

**TO:** Board Members

**THROUGH:** Jeff Walker, Executive Administrator  
Amanda Lavin, Assistant Executive Administrator  
Todd Chenoweth, Interim General Counsel  
Edna Jackson, Deputy Executive Administrator, Operations and Administration

**FROM:** LaDawn Gray, Director, Human Resources

**DATE:** November 3, 2016

**SUBJECT:** Rules concerning agency-funded employee training and education.

## **ACTION REQUESTED**

Consider authorizing the adoption of amendments to 31 TAC §353.31, concerning agency-funded employee training, and authorize publication of the proposed repeal of 31 TAC §353.32 and §353.33, which are being consolidated into the amended §353.31.

## **BACKGROUND**

Texas Government Code Chapter 656 requires state agencies to adopt rules requiring that the executive head of an agency authorize tuition reimbursement payments under Texas Government Code §656.047(b).

This section of the Texas Government Code was newly established through House Bill 3337 of the 84<sup>th</sup> Legislature, Regular Session (2015).

The proposed rulemaking has been posted in the advance Texas Register Viewer and is available for viewing online. The rulemaking was published October 7, 2016. The comment period ends November 6, 2016.

## **KEY ISSUES**

The proposed rulemaking would incorporate the statutory requirement that the executive administrator approve tuition reimbursement for courses offered by an accredited

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institution of higher education. The amendments describe eligibility for employee training and types of training available and outline obligations assumed by administrators and employees after completing an education or training program.

Existing 31 TAC §353.32 and §353.33 are being proposed for repeal, and the language from those rules is being consolidated into a single rule, the amended 31 TAC §353.31.

**RECOMMENDATION**

Authorize adoption of amendments to 31 TAC §353.31, and authorize adoption of the proposed repeal of 31 TAC §353.32 and §353.33, which are being consolidated into the amended §353.31.

Attachment(s):

- Preamble Chapter 353 Amendments
- Preamble Chapter 353 Section Repeal
- Texas Government Code §656.048

The Texas Water Development Board (TWDB) adopts amendments to 31 Texas Administrative Code (TAC) §353.31 as published in the October 7, 2016 issue of the *Texas Register* (41 TexReg 8054). Existing 31 TAC §§353.32 and 353.33 are being consolidated into the amended §353.31 and are repealed elsewhere in this issue of the Texas Register.

## BACKGROUND AND SUMMARY OF THE FACTUAL ISSUES FOR THE AMENDED RULES.

The amendments update the TWDB rule regarding agency-funded employee training and education in compliance with Texas Government Code Chapter 656, Subchapters C and D, and consolidate three rules into a single rule. Texas Government Code Chapter 656 requires state agencies to adopt rules requiring that the executive head of an agency authorize tuition reimbursement payments for courses offered by an accredited institution of higher education.

## SECTION BY SECTION DISCUSSION OF THE ADOPTED AMENDMENTS.

### *Subchapter B. Employee Training and Education.*

#### *Section 353.31 Agency-Funded Employee Training and Education.*

The section name is revised to Agency-Funded Training and Education to reflect the consolidation of §353.32 and §353.33 into the amended §353.31.

The term “training” is defined using the statutory definition in Texas Government Code §656.101.

Employee eligibility for training and the types of job-related training are described.

The requirements for obtaining reimbursement for a course offered by an accredited institution of higher education are outlined, including the requirement that tuition reimbursement be approved by the executive administrator.

Obligations assumed by administrators and employees after completing an education or training program are outlined.

## REGULATORY IMPACT ANALYSIS.

The board reviewed the amendments in light of the regulatory analysis requirements of Texas Government Code §2001.0225 and determined that the rulemaking is not subject to Texas Government Code §2001.0225 because the amendments do not meet the definition of a "major environmental rule" as defined in the Administrative Procedure Act. A "major environmental rule" is defined as a rule with the specific intent to protect the environment or reduce risks to human health from environmental exposure, a rule that may adversely affect in a material way the economy or a sector of the economy, productivity, competition, jobs, the environment, or the public health and safety of the state or a sector of the state. The intent of the rulemaking is to update the board's policies regarding agency-funded employee training and education.

