

1 **CHAPTER 810. LONE STAR WORKFORCE OF THE FUTURE FUND**

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**
6 **SECRETARY OF STATE.**

7
8 The Texas Workforce Commission (TWC) proposes new Chapter 810, relating to Lone
9 Star Workforce of the Future Fund, comprising the following subchapters:

- 10
11 Subchapter A. General Provisions Regarding the Lone Star Workforce of the
12 Future Fund, §810.1 - §810.4
13 Subchapter B. Advisory Board Composition, Meeting Guidelines, §810.11 -
14 §810.13
15 Subchapter C. Program Administration, §810.21 - §810.28

16
17 **PART I. PURPOSE, BACKGROUND, AND AUTHORITY**

18 The purpose of implementing new Chapter 810 rules is to establish the Lone Star
19 Workforce of the Future Fund and set forth TWC's procedures for administrating the new
20 grant program.

21
22 The 88th Texas Legislature, Regular Session (2023), passed House Bill (HB)1755, which
23 amended Texas Education Code, Title 3, Subtitle G, by adding Chapter 134A relating to
24 the creation of the Lone Star Workforce of the Future Fund. HB 1755 tasks TWC with
25 the establishment and administration of the Lone Star Workforce of the Future Fund as a
26 dedicated account in the general revenue fund. Furthermore, HB 1755 requires TWC to
27 adopt rules as necessary to administer this chapter.

28
29 **PART II. EXPLANATION OF INDIVIDUAL PROVISIONS**

30
31 **SUBCHAPTER A. GENERAL PROVISIONS REGARDING THE LONE STAR**
32 **WORKFORCE OF THE FUTURE FUND**

33 **TWC proposes new Subchapter A, General Provisions Regarding the Lone Star**
34 **Workforce of the Future Fund, as follows:**

35
36 **§810.1. Purpose and Goal**

37 New §810.1(a) states the Lone Star Workforce of the Future Fund's purpose.

38
39 New §810.1(b) states the Lone Star Workforce of the Future Fund's goal.

40
41 **§810.2. Definitions**

42 New §810.2 sets forth the definitions for the Lone Star Workforce of the Future Fund
43 rules.

44
45 **§810.3. Uses of the Fund**

46 New §810.3 details what a grant recipient shall use the money for.

1
2 **§810.4. Waivers**

3 New §810.31 sets forth the Executive Director’s waiver authority.
4

5 **SUBCHAPTER B. ADVISORY BOARD COMPOSITION, MEETING**
6 **GUIDELINES**

7 **TWC proposes new Subchapter B, Advisory Board Composition, Meeting**
8 **Guidelines, as follows:**
9

10 **§810.11. Advisory Board Purpose and Composition**

11 New §810.11 provides the purpose of the advisory board and the appointing entities.
12

13 **§810.12. Meeting Requirements**

14 New §810.12 states the advisory board meeting requirements.
15

16 **§810.13. Advisory Board Responsibilities**

17 New §810.13 outlines the advisory board responsibilities.
18

19 **SUBCHAPTER C. PROGRAM ADMINISTRATION**

20 **TWC proposes new Subchapter C, Program Administration, as follows:**
21

22 **§810.21. Statement of Purpose**

23 New §810.21 explains the Lone Star Workforce of the Future Fund's purpose.
24

25 **§810.22. Procedure for Requesting Funding**

26 New §810.22 outlines the procedure in which grant applicants may request funding.
27

28 **§810.23. Procedure for Proposal Evaluation**

29 New §810.23 outlines the evaluation procedure for proposed workforce training projects.
30

31 **§810.24. Grant Agreement Administration**

32 New §810.24 outlines the administration of the agreement between the grant recipient
33 and TWC.
34

35 **§810.25. Limitation on Awards**

36 New §810.25 outlines limitations the Commission may impose on awards.
37

38 **§810.26. Program Objectives**

39 New §810.26 details the Lone Star Workforce of the Future Fund's program objectives.
40

41 **§810.27. Performance Benchmarks**

42 New §810.27 details performance benchmarks that must be met by grant recipients.
43

44 **§810.28. Reporting Requirements**

45 New §810.28 details reporting requirements for grant recipients.
46

1 **PART III. IMPACT STATEMENTS**

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

4
5 There are additional estimated costs to the state and to local governments expected as a
6 result of enforcing or administering the rules.

