

PART XX. Texas Workforce Commission
CHAPTER 800.General Administration
SUBCHAPTER G.Petition for Adoption of Rules
40 TAC §§800.251-800.255

The Texas Workforce Commission (Commission) proposes new §§ 800.251-800.255, concerning the Petition for Adoption of Rules. New Subchapter G., Petition for Adoption of Rules, is proposed as the location of new §§800.251-800.255.

New Subchapter G in Chapter 800 provides the form and procedure for processing a petition for the adoption of rules.

New § 800.251 sets forth the short title and purpose for this subchapter.

New § 800.252 sets forth the definitions that apply to this subchapter.

New § 800.253 sets forth the procedure for submission and the petition requirements that apply to this subchapter.

New § 800.254 sets forth the procedure for reviewing the petitions submitted pursuant to this subchapter.

New § 800.255 sets forth a description of Commission action that may result from the submission made pursuant to this subchapter.

Randy Townsend, Director of Finance, has determined that for the first five-year period the rules are in effect, there will be minimal fiscal implications as a result of enforcing or administering the rules. There will be minimal additional costs to the state as a result of enforcing the rules. There will be no reduction in costs to the state. There will be no costs to local governments. J. Ferris Duhon, Acting Deputy Director of Legal Services, 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 rules will be the enhanced ability of the public to recommend rules to the Commission. There is no anticipated effect on small businesses and there are no anticipated costs to persons who are required to comply with the rules as proposed.

All official comments submitted to J. Ferris Duhon will be considered before the final rules are adopted. Comments on the proposed rules may be submitted to J. Ferris Duhon, Acting Deputy Director of Legal Services, Texas Workforce Commission Building, 101 East 15th Street, Room 264, Austin, Texas 78778 (512) 463-2293. Comments may also be submitted via fax to J. Ferris Duhon at (512) 463-1426, or e-mailed to: ferris.duhon@twc.state.tx.us. Comments must be received by the Commission by 5:00 p.m. on March 10, 1998 for consideration.

The new rules are proposed under Texas Labor Code, §301.061 which provides the Commission with the authority to adopt, amend or rescind such rules as it deems necessary for the effective administration of the Act and Texas Government Code, §2001.021 which provides for the Commission to promulgate by rule the form for a petition for adoption of rules and the procedure for its submission, consideration, and disposition of the petition. The proposed rules affect the Texas Labor Code, Title 4.

§800.251.Title and Purpose.

(a) Title. These rules may be cited as the Petition for the Adoption of Rules.

(b) Purpose. The purpose of these rules is to implement the provisions of Texas Government Code §2001.21 regarding agency procedure for addressing petitions for the adoption of rules.

§800.252.Definitions.

The following words and terms, when used in this subchapter, shall have the following meaning, unless the context clearly indicates otherwise.

Commission --The Texas Workforce Commission.

§800.253.Submission and Petition Requirements.

Any interested person may petition the Texas Workforce Commission (Commission) requesting the adoption of a rule. Petitioners should submit petitions in writing to the General Counsel of the Commission. The petition may be in any legible form but must contain at least the following information.

(1) Petitioner's Name and Address. The petitioners' name, complete mailing address, and signature should appear in the request.

(2) Explanation and Justification. A petitioner should include an explanation and justification of the proposed rule. The explanation should include a concise statement of the relevant background information necessary to understand the need for the rule, the existing problem that the proposed rule is to correct, and the foreseeable effects of the requested rule.

(3) Text. A petitioner should include the text of the proposed rule reflecting added or deleted words. A reference to any existing rule including the title, chapter and section number, if applicable, should appear on the request.

(4) Authority. A statement of the statutory or other authority for taking the requested action should also appear on the request.

§800.254.Review of Petition.

Upon receipt of a substantially complete petition, the general counsel will forward a copy of the petition to the appropriate division director for a response.

(1) Division Response. Within 20 days after receiving the petition from the general counsel, the division director shall respond in writing to the General Counsel recommending either denying the request or initiating the rulemaking process. The division director's response shall contain the reasons for the recommendation.

(2) General Counsel Recommendation. Within 20 days after receiving the division director's response, the general counsel shall submit to the commissioners the petition, the division director's response and a written recommendation by the general counsel specifying the reasons for the recommendation.

§800.255.Commission Decision and Action.

(a) The Commissioners shall issue the final decision regarding the petition within 60 days after receipt of the petition from the petitioner to either:

(1) deny the petition in writing, stating the reasons for the denial; or

(2) initiate rulemaking proceedings in accordance with Texas Government Code, Chapter 2001, Administrative Procedure, Subchapter B, Rulemaking, as it may be amended.

(b) The Commission may modify any proposed rule to ensure that it conforms to the format of commission rules, adequately addresses the perceived problem, and conforms to the filing requirements of the Texas Register.

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 January 23, 1998.

TRD-9801076

J. Randel (Jerry) Hill

General Counsel

Texas Workforce Commission

Earliest possible date of adoption: March 9, 1998

For further information, please call: (512) 463-8812