

GOVERNMENT CODE  
CHAPTER 2308. WORKFORCE INVESTMENT ACT  
SUBCHAPTER A. GENERAL PROVISIONS

Sec. 2308.001. SHORT TITLE. This chapter may be cited as the Workforce Investment Act.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.81(a), eff. Sept. 1, 1995. Amended by Acts 2003, 78th Leg., ch. 818, Sec. 1.02, eff. Sept. 1, 2003.

Sec. 2308.002. DEFINITIONS. In this chapter:

(1) "Council" means the Texas Workforce Investment Council.

(2) "Division" means the division of workforce development of the Texas Workforce Commission.

(3) "Local labor market" means an economically integrated geographical area within which individuals may reside and find employment within a reasonable distance.

(4) "Workforce development" includes workforce education and workforce training and services.

(5) "Workforce education" means articulated career-path programs and the constituent courses of those programs that lead to initial or continuing licensing or certification or associate degree-level accreditation and that:

(A) are subject to:

(i) initial and ongoing state approval or regional or specialized accreditation;

(ii) a formal state evaluation that provides the basis for program continuation or termination;

(iii) state accountability and performance standards; and

(iv) a regional or statewide documentation of the market demand for labor according to employers' needs; or

(B) are subject to approval by the Texas Higher Education Coordinating Board as adult vocational or continuing education courses.

(6) "Workforce training and services" means training and services programs that are not workforce education.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.81(a), eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 19.01(a), eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 818, Sec. 1.03, eff. Sept. 1, 2003.

Sec. 2308.003. CONTRACTING FOR PRIVATE SERVICES NOT RESTRICTED. This chapter does not restrict a person's authority to contract for the provision of workforce development without state or federal funds.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.81(a), eff. Sept. 1, 1995.

Sec. 2308.004. PROGRAM YEAR. Under this chapter, a program year begins on July 1 and ends on June 30 unless otherwise specified under appropriate state or federal law.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.81(a), eff. Sept. 1, 1995. Amended by Acts 1999, 76th Leg., ch. 1472, Sec. 1, eff. Sept. 1, 1999.

Sec. 2308.005. APPLICATION OF SUNSET ACT. The Texas Workforce Investment Council is subject to Chapter 325 (Texas Sunset Act). Unless continued in existence as provided by that chapter, the council is abolished September 1, 2015.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.81(a), eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 19.02(a), eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1169, Sec. 2.06, eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 818, Sec. 1.04, eff. Sept. 1, 2003.

Sec. 2308.006. APPLICATION OF PRIOR LAW. (a) If a change in law made by House Bill 3431, Acts of the 76th Legislature, Regular Session, 1999, would have the effect of invalidating an exemption granted under the Workforce Investment Act of 1998 (Pub. L. No. 105-220), the Texas Workforce Investment Council may not operate under that change in law but, instead, shall operate under the law as it existed before September 1, 1999.

(b) A change in law described by Subsection (a) of this section does not affect other related provisions or applications of a statute that can be given effect without that change in law, and to this end those other provisions and applications of the statute shall be given effect.

Added by Acts 1999, 76th Leg., ch. 1472, Sec. 2, eff. Sept. 1, 1999. Amended by Acts 2003, 78th Leg., ch. 818, Sec. 1.05, eff. Sept. 1,

2003.

SUBCHAPTER B. COUNCIL MEMBERSHIP AND ADMINISTRATION

Sec. 2308.051. COUNCIL. (a) The council acts as a state human resource investment council under the Job Training Reform Amendments of 1992 (29 U.S.C. Section 1792 et seq.) and as a state workforce investment board under the Workforce Investment Act of 1998 (Pub. L. No. 105-220).

(b) The council is attached for administrative purposes to the office of the governor.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.81(a), eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 19.03(a), eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1472, Sec. 3, eff. Sept. 1, 1999.

Sec. 2308.052. MEMBERSHIP. (a) The governor shall appoint the members of the council as provided by this section.

(b) The council is composed of:

(1) three voting members who represent education, one of whom represents local public education, one of whom represents public postsecondary education, and one of whom represents vocational education;

(2) five voting members who represent organized labor appointed from recommendations made by recognized labor organizations;

(3) five voting members who represent business and industry, including business members serving on local workforce development boards or private industry councils;

(4) one voting member who represents community-based organizations; and

(5) the following ex officio voting members:

(A) the commissioner of education;

(B) the commissioner of higher education;

(C) the commissioner of human services;

(D) the executive director of the Texas Department of Economic Development; and

(E) the executive director of the Texas Workforce Commission.

(c) The membership of the council must represent the geographic diversity of this state.

(d) A member of the council who represents a community-based organization may not be a provider of services.

(e) Appointments to the council shall be made without regard to the race, color, disability, sex, religion, age, or national origin of the appointees.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.81(a), eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 19.04(a), eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1472, Sec. 4, eff. Sept. 1, 1999; Acts 2003, 78th Leg., ch. 818, Sec. 2.01, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 1170, Sec. 48.01, eff. Sept. 1, 2003.

Sec. 2308.053. PRESIDING OFFICER. (a) The governor shall designate one of the business or labor representatives on the council as the presiding officer of the council to serve in that capacity at the pleasure of the governor.

(b) The presiding officer of the council shall designate a member of the council as assistant presiding officer to preside in the absence of the presiding officer.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.81(a), eff. Sept. 1, 1995. Amended by Acts 2003, 78th Leg., ch. 818, Sec. 2.02, eff. Sept. 1, 2003.

Sec. 2308.054. TERMS. (a) A member of the council who does not serve as an ex officio member serves a six-year term. Approximately one-third of these members' terms expire in each odd-numbered year.

(b) An ex officio member serves as a member of the council as long as the member continues to serve in the designated office.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.81(a), eff. Sept. 1, 1995. Amended by Acts 2003, 78th Leg., ch. 818, Sec. 2.03, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 1170, Sec. 48.02, eff. Sept. 1, 2003.

Sec. 2308.055. DESIGNATED REPLACEMENTS. (a) A member of the council may designate another person to attend a meeting for the member.

(b) The designated person may participate in the activities and discussions of the council but may not vote.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.81(a), eff. Sept. 1, 1995.

Sec. 2308.056. GROUNDS FOR REMOVAL. (a) It is a ground for removal from the council that a member who is not an ex officio member:

(1) does not have at the time of appointment the qualifications required by Section 2308.052;

(2) does not maintain during service on the council the qualifications required by Section 2308.052;

(3) cannot, because of illness or disability, discharge the member's duties for a substantial part of the member's term;

(4) is absent from more than one-fourth of the regularly scheduled council meetings that the member is eligible to attend during a calendar year without an excuse approved by a majority vote of the council's members; or

(5) is absent from two consecutive council meetings for which the member received notice not less than 48 hours before the time of the meeting.

(b) The validity of an action of the council is not affected by the fact that it is taken when a ground for removal of a council member exists.

(c) If the executive director has knowledge that a potential ground for removal exists, the executive director shall notify the presiding officer of the council of the ground. The presiding officer shall then notify the governor and the attorney general that a potential ground for removal exists. If the potential ground for removal involves the presiding officer, the executive director shall notify the next highest ranking officer of the council, who shall then notify the governor and the attorney general that a potential ground for removal exists.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.81(a), eff. Sept. 1, 1995. Amended by Acts 2003, 78th Leg., ch. 818, Sec. 2.04, eff. Sept. 1, 2003.

Sec. 2308.057. MEETINGS. The council shall meet at least quarterly and at other times at the call of the presiding officer or as provided by rules adopted by the council.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.81(a), eff. Sept. 1, 1995.

Sec. 2308.058. SUBCOMMITTEES; TECHNICAL ADVISORY COMMITTEES. (a) The presiding officer of the council may appoint subcommittees consisting of members of the council for any purpose consistent with the duties and responsibilities of the council under this chapter.

