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TITLE 4. EMPLOYMENT SERVICES AND UNEMPLOYMENT

SUBTITLE B. TEXAS WORKFORCE COMMISSION; WORKFORCE DEVELOPMENT; EMPLOYMENT SERVICES

CHAPTER 301. TEXAS WORKFORCE COMMISSION

Subchapter A. Organization of Commission

Sec. 301.001. Purpose; Agency Goals; Definitions

(a) The Texas Workforce Commission is a state agency established to operate an integrated workforce development system in this state, in particular through the consolidation of job training, employment, and employment-related educational programs available in this state, and to administer the unemployment compensation insurance program in this state.

(b) The commission shall meet the needs of:

(1) the businesses of this state for the development of a highly skilled and productive workforce;

(2) the workers of this state for education, skills training, and labor market information to enhance their employability, earnings, and standard of living and for an efficient unemployment compensation system;

(3) the people of this state who are making a transition into the workforce, particularly persons receiving public assistance, displaced homemakers, and students making the transition from school to work;

(4) the communities of this state to provide economic incentive programs for job creation, attraction, and expansion; and

(5) the taxpayers of this state to ensure that tax revenues for workforce development are spent efficiently and effectively.

(c) A reference in this code or another law to the Texas Employment Commission means the Texas Workforce Commission.

(d) In this title:

(1) **"Chair"** means the chair of the commission.

(2) **"Commission"** means the Texas Workforce Commission.

(3) **"Council"** means the Texas Workforce Investment Council.

(4) **"Employment service"** means the commission or the entity designated by the commission to implement duties imposed under the Wagner-Peyser Act (29 U.S.C. Section 49 et seq.)

(5) **"Executive director"** means the executive director of the commission.

(6) **"Local workforce development board"** means an entity formed under Chapter 2308, Government Code.

Sec. 301.0015. Guidelines Regarding Functions of Commission and Staff

(a) In administering its functions under this title or another law, the commission shall limit its activities to:

(1) setting commission policies, including policies that clearly separate the policymaking responsibilities of the commission and the management responsibilities of the executive director and commission staff;

(2) giving general direction to the executive director regarding the implementation of the commission's policies, and holding the executive director accountable for implementing the policies;

(3) approving the commission's budget recommendation to the legislature;

(4) reviewing under Subchapter D, Chapter 212, the decision of an appeal tribunal regarding unemployment compensation;

(1) reviewing under Subchapter D, Chapter 61, the decision of a wage claim appeal tribunal regarding a wage claim;

(6) adopting rules necessary to administer the commission's policies, including rules necessary for the administration of this title and rules governing required reports, procedures, and orders;

(7) responding to questions and comments that are directed to the commission by the executive director and that relate to setting or clarifying commission policies or relate to other matters of general interest to the commission; and

(8) requesting information from commission staff.

(b) Except as provided by Subsection (c), the commission may conduct the activities listed in Subsection (a) only when acting as a governmental body.

(c) The commission, acting as a governmental body, or an individual member of the commission may conduct the activities listed in Subsections (a)(7) and (8).

(d) In administering its functions under this title or another law, the commission, acting as a governmental body, or an individual member of the commission may not:

(1) direct the day-to-day operations of the executive director or other commission staff; or

(2) establish the details for the implementation of commission policies or direct the executive director or other commission staff about those details.

Sec. 301.002. Membership Requirements

(a) The commission is composed of three members:

(1) one member who is a representative of labor;

(2) one member who is a representative of employers; and

(3) one member who is a representative of the public.

(b) The governor shall appoint the members and make the appointments without regard to the race, color, disability, sex, religion, age, or national origin of the appointees.

Sec. 301.003. Member Restrictions

(a) In this section:

(1) **"Business"** does not mean personal investment in real property, financial instruments or tangible assets, or the provision of personal services, other than workforce services in the State of Texas, as an independent contractor.

(2) **"Texas trade association"** means a cooperative and voluntarily joined statewide association of business or professional competitors in this state designed to assist its members and its industry or profession in dealing with mutual business or professional problems and in promoting their common interest.

(b) A member of the commission or the member's spouse may not be employed by any business or other organization receiving money from the commission during the member's term on the commission.

(c) A person may not be a member of the commission or an employee of the commission employed in a "bona fide executive, administrative, or professional capacity," as that phrase is used for purposes of establishing an exemption to the overtime provisions of the federal Fair Labor Standards Act of 1938 (29 U.S.C. Section 201 et seq.), and its subsequent amendments, if:

(1) the person is an officer, employee, or paid consultant of a Texas trade association in the field of labor, business, workforce development, child care, or career schools and colleges; or

(2) the person's spouse is an officer, manager, or paid consultant of a Texas trade association in the field of labor, business, workforce development, child care, or career schools and colleges.

(d) A person may not serve as a member of the commission if the person or the person's spouse:

(1) is employed by or participates in the management of a career school or college or a business entity or other organization receiving money from the commission;

(2) owns or controls, directly or indirectly, more than a 10 percent interest in a career school or college or a business entity or other organization receiving money from the commission; or

(1) is registered, certified, licensed, permitted, or otherwise authorized by the commission; for purposes of this subdivision, "registered, certified, licensed, permitted, or otherwise authorized by the commission" does not include the following:

(A) the commission's role under Subtitle A; or

(B) employment of domestic service workers under Section 201.027.

