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TRANSCRIPT OF PROCEEDINGS  
BEFORE THE  
TEXAS WORKFORCE COMMISSION  
AUSTIN, TEXAS

PUBLIC MEETING )  
FOR THE TEXAS )  
WORKFORCE COMMISSION )

COMMISSION MEETING  
MONDAY, MARCH 12, 2018

BE IT REMEMBERED THAT at 1:00 p.m. on Monday,  
the 12th day of March, 2018, 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 ANDRES ALCANTAR, Chairman; JULIAN ALVAREZ and RUTH R.  
HUGHS, Commissioners

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P R O C E E D I N G S

MONDAY, MARCH 12, 2018

(1:00 p.m.)

AGENDA ITEM NO. 1

CHAIRMAN ALCANTAR: Good afternoon, everyone.

This meeting is now called to order. Good afternoon, Ms. Miller.

MS. MILLER: Good afternoon.

AGENDA ITEM NO. 2

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

No Discussion.

AGENDA ITEM NO. 3

Discussion, Consideration and Possible Action Regarding Tax Liability Cases Listed on the Texas Workforce Commission Docket 11.

The Commission considered and took action on all tax liability cases listed on Docket 11.

AGENDA ITEM NO. 4

Discussion, Consideration and Possible Action Regarding Fair Housing Cases listed on the Texas Workforce

1 Commission Docket 11.

2 No Discussion.

3 AGENDA ITEM NO. 5

4 Discussion, Consideration and Possible Action  
5 Regarding Higher Level Appeals in Wage Claim Cases Listed on  
6 the Texas Workforce Commission Docket 11.

7 The Commission considered and took action on  
8 all wage claim cases listed on Docket 11.

9 AGENDA ITEM NO. 6

10 Discussion, Consideration and Possible Action  
11 Regarding Higher Level Appeals in Unemployment Compensation  
12 Cases Listed on the Texas Workforce Commission Docket 11.

13 The Commission considered and took action on  
14 all unemployment compensation cases listed on Docket 11.

15 AGENDA ITEM NO. 7

16 CHAIRMAN ALCANTAR: Good afternoon, everyone.  
17 We are back in session. Les, has anyone signed up for  
18 public comment?

19 MR. TROBMAN: No, sir.

20 CHAIRMAN ALCANTAR: We have no public  
21 comment.

22 AGENDA ITEM NO. 8

23 CHAIRMAN ALCANTAR: Item 8, Discussion,  
24 Consideration and Possible Action Regarding the Estimated  
25 Unemployment Trust Fund Balance and the Unemployment

1 Insurance Trust Fund Balance. Thank you.

2 MR. TOWNSEND: Good afternoon, Chairman,  
3 Commissioners. For the record, Randy Townsend, Chief  
4 Financial Officer.

5 Presenting this afternoon the estimated trust  
6 fund balance on October 1st of this year. We prepared this  
7 information as of March 5th. Just by way of quick review,  
8 the beginning balance as of last -- past October was 1.1-  
9 billion and we expect to add about 2.4-billion in  
10 collections from employers and interest of about 30-million.  
11 And then we are -- right now our estimate is that we will  
12 have benefit payments totaling just about 2.2-billion, which  
13 would be almost 300-million below last year's total.

14 That will leave a balance in the trust fund  
15 at 1-billion-469-million. That would put the trust fund on  
16 October 1st about 340-million above the floor.

17 The employment and training investment  
18 assessment status, we expect as there will not have to be a  
19 transfer out of the ETA for purposes of the unemployment  
20 trust fund and we have set aside enough in the prior year  
21 for the skills development appropriation, we'd expect the  
22 balance of ETA to be about 174-million.

23 And then let me just share with you some  
24 recent statistics for the unemployment trust fund. The  
25 weekly total benefits paid were about 40-million. That's a

1 six week period ending near the end of February, 20 percent  
2 below the one year ago total for the benefits paid. Initial  
3 claims were 12,650 for that six week period on average, and  
4 that's about seven and a half percent for the one year ago  
5 total. And finally, the unemployment continued claims were  
6 126,000, almost 127,000, about 14 percent below the one year  
7 ago total for that. So again, trends are tracking quite  
8 well at this point in the year. And that concludes my  
9 remarks this afternoon.

