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TRANSCRIPT OF PROCEEDINGS  
BEFORE THE  
TEXAS WORKFORCE COMMISSION  
AUSTIN, TEXAS

PUBLIC MEETING )  
FOR THE TEXAS )  
WORKFORCE COMMISSION )

COMMISSION MEETING

WEDNESDAY, FEBRUARY 20, 2019

BE IT REMEMBERED THAT at 9:00 a.m. on  
Wednesday, the 20th day of February, 2019, the above-  
entitled matter came on for hearing at the Texas Workforce  
Commission, TWC Building, 101 East 15<sup>th</sup> Street, Room 244,  
Austin, Texas, before RUTH R. HUGHS, Chair; JULIAN ALVAREZ  
and ROBERT D. THOMAS, Commissioners.

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REPORTER'S CERTIFICATE.....17

P R O C E E D I N G S

WEDNESDAY, FEBRUARY 20, 2019

(9:00 a.m.)

AGENDA ITEM NO. 1

CHAIR HUGHS: All right. Good morning. This meeting is called to order. I move that we recess this meeting until the conclusion of the agency appearance before Senate Natural Resources and Economic Committee and reconvene shortly after it -- we conclude there. All in favor?

COMM. ALVAREZ: Aye.

COMM. THOMAS: Aye.

CHAIR HUGHS: Thank you. We are in recess.

AGENDA ITEM NO. 2

CHAIR HUGHS: All right, we are back in session. MR. Trobman, has anyone signed up for public comment?

MR. TROBMAN: Yes. Good morning. We have MR. Van Lou and MR. Zaman here.

MR. VAN LOU: Good morning, commissioners.

CHAIR HUGHS: Good morning, gentleman.

MR. VAN LOU: For the record, my name's Roxy Van Lou with WorkQuest.

MR. ZAMAN: And I'm Ray Zaman, also with WorkQuest.

1 MR. VAN LOU: We'd like to say thank you for  
2 all the work you do with people with disabilities for the  
3 purchasing program. And at our annual banquet we had, TWC  
4 was recognized as a top 10 customer of ours in providing  
5 services and employment for people with disabilities through  
6 the temporary staffing services that we provide. So we  
7 would like to present this plaque to commemorate that you're  
8 a top 10 customer of WorkQuest.

9 CHAIR HUGHS: Thank you.

10 (Applause)

11 CHAIR HUGHS: Maybe we could -- we'll come  
12 down for a moment if that's all right with Les. Okay.

13 (Pause for pictures)

14 CHAIR HUGHS: All right, thank you. I now  
15 turn the meeting over to Commissioner Thomas to preside over  
16 Agenda Items 3 through 7.

17 COMM. THOMAS: Thank you, colleague.

18 AGENDA ITEM NO. 3

19 Discussion, Consideration and Possible Action  
20 Regarding Whether to Assume Continuing Jurisdiction on  
21 Unemployment Compensation Cases, Wage Claim Cases, and/or  
22 Tax Liability Cases and Reconsideration of Unemployment  
23 Compensation Cases, Wage Claim Cases, and/or Tax Liability  
24 Cases, if Any.

25 No Discussion.

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AGENDA ITEM NO. 4

Discussion, Consideration and Possible Action  
Regarding Tax Liability Cases Listed on the Texas Workforce  
Commission Docket 8.

The Commission considered and took action on  
all tax liability cases listed on Docket 8.

AGENDA ITEM NO. 5

Discussion, Consideration and Possible Action  
Regarding Fair Housing Cases listed on the Texas Workforce  
Commission Docket 8.

No Discussion.

AGENDA ITEM NO. 6

Discussion, Consideration and Possible Action  
Regarding Higher Level Appeals in Wage Claim Cases Listed on  
the Texas Workforce Commission Docket 8.

The Commission considered and took action on  
all wage claim cases listed on Docket 8.

AGENDA ITEM NO. 7

Discussion, Consideration and Possible Action  
Regarding Higher Level Appeals in Unemployment Compensation  
Cases Listed on the Texas Workforce Commission Docket 8.

The Commission considered and took action on  
all unemployment compensation cases listed on Docket 8.

AGENDA ITEM NO. 8

CHAIR HUGHS: All right, we are now back in

1 session. There is nothing for Items 8 and 9.