Even if the rulemaking was a major environmental rule, Texas Government Code §2001.0225 still would not apply to this rulemaking because Texas Government Code §2001.0225 only applies to a major environmental rule the result of which is to: 1) exceed a standard set by federal law, unless the rule is specifically required by state law; 2) exceed an express requirement of state law, unless the rule is specifically required by federal law; 3) exceed a requirement of a delegation agreement or contract between the state and an agency or representative of the federal government to implement a state and federal program; or 4) adopt a rule solely under the general powers of the agency instead of under a specific state law. This rulemaking does not meet any of these four applicability criteria because it: 1) does not exceed any standard set by a federal law; 2) does not exceed an express requirement of state law; 3) does not exceed a requirement of a delegation agreement or contract between the state and an agency or representative of the federal government to implement a state and federal program; and 4) is not proposed solely under the general powers of the agency, but rather is also proposed under authority of Texas Water Code §6.101 and Texas Government Code §656.048. Therefore, these amendments do not fall under any of the applicable criteria in Texas Government Code §2001.0225.

#### TAKINGS IMPACT ASSESSMENT.

The board evaluated the amendments and performed an analysis of whether they constitute a taking under Texas Government Code Chapter 2007. The specific purpose of these amendments is to update board policies regarding agency-funded employee training and education.

The board's analysis indicates that Texas Government Code Chapter 2007 does not apply to the amendments because this rulemaking is an action that is reasonably taken to fulfill an obligation mandated by state law, which is exempt under Texas Government Code §2007.003(b)(4). Nevertheless, the board further evaluated the amendments and performed an assessment of whether they constitute a taking under Texas Government Code Chapter 2007. Promulgation and enforcement of these amendments would be neither a statutory nor a constitutional taking of private real property. Specifically, the subject amendments do not affect a landowner's rights in private real property because this rulemaking does not burden or restrict or limit the owner's right to property and reduce its value by 25% or more beyond that which would otherwise exist in the absence of the regulation. Therefore, the amendments do not constitute a taking under Texas Government Code Chapter 2007.

#### PUBLIC COMMENT.

The proposed amendments were open for public comment, and the comment period ended on November 7, 2016. No comments were received, and no changes to the proposed amendments have been made.

#### STATUTORY AUTHORITY.

These amendments are adopted under Texas Water Code §6.101, which gives the TWDB authority to adopt rules, and Texas Government Code §656.048, which requires the TWDB to adopt rules relating to employee eligibility for training and education funded by the agency, the

obligations of employees upon receiving the training and education, and a requirement that the executive administrator authorize tuition reimbursement payments.

Cross reference to statute: Texas Water Code §6.101, Texas Government Code §656.048

<rule>

§353.31. [Purpose of]Agency-Funded Employee Training and Education.

(a) The agency may use state funds, when available, to provide training or education for its administrators and full- or part-time employees, including 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 or education program. The training must be related to the duties or prospective duties of the administrator or employee.

(b) "Training" as used in this rule means instruction, teaching, or other education received by a state employee that is not normally received by other state 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 or a private or independent institution of higher education as defined by Section 61.003, Education Code, if the agency spends money to assist the state 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 training required either by state or federal law or that is determined necessary by the agency and offered to all employees of the agency performing similar jobs.

(c) All administrators and active employees are eligible to participate in job-related training or education programs supported by the agency, including training inside or outside the agency, seminars and conferences, college and university coursework and online training.

(d) When an administrator or employee seeks reimbursement for a training or education program offered by an institution of higher education, the agency may only reimburse the tuition expenses for a program course successfully completed by an employee at an accredited institution of higher education. Reimbursement for such program courses requires the approval of the executive administrator.

