Division Legislative Proposals

89th Texas Legislature

Proposals Submitted for Commission Action 12/17/24

Legislative Proposals: 89th Texas Legislature

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Fraud Deterrence and Compliance Monitoring

LEGISLATIVE RECOMMENDATION

Confidentiality of Fraud Detection and Prevention Information

Program Affected:

Unemployment Insurance

Title:

Confidentiality of Fraud Detection and Prevention Information

Recommendation:

Modify Texas Labor Code §301.085 to provide an Open Records Act exception for TWC's fraud detection and prevention related information.

Rationale:

During the pandemic, TWC received numerous requests concerning contracts, data, and protocols relating to our fraud fighting efforts. Release of information related to fraud detection and prevention in the Unemployment Insurance (UI) system could provide a blueprint for how to defraud TWC and thwart the Office of Investigations fraud fighting efforts. Therefore, it is imperative that this information remain protected from these requests.

Currently, Labor Code §301.085 provides an exception for unemployment compensation information. It is recommended that an additional provision be added to this section which would except TWC fraud related contracts, data, and protocols from disclosure under Texas Government Code Chapter 552, the Texas Open Records Act.

The Texas Open Records Act exceptions found in Texas Government Code sections 552.108 (Certain Law Enforcement, Corrections, and Prosecutorial Information) and 552.139 (Confidentiality of Government Information Related to Security or Infrastructure Issues for Computers) may provide a useful template for crafting a similar exception for TWC fraud.

Conformity to Federal Law:

No conformity issues were raised by the US Department of Labor (DOL) when this proposal was previously submitted.

Fiscal Impact:

No fiscal implication to the State is anticipated.

TWC's Open Records and Communications departments will be impacted by this proposal. Staff will be able to reference the Texas Labor Code restriction when responding to inquiries for information related to fraud detection and prevention activities. Staff will need to be advised of the new law and how it applies.

This analysis assumes time spent training staff on the new provision can be absorbed within current resources.

While TWC fully supports transparency in government, this exception is necessary for preventing the release of certain detailed information which, if made public, could be used by criminal enterprises to circumvent the fraud-prevention protocols we have worked so hard to put in place.

During the 88th regular legislative session, Senator Kolkhorst filed SB 1219, which aimed to except fraud detection and deterrence measures and counterterrorism measures from disclosure by any governmental body under Texas Government Chapter 552. We will monitor and coordinate as appropriate if a similar bill is filed during the 89th regular legislative session.

Contact:

Fraud Deterrence and Compliance Monitoring – Jason Stalinsky

LEGISLATIVE RECOMMENDATION

WAGE CLAIM CONFIDENTIALITY

Program Affected:

Labor Law – Texas Payday Law

Title:

Wage Claim Confidentiality

Recommendation:

Create Texas Labor Code section 61.0515 to provide that personally identifiable information of a person who files a wage claim is not public information for the purposes of Chapter 552 of the Texas Government Code. Furthermore, the Commission shall be required to adopt rules governing the confidentiality, custody, use, preservation, and disclosure of personally identifiable wage claim data.

Rationale:

Wage claim data is currently releasable under the Public Information Act. This subjects the parties to harassment from outside sources such as law firms looking for potential clients and media outlets looking to contact the parties for statements. The availability of this information may also have a chilling effect on potential wage claim filings if claimants believe they may be subject to harassment due to their filing.

A reasonable solution to this issue would be the adoption of a statute similar to Texas Labor Code section 301.085 which would specify that personally identifiable information of a wage claimant including name, social security number, address, contact information, amount of wages claimed, amount of wages ordered, and any penalties assessed is not public information under Chapter 552 of the Texas Government Code. However, aggregated data that does not identify an individual or information regarding whether an employer was found to have violated Payday law would be releasable under the Public Information Act. This proposal would also include statutory changes to grant TWC specific rulemaking authority to implement

confidentiality provisions. It is envisioned these rules would be similar to Chapter 815 Subchapter E.

Fiscal Impact:

Administrative Cost:

Any administrative costs would be negligible and could be absorbed by existing resources.

Technology Cost:

There are no technology costs to implement this proposal.

Contact Person:

Fraud Deterrence and Compliance Monitoring – Jason Stalinsky

LEGISLATIVE RECOMMENDATION

Amendments to Texas Government Code Chapter 2308 Workforce Investment Act

Program Affected:

These proposals impact the local workforce development Boards, FDCM, and the Workforce Development Division.

Title:

Integrity Enhancements to the Texas Workforce Investment Act (Chapter 2308, Texas Government Code)

Recommendation:

Amend various provisions of Subchapter F (Creation and Administration of Local Workforce Development Areas and Local Workforce Development Boards) and Subchapter G (Responsibilities and Duties of Local Workforce Development Boards) to enhance the overall fiscal integrity of the Specific recommendations are as follows:

- Amend Gov't Code § 2308.253, Creation of Local Workforce Development Boards, to require in subsection (g) that the partnership agreement between the chief elected officials and the Board be reviewed and updated, at least every 10 years.
- Amend Gov't Code § 2308.259, Board Committees, to require that at a minimum, Boards must establish an Audit Committee which is responsible for overseeing financial reporting and disclosure requirements of the Board.
- Amend Gov't Code § 2308.263, Approval of Fiscal Agent, to stipulate that the Agency must approve a Board's fiscal agent no less frequently than every five years. The statute should also be amended to stipulate that the Agency, at any time, may revoke its approval of a Board's fiscal agent and direct that Board to reprocure or designate another fiscal agent.

Rationale:

The partnership agreement required in § 2308.253 is one of the foundational documents prescribing the roles and responsibilities of key stakeholders in the workforce area. In many Board areas, the partnership agreement has not been updated since the Board was created. Stipulating that the partnership agreement must be reviewed and amended if deemed necessary on a prescribed schedule will help ensure that it remains an up-to-date and accurate document.

Audit Committees play a critical role in overseeing many aspects of an organization's activities and performance. The audit committee has responsibility for overseeing financial reporting and related internal controls, risk, independent and internal auditors, and ethics and compliance.[1] Some Boards have a 'Finance Committee' which serves this function, but not all do.[2] Having each Board establish an audit committee is an additional control to help ensure fiscal integrity.

Similar to partnership agreements, Boards' fiscal-agent designations generally occurred when the Board was established and have not been revisited since that time. Through Agency monitoring reviews or other oversight activities, information may come to light which raises questions about whether a Board's fiscal agent should remain "approved" by the Agency. Amending this section to require subsequent approval on a recurring schedule, and allowing the Agency to withdraw approval at anytime helps ensure that fiscal-agent issues are addressed timely.

Fiscal Impact:

There is no appreciable fiscal impact related to implementing any of these proposals.

Contact:

Fraud Deterrence and Compliance Monitoring - Chuck Ross

[1] Deloitte Center for Board Effectiveness, Audit Committee Responsibilities (https://www2.deloitte.com/us/en/pages/center-for-board-effectiveness/articles/audit-committee-responsibilities.html)

[2] Based on the best information available to Subrecipient Monitoring, five Boards have some permutation of an Audit Committee. The remaining Boards have an Executive Committee which may or may not be performing these oversight tasks.

