

Chapter 801. Local Workforce Development Boards

40 TAC §801.1

The Texas Workforce Commission proposes new §801.1, concerning the process for establishing local workforce development boards. This section provides guidance for the formation of local workforce development boards. The chief elected officials in each designated local workforce development area must submit an application and provide the information required to the Commission. Upon approval by the Commission, the application will be submitted to the Governor. This section will apply to local workforce development boards to be formed on or after September 1, 1995.

The Workforce and Economic Competitiveness Act, as amended by Chapter 655, Acts of the 74th Legislature, 1995, requires the Commission to establish rules for the formation of local workforce development boards to plan and oversee the delivery of all workforce training and services programs and evaluate all workforce development programs in the local workforce development areas.

C. Ed Davis, Deputy Administrator for Legal Affairs, has determined, that for the first five years the section as proposed will be in effect, there will be minimal fiscal implications as a result of enforcing or administering the rule. There will be no additional costs for state government as a result of enforcing or administering the rule. Reductions in costs to the state will depend on program consolidation and local involvement and cannot be estimated. Any costs to local governments choosing to create a local workforce development board are entirely within the control of the local government and cannot be estimated.

Mr. Davis also has determined that for the first five years the section as proposed will be in effect the public benefit anticipated as a result of enforcing the section will be improved coordination of and access to workforce training and services programs at the local level. There will be no economic cost to persons who are required to comply with the section as proposed.

Comments on the proposal may be submitted to Leslie Geballe, Intergovernmental Relations, Texas Workforce Commission Building, 101 East 15th Street, Room 662, Austin, Texas 78778, (512) 463-2213.

The section is proposed under Texas Civil Statutes, Article 5190.7a, as amended by Chapter 655, Acts of the 74th Legislature, 1995, which provides the Texas Workforce Commission with the authority to establish rules for the formation of local workforce development boards.

No other statute, article or code will be affected by this proposal,

§801.1. Requirements for Formation of Local Workforce Development Boards.

(a) Purpose of Rule.

(1) Upon application by the chief elected officials (CEOs) and approval of the Texas Workforce Commission, (Commission) the Commission will forward an application to form a local workforce development board to the Governor.

(2) Before an application may be submitted to the Governor, all requirements of this section must be met.

(b) State and Federal Law. The formation of local workforce development boards is governed by the following federal statutes and regulations and state statutes:

(1) The Job Training Partnership Act, as amended, 29 United States Code, §1501, et seq;

(2) 20 Code of Federal Regulation Part 628; and

(3) The Workforce and Economic Competitiveness Act, Texas Civil Statutes, Article 5190.7a, as amended.

(c) Chief Elected Official Agreement. Creation of a board requires agreement by at least three-fourths of the CEOs in the workforce development area who represent units of general local government, including all of the CEOs who represent units of general local government having populations of at least 200,000. The elected officials agreeing to the creation of the board must represent at least 75% of the population of the workforce development area.

(d) Chief Elected Officials. The CEOs may, and are encouraged to, consult with local officials other than the ones delineated below. The following officials are designated as the chief elected officials for the purpose of establishing agreements to form local workforce development boards:

(1) The mayor of each city that meets the criteria for a central city within a Metropolitan Statistical Area, defined as an urban area that has a city of 50,000 inhabitants or more, within corporate limits, or that contains an urbanized area of at least 50,000 and has a total population of at least 100,000, according to the last federal census in a workforce development area; and

(2) The mayor of each city with a population of at least 100,000 as reported by the Texas State Data Center.

(3) All county judges included in a workforce development area as designated by the Governor.

(e) Time of Application. CEOs in an area may not establish a local board until the Governor has designated that area as a local workforce development area as provided in the Workforce and Economic Competitiveness Act, Texas Civil Statutes, Article 5190.7a, as amended.

(f) Applications must meet all Governor-approved criteria for the establishment of local workforce development boards.

