

Chapter 800. GENERAL ADMINISTRATION

Subchapter B. ALLOCATIONS AND FUNDING

40 TAC §800.63

The Texas Workforce Commission proposes new §800.63, relating to allocation of funds under the Workforce Investment Act (WIA) (29 U.S.C.A. §2801 *et seq.*).

Purpose: The purpose of the rule is to provide a basis for allocating funds under WIA Title I to local workforce development areas (workforce areas) to be used for youth activities, adult employment and training activities, and dislocated worker employment and training activities.

Background: WIA provides for the allocation of funds for employment and training activities to workforce areas and the reservation of funds for statewide activities and rapid response activities. The WIA allows the Commission the flexibility to allocate funds based on prior consistent State law and provides funding allocation formulas, weights and measures based on the needs of the State and workforce areas. Flexibility is allowed in the use of statewide activity funds for youth, adult, or dislocated worker activities without regard to the source of the funds. The Commission may reserve up to 15 percent of each of the three funding streams for statewide activities. These statewide funds will be a critical factor in creating an integrated statewide employment and training system for Texas. In the rule and this preamble, the term "Agency" refers to the daily operations of the Texas Workforce Commission under the direction of the executive director, and the term "Commission" refers to the three-member body of governance composed of Governor-appointed members.

The Commission, in the WIA State Plan, has adopted a formula, data elements, and weights to be used in allocating funds, which are not reserved for statewide or rapid response activities, adult employment and training activities, dislocated worker employment and training activities, and youth activities. With respect to allocations of funds for employment and training activities for dislocated workers, the rule continues the allocation provided for under prior law. This allocation has worked well in meeting the needs of the State and workforce areas undergoing structural change and the accompanying unemployment.

The Commission provides a single rule to allocate funds that are subject to the oversight of local workforce development boards (Boards). The funds are provided to workforce areas for the purpose of meeting the needs of eligible populations and for meeting or exceeding state performance measures. Section 800.63(a) is added to define area of substantial unemployment, disadvantaged adult, and disadvantaged youth. The remainder of §800.63 is added to describe the policies and procedures used to allocate WIA funds to the workforce areas and to clarify the roles of the Commission and the Agency.

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

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

there are no anticipated economic costs to persons required to comply with the rule.

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 small businesses (including micro-businesses) are not regulated by or required to do anything by this rule.

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

Barbara Cigainero, Director of Workforce Development, has determined that for each year of the first five years the rule is in effect, the public benefit anticipated as a result of enforcing the rule will be to help ensure a more effective use of WIA funds to assist Boards in supporting employment, training, and education.

Comments on the proposal may be submitted to Barbara Cigainero, Texas Workforce Commission Building, 101 East 15th Street, Room 504T, Austin, Texas 78778, (512) 463-7747. Comments may also be submitted via fax to (512) 463-2799 or e-mailed to: Barbara.Cigainero@twc.state.tx.us. Comments must be received by the Agency within thirty days from the date of the publication of this proposal in the *Texas Register* .

The 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 the Agency's services and activities.

The rule affects Texas Labor Code, Title 4.

§800.63. Workforce Investment Act (WIA) Allocations.

(a) Definitions. The following words and terms when used in this section, shall have the following meanings, unless the context clearly indicates otherwise.

(1) Area of substantial unemployment--As defined in WIA §127(b)(2)(B) (29 U.S.C.A. §2852(b)(2)(B)) and WIA §132(b)(1)(B)(v)(III) (29 U.S.C.A. §2862(b)(1)(B)(v)(III)).

(2) Disadvantaged adult--As defined in WIA §132(b)(1)(B)(v)(IV) (29 U.S.C.A. §2862(b)(1)(B)(v)(IV)).

(3) Disadvantaged youth--As defined in WIA §127(b)(2)(C) (29 U.S.C.A. §2852(b)(2)(C)).

(b) Scope and Authority. Funds available to the Agency under Title I of WIA for youth activities, adult employment and training activities, and dislocated worker employment and training activities shall be allocated to workforce areas or reserved for statewide activities in accordance with:

(1) the provisions of prior consistent state law as authorized by WIA §194(a)(1)(A) (29 U.S.C.A. §2944(a)(1)(A)), including but not limited to Texas Labor Code §302.062, as amended, and Subchapter B of this title (relating to Allocations and Funding);

(2) the WIA and related federal regulations as amended; and

(3) the WIA State Plan.