LEGISLATIVE RECOMMENDATION

Collections Tools for Childcare and Vocational Rehabilitation Improper Payments

Program Affected:

Child Care & Early Learning and Vocational Rehabilitation

Title:

Expand Collections Tools for Recovery of Childcare and Vocational Rehabilitation Improper Payments

Recommendation:

Amend Subchapter K, Chapter 301, Texas Labor Code, to provide that the Agency may use the administrative lien and levy provisions of Labor Code Chapter 61, Subchapters E and F for the collection of improper payments which occur under the Agency's Childcare programs.

Add new section 352.0535, Texas Labor Code, to provide that the Agency may use the administrative lien and levy provisions of Labor Code Chapter 61, Subchapters E and F for the collection of improper payments which occur under the Agency's Vocational Rehabilitation programs.

Rationale:

Currently, the only tools available to the Agency to recoup improper payments which accrue under the Childcare and Vocational Rehabilitation programs are implementation of a Comptroller warrant hold for State payments made to the debtor, e.g., lottery winnings, and referral of the Office of the Attorney General's Bankruptcy and Collections Division for potential recovery.

Conversely, the Texas Payday Law provides the Agency with robust tools, such as imposition of administrative liens and levies to collect from employers unpaid wages which are found to be owed to its former workers. Providing the Agency's Childcare and Vocational Rehabilitation programs with access to these collections tools will significantly increase successful recovery of improper payments.

Fiscal Impact:

There is minimal fiscal impact. Staff anticipates that one or two additional FTEs may be required in Collections & Civil Actions to process these liens and levies.

Contact:

Fraud Deterrence and Compliance Monitoring - Chuck Ross

LEGISLATIVE RECOMMENDATION

Redefine "Last Work" to Stop Fraud & Claim Abuse

Program Affected:

Unemployment Insurance

Title:

Modify the Definition of Last Work for Initial Claims

Recommendation:

Amend Texas Labor Code §208.002 to define "last work" and "person for whom the claimant last worked" to mean an employer with a liable TWC Tax account. (Note: This proposal was accepted by the Commission and filed as HB 2458, (Vo) Introduced.

Rationale:

TWC is required to investigate a claimant's job separation from their last work when determining if the claimant is qualified for benefits. Texas Labor code §208.002 defines last work as an employer with a liable TWC Tax account, or an account under another state unemployment law, or an employer for which the claimant worked 30 hours during a week.

The 82nd Legislature in 2011 amended the provisions of §208.002, based on a TWC legislative recommendation, to add the 30-hour provision as an integrity measure to prevent unscrupulous individuals from avoiding a disqualifying job separation. Prior to 2011, the statute allowed any entity, regardless of whether it was a covered employer or the duration of the work, to serve as a claimant's last employer. Since that time, the evidence has shown that the amendments were insufficient to close the loophole in the statute.

The 30-hour element allows an opportunistic individual to "create" a new last employer when they suspect the separation from their actual last employer would be disqualifying. In some situations, an individual may work for a person, such as their parent or a neighbor, for 30 hours prior to filing, then state they were laid off due to lack of work. In other instances, the individual may entirely fictionalize the employer so that their side of the story would be the only evidence for TWC to consider. An individual must have at least one liable employer in their base period to file a claim, and that employer would have been vetted by TWC, or another state's unemployment office, when setting up the tax account. TWC's Tax department will need to be consulted

as to their fraud detection protocols and how out of state employers could be vetted.

This loophole is exploited by individuals as well as imposters. Identity imposters know that they can not only impersonate the individuals filing for benefits, but also the last employer as well. Texas makes this easy for them as they don't have to set up a tax account, instead they simply need to state they worked 30 hours in one week for any (fictitious) person prior to being laid off. The imposter would be in control of all responses to a claim with no real employer to verify the employment for the SSN.

While the owner of the SSN may have other legitimate base period employers in the claim, those legitimate employers will not be contacted until after the claim has begun to pay, at least a month after the claim is filed. This situation is analogous to the large amount of fraud TWC experienced in the Pandemic Unemployment Assistance (PUA) program where TWC was unable to tie claimants to past employers and have full employer participation in the UI process.

PUA, while key to helping many thousands of Texans not covered by the traditional unemployment insurance program, was rife with fraud precisely because it disconnected benefit receipt from the linkage to an employer which has a vested interest in participating in the eligibility assessment process.

Conformity to Federal Law:

No conformity issues were raised by the US Department of Labor (DOL) when this proposal was previously submitted.

Fiscal Impact: Updated to reflect IT revisions from last session.

TWC anticipates a total five-year cost of $161,559. TWC anticipates costs associated with this bill can be absorbed using current resources.

Position	FY 2026 hours	FY 2026 Cost	5-Year $ Impact
Programmer V	600	$30,825	$30,825
Systems Analyst IV	600	$20,415	$20,415
Systems Analyst V	600	$23,359	$23,359
Database Administrator IV	270	$18,682	$18,682
Manager IV	270	$16,660	$16,660

Subtotal, Salaries & Wages		**$109,941**	**$109,941**
Other Operating Expenses*		$897	$897
Retirement, OASI, Insurance (32.52%)		$35,753	$35,753
Agency payroll contribution		$1,649	$1,649
Indirect costs		$13,319	$13,319
Subtotal, Appropriated Cost		**$125,806**	**$125,806**
Subtotal, Unappropriated Costs		**$35,753**	**$35,753**
Total Technology Personnel Cost		**$161,559**	**$161,559**

*Assumes IT work will be done by telework staff.

Assumptions:

- The definition for last work only applies to initial claims filed after the bill is effective.
- To meet the definition of last work, the employer must have a liable TWC Tax account, accounting for the use of military, federal, and out of state employers.
- Development and programmer time is split between 350 hours for mainframe development and 250 hours for web-based development.
- A Database Administrator IV and a Manager IV will each be needed for 15 percent of the subtotal System Analyst and Programmers Hours.

The anticipated fiscal impact increased from $40,734 for the 88th regular legislative session because last session the analysis by IT:

- Only included mainframe development and did not include UBS.
- Did not include work needed to address out of state claims, combined wage claims, and claims involving military or federal employers.
- Did not include any hours for a Program Area Systems Analyst/Subject Matter Expert or an IT Systems Analyst.

Contact:

Fraud Deterrence and Compliance Monitoring – Jason Stalinsky

LEGISLATIVE RECOMMENDATION

Establish Fraud, Waste, and Abuse Detection and Prevention for All TWC Programs

Program Affected:

These proposals impact all TWC Programs and Divisions and the local workforce development Boards.

Title:

Mandate Fraud, Waste, Abuse Detection and Prevention for all TWC Programs.