(e) After completing an education or training program sponsored by the agency, an administrator or employee will be required, if applicable, to:

(1) Discuss information obtained and share materials with other agency employees, to the extent that sharing does not violate copyright laws;

(2) Assume additional job duties for which the training or education program prepared the employee; and/or

(3) Conduct training for other department employees based on the information or skills taught at the training or education program.

(f) The executive administrator will adopt policies and procedures to obtain training and/or education for administrators and employees that include eligibility requirements and procedures for reimbursement that are in conformity[conformance] with these rules and Texas Government Code Chapter 656, Subchapters C and D.[Chapter 656 of the Texas Government Code.]

The Texas Water Development Board (TWDB) adopts the repeal of 31 Texas Administrative Code (TAC) §§353.32 and 353.33 as published in the October 7, 2016 issue of the *Texas Register* (41 TexReg 8056).

## BACKGROUND AND SUMMARY OF THE FACTUAL BASIS FOR THE ADOPTED REPEALS.

The TWDB adopts the repeal of §§353.32 and 353.33 because both sections have been incorporated into amendments to 31 TAC §353.31 being adopted elsewhere in this issue of the Texas Register.

## SECTION BY SECTION DISCUSSION OF THE ADOPTED REPEALS.

31 TAC §353.32, relating to eligibility for training and education, and §353.33, relating to eligible expenses of a training or education program, are being repealed because they are incorporated in amendments to 31 TAC §353.31.

## REGULATORY IMPACT ANALYSIS.

The board reviewed the adopted repeals in light of the regulatory analysis requirements of Texas Government Code §2001.0225 and determined that the repeals are not subject to Texas Government Code §2001.0225 because they do not meet the definition of a "major environmental rule" as defined in the Administrative Procedure Act. A "major environmental rule" is defined as a rule with the specific intent to protect the environment or reduce risks to human health from environmental exposure, a rule that may adversely affect in a material way the economy or a sector of the economy, productivity, competition, jobs, the environment, or the public health and safety of the state or a sector of the state. The intent of these repeals is to update the board's policies regarding agency-funded employee training and education.

Even if the adopted repeals affected a major environmental rule, Texas Government Code §2001.0225 still would not apply to this rulemaking because Texas Government Code §2001.0225 only applies to a major environmental rule the result of which is to: 1) exceed a standard set by federal law, unless the rule is specifically required by state law; 2) exceed an express requirement of state law, unless the rule is specifically required by federal law; 3) exceed a requirement of a delegation agreement or contract between the state and an agency or representative of the federal government to implement a state and federal program; or 4) adopt a rule solely under the general powers of the agency instead of under a specific state law. This rulemaking does not meet any of these four applicability criteria because it: 1) does not exceed any standard set by a federal law; 2) does not exceed an express requirement of state law; 3) does not exceed a requirement of a delegation agreement or contract between the state and an agency or representative of the federal government to implement a state and federal program; and 4) is not proposed solely under the general powers of the agency, but rather is also proposed under authority of Texas Water Code §§6.101. Therefore, these adopted repeals do not fall under any of the applicable criteria in Texas Government Code §2001.0225.

## TAKINGS IMPACT ASSESSMENT.

The board evaluated these adopted repeals and performed an analysis of whether they constitute a taking under Texas Government Code Chapter 2007. The specific purpose of these repeals is to update and consolidate board policies regarding agency-funded employee training and education.

The board's analysis indicates that Texas Government Code Chapter 2007 does not apply to these adopted repeals because this is an action that is reasonably taken to fulfill an obligation mandated by state law, which is exempt under Texas Government Code §2007.003(b)(4). Nevertheless, the board further evaluated the adopted repeals and performed an assessment of whether they constitute a taking under Texas Government Code Chapter 2007. Promulgation and enforcement of these adopted repeals is neither a statutory nor a constitutional taking of private real property. Specifically, the subject repeals do not affect a landowner's rights in private real property because this rulemaking does not burden or restrict or limit the owner's right to property and reduce its value by 25% or more beyond that which would otherwise exist in the absence of the regulation. Therefore, the adopted repeals do not constitute a taking under Texas Government Code Chapter 2007.

