

CHAPTER 800. GENERAL ADMINISTRATION

PROPOSED RULES WITH PREAMBLE TO BE SUBMITTED TO THE *TEXAS REGISTER*. THIS DOCUMENT WILL HAVE NO SUBSTANTIVE CHANGES BUT IS SUBJECT TO FORMATTING CHANGES AS REQUIRED BY THE *TEXAS REGISTER*.

ON OCTOBER 21, 2015, THE TEXAS WORKFORCE COMMISSION PROPOSED THE BELOW RULES WITH PREAMBLE TO BE SUBMITTED TO THE *TEXAS REGISTER*.

Estimated Publication Date of the Proposal in the *Texas Register*: **November 6, 2015**
Estimated End of Comment Period: **December 7, 2015**

The Texas Workforce Commission (Commission) proposes amendments to the following section of Chapter 800, relating to General Administration:

Subchapter A. General Provisions, §800.5

- PART I. PURPOSE, BACKGROUND, AND AUTHORITY
- PART II. EXPLANATION OF INDIVIDUAL PROVISIONS
- PART III. IMPACT STATEMENTS
- PART IV. COORDINATION ACTIVITIES

PART I. PURPOSE, BACKGROUND, AND AUTHORITY

The purpose of the proposed Chapter 800 rule change is to comply with House Bill (HB) 3337, passed by the 84th Texas Legislature, Regular Session (2015). HB 3337, relating to training and education for state agency administrators and employees, amends Texas Government Code, Chapter 656, by establishing additional requirements for reimbursement for training or education offered by an institution of higher education, including:

- authorization by the agency executive director before tuition reimbursement payment may be made (§656.048(b));
- implementation of an objective policy governing tuition reimbursement, including online courses and courses not credited toward a degree (§656.102(b)(1)); and
- posting the tuition assistance program policy on the agency's website (§656.102 (c)).

PART II. EXPLANATION OF INDIVIDUAL PROVISIONS

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

SUBCHAPTER A. GENERAL PROVISIONS

The Commission proposes the following amendments to Subchapter A:

§800.5. Commission Professional Development Program

The title of §800.5, "Commission Professional Development Program" is amended to read "Tuition Assistance Program" (TAP), as the new title more accurately describes the reimbursement program, available to employees who seek education at institutions of higher

education, which will in turn improve their skill sets in current or prospective job duties for the agency's benefit.

Section 800.5(b)(1) is amended to state that eligibility for tuition assistance requires continuous and full-time employment for one year at the time of application.

Section 800.5(b)(3) is amended to add "identification of" the relationship of the training to the employee's position and to add "or a prospective role within the Agency";

Section 800.5(b)(4) is amended to remove "or his designee" from authorization of training reimbursement from the executive director or designee.

New §800.5(b)(5) is added to specify that the training and education program must be at an accredited institution of higher education, as required by HB 3337.

Section 800.5(c)(1) is amended to be consistent with HB 3337 by specifying that the employee shall "attend and successfully" complete the training, and adds "or education program."

Section 800.5(c)(2) is amended, as required by HB 3337, to state that training is conditional upon "authorization" from the executive director and removes the executive director's designee.

New §800.5(c)(3) is amended to align with the Agency's personnel manual to update language regarding employee participation in the TAP. The employee must agree in writing, prior to beginning the coursework or an exam, to fulfill a six-month service commitment with the Agency.

New §800.5(c)(4) is added to align with the Agency's personnel manual to update language regarding employee noncompliance in the length of service requirement. The employee must reimburse the Agency the cost of training and expenses.

New §800.5(c)(5) is added to align with the Agency's personnel manual to update language regarding employees who are unable to comply with the length of service requirement due to extraordinary circumstances beyond their control. Employees meeting this criterion may request that the executive director waive the reimbursement of the cost of training activities.

New §800.5(c)(6) is added to align with the Agency's personnel manual to update language regarding employees' approved flex work schedule—provided there is no negative impact on customers or work production—and adds that employees cannot use work hours for TAP activities.

New §800.5(d) is added to state that any information relating to application for and receipt of reimbursement for training and education shall be reported to the Commission on a quarterly basis.

PART III. IMPACT STATEMENTS

Randy Townsend, Chief Financial Officer, has determined that for each year of the first five years the rules will be 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 rules.

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

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

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

There are no anticipated economic costs to persons required to comply with the rules.

There is no anticipated adverse economic impact on small businesses or microbusinesses as a result of enforcing or administering the rules.

Economic Impact Statement and Regulatory Flexibility Analysis

The Agency has determined that the proposed rules will not have an adverse economic impact on small businesses, as these proposed rules place no requirements on small businesses.

Doyle Fuchs, Director of Labor Market and Career Information, has determined that there is no significant negative impact upon employment conditions in the state as a result of the rules.