Recommendation:

Amend various provisions of Chapters 301 and ~~Chapter 203~~ Chapter 352, Labor Code, to specifically require fraud, waste, and abuse (FWA) prevention and detection activities for TWC programs. Currently, only the subsidized childcare program has mandatory FWA provisions associated to it. Specific recommendations are as follows:

- Amend Labor Code Chapter 301, Subchapter K, Detection and Prevention of Child Care Fraud Waste, and Abuse, to expand FWA detection and prevention to WIOA, general revenue, and vocational rehabilitation programs and to specifically provide for the use of investigatory tools stipulated in statute for FWA purposes.
- Add Labor Code Chapter 302, Subchapter J, Detection and Prevention of Fraud Waste, and Abuse in Workforce Programs and Services, to expand FWA detection and prevention to WIOA and general revenue programs and to specifically provide for the use of investigatory tools stipulated in statute for FWA purposes.
- Add Labor Code Chapter 352, Subchapter D, Detection and Prevention of Fraud Waste, and Abuse in Vocational Rehabilitation Programs and Services, to expand FWA detection and prevention to vocational rehabilitation programs and to specifically provide for the use of investigatory tools stipulated in statute for FWA purposes.

Rationale:

While the Agency is committed to FWA prevention, detection, and investigation across the gamut of TWC programs and services, only the subsidized childcare program is specifically enumerated in statute as having FWA assigned activities.

Stipulating in statute that FWA detection and prevention work is applicable to childcare, workforce, vocational rehabilitation, and programs using general revenue funds, including TWC's subrecipients and contractors; and authority for TWC staff to use the unique investigatory tools in the Labor Code, e.g., Chapter 301, Subchapter E, Investigative and Subpoena Powers, to further FWA detection and prevention activities.

Fiscal Impact:

There is no appreciable fiscal impact related to implementing any of these proposals.

Contact:

Fraud Deterrence and Compliance Monitoring - Chuck Ross

Vocational Rehabilitation

LEGISLATIVE RECOMMENDATION

Preserving Procurement Authority for Goods and Services for Vocational Rehabilitation Programs

Programs Affected:

Vocational Rehabilitation (VR) and Independent Living Services for Older Individuals Who Are Blind (OIB)

Title:

Procurement authority for vocational rehabilitation services and other services and programs under Subtitle C, Title 4, Labor Code, administered by the Texas Workforce Commission.

Recommendation:

This recommendation proposes to amend the Texas Labor Code, by adding one new Section, 352.060, to align with the authority currently granted to the Texas Health and Human Services Commission (HHSC). HHSC authority is listed in Texas Government Code Chapter 2155, Section 144, Texas Government Code Section 531.039, and HHSC Administrative Code §391.601 (see Appendix 2).

The new Section 352.060 Procurement of Goods and Services (Appendix 4), will provide the Texas Workforce Commission (TWC) authority to acquire goods or services by entering into contracts as necessary to perform any of the commission's powers or duties for the programs funded under TWC Strategy B.2.1. Vocational Rehabilitation of the General Appropriations Act for the 2024-2025 biennium. Proposed language will mirror §2155.144 (c) to include acquiring goods or services by any procurement method approved by TWC that provides the best value to the agency, as well as §391.601 to include the use of an open enrollment contracting method if the best interests of the state are served by enrolling multiple vendors. As already provided in TWC rules (see Appendix 3) an open enrollment under this proposed new section must be conducted in a transparent and fair manner that reasonably provides interested and eligible vendors equal opportunity to obtain a contract.

Additionally, the new 352.060 will provide TWC authority to enter direct negotiation with a qualified vendor (hospital) for diagnosis and treatment of a physical or mental impairment[3] of a VR participant. This authority would be permissive and not required. It would stipulate that TWC may enter direct negotiations and award a contract under this section when TWC does not receive responsive applications for hospital goods or services for the VR program in a specific area of the state.

The new section would permit TWC, after making a written determination that responsive applications were not received, to directly negotiate with and award the contract to any qualified vendor who meets the requirements of the original solicitation: 1) at a rate consistent with the current market value* of the hospital goods or services and 2) for a term not to exceed five years.

*Current market value will be determined using an updated rate study for hospital services, to be conducted by TWC in State Fiscal Year 2025.

Rationale:

General:

Texas Labor Code §351.02 transferred the administration of VR services from the Texas Department of Assistive and Rehabilitative Services (DARS) to HHSC, effective September 1, 2016.

Texas Human Resources Code, Title 7, Chapter 111.0511, then designated to TWC the primary responsibility for providing VR services and other services and programs under Subtitle C, Title 4, Labor Code. Chapter 111.0511 provides that a power or duty under Chapter 111 of the department (legacy DARS), commissioner (legacy DARS commissioner), or the executive commissioner (of HHSC), as applicable to these services or

[3] An impairment or impediment refers to a physical or mental condition that significantly affects an individual's ability to prepare for, obtain, or maintain employment. Specifically, for eligibility in the vocational rehabilitation (VR) program, an individual must have an impairment that results in a substantial impediment to employment and requires VR services to achieve employment and maximize career goals.

programs is a power or duty of TWC, including rulemaking authority. (see Appendix 2)

Under this authority, TWC has continued the long-standing HHSC method of procuring service providers through the open enrollment process for the vocational rehabilitation programs transferred to the agency in September 2016. In 2020, TWC adopted rule changes to remove duplications between DARS/TWC rules, and to designate the VR program as a recognized HHSC entity with the authority to procure goods and services through a non-competitive (enrollment) process (See Appendix 2. *Chapter* 858.2 *Procurement and Contract Management Requirements for Purchase of Goods and Services for Vocational Rehabilitation Services*).

While TWC rules were updated, TWC has continued to operate based on statute that references the authority of DARS and HHSC because TWC was given the authority of administering VR programs using the same authority as DARS, a health and human services agency. The 88th Texas Legislature enacted House Bill 4611, making non-substantive revision to the health and human services laws governing HHSC, Medicaid, and other social services. HB 4611 revisions are effective on April 1, 2025. These revisions update HHSC statutes and cross references to those statutes to reflect the current organizational structure of HHSC agencies and remove references to now defunct departments, such as DARS. The revisions have the effect of removing critical statutory connections that have allowed TWC to exercise the authority granted to the agency under HRC 111.0511. Loss of these clear connections and failure to explicitly include TWC or VR programs as an HHSC agency in the statutory revisions or expressly grant TWC's VR program similar authority would result in the loss of TWC's current statutory authority for certain critical VR functions described below. This proposal recommends statutory updates to the Texas Labor Code, consistent with current HHSC statutes and TWC rule. These statutory updates will replace and confirm the authority provided to TWC by HRC 111.0511 and the associated statutory definitions of a health and human services agency that are removed, effective April 1, 2025.

Contracting Authority and Open Enrollment

The open enrollment (OE) procurement method is a non-competitive procurement method authorized in TWC rules for the Vocational Rehabilitation Division (VRD). The VRD relies extensively on OE procurement to establish contracts under which a wide variety of VR services and

products are purchased on behalf of its customers. The loss of statutory authority for open enrollment by the VR Division will affect timely service delivery for VR clients and significantly increase administrative burden to the agency.

