

1 **CHAPTER 837. APPRENTICESHIP TRAINING PROGRAM**

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.**
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7 **ON FEBRUARY 25, 2014, THE TEXAS WORKFORCE COMMISSION PROPOSED THE**
8 **BELOW RULES WITH PREAMBLE TO BE SUBMITTED TO THE TEXAS REGISTER.**

9
10 Estimated Publication Date of the Proposal in the *Texas Register*: **March 14, 2014**
11 Estimated End of Comment Period: **April 14, 2014**
12

13 The Texas Workforce Commission (Commission) proposes the following new sections to
14 Chapter 837, relating to the Apprenticeship Training Program:

- 15
16 Subchapter B. Funding, §837.28
- 17 Subchapter C. Compliance Monitoring, §837.41

18
19 The Commission proposes amendments to the following sections of Chapter 837, relating to the
20 Apprenticeship Training Program:

- 21
22 Subchapter A. General Purpose and Definitions, §837.2
- 23 Subchapter B. Funding, §837.22 and §837.24

24
25 The Commission proposes the repeal of the following sections of Chapter 837, relating to the
26 Apprenticeship Training Program:

- 27
28 Subchapter C. Compliance Monitoring, §837.41 and §837.42

- 29
30 **PART I. PURPOSE, BACKGROUND, AND AUTHORITY**
- 31 **PART II. EXPLANATION OF INDIVIDUAL PROVISIONS**
- 32 **PART III. IMPACT STATEMENTS**
- 33 **PART IV. COORDINATION ACTIVITIES**

34
35 **PART I. PURPOSE, BACKGROUND, AND AUTHORITY**

36 Under Texas Government Code §2001.039, every four years each state agency must review and
37 consider for reoption each rule adopted by that agency. Based on the review, the following are
38 issues and recommendations for amendments to Chapter 837, the Commission's Apprenticeship
39 Training Program rules.

40
41 The apprenticeship training program serves employers and job seekers by training workers for
42 well-paying jobs with promising futures. Apprentices are full-time, paid employees who earn
43 while they learn. The Commission is authorized under Texas Education Code, Chapter 133, and
44 receives an appropriation from the Texas legislature, to grant funds to local public educational
45 institutions to support the costs of related classroom instruction in registered apprenticeship
46 training programs. Local education agencies act as fiscal agents for registered apprenticeship

1 training programs.

2
3 To qualify for funds, apprenticeship training programs and apprentices must be registered with
4 the US Department of Labor (DOL) Office of Apprenticeship.

5
6 Since Fiscal Year 2010 (FY'10), the Commission has supported Chapter 133 by contributing
7 approximately \$1 million in Workforce Investment Act (WIA) funds each year to support the
8 increasing number of apprentices receiving training. Additionally, the Commission leverages
9 funds from other programs, such as the Noncustodial Parent Choices program and Supplemental
10 Nutrition Assistance Program, to maximize the funds available to support apprentice training.

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

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

14 **SUBCHAPTER A. GENERAL PURPOSE AND DEFINITIONS**

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

16 **§837.2. Definitions**

17 Section 837.2(2), the definition of "apprentice," replaces the reference to DOL's "Bureau of
18 Apprenticeship and Training" with the current name, "Office of Apprenticeship."

19 Section 837.2(4), the definition of "apprenticeship training program":

20 --replaces the reference to DOL's "Bureau of Apprenticeship and Training" with the current
21 name, "Office of Apprenticeship," and

22 --adds that as required by Texas Education Code §133.002(c), an apprenticeship training
23 program must be under the direction of an apprenticeship committee.

24 Section 837.2(5), the definition of "Bureau of Apprenticeship and Training," replaces the name
25 of Bureau of Apprenticeship and Training with the current name, "Office of Apprenticeship."

26 **SUBCHAPTER B. FUNDING**

27 **The Commission proposes the following amendments to Subchapter B:**

28 **§837.22. Eligible Applicants**

29 New §837.22(b)(3) sets forth that approved local education agencies must apply for funds for
30 each apprenticeship committee and its apprenticeship training program(s) from either the
31 Commission or the Texas Higher Education Coordinating Board (THECB). Applications are
32 specifically for the following three levels of training:

- 33 1. related classroom training;
- 34 2. supplementary instruction; or
- 35 3. preparatory instruction.

