

1 **CHAPTER 800. GENERAL ADMINISTRATION**

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3 **ADOPTED 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.**  
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7 **ON FEBRUARY 5, 2019**, THE TEXAS WORKFORCE COMMISSION ADOPTED THE  
8 RULES BELOW WITH PREAMBLE TO BE SUBMITTED TO THE *TEXAS REGISTER*.

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10 Estimated date of publication in the *Texas Register*: **February 22, 2019**  
11 The rules will take effect: **February 25, 2019**  
12

13 The Texas Workforce Commission (TWC) adopts the following new subchapter to Chapter 800,  
14 relating to General Administration, *without* changes, as published in the December 14, 2018,  
15 issue of the *Texas Register* (43 TexReg 8050):  
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17 Subchapter C. Savings Incentive Program for State Agencies, §800.100 - §800.101  
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19 **PART I. PURPOSE, BACKGROUND, AND AUTHORITY**  
20 **PART II. EXPLANATION OF INDIVIDUAL PROVISIONS**  
21

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

23 Chapter 800 is being amended to add rules on implementing the Savings Incentive Program for  
24 State Agencies, as required by amendments made to Texas Government Code §2108.103(f)  
25 under Senate Bill (SB) 132 enacted by the 85th Texas Legislature, Regular Session (2017).  
26

27 Effective September 1, 2017, SB 132 changed the Savings Incentive Program in Texas  
28 Government Code, Chapter 2108, to remove the 1 percent cap on funds allowed to be retained by  
29 an agency and to allow the agency to retain one-half of the savings, with the other half being  
30 returned to general revenue.  
31

32 SB 132 also:

- 33 --allows a state agency to spend the savings on bonuses, divided equally among eligible
- 34 employees who directly contributed to the agency's savings or who worked in the agency
- 35 department responsible for the savings;
- 36 --establishes a tiered bonus structure that is based on the percentage of the agency's savings;
- 37 --prohibits a state agency from giving the bonuses to agency employees in upper management
- 38 positions;
- 39 --requires an agency to pay off its general obligation bonds before issuing bonuses; and
- 40 --limits an agency's spending to an activity or expense that does not create new services or
- 41 expand services or will not require ongoing funding at a later date.

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43 Currently, TWC has no appropriated undedicated general revenue and, therefore, has no current  
44 savings to retain. However, consistent with revisions to Chapter 2108 of the Texas Government  
45 Code, this section will govern any potential future savings realized from appropriated  
46 undedicated general revenue.

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

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4 **SUBCHAPTER C. SAVINGS INCENTIVE PROGRAM FOR STATE AGENCIES**  
5 **TWC adopts Subchapter C, Savings Incentive Program for State Agencies, as follows:**

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7 **§800.100. Definitions**

8 New §800.100 is added to define terms that apply to the Savings Incentive Program for State  
9 Agencies.

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11 **§800.101. Procedure**

12 New §800.101 is added to explain TWC's procedure for implementing the Savings Incentive  
13 Program for State Agencies. As required under Texas Government Code, Chapter 2108, the  
14 procedure includes verification by the comptroller of the amount of savings, retention and usage  
15 of the savings by TWC, and the awarding of bonuses by TWC.

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17 No comments were received.

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19 TWC hereby certifies that the adoption has been reviewed by legal counsel and found to be  
20 within TWC's legal authority to adopt.

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22 The rules are adopted under Texas Government Code §2108.103(f), which requires state  
23 agencies to adopt implementing rules. In addition, Texas Labor Code §301.0015(a)(6) and  
24 §302.002(d), provide TWC with the authority to adopt, amend, or repeal such rules as it deems  
25 necessary for the effective administration of TWC services and activities.

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27 The adopted rules affect Title 4, Texas Labor Code, particularly Chapters 301 and 302.  
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1                                   **CHAPTER 800. GENERAL ADMINISTRATION**

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3                   **SUBCHAPTER C. SAVINGS INCENTIVE PROGRAM FOR STATE AGENCIES**

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5                   **§800.100. Definitions.**

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7                   In addition to the definitions contained in §800.2 of this title, the following words and  
8                   terms, when used in this subchapter, shall have the following meanings, unless the  
9                   context clearly indicates otherwise:

- 10  
11                   (1)    General appropriations act--a legislative act appropriating money for the  
12                   operation of state government.  
13  
14                   (2)    General obligation bond--a bond issued on behalf of the State of Texas,  
15                   the repayment of which is guaranteed by the full faith and credit of the  
16                   State of Texas and which has been authorized by the Texas Constitution.  
17                   For purposes of this subchapter, the term does not include an  
18                   unemployment insurance trust fund bond.  
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20                   (3)    General revenue-dedicated--a subset of general revenue that is dedicated  
21                   as a result of legislative action and may be appropriated only for the  
22                   purpose to which the revenue is statutorily dedicated.  
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24                   (4)    Undedicated general revenue--general revenue that does not fall under  
25                   the definition of "general revenue-dedicated" and can be transferred for  
26                   another use through a special provision to the general appropriations act.  
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28                   (5)    Upper management--includes commissioners, executive director, deputy  
29                   executive director, division directors, and deputy division directors.

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31                   **§800.101. Procedure.**

- 32  
33                   (a)    In any fiscal year, if the agency spends less of the undedicated general revenue  
34                   derived from nonfederal sources than is appropriated to it by the general  
35                   appropriations act, the agency shall notify the comptroller of the savings before  
36                   October 30 following the end of the fiscal year in which the savings are realized.  
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38                   (b)    Upon verification of savings by the comptroller, the agency may retain one-half of  
39                   the verified amount of savings.  
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41                   (c)    The verified amount of savings may be spent only on an activity or expense that does not:  
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43                   (1)    create new or expanded services; or  
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45                   (2)    require ongoing funding at a later date.  
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47                   (d)    Of the verified savings retained by the agency, one-half:

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- (1) shall be used to make additional principal payments for general obligation bonds issued by the agency or on behalf of the agency by the Texas Public Finance Authority; or
  - (2) may be used to provide bonuses to a qualifying employee or employees of the agency, as set forth in Texas Government Code §2108.103(c)(2)(A) - (C), if there are no outstanding general obligation bonds issued by the agency or on behalf of the agency by the Texas Public Finance Authority.
- (e) In determining whether savings have been realized, the Agency's Finance department will consider the difference between lapsed funds and verifiable savings that are based on proactive efforts by an Agency employee or employees to reduce operational and other costs to the Agency.
- (f) If verified savings under this section are not needed for other Agency priorities, the savings may be awarded as bonuses as set out in Texas Government Code §2108.103(c)(2).
- (g) The Agency's Finance department will notify the Agency's executive director of the savings that may be distributed to provide bonuses.
- (h) The Agency's executive director may implement bonuses in accordance with the tiered bonus structure, as set forth in Texas Government Code §2108.103(d)(1) - (4). Before awarding the bonuses, the executive director will:
- (1) ensure that all financial obligations are met under Texas Government Code §2108.103(c)(2); and
  - (2) verify that each employee who receives a bonus:
    - (A) is a current full-time equivalent employee of the Commission;
    - (B) worked for the Commission as a full-time equivalent employee for the entire fiscal year in which the savings were realized; and
    - (C) is directly responsible for or worked in a department, office, or other division within the Commission that is responsible for the savings realized.
- (i) Employees of the Agency who serve in an upper management position are prohibited from receiving a bonus under this section.