

**Department of State Health Services  
Council Agenda Memo for State Health Services Council  
February 24- 25, 2016**

**Agenda Item Title:** Repeal of a rule concerning the Worksite Wellness Committee

**Agenda Number:** 4.g.

**Recommended Council Action:**

For Discussion Only

For Discussion and Action by the Council

**Background:**

The Community and Worksite Wellness Program within the Health Promotion and Chronic Disease Prevention Section of the Disease Control and Prevention Services Division has supported the Worksite Wellness Advisory Board (WWAB). The WWAB was created by the Legislature in 2007 to advise DSHS, the Executive Commissioner, and the statewide wellness coordinator on worksite wellness issues, including:

- funding and resource development for worksite wellness programs;
- identifying food service vendors that successfully market healthy foods;
- best practices for worksite wellness used by the private sector; and
- worksite wellness features and architecture for new state buildings based on features and architecture used by the private sector.

The Community and Worksite Wellness Program utilized staff time paid through general revenue funds to support the WWAB. No other budget was allocated to the operation of the Board.

**Summary:**

The repeal of a rule concerning the WWAB is to implement Government Code, Chapter 664, amended by Senate Bill 277, 84th Legislature, Regular Session, 2015, which abolished the Worksite Wellness Advisory Board.

The WWAB was one of several advisory committees recommended for abolishment by the Sunset Advisory Commission in 2014. Subsequent to the repeal of the statutory requirements for this and other committees, the Health and Human Services Commission conducted a comprehensive analysis and sought stakeholder input on the continuation of the advisory committees abolished in statute to determine if there was a need to re-create any of the committees in rule. No comments were received regarding the discontinuation of the WWAB. DSHS will continue to obtain input on worksite wellness issues through ongoing interactions with staff of state agencies and stakeholder groups.

**Key Health Measures:**

The WWAB has advised DSHS on worksite wellness practices and made recommendations on strategies to control/reduce costs of employee healthcare and other indirect costs to state agency due to poor physical or mental health among employees. As a result of the work of the WWAB, both DSHS and the Employees Retirement System of Texas have added staff to directly support wellness among state employees through on-site activities and health plan benefits and utilization. The staff also coordinate closely to monitor key health measures among state employees that drive costs to the state. Additionally, the Statewide Wellness Coordinator at DSHS maintains a network of Wellness Liaisons within all participating state agencies, focusing primarily on the 15 largest state agencies. Through this network, the statewide wellness coordinator will still be able to monitor wellness related needs and concerns in state agencies and identify any gaps created by abolishment of the WWAB.

**Summary of Input from Stakeholder Groups:**

No comments were received during stakeholder comment period regarding the discontinuation of the Worksite Wellness Board. DSHS will continue to obtain input on worksite wellness issues through ongoing interactions with staff of state agencies and key external stakeholder groups.

**Proposed Motion:**

Motion to recommend HHSC approval for repeal of rules contained in agenda item # 4.g.

**Approved by Assistant Commissioner/Director:** Janna Zumbrun **Date:** 1/26/2016

**Presenter:** Brett Spencer **Program:** Manager, Primary Prevention **Phone No.:** 512-776-6161  
Branch

**Approved by CPEA:** Carolyn Bivens **Date:** 1/26/2016

Title 25. HEALTH SERVICES  
Part 1. DEPARTMENT OF STATE HEALTH SERVICES  
Chapter 1. Miscellaneous Provisions  
Subchapter D. State Employee Health Fitness and Education Programs  
Repeal §1.61

Proposed Preamble

The Executive Commissioner of the Health and Human Services Commission, on behalf of the Department of State Health Services (department), proposes the repeal of §1.61, concerning the Worksite Wellness Advisory Board (board).

BACKGROUND AND PURPOSE

The purpose of the repeal is to implement Government Code, Chapter 664, amended by Senate Bill (SB) 277, 84th Legislature, Regular Session, 2015, which abolished the board.

