

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

10  
11 Subchapter B. Grants to Facilitate Participation in Registered Apprenticeship  
12 Programs by Certain Veterans and Military Personnel, §§839.20 - 839.23

13  
14 **PART I. PURPOSE, BACKGROUND, AND AUTHORITY**

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

17  
18 SB 337 amended Texas Labor Code, Chapter 302, Subchapter A by adding §302.00341,  
19 Grants to Facilitate Participation in Apprenticeship Training Programs by Certain  
20 Veterans and Military Personnel.

21  
22 Texas Labor Code, §302.00341(a) defines "apprenticeship training program" and  
23 "nonprofit organization."

24  
25 Texas Labor Code, §302.00341(b) requires TWC to "develop and administer a program  
26 under which the commission may award grants to one or more nonprofit organizations  
27 duty military service members who are transitioning into civilian employment."

28  
29 Texas Labor Code, §302.00341(c) stipulates that a grant awarded under Texas Labor  
30 Code, §302.00341 may be used only to recruit or assist veterans or transitioning service  
31 members.

32  
33 Texas Labor Code, §302.00341(d) requires TWC to adopt rules to administer this grant.  
34 These rules must include a process to verify that state funds awarded to a nonprofit  
35 organization under Texas Labor Code, §302.00341 are used appropriately.

36  
37 **PART II. EXPLANATION OF INDIVIDUAL PROVISIONS**

38  
39 **SUBCHAPTER B. GRANTS TO FACILITATE PARTICIPATION IN**  
40 **REGISTERED APPRENTICESHIP PROGRAMS BY CERTAIN VETERANS**  
41 **AND MILITARY PERSONNEL**

42 TWC proposes new Subchapter B as follows:

43  
44 **§839.20. Purpose and Goal**

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

1 **§839.21. Definitions**

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

3  
4 **§839.22. Grants to Facilitate Participation in Registered Apprenticeship Programs**

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

10  
11 **§839.23. Recruitment and Assistance Services**

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

17  
18 **PART III. IMPACT STATEMENTS**

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

21  
22 There are no additional estimated costs to the state and to local governments expected as  
23 a result of enforcing or administering the rules.

24  
25 There are no estimated cost reductions to the state and to local governments as a result of  
26 enforcing or administering the rules.

27  
28 There are no estimated losses or increases in revenue to the state or to local governments  
29 as a result of enforcing or administering the rules.

30  
31 There are no foreseeable implications relating to costs or revenue of the state or local  
32 governments as a result of enforcing or administering the rules.

33  
34 There are no anticipated economic costs to individuals required to comply with the rules.

35  
36 There is no anticipated adverse economic impact on small businesses, microbusinesses,  
37 or rural communities as a result of enforcing or administering the rules.

38  
39 Based on the analyses required by Texas Government Code, §2001.024, TWC  
40 determined that the requirement to repeal or amend a rule, as required by Texas  
41 Government Code, §2001.0045, does not apply to this rulemaking.

42  
43 **Takings Impact Assessment**

44 Under Texas Government Code, §2007.002(5), "taking" means a governmental action  
45 that affects private real property, in whole or in part or temporarily or permanently, in a  
46 manner that requires the governmental entity to compensate the private real property

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

14  
15 The proposed rulemaking action will not create any additional burden on private real  
16 property or affect private real property in a manner that would require compensation to  
17 private real property owners under the United States Constitution or the Texas  
18 Constitution. The proposal also will not affect private real property in a manner that  
19 restricts or limits an owner's right to the property that would otherwise exist in the  
20 absence of the governmental action. Therefore, the proposed rulemaking will not cause a  
21 taking under Texas Government Code, Chapter 2007.

#### 22 23 Government Growth Impact Statement

24 TWC determined that during the first five years the rules will be in effect, they:

- 25 --will not create or eliminate a government program;
- 26 --will not require the creation or elimination of employee positions;
- 27 --may affect future legislative appropriations to TWC, because this program has only  
28 been funded for the first two years;
- 29 --will not require an increase or decrease in fees paid to TWC;
- 30 --will not create a new regulation;
- 31 --will not expand, limit, or eliminate an existing regulation;
- 32 --will not change the number of individuals subject to the rules; and
- 33 --will not positively or adversely affect the state's economy.

#### 34 35 Economic Impact Statement and Regulatory Flexibility Analysis

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

39  
40 Mariana Vega, Director, Labor Market Information, determined that there is not a  
41 significant negative impact upon employment conditions in the state as a result of the  
42 rules.

43  
44 Courtney Arbour, Director, Workforce Development Division, determined that for each  
45 year of the first five years the rules are in effect, the public benefit anticipated as a result

1 of enforcing the proposed rules will be to increase the number of veterans who are  
2 enrolled in and successfully complete apprenticeship training programs in Texas.

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

6  
7 **PART IV. COORDINATION ACTIVITIES**

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

15  
16 **PART V. PUBLIC COMMENT**

17 Comments on the proposed new rules may be submitted to  
18 [TWCPolicyComments@twc.texas.gov](mailto:TWCPolicyComments@twc.texas.gov) and must be received no later than August 22,  
19 2022.

20  
21 **PART VI. STATUTORY AUTHORITY**

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

25  
26 The new rules implement SB 337, which added Texas Labor Code, §302.00341, Grants  
27 to Facilitate Participation in Registered Apprenticeship Programs by Certain Veterans  
28 and Military Personnel.

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3                   **SUBCHAPTER B. GRANTS TO FACILITATE PARTICIPATION IN**  
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:

1  
2  
3  
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.