

1 **CHAPTER 802. TEXAS WORKFORCE COMMISSION LOCAL WORKFORCE**
2 **DEVELOPMENT BOARD ADVISORY COMMITTEE**

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

8
9 The Texas Workforce Commission (Commission) adopts the following new sections to
10 Chapter 802, relating to the Texas Workforce Commission Local Workforce
11 Development Board Advisory Committee (TWC Advisory Committee) *without* changes
12 to the proposed text as published in the April 15, 2005, issue of the *Texas Register* (30
13 TexReg 2200):

14
15 Subchapter A. General Provisions, §802.1 and §802.3

16 Subchapter B. Requirements for TWC Advisory Committee Members, §802.13,
17 §802.14, and §802.15

18
19 Subchapter D. Reporting to the Commission, §802.31

20 Subchapter E. Agency Evaluation of the TWC Advisory Committee and Report to the
21 Legislative Budget Board, §802.41 and §802.42

22
23 The Commission adopts the following new sections to Chapter 802, relating to the TWC
24 Advisory Committee *with* changes to the proposed text as published in the April 15,
25 2005, issue of the *Texas Register* (30 TexReg 2200):

26
27 Subchapter A. General Provisions, §802.2 and §802.4

28 Subchapter B. Requirements for TWC Advisory Committee Members, §802.11 and
29 §802.12

30 Subchapter C. Requirements for TWC Advisory Committee Meetings, §802.21 and
31 §802.22.

32
33 **PART I. PURPOSE AND BACKGROUND**

34 **PART II. EXPLANATION OF INDIVIDUAL PROVISIONS WITH COMMENTS**
35 **AND RESPONSES**

36 **PART III. COORDINATION ACTIVITIES**

37
38 **PART I. PURPOSE AND BACKGROUND**

39
40 Purpose

41
42 The Commission adopts new Chapter 802 to implement the requirements of §302.013 of
43 the Texas Labor Code relating to the establishment of a Local Workforce Development
44 Board (Board) advisory committee and to meet the requirements in Chapter 2110 of the
45 Texas Government Code relating to state agency advisory committees.
46

1 The Commission also adopts new Chapter 802 to establish rules designed to:
2 —define the roles and responsibilities of the Commission and the TWC Advisory
3 Committee regarding the work of the TWC Advisory Committee;
4 —promote effective communication between the Commission and the TWC Advisory
5 Committee;
6 —facilitate policy discussions with the Commission regarding the local workforce
7 delivery system; and
8 —outline the parameters for the operation of the TWC Advisory Committee to promote
9 an effectively functioning entity.

10 Background

11
12
13 In May 2002, the Sunset Advisory Commission staff reported that the Commission
14 lacked a formal mechanism for Boards to provide input directly to the Commission on
15 policies that affect the Boards and the local workforce delivery system. The Sunset
16 Advisory Commission staff also stated that even though Boards provide input through a
17 variety of ad hoc mechanisms, such as weekly conference calls between the Boards and
18 Agency staff, several Boards felt excluded from the development of plans, policies, rules,
19 and performance measures that directly affect them.

20
21 Based on its staff report, the Sunset Advisory Commission Report to the 78th Texas
22 Legislature (2003) recommended the establishment of an advisory committee. The
23 advisory committee, to be appointed by the Executive Committee of the Workforce
24 Leadership of Texas (WLT) [now the Texas Association of Workforce Boards (TAWB)]
25 would be responsible for providing input, advising the Commission, and commenting on
26 proposed rules and policies that affect the Boards and local operations. The Sunset
27 Commission reported that the purpose of its recommendation was to "improve the state-
28 local partnership for workforce services by ensuring that Boards have formal input on
29 Commission decisions affecting local services."
30

31 Based upon the recommendations of the Sunset Advisory Commission, the Legislature
32 enacted Senate Bill 280 (SB 280), which, in part, added §302.013 to the Texas Labor
33 Code. This section establishes a nine-member advisory committee, appointed by the
34 Executive Committee of TAWB, to advise the Commission and Agency staff regarding
35 the programs, policies, and rules of the Commission that affect the operations of the
36 Boards and the local workforce delivery system.

37
38 Texas Government Code, Chapter 2110, governs state agency advisory committees that
39 are either created by state or federal law or established by a state agency pursuant to state
40 or federal law. Chapter 2110 requires a state agency with a legislatively established
41 advisory committee to develop rules that state the purpose and tasks of the advisory
42 committee and describe the manner in which the advisory committee will report to the
43 agency.

44
45 Additionally, Chapter 2110 establishes minimum requirements for state agency advisory
46 committees regarding the composition of the advisory committee, the selection of a

1 presiding officer, the abolishment date for advisory committees, the reimbursement of
2 members' expenses, the state agency evaluation of the advisory committee's cost and
3 effectiveness, and the state agency report to the Legislative Budget Board regarding the
4 effectiveness of the advisory committee.

5
6 Therefore, to incorporate the provisions of Texas Labor Code, §302.013 and Texas
7 Government Code, Chapter 2110, the Commission adopts new Chapter 802.

8
9 **PART II. EXPLANATION OF INDIVIDUAL PROVISIONS WITH COMMENTS**
10 **AND RESPONSES**

11
12 **SUBCHAPTER A. GENERAL PROVISIONS**

13
14 §802.1. Requirements for the Texas Workforce Commission Local Workforce
15 Development Board Advisory Committee

16
17 Section 802.1 describes the statutory authority for the establishment of the TWC
18 Advisory Committee. The TWC Advisory Committee, established pursuant to Texas
19 Labor Code §302.013, is subject to Texas Government Code, Chapter 2110, and shall be
20 governed by Chapter 802.

21
22 §802.2. Purpose and Tasks

23
24 Texas Government Code, §2110.005(1) requires state agencies to set forth in rule the
25 purpose and tasks of advisory committees. Section 802.2 of this chapter provides the
26 purpose and tasks of the TWC Advisory Committee, which the Commission based on the
27 Sunset Advisory Commission Report to the 78th Texas Legislature, as well as the
28 language in Texas Labor Code §302.013.

29
30 Section 802.2(a)(1) states that a purpose of the TWC Advisory Committee is to ensure
31 that Boards have formal input on Commission policy decisions affecting the operations of
32 Boards and the local workforce delivery system. This language is based on the Sunset
33 Advisory Commission's Report.

34
35 Even though the TWC Advisory Committee will be the formal mechanism for Boards to
36 provide input to the Commission regarding policies affecting Board operations and the
37 local workforce delivery system, the Commission will continue to welcome and
38 encourage input from individual Board chairs, Board members, Board executive
39 directors, and the public, as well as TAWB, and TAWB's Policy Committee.

40
41 Section 802.2(a)(2) provides that an additional purpose of the TWC Advisory Committee
42 is to advise the Commission regarding the programs, policies, and rules of the
43 Commission that affect the operations of Boards and the local workforce delivery system.
44 This language is based on Texas Labor Code §302.013(e)(3).

1 Also, 802.2(a)(3) also provides that the purpose of the TWC Advisory Committee is to
2 advise the Commission regarding the strategic direction of workforce services in Texas.
3 The Commission adds this provision to emphasize that the advice and input provided to
4 the Commission must include a strategic, statewide perspective that benefits the state
5 workforce delivery system as a whole.