(b) The presiding officer of the council may appoint technical advisory committees composed of council members, persons who are not council members, or both members and nonmembers.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.81(a), eff. Sept. 1, 1995.

Sec. 2308.059. FISCAL AGENT. The office of the governor shall serve as the council's fiscal agent.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.81(a), eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 19.05, eff. Sept. 1, 1997.

Sec. 2308.060. EXECUTIVE DIRECTOR. (a) The presiding officer of the council shall appoint an executive director of the council.

(b) The executive director shall:

(1) report to the presiding officer of the council;

(2) perform duties assigned by the council and under state law;

(3) administer the daily operations of the council;

(4) appoint officers, accountants, attorneys, experts, and other employees for the council and assign duties for these employees to perform the council's powers and duties under this chapter; and

(5) delegate authority to persons appointed under this section as the executive director considers to be reasonable and proper for the effective administration of the council.

(c) The executive director shall adopt the administrative and personnel procedures of the council's fiscal agent.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.81(a), eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 19.06(a), eff. Sept. 1, 1997.

Sec. 2308.061. STAFF. (a) The council shall have an independent staff with expertise sufficient to perform all duties and responsibilities of the council.

(b) The staff may be supplemented by staff from other state agencies who are temporarily assigned to assist with special projects.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.81(a), eff. Sept. 1, 1995.

Sec. 2308.065. FUNDING. (a) Federal funding for the operation of the council shall be allocated according to federal requirements.

(b) A state agency represented on the council shall provide funds for the support of the council in proportion to the agency's financial participation in the workforce development system. The council, with the governor's approval, shall establish a funding formula to determine the level of support each agency must provide. Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.81(a), eff. Sept. 1, 1995. Amended by Acts 2001, 77th Leg., ch. 704, Sec. 1, eff. Sept. 1, 2001.

#### SUBCHAPTER C. COUNCIL DUTIES AND POWERS

Sec. 2308.101. GENERAL DUTIES. (a) The council shall:

(1) promote the development of a well-educated, highly skilled workforce in this state;

(2) advocate the development of an integrated workforce development system to provide quality services addressing the needs of business and workers in this state;

(3) recommend to the governor the designation or redesignation of workforce development areas for the local planning and delivery of workforce development;

(4) identify and recommend to the governor incentives to encourage the consolidation, on a regional labor market basis, of:

(A) local boards, councils, and committees; and

(B) service delivery areas authorized under federal workforce legislation;

(5) review plans for local workforce development and make recommendations to the governor for approval;

(6) evaluate the effectiveness of the workforce development system;

(7) use the administrative records of the state's unemployment compensation program and other sources as appropriate in evaluating the workforce development system;

(8) encourage, support, or develop research and demonstration projects designed to develop new programs and approaches to service delivery;

(9) recommend measures to ensure that occupational skills training is:

(A) provided in occupations that are locally in demand; and

(B) directed toward high-skill and high-wage jobs;

(10) monitor the operation of the state's workforce development system to assess the degree to which the system is effective in achieving state and local goals and objectives;

(11) develop and recommend to the governor criteria for the establishment of local workforce development boards;

(12) carry out the federal and state duties and responsibilities of advisory councils under applicable federal and state workforce development laws or regulations;

(13) report periodically to the governor and the legislature; and

(14) provide annual reports to the governor and the legislature, including an annual report analyzing work development programs that focus on welfare to work initiatives.

(b) The council shall provide the information required to be reported under Subsections (a)(13) and (14) and Section 2308.104(a) to the Texas Workforce Commission. The Texas Workforce Commission shall include information provided under this subsection that relates to the administration and operation of the state's workforce development system with other information the commission provides to the public on the Internet.

(c) The members of the council shall develop and implement policies that:

(1) clearly separate:

(A) the policy-making responsibilities of the members of the council; and

(B) the management responsibilities of the executive director and the staff of the council; and

(2) provide the public with a reasonable opportunity to appear before the council and to speak on any issue under the jurisdiction of the council.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.81(a), eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 19.07(a), eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1472, Sec. 5, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 704, Sec. 2, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 818, Sec. 3.01, eff. Sept. 1, 2003.

Sec. 2308.1015. DUTY TO FACILITATE DELIVERY OF INTEGRATED WORKFORCE SERVICES. (a) To facilitate the seamless delivery of integrated workforce services in this state, the council shall:

(1) evaluate programs administered by agencies represented on the council to identify:

(A) any duplication of or gaps in the services provided by those programs; and

(B) any other problems that adversely affect the seamless delivery of those services; and

(2) develop and implement immediate and long-range strategies to address problems identified by the council under Subdivision (1).

(b) The council shall include in the council's annual report to the governor and to the legislature:

(1) a list of specific problems identified by the council under Subsection (a) to be addressed by the council in the following year; and

(2) the results of any measures taken by the council to address problems identified by the council under Subsection (a).

(c) The long-range strategies developed by the council under Subsection (a) must:

(1) identify each agency represented on the council that is responsible for implementing each strategy; and

(2) include a time frame for the implementation of each strategy.

Added by Acts 2003, 78th Leg., ch. 818, Sec. 3.02, eff. Sept. 1, 2003.

Sec. 2308.1016. DUTY TO FACILITATE DELIVERY OF INTEGRATED ADULT EDUCATION AND LITERACY SERVICES. (a) In addition to any duty imposed under this subchapter, to facilitate the efficient delivery of integrated adult education and literacy services in this state, the council shall:

(1) evaluate adult education and literacy programs administered by the Texas Education Agency and the Texas Workforce Commission to identify:

(A) any duplication of planning by those agencies at the state and local level;

(B) any lack of adequate client information sharing between those agencies; and

(C) any other problems that adversely affect the delivery of those programs by the agencies;

(2) develop and implement immediate and long-range strategies to address problems identified by the council under Subdivision (1); and

(3) develop a system to monitor and evaluate the wage and employment outcomes of students who participate in the adult education and literacy programs administered by the Texas Education Agency, including students referred to the programs by the Texas Workforce Commission or local workforce development boards, to ensure the effectiveness of the programs in improving the employment-related outcomes of the students.

(b) The council shall include in the council's annual report to the governor and to the legislature:

(1) a list of specific problems identified by the council under Subsection (a) to be addressed by the council in the following year; and

(2) the results of any measures taken by the council to address problems identified by the council under Subsection (a).

(c) The long-range strategies developed by the council under Subsection (a) must:

(1) identify the agency responsible for implementing each strategy; and

(2) include a schedule for the implementation of each strategy.

Acts 2003, 78th Leg., ch. 817, Sec. 5.04, eff. Sept. 1, 2003.

Sec. 2308.102. ASSUMPTION OF DUTIES AND RESPONSIBILITIES.

Text of section as amended by Acts 2003, 78th Leg., ch. 110, Sec. 2

(a) The council shall assume the duty to:

(1) develop, with the assistance of each appropriate state agency, recommend to the governor, and report to the legislature state plans required by applicable federal law in order for the state to receive federal funds;

(2) make policy recommendations to the governor and the legislature on goals and priorities for formula and discretionary funds for all applicable programs;

(3) participate directly in the development of the state plan for career and technology education, as required by law, and recommend the plan to the Texas Education Agency;

(4) ensure that general revenue funds previously available to the Texas Literacy Council are used to support the efforts of local literacy councils in a manner consistent with the state strategic plan;

(5) recommend to the State Board for Career and Technology Education the division of federal funds between secondary and postsecondary educational agencies under the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. Section 2301 et seq.); and

(6) make recommendations to the Texas Workforce Commission on unemployment insurance issues pertinent to the responsibilities of the council.

