

1 **Chapter 800. GENERAL ADMINISTRATION**

2
3 PROPOSED RULES WITH PREAMBLE TO BE SUBMITTED TO THE *TEXAS*
4 *REGISTER*. THIS DOCUMENT WILL HAVE NO SUBSTANTIVE CHANGES BUT
5 IS SUBJECT TO FORMATTING CHANGES AS REQUIRED BY THE *TEXAS*
6 *REGISTER*.

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8 The Texas Workforce Commission (Commission) proposes amendments to the following
9 sections of Chapter 800, relating to General Administration:

10
11 Subchapter A, General Provisions, §§800.3, 800.5, 800.6, and 800.7

- 12
13 PART I. PURPOSE, BACKGROUND, AND AUTHORITY
14 PART II. EXPLANATION OF INDIVIDUAL PROVISIONS
15 PART III. IMPACT STATEMENTS
16 PART IV. COORDINATION ACTIVITIES

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

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21 The purpose of the proposed rule amendment is to implement Senate Bill (SB) 452,
22 enacted by the 79th Texas Legislature, Regular Session (2005), which amends Texas
23 Government Code, Chapter 552 by transferring all duties relating to the Public
24 Information Act to the Office of the Attorney General (OAG).

25
26 SB 452 streamlines the process of providing public information by housing all functions
27 relating to the Public Information Act under one agency. OAG now responds to all
28 questions about compliance with the Public Information Act. As a result, operations are
29 more efficient and the public is better served.

30
31 The purpose of the proposed rule amendment is also to conform the language of
32 §800.6(f) regarding de minimis requests to reflect that charges are assessed when
33 permissible under the Public Information Act. Specifically, charges will be assessed for
34 materials, labor, and overhead when the request is fewer than 50 pages and the records
35 are located in two or more separate buildings that are not physically connected to each
36 other or are in a remote storage facility.

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

40 **(Note: Minor, nonsubstantive, editorial changes are made that do not change the**
41 **meaning of the rules and, therefore, are not discussed in the Explanation of**
42 **Individual Provisions.)**

1 **SUBCHAPTER A. GENERAL PROVISIONS**

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

3
4 **§800.3. Historically Underutilized Businesses**

5 Section 800.3(a) is modified to replace the General Services Commission with the Texas
6 Building and Procurement Commission because of the agency's name change.

7
8 **§800.6. Charges for Copies of Public Records**

9 Section 800.6(a) is modified to replace the outdated reference to the General Services
10 Commission with OAG rules (1 TAC, Chapter 70).

11
12 Section 800.6(c) is modified to replace the outdated reference to the General Services
13 Commission with OAG rules (1 TAC, Chapter 70).

14
15 Section 800.6(f) is modified to align the rule regarding de minimis requests with Texas
16 Government Code §552.261 et seq. to allow recoupment of the cost of handling open
17 records requests that are under 50 pages. Specifically, the Public Information Act allows
18 recoupment of charges for materials, labor, and overhead in situations where the
19 requested records are located in two or more separate buildings that are not physically
20 connected to each other or are in a remote storage facility.

21
22 Currently, Chapter 800 waives charges for open records that are 50 pages or less.
23 However, some open records requests result in the production of fewer than 50 pages yet
24 require extensive staff time and resources to fulfill. While the Commission intends to
25 recoup charges where the materials, labor, and overhead charges are applicable under the
26 Public Information Act for requests under 50 pages, the Commission may waive or
27 reduce charges in circumstances in which §552.267 of the Public Information Act apply.
28 Section 552.267 provides that a governmental body shall provide a copy of public
29 information without charge or at a reduced charge if the governmental body determines
30 that waiver or reduction of the charge is in the public interest because providing the copy
31 of the information primarily benefits the general public. In addition, §552.267 provides
32 that if the cost to a governmental body of processing the collection of a charge for
33 providing a copy of public information will exceed the amount of the charge, the
34 governmental body may waive the charge. The Commission intends to apply these
35 provisions when such circumstances arise.