36 Apprenticeship training programs can receive funding from one of two sources: the Commission
37 (through Chapter 133) or THECB. THECB's *Guidelines for Instructional Programs in*
38 *Workforce Education* provides that "state funds are available for job-related classroom
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1 instruction cost only, never for the on-the-job-training portion of an apprenticeship program.
2 State funds may be accessed from either the TWC or the Texas Higher Education Coordinating
3 Board, but not both."
4

5 Currently, due to limited funding, the Commission provides funding (Chapter 133) only for
6 related classroom instruction. If a training program chooses to receive related classroom
7 instruction funding through the Commission, it cannot receive related classroom instruction
8 funding through THECB. However, apprenticeship training programs receiving funding from
9 the Commission for related classroom instruction can still access THECB funding for
10 supplementary instruction or preparatory instruction training.
11

12 **§837.24. Funding Qualifications for Apprenticeship Training Programs**

13 Section 837.24(2) and (3) replaces the reference to the DOL's "Bureau of Apprenticeship and
14 Training" with the current name, "Office of Apprenticeship."
15

16 **New §837.28. Performance**

17 New §837.28:

18 (1) authorizes the Commission to develop and adopt annual performance measures and targets
19 for apprenticeship training programs; and

20 (2) changes the funding mechanism from strictly an application process and authorizes the
21 Commission to consider past performance of apprenticeship training programs in determining
22 eligibility for funding.
23

24 The Commission strives to be a diligent and responsible steward of public funds, with a
25 commitment to transparency and accountability. Measuring program performance allows the
26 Agency to evaluate the effectiveness of programs and make data-driven decisions.
27

28 The Commission has a Legislative Budget Board performance target of 3,600 apprentices
29 served/trained per year and has exceeded this performance target since Fiscal Year 2008. While
30 the Commission does not currently impose performance measures on individual apprenticeship
31 training programs, this new section authorizes the Commission to do so for future years.
32

33 Currently, all interested apprenticeship training programs complete an application process and, if
34 they meet the requirements, register with DOL's Office of Apprenticeship, and receive Chapter
35 133 funding.
36

37 In consideration of potentially diminishing resources and increasing demand for funding,
38 providing the Commission authority in rule to establish annual performance measures and targets
39 ensures that Commission funds:

40 --are being used in the most efficient and effective manner; and

41 --are focused on the most productive and successful apprenticeship training programs.
42

43 Any required performance will be collected for apprenticeship training programs and not for
44 local education agencies serving as fiscal agents.
45
46

1 **SUBCHAPTER C. COMPLIANCE MONITORING**

2 **The Commission proposes the following amendments to Subchapter C:**

3
4 **New §837.41. Funds Management and Accountability**

5 New §837.41 requires local education agencies to comply with the applicable rules in Chapter
6 802 of this title, regarding the Integrity of the Texas Workforce System, specifically:

- 7 (1) Subchapter D, relating to Agency Monitoring Activities;
8 (2) Subchapter F, relating to Performance and Accountability;
9 (3) Subchapter G, relating to Corrective Actions; and
10 (4) Subchapter H, relating to Remedies.

11
12 Section 802.2(1) defines "Agency grantees" as "Grantees that receive funding from the Agency,
13 such as Skills Development Fund, Wagner-Peyser 7(b), and WIA statewide, to provide
14 workforce services." Local education agencies meet this definition and thus are considered
15 Agency grantees; as such, they must adhere to the applicable requirements set forth in Chapter
16 802.

17
18 **§837.41. Program and Fiscal Monitoring**

19 Section 837.41 is repealed; the information contained in this section is located in Chapter 802 of
20 this title, regarding the Integrity of the Texas Workforce System.

21
22 **§837.42. Corrective Action**

23 Section 837.42 is repealed; the information contained in this section is located in Chapter 802 of
24 this title, regarding the Integrity of the Texas Workforce System.

25
26 **PART III. IMPACT STATEMENTS**

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

29
30 There are no additional estimated costs to the state and local governments expected as a result of
31 enforcing or administering the rules.

32
33 There are no estimated cost reductions to the state and to local governments as a result of
34 enforcing or administering the rules.

35
36 There are no estimated losses or increases in revenue to the state or to local governments as a
37 result of enforcing or administering the rules.

38
39 There are no foreseeable implications relating to costs or revenue of the state or local
40 governments as a result of enforcing or administering the rules.

41
42 There are no anticipated economic costs to persons required to comply with the rules.

43
44 There is no anticipated adverse economic impact on small or microbusinesses as a result of
45 enforcing or administering the rules.