(b) The council shall assume the responsibilities assigned to the state advisory council under the following federal laws:

(1) the Job Training Partnership Act (29 U.S.C. Section 1501 et seq.);

(2) the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. Section 2301 et seq.);

(3) the Adult Education Act (20 U.S.C. Section 1201 et seq.);

(4) the Wagner-Peyser Act (29 U.S.C. Section 49 et seq.);

(5) Part F, Subchapter IV, Social Security Act (42 U.S.C. Section 681 et seq.);

(6) the employment program established under Section 6(d)(4), Food Stamp Act of 1977 (7 U.S.C. Section 2015(d)(4)); and

(7) the National Literacy Act of 1991 (20 U.S.C. Section 1201 et seq.).

(c) The council shall assume the responsibilities formerly exercised by the following state advisory councils and committees:

(1) the State Job Training Coordinating Council;

(2) the Texas Council on Vocational Education;

(3) the Texas Literacy Council; and

(4) the Apprenticeship and Training Advisory Committee.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.81(a), eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 19.08(a), eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1472, Sec. 6, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 1420, Sec. 9.014(a), eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 110, Sec. 2, eff. Sept. 1, 2003. For text of section as amended by Acts 2003, 78th Leg., ch. 818, Sec. 3.03, see Sec. 2308.102, post.

Sec. 2308.102. ASSUMPTION OF DUTIES AND RESPONSIBILITIES.

Text of section as amended by Acts 2003, 78th Leg., ch. 818, Sec.

3.03

(a) The council shall assume the duty to:

(1) develop, with the assistance of each appropriate state agency, recommend to the governor, and report to the legislature state plans required by applicable federal law in order for the state to receive federal funds;

(2) make policy recommendations to the governor and the legislature on goals and priorities for formula and discretionary funds for all applicable programs; and

(3) make recommendations to the Texas Workforce Commission on unemployment insurance issues pertinent to the responsibilities of the council.

(b) The council shall assume the responsibilities formerly exercised by the Apprenticeship and Training Advisory Committee.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.81(a), eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 19.08(a), eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1472, Sec. 6, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 1420, Sec. 9.014(a), eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 818, Sec. 3.03, eff. Sept. 1, 2003. For text of section as amended by Acts 2003, 78th Leg., ch. 110,

Sec. 2, see Sec. 2308.102, ante.

Sec. 2308.103. ADDITIONAL POWERS AND LIMITATIONS. (a) The council may:

(1) adopt rules essential to the internal functions and duties of the council;

(2) make expenditures, enter into contracts with public, private, and nonprofit organizations or agencies, require reports to be made, conduct investigations, and take other actions necessary or suitable to fulfill the council's duties under this chapter;

(3) delegate to the executive director any power or duty imposed on the council by law, including the authority to make a final order or decision;

(4) provide for the mediation or arbitration of disputes between agencies that perform functions for state and federal programs as provided by this chapter;

(5) accept gifts, grants, and donations of money, goods, or services to be used only to accomplish the council's duties under this chapter; and

(6) share employees with another state agency.

(b) The council may not:

(1) adopt rules related to the operation of workforce development; or

(2) delegate to the executive director the authority to adopt rules.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.81(a), eff. Sept. 1, 1995.

Sec. 2308.104. STRATEGIC PLAN. (a) The council shall develop and recommend to the governor and report to the legislature a single strategic plan that establishes the framework for the budgeting and operation of the workforce development system, including school to careers and welfare to work components, administered by agencies represented on the council. The council shall annually report to the governor and the legislature on the implementation of the strategic plan.

(b) The council shall engage in strategic planning by selecting or developing two types of performance measures as described by Subsections (c) and (d). To the fullest extent possible, all measures must be selected from those already developed and approved before September 1, 2001, by one or more state agencies that administer workforce programs. The council may develop a new measure only if the council:

(1) identifies a gap in accountability; or

(2) determines that at least one state agency administering a workforce program cannot report under the measures developed and approved before September 1, 2001.

(c) The first type of performance measure consists of formal measures identifying outcomes that are essentially consistent across all workforce programs. Job placement rates, job retention rates, and wage rates may be included among those measures. The council may develop or select not more than five formal measures. The council shall develop or select each formal measure in consultation with the state agencies required to report under this subsection. Once approved by the governor and the Legislative Budget Board, a formal measure becomes part of the state's performance budget and accounting system and applies to each state agency that administers a workforce program.

(d) The second type of performance measure consists of less formal measures to provide information determined by the council to be essential in development of the strategic plan under this section. Employer participation rates, customer satisfaction levels, and educational attainment may be included among those measures. The council shall develop or select each less formal measure with the approval of the governor and in consultation with the state agencies required to report under this subsection. The Legislative Budget Board shall provide technical assistance to the council to ensure that the measures and associated reporting criteria are consistent with the state's performance budget and accounting system. The council may exempt a state agency that administers a workforce program from any requirement to use a less formal measure.

(e) In addition to the other requirements of this chapter, the strategic plan recommended by the council must recognize and address literacy and basic education as activities that are critical to the well-being of individuals and the state without

regard to whether the training and education is directed at preparing an individual for employment.

(f) The council shall include in the strategic plan goals, objectives, and performance measures for the workforce development system that involve programs of all state agencies that administer workforce programs.

(g) On approval of the plan by the governor, an agency administering a workforce program shall use the strategic plan to develop the agency's operational plan.

(h) The council shall include in the strategic plan long-range strategies developed by the council under Section 2308.1015 to facilitate the seamless delivery of integrated workforce services in this state.

(i) The council shall include in the strategic plan the long-range strategies developed by the council under Section 2308.1016 to facilitate the efficient delivery of integrated adult education and literacy services in this state.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.81(a), eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 19.07(b), eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1472, Sec. 7, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 704, Sec. 3, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 817, Sec. 5.05, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 818, Sec. 3.04, eff. Sept. 1, 2003.

Sec. 2308.105. LOCAL SERVICE INTEGRATION. The governor, with the council and the local workforce development boards, shall:

(1) identify specific barriers to integrated service delivery at the local level;

(2) request waivers from federal and state regulations; and

(3) advocate changes in federal and state laws to promote local service integration.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.81(a), eff. Sept. 1, 1995.

Sec. 2308.106. DIVISION ASSISTANCE. The division shall assist a local workforce development board in designing effective measures to accomplish the board's responsibilities under Section 2308.302.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.81(a), eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 19.09(a), eff. Sept. 1, 1997.

Sec. 2308.107. COMPLAINTS AGAINST COUNCIL. (a) The council shall maintain a file on each written complaint filed with the council. The file must include:

(1) the name of the person who filed the complaint;

(2) the date the complaint is received by the council;

(3) the subject matter of the complaint;

(4) the name of each person contacted in relation to the complaint;

(5) a summary of the results of the review or investigation of the complaint; and

(6) an explanation of the reason the file was closed, if the council closed the file without taking action other than to investigate the complaint.

(b) The council shall provide to the person filing the complaint and to each person who is a subject of the complaint a copy of the council's policies and procedures relating to complaint investigation and resolution.

(c) The council, at least quarterly until final disposition of the complaint, shall notify the person filing the complaint and each person who is a subject of the complaint of the status of the investigation unless the notice would jeopardize an undercover investigation.

Added by Acts 2003, 78th Leg., ch. 818, Sec. 3.05, eff. Sept. 1, 2003.

Sec. 2308.108. POLICY ON TECHNOLOGICAL SOLUTIONS. The members of the council shall develop and implement a policy requiring the executive director and council employees to research and propose appropriate technological solutions to improve the council's ability to perform its functions. The technological solutions must:

(1) ensure that:

(A) the public is able to easily find information about the council on the Internet; and

(B) persons who want to use the council's services are able to:



(i) interact with the council through the Internet; and

(ii) access any service that can be provided effectively through the Internet;

(2) be cost-effective; and

(3) be developed through the council's planning processes.

Added by Acts 2003, 78th Leg., ch. 818, Sec. 3.05, eff. Sept. 1, 2003.

