

1 **CHAPTER 843. JOB MATCHING SERVICES**

2
3 **PROPOSED RULES WITH PREAMBLE TO BE SUBMITTED TO THE TEXAS**
4 **REGISTER. THIS DOCUMENT WILL HAVE NO SUBSTANTIVE CHANGES BUT IS**
5 **SUBJECT TO FORMATTING CHANGES AS REQUIRED BY THE TEXAS REGISTER.**
6

7 The Texas Workforce Commission (Commission) proposes amendments to the following section
8 of Chapter 843, relating to Job Matching Services:

9
10 Subchapter A General Provisions, §843.1

- 11
12 **PART I. PURPOSE, BACKGROUND, AND AUTHORITY**
13 **PART II. EXPLANATION OF INDIVIDUAL PROVISIONS**
14 **PART III. IMPACT STATEMENTS**
15 **PART IV. COORDINATION ACTIVITIES**
16

17 **PART I. PURPOSE, BACKGROUND, AND AUTHORITY**

18 The purpose of the Chapter 843 amendments is to conform the Subchapter A general provisions
19 with the requirements of Senate Bill (SB) 563, enacted by the 82nd Texas Legislature, Regular
20 Session (2011).

21
22 Previously, anyone could submit an open records request for WorkInTexas.com data and legally
23 obtain personal and contact information for any job seeker who has registered with the system.
24 This information could be used for purposes other than the Agency's job matching system, such
25 as marketing outreach, and for potentially illegal activities.

26
27 SB 563 amends Texas Labor Code §301.085 by requiring the Commission to "adopt and enforce
28 reasonable rules governing the confidentiality, custody, use, preservation, and disclosure of job
29 matching services information. The rules must include safeguards to protect the confidentiality
30 of identifying information regarding any individual or any past or present employer or
31 employing unit contained in job matching services information, including any information that
32 foreseeably could be combined with other publicly available information to reveal identifying
33 information regarding the individual, employer, or employing unit, as applicable."
34

35 **PART II. EXPLANATION OF INDIVIDUAL PROVISIONS**

36 (Note: Minor editorial changes are made that do not change the meaning of the rules and,
37 therefore, are not discussed in the Explanation of Individual Provisions.)
38

39 **SUBCHAPTER A. GENERAL PROVISIONS**

40 **The Commission proposes the following amendments to Subchapter A:**

41
42 **§843.1. Employer and Job Seeker Services**

43 New §843.1(d):

44 (1) defines "job matching services information" as information in the records of the Agency that
45 pertains to the job matching services system provided to employers, employing units, and job

1 seekers through the Internet, Workforce Solutions Offices, or other means, and maintained by the
2 Agency, Local Workforce Development Boards (Boards), and their workforce service providers;
3 (2) states that job matching services information is not public information and shall be
4 maintained as confidential to the same degree as unemployment compensation information as set
5 forth in 40 TAC Chapter 815, Subchapter E;
6 (3) does not limit or waive any right or obligation of the Agency to invoke limitations or
7 confidentiality requirements based on separate laws or regulations; and
8 (4) states that disclosure of job matching services information is permissible:
9 (A) for the purposes of administering job matching services;
10 (B) when disclosing information about a job seeker or employer to that job seeker or
11 employer;
12 (C) when there is a written information release signed by the job seeker or employer;
13 (D) when the information is provided to a public official for use in the performance of his
14 or her official duties; and
15 (E) in other situations that do not violate the confidentiality of the job seeker or employer
16 and that have been approved by the Agency's Open Records Unit.
17

18 **PART III. IMPACT STATEMENTS**

19 Randy Townsend, Chief Financial Officer, has determined that for each year of the first five
20 years the rules will be in effect, the following statements will apply:
21

22 There are no additional estimated costs to the state and local governments expected as a result of
23 enforcing or administering the rules.
24

25 There are no estimated reductions in costs to the state and to local governments as a result of
26 enforcing or administering the rules.
27

