

QUESTIONNAIRE FOR FILING PROPOSED RULES AND REGULATIONS
WITH THE ARKANSAS LEGISLATIVE COUNCIL AND JOINT INTERIM COMMITTEE

DEPARTMENT/AGENCY Department of Workforce Services
DIVISION Legal
DIVISION DIRECTOR Roger Harrod
CONTACT PERSON Roger Harrod
ADDRESS P.O.Box 8040, Little Rock, AR 72203
PHONE NO. 501-682-3151 FAX NO. 501-682-3124 E-MAIL roger.harrod@arkansas.gov
NAME OF PRESENTER AT COMMITTEE MEETING Mike Kennedy
PRESENTER E-MAIL mike.kennedy@arkansas.gov

INSTRUCTIONS

- A. Please make copies of this form for future use.
B. Please answer each question completely using layman terms. You may use additional sheets, if necessary.
C. If you have a method of indexing your rules, please give the proposed citation after "Short Title of this Rule" below.
D. Submit two (2) copies of this questionnaire and financial impact statement attached to the front of two (2) copies of the proposed rule and required documents. Mail or deliver to:

Donna K. Davis
Administrative Rules Review Section
Arkansas Legislative Council
Bureau of Legislative Research
Room 315, State Capitol
Little Rock, AR 72201

FILED
AR. REGISTER DIV.
JUL 3 AM 9:54
STATE OF ARKANSAS

Regulation #29: Department of Workforce Services Training Trust Fund Program

1. What is the short title of this rule?

2. What is the subject of the proposed rule? To amend the regulation by substituting certain restrictive terms with broader and more definitive ones; to give notice of expanded services available; and to clearly designate those eligible for funds

3. Is this rule required to comply with a federal statute, rule, or regulation? Yes ☐ No ☒
If yes, please provide the federal rule, regulation, and/or statute citation.

4. Was this rule filed under the emergency provisions of the Administrative Procedure Act? Yes ☐ No ☒

If yes, what is the effective date of the emergency rule? N/A

When does the emergency rule expire? N/A

Will this emergency rule be promulgated under the permanent provisions of the Administrative Procedure Act?

Yes ☐

No ☐

5. Is this a new rule?

Yes ☐

No ☒

If yes, please provide a brief summary explaining the regulation.

Does this repeal an existing rule?

Yes ☐

No ☒

If yes, a copy of the repealed rule is to be included with your completed questionnaire. If it is being replaced with a new rule, please provide a summary of the rule giving an explanation of what the rule does.

Is this an amendment to an existing rule?

Yes ☒

No ☐

If yes, please attach a mark-up showing the changes in the existing rule and a summary of the substantive changes. **Note: The summary should explain what the amendment does, and the mark-up copy should be clearly labeled "mark-up."**

6. Cite the state law that grants the authority for this proposed rule?

If codified, please give Arkansas Code citation.

A.C.A. 11-10-307

7. What is the purpose of this proposed rule? Why is it necessary?

To change certain restrictive terms to broader and more definitive terms, and to give notice of expanded services available, and to clearly designate those eligible to utilize training funds

8. Please provide the address where this rule is publicly accessible in electronic form via the Internet as required by Arkansas Code § 25-19-108(b).

<http://www.sos.arkansas.gov/rulesandregs>

9. Will a public hearing be held on this proposed rule?

Yes ☒

No ☐

If yes, please complete the following:

Date: July 29, 2011

Time: 10:00am

Place: Room G-30, #2 Capitol Mall, Little Rock, AR

10. When does the public comment period expire for permanent promulgation? (Must provide a date.)

July 29, 2011

11. What is the proposed effective date of this proposed rule? (Must provide a date.)

October 1, 2011

12. Do you expect this rule to be controversial?

Yes ☐

No ☒

If yes, please explain. N/A

13. Please give the names of persons, groups, or organizations that you expect to comment on these rules? Please provide their position (for or against) if known.

We do not have reason to believe there will be comments.

