

Chapter 800. GENERAL ADMINISTRATION

Subchapter D. INCENTIVE AWARD RULES

40 TAC §800.121

The Texas Workforce Commission (Commission) proposes new §800.121, regarding Job Placement Awards. The purpose of the new rule is to implement provisions relating to Texas Labor Code §302.009. The rule sets forth the steps in the process the Commission intends to follow in awarding funds to create incentives for persons with whom Boards contract to assist Choices individuals in obtaining employment, as defined in 40 TAC Chapter 811, in higher wage jobs.

The first step is for the Commission to set aside funds for the awards. The Commission will then compare the Boards by examining the percentage of increase in the wages earned by Choices individuals in the workforce area from one year to the next year. The Commission will distribute award funds to Boards that achieve the highest percentage of increases in wages of Choices individuals. The Commission will select the top performers in categories established by the Commission, such as, small, medium and large Boards.

The second step is for each Board that receives the award funds to set policies and procedures for awarding the funds to the contractors in the Board's workforce area. The award funds shall be expended only for the purposes related to education, training and support services as necessary to prepare, place, and maintain Choices individuals in employment leading to self-sufficiency.

The Commission intends to use Unemployment Insurance quarterly wage information on Choices individuals in employment. The rationale for using the UI wage records for all Choices individuals in employment during a year is to reflect overall improvements in wages earned by Choices individuals in a workforce area, while using reporting and data sources already available to the Commission. This simplified approach will provide Boards with the flexibility to benefit from either or both increases in the number of Choices individuals in employment or the increases in the wages earned by each Choices individual. The Boards will then have the flexibility to reward contractors as determined appropriate by the Boards.

For purposes of this rule, and as referenced in 40 TAC §811.2, proposed on February 22, 2002 for public comment, "Choices individuals" that will include the following:

Applicants, who are persons who apply for temporary cash assistance;

Recipients, who are persons who are adults or teen heads of household who receive temporary cash assistance; and

Former recipients, who are persons who are adults or teen heads of household who no longer receive temporary cash assistance.

Randy Townsend, Chief Financial Officer, has determined that for the first five years the rule is 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 rule;

there are no estimated reductions in costs to the state or to local governments expected as a result of enforcing or administering the rule;

there are no estimated losses or increases in revenue to the state or to local governments as a result of enforcing or administering the rule;

there are no foreseeable implications relating to costs or revenues to the state or to local governments as a result of enforcing or administering the rule; and

there are no anticipated costs to persons who are required to comply with the rule as proposed.

Mr. Townsend, has also determined that there is no anticipated adverse impact on small businesses as a result of enforcing or administering the rule because the rule would provide more funding for contractors, which may be small businesses, without requiring any additional expenditure of funds by those contractors of Boards.

Luis Macias, Director of Workforce Development, has determined that for each year of the first five years that the rule will be in effect, the public benefit anticipated as a result of the adoption of the proposed rule will be to create incentives for job placements into higher wage jobs.

James Barnes, Director of Labor Market Information, has determined that there is no foreseeable negative impact upon employment conditions in this state as a result of the proposed rule.

Comments on the proposed section may be submitted to John Moore, Acting General Counsel, Texas Workforce Commission, 101 East 15th Street, Room 608, Austin, Texas 78778; faxed to (512) 463-2220; or e-mailed to john.moore@twc.state.tx.us. Comments must be received by the Agency no later than 30 days from the date this proposal is published in the *Texas Register*.

For more information about the Commission and services available see www.texasworkforce.org.

The new rule is proposed under Texas Labor Code §301.061 and §302.002, which provide the Commission with the authority to adopt, amend, or repeal such rules as it deems necessary for the effective administration of Agency services and activities. The rule is also proposed under Texas Labor Code §302.009, which provides the Commission with the authority to develop rules relating to the job placement incentives.

The proposed new rule affects the Texas Labor Code, Title 4.

§800.121. Job Placement Incentive Awards.

(a) This section establishes the job placement incentive award process required by Texas Labor Code §302.009 to create incentives for persons with whom Boards contract to assist Choices individuals in obtaining employment, as defined in Chapter 811 of this title, in higher wage jobs. To implement the job placement incentive awards, the Commission may set aside an amount of funds for job placement incentive awards during the annual budget process or at other times during the year as deemed appropriate by the Commission based on the funds available to meet the objectives of the Commission. For purposes of this rule, the term "Choices individuals" shall have the same meaning as set forth in §811.2 of this title.

(b) Administration Through Boards.

(1) The Commission shall administer the job placement incentive awards through the Boards by distributing funds to Boards that demonstrate the highest percentage of increase in employment of Choices individuals in higher wage jobs. The Commission shall determine which Board(s) shall be provided job placement incentive funds annually by grouping the Boards into categories based on similarities among the Boards, such as by grouping the Boards based on size, e.g., small, medium, and large Boards, and applying the criteria set forth in subsection (c) of this section.

(2) Boards receiving a distribution of funds shall establish policies and procedures to create incentives for their contractors. The Boards shall determine how the local awards of funds are expended to provide incentives to contractors within the workforce area for effective employment of Choices individuals in higher wage jobs. The Boards shall ensure that contractor(s) receiving the job placement incentive awards use the funds for expenses relating to education, training and support services as necessary to prepare, place, and maintain Choices individuals in employment leading to self-sufficiency.

(c) The criteria for distributing award funds to Boards shall be the same as the measure of higher wage jobs. The measure of higher wage jobs shall use the most recent available Unemployment Insurance (UI) wages reported quarterly by employers for Choices individuals in employment and be determined by:

(1) each workforce area's baseline average quarterly reported UI wages for all Choices individuals in employment during a twelve-month period designated by the Commission;

(2) each workforce area's average quarterly UI wages for all Choices individuals in employment during the twelve-month period subsequent to the baseline measurement period; and

(3) comparing the average quarterly UI wages for all Choices individuals in employment for the two measurement periods to determine Boards that have achieved the highest percent increase in overall wages to Choices individuals.

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

Filed with the Office of the Secretary of State on May 7, 2002.

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John Moore

Acting General Counsel

Texas Workforce Commission

Earliest possible date of adoption: June 23, 2002

For further information, please call: (512) 463-2573