#### SUBCHAPTER D. INFORMATION AND TRAINING

Sec. 2308.151. ESTABLISHMENT OF FUNDING FORMULA FOR EVALUATION SYSTEM. The council shall establish, with the approval of the governor, a funding formula to determine the level of support each agency administering a workforce program must provide to operate the automated follow-up and evaluation system administered by the Texas Workforce Commission under Subchapter E, Chapter 302, Labor Code.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.81(a), eff. Sept. 1, 1995. Amended by Acts 1999, 76th Leg., ch. 1472, Sec. 8, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 704, Sec. 4, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 818, Sec. 4.01, 4.02, 5.01, eff. Sept. 1, 2003.

Sec. 2308.158. COUNCIL TRAINING; STANDARDS OF CONDUCT INFORMATION. (a) A person who is appointed to and qualifies for office as a council member may not vote, deliberate, or be counted as a member in attendance at a meeting of the council until the person completes a training program that complies with this section.

(b) The training program must provide the person with information regarding:

(1) the legislation that created the council;

(2) the programs operated by the council;

(3) the role and functions of the council;

(4) the rules of the council, with an emphasis on the rules that relate to disciplinary and investigatory authority;

(5) the current budget for the council;

(6) the results of the most recent formal audit of the council;

(7) the requirements of:

(A) the open meetings law, Chapter 551;

(B) the public information law, Chapter 552;

(C) the administrative procedure law, Chapter 2001; and

(D) other laws relating to public officials, including conflict-of-interest laws; and

(8) any applicable ethics policies adopted by the council or the Texas Ethics Commission.

(c) Each council member shall comply with the member training requirements established by any other state agency that is given authority to establish the requirements for the council.

(d) The executive director shall provide to the council's members and employees, as often as necessary, information regarding the requirements for office or employment under this chapter, including information regarding a person's responsibilities under applicable laws relating to standards of conduct for state officers and employees.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.81(a), eff. Sept. 1, 1995. Amended by Acts 2003, 78th Leg., ch. 818, Sec. 2.05, eff. Sept. 1, 2003.

Sec. 2308.159. STATE EMPLOYEE INCENTIVE PROGRAM INFORMATION AND TRAINING. The executive director or the executive director's designee shall provide to council employees information and training on the benefits and methods of participation in the state employee incentive program.

Added by Acts 2003, 78th Leg., ch. 818, Sec. 3.06, eff. Sept. 1, 2003.

#### SUBCHAPTER E. COUNCIL RECOMMENDATIONS AND IMPLEMENTATION BY STATE AGENCIES

Sec. 2308.201. DEVELOPMENT OF RECOMMENDATIONS. The council shall develop recommendations periodically in each of the council's areas of responsibility and shall submit the recommendations to the governor.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.81(a), eff. Sept. 1, 1995.

Sec. 2308.202. CONSIDERATION OF RECOMMENDATIONS BY THE

GOVERNOR. (a) The governor shall consider the recommendations submitted under this subchapter.

(b) The governor shall approve, disapprove, or modify the recommendations.

(c) The governor shall:

(1) return the recommendations to the council to be forwarded as appropriate; or

(2) forward an approved or modified recommendation without returning the recommendation to the council.

(d) A recommendation that is not approved, disapproved, or modified by the governor before the 60th day after the date the recommendation is submitted shall be considered approved by the governor.

(e) A recommendation that is approved or modified shall be forwarded to the appropriate agency for implementation.

(f) A recommendation that is approved or modified and that requires a change in state or federal law shall be forwarded to the appropriate legislative body for its consideration.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.81(a), eff. Sept. 1, 1995.

Sec. 2308.203. ACTION BY STATE AGENCIES. (a) A state agency that is responsible for the administration of human resources or workforce development in this state shall implement a recommendation under this subchapter if the recommendation does not violate a federal or state law.

(b) A state agency shall:

(1) provide requested information to the council in a timely manner;

(2) report on the implementation of the council's recommendations at the time and in the format requested by the council; and

(3) notify the governor, the executive director, and the presiding officer of the council within 30 days if the agency determines that a recommendation cannot be implemented.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.81(a), eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 19.11(a), eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1472, Sec. 12, eff. Sept. 1, 1999.

Sec. 2308.205. FUND AVAILABILITY AND SERVICES. A state agency represented on the council shall provide to the council and each local workforce development board an estimate of fund availability and services provided by the state agency in each local workforce development area.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.81(a), eff. Sept. 1, 1995.

Sec. 2308.206. PROVISION OF SERVICES BY STATE AGENCIES. A state agency represented on the council shall, consistent with state and federal law, provide workforce training and services in accordance with the local workforce development plan developed by the local workforce development board and approved by the governor and shall implement rules and policies consistent with the plan.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.81(a), eff. Sept. 1, 1995.

#### SUBCHAPTER F. CREATION AND ADMINISTRATION OF LOCAL WORKFORCE DEVELOPMENT AREAS AND LOCAL WORKFORCE DEVELOPMENT BOARDS

Sec. 2308.251. DEFINITIONS. In this subchapter:

(1) "Board" means a local workforce development board.

(2) "Veteran" means a person who:

(A) has served in:

(i) the army, navy, air force, coast guard, or marine corps of the United States or the United States Public Health Service under 42 U.S.C. Section 201 et seq., as amended;

(ii) the state military forces as defined by Section 431.001; or

(iii) an auxiliary service of one of those branches of the armed forces; and

(B) has been honorably discharged from the branch of the service in which the person served.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.81(a), eff. Sept. 1, 1995. Amended by Acts 2001, 77th Leg., ch. 1426, Sec. 1, eff. Sept. 1, 2001.

Sec. 2308.2515. APPLICATION OF PRIOR LAW. (a) If a change in law made by House Bill 3480, Acts of the 76th Legislature, Regular Session, 1999, would have the effect of invalidating an exemption granted under the Workforce Investment Act of 1998 (Pub. L. No.

105-220), a local workforce development board may not operate under that change in law but, instead, shall operate under the law as it existed before the effective date of this Act.

(b) A change in law described by Subsection (a) of this section does not affect other related provisions or applications of a statute that can be given effect without that change in law, and to this end those other provisions and applications of the statute shall be given effect.

Added by Acts 1999, 76th Leg., ch. 1103, Sec. 1, eff. Sept. 1, 1999.

Sec. 2308.252. DESIGNATION OF WORKFORCE DEVELOPMENT AREAS. (a) The governor shall, after receiving the recommendations of the council, publish a proposed designation of local workforce development areas for the planning and delivery of workforce development.

(b) A local workforce development area:

(1) is composed of more than one contiguous unit of general local government that includes at least one county;

(2) is consistent with either a local labor market area, a metropolitan statistical area, one of the 24 substate planning areas, or one of the 10 uniform state service regions; and

(3) is of a size sufficient to have the administrative resources necessary to provide for the effective planning, management, and delivery of workforce development.

(c) Units of general local government, business and labor organizations, and other affected persons and organizations must be given an opportunity to comment on and request revisions to the proposed designation of a workforce development area.

(d) After considering all comments and requests for changes, the governor shall make the final designation of workforce development areas.

(e) The governor may redesignate workforce development areas not more than once every two years. A redesignation must be made not later than four months before the beginning of a program year.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.81(a), eff. Sept. 1, 1995.

Sec. 2308.253. CREATION OF LOCAL WORKFORCE DEVELOPMENT BOARDS. (a) The chief elected officials in a workforce development area may form, in accordance with rules established by the Texas Workforce Commission, a local workforce development board to:

(1) plan and oversee the delivery of workforce training and services; and

(2) evaluate workforce development in the workforce development area.

(b) The authority granted under Subsection (a) does not give a local workforce development board any direct authority or control over workforce funds and programs in its workforce development area, other than programs funded through that board.

(c) Before a local workforce development board may be created, at least three-fourths of the chief elected officials in the workforce development area who represent units of general local government must agree to the creation of the board, including all of the chief elected officials who represent units of general local government that have populations of at least 200,000. The elected officials who agree to the creation of the board must represent at least 75 percent of the population of the workforce development area.