FINANCIAL IMPACT STATEMENT

PLEASE ANSWER ALL QUESTIONS COMPLETELY

DEPARTMENT Department of Workforce Services
DIVISION Legal
PERSON COMPLETING THIS STATEMENT Roger Harrod
TELEPHONE NO. 501-682-3151 FAX NO. 501-682-3124 EMAIL: roger.harrod@arkansas.gov

To comply with Act 1104 of 1995, please complete the following Financial Impact Statement and file two copies with the questionnaire and proposed rules.

SHORT TITLE OF THIS RULE Regulation #29: Department of Workforce Services Training Trust Fund Program

1. Does this proposed, amended, or repealed rule have a financial impact? Yes ☐ No ☒
2. Does this proposed, amended, or repealed rule affect small businesses? Yes ☐ No ☒
If yes, please attach a copy of the economic impact statement required to be filed with the Arkansas Economic Development Commission under Arkansas Code § 25-15-301 et seq.

N/A

3. If you believe that the development of a financial impact statement is so speculative as to be cost prohibited, please explain.

N/A

4. If the purpose of this rule is to implement a federal rule or regulation, please give the incremental cost for implementing the rule. Please indicate if the cost provided is the cost of the program.

Current Fiscal Year

General Revenue _____
Federal Funds _____
Cash Funds _____
Special Revenue _____
Other (Identify) _____
Total _____

Next Fiscal Year

General Revenue _____
Federal Funds _____
Cash Funds _____
Special Revenue _____
Other (Identify) _____
Total _____

5. What is the total estimated cost by fiscal year to any party subject to the proposed, amended, or repealed rule? Identify the party subject to the proposed rule and explain how they are affected.

Current Fiscal Year

\$ -0-

Next Fiscal Year

\$ -0-

6. What is the total estimated cost by fiscal year to the agency to implement this rule? Is this the cost of the program or grant? Please explain.

Current Fiscal Year

\$ -0-

Next Fiscal Year

\$ -0-

SUMMARY OF THE RULE

RULE

ORIGINAL MARK-UP OF THE RULE

FINAL RULE

SUMMARY OF THE RULE

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Regulation #29 defines and provides for the administration of the Department of workforce Services Training Trust Fund Program.

SUMMARY OF RULE CHANGE

DWS Training Trust Fund Program

Regulation #29, a regulation of the Department of Workforce Services (DWS), dealing with the DWS Training Trust Fund Program is being amended. References to "businesses" are being changed to "employers" and references to "employees" are being changed to "trainees." The amendment also expands the services available to clients; the purposes to which funds can be applied, and more clearly designates those eligible to utilize training funds.

REGULATION # 29

REGULATION #29

DEPARTMENT OF WORKFORCE SERVICES TRAINING TRUST FUND PROGRAM

The Department of Workforce Services (DWS) Training Trust Fund Program is hereby established pursuant to Act 551 of 2007, as enacted by the Arkansas General Assembly.

1. Purpose:

- a. The purpose of the DWS Training Trust Fund Program is to provide for innovative training support opportunities for qualified Arkansas businesses. Specifically, the DWS Training Trust Fund will primarily be used to support Arkansas businesses in their respective efforts to provide updated training for new and incumbent workers. The benefit of the DWS Training Trust Fund is that it can be used to help fill certain gaps in skills development training that may be otherwise unavailable.
- b. The DWS Training Trust Fund initiative will be coordinated with both the Arkansas Existing Workforce Training Program (EWTP), which is administered by the Arkansas Economic Development Commission, and the Arkansas Incumbent Worker Training Program (IWTP), which is administered in accordance with the Federal Workforce Investment Act by the Arkansas Workforce Investment Board.

2. Who may apply for the DWS Training Trust Funds?

- a. Any for profit or non-profit business that has been in operation in Arkansas during the entire twelve-month period immediately preceding the date of application. Exceptions may be considered on an individual basis.
- b. Businesses making application for training funds must be current on all tax obligations, and there must not currently exist any ongoing or pending litigation concerning a company's tax liability, either federal or state.

