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TRANSCRIPT OF PROCEEDINGS
BEFORE THE
TEXAS WORKFORCE COMMISSION
AUSTIN, TEXAS

PUBLIC MEETING)
FOR THE TEXAS)
WORKFORCE COMMISSION)

COMMISSION MEETING
TUESDAY, APRIL 17, 2018

BE IT REMEMBERED THAT at 9:00 a.m. on
Tuesday, the 17th day of April, 2018, the above-entitled
matter came on for hearing at the Texas Workforce
Commission, TWC Building, 101 East 15th 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

TUESDAY, APRIL 17, 2018

(9:00 a.m.)

AGENDA ITEM NO. 1

CHAIRMAN ALCANTAR: Good morning, everyone.

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

MS. MILLER: Good morning.

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 Dockets 15 and 16.

The Commission considered and took action on all tax liability cases listed on Dockets 15 and 16.

AGENDA ITEM NO. 4

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

1 Commission Dockets 15 and 16

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 Dockets 15 and 16.

7 The Commission considered and took action on
8 all wage claim cases listed on Dockets 15 and 16.

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 Dockets 15
13 and 16.

14 The Commission considered and took action on
15 all unemployment compensation cases listed on Dockets 15 and
16 16.

17 AGENDA ITEM NO. 7

18 CHAIRMAN ALCANTAR: Good morning, everyone.
19 I'd like to -- we're back in session. Les, has anyone
20 signed up for public comment?

21 MR. TROBMAN: No.

22 CHAIRMAN ALCANTAR: We have no public
23 comment.

24 AGENDA ITEM NO. 8

25 CHAIRMAN ALCANTAR: Item 8, Discussion,

1 Consideration and Possible Action Regarding Publication for
2 Public Comment of the Proposed Rules to Repeal the
3 Provisions Relating to the Purchase of Business Services by
4 TWC for Vocational Rehab Services. Carline, Cheryl Fuller?

5 MR. SERNA: I know she's here, because I just
6 saw her next door. Let me go see, Mr. Chairman, if she's --
7 I saw her in the room right next door probably preparing for
8 this, so.

9 CHAIRMAN ALCANTAR: Good morning, Ed. How
10 are you?

11 MR. SERNA: Fine. Thank you. Fine. Thank
12 you, sir. How are y'all?

13 CHAIRMAN ALCANTAR: Fine. Thank you.

14 COMM. ALVAREZ: Good morning, Ed.

15 CHAIRMAN ALCANTAR: Let's go to 9 --
16 well, 9 is also --

17 MR. SERNA: Right.

18 CHAIRMAN ALCANTAR: Let's see. What do
19 we have for 10? Okay. 10 is -- 11?

20 MR. SERNA: They're all coming in now.
21 We'll improve the sound in the room next door.
22 Maybe just bang on the wall real loud.

23 (Laughter)

24
25

1 MR. SERNA: Of course, y'all wouldn't
2 be having this problem if Mr. Temple were here.

3 (Laughter)

4 CHAIRMAN ALCANTAR: Okay. Let's --
5 let's do 12.
6

7 MR. SERNA: All right.

8 AGENDA ITEM NO. 12

9 CHAIRMAN ALCANTAR: Let's do 12; Item
10 12.
11

12 MR. SERNA: There she is.

13 CHAIRMAN ALCANTAR: Okay.

14 AGENDA ITEM NO. 8

15 CHAIRMAN ALCANTAR: We're back to Item
16 8. Morning, Carline.

17 MS. GEIGER: Good morning, Mr.
18 Chairman, Commissioners and Mr. Serna. Good
19 morning.
20

21 For the record, I'm Carline Geiger for
22 Vocational Rehabilitation. This morning I am
23 bringing for your consideration and approval the
24 proposed repeal of Chapter 852 in its entirety.
25

1 This is to comply with Texas Labor Code 352.101,
2 which required TWC to integrate the two separate VR
3 programs; VR for individuals with visual impairments
4 and VR for individuals with other disabilities, into
5 a single VR program, which occurred on October 1st,
6 2017. The rules to support the integration were
7 effective November 6th, 2017.