#### PUBLIC COMMENT.

The proposed repeals were open for public comment, and the comment period ended on November 7, 2016. No comments were received, and no changes to the proposed repeals have been made.

#### STATUTORY AUTHORITY.

These repeals are adopted under Texas Water Code §6.101.

Cross reference to statute: Texas Water Code §6.101

<rule>

§353.32. Eligibility for Training and Education

§353.33. Eligible Expenses

GOVERNMENT CODE

TITLE 6. PUBLIC OFFICERS AND EMPLOYEES

SUBTITLE B. STATE OFFICERS AND EMPLOYEES

CHAPTER 656. JOB NOTICES AND TRAINING

SUBCHAPTER A. EMPLOYMENT OPENINGS

Sec. 656.001. STATE AGENCY EMPLOYMENT OPENING. Any agency, board, bureau, commission, committee, council, court, department, institution, or office in the executive or judicial branch of state government that has an employment opening for which persons from outside the agency will be considered shall list the opening with the Texas Workforce Commission.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Amended by Acts 2003, 78th Leg., ch. 817, Sec. 10.05, eff. Sept. 1, 2003.

Text of section as added by Acts 2015, 84th Leg., R.S., Ch. 111

(S.B. 389), Sec. 2

For text of section as added by Acts 2015, 84th Leg., R.S., Ch. 273

(H.B. 426), Sec. 1, see other Sec. 656.002.

Sec. 656.002. MILITARY OCCUPATIONAL SPECIALTY CODES ON NOTICES OF EMPLOYMENT OPENINGS. A state agency shall include on all forms and notices related to a state agency employment opening the military occupational specialty code for each branch of the armed forces of the United States, identified as provided by Section 654.0375, that corresponds to the employment opening if the duties of the available position correlate with a military occupational specialty.

Added by Acts 2015, 84th Leg., R.S., Ch. 111 (S.B. 389), Sec. 2, eff. September 1, 2015.

Text of section as added by Acts 2015, 84th Leg., R.S., Ch. 273

(H.B. 426), Sec. 1

For text of section as added by Acts 2015, 84th Leg., R.S., Ch. 111

(S.B. 389), Sec. 2, see other Sec. 656.002.

Sec. 656.002. ONLINE STATE AGENCY EMPLOYMENT APPLICATIONS.

(a) In this section, "state agency" does not include an institution of higher education or university system as defined by Section 61.003, Education Code.

(b) The online system for listing state agency employment openings maintained by the Texas Workforce Commission must allow an applicant for employment to complete a single state application online and enter the application into an online database from which the applicant may electronically send the application to multiple state agencies.

(c) The Texas Workforce Commission shall:

(1) prescribe a standard electronic format for the online application described by Subsection (b); and

(2) ensure that the commission's online system allows an applicant to submit and a state agency to receive an online application for state agency employment.

(d) A state agency shall accept an application for an employment opening from the online system maintained by the Texas Workforce Commission.

(e) This section does not prohibit a state agency from accepting an application for an employment opening in a manner other than the manner described by this section.

Added by Acts 2015, 84th Leg., R.S., Ch. 273 (H.B. 426), Sec. 1, eff. September 1, 2015.

#### SUBCHAPTER B. JOB NOTICES

Sec. 656.021. DEFINITIONS. In this subchapter:

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

(2) "State agency" means:

(A) a department, commission, board, office, or other agency that:

(i) is in the executive branch of state government;

(ii) has authority that is not limited to a geographical portion of this state; and

(iii) was created by the constitution or a

statute of this state; or

(B) a university system or an institution of higher education as defined by Section 61.003, Education Code, other than a public junior college.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Amended by Acts 2003, 78th Leg., ch. 817, Sec. 10.06, eff. Sept. 1, 2003.

