



JANUARY 21, 2020 COMMISSION MEETING TRANSCRIPT

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January 21, 2020 Commission Meeting

Travis Weaver: *[Recording started mid-presentation]* Agenda item as boards may continue to submit match agreements through January 31, 2020. Staff requests Commission Acceptance of Childcare pledges for Donations, Transfers and certifications of expense for BCY 20 in the amount of \$6,799,820. Any questions?

Chairman Daniel: Comments or questions?

Commissioner Alvarez: No Comments Chairman.

Commissioner Demerson: None here.

Chairman Daniel: Do we have a motion?

Commissioner Alvarez: I move that we accept Childcare Local Match agreements in the amount of \$6,799,820 for board contract year 2020 as directed by staff.

Commissioner Demerson: Second.

Chairman Daniel: We're unanimous.

Travis Weaver: Thank you.

Chairman Daniel: This is agenda item nine, Discussion, Consideration and possible action regarding the report to the Governor and legislative leadership offices concerning the estimated unemployment trust fund balance pursuant to the Texas labor code section 204.061, and the Estimated Employment and Training Investment Holding Fund balance available for the transfer pursuant to Texas Labor Code section 204.123.

Chris Nelson: Good morning Chair, Commissioners, Mr. Serna. For the record, Chris Nelson, Chief Financial Officer. This afternoon I'll be updating you on the Unemployment Insurance Trust Fund and trends regarding the benefits paid. As of January 13, 2020, the October 1, 2020 projected trust fund balance is approximately 2.05 billion which is projected to be above the floor by approximately 865 million. For the last six weeks ending January 13, the weekly total benefits paid were forty two million above the amount this time last year 36.7 million or 14.4%. this is largely driven by the increase in continued claims that is up 11.5% from one-year ago and the increase in the average weekly benefit amount that is up 420 dollars from 398. One thing to note with the average weekly benefit amount is the maximum reimbursement amount went up by \$14 effective October 2019. Which has an impact on the weekly benefits paid. Initial claims are at 12, 580 very close to this time last year, down .1%. Another thing to note with this data point is that this six-week ending period includes two holidays, Thanksgiving and Christmas, which factors into the initial claims being relatively flat for this period. That concludes my remarks and I would be happy to answer any questions.

Chairman Daniel: Comments or Questions?

Commissioner Alvarez: None Chairman.

Commissioner Demerson: Chris, just get with our office, I just kind of want to understand a little bit deeper about some of the changes.

Chris Nelson: Okay. I'll schedule something with you.

Chairman Daniel: Do we have a motion? We don't need to take any action.

Chris Nelson: No. There was no action.

Chairman Daniel: This was informational. I'm sorry. Agenda item ten. Discussion, Consideration and Possible action regarding publishing Workforce Innovation and Opportunity Act Target Proposals for Program Years 2020 and 2021 for Public Comment.

Adam Leonard: Good afternoon Chair, Commissioners, as we briefed your offices, the WIOA statute requires states to negotiate targets in two-year increments as part of the state plan proposals. And although the statute also lays out four factors to consider in those negotiations our federal partners have not yet gotten three of the four to us so we made the best we could due in terms of proposals for uh, basically looking at continuous improvement and recent trends and expected changes in program operations. Statute talks, requires us to put it out for public comment and get the comments back and then submit final recommendations as part of our state plan and I'm here requesting permission to go ahead and publish this information for a two week public comment period and that we will submit final recommendations as part of the state plan when it comes up for vote in a few weeks. I'm happy to answer any questions you might have.

Chairman Daniel: Comments or questions.

Chairman Alvarez: None here Chairman.

Commissioner Demerson: No.

Chairman Daniel: Do we have a motion?

Commissioner Alvarez: I move that we post the proposed targets to the TWC website for a two-week comment period as discussed.

Commissioner Demerson: Second.

Chairman Daniel: It's unanimous.

Adam Leonard: Thank you.

