

1 **CHAPTER 839. APPRENTICESHIP PROGRAMS - ADDITIONAL**

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

7
8 **ON JULY 5, 2022**, THE TEXAS WORKFORCE COMMISSION APPROVED THE
9 PROPOSED RULES BELOW WITH PREAMBLE TO BE PUBLISHED IN THE
10 *TEXAS REGISTER*.

11
12 Publication Date of the Proposal in the *Texas Register*: **July 22, 2022**
13 End of Comment Period: **August 22, 2022**

14
15 The Texas Workforce Commission (TWC) proposes new Chapter 839, relating to
16 Apprenticeship Programs - Additional, including the following subchapter:

17
18 Subchapter B. Grants to Facilitate Participation in Registered Apprenticeship
19 Programs by Certain Veterans and Military Personnel, §§839.20 - 839.23

20
21 **PART I. PURPOSE, BACKGROUND, AND AUTHORITY**

22 The purpose of the Chapter 839, Subchapter B rules is to implement Senate Bill (SB) 337
23 from the 87th Texas Legislature, Regular Session (2021).

24
25 SB 337 amended Texas Labor Code, Chapter 302, Subchapter A by adding §302.00341,
26 Grants to Facilitate Participation in Apprenticeship Training Programs by Certain
27 Veterans and Military Personnel.

28
29 Texas Labor Code, §302.00341(a) defines "apprenticeship training program" and
30 "nonprofit organization."

31
32 Texas Labor Code, §302.00341(b) requires TWC to "develop and administer a program
33 under which the commission may award grants to one or more nonprofit organizations
34 duty military service members who are transitioning into civilian employment."

35
36 Texas Labor Code, §302.00341(c) stipulates that a grant awarded under Texas Labor
37 Code, §302.00341 may be used only to recruit or assist veterans or transitioning service
38 members.

39
40 Texas Labor Code, §302.00341(d) requires TWC to adopt rules to administer this grant.
41 These rules must include a process to verify that state funds awarded to a nonprofit
42 organization under Texas Labor Code, §302.00341 are used appropriately.

43
44 **PART II. EXPLANATION OF INDIVIDUAL PROVISIONS**

1 **SUBCHAPTER B. GRANTS TO FACILITATE PARTICIPATION IN**
2 **REGISTERED APPRENTICESHIP PROGRAMS BY CERTAIN VETERANS**
3 **AND MILITARY PERSONNEL**

4 TWC proposes new Subchapter B as follows:

5
6 **§839.20. Purpose and Goal**

7 New §839.20 states the purpose and goal for Chapter 839, Subchapter B.

8
9 **§839.21. Definitions**

10 New §839.21 defines the terms related to Chapter 839, Subchapter B.

11
12 **§839.22. Grants to Facilitate Participation in Registered Apprenticeship Programs**

13 New §839.22 states that TWC may provide grant(s) to nonprofit organization(s) that
14 apply for such through a TWC-developed application, to facilitate participation in
15 registered apprenticeships by recruiting and assisting veterans or transitioning services
16 members. Grant recipients shall repay any and all funds provided by grant if not used for
17 these purposes.

18
19 **§839.23. Recruitment and Assistance Services**

20 New §839.23 states that applicants shall include cost estimates in grant applications.
21 Grant recipients shall provide receipts for actual costs. The new section describes
22 recruitment and assistance services allowable under grant(s) and includes an exception
23 for use of up to 15 percent of the grant award for funds required to pay staff salaries
24 dedicated to recruitment or assistance activities under such grant.

25
26 **PART III. IMPACT STATEMENTS**

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

29
30 There are no additional estimated costs to the state and to local governments expected as
31 a result of 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
37 as a 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 individuals required to comply with the rules.

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

1 Based on the analyses required by Texas Government Code, §2001.024, TWC
2 determined that the requirement to repeal or amend a rule, as required by Texas
3 Government Code, §2001.0045, does not apply to this rulemaking.

4
5 Takings Impact Assessment

6 Under Texas Government Code, §2007.002(5), "taking" means a governmental action
7 that affects private real property, in whole or in part or temporarily or permanently, in a
8 manner that requires the governmental entity to compensate the private real property
9 owner as provided by the Fifth and Fourteenth Amendments to the United States
10 Constitution or the Texas Constitution, Article I, §17 or §19, or restricts or limits the
11 owner's right to the property that would otherwise exist in the absence of the
12 governmental action, and is the producing cause of a reduction of at least 25 percent in
13 the market value of the affected private real property, determined by comparing the
14 market value of the property as if the governmental action is not in effect and the market
15 value of the property determined as if the governmental action is in effect. TWC
16 completed a Takings Impact Analysis for the proposed rulemaking action under Texas
17 Government Code, §2007.043. The primary purpose of this proposed rulemaking action,
18 as discussed elsewhere in this preamble, is to establish the Veterans Apprenticeship
19 Training Grant Program to implement SB 337 which amended Texas Labor Code,
20 Chapter 302, Subchapter A by adding §302.00341, Grants to Facilitate Participation in
21 Apprenticeship Training Programs by Certain Veterans and Military Personnel.