2 AGENDA ITEM NO. 11

3 CHAIR HUGHS: Item 11, Discussion,  
4 Consideration and Possible Action Regarding Approval of  
5 Products Offered by Certified Community Rehabilitation  
6 Programs Under the Purchasing from People with Disabilities  
7 (PPD) State-Use Program. Kelvin Moore. Good morning.

8 MR. MOORE: Good morning. Good morning,  
9 Chair, commissioners, MR. Serna. For the record, my name is  
10 Kelvin Moore, Program Manager Purchasing from People with  
11 Disabilities Program at the Texas Workforce Commission.

12 We have before you Item 11, listing of new  
13 products and products price revisions that are being offered  
14 by community rehabilitation programs through the state-use  
15 WorksWonders program. West Texas Lighthouse for the Blind  
16 submitted seven new products and Fort Worth Lighthouse for  
17 the Blind submitted seven new products and Fort Worth  
18 Lighthouse for the Blind submitted one product with nine  
19 price revision based on quantity and delivery location.  
20 Sorry about that.

21 CHAIR HUGHS: Thank you. Fine.

22 MR. MOORE: And staff is recommending  
23 approval of all new products and product price revisions.  
24 Are there any questions?

25 CHAIR HUGHS: Thank you. Commissioners, do

1 you have any questions or comments?

2 COMM. ALVAREZ: No, ma'am.

3 COMM. THOMAS: Nope.

4 CHAIR HUGHS: Do I have a motion?

5 COMM. ALVAREZ: I move that we accept the new  
6 products and price revisions and recommended by staff.

7 COMM. THOMAS: Second.

8 CHAIR HUGHS: All right, we are unanimous.

9 Thank you. And, for the record, that was Item 10.

10 MR. MOORE: Was that Item 10? Okay.

11 COMM. THOMAS: Item 11.

12 MR. TROBMAN: No.

13 CHAIR HUGHS: Item 11. I'm sorry. I'm going  
14 to go back to --

15 MR. TROBMAN: Item 10.

16 CHAIR HUGHS: Oh, gosh. I see. I skipped  
17 Item 10.

18 MR. TROBMAN: Right.

19 CHAIR HUGHS: I will get back to it later.

20 We'll go forward then and take up 10 at the end, if that's  
21 all right with Randy. Is he here?

22 MR. TROBMAN: He's here.

23 CHAIR HUGHS: Oh. Great. Okay. That was  
24 11. Thank you.

25 AGENDA ITEM NO. 12



1 CHAIR HUGHS: And so Item 12, Discussion,  
2 Consideration and Possible Action Regarding Approval of  
3 Services Offered by Certified Community Rehabilitation  
4 Programs Under the PPD State-Use Program. Howard Joseph,  
5 good morning.

6 MR. JOSEPH: Good morning, Chair Hughs,  
7 Commissioner Alvarez, Commissioner Thomas, MR. Serna. For  
8 the record, my name is Howard Joseph, Program Manager  
9 Purchasing from People with Disabilities Program.

10 I have before you Agenda Item 12 for the  
11 approval of services. In regards to services there are 8  
12 contracts continuing under temporary authority, employing 37  
13 individuals being paid above minimum wage. There are 277  
14 new and renewal contracts employing 799 individuals being  
15 paid at above minimum wage. There were 12 transferred  
16 contracts employing 39 individuals. All are paid above  
17 minimum wage.

18 Staff recommends approval of all service  
19 contracts. I'll be happy to answer any questions.

20 CHAIR HUGHS: Commissioners, are there any  
21 questions or comments?

22 COMM. THOMAS: No questions.

23 COMM. ALVAREZ: Nope.

24 CHAIR HUGHS: All right. Do we have a  
25 motion?

1                   COMM. THOMAS: Move to approve per staff's  
2 recommendation.

3                   COMM. ALVAREZ: I'll second that.

4                   CHAIR HUGHS: We are unanimous. Thank you.

5                   MR. JOSEPH: Thank you.

6                                   AGENDA ITEM NO. 13

7                   CHAIR HUGHS: Item 13, Discussion,  
8 Consideration and Possible Action Regarding Policy Concepts  
9 on Amendments to Unemployment Insurance Rules, Receipt of  
10 Renumeration (40 Texas Administrative Code Chapter 815,  
11 Unemployment Insurance). Morning, Jason.