10 CHAIRMAN ALCANTAR: Thank you, Randy. It's a  
11 really good update. Commissioners?

12 COMM. HUGHS: Thank you for the update.

13 COMM. ALVAREZ: I have no questions. Thanks,  
14 Randy.

15 AGENDA ITEM NO. 9

16 CHAIRMAN ALCANTAR: Item 9. I believe we  
17 have no discussion on state level initiatives; is that  
18 correct? That's correct.

19 AGENDA ITEM NO. 10

20 CHAIRMAN ALCANTAR: Item 10, Discussion,  
21 Consideration and Possible Action Regarding the WIOA Target  
22 Proposals for Program Years 2018-2019. Adam Leonard. Good  
23 afternoon, Adam.

24 MR. LEONARD: Good afternoon, Mr. Chairman,  
25 Commissioners. In the packet before you is information

1 about the negotiations, the beginnings of negotiations with  
2 the Departments of Labor and Education on Title I, III and  
3 II performance targets. The guidance is largely the same as  
4 was in -- two years ago when we negotiated '16 and '17.  
5 We're bringing these recommendations to you publish on the  
6 web for public comment and then I will bring them back with  
7 any appropriate modifications in early April. And I'm happy  
8 to answer any questions you may have.

9 CHAIRMAN ALCANTAR: Okay. Any questions?

10 COMM. ALVAREZ: No questions.

11 CHAIRMAN ALCANTAR: Commissioner Hughs?

12 COMM. HUGHS: I move that we approve the  
13 proposed WIOA targets for program years 2018 and '19, to be  
14 posted to TWC's website for public review and comment.

15 COMM. ALVAREZ: I'll second that.

16 CHAIRMAN ALCANTAR: We are unanimous.

17 MR. LEONARD: Thank you.

18 CHAIRMAN ALCANTAR: Thank you, Adam.

19 AGENDA ITEM NO. 11

20 CHAIRMAN ALCANTAR: Item 11, Discussion,  
21 Consideration and Possible Action Regarding the Delegation  
22 of Authority to the Executive Director for Contracts  
23 Exceeding \$1-Million, in Accordance with Texas Government  
24 Code 2261.254.

25 MS. ORIA: Good afternoon, Commissioners.



1                   CHAIRMAN ALCANTAR: Good afternoon.

2                   MS. ORIA: Nicole Oria with the Office of  
3 General Counsel. We're bringing before the Commission today  
4 an order specifically delegating contract approval and  
5 signatory authority for contracts and grants over \$1-million  
6 per Texas Government Code Section 2261.254.

7                   Under this Section, the Commission may  
8 delegate such authority to the Executive Director. It's  
9 Staff's recommendation that the Commission approve such  
10 delegation. We're available to answer any questions you  
11 might have.

12                  CHAIRMAN ALCANTAR: Commissioners, I think we  
13 have in front of us a couple of options and I wonder if you  
14 have any comments.

15                  COMM. HUGHS: I think the language of the  
16 order is fine. Okay. Now I'm seeing we've got different  
17 options in the order.

18                  CHAIRMAN ALCANTAR: Do you want to take a  
19 moment to review that with people?

20                  COMM. HUGHS: I think generally my comment  
21 would be that it would be important to have this contract be  
22 in place and continuing, unless we pull it, so that we don't  
23 accidentally find ourselves with a break in signature  
24 authority. I don't think that would be the intention. And  
25 then I certainly think if there's an interim Executive

1 Director and acting Executive Director, versus a designee, I  
2 think that that would be appropriate. In other words, if  
3 you were unavailable, then -- for contracts over a million  
4 dollars, and I think that we should have some provision for  
5 an interim or acting, but I'm open to your ideas as well.

6 CHAIRMAN ALCANTAR: Okay. I think  
7 Commissioner Alvarez also had a couple of comments.

8 COMM. ALVAREZ: Yeah, so, I agree with  
9 Commissioner Hughs. So we were given -- when discussing  
10 this with Staff, I shouldn't say options, but couple of  
11 ideas. And so I agree with Commissioner Hughs that we  
12 include the interim Executive Director or acting Executive  
13 Director in the absence of the Executive Director. And  
14 unfortunately we're seeing that now.

15 I would also, for the contracts exceeding \$1-  
16 million following consultation is important with the  
17 Commissioners. Following consultation with us.

18 I'd also like to entertain the ability, since  
19 this wasn't done since 2005 if I'm not mistaken, that we be  
20 given the authority to -- to view these or at least evaluate  
21 these after every session. So if that's okay -- we waited  
22 almost what, 13 years to -- to review this? I'm not sure  
23 how you feel about that, every -- every session to review it  
24 to make sure that we're in compliance or if there's any  
25 changes, that we make those then.