(d) The chief elected officials shall consider the views of all affected local organizations, including private industry councils and quality workforce planning committees, before making a final decision on the formation of a board.

(e) An agreement on the formation of a board must be in writing and must include:

(1) the purpose for the agreement;

(2) the process to be used to select the chief elected official who will act on behalf of the other chief elected officials;

(3) the process to be used to keep the chief elected officials informed regarding local workforce development activities;

(4) the initial size of the board;

(5) how resources allocated to the local workforce development area are to be shared among the parties to the agreement;

(6) the process, consistent with applicable federal

and state law, for the appointment of the board members; and

(7) the terms of office of the board members.

(f) In a state planning area in which there is more than one local workforce development area, the quality workforce planning committee of that state planning area shall continue in existence to provide labor market information for the entire state planning area until local workforce development boards are certified in each workforce development area in that state planning area.

(g) The chief elected officials designated under Subsection (c) shall enter into a partnership agreement with the board to:

(1) select the grant recipient and the administrative entity for the local workforce development area; and

(2) determine procedures for the development of the local workforce development plan.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.81(a), eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 19.09(b), 19.12(a), eff. Sept. 1, 1997.

Sec. 2308.254. LIMITATION ON EXERCISE OF BOARD POWERS. (a) A power or duty granted a board under this chapter may not be exercised in a workforce development area until:

(1) the chief elected officials in that area agree on the establishment of a board as provided by Section 2308.253(c); and

(2) the board is certified by the governor.

(b) A private industry council in an area in which a board is not created or in which the chief elective officers are unable to agree on the establishment of a board may not exercise any of the powers granted a board by this chapter, except for a power granted under the federal Job Training Partnership Act (29 U.S.C. Section 1501 et seq.).

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.81(a), eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 19.12(b), eff. Sept. 1, 1997.

Sec. 2308.255. APPOINTMENT OF BOARD; LIABILITY OF BOARD MEMBERS. (a) The chief elected officials shall appoint the board.

(b) The appointments must:

(1) be consistent with the local government agreement and applicable federal and state law; and

(2) reflect the ethnic and geographic diversity of the workforce development area.

(c) To provide continuity, the chief elected officials shall consider appointing persons to the local workforce development board who are serving or who have served previously on a private industry council, a quality workforce planning committee, a job service employer committee, and any other entity affected by this chapter.

(d) Board members serve fixed and staggered terms as provided by the local government agreement or applicable federal or state law and may continue to serve until successors are appointed.

(e) A member or former member of a board may not be held personally liable for a claim, damage, loss, or repayment obligation of federal or state funds that arises under this chapter unless the act or omission that causes the claim, damage, loss, or repayment obligation constitutes, on the part of the board member or former board member:

(1) official misconduct;

(2) wilful disregard of the requirements of this chapter; or

(3) gross negligence.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.81(a), eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 19.12(c), (d) eff. Sept. 1, 1997.

Sec. 2308.256. BOARD MEMBERSHIP. (a) A board is composed as follows:

(1) representatives of the private sector, who:

(A) constitute a majority of the membership of the board; and

(B) are owners of business concerns, chief executives or chief operating officers of nongovernmental employers, or other private sector executives who have substantial management or policy responsibilities;

(2) representatives of organized labor and community-based organizations, who constitute not less than 15 percent of the membership of the board; and

(3) representatives of each of the following:

(A) educational agencies, including community colleges and secondary and postsecondary practitioners representing vocational education, that are representative of all educational agencies in the service delivery area;

(B) vocational rehabilitation agencies;

(C) public assistance agencies;

(D) economic development agencies;

(E) the public employment service;

(F) local literacy councils; and

(G) adult basic and continuing education organizations.

(b) Private sector representatives on the board are selected from individuals nominated by general-purpose business organizations that have consulted with and received recommendations from other business organizations in the workforce development area. The nominations and the individuals selected from the nominations must reasonably represent the industrial and demographic composition of the business community. Not less than one-half of the business and industry representatives must be, if possible, representatives of small businesses, including minority businesses.

(c) The education representatives on the board are selected from individuals nominated by regional or local educational agencies, vocational education institutions, institutions of higher education, including entities offering adult education, and general organizations of the institutions within the workforce development area.

(d) The labor representatives on the board are selected from individuals recommended by recognized state and local labor federations. If a state or local labor federation does not nominate a number of individuals sufficient to meet the labor representation requirements of Subsection (a)(2), individual workers may be included on the council to complete the labor representation.

(e) The remaining members of the board are selected from individuals recommended by interested organizations.

(f) In this section:

(1) "General-purpose business organization" means an organization that admits for membership any for-profit business operating within the workforce development area.

(2) "Small business" means a private, for-profit enterprise that employs not more than 500 employees.

(g) At least one of the members of a board appointed under Subsection (a) must, in addition to the qualifications required for the member under that subsection, have expertise in child care or early childhood education.

(h) At least one of the members of a board appointed under Subsection (a) must be a veteran who:

(1) meets the qualifications required for the member under that subsection; and

(2) serves as a representative on the board for the interests of veterans in the workforce development area.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.81(a), eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 340, Sec. 1, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1103, Sec. 2, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 1426, Sec. 2, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 1142, Sec. 1, eff. June 20, 2003; Acts 2005, 79th Leg., ch. 511, Sec. 1, eff. Sept. 1, 2005.

Sec. 2308.257. RECUSAL. (a) A member of a board shall avoid the appearance of conflict of interest by not voting in, or participating in, any decision by the board regarding the provision of services by such member, or any organization which that member directly represents, or on any matter which would provide direct financial benefit to that member, the member's immediate family, or any organization which that member directly represents.

(b) Subsection (a) shall serve as a minimum standard and shall not be construed as to limit the board's authority for more restrictive governance to prevent real and/or apparent conflict of interest.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.81(a), eff. Sept. 1, 1995. Amended by Acts 2001, 77th Leg., ch. 1004, Sec. 6, eff. Sept. 1, 2001.

Sec. 2308.258. PRESIDING OFFICER. The presiding officer of a board is selected from the members of the board who represent the private sector.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.81(a), eff. Sept. 1,

1995.

Sec. 2308.259. BOARD COMMITTEES. A board may create committees as needed to carry out its duties and responsibilities. Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.81(a), eff. Sept. 1, 1995.

Sec. 2308.260. TECHNICAL ADVISORY GROUPS. A board may create technical advisory groups composed of both council and noncouncil members to provide assistance to the board. Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.81(a), eff. Sept. 1, 1995.

Sec. 2308.261. CERTIFICATION OF BOARD. (a) The governor shall certify a board on determining that the board's composition is consistent with applicable federal and state law and requirements and meets established state criteria.

(b) The governor shall certify or deny certification not later than the 30th day after the date a certification request is submitted to the governor. Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.81(a), eff. Sept. 1, 1995.

Sec. 2308.262. BUDGET. A board shall adopt a budget for the board that must be included in the local workforce development plan submitted to the division.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.81(a), eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 19.13(a), eff. Sept. 1, 1997.

Sec. 2308.263. APPROVAL OF FISCAL AGENT. (a) The Texas Workforce Commission must approve the fiscal agent selected by a board before any federal or state workforce development funds may be disbursed to the board.

(b) The commission shall base its approval on an audit of the financial capability of the fiscal agent to ensure that fiscal controls and fund accounting procedures necessary to guarantee the proper disbursement of and accounting for federal and state funds are in place.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.81(a), eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 19.14, eff. Sept. 1, 1997.

Sec. 2308.264. CONTRACTING FOR SERVICE DELIVERY. (a) Except as otherwise provided by this section, a board may not directly provide workforce training or one-stop workforce services.

(b) A board may request from the Texas Workforce Commission a waiver of Subsection (a).

(c) The request for a waiver must include a detailed justification based on the lack of an existing qualified alternative for delivery of workforce training and services in the workforce development area.