Chairman Daniel: This is agenda item eleven, Discussion, Consideration and Possible action regarding the Delegation of Authority to the Executive Director and the Deputy Executive Director for Contracts exceeding \$1 million, in accordance with Texas Government Code Section 2261.254.

Sarah Hernandez: Good afternoon Chairman, Commissioners, Mr. Serna, for the record Sarah Hernandez with the Office of General Counsel. During the 86th Legislative Session, the legislature passed Senate Bill 65 effective September 1, 2019 which permits the governing body of a state agency to delegate to the Executive Director and Deputy Executive Director the signature authority for contracts over \$1 Million dollars. Previously Texas Government Code section 2261.254d stated that the governing body could delegate approval and signature authority for contracts exceeding \$1 million dollars solely to the Executive Director. The effect of this statutory expansion allows agencies to rely on an additional authorized person in the event the Executive Director is unavailable. Confining the delegation to the Executive Director and the Deputy Executive Director would satisfy the statutory mandate while

adequately meeting the agency's needs. Staff recommends approval for signature authority To include the deputy executive director for contracts exceeding \$1 million. The draft order before you retains the requirement of consultation with the commissioners. I'm available to answer any questions you may have.

Chairman Daniel: Comments or questions?

Commissioner Alvarez: No sir.

Commissioner Demerson: None here.

Chairman Daniel: Do we have a motion?

Commissioner Alvarez: I move that we adjust the delegation of authority to the Executive director and the deputy executive director for the contracts exceeding \$1 million dollars pursuant to the Texas Government Code section 2261.254.

Commissioner Demerson: Second.

Chairman Daniel: We are unanimous.

Sarah Hernandez: Thank you.

Chairman Daniel: Thank you. Agenda item twelve Discussion, Consideration and Possible action regarding the acknowledgement of gifts and donations of \$500 or more in value given to the Texas workforce Commission in accordance with section 302.021 of the Texas Labor Code and Chapter 575 of the Texas Government Code.

Sarah Hernandez: Again, for the record, Sarah Hernandez with the Office of General Counsel. Before you here are the gifts and donations of \$500 or more in value given to the Texas Workforce Commission for the fourth quarter of 2019 for your acknowledgement and Acceptance. The last page attached to the spreadsheet showing the gifts and donations. Staff recommends acknowledgement and approval of items 1 through 6. Thank you for your consideration and I'm available for questions.

Chairman Daniel: Comments or questions?

Commissioner Alvarez: No sir.

Commissioner Demerson: None.

Chairman Daniel: Do we have a motion?

Commissioner Alvarez: I move that we acknowledge the gifts and donations valued at more than \$500 as discussed by staff.

Commissioner Demerson: Second.

Chairman Daniel: We are unanimous.

Sarah Hernandez: Thank you.

Chairman Daniel: Agenda Item thirteen, Discussion, Consideration and Possible action regarding the US Department of Labor Final Rule Giving States Increased Flexibility in Administration of Employment Services Activities Funded Under the Wagner-Peyser Act.

Courtney Arbour: Good afternoon Commissioners, Mr. Serna. Courtney Arbour, Workforce Division. On January 3rd of this year, the department of labor published a final rule regarding Wagner-Peyser Act staffing flexibility. DOL noted that the final rules intended to give states increased flexibility in their administration of activities funded under the Wagner-Peyser Act. The flexibility includes the grants allocated to the states for traditional labor exchange and related services for foreign labor certification program including the placement of employer job orders and the inspection of housing for agricultural workers under the FLC program and the administration and prevailing wage and practice surveys. This final rule is effective February 2nd, 2020. As you know, prior to the issuance of this final rule, services provided under the authority of the Wagner-Peyser Act are required to be provided by state merit staff employees but with the issuance of this final rule, states now have the flexibility to provide these activities through a variety of staffing models. So today Commissioners, we request your direction on appropriate actions to take in regard to the issuance of those rules and any next steps.

Chairman Daniel: Comments or questions?

