

TITLE 22 EXAMINING BOARDS
Part 10 Texas Funeral Service Commission
Chapter 201 Licensing & Enforcement – Practice and Procedure

The Texas Funeral Service Commission (Commission) proposes to amend Title 22 Texas Administrative Code, Part 10, Chapter 201 – Practice and Procedure by adding a new rule 201.18 – Agency Staff Training and Education

The Commission is proposing this rule because the State Employee Training Act (Texas Government Code Chapter 656 Subchapter C) sets out requirements for state agencies to adopt rules regarding training and education for state employees.

FISCAL NOTE: Janice McCoy, Executive Director, has determined for the first five-year period the new chapter is in effect there will be no fiscal implication for state or local governments, or local economies.

PUBLIC BENEFIT/COST NOTE. Ms. McCoy has determined that, for each year of the first five years the proposed new rule will be in effect, the public benefit is compliance with state law regarding state employee training. There will not be any economic cost to any individuals required to comply with the proposed new rule and there is no anticipated negative impact on local employment because the rule impacts how the Commission offers training and education to its employees.

ADVERSE IMPACT ON SMALL OR MICRO-BUSINESSES OR RURAL COMMUNITIES. The agency has determined that there will be no economic effect on small or micro-businesses or rural communities because the rule impacts how the Commission offers training and education to its employees.

GOVERNMENT GROWTH IMPACT STATEMENT. Ms. McCoy also has determined that, for the first five years a rule would be in effect: 1. The proposed rule does not create or eliminate a government program; 2. The proposed rule will not require a change in the number of employees of the agency; 3. The proposed rule will not require additional future legislative appropriations; 4. The proposed rule will not require an increase in fees paid to the agency; 5. The proposed rule will not create a new regulation; 6. The proposed rule will not expand, limit, or repeal an existing regulation; 7. The proposed rule will not increase or decrease the number of individuals subject to the rule's applicability; and 8. The proposed rule will neither positively nor negatively affect this state's economy because no new fees are imposed. This rule impacts how the Commission offers training and education to its employees.

ONE-FOR-ONE REQUIREMENT FOR RULES WITH A FISCAL IMPACT. Under Government Code §2001.0045, a state agency may not adopt a proposed rule if the fiscal note states that the rule imposes a cost on regulated persons, including another state agency, a special district, or a local government, unless the state agency: (a) repeals a rule that imposes a total cost on regulated persons that is equal to or greater than the total cost imposed on regulated persons by the proposed rule; or (b) amends a rule to decrease the total cost imposed on regulated persons by an amount that is equal to or greater than the cost imposed on the persons by the rule. There are exceptions

for certain types of rules under §2001.0045(c). The proposed new rule does not have a fiscal note that imposes a cost on regulated persons, including another state agency, a special district, or a local government because the rule only impacts how the Commission offers training and education to its employees. Therefore, the agency is not required to take any further action under Government Code §2001.0045(c).

The agency has determined Chapter 2007 of the Texas Government Code does not apply to this proposal. Accordingly, the agency is not required to complete a takings impact assessment regarding this proposal.

Comments on the proposal may be submitted in writing to Mr. Kyle Smith at PO Box 12217, Capitol Station, Austin, Texas 78711-1440, 512-479-5064 (fax) or electronically to info@tfsc.texas.gov. Comments must be received no later than thirty (30) days from the date of publication of this proposal.

This proposal is made pursuant to Texas Occupations Code §651.152, which authorizes the Texas Funeral Service Commission to adopt rules considered necessary for carrying out the Commission's work, and Texas Government Code §656.048, which requires the agency to adopt rules regarding training offered to state employees.

No other statutes, articles, or codes are affected by this section.

§201.18 Agency Staff Training & Education

(a) In accordance with the State Employee Training Act, Commission staff may be permitted or required to attend training or education programs if those programs are related to the employee's duties or prospective duties, and the training materially aids effective administration of the Cemetery and Crematory Services, Funeral Directing, and Embalming Act or Commission rules and serves an important purpose.

(b) The Commission's Executive Director shall be eligible to attend training and education programs, and shall determine which other employees will be permitted or required to attend training or education programs.

(c) Employees who receive training or education must utilize the training or educational opportunity to prepare for technological and legal developments facing the Commission, or to increase their work capabilities or competence.

(d) An employee, prior to receiving training or education for three or more months, during which the employee does not perform his or her regular duties, must enter into a written agreement with the Commission to comply with the requirements of Tex. Gov't Code §656.103(a)(1). Employees who fail or refuse to enter into such an agreement shall not be permitted to attend training or educational programs lasting three or more months.

(e) The Commission shall pay the costs and expenses related to approved training or educational programs in accordance with the State Employee Training Act, the Comptroller's rules and regulations, and the Commission's own policies relating to employee reimbursement.

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