(e) If a member of the commission or the member's spouse is engaged in any other employment, the member of the commission shall refrain from voting on or participating in any commission decision that involves the other employment.

(f) A member of the commission or the member's spouse may not enter into a contract, either directly with a local workforce development board or with an entity that contracts with a local workforce development board, under which the member or the member's spouse receives compensation for services provided by the member or the member's spouse.

Sec. 301.004. Effect of Lobbying Activity

A person may not be a member of the commission or act as the general counsel to the commission if the person is required to register as a lobbyist under Chapter 305, Government Code, because of the person’s activities for compensation on behalf of a profession related to the operation of the commission. If the person ceases to engage in lobbying activity and files a notice of termination as prescribed by 305.008, Government Code, the person may serve as a member of the commission or act as the general counsel to the commission.

Sec. 301.005. Terms; Vacancy

(a) Members of the commission are appointed for staggered six-year terms, with one member's term expiring on February 1 of each odd-numbered year.

(b) A member appointed to fill a vacancy shall hold office for the remainder of that term.

Sec. 301.006. Chair

(a) The governor shall designate the chair of the commission from among the members of the commission. The chair shall serve in that capacity at the pleasure of the governor for a two-year term. The governor may redesignate the same member to serve consecutive terms.

(b) Notwithstanding Subsection (a), the member of the commission who represents the public shall serve as chair:

(1) when the commission acts under:

(A) Chapter 21;

(B) Subchapter D, Chapter 61;

(C) Subchapter D, Chapter 212; or

(D) Chapter 301, Property Code; and

(2) in commission hearings involving unemployment insurance issues regarding tax coverage, contributions, or reimbursements.

Sec. 301.007. Removal of Commission Members

(a) It is a ground for removal from the commission that a member:

(1) during any 60-day period, is absent from each commission meeting for which the member received at least 48 hours' notice;

(2) does not have at the time of taking office the qualifications required by Section 301.002;

(3) does not maintain during service as a member of the commission the qualifications required by Section 301.002;

(4) is ineligible for membership on the commission under Section 301.003 or 301.004;

(5) cannot, because of illness or disability, discharge the member’s duties for a substantial part of the member’s term; or

(6) is absent from more than half of the regularly scheduled meetings of the members that the member is eligible to attend during a calendar year without an excuse approved by a majority vote of the members.

(b) The validity of an action of the commission is not affected by the fact that it was taken when a ground for the removal of a member of the commission existed.

(c) If the executive director has knowledge that a potential ground for removal exists, the executive director shall notify the chair of the potential ground. The chair shall then notify the governor and the attorney general that a potential ground for removal exists. If the potential ground for removal involves the chair, the executive director shall notify the next highest ranking member, who shall then notify the governor and the attorney general that a potential ground for removal exists.

Sec. 301.0075. Member Training

(a) A person who is appointed to and qualifies for office as a member of the commission may not vote, deliberate, or be counted as a member in attendance at a meeting of the members until the person completes a training program that complies with this section.

(b) The training program must provide the person with information regarding:

(1) the legislation that created the commission;

(2) the programs operated by the commission;

(3) the role and functions of the commission;

(4) the rules of the commission, with an emphasis on the rules that relate to disciplinary and investigatory authority;

(5) the current budget for the commission;

(6) the results of the most recent formal audit of the commission;

(7) the requirements of:

(A) the open meetings law, Chapter 551, Government Code;

(B) the public information law, Chapter 552, Government Code;

(C) the administrative procedure law, Chapter 2001, Government Code; and

(D) other laws relating to public officials, including conflict-of-interest laws;

(8) civil rights laws relevant to employment programs offered by the commission; and

(9) any applicable ethics policies adopted by the commission or the Texas Ethics Commission.

(c) A person appointed as a member of the commission is entitled to reimbursement, as provided by the General Appropriations Act, for the travel expenses incurred in attending the training program regardless of whether the attendance at the program occurs before or after the person qualifies for office.

Sec. 301.008. Application of Sunset Act

The Texas Workforce Commission is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the commission is abolished September 1, 2027.

Sec. 301.009. Commission Divisions

(a) The commission shall have:

(1) a division of workforce development;

(2) a division of unemployment compensation; and

(3) a civil rights division.

(b) In addition to the divisions listed in Subsection (a), the executive director may establish additional divisions within the commission for effective administration and performance of commission functions.

(c) The executive director shall appoint the directors of the divisions of the commission. The directors serve at the pleasure of the executive director.

Subchapter B. Commission Administration

Sec. 301.021. Donations

(a) The commission may accept a donation of services, money, or property that the commission determines furthers the lawful objectives of the commission. The donation must be accepted in an open meeting by a majority of the voting members of the commission and must be reported in the public records of the commission with the name of the donor and the purpose of the donation.

(b) The commission may not accept a donation from a person who is a party to an administrative proceeding pending before the commission until the 30th day after the date the commission's final order is issued. The commission may not accept a donation from a person who is a party to a suit in which the commission is also a party.

