (A) students with disabilities, including mental health disorders;
 - (B) students who are educationally disadvantaged;
 - (C) students of limited English proficiency; and
 - (D) students at risk of dropping out of school.
- (f) Continuing education requirements for a counselor must provide that not more than 25 percent of training required every five years include instruction regarding:
 - (1) assisting students in developing high school graduation plans;
 - (2) implementing dropout prevention strategies; and
 - (3) informing students concerning:
 - (A) college admissions, including college financial aid resources and application procedures; and
 - (B) career opportunities.
- (g) The board shall adopt rules that allow an educator to fulfill up to 12 hours of continuing education by participating in a mental health first aid training program offered by a local mental health authority under Section 1001.203, Health and Safety Code. The number of hours of continuing education an educator may fulfill under this subsection may not exceed the number of hours the educator actually spends participating in a mental health first aid training program.

Texas Occupations Code, §55.001, Definitions, as amended by SB 1307, 84th Texas Legislature, Regular Session, 2015:

In this chapter:

- (1) "Active duty" means current full-time military service in the armed forces of the United States or active duty military service as a member of the Texas military forces, as defined by Section 437.001, Government Code, or similar military service of another state.
- (2) "Armed forces of the United States" means the army, navy, air force, coast guard, or marine corps of the United States or a reserve unit of one of those branches of the armed forces.
- (3) "License" means a license, certificate, registration, permit, or other form of authorization required by law or a state agency rule that must be obtained by an individual to engage in a particular business.
- (4) [(1-a)] "Military service member" means a person who is on active duty [currently serving in the armed forces of the United States, in a reserve component of the

~~armed forces of the United States, including the National Guard, or in the state military service of any state].~~

- (5) ~~[(1-b)]~~ "Military spouse" means a person who is married to a military service member ~~[who is currently on active duty].~~
- (6) ~~[(1-c)]~~ "Military veteran" means a person who has served on active duty and who was discharged or released from active duty ~~[in the army, navy, air force, marine corps, or coast guard of the United States, or in an auxiliary service of one of those branches of the armed forces].~~
- (7) ~~[(2)]~~ "State agency" means a department, board, bureau, commission, committee, division, office, council, or agency of the state.

Texas Occupations Code, §55.002, Exemption from Penalty for Failure to Renew License, as amended by SB 1307, 84th Texas Legislature, Regular Session, 2015:

A state agency that issues a license shall adopt rules to exempt an individual who holds a license issued by the agency from any increased fee or other penalty imposed by the agency for failing to renew the license in a timely manner if the individual establishes to the satisfaction of the agency that the individual failed to renew the license in a timely manner because the individual was serving as a military service member ~~[on active duty in the United States armed forces serving outside this state].~~

Texas Occupations Code, §55.003, Extension of License Renewal ~~[Certain]~~ Deadlines for [Active Duty] Military Service Members [Personnel], as amended by SB 1307, 84th Texas Legislature, Regular Session, 2015:

A military service member ~~[person]~~ who holds a license ~~[- is a member of the state military forces or a reserve component of the armed forces of the United States, and is ordered to active duty by proper authority]~~ is entitled to two years of [an] additional ~~[amount of] time [- equal to the total number of years or parts of years that the person serves on active duty,]~~ to complete:

- (1) any continuing education requirements; and
- (2) any other requirement related to the renewal of the military service member's ~~[person's]~~ license.