1 CHAIRMAN ALCANTAR: Okay.

2 COMM. HUGHS: This is my thought on this; we  
3 could direct Staff to do that, but by expire -- by having  
4 that expiration language, that's where I worry that we might  
5 find ourselves in a situation that for whatever reason we  
6 don't have the opportunity to vote and some contract needs  
7 to go into effect. Also, the following consultation I guess  
8 concerns me because the idea is that if it's over a million  
9 dollars, we're going to know about it, but it sounds like  
10 we're saying he can't sign the contract until he's tracked  
11 each of us down and consulted with us?

12 COMM. ALVAREZ: I would appreciate that.

13 COMM. HUGHS: Really?

14 COMM. ALVAREZ: I think that's -- I --

15 CHAIRMAN ALCANTAR: Yeah, I --

16 COMM. ALVAREZ: I certainly would like to  
17 know.

18 COMM. HUGHS: How many are we talking about?  
19 How many contracts? Do we know a number? How many million  
20 dollar contracts Larry signs?

21 MR. SERNA: There's roughly over 160  
22 contracts with an initial value in excess of a million  
23 dollars. The majority of those are the allocations to the  
24 boards, childcare, the annual allocation. Staff could  
25 arrange in the presentation of that material to include

1 language that -- that makes it certain that the Commission  
2 knows that those are going to result in a contract that the  
3 Executive Director is going to execute. So we wouldn't have  
4 to continue to --

5 CHAIRMAN ALCANTAR: So -- but in terms of  
6 those other ones, Ed, that involve allocations to the  
7 boards, we formally take action on those --

8 MR. SERNA: Yes, sir.

9 CHAIRMAN ALCANTAR: -- to approve the  
10 allocation. So when you take those out, when you're talking  
11 about these IT and other type of projects, it's a very  
12 limited number.

13 MR. SERNA: It's --

14 CHAIRMAN ALCANTAR: We're talking under 10.

15 MR. SERNA: It's less than five.

16 CHAIRMAN ALCANTAR: Uh-huh. It's less than  
17 five.

18 MR. SERNA: As a matter of fact. Yes, sir.

19 CHAIRMAN ALCANTAR: And I would actually --  
20 given the intent of legislation where governing bodies are  
21 expected to know the details of these projects, I would -- I  
22 would like for us to get a consultation in our offices.  
23 It's at that point the contracts have already been agreed  
24 to, we're just getting a final consultation before it's  
25 actually signed by the Executive Director. And but in terms

1 of your comments, Commissioner Hughs, I -- I do think that  
2 we need to not be in a position where we can't move forward  
3 on these agreements at the end of a biennium, so if we could  
4 work on language where it doesn't expire, but something that  
5 highlights a biannual review --

6 MR. SERNA: Yes, sir.

7 CHAIRMAN ALCANTAR: -- a biannual review;  
8 maybe that's -- addresses your concern, Commissioner?

9 COMM. HUGHS: It does.

10 COMM. ALVAREZ: Uh-huh. I'd be okay with  
11 that.

12 COMM. HUGHS: And then even though it's less  
13 than five, it sounds like you're both agreeing to vote on  
14 the 160 coming up in addition to when they come before us or  
15 just the ones that don't already come before for voting?  
16 Because most of these we vote on, we're just not following  
17 it through to signature.

18 CHAIRMAN ALCANTAR: Yeah, we're --

19 COMM. HUGHS: So we are consulted.

20 CHAIRMAN ALCANTAR: Uh-huh.

21 COMM. HUGHS: I mean, that I'm confident  
22 about. That's why I'm less concerned about whether I'm  
23 consulted before he signs. But I just think we need to be  
24 careful about that language on whether we're creating beyond  
25 voting here another requirement on the backend.

1                   CHAIRMAN ALCANTAR:  It's -- it is my  
2                   expectation that -- that for these procurements that do --  
3                   and this really for me is important in terms of the  
4                   procurements, those things that don't involve directly our  
5                   boards and their allocations, but for all these other  
6                   procurements and major grants where we do an RFP and we've  
7                   made these selections through another type of process.  I  
8                   would like for a consultation in my office or for -- before  
9                   these contracts are signed, just given the intent of that  
10                  language in Senate Bill 20.

11                  MR. SERNA:  Yes, sir.  What we can do is we  
12                  can -- we can add a briefing like we would any other item  
13                  prior to the execution and make sure that it's timely so  
14                  that -- execution of the contract, make sure that it's  
15                  timely so that there's no delay in the execution of the  
16                  contract and you all have the opportunity to be consulted  
17                  and we get feedback.

