

CHAPTER 801. LOCAL WORKFORCE DEVELOPMENT BOARDS

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 **AUGUST 28, 2007**, 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*: **September 14, 2007**
Estimated End of Comment Period: **October 15, 2007**

The Texas Workforce Commission (Commission) proposes the repeal of the following section of Chapter 801 relating to Local Workforce Development Boards:

Subchapter B. One-Stop Service Delivery Network, §801.33

- 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 this amendment is to remove §801.33 relating to Advertising. This rule change implements the statutory provisions in House Bill (HB) 3074, enacted by the 80th Texas Legislature, Regular Session (2007). HB 3074 repeals Texas Government Code §2308.264(e)(4), which required the Commission to establish rules to ensure that entities contracting with Boards may use, display, and advertise the entity's name when providing workforce services for the Board. HB 3074 removes the requirement that contractor advertising must be allowed.

Texas Government Code, Chapter 2308, and this chapter govern Boards. The repeal of Texas Government Code §2308.264(e)(4) allows the Commission and the Boards the flexibility to decide whether contractors can use, display, and advertise their business name when providing one-stop workforce services for the Boards.

PART II. EXPLANATION OF INDIVIDUAL PROVISIONS

SUBCHAPTER B. ONE-STOP SERVICE DELIVERY NETWORK

The Commission proposes the following amendment to Subchapter B:

§801.33. Advertising

Section 801.33 is deleted to reflect HB 3074, which repeals Texas Government Code §2308.264(e)(4). Repealed §2308.264(e)(4) allowed entities that contract with Boards to use,

display, and advertise their business name when providing one-stop workforce services. By deleting this section, the Commission provides Boards the opportunity to make a local determination on whether to allow contractor advertising.

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 local governments expected as a result of enforcing or administering the rules.

There are no estimated reductions in costs 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 or microbusinesses as a result of enforcing or administering the rules.

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

Laurence M. Jones, 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 comply with the provisions of HB 3074.

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

Comments on the proposed rules may be submitted to TWC Policy Comments, Workforce and UI Policy, 101 East 15th Street, Room 440T, Austin, Texas 78778; faxed to 512-475-3577; or e-mailed to TWCPolicyComments@twc.state.tx.us. The Commission must receive comments 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 Texas Labor Code, particularly Chapters 301 and 302, as well as Texas Government Code §2308.

Chapter 801. LOCAL WORKFORCE DEVELOPMENT BOARDS

SUBCHAPTER B. ONE-STOP SERVICE DELIVERY NETWORK

~~§801.33. Advertising.~~

- (a) ~~Boards shall ensure that, within 120 days of the effective date of this rule (or within three Board meetings, whichever is later), policies are developed regarding the limitations and restrictions on the use, display, and advertising of contractors' and prospective contractors' business names when providing one-stop workforce services for the Boards. These policies shall only be applicable in the event a contractor or prospective contractor requests to advertise. At a minimum, Board policies shall address:~~
- ~~(1) the requirement that the use or display of the contractors' business names be in a subordinate manner or position to the Board's name in terms of size, placement, stature, and location and include restrictions specifically relating to:
 - ~~(A) the advertising medium to be used, including, but not limited to, Internet, radio, television, and print; and~~
 - ~~(B) the design of the advertising medium;~~~~
 - ~~(2) the requirement that contractors and prospective contractors provide the Board advance written notice of their intent to use, display, or advertise their business name;~~
 - ~~(3) the prohibition on a contractor's or prospective contractor's business name recognition from being a factor in evaluating a proposal for services;~~
 - ~~(4) limitations necessary to avoid potential confusion of employers and job seekers attempting to access one-stop workforce services;~~
 - ~~(5) the method of holding contractors accountable in conforming to the policies;~~
 - ~~(6) methods to comply with subsection (b) of this section, disclosure of the source of funds to be used for advertising, and the requirement of an attestation that no Commission-contracted funds will be used to cover the cost of advertising.~~
- (b) ~~Commission-contracted funds shall not be used for costs associated with advertising a contractor's business name. Specifically, Boards and contractors are prohibited from using Commission-contracted funds to pay for costs associated with:~~
- ~~(1) displaying a contractor's business name on materials used in performing contracted duties, including materials that a Board requires a contractor to purchase;~~
 - ~~(2) replacing unused materials that contain a contractor's business name, such as pamphlets describing one-stop workforce services; and~~
 - ~~(3) removing the contractor's business name from signs designed to remain on the premises of a Texas Workforce Center.~~
- (c) ~~Boards shall charge an outgoing contractor for the costs associated with:~~
- ~~(1) replacing unused materials that contain the outgoing contractor's business name, such as pamphlets describing one-stop workforce services; and~~
 - ~~(2) removing the outgoing contractor's business name from signs designed to remain on the premises of a Texas Workforce Center.~~
- (d) ~~Boards shall be the final decision-making authority related to Boards' policies on contractor advertising. There will be no appeal to the Commission.~~