7
8 There are no estimated cost reductions to the state and to local governments as a result of
9 enforcing or administering the rules.

10
11 There are no estimated losses or increases in revenue to the state or to local governments
12 as a result of enforcing or administering the rules.

13
14 There are no foreseeable implications relating to costs or revenue of the state or local
15 governments as a result of enforcing or administering the rules.

16
17 There are no anticipated economic costs to individuals required to comply with the rules.

18
19 There is no anticipated adverse economic impact on small businesses, microbusinesses,
20 or rural communities as a result of enforcing or administering the rules.

21
22 Based on the analyses required by Texas Government Code §2001.024, TWC has
23 determined that the requirement to repeal or amend a rule, as required by Texas
24 Government Code §2001.0045, does not apply to this rulemaking.

25
26 Takings Impact Assessment

27 Under Texas Government Code §2007.002(5), "taking" means a governmental action that
28 affects private real property, in whole or in part or temporarily or permanently, in a
29 manner that requires the governmental entity to compensate the private real property
30 owner as provided by the Fifth and Fourteenth Amendments to the US Constitution or the
31 Texas Constitution, §17 or §19, Article I, or restricts or limits the owner's right to the
32 property that would otherwise exist in the absence of the governmental action, and is the
33 producing cause of a reduction of at least 25 percent in the market value of the affected
34 private real property, determined by comparing the market value of the property as if the
35 governmental action is not in effect and the market value of the property determined as if
36 the governmental action is in effect. TWC completed a Takings Impact Assessment for
37 the proposed rulemaking action under Texas Government Code §2007.043. The primary
38 purpose of this proposed rulemaking action, as discussed elsewhere in this preamble, is to
39 provide the establishment and operational procedures of the Lone Star Workforce of the
40 Future Fund, administered by TWC.

41
42 The proposed rulemaking action will not create any additional burden on private real
43 property or affect private real property in a manner that would require compensation to
44 private real property owners under the US Constitution or the Texas Constitution. The
45 proposal also will not affect private real property in a manner that restricts or limits an
46 owner's right to the property that would otherwise exist in the absence of the

1 governmental action. Therefore, the proposed rulemaking will not cause a taking under
2 Texas Government Code Chapter 2007.

3
4 Government Growth Impact Statement

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

- 6 --will create a government program;
- 7 --will not require the creation of employee positions;
- 8 --will not require an increase in future legislative appropriations to TWC;
- 9 --will not require an increase or decrease in fees paid to TWC;
- 10 --will not create a new regulation;
- 11 --will not expand, limit, or eliminate an existing regulation;
- 12 --will not change the number of individuals subject to the rules; and
- 13 --will positively affect the state's economy.

14
15 Economic Impact Statement and Regulatory Flexibility Analysis

16 TWC has determined that the rules will not have an adverse economic impact on small
17 businesses or rural communities, as the proposed rules place no requirements on small
18 businesses or rural communities.

19
20 Mariana Vega, Director, Labor Market Information, has determined that there is not a
21 significant negative impact upon employment conditions in the state as a result of the
22 rules.

23
24 Mary York, Director, Outreach and Employer Initiatives, has determined that for each
25 year of the first five years the rules are in effect, the public benefit anticipated as a result
26 of enforcing the proposed rules will be to increase the skill level of the Texas workforce
27 through Lone Star Workforce of the Future Fund grants to upskill and reskill employees
28 and job seekers. Grants will benefit Texas employers by enhancing productivity, reducing
29 the skills gap, increasing competitiveness, fostering growth, and improving talent
30 retention.

