

Chapter 801. LOCAL WORKFORCE DEVELOPMENT BOARDS

ADOPTED RULE WITH PREAMBLE TO BE SUBMITTED TO THE TEXAS REGISTER. THIS DOCUMENT WILL NOT HAVE ANY SUBSTANTIVE CHANGES BUT IS SUBJECT TO FORMATTING CHANGES AS REQUIRED BY THE TEXAS REGISTER.

The Texas Workforce Commission (Commission) adopts an amendment to Chapter 801, §801.1 Requirements for Formation of Local Workforce Development Boards (Board), without changes as published in the September 14, 2001 issue of the *Texas Register* (26 TexReg 7080). The rules will not be republished.

Purpose: Each Board must include members that represent a variety of backgrounds as required by statute at §2308.256, Texas Government Code and set forth in Commission rules at 40 TAC §801.1(g)(2)(C). The purpose of the rule change is to implement House Bill 218, 77th Legislature, Regular Session (2001), which amends §2308.251 and §2308.256, Texas Government Code by adding a definition of "veterans" and the requirement that each Board have at least one member that is a "veteran" as defined in the statute.

No comments were received on the proposed amendment and the Commission makes no changes to the text as proposed.

For information about the Commission please visit our web page at www.texasworkforce.org.

The rules are adopted under Texas Labor Code §§301.061 and 302.002, 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 rules affect Texas Labor Code, Chapter 302 and Texas Human Resources Code, Chapters 31 and 44.

Chapter 801. LOCAL WORKFORCE DEVELOPMENT BOARDS

§ 801.1. Requirements for Formation of Local Workforce Development Boards

(a)-(f) No change.

(g) Procedures for Formation of a Board. The CEOs must comply with the following procedures to form a Board.

- (1) Public process procedure. If three-fourths of the CEOs, as defined in subsection (d) of this section, agree to initiate procedures to establish a Board, they must conduct a public process, including at least one public meeting, to consider the views of all affected organizations before making

a final decision to form a Board. This public process may include, but is not limited to, notices published in various media and surveys for public comment.

(2) Application procedure.

(A) The CEOs must submit an application to the Commission. This application must include evidence of the actions required by paragraph (1) of this subsection. As a part of the application, each of the CEOs, who is in agreement regarding the formation of a Board, must execute the following documents:

- (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 procedure that will be followed to keep those CEOs informed regarding local workforce development activities;
 - (IV) the initial size of the Board;
 - (V) how resources allocated to the workforce 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) an acknowledgment in the following form: We, the chief elected officials of the _____ Workforce Development Area, acknowledge that the following are responsibilities and requirements pursuant to the formation of local workforce development boards (Boards):
 - (I) The Board will assume the responsibilities for the following committees and councils that will be replaced by the Board unless otherwise provided in Texas Government Code, Chapter 2308: private industry council, quality workforce planning committee, job service employer committee, and local general vocational program advisory committee.
 - (II) At least one career development center must be established within 180 days of Board certification;
 - (III) The Board must have its own independent staff and not be a provider of workforce services, unless the Board secures a waiver of these provisions;

- (IV) The chief elected officials must enter into a partnership agreement with the Board to designate a grant recipient to receive and be accountable for block grant funds, and be liable for any misuse of funds;
 - (V) The partnership agreement must also specify the entity that will administer the programs, which may be separate from the entity that receives the funds from the state;
 - (VI) The partnership agreement must define the process through which the Boards and chief elected officials will develop the strategic and operational plans, including the training plan required under the Workforce Investment Act, required by the legislation in order to receive block grant funds; and
 - (VII) The strategic plan must be reviewed by both the Commission and the Texas Council on Workforce and Economic Competitiveness, and approved by the Governor before block grants will be available to the workforce area.
- (B) The application must include evidence that any affected existing Board has been notified and agrees that its functions and responsibilities will be assumed by the proposed Board upon the proposed Board's final certification by the Governor.
- (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, including Texas Government Code, §2308.255 and §2308.256.
- (i) Private sector members shall be owners of business concerns, chief executives, chief operating officers of nongovernmental employers, or other private sector executives who have substantial management or policy responsibility. To be eligible to represent the private sector, at least 51% of an individual's annual income must be from private sector sources.
 - (ii) Private sector membership should represent the composition of the local pool of employers. The private sector membership should include representatives of the region's larger employers and emerging growth industries. Primary consideration should be given to private sector employers who do not directly provide employment and workforce training services to the general public. CEOs

must develop a profile of the area's major industries using locally obtained information and state published data. The Commission will provide relevant labor market information, including data which identify employment trends, emerging and growth industries, the size of local employers, and other data needed to assist CEOs in developing the employer profile. Documentation submitted with the application must show how the regional employer profile is reflected in the Board membership.

- (iii) Board membership must include representatives of local organized labor organizations, community-based organizations, educational agencies, vocational rehabilitation agencies, public assistance agencies, economic development agencies, the public employment service, local literacy councils, and adult basic and continuing education organizations as required by law.
 - (iv) Representatives of local organized labor organizations shall be nominated by local labor federations unless no employees in the workforce area are represented by such organizations, in which case nominations may be made by other representatives of employees. A labor federation is defined as an alliance of two or more organized labor unions for the purpose of mutual support and action.
 - (v) Board nominees shall be actively engaged in the organization, enterprise or field which they are nominated to represent. A Board nominee shall have an existing relationship with the workforce area through residence or employment within the workforce area.
 - (vi) At least one of the members of a Board appointed under Texas Government Code §2308.256(a) must, in addition to the qualifications required for the members under that subsection, have expertise in child care or early childhood education.
 - (vii) At least one of the members of a Board appointed under Texas Government Code §2308.256(a) must, in addition to the qualifications required for the members under that subsection, be a veteran as defined in Texas Government Code §2308.251(2).
- (D) No individual member shall be a representative of more than one sector or category described in this section, except as statutorily permitted for one or more members having expertise in child care or early childhood education in addition to meeting one of the other sector or categories of representation.

- (E) The application must include documentary evidence substantiating compliance with the application procedure, including but not limited to, written agreements, minutes of public meetings, copies of correspondence, and such other documentation as may be appropriate.