9 Chapter 852 previously had the VR rules
10 that were integrated into the new chapter 856 in
11 November. It now consists of just one section,
12 Section 852.1. This section pertains to alternative
13 purchasing methods, rates for medical services. To
14 align this purchasing rule with other TWC/VR
15 procurement and programmatic operations, this
16 chapter should be repealed and Section 852.1 should
17 be adopted as a rule in Chapter 856 and updated to
18 reflect statutory changes. If the Commission
19 approves the proposed repeal, Chapter 852 will be
20 published in the Texas Register for public comment.

23 Do you have any questions?

24 CHAIRMAN ALCANTAR: Commissioner Hughs?

25

1 COMM. HUGHS: I move that we approve
2 the proposed rules relating to Chapter 852 to be
3 published in the Texas Register for public comment
4 as recommended.

5
6 COMM. ALVAREZ: I'll second that.

7 CHAIRMAN ALCANTAR: We are unanimous.

8 AGENDA ITEM NO. 9

9 CHAIRMAN ALCANTAR: Item 9, Discussion,
10 Consideration and Possible Action Regarding Publication for
11 Public Comment of Proposed New Rules Relating to the
12 Independent Services for Older Individuals Who Are Blind
13 Program. Carline?

14 MS. GEIGER: Again, Carline Geiger for
15 Vocational Rehabilitation. The reason for the proposed new
16 Chapter 853 is to develop rules to establish the independent
17 living services for older individuals who are blind, ILSOIB,
18 as in-house services delivered by TWC.

19 Prior to the transfer to TWC, this program
20 was going to be outsourced through an agreement between TWC
21 and the Health and Human Services Commission. After
22 receiving guidance from the Rehabilitation Services
23 Administration, RSA, it was decided that TWC would deliver
24 ILSOIB services in-house. Therefore, the proposed new
25 Chapter 853 will reflect this service delivery model and

1 contain all rules for the ILSOIB program.

2 These proposed new rules will update
3 references to the agency and division names, replace
4 consumer with customer and update various definitions and
5 references to state statutes. The proposed new rules will
6 also discuss the referral process, application process,
7 eligibility determination, independent living plan scope of
8 services, participation and cost of services, comparable
9 benefits, case documentation and customer's rights.

10 If approved by the Commission, the proposed
11 new rules will be published for public comment. Are there
12 any questions?

13 CHAIRMAN ALCANTAR: Commissioner Hughs?

14 COMM. HUGHS: I move that we approve the
15 proposed rules relating to Chapter 853 to be published in
16 the Texas Register for public comment.

17 COMM. ALVAREZ: I'll second that.

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

20 AGENDA ITEM NO. 10

21 CHAIRMAN ALCANTAR: Item 10, Discussion,
22 Consideration and Possible Action Regarding Publication for
23 Public Comment of Proposed Amendments to Existing Rules
24 Relating to the Criss Cole Rehabilitation Center and
25 Independent Living Services for Older Individuals Who Are

1 Blind.

2 MS. GEIGER: Based on the integration of the
3 two VR programs into a single VR program, and to comply with
4 Texas Labor Code 352.101, TWC proposes the repeal of Chapter
5 854(A), pertaining to the Criss Cole Rehabilitation Center.
6 A new subchapter is proposed in Chapter 856, which now
7 contains the rest of the VR rules, and will contain all
8 rules for CCRC.

9 In addition, it is proposed that the program
10 rules for ILSOIB in Chapter 854(D), be repealed. Chapter
11 854 rules supported plans for this program be outsourced.
12 Since TWC provides ILSOIB services as in-house services, the
13 rules must be revised to reflect this service delivery
14 model. TWC proposes adopting new Chapter 853 to contain all
15 rules for the ILSOIB program.

16 If approved by the Commission, the proposed
17 amendments to the existing rules will be published for
18 public comment. Do you have any questions?

19 CHAIRMAN ALCANTAR: Commissioner Hughs?

20 COMM. HUGHS: I move that we approve the
21 proposed rules relating to Chapter 854 to be published in
22 the Texas Register for public comment.

23 COMM. ALVAREZ: I'll second that.

24 CHAIRMAN ALCANTAR: It's unanimous.

25 AGENDA ITEM NO. 11

1 CHAIRMAN ALCANTAR: Item 11, Discussion,
2 Consideration and Possible Action Regarding Publication for
3 Public Comment of Proposed Amendments to Existing Rules
4 Relating to the Criss Cole Rehab Center and Alternative
5 Purchasing Methods-Rates for Medicaid Services.