22
23 The proposed rulemaking action will not create any additional burden on private real
24 property or affect private real property in a manner that would require compensation to
25 private real property owners under the United States Constitution or the Texas
26 Constitution. The proposal also will not affect private real property in a manner that
27 restricts or limits an owner's right to the property that would otherwise exist in the
28 absence of the governmental action. Therefore, the proposed rulemaking will not cause a
29 taking under Texas Government Code, Chapter 2007.

30
31 Government Growth Impact Statement

32 TWC determined that during the first five years the rules will be in effect, they:
33 --will not create or eliminate a government program;
34 --will not require the creation or elimination of employee positions;
35 --may affect future legislative appropriations to TWC, because this program has only
36 been funded for the first two years;
37 --will not require an increase or decrease in fees paid to TWC;
38 --will not create a new regulation;
39 --will not expand, limit, or eliminate an existing regulation;
40 --will not change the number of individuals subject to the rules; and
41 --will not positively or adversely affect the state's economy.

42
43 Economic Impact Statement and Regulatory Flexibility Analysis

44 TWC determined that the rules will not have an adverse economic impact on small
45 businesses or rural communities, as the proposed rules place no requirements on small
46 businesses or rural communities.

1
2 Mariana Vega, Director, Labor Market Information, determined that there is not a
3 significant negative impact upon employment conditions in the state as a result of the
4 rules.

5
6 Courtney Arbour, Director, Workforce Development Division, determined that for each
7 year of the first five years the rules are in effect, the public benefit anticipated as a result
8 of enforcing the proposed rules will be to increase the number of veterans who are
9 enrolled in and successfully complete apprenticeship training programs in Texas.

10
11 TWC hereby certifies that the proposal has been reviewed by legal counsel and found to
12 be within TWC's legal authority to adopt.

13
14 **PART IV. COORDINATION ACTIVITIES**

15 In the development of these rules for publication and public comment, TWC sought the
16 involvement of Texas' 28 Local Workforce Development Boards (Boards). TWC
17 provided the policy concept regarding these new rules to the Boards for consideration and
18 review on March 22, 2022. TWC also conducted a conference call with Board executive
19 directors and Board staff on March 25, 2022, to discuss the policy concept. During the
20 rulemaking process, TWC considered all information gathered in order to develop rules
21 that provide clear and concise direction to all parties involved.

22
23 **PART V. PUBLIC COMMENT**

24 Comments on the proposed new rules may be submitted to
25 TWCPolicyComments@twc.texas.gov and must be received no later than August 22,
26 2022.

27
28 **PART VI. STATUTORY AUTHORITY**

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

32
33 The new rules implement SB 337, which added Texas Labor Code, §302.00341, Grants
34 to Facilitate Participation in Registered Apprenticeship Programs by Certain Veterans
35 and Military Personnel.

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4 **REGISTERED APPRENTICESHIP PROGRAMS BY CERTAIN VETERANS**
5 **AND MILITARY PERSONNEL**

6
7 **§839.20. Purpose and Goal.**

8
9 (a) The purpose of this subchapter is to establish the grant program in Texas
10 Labor Code, §302.00341, Grants to Facilitate Participation in Apprenticeship
11 Training Programs by Certain Veterans and Military Personnel.

12
13 (b) The goal of this subchapter is to establish a program to award grants to
14 facilitate the participation of certain veterans and military personnel in
15 apprenticeship training programs, as set forth in Texas Labor Code,
16 §302.00341.

17
18 **§839.21. Definitions.**

19
20 The following words and terms, when used in this subchapter, shall have the
21 following meanings.

22
23 (1) Active duty--As defined under Texas Occupations Code, Chapter 55,
24 active duty means current full-time military service in the armed forces
25 of the United States or active-duty military service as a member of the
26 Texas military forces, as defined in Texas Government Code,
27 §437.001, or similar military service of another state.

