

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

**PROPOSED RULES TO BE PUBLISHED IN THE *TEXAS REGISTER*. THIS DOCUMENT WILL HAVE NO SUBSTANTIVE CHANGES BUT IS SUBJECT TO FORMATTING CHANGES AS REQUIRED BY THE OFFICE OF THE SECRETARY OF STATE.**

ON **AUGUST 13, 2024**, THE TEXAS WORKFORCE COMMISSION PROPOSED THE RULES BELOW WITH PREAMBLE TO BE SUBMITTED TO THE *TEXAS REGISTER*.

Estimated Publication Date of the Proposal in the *Texas Register*: **August 30, 2024**

Estimated End of Comment Period: **September 30, 2024**

The Texas Workforce Commission (TWC) proposes amendments to the following section of Chapter 801, relating to Local Workforce Development Boards:

Subchapter A. General Provisions, §801.16

TWC proposes the following new section to Chapter 801, relating to Local Workforce Development Boards:

Subchapter A. General Provisions, §801.10

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

The purpose of the proposed Chapter 801 rule change is to:

- add language regarding the addition and removal of chief elected officials (CEOs) due to changes in local populations, elections, or other relevant events that would cause a change to a Local Workforce Development Board's (Board's) CEO composition;
- add a new section regarding Board procedures to assess the need for changes in the local CEO composition; and
- amend §801.16 to make the language more inclusive to all situations in which there are changes to a Board's CEO membership.

Amendments to this rule are in response to the growing populations of Texas municipalities. The proposed rule changes present an opportunity for Boards to assess their local municipalities and the composition of their CEOs. The changes will accelerate new CEOs' awareness of their authority, roles, and responsibilities, and facilitate their swift engagement in the Board's workforce system.

### **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**

TWC proposes the following amendments to Subchapter A:

**§801.10. Administering Chief Elected Official Appointment and Removal**

New §801.10 provides a procedure for the Board's recurring assessment of its local CEOs for the purpose of their addition or removal, as necessary. This procedure requires Boards to:

- use Texas Demographic Center data and local election results in their assessment; and
- outreach newly elected officials.

**§801.16. Partnership Agreement**

Section 801.16 is amended to provide a procedure for amending a Board's Partnership Agreement pertaining to any situation in which a CEO is added or removed.

**PART III. IMPACT STATEMENTS**

Chris Nelson, 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 to local governments expected as a result of enforcing or administering the rules.

There are no estimated cost reductions 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.

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.

There are no anticipated economic costs to individuals required to comply with the rules.

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

Based on the analyses required by Texas Government Code §2001.024, TWC has determined that the requirement to repeal or amend a rule, as required by Texas Government Code §2001.0045, does not apply to this rulemaking.

**Takings Impact Assessment**

Under Texas Government Code §2007.002(5), "taking" means a governmental action that affects private real property, in whole or in part or temporarily or permanently, in a manner that requires the governmental entity to compensate the private real property owner as provided by the Fifth and Fourteenth Amendments to the US Constitution or the Texas Constitution, §17 or §19, Article I, or restricts or limits the owner's right to the property that would otherwise exist in the absence of the governmental action, and is the producing cause of a reduction of at least 25 percent in the market value of the affected private real property, determined by comparing the market value of the property as if the governmental action is not in effect and the market value of the property determined as if the governmental action is in effect. TWC completed a Takings Impact Assessment for the proposed rulemaking action under Texas Government Code

§2007.043. The primary purpose of this proposed rulemaking action, as discussed elsewhere in this preamble, is to add language to the rule regarding the addition and removal of Board CEOs due to changes in local populations, elections, or other relevant events that would cause a change to a Board's CEO composition.

The proposed rulemaking action will not create any additional burden on private real property or affect private real property in a manner that would require compensation to private real property owners under the US Constitution or the Texas Constitution. The proposal also will not affect private real property in a manner that restricts or limits an owner's right to the property that would otherwise exist in the absence of the governmental action. Therefore, the proposed rulemaking will not cause a taking under Texas Government Code, Chapter 2007.