1 Economic Impact Statement and Regulatory Flexibility Analysis

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

4
5 Richard C. Froeschle, Director of Labor Market and Career Information, has determined that
6 there is no significant negative impact upon employment conditions in the state as a result of the
7 rules.

8
9 Reagan Miller, Director, Workforce Development Division, has determined that for each year of
10 the first five years the rules are in effect, the public benefit anticipated as a result of enforcing the
11 proposed rules will be to ensure that apprenticeship training funds are used in the most efficient
12 and effective manner and focus on the most productive and successful apprenticeship training
13 programs.

14
15 The Agency hereby certifies that the proposal has been reviewed by legal counsel and found to
16 be within the Agency's legal authority to adopt.

17
18 **PART IV. COORDINATION ACTIVITIES**

19 In the development of these rules for publication and public comment, the Commission sought
20 the involvement of Texas' 28 Boards. The Commission provided the concept paper regarding
21 these rule amendments to the Boards for consideration and review on December 17, 2013. The
22 Commission also conducted a conference call with Board executive directors and Board staff on
23 December 20, 2013, to discuss the concept paper. During the rulemaking process, the
24 Commission considered all information gathered in order to develop rules that provide clear and
25 concise direction to all parties involved.

26
27 Comments on the proposed rules may be submitted to TWC Policy Comments, Workforce
28 Policy and Service Delivery, attn: Workforce Editing, 101 East 15th Street, Room 440T, Austin,
29 Texas 78778; faxed to (512) 475-3577; or e-mailed to TWCPolicyComments@twc.state.tx.us.
30 The Commission must receive comments postmarked no later than 30 days from the date this
31 proposal is published in the *Texas Register*.

32
33 The rules are proposed under Texas Labor Code §301.0015 and §302.002(d), which provide the
34 Texas Workforce Commission with the authority to adopt, amend, or repeal such rules as it
35 deems necessary for the effective administration of Agency services and activities.

36
37 The proposed rules affect Title 4, Texas Labor Code, particularly Chapters 301 and 302 and
38 Texas Education Code, Chapter 133.

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2 **CHAPTER 837. APPRENTICESHIP TRAINING PROGRAM**
3

4 **SUBCHAPTER A. GENERAL PURPOSE AND DEFINITIONS**
5

6 **§837.2. Definitions.**
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8 In addition to the definitions contained in §800.2 of this title, and the definitions
9 contained in Texas Education Code, §133.001 and 29 C.F.R. §29.2 relating to
10 apprenticeship training, the following words and terms when used in this chapter shall
11 have the following meanings, unless the context clearly indicates otherwise.
12

- 13 (1) Administrator's Guide--The Administrator's Guide supplements this chapter by
14 providing all required operational details and procedures for planning and
15 submitting an application for apprenticeship training program funding, as well
16 as the annual timeline for submission. The Administrator's Guide may be
17 accessed on the Agency's Web site at www.texasworkforce.org.
18
- 19 (2) Apprentice--A full-time paid worker, at least 16 years of age except where a
20 higher minimum age standard is otherwise fixed by law, who is employed in
21 the private sector, registered with the [US U.S. Department of Labor's Office of](#)
22 [Apprenticeship Bureau of Apprenticeship and Training](#), and receives related
23 instruction training to learn a skill in a certified apprenticeable occupation.
24
- 25 (3) Apprenticeship committee--An autonomous local group consisting of members
26 appointed by one or more employers of apprentices, or by one or more
27 bargaining agents representing members of an apprenticeable trade, or by a
28 combination of the two. An apprenticeship committee is designated for each
29 apprenticeship training program to establish instruction standards and goals for
30 a particular craft or crafts, interview and select applicants, and monitor the
31 program and apprentices as described in Texas Education Code §133.003.
32
- 33 (4) Apprenticeship training program--A training program that provides on-the-job
34 training, preparatory instruction, supplementary instruction, or related
35 instruction in a trade that has been certified as an apprenticeable occupation by
36 the [US U.S. Department of Labor, Office of Apprenticeship Employment and](#)
37 [Training Administration, Bureau of Apprenticeship and Training. As required](#)
38 [by Texas Education Code §133.002\(c\), an apprenticeship training program shall](#)
39 [be under the direction of an apprenticeship committee.](#) The program is a
40 structured system of training designed to prepare individuals for occupations in
41 skilled trades and crafts by combining training under the supervision of an
42 experienced journeyworker with job-related classroom instruction.
43
- 44 (5) [Office of Apprenticeship Bureau of Apprenticeship and Training](#)--The [US U.S.](#)
45 [Department of Labor, Office of Apprenticeship Employment and Training](#)
46 [Administration, Bureau of Apprenticeship and Training.](#)