Sec. 656.022. SUBMISSION OF JOB INFORMATION FORMS. As soon as possible after a job vacancy occurs or is filled in Travis County in a state agency, the agency shall complete and deliver to the commission the appropriate information form prescribed by the commission and pertaining to the job vacancy or placement.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Amended by Acts 2001, 77th Leg., ch. 760, Sec. 1, eff. Sept. 1, 2001.

Sec. 656.023. JOB INFORMATION FORMS. (a) The commission shall prescribe the forms for information from state agencies necessary for the commission to serve as a central processing agency for state agency job opportunities in Travis County.

(b) A form prescribed by the commission under Subsection (a) must include a space for a state agency to list a military occupational specialty code as provided by Section 656.002.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 111 (S.B. 389), Sec. 3, eff. September 1, 2015.

Sec. 656.024. PUBLIC NOTICE OF JOB VACANCIES. The commission shall publicly list, in accordance with the commission's procedures, for at least 10 working days, each notice of a job vacancy delivered under Section 656.022 unless the commission is sooner notified by the state agency having the vacancy that the vacancy has been filled.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 656.025. OTHER EFFORTS TO INFORM SOURCES OF VACANCIES. A state agency is encouraged to continue other efforts used to inform outside applicant recruitment sources of job vacancies. Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 656.026. JOB NOTICE POSTING WAIVER. A state agency is not required to comply with the requirements of this subchapter or Subchapter A when the agency transfers or reassigns an employee as part of a reorganization or merger mandated by the legislature if the executive head of the agency certifies that the transfer or reassignment is necessary for the proper implementation of the reorganization or merger. Added by Acts 1999, 76th Leg., ch. 279, Sec. 5, eff. Sept. 1, 1999.

Sec. 656.027. PREFERENCE FOR VETERANS ON STATE EMPLOYMENT FORMS. The commission shall include on all forms relating to state agency employment that are prescribed by the commission under this subchapter or other law a statement regarding the requirement prescribed by Chapter 657 that each state agency give a veterans employment preference until the agency workforce is composed of at least 40 percent veterans. Added by Acts 2003, 78th Leg., ch. 69, Sec. 2, eff. May 16, 2003.

#### SUBCHAPTER C. TRAINING

Sec. 656.041. SHORT TITLE. This subchapter may be cited as the State Employees Training Act. Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 656.042. FINDINGS AND PURPOSE. Programs for the training and education of state administrators and employees materially aid effective state administration, and public money spent on those programs serves an important public purpose. Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 656.043. DEFINITION. In this subchapter, "state agency" means a department, agency, or institution of the

executive, legislative, or judicial branch of state government, including an institution of higher education as defined by Section 61.003, Education Code.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 366 (H.B. 3337), Sec. 1, eff. September 1, 2015.

Sec. 656.044. PUBLIC FUNDS FOR TRAINING AND EDUCATION. A state agency may use public funds to provide training and education for its administrators and employees. The training or education must be related to the duties or prospective duties of the administrator or employee.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 656.045. REQUIRED ATTENDANCE AT PROGRAM. A state agency may require an administrator or employee of the agency to attend, as all or part of the administrator's or employee's duties, a training or education program if the training or education is related to the administrator's or employee's duties or prospective duties.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 656.046. PURPOSES OF PROGRAM. A state agency's training and educational program may include:

- (1) preparing for technological and legal developments;
- (2) increasing work capabilities;
- (3) increasing the number of qualified employees in areas designated by institutions of higher education as having an acute faculty shortage; and
- (4) increasing the competence of state employees.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 656.047. PAYMENT OF PROGRAM EXPENSES. (a) Except as provided by this section or other law, a state agency may spend public funds as appropriate 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 or education program.

(b) For an administrator or employee of a state agency who seeks reimbursement for a training or education program offered by an institution of higher education or private or independent institution of higher education as defined by Section 61.003, Education Code, the agency may only pay the tuition expenses for a program course successfully completed by the administrator or employee at an accredited institution of higher education.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 366 (H.B. 3337), Sec. 2, eff. September 1, 2015.

Sec. 656.048. RULES RELATING TO TRAINING AND EDUCATION.

