

1 **TWC Legislative Proposals to the 87<sup>th</sup> Texas Legislature, Regular**  
2 **Session**

1 **Child Care and Early Learning Division**

1 **LEGISLATIVE RECOMMENDATION**

2 **Consolidation and Standardization of TRS Evaluation Function**

3  
4 **Program Affected:**

5 Child Care and Early Learning, Texas Rising Star

6  
7 **Title:**

8 Consolidation of Texas Rising Star Assessment/Evaluator function

9  
10 **Recommendation:**

11 Amend Texas Government Code [§2308.320 \(1\)](#) to remove the requirements  
12 for Local Workforce Development Boards (Boards) to provide “a child  
13 development specialist to serve as an evaluator of the provider during the  
14 certification process” (assessor) for the state’s Quality Rating and  
15 Improvement System (QRIS), Texas Rising Star, and allow for the lead  
16 agency, Texas Workforce Commission (TWC), to competitively procure a  
17 single contracted entity to oversee a statewide roster of assessors. This  
18 approach will assist in standardizing Texas Rising Star evaluations,  
19 improving the inter-rater reliability necessary for the achievement of valid  
20 and reliable evaluations of high-quality certification.

21  
22 **Rationale:**

23 In September 2017, TWC commissioned a study focused on strengthening  
24 Texas Rising Star implementation, which concluded in August 2019. This  
25 study included an examination of inter-rater reliability and found that  
26 improvements could be made.

27 Assessor inter-rater reliability has significant implications for the equality of  
28 child care provider quality ratings and the accuracy of ratings communicated  
29 to families. Based on the study’s results, TWC recommends requiring  
30 assessors to be accountable to a central body that certifies reliability and  
31 conducts routine reliability monitoring. Consolidating certification and  
32 implementing routine reliability monitoring across all assessors statewide will  
33 help to ensure assessment protocols remain aligned, and consequently, that

1 ratings remain fair and accurate representations of quality. These actions  
2 should also reduce the risk of evaluator bias as they will be independent of  
3 any local pressures to increase the number of quality rated programs and  
4 should contribute to more objective ratings.

5 The consolidation of the Texas Rising Star assessors was also recommended  
6 by The Texas Rising Star workgroup. Texas Government Code  
7 §2308.3155(b)(2) and TWC Child Care rule §809.130(e)(1) requires a  
8 comprehensive review of the Texas Rising Star program every four years.  
9 Beginning in May 2019, TWC convened a Texas Rising Star Workgroup to  
10 review the Texas Rising Star program and engage in a collaborative effort to  
11 improve the program. The 21-person workgroup included early learning  
12 program directors from around the state, early childhood advocacy  
13 organization representatives, professional development providers, Board  
14 staff, and representatives from TWC, Texas Education Agency, Texas Health  
15 and Human Services Commission's (HHSC) Child Care Regulation (CCR)  
16 Division, and the State Center for Early Childhood, Children's Learning  
17 Institute (CLI). Over an eight-month period, the workgroup met regularly,  
18 reviewed the input received and developed recommendations for TWC to  
19 consider in revising the Texas Rising Star Guidelines.

20

21 **Fiscal Impact:**

22 Staff estimated the cost of the current Board Texas Rising Star Assessors  
23 and compared that to the estimated cost of a centralized entity.

24 As of June 2020, TWC has approximately 1,900 Texas Rising Star providers.

25 Boards are spending approximately \$11,844,874 annually to support Texas  
26 Rising Star Mentors and Assessors (from both the TRS M&A distribution, and  
27 from their CCQ 2% Quality contracts). There are a total of 171 TRS M&A  
28 staff; approximately 38.6% of those staff are Assessors. Applying 38.6% to  
29 \$11,844,874, the estimated annual cost for Board TRS Assessors is  
30 \$4,572,122.

31 In order to estimate the cost of a centralized entity, staff utilized the  
32 National Center on Early Childhood Quality Assurance Monitoring Cost  
33 Estimation tool. This tool considers caseload impacts (visits per week,  
34 number of weeks in a year and average number of visits per year per  
35 provider), number of providers and assessors, support and supervisor staff,  
36 average compensation (to include fringe benefits) and support system costs

1 to determine the number of assessors needed, average caseload per  
2 assessor, and total costs. The estimated cost of a centralized assessment  
3 function is between \$3,551,818 and \$4,084,591, a cost savings of between  
4 \$500k and \$1M.

