

SUBCHAPTER K. SICK LEAVE POOL
28 TAC §1.1201

1. INTRODUCTION. The Texas Department of Insurance (Department) proposes new Subchapter K, §1.1201, relating to the Department's sick leave pool. The new section is proposed pursuant to the Government Code §661.002(c), which requires the governing body of a state agency to adopt rules relating to the administration of the agency sick leave pool.

2. FISCAL NOTE. Jacque Canady, Chief Financial Officer, Administrative Operations, has determined that, for each year of the first five years the proposed new section will be in effect, there will be no fiscal impact to state or local governments as a result of the enforcement or administration of the proposed section. There will be no measurable effect on local employment or the local economy as a result of the proposal.

3. PUBLIC BENEFIT/COST NOTE. Ms. Canady also has determined that, for each year of the first five years the new section is in effect, the anticipated public benefit will be that the public will benefit from the flexibility afforded to agency employees or their family members suffering from a catastrophic illness or injury.

Further, she has determined that there will be no economic cost to persons required to comply with the section, and therefore there is no need to consider less costly alternatives to the new rule. Finally, Ms. Canady has

determined that the new rule will have no adverse effect on small businesses or micro-businesses or local employment.

4. ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY

ANALYSIS FOR SMALL AND MICRO BUSINESSES.

In accordance with the Government Code §2006.002(c), the Department has determined that this proposal will not have an adverse economic effect on small or micro businesses because small or micro businesses are not subject to the proposal. Therefore, in accordance with the Government Code §2006.002(c), the Department is not required to prepare a regulatory flexibility analysis.

5. TAKINGS IMPACT ASSESSMENT.

The Department has determined that no private real property interests are affected by this proposal and that this proposal does not restrict or limit an owner's right to property that would otherwise exist in the absence of government action and, therefore, does not constitute a taking or require a takings impact assessment under the Government Code §2007.043.

6. REQUEST FOR PUBLIC COMMENT.

To be considered, written comments on the proposal must be submitted no later than 5:00 p.m. on September 19, 2011 to Gene C. Jarmon, General Counsel and Chief Clerk, Mail Code 113-2A, Texas Department of Insurance, P. O. Box 149104, Austin, Texas 78714-9104. An additional copy of the comment must be simultaneously submitted to Patricia

David, Mail Code 112-HR, Texas Department of Insurance, P.O. Box 149104, Austin, Texas 78714-9104. Any requests for a public hearing should be submitted separately to the Office of the Chief Clerk before the close of the comment period. If a hearing is held, written and oral comments presented at the hearing will be considered.

7. STATUTORY AUTHORITY. The new section is proposed under the Government Code §661.002(c) and the Insurance Code §36.001. Section 661.002(c) of the Government Code provides that a governing body of a state agency shall adopt rules and prescribe procedures relating to the operation of the agency sick leave pool. Section 36.001 of the Insurance Code provides that the Commissioner of Insurance may adopt any rules necessary and appropriate to implement the powers and duties of the Texas Department of Insurance under the Insurance Code and other laws of this state.

8. CROSS REFERENCE TO STATUTE. The following statute is affected by this proposal: Government Code §661.002.

9. TEXT.

§1.1201. Sick Leave Pool. A sick leave pool is established to alleviate hardship caused to an employee and the employee's immediate family if a catastrophic

injury or illness forces the employee to exhaust all eligible leave time earned by that employee and to lose compensation time from the state.

(1) The Texas Department of Insurance's Human Resources Director is designated as the pool administrator.

(2) The pool administrator will recommend a policy, operating procedures, and forms for the administration of this section for approval by the commissioner of insurance or designee.

(3) Operation of the pool shall be consistent with the Government Code, Chapter 661.

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