18                  CHAIRMAN ALCANTAR:  So looking at these,  
19                  Nicole, I --

20                  MS. ORIA:  So what I hear you saying is that  
21                  --

22                  CHAIRMAN ALCANTAR:  We're working off of the  
23                  --

24                  MS. ORIA:  Right.

25                  CHAIRMAN ALCANTAR:  -- off of the draft that

1 includes the language for the interim Executive Director.

2 MS. ORIA: Right.

3 CHAIRMAN ALCANTAR: And --

4 MS. ORIA: And not having the --

5 CHAIRMAN ALCANTAR: The delegation of  
6 authority.

7 MS. ORIA: -- the dele -- right.

8 CHAIRMAN ALCANTAR: Language. Would not have  
9 it expire on August 31st, but --

10 MS. ORIA: Right.

11 CHAIRMAN ALCANTAR: -- as --

12 COMM. HUGHS: It's the delegation authority  
13 is to --

14 CHAIRMAN ALCANTAR: Subject to --

15 COMM. HUGHS: -- be reviewed.

16 CHAIRMAN ALCANTAR: Subject to biannual  
17 review or some --

18 MS. ORIA: And taking out the following  
19 consultation and just saying --

20 CHAIRMAN ALCANTAR: Following consultation  
21 with the Commission.

22 MS. ORIA: You want to leave that in there.  
23 Okay.

24 CHAIRMAN ALCANTAR: Leave that in there.

25 MS. ORIA: Okay.

1 CHAIRMAN ALCANTAR: I think that's --

2 COMM. ALVAREZ: Yeah, I just don't want to  
3 see another 13 or 14 years of not addressing this, so --

4 MS. ORIA: Right.

5 COMM. ALVAREZ: -- for the record again, I'm  
6 -- if I was given the -- the options, I certainly would like  
7 to see it done every two years, but that's just my personal  
8 opinion.

9 MS. ORIA: I think we're --

10 COMM. ALVAREZ: Following our -- following  
11 our session.

12 MS. ORIA: I think we're going to have it in  
13 here --

14 CHAIRMAN ALCANTAR: And that's --

15 COMM. ALVAREZ: Yeah, that's fine.

16 MS. ORIA: -- it says subject to biannual  
17 review.

18 COMM. HUGHS: We agree with that.

19 CHAIRMAN ALCANTAR: And when we do a biannual  
20 review that'll be every two years.

21 COMM. ALVAREZ: I'm fine with that, following  
22 sessions.

23 COMM. HUGHS: Sure. The only distinction is  
24 we're not rescinding the authority --

25 CHAIRMAN ALCANTAR: Uh-huh.



1                   COMM. HUGHS:  -- that we're reviewing it to  
2 potentially rescind every two years.  I think we all agree  
3 with that.

4                   COMM. ALVAREZ:  I'm okay with that.

5                   CHAIRMAN ALCANTAR:  The delegation of  
6 authority is subject to biannual review, something along  
7 those lines?

8                   COMM. ALVAREZ:  Uh-huh.

9                   CHAIRMAN ALCANTAR:  Les, Nicole.  All right.  
10 If y'all could finalize that language.  So do we need a  
11 motion on it or -- yes, Commissioner Hughs?  So you can  
12 capture all that?

13                   COMM. HUGHS:  Let's see what I can call it  
14 again here.  I move that the Commission approve the order  
15 delegating authority to the Executive Director as discussed  
16 on the record with the amendments noted.

17                   CHAIRMAN ALCANTAR:  Great.

18                   COMM. ALVAREZ:  I'll second that.

19                   CHAIRMAN ALCANTAR:  We are unanimous.  Thank  
20 you --

21                   MS. ORIA:  Thank you.

22                   CHAIRMAN ALCANTAR:  -- for bringing this to  
23 our attention.  Thank you.

24 AGENDA ITEM NO. 12

25                   CHAIRMAN ALCANTAR:  Item 12.  We have no

1 Hurricane Harvey update; is that correct?

2 MR. SERNA: No, sir, we do not.

3 AGENDA ITEM NO. 13

4 CHAIRMAN ALCANTAR: Item 13, Discussion,  
5 Consideration and Possible Action Regarding Approval of  
6 Local Board Nominees. Cam Bell. Good afternoon, sir.