5 **Administrative Cost:**

6 There are no administrative costs to implement this recommendation.

7 **Technology Cost:**

8 There are no technology costs to implement this recommendation.

9 **Unemployment Compensation Trust Fund:**

10 There are no unemployment compensation trust fund costs to implement  
11 this recommendation.

12

13 **Contact:**

14 Reagan Miller

15

1 By: \_\_\_\_\_  
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\_\_\_\_.B. No. \_\_\_\_\_

3 A BILL TO BE ENTITLED  
4 AN ACT

5 relating to the administration of the Texas Rising Star Program.  
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7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

8 SECTION 1. Section 2308.3155, Government Code, is amended to  
9 read as follows:

10 Sec. 2308.3155. TEXAS RISING STAR PROGRAM. (a) The Texas  
11 Rising Star Program is a voluntary, quality-based child care rating system of  
12 child care providers participating in the commission's subsidized child care  
13 program.

14 (b) The commission shall adopt rules to administer the Texas Rising  
15 Star Program, including:

16 (1) guidelines for rating a child-care provider who provides  
17 child care to a child younger than 13 years of age, including infants and  
18 toddlers, enrolled in the subsidized program; and

19 (2) a timeline and process for regularly reviewing and updating  
20 the quality standards used to determine the rating system that includes the  
21 commission's consideration of input from interested parties regarding those  
22 standards.

23 (c) The commission shall ensure that qualified assessors are  
24 available to evaluate child care providers seeking Texas Rising Star  
25 certification or pursuing higher levels of Texas Rising Star certification.

26 ~~(e)~~ (d) The commission shall make money available to each board to  
27 hire necessary employees to provide technical assistance under Section  
28 2308.320 from the child care and development block grant. In addition, a  
29 board may use money available from other public or private sources to hire  
30 necessary employees for the program.

31  
32 Section 2. Section 2308.320, Government Code, is amended to read  
33 as follows:

34 Sec. 2308.320. TECHNICAL ASSISTANCE FOR PROVIDERS. Each  
35 board shall provide technical assistance to Texas Rising Star Program  
36 providers and to providers seeking certification under the Texas Rising Star  
37 Program, including providing:

1                   ~~(1) a child development specialist to serve as an evaluator of~~  
2 ~~the provider during the certification process;~~

3                   (1)(2) a mentor or coach to a Texas Rising Star Program  
4 provider to meet regularly with the provider and provide child care resources  
5 to the provider, including developmentally appropriate books, materials, and  
6 equipment;

7                   (2)(3) consumer information regarding the selection of quality  
8 child care for parents of children enrolled in the program; and

9                   (3)(4) parenting education information for parents of children  
10 enrolled in the program, including information about parenting classes that  
11 are available in the area or on the Internet.

12  
13                   SECTION 3. This Act takes effect September 1, 2021.  
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**Civil Rights Division**



1 **LEGISLATIVE RECOMMENDATION**

2 FAIR HOUSING ACT AMENDMENTS

3  
4 **Program Affected:**

5 Civil Rights Division

6  
7 **Title:**

8 Fair Housing Act Amendment

9  
10 **Recommendation:**

11 Amend Texas Property Code Chapter 301 (Texas Fair Housing Act), by  
12 adding language to clarify the exceptions to the exemptions under Section  
13 301.041 to conform to federal law.

14  
15 **Rationale:**

16 **Exceptions to Exemptions:**

17 The federal Fair Housing Act (42 U.S.C. 3601 *et seq.*) and the Texas Fair  
18 Housing Act provide two exemptions for individual owners from liability. The  
19 first exemption generally involves someone who does not own more than  
20 three single-family houses at any one time (the "single-family home  
21 exemption). The second exemption covers someone who has a home with  
22 living quarters occupied (or intended to be) by no more than four families  
23 living independently of each other and the owner actually maintains and  
24 occupies one of them (the "Mrs. Murphy" exemption). However, there are  
25 exceptions to these exemptions.

