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TRANSCRIPT OF PROCEEDINGS
BEFORE THE
TEXAS WORKFORCE COMMISSION
AUSTIN, TEXAS

PUBLIC MEETING)
FOR THE TEXAS)
WORKFORCE COMMISSION)

COMMISSION MEETING
TUESDAY, OCTOBER 9, 2018

BE IT REMEMBERED THAT at 9:00 a.m. on
Tuesday, the 9th day of October, 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 RUTH R. HUGHS, Chair and JULIAN
ALVAREZ, Commissioner.

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P R O C E E D I N G S

TUESDAY, OCTOBER 9, 2018

(9:00 a.m.)

AGENDA ITEM NO. 1

CHAIR HUGHS: Good Morning. This meeting is called to order.

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 40 and 41.

Cases will be heard for Dockets 40 and 41.

AGENDA ITEM NO. 4

Discussion, Consideration and Possible Action Regarding Fair Housing Cases listed on the Texas Workforce Commission Dockets 40, 40A, 41 and 41A

No Discussion.

AGENDA ITEM NO. 5

1 Discussion, Consideration and Possible Action
2 Regarding Higher Level Appeals in Wage Claim Cases Listed on
3 the Texas Workforce Commission Dockets 40, 40A, 41 and 41A
4 Cases will be heard for Dockets 40, 40A, 41
5 and 41A

6 AGENDA ITEM NO. 6

7 Discussion, Consideration and Possible Action
8 Regarding Higher Level Appeals in Unemployment Compensation
9 Cases Listed on the Texas Workforce Commission Dockets 40,
10 40A, 41 and 41A
11 Cases will be heard for Dockets 40, 40A, 41
12 and 41A.

13 AGENDA ITEM NO. 7

14 CHAIR HUGHS: We are back in session. Les is
15 there any public comment?

16 MR. TROBMAN: No, there's not.

17 CHAIR HUGHS: Okay. Without public comment
18 we will go on to Item 9.

19 AGENDA ITEM NO. 9

20 CHAIR HUGHS: Discussion, Consideration and
21 Possible Action Regarding the Report to the Governor and
22 Legislative Leadership Offices Concerning the Estimated
23 Unemployment Trust Fund Balance Pursuant to Texas Labor Code
24 Section 204.061, and the Estimated Employment and Training
25 Investment Holding Fund Balance Available for Transfer

1 Pursuant to Texas Labor code Section 204.123. Mr. Townsend.

2 MR. TOWNSEND: Good morning, Chair Hughs,
3 Commissioner Alvarez. For the record; Randy Townsend, Chief
4 Financial Officer.

5 This morning, commissioners, I'm presenting
6 to you the Unemployment Trust Fund balance for next year,
7 for next October 1st, 2019, so this'll be the first
8 opportunity to lay this out for you this morning.

9 Just to give you the -- kind of the -- I'll
10 be referring to the one-page summary of the financial status
11 in your notebook. We ended last year, that means we're
12 starting this year with a balance in the Unemployment Trust
13 Fund of 1,683,000,000 almost. We expect to collect from
14 employers their share of unemployment amounts, totaling
15 about 2.3 billion, just under. That will be slightly lower
16 than what we collected this past year, which was just under
17 2.5 billion. That is dependent mostly on prior year payouts
18 of the -- of the benefit payments.

19 We also expect to collect interest on the
20 balance of the Unemployment Trust Fund that'll be just
21 around 43 million, and then the estimate for the payout for
22 the next year, the upcoming year, will be about 1.9 billion,
23 is our current estimate. That would be approximately 100
24 million lower than the one-year-ago pay up unemployment
25 benefits.

1 With all those estimates that would bring the
2 balance of the trust fund next October 1st to about 2.1
3 billion. That would place the trust fund balance in
4 comparison to the floor amount -- which we estimate the
5 floor amount to be slightly over 1.1 billion. The floor
6 would be exceeded by about 973 million if all these
7 estimates hold based on our current projections. That --
8 also wanted to share with you the -- the low-point balance
9 that we estimate currently for the trust fund, which will be
10 in the spring of '19 would be right around 1.2 billion, or
11 about 32 weeks of benefits would be the estimate at this
12 time. Of course, there's a few months to go before we get
13 to that point.