6
7 Section 802.2(b) states that the TWC Advisory Committee shall meet at least quarterly
8 and report to the Commission at least annually. This language mirrors the tasks
9 stipulated in Texas Labor Code, §302.013(e)(1) and §302.013(e)(2).

10
11 Further, §802.2(c) specifies the tasks that the TWC Advisory Committee may perform,
12 which include providing a statewide perspective of the workforce system to the
13 Commission; advising the Commission on policy or rule concept papers; recommending
14 to the Commission items for improving the operations of Boards and the local workforce
15 delivery system; and requesting information from the Commission regarding existing
16 rules, policies, or other topics that the TWC Advisory Committee wants to study.

17
18 **Comment:** One commenter stated that the legislative intent of SB 280 was to establish
19 the TWC Advisory Committee as the Commission's primary point of contact with the
20 Boards on policy issues concerning the operation of the local workforce system. The
21 commenter expressed concern that the current advisory committee—a subcommittee of
22 TAWB— is operating in direct conflict with legislative authority, noting that the TWC
23 Advisory Committee is a legislatively mandated body, with very specific tasks, that
24 reports to the Commission and is therefore not a component of TAWB. The commenter
25 further stated that the role of the TWC Advisory Committee is to assist the Commission
26 in gaining the strategic vision at the local level necessary to create a flexible, demand-
27 driven system responsive to business needs in developing human capital. The commenter
28 fully supported the rules for Chapter 802 as written and published for comment by the
29 Commission.

30
31 **Response:** The Commission appreciates the commenter's support of the rules and agrees
32 with the commenter that the TWC Advisory Committee serves as the formal mechanism
33 by which Boards provide input to the Commission on policy issues concerning the
34 operation of the local workforce system. The Commission also agrees with the
35 commenter's observation that the TWC Advisory Committee is a legislatively mandated
36 advisory committee specifically created to advise the Commission and is a separate entity
37 from TAWB. Furthermore, §302.013(e)(3) of the Texas Labor Code requires the TWC
38 Advisory Committee to report to the Commission. Therefore, because the TWC
39 Advisory Committee meets the definition of an agency-established advisory committee,
40 and because the TWC Advisory Committee is required to report to the Commission, it is
41 a separate entity from TAWB.

42
43 The Commission also agrees with the commenter that the TWC Advisory Committee is
44 to provide input to the Commission on policy issues affecting Board operations from a
45 statewide and strategic perspective. To emphasize this point, the Commission modified
46 the proposed rules to add §802.2(a)(3), which states that one purpose of the TWC

1 Advisory Committee is to advise the Commission regarding the strategic direction of
2 workforce services in Texas.

3
4 **Comment:** One commenter voiced concern that the TWC Advisory Committee would
5 replace the TAWB Policy Committee as the primary vehicle for discussions between the
6 Boards and the Commission. The commenter recommended that TAWB be added in the
7 preamble in regard to welcoming and encouraging input to ensure TAWB's continued
8 contribution to the workforce system.

9
10 **Response:** The Commission appreciates the comment and has incorporated references in
11 the preamble to continued input from TAWB and the TAWB Policy Committee.
12 However, in accordance with Texas Labor Code §302.013, the rules also specify that the
13 TWC Advisory Committee is the Commission's formal mechanism by which Board
14 members and executive directors provide input and advise the Commission on programs,
15 policies, and rules affecting Board operations and the local workforce delivery system.

16
17 **Comment:** One commenter expressed concern that the inclusion of §802.2(c) listing the
18 activities that the TWC Advisory Committee "may" perform implies that its activities
19 should be limited to the list of items specified. Moreover, the commenter stated that any
20 restrictions on the activities of the TWC Advisory Committee should be a matter of
21 governance for the TWC Advisory Committee or TAWB, to the extent those activities
22 otherwise comply with applicable law.

23
24 **Response:** The Commission disagrees with this comment that the rule implies that
25 §802.2(c) limits the activities of the TWC Advisory Committee. The Commission
26 includes a list in order to allow the TWC Advisory Committee to conduct activities that,
27 even though not specified in statute, would be beneficial. The Commission's intent in
28 §802.2(c) is not to restrict the topics that the TWC Advisory Committee considers but to
29 provide a framework under which the committee operates.

30
31 The Commission also disagrees with the comment that the scope of the activities of the
32 TWC Advisory Committee should be a governance matter reserved for the TWC
33 Advisory Committee or TAWB. The Commission emphasizes that the advisory
34 committee was created pursuant to statute (Texas Labor Code §302.013) to advise the
35 Commission, and is subject to Chapter 2110 of the Texas Government Code. As such, it
36 is governed by the Commission and not by TAWB.

37
38 **Comment:** One commenter asked if providing advice to the Commission includes the
39 ability of the TWC Advisory Committee to recommend actions to the Commission.

40
41 **Response:** The Commission appreciates the comment and clarifies that the provision in
42 §802.2(c)(3) that the TWC Advisory Committee may "make recommendations to the
43 Commission to improve the operations of Boards and the local workforce delivery
44 system" permits the TWC Advisory Committee to recommend action items for the
45 Commission to consider.

1 §802.3. Duration of the TWC Advisory Committee

2
3 Section 802.3 abolishes the TWC Advisory Committee on September 1, 2007, unless the
4 Commission establishes, by rule, a different abolishment date. Texas Government Code
5 §2110.008 provides that unless the state agency designates a different abolishment date,
6 an advisory committee is automatically abolished on the fourth anniversary of the date of
7 its creation. The advisory committee may continue in existence after the abolishment
8 date if the state agency by rule provides for a different date. For advisory committees
9 established by law, the date of creation is the effective date of the law. In the case of the
10 TWC Advisory Committee created by SB 280, the effective date was September 1, 2003.
11 Therefore, unless the Commission by rule establishes a different date, the automatic
12 abolishment date of the TWC Advisory Committee is September 1, 2007.

13
14 **Comment:** One commenter recommended revising the language in §802.3 to reflect that
15 the TWC Advisory Committee shall continue in effect until such time as the Legislature
16 no longer determines a need for the committee. Because the TWC Advisory Committee
17 was created by legislation, the commenter stated that it is appropriate that only the
18 Legislature can abolish the committee. In addition, the commenter also pointed out that
19 the TWC Advisory Committee was created "to advise the commission and commission
20 staff regarding the programs, policies, and rules of the commission that affect the
21 operations of the local workforce development boards and the local workforce delivery
22 system." Therefore, an ongoing need for the committee will exist past September 1,
23 2007.

24
25 **Response:** The Texas Legislature has established in Texas Government Code, Chapter
26 2110, a process by which advisory committees are automatically abolished. The
27 Commission's new rules follow that process. Section 2110.008(b) of the Texas
28 Government Code provides that an advisory committee is automatically abolished on the
29 fourth anniversary of the date of its creation. Because the law creating the TWC
30 Advisory Committee became effective September 1, 2003, the automatic abolishment
31 date of the TWC Advisory Committee, as determined by §2110.008(b) of the Texas
32 Government Code, is September 1, 2007.