36
37 **§800.7. Agency Vehicles**

38 Section 800.7(a) is modified to replace the reference to the General Services Commission
39 and Internet address with the Texas Building and Procurement Commission because of
40 the agency's name change.

41
42 Section 800.7(b)(3) is modified to replace the reference to the General Services
43 Commission with the Texas Building and Procurement Commission because of the
44 agency's name change.

1 **PART III. IMPACT STATEMENTS**

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

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

8
9 There are no estimated reductions in costs to the state and to local governments as a result
10 of enforcing or administering the rules.

11
12 There are no estimated losses or increases in revenue to the state or to local governments
13 as a result of enforcing or administering the rules.

14
15 There are no foreseeable implications relating to costs or revenue of the state or local
16 governments as a result of enforcing or administering the rules.

17
18 There may be economic costs to persons required to comply with changes to Chapter 800
19 and there may be an adverse economic effect on small businesses or microbusinesses.
20 Persons who request public information from the Agency, where the material, labor, and
21 overhead charges are applicable under the Public Information Act for requests under 50
22 pages will be required to pay reasonable costs related to reproducing the public
23 information, including costs of materials, labor, and overhead. This provision may have
24 an economic cost to those persons, including small businesses or microbusinesses,
25 estimated at between \$4.50 and \$36 per request. Section 800.6(f) regarding de minimis
26 requests is amended in the proposed rule to provide that no charge will be assessed to any
27 individual or entity for providing copies of records in response to a request for public
28 information under Texas Government Code, Chapter 522 when the total records provided
29 in response to all requests made by that same individual or entity in any given 30-day
30 period consists of fewer than 50 pages of readily available, standard-sized pages
31 maintained as paper documents, except that charges for materials, labor, and overhead
32 may be assessed if the records are located in two or more separate buildings that are not
33 physically connected to each other or are in a remote storage facility. The preamble to
34 the rule explains that while the Commission intends to recoup charges where the material,
35 labor, and overhead charges are applicable under the Public Information Act for requests
36 fewer than 50 pages, the Commission may waive or reduce charges in circumstances in
37 which §552.267 of the Public Information Act apply. Section 552.267 provides that a
38 governmental body shall provide a copy of public information without charge or at a
39 reduced charge if the governmental body determines that the waiver or reduction of the
40 charge is in the public interest because the information primarily benefits the general
41 public. This section also provides that if the cost to a governmental body of processing
42 the collection of a charge for providing a copy of public information will exceed the
43 amount of the charge, the governmental body may waive the charge. The charges for
44 small or microbusinesses would be the same as the charges for large businesses; however,
45 the Commission may apply the waiver or reduction of charges provisions contained in

1 §552.267 where applicable to respond to small or microbusinesses that fall into the
2 categories described in statute.

3
4 The Agency hereby certifies that the proposal has been reviewed by legal counsel and
5 found to be within the Agency's legal authority to adopt.

6
7 Mark Hughes, Director of Labor Market Information, has determined that there is no
8 significant negative impact upon employment conditions in the state as a result of the
9 rules.

10
11 Luis M. Macias, Director, Workforce Development Division, has determined that for
12 each year of the first five years the rules are in effect, the public benefit anticipated as a
13 result of enforcing the proposed rules will be to ensure costs are recouped to the extent
14 feasible under the Public Information Act and update citations in the chapter.

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17 **PART IV. COORDINATION ACTIVITIES**

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19 In the development of these rules for publication and public comment, the Commission
20 considered all information gathered in order to develop a rule that provides clear and
21 concise direction to all parties involved.

22
23 Comments on the proposed rules may be submitted to TWC Policy Comments,
24 Workforce and UI Policy, 101 East 15th Street, Room 440T, Austin, Texas 78778; faxed
25 to 512-475-3577; or e-mailed to TWCPolicyComments@twc.state.tx.us. The
26 Commission must receive comments postmarked no later than 30 days from the date this
27 proposal is published in the *Texas Register*.

