

1 **CHAPTER 803. SKILLS DEVELOPMENT FUND**

2
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 **ON AUGUST 23, 2022, THE TEXAS WORKFORCE COMMISSION PROPOSED THE**
9 **RULES BELOW WITH PREAMBLE TO BE SUBMITTED TO THE *TEXAS REGISTER*.**

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11 Publication Date of the Proposal in the *Texas Register*: **September 9, 2022**

12 End of Comment Period: **October 10, 2022**

13
14 The Texas Workforce Commission (TWC) proposes amendments to the following section of
15 Chapter 803, relating to the Skills Development Fund:

16
17 Subchapter B. Program Administration, §803.14

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

20 The purpose for the proposed amendment to Chapter 803 is to streamline the grant proposal and
21 approval process.

22
23 In Fiscal Year 2021, TWC implemented Skills Development Fund (SDF) Contingent Proposals
24 to respond quickly and to effectively assist in the COVID-19 recovery effort by helping Texas
25 employers, including small businesses, to train and hire employees while simultaneously aiding
26 Texas workers in regaining employment and reducing the number of individuals depending on
27 unemployment assistance. The new process has proven to be successful in streamlining the SDF
28 approval process and shortening the grant development time by saving anywhere from 40 to 55
29 days. To be able to use this new process, the Outreach and Employer Initiatives Division
30 developed a rule waiver pursuant to 40 TAC §803.32 for approval by TWC's executive director.
31 The proposed amendment will remove the need for a waiver and allow the use of the streamlined
32 process moving forward.

33
34 Texas Government Code, §2001.039, requires that every four years each state agency review and
35 consider for readoption, revision, or repeal each rule adopted by that agency. TWC conducted a
36 rule review of Chapter 803, and any changes are described in Part II of this preamble.

37
38 **PART II. EXPLANATION OF INDIVIDUAL PROVISIONS**

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

41
42 **SUBCHAPTER B. PROGRAM ADMINISTRATION**

43 TWC proposes the following amendments to Subchapter B:

44
45 **§803.14. Procedure for Requesting Funding**

1 Section 803.14 is amended to add subsection (i) to outline the procedure for requesting a
2 contingency proposal.

3
4 **PART III. IMPACT STATEMENTS**

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

7
8 There are no additional estimated costs to the state and to local governments expected as a result
9 of enforcing or administering the rule.

10
11 There are no estimated cost reductions to the state and to local governments as a result of
12 enforcing or administering the rule.

13
14 There are no estimated losses or increases in revenue to the state or to local governments as a
15 result of enforcing or administering the rule.

16
17 There are no foreseeable implications relating to costs or revenue of the state or local
18 governments as a result of enforcing or administering the rule.

19
20 There are no anticipated economic costs to individuals required to comply with the rule.

21
22 There is no anticipated adverse economic impact on small businesses, microbusinesses, or rural
23 communities as a result of enforcing or administering the rule.

24
25 Based on the analyses required by Texas Government Code, §2001.024, TWC determined that
26 the requirement to repeal or amend a rule, as required by Texas Government Code, §2001.0045,
27 does not apply to this rulemaking.

28
29 Takings Impact Assessment

30 Under Texas Government Code, §2007.002(5), "taking" means a governmental action that
31 affects private real property, in whole or in part or temporarily or permanently, in a manner that
32 requires the governmental entity to compensate the private real property owner as provided by
33 the Fifth and Fourteenth Amendments to the United States Constitution or the Texas
34 Constitution, Article I, §17 or §19, or restricts or limits the owner's right to the property that
35 would otherwise exist in the absence of the governmental action, and is the producing cause of a
36 reduction of at least 25 percent in the market value of the affected private real property,
37 determined by comparing the market value of the property as if the governmental action is not in
38 effect and the market value of the property determined as if the governmental action is in effect.
39 TWC completed a Takings Impact Analysis for the proposed rulemaking action under Texas
40 Government Code, §2007.043. The primary purpose of this proposed rulemaking action, as
41 discussed elsewhere in this preamble, is to amend Chapter 803 to streamline the grant proposal
42 and approval process.