3. How to apply:

- a. Businesses must submit an application (see attached TBP) to the director of Arkansas Department of Workforce Services, # 2 Capitol Mall, PO Box 2981, Little Rock, AR 72203, a minimum of 30 days prior to commencement of training. Questions can be answered by calling 501-682-2033 or 501-682-2121.
- b. Applications must include a clear description of proposed training to include the proposed training provider and projected cost.
- c. Exceptions may be considered on an individual basis.

4. What are the requirements for applicant business to utilize these training funds?

- a. The business must specify target group of employees and specify type of training to be conducted and projected outcomes that are tangible and measurable.
- b. Each employee must be at least 18 years of age.
- c. Each employee must be a U.S. citizen or authorized to legally work in the U.S.
- d. If the employee is a male born after 12/31/1959, he must be in compliance with the selective service registration requirements.
- e. Provide assurance that participants involved in the proposed training possess the prerequisite literacy skills.
- f. The business must clearly demonstrate the relationship of the proposed training to specific business goals and performance objectives (i.e., training on new equipment to increase production, reduce production cost and reduce waste by recycling).

5. Application priority will be given to companies:

- a. Who can avoid layoffs by incumbent worker training.
- b. Who seek to upgrade employee skills and increase productivity.
- c. Whose funding request is to provide training of workers employed in distressed areas (high unemployment, high poverty rate, low per capita income levels, etc.).
- d. Who can certify company/business expansion.
- e. Who will replicate the training internally (Train the Trainer concept).

6. Allowable use of funds:

- a. Training on use of cutting edge technology and equipment.
- b. Training to meet employer or industry specific skill requirements.
- c. Train the Trainer.
- d. To compensate state supported institutions of higher education (two/four year Arkansas Colleges/Universities, Technical Schools), the Arkansas Workforce Investment Board approved training providers and approved company consultants and contract instructors, as well as company trainers for conducting prescribed training.
- e. Employer must provide certification of company trainers, consultants and other contract instructors.
- f. Training may be in a traditional classroom, on-the-job training, distance-learning lab, workshops, seminars, site based training or computer based training.
- g. Other training methods as approved by the Department of Workforce Services.

7. Non-allowable use of funds:

- a. Cost incurred prior to the approved date of application.
- b. Construction or purchase of facilities or buildings.
- c. Business relocation expenses.
- d. Employment or training in sectarian activities.
- e. Lobbying activities.
- f. Employee wages (to include company in-house trainers and trainees).

8. Assurances:

- a. The applicant (business) assures that records of expenditures of funds under this agreement shall be made available for inspection by DWS audit staff or state auditors, as required.
 - b. The applicant (business) assures that no person shall be excluded from training on the basis of race, color, national origin, age, religion, marital status, sex, or disability.
 - c. The applicant (business) assures that in the event of labor dispute or strike, the director of DWS may postpone or cancel the funding of training support.
 - d. The applicant (business) understands that this agreement may be canceled by the director of DWS by written notification at least 14 days prior to cancellation, or immediately, if funds are not available.
 - e. The applicant (business) agrees that the terms of this agreement may be changed by common consent.
 - f. The applicant (business) assures that provision will be made for submission of both a quarterly and final report, which will include but not limited to, a description of the funded program with quantifiable outcomes.
 - g. The applicant (business) will provide the director of DWS a final report within 30 days following the end of agreed upon training.
9. Expected outcomes: Applicants who are awarded training funds under this program will be required to demonstrate one or more of the following outcomes:
- a. Demonstrate business growth or expansion.
 - b. Demonstrate increased quantifiable productivity.
 - c. Demonstrate training funds used resulting in lowering turnover rates.
 - d. Increased retention rate and/or higher post-training wages of participating employees.
 - e. Demonstrate ability to utilize new technology to improve current production levels.
 - f. Participating businesses will provide a final report within 30 days of the end of agreed upon training to the director of DWS.
10. The review of applications will be coordinated with the following state agencies.
- a. Arkansas Economic Development Commission (AEDC)
 - b. Arkansas Workforce Investment Board (AWIB)
 - c. Arkansas Department of Workforce Education (ADWE)
 - d. Arkansas Department of Higher Education (ADHE)
 - e. Arkansas Department of Workforce Services (ADWS)

This Regulation shall take effect and be in full force on and after July 18, 2008.