- 1
2 (6) Contact-hour rate--A method used to distribute apprenticeship training funds to
3 local education agencies. The total available funds are divided by the
4 statewide total number of contact hours of apprenticeship training instruction
5 classes submitted to the Agency.
6
7 (7) Local education agency--For purposes of Chapter 837, a public school district
8 or state postsecondary institution, under Texas Education Code, Chapter 133,
9 that serves as a sponsor for an apprenticeship training program pursuant to a
10 contract between the local education agency and an apprenticeship committee.
11

12 **SUBCHAPTER B. FUNDING**

13 **§837.22. Eligible Applicants.**

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15
16 (a) Local education agencies are the entities eligible to apply to the Agency for
17 apprenticeship training funding.
18
19 (b) Approved local education agencies shall:

20
21 (1) be the fiscal agents for the funds and are subject to the audit procedures set
22 forth in Texas Education Code § 133.005;

23
24 (2) ~~Approved local education agencies shall~~ contract with the local apprenticeship
25 committee to fund job-related classroom instruction for a registered
26 apprenticeship training program; ~~and~~ and

27
28 (3) apply for funds for each apprenticeship committee and its apprenticeship
29 training program(s), specifically for related classroom training, supplementary
30 instruction, or preparatory instruction from only one of the following entities:

31
32 (A) the Commission; or

33
34 (B) the Texas Higher Education Coordinating Board.

35 **§837.24. Funding Qualifications for Apprenticeship Training Programs.**

36
37
38 To qualify for funding, each apprenticeship training program shall:

- 39
40 (1) be sponsored by a local education agency pursuant to a contract between the
41 local education agency and an apprenticeship committee;
42

- 1 (2) be certified and registered by the Office of Apprenticeship ~~Bureau of~~
2 ~~Apprenticeship and Training~~ prior to the applicable fiscal year;
- 3
- 4 (3) provide the local education agency with a validated copy of its written,
5 national standards as approved by the Office of Apprenticeship ~~Bureau of~~
6 ~~Apprenticeship and Training~~ (or where national standards do not exist,
7 individual program standards approved by the Office of Apprenticeship ~~Bureau~~
8 ~~of Apprenticeship and Training~~); and
- 9
- 10 (4) comply with Commission rules and Texas Education Code, Chapter 133.

11

12 **§837.28. Performance.**

13

14 The Commission may:

- 15
- 16 (1) develop and adopt annual performance measures and targets for apprenticeship
17 training programs; and
- 18
- 19 (2) consider past performance of apprenticeship training programs in determining
20 eligibility for funding.
- 21
- 22

23 **SUBCHAPTER C. COMPLIANCE ~~MONITORING~~**

24

25 **§837.41. Funds Management and Accountability.**

26

27 Local education agencies shall comply with the applicable rules in Chapter 802 of this
28 title, regarding the Integrity of the Texas Workforce System, specifically:

29

- 30 (1) Subchapter D, relating to Agency Monitoring Activities;
- 31
- 32 (2) Subchapter F, relating to Performance and Accountability;
- 33
- 34 (3) Subchapter G, relating to Corrective Actions; and
- 35
- 36 (4) Subchapter H, relating to Remedies.
- 37
- 38

39 ~~§837.41. Program and Fiscal Monitoring.~~

40

41 ~~The Agency will monitor apprenticeship training programs for compliance with~~
42 ~~applicable laws, regulations, policies, and guidelines, as well as for effectiveness,~~
43 ~~including the provisions set forth in 40 TAC Chapter 800, Subchapter H. The Agency~~
44 ~~may conduct on-site visits in accordance with a monitoring instrument, which will be~~

1 ~~available to the local education agencies for prior review. Unannounced visits may be~~
2 ~~made at the discretion of the Agency.~~

3
4 ~~§837.42. Corrective Action.~~

5
6 ~~Failure to comply with applicable laws, regulations, policies, the Administrator's Guide,~~
7 ~~and other guidelines may result in corrective action, pursuant to 40 TAC §800.174, which~~
8 ~~shall include technical assistance and may lead to withdrawal of funds at the~~
9 ~~Commission's discretion.~~