

CHAPTER 837. APPRENTICESHIP TRAINING

PROPOSED RULES WITH PREAMBLE TO BE SUBMITTED TO THE *TEXAS REGISTER*. THIS DOCUMENT WILL NOT HAVE ANY SUBSTANTIVE CHANGES BUT IS SUBJECT TO FORMATTING CHANGES AS REQUIRED BY THE *TEXAS REGISTER*.

ON AUGUST 3, 2004 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*: August 20, 2004

Estimated End of Comment Period: September 20, 2004

The Texas Workforce Commission (Commission) proposes the repeal of Chapter 837 relating to Apprenticeship Training in its entirety.

The Commission proposes new Chapter 837 as follows:

Subchapter A. General Purpose and Definitions

Subchapter B. Funding

Subchapter C. Compliance Monitoring

PART I. PURPOSE, BACKGROUND, AND AUTHORITY

A. Purpose

B. Background and Authority

PART II. EXPLANATION OF INDIVIDUAL PROVISIONS

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PART I. PURPOSE, BACKGROUND, AND AUTHORITY

A. Purpose

The Commission proposes the repeal of Chapter 837 to remove redundant administrative processes and procedures. The Commission proposes new Chapter 837 to retain only the provisions required by the Commission and Texas Education Code, Chapter 133, concerning apprenticeship training. These changes will set forth more clearly the criteria regarding apprenticeship training programs.

B. Background and Authority

The Commission reviewed Texas Education Code, Chapter 133, the statute governing apprenticeship training; 40 TAC Chapter 837, the existing Commission rules governing apprenticeship training; and the contract language for apprenticeship awardees. The proposed new rules streamline and clarify apprenticeship training program requirements by eliminating language also found in statute or apprenticeship contracts. Therefore, the following apprenticeship training program requirements are not proposed in the new rule:

Registration with the Bureau of Apprenticeship and Training
Equal Opportunity Standards
Applications
Contract Amendments
Funding Qualifications for a Related Instruction (Apprentice) Class
Qualifications for Funding a Supplementary Instruction (Journeyman) Class
Allowable Expenditures
Cost Categories
Funding Limitations
Allowable Travel Expenses
Maintenance of Accounts
Apprenticeship Training Class Organization Report for Related Instruction
Class Organization Report for Supplementary (Journeyman) Instruction
Expenditure Reports
Close-out Report
Annual Performance Report

The Commission's proposed new rules eliminate repetitive language and simplify and shorten Chapter 837.

PART II. EXPLANATION OF INDIVIDUAL PROVISIONS

Subchapter A. General Purpose and Definitions

§837.1. Scope and Purpose

The Commission proposes new §837.1, which states the scope and purpose of new Subchapter A. The intent is to consolidate the provisions of Texas Education Code, Chapter 133, and eliminate repetition of information.

§837.2. Definitions

The Commission proposes new §837.2 to provide definitions for apprentice, apprenticeship committee, apprenticeship training program, Bureau of Apprenticeship and Training, contact-hour rate, and local education agency, which are not defined in Texas Education Code, Chapter 133, or 40 TAC Chapter 800. Contact-hour rate is defined as a method used for funds distribution.

Subchapter B. Funding

§837.21. Notice of Available Funds

The Commission proposes new §837.21 that states the manner in which the Commission announces the availability of funds by posting public notice in a variety of publications in order

to reach the broadest audience. New §837.21 also provides the fiscal year dates for apprenticeship training programs.

§837.22. Eligible Applicants

The Commission proposes new §837.22(a), which defines local education agencies as the entities eligible to apply for apprenticeship funds. New §837.22(b) establishes the requirements for local education agencies to act as the fiscal agents for the funds.

§837.23. Local Workforce Development Board Review

The Commission proposes new §837.23 to provide the opportunity for Local Workforce Development Boards (Boards) to review and comment on applications for apprenticeship training programs. As set forth in Texas Government Code §2308, Boards are responsible for the planning and oversight of all workforce training and services and the evaluation of all workforce development programs in the local workforce development areas (workforce areas). The Boards serve as a single point of contact for local businesses to communicate their skill needs and influence the direction of all workforce development programs in the workforce areas. The Commission believes that Board review of the apprenticeship training program applications will further coordination between Boards and the apprenticeship training programs.