MARK-UP

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Regulation #29

DEPARTMENT OF WORKFORCE SERVICES TRAINING TRUST FUND PROGRAM

The Department of Workforce Services (DWS) Training Trust Fund Program is hereby established pursuant to Act 551 of 2007, as enacted by the Arkansas General Assembly.

1. Purpose:

- a. The purpose of the DWS Training Trust Fund Program is to provide for innovative training support opportunities for qualified Arkansas ~~businesses~~employers. Specifically, the DWS Training Trust Fund will primarily be used to support Arkansas ~~businesses~~employers in their respective efforts to provide ~~updated~~ training for prospective, new, and incumbent workers. The benefit of the DWS Training Trust Fund is that it can be used to help fill certain gaps in skills development training that may be otherwise unavailable.
- b. The DWS Training Trust Fund ~~initiative~~Program will be coordinated with both the Arkansas Existing Workforce Training Program (EWTP), which is administered by the Arkansas Economic Development Commission, and the Arkansas Incumbent Worker Training Program (IWTP), which is administered in accordance with the Federal Workforce Investment Act by the Arkansas Workforce Investment Board.

2. Who may apply for the DWS Training Trust Funds?

- a. Any for profit or non-profit ~~business~~employer that has been in operation in Arkansas during the entire twelve-month period immediately preceding the date of application. Exceptions may be considered on an individual basis.
- b. ~~Businesses~~Employers making application for training funds must be current on all tax obligations, and there must not currently exist any ongoing or pending litigation concerning ~~a company~~the employer's tax liability, either federal or state.

3. How to apply:

- a. ~~Businesses-Employers~~ must submit an application (~~see attached TBP~~) to the director of the Arkansas Department of Workforce Services, # 2 Capitol Mall, PO Box 2981, Little Rock, AR 72203, a minimum of 30 days prior to commencement of training. Questions can be answered by calling 501-682-2033-3142 or 501-682-2121.
- b. Applications must include a clear description of proposed training to include the proposed training provider and projected cost.
- c. Exceptions may be considered on an individual basis.

4. What are the requirements for applicant ~~business-employers~~ to utilize these training funds?

- a. The ~~business-employer~~ must specify a target group of employees ~~individuals~~ and ~~specify the~~ type of training to be conducted; and ~~provide~~ projected outcomes that are tangible and measurable.
- b. Each ~~employee-trainee~~ must be at least 18 years of age.
- c. Each ~~employee-trainee~~ must be a U.S. citizen or authorized to legally work in the U.S.
- d. If the ~~employee-trainee~~ is a male born after 12/31/1959, he must be in compliance with the selective service registration requirements.
- e. Provide assurance that participants involved in the proposed training possess the prerequisite literacy skills.
- f. The ~~business-employer~~ must clearly ~~demonstrate-articulate~~ the relationship of the proposed training to specific business-goals and performance objectives ~~relative to correction, prevention or improvement~~ (i.e., training on new equipment to increase production, reduce production cost and reduce waste by recycling).

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5. Application priority will be given to ~~companies~~employers:

- a. Who can avoid layoffs by incumbent worker training.
- b. Who can maintain and/or create new jobs by training prospective employees.
- b.c. Who seek to upgrade employee skills and increase productivity.
- e.d. Whose funding request is to provide training and employment opportunities to of recipients of public assistance and other low-income individuals ~~workers employed in distressed areas (high unemployment, high poverty rate, low per capita income levels, etc.).~~
- d.e. Who can certify company/business expansion.
- e.f. Who will replicate the training internally (Train the Trainer concept).

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6. Allowable use of funds:

- a. Training on use of cutting edge technology and equipment.
- b. Training to meet employer or industry specific skill requirements.
- c. Train the Trainer.
- d. The purchase and/or development and production of training materials necessary to conduct the approved training.
- ~~d.e.~~ To compensate state supported institutions of higher education (two/four year Arkansas Colleges/Universities, Technical Schools); the Arkansas Workforce Investment Board approved training providers and approved company-consultants and contract instructors, as well as company-internal trainers for conducting prescribed training.
 - ~~e.e.~~ Employer must provide certification of company-trainers, consultants and other contract instructors.
 - ~~e.f.~~ Training may be in a traditional classroom, on-the-job training, distance-learning lab, workshops, seminars, site based training or computer based training.
- ~~e.f.~~ Other training methods as approved by the director of the Department of Workforce Services.