14 Let me now share with you the trends that
15 we've been seeing for the last six weeks. This'll be the
16 last six weeks ending September 22. We'll compare that to
17 one-year-ago numbers excluding as best we can the impact of
18 the hurricane a year ago. So the benefits paid currently
19 for the last six weeks; about 36 million. That compares to
20 45 million one year ago, about 20 percent reduction from one
21 year ago for benefits paid.

22 The initial claims are averaging, for the
23 last six weeks, about 11,000 weekly. That's compared to
24 that 13,000 a year ago excluding those hurricane claims, so
25 a 17 percent reduction in initial claims. And then finally

1 on continuing claims we're averaging about 111,000 as
2 compared to almost 140,000 a year ago. And in -- in the
3 range of about a 20 percent reduction for continuing claims
4 as well. And with that commissioners, unless you have
5 questions or comments, that concludes my presentation this
6 morning.

7 COMM. ALVAREZ: No questions.

8 CHAIR HUGHS: Thank you for that update.

9 AGENDA ITEM NO. 13

10 CHAIR HUGHS: Item 10, 11, and 12 are
11 deferred to future commission meeting. That brings us to
12 item 13. Item 13.

13 Discussion, Consideration and Possible Action
14 Regarding Approval of the Texas Workforce Commission's
15 Purchasing from People with Disabilities' State-Use Program
16 2018 Annual Report.

17 MR. SERNA: Good morning, Chair Hughs,
18 Commissioner Alvarez. For the record; my name is Ed Serna,
19 Deputy Executive Director Texas Workforce Commission.

20 We have before you an agenda item, the Annual
21 Report for the State Youth Program. This report little
22 different from previous reports in that, first of all, it
23 was developed entirely in house and produced in house.
24 Previous reports were done by the central non-profit, TIBH,
25 working with Workforce Commission. Of course, we relied

1 heavily on them for the information that they provided and
2 -- and it was included in the report.

3 A couple of things I'd like to point out very
4 quickly, not take too much time, but very quickly. We do
5 have some stories in here about -- some success stories
6 about individuals that are working in the program that have
7 accomplished significant things; either independent living,
8 or working in an integrated, competitive workplace after
9 having worked at a CRP. But we also highlighted the CRP
10 that previously had paid sub-minimum wage and was able to
11 move to paying minimum wage to all of their employees by
12 taking advantage of shifting schedules and some technology.

13 The final thing that -- that I'd like to
14 point out is we have added a section, because it's something
15 that seemed obvious to us, but it wasn't really highlighted
16 wit the program, is that we -- we've added a page on page 5,
17 that's entitled Made in Texas, to point out that a lot of
18 the products that are sold to our state agencies are, in
19 fact, made here. They're not -- they're not simply bought
20 and brought into Texas but are actually manufactured here.

21 And I know that both of you all have visited
22 some of our CRPs, Chair, I know that you've gone to the
23 Corpus Christi and the San Antonio Lighthouses and have
24 actually seen them making some of the products. So we
25 thought we'd start to point out again that these are

1 products made in Texas. Not so much made in the United
2 States, as Made in Texas, to -- to highlight the benefits of
3 the program.

4 And with that I -- staff recommends approval
5 of the report.

6 CHAIR HUGHS: I appreciate that, Randy [sic].
7 I did have the opportunity and, let me tell you, trying to
8 hole punch something blind was incredibly humbling and
9 really just highlights what problem solvers and how
10 incredible these individuals are, and the talents that they
11 have when they go into the workforce. So thank you. I
12 thought it was a great report, and I appreciated the stories
13 as well. Do we have a motion?

14 COMM. ALVAREZ: Yes. Like the Chair said,
15 this is a good report. Thanks, Ed, for bringing this
16 together, and your team, and the fact that you guys did this
17 in house is very impressive. So thank you, and I love the
18 testimonials. With that I move that we approve the Texas
19 Purchasing With People -- From People with Disabilities'
20 Works Wonders Program, 2018 Annual Report as submitted by
21 staff.

22 CHAIR HUGHS: And