

CHAPTER 807. CAREER SCHOOLS AND COLLEGES

PROPOSED 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 JUNE 6, 2007, THE TEXAS WORKFORCE COMMISSION PROPOSED THE BELOW RULES WITH PREAMBLE TO BE SUBMITTED TO THE *TEXAS REGISTER*.

Estimated Publication Date of the Proposal in the *Texas Register*: **June 22, 2007**

Estimated End of Comment Period: **July 23, 2007**

The Texas Workforce Commission (Commission) proposes the following new section to Chapter 807, relating to Career Schools and Colleges:

Subchapter A, General Provisions, §807.7

The Commission proposes amendments to the following section of Chapter 807, relating to Career Schools and Colleges:

Subchapter I, Application Fees and Other Charges, §807.152

- PART I. PURPOSE, BACKGROUND, AND AUTHORITY
- PART II. EXPLANATION OF INDIVIDUAL PROVISIONS
- PART III. IMPACT STATEMENTS
- PART IV. COORDINATION ACTIVITIES

PART I. PURPOSE, BACKGROUND, AND AUTHORITY

The purpose of new §807.7, Exemptions, is to set forth a procedure for the Commission to grant exemptions and hear appeals regarding denied exemptions from the requirement for a certificate of approval. Texas Education Code, Chapter 132, the Career Schools and Colleges Act (Act), provides a list of schools and courses of instruction that may be exempted from the requirements of the Act and do not require a certificate of approval. The statute requires a school to apply to the Commission for approval of such an exemption. The new rule establishes a procedure for approving, denying, or revoking exemptions. In addition, the new rule sets forth a procedure for appealing the denial or revocation of an exemption in the same manner as the denial or revocation of a certificate of approval.

The purpose of amending §807.152 is to more closely track Texas Education Code, Chapter 132, and the flexibility it provides the Commission with regard to the range of renewal fees collected annually from career schools and colleges for purposes of program administration.

Currently, renewal fees are assessed by applying a percentage to the gross tuition and fees, excluding refunds, of a school or college. Texas Education Code §132.201 provides that renewal

fees may be set by the Commission in an amount "not to exceed 150 percent" of an amount that is determined by applying a percentage "not to exceed" 0.3%. The rule in its present form does not provide this full range of options and, as such, is more restrictive than the statute.

In adapting to circumstances, as currently, where the Commission may otherwise collect more in fees than necessary to administer Texas Education Code, Chapter 132; amending §807.152 to allow the Commission to annually establish the renewal fee percentage will provide the Commission flexibility in adapting to changing circumstances. The Commission anticipates that the result of this rule amendment, in the near term, will be a lower fee for many schools. Schools currently assessed the minimum fee will not see a reduction as the minimum does not change.

Conversely, by mirroring the provisions of Texas Education Code §132.201, the Commission will have the full range of rate-setting mechanisms to address any increased need for fee income. This proposed change ensures that the collection of renewal fees for certification of career schools and colleges is appropriately set to sufficiently cover the costs of administering the chapter.

PART II. EXPLANATION OF INDIVIDUAL PROVISIONS

SUBCHAPTER A. GENERAL PROVISIONS

The Commission proposes the following amendments to Subchapter A:

§807.7. Exemptions

New §807.7(a) provides that a school or educational institution may apply to the Commission for an exemption under §132.002 or §132.003 of the Act.

New §807.7(b) provides that the Commission must grant the requested exemption if the Commission determines that the school or educational institution meets the statutory requirements for an exemption under §132.002 or §132.003 of the Act.

New §807.7(c) provides that the Commission may deny or revoke an exemption in the same manner as a denial or revocation of a certificate of approval, if the Commission determines that the school or educational institution does not meet the requirements for the exemption under §132.002 or §132.003 of the Act.

New §807.7(d) provides that a school or educational institution may appeal the denial or revocation of an exemption in the same manner as for appealing the denial or revocation of a certificate of approval.

SUBCHAPTER I. APPLICATION FEES AND OTHER CHARGES

The Commission proposes the following amendments to Subchapter I:

§807.152. Renewal Fees

Section 807.152 is amended to annually establish the renewal fee percentage, which will provide the Commission flexibility in ensuring that the collection of renewal fees for certification of

career schools and colleges is in balance with the cost of administering Chapter 132 of the Act. In adapting to circumstances, as currently, where the Commission may otherwise collect more in fees than necessary to administer Texas Education Code, Chapter 132, enactment of this amendment is anticipated, in the near term, to allow the Commission to lower the fees currently collected and more appropriately fund the program's administration.

