

Proposed Amendment to § 213.12, Relating to Witness Fees and Expenses

The proposed amendment to § 213.12 is to allow a witness who has been subpoenaed by the Board or a party to a proceeding of the Board's to receive adequate reimbursement for their mileage. The rule was recently amended to increase the reimbursement rate to 48.5¢ for each mile, but due to the rising cost of fuel, the reimbursement rate allowed by the IRS has been increased again to 50.5¢. Staff requests that the rule be amended to allow the reimbursement rate to be tied to the federal income tax regulations reimbursement rate, so that the rule does not have to be constantly amended. Section 5.04 (Transportation Expenses) of the Texas General Appropriations Act states: "For a state employees use of a personally owned or leased motor vehicle, the mileage reimbursement rate for travel equals the maximum fixed mileage allowance specified in the revenue rulings issued by the Internal Revenue Service under the federal income tax regulations as announced by the Comptroller." Staff requests that this language be incorporated into section 213.12. The proposed language of the rule would be as follows:

§ 213.12. Witness Fees and Expenses.

A witness who is not a party to the proceeding and who is subpoenaed to appear at a deposition or hearing or to produce books, papers, or other objects, shall be entitled to receive reimbursement for expenses incurred in complying with the subpoena as set by the legislature in the APA, Texas Government Code Annotated §2001.103. In addition, a subpoenaed witness is entitled to thirty dollars (\$30) for each day or part of a day that the person is necessarily present, and to mileage reimbursement. The mileage reimbursement rate shall be equal to the maximum fixed mileage allowance specified in the revenue rulings issued by the Internal Revenue Service under the federal income tax regulations as announced by the Texas Comptroller ~~48.5 cents for each mile~~ for going to and returning from the place of the hearing or deposition if the place is more than 25 miles from the person's place of residence, and the person uses the person's personally owned or leased motor vehicle for the travel.

Recommended action: Move to propose the amendment to rule 213.12 and publish in the *Texas Register* for the 30-day comment period. If negative comments are not received, then adopt the amendment to section 213.12 as proposed.