31
32 TWC hereby certifies that the proposal has been reviewed by legal counsel and found to
33 be within TWC's legal authority to adopt.

34
35 **PART IV. COORDINATION ACTIVITIES**

36 HB 1755 requires TWC to establish and administer the Lone Star Workforce of the
37 Future Fund and to adopt rules as necessary to administer the fund.

38
39 **PART V. PUBLIC COMMENTS**

40 Comments on the proposed new rules may be submitted to
41 TWCPolicyComments@twc.texas.gov and must be received no later than October 30,
42 2023.

1 **PART VI. STATUTORY AUTHORITY**

2 The rules are proposed under the general authority of Texas Labor Code §301.0015 and
3 §302.002(d), which provide TWC with the authority to adopt, amend, or repeal such rules
4 as it deems necessary for the effective administration of TWC services and activities.

5
6 The rules are also proposed under the specific authority of House Bill 1755, 88th Texas
7 Legislature, Regular Session (2023), which enacted Texas Education Code §134A.012,
8 which requires TWC adopt rules necessary for the administration of Texas Education
9 Code Chapter 134A.

10

1 **CHAPTER 810. LONE STAR WORKFORCE OF THE FUTURE FUND**

2
3 **SUBCHAPTER A. GENERAL PROVISIONS REGARDING THE LONE STAR**
4 **WORKFORCE OF THE FUTURE FUND**

5
6 **§810.1. Purpose and Goal.**

- 7
8 (a) Purpose. The purpose of the Lone Star Workforce of the Future Fund is to
9 develop workforce training programs that are administered by public junior
10 colleges, public technical institutes, and nonprofit organizations to increase
11 the supply of qualified workers for entry-level to mid-level jobs in high
12 demand occupations in this state.
- 13
14 (b) Goal. The goal of the Lone Star Workforce of the Future Fund is to ensure
15 that the Texas workforce is capable of filling available and emerging jobs in
16 this state that require less education than a bachelor's degree but more
17 education than a high school diploma.

18
19 **§810.2. Definitions.**

20
21 In addition to the definitions contained in §800.2 of this title, the following words
22 and terms, when used in this chapter, shall have the following meanings unless
23 the context clearly indicates otherwise.

- 24
25 (1) Advisory board - the advisory board of education and workforce
26 stakeholders created pursuant to the applicable statute.
- 27
28 (2) Agency - The unit of state government established under Texas Labor
29 Code Chapter 301 that is presided over by the Commission and
30 administered by the Executive Director to operate the integrated
31 workforce development system and administer the unemployment
32 compensation insurance program in this state as established under the
33 Texas Unemployment Compensation Act, Texas Labor Code, Title 4,
34 Subtitle A, as amended. The definition of "Agency" shall apply to all
35 uses of the term in rules contained in this part, unless otherwise
36 defined, relating to the Texas Workforce Commission.
- 37
38 (3) Commission - The body of governance of the Texas Workforce
39 Commission composed of three members appointed by the governor as
40 established under Texas Labor Code §301.002 that includes one
41 representative of labor, one representative of employers, and one
42 representative of the public. The definition of "Commission" shall
43 apply to all uses of the term in rules contained in this part, unless
44 otherwise defined, relating to the Texas Workforce Commission.
- 45