6 MS. GEIGER: This final proposed action would
7 repeal the purchasing and Criss Cole Rehabilitation Center
8 rules from their current chapters to align the earlier
9 proposals that you approved to move both rules into the
10 Chapter 856 with the other VR rules.

11 Chapter 852 contains the single Rule Section
12 852.1. The proposed amendment is to adopt this as a rule in
13 Chapter 856 and update it to reflect statutory changes to
14 align with TWC procurement and programmatic operations.

15 The proposed amendment to Chapter 854(A)
16 pertaining to Criss Cole Rehabilitation Center is to contain
17 all of the rules for the CCRC program in Chapter 856(G).
18 The proposed amendments will update language to replace
19 references to DARS, division names, et cetera. Also, new
20 Rule 856.85 is added to specify that a customer must
21 maintain eligibility to continue receiving services from
22 Criss Cole. If approved by the Commission, these proposed
23 amendments to existing rules will be published for public
24 comment.

25 Do you have any questions?

1 CHAIRMAN ALCANTAR: Commissioner Hughs?

2 COMM. HUGHS: I move that we approve the
3 proposed rules relating to Chapter 856 to be published in
4 the Texas Register for public comment.

5 COMM. ALVAREZ: I'll second that.

6 CHAIRMAN ALCANTAR: We are unanimous. Thank
7 you, Carline.

8 MS. GEIGER: Thank you.

9 AGENDA ITEM NO. 12

10 CHAIRMAN ALCANTAR: Item 12, Discussion,
11 Consideration and Possible Action Regarding Publication for
12 Public Comment of Proposed Rules Relating to the Good Cause
13 Process for the SNAP program. Jason, good morning.

14 MR. VADEN: Good morning, Commissioners. For
15 the record, Jason Vaden, Workforce Division.

16 Current SNAP E&T rules 40 Texas
17 Administrative Code Chapter 813, provide the criteria for
18 good cause determination, stating specifically that local
19 Workforce staff make the good cause determinations for
20 individuals who participate in the SNAP E&T program. Based
21 on discussions with federal partners, this rule provision
22 should be amended to clarify the respective roles of TWC and
23 the Health and Human Services Commission in this good cause
24 determination process.

25 TWC staff have worked very closely with HHSC

1 to implement a revised process for recommending and
2 determining good cause. A policy concept that you
3 previously approved was posted for a three-week public --
4 three-week comment period. No comments were received.

5 This morning Staff seeks direction on
6 proposed amendments to the Commission's Chapter 813 SNAP E&T
7 rules. With your approval, the proposed amendments will be
8 published in the Texas Register for a 30-day public comment
9 period.

10 That concludes my remarks and I'm happy to
11 answer questions if you have any.

12 CHAIRMAN ALCANTAR: Any questions?
13 Commissioner Hughs?

14 COMM. HUGHS: I move that we approve the
15 proposed rules relating to Chapter 813 to be published in
16 the Texas Register for public comment.

17 COMM. ALVAREZ: I'll second that.

18 CHAIRMAN ALCANTAR: We are unanimous.

19 AGENDA ITEM NO. 13

20 CHAIRMAN ALCANTAR: Item 13, Discussion,
21 Consideration and Possible Action Regarding a Policy Concept
22 on Amendments to Chapter 811 Choices Program Rules Related
23 to Child Care Reauthorization. Jason.

24 MR. VADEN: Again for the record, Jason
25 Vaden, Workforce Division.

1 Amendments to the Commission's Chapter 809,
2 Child Care rules implementing changes to the Child Care
3 program based on the provisions set forth in reauthorization
4 became effective in October 2016. The most impactful of
5 these changes were the new 12-month eligibility requirements
6 for child care.

7 These child care rule modifications also
8 impact other programs in which child care services are
9 offered, including Choices. As a result, the rules
10 governing the Choices program located at 40 Texas
11 Administrative Code Chapter 811, are inconsistent with the
12 amended Chapter 809 Child Care rules. In addition, under
13 administrative changes which impact the Choices program have
14 been identified.

15 This morning Staff seeks direction on the
16 policy concept regarding amendments to the Commission's
17 Chapter 811 Choices Rules for posting to TWC's website for a
18 three-week public comment period.

