

CHAPTER 843. JOB MATCHING SERVICES

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

ON SEPTEMBER 11, 2012, THE TEXAS WORKFORCE COMMISSION ADOPTED THE BELOW RULES WITH PREAMBLE TO BE SUBMITTED TO THE *TEXAS REGISTER*.

Estimated date of publication in the *Texas Register*: **September 28, 2012**

The rules will take effect: **October 1, 2012**

The Texas Workforce Commission (Commission) adopts amendments to the following section of Chapter 843, relating to Job Matching Services, without changes, as published in the July 6, 2012, issue of the *Texas Register* (37 TexReg 5108):

Subchapter A General Provisions, §843.1

PART I. PURPOSE, BACKGROUND, AND AUTHORITY

PART II. EXPLANATION OF INDIVIDUAL PROVISIONS

PART I. PURPOSE, BACKGROUND, AND AUTHORITY

The purpose of the Chapter 843 amendments is to conform the Subchapter A general provisions with the requirements of Senate Bill (SB) 563, enacted by the 82nd Texas Legislature, Regular Session (2011).

Previously, anyone could submit an open records request for WorkInTexas.com data and legally obtain personal and contact information for any job seeker who has registered with the system. This information could be used for purposes other than the Agency's job matching system, such as marketing outreach, and for potentially illegal activities.

SB 563 amends Texas Labor Code §301.085 by requiring the Commission to "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."

PART II. EXPLANATION OF INDIVIDUAL PROVISIONS

(Note: Minor editorial changes are made that do not change the meaning of the rules and, therefore, are not discussed in the Explanation of Individual Provisions.)

SUBCHAPTER A. GENERAL PROVISIONS

The Commission adopts the following amendments to Subchapter A:

§843.1. Employer and Job Seeker Services

New §843.1(d):

- (1) defines "job matching services information" as information in the records of the Agency that pertains to the job matching services system provided to employers, employing units, and job seekers through the Internet, Workforce Solutions Offices, or other means, and maintained by the Agency, Local Workforce Development Boards (Boards), and their workforce service providers;
- (2) states that job matching services information is not public information and shall be maintained as confidential to the same degree as unemployment compensation information as set forth in 40 TAC Chapter 815, Subchapter E;
- (3) does not limit or waive any right or obligation of the Agency to invoke limitations or confidentiality requirements based on separate laws or regulations; and
- (4) states that disclosure of job matching services information is permissible:
 - (A) for the purposes of administering job matching services;
 - (B) when disclosing information about a job seeker or employer to that job seeker or employer;
 - (C) when there is a written information release signed by the job seeker or employer;
 - (D) when the information is provided to a public official for use in the performance of his or her official duties; and
 - (E) in other situations that do not violate the confidentiality of the job seeker or employer and that have been approved by the Agency's Open Records Unit.

No comments were received.

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

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

The adopted rules affect Texas Labor Code, Chapter 302, and Texas Government Code Chapter 657.

CHAPTER 843. JOB MATCHING SERVICES

SUBCHAPTER A. GENERAL PROVISIONS

§843.1. Employer and Job Seeker Services.

- (a) Purpose. Job matching services provide the public with a clearinghouse for exchanging information on job postings and job seekers. This section sets forth for employers and job seekers the methods available for accessing the clearinghouse of employer and job seeker information.
- (b) Employer Postings of Job Openings. Employers may obtain access to the job matching services, including information to assist employers in posting job openings in the job matching system, by one or more of the following methods:
 - (1) registering directly using the Internet-based job matching system at www.workintexas.com;
 - (2) calling or visiting any Workforce Solutions Office in Texas; or
 - (3) through any other means approved by the Local Workforce Development Board (Board) in consultation with Workforce Solutions Office staff located in the local workforce development area (workforce area) in which the open position exists, including sending or requesting information by mail or facsimile.
- (c) Job Seeker Access to Job Opening Information and Posting Résumé. Job seekers can obtain access to the job matching services, including information to assist job seekers in posting a résumé, obtaining information on job openings posted in the job matching system, labor market information, and employment and training opportunities by one or more of the following methods:
 - (1) viewing online information available on the Internet;
 - (2) registering directly using the Internet-based job matching system at www.workintexas.com;
 - (3) calling or visiting any Workforce Solutions Office in Texas; or
 - (4) through any other means approved by the Board in consultation with Workforce Solutions Office staff located in the workforce area in which the open position exists, including sending or requesting information by mail or facsimile.
- (d) Confidentiality and Disclosure of Job Matching Services Information.

- (1) "Job matching services information" is information in the records of the Agency that pertains to the job matching services system provided to employers, employing units, and job seekers through the Internet, Workforce Solutions Offices, or other means, that is maintained by the Agency and Boards and their workforce service providers.
- (2) Job matching services information is not public information and shall be maintained as confidential to the same degree as unemployment compensation information as set forth in Chapter 815, Subchapter E, of this title.
- (3) This subsection does not limit or waive the Agency's rights or obligations to invoke limitations or confidentiality requirements based on separate laws or regulations.
- (4) Disclosure of job matching services information is permissible:
 - (A) for the purposes of administering job matching services;
 - (B) when disclosing information about a job seeker or employer to that job seeker or employer;
 - (C) when there is a written information release signed by the job seeker or employer;
 - (D) when the information is provided to a public official for use in the performance of his or her official duties; and
 - (E) in other situations that do not violate the confidentiality of the job seeker or employer and that have been approved by the Agency's Open Records Unit.