26  
27 Section 301.041 of the Texas Act states that "(a) Subchapter B does not  
28 apply to [the single-family home and Mrs. Murphy exemptions]." Subchapter  
29 B contains a laundry list of issues, or types of violations, three of which are  
30 clearly exceptions under the federal statute: a) Section §301.022  
31 Publication, b) §301.026, Residential Real Estate Related Transaction, and c)  
32 §301.027, Brokerage Services.

1 The U.S. Department of Housing and Urban Development (HUD) researched  
2 why the difference between the federal and state statutes exists. HUD found  
3 that the state statute was certified by HUD in 1990 after the Tex. Comm'n  
4 on Human Rights (TCHR) passed emergency rules containing remedial  
5 language to clarify the existence of the above exceptions. After the daily  
6 operations of TCHR were transferred to TWC, the rules were re-codified in  
7 2005, but the remedial language was not included.

8 HUD sent CRD a letter dated January 24, 2018 stating that "Texas' single-  
9 family home and Mrs. Murphy exemptions reduce the coverage of the law as  
10 compared to the [federal] Act." HUD asserted that corrective action was  
11 required: a) CRD cannot handle cases where the respondent would be  
12 exempt under Texas law, but not the federal law; and b) if HUD's concerns  
13 about the state statute are not satisfactorily resolved at the time of the next  
14 recertification (2022), the limitation in referrals will be memorialized in an  
15 addendum to the Memorandum of Understanding (MOU) between TWC and  
16 HUD. Subsequently, HUD sent a letter dated September 21, 2018 following  
17 the 2017-2018 performance assessment review with a "finding" that CRD  
18 was out of compliance with the performance standard under 24 CFR  
19 §115.206(e)(9), due to this substantial equivalence issue. HUD asserted that  
20 CRD must remedy the deficiency by February 29, 2019, and reiterated that if  
21 the concerns were not resolved by the next recertification, the limitation in  
22 referrals would be memorialized in the next addendum to the MOU.

23 HUD has conducted its bi-annual Performance Appraisal Review from July 21  
24 23, 2020. At the conclusion of the review, HUD asked for a very high level  
25 of assurance that this single issue would be made a priority and addressed.  
26 HUD has indicated in no uncertain terms that they absolutely view this  
27 nonconformity issue as one that may affect recertification. Accordingly,  
28 TWC-CRD removed all other proposed legislative modifications, and the CRD  
29 is solely focused on achieving this singular legislative amendment. CRD  
30 believes that is critical to resolve this issue to preserve the full scope of the  
31 Fair Housing Assistance Program in Texas.

32 **Fiscal Impact:**

33 No fiscal impact.

34 **Contact:**

35 Bryan Snoddy, CRD Director

36

1 By: \_\_\_\_

H.B. No. \_\_\_\_\_

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A BILL TO BE ENTITLED

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AN ACT

6 relating to housing discrimination under the Texas Fair Housing Act.

7

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

9 SECTION 1. Section 301.041, Property Code, is amended to read as  
10 follows:

11 Sec. 301.041. CERTAIN SALES AND RENTALS EXEMPTED. (a) Sections  
12 301.021, 301.023, 301.024, and 301.025 do [~~Subchapter B does~~] not apply  
13 to:

14 (1) the sale or rental of a single-family house sold or rented by  
15 the owner if:

16 (A) the owner does not:

17 (i) own more than three single-family houses at any  
18 one time; or

19 (ii) own any interest in, nor is there owned or  
20 reserved on the person's behalf, under any express or voluntary agreement,  
21 title to or any right to any part of the proceeds from the sale or rental of more  
22 than three single-family houses at any one time; and

23 (B) the house is sold or rented without:

1 (i) the use of the sales or rental facilities or services of a  
2 broker, agent, or salesperson licensed under Chapter 1101, Occupations Code,  
3 or of an employee or agent of a licensed broker, agent, or salesperson, or the  
4 facilities or services of any person in the business of selling or renting a  
5 dwelling [~~the owner of a dwelling designed or intended for occupancy by five~~  
6 ~~or more families~~]; or

7 (ii) the publication, posting, or mailing of a notice,  
8 statement, or advertisement prohibited by Section 301.022; or

9 (2) the sale or rental of the rooms or units in a dwelling  
10 containing living quarters occupied by or intended to be occupied by not more  
11 than four families living independently of each other, if the owner maintains  
12 and occupies one of the living quarters as the owner's residence.