Commissioner Alvarez: Chairman I have a few comments if I may at this time. I would like staff to carefully consider all factors during this process. Texas has always maintained a strong economic stance even during periods of economic recession. Texas Workforce through rapid response improvements, MOUS, monitoring other tools have already created efficiencies while maintaining superior customer service at the state and local levels to UI claimants and employers alike. Unless there is a compelling analysis and data otherwise, I would not support any changes to our current service delivery system. I'd also like for staff to provide the public comments to the notice of proposed federal rulemaking to the Commission offices which we received 125. I would request staff provide a briefing on the number of merit staff positions and programs impacted in employment services such as RRES, TAA and et cetera and in our migrant farmworker program locations of this merit staff by state, office, and board areas including longevity information. I would also like staff to provide an analysis on the impact program effectiveness, oversight and accountability. If we have complete transition, transition by program, I would like staff to provide an analysis on the methodology used to determine wage saving referenced in the notice of proposed ruling and its applicability to Texas. I would also like staff to provide an analysis of any cost-savings to Texas compared to the cost of contracting these services. What would be the recommended process for transition if we decide to staff these with non-merit positions? I'd also like finally to Ask staff to provide an analysis regarding ease of accessibility to information by customers if we contract these services. These are my comments.

Commissioner Demerson: In addition, I think Commissioner Alvarez summarized pretty much, we need a side by side analysis or impact analysis...inaudible

Edward Serna: One thing I'd like to just to make sure y'all know. As we're conducting this analysis, we're probably not processing any new job postings so that we don't, if there is a decision, to handle how we provide these services differently, you don't wanna increase the number of employees that may potentially be affected. So, we'll probably, unless it's an emergency, just hold off on processing any jobs, any job postings for any vacancies that are out there right now.

Chairman Daniel: So, let's do this if it's amenable to everybody. Let's encapsulate all of Commissioner Alvarez's request for information and let's add to that Mr. Serna's statement that he just made regarding job hires and I would like to bring all of that together in a motion that would request this information, acknowledge Mr. Serna's report and simply task staff with giving us an idea of what the best possible plan might be in your eyes taking into account all of the information you're raising. All of this is going to have to come back before the Commission so I would just simply move, let's take our time and gather the facts, certainly the facts that Commissioner Alvarez has asked and anything else that sort of shows up during that fact finding process, I'd ask you to report that as well. And then I would further ask that you give us an idea of what's the best plan for TWC, that would obviously be subject to amendment once it comes back before the Commission for a vote. So that would be my motion.

Commissioner Alvarez: I just have a comment Ed. Those positions you said that we wouldn't be hiring anybody, are those offices adequately staffed right now?

Edward Serna: What we'll do is we'll look at, if there's a situation where either staff are in offices inadequately staffed or let's say it's in a remote part of the state and there's only one person providing that service, then we'll consider that sort of an emergency, not an emergency but a situation that is critical enough to fill the position.

Commissioner Alvarez: okay.

Edward Serna: But I'd like the opportunity to be able to sort of evaluate that as opposed to just continuing things the way they are right now or inaudible...

Commissioner Alvarez: I'd be okay with that as long as we don't overwork the people that we have now. I'd be fine with that.

Edward Serna: Right. We don't wanna affect anybody with that. None of that should affect any of the people right now.

Commissioner Alvarez: Ok.

Commissioner Demerson: So, Chairman, did you have a motion? I second that motion.

Commissioner Alvarez: So, if I may Commissioners.

Chairman Daniel: Please.

Commissioner Alvarez: I would request staff provide briefings on the information requested by the Commission and thoughtfully consider any recommendations regarding efficiencies that could be created that do not currently exist that would serve both job seekers and employers and also the recommendation made by our Executive Director in place for those hiring.

Chairman Daniel: I would agree with that motion.

Commissioner Demerson: Second Commissioner Alvarez.

Chairman Daniel: We are unanimous. This is Agenda item 14, Discussion, Consideration and Possible action regarding a policy concept on amendments to Chapter 819 civil rights rules related to age discrimination.