12                                   MR. STALINSKY: Good morning Chair Hughs,  
13 Commissioner Alvarez, Commissioner Thomas and MR. Serna.  
14 For the record, I'm Jason Stalinsky, UI Policy.

15                                   Before you today is a policy concept to amend  
16 the Chapter 815 Unemployment Insurance Rules. In 2011 the  
17 Texas Legislature enacted HB 14, which amended Section  
18 207.049 of the Texas Unemployment Compensation Act by  
19 providing for disqualification during a claim week in which  
20 an individual receives or has received severance pay.

21                                   As part of passage of this bill the  
22 Legislature anticipated that the Commission may need to  
23 adopt rules to effectuate these new provisions. Staff has  
24 created guidance to implement HB 14, however, it has been  
25 piecemeal, and only available internally.

1           To rectify this situation, staff is proposing  
2           creating rules to address remuneration by codifying existing  
3           practices. It is anticipated that these rules are focused  
4           on three key areas.

5           The first involves clarifying the definition  
6           of severance pay, including the terms income, usual  
7           earnings, and negotiated, as used in  
8           Section 207.049(b).

9           The second is the creation of a definition  
10          for wages in lieu of notice for the purposes of Section  
11          207.049(a)(1).

12          And the third centers on defining how  
13          disqualifying severance pay and wages in lieu of notice will  
14          be allocated to benefit weeks.

15          The adoption of these rules in these areas  
16          would create efficiencies for staff by providing a single  
17          location for definitive guidance on these issues.  
18          Furthermore, the creation of rules would provide clarity for  
19          both employers and claimants concerning how TWC will  
20          adjudicate remuneration issues.

21          Today staff seeks approval to move forward  
22          with the development of these proposed rules as outlined in  
23          this policy concept.

24          Finally, I will note that any action taken  
25          regarding precedent decisions will occur separately from the

1 potential adoptions of the Chapter 815 renumeration rules,  
2 and have only been included in the policy concept for future  
3 reference.

4 With that I am available for any questions  
5 you may have.

6 CHAIR HUGHS: Commissioners? Do you have any  
7 questions or comments for MR. Stalinsky?

8 COMM. ALVAREZ: No.

9 CHAIR HUGHS: All right, do I have a motion?

10 COMM. ALVAREZ: I move that we approve the  
11 policy concept for amendments to Chapter 815 and instruct  
12 staff to move forward with drafting the proposed rules.

13 COMM. THOMAS: Second.

14 CHAIR HUGHS: We are unanimous. Thank you.

15 AGENDA ITEM NO. 14

16 CHAIR HUGHS: Item 14, Discussion,  
17 Consideration and Possible Action Regarding Approval of  
18 Local Workforce Development Board Nominees.

19 MS. CARLSON: Good morning. Debbie Carlson  
20 with the Workforce Division. For your consideration this  
21 morning are Workforce Development Board member nominations  
22 from two boards. Concho Valley and East Texas.

23 CHAIR HUGHS: Thank you. Commissioners, do I  
24 have a motion?

25 COMM. ALVAREZ: I approve -- I move that we

1 approve the board nominees for Concho Valley and East Texas.

2 COMM. THOMAS: Second.

3 CHAIR HUGHS: We are unanimous. Thank you,  
4 Debbie.

5 MS. CARLSON: Thank you.

6 AGENDA ITEM NO. 10

7 CHAIR HUGHS: Last, but not least, I'm going  
8 to circle back to Item 10. Discussion, Consideration and  
9 Possible Action Regarding the Report to the Governor and  
10 Legislative Leadership Offices Concerning the Estimated  
11 Unemployment Trust Fund Balance Pursuant to Texas Labor Code  
12 Section 204.061, and the Estimated Employment and Training  
13 Investment Holding Fund Balance Available for Transfer  
14 Pursuant to Texas Labor Code Section 204.123. Randy  
15 Townsend. I apologize, we left you waiting.

16 MR. TOWNSEND: That's okay. Good morning,  
17 Chair, commissioners. For the record, Randy Townsend, Chief  
18 Financial Officer.