13 (b) The exemption in Subsection (a)(1) applies only to one sale [~~or~~  
14 ~~rental~~] in a 24-month period if the owner was not the most recent resident of  
15 the house at the time of the sale [~~or rental~~].

16 (c) Subsection (a) does not prohibit the use of attorneys, escrow  
17 agents, abstractors, title companies, and other professional assistants  
18 necessary to transfer title.

19 (d) For purposes of Subsection (a), a person is in the business of selling  
20 or renting a dwelling if:

1           (1) the person has, within the preceding year, participated as the  
2 seller or landlord in three or more transactions involving the sale or rental of  
3 a dwelling or any interest in a dwelling;

4           (2) the person has, within the preceding year, participated in two  
5 or more transactions, other than transactions involving the person's own  
6 dwelling, as an agent providing sales or rental facilities or services involving  
7 the sale or rental of a dwelling or any interest in a dwelling; or

8           (3) the person is the owner of a dwelling designed or intended for  
9 occupancy by, or that is occupied by, five or more families.

10           SECTION 2. This Act takes effect September 1, 2021.

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1      **Workforce Division**

2

1 **LEGISLATIVE RECOMMENDATION**

2 **Texas Education Code, Chapter 133.006(b)**

3  
4 **Program Affected:**

5 Apprenticeship

6 **Title:**

7 Texas Education Code, Chapter 133.006(b)

8  
9 **Recommendation:**

10 The Apprenticeship Department, Workforce Development Division, requests  
11 changes to Texas Education Code, Chapter 133.006(b) be considered during  
12 the upcoming Legislative session. Specifically, the department is requesting  
13 a statutory clean up to remove of a required report, referred to in TEC as the  
14 *Apprenticeship Related Instruction Cost Study*, which has been replaced by  
15 bi-annual reports to the Texas Workforce Investment Council (TWIC) and  
16 the Apprenticeship Texas Advisory Committee (ATAC).

17  
18 **Rationale:**

19 The last submission of the *Apprenticeship Related Instruction Cost Study*  
20 was in 1975. Presently, TWC provides reports to TWIC and ATAC twice a  
21 year that provide the information needed to gain approval of the formulas  
22 described herein.

23  
24 Sec. 133.006. APPROPRIATION AND DISTRIBUTION OF  
25 FUNDS. (a) On recommendation of the advisory committee the  
26 commission shall adopt formulas and administrative procedures to be  
27 used in requesting appropriations of state funds as a budgetary line  
28 item for the Apprenticeship System of Adult Career and Technology  
29 Education.

30 (b) The commission shall prepare an update to the  
31 Apprenticeship Related Instruction Cost Study adopted by the State  
32 Board of Education on February 10, 1973, prior to each biennial  
33 session of the legislature.  
34

1 **Fiscal Impact:**

2 N/A

3 **Contact:**

4 Desi Holmes, Director of Apprenticeship

5



1 By: \_\_\_\_\_ .B. No. \_\_\_\_\_  
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3 A BILL TO BE ENTITLED  
4 AN ACT

5 relating to the administration of apprenticeship programs.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

7 SECTION 1. Section 133.001, Education Code, is amended to read as  
8 follows:  
9

10 Sec. 133.001. DEFINITIONS. In this chapter:

11 (1) "Apprenticeship training program" means a training  
12 program that provides on-the-job training, preparatory instruction,  
13 supplementary instruction, or related instruction in a trade that has been  
14 certified as an ~~apprenticible~~apprenticeable occupation by the ~~Bureau of~~  
15 ~~Apprenticeship Training of the~~United States Department of Labor – Office of  
16 Apprenticeship.

17 (2) "Preparatory instruction" means a course of instruction  
18 lasting six months or less that teaches the basic skills required for an  
19 individual to comply with the terms of the individual's apprenticeship  
20 agreement as required by Section 133.002(d).

21 (3) "Supplementary instruction" means a course of instruction  
22 for persons employed as journeymen craftsmen in  
23 ~~apprenticible~~apprenticeable trades that is designed to provide new skills or  
24 upgrade current skills.

25 (4) "Related instruction" means organized, off-the-job  
26 instruction in theoretical or technical subjects required for the completion of  
27 an apprenticeship program for a particular ~~apprenticible~~apprenticeable trade.