(c) Reserves and Allocations for Youth and Adult Employment and Training Activities. The Commission shall reserve no more than 15% and shall allocate to workforce areas at least 85% of the youth activities and adult employment and training activities allotments from the United States Department of Labor.

(d) Reserves and Allocations for Dislocated Worker Employment and Training Activities. The Commission shall allocate the dislocated worker employment and training allotment in the following manner:

(1) reserve no more than 15% for statewide workforce investment activities;

(2) reserve no more than 25% for state level rapid response and additional local assistance activities and determine the proportion allocated to each activity; and

(3) allocate at least 60% to workforce areas.

(e) State Adopted Elements, Formulas, and Weights. The Commission shall implement the following elements, formulas, and weights adopted for Texas in the WIA State Plan in allocating WIA funds to workforce areas.

(1) WIA adult employment and training activities funds not reserved by the Commission under §800.63(c) of this section shall be allocated to the workforce areas as provided in WIA §133(b)(2) (29 U.S.C.A. §2863(b)(2)) based on the following:

(A) 33 1/3 percent on the basis of the relative number of unemployed individuals in areas of substantial unemployment in each workforce area, compared to the total number of unemployed individuals in areas of substantial unemployment in the State;

(B) 33 1/3 percent on the basis of the relative excess number of unemployed individuals in each workforce area, compared to the total excess number of unemployed individuals in the State; and

(C) 33 1/3 percent on the basis of the relative number of disadvantaged adults in each workforce area, compared to the total number of disadvantaged adults in the State.

(2) WIA dislocated worker employment and training activities funds not reserved by the State under §800.63(d) of this section shall be allocated to the workforce areas as provided in WIA §133(b)(2) (29 U.S.C.A. §2863(b)(2)) based on the following workforce area measures:

(A) insured unemployment;

(B) average unemployment;

(C) Worker Adjustment and Retaining Notification Act (29 U.S.C.A. §2101 *et seq.*) data;

(D) declining industries;

(E) farmer-rancher employment; and

(F) long-term unemployment.

(3) WIA youth activities funds not reserved by the Commission under §800.63(c) of this section shall be allocated to the workforce areas as provided in WIA §128(b)(2) (29 U.S.C.A. §2853(b)(2)) based on the following:

(A) 33 1/3 percent on the basis of the relative number of unemployed individuals in areas of substantial unemployment in each workforce area, compared to the total number of unemployed individuals in all areas of substantial unemployment in the State;

(B) 33 1/3 percent on the basis of the relative excess number of unemployed individuals in each workforce area, compared to the total excess number of unemployed individuals in the State; and

(C) 33 1/3 percent on the basis of the relative number of disadvantaged youth in each workforce area, compared to the total number of disadvantaged youth in the State.

(f) Availability of Funds. The Commission shall allocate funds not reserved under §800.62(c) and (d) of this section and the Agency shall award the funds through master board contract amendments within 30 days after the date the funds are made available to the State or within seven days after the Governor's approval of the local plan, whichever is later.

(g) Reserved Funds. The Commission shall allocate the funds reserved under §§800.63(c) and 800.63(d)(1) of this section to provide required and, if funds are available, allowable statewide activities as outlined in WIA §§129 and 134 (29 U.S.C.A. §§2854 and 2864). The Agency shall utilize and expend the funds reserved under §800.63(d)(2) of this section for statewide rapid response activities as described in WIA §134(a)(2)(A).

(h) Expenditure Level for Statewide Activity Funding. Effective in WIA program year 2001, a Board shall demonstrate an 80 percent expenditure level of prior year WIA allocated funds in order to be eligible to receive statewide activity funding. In WIA program year 2000, a Board shall demonstrate a 60 percent expenditure level of prior year WIA allocated funds in order to be eligible to receive statewide activity funding.

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 June 23, 2000.

TRD-200004399

J. Ferris Duhon

Assistant General Counsel

Texas Workforce Commission

Earliest possible date of adoption: August 6, 2000

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