28 There are no estimated losses or increases in revenue to the state or to local governments as a
29 result of enforcing or administering the rules.
30

31 There are no foreseeable implications relating to costs or revenue of the state or local
32 governments as a result of enforcing or administering the rules.
33

34 There are no anticipated economic costs to persons required to comply with the rules.
35 There is no anticipated adverse economic impact on small or microbusinesses as a result of
36 enforcing or administering the rules.
37

38 **Economic Impact Statement and Regulatory Flexibility Analysis**

39 The Agency has determined that the proposed rules will not have an adverse economic impact on
40 small businesses as these proposed rules place no requirements on small businesses.
41

42 Rich Froeschle, Director of Labor Market and Career Information, has determined that there is
43 no significant negative impact upon employment conditions in the state as a result of the rules.
44

1 Reagan Miller, Director, Workforce Development Division, has determined that for each year of
2 the first five years the rules are in effect, the public benefit anticipated as a result of enforcing the
3 proposed rules will be to:

- 4 --ensure compliance with federal and state requirements; and
- 5 --protect the personally identifiable information of the employers, employing units, and job
6 seekers who use the Agency's job matching system.

7
8 The Agency hereby certifies that the proposal has been reviewed by legal counsel and found to
9 be within the Agency's legal authority to adopt.

10
11 **PART IV. COORDINATION ACTIVITIES**

12 In the development of these rules for publication and public comment, the Commission sought
13 the involvement of Texas's 28 Boards. The Commission provided the concept paper regarding
14 these rule amendments to the Boards for consideration and review on April 10, 2012. The
15 Commission also conducted a conference call with Board executive directors and Board staff on
16 April 13, 2012, to discuss the concept paper. During the rulemaking process, the Commission
17 considered all information gathered in order to develop rules that provide clear and concise
18 direction to all parties involved.

19
20 Comments on the proposed rules may be submitted to TWC Policy Comments, Workforce
21 Policy and Service Delivery, attn: Workforce Editing, 101 East 15th Street, Room 440T, Austin,
22 Texas 78778; faxed to (512) 475-3577; or e-mailed to TWCPolicyComments@twc.state.tx.us.
23 The Commission must receive comments postmarked no later than 30 days from the date this
24 proposal is published in the *Texas Register*.

25
26 The rules are proposed under Texas Labor Code §301.0015 and §302.002(d), which provide the
27 Texas Workforce Commission with the authority to adopt, amend, or repeal such rules as it
28 deems necessary for the effective administration of Agency services and activities.

29
30 The proposed rules affect Texas Labor Code, Chapter 302, and Texas Government Code Chapter
31 657.

1 sending or requesting information by mail or facsimile.
2

3 (d) Confidentiality and Disclosure of Job Matching Services Information.
4

- 5 (1) "Job matching services information" is information in the records of the
6 Agency that pertains to the job matching services system provided to
7 employers, employing units, and job seekers through the Internet, Workforce
8 Solutions Offices, or other means, that is maintained by the Agency and
9 Boards and their workforce service providers.
- 10
- 11 (2) Job matching services information is not public information and shall be
12 maintained as confidential to the same degree as unemployment compensation
13 information as set forth in Chapter 815, Subchapter E, of this title.
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- 15 (3) This subsection does not limit or waive the Agency's rights or obligations to
16 invoke limitations or confidentiality requirements based on separate laws or
17 regulations.
18
- 19 (4) Disclosure of job matching services information is permissible:
20
- 21 (A) for the purposes of administering job matching services;
22
- 23 (B) when disclosing information about a job seeker or employer to that job
24 seeker or employer;
25
- 26 (C) when there is a written information release signed by the job seeker or
27 employer;
28
- 29 (D) when the information is provided to a public official for use in the
30 performance of his or her official duties; and
31
- 32 (E) in other situations that do not violate the confidentiality of the job seeker
33 or employer and that have been approved by the Agency's Open Records
34 Unit.
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