(c) The commission may not accept a donation from a for-profit entity that has a contract with the commission or has submitted a bid in response to a pending request for proposal issued by the commission for services or products having a value of not less than $50,000. This subsection does not apply to a contract or bid that relates only to providing child-care services.

(d) A for-profit entity may not enter into a contract with the commission or submit a bid in response to a request for proposal issued by the commission before the first anniversary of the date of making a donation to the commission unless the contract or bid relates only to providing child-care services.

Sec. 301.022. Audit

The financial transactions of the commission are subject to audit by the state auditor in accordance with Chapter 321, Government Code.

Sec. 301.023. Complaints Against Commission

(a) The commission shall maintain a file on each written complaint filed with the commission. The file must include:

(1) the name of the person who filed the complaint;

(2) the date the complaint is received by the commission;

(3) the subject matter of the complaint;

(4) the name of each person contacted in relation to the complaint;

(5) a summary of the results of the review or investigation of the complaint; and

(6) an explanation of the reason the file was closed, if the commission closed the file without taking action other than to investigate the complaint.

(b) The commission shall provide to the person filing the complaint and to each person who is a subject of the complaint a copy of the commission's policies and procedures relating to complaint investigation and resolution.

(c) The commission, at least quarterly until final disposition of the complaint, shall notify the person filing the complaint and each person who is a subject of the complaint of the status of the investigation unless the notice would jeopardize an undercover investigation.

Sec. 301.024. Official Seal; Use of Facsimiles

(a) The commission has an official seal. A court shall take judicial notice of the seal.

(b) The commission may execute, certify, authenticate, or sign, with a facsimile signature and seal, any instrument authorized under this subtitle to be issued by the commission or by an authorized representative of the commission, including a claim, statement, or audit report relating to the establishment or collection of delinquent contributions or penalties.

Subchapter C. Executive Director; Agency Personnel

Sec. 301.041. Executive Director; Agency Personnel

(a) The commission shall appoint an executive director to administer the daily operations of the commission in compliance with federal law.

(b) A reference in this code or another law to the **"agency administrator"** of the commission means the executive director.

(c) The executive director may:

(1) appoint and prescribe the powers and duties of all commission staff, including officers, accountants, attorneys, experts, and other persons as necessary in the performance of the commission's duties;

(2) delegate authority to a person appointed under this section as the executive director considers reasonable and proper for the effective administration of this title;

(3) employ and terminate the employment of commission staff members; and

(4) bond any person that handles money or signs checks under this title.

(d) The executive director or a person designated by the executive director shall develop a system of annual performance evaluations based on measurable job tasks. All merit pay for commission employees must be based on the system established under this subsection.

Sec. 301.042. Access to Certain Criminal History Record Information

(a) The commission may request an applicant for a security sensitive position to provide either a complete set of fingerprints or the applicant's complete name, driver's license number, and social security number. The executive director may deny employment in a security sensitive position to an applicant who fails to provide the requested fingerprints or information.

(b) The executive director may use information obtained under this section only to evaluate an applicant for employment in a security sensitive position. A security sensitive position must be so identified in the job description and in the announcement of the position.

(c) In this section, **"security sensitive position"** means a position of employment that requires as an incident of the employment:

(1) the performance of duties in:

(A) the automated data processing, controller, or fiscal department; or

(B) a position designated to handle receipts or disbursements of cash in a local or regional office;

(2) access to a computer terminal, if the information available from the terminal is required by law to be confidential;

(3) access to a master key for access to the premises other than during regular working hours; or

(4) the performance of duties considered to be security sensitive by the state auditor or the Inspector General of the United States Department of Labor.

Sec. 301.043. Standards of Conduct Information

The executive director or the executive director's designee shall provide to the members of the commission and employees of the commission, as often as necessary, information regarding the requirements for office or employment under this chapter, including information regarding a person's responsibilities under applicable laws relating to standards of conduct for state officers or employees.

Sec. 301.044. Career Ladder

The executive director shall develop an intra-agency career ladder program for employees of the commission. The program shall require the intra-agency posting of all nonentry-level positions concurrently with any public posting.

Sec. 301.045. Equal Employment Opportunity Policies

(a) The executive director or the executive director's designee shall prepare and maintain a written policy statement that implements a program of equal employment opportunity to ensure that all personnel decisions are made without regard to race, color, disability, sex, religion, age, or national origin.

(a-1) The policy statement must include:

(1) personnel policies, including policies relating to recruitment, evaluation, selection, training, and promotion of personnel, that show the intent of the commission to avoid the unlawful employment practices described by Chapter 21; and

(2) an analysis of the extent to which the composition of the commission's personnel is in accordance with state and federal law and a description of reasonable methods to achieve compliance with state and federal law.

(b) The policy statement must:

(1) be updated annually;

(2) be reviewed by the Commission on Human Rights for compliance with Subsection (a-1)(1); and

(3) be filed with the governor's office

(c) The governor's office shall deliver a biennial report to the legislature based on the information received under Subsection (b). The report may be made separately or as part of other biennial reports to the legislature.

(NOTE: H.R. 874, 81st Legislature, repealed Section 301.046.)

Sec. 301.047. Commission Employees Accountable to Executive Director

In performing functions required or authorized by law, employees of the commission are directly accountable to the executive director.