The board was created by the Legislature in 2007 to advise the department, executive commissioner, and statewide wellness coordinator on worksite wellness issues, including funding and resource development for worksite wellness programs; identifying food service vendors that successfully market healthy foods; best practices for worksite wellness used by the private sector; and worksite wellness features and architecture for new state buildings based on features and architecture used by the private sector.

The board was one of several advisory committees recommended for abolishment by the Sunset Advisory Commission in 2014. Subsequent to the repeal of the statutory requirements for this and other committees, the commission conducted a comprehensive analysis and sought stakeholder input on the continuation of the advisory committees abolished in statute to determine if there was a need to recreate any of the committees in rule. No comments were received regarding the discontinuation of the board. The department will continue to obtain input on worksite wellness issues through ongoing interactions with staff of state agencies and stakeholder groups.

SECTION-BY-SECTION SUMMARY

Section 1.61 is being repealed because this rule is no longer necessary. SB 277 amended Government Code, Chapter 664, by abolishing the board.

FISCAL NOTE

Mr. Brett Spencer, Manager of the Primary Prevention Branch, has determined that for each year of the first five years that the repeal will be in effect, there will be no fiscal implications to the state or local governments as a result of enforcing or administering the repealed section as proposed.

SMALL AND MICRO-BUSINESS IMPACT ANALYSIS

Mr. Spencer has determined that there will be no effect on small businesses or micro-businesses or persons who are required to comply with the section as proposed. This was determined by consideration that the topics addressed by the board applied only to Texas state agencies and imposed no responsibilities or limitations on small or micro-businesses.

#### ECONOMIC COSTS TO PERSONS AND IMPACT ON LOCAL EMPLOYMENT

There are no anticipated economic costs to persons who are required to comply with the section as proposed. There is no anticipated negative impact on local employment.

#### PUBLIC BENEFIT

Mr. Spencer has also determined that for each year of the first five years that the section will be repealed, the public will benefit from repeal of the section. The public benefit anticipated from enforcing or administering the repealed section is to remove a rule from the department's rules database that is longer necessary.

#### REGULATORY ANALYSIS

The department has determined that this is not a "major environmental rule" as defined by Government Code, §2001.0225. "Major environmental rule" is defined to mean a rule the specific intent of which is to protect the environment or reduce risk to human health from environmental exposure and that may adversely affect, in a material way, the economy, a sector of the economy, productivity, competition, jobs, the environment or the public health and safety of a state or a sector of the state. This proposal is not specifically intended to protect the environment or reduce risks to human health from environmental exposure.

#### TAKINGS IMPACT ASSESSMENT

The department has determined that the proposed repeal does not restrict or limit an owner's right to his or her property that would otherwise exist in the absence of government action and, therefore, does not constitute a taking under Government Code, §2007.043.

#### PUBLIC COMMENT

Comments on the proposal may be submitted to Brett Spencer, Primary Prevention Branch, Department of State Health Services, P. O. Box 149347, Mail Code 1965, Austin, Texas 78714-9347, (512) 776-6161, or by email to Brett.Spencer@dshs.state.tx.us. Comments will be accepted for 30 days following publication of the proposal in the *Texas Register*.

#### STATUTORY AUTHORITY

The proposed repeal is authorized by Government Code, Chapter 664, which has been amended to remove reference to rules concerning the Worksite Wellness Advisory Board; and Government Code, §531.0055, and Health and Safety Code, §1001.075, which authorize the

Executive Commissioner of Health and Human Services Commission to adopt rules and policies necessary for the operation and provision of health and human services by the department and for the administration of Health and Safety Code, Chapter 1001.

The repeal affects Government Code, Chapters 551 and Chapter 664; and Health and Safety Code, Chapter 1001.

Section for Repeal.

§1.61. Worksite Wellness Advisory Board.