33
34 The Commission recognizes that there may be an ongoing need for the TWC Advisory
35 Committee after September 1, 2007. Section 2110.008(b) of the Texas Government
36 Code allows agencies to establish, by rule, a different abolishment date, beyond the
37 automatic abolishment date. Additionally, §2110.006 and §2110.007 of the Texas
38 Government Code require state agencies to evaluate annually the work, usefulness, and
39 costs of advisory committees and report to the Legislative Budget Board the results of the
40 annual evaluations in conjunction with the agencies' requests for appropriations. The
41 Commission will, therefore, conduct an annual evaluation of the TWC Advisory
42 Committee to determine whether the committee should continue in existence beyond the
43 statutorily prescribed abolishment date of September 1, 2007. In order to provide
44 sufficient time to propose and adopt any necessary rule amendment regarding
45 continuation of the TWC Advisory Committee prior to the committee's expiration on
46 September 1, 2007, the Commission will make this determination by March 1, 2007.

1
2 §802.4. Agency Contact
3

4 To facilitate effective and efficient communication, the Commission designates in §802.4
5 the Agency's executive director, or his or her designee, as the primary point of contact for
6 the TWC Advisory Committee.
7

8 **Comment:** One commenter stated that the Commission should have an open-door
9 communication policy with the entire workforce system. Though the TWC Advisory
10 Committee is a user-friendly concept for the Commission, the commenter stated that
11 there is no system in place to capture all of the things that could affect local workforce
12 area.
13

14 **Response:** The Commission agrees and will continue to have an open communication
15 policy with parties interested in the workforce system. In order to emphasize the
16 Commission's intent that there be open communication, a change is being made to the
17 proposed rule to clarify that the Executive Director is the TWC Advisory Committee's
18 primary point of contact, rather than the single point of contact. It is the Commission's
19 intent that formal communications, advice, reports, recommendations, requests for
20 information or other official business of the TWC Advisory Committee be provided to
21 the Agency's executive director, or his or her designee, as the primary contact.
22

23 This provision does not preclude TWC Advisory Committee members from
24 communicating with Commissioners, Commission staff or other Agency staff regarding
25 issues of the TWC Advisory Committee. The Commission continues to encourage and to
26 welcome additional input from Board chairs, Board members, Board executive directors,
27 and the public, as well as TAWB and the TAWB Policy Committee. The Commission
28 also will continue the biweekly conference calls with the Board executive directors to
29 discuss issues relating to Board operations. However, the Commission, based on the
30 statute, maintains that the TWC Advisory Committee serves as the Commission's formal
31 mechanism by which Board chairs, Board members, and Board executive directors
32 provide advice, input, and recommendations to the Commission regarding policy and
33 operational issues affecting Boards. The Commission encourages any parties interested
34 in the workforce system to work closely with the TWC Advisory Committee in providing
35 input to the Commission regarding policies affecting Board operations.
36
37

38 **General Comments on Subchapter A**
39

40 **Comment:** One commenter recommended that the Commission define "Board" and
41 "TWC Advisory Committee" in the rules.
42

43 **Response:** The Commission appreciates the recommendation. However, new Chapter
44 802 is an addition to Texas Administrative Code (TAC), Title 40, Part 20. According to
45 40 TAC §800.2, Definitions, the words and terms in this section, relating to the Texas
46 Workforce Commission, when used in Part 20, will have established meanings, unless the

1 context clearly indicates otherwise. A Local Workforce Development Board is defined in
2 40 TAC §800.2(3). Therefore, it is not necessary to include or reference that definition in
3 new Chapter 802. Additionally, §302.013(a) of the Texas Labor Code defines TWC
4 Advisory Committee. Therefore, the Commission believes that the terms have been fully
5 defined.

6
7 **SUBCHAPTER B. REQUIREMENTS FOR TWC ADVISORY COMMITTEE**
8 **MEMBERS**

9
10 §802.11. Appointment and Composition

11
12 Texas Labor Code, §302.013(b), provides that the executive officers of "the organization
13 composed of a member of and the staff director of each local workforce development
14 board" appoint the TWC Advisory Committee members. The statute however, does not
15 specifically identify the organization whose executive officers are required to appoint the
16 TWC Advisory Committee members.

17
18 The Commission reviewed the Sunset Advisory Commission's recommendations, as well
19 as the legislative history of SB 280, including legislative bill analyses and committee
20 meeting minutes. Even though the organization described in §302.013(b) was not
21 identified in the text of any version of the bill, the Sunset Advisory Commission Report
22 to the 78th Legislature (2003) specifically recommended that the Executive Committee of
23 the Workforce Leadership of Texas (WLT) [now the Texas Association of Workforce
24 Boards (TAWB)] appoint members to the TWC Advisory Committee. Additionally,
25 every version of the legislative bill analysis—from the introduced version to the enrolled
26 version—stated that the bill requires the executive committee of WLT to appoint the
27 committee members.

28
29 Therefore, based on the recommendation of the Sunset Advisory Commission and the
30 legislative bill analyses, the Commission designates in §802.11(a) of this chapter, the
31 TAWB Executive Committee, or its successor organization, as the organization
32 responsible for TWC Advisory Committee member appointments.

33
34 Additionally, §802.11(a) of this chapter requires that the TAWB Executive Committee,
35 or its successor organization, provide to the TWC executive director or designee,
36 sufficient notice of the meeting at which appointments to the TWC Advisory Committee
37 will be made so the Agency will be able to provide a seven-day notice of the meeting to
38 the public. The Commission strongly believes that government organizations must
39 operate in the open to be responsive to the public, to foster trust and confidence in
40 government, and to encourage public participation. Therefore, the Commission intends
41 that appointments to the TWC Advisory Committee be made during a public meeting in
42 order to provide the public access to a full discussion of the appointments.

43
44 Texas Labor Code, §302.013, requires that the TWC Advisory Committee be composed
45 of six Board members and three Board executive directors. The Commission rules in
46 §802.11(b) reflect this requirement. Additionally, to align with the charge in Texas

1 Government Code §2308.256(a) that Boards have a majority of their members represent
2 the private sector, the Commission requires in §802.11(b) that the six Board members be
3 private sector employers. Because employers are the workforce network's primary
4 customers, the Commission believes that the TWC Advisory Committee should be
5 composed primarily of private sector employers.

6
7 Further, Texas Labor Code, §302.013(d) provides that members of the TWC Advisory
8 Committee shall represent different geographic areas of the state. The Commission rules
9 in §802.11(c) reflect this requirement.

10
11 **Comment:** Two commenters addressed §802.11(c) regarding geographic representation.
12 One commenter suggested defining the term "geographic region," mentioned in
13 §802.11(c), as a single workforce area. Another commenter stated that the Commission
14 might be better served with a demographic (e.g., urban, rural, agricultural, industrial)
15 rather than a geographic distribution. The commenter also suggested the apportionment
16 of "seats" to geographic areas.

17
18 **Response:** The Commission appreciates the suggestions; however, it does not agree that
19 the rule language should be modified to define a geographic region as a workforce area.
20 While "geographic region" is not defined in statute, the Commission believes that simply
21 considering a single workforce area as a separate geographic region could ultimately
22 result in the nine members of the TWC Advisory Committee representing nine workforce
23 areas located primarily in one region of the state while the other regions would have no
24 representation. For example, all nine members could be from workforce areas in the
25 western side of the state. Such a result would contravene legislative intent. Section
26 302.013(d) of the Texas Labor Code states that members of the advisory committee must
27 represent different geographic areas of the state.