19 Again, that concludes my remarks. Happy to
20 answer questions if you have any.

21 CHAIRMAN ALCANTAR: Any questions?

22 COMM. ALVAREZ: No questions.

23 CHAIRMAN ALCANTAR: Commissioner Hughs?

24 COMM. HUGHS: I move that we approve the
25 discussed policy concept regarding Chapter 811 regard --

1 relating to Child Care Reauthorization.

2 COMM. ALVAREZ: I'll second that.

3 CHAIRMAN ALCANTAR: We are unanimous.

4 AGENDA ITEM NO. 14

5 CHAIRMAN ALCANTAR: Item 14, Discussion,
6 Consideration and Possible Action Regarding a Policy Concept
7 on the Repeal of Chapter 847 Project RIO. Jason.

8 MR. VADEN: One final time for the record
9 this morning, Jason Vaden, Workforce Division.

10 The Project Re-Integration of Offenders or
11 Project RIO for short, provided statewide employment
12 referral services designed to assist with the re-integration
13 of formerly incarcerated individuals into the labor force.
14 The 82nd Texas Legislature, through the General
15 Appropriations Act, eliminated funding for Project RIO
16 effective September 1st of 2011 and the Legislature has not
17 funded the program since that date.

18 Although TWC continues to provide services to
19 ex-offenders, the program as set forth in 40 Texas
20 Administrative Code Chapter 847 no longer exists. This
21 morning Staff seeks direction on this policy concept
22 regarding the repeal of the Commission's Chapter 847 Project
23 RIO rules for posting to TWC's website for a three-week
24 public comment period.

25 Happy to answer questions if you have any.

1 CHAIRMAN ALCANTAR: Commissioner Hughs?

2 COMM. HUGHS: I move that we approve the
3 discussed policy concept on the repeal of Chapter 847
4 relating to Project RIO employment activities and support
5 services.

6 COMM. ALVAREZ: I'll second that.

7 CHAIRMAN ALCANTAR: We are unanimous. Thank
8 you, Jason.

9 AGENDA ITEM NO. 15

10 CHAIRMAN ALCANTAR: Item 15, we have no
11 updates.

12 AGENDA ITEM NO. 16

13 CHAIRMAN ALCANTAR: Item 16, there is no
14 Hurricane Harvey update this morning.

15 AGENDA ITEM NO. 17

16 CHAIRMAN ALCANTAR: Item 17, we have
17 Discussion, Consideration and Possible Action Regarding the
18 Approval of Local Board Nominees. Cam, good morning, sir.

19 MR. BELL: Good morning, Mr. Chairman,
20 Commissioners, Mr. Serna. Cameron Bell, Workforce
21 Development Division.

22 Before you for consideration and approval are
23 Workforce Development Board nominations for Workforce
24 Solutions Borderplex, Capital Area, Concho Valley, Heart of
25 Texas, Greater Dallas, Lower Rio Grande Valley, Coastal

1 Bend, and West Central Texas.

2 CHAIRMAN ALCANTAR: Commissioner Hughs?

3 COMM. HUGHS: I move that we approve local
4 Workforce Development Board Nominees as recommended for the
5 named board areas.

6 COMM. ALVAREZ: I'll second that.

7 CHAIRMAN ALCANTAR: We are unanimous.

8 MR. BELL: Thank you.

9 CHAIRMAN ALCANTAR: Thank you, Cam.

10 AGENDA ITEM NO. 18

11 CHAIRMAN ALCANTAR: Item 18 is Discussion,
12 Consideration and Possible Action Regarding Enacted or
13 Proposed State or Federal Legislation. We have Michael
14 Britt this morning. Good morning, Michael.

15 MR. BRITT: Good morning, Mr. Chairman,
16 Commissioners. For the record, Michael Britt, Governmental
17 Relations.

18 I wanted to start with last Thursday, the
19 U.S. House Committee on Agriculture released a draft of the
20 2018 Farm Bill. The measure would make changes to and
21 reauthorize the Supplemental Nutrition Assistance Program.
22 Among the changes to the SNAP program, the bill establishes
23 work requirements for SNAP recipients and makes considerable
24 investments to the SNAP Employment and Training program.

