

## TEXAS WORKFORCE COMMISSION LETTER

**ID/No:** WD 48-01

**Date:** January 9, 2002

**Key Word:** Administration

**To:** Local Workforce Development Board Executive Directors  
Commission Executive Staff  
LWDA Coordinators  
Commission Local Offices

**From:** Luis Macias, Acting Director of Workforce Development

**Subject:** Effect of House Bill 936 on Roles and Responsibilities of Local Workforce Development Boards

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### **PURPOSE:**

To provide information to Local Workforce Development Boards (Boards) on the effect of House Bill (H.B.) 936, Act of May 24, 2001, 77th Leg., R.S. ch. 1004, 2001 Tex. Sess. Law Serv. 2067 (Vernon) (to be codified as amendments to TEX. GOV'T CODE ANN. §§ 551.001(3), 552.003(1), 771.002(1), 2175.001(1), 2308.257, and TEX. LOC. GOV'T CODE ANN. §271.081) (hereinafter H.B. 936).

### **REFERENCE:**

Act of May 24, 2001, 77th Leg., R.S. ch. 1004, 2001 Tex. Sess. Law Serv. 2067 (Vernon) (to be codified as amendments to TEX. GOV'T CODE ANN. §§ 551.001(3), 552.003(1), 771.002(1), 2175.001(1), 2308.257, and TEX. LOC. GOV'T CODE ANN. §271.081)  
TEX. GOV'T CODE ANN. § 551.001(3) (Vernon Supp. 2001)  
TEX. GOV'T CODE ANN. § 552.003(1) (Vernon Supp. 2001)  
TEX. GOV'T CODE ANN. § 771.002(1) (Vernon 1994)  
TEX. GOV'T CODE ANN. § 2175.001(1) (Vernon 2000)  
TEX. GOV'T CODE ANN. § 2308.257 (Vernon 2000)  
TEX. LOC. GOV'T CODE ANN. §271.081 (Vernon 1999)

### **BACKGROUND:**

H.B. 936 amended certain sections of the Texas Labor Code and Texas Local Government Labor Code to clarify the roles and responsibilities of Boards. The changes required by H.B. 936 were effective September 1, 2001.

## **ROLES AND RESPONSIBILITIES OF BOARDS AS REQUIRED BY H.B. 936**

### **I. Open Meetings**

H.B. 936 confirms that Boards must comply with the requirements of the TEX. GOV'T CODE ANN. §551.001, et seq. (Vernon 1994 & Supp. 2001) (hereinafter the Open Meetings Act). H.B. 936 expands the definition of “governmental body,” for the purposes of the Open Meetings Act, to include Boards.

Under the Open Meetings Act, Boards must:

- open to the public every regular, special, or called meeting of a Board unless one of the specific exemptions described in the Open Meetings Act applies;
- prepare and keep minutes or make a tape recording of each meeting; and
- provide advance notice of meetings. In a local workforce development area (workforce area) that encompasses *four or more* counties, the Board must comply with the notice requirements listed in TEX. GOV'T CODE ANN. §551.053 (Vernon Supp. 2001), which include posting a notice of each meeting in the Board's administrative office, as well as providing notice to the Secretary of State and to the county clerk of the county in which the Board's administrative office is located. In a workforce area which includes *fewer* than four counties, a Board must post a notice of each meeting in the Board's administrative office and provide a notice to the county clerk of each county in which the Board is located.

A Board member who knowingly violates the Open Meetings Act could face a misdemeanor criminal charge.

For additional information on Open Meetings Act requirements, see the *Open Meetings Act Handbook* published by the Office of the Attorney General of Texas (OAG) and available in print and on-line at [www.oag.state.tx.us/newspubs/publications.html](http://www.oag.state.tx.us/newspubs/publications.html).

### **II. Public Information**

H.B. 936 also amended the definition of “governmental body” in TEX GOV'T CODE ANN. §552.001, et seq. (Vernon 1994 & Supp. 2001) (hereinafter the Public Information Act) to clarify that Boards are subject to the requirements of the Public Information Act. Public Information is information collected, assembled, or maintained by a government office. Such information is available to the public unless the disclosure of the information falls within one of the exceptions described in the Public Information Act.

