

1 **CHAPTER 801. LOCAL WORKFORCE DEVELOPMENT BOARDS**

2  
3 **ADOPTED RULES TO BE PUBLISHED IN THE *TEXAS REGISTER*. THIS**  
4 **DOCUMENT WILL HAVE NO SUBSTANTIVE CHANGES BUT IS SUBJECT TO**  
5 **FORMATTING CHANGES AS REQUIRED BY THE OFFICE OF SECRETARY OF**  
6 **STATE.**

7  
8 The Texas Workforce Commission (TWC) adopts amendments to the following section of  
9 Chapter 801, relating to Local Workforce Development Boards:

10  
11 Subchapter A. General Provisions, §801.1

12  
13 Amended §801.1 is adopted *without changes* to the proposal, as published in the January 5,  
14 2024, issue of the *Texas Register* (49 TexReg 26), and, therefore, the adopted rule text will not  
15 be published.

16  
17 **PART I. PURPOSE, BACKGROUND, AND AUTHORITY**

18 The purpose of the Chapter 801 rule change is to address changes in Texas Government Code  
19 §2308.256(a) and (g) because of the passage of House Bill (HB) 1615 by the 88th Texas  
20 Legislature, Regular Session (2023). Regarding Local Workforce Development Board (Board)  
21 composition, the bill removes the requirement that a Board member must have expertise in child  
22 care or early childhood education and adds the requirement that a Board must have  
23 representatives from the child care workforce.

24  
25 **PART II. EXPLANATION OF INDIVIDUAL PROVISIONS**

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

28  
29 **SUBCHAPTER A. GENERAL PROVISIONS**

30 TWC adopts the following amendments to Subchapter A:

31  
32 **§801.1. Requirements for Formation of Local Workforce Development Boards**

33 Section 801.1 is amended by amended Texas Government Code §2308.256(a) to add that a  
34 Board must include a representative from the child care workforce and subsection §2308.256(g)  
35 subsequently removes the requirement that at least one Board member shall have expertise in  
36 child care or early childhood education by amending §801.1 as follows:

37  
38 --Section 801.1(g)(2)(C)(vi) is removed because of the amended Texas Government Code  
39 §2308.256(a) requirement. The subsequent clause is renumbered.

40  
41 --Section 801.1(g)(2)(D)(i) and (ii) are also removed and the language in §801.1(g)(2)(D)(ii) is  
42 merged into §801.1(g)(2)(D).

43  
44 TWC hereby certifies that the rules have been reviewed by legal counsel and found to be within  
45 TWC's legal authority to adopt.

1 **PART III. PUBLIC COMMENTS**

2 The public comment period closed on February 19, 2024. TWC received one comment from an  
3 individual.

4  
5 **COMMENT:** One individual supported the requirement that a Board must have representatives  
6 from the child care workforce.

7  
8 **RESPONSE:** The Commission appreciates the support. No changes were made in response to  
9 this comment.

10  
11 **PART IV. STATUTORY AUTHORITY**

12 The rules are adopted to implement House Bill 1615, 88th Texas Legislature, Regular Session  
13 (2023), which amended Texas Government Code §2308.256 to require that Boards include a  
14 representative of the child care workforce.

15  
16 The rules are adopted under:

17 --Texas Government Code §2308.253, which provides TWC with the specific authority to  
18 establish rules related to local workforce development boards; and

19 --Texas Labor Code §301.0015 and §302.002(d), which provide TWC with the general authority  
20 to adopt, amend, or repeal such rules as it deems necessary for the effective administration of  
21 TWC services and activities.

22  
23 The adopted rules relate to Texas Government Code Chapter 2308.

1                   **CHAPTER 801. LOCAL WORKFORCE DEVELOPMENT BOARDS**

2  
3                   **SUBCHAPTER A. GENERAL PROVISIONS**

4  
5                   **§801.1. Requirements for Formation of Local Workforce Development Boards.**

6  
7                   (a) Purpose of Rule.

8  
9                   (1) Upon application by the chief elected officials (CEOs) and approval of the  
10                   Commission, the Commission shall forward an application to form a Local  
11                   Workforce Development Board (Board) to the Governor.