(d) If a board receives a waiver to provide workforce training and one-stop workforce services, the evaluation of results and outcomes is provided by the Texas Workforce Commission.

(e) In consultation with local workforce development boards, the Texas Workforce Commission by rule shall establish contracting guidelines for boards under this section, including guidelines designed to:

(1) ensure that each independent contractor that contracts to provide one-stop workforce services under this section has sufficient insurance, bonding, and liability coverage for the overall financial security of one-stop workforce services funds and operations;

(2) prevent potential conflicts of interest between boards and entities that contract with boards under this section;

(3) ensure that if a board acts as a fiscal agent for an entity that contracts with the board to provide one-stop workforce services, the board does not deliver the services or determine eligibility for the services; and

(4) ensure that an entity that contracts with a board under this section may use, display, and advertise the entity's name when providing workforce services for the board.

(f) The Texas Workforce Commission shall ensure that each board complies with this section and may approve a local plan under Section 2308.304 only if the plan complies with this section.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.81(a), eff. Sept. 1, 1995. Amended by Acts 2003, 78th Leg., ch. 817, Sec. 4.01, eff. Sept. 1, 2003; Acts 2005, 79th Leg., ch. 1350, Sec. 1, eff. June 18, 2005.

Sec. 2308.265. INCENTIVES AND WAIVERS. (a) A board

certified by the governor is eligible for incentives and program waivers to promote and support integrated planning and evaluation of workforce development.

(b) To the extent feasible under federal and state workforce development law, incentives include priority for discretionary funding, including financial incentives for the consolidation of service delivery areas authorized under the federal Job Training Partnership Act (29 U.S.C. Section 1501 et seq.).

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.81(a), eff. Sept. 1, 1995.

Sec. 2308.266. NONPROFIT STATUS; ABILITY TO SOLICIT FUNDS. (a) A board may apply for and receive a charter as a private, nonprofit corporation under the laws of this state and may choose to be recognized as a Section 501(c)(3) organization under the Internal Revenue Code of 1986 (26 U.S.C. Section 501(c)(3)).

(b) In addition to receiving funds specified in this chapter, a board may solicit additional funds from other public and private sources.

(c) A board may not solicit or accept money from an entity with which the board contracts for the delivery of services.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.81(a), eff. Sept. 1, 1995.

Sec. 2308.267. STAFF. (a) A board may employ professional, technical, and support staff to carry out its planning, oversight, and evaluation functions.

(b) A board's staff shall be separate from and independent of any organization providing workforce education or workforce training and services in the workforce development area. A board's staff may not direct or control the staffing of any entity providing one-stop workforce services.

(c) The requirement for separate staffing does not preclude a board from designating a qualified organization to provide staff services to the board if the board:

(1) arranges for independent evaluation of any other workforce services provided by the staffing organization; and

(2) requests and obtains from the Texas Workforce Commission a waiver of the separate staffing requirement and of the requirement under Section 2308.264(a).

(d) A request for a waiver under Subsection (c)(2) must contain a detailed justification for the waiver, including:

(1) cost-effectiveness;

(2) prior experience;

(3) geographic or budgetary considerations; and

(4) availability of qualified applicants.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.81(a), eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 19.13(b), eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 817, Sec. 4.02, eff. Sept. 1, 2003.

Sec. 2308.268. ASSISTANCE AND SANCTIONS FOR NONPERFORMANCE. (a) The council shall provide technical assistance to local workforce development areas that do not meet performance standards established under this chapter and other applicable federal and state law.

(b) If a local workforce development area does not meet performance standards for two consecutive program years, the council shall develop and impose a reorganization plan that may include:

(1) restructuring the board;

(2) prohibiting the use of designated service providers, including state agencies; and

(3) merging the local workforce development area with another area.

(c) If nonperformance is directly attributable to a specific state agency, the council may select an alternative provider.

(d) A local workforce development area that is the subject of a reorganization plan may appeal to the governor to rescind or revise the plan not later than the 30th day after the date of receiving notice of the plan.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.81(a), eff. Sept. 1, 1995.

Sec. 2308.269. SANCTIONS FOR LACK OF FISCAL ACCOUNTABILITY. If, as a result of financial and compliance audits or for another reason, the Texas Workforce Commission finds a substantial violation of a specific provision of this chapter or

another federal or state law or regulation and corrective action has not been taken, the council shall:

(1) issue a notice of intent to revoke all or part of the affected local plan;

(2) issue a notice of intent to cease immediately reimbursement of local program costs; or

(3) impose a reorganization plan under Section 2308.268 for the local workforce development area.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.81(a), eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 19.15, eff. Sept. 1, 1997.

SUBCHAPTER G. RESPONSIBILITIES AND DUTIES OF LOCAL WORKFORCE DEVELOPMENT BOARDS

Sec. 2308.301. DEFINITIONS. In this subchapter:

(1) "Board" means a local workforce development board.

(2) "Commission" means the Texas Workforce Commission.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.81(a), eff. Sept. 1, 1995. Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 9.016(a), eff. Sept. 1, 2001.

Sec. 2308.302. RESPONSIBILITY OF BOARD. (a) A board is directly responsible and accountable to the division for the planning and oversight of all workforce training and services and the evaluation of all workforce development programs in the workforce development area. A board shall ensure effective outcomes consistent with statewide goals, objectives, and performance standards approved by the governor.

(b) A board is directly responsible to the division for the operational planning and administration of all workforce training and services funded through the Texas Workforce Commission to the local area.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.81(a), eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 19.09(c), eff. Sept. 1, 1997.

Sec. 2308.303. BOARD DUTIES. (a) A board shall:

(1) serve as a single point of contact for local businesses to communicate their skill needs and to influence the direction of all workforce development programs in the workforce development area;

(2) serve as a private industry council under the Job Training Partnership Act (29 U.S.C. Section 1501 et seq.);

(3) develop a local plan to address the workforce development needs of the workforce development area that:

(A) is responsive to the goals, objectives, and performance standards established by the governor;

(B) targets services to meet local needs, including the identification of industries and employers likely to employ workers who complete job training programs; and

(C) ensures that the workforce development system, including the educational system, has the flexibility to meet the needs of local businesses;

(4) designate the board or another entity as the board's fiscal agent to be responsible and accountable for the management of all workforce development funds available to the board;

(5) create local career development centers under Section 2308.312;

(6) review plans for workforce education to ensure that the plans address the needs of local businesses and recommend appropriate changes in the delivery of education services;

(7) assume the functions and responsibilities of local workforce development advisory boards, councils, and committees authorized by federal or state law, including private industry councils, quality workforce planning committees, job service employer committees, and local general vocational program advisory committees;

(8) monitor and evaluate the effectiveness of the career development centers, state agencies and other contractors providing workforce training and services, and vocational and technical education programs operated by local education agencies and institutions of higher education to ensure that performance is consistent with state and local goals and objectives; and

(9) promote cooperation and coordination among public organizations, community organizations, charitable organizations, religious organizations, and private businesses providing



workforce development, in a manner consistent with the nondiscrimination principles and safeguards stated in 42 U.S.C. Section 604a.

(b) The board shall ensure that employment services are provided for persons seeking employment in the local workforce development area. The board shall contract with an appropriate entity for the provision of services, or, if all necessary waivers are granted, the board may provide the services directly.

(c) In performing its duties under this section, a board may provide to the division relevant labor market information and information regarding the availability of existing workforce development.

(d) A provider must respond to a change recommended by a board under Subsection (a)(6) not later than the 30th day after the date the provider receives the recommendation.

(e) A board shall educate the public about the plumbing profession and the resources available to employers for the recruitment and training of plumbers as provided by Section 1301.652, Occupations Code.

(f) These educational efforts may be conducted to the extent that the plumbing profession is designated as an occupation in demand by a board.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.81(a), eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 19.09(d), eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 401, Sec. 2, eff. Aug. 30, 1999; Acts 1999, 76th Leg., ch. 1472, Sec. 13, eff. Sept. 1, 1999; Acts 2003, 78th Leg., ch. 819, Sec. 28, eff. Sept. 1, 2003.