28
29 The rules are proposed under Texas Labor Code §301.0015 and §302.002(d), which
30 provide the Texas Workforce Commission with the authority to adopt, amend, or repeal
31 such rules as it deems necessary for the effective administration of Agency services and
32 activities.

33
34 The rules affect Texas Government Code, Chapters 552, 2161, and 2171.
35

Chapter 800. GENERAL ADMINISTRATION

SUBCHAPTER A. GENERAL PROVISIONS

§800.3. Historically Underutilized Businesses

- (a) The Commission is committed to assisting Historically Underutilized Businesses (HUBs) as defined in Texas Government Code §2161.001, Definitions, in their efforts to participate in contracts to be awarded by the Commission. This includes assisting HUBs to meet or exceed the procurement utilization goals set forth in the Texas Administrative Code at 1 TAC Chapter 111 (relating to Executive Administration Division) incorporated herein by reference. Chapter 111 was promulgated by the Texas Building and Procurement Commission ~~General Services Commission~~ and sets out the State's Historically Underutilized Business Certification Program.
- (b) The Commission shall take positive steps to inform HUBs of opportunities to provide identified state services that it determines may better be provided through a competitive process.

§800.5. Commission Professional Development Program

- (a) Scope and Purpose. The Commission provides training opportunities to enhance job skills and to retain a well qualified, trained, professional workforce dedicated to the Commission's mission. The Professional Development Program training includes instruction, teaching, or other education received by a state employee that is not normally received by other state employees and that is designed ~~designed~~ to enhance the ability of the employee to perform the employee's job. This section establishes eligibility and related requirements for employee participation in the Commission's Professional Development Program.
- (b) Eligibility. The executive director or the executive director's designee will determine an employee's eligibility for the professional development program. Factors to be considered include, but are not limited to:
- (1) an ~~An~~ employee's job performance;
 - (2) a ~~A~~ recommendation from the employee's supervisor;
 - (3) the ~~The~~ relationship of the training to the employee's position; and
 - (4) any ~~Any~~ other factor deemed relevant by the executive director or his designee.
- (c) Restitution from Employees for Training Costs. The employee training is conditional upon all of the following:
- (1) The employee shall attend and satisfactorily complete the training, including passing tests or other types of performance measures where required.
 - (2) At the discretion of the executive director or the executive director's designee, the employee shall complete and file with the Commission prior to the commencement of the training, on forms prescribed by the Commission, an employee training agreement that sets forth the terms and conditions of the training assistance, including a provision for working for the Agency ~~agency~~ for a prescribed period of time or paying back the amount of the assistance.

- 1 (3) For any training paid for by the Commission, where the employee does not
2 perform the employee's regular duties for three or more months due to the
3 training, the employee shall:
- 4 (A) work for the agency following the training for at least one month for
5 each month of the training period, prorated as appropriate; or
- 6 (B) pay the Commission for all costs associated with the training that were
7 paid before, during, or after the training, including any amounts of the
8 employee's salary that were paid and that were not accounted for as paid
9 vacation or compensation leave.