(g) Procedure for Formation of a Local Workforce Development Board. The CEOs must comply with the following to apply for the formation of a local workforce development board:

(1) Pre-application procedure. If a majority of the CEOs, as defined in subsection (d) of this section, agree to initiate procedures to establish a local workforce development board, they must send a letter to the Executive Director of the Commission requesting pre-application status. The Commission staff will be available to work with local officials during the development of the application. During the pre-application process and prior to applying to the Commission for approval, the CEOs must:

(A) Conduct a public process to consider the views of all affected local organizations, including private industry councils, quality workforce planning committees, and other affected organizations before making a final decision to form a local workforce development board.

(B) Hold a public meeting to discuss and gather information concerning the

establishment of a local workforce development board prior to the submission of the application.

(2) Application procedure.

(A) The CEOs must submit an application to the Commission. This application must include evidence of the actions required by the pre-application process as identified in paragraph (1) of this subsection. As a part of the application, each of the CEOs agreeing to the formation of a local workforce development board must sign an agreement that includes the following:

(i) an interlocal agreement delineating:

(I) the purpose of the agreement;

(II) the process that will be used to select the CEO who will act on behalf of the other CEOs and the name of such CEO if the person has been selected;

(III) the process that will be followed to keep those CEOs informed regarding local workforce development activities;

(IV) the initial size of the local workforce development board;

(V) how resources allocated to the local workforce development area will be shared among the parties to the agreement;

(VI) the process to be used to appoint the board members, which must be consistent with applicable federal and state laws; and

(VII) the terms of office of the members of the board.

(ii) the following notice:

Figure 1: 40TAC s801.1(g) (2) (A) (ii)

(B) CEOs in the area must provide evidence that the private industry council(s) as currently constituted has agreed to dissolve and be replaced by the proposed local workforce development board upon certification. When the partnership agreement and private industry council(s) by-laws allow, the CEOs must present evidence that they have dissolved the current private industry council(s) in accordance with the provisions of said agreement and by-laws.

(C) The application shall include the names and affiliations of individuals recommended for board membership, with documentation that CEOs followed the nomination process specified in applicable state and federal law.

(i) Private sector members shall be owners of business concerns, chief executives or chief operating officers of nongovernmental employers or other private sector executives who have substantial management or policy responsibility.

(ii) Private sector members must reasonably represent the industrial and demographic composition of the business community as described in workforce development area profiles provided by the Commission. Private sector employers, not directly providing employment and training services to the general public, shall receive primary consideration for Board membership.

(iii) Private sector members must include two representatives from workforce development area businesses in each of the following size categories: 1-99 employees, 100-249 employees, 250-500 employees, 501+ employees. Whenever possible, at least one-half of business and industry representatives shall be representatives of small business, including minority business. Small business means private for profit enterprises employing 500 or fewer employees. Whenever possible, at least one-fourth of business and industry representatives shall be representatives of employers with 501 or more employees.

(iv) Not less than 15% of the membership of the board shall be representatives of organized labor and community-based organizations. Every effort shall be made to ensure that both labor and community-based organizations shall be represented. Labor members shall be selected from individuals recommended by local central labor councils or recognized state and local labor federations. If the federations fail to nominate a sufficient number of individuals to meet the labor representation requirements of this subsection, individual workers may be included on the council to complete the labor representation. For purposes of this section, a labor federation is an alliance of two or more organized labor unions for the purpose of mutual support and action. An example of a recognized labor federation is the AFL-CIO.

(D) Evidence for the items in the application may consist of written documents, written agreements, minutes of public meetings, copies of correspondence, and such other documentation as may be appropriate.

(E) CEOs who have submitted complete applications to the Texas Council on Workforce and Economic Competitiveness may supplement those applications with documentation of any actions necessary to meet the provisions in these rules.

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

Issued in Austin, Texas, on November 20, 1995.

TRD-9515022

C. Ed Davis

Deputy Administrator for Legal Affairs

Texas Workforce Commission

Earliest possible date of adoption: December 25, 1995

For further information, please call: (512) 463-2291