§837.24. Funding Qualifications for Apprenticeship Training Programs

The Commission proposes new §837.24 to set forth the funding qualifications for apprenticeship training programs currently set forth in §837.63, which the Commission proposes to repeal.

§837.25. Priority for Distributing Funds

The Commission proposes new §837.25 to prioritize the distribution of funds for apprenticeship training classes currently set forth in §837.62, which the Commission proposes to repeal.

§837.26. Funding Distribution Process

The Commission proposes new §837.26 to identify the funding distribution process currently set forth in §837.43, which the Commission proposes to repeal.

Subchapter C. Compliance Monitoring

§837.41. Program and Fiscal Monitoring

The Commission proposes new §837.41 to stipulate the Agency's monitoring provisions for the apprenticeship training programs currently set forth in §837.100, which the Commission proposes to repeal.

§837.42. Corrective Action

The Commission proposes new §837.42 to address corrective action for noncompliance under 40 TAC §800.174.

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 additional estimated 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 are no anticipated economic costs to persons required to comply with the rules.

Mr. Townsend has also determined that there is no anticipated adverse economic impact on small or microbusinesses as a result of enforcing or administering these rules. Small or microbusinesses are not designated with any administrative or enforcement requirements. The Commission provides funding for apprenticeship training programs to local education agencies that in turn provide funding to registered apprenticeship training programs.

Mark Hughes, Director of Labor Market Information, has determined that there is no significant negative impact upon employment conditions in this state as a result of the proposed rules because businesses determine the number of apprentices to employ based on current and projected economic factors.

Luis M. Macias, Director of 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 streamlined processes and more clearly defined criteria for apprenticeship training programs.

PART IV. COORDINATION ACTIVITIES

In the development of these rules for publication and public comment, the Commission sought the involvement of each of Texas' twenty-eight Local Workforce Development Boards, the Apprenticeship and Training Advisory Committee (ATAC), the Apprenticeship and Training Association of Texas (ATAT), and several apprenticeship training programs. The Commission provided the concept brief to each of these groups for consideration and review. During the

rulemaking process, the Commission considered all information gathered in order to develop a rule that provides clear and concise direction to all parties involved.

Comments on the proposal may be submitted to John Moore, General Counsel, Texas Workforce Commission, 101 East 15th Street, Room 608, Austin, Texas 78778; fax 512-463-2220; or e-mailed to john.moore@twc.state.tx.us. Comments must be received by the Commission no later than thirty (30) days from the date this proposal is published in the Texas Register.

The repeal is 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 repeal affects Title 4, Texas Labor Code, and Texas Education Code, Chapter 133.

SUBCHAPTER A. GENERAL PURPOSE AND DEFINITIONS

§837.1. Scope and Purpose

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§837.121. Apprenticeship Training Class Organization Report for Related Instruction

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§837.123. Expenditure Reports

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§837.125. Annual Performance Report

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The new 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 rules affect Title 4, Texas Labor Code, and Chapter 133 of the Texas Education Code.

Chapter 837. APPRENTICESHIP TRAINING PROGRAM

SUBCHAPTER A. GENERAL PURPOSE AND DEFINITIONS

§837.1. Scope and Purpose

The purpose of these rules is to implement the provisions of Texas Education Code, Chapter 133, related to state-funded apprenticeship training programs. These rules may be cited as the apprenticeship training rules.

§837.2. Definitions

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

- (1) **Apprentice** -- A full-time paid worker, at least 16 years of age except where a higher minimum age standard is otherwise fixed by law, who is employed to learn a skilled trade under standards of apprenticeship established by the U.S. Department of Labor's Bureau of Apprenticeship and Training.
- (2) **Apprenticeship committee** -- An autonomous local group consisting of members appointed by one or more employers of apprentices, or by one or more bargaining agents representing members of an apprenticeable trade, or by a combination of the two. An apprenticeship committee is designated for each apprenticeship training program to establish instruction standards and goals for a particular craft or crafts, interview and select applicants, and monitor the program and apprentices as described in Texas Education Code §133.003.
- (3) **Apprenticeship training program** -- A training program that provides on-the-job training, preparatory instruction, supplementary instruction, or related instruction in a trade that has been certified as an apprenticeable occupation by the U.S. Department of Labor, Employment and Training Administration, Bureau of Apprenticeship and Training. The program is a structured system of training designed to prepare individuals for occupations in skilled trades and crafts by combining training under the supervision of an experienced journeyworker with job-related classroom instruction.
- (4) **Bureau of Apprenticeship and Training** -- The U.S. Department of Labor, Employment and Training Administration, Bureau of Apprenticeship and Training.