7 MR. BELL: Good afternoon, Mr. Chairman --  
8 good afternoon, Mr. Chairman, Commissioners, Mr. Serna.  
9 Cameron Bell with the Texas Workforce Commission and  
10 Workforce Development Division.

11 Before you for consideration and approval are  
12 Workforce Development Board nominations for Lower Rio Grande  
13 Valley and Panhandle. Commissioner Hughs?

14 COMM. HUGHS: I move that we approve local  
15 Workforce Development Board Nominees for Lower Rio Grande  
16 Valley and Panhandle.

17 COMM. ALVAREZ: I'll second that.

18 CHAIRMAN ALCANTAR: We are unanimous. Thank  
19 you, Cam.

20 MR. BELL: Thank you.

21 AGENDA ITEM NO. 14

22 CHAIRMAN ALCANTAR: Do we have an update on  
23 federal and state legislation? We do not.

24 AGENDA ITEM NO. 15

25 CHAIRMAN ALCANTAR: Item 15, Report and

1 Update by the Executive Director. Ed.

2 MR. SERNA: Good afternoon, Commissioners.  
3 Very quickly, the only thing I wanted to do is let you all  
4 know that we would be reaching out to each of your offices  
5 and scheduling time to meet with -- have Staff and our Work  
6 In Texas replacement vendor meet with you individually,  
7 provide a briefing on that project, make sure that we  
8 continue to stay on the same page that we've been on with  
9 the Commission. So just giving you a heads up we're going  
10 to try to get that done, because this project is moving --  
11 moving along and I don't want too much time to -- to gather  
12 before we do that, so that's all I have to report.

13 CHAIRMAN ALCANTAR: And, you know,  
14 Commissioners, as you understand that's -- this is a very  
15 important procurement and I think some of the issues  
16 regarding development are not on the table since we're  
17 talking about a commercial product. But I do think there  
18 are so many aspects to this purchase that we need to really  
19 understand how this is moving forward and be prepared to  
20 take action if we need to modify or -- or accelerate any of  
21 those components, so look forward to those discussions with  
22 Staff.

23 And is that going to be it, Ed? Do you have  
24 any questions, Commissioners, or any comments?

25 COMM. HUGHS: No.

1                   COMM. ALVAREZ: No comments, Chairman.

2                   CHAIRMAN ALCANTAR: All right. Thank you.

3                                   AGENDA ITEM NO. 16

4                   CHAIRMAN ALCANTAR: The Commissioners will be  
5 going into Executive Session pursuant to Government Code  
6 551.071(1) to discuss pending litigation regarding TWC Civil  
7 Rights Division versus Teravista Community Association and  
8 pursuant to Government Code 551.074(a)(1), to discuss the  
9 appointment, employment, evaluation, reassignment of duties  
10 of the Executive Director, Internal Auditor, Executive  
11 Staff, and other personnel. Thank you. Have a good  
12 afternoon.

13                   (Executive Session begins at 1:44:43; Commission  
14 meeting continues at 2:12:33)

15                   CHAIRMAN ALCANTAR: It is 2:12, we are back  
16 in session. Do we have a motion to adjourn?

17                   COMM. HUGHS: Actually, I move that the  
18 Commission approve the proposed settlement of the lawsuit.  
19 Do we need to bring that or can I go ahead and vote on that?

20                   CHAIRMAN ALCANTAR: Yes.

21                   COMM. HUGHS: Okay. I move that the  
22 Commission approve --

23                   CHAIRMAN ALCANTAR: Thank you.

24                   COMM. HUGHS: -- the proposed settlement of  
25 the lawsuit entitled TWC CRD vs. Teravista Community

1 Association, Inc., Cause Number 15-0697-C26.

2 COMM. ALVAREZ: I'll second that.

3 CHAIRMAN ALCANTAR: We are unanimous. Thank  
4 you, Commissioner Hughs. And thank you, Commissioner Hughs,  
5 for bringing that.

6 AGENDA ITEM NO. 18

7 CHAIRMAN ALCANTAR: And we do have a motion  
8 to adjourn now?

9 COMM. HUGHS: I move that we adjourn.

10 COMM. ALVAREZ: I'll second that.

11 CHAIRMAN ALCANTAR: We're adjourned. Thank  
12 you. Have a good afternoon.

13 (Proceedings concluded at 2:13:07 p.m.)

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C E R T I F I C A T E

STATE OF TEXAS )

COUNTY OF TRAVIS )

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 20th day of March, 2018.

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

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