



INTEROFFICE MEMO

Gary Grief, Executive Director LaDonna Castañuela, Charitable Bingo Operations Director

To: Robert G. Rivera, Chairman
Cindy Fields, Commissioner
Mark A. Franz, Commissioner
Erik C. Saenz, Commissioner
Jamey Steen, Commissioner

From: Deanne Rienstra, Special Counsel *DR*

Date: December 16, 2021

Re: Consideration of and possible discussion and/or action, including adoption, on new 16 TAC §403.701 (Family Leave Pool)

Attached is a draft new rule prepared for submission to the *Texas Register* to adopt the above referenced rule without changes to the proposed text as published in the November 5, 2021 issue of the *Texas Register* (46 TexReg 7491) (also attached).

The new rule implements House Bill (H.B.) 2063 enacted by the 87th Texas Legislature, which amended Texas Government Code Chapter 661 by adding new Subchapter A-1 to require each state agency to create and administer an employee family leave pool. According to this new statute, the governing body of each state agency is required to adopt rules and implement procedures relating to the operation of the agency's family leave pool.

The new rule sets forth the purpose of the family leave pool, designates a pool administrator and requires the development and implementation of operating procedures consistent with H.B. 2063.

The Commission received no written comments on the proposed new rule during the public comment period.

Recommendation: Staff recommends that the Commission adopt the new rule.

1 The Texas Lottery Commission (Commission) adopts new 16 TAC §403.701 (Family
2 Leave Pool) without changes to the proposed text as published in the November 5, 2021 issue of
3 the *Texas Register* (46 TexReg 7491). The new rule implements House Bill (H.B.) 2063 enacted
4 by the 87th Texas Legislature, which amended Government Code Chapter 661 by adding new
5 Subchapter A-1 to require each state agency to create and administer an employee family leave
6 pool. According to this new statute, the governing body of each state agency is required to adopt
7 rules and implement procedures relating to the operation of the Commission's family leave pool.

8 The new rule sets forth the purpose of the family leave pool, designates a pool administrator
9 and requires the development and implementation of operating procedures consistent with the H.B.
10 2063.

11 The Commission received no written comments on the proposed new rule during the public
12 comment period.

13 The new rule is adopted under the authority of Texas Government Code §661.022, which
14 requires the Commission to adopt rules to create and administer an employee family leave pool.
15 §403.701. Family Leave Pool.

16 A family leave pool is established to provide eligible employees more flexibility in bonding and
17 caring for children during a child's first year following birth, adoption, or foster placement, and
18 caring for a seriously ill family member or the employee, including pandemic-related illnesses or
19 complications caused by a pandemic.

20 (1) The Executive Director of the Commission is designated as the pool administrator and
21 may delegate duties to the Human Resources Director as needed.

1 (2) The Human Resources Director, with the advice and consent of the Executive Director,
2 will establish operating procedures consistent with the requirements of this section and relevant
3 law governing operation of the pool.

4 (3) Donations to the pool are strictly voluntary.

DRAFT

TRD-202104286
Bob Biard
General Counsel
Texas Lottery Commission
Earliest possible date of adoption: December 5, 2021
For further information, please call: (512) 344-5392



SUBCHAPTER G. COMPLIANCE AND ENFORCEMENT

16 TAC §402.702

The amendments are proposed under Texas Occupations Code §2001.054, which authorizes the Commission to adopt rules to enforce and administer the Bingo Enabling Act; and Texas Government Code §467.102, which authorizes the Commission to adopt rules for the laws under the Commission's jurisdiction.

This proposal is intended to implement Texas Occupations Code Chapter 2001.

§402.702. Disqualifying Convictions.

(a) - (h) (No change.)

(i) Upon notification of the Commission's intent to deny a new or renewal application or registry listing, an applicant may provide documentation of mitigating factors that the applicant would like the Commission to consider regarding its application. Such documentation must be provided to the Commission no later than 30 [20] days after the Commission provides notice to an applicant of a denial, unless the deadline is extended in writing or through e-mail by authorized Commission staff.

(j) - (l) (No change.)

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on October 25, 2021.

TRD-202104287
Bob Biard
General Counsel
Texas Lottery Commission
Earliest possible date of adoption: December 5, 2021
For further information, please call: (512) 344-5392



CHAPTER 403. GENERAL ADMINISTRATION

16 TAC §403.701

The Texas Lottery Commission (Commission) proposes new 16 TAC §403.701 (Family Leave Pool). The 87th Texas Legislature enacted House Bill (H.B.) 2063, which amended Government Code Chapter 661 by adding new Subchapter A-1 to require each state agency to create and administer an employee family leave pool. According to this new statute, the governing body of each state agency is required to adopt rules and implement procedures relating to the operation of the Commission's family leave pool.

The proposed new rule would set forth the purpose of the family leave pool, designate a pool administrator and require the devel-

opment and implementation of operating procedures consistent with the H.B. 2063.

Kathy Pyka, Controller, has determined that for each year of the first five years the new rule will be in effect, there will be no significant fiscal impact for state or local governments as a result of the proposed new rule. There will be no adverse effect on small businesses or rural communities, micro businesses, or local or state employment. There will be no additional economic cost to persons required to comply with the new rule as proposed. Furthermore, an Economic Impact Statement and Regulatory Flexibility Analysis is not required because the proposed new rule will not have an adverse economic effect on small businesses or rural communities as defined in Texas Government Code §2006.001(1-a) and (2).

Jan Thomas, Human Resources Director, has determined that for each year of the first five years the proposed new rule will be in effect, the public benefit anticipated as a result of enforcing or administering the proposed rule will be aligning the Commission's rules with the directive of the Texas Legislature to provide eligible employees greater flexibility in caring for children during a child's first year following birth, adoption, or foster placement, and for a seriously ill family member or the employee, including pandemic-related illnesses or complications caused by a pandemic.

