

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

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

7
8 The Texas Workforce Commission (TWC) proposes amendments to the following section of
9 Chapter 801, relating to Local Workforce Development Boards:

10
11 Subchapter A. General Provisions, §801.16

12
13 TWC proposes the following new section to Chapter 801, relating to Local Workforce
14 Development Boards:

15
16 Subchapter A. General Provisions, §801.10

17
18 **PART I. PURPOSE, BACKGROUND, AND AUTHORITY**

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

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

27
28 Amendments to this rule are in response to the growing populations of Texas municipalities. The
29 proposed rule changes present an opportunity for elected officials of growing municipalities to
30 self-attest to their potential inclusion as a CEO, while providing Boards with the opportunity to
31 assess the composition of their CEOs. The changes will accelerate new CEOs' awareness of their
32 authority, roles, and responsibilities, and facilitate their swift engagement in the Board's
33 workforce system.

34
35 **PART II. EXPLANATION OF INDIVIDUAL PROVISIONS**

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

38
39 **SUBCHAPTER A. GENERAL PROVISIONS**

40 TWC proposes the following amendments to Subchapter A:

41
42 **§801.10. Administering Chief Elected Official Appointment and Removal**

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

- 45 --use Texas Demographic Center data and local election results in their assessment;
- 46 --outreach, transition, and onboard newly elected officials;

1 --follow the procedures provided in §801.16 to update their Partnership Agreements; and
2 --allow local elected officials to self-attest to their inclusion as a CEO.

3
4 **§801.16. Partnership Agreement**

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

7
8 **PART III. IMPACT STATEMENTS**

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

11
12 There are no additional estimated costs to the state and to local governments expected as a result
13 of enforcing or administering the rules.

14
15 There are no estimated cost reductions to the state and to local governments as a result of
16 enforcing or administering the rules.

17
18 There are no estimated losses or increases in revenue to the state or to local governments as a
19 result of enforcing or administering the rules.

20
21 There are no foreseeable implications relating to costs or revenue of the state or local
22 governments as a result of enforcing or administering the rules.

23
24 There are no anticipated economic costs to individuals required to comply with the rules.

25
26 There is no anticipated adverse economic impact on small businesses, microbusinesses, or rural
27 communities as a result of enforcing or administering the rules.

28
29 Based on the analyses required by Texas Government Code §2001.024, TWC has determined
30 that the requirement to repeal or amend a rule, as required by Texas Government Code
31 §2001.0045, does not apply to this rulemaking.

32
33 **Takings Impact Assessment**

34 Under Texas Government Code §2007.002(5), "taking" means a governmental action that affects
35 private real property, in whole or in part or temporarily or permanently, in a manner that requires
36 the governmental entity to compensate the private real property owner as provided by the Fifth
37 and Fourteenth Amendments to the US Constitution or the Texas Constitution, §17 or §19,
38 Article I, or restricts or limits the owner's right to the property that would otherwise exist in the
39 absence of the governmental action, and is the producing cause of a reduction of at least 25
40 percent in the market value of the affected private real property, determined by comparing the
41 market value of the property as if the governmental action is not in effect and the market value of
42 the property determined as if the governmental action is in effect. TWC completed a Takings
43 Impact Assessment for the proposed rulemaking action under Texas Government Code
44 §2007.043. The primary purpose of this proposed rulemaking action, as discussed elsewhere in
45 this preamble, is to add language to the rule regarding the addition and removal of Board CEOs

1 due to changes in local populations, elections, or other relevant events that would cause a change
2 to a Board's CEO composition.

3
4 The proposed rulemaking action will not create any additional burden on private real property or
5 affect private real property in a manner that would require compensation to private real property
6 owners under the US Constitution or the Texas Constitution. The proposal also will not affect
7 private real property in a manner that restricts or limits an owner's right to the property that
8 would otherwise exist in the absence of the governmental action. Therefore, the proposed
9 rulemaking will not cause a taking under Texas Government Code, Chapter 2007.