Legend: Proposed Repeal  
Single Strikethrough = Current language being repealed

~~§1.61. Worksite Wellness Advisory Board.~~

~~\_\_\_\_\_ (a) Definitions. The following words and terms, when used in this section, shall have the following meanings unless the context clearly indicates otherwise.~~

~~\_\_\_\_\_ (1) Act—The State Employee Health Fitness and Education Act, Government Code, Chapter 664, as amended by House Bill 1297, June 2007.~~

~~\_\_\_\_\_ (2) State Employee—A state employee who participates in a health benefits program administered under Insurance Code, Chapter 1551.~~

~~\_\_\_\_\_ (3) Best Practices—Recommended interventions that have been proven through the strength of evidence of effectiveness found through a systematic review of published evidence by peers.~~

~~\_\_\_\_\_ (4) Department—The Department of State Health Services.~~

~~\_\_\_\_\_ (5) State Agency—A department, institution, commission or other agency that is in the executive, judicial, or legislative branch of state government.~~

~~\_\_\_\_\_ (6) Executive Commissioner—The Executive Commissioner of the Health and Human Services Commission.~~

~~\_\_\_\_\_ (7) Statewide Wellness Coordinator—A person designated by the department to create and develop for use the model statewide wellness program.~~

~~\_\_\_\_\_ (8) Worksite Wellness Advisory Board—A board appointed by the Executive Commissioner that consists of 13 members representing specific areas of expertise in state government and health and wellness.~~

~~(b) Worksite Wellness Advisory Board. Composition, Meetings, Purpose, Reporting.~~

~~(1) Composition. The Executive Commissioner shall appoint 13 members representing the following areas:~~

~~(A) five state agency employees, including one employee each of the following agencies:~~

~~(i) Department of Agriculture;~~

~~\_\_\_\_\_ (ii) Texas Education Agency;~~

~~\_\_\_\_\_ (iii) Texas Department of Transportation;~~

~~(iv) Texas Department of Criminal Justice; and~~

~~(v) the department;~~

~~(B) one other employee of the department who is involved in worksite wellness efforts at the department;~~

~~(C) one employee of the Employee Retirement System of Texas;~~

~~(D) two state employee representatives of an eligible state employee organization described by Government Code, §403.0165, with at least 10,000 active, dues-paying members;~~

~~(E) one worksite wellness professional;~~

~~(F) one representative of the American Cancer Society;~~

~~(G) one representative of the American Heart Association; and~~

~~(H) one representative of the Texas Medical Association.~~

~~(2) Meetings.~~

~~(A) The board shall meet at least once a year in Austin. A meeting may be called with the agreement of department staff and the board.~~

~~(B) Each meeting of the board shall be announced and conducted in accordance with the Open Meetings Act, Government Code, Chapter 551.~~

~~(C) A simple majority of the members of the board shall constitute a quorum for the purpose of transacting official business.~~

~~(D) The board is authorized to transact official business only when in a legally constituted meeting with a quorum present.~~

~~(E) Roberts Rules of Order, Newly Revised, shall be the basis of parliamentary decisions except where otherwise provided by law or rule.~~

~~(F) Any action taken by the board must be approved by a majority vote of the members present once quorum is established. Each member shall have one vote. A member may not authorize another individual to represent the member by proxy.~~

~~(3) Purpose and tasks. The purpose and tasks of the board are to advise the department, executive commissioner and statewide wellness coordinator on worksite wellness issues including:~~

~~(A) funding and resource development for worksite wellness programs;~~

~~(B) identifying food vendors that successfully market healthy foods;~~

~~(C) best practices for worksite wellness used by the private sector; and~~

~~(D) worksite wellness features and architecture for new state buildings based on features and architecture used by the private sector.~~

~~\_\_\_\_\_ (4) Reporting. At the end of each meeting, the board will provide oral and/or written recommendations, based on the discussions of the board, to the department. The recommendations will be captured in the minutes of the meeting.~~