

1 **CHAPTER 801. LOCAL WORKFORCE DEVELOPMENT BOARDS**

2
3 **ADOPTED RULES WITH PREAMBLE TO BE SUBMITTED TO THE TEXAS**
4 **REGISTER. THIS DOCUMENT WILL HAVE NO SUBSTANTIVE CHANGES BUT IS**
5 **SUBJECT TO FORMATTING CHANGES AS REQUIRED BY THE TEXAS REGISTER.**
6

7 The Texas Workforce Commission (Commission) adopts the repeal of the following section of
8 Chapter 801 relating to Local Workforce Development Boards, *without changes*, as published in
9 the September 14, 2007, issue of the *Texas Register* (32 TexReg 6306):
10

11 Subchapter B. One-Stop Service Delivery Network, §801.33
12

13 **PART I. PURPOSE, BACKGROUND, AND AUTHORITY**

14 **PART II. EXPLANATION OF INDIVIDUAL PROVISIONS**
15

16 **PART I. PURPOSE, BACKGROUND, AND AUTHORITY**

17 The purpose of this amendment is to remove §801.33 relating to Advertising. This rule change
18 implements the statutory provisions in House Bill (HB) 3074, enacted by the 80th Texas
19 Legislature, Regular Session (2007). HB 3074 repeals Texas Government Code
20 §2308.264(e)(4), which required the Commission to establish rules to ensure that entities
21 contracting with Boards may use, display, and advertise the entity’s name when providing
22 workforce services for the Board. HB 3074 removes the requirement that contractor advertising
23 must be allowed.
24

25 Texas Government Code, Chapter 2308, and this chapter govern Boards. The repeal of Texas
26 Government Code §2308.264(e)(4) allows the Commission and the Boards the flexibility to
27 decide whether contractors can use, display, and advertise their business name when providing
28 one-stop workforce services for the Boards.
29
30

31 **PART II. EXPLANATION OF INDIVIDUAL PROVISIONS**
32

33 **SUBCHAPTER B. ONE-STOP SERVICE DELIVERY NETWORK**

34 **The Commission adopts the following amendment to Subchapter B:**
35

36 **§801.33. Advertising**

37 Section 801.33 is deleted to reflect HB 3074, which repeals Texas Government Code
38 §2308.264(e)(4). Repealed §2308.264(e)(4) allowed entities that contract with Boards to use,
39 display, and advertise their business name when providing one-stop workforce services. By
40 deleting this section, the Commission provides Boards the opportunity to make a local
41 determination on whether to allow contractor advertising.
42

43 No comments were received.
44

45 The Agency hereby certifies that the adoption has been reviewed by legal counsel and found to
46 be within the Agency's legal authority to adopt.

1
2 The rules are adopted under Texas Labor Code §301.0015 and §302.002(d), which provide the
3 Texas Workforce Commission with the authority to adopt, amend, or repeal such rules as it
4 deems necessary for the effective administration of Agency services and activities.
5
6 The adopted rules affect Texas Labor Code, particularly Chapters 301 and 302, as well as Texas
7 Government Code §2308.
8

1 **CHAPTER 801. LOCAL WORKFORCE DEVELOPMENT BOARDS**

2
3 **SUBCHAPTER B. ONE-STOP SERVICE DELIVERY NETWORK**

4
5 ~~§801.33. Advertising.~~

6
7 ~~(a) Boards shall ensure that, within 120 days of the effective date of this rule (or within three~~
8 ~~Board meetings, whichever is later), policies are developed regarding the limitations and~~
9 ~~restrictions on the use, display, and advertising of contractors' and prospective contractors'~~
10 ~~business names when providing one-stop workforce services for the Boards. These~~
11 ~~policies shall only be applicable in the event a contractor or prospective contractor~~
12 ~~requests to advertise. At a minimum, Board policies shall address:~~

13
14 ~~(1) the requirement that the use or display of the contractors' business names be in a~~
15 ~~subordinate manner or position to the Board's name in terms of size, placement,~~
16 ~~stature, and location and include restrictions specifically relating to:~~

17
18 ~~(A) the advertising medium to be used, including, but not limited to, Internet, radio,~~
19 ~~television, and print; and~~

20
21 ~~(B) the design of the advertising medium;~~

22
23 ~~(2) the requirement that contractors and prospective contractors provide the Board~~
24 ~~advance written notice of their intent to use, display, or advertise their business name;~~

25
26 ~~(3) the prohibition on a contractor's or prospective contractor's business name recognition~~
27 ~~from being a factor in evaluating a proposal for services;~~

28
29 ~~(4) limitations necessary to avoid potential confusion of employers and job seekers~~
30 ~~attempting to access one-stop workforce services;~~

31
32 ~~(5) the method of holding contractors accountable in conforming to the policies;~~

33
34 ~~(6) methods to comply with subsection (b) of this section, disclosure of the source of~~
35 ~~funds to be used for advertising, and the requirement of an attestation that no~~
36 ~~Commission contracted funds will be used to cover the cost of advertising.~~

37
38 ~~(b) Commission contracted funds shall not be used for costs associated with advertising a~~
39 ~~contractor's business name. Specifically, Boards and contractors are prohibited from~~
40 ~~using Commission contracted funds to pay for costs associated with:~~

1 ~~(1) displaying a contractor's business name on materials used in performing contracted~~
2 ~~duties, including materials that a Board requires a contractor to purchase;~~

3
4 ~~(2) replacing unused materials that contain a contractor's business name, such as~~
5 ~~pamphlets describing one-stop workforce services; and~~

6
7 ~~(3) removing the contractor's business name from signs designed to remain on the~~
8 ~~premises of a Texas Workforce Center.~~

9
10 ~~(c) Boards shall charge an outgoing contractor for the costs associated with:~~

11
12 ~~(1) replacing unused materials that contain the outgoing contractor's business name, such~~
13 ~~as pamphlets describing one-stop workforce services; and~~

14
15 ~~(2) removing the outgoing contractor's business name from signs designed to remain on~~
16 ~~the premises of a Texas Workforce Center.~~

17
18 ~~(d) Boards shall be the final decision-making authority related to Boards' policies on~~
19 ~~contractor advertising. There will be no appeal to the Commission.~~