- 1 (4) Eligible applicant - an entity identified in Texas Education Code
2 Chapter 134A as eligible to apply for funds:
3
4 (A) a public junior college;
5
6 (B) a public technical institute; or
7
8 (C) a nonprofit organization.
9
10 (5) Executive Director - the Executive Director of the Texas Workforce
11 Commission.
12
13 (6) Grant recipient - a recipient of the Lone Star Workforce of the Future
14 Fund.
15
16 (7) Statute - Texas Education Code, Chapter 134A, Lone Star Workforce
17 of the Future Fund.
18
19 (8) Public junior college - any junior college certified by the Texas Higher
20 Education Coordinating Board in accordance with Texas Education
21 Code §61.003.
22
23 (9) Public technical institute - the Lamar Institute of Technology or the
24 Texas State Technical College System, in accordance with Texas
25 Education Code §61.003.
26
27 (10) Workforce training program - a program that provides performance-
28 based workforce training that:
29
30 (A) leads to skill development and experiences required for
31 employment in high demand occupations;
32
33 (B) are developed and provided based on consultation with and input
34 from employers that are hiring in high demand occupations;
35
36 (C) create pathways to employment for program participants; and
37
38 (D) are delivered through classroom-based or online instruction,
39 work-based experiences, internships or apprenticeships, or
40 through a combination of those methods.
41

42 **§810.3. Uses of the Fund.**

43
44 An entity may use grant money received under this chapter only for:

- 45
46 (1) curriculum development;

- (2) instructor fees and certifications;
- (3) training materials;
- (4) work-related expenses;
- (5) work-based experience stipends;
- (6) support services, deemed reasonable and necessary by the Agency, to help ensure training program participants' success; and
- (7) administrative costs not to exceed 10 percent of the total amount of grant money received by the entity.

§810.4. Waivers.

The Executive Director, or designee, may suspend or waive a section of this chapter, not statutorily imposed, in whole or in part, upon a showing of good cause and a finding that the public interest would be served by such a suspension or waiver.

SUBCHAPTER B. ADVISORY BOARD COMPOSITION, MEETING GUIDELINES

§810.11. Advisory Board Purpose and Composition.

- (a) The advisory board is created to assist the Agency in administering the Lone Star Workforce of the Future Fund.
- (b) The advisory board comprises six members who serve two-year terms, and are appointed as follows:
 - (1) one member appointed by the Governor;
 - (2) one member appointed by the Lieutenant Governor;
 - (3) one member appointed by the Speaker of the House of Representatives;
 - (4) one member appointed by the Texas Higher Education Coordinating Board;
 - (5) one member appointed by the Commission; and
 - (6) the Commission Chair, who serves as the presiding officer.

1 **§810.12. Meeting Requirements.**

2
3 The advisory board is required to meet at least twice each calendar year, or as
4 needed.

5
6 **§810.13. Advisory Board Responsibilities.**

7
8 The advisory board shall provide advice and recommendations to the Commission
9 on awarding grants under this chapter.

10
11 **SUBCHAPTER C. PROGRAM ADMINISTRATION**

12
13 **§810.21. Statement of Purpose.**

14
15 In accordance with the statute, the Commission established the Lone Star
16 Workforce of the Future Fund Grant Program, which shall be administered
17 pursuant to the statute and this subchapter to award grants for the development of
18 workforce training programs to public junior colleges, public technical institutes,
19 and nonprofit organizations that meet the requirements of Texas Education Code,
20 Chapter 134A, Lone Star Workforce of the Future Fund.

21
22 **§810.22. Procedure for Requesting Funding.**

23
24 An eligible applicant shall present to the Executive Director, or designee, an
25 application for funding to acquire grant funds for the provision of workforce
26 training as may be identified by the eligible applicant.

27
28 **§810.23. Procedure for Proposal Evaluation.**

29
30 (a) The Executive Director, or designee, shall evaluate each proposal considering
31 the purposes listed in §810.3 of this chapter, the program objectives listed in
32 §810.26 of this subchapter, and the reporting requirements listed in §810.28
33 of this subchapter, and any other unique factors that the Agency determines
34 are appropriate.

35
36 (b) If the Agency determines that a proposal is appropriate for funding through
37 the Lone Star Workforce of the Future Fund, the Executive Director, or
38 designee, shall enter into a contract with the grant recipient on behalf of the
39 Agency.

