

**PROJECT NO. 46564**

<b>PUC RULEMAKING PROCEEDING</b>	<b>§</b>	<b>PUBLIC UTILITY COMMISSION</b>
<b>RELATED TO COMMISSION</b>	<b>§</b>	
<b>EMPLOYEE TRAINING AND</b>	<b>§</b>	<b>OF TEXAS</b>
<b>EDUCATION</b>	<b>§</b>	

**PROPOSAL FOR PUBLICATION OF NEW §27.21  
AS APPROVED AT THE DECEMBER 1, 2016 OPEN MEETING**

The Public Utility Commission of Texas (commission) proposes new §27.21, relating to commission employee training. The proposed new section will bring the commission into compliance with amendments to the State Employees Training Act, Texas Government Code §§656.041–656.104, made by the 84th Legislature. Specifically, House Bill No. 3337 (HB 3337) amended the State Employees Training Act to clarify that a state agency may only pay the tuition of an employee for successful completion of a training program offered by an institution of higher education and required state agencies to adopt rules requiring that the executive head of the agency must authorize any tuition reimbursement payment. Project Number 46564 is assigned to this proceeding.

Kasey Feldman, General Counsel, has determined that for each year of the first five-year period the proposed section is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the section.

Ms. Feldman has determined that for each year of the first five years the proposed section is in effect the public benefit anticipated as a result of enforcing the section will be to ensure compliance with HB 3337 and provide safeguards to ensure the proper use of state funds. There

will be no adverse economic effect on small businesses or micro-businesses as a result of enforcing this section. Therefore, no regulatory flexibility analysis is required. There is no anticipated economic cost to persons who are required to comply with the section as proposed.

Ms. Feldman has also determined that for each year of the first five years the proposed section is in effect there should be no effect on a local economy, and therefore no local employment impact statement is required under Administrative Procedure Act (APA), Texas Government Code §2001.022.

The commission staff will conduct a public hearing on this rulemaking, if requested pursuant to the Administrative Procedure Act, Texas Government Code §2001.029, at the commission's offices located in the William B. Travis Building, 1701 North Congress Avenue, Austin, Texas 78701 on January 30, 2017. The request for a public hearing must be received within 30 days after publication.

Comments on the proposed new section may be filed with the commission's Filing Clerk at 1701 North Congress Avenue, Austin, Texas or mailed to P.O. Box 13326, Austin, TX 78711-3326, within 30 days after publication. Sixteen copies of comments to the proposed amendment are required to be filed pursuant to §22.71(c) of this title. Comments should be organized in a manner consistent with the organization of the proposed rule. The commission invites specific comments regarding the costs associated with, and benefits that will be gained by, implementation of the proposed section. The commission will consider the costs and benefits in deciding whether to adopt the section. All comments should refer to Project Number 46564.

This new section is proposed under the Public Utility Regulatory Act, Texas Utilities Code Annotated §14.002 (West 2007 and Supp. 2015) (PURA), which provides the Public Utility Commission with the authority to make and enforce rules reasonably required in the exercise of its powers and jurisdiction; and the State Employees Training Act, Texas Government Code Annotated §656.048 (West 2015), which requires the commission to adopt rules relating to the eligibility of the commissioners and commission employees for training and education supported by the commission, and the obligations assumed by the commissioners and commission employees on receiving the training and education.

Cross Reference to Statutes: Public Utility Regulatory Act §14.002, Texas Government Code §§656.041–656.104.

**§27.21. Commission Employee Training.**

- (a) “Training,” as used in this section, means instruction, teaching, or other education received by a commission employee that is not normally received by all commission employees and that is designed to enhance the ability of the employee to perform the employee’s job. The term includes a course of study at an institution of higher education, as defined by Texas Education Code §61.003(8), if the commission spends money to assist the employee to meet the expense of the course of study or pays salary to the employee to undertake the course of study as an assigned duty. The term does not include instruction, teaching, or other education that is required either by state or federal law or that is determined necessary by the commission and offered to all commission employees performing similar jobs.
- (b) The commission may make public funds available to its employees for training in accordance with the State Employees Training Act, Texas Government Code §§656.041 – 656.104. The State Employees Training Act allows the commission to spend public funds to pay the salary, tuition and other fees, travel and living expenses, training stipend, expense of training materials, and other necessary expenses of an instructor, student, or other participant in a training program.
- (c) Training paid for, in part or in whole, by the commission, or training undertaken by an employee of the commission as an assigned duty must be related to the duties or prospective duties of the employee.

- (d) Employees may be required to complete training related to the employee's duties or prospective duties.
- (e) Requirements for eligibility and participation in training shall be in accordance with this section and the commission's current employee handbook.
- (f) Permission to participate in training, including commission-sponsored training, shall not in any way affect an employee's at-will status or constitute a guarantee of continued employment, nor shall it constitute a guarantee or indication of future employment in a prospective position.
- (g) Permission to participate in any training may be denied or withdrawn at the discretion of the commission's executive director for any reason, including, but not limited to, a determination that participation may negatively impact the employee's job duties or performance.
- (h) Permission to participate in any training may be contingent upon reasonable requirements set in writing in advance by the employee's supervisor. If pre-determined requirements are not met:
  - (1) Permission to participate or continue participating in the training may be denied or withdrawn; and/or

- (2) The employee may be, at the discretion of the commission's executive director, required to repay the commission any amounts paid toward the training.
  
- (i) For an authorized training program offered by an institution of higher education or a private or independent institution of higher education:
  - (1) the commission shall only reimburse the tuition expenses for a program course(s) successfully completed by the employee at an accredited institution of higher education (including online courses or courses not credited towards a degree); and
  - (2) the commission's executive director must authorize the tuition reimbursement payment before the employee may be reimbursed.
  
- (j) An employee who does not perform the employee's regular duties for three or more months as a result of training paid for by the commission must:
  - (1) work for the commission following the training for at least one month for each month of the training period; or
  - (2) repay the commission for all the costs associated with the training that were paid during the training period, including any amounts of the employee's salary that were paid for time spent on training and were not accounted for as paid vacation or compensatory leave, and any reasonable expenses the commission incurs in obtaining restitution, including reasonable attorney's fees.
  
- (k) The commission's executive director may require an employee who requests full or partial payment or reimbursement of tuition for training necessary to obtain a degree or

certification to agree in writing before payment or reimbursement is made to pay the commission for any amounts paid if the employee voluntarily leaves employment with the commission within one year after the training is completed.

- (1) Amounts paid by the commission shall be prorated to credit any full calendar month of employment following completion of the training.
  - (2) This subsection only applies to an employee to whom subsection (j) of this section does not apply because the employee either continued to perform the employee's regular duties during training or did not perform the employee's regular duties for a period of time during training that was less than three months.
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- (l) The commission may waive the requirements prescribed under subsection (j) of this section by an order adopted in a public meeting if the commission finds that such action is in the best interest of the commission or is warranted because of an extreme personal hardship suffered by the employee.
  - (m) Before an employee receives training that will be paid for by the commission and during which the employee will not be performing the employee's regular duties for three months or more, the employee must agree in writing to comply with the requirements prescribed under subsection (j) of this section.
  - (n) All materials received by an employee through commission-funded training are the property of the commission.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

**ISSUED IN AUSTIN, TEXAS ON THE 1<sup>st</sup> DAY OF DECEMBER 2016 BY THE  
PUBLIC UTILITY COMMISSION OF TEXAS  
ADRIANA A. GONZALES**