28
29 Moreover, the Commission does not agree that the TWC Advisory Committee should
30 have a demographic, rather than geographic, composition as this also would contravene
31 legislative intent that members represent different geographic regions. Further, the
32 Commission disagrees with the idea that the rules should include an apportionment of
33 seats to geographic regions. Such a provision would unduly limit the flexibility of the
34 TAWB Executive Committee in appointing members.

35
36 The Commission believes that the legislative intent is clear in the statute that members
37 represent different geographic regions. The Commission recommends that when the
38 TAWB Executive Committee appoints TWC Advisory Committee members in an open
39 meeting, as required in §802.11, there be careful deliberations to ensure that geographical
40 representation is maintained.

41
42 **Comment:** Five commenters expressed concerns regarding the provision in proposed
43 §802.11(d) prohibiting TAWB Executive Committee members from serving on the TWC
44 Advisory Committee.

1 One commenter suggested including, at a minimum, a TAWB Executive Committee
2 member to be on the TWC Advisory Committee in order to ensure continuity and
3 coordination between the TWC Advisory Committee and the TAWB Executive
4 Committee. The commenter also recommended that §802.11(d) be modified to authorize
5 the TWC Advisory Committee to establish policies and procedures in its bylaws to
6 ensure that the TWC Advisory Committee does not consist entirely of TAWB Executive
7 Committee members.

8
9 Another commenter recommended that the prohibition against TAWB Executive
10 Committee members also serving on the TWC Advisory Committee be qualified "to the
11 extent feasible" to allow for greater flexibility. The commenter believed a flexible
12 restriction would help ensure representation of all of the geographical areas on the TWC
13 Advisory Committee, thus accomplishing the Commission's goal to have a variety of
14 members on the TWC Advisory Committee.

15
16 Another commenter was concerned with the proposed prohibition against TAWB
17 Executive Committee members from serving on the TWC Advisory Committee, and
18 stated that there is no reason to exclude them from the TWC Advisory Committee.

19
20 Two commenters believed that the TWC Advisory Committee composition rules are
21 restrictive and run counter to the intent of the legislation, suggesting that nothing in SB
22 280 (or other applicable law) prohibits members of the TAWB Executive Committee
23 from serving on the TWC Advisory Committee.

24
25 **Response:** The Commission disagrees with the comment that the proposed rule
26 prohibiting the TAWB Executive Committee from appointing its members to serve on the
27 TWC Advisory Committee contravenes the intent of the statute, as the law is silent on
28 this issue. The Commission recognizes that the Legislature designated the TAWB
29 Executive Committee to appoint members to the TWC Advisory Committee. However,
30 this does not necessarily imply that the Legislature intended to allow the TAWB
31 Executive Committee to appoint its members to the TWC Advisory Committee. If that
32 were the case, the Legislature would have stipulated that the TAWB Executive
33 Committee serve as the TWC Advisory Committee. The Legislature did not take this
34 action.

35
36 Although the Commission believes that the proposed prohibition does not contravene the
37 intent of the statute, the Commission appreciates the comments and has changed the
38 proposed rule language to remove the prohibition against the TAWB Executive
39 Committee from appointing its members to serve on the TWC Advisory Committee. The
40 Commission removes this prohibition in order to provide the TAWB Executive
41 Committee with the flexibility to appoint the most appropriate representatives to
42 accomplish the TWC Advisory Committee's purpose and tasks. It remains the
43 Commission's desire that TWC Advisory Committee members bring innovative and
44 strategic ideas for system-wide improvements from a wide variety of perspectives.

1 The Commission proposed this prohibition to facilitate the inclusion of a variety of
2 TAWB members in policy discussions. Although the Commission removes the proposed
3 prohibition, the Commission nevertheless believes that including a diverse group of
4 Board members and executive directors on the TWC Advisory Committee is in the best
5 interest of the state and the workforce system in order to promote a demand-driven
6 system responsive to the needs of all employers in Texas. The Commission remains
7 steadfast in its desire that the TAWB Executive Committee consider the entire TAWB
8 membership when appointing members to the TWC Advisory Committee.

9
10 **Comment:** Two commenters expressed concern regarding the time commitments that
11 the rules may place on TWC Advisory Committee members. One commenter pointed out
12 that members of the TAWB Executive Committee have committed four to six years to
13 serve as officers of the association and that the Boards have agreed to commit funds for
14 their participation. In addition, one commenter was concerned about the effect of the
15 proposed rules on the ability and willingness of volunteers to serve on the TWC Advisory
16 Committee. The commenter stated that the proposed rule would require a level of time
17 and commitment of service on the TWC Advisory Committee that would make it difficult
18 for business volunteers to serve, given the amount of time already expended in serving as
19 local Board officers, participation in local Board committees, TAWB meetings, and
20 related committees and activities.

21
22 **Response:** The Commission appreciates and applauds the amount of time volunteered by
23 all individuals serving as Board members, as well as those members accepting an
24 appointment to the TWC Advisory Committee. These are voluntary positions and
25 members have the discretion to serve. But the Commission is concerned about the
26 commenter's objectives in having TAWB Executive Committee members make a four- to
27 six-year time commitment. Such a commitment may be unrealistic and burdensome for
28 volunteer business leaders serving on the Board and the TAWB Executive Committee.
29 The Commission does not wish to place such a time burden on TWC Advisory
30 Committee members. Therefore, to ensure that the broadest array of individuals has the
31 chance to serve the State of Texas and provide input to the Commission on the local
32 workforce delivery system the Commission encourages the TAWB Executive Committee
33 to consider the current obligations of Board members and TAWB Executive Committee
34 members when appointing individuals to the TWC Advisory Committee.

35
36 §802.12. Vacancies

37
38 Section 802.12(a), establishes that if a vacancy occurs, the TAWB Executive Committee,
39 or its successor organization, shall have 90 days following the date on which the vacancy
40 occurred to appoint a person to serve the unexpired portion of that term. Section
41 802.12(a) further requires that the TAWB Executive Committee, or its successor
42 organization, provide due notice to the Agency executive director, or designee, of
43 meetings at which vacancies on the TWC Advisory Committee will be filled so that the
44 Agency can provide a seven-day public notice of the meeting. This requirement ensures
45 that public access to open meetings conducted for the appointment of TWC Advisory
46 Committee members will also be provided for meetings conducted to make appointments

1 to fill vacancies. As stated previously, this requirement also ensures that appointments to
2 the TWC Advisory Committee are made during a public meeting to provide the public
3 access to a full discussion of the appointments.

4
5 Additionally, §802.12(b) states that a vacancy shall occur if, during the member's term,
6 the TWC Advisory Committee member is no longer serving in the same role with the
7 Board as when the person was initially appointed to the TWC Advisory Committee. This
8 provision supports the geographical representation as required by Texas Labor Code,
9 §302.013(d) and provided in §802.11(c). For example, the geographical representation of
10 the TWC Advisory Committee membership could change should an executive director of
11 a Board located in one region of the state be appointed to the TWC Advisory Committee
12 and during that member's term resigns that position to become the executive director of a
13 Board in a different region of the state. In such a case, §802.12(b) would require the
14 Board's executive director to resign from the TWC Advisory Committee and the TAWB
15 Executive Committee would have 90 days to fill the vacancy. When appointing new
16 members to fill vacancies, the TAWB Executive Committee must adhere to the
17 geographical requirements in §802.11(c).