Pursuant to Texas Government Code §2001.0221, the Commission provides the following Government Growth Impact Statement for the proposed new rule. For each year of the first five years the proposed new rule will be in effect, Kathy Pyka, Controller, has determined the following:

- (1) The proposed new rule does not create or eliminate a government program.
- (2) Implementation of the proposed new rule does not require the creation of new employee positions or the elimination of existing employee positions.
- (3) Implementation of the proposed new rule does not require an increase or decrease in future legislative appropriations to the Commission.
- (4) The proposed new rule does not require an increase or decrease in fees paid to the Commission.
- (5) The proposed new rule does not create a new regulation.
- (6) The proposed new rule does not expand or limit an existing regulation.
- (7) The proposed new rule does not increase or decrease the number of individuals subject to the rule's applicability.
- (8) The proposed new rule does not positively or adversely affect this state's economy.

The Commission requests comments on the proposed new rule from any interested person. Comments may be submitted to Deanne Rienstra, Special Counsel, by mail at Texas Lottery Commission, P.O. Box 16630, Austin, Texas 78761-6630; by facsimile at (512) 344-5189; or by email at legal.input@lottery.state.tx.us. Comments must be received within 30 days after publication of this proposal in the *Texas Register* in order to be considered.

The new rule is proposed under the authority of Texas Government Code §661.022, which requires the Commission to adopt rules to create and administer an employee family leave pool.

This proposal is intended to implement Texas Government Code Chapter 661.

§403.701. Family Leave Pool.

A family leave pool is established to provide eligible employees more flexibility in bonding and caring for children during a child's first year following birth, adoption, or foster placement, and caring for a seriously ill family member or the employee, including pandemic-related illnesses or complications caused by a pandemic.

(1) The Executive Director of the Commission is designated as the pool administrator and may delegate duties to the Human Resources Director as needed.

(2) The Human Resources Director, with the advice and consent of the Executive Director, will establish operating procedures consistent with the requirements of this section and relevant law governing operation of the pool.

(3) Donations to the pool are strictly voluntary.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on October 22, 2021.

TRD-202104274

Bob Biard

General Counsel

Texas Lottery Commission

Earliest possible date of adoption: December 5, 2021

For further information, please call: (512) 344-5324



TITLE 19. EDUCATION

PART 1. TEXAS HIGHER EDUCATION COORDINATING BOARD

CHAPTER 4. RULES APPLYING TO ALL PUBLIC INSTITUTIONS OF HIGHER EDUCATION IN TEXAS

SUBCHAPTER Q. APPROVAL OF OFF-CAMPUS AND SELF-SUPPORTING COURSES AND PROGRAMS FOR PUBLIC INSTITUTIONS

19 TAC §4.278

The Texas Higher Education Coordinating Board (Coordinating Board) proposes amendments to Texas Administrative Code, Title 19, Part 1, Chapter 4, Subchapter Q, §4.278, concerning Functions of Regional Councils. Specifically, this amendment will align Texas Administrative Code rule with statutory changes regarding the role of higher education regional councils in relation to the approval of off-campus workforce education or lower-division programs offered by a public institution of higher education at the request of an employer.

The proposed amendments to the Texas Administrative Code implement newly adopted Texas Education Code Section 51.981, Subchapter Z, by House Bill 4361 (87R). Texas Edu-

cation Code Section 61.0512(g) authorizes the Coordinating Board to approve courses for credit and distance education programs, including off-campus and self-supporting programs.

Dr. Stacey Silverman, Assistant Commissioner for Academic and Health Affairs, has determined that for each of the first five years the sections are in effect there would be no fiscal implications for state or local governments as a result of enforcing or administering the rules. There are no estimated reductions in costs to the state and to local governments as a result of enforcing or administering the rule. There are no estimated losses or increases in revenue to the state or to local governments as a result of enforcing or administering the rule.

There is no impact on small businesses, micro businesses, and rural communities. There is no anticipated impact on local employment.

Dr. Stacey Silverman, Assistant Commissioner for Academic and Health Affairs, has also determined that for each year of the first five years the section is in effect, the public benefit anticipated as a result of administering the section will be the alignment of Texas Administrative Code rule with statutory changes regarding the role of higher education regional councils in relation to the approval of off-campus workforce education or lower-division programs offered by a public institution of higher education at the request of an employer. There are no anticipated economic costs to persons who are required to comply with the sections as proposed.

Government Growth Impact Statement

- (1) the rules will not create or eliminate a government program;
- (2) implementation of the rules will not require the creation or elimination of employee positions;
- (3) implementation of the rules will not require an increase or decrease in future legislative appropriations to the agency;
- (4) the rules will not require an increase or decrease in fees paid to the agency;
- (5) the rules will not create a new rule;
- (6) the rules will limit an existing rule;
- (7) the rules will not change the number of individuals subject to the rule; and
- (8) the rules will not affect this state's economy.

Comments on the proposal may be submitted to Dr. Stacey Silverman, Assistant Commissioner for Academic and Health Affairs, P.O. Box 12788, Austin, Texas 78711-2788, or via email at RuleComments@highered.texas.gov. Comments will be accepted for 30 days following publication of the proposal in the *Texas Register*.

The amendment is proposed under Texas Education Code, Section 61.0512(g), which provides the Coordinating Board with the authority to approve courses for credit and distance education programs, including off-campus and self-supporting programs, and Texas Education Code, Section 51.981, which authorizes an institution of higher education to offer certain workforce education and lower-division programs requested by employers without approval of a higher education regional council.

The proposed amendment affects Texas Education Code, Chapter 51, Subchapter N.

§4.278. Functions of Regional Councils.