Services and products purchased through OE contracts include:

- Employment services
- Self-employment services
- Project SEARCH
- Medical consultants
- Psychological consultants
- Dental consultants
- Communication access
- Hearing aids
- Orientation and mobility
- Vehicle modification
- Wellness Recovery Action Plan
- Diabetes self-management
- Independent Living for Older Individuals Who Are Blind (OIB) training
- Assistive tech for visually impaired customers
- Benefits counseling
- Customized employment
- Supported residential services for persons in recovery
- Employment supports for brain injury
- Durable medical equipment
- Hospital services, and
- Pre-employment transition services.

TWC's VRD currently has approximately 1,275 active contracts, of which approximately 1,000 are enrollment contracts. The loss of OE contracts to the VR program would impact timely service delivery to over 25,000 VR participants each year. Additionally, the loss of OE contracts to the OIB

program, also administered by TWC's VRD, would impact timely service delivery to over 1,600 individuals annually.

OE solicitations are posted on the Electronic State Business Daily (ESBD) which is the site managed by Texas Comptroller's Statewide Procurement Division and is the State's online directory listing procurement opportunities. Applicants submit their qualifications in accordance with the requirements published in an OE solicitation. Qualifications are reviewed and approved (or denied) by staff. Applicants who meet the requirements specified in the solicitation receive a contract to provide the specified services or products. Enrollment contracts are zero-dollar contracts under which services and products are purchased on an "as-needed" basis. Providers must follow specified standards and are paid according to an established fee schedule.[4]

Direct Negotiations

To address a physical or mental impediment to employment, VR participants may require VR funding support for all or part of the cost of medical services provided in a hospital setting.

- Diagnosis and treatment of physical and mental impairments is an allowable service for VR participants under Title IV of the federal Workforce Innovation and Opportunity Act (WIOA), also known as the Rehabilitation Act of 1973, as amended by WIOA. (Title I, Section 102 (29 U.S.C. §723(a)(6)(A) and (B)).
- Further, federal statute affords VR participants informed choice in the selection of entities to provide their VR services (Title I, Section 102 (29 U.S.C. §720(a)(3)(C)).

For VR participants with insurance, TWC will only cover the portion of the cost remaining after insurance is applied.

[4] Contractors must comply with the following sections defined in the Vocational Rehabilitation Standards for Providers Manual (VR-SFPM) for the services being delivered: Service Descriptions, Staff Qualifications, Process and Procedures, and Outcomes Required for Payment. Payments are made to contractors when services meet compliance for these sections, and Basic Standards listed in Chapter 3 of the VR-SFPM. Payments are based on the fee schedule listed in the VR-SFPM for the applicable service at the time the service is provided.

VR participants needing hospital services reside all over the state[5] and under the statutory provisions of informed choice, may seek hospital and associated medical services from their established healthcare provider. Many participants also prefer to receive these services in the geographic area in which they reside.

On average, for state fiscal years (SFY) 2018 – 2022, 1,103 VR participants received hospital services each year, provided by 105 hospitals, at a total annual cost of $10.6M. (Source: Provider Fee Structure Analysis, Public Consulting Group (PCG), August 2023)

In recent years, VR has experienced increasing difficulty securing contracts with hospitals to provide medical services for VR program participants. The difficulty is driven by changes within hospital systems, the unwillingness of hospitals to dedicate the administrative resources necessary to respond to a formal and lengthy solicitation for what may result in only a handful of VR participants, and VR rates that are no longer competitive due to rising costs.

TWC VR currently has 130 active hospital contracts and will soon be down to 125 after the contracts with five St. Joseph facilities expire in May. This represents a 35% decrease (from 198) in hospital contracts in recent years. The drop in hospital contracts now threatens availability of necessary hospital services for VR participants. Both large urban hospital systems and rural hospital systems are allowing their current TWC contract to expire, without intention to apply for another contract. For example:

- In March 2024 all Ascension Seton hospital contracts expired. They had inquired about referrals and historical expenditures in December during the renewal conversations. Once the data was sent, they stopped communicating.
- In the Spring of 2024, TWC lost all St. Joseph facilities (which are rural) as their contracts expired. TWC contract specialists and VR staff worked for over a year to get them to reapply to the solicitation. They finally submitted an incomplete application. TWC asked that they finalize their application so we can move forward with a contract. After several weeks, St. Joseph responded that it was unlikely they would finalize their application because they have more important

[5] See PCG Appendix 1: Geographic Distribution of VR Customers Receiving Hospital Services.

negotiations to handle and TWC contracts do not reimburse at acceptable rates, especially when we can't guarantee volume.

- The biggest hospitals in Houston (Memorial Hermann Hospital System, which includes TIRR and Houston Methodist Hospitals) will no longer entertain invitations to apply for contracts.

For many years, the VR program established and maintained working relationships with locally owned hospitals in communities across the State. These business relationships helped facilitate hospitals' participation in the open enrollment procurement process as well as the execution and implementation of contracts for services. These local working relationships are no longer feasible due to the consolidation of formerly independent hospitals in both urban and rural areas under the ownership of larger hospital conglomerates, many of which are managed outside of Texas. Today, these large hospital systems express little interest in devoting the administrative capacity necessary to participate in the formal solicitation process. In addition, they are increasingly reluctant to work with TWC VR due to the insufficiency of current TWC hospital rates and the lack of guaranteed volume. Similarly, smaller rural hospitals express concerns regarding the administrative capacity required to participate in TWC's application and procurement process, as well as concern about TWC's hospital rates. Rural hospitals are also under increasing economic strain for numerous factors, including rising costs, low patient volumes, and difficulty recruiting and retaining medical professionals.

These concerns are consistently relayed to TWC's Procurement and Contracting specialists as they communicate with hospitals with expiring contracts and negotiate occasional exceptions to the TWC rate methodology to ensure timely services for a VR participant requiring services from rural hospitals.

Fiscal Impact:

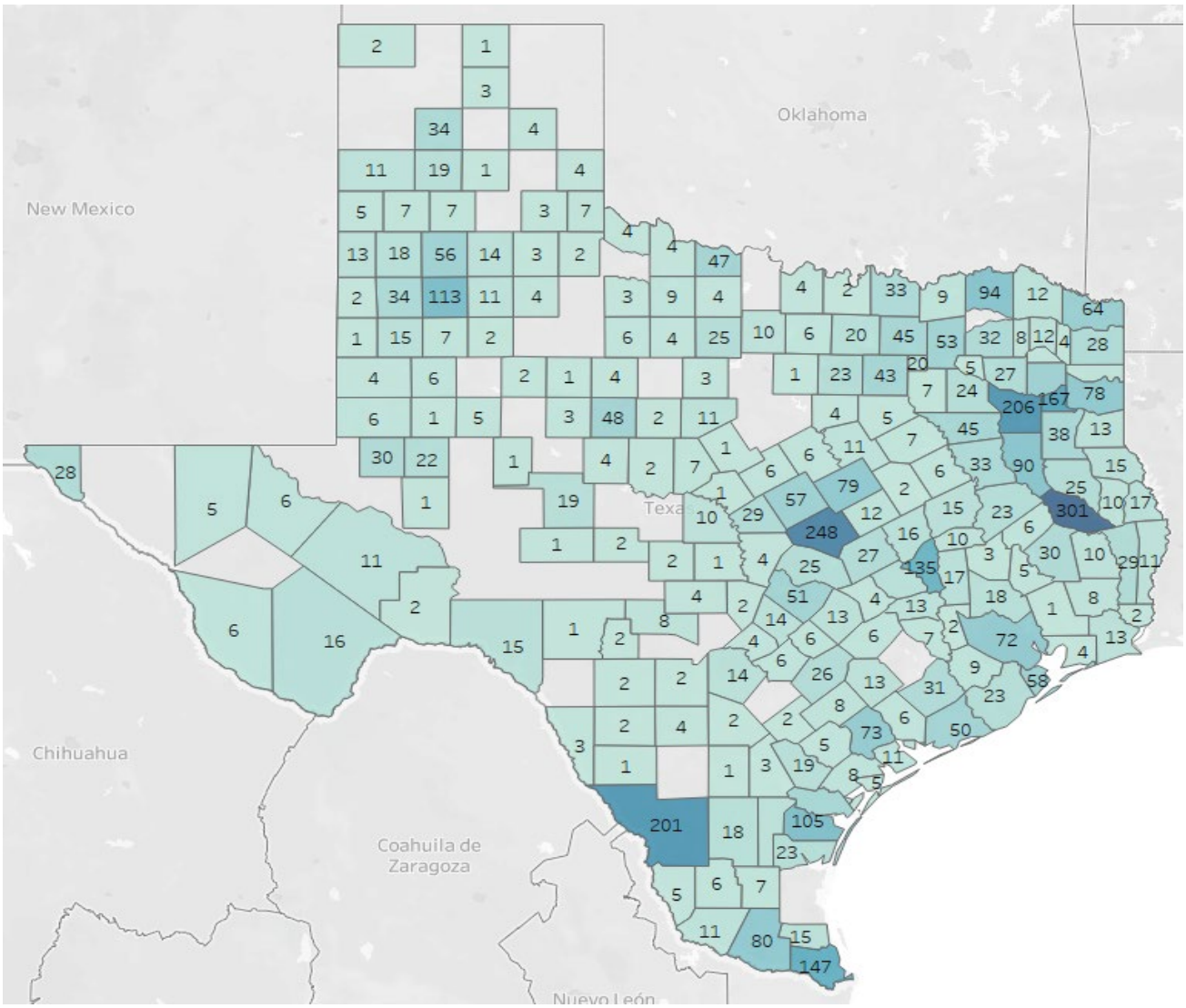
These new statutory provisions would be permissive. No additional staffing needs are anticipated. No administrative or technology cost is anticipated to implement these provisions. If successful, the ability to continue to operate using enrollment contracts that streamline VR acquisition of goods and services would be secured, removing risk associated with unanticipated changes in HHSC policy. Additionally, the wider availability of hospital

services may enable more VR participants to receive needed services in their local community.

Contact:

Cheryl Fuller, Director, VR Division

Appendix 1: Geographic Distribution of VR Customers Receiving Hospital Services in 2018 to 2022*



*The number of VR customers receiving hospital services indicated by shaded counties.
The shade darkens as the number of customers increases.
Counties with no shading have no customers that received hospital services.

Appendix 2: Health and Human Services Commission Statutory and Rule Language Providing Statutory Authority for HHSC and Health and Human Services Agencies to Utilize Open Enrollment and Contracted Services Negotiation

GOVERNMENT CODE CHAPTER 2155. PURCHASING: GENERAL RULES AND PROCEDURES

Sec. 2155.144. PROCUREMENTS BY HEALTH AND HUMAN SERVICES AGENCIES. (a) This section applies only to the Health and Human Services Commission, each health and human services agency, the Department of Family and Protective Services, and agencies administratively attached to the Health and Human Services Commission. For the purposes of this section, the Department of Family and Protective Services or an agency administratively attached to the Health and Human Services Commission is considered a health and human services agency.

(b) An agency to which this section applies is delegated the authority to procure its goods and services, except as provided by this section.

(b-1) An agency to which this section applies is not delegated the authority to procure common commodities or services:

(1) including goods and services acquired for direct consumption or use by the agency in the day-to-day support of the agency's administrative operations, such as office supplies and equipment, building maintenance and cleaning services, or temporary employment services; and

(2) not including consulting services, professional services, health care services, information resources technology, goods or services acquired for the benefit or on behalf of clients of programs operated by the agency, procurements specifically authorized or delegated to the agency by statute, or the contracting out of agency purchasing functions or other administrative or program functions.

(b-2) The Health and Human Services Commission is delegated the authority to procure goods and services related to a contract for:

(1) a project to construct or expand a state hospital operated by a health and human services agency or a state supported living center as defined by Section 531.002, Health and Safety Code; or

(2) a deferred maintenance project for a health facility described by Subdivision (1).

(c) An agency to which this section applies shall acquire goods or services by any procurement method approved by the Health and Human Services Commission that provides the best value to the agency. The agency shall document that it considered all relevant factors under Subsection (d) in making the acquisition.

(d) Subject to Subsection (e), the agency may consider all relevant factors in determining the best value, including:

(1) any installation costs;

(2) the delivery terms;

(3) the quality and reliability of the vendor's goods or services;

(4) the extent to which the goods or services meet the agency's needs;

(5) indicators of probable vendor performance under the contract such as past vendor performance, the vendor's financial resources and ability to perform, the vendor's experience and responsibility, and the vendor's ability to provide reliable maintenance agreements;

(6) the impact on the ability of the agency to comply with laws and rules relating to historically underutilized businesses or relating to the procurement of goods and services from persons with disabilities;

(7) the total long-term cost to the agency of acquiring the vendor's goods or services;

(8) the cost of any employee training associated with the acquisition;

(9) the effect of an acquisition on agency productivity;

(10) the acquisition price; and

(11) any other factor relevant to determining the best value for the agency in the context of a particular acquisition.

(e) Repealed by Acts 2003, 78th Leg., ch. 785, Sec. 75(2).

(f) The state auditor may audit the agency's acquisitions of goods and services before or after a warrant is issued to pay for an acquisition.

(g) The agency may adopt rules and procedures for the acquisition of goods and services under this section.

(h) The Health and Human Services Commission shall adopt rules and procedures for the acquisition of goods and services under this section that apply to all health and human services agencies, including rules adopted with the commission's assistance that allow an agency to make purchases through a group purchasing program except when a better value is available through another procurement method. The rules of the health and human services agencies must be consistent with the rules of the Health and Human Services Commission.

Text of subsection effective until April 01, 2025

(i) Subject to Section 531.0055(c), the Health and Human Services Commission shall develop a single statewide risk analysis procedure. Each health and human services agency shall comply with the procedure. The procedure must provide for:

(1) assessing the risk of fraud, abuse, or waste in health and human services agencies contractor selection processes, contract provisions, and payment and reimbursement rates and methods for the different types of goods and services for which health and human services agencies contract;

(2) identifying contracts that require enhanced contract monitoring; and

(3) coordinating contract monitoring efforts among health and human services agencies.