18
19 **Comment:** One commenter stated that the rationale for §802.12(b) is clear from the
20 preamble. The commenter suggested inserting the rationale provided in the preamble
21 into the actual rule language.

22
23 **Response:** The Commission appreciates the comment and has modified the proposed
24 rule language to clarify that a vacancy occurs if, during the member's term, the TWC
25 Advisory Committee member is no longer serving in the same role with the Board as
26 when the person was initially appointed to the TWC Advisory Committee. However, the
27 Commission makes this change in order to clarify that maintaining geographic
28 representation is not the only reason for this provision. The Commission also includes
29 this provision to ensure that the proper number of Board members and executive directors
30 is maintained when a member's role changes. For example, if a TWC Advisory
31 Committee member who is also a Board member resigns from that Board to become the
32 Board's executive director, the TWC Advisory Committee will no longer be composed of
33 the appropriate number of Board members.

34 35 §802.13. Terms of Office

36
37 Section 802.13(a) specifies that the term of a TWC Advisory Committee member shall be
38 two years. Because it is important to have experienced TWC Advisory Committee
39 members, as well as to allow for new perspectives through rotation of membership,
40 §802.13(b) provides that a member may serve multiple terms, but shall serve no more
41 than two consecutive terms. The ability to have TWC Advisory Committee members
42 serve multiple terms allows for experienced members to continue to participate on the
43 TWC Advisory Committee. However, the provision also requires a break in membership
44 after two consecutive terms to afford new and fresh perspectives.

1 TWC Advisory Committee members shall serve staggered terms. It is important that the
2 terms of office allow for new TWC Advisory Committee members to serve with
3 experienced members. It is also important to avoid simultaneous expiration of all terms,
4 which would require complete reconstitution of the entire TWC Advisory Committee
5 every two years. Section 802.13(c) provides that in order to establish the staggered
6 terms, TAWB shall initially appoint three Board members and one executive director for
7 a one-year term and three Board members and two executive directors for a two-year
8 term. The four members appointed for a one-year term will fulfill a one-time, one-year
9 appointment that will occur during the first year the TWC Advisory Committee is in
10 existence. Following the expiration of the initial four members' one-year term, TAWB
11 shall appoint four members to two-year terms. Subsequent appointments for all members
12 shall be for two-year terms. In this manner, at most, only five TWC Advisory Committee
13 members' terms will expire every year. Four terms will expire in one year, then five
14 terms will expire the next year.

15
16 **Comment:** One commenter stated that there is no good reason or rational basis to
17 require term limits or staggered terms on the TWC Advisory Committee; the commenter
18 further stated that such a term restriction served as an impediment to the functioning of
19 the TWC Advisory Committee.

20
21 **Response:** The Commission disagrees with the comment that there is no good reason or
22 rational basis for term limits or staggered terms. The Commission believes that this
23 provision will result in a balance on the TWC Advisory Committee of both experienced
24 members and those with new perspectives who may serve on the TWC Advisory
25 Committee. Additionally, term limits recognize that private sector employers have a
26 primary commitment to their business, and prevent those who volunteer to serve on the
27 TWC Advisory Committee from having to make an overly burdensome long-term
28 commitment.

29
30 **Comment:** One commenter questioned if the initial four members' terms counted as full
31 two-year terms or rather one-year terms that could possibly be followed up by two, two-
32 year terms.

33
34 **Response:** The Commission appreciates the comment and responds that the initial four
35 members' one-year terms will count as one term, and, therefore, the members may be
36 reappointed to one additional two-year term, for a total service limited to three
37 consecutive years. The intent of the staggered terms is to avoid a complete turnover of
38 membership and to maintain at least four members from the previous year's committee.
39 However, the initial four members may not be appointed to more than the two
40 consecutive terms as required by §802.13(b).

41 42 §802.14. Selection and Role of a Presiding Officer

43
44 Texas Government Code, §21 10.003 states that an advisory committee shall elect a
45 presiding officer from among its members. The Commission mirrors this language in
46 §802.14. The Commission specifies that the presiding officer be a Board member in

1 order to emphasize the importance of the private sector perspective in the work of the
2 TWC Advisory Committee in promoting an employer-driven workforce system. The
3 Commission also designates the presiding officer to report to the Commission, as
4 required in §2110.003(b) of the Texas Government Code.

5
6 §802.15. Legislative Activity
7

8 Texas Government Code, Chapter 556, regarding the use of state appropriations for
9 political activities, also applies to Board officers and employees. By extension, Chapter
10 556 covers the TWC Advisory Committee members. Therefore, the Commission
11 includes in §802.15(a) coverage of TWC Advisory Committee members in the lobbying
12 provisions of Texas Government Code, Chapter 556. Additionally, §802.15(b) provides
13 that individual TWC Advisory Committee members are not prohibited from representing
14 themselves, their Boards, their businesses, or any other entities to the Texas Legislature,
15 subject to state law restrictions on lobbying; nevertheless, TWC Advisory Committee
16 members may not use state appropriations for political activities for TWC Advisory
17 Committee purposes.

18
19 **General Comments on Subchapter B**
20

21 **Comment:** Two commenters suggested that the TWC Advisory Committee should be
22 allowed to set procedures and policies related to appointments, composition, vacancies,
23 terms of office, and selection and roles of the presiding officer. Further, the commenters
24 stated that allowing the TWC Advisory Committee to establish its own rules for
25 vacancies, terms of office, and role of the presiding officer would clearly give the TWC
26 Advisory Committee a sense of being independent.
27

28 One commenter contended that the TWC Advisory Committee is self-governing and
29 should be allowed to establish its own guidelines. The commenter would support a rule
30 requiring the establishment of bylaws and a review and comment period prior to approval
31 of such bylaws in an open meeting of the TWC Advisory Committee.
32

33 **Response:** Although the Commission appreciates the suggestions, it disagrees with the
34 comments. The commenters proposed allowing the TWC Advisory Committee the
35 independence to develop certain procedures and policies, some of which are regulated by
36 statute. For example, §302.013 of the Texas Labor Code outlines the required
37 composition of the TWC Advisory Committee, while Texas Government Code
38 §2110.003 guides selection and roles of the presiding officer. Though not covered in
39 statute, the Commission has provided rules regarding appointments, vacancies, and terms
40 of office to ensure open selection of members and new perspectives through rotation of
41 membership. The Commission believes that these rules serve the public's interest and the
42 interests of the workforce system. The TWC Advisory Committee is welcome to develop
43 additional procedures and policies within the parameters set forth by the Commission.
44

45 The Commission notes that other advisory committees for state agencies—for example,
46 advisory committees under the Texas Health and Human Services Commission—also

1 include requirements on appointments, vacancies, and terms of office. Some state agency
2 rules have even more prescriptive requirements. For instance, the Texas Department of
3 State Health Services' rules for the State Preventative Health Advisory Committee
4 include procedures for who is responsible for calling meetings, as well as attendance
5 requirements. The rules also require that the committee follow *Roberts Rules of Order*
6 *Newly Revised* as a basis for parliamentary decisions. The Commission believes the
7 TWC Advisory Committee should not be required to follow such strict procedural
8 requirements.