28 (5) "Commission" means the Texas ~~Employment~~ Workforce  
29 Commission.

30 (6) "~~Bureau~~Office of Apprenticeship" means the ~~Bureau of~~  
31 ~~Apprenticeship Training of the~~United States Department of Labor – Office of  
32 Apprenticeship.

33  
34 SECTION 2. Section 133.002, Education Code, is amended to read as  
35 follows:  
36

1           Sec. 133.002. GENERAL PROVISIONS RELATING TO  
2 APPRENTICESHIP TRAINING PROGRAMS. (a) Pursuant to the provisions of  
3 this chapter, the commission may allocate state funds for the support of  
4 apprenticeship training programs that meet the criteria set forth in this  
5 chapter.

6           (b) A program may be conducted by an independent apprenticeship  
7 committee or may be sponsored by a public school district or a state  
8 postsecondary institution pursuant to a contract between the district or  
9 institution and an apprenticeship committee.

10           (c) A program must be under the direction of an apprenticeship  
11 committee whose members are appointed by one or more employers of  
12 apprentices, one or more bargaining agents representing members of an  
13 ~~apprenticeable~~apprenticeable trade, or a combination of the above, and the  
14 committee shall perform the duties set forth in Section 133.003. If an  
15 apprenticeship committee is composed of representatives of one or more  
16 employers and one or more bargaining agents, the number of committee  
17 members designated by the employer or employers shall be equal to the  
18 number of committee members designated by the bargaining agent or  
19 agents.

20           (d) Each apprentice participating in a program must be given a  
21 written apprenticeship agreement by the apprenticeship committee stating  
22 the standards and conditions of the apprentice's employment and training.  
23 The standards must conform substantially with the standards of  
24 apprenticeship for the particular trade which have been adopted by the  
25 Office of Apprenticeship~~bureau~~.

26           (e) An apprentice may not be charged tuition or fees by a public  
27 school district or state postsecondary institution other than an administrative  
28 fee to cover the costs of processing the apprentice's records which shall not  
29 exceed \$5 for each course in which the apprentice is enrolled.

30           (f) Funding for a program sponsored by a public school district or  
31 state postsecondary institution, in addition to any other money available,  
32 shall be provided by the apprenticeship committee pursuant to the terms of  
33 the contract referred to in Subsection (b).

34           (g) An apprenticeship training program must provide adequate  
35 facilities, personnel, and resources to effectively administer the program in a  
36 manner consistent with the public's need for skilled craftsmen and the

1 apprentices' need for marketable skills in ~~apprenticeable~~apprenticeable  
2 occupations.

3 (h) A program must be registered with the bureau and approved by  
4 the commission.

5  
6 SECTION 3. Section 133.002, Education Code, is amended to read as  
7 follows:

8  
9 Sec. 133.006. APPROPRIATION AND DISTRIBUTION OF FUNDS. (a)  
10 On recommendation of the advisory committee the commission shall adopt  
11 formulas and administrative procedures to be used in requesting  
12 appropriations of state funds as a budgetary line item for the Apprenticeship  
13 System of Adult Career and Technology Education.

14 (b) The commission shall prepare an ~~update to the Apprenticeship~~  
15 ~~Related Instruction Cost Study adopted by the State Board of Education on~~  
16 ~~February 10, 1973, prior to each biennial session of the legislature~~ annual or  
17 semi-annual report to the Texas Workforce Investment Council and/or the  
18 Apprenticeship Training Advisory Committee, as designated by the Texas  
19 Workforce Investment Council. The report shall include a Related Instruction  
20 Cost Study for the prior fiscal year and the current fiscal year funding  
21 distribution.

22 (c) On recommendation of the advisory committee the commission  
23 shall adopt forms, formulas, and administrative procedures for the  
24 distribution of available funds to apprenticeship training programs.  
25 Distribution formulas must be uniform in application to all local program  
26 sponsors.

27 (d) On recommendation of the advisory committee the commission  
28 shall reserve until December 1 of each year a percentage of the funds  
29 appropriated under the line item described in this section to be used solely  
30 for apprenticeship-related instruction programs. This percentage shall be  
31 established by the formulas required by this section. Reserved funds that  
32 are not obligated on December 1 may be used for preparatory and  
33 supplementary instruction programs as well as related instruction programs.