10 **§800.6. Charges for Copies of Public Records.**

- 11 (a) General Procedure. Except as otherwise specified in this chapter, the ~~Texas~~
12 ~~Workforce Commission~~ (Commission) hereby adopts by reference the definitions,
13 methods, procedures, and charges for copies of public records required under set
14 ~~out in the~~ Office of the Attorney General rules (1 TAC, Chapter 70) ~~General~~
15 ~~Services Commission Rules at 1 TAC §§ 111.61–111.71~~, as may be amended.
- 16 (b) Methods of Making Requests. Requests may be submitted in writing to the
17 following mailing address: Officer for Public Information, Texas Workforce
18 Commission, 101 East 15th Street, Austin, Texas 78778-0001. Requests also may
19 be submitted made by e-mail or facsimile to designated e-mail and facsimile
20 locations. electronic mail (e-mail) shall be submitted to
21 ~~open.records@twe.state.tx.us to be considered a valid request.~~
- 22 (c) Standard Fees. The Commission may establish a standard fee for the handling of
23 certain types of repetitive requests when the costs of responding to such requests
24 are substantially similar in most cases. The standard fee will be the average costs
25 of handling that type of request. The average cost is calculated using the
26 personnel, resource, and overhead charges set forth in the Office of the Attorney
27 General rules (1 TAC, Chapter 70) governing charges for copies of public
28 records ~~General Services Commission rules~~ and will be based upon a survey of a
29 representative sample of requests.
- 30 (d) Adjustments for Actual Cost. In the event that the actual costs of responding to a
31 given request are significantly lower or higher than the standard fee charged for
32 that type of request, actual costs will be charged in lieu of the standard fee.
- 33 (e) Program-Related Requests. No charge will be assessed to an individual or an
34 employing unit for copies of records pertaining to that individual or employing
35 unit when the provision of records is deemed by the Commission to be reasonably
36 required for the proper administration of the Texas Unemployment Compensation
37 Act, found at the Texas Labor Code, Title 4, Subtitle A.
- 38 (f) De Minimis Requests. No charge will be assessed to any individual or entity for
39 providing copies of records in response to a request for public information ~~Public~~
40 ~~Information~~ under Texas Government Code, Chapter 552. ~~261 et seq.~~ when the
41 total records provided in response to all requests made by that same individual or
42 entity in any given 30-day period consist of fewer than 50 pages of readily
43 available, standard-size pages maintained as paper documents, except that charges
44 for materials, labor, and overhead may be assessed if the records are located in

1 [two or more separate buildings that are not physically connected to each other or](#)
2 [are in a remote storage facility.](#)

3 (g) Requests by Other Governmental Entities. Notwithstanding any other provision in
4 this section, provision of information to other governmental agencies for purposes
5 other than the administration of the Texas Unemployment Compensation Act will
6 be made only on a cost reimbursable basis, with all costs being calculated in
7 accordance with OMB Circular A-87, as required by federal law at 20 Code of
8 Federal Regulations §603 *et seq.* Charges to other governmental entities can only
9 be waived when the request is of an isolated or infrequent nature and when the
10 costs of responding to a particular request are negligible.

11 (h) Certified Records. In addition to the fees the Commission may charge for
12 providing copies of records, the Commission shall charge a fee of \$5.00 for
13 preparation of a certification instrument which may be attached to one or more
14 pages of records covered by the certification instrument.

15 **§800.7. Agency Vehicles.**

16 (a) Purpose and Intent. The purpose of this rule is to implement the provisions of
17 Texas Government Code ~~Section~~ § 2171.1045. The intent of the Commission is to
18 ensure that the use and management of vehicles by the Agency is consistent with
19 the State Vehicle Fleet Management Plan ([Plan](#)) as adopted by the Office of
20 Vehicle Fleet Management of the [Texas Building and Procurement](#)
21 [Commission](#) ~~General Services Commission~~. The Plan may be viewed on the
22 Internet at <http://www.tbpc.state.tx.us/fleet>; ~~http://www.gsc.state.tx.us/fleet~~, or a
23 copy may be requested from the [Agency](#) ~~Texas Workforce Commission~~.

24 (b) The Commission adopts by reference and shall implement the provisions
25 contained in the ~~State Vehicle Fleet Management~~ Plan as referenced in subsection
26 (a) of this section including the following general provisions on use of vehicles by
27 the Agency.

28 (1) Vehicles, with the exception of vehicles assigned to field employees, are
29 assigned to the Agency motor pool and may be available for checkout.

30 (2) The Agency may assign a vehicle to an individual administrative or executive
31 employee on a regular or everyday basis only if there is a documented finding
32 that the assignment is critical to the needs and mission of the Agency.

33 (3) The Agency will work with [the Texas Building and Procurement Commission](#)
34 ~~GSC~~ to identify, apply for, and if possible, utilize any waiver or exemption
35 provisions where the recognition of conditions specific to the Agency would
36 further the general purpose of fiscal efficiency and good business practices.

37