25 The U.S. House Committee on Agriculture will be

1 holding a hearing tomorrow, at 10:00 a.m. Eastern on the
2 bill.

3 Also in D.C. occurring right now, the U.S.
4 House Ways and Means Committee is holding a hearing titled:
5 Jobs and Opportunity: Federal Perspectives on the Jobs Gap.

6 Switching to the State Legislature, there are
7 several hearing this week that GR is monitoring.

8 On Wednesday, at 9:00 a.m., the House
9 Committee on Energy Resources will be taking up their
10 interim charge on examining how state policies may
11 facilitate investment in public infrastructure and workforce
12 development in the Permian Basin Region.

13 Also on Wednesday at 10:00 a.m., the House
14 Committee on Appropriations will be taking up several
15 charges TWC is monitoring. They will be taking up charges
16 looking at the use of federal funds by state agencies
17 responding to Hurricane Harvey, they will be reviewing the
18 effectiveness of the cost-recovery model as a method of
19 finance for programs and organizations across state
20 government; and they will be also monitoring the
21 implementation of Article IX, Section 9.13 of the General
22 Appropriations Act, to determine if state agencies are
23 realizing a cost savings and security enhancements in state
24 operations related to cybersecurity.

25 At 1:00 on Wednesday, the House Committee on

1 Public Education will be taking up their interim charge to
2 monitor agencies under the committee's jurisdiction, and
3 will also receive an update from TEA regarding Hurricane
4 Harvey.

5 Finally, next Thursday, April 25th, Chairman
6 Alcantar, will be testifying before the Senate Committee on
7 Higher Education. That hearing the committee will be taking
8 up their interim charge related to the 60X30TX Statewide
9 Plan Review.

10 That concludes my remarks and I will be happy
11 to answer any questions that you have.

12 CHAIRMAN ALCANTAR: Any questions?

13 COMM. HUGHS: No. Thank you for the update.

14 COMM. ALVAREZ: Thank you.

15 AGENDA ITEM NO. 19

16 CHAIRMAN ALCANTAR: Item 19, Report and
17 Update by the Executive Director. Good morning, Ed. What
18 do you have for us this morning?

19 MR. SERNA: Good morning, sir, and good
20 morning, Commissioners. Just a couple of things.

21 First of all, we wanted to acknowledge that
22 Courtney Arbour attended a national Farm Workers
23 Organization conference last week and accepted an award on
24 behalf of -- the President's Award on behalf of the Agency
25 for our support of farm workers. So we're very pleased

1 about that.

2 Also, let the Commission know that the
3 Divisions are progressing with regard to the hiring and
4 bringing our interns on board for this summer. I had
5 mentioned previously we had a good pool. Screening and
6 interviews are underway and we're still on target for having
7 those individuals start with us mid-May.

8 And then finally, you'll get more detailed
9 information on this in the work session, but let you know
10 that the Work In Texas replacement project is progressing
11 very well. We did want to add something. We did bring on
12 board a -- which was planned -- we did bring on board a
13 vendor to assist us with independent verification and
14 validation on that project. That's just to kind of help us
15 make sure that the project stays on track and that if any
16 issues are identified, that they are evaluated by an
17 independent third party that has knowledge of how to do that
18 and not our own staff. Not that we don't have confidence in
19 our staff, we do, but that will kind of help us make sure we
20 stay on track with that very critical project for us.

21 Those are the only things I have to report.
22 If you all have any questions for me, I'd be glad to answer
23 them.

24 CHAIRMAN ALCANTAR: Commissioner Alvarez?

25 COMM. ALVAREZ: I just want to congratulate

1 Courtney on the award that she received. That's a great
2 organization and so it's unfortunate we couldn't attend, but
3 congratulations to you for your hard work and your team's
4 hard work.

5 CHAIRMAN ALCANTAR: Commissioner Hughs?

6 COMM. HUGHS: Thank you.

7 AGENDA ITEM NO. 22

8 CHAIRMAN ALCANTAR: All right. Do we have a
9 motion to adjourn this?

10 COMM. HUGHS: I move that we adjourn.

11 COMM. ALVAREZ: I'll second that.

12 CHAIRMAN ALCANTAR: We're adjourned. Thank
13 you. And have a good day.

14 (Proceedings concluded at 10:20:14 a.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 26th day of April, 2018.

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

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