34 (e) No funds shall be distributed to a public school district, state  
35 postsecondary institution, or apprenticeship committee until the district,

1 institution, or committee has filed all reports required by this chapter and by  
2 the commission.

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4 SECTION 4. This Act takes effect September 1, 2021.

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1 **LEGISLATIVE RECOMMENDATION**

2 **Update to Labor Code, Chapter 309. Self-Sufficiency Fund**

3  
4 **Program Affected:**

5 Self-Sufficiency Fund Grant Program.

6  
7 **Title:**

8 Request to update Labor Code, Chapter 309, to remove references contained  
9 in the statute that limit the reach of the program that could benefit  
10 individuals at-risk of becoming dependent upon public assistance, in  
11 alignment with federal guidance.

12  
13 **Recommendation:**

14 Edit section 309.002 by removing and adding the following language to this  
15 subsection:

16 Sec. 309.002. SELF-SUFFICIENCY FUND. (a) Subject to the availability of  
17 funds, the self-sufficiency fund is created as an account in the general  
18 revenue fund for use by public community and technical colleges,  
19 community-based organizations, and state extension agencies to develop ~~for~~  
20 ~~certain recipients of financial assistance under Chapter 31, Human Resources~~  
21 ~~Code, customized~~ job-training programs in which the recipients, **who have**  
22 **been identified as low-income or individuals at-risk of becoming dependent**  
23 **upon public assistance,**

24 Edit Sec. 309.003 (2) to align with removal of reference to Human Resource  
25 Code, Chapter 31.

26 (2) ~~is~~ is considered a work or employment activity for purposes  
27 of Section [31.012](#), Human Resources Code.

28  
29 Sec. 309.003. (b) Update language to represent individuals who receive  
30 training as "participants" rather than "graduates."

31 (b) An entity that receives money from the fund for a job-training  
32 program shall work in conjunction with ~~employers~~ employers to place

1 graduates **successful participants** of the program in positions of employment  
2 in which the graduates **participants** will be earning wages sufficient to enable  
3 the graduates **participants to avoid becoming dependent on, or** become  
4 independent of the financial assistance under Chapter 31, Human Resources  
5 Code, and if applicable, assistance provided under the nutrition assistance  
6 program administered by the Texas Department of Human Services under  
7 Chapter 33, Human Resources Code.  
8

9 **Rationale:**

10 Currently, the program limits training to individuals who are recipients of  
11 financial assistance under Chapter 31, Human Resources Code.  
12 Requirements under this code have proven restrictive in providing training to  
13 individuals who meet unemployment and low wage requirements but are not  
14 direct recipients of assistance under this code. Removal of this reference  
15 would allow the program to expand its reach, resulting in a higher-skilled  
16 and job-ready population, averting the need for public assistance.

17

18 **Fiscal Impact:**

19 N/A

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21 **Contact:**

22 Cristina Ramos, Manager

23

1 By: \_\_\_\_\_

\_\_\_\_\_B. No. \_\_\_\_\_

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AN ACT

relating to the provision of job training to low-income individuals and individuals at-risk of dependence upon public assistance.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 309.002, Labor Code, is amended to read as follows:

Sec. 309.002. SELF-SUFFICIENCY FUND. (a) Subject to the availability of funds, the self-sufficiency fund is created as an account in the general revenue fund for use by public community and technical colleges, community-based organizations, and state extension agencies to develop ~~for certain recipients of financial assistance under Chapter 31, Human Resources Code, customized~~ job-training programs in which the recipients, who have been identified as low-income or individuals at-risk of becoming dependent upon public assistance, will be provided job training by:

- (1) an entity that develops a job-training program under this section;
- (2) a small or medium-sized business or trade union; or
- (3) an informal partnership between an entity that develops a job-training program under this section and a small or medium-sized business network or consortium.

(b) Money from the fund may also be used for support services as necessary for participants to prepare for and participate in training activities and to make the transition from training activities to employment.

(c) The commission shall administer the fund. The executive director, or a person appointed by the executive director who is knowledgeable in the administration of grants, is responsible for the distribution of money from the fund.

(d) To the greatest extent practicable, money from the fund shall be spent in all areas of the state.