9
10 **SUBCHAPTER C. REQUIREMENTS FOR TWC ADVISORY COMMITTEE**
11 **MEETINGS**

12
13 §802.21. Open Meetings
14

15 The TWC Advisory Committee is not a "governmental body" as defined in the Open
16 Meetings Act in Texas Government Code, Chapter 551. However, research on various
17 advisory committees in Texas shows that other governmental entities require their
18 advisory committees—e.g., the Texas Water Well Drillers Advisory Council—to conduct
19 meetings in accordance with the Texas Open Meetings Act. In order to promote public
20 participation, the Commission in §802.21(a) establishes that meetings of the TWC
21 Advisory Committee shall be conducted in accordance with the Open Meetings Act
22 requirements in Texas Government Code, Chapter 551.

23
24 To assist the TWC Advisory Committee in meeting the requirements of the Open
25 Meetings Act, §802.21(b) states that the Agency's executive director, or designee, as the
26 central point of contact for the TWC Advisory Committee, shall be responsible for
27 posting the meetings in accordance with §551.044 of the Texas Government Code, which
28 requires a seven-day posting for meetings with statewide jurisdiction. The Commission
29 expects that the TWC Advisory Committee will notify the Agency's executive director, or
30 designee, of its meetings and agendas in a timely manner so that statewide Open
31 Meetings Act requirements are met.

32
33 Section 802.21(c) requires the Agency's executive director, or designee, to prepare and
34 keep the meeting minutes, as set forth in Chapter 551, Subchapter B, of the Texas
35 Government Code, which requires that minutes or a tape recording of each open meeting
36 be kept and available to the public upon request. To implement this requirement, the
37 Agency will tape record each meeting. The Agency believes that this is the most efficient
38 and cost-effective mechanism to maintain an accurate record of the discussions on issues
39 impacting the workforce delivery system.

40
41 The Commission establishes in §802.21(d) that a quorum shall be present for TWC
42 Advisory Committee meetings. According to §551.001(6) of the Texas Government
43 Code, "quorum," means a majority of a government body, unless defined differently by
44 applicable law or rule or the charter of the governmental body. In keeping with these
45 requirements, a quorum for the purposes of this chapter is defined as six members of the
46 TWC Advisory Committee.

1
2 In §802.21(e), the Commission states that the approval of five members of the TWC
3 Advisory Committee be required on any advice, recommendations, or reports. The
4 Commission includes the provisions in §802.21(d) and §802.21(e) to emphasize the
5 importance of soliciting input and achieving consensus from a majority of the members
6 of the TWC Advisory Committee.
7

8 **Comment:** One commenter noted that advice, recommendations, or reports must be
9 approved by five members of the committee. The commenter questioned what
10 mechanism was in place for this, and asked whether approval would be required at a
11 meeting or could other methods be used. Further, the commenter stated that because
12 under this rule approval must be given by a simple majority of the members as a whole,
13 rather than by a majority of those present and voting, it seems reasonable that other
14 methods should be considered.
15

16 **Response:** The Open Meetings Act requires that members be present to vote and does
17 not allow the use of voting by proxy or other methods.
18

19 **Comment:** Two commenters were concerned about the open meetings requirements and
20 designating the Agency as the entity responsible for maintaining the minutes of the
21 meetings. One commenter stated that the Commission recognized in the preamble that
22 the TWC Advisory Committee is not a "governmental body" and is therefore not subject
23 by law to open meetings requirements. The commenter further suggested that these rules
24 require the TWC Advisory Committee to comply with the open meetings requirements
25 under the theory of "promoting public participation." The commenter believed that the
26 TWC Advisory Committee would not do anything different, whether the meetings were
27 open or closed to the public, and argued that the Commission did not articulate a
28 reasonable basis for the added burden of cost.
29

30 The second commenter expressed concern that the open meetings requirement may
31 discourage participation of members of the TWC Advisory Committee as envisioned by
32 the Texas Legislature. Further, the commenter was concerned about burdening the
33 Commission with criticisms or issues that make it into the minutes or recordings of these
34 meetings, but not into formal TWC Advisory Committee recommendations, and was not
35 sure that the Commission fully considered the potential impact of this rule.
36

37 **Response:** The Commission strongly believes that the goal of open government and
38 promoting public participation in government processes is a reasonable basis for
39 requiring the TWC Advisory Committee to conduct business in an open meeting. The
40 Commission encourages and welcomes free and open discussion and does not believe
41 that open meetings will discourage committee members from having candid discussions
42 of issues. Furthermore, through the Open Meetings Act, the State of Texas directs that
43 public business be conducted openly and in public view, the principle under which the
44 Commission intends that the business of the TWC Advisory Committee operate.
45

1 As for the issue of the added burden of cost, it is the intent of the Commission to pay for
2 the costs associated with maintaining the minutes required by the Open Meetings Act by
3 tape recording the TWC Advisory Committee meetings. The Commission will provide
4 support, as stipulated in §802.21(c) of this chapter, to assist the TWC Advisory
5 Committee in fulfilling the requirements of the Texas Government Code, while not
6 burdening the committee with the extra responsibility of summarizing the meetings.

7
8 **Comment:** One commenter asked if subcommittees will be subject to the Open
9 Meetings Act.

10
11 **Response:** Although subcommittees of TWC Advisory Committee are not subject to
12 Open Meetings Act requirements, the Commission intends that any recommendation
13 made by a subcommittee and brought to the TWC Advisory Committee will be discussed
14 fully in an open meeting of the TWC Advisory Committee before a decision adopting or
15 rejecting any recommendation is made.

16 17 §802.22. Open Records

18
19 Although the TWC Advisory Committee is not a "governmental body" for purposes of
20 the Open Meetings Act, the TWC Advisory Committee does meet the definition of a
21 governmental body in §552.003 of the Public Information Act. Therefore, the
22 Commission states in §802.22(a) that TWC Advisory Committee records are subject to
23 the Public Information Act, Texas Government Code, Chapter 552.

24
25 In order to assist the TWC Advisory Committee in meeting the requirements of the
26 Public Information Act, the Commission establishes in §802.22(b) that the Agency's
27 executive director, or designee, is responsible for responding to requests for information
28 filed under the Public Information Act, Texas Government Code, Chapter 552.

29 30 **SUBCHAPTER D. REPORTING TO THE COMMISSION**

31 32 §802.31. Annual Report

33
34 Texas Government Code, §2110.005(2) requires state agencies with advisory committees
35 to adopt rules that "describe the manner in which the committee will report to the
36 agency." Texas Labor Code, §302.013(e)(2) states that the TWC Advisory Committee
37 shall "report to the commission at least annually."

38
39 In §802.31(a), the Commission stipulates that the presiding officer of the TWC Advisory
40 Committee submit an annual report to the Commission on or before July 1 of each year
41 so that the Agency can complete its annual evaluation of the TWC Advisory Committee,
42 as required by Texas Government Code, §2110.006, by the end of a fiscal year. The
43 Commission requires in §802.31(b) that the annual report delineate the TWC Advisory
44 Committee's activities over the previous 12 months, specifically from June 1 of the
45 previous year to May 31 of the reporting year, and include, at a minimum:
46

- 1 (1) a description of how the TWC Advisory Committee has accomplished its purpose
2 and tasks;
- 3 (2) a brief description of advice, recommendations, and reports made by the TWC
4 Advisory Committee;
- 5 (3) the costs related to the TWC Advisory Committee's existence and the source of
6 funds used to support its activities;
- 7 (4) a list of the meeting dates, including subcommittee meetings;
- 8 (5) the attendance records of its members; and
- 9 (6) the TWC Advisory Committee bylaws.