12  
13                   (2) Before an application may be submitted to the Governor, all requirements of  
14                   this section shall be met.

15  
16                   (b) State Law. The formation of Boards is governed by Texas Government Code,  
17                   Chapter 2308.

18  
19                   (c) Chief Elected Official Agreement. Creation of a Board requires agreement by at least  
20                   three-fourths of the CEOs in the local workforce development area (workforce area)  
21                   who represent units of general local government, including all of the CEOs who  
22                   represent units of general local government having populations of at least 200,000.  
23                   The elected officials agreeing to the creation of the Board shall represent at least 75  
24                   percent of the population of the workforce area.

25  
26                   (d) Chief Elected Officials. The CEOs may, and are encouraged to, consult with local  
27                   officials other than the ones delineated below. The following officials are designated  
28                   as the CEOs for the purpose of establishing agreements to form Boards:

29  
30                   (1) Mayors.

31  
32                   (A) The mayor of each city with a population of at least 100,000;

33  
34                   (B) or, if there is no city with a population of greater than 100,000, the mayor  
35                   of each city with a population greater than 50,000;

36  
37                   (C) or, if there are no cities with a population of greater than 50,000, the  
38                   mayor of the largest city in the workforce area.

39  
40                   (D) For purposes of this section, municipal population will be determined by  
41                   the figure last reported by the Texas Demographic Center at the time of  
42                   submission of the application to the Commission.

43  
44                   (2) All county judges included in a workforce area as designated by the Governor.  
45

1 (e) Time of Application. CEOs in a workforce area may not establish a Board until the  
2 Governor has designated that area as a workforce area as provided in Texas  
3 Government Code, Chapter 2308.

4  
5 (f) Applications shall meet all Governor-approved criteria for the establishment of  
6 Boards.

7  
8 (g) Procedures for Formation of a Board. The CEOs shall comply with the following  
9 procedures to form a Board.

10  
11 (1) Public process procedure. If three-fourths of the CEOs, as defined in  
12 subsection (d) of this section, agree to initiate procedures to establish a Board,  
13 they shall conduct a public process, including at least one public meeting, to  
14 consider the views of all affected organizations before making a final decision  
15 to form a Board. This public process may include, but is not limited to, notices  
16 published in various media and surveys for public comment.

17  
18 (2) Application procedure.

19  
20 (A) The CEOs shall submit an application to the Commission. This  
21 application shall include evidence of the actions required by paragraph  
22 (1) of this subsection. As a part of the application, each CEO who is in  
23 agreement regarding the formation of a Board, shall execute the  
24 following documents:

25  
26 (i) An interlocal agreement delineating:

27  
28 (I) the purpose of the agreement;

29  
30 (II) the process that will be used to select the CEO who will act on  
31 behalf of the other CEOs and the name of such CEO if the  
32 person has been selected;

33  
34 (III) the procedure that will be followed to keep those CEOs  
35 informed regarding Board activities;

36  
37 (IV) the initial size of the Board;

38  
39 (V) how resources allocated to the workforce area will be shared  
40 among the parties to the agreement;

41  
42 (VI) the process to be used to appoint the Board members, which  
43 shall be consistent with applicable federal and state laws; and

44  
45 (VII) the terms of office of the members of the Board.  
46

1 (ii) An acknowledgment in the following form: We, the chief elected  
2 officials of the Workforce Development Area, acknowledge that the  
3 following are responsibilities and requirements pursuant to the  
4 formation of the Board:  
5

6 (I) The Board will assume the responsibilities for the following  
7 committees and councils that will be replaced by the Board  
8 unless otherwise provided in Texas Government Code, §  
9 Chapter 2308: private industry council, quality workforce  
10 planning committee, job service employer committee, and  
11 local general vocational program advisory committee;  
12

13 (II) At least one Workforce Solutions Office shall be established  
14 within 180 days of Board certification;  
15

16 (III) The Board shall have its own independent staff and not be a  
17 provider of workforce services, unless the Board secures a  
18 waiver of these provisions;  
19