Sec. 2308.3035. COMPONENTS OF LOCAL WORKFORCE DEVELOPMENT SYSTEM. The local workforce development system is composed of two major components as follows:

(1) an employer services component that provides labor market information and services and other services as appropriate to local employers; and

(2) an integrated service delivery system composed of a network of career development centers that serve the people of this state based on a "one-stop for service" approach and supported by electronic access to comprehensive labor market information.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 19.18(a), eff. Sept. 1, 1997.

Sec. 2308.304. LOCAL PLAN. (a) A board shall adopt a single plan that includes the components specified in this section.

(b) The plan must include a strategic component that:

(1) assesses the labor market needs of the local workforce development area;

(2) identifies existing workforce development programs;

(3) evaluates the effectiveness of existing programs and services; and

(4) sets broad goals and objectives for all workforce development programs in the local area consistent with statewide goals, objectives, and performance standards.

(c) The plan must include an operational component that specifies how all of the resources available to the local workforce development area from the Texas Workforce Commission will be used to achieve the goals and objectives of the plan for the area. At a minimum, this component must establish:

(1) the goals, objectives, and performance measures to be used in overseeing and evaluating the operation of all workforce training and services;

(2) the segments of the population targeted for various services;

(3) the mix of services to be provided and how those services are to be provided; and

(4) the structure of the local service delivery system.

(d) Program resources included in the operational component are:

(1) job training programs funded under the Job Training Partnership Act (29 U.S.C. Section 1501 et seq.);

(2) postsecondary vocational and technical job training programs that are not part of approved courses or programs that lead to licensing, certification, or an associate degree under Chapters 61, 130, and 135, or Subchapter E, Chapter 88, Education Code;

(3) adult education programs under Subchapter H,

Chapter 29, Education Code;

(4) employment services programs;  
(5) literacy funds available to the state under the National Literacy Act of 1991 (20 U.S.C. Section 1201 et seq.);  
(6) the job opportunities and basic skills program under Part F, Subchapter IV, Social Security Act (42 U.S.C. Section 682); and  
(7) the food stamp employment and training program authorized under 7 U.S.C. Section 2015(d).

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.81(a), eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 19.16(a), eff. Sept. 1, 1997.

Sec. 2308.305. USE OF LABOR MARKET INFORMATION SYSTEM. A board shall review, verify, modify, and use local labor market information developed through the state's labor market information system to identify, by occupation, the labor demand by employers in each workforce development area.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.81(a), eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 19.17(a), eff. Sept. 1, 1997.

Sec. 2308.306. REPORT. A board shall periodically provide a report summarizing by occupation the labor demand to:

(1) each public postsecondary institution providing vocational and technical education; and

(2) each entity under contract to the board to provide workforce training and services in a workforce development area.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.81(a), eff. Sept. 1, 1995.

Sec. 2308.307. FILLING EDUCATIONAL NEEDS. (a) If a need in the availability of workforce education is indicated by the labor market information system provided by the board, by a direct request of employers located in the workforce area, or as the result of economic development incentives designed to attract or retain an employer, an institution may apply to the Texas Higher Education Coordinating Board for approval to offer the needed workforce education.

(b) An institution that desires to provide the needed workforce education must apply to the coordinating board not later than the 30th day after the date the need is identified.

(c) The coordinating board shall give immediate priority to the institution's application and shall notify the institution of the board's approval or disapproval not later than the 100th day after the date the application is received.

(d) If more than one institution in a workforce development area applies to provide the needed workforce education, the coordinating board shall select one or more institutions to offer the needed education as provided by Section 61.051, Education Code.

(e) If an institution approved by the coordinating board does not offer the approved workforce education in a timely manner, a board may solicit another qualified provider to apply to the coordinating board to provide needed education to be funded through state-appropriated formula funds.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.81(a), eff. Sept. 1, 1995.

Sec. 2308.308. PUBLIC COMMUNITY COLLEGE. A public community college shall promptly provide workforce training and services that are requested:

(1) by a board if the need for the training and services is based on the labor market information system available for the area;

(2) by employers located in the college's taxing district when the request is presented directly to the college by the employers or through the board; or

(3) as part of economic development incentives designed to attract or retain an employer, including incentives offered under the skills development fund program under Chapter 303, Labor Code.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.81(a), eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 19.17(b), eff. Sept. 1, 1997; Acts 2005, 79th Leg., ch. 1115, Sec. 7, eff. June 18, 2005.

Sec. 2308.309. INSTITUTION OF HIGHER EDUCATION. (a) An institution of higher education that has local taxing authority and is governed by a locally elected board of trustees is the primary provider of local workforce training and services that are needed

by an employer within the taxing district and funded fully or in part by local funds, except in Cameron, McLennan, and Potter counties, or by technical vocational funds administered by the Texas Higher Education Coordinating Board.

(b) A board shall select another qualified local or statewide provider if the local institution does not promptly provide locally needed workforce training and services. Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.81(a), eff. Sept. 1, 1995.

Sec. 2308.310. CERTAIN EDUCATIONAL SERVICES NOT PROHIBITED. This subchapter does not prohibit an institution of higher education from offering workforce education or workforce training and services that:

(1) are needed by an employer located in the institution's taxing district and that meet all applicable standards; or

(2) have been approved under applicable law and that are reviewed by the Texas Higher Education Coordinating Board.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.81(a), eff. Sept. 1, 1995.

Sec. 2308.311. LIST OF PUBLICLY FUNDED PROGRAMS AND CLASSES. (a) Each local education agency and public or private postsecondary educational institution shall provide the board in its area a list of all vocational-technical programs and classes the agency or institution offers that are funded by state or federal funds.

(b) A board, with the assistance of the labor demand occupation report, shall evaluate the supply of vocational-technical programs in relation to the demand for the programs and report any discrepancies between supply and demand to the appropriate educational institution, the Central Education Agency, the Texas Higher Education Coordinating Board, the council, and the Legislative Budget Board.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.81(a), eff. Sept. 1, 1995.

Sec. 2308.312. CAREER DEVELOPMENT CENTERS. (a) A board shall establish career development centers accessible to students, workers, and persons formerly sentenced to the institutional division or state jail division of the Texas Department of Criminal Justice throughout the workforce development area. The board shall establish the centers not later than the 180th day after the date the board is certified.

(b) Each center shall provide access to information and services available in the workforce development area, including employment services, and shall address the individual needs of students, workers, and persons formerly sentenced to the institutional division or state jail division.

(c) The services must include:

(1) labor market information, including:

(A) available job openings; and

(B) education and training opportunities in the local area, in the state, and, as feasible, in the nation;

(2) uniform eligibility requirements and application procedures for all workforce training and services;

(3) independent assessment of individual needs and the development of an individual service strategy;

(4) centralized and continuous case management and counseling;

(5) individual referral for services, including basic education, classroom skills training, on-the-job training, and customized training;

(6) support services, including child care assistance, student loans, and other forms of financial assistance required to participate in and complete training; and

(7) job training and employment assistance for persons formerly sentenced to the institutional division or state jail division, provided in cooperation with Project RIO.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.81(a), eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 19.18(b), eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 62, Sec. 8.23(a), eff. Sept. 1, 1999.

Sec. 2308.3121. SERVICE PROVIDER LIMITATION; WAIVER. (a) Except as provided by Subsection (b), a person who provides one-stop services may not also provide developmental services such as basic education and skills training.

(b) The division may develop a waiver process for a person subject to Subsection (a). A request for a waiver must include a detailed justification based on the lack of an existing qualified alternative for delivery of developmental services in the applicable workforce development area.  
Added by Acts 1997, 75th Leg., ch. 165, Sec. 19.18(c), eff. Sept. 1, 1997.