Subchapter D. General Powers and Duties of Commission and Executive Director

Sec. 301.061. General Powers and Duties of Commission and Executive Director

(a) The commission shall provide the public with a reasonable opportunity to appear before the commission and speak on any issue under the jurisdiction of the commission.

(b) The executive director shall:

(1) administer this title as provided by rules adopted by the commission;

(2) oversee and manage:

(A) the daily operation and administrative affairs of the commission; and

(B) the implementation of commission policies set by the commission;

(3) coordinate the activities of the commission staff and hold commission staff accountable for the staff's performance of its duties;

(4) determine the organization of the agency and methods of procedure of the agency in accordance with this title; and

(5) make expenditures necessary for the operation of this title.

Sec. 301.0611. Coordination of Certain Awards and Incentives

The commission, in cooperation with the Texas Education Agency, the comptroller, and the Texas Higher Education Coordinating Board, shall prepare and make available to the public a list of all awards and incentives available for business participation in:

(1) a school district's career and technology education program under Subchapter F, Chapter 29, Education Code; or

(2) any other career and technology education training.

Sec. 301.0615. Application of Administrative Procedure Act

(a) Except as otherwise provided by this title, a hearing conducted under this title is not subject to:

(1) Section 2001.038, Government Code; or

(2) Subchapters C-H, Chapter 2001, Government Code.

(b) A commission order or decision that results from a hearing conducted under this title is not subject to the requirements imposed under:

(1) Section 2001.004(3), Government Code; or

(2) Section 2001.005, Government Code.

Sec. 301.062. Findings

Both the commission and the executive director may make findings and determine issues under this title as necessary to administer this title.

Sec. 301.063. State and Federal Cooperation

(a) The commission is designated as the agency of this state for implementation in this state of:

(1) the Wagner-Peyser Act (29 U.S.C. Section 49 et seq.); and.).

(2) the Job Training Partnership Act (29 U.S.C. Section 1501 et seq.).

(b) In administering this title the commission and executive director shall:

(1) cooperate with the secretary under the Social Security Act (42 U.S.C. Section 301 et seq.) to the fullest extent consistent with this title;

(2) make reports in the form and containing information required by the secretary and comply with provisions the secretary finds necessary to ensure that the reports are correct and verified;

(3) comply with the regulations prescribed by the secretary governing the expenditures of funds allotted and paid to the state under Title III of the Social Security Act (42 U.S.C. Section 501 et seq.) to assist in the administration of this title; and;

(4) cooperate with any official or agency of the United States having powers or duties under the Wagner-Peyser Act (29 U.S.C. Section 49 et seq.) and take all actions necessary to secure to this state the benefits of that Act and necessary to perform the commission's duties under Chapter 307. .)

(c) The commission may provide reasonable cooperation to each agency of the United States charged with the administration of any unemployment insurance law.

(d) On request, the commission shall furnish to an agency of the United States responsible for the administration of public works or assistance through public employment the name, address, ordinary occupation, and employment status of each recipient of benefits, including each nonrecipient parent as defined by Section 31.0021, Human Resources Code, who is receiving benefits, and shall inform the agency of the recipient's right to further benefits under Subtitle A;

(e) In this section, **"secretary"** means the United States secretary of labor.

(f) The commission shall contract with the Texas Department of Transportation for the Texas Department of Transportation to deliver public transportation services to clients of eligible programs, except that the Texas Department of Transportation may not assume responsibility for client case review, case management, or coordination or authorization of benefits.

Sec. 301.064. Interpreter Services; Bilingual Forms

(a) The executive director shall provide language interpreters for agency programs through a comprehensive language services program for persons whose primary language is Spanish and may provide language interpreters through the program for agency programs for persons whose primary language is other than Spanish or English.

(b) The language services program must provide services, including translation services, both to employers and to employees or prospective employees.

(c) The executive director shall print essential agency forms and instructional information in both English and Spanish. A form shall be written in Spanish only when revised or when new or additional forms are printed or prepared.

Sec. 301.065. Annual Report

(a) As soon as practicable after the close of each fiscal year, the commission shall submit to the governor and the legislature a report on the administration and operation of the commission's activities under this title during the preceding fiscal year, including each recommendation of the commission for amendments to this title.

(b) The annual report must include:

(1) a balance sheet of the money in the compensation fund;

(2) the commission's long-term and short-term objectives; and

(3) any other information requested by the legislature or the Legislative Budget Board.

Sec. 301.066. Publications

(a) The executive director shall print:

(1) the text of Subtitle A;

(2) the commission's rules; and

(3) the commission's annual report to the governor and the legislature.

(b) The executive director shall prepare information describing the functions of the commission and the commission's procedures by which complaints are filed with and resolved by the commission.

(c) The executive director shall make the information required to be printed or prepared under this section and any other material that the executive director determines to be relevant and suitable for distribution available to the public and appropriate state agencies.

Sec. 301.067. Tax Assistance; Information on Earned Income Tax Credit

(a) The commission may work in conjunction with the Internal Revenue Service to make certain offices of the commission volunteer income tax assistance sites during the two months preceding the date federal income taxes are due.