28
29 (2) Agency--The unit of state government established under Texas Labor
30 Code, Chapter 301 that is presided over by the Commission and
31 administered by the executive director to operate the integrated
32 workforce development system and administer the unemployment
33 compensation insurance program in this state as established under the
34 Texas Unemployment Compensation Act, Texas Labor Code, Title 4,
35 Subtitle A, as amended. The definition of "Agency" shall apply to all
36 uses of the term in this subchapter.

37
38 (3) Assistance--Provision of services designed to promote continued
39 participation in a registered apprenticeship program by military
40 veterans or transitioning service members.

41
42 (4) Commission--The body of governance of the Texas Workforce
43 Commission composed of three members appointed by the governor as
44 established under Texas Labor Code, §301.002, that includes one
45 representative of labor, one representative of employers, and one

1 representative of the public. The definition of Commission shall apply
2 to all uses of the term in this subchapter.

3
4 (5) Grant recipient--A nonprofit organization that is awarded funding
5 under this subchapter.

6
7 (6) Military veteran--An individual who has served on active duty and who
8 was discharged or released from active duty, as defined under Texas
9 Occupations Code, Chapter 55.

10
11 (7) Nonprofit organization--An organization exempt from federal income
12 taxation under Internal Revenue Code, §501(a), as an organization
13 described by Internal Revenue Code, §501(c)(3).

14
15 (8) Recruitment--Provision of services to promote enrollment in a
16 registered apprenticeship program by military veterans or transitioning
17 service members.

18
19 (9) Registered apprenticeship program--A training program that provides
20 on-the-job training, preparatory instruction, supplementary instruction,
21 or related instruction in a trade that has been certified as an
22 apprenticeable occupation by the United States Department of Labor
23 Office of Apprenticeship, as defined under Texas Education Code,
24 Chapter 133.

25
26 (10) Transitioning service member (TSM)--An individual in active duty
27 status (including separation leave) who is within 24 months of
28 retirement or 12 months of separation from military service.

29
30 **§839.22. Grants to Facilitate Participation in Registered Apprenticeship**
31 **Programs.**

32
33 (a) The Commission may award grants to one or more nonprofit organizations
34 that facilitate the participation in registered apprenticeship programs of
35 military veterans and TSMs.

36
37 (b) A nonprofit organization may apply to the Agency for a grant award under
38 this subchapter. An application, developed by the Agency for the purpose of
39 this subchapter, shall include such information necessary to determine
40 eligibility for such award.

41
42 (c) A grant awarded under this subchapter may only be used to recruit or assist
43 veterans who have received an honorable discharge or a general discharge
44 under honorable conditions and TSMs whose statement of service letter
45 indicates an honorable discharge or a general discharge under honorable
46 conditions to participate in a registered apprenticeship program in accordance

1 with §839.23 of this subchapter (relating to Recruitment and Assistance
2 Services).

3
4 (d) A grant recipient shall provide such information determined by the Agency
5 to be necessary to determine that the grant funds are used in compliance with
6 subsection (c) of this section. Such information shall be provided in a manner
7 and at a frequency determined by the Agency.

8
9 (e) If funds awarded under this subchapter are not used in accordance with
10 subsection (c) of this section, the grant recipient shall be required to repay
11 any funds not used in accordance with subsection (c) of this section.

12
13 **§839.23. Recruitment and Assistance Services.**

14
15 (a) A nonprofit organization that applies under §839.22(b) of this subchapter
16 (relating to Grants to Facilitate Participation in Registered Apprenticeship
17 Programs) shall include cost estimates for services included in this section.

18
19 (b) A nonprofit organization shall provide actual costs and receipts for any
20 services included in this section in accordance with §839.22(d) of this
21 subchapter.

22
23 (c) Recruitment services, specific to military veterans and TSMs, allowable
24 under this subchapter, may include:

25
26 (1) outreach materials and services, which may include flyers, web
27 services, or other promotional services; or

28
29 (2) other costs related to recruitment, if such costs are approved by the
30 Agency prior to those costs being incurred.

31
32 (d) Assistance services, provided to military veterans and TSMs, allowable
33 under this subchapter, may include:

34
35 (1) tuition payments for the education portion of registered apprenticeship
36 programs;

37
38 (2) mentoring services;

39
40 (3) support services, as set forth in Texas Government Code,
41 §2308.312(c)(6); or

42
43 (4) other assistance services, if such costs are approved by the Agency
44 prior to those costs being incurred.

45
46 (e) Funds may be used for staffing costs only if:

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2
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4
5

(1) staff time is dedicated to subsections (c) and (d) of this section; and

(2) such costs do not exceed 15 percent of the total grant awarded under this subchapter.