SECTION 2. Section 309.003, Labor Code, is amended to read as follows:

Sec. 309.003. JOB-TRAINING PROGRAMS. (a) A job-training program financed by the fund:

- (1) must be specifically designed to:

1 (A) ensure that participants meet applicable state and  
2 federal work requirements;

3 (B) enable participants to find and apply for existing  
4 jobs; and

5 (C) include the involvement of employers who provide  
6 assistance in setting curricula and standards for job-training programs  
7 developed with money from the fund and are committed to hiring ~~graduates~~  
8 participants of the programs; and

9 (2) is considered a work or employment activity for purposes  
10 of Section 31.012, Human Resources Code.

11 (b) An entity that receives money from the fund for a job-training  
12 program shall work in conjunction with employers to place ~~graduates~~  
13 successful participants of the program in positions of employment in which  
14 the ~~graduates-participants~~ will be earning wages sufficient to enable the  
15 ~~graduates-participants~~ to avoid becoming dependent on, or become  
16 independent of, financial assistance under Chapter 31, Human Resources  
17 Code, and if applicable, assistance provided under the food stamp program  
18 administered by the Texas Department of Human Services under Chapter  
19 33, Human Resources Code.

20  
21 SECTION 3. This Act takes effect September 1, 2021.  
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**Regulatory Integrity Division**

1 **LEGISLATIVE RECOMMENDATION**

2 **Notice of Assessment – Methods of Service**

3  
4 **Program Affected:**

5 RID – Collections, Unemployment Insurance.

6  
7 **Title:**

8 Allowing TWC to serve notice of assessments by mail and gain access to  
9 court for substituted service without payment of court fees.

10  
11 **Recommendation:**

12 Amend Texas Labor Code §213.032(a) to allow TWC to serve notice of  
13 assessments by mail, without utilizing a third party. Further amend this  
14 section to allow TWC access to the Travis County District Court, without a  
15 filing fee, so that a judge may authorize substituted service when  
16 appropriate.

17  
18 **Rationale:**

19 Currently, Texas Labor Code §213.032(a) allows TWC to serve a notice of  
20 assessment in the same manner as provided in Texas Rules of Civil  
21 Procedure (TRCP) Rule 106. Rule 106 allows for service by personal service  
22 or by certified mail by any person authorized by Rule 103. However, per  
23 TRCP Rule 103, an interested party, such as TWC, may not serve any  
24 process. This means that RID’s Collections Department must utilize a  
25 process server to mail its notice of assessments to liable employers. This  
26 method is not only costly but can lead to significant delays.

27 To resolve this issue, Collections seeks statutory authority to serve notice of  
28 assessments via certified mail without a third party. As an example, TWC’s  
29 Collections statutes are derived from the Texas Comptroller’s authority  
30 under the Tax code. The Comptroller’s jeopardy determinations are  
31 analogous to TWC’s notice of assessment authority for collecting unpaid  
32 debts to the state. Texas Tax Code §111.022, the Comptroller’s authority for  
33 jeopardy determinations, allows for service by personal service or mail. A

1 Comptroller representative confirmed their jeopardy determinations are  
2 served through standard certified mail from their offices with no involvement  
3 of third parties. Other methods may be available to allow TWC to replicate  
4 this mailing authority, but this is provided as an example of a similar current  
5 practice.

6 It should also be noted that Collections is currently without a process server.  
7 After not having a process server for the better part of 2018, Collections  
8 received only one bid which was from EZ Messenger. They backed out of the  
9 contract in March of this year. This has led to multiple prolonged occasions  
10 where TWC has lacked the ability to serve its notices at all. Currently, there  
11 are 37 notice of assessments awaiting to be mailed with a dollar amount  
12 totaling \$514,400.87. Additionally, there are 310 accounts being worked for  
13 notice of assessments with a value of \$6,882,146.58 which we will not be  
14 able to serve. If TWC had the ability to send these by certified mail itself, not  
15 only could these be mailed immediately, but additional notices could be sent  
16 without the \$70 fee charged by a process server.

17 As part of this legislative proposal, Collections is also seeking statutory  
18 authority providing access to courts when service cannot be effectuated by  
19 personal service or certified mail. In certain situations, an employer who  
20 owes unpaid contributions, interest, or penalties may try to escape liability  
21 by avoiding service of the notice of assessment by personal service or mail.  
22 An example would be an employer residing in a gated community which will  
23 not allow access to a process server and the employer will not answer the  
24 door. In these situations, TRCP Rule 106 states that a court may grant a  
25 substituted method of service.