19 Presenting the status update on our  
20 Unemployment Trust Fund balance. This will be a projected  
21 balance for this coming October. Just by way of review, we  
22 started the past October with a balance in the Unemployment  
23 Trust Fund of just under 1.7-billion. Our expectation for  
24 collection is about 2.3-billion from Texas employers.

25 We'll add about 43-million in estimated

1 interest to that balance, and then when you deduct the  
2 estimated payouts and unemployment benefit payouts, which is  
3 currently estimated around 1.9-billion, that would leave a  
4 balance in the Unemployment Trust Fund upon this coming  
5 October 1<sup>st</sup> of about 2.1-billion. That would put the trust  
6 fund balance almost 966-million over the floor on that -- on  
7 this coming date. The low-point balance we're estimating at  
8 this point in the trust fund will be just under 1.3-billion.  
9 That will pay for about 35 weeks of benefits at the current  
10 payout rate.

11 Finally, let me give you the status, also, of  
12 our Employment and Training Investment assessment fund, ETI  
13 holding fund. We started the year in the balance in that  
14 fund, ETI, of 172-million. We expect to add 117-million to  
15 that balance. Since we'd be above the floor, we would be  
16 able to transfer for the skills program for the fiscal  
17 biennium and that number currently, based on the introduced  
18 bills for the house and senate will be a 44-million  
19 appropriation of the skills program. Taking that into  
20 account, we leave a balance in the holding fund of 244-  
21 million for this coming year.

22 Finally, let me just provide to you some of  
23 the recent trends. This is back to the Unemployment Trust  
24 Fund. Our weekly total benefits paid we're averaging about  
25 38.7-million. This is a 6-week average as of February 2<sup>nd</sup>.

1 That was almost 12 percent below the 6-week average for our  
2 benefits paid from a year ago.

3 Unemployment initial claims we're averaging  
4 about 13,600 or so. It was about even with where we were a  
5 year ago on the initial claims. However, the unemployment  
6 continued claims we're averaging about 115,000, little over,  
7 which is about 13 percent below one-year-ago average for  
8 continued claims.

9 And, commissioners, that concludes my  
10 presentation. If you have any questions or comments.

11 CHAIR HUGHS: Thank you. Commissioners. Are  
12 there any questions or comments?

13 COMM. ALVAREZ: No questions.

14 CHAIR HUGHS: All right. Thank you for the  
15 update, Randy.

16 AGENDA ITEM NO. 19

17 CHAIR HUGHS: There is nothing for Items 15,  
18 16 and 17. I understand we have no updates for Item 18.  
19 Item 19. Ed, do we have any updates?

20 MR. SERNA: No ma'am. Other than to  
21 congratulate the Commissioners on a good presentation at the  
22 hearing earlier this morning. All three of you all did a  
23 good job. Plus, any time that I don't have to go up that's  
24 a fantastic job, so thank you all very much.

25 CHAIR HUGHS: Well, you did a great job

1 yesterday, and the fun continues. But I'm glad that they're  
2 interested in our agency and the work that we're doing and  
3 how they can assist. I'm very grateful for the opportunity  
4 to be able to tell our story to the legislators, so that's  
5 great.

6 MR. SERNA: Good.

7 AGENDA ITEM NO. 20

8 CHAIR HUGHS: Is there a motion to adjourn?

9 COMM. THOMAS: So moved.

10 COMM. ALVAREZ: Second.

11 CHAIR HUGHS: All right, we are adjourned.

12 Thank you.

13 (Proceedings concluded at 11:37:39 a.m.)

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C E R T I F I C A T E

STATE OF TEXAS       )  
COUNTY OF HARRIS    )

I, Kimberly C. McCright, Certified Vendor and Notary in and for the State of Texas, do hereby certify that the above-mentioned matter occurred as hereinbefore set out.

I FURTHER CERTIFY THAT the proceedings of such were reported by me or under my supervision, later reduced to typewritten form under my supervision and control and that the foregoing pages are a full, true and correct transcription of the original notes.

IN WITNESS WHEREOF, I have hereunto set my hand and seal this 1st day of March, 2019.

/s/ Kimberly C. McCright  
Kimberly C. McCright  
Certified Vendor and Notary Public

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