Text of subsection effective on April 01, 2025

(i) Subject to Section 524.0001(b), the Health and Human Services Commission shall develop a single statewide risk analysis procedure. Each health and human services agency shall comply with the procedure. The procedure must provide for:

(1) assessing the risk of fraud, abuse, or waste in health and human services agencies contractor selection processes, contract provisions, and payment and reimbursement rates and methods for the different types of goods and services for which health and human services agencies contract;

(2) identifying contracts that require enhanced contract monitoring; and

(3) coordinating contract monitoring efforts among health and human services agencies.

Text of subsection effective until April 01, 2025

(j) Subject to Section 531.0055(c), the Health and Human Services Commission shall publish a contract management handbook that establishes consistent contracting policies and practices to be followed by health and human services agencies. The handbook may include standard contract provisions and formats for health and human services agencies to incorporate as applicable in their contracts.

Text of subsection effective on April 01, 2025

(j) Subject to Section 524.0001(b), the Health and Human Services Commission shall publish a contract management handbook that establishes consistent contracting policies and practices to be followed by health and human services agencies. The handbook may include standard contract provisions and formats for health and human services agencies to incorporate as applicable in their contracts.

Text of subsection effective until April 01, 2025

(k) Subject to Section 531.0055(c), the Health and Human Services Commission, in cooperation with the comptroller, shall establish a central contract management database that identifies each contract made with a health and human services agency. The comptroller may use the database to monitor health and human services agency contracts, and health and human services agencies may use the database in contracting. A state agency shall send to the comptroller in the manner prescribed by the comptroller the information the agency possesses that the comptroller requires for inclusion in the database.

Text of subsection effective on April 01, 2025

(k) Subject to Section 524.0001(b), the Health and Human Services Commission, in cooperation with the comptroller, shall establish a central contract management database that identifies each contract made with a health and human services agency. The comptroller may use the database to monitor health and human services

agency contracts, and health and human services agencies may use the database in contracting. A state agency shall send to the comptroller in the manner prescribed by the comptroller the information the agency possesses that the comptroller requires for inclusion in the database.

(l) The Health and Human Services Commission shall coordinate the procurement practices of all health and human services agencies and encourage those agencies to use efficient procurement practices such as the use of a group purchasing program, combining maintenance contracts into one contract, and obtaining prompt payment discounts. In implementing this duty, the Health and Human Services Commission may review the procurement and rate-setting procedures of each health and human services agency to ensure that amounts paid to contractors are consistent and represent the best value for the state. The Health and Human Services Commission may disapprove a procurement and rate-setting procedure of a health and human services agency. A health and human services agency may not use a procurement or rate-setting procedure that has been disapproved by the commission. The Health and Human Services Commission may transfer the procurement functions of a health and human services agency to another appropriate state agency if it determines that transferring those functions would be advantageous to the state. Other state agencies and institutions with experience in acquiring goods and services using the procedures allowed under Subsections (c) and (d) shall on request assist the Health and Human Services Commission to perform its functions under this section.

Text of subsection effective until April 01, 2025

(m) Subject to Section 531.0055(c), the Health and Human Services Commission shall develop and implement a statewide plan to ensure that each entity that contracts with a health and human services agency and any subcontractor of the entity complies with the accessibility requirements of the Americans with Disabilities Act of 1990 (42 U.S.C. Section 12101 et seq.).

Text of subsection effective on April 01, 2025

(m) Subject to Section 524.0001(b), the Health and Human Services Commission shall develop and implement a statewide plan to ensure that each entity that contracts with a health and human services agency and any subcontractor of the entity complies with the accessibility requirements of the Americans with Disabilities Act of 1990 (42 U.S.C. Section 12101 et seq.).

(n) To the extent of any conflict, this section prevails over any other state law relating to the procurement of goods and services except a law relating to contracting with historically underutilized businesses or relating to the procurement of goods and services from persons with disabilities.

(o) If the Health and Human Services Commission does not receive any responsive bids on a competitive solicitation for goods or services for a state hospital operated by a health and human services agency or a state supported living center as defined by Section 531.002, Health and Safety Code, the commission after making a written

determination that competition is not available may negotiate with and award the contract to any qualified vendor who meets the requirements of the original solicitation:

(1) at a price consistent with the current market value of the goods or services; and

(2) for a term not to exceed five years.

Text of subsection effective until April 01, 2025

(p) In this section, "health and human services agency" has the meaning assigned by Section 531.001.

Text of subsection effective on April 01, 2025

(p) In this section, "health and human services agency" has the meaning assigned by Section 521.0001.

GOVERNMENT CODE CHAPTER 531. HEALTH AND HUMAN SERVICES COMMISSION

Text of section effective until April 01, 2025

Sec. 531.039. CONTRACTS. The commission may enter into contracts as necessary to perform any of the commission's powers or duties.

Note: Commission in this section refers to HHSC

15 TEXAS ADMINISTRATIVE CODE 391.601 Open Enrollment Contracts

(a) HHS and DFPS may use the open enrollment contracting method if the best interests of the state are served by enrolling multiple vendors.

(b) An open enrollment under this section must be conducted in a transparent and fair manner that reasonably provides interested and eligible vendors equal opportunity to obtain a contract.

Appendix 3: Texas Workforce Commission Statutory Language and Rule

HUMAN RESOURCES CODE CHAPTER 111. REHABILITATION SERVICES FOR CERTAIN INDIVIDUALS WITH DISABILITIES

Sec. 111.0511. SERVICE DELIVERY BY TEXAS WORKFORCE COMMISSION. The Texas Workforce Commission has primary responsibility for providing vocational rehabilitation services and other services and programs under Subtitle C, Title 4, Labor Code, notwithstanding Section 111.051 and subject to receipt of any required federal approval to administer those services and programs. A power or duty under this chapter, including rulemaking authority, of the department, the commissioner, or the executive commissioner that is applicable to those services or programs is a power or duty of the Texas Workforce Commission with respect to those services or programs. All other state agencies engaged in vocational rehabilitation services or related services or programs shall coordinate those activities with the Texas Workforce Commission.

TEXAS ADMINISTRATIVE CODE CHAPTER 858

§858.2. Noncompetitive Open Enrollment Solicitation.
General. The Agency may acquire goods or services through a noncompetitive open enrollment solicitation and enter into enrollment contracts with qualified contractors.
(1) An open enrollment solicitation must be conducted in an open and fair manner that reasonably provides interested, qualified contractors with an equal opportunity to obtain a contract or do business with the Agency.
(2) The Agency may consider past performance when determining whether to award a contract to an applicant.

1

Appendix 4: Recommended Revisions to Texas Labor Code Title 4, Subtitle C., Chapter 352, Vocational Rehabilitation Services

Sec. 352.060. PROCUREMENT OF GOODS AND SERVICES.

(a) The agency may enter into contracts for vocational rehabilitation services as necessary to perform any of the agency's powers or duties under this chapter.

(b) The agency shall acquire goods or services under this chapter by any procurement method approved by the commission that provides the best value to the agency. The agency shall document that it considered all relevant factors under subsection (c) in making the acquisition.