Sec. 2308.3122. UNEMPLOYMENT INSURANCE CLAIMS. In cooperation with the boards, the Texas Workforce Commission shall provide for the filing of unemployment insurance claims through career development centers in each local workforce development area.  
Added by Acts 1997, 75th Leg., ch. 165, Sec. 19.18(c), eff. Sept. 1, 1997.

Sec. 2308.313. RIGHT TO KNOW. A career development center shall provide to each person, before the person participates in a vocational or technical training program, a document that informs the person of:

- (1) current employment prospects;
- (2) the current wage level for a person who completes the vocational or technical training program in which the person is considering participating; and
- (3) the most recent information available on the performance of institutions that provide that training in the local workforce development area.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.81(a), eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 19.18(d), eff. Sept. 1, 1997.

Sec. 2308.314. TAX ASSISTANCE. (a) The Texas Workforce Commission may provide to individuals who participate in a workforce development program information on the federal earned income tax credit for working families. The commission may assist participants in preparing and filing federal income tax forms to ensure that a participant who is eligible to receive the tax credit obtains the tax credit. The commission may fulfill its duties under this subsection by:

- (1) working in conjunction with the Internal Revenue Service to make each workforce development center a volunteer income tax assistance site during the two months preceding the date federal income taxes are due; or

- (2) using specially trained staff or volunteers to assist in preparing and filing federal income tax forms.

(b) The Texas Workforce Commission may provide information on the federal earned income tax credit to an employer who hires a welfare recipient under a wage supplementation program.

(c) In addition to providing information under Subsection (a) to an individual who participates in a workforce development program, the Texas Workforce Commission may provide the information to any other person who uses services provided through a workforce development center.

(d) In this section:

- (1) "Wage supplementation program" means a program under which the state reserves all or part of the amounts that would be payable as benefits to welfare recipients and uses those amounts to provide and subsidize jobs for the recipients.

- (2) "Welfare recipient" means a person who receives financial assistance under Chapter 31, Human Resources Code, or food stamps under the food stamp program administered under Chapter 33, Human Resources Code.

Added by Acts 1997, 75th Leg., ch. 1321, Sec. 1, eff. Sept. 1, 1997.

Sec. 2308.315. REIMBURSEMENT RATES FOR CHILD CARE. Each board shall establish graduated reimbursement rates for child care based on the Texas Workforce Commission's designated vendor program. The minimum reimbursement rate for designated vendors must be at least five percent greater than the maximum rate established for nondesignated vendors for the same category of care. The designated vendor rate differential established in this section shall be funded with federal child care development funds dedicated to quality improvement activities.

Added by Acts 1999, 76th Leg., ch. 1576, Sec. 1, eff. Sept. 1, 1999.

Sec. 2308.316. FUNDING OF COMPETITIVE PROCUREMENT PROCESS FOR INFANT AND EARLY CHILDHOOD CHILD CARE. Each board shall allocate a portion of the board's federal child care development funds dedicated to quality improvement activities to a competitive procurement process for a system for quality child care for

children under four years of age that encourages child care providers to voluntarily meet the criteria of the Texas Workforce Commission's designated vendor program or national accreditation. In allocating funds under this section, special consideration shall be given to funding child care for children under four years of age in low-income communities. This section may not be interpreted to limit parental choice.

Added by Acts 1999, 76th Leg., ch. 1576, Sec. 1, eff. Sept. 1, 1999.

Sec. 2308.3165. SCOPE OF CHILD CARE SERVICES. In addition to other programs approved by a board or permitted by another law, a child who is otherwise eligible for child care services funded by a board is eligible to receive the services while the child is enrolled in a federal Head Start program or in after-school care provided at a school.

Added by Acts 2001, 77th Leg., ch. 1142, Sec. 1, eff. Sept. 1, 2001.

Sec. 2308.317. EXPENDITURES FOR CERTAIN CHILD CARE QUALITY IMPROVEMENT ACTIVITIES. (a) Notwithstanding any other law, the Texas Workforce Commission shall ensure that, to the extent federal child care development funds dedicated to quality improvement activities are used to improve quality and availability of child care, those funds are used only for quality child care programs.

(b) For purposes of this section, a quality child care program is a program that:

(1) promotes:

(A) the physical, social, emotional, and intellectual development of young children;

(B) frequent, positive, warm interactions appropriate to a child's age and development; and

(C) regular communication with parents who are welcomed by the program at all times to participate in activities and to observe, discuss, and recommend policies; and

(2) provides:

(A) a healthy, safe, and nurturing environment for young children;

(B) planned learning activities appropriate to a child's age and development;

(C) specially trained child care providers;

(D) a sufficient number of adults to respond to the needs of each child;

(E) a variety of age-appropriate materials;

(F) nutritious meals and snacks;

(G) an effective program administration; and

(H) an ongoing, systematic evaluation process for the program.

Added by Acts 2001, 77th Leg., ch. 1517, Sec. 1, eff. Sept. 1, 2001.

Sec. 2308.318. MATCHING FUNDS FOR CHILD CARE SERVICES. For purposes of obtaining federal matching funds for child care services, including after-school care provided at a school or a federal Head Start program, a board shall use money and in-kind services provided by a local school district or local education agency for those services to the extent permitted by federal law.

Added by Acts 2001, 77th Leg., ch. 667, Sec. 1, eff. June 13, 2001. Renumbered from V.T.C.A., Government Code Sec. 2308.317 by Acts 2003, 78th Leg., ch. 1275, Sec. 2(89), eff. Sept. 1, 2003.

Sec. 2308.319. COLLABORATIVE READING INITIATIVES. The commission shall encourage each local workforce development board to raise an amount of local funds in excess of the amount required to meet performance measures to be used to support collaborative reading initiatives.

Acts 2003, 78th Leg., ch. 817, Sec. 4.03, eff. Sept. 1, 2003.

#### SUBCHAPTER H. SKILL STANDARDS BOARD

Sec. 2308.401. TEXAS SKILL STANDARDS BOARD. (a) The Texas Skill Standards Board is an advisory board to the governor and the legislature on the development of a statewide system of industry-defined and industry-recognized skill standards and credentials for all major skilled occupations that:

(1) provide strong employment and earnings opportunities in this state; and

(2) require less than a baccalaureate degree.

(b) The skill standards board is composed of 11 members appointed by and serving at the pleasure of the governor. The skill standards board consists of the following members:

(1) seven members who represent business, two of whom must be from business entities that employ fewer than 50 employees;

(2) two members who represent labor;

(3) one member who represents secondary education;  
and

(4) one member who represents postsecondary education.

(c) The governor shall appoint the presiding officer of the skill standards board from the members who represent business. The skill standards board shall meet at the call of the presiding officer as often as necessary to accomplish its duties.

(d) A member of the skill standards board is not entitled to compensation for service on the board but is entitled to reimbursement for reasonable expenses incurred in performing duties as a member of the board, subject to any applicable limitation in the General Appropriations Act.

(e) Chapter 2110 does not apply to the skill standards board.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 19.19(a), eff. Sept. 1, 1997.

Sec. 2308.402. DUTIES OF SKILL STANDARDS BOARD. (a) The skill standards board shall:

(1) validate and recognize nationally established skill standards to guide curriculum development, training, assessment, and certification of workforce skills;

(2) convene industry groups to develop skill standards and certification procedures for industries and occupations in which standards have not been established or adopted and recognize the skill standards and certification procedures;

(3) review the standards developed by other states and foreign countries and enter into agreements for mutual recognition of standards and credentials to enhance portability of skills; and

(4) promote the use of standards and credentials among employers.

(b) The skill standards board shall:

(1) report periodically to the governor; and

(2) provide annual reports to the governor, the division, and the legislature.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 19.19(a), eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 1472, Sec. 14, eff. Sept. 1, 1999.

Sec. 2308.403. STAFF SUPPORT. The council shall provide staff support for the Texas Skill Standards Board as necessary.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 19.19(a), eff. Sept. 1, 1997.