26 This has created substantial difficulties for Collections as Travis County  
27 District Court will not allow TWC to obtain a cause number to petition for  
28 substituted service because no suit has been filed. TWC was previously able  
29 to petition the court for substituted service until their policy changed in  
30 2013. Prior to 2013, Collections petitioned for substituted service 196 times  
31 in 2010, 303 times in 2011, and 314 times in 2012. We have not been able  
32 to obtain substituted service since.

33 This is problematic as the notice of assessment is an alternative to civil  
34 action in a district court. Furthermore, even if TWC was able to obtain a  
35 cause number, it would still have to pay court filing fees, which is currently  
36 \$307.00 per assessment. This is cost-prohibitive to TWC and payment of

1 these costs would ultimately have to be passed on to the employer against  
2 whom service is being sought.

3 Therefore, so as not to create an incentive for employers to avoid service of  
4 process, TWC seeks authority from the Legislature to pursue substituted  
5 methods of service from the Travis County District Court for notice of  
6 assessments, and that it will not be charged for seeking alternate service.

7 This proposal allows TWC to effectively and efficiently pursue collections  
8 actions against employers who fail to meet their tax obligations under the  
9 law. A notice of assessment is only attempted after TWC has exhausted all  
10 other avenues of collections including the tax statement, default notices,  
11 pre-assessment notifications, tax liens, and tax levies.

12

13 **Fiscal Impact:**

14 *Administrative Cost:* No administrative costs are anticipated.

15

16 *Technology Cost:* There are no technology costs to implement this proposal.

17

18 *UI Trust Fund Impact:* RID anticipates a positive impact to the trust fund  
19 based upon increased number of mailed notice of assessments and a greater  
20 number of parties served by substituted service when personal service or  
21 service by mail is not possible.

22

23 **Contact:**

24 Paul D. Carmona

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A BILL TO BE ENTITLED

6

AN ACT

7 Relating to methods of service in a collection of contribution by civil suit or  
8 notice of assessment under Subchapter C, Chapter 213, Labor Code.

9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

10 SECTION 1. Section 213.032(a), Labor Code, is amended to read as  
11 follows:

12 Sec. 213.032. SERVICE OF NOTICE OF ASSESSMENT; CONTENTS AS  
13 PRIMA FACIE EVIDENCE; JUDICIAL REVIEW; EFFECT. (a) A notice of  
14 assessment shall be served [~~in the manner provided by law for service of~~  
15 ~~process on a defendant in a civil action in district court.~~]by the following  
16 methods:

17 (1) in the manner provided by law for service of process on a  
18 defendant in a civil action in district court;

19 (2) mailed certified mail, or similar common carrier method, by  
20 the commission and received by the employer; or

21 (3) if service has been attempted under either (a)(1) or (a)(2) of  
22 this section, but has not been successful, the commission may serve the  
23 employer in a manner which is reasonably calculated to give the employer  
24 notice of the notice of assessment.

1 (b) A notice of assessment is prima facie evidence of the truth of  
2 contents of the notice. The incorrectness of the notice may be shown.

3 (c) An employer aggrieved by the determination of the commission as  
4 stated in a notice of assessment may file a petition for judicial review of the  
5 assessment with a Travis County district court not later than the 30th day  
6 after the date on which the notice of assessment is served. A copy of the  
7 petition must be served on a member of the commission or on a person  
8 designated by the commission in the manner provided by law for service of  
9 process on a defendant in a civil action in a district court.

10 (d) If an employer does not seek judicial review under Subsection (c),  
11 a commission assessment is final for all purposes.

12 (e) An assessment that is not contested by the employer or that is  
13 upheld after judicial review has the effect of a final judgment of a district court  
14 and shall be recorded, enforced, and renewed in the same manner. An  
15 assessment described by this subsection is a final assessment.

16

17 SECTION 2. The Texas Workforce Commission may adopt rules for the  
18 administration of Section 213.032, Labor Code, as amended by this Act.

19

20 SECTION 3. This Act takes effect September 1, 2021.