10
11 Government Growth Impact Statement

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

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

21
22 Economic Impact Statement and Regulatory Flexibility Analysis

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

26
27 Mariana Vega, Director, Labor Market Information, has determined that there is not a significant
28 negative impact upon employment conditions in the state as a result of the rules.

29
30 Mary York, Director, Workforce Development Division, has determined that for each year of the
31 first five years the rules are in effect, the public benefit anticipated as a result of enforcing the
32 proposed rules will be to provide more clarity to the CEO selection process; accelerate new
33 CEOs' awareness of their authority, roles, and responsibilities; and facilitate their swift
34 engagement in the Board's workforce system.

35
36 TWC hereby certifies that the proposal has been reviewed by legal counsel and found to be
37 within TWC's legal authority to adopt.

38
39 **PART IV. COORDINATION ACTIVITIES**

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

43
44 **PART V. PUBLIC COMMENTS**

45 Comments on the proposed rules may be submitted to TWCPolicyComments@twc.texas.gov
46 and must be received no later than September 30, 2024.

1 **PART VI. STATUTORY AUTHORITY**

2 The rules are proposed under:

3 --Texas Government Code §2308.253(a), which provides TWC with the specific authority to
4 establish rules governing the formation of Local Workforce Development Boards; and

5 --Texas Labor Code §301.0015(a)(6) and §302.002(d), which provide TWC with the general
6 authority to adopt, amend, or repeal such rules as it deems necessary for the effective
7 administration of TWC services and activities.

8

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

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

2
3 **SUBCHAPTER A. GENERAL PROVISIONS**

4
5 **§801.10. Administering Chief Elected Official Appointment and Removal**

6
7 (a) Based on the criteria set forth in §801.1(d) of this subchapter, Boards shall determine
8 the need to add or remove CEOs. For such determinations, Boards shall:

9
10 (1) use the figure last reported by the Texas Demographic Center, consistent with
11 §801.1(d)(1)(D) of this subchapter, for the purpose of determining local
12 population; and

13
14 (2) be aware of the results of elections at the county and municipal levels within the
15 workforce area.

16
17 (b) If changes are required, Boards are responsible for initiating and completing the
18 necessary changes for the affected elected officials.

19
20 (c) Elected officials who meet the criteria included in §801.1(d)(1) - (2) of this
21 subchapter may submit a request to their local Board seeking inclusion as a CEO.
22 Boards shall respond to a request by an elected official no later than 60 calendar days
23 after receipt of such request.

24
25 (d) Boards shall notify the Agency within 15 calendar days of any changes in CEOs.

26
27 **§801.16. Partnership Agreement.**

28
29 (a) The CEOs in a workforce area shall enter into a Partnership Agreement with the
30 Board as required by Texas Government Code §2308.253(g) and by
31 §801.1(g)(2)(A)(i)(I) - (VII) of this subchapter.

32
33 (b) The Partnership Agreement shall be signed by the current CEOs and the Board Chair.

34
35 (c) Any amendment to a Partnership Agreement, or change to a Board's organizational
36 plan or bylaws, ~~or notice of an election a new CEO or Board Chair~~ shall be
37 submitted to the Agency within 15 calendar days of the adoption of such amendment
38 or; change, ~~or election~~.

39
40 (d) If a CEO or Board Chair is newly appointed, elected, or determined to meet the
41 requirements of §801.1(d) of this subchapter; ~~during the then current, two-year~~
42 programming cycle, the individual ~~elected during the then-current, two-year program~~
43 ~~planning cycle, such newly elected individual~~ shall submit to the Agency a written
44 statement acknowledging that the individual ~~he or she~~:

- 1 (1) has read, understands, and will comply with the current Partnership
- 2 Agreement; and
- 3
- 4 (2) reserves the option to request negotiations to amend the Partnership Agreement
- 5 at any time during the official's tenure as CEO or Board Chair.
- 6
- 7 (e) All Partnership Agreements and Board organizational plans or bylaws shall state that
- 8 Board members will not be permitted to delegate any Board duties to proxies or
- 9 alternates.