PART III. IMPACT STATEMENTS

Randy Townsend, Chief Financial Officer, has determined that for each year of the first five years the rules will be in effect, the following statements will apply:

There are no additional estimated costs to the state and local governments expected as a result of enforcing or administering the rules.

There are no estimated reductions in costs to the state and to local governments as a result of enforcing or administering the rules.

There are no estimated losses or increases in revenue to the state or to local governments as a result of enforcing or administering the rules, except in order to collect no more in fees than is necessary to administer Texas Education Code, Chapter 132, Career Schools and Colleges. The express intent of the rules—in amending §807.152 to provide the full range of options as set forth in Texas Education Code §132.201—is to adapt to such circumstances, as currently, where the Commission may otherwise collect more in fees than necessary to administer Chapter 132.

There are no foreseeable implications relating to costs or revenue of the state or local governments as a result of enforcing or administering the rules, except as noted above.

There are no new anticipated economic costs to persons required to comply with the rules and there is no anticipated adverse economic impact on small or microbusinesses as a result of enforcing or administering the rules. It is anticipated that a decrease in aggregate economic costs to persons required to comply with this rule and to small or microbusinesses will probably occur. That is, career schools or colleges will probably pay lower fees as a result of these rules, at least in the near term (those career schools or colleges that currently are assessed the minimum fee will not see a reduction, as the minimum does not change). Amending §807.152 to allow the Commission to establish the renewal fee percentage annually will provide the Commission flexibility in adapting to circumstances, as currently, where the Commission may otherwise collect more fees than necessary to administer Chapter 132. The anticipated result of this rule amendment will be a lower fee. The provisions of §132.201, Texas Education Code, will also allow the Commission to use the full range of rate-setting mechanisms to address any increased need for fee revenue, although no such need is indicated in the near future.

There is no anticipated adverse economic impact on small or microbusinesses as a result of enforcing or administering the rules.

Mark Hughes, Director, Labor Market Information, has determined that there is no significant negative impact upon employment conditions in the state as a result of the rules.

Laurence M. Jones, Director, Workforce Development Division, has determined that for each year of the first five years the rules are in effect, the public benefit anticipated as a result of enforcing the proposed rules will be to ensure that only the required amount of funds is collected to sufficiently administer the program and to clarify the process for appealing exemption determinations or redeterminations.

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

PART IV. COORDINATION ACTIVITIES

Comments on the proposed rules may be submitted to TWC Policy Comments, Workforce and UI Policy, 101 East 15th Street, Room 440T, Austin, Texas 78778; faxed to (512) 475-3577; or e-mailed to TWCPolicyComments@twc.state.tx.us. The Commission must receive comments postmarked no later than 30 days from the date this proposal is published in the *Texas Register*.

The rules are proposed 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 proposed rules affect Title 4, Texas Labor Code, particularly Chapters 301 and 302, as well as Texas Education Code, Chapter 132.

Chapter 807. CAREER SCHOOLS AND COLLEGES

SUBCHAPTER A. GENERAL PROVISIONS

§807.7. Exemptions.

- (a) A school or educational institution may apply to the Commission for an exemption under §132.002 or §132.003 of the Act.
- (b) The Commission shall grant the requested exemption if the Commission determines that the school or educational institution meets the requirements for an exemption under §132.002 or §132.003 of the Act.
- (c) The Commission may deny or revoke an exemption in the same manner as a denial or revocation of a certificate of approval, if the Commission determines that the school or educational institution does not meet the requirements for the exemption under §132.002 or §132.003 of the Act.
- (d) A school or educational institution may appeal the denial or revocation of an exemption in accordance with the provisions of Subchapter D of the Act.

SUBCHAPTER I. APPLICATION FEES AND OTHER CHARGES

§807.152. Renewal Fees.

- (a) For small schools, if a certificate of approval is issued for more than one year, the renewal fee is \$1,001, which may be paid with \$501 the first year and \$250 on the anniversary date of the certificate for each subsequent year.
- (b) For all other schools, the renewal fee is based on the gross amount minus refunds of annual student tuition and fees. The Commission will establish the renewal fee on an annual basis, based upon the cost of administration of the chapter. The renewal fee will be set in accordance with the provisions of §132.201 of the Act.~~is the greater of:~~
 - (1) ~~0.31% of the school's gross tuition and fees, excluding refunds as provided by the Act;~~
 - ~~or~~
 - (2) ~~\$500.~~
- (c) For all schools, the Commission shall assess a penalty of 10% of the renewal fee, not less than \$200 or more than \$1,000, if the school fails to file a complete application for renewal at least 30 days before the expiration date of the certificate of approval.