Bryan Snoddy: Good afternoon Chairman Daniel, Commissioners, Mr. Serna. For the record, Bryan Snoddy, Civil Rights Division. Section 819.12 subsection D of Texas Workforce Commission Civil rights division rules includes the provision that the prohibition against age discrimination and job training program only applies to individuals who are at least 40 years of age but younger than 56 years of age. This rule provision needs to be amended to align with Texas Labor Code section 21.054 as amended by House Bill 1074 by adjusting the prohibition against age discrimination to those aged 40 or older. Staff seeks direction on amending section 819.12 subsection d the rule to align with current statutory language in Texas labor code section 21.054. Any questions?

Chair Daniel: Thank you. Comments or questions?

Commissioner Demerson: No.

Commissioner Alvarez: No Chairman.

Chairman Daniel: None. Do we have a motion?

Commissioner Alvarez: I move that we amend Section 819.12D to align with the current statutory language in the Texas Labor Code section 21.054.

Commissioner Demerson: Second.

Chair Daniel: We're unanimous. Agenda item 15, Discussion, Consideration and Possible action regarding recommendations from the Texas Rising Star Workgroup.

Allison Wilson: Good afternoon Commissioners, Mr. Serna, for the record, Allison Wilson, childcare and early learning division. TWC reviews and Updates the Texas Rising Star guidelines at least every four years. The review must consider input from stakeholders and the public at large. In May 2019 TWC convened a work group of key stakeholders to review and recommend revisions to Texas Rising Star. And over the last eight months, the work group has engaged in a collaborative process to develop recommendations for consideration by the Commission, stakeholders and the public at large. Staff seeks direction on publishing the workgroups recommendations for public input. I'm happy to answer any questions you have.

Chair Daniel: Comments or questions?

Commissioner Alvarez: No comments.

Commissioner Demerson: None.

Commissioner Alvarez: I move that we publish the draft recommendations from the TRS for public comment as discussed.

Commissioner Demerson: Second.

Chairman Daniel: We are unanimous. I'm not showing anything for standing items 16 or 17. SO let's move to agenda Item 18 Discussion, Consideration and Possible action regarding approval of local workforce development board nominees.

Shunta Williams: Good afternoon Chairman Daniel, Commissioner Alvarez, Commissioner Demerson and Mr. Serna. I'm Shunta Williams with the Workforce Division. And before you for consideration, we have

workforce board nominees for two areas, workforce solutions north central Texas and southeast Texas. If you have no other questions, staff recommends that all nominees be approved.

Chairman Daniel: Comments or questions?

Commissioner Alvarez: No sir.

Commissioner: None.

Chairman Daniel: Do We have a motion?

Commissioner Alvarez: I move that we approve the board Nominees for north central Texas and southeast Texas.

Commissioner Demerson: Second.

Chairman Daniel: We are unanimous.

Shunta Williams: Thank you.

Chairman Daniel: Thank you. Mr. Serna do you have anything to report?

Edward Serna: Just one quick thing. Y'all may be aware that this month we are experiencing exceptionally high call volumes in our call centers, all four of our call centers. It's sort of a two-plus year high for us on the volume of calls coming in. I would like to while we're still dealing with that, compliment staff because what we've done is we've expanded by adding an hour of operation and also staff had reduced lunch to 30 minute lunch so that we can take more calls and try to process those but the volume is exceptionally high for us beyond what we're normally used to even during a peak period.

Chairman Daniel: Is there any other order of business to come before the commission?

Commissioner Demerson: None

Chairman Daniel: Do we have a motion to adjourn?

Commissioner Alvarez: I move that we adjourn.

Commissioner Demerson: Chairman before we adjourn, I wanted to mention something real quick. TCE we're gonna have his week January 24th about 950 folks showing up for that so that's real nice unemployment law session workshop. And Elsa Ramos on our team is celebrating 10 years, I don't know if Elsa's in here, she may be upstairs and Liake Todd is celebrating 5 years and I want to congratulate those individuals for their work at the state level. That's it. I'll second the motion to adjourn.

Chairman Daniel: We're unanimous. So we're adjourned.