43
44 The proposed rulemaking action will not create any additional burden on private real property or
45 affect private real property in a manner that would require compensation to private real property
46 owners under the United States Constitution or the Texas Constitution. The proposal also will

1 not affect private real property in a manner that restricts or limits an owner's right to the property
2 that would otherwise exist in the absence of the governmental action. Therefore, the proposed
3 rulemaking will not cause a taking under Texas Government Code, Chapter 2007.

4
5 Government Growth Impact Statement

6 TWC determined that during the first five years the rule will be in effect, the rule:

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

15
16 Economic Impact Statement and Regulatory Flexibility Analysis

17 TWC determined that the rule will not have an adverse economic impact on small businesses or
18 rural communities, as the proposed rule places no requirements on small businesses or rural
19 communities.

20
21 Mariana Vega, Director, Labor Market Information, determined that there is not a significant
22 negative impact upon employment conditions in the state as a result of the rule.

23
24 Mary York, Director, Outreach and Employer Initiatives Division, determined that for each year
25 of the first five years the rule is in effect, the public benefit anticipated as a result of enforcing
26 the proposed rule will be to expedite the grant proposal and approval process, which would
27 improve customer service by increasing program efficiency and deployment of services.

28
29 TWC hereby certifies that the proposal has been reviewed by legal counsel and found to be
30 within TWC's legal authority to adopt.

31
32 **PART IV. COORDINATION ACTIVITIES**

33 In the development of the proposed rule for publication and public comment, TWC sought the
34 involvement of Texas' 28 Local Workforce Development Boards (Boards). TWC provided the
35 policy concept regarding this rule amendment to the Boards for consideration and review on May
36 24, 2022. TWC also conducted a conference call with Board executive directors and Board staff
37 on June 3, 2022, to discuss the policy concept. During the rulemaking process, TWC considered
38 all information gathered in order to develop a rule that provides clear and concise direction to all
39 parties involved.

40
41 **PART V. PUBLIC COMMENTS**

42 Comments on the proposed rule may be submitted to TWCPolicyComments@twc.texas.gov and
43 must be received no later than October 10, 2022.

44
45 **PART VI. STATUTORY AUTHORITY**

1 The rule is proposed under Texas Labor Code, §301.0015 and §302.002(d), which provide TWC
2 with the authority to adopt, amend, or repeal such rules as it deems necessary for the effective
3 administration of TWC services and activities.

4
5 The proposed rule implements Texas Labor Code, Chapter 303.

- 1 (1) The number of proposed jobs created and/or retained;
- 2
- 3 (2) A brief outline of the proposed training project, including the skills acquired
- 4 through training and the employer's involvement in the planning and design;
- 5
- 6 (3) A brief description of the measurable training objectives and outcomes;
- 7
- 8 (4) The occupation and wages for participants who complete the customized
- 9 training project;
- 10
- 11 (5) A budget summary, disclosing anticipated project costs and resource
- 12 contributions, including the dollar amount the private partner is willing to
- 13 commit to the project;
- 14
- 15 (6) A signed agreement between the private partner or trade union and the Board,
- 16 public community or technical college, or TEEEX outlining each entity's roles
- 17 and responsibilities if a grant is awarded;
- 18
- 19 (7) A statement explaining the basis for the determination that there is an actual or
- 20 projected labor shortage in the occupation in which the proposed training
- 21 project will be provided that is not being met by an existing institution or
- 22 program in the workforce area;
- 23
- 24 (8) A comparison of costs per trainee for the customized training project and costs
- 25 for similar instruction at the public community or technical college, TEEEX, and
- 26 the Board;
- 27
- 28 (9) A statement describing the private partner's or trade union's equal opportunity
- 29 employment policy;
- 30
- 31 (10) A list of the proposed employment benefits;
- 32
- 33 (11) An indication of a concurrent proposal as required by subsection (g)(e) of this
- 34 section; and
- 35
- 36 (12) Any additional information deemed necessary by the Agency to complete
- 37 evaluation of a proposal.

38
39 (i) An applicant may, with the approval of the executive director or his or her designee,
40 submit a proposal for funding that does not contain or identify all of the required
41 elements under subsection (h) of this section. The release of any funding is
42 contingent upon the applicant's submission, and the Agency's approval, of all the
43 required elements in subsection (h) of this section.