

Section 815.119. Processing of Contributions Under the Voluntary Contribution Program

PROPOSED RULE 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 5, 2003, THE TEXAS WORKFORCE COMMISSION PROPOSED THE BELOW RULE WITH PREAMBLE TO BE SUBMITTED TO THE *TEXAS REGISTER*.

Estimated Publication Date of the Proposal in the *Texas Register*: August 22, 2003

Estimated End of Comment Period: September 22, 2003

The Texas Workforce Commission (Commission) proposes new §815.119, Processing of Voluntary Contributions to Chapter 815, Unemployment Insurance, Subchapter C. Tax Provisions.

Section 204.048 Labor Code, titled Voluntary Contributions, states the conditions under which an employer may repay TWC for benefits charged to their TWC tax account during the period used to calculate the Unemployment Experience Tax Rate for the following year. Unemployment Benefit Chargebacks repaid under the Voluntary Contribution program are not used in calculation of the Employer's Annual Experience Tax Rate.

The 78th Session of the Texas Legislature amended Section 204.048, Labor Code, requiring that contributions made by employers under that section be due as prescribed by TWC Rule. Prior to that amendment the statute prescribed the due date and TWC had no authority to extend the due date when circumstances warranted.

This prescribed rule states the conditions to be met by TWC and the employer when participating in the Voluntary Contribution Program.

Randy Townsend, Chief Financial Officer, has determined that for the first five years the rule is in effect, the following statements will apply:

There are no additional estimated costs to the state or to local governments expected as a result of enforcing or administering the rule;

There are no estimated reductions in costs to the state or to local governments expected as a result of enforcing or administering the rule;

There are no estimated losses or increases in revenue to the state or to local governments as a result of enforcing or administering the rule;

There are no foreseeable implications relating to costs or revenues to the state or to local governments as a result of enforcing or administering the rule;

Mr. Townsend, Chief Financial Officer, has determined that there is no anticipated adverse impact on small businesses as a result of enforcing or administering this rule because the requirement is directly required by statute.

LaSha Lenzy, Director, Unemployment Insurance and Regulation Division, has determined that for each year of the first five years that the rule will be in effect the public benefit anticipated as a result of the adoption of the proposed rule will be the increased participation in the Voluntary Contribution Program.

James Barnes, Director, Labor Market Information, has determined that there is no foreseeable negative impact upon employment conditions in this state as a result of this proposed rule.

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

For more information about the Commission and available services, see www.texasworkforce.org.

The rule is proposed under Texas Labor Code §301.061 and §204.048, 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 the Agency services and activities.

The proposed new rule affects Texas Labor Code, Title 4.

§815.119 Payment of Voluntary Contributions

Texas Labor Code, Section 204.048 (a), provides that an employer that is eligible for an annual Experience Rate calculation under Section 204.041, Labor Code, may elect to make a voluntary payment of contributions to the agency.

- (1) The agency will notify employers eligible for an annual rate calculation under Section 204.041, Labor Code, of the experience tax rate for the following year and the amount of charges that were used in calculating that rate.
- (2) Voluntary contribution shall be due not later than the 60th day after the date on which the commission mails the employer's annual tax rate notice. When the last day for payment of voluntary contributions falls on a Saturday, Sunday, or a legal holiday on which the agency office is closed, the payment may be made on the next regular business day.

- (3) The agency may extend the due date for the payment of voluntary contributions; however, the extension may not exceed 75 days from the date on which the commission mails the employer's annual rate notice. In no situation may the extension exceed the date imposed by the deadline in Section 204.048 (e), Labor Code.
- (4) If the voluntary contribution payment is insufficient to cause a decrease in the tax rate, the agency will notify the employer and grant an extension, not to exceed 75 days from the date on which the commission mails the employer's annual tax rate notice to remit additional voluntary contributions, subject to the limitations imposed by Section 204.048 (e), Labor Code.