(c) The agency may consider all relevant factors in determining the best value, including:

(1) any installation costs;

(2) the delivery terms;

(3) the quality and reliability of the vendor's goods or services;

(4) the extent to which the goods or services meet the needs of the participants of vocational rehabilitation services;

(5) indicators of probable vendor performance under the contract such as past vendor performance, the vendor's financial resources and ability to perform, the vendor's experience and responsibility, and the vendor's ability to provide reliable maintenance agreements;

(6) the impact on the ability of the agency to comply with laws and rules relating to historically underutilized businesses or relating to the procurement of goods and services from persons with disabilities;

(7) the total long-term cost to the agency of acquiring the vendor's goods or services;

(8) the cost of any employee training associated with the acquisition;

(9) the effect of an acquisition on agency productivity;

(10) the acquisition price; and

(11) any other factor relevant to determining the best value for the agency in the context of a particular acquisition.

(d) The commission may adopt rules and procedures for the acquisition of goods and services under this chapter, including rules that allow the commission to make purchases for vocational rehabilitation services through an open enrollment contracting method if the best interests of the state are served by enrolling multiple vendors.

(e) If the agency does not receive any responsive bids on a competitive solicitation for hospital goods or services for the vocational rehabilitation program in a specific area of the state, the vocational rehabilitation program, after making a written determination that competition is not available, may negotiate with and award the contract to any qualified vendor who meets the requirements of the original solicitation:

(1) at a price consistent with the current market value of the goods or services; and

(2) for a term not to exceed five years.

Workforce Development

1

LEGISLATIVE RECOMMENDATION

CLAIMANT PARTICIPATION IN REEMPLOYMENT SERVICES AND ELIGIBILITY ASSESSMENT PROGRAM

Program Affected:

Reemployment Services and Eligibility Assessment (RESEA)

Title:

Benefit Eligibility Conditions. Modify Benefits Eligibility Conditions for UI Claimants by Giving the Commission Authority to Adjust the Percentage of Claimants Participating in reemployment services (RESEA).

Recommendation:

Modify the language in Texas Labor Code §207.021(9)(a) to expand the individuals who are required to participate in RESEA as a condition of eligibility for Unemployment Insurance (UI) benefits.

Modified language:

Sec. 207.021. BENEFIT ELIGIBILITY CONDITIONS. (a) Except as provided by Chapter 215, an unemployed individual is eligible to receive benefits for a benefit period if the individual:

(9) **if required by the commission,** participates in reemployment services, such as a job search assistance service~~[, if the individual has been determined, according to a profiling system established by the commission, to be likely to exhaust eligibility for regular benefits and to need those services to obtain new employment]~~, unless~~[:~~

~~[(A) the individual has completed participation in such a service; or~~

~~[(B)]~~ there is reasonable cause, as determined by the commission, for the individual's failure to participate in those services.

Rationale:

This proposed modification to the Texas Labor Code §207.021(a)(9) allows for the expansion of claimant participation in reemployment services. Reemployment services are provided to claimants under the Reemployment Services and Eligibility Assessment (RESEA) program. RESEA is a federal program designed to allow states to provide intensive reemployment assistance to individuals who are receiving unemployment insurance (UI) benefits and are determined to be likely to exhaust their benefits before becoming reemployed. The primary goal of RESEA is to provide reemployment services and support to profiled claimants to reduce UI duration by expediting employment outcomes.

In 2022, the US Department of Labor (DOL) amended it regulations allowing states more flexibility to expand services to additional populations. As a result of the rapid growth of the RESEA program, Texas has the capacity to serve more UI claimants. The table below shows the increase in RESEA funding over the last three years and the decrease in claimants eligible for service using the likely to exhaust profile model.

Board Contract Year (BCY) Funding and Profile Comparison						
BCY	Funding	Year to Year % Change	LTE Projections	LTE Actuals	Year to Year % Change	Projections vs Actuals
2021	$9,254,696	1%	126,944	104,339	UA	-17.8%
2022	$9,689,873	5%	110,854	75,308	-27.8%	-32.1%
2023	$13,910,171	44%	91,543	73,937	-1.8%	-19.2%
2024	$15,147,533	9%	81,101	TBD	TBD	TBD
2025	$15,147,533	0%	TBD	TBD	TBD	TBD

With this proposed change to the Labor Code, TWC will have the flexibility to expand participation by more claimants in reemployment services, regardless of their likely-to-exhaust-benefits profiling score providing unemployed Texans with valuable reemployment tools early in their claim increasing their likelihood to return to work sooner than if they had not received the services.
This proposal was previously reviewed and approved by Department of Labor for conformity with federal UI law.

Fiscal Impact:

No fiscal impact

Contact:

Suzette Robinson

LEGISLATIVE RECOMMENDATION

Amendments to TEC, Chapter 132, Career Schools and Colleges

Program Affected:

Career Schools and Colleges

Title:

TEC, Chapter 132, Section 132.023

Recommendation:

Sec. 132.023. MEMORANDUM OF UNDERSTANDING FOR REGULATION OF CAREER SCHOOLS AND COLLEGES. (a) The commission shall develop, in consultation with ~~the Texas Guaranteed Student Loan Corporation and~~ each state agency that regulates career schools and colleges in this state, a comprehensive strategy ~~to reduce default rates at the regulated career schools and colleges and~~ to improve the overall quality of the programs operated by these schools and colleges.

(b) The commission shall execute a memorandum of understanding outlining the strategy with ~~the corporation and~~ each state agency regulating career schools and colleges and shall adopt rules to carry out the commission's duties under this section. ~~The Texas Guaranteed Student Loan Corporation shall adopt the memorandum of understanding as procedures of the corporation, and each agency by rule shall adopt the memorandum of understanding.~~

(c) The memorandum of understanding shall:

(1) require the development and monitoring of indicators that identify career schools and colleges that have ~~excessive loan default rates~~, poor program performance~~, or both~~;

(2) require the sharing of specific information relating to the indicators between the commission and the ~~Texas Guaranteed Student Loan Corporation or~~ other agency; and

(3) require the application of specific sanctions by the commission or by the ~~Texas Guaranteed Student Loan Corporation or~~ other

agency, as appropriate, to ~~lower the default rates,~~ improve program performance~~, or both~~.

(d) If the commission enters into a memorandum of understanding with **another state agency** ~~the Texas Guaranteed Student Loan Corporation~~ related to the regulation of career schools and colleges, the commission may require each career school or college governed by this chapter to provide information to the commission that is necessary for the purposes of the memorandum of understanding.

Rationale:

Though the original mission of TGSCL was repealed in 2013, Texas Education Code §132.023 was not repealed or revised to address the substantial shift in responsibilities or mission of TGSLC. The provisions in statute that would have required TGSLC to assist with TWC's compliance with TEC §132.023 have been gutted. Additionally, it is unclear whether this entity, now branded as Trellis, has the authority to share information with TWC or to what extent it can effectively work with TWC to comply with TEC §132.023, as it is a federal contractor and subject to their contract for services with the DOE.

Fiscal Impact:

Staff anticipate no fiscal impact.