10
11
12 **SUBCHAPTER E. AGENCY EVALUATION OF THE TWC ADVISORY**
13 **COMMITTEE AND REPORT TO THE LEGISLATIVE BUDGET BOARD**

14
15 §802.41. Agency Annual Evaluation

16
17 Texas Government Code, §21 10.006 provides that a state agency that has established an
18 advisory committee shall evaluate annually the advisory committee's work and
19 usefulness, and the costs related to the advisory committee's existence, including the cost
20 of agency staff time spent in support of the committee's activities. The Commission
21 mirrors this language in §802.41.

22
23 §802.42. Commission Report to the Legislative Budget Board

24
25 Texas Government Code, §21 10.007 requires that the Commission report to the
26 Legislative Budget Board the information developed in the evaluation required by Texas
27 Government Code, §21 10.006 and file the report biennially in connection with the
28 Commission's request for appropriations. The Commission provides language in §802.42
29 to fulfill this requirement.

30
31 **Comments Regarding Costs Associated with the TWC Advisory Committee**

32
33 **Comment:** Three commenters raised concerns regarding the costs associated with the
34 work of the TWC Advisory Committee.

35
36 The first commenter stated that there is no mention in the proposed rules of funding the
37 activities of the TWC Advisory Committee. The impact statement reported that there
38 would be no additional costs to state or local governments. However, the impact
39 statement did not include the impact on the Boards, and the commenter contended there
40 would be a cost impact on the Boards. The commenter stated that because the
41 Commission was establishing rules for composition, appointment method, meeting rules,
42 duration of terms, and the purpose and tasks of the TWC Advisory Committee, the
43 Commission should be willing to fund the expenses of the TWC Advisory Committee.

44
45 Another commenter stated that to the extent the TWC Advisory Committee is funded, it
46 is funded by TAWB, which is in turn funded by its member Boards.

1
2 Additionally, one commenter questioned whether the costs associated with the TWC
3 Advisory Committee meetings will be absorbed by the Boards.

4
5 **Response:** With regard to the operational costs of the TWC Advisory Committee, the
6 Commission does not expect TAWB or the Boards to absorb such costs. The
7 Commission fully intends to provide appropriate staff support for the work of the TWC
8 Advisory Committee. While the Commission does not have appropriation authority to
9 pay for TWC Advisory Committee members' expenses (including travel and per diem) in
10 the FY'06-'07 biennium, Boards are authorized to pay for travel costs for Board members
11 or executive directors to attend TWC Advisory Committee meetings from allocated funds
12 available for administrative costs.

13
14 **Comment:** Another commenter contended that there would be an economic impact to
15 persons required to comply as a result of these rules. Further, the commenter stated that
16 there is no benefit to the public from these rules.

17
18 **Response:** It is important to note that the rules do not require Boards to pay for any
19 expense a TWC Advisory Committee member may incur. The individual who agrees to
20 serve on the TWC Advisory Committee may have to pay out-of-pocket travel costs, but
21 does so upon his or her own initiative. Membership is completely voluntary;
22 participation is not mandatory for either the Board or the individual. Furthermore, the
23 rules do not require TWC Advisory Committee members to pay any costs in order to be a
24 member of the committee.

25
26 Finally, the Commission also disagrees with the comment that there is no public benefit
27 to these rules. The Commission adopts these rules to implement statute, which states that
28 the purpose of the advisory committee is to ensure Boards have formal input on issues
29 affecting the operations of Boards and the local workforce delivery system. These rules
30 will allow for greater public involvement in policy discussions related to the workforce
31 system.

32 33 **PART III. COORDINATION ACTIVITIES**

34
35 In the development of these rules for publication and public comment, the Commission
36 sought the involvement of Texas' twenty-eight Boards and the Texas Association of
37 Workforce Boards (TAWB). The Commission provided a policy concept paper on
38 December 2, 2004, to the Boards and TAWB for consideration and review pursuant to
39 Texas Labor Code, §302.064. The Commission also conducted a conference call with
40 Board executive directors regarding the policy concept on December 10, 2004. During
41 the development of these proposed rules, the Commission considered the information
42 gathered in order to develop rules that provide clear and concise direction to the parties
43 involved.

44
45 The Commission received public comments from:
46

1 James Belk, Chair, Texas Association of Workforce Boards (TAWB) and TAWB
2 Advisory Committee
3 Sam Vale, Chair, Lower Rio Grande Valley Workforce Development Board
4 Kay O'Dell, Executive Director, North East Texas Workforce Development Board
5 Mary Ross, Executive Director, West Central Texas Workforce Development Board
6 Mona Williams Statser, Executive Director, North Texas Workforce Development Board
7 Willie Taylor, The Texas Executive Directors Council
8 Angie Nelson-Wernli, Texas Health and Human Services Commission
9 Mark C. Guthrie, Attorney

10

11 The new rules are adopted pursuant to Texas Labor Code §301.0015 and §302.002(d),
12 which provide the Texas Workforce Commission with the authority to adopt, amend, or
13 repeal such rules as it deems necessary for the effective administration of Agency
14 services and activities.

15

16 The new rules affect Texas Labor Code, Title 4; Texas Labor Code §302.013, regarding
17 establishment of an advisory committee to the Commission; and Texas Government
18 Code, Chapter 2110, relating to state agency advisory committees.

1
2 **CHAPTER 802. TEXAS WORKFORCE COMMISSION LOCAL WORKFORCE**
3 **DEVELOPMENT BOARD ADVISORY COMMITTEE**

4
5 **SUBCHAPTER A. GENERAL PROVISIONS**

6
7 **§802.1. Requirements for the Texas Workforce Commission Local Workforce**
8 **Development Board Advisory Committee.**

- 9
10 (a) The Texas Workforce Commission Local Workforce Development Board
11 Advisory Committee (TWC Advisory Committee) shall be appointed
12 pursuant to and governed by this chapter.
13
14 (b) The TWC Advisory Committee is established under Texas Labor Code,
15 §302.013 and is subject to Texas Government Code, Chapter 2110.

16
17 **§802.2. Purpose and Tasks.**

- 18
19 (a) The purpose of the TWC Advisory Committee is to:
- 20
21 (1) advise the Commission regarding the strategic direction of workforce
22 services in Texas;
 - 23
24 (2) advise the Commission regarding the programs, policies, and rules of the
25 Commission that affect the operations of Boards and the local workforce
26 delivery system; and
 - 27
28 (3) ensure that ~~serve as the Commission's primary point of contact for~~ Local
29 Workforce Development ~~Boards Board (Boards Board)~~ have formal input
30 on Commission policy decisions ~~chairs, Board members, and Board~~
31 ~~executive directors in the discussion of policy issues~~ affecting the
32 operations of Boards and the local workforce delivery system. ~~that may~~
33 ~~serve as a basis for rulemaking and policy development by the~~
34 ~~Commission.~~
- 35
36
37 (b) The TWC Advisory Committee shall:
- 38
39 (1) meet at least quarterly; and
 - 40
41 (2) report to the Commission at least annually ~~;~~ and
 - 42
43 ~~(3) advise the Commission and Commission staff regarding the programs,~~
44 ~~policies, and rules of the Commission that affect the operations of Boards~~
45 ~~and the local workforce delivery system.~~
- 46

1 (c) The TWC Advisory Committee may:

- 2
- 3 (1) provide a statewide perspective of the workforce system;
- 4
- 5 (2) advise the Commission on policy or rule concept papers that affect the
- 6 operations of Boards and the local workforce delivery system;
- 7
- 8 (3) make recommendations to the Commission to improve the operations of
- 9 Boards and the local workforce delivery system; and
- 10
- 11 (4) request information from the Commission regarding existing rules or
- 12 policies, or other topics the TWC Advisory Committee wants to study.
- 13

14 **§802.3. Duration of the TWC Advisory Committee.**

15

16 The TWC Advisory Committee shall be abolished on September 1, 2007, unless

17 the Commission by rule determines a different abolishment date.