20 (IV) The CEOs shall enter into a partnership agreement with the  
21 Board to designate a grant recipient to receive, be accountable  
22 for, and be liable for any misuse of block grant funds;  
23

24 (V) The partnership agreement shall also specify the entity that  
25 will administer the programs, which may be separate from the  
26 entity that receives the funds from the state;  
27

28 (VI) The partnership agreement shall define the process through  
29 which the Boards and CEOs will develop the strategic and  
30 operational plans, including the training plan required under  
31 the Workforce Innovation and Opportunity Act; and  
32

33 (VII) The strategic plan shall be reviewed by both the Commission  
34 and the Texas Workforce Investment Council and approved  
35 by the Governor before block grants will be available to the  
36 workforce area.  
37

38 (B) The application shall include evidence that any affected existing Board  
39 has been notified and agrees that its functions and responsibilities will be  
40 assumed by the proposed Board upon the proposed Board's final  
41 certification by the Governor.  
42

43 (C) The application shall include the names and affiliations of individuals  
44 recommended for Board membership, with documentation that CEOs  
45 followed the nomination process specified in applicable state and federal  
46 law, including Texas Government Code, §2308.255 and §2308.256.

- 1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36  
37  
38  
39  
40  
41  
42  
43  
44  
45
- (i) Private sector members shall be owners of business concerns, chief executives, chief operating officers of nongovernmental employers, or other private sector executives who have substantial management or policy responsibility. To be eligible to represent the private sector, at least 51 percent of an individual's annual income shall be from private sector sources.
  - (ii) Private sector membership should represent the composition of the local pool of employers. The private sector membership should include representatives of the region's larger employers and emerging growth industries. Primary consideration should be given to private sector employers who do not directly provide employment and workforce training services to the general public. CEOs shall develop a profile of the workforce area's major industries using locally obtained information and state-published data. The Agency shall provide relevant labor market information, including data that identifies employment trends, emerging high-growth, high-demand industries, the size of local employers, and other data needed to assist CEOs in developing the employer profile. Documentation submitted with the application shall show how the regional employer profile is reflected in the Board membership.
  - (iii) Board membership shall include representatives of local organized labor organizations, community-based organizations, educational agencies, vocational rehabilitation agencies, public assistance agencies, economic development agencies, the public employment service, local literacy councils, ~~and~~ adult basic and continuing education organizations, [and the child care workforce](#) as required by law.
  - (iv) Representatives of local organized labor organizations shall be nominated by local labor federations unless no employees in the workforce area are represented by such organizations, in which case nominations may be made by other representatives of employees. A labor federation is defined as an alliance of two or more organized labor unions for the purpose of mutual support and action.
  - (v) Board nominees shall be actively engaged in the organization, enterprise, or field that they are nominated to represent. Board nominees shall have an existing relationship with the workforce area through residence or employment within the workforce area.
  - ~~(vi) At least one of the members of a Board appointed under Texas Government Code, §2308.256(a) shall, in addition to the~~

1 ~~qualifications required for the members under that subsection, have~~  
2 ~~expertise in child care or early childhood education.~~

3  
4 (vi)~~(vii)~~ At least one of the members of a Board appointed under Texas  
5 Government Code, §2308.256(a) shall, in addition to the  
6 qualifications required for the members under that subsection:

7  
8 (I) be a veteran as defined in Texas Government Code,  
9 §2308.251(2); and

10  
11 (II) have an understanding of the needs of the local veterans'  
12 population and willingness to represent the interests and  
13 concerns of veterans in the workforce area.

14  
15 (D) No individual member shall be a representative of more than one sector  
16 or category described in this section, except as statutorily permitted for  
17 one or more members having the qualifications set forth in subparagraph  
18 (C)(vi) of this paragraph.

19  
20 ~~(i) expertise in child care or early childhood education; or~~

21  
22 ~~(ii) the qualifications set forth in subparagraph (C)(vii) of this paragraph.~~

23  
24 (E) The application shall include documentary evidence substantiating  
25 compliance with the application procedure, including but not limited to,  
26 written agreements, minutes of public meetings, copies of  
27 correspondence, and such other documentation as may be appropriate.