40
41 **§810.24. Grant Agreement Administration.**

42
43 (a) An eligible applicant, as defined by Texas Education Code §134A.007, may
44 apply for the grant program outlined in this section.

1 **(b) The Agency shall attach a list of high-growth career fields identified by the**
2 **Agency, the Texas Workforce Investment Council, or the Tri-Agency**
3 **Workforce Initiative established under Texas Government Code Chapter**
4 **2308A on the Agency’s website and update the list annually.**

5
6 **(c) Grant recipients must enter into an agreement with the Agency to comply**
7 **with contract requirements that include, but are not limited to:**

8
9 **(1) submitting all required reports, including financial and performance**
10 **reports, in the format and time frame required by the Agency;**

11
12 **(2) maintaining fiscal data needed for independent verification of**
13 **expenditures of funds received for the training project;**

14
15 **(3) cooperating and complying with Agency monitoring activities as**
16 **required by Chapter 802, Subchapter D, of this title (relating to Agency**
17 **Monitoring Activities); and**

18
19 **(4) submitting contract completion reports:**

20
21 **(A) The final payment of the contract is contingent upon the**
22 **Executive Director's, or designee's, determination that a project**
23 **has met the performance benchmarks outlined in §810.27 of this**
24 **subchapter.**

25
26 **(B) The final payment of the contract will be withheld for 60 days**
27 **after the completion of training and after receipt by the Agency**
28 **of verification from the employer that the trainees are employed.**

29
30 **§810.25. Limitations on Awards.**

31
32 **The Commission shall impose a limit per training program participant, not to**
33 **exceed \$15,000 per participant, on the amount of funds awarded under any**
34 **specific grant.**

35
36 **§810.26. Program Objectives.**

37
38 **The program objectives in administering the Lone Star Workforce of the Future**
39 **Fund are:**

40
41 **(1) to create and sustain a utilization-driven supply of qualified workers for**
42 **entry-level to mid-level jobs in high demand occupations in this state;**

43
44 **(2) to address skills needed by workers to obtain and retain employment;**
45

1 (3) to increase the interest of current and future Texans to fill the available
2 and emerging jobs in this state that require less education than a
3 bachelor's degree but more than a high school diploma; and

4
5 (4) strengthen the state's economy by increasing competitiveness of
6 businesses in this state and the recruitment of business of this state.

7
8 **§810.27. Performance Benchmarks.**

9
10 (a) A grant recipient under this chapter must facilitate the successful transition of
11 at least 50 percent of the entity's training program participants from low-wage
12 work or unemployment to full-time employment in jobs offering a self-
13 sufficient wage, as determined under Texas Government Code §2308A.012,
14 and the opportunity for career mobility, as determined by the Agency, within
15 six months of training program completion.

16
17 (b) Should a grant recipient fail to meet the requirements of this section, the
18 grant recipient shall reimburse the Agency on a pro rata basis based on the
19 number of individuals successfully trained and placed.

20
21 (c) A grant recipient is not required to comply with a performance benchmark
22 required by this section if the Executive Director determines that the entity's
23 compliance is not possible because of an act of God, force majeure, or a
24 similar cause not reasonably within the entity's control.

25
26 **§810.28. Reporting Requirements.**

27
28 (a) A grant recipient must comply with all of the contract's reporting
29 requirements in the frequency and format determined by the Agency in order
30 to maintain eligibility for grant payments. Failure to comply with the
31 reporting requirements may result in termination of the grant award and the
32 grant recipient's ineligibility for future grants under this chapter.

33
34 (b) A grant recipient must submit a progress report to the Agency at least twice
35 annually that includes:

36
37 (1) the number of participants;

38
39 (2) an update on its progress toward reaching its performance benchmarks;

40
41 (3) a description of any key accomplishments achieved, lessons learned, or
42 setbacks or risks incurred in administering the training program;

43
44 (4) an explanation of any material changes to the training program's work
45 plan, team, or budget; and

1

(5) the amount of grant money spent during the reporting period.