Reagan Miller, Director, Workforce Development Division, has determined that for each year of the first five years the rules are in effect, the public benefit anticipated as a result of enforcing the proposed rules will be to provide greater transparency and fiscal accountability to state agencies, ensuring that educational opportunities enhance the employee's ability to perform job duties as a benefit to the Agency and enhance the delivery of services to the public.

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

PART IV. COORDINATION ACTIVITIES

In the development of these rules for publication and public comment, the Commission sought the involvement of Texas' 28 Boards. The Commission provided the concept paper regarding these rule amendments to the Boards for consideration and review on August 25, 2015. The Commission also conducted a conference call with Board executive directors and Board staff on September 11, 2015, to discuss the concept paper. During the rulemaking process, the Commission considered all information gathered in order to develop rules that provide clear and concise direction to all parties involved.

Comments on the proposed rules may be submitted to TWC Policy Comments, Workforce Policy and Service Delivery, attn: Workforce Editing, 101 East 15th Street, Room 440T, Austin, Texas 78778; faxed to (512) 475-3577; or e-mailed to TWCPolicyComments@twc.state.tx.us. Comments must be received or postmarked no later than 30 days from the date this proposal is published in the *Texas Register*.

The rules are proposed under Texas Labor Code §301.0015 and §302.002(d), which provide the Texas Workforce 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 proposed rules affect Title 4, Texas Labor Code, Chapters 301 and 302.

CHAPTER 800. GENERAL ADMINISTRATION

SUBCHAPTER A. GENERAL PROVISIONS

§800.5. Tuition Assistance Program.~~Commission Professional Development Program.~~

- (a) Scope and Purpose. The Commission provides training opportunities to enhance job skills and to retain a well-qualified~~well-qualified~~, trained, professional workforce dedicated to the Commission's mission. The Tuition Assistance Program (TAP)~~Professional Development Program~~ training includes instruction, teaching, or other education received by a state employee that is not normally received by other state employees and that is designed to enhance the employee's ability ~~of the employee~~ to perform his or her ~~the employee's~~ job. This section establishes eligibility and related requirements for employee participation in the Commission's TAP.~~Professional Development Program.~~
- (b) Eligibility. Eligibility requirements~~The executive director or the executive director's designee will determine an employee's eligibility~~ for tuition assistance ~~the professional development program~~. ~~Factors to be considered~~ include, but are not limited to:
- (1) continuous and full-time employment for one year at the time of application~~an employee's job performance~~;
 - (2) a recommendation from the employee's supervisor;
 - (3) identification of the relationship of the training to the employee's position or a prospective role within the Agency; ~~and~~
 - (4) any other factor deemed relevant by the executive director ~~or his designee~~; ~~and~~
 - (5) coursework or training to be obtained at an accredited institution of higher education, as required by statute.
- (c) Restitution from Employees for Training Costs. The employee training is conditional upon all of the following:
- (1) The employee shall attend and successfully ~~attend and satisfactorily~~ complete the training or education program, including passing tests or other types of performance measures where required.
 - (2) At the authorization ~~discretion~~ of the Agency's executive director ~~or the executive director's designee~~, the employee shall complete and file with the Commission prior to the commencement of the training, on forms prescribed by the Commission, an employee training agreement that sets forth the terms and conditions of the training assistance, including a provision for working for

the Agency for a prescribed period of time or paying back the amount of the assistance.

~~(3) For any training paid for by the Commission, where the employee does not perform the employee's regular duties for three or more months due to the training, the employee shall:~~

~~(A) work for the agency following the training for at least one month for each month of the training period, prorated as appropriate; or~~

~~(B) pay the Commission for all costs associated with the training that were paid before, during, or after the training, including any amounts of the employee's salary that were paid and that were not accounted for as paid vacation or compensation leave.~~

(3) An employee participating in the TAP must agree in writing, prior to beginning the coursework or an exam, to a service commitment to the Agency. An employee who receives reimbursement is obligated to fulfill a six-month service commitment with the Agency.

(4) Employees who do not comply with the length of service requirement must reimburse the Agency for both the cost of the training activities (prorated to credit any full calendar month of employment following completion of the course) and any reasonable expenses the Agency incurs in obtaining restitution, including reasonable attorney's fees.

(5) Employees who are unable to comply with the length of service requirement due to extraordinary circumstances beyond their control, may request that the executive director waive the reimbursement of the cost of training activities.

(6) Employees approved for the TAP may flex their work schedule with the approval of their supervisor if there is no negative impact on customers or work production. Employees cannot use work hours for attending classes, studying, taking exams, or other activities associated with the coursework or exams. When such activities fall within an employee's normal work schedule, the employee must use leave hours to compensate for time away from the job.

(d) Any information relating to application for and receipt of reimbursement for training and education for state administrators and employees shall be reported to the Commission on a quarterly basis.