(b) In conjunction with the comptroller’s office, the commission may use existing resources to distribute information and educational materials on the federal earned income tax credit provided by the comptroller under Section 403.024, Government Code, to local workforce

development boards and workforce development centers for use in providing federal income tax assistance to persons who participate in workforce development programs.

(c) In addition to providing information under Subsection (b) to a person who participates in a workforce development program, the commission may provide the information to any other person who uses services provided through the commission.

(d) The commission may adopt rules as necessary to implement this section, including rules regarding the information that employers must provide under Chapter 104 regarding employee eligibility for the federal earned income tax credit.

Sec. 301.0671. Federal Work Opportunity Tax Credit and State Tax Refund for Certain Employers

(a) The commission is the lead agency in promoting awareness of the federal work opportunity tax credit program and the state tax refund for employers under Subchapter H.

(b) The commission, in coordination with the comptroller's office and the Texas Department of Human Services, shall develop and distribute educational materials designed to increase awareness of the tax credit and tax refund described by Subsection (a) to encourage employers to hire recipients of the financial assistance program for persons with dependent children under Chapter 31, Human Resources Code.

Sec. 301.0675. Vocational Rehabilitation and Certain Other Services for Persons With Disabilities.

Subject to federal approval, if required, to administer vocational rehabilitation services and other services and programs to persons with disabilities under Subtitle C, Title 4, the commission has primary responsibility for providing those services and programs.

Sec. 301.0681. Policy on Technological Solutions

The commission shall develop and implement a policy requiring the executive director and commission employees to research and propose appropriate technological solutions to improve the commission's ability to perform its functions. The technological solutions must:

(1) ensure that:

(A) the public is able to easily find information about the commission on the Internet; and

(B) persons who want to use the commission's services are able to:

(i) interact with the commission through the Internet; and

(ii) access any service that can be provided effectively through the Internet;

(2) be cost-effective; and

(3) be developed through the commission's planning processes.

Sec. 301.0682. Negotiated Rulemaking and Alternative Dispute Resolution Policy

(a) The commission shall develop and implement a policy to encourage the use of:

(1) negotiated rulemaking procedures under Chapter 2008, Government Code, for the adoption of the commission's rules; and

(2) appropriate alternative dispute resolution procedures under Chapter 2009, Government Code, to assist in the resolution of internal and external disputes under the commission's jurisdiction, other than proceedings conducted by the commission under Title 2 and this title of this code that are not subject to Subchapters C-H, Chapter 2001, Government Code.

(b) The commission's procedures relating to alternative dispute resolution must conform, to the extent possible, to any model guidelines issued by the State Office of Administrative Hearings for the use of alternative dispute resolution by state agencies.

(c) The commission shall designate a trained person to:

(1) coordinate the implementation of the policy developed under Subsection (a);

(2) serve as a resource for any training needed to implement the procedures for negotiated rulemaking or alternative dispute resolution; and

(3) collect data concerning the effectiveness of those procedures, as implemented by the commission.

Sec. 301.069. Partnership with Business Community

To meet the needs of businesses in this state and to equip workers and job seekers with the skills required to compete for jobs in this state, the commission shall:

(1) partner with the business community to:

(A) identify:

(i) skills required by the business community;

(ii) key industry sectors in the business community that are likely to benefit from skill development services and programs offered by the commission; and

(iii) employment opportunities offered by the business community; and

(B) develop services and programs that are designed to equip workers and job seekers with the skills required by the business community; and

(2) support business and community economic development activities of local workforce development boards and the state.

Subchapter E. Investigative and Subpoena Powers

Sec. 301.071. Investigative and Subpoena Powers

(a) In discharging duties imposed under this title, an appeal tribunal established under this title, an examiner or other hearings officer employed or appointed by the commission or the executive director, a member of the commission, or a representative authorized by the commission may:

(1) administer oaths;

(2) take depositions;

(3) certify to official acts; and

(4) issue subpoenas to compel the attendance of witnesses and the production of books, papers, correspondence, memoranda, and other records considered necessary as evidence in connection with a disputed claim or the administration of this title.

(b) The commission's authority to conduct an investigation, assemble information, or require the submission of documentary or oral testimony is limited to the power necessary to properly administer this title.

(c) Notwithstanding Section 154.004, Local Government Code, or any other law, the executive director shall pay the fee of a sheriff or constable who serves a subpoena under this section. The fee shall be paid from the commission's administrative funds, and the comptroller shall issue a warrant for the fee as directed by the executive director.

Sec. 301.072. Enforcement of Subpoena; Offense; Penalties

(a) If a person is guilty of contumacy or refuses to obey a subpoena issued by a member of the commission or an authorized representative of the commission, a county or district court, on

application by the commission or its authorized representative, may order the person to appear before a member of the commission, the commission, or its authorized representative to produce evidence or give testimony regarding the matter under investigation or in question. Only a court within the jurisdiction where the commission conducts the inquiry or where the person is found, resides, or transacts business may issue the order.

(b) Failure to obey a court order issued under Subsection (a) is punishable as contempt.

(c) A person commits an offense if the person, without just cause, does not obey a subpoena of the commission. An offense under this subsection is punishable by a fine of not less than $200, by confinement for not more than 60 days, or by both fine and confinement. Each day of violation constitutes a separate offense.

