

Chapter 800. GENERAL ADMINISTRATION

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 **JUNE 22, 2006**, 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*: **July 7, 2006**
Estimated End of Comment Period: **August 7, 2006**

The Texas Workforce Commission (Commission) proposes amendments to the following sections of Chapter 800, relating to General Administration:

Subchapter C. Performance and Contract Management, §800.81

Subchapter E. Sanctions, §800.151

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 the proposed rules amendment is to eliminate references in this chapter to Chapter 805, relating to the Job Training Partnership Act Rules. Chapter 805 of this title is concurrently being proposed for repeal in its entirety because the rules are no longer necessary.

PART II. EXPLANATION OF INDIVIDUAL PROVISIONS

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

SUBCHAPTER C. PERFORMANCE AND CONTRACT MANAGEMENT

The Commission proposes the following amendment:

§800.81. Performance

Section 800.81(i) is deleted. Based on the concurrent proposed repeal of Chapter 805 of this title, the Job Training Partnership Act Rules, this subsection is obsolete.

SUBCHAPTER E. SANCTIONS

The Commission proposes the following amendment:

§800.151. Scope and Purpose

Section 800.151(d) is deleted. Based on the concurrent proposed repeal of Chapter 805 of this title, the Job Training Partnership Act Rules, this subsection is obsolete.

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 estimated additional costs to the state and to 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 will be no probable economic costs to persons required to comply with this rule, and there will be no adverse economic effect on small businesses.

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.

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.

Luis M. Macias, 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 ensure compliance with federal and state requirements.

PART IV. COORDINATION ACTIVITIES

In the development of these rules for publication and public comment, the Commission considered all information gathered in order to develop a rule that provides clear and concise direction to all parties involved. Additionally, the Commission provided the

policy concept regarding the concurrent proposed repeal of Chapter 805, relating to the Job Training Partnership Act Rules, to the Boards for consideration and review.

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 Title 4, Texas Labor Code, particularly Chapters 301 and 302.

Chapter 800. GENERAL ADMINISTRATION

Subchapter C. Performance and Contract Management

§800.81. Performance

- (a) A Board shall meet or exceed performance targets as referenced in contracts with the Agency.
- (b) The Commission shall determine the performance targets based on federal and state performance standards and by using factors that may be necessary to achieve the mission of the Commission and reflect local conditions. The Commission approves individual Board performance targets annually, which may be adjusted based on local conditions including, but not limited to, specific economic conditions and demographic characteristics of the workforce area.
- (c) A Board and other subrecipients ~~subrecipient~~ shall comply with all Commission rules, Workforce Development (WD) Letters, the Financial Manual for Grants and Contracts, ~~Grants and Contracts Manual, the Financial Manual~~ and guidance letters of the Agency, including rules contained in other chapters of Part 20 of this title applicable to specific services and activities performed by a Board and other subrecipients.
- (d) A Board's achievement of high levels of performance may result in the Commission providing incentives for the Board.
- (e) A Board's failure to meet minimum levels of performance as referenced in the Board's contract may result in corrective actions, penalties, or sanctions as specified in:
 - (1) Part 20 of this title (relating to the Texas Workforce Commission), including Chapter 800, Subchapter E, relating to Sanctions;
 - (2) the Board's contract with the Commission; or
 - (3) ~~as otherwise provided for by~~ federal or state statute or rule.
- (f) A Board may submit to the Commission a request for an adjustment to the minimum levels of performance.
- (g) The Commission may determine what constitutes a necessary adjustment to local performance targets and may consider specific economic conditions and demographic characteristics to be served in the ~~local~~ workforce ~~development~~ area and other factors the Commission deems appropriate including the anticipated impact of the adjustment on the state's performance.

- (h) The Governor may adopt additional performance incentives and sanctions provisions as provided in WIA.
- ~~(i) A Board shall comply with and remain subject to the provisions contained in Chapter 805 effective on July 1, 2001, relating to performance or any other matters addressed in Chapter 805 regarding any funds granted by the Secretary of Labor under the JTPA regulations or Act, including NRA and other funds.~~

Subchapter E. Sanctions

§800.151. Scope and Purpose

- (a) The purpose of this subchapter is to:
 - (1) ensure accountability of Boards ~~Local Workforce Development Boards~~ ~~(Boards)~~ and other subrecipients of the Agency, in meeting the needs of employers and job seekers;
 - (2) ensure performance in reaching outcome measures;
 - (3) ensure adequate returns on state investments; and
 - (4) support the state in achieving its goals.
- (b) The Agency may review financial, administrative, and performance data to evaluate a Board and subrecipients ~~subrecipient~~ of the Agency to determine the need for sanctions.
- (c) To accomplish the purposes of this subchapter ~~Subchapter~~, the Agency may require at any point during the year that a Board or subrecipients ~~subrecipient~~ of the Agency cooperate with remedial actions, including, but not limited to, entering into a Performance Improvement Plan and other performance review and assistance activities.
- ~~(d) This rule incorporates by reference the existing rule for the Job Training Partnership Act Program cited in §§805.170—§805.196 of this title.~~