(a) A state agency shall adopt rules relating to:

- (1) the eligibility of the agency's administrators and employees for training and education supported by the agency; and
- (2) the obligations assumed by the administrators and employees on receiving the training and education.

(b) A state agency shall adopt rules requiring that before an administrator or employee of the agency may be reimbursed under Section 656.047(b), the executive head of the agency must authorize the tuition reimbursement payment.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Amended by Acts 2003, 78th Leg., ch. 200, Sec. 16(g), eff. Sept. 1, 2003.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 366 (H.B. 3337), Sec. 3, eff. September 1, 2015.

Sec. 656.049. AUTHORITY TO CONTRACT. A state agency may contract with another state, local, or federal department, agency, or institution, including a state-supported college or university, to train or educate its administrators and employees or may join in presenting a training or educational program.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

SUBCHAPTER D. RESTRICTIONS ON CERTAIN TRAINING

Sec. 656.101. DEFINITIONS. In this subchapter:

(1) "State agency" has the meaning assigned by Section 656.043.

(1-a) "State employee" has the meaning assigned by Section 572.002.

(2) "Training" means instruction, teaching, or other education received by a state employee that is not normally received by other state 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 or a private or independent institution of higher education as defined by Section 61.003, Education Code, if the employing state agency spends money to assist the state 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 training required either by state or federal law or that is determined necessary by the agency and offered to all employees of the agency performing similar jobs.

Added by Acts 1999, 76th Leg., ch. 1178, Sec. 1, eff. Sept. 1, 1999.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 366 (H.B. 3337), Sec. 4, eff. September 1, 2015.

Sec. 656.102. AGENCY POLICY. (a) Before a state agency spends any money on training for a state employee, the state agency must adopt a policy governing the training of employees, in addition to the rules required by Section 656.048, that requires training to relate to an employee's duties following the training.

(b) The policy must:

(1) provide clear and objective guidelines to govern tuition reimbursement for an administrator or employee of a state agency who is enrolled in training for which the administrator or employee seeks reimbursement from this state; and

(2) address tuition reimbursement for nontraditional training, including online courses or courses not credited towards a degree.

(c) The state agency shall post the policy adopted under this section on the employment section of the agency's Internet website.

Added by Acts 1999, 76th Leg., ch. 1178, Sec. 1, eff. Sept. 1, 1999.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 366 (H.B. 3337), Sec. 5, eff. September 1, 2015.

Sec. 656.103. RESTRICTIONS. (a) If a state employee receives training that is paid for by a state agency, and during the training period the employee does not perform the employee's regular duties for three or more months as a result of the training, a policy adopted under Section 656.102 must include a requirement that the employee:

(1) work for the agency following the training for at least one month for each month of the training period; or

(2) pay the agency 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 and that were not accounted for as paid vacation or compensatory leave.

(b) Before a state employee receives training that will be paid for by a state agency and during which the employee will not be performing the employee's regular duties for three months or more, the agency shall require the employee to agree in writing, before the training begins, to comply with the requirements prescribed under Subsection (a).

(c) By an order adopted in a public meeting, the governing body of a state agency may waive the requirements prescribed under Subsection (a) and release a state employee from the obligation to meet those requirements if the governing body finds that such action is in the best interest of the agency or is warranted because of an extreme personal hardship suffered by the employee.

Added by Acts 1999, 76th Leg., ch. 1178, Sec. 1, eff. Sept. 1, 1999.

Sec. 656.104. LIABILITY. If a state employee does not provide the services required in accordance with Section 656.103(a)(1), provides those services for less than the required term, or fails to make payments required in accordance with Section 656.103(a)(2) and the employee is not released from the obligation to provide the services or to make the payments under Section 656.103(c), the employee is liable to the state agency for any costs described by Section 656.103(a)(2) and for the agency's reasonable expenses incurred in obtaining payment, including reasonable attorney's fees.

Added by Acts 1999, 76th Leg., ch. 1178, Sec. 1, eff. Sept. 1, 1999.