Texas Occupations Code, §55.004, Alternative Licensing ~~[License Procedure]~~ for Military Service Members, Military Veterans, and Military Spouses ~~[Spouse]~~, as amended by SB 1307, 84th Texas Legislature, Regular Session, 2015:

- (a) A state agency that issues a license shall adopt rules for the issuance of the license to an applicant who is a military service member, military veteran, or military spouse ~~[the spouse of a person serving on active duty as a member of the armed forces of the United States]~~ and:
- (1) holds a current license issued by another jurisdiction ~~[state]~~ that has licensing requirements that are substantially equivalent to the requirements for the license in this state; or
 - (2) within the five years preceding the application date held the license in this state ~~[that expired while the applicant lived in another state for at least six months].~~

- (b) ~~[Rules adopted under this section must include provisions to allow alternative demonstrations of competency to meet the requirements for obtaining the license.]~~
- ~~[(e)]~~ The executive director of a state agency may waive any prerequisite to obtaining a license for an applicant described by Subsection (a) after reviewing the applicant's credentials ~~[issue a license by endorsement in the same manner as the Texas Commission of Licensing and Regulation under Section 51.404 to an applicant described by Subsection (a)].~~
- (c) In addition to the rules adopted under Subsection (a), a state agency that issues a license may adopt rules that would establish alternate methods for a military service member, military veteran, or military spouse to demonstrate competency to meet the requirements for obtaining the license.

Text of subsection (c), as amended by House Bill 3742, 84th Texas Legislature, Regular Session, 2015

- (c) The executive director of a state agency may issue a license by endorsement in the same manner as the Texas Commission of Licensing and Regulation under Section 51.4041(b) ~~[51.404]~~ to an applicant described by Subsection (a).

Texas Occupations Code, §55.005, Expedited License Procedure for Military Service Members, Military Veterans, and Military Spouses, as amended by SB 1307, 84th Texas Legislature, Regular Session, 2015:

- (a) A state agency that issues a license shall, as soon as practicable after a military service member, military veteran, or military spouse files an application for a license:
- (1) process the application; and
 - (2) issue the [a] license to an [a-qualified military spouse] applicant who qualifies for the license under Section 55.004 ~~[holds a current license issued by another jurisdiction that has licensing requirements that are substantially equivalent to the licensing requirements in this state].~~
- (b) A license issued under this section may not be a provisional license and must confer the same rights, privileges, and responsibilities as a license not issued under this section.

Texas Occupations Code, §55.006, Renewal of Expedited License Issued to Military Service Member, Military Veteran, or Military Spouse, as amended by SB 1307, 84th Texas Legislature, Regular Session, 2015:

- (a) As soon as practicable after a state agency issues a license under Section 55.005, the state agency shall determine the requirements for the license holder to renew the license.
- (b) The state agency shall notify the license holder of the requirements for renewing the license in writing or by electronic means.
- (c) A license issued under Section 55.005 has the term established by law or state agency rule, or a term of 12 months from the date the license is issued, whichever term is longer.

Texas Occupations Code, §55.007, License Eligibility Requirements for Applicants with Military Experience:

- (a) Notwithstanding any other law, a state agency that issues a license shall, with respect to an applicant who is a military service member or military veteran, credit verified military service, training, or education toward the licensing requirements, other than an examination requirement, for a license issued by the state agency.
- (b) The state agency shall adopt rules necessary to implement this section.
- (c) Rules adopted under this section may not apply to an applicant who:
 - (1) holds a restricted license issued by another jurisdiction; or
 - (2) has an unacceptable criminal history according to the law applicable to the state agency.

Texas Occupations Code, §55.008 [~~§55.005~~], Apprenticeship Requirements for Applicant with Military Experience, as amended by SB 1296 and SB 1307, 84th Texas Legislature, Regular Session, 2015:

- (a) Notwithstanding any other law, if an apprenticeship is required for a ~~[an occupational]~~ license issued by a state agency, the state agency shall credit verified military service, training, or education that is relevant to the occupation toward the apprenticeship requirements for the license.
- (b) The state agency shall adopt rules necessary to implement this section.

Texas Occupations Code, §55.009, License Application and Examination Fees, as added by SB 807, 84th Texas Legislature, Regular Session, 2015:

Notwithstanding any other law, a state agency that issues a license shall waive the license application and examination fees paid to the state for an applicant who is:

- (1) a military service member or military veteran whose military service, training, or education substantially meets all of the requirements for the license; or
- (2) a military service member, military veteran, or military spouse who holds a current license issued by another jurisdiction that has licensing requirements that are substantially equivalent to the requirements for the license in this state.