#### Government Growth Impact Statement

TWC has determined that during the first five years the rules will be in effect, they:

- will not create or eliminate a government program;
- will not require the creation or elimination of employee positions;
- will not require an increase or decrease in future legislative appropriations to TWC;
- will not require an increase or decrease in fees paid to TWC;
- will not create a new regulation;
- will not expand, limit, or eliminate an existing regulation;
- will not change the number of individuals subject to the rules; and
- will not positively or adversely affect the state's economy.

#### Economic Impact Statement and Regulatory Flexibility Analysis

TWC has determined that the rules will not have an adverse economic impact on small businesses or rural communities, as the proposed rules place no requirements on small businesses or rural communities.

Mariana Vega, Director, Labor Market Information, has determined that there is not a significant negative impact upon employment conditions in the state as a result of the rules.

Mary York, 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 provide more clarity to the CEO selection process; accelerate new CEOs' awareness of their authority, roles, and responsibilities; and facilitate their swift engagement in the Board's workforce system.

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

#### **PART IV. COORDINATION ACTIVITIES**

During a regularly scheduled conference call on June 21, 2024, TWC Workforce Development Division staff informed Board executive directors and staff of the upcoming rule changes and sought their input.

#### **PART V. PUBLIC COMMENTS**

Comments on the proposed rules may be submitted to [TWCPolicyComments@twc.texas.gov](mailto:TWCPolicyComments@twc.texas.gov) and must be received no later than September 30, 2024.

## **PART VI. STATUTORY AUTHORITY**

The rules are proposed under:

- Texas Government Code §2308.253(a), which provides TWC with the specific authority to establish rules governing the formation of Local Workforce Development Boards; and
- Texas Labor Code §301.0015(a)(6) and §302.002(d), which provide TWC with the general authority to adopt, amend, or repeal such rules as it deems necessary for the effective administration of TWC services and activities.

The proposed rules relate to Title 10, Texas Government Code, Chapter 2308.

## CHAPTER 801. LOCAL WORKFORCE DEVELOPMENT BOARDS

### SUBCHAPTER A. GENERAL PROVISIONS

#### §801.10. Administering Chief Elected Official Appointment and Removal.

- (a) Based on the criteria set forth in §801.1(d) of this subchapter, Boards shall determine the need to add or remove CEOs.
  - (1) Following county and municipal elections, Boards shall identify and outreach new CEOs to inform them of their designation under this chapter.
  - (2) Not less than quarterly, Boards shall review local population amounts using figures reported to the Texas Demographic Center, consistent with §801.1(d)(1)(D) of this subchapter, to identify and notify elected officials of changes to CEO status.
- (b) Boards shall notify the Agency within 15 calendar days of any changes in CEOs.

#### **§801.16. Partnership Agreement.**

- (a) The CEOs in a workforce area shall enter into a Partnership Agreement with the Board as required by Texas Government Code §2308.253(g) and by §801.1(g)(2)(A)(i)(I) - (VII) of this subchapter.
- (b) The Partnership Agreement shall be signed by the current CEOs and the Board Chair.
- (c) Any amendment to a Partnership Agreement, or change to a Board's organizational plan or bylaws, ~~or notice of an election a new CEO or Board Chair~~ shall be submitted to the Agency within 15 calendar days of the adoption of such amendment or; change, ~~or election~~.
- (d) If a CEO or Board Chair is newly appointed, elected, or determined to meet the requirements of §801.1(d) of this subchapter during the then current, two-year programming cycle, the individual ~~elected during the then current, two-year program planning cycle, such newly elected individual~~ shall submit to the Agency a written statement acknowledging that the individual ~~he or she~~:
  - (1) has read, understands, and will comply with the current Partnership Agreement; and
  - (2) reserves the option to request negotiations to amend the Partnership Agreement at any time during the official's tenure as CEO or Board Chair.

- (e) All Partnership Agreements and Board organizational plans or bylaws shall state that Board members will not be permitted to delegate any Board duties to proxies or alternates.