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

SUBCHAPTER B. FUNDING

§837.21. Notice of Available Funds

The Commission, following receipt of recommendation by the Texas Workforce Investment Council, shall provide public notice of the amount of funds that will be available to support apprenticeship training programs. The fiscal year for apprenticeship training programs begins on September 1 and ends on August 31 of each year.

§837.22. Eligible Applicants

- (a) Local education agencies are the entities eligible to apply to the Agency for apprenticeship training funding.
- (b) Approved local education agencies shall be the fiscal agents for the funds and are subject to the audit procedures set forth in Texas Education Code §133.005. Approved local education agencies shall contract with the local apprenticeship committee to fund job-related classroom instruction for a registered apprenticeship training program.

§837.23. Local Workforce Development Board Review

The local education agency shall provide one copy of the application for apprenticeship training program funding to the Local Workforce Development Board (Board) for review and comment and one copy to the Agency. Boards may submit comments to the Agency and the local education agency concurrently.

§837.24. Funding Qualifications for Apprenticeship Training Programs

To qualify for funding, each apprenticeship training program shall:

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

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

§837.25. Priority for Distributing Funds

The purpose of the apprenticeship training funds is to supplement the costs of the job-related classroom instruction for eligible registered apprenticeship training programs. Funds for apprenticeship training classes are distributed based on the following priority, unless otherwise determined by the Commission:

- (1) related instruction, or "apprenticeship," classes that consist of organized, off-the-job instruction in theoretical or technical subjects required for the completion of an apprenticeship program for a particular apprenticeable trade;
- (2) supplementary instruction, or "journeyworker," classes that consist of instruction designed to provide new skills, or upgrade current skills, for persons employed as journeyworkers in apprenticeable trades; and
- (3) preparatory instruction classes that consist of instruction lasting six months or less that teach the basic skills required for an individual to comply with the terms of the individual's apprenticeship agreement.

§837.26. Funding Distribution Process

- (a) Funds are distributed to the eligible local education agencies by the Commission in a two-step process consisting of planning estimates and final distributions.
- (b) Planning Estimates.
 - (1) Each local education agency shall report to the Agency the number of approved class hours, estimated number of registered apprentices, and estimated number of contact hours of job-related instruction classes for the prospective fiscal year. The estimated contact hours are determined by the number of registered apprentices anticipated to enroll in a class, multiplied by the number of approved hours that the class will be conducted during the year.
 - (2) The estimated number of contact hours must be submitted by the local education agency and received by the Agency on or before the respective due dates as annually prescribed by the Agency.

- (3) The Agency, after determining the preliminary contact-hour rate, shall notify each local education agency of its planning estimates for the prospective fiscal year.

(c) Final Distributions.

- (1) Each local education agency shall report to the Agency the number of approved class hours, number of registered apprentices, and number of contact hours of job-related instruction classes for the fiscal year.
- (2) The approved number of contact hours must be submitted by the local education agency and received by the Agency on or before the respective due dates as annually prescribed by the Agency.
- (3) The Agency, after determining the final contact-hour rate, shall notify each local education agency of its final distribution based on the final contact-hour rate.

SUBCHAPTER C. COMPLIANCE MONITORING

§837.41. Program and Fiscal Monitoring

The Agency will monitor apprenticeship training programs for compliance with applicable laws, regulations, policies, and guidelines, as well as for effectiveness, including the provisions set forth in 40 TAC Chapter 800, Subchapter H. The Agency may conduct on-site visits in accordance with a monitoring instrument, which will be available to the local education agencies for prior review. Unannounced visits may be made at the discretion of the Agency.

§837.42. Corrective Action

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