18

19 **§802.4. Agency Contact.**

20

21 The Agency's executive director, or designee, shall serve as the primary ~~single~~

22 point of contact for the TWC Advisory Committee.

23

24 **SUBCHAPTER B. REQUIREMENTS FOR TWC ADVISORY COMMITTEE**

25 **MEMBERS**

26

27 **§802.11. Appointment and Composition.**

- 28
- 29 (a) The executive committee of the Texas Association of Workforce Boards
- 30 (TAWB), or its successor organization, shall appoint members of the TWC
- 31 Advisory Committee in a meeting for which notice is given to the Agency's
- 32 executive director, or designee, in time for a seven-day public meeting
- 33 notification.
- 34
- 35 (b) The TWC Advisory Committee shall be composed of:
- 36
- 37 (1) six Board members who are private sector employers that serve as
- 38 members of the organization described in subsection (a) of this section;
- 39 and
- 40
- 41 (2) three Board executive directors who serve as members of the organization
- 42 described in subsection (a) of this section.
- 43
- 44 (c) The TWC Advisory Committee members shall represent different geographic
- 45 areas of the state.
- 46

1 ~~(d) A member of the executive committee of the organization described in~~
2 ~~subsection (a) of this section shall not serve as a member of the TWC~~
3 ~~Advisory Committee.~~

4
5 **§802.12. Vacancies.**

- 6
7 (a) In 90 days or less following the date on which a vacancy occurs, the
8 executive committee of the organization, as described in §802.11(a) of this
9 subchapter, shall, in a meeting for which notice is given to the Agency's
10 executive director, or designee, in time for a seven-day public meeting
11 notification, appoint a person to serve the unexpired portion of that member's
12 term.
13
14 (b) A vacancy shall occur if during the member's term, the TWC Advisory
15 Committee member is no longer serving in the same role with the Board as a
16 ~~Board member of or an executive director for the Board represented~~ when the
17 person was initially appointed to the TWC Advisory Committee.
18

19 **§802.13. Terms of Office.**

- 20
21 (a) Notwithstanding the provisions in subsection (c) of this section, a term of a
22 TWC Advisory Committee member shall be two years.
23
24 (b) A member may serve multiple terms, but shall serve no more than two
25 consecutive terms.
26
27 (c) TWC Advisory Committee members shall serve staggered terms. In order to
28 establish the staggered terms, the executive committee of the organization, as
29 described in §802.11(a) of this subchapter, shall initially appoint three Board
30 members and one executive director for a one-year term and three Board
31 members and two executive directors for a two-year term. Following the
32 expiration of the initial four members' one-year term, the organization shall
33 appoint four members to two-year terms. Subsequent appointments for all
34 members shall be for two-year terms.
35

36 **§802.14. Selection and Role of a Presiding Officer.**

37
38 The TWC Advisory Committee shall elect a presiding officer who is a Board
39 member and shall preside over the TWC Advisory Committee and report to the
40 Commission.
41

42 **§802.15. Legislative Activity.**

- 43
44 (a) The TWC Advisory Committee and its members are subject to the lobbying
45 provisions in Texas Government Code, Chapter 556.
46

- 1 (b) Individual TWC Advisory Committee members are not restricted from
2 representing themselves, their Boards, their businesses, or any other entities
3 to the Texas Legislature.
4

5 **SUBCHAPTER C. REQUIREMENTS FOR TWC ADVISORY COMMITTEE**
6 **MEETINGS**

7
8 **§802.21. Open Meetings.**
9

- 10 (a) TWC Advisory Committee meetings shall be conducted in accordance with
11 open meetings requirements pursuant to Texas Government Code, Chapter
12 551.
13
14 (b) The responsibility for posting the meetings pursuant to the open meetings
15 requirements of Texas Government Code, §551.044, will be carried out by
16 the Agency's executive director, or designee.
17
18 (c) The responsibility for preparing and keeping the minutes pursuant to the
19 open meetings requirements of Texas Government Code, Chapter 551,
20 Subchapter B, will be carried out by the Agency's executive director, or
21 designee.
22
23 (d) Six members of the TWC Advisory Committee shall be present to constitute
24 a quorum for the purpose of conducting business.
25
26 (e) Any advice, recommendations, or reports made by the TWC Advisory
27 Committee must be approved by five members of the TWC Advisory
28 Committee.
29

30 **§802.22. Open Records.**
31

- 32 (a) TWC Advisory Committee records are subject to the Public Information Act,
33 Texas Government Code, Chapter 552.
34
35 (b) The responsibility for responding to requests for information under the Public
36 Information Act, Texas Government Code, Chapter 552, will be carried out
37 by the Agency's executive director, or designee.
38

39 **SUBCHAPTER D. REPORTING TO THE COMMISSION**
40

41 **§802.31. Annual Report.**
42

- 43 (a) The TWC Advisory Committee presiding officer shall submit an annual
44 report to the Commission on or before July 1 of each year.
45

1 (b) The annual report shall describe the activities of the TWC Advisory
2 Committee from June 1 of the previous year to May 31 of the reporting year
3 and include, at a minimum:

- 4
- 5 (1) a description of how the TWC Advisory Committee has accomplished its
6 purpose and tasks;
- 7
- 8 (2) a brief description of advice, recommendations, and reports made by the
9 TWC Advisory Committee;
- 10
- 11 (3) the costs related to the TWC Advisory Committee's existence and the
12 source of funds used to support its activities;
- 13
- 14 (4) a list of the meeting dates, including subcommittee meetings;
- 15
- 16 (5) the attendance records of its members; and
- 17
- 18 (6) the TWC Advisory Committee bylaws.
- 19

20 **SUBCHAPTER E. AGENCY EVALUATION OF THE TWC ADVISORY**
21 **COMMITTEE AND REPORT TO THE LEGISLATIVE BUDGET BOARD**

22

23 **§802.41. Agency Annual Evaluation.**

24

25 The Agency shall evaluate annually:

- 26
- 27 (1) the TWC Advisory Committee's work;
- 28
- 29 (2) the TWC Advisory Committee's usefulness; and
- 30
- 31 (3) the costs related to the TWC Advisory Committee's existence, including
32 the cost of Agency staff time spent in support of the TWC Advisory
33 Committee's activities.
- 34

35 **§802.42. Commission Report to the Legislative Budget Board.**

- 36
- 37 (a) The Commission shall report the information developed in the evaluation
38 required in §802.41 of this subchapter to the Legislative Budget Board.
- 39
- 40 (b) The Commission shall file the Legislative Budget Board report, described in
41 subsection (a) of this section, biennially in connection with the Commission's
42 request for appropriations.