A Board's Chief Administrative Officer is considered the officer for public information and must:

- ensure that public information is available for public inspection and copying; and
- prominently display in the administrative offices of the governmental body a sign that contains basic information about the procedures for inspecting and obtaining a copy of public information.

If a Board is unsure of whether the information requested is subject to Public Information Act requirements, the Board may request an opinion from the OAG on whether the information falls within one of the exceptions to the Public Information Act. If requesting an Attorney General Opinion, the request must be made no later than the 10<sup>th</sup> business day after the receipt of the written request for information. Requests must be in writing and sent to:

Office of the Attorney General  
P.O. Box 12548  
Austin, Texas 78711-2548

Additional information on Public Information Act requirements is summarized in the *Public Information Act Handbook*, published by the OAG, and available in print and on-line at [www.oag.state.tx.us/newspubs/publications.html](http://www.oag.state.tx.us/newspubs/publications.html).

### **III. Interagency Cooperation**

H.B. 936 amends the definition of "agency" as used in the TEX GOV'T CODE ANN. §771.001, et seq. (Vernon 1994 & Supp. 2001) (hereinafter the Interagency Cooperation Act) to include Boards. The Interagency Cooperation Act authorizes agencies to enter into contracts. No goods or services may be provided or received until a written contract is approved by the administrators of all agencies, who are parties to the agreement unless the contract fits one of the specific exceptions listed in the statute. Boards are still responsible for meeting state and federal requirements regarding competitive procurement.

### **IV. Surplus or Salvage Property**

H.B. 936 amends the definition of "assistance organization" in TEX GOV'T CODE ANN. §2175.001(1) (Vernon 2000) to include Boards. As an assistance organization, a Board can participate in the Texas Building and Procurement Commission's (formerly the General Services Commission) program for the disposition of State surplus and salvage property. Boards may obtain more information on purchasing surplus and salvage personal property from Texas state

agencies by accessing the web site of the Texas Building and Procurement Commission at [www.gsc.state.tx.us/surplus/index.html](http://www.gsc.state.tx.us/surplus/index.html) or by calling (512) 463-3381.

**V. Local Government Code**

H.B. 936 amends the TEX LOC. GOV'T CODE ANN. §271.081 (Vernon 1999) to allow Boards to participate in the Texas Building and Procurement Commission's programs for local governments. Under these purchasing programs, when feasible, the Texas Building and Procurement Commission can extend State contract prices to local governments and solicit bids on items desired by local governments. The Texas Building and Procurement Commission also provides information and technical assistance to local governments participating in the purchasing program. Participation by a local government is voluntary. A local government that purchases an item under a State contract satisfies any State law requiring competitive procurement of the item.

More information on the Texas Building and Procurement Commission Cooperative Purchasing Program can be obtained by accessing the web site at [www.gsc.state.tx.us/stpurch/coopmain.html](http://www.gsc.state.tx.us/stpurch/coopmain.html) or by calling (512) 463-3368.

**VI. Conflict of Interest**

H.B. 936 amends TEX. GOV'T CODE ANN. § 2308.257 (Vernon 2000) to explain more fully the conflict of interest requirements for Board members. A Board member may not participate in the discussion of or vote on any Board decision regarding the provision of services by the member or any organization that the member represents or in any matter that would provide direct financial benefit to the member, the member's immediate family or any organization that the member directly represents. This is the minimum standard. A Board has the authority to adopt a more restrictive standard for its members.

**VII. Cautionary Note**

The fact that H.B. 936 amended the definition of state agency or local government to include Boards in one section of State law does not mean that Boards are included in the definitions of those same terms when used in other sections of State law.

**ACTIONS REQUIRED:**

Boards must familiarize themselves with the changes required by H.B. 936 and its effects on their roles and responsibilities, and ensure that all appropriate staff receive copies of this letter.

**INQUIRIES:**

Direct inquiries related to this WD Letter to John Fuller by phone at (512) 463-7459 or e-mail at [john.fuller@twc.state.tx.us](mailto:john.fuller@twc.state.tx.us).

Recissions: None

Expiration: Continuing