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7. Non-allowable use of funds:

- a. Cost incurred prior to the approved date of application.
- b. Construction or purchase of facilities or buildings.
- c. ~~Business~~ Relocation expenses.
- d. Employment or training in sectarian activities.
- e. Lobbying activities.
- f. ~~Employee Trainee wages. (to include company in-house trainers and trainees).~~
- g. Exceptions may be considered on an individual basis.

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8. Assurances:

- a. The applicant (~~business~~employer) assures that records of expenditures of funds under this agreement shall be made available for inspection by DWS audit staff or state auditors, as required.
- b. The applicant (~~business~~employer) assures that no person shall be excluded from training on the basis of race, color, national origin, age, religion, marital status, sex, or disability.
- c. The applicant (~~business~~employer) assures that in the event of labor dispute or strike, the director of DWS may postpone or cancel the funding of training support.

- d. The applicant (business~~employer~~) understands that this agreement may be canceled by the director of DWS by written notification at least 14 days prior to cancellation, or immediately, if funds are not available.
- e. The applicant (business~~employer~~) agrees that the terms of this agreement may be changed by common consent.
- f. The applicant (business~~employer~~) assures that provision will be made for submission of ~~both a quarterly and final~~ report, which will include ~~but not limited to,~~ a description of the funded program with quantifiable outcomes.
- g. The applicant (business) will provide the director of DWS a final report within 30 days following the end of agreed-upon training.

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~~9. Expected outcomes: Applicants who are awarded training funds under this program will be required to demonstrate one or more of the following outcomes:~~

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- ~~a. Demonstrate business growth or expansion.~~
- ~~b. Demonstrate increased quantifiable productivity.~~
- ~~c. Demonstrate training funds used resulting in lowering turnover rates.~~
- ~~d. Increased retention rate and/or higher post-training wages of participating employees.~~
- ~~e. Demonstrate ability to utilize new technology to improve current production levels.~~
- ~~f. Participating businesses will provide a final report within 30 days of the end of agreed-upon training to the director of DWS.~~

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~~10.9.~~ The review of applications will be coordinated with the following state agencies.

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- a. Arkansas Economic Development Commission (AEDC)
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- ~~e. c. Arkansas Department of Workforce Services (ADWS)~~

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FINAL RULE

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- b. Employer making application for training funds must be current on all tax obligations, and there must not currently exist any ongoing or pending litigation concerning the employer's tax liability, either federal or state.

3. How to apply:

- a. Employers must submit an application to the director of the Arkansas Department of Workforce Services, # 2 Capitol Mall, PO Box 2981, Little Rock, AR 72203, a minimum of 30 days prior to commencement of training. Questions can be answered by calling 501-682-3142.
 - b. Applications must include a clear description of proposed training to include the proposed training provider and projected cost.
 - c. Exceptions may be considered on an individual basis.
4. What are the requirements for applicant employers to utilize these training funds?
- a. The employer must specify a target group of individuals and the type of training to be conducted; and provide projected outcomes that are tangible and measurable.
 - b. Each trainee must be at least 18 years of age.
 - c. Each trainee must be a U.S. citizen or authorized to legally work in the U.S.
 - d. If the trainee is a male born after 12/31/1959, he must be in compliance with the selective service registration requirements.
 - e. Provide assurance that participants involved in the proposed training possess the prerequisite literacy skills.
 - f. The employer must clearly articulate the relationship of the proposed training to specific goals and performance objectives relative to correction, prevention or improvement (i.e., training on new equipment to increase production, reduce production cost and reduce waste by recycling).

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- g.f. Other training methods as approved by the director of the Department of Workforce Services.

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- e.c. Arkansas Department of Workforce Services (DWS)

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