Contact:

Matthew Chittum, Director, CSC & ETP

LEGISLATIVE RECOMMENDATION

Amendments to TEC, Chapter 132, Career Schools and Colleges

Program Affected:

Career Schools and Colleges

Title:

TEC, Chapter 132, Sec. 132.025(1)

Recommendation:

Sec. 132.025. REQUIRED POSTING. To facilitate a prospective student's informed selection among career schools and colleges, the commission shall include in its searchable directory of career schools and colleges maintained on its Internet website **or in a prominent place on the website** information regarding any formal enforcement action taken by the commission against a school or college **for the last three fiscal years,** including:

(1) **any revocations of program approvals;** ~~any revocation of the school's or college's certificate of authority;~~

(2) any revocations of certificates of approval;

(3) any assessment of administrative penalties against the school or college; and

(4) any suspension of admission of students to the school or college.

Rationale:

Sec. 132.025(1) does not align with Sunset recommendation, "any revocation of the school's or college's certificate of authority," which is a THECB term, versus the language, "TWC should provide information on each school's administrative penalties, program revocations, and enrollment suspensions for the last three fiscal years," found in recommendation 2.2 (page 28 of July 2015 Sunset Staff Report). As a whole, 132.023 posting requirements should be for "the last three fiscal years."

For posting information about revocations of certificates of approval (COAs), TWC will maintain and publish a list of schools that have lost their COAs over the last three fiscal years. Due to the functionality of the CSC system (which

only tracks schools in operation), this list will be published on the website rather than within the searchable directory.

Fiscal Impact:

Staff anticipate no fiscal impact.

Contact:

Matthew Chittum, Director, CSC & ETP

LEGISLATIVE RECOMMENDATION

Amendments to TEC, Chapter 132, Career Schools and Colleges

Program Affected:

Career Schools and Colleges

Title:

TEC, Chapter 132, Sec. 132.055(a),

Recommendation:

Sec. 132.055. CRITERIA. (a) The commission may approve the application of a career school or college when the school or college is found, upon investigation at the premises of the school or college, to have met the criteria specified by Subsection (b). In the instance of a career school or college not having a physical place of business within this state, the requirement for investigation at the premises of the school or college may be satisfied by an equivalent investigation conducted by the state where the premises are located, by a virtual investigation of the premises, or a combination of the two.

Rationale:

CSC needs clarifying language regarding visits for out of state schools where we have no physical jurisdiction.

This request is in response to recommendations #s 1, 8, & 9, Career Schools Compliance Review, Project No. 2021-007-30, June 2023.

Fiscal Impact:

Staff anticipate no fiscal impact.

Contact:

Matthew Chittum, Director, CSC & ETP

LEGISLATIVE RECOMMENDATION

Amendments to TEC, Chapter 132, Career Schools and Colleges

Program Affected:

Career Schools and Colleges

Title:

TEC Chapter 132, Sec. 132.202

Recommendation:

Sec. 132.202. REQUIRED POSTING BY CERTAIN SCHOOLS OR EDUCATIONAL INSTITUTIONS NOT OPERATING IN THIS STATE. **With the exception of an authorized institution operating under a State Authorization Reciprocity Agreement (SARA), as provided for in Section 61.303, a** ~~A~~ school or educational institution described by Section 132.001(1)(B) shall post a conspicuous notice on the home page of its website stating:

(1) that the career school or college is not regulated in Texas under this chapter;

(2) the name of any regulatory agencies that approve and regulate the school's programs in the state where the school is physically located and in which it has legal authorization to operate; and

(3) how to file complaints or make other contact with applicable regulatory agencies.

Rationale:

The growth of online schools has enabled many Texas students to enroll in programs offered by providers operating in other states. CSC does not have authority to regulate these schools but is seeking measures to ensure Texas students make informed consumer choices. This amendment is in response to internal audit findings.

Fiscal Impact:

Staff anticipate no fiscal impact.

Contact:

Matthew Chittum, Director, CSC & ETP

LEGISLATIVE RECOMMENDATION

Amendments to TLC, Sections 302.252(1) and 302.256, relating to the Texas Industry-Recognized Apprenticeship Programs Grant Program

Program Affected:
Apprenticeship

Title:
TLC, Sections 302.252(1) and 302.256

Recommendation:

SECTION 1. Section 302.252(1), Labor Code, is amended to read as follows:

(1) "Industry-recognized apprenticeship program" means a training program that:

(A) provides on-the-job training, preparatory instruction, supplementary instruction, or related instruction in an occupation that has been recognized as an apprenticeable occupation by the **commission as provided by commission rule** [~~Office of Apprenticeship of the United States Department of Labor~~]; or

(B) is certified **by the commission** as an industry-recognized apprenticeship program **as provided by commission rule** [~~by a third-party certifier that has received from the United States Department of Labor a favorable determination of qualification to award that certification~~].

SECTION 2. Section 302.257, Labor Code, is amended by amending Subsection (a) and adding Subsection (a-1) to read as follows:

(a) The commission shall adopt rules to administer and enforce this subchapter, **including rules establishing:**

(1) which occupations are recognized by the commission as an apprenticeable occupation for purposes of this subchapter and the criteria for that determination, which must include that the occupation:

(A) be customarily learned in a practical way through a structured, systematic program of on-the-job supervised training;

(B) be clearly identified and commonly recognized throughout an industry;

(C) involve manual, mechanical, or technical skills or knowledge which requires significant on-the-job work experience; and

(D) require related instruction to supplement the on-the-job training; and

(2) a process for and the criteria by which the commission may certify a training program as an industry-recognized apprenticeship program for purposes of this subchapter.

(a-1) The criteria adopted by the commission under Subsection (a)(2) must be generally consistent with the standards of apprenticeship prescribed by 29 C.F.R. Section 29.

Sec. 302.256. GRANT AWARD; GRANT AMOUNT. (a) The commission may award grants under this subchapter only to ~~reimburse~~ an eligible person for the cost of training industry-recognized apprenticeship program participants who:

(1) complete a program operated by the person that meets the requirements of Section 302.255(4) having achieved the skills level required by Section 302.255(4)(D); and

(2) maintain suitable employment for at least 12 consecutive months immediately following completion of the program.

(b) The Commission may reimburse an eligible person as milestones within on-the-job training and employment are met according to the grant terms.

~~(b)~~**(c)** Grant funds awarded to an eligible person under this subchapter must be awarded on a per industry-recognized apprenticeship program participant basis.

Rationale:

Amendments to TLC Section 302.252(1) removes references to Department of Labor (DOL), reflecting DOL's rescission of its industry-recognized apprenticeship rules and enabling the Commission to establish parameters for the TIRA Grant Program. These amendments were in the introduced version of a bill sponsored by Representative Button in the 88th (HB 4390, Introduced).

The amendment to Sec. 302.256 enables the Commission to reimburse employers as milestones are met during training and employment. Staff have received feedback that potential TIRA grantees are reluctant to participate due the long wait for reimbursements (18 months), especially if an apprentice leaves employment before the one-year employment requirement is met.

Fiscal Impact:

Staff anticipate no fiscal impact.

Contact:

Kerry Ballast, Deputy Director, Workforce Education