Texas Occupations Code, §55.009, Notice of Chapter Provisions, as added by SB 1307, 84th Texas Legislature, Regular Session, 2015:

A state agency that issues a license shall prominently post a notice on the home page of the agency's Internet website describing the provisions of this chapter that are available to military service members, military veterans, and military spouses.

ATTACHMENT II
Text of Proposed New 19 TAC

Chapter 234. Military Service Members, Military Spouses, and Military Veterans

§234.1. Purpose.

- (a) The purpose of identifying military service members, military spouses, and military veterans is to establish a process to count applicable military service for timely admission into educator preparation programs, expedite the completion of certification credential reviews, support certification examination and licensure application fee exemptions as applicable, and support certification renewal of members of the military community.
- (b) In the event of conflict with any other rule in the Texas Administrative Code, Title 19, Part 7, this chapter shall supersede with regard to the certification of military service members, military spouses, and military veterans.

§234.3. Definitions.

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

- (1) Military service member--A person who is on active duty.
- (2) Military spouse--A person who is married to a military service member.
- (3) Military veteran--A person who has served on active duty and who was discharged or released from active duty.
- (4) Active duty--Current full-time military service in the armed forces of the United States or active duty military service as a member of the Texas military forces, as defined by the Texas Government Code, §437.001, or similar military service of another state.
- (5) Armed forces of the United States--The army, navy, air force, coast guard, or marine corps of the United States or a reserve unit of one of those branches of the armed forces.

§234.5. Certification of Military Service Members, Military Spouses, and Military Veterans.

- (a) The application for certification of a military service member, military veteran, or military spouse, including an application based upon certification by a jurisdiction other than Texas that has certification requirements substantially similar to the Texas certification requirements, shall be processed as soon as practicable.
- (b) As soon as practicable after the issuance of a one-year certificate, Texas Education Agency (TEA) staff shall notify, in writing or by email, a military spouse of the requirements for obtaining a standard Texas certificate. A military spouse whose active duty spouse has been reassigned to another state during the validity period of the first one-year certificate would be eligible for a second one-year certificate.
- (c) The standard Texas certificate of a military service member, military spouse, or military veteran may be renewed if that certificate has expired within five years preceding the Texas application date.
- (d) A military service member or a military veteran shall be entitled to credit verified military service, training, or education toward the training, education, work experience, or related requirements (other than certification examinations) for educator certification. TEA staff and educator preparation programs (EPPs) shall use information from the U.S. Department of Veterans Affairs or other reliable sources to assist in crediting applicable military service, training, or education to certification requirements.

- (e) A military service member pursuing certification in career and technical education must meet requirements for the certificate, but for career and technical education certificate areas requiring experience and licensure, the military service member shall be entitled to substitute military experience in the trade for the required license or professional credential for the specific trade.
- (f) A military service member, military spouse, and military veteran shall complete educator examination requirements for certificate issuance as outlined in Texas Education Code, Chapter 21, Subchapter B, and rules in the Texas Administrative Code, Title 19, Part 7.
- (g) Military service members and military veterans are exempt from certification application fees that are paid to the state that lead to initial certification. These members of the military community are exempt from paying the portion of the examination registration fee that is paid to the TEA.
- (h) Military service members, military spouses, and military veterans are exempt from certification application fees that are paid to the state that lead to initial certification resulting from a review of credentials, one-year certificate, or out-of-state standard certificate. These members of the military community are exempt from paying the portion of the examination registration fee that is paid to the TEA.

§234.7. Renewal and Continuing Education Requirements for Military Service Members.

- (a) A military service member shall be exempted from any fee or penalty for failing to timely renew his or her Texas educator certificate if the delay occurred because the educator was serving as a military service member.
- (b) A military service member is entitled to two years of additional time to complete all continuing education requirements and any other requirements relating to the renewal of his or her Texas educator certificate.