Sec. 301.073. Self-Incrimination

(a) In any cause or proceeding before the commission, a person is not excused from attending and testifying, from producing books, papers, correspondence, memoranda, and other records, or from obeying a subpoena of the commission, a member of the commission, or a representative of the commission on the ground that the testimony or evidence, documentary or otherwise, may tend to incriminate the person or subject the person to a penalty or forfeiture.

(b) A person may not be prosecuted or subjected to penalty or forfeiture for or because of a transaction or thing for which the person is compelled to testify or produce evidence after having claimed a privilege against self-incrimination except for perjury.

Sec. 301.074. Defamation

An oral or written statement made to the commission or to an employee of the commission in connection with the discharge of the commission's or the employee's duties under Subtitle A may not be the basis for an action for defamation of character.

Subchapter F. Records

Sec. 301.081. Employee Records of Employing Unit; Offense; Penalty

(a) Each employing unit shall keep employment records containing information as prescribed by the commission and as necessary for the proper administration of this title. The records are open to inspection and may be copied by the commission or an authorized representative of the commission at any reasonable time and as often as necessary.

(b) The commission may require from an employing unit sworn or unsworn reports regarding persons employed by the employing unit as necessary for the effective administration of this title.

(c) Employment information obtained or otherwise secured under this section may not be published and is not open to public inspection, other than to a public employee in the performance of public duties, except as the commission considers necessary for the proper administration of this title or as provided by commission rule and consistent with federal law.

(d) A person commits an offense if the person violates any provision of this section. An offense under this subsection is a Class A misdemeanor.

Sec. 301.082. Copies of Records

(a) The executive director may furnish a photostatic or certified copy of a record in the commission's possession to a person entitled to receive a copy of the record on application by the person.

(b) The executive director shall charge a reasonable fee in an amount set by the commission for a copy of a record furnished under this section.

Sec. 301.083. Access to Records by Railroad Retirement Board

(a) The executive director may make state records relating to the administration of Subtitle A available to the Railroad Retirement Board.

(b) The executive director may furnish the Railroad Retirement Board with copies of the records requested by the board at the board's expense.

Sec. 301.084. Destruction of Records

The executive director may destroy any of the records of the agency under safeguards that protect the confidential nature of the records if the executive director:

(1) determines that the records no longer serve a legal, administrative, or other useful purpose; or

(2) has made an authentic reproduction of the records to be destroyed.

Sec. 301.085. Unemployment Compensation and Job Matching Services Information; Offense; Penalty

(a) In this section:

(1) "Job matching services information" means information in the records of the commission that pertains to the commission's job matching services provided to employers and job seekers through the Internet, workforce centers, or other means.

(2) "Unemployment compensation information" means information in the records of the commission that pertains to the administration of Subtitle A, including any

information collected, received, developed, or maintained in the administration of unemployment compensation benefits or the unemployment compensation tax system.

(b) Consistent with federal law, the commission shall adopt and enforce reasonable rules governing the confidentiality, custody, use, preservation, and disclosure of unemployment compensation information. The rules must include safeguards to protect the confidentiality of identifying information regarding any individual or any past or present employer or employing unit contained in unemployment compensation information, including any information that foreseeably could be combined with other publicly available information to reveal identifying information regarding the individual, employer, or employing unit, as applicable.

(b-1) The commission shall adopt and enforce reasonable rules governing the confidentiality, custody, use, preservation, and disclosure of job matching services information. The rules must include safeguards to protect the confidentiality of identifying information regarding any individual or any past or present employer or employing unit contained in job matching services information, including any information that foreseeably could be combined with other publicly available information to reveal identifying information regarding the individual, employer, or employing unit, as applicable.

(c) Unemployment compensation information and job matching services information are not public information for purposes of Chapter 552, Government Code.

(d) Unless permitted by this subchapter or commission rule, a person commits an offense if the person solicits, discloses, receives, or uses, or authorizes, permits, participates in, or acquiesces in another person's use of, unemployment compensation information or job matching services information that reveals:

(1) identifying information regarding any individual or past or present employer or employing unit; or

(2) information that foreseeably could be combined with other publicly available information to reveal identifying information regarding any individual or past or present employer or employing unit.

(e) An offense under Subsection (d) is a Class A misdemeanor.

Sec. 301.086. Provision of Certain Information to Comptroller

(a) Not later than June 1 of every fifth year, the commission shall provide to the comptroller, for the purpose of assisting the comptroller in the identification of persons entitled to unclaimed property reported to the comptroller, the name, address, social security number, and date of birth of each person about whom the commission has such information in its records.

(b) Information provided to the comptroller under this section is confidential and may not be disclosed to the public.

(c) The commission shall provide the information in the format prescribed by rule of the comptroller.

(Note: As directed by the Legislature in Section 47.04, Senate Bill 1, 82nd Texas Legislature 1st Special Session, the Department of Public Safety, the Employees Retirement System of Texas, the Teacher Retirement System of Texas, and the Texas Workforce Commission shall provide information described in this section beginning in 2016.)

Subchapter H. Tax Refund for Wages Paid to Employee Receiving Financial Assistance

Sec. 301.101. Definition

In this subchapter, "wages" has the meaning assigned by Sections 51(c)(1), (2), and (3), Internal Revenue Code of 1986 (26 U.S.C. Section 51).

Sec. 301.102. Tax Refund Voucher

(a) The commission shall issue a tax refund voucher in the amount allowed by this subchapter and subject to the restrictions imposed by this subchapter to a person that meets the eligibility requirements under this subchapter.

(b) A person issued a tax refund voucher may, subject to the provisions of this subchapter, apply for the amount of the refund of a tax that is paid by the person to this state if the tax is administered by the comptroller and deposited to the credit of the general revenue fund without dedication.

Sec. 301.103. Amount of Refund; Limitation

(a) The amount of the refund allowed under this subchapter is equal to 20 percent of the total wages, up to a maximum of $10,000 in wages for each employee, paid or incurred by a person for services rendered by an employee of the person during the period beginning with the date the employee begins work for the person and ending on the first anniversary of that date.

(b) The refund claimed for a calendar year may not exceed the amount of net tax paid by the person to this state, after any other applicable tax credits, in that calendar year.

Sec. 301.104. Eligibility

A person is eligible for the refund for wages paid or incurred by the person, during each calendar year for which the refund is claimed, only if:

(1) the wages paid or incurred by the person are for services of an employee who is:

(A) a resident of this state; and

(B) a recipient of:

(i) financial assistance and services in accordance with Chapter 31, Human Resources Code; or

(ii) medical assistance in accordance with Chapter 32, Human Resources Code;

(2) the person satisfies the certification requirements under Section 301.105; and

(3) the person, under an arrangement under Section 32.0422, Human Resources Code, provides and pays for the benefit of the employee a part of the cost of coverage under:

(A) a health plan provided by a health maintenance organization established under Chapter 843, Insurance Code;

(B) a health benefit plan approved by the commissioner of insurance;

(C) a self-funded or self-insured employee welfare benefit plan that provides health benefits and is established in accordance with the Employee Retirement Income Security Act of 1974 (29 U.S.C. Section 1001 et seq.); or

(D) a medical savings account or other health reimbursement arrangement authorized by law.

Sec. 301.105. Certification

A person is not eligible for the refund for wages paid or incurred by the person unless the person has received a written certification from the commission that the employee is a recipient of medical assistance or financial assistance and services on or before the day the employee begins employment with the person.

Sec. 301.106. Application for Refund; Issuance

(a) A person may apply for a tax refund voucher for wages paid an employee in a calendar year only on or after January 1 and before April 1 of the following calendar year.

(b) The commission shall promulgate a form for the application for the tax refund voucher. A person must use this form in applying for the refund.

(c) On issuance of the tax refund voucher to the person by the commission, the person may apply the voucher against a tax paid by the person to this state only for the calendar year for which the voucher is issued.

Sec. 301.107. Rules

(a) The commission shall adopt rules as necessary to carry out its powers and duties under this subchapter.

(b) The Texas Department of Human Services shall provide to the commission information as necessary to enable the commission to determine whether a person is eligible for the tax refund authorized by this subchapter.

Sec. 301.108. Limitation on Conveyance, Assignment, or Transfer of Refund

A person may convey, assign, or transfer a refund under this subchapter to another person only if:

(1) the employing unit is sold, conveyed, assigned, or transferred, in the same transaction or in a related transaction, to the person to whom the refund is conveyed, assigned, or transferred; or

(2) the person to whom the refund is conveyed, assigned, or transferred:

(A) is subject to a tax administered by the comptroller and deposited to the credit of the general revenue fund without dedication; and

(B) directly or indirectly owns, controls, or otherwise directs, in whole or in part, an interest in the person from whom the refund is conveyed, assigned, or transferred.

Subchapter I. Civil Rights Division

Sec. 301.151. Definitions

In this subchapter:

(1) **"Director"** means the director of the division.

(2) **"Division"** means the civil rights division of the commission.

Sec. 301.153. Governance; Authority

(a) The commission shall establish policies for the division and the executive director shall supervise the director in administering the activities of the division.

(b) The commission is the state authority established as a fair employment practice agency and is authorized, with respect to an unlawful employment practice, to:

(1) grant relief from the practice;

(2) seek relief from the practice; or

(3) institute criminal proceedings.

(c) The commission shall administer Chapter 21 of this code and Chapter 301, Property Code, including the powers and duties formerly exercised by the former Commission on Human Rights under those laws.

(d) A reference in Chapter 21 of this code, Chapter 301, Property Code, or any other law to the former Commission on Human Rights means the commission.

Sec. 301.154. Director

(a) The director shall be appointed by the executive director to administer the powers and duties of the division.

(b) To be eligible for appointment, the director must have relevant experience in the area of civil rights, specifically in working to prevent the types of discrimination the division is charged with preventing. The director must demonstrate a commitment to equal opportunity for minorities, women, and the disabled. The director should also have relevant experience with housing and employment discrimination claims.

Sec. 301.155. Investigator Training Program; Procedures Manual

(a) A person who is employed under this chapter by the division as an investigator may not conduct an investigation until the person completes a comprehensive training and education program for investigators that complies with this section.

(b) The training program must provide the person with information regarding:

(1) the requirements relating to employment adopted under the Americans with Disabilities Act (42 U.S.C. Section 12101 et seq.) and its subsequent amendments, with a special emphasis on requirements regarding reasonable accommodations;

(2) various types of disabilities and accommodations appropriate in an employment setting for each type of disability; and

(3) fair employment and housing practices.

(c) Each investigator shall annually complete a continuing education program designed to provide investigators with the most recent information available regarding the issues described by Subsection (b), including legislative and judicial changes in the law.

(d) The director shall develop and biennially update an investigation procedures manual. The manual must include investigation procedures and information and may include information regarding the Equal Employment Opportunity Commission and the United States Department of Housing and Urban Development.

Sec. 301.156. Analysis of Discrimination Complaints; Report

(a) The division shall collect and report statewide information relating to employment and housing discrimination complaints as required by this section.

(b) Each state fiscal year, the division shall collect and analyze information regarding employment and housing discrimination complaints filed with the division, the Equal Employment Opportunity Commission, the United States Department of Housing and Urban Development, and local commissions in this state. The information must include:

(1) an analysis of employment complaints filed by the basis of the complaint, including:

(A) sex, race, color, age, disability, national origin, religion, and genetic information; and

(B) retaliatory actions against the complainant;

(2) an analysis of housing complaints filed by the basis of the complaint, including sex, race, color, disability, national origin, religion, and familial status;

(3) an analysis of employment complaints filed by issue, including discharge, terms and conditions, sexual harassment, promotion, hiring, demotion, and layoff;

(4) an analysis of housing complaints filed by issue, including terms and conditions, refusal to rent or sell, discriminatory financing or advertising, and false representation;

(5) an analysis of employment and housing cases closed by the reason the case was closed, including findings or determinations of cause or no cause, successful conciliation, right to sue issued, complaint withdrawn after resolution, no-fault settlement, failure to cooperate by the complainant, and lack of jurisdiction; and

(6) the average processing time for complaints resolved by the division in each state fiscal year, regardless of whether the complaint was filed in the same fiscal year in which the complaint was resolved.

(c) The results of an analysis required under this section shall be included in the commission's annual report to the governor and legislature.

Sec. 301.157. Analysis of State Agency Discrimination Complaints; Report

(a) Each state fiscal year, the division shall collect and analyze information regarding employment discrimination complaints, other than complaints determined to be without merit, filed with the division against a state agency. The information must include:

(1) an analysis of the complaints, both by number and by type; and

(2) key findings or trends the division identifies during the division's review of state agency personnel policies and procedures under Section 21.453.

(b) The commission shall include the results of the division's analysis under this section in the commission's annual report to the governor and the legislature. The division shall exclude from the report any identifying information of a complainant or a state agency complaint as necessary to maintain confidentiality required by the commission's contract with the federal Equal Employment Opportunity Commission or by other law.

Subchapter J. Adult Education and Literacy

Sec. 301.171. Cooperation with Texas Education Agency to Improve Adult Education and Literacy Services

The commission shall collaborate with the Texas Education Agency to improve the coordination and implementation of adult education and literacy services in this state.

Subchapter K. Detection and Prevention of Child-Care Fraud, Waste, and Abuse

Sec. 301.191. Prevention and Detection of Child-Care Fraud, Waste, and Abuse

(a) The commission shall develop risk assessment protocols to identify and assess possible instances of fraud, waste, and abuse in child-care programs, including:

(1) the use of unemployment insurance wage records to identify:

(A) potential ineligible parents due to a change in income or underreporting of income;

(B) relative child-care providers who are engaged in other employment; and

(C) parents who do not have the required work history; and

(2) the identification of parents who apply for or receive child-care services in multiple workforce areas simultaneously.

(b) The commission shall ensure that local workforce development boards implement procedures to prevent and detect fraud, waste, and abuse in child-care programs.

(c) The commission may use a motor vehicle record, including a photographic image and signature, to prevent and detect fraud, waste, and abuse in child-care programs.

(d) The commission may use the information under Subsection (c) otherwise for enforcement under this title.

Sec. 301.192. Correction of Child-Care Fraud, Waste, and Abuse

(a) The commission shall ensure that corrective action is initiated against a child-care provider who commits fraud, including:

(1) temporarily or permanently withholding payments to the provider for child-care services already delivered;

(2) recovering money paid for child care from the child-care provider;

(3) stopping the provision of authorized child care at the provider's facility or location; or

(4) taking any other action consistent with the intent of the governing statutes or rules to investigate, prevent, or stop suspected fraud.

(b) The commission shall ensure that corrective action is initiated against a parent who commits fraud, including:

(1) recovering money paid for child care from the parent;

(2) declaring the parent ineligible for future child care under a commission program;

(3) limiting the enrollment of the parent's child to a regulated child-care provider; or

(4) taking any other action consistent with the intent of the governing statutes or rules to investigate, prevent, or stop suspected fraud.

(c) If the commission proposes to take a corrective action under Subsection (a) or (b), the provider or parent is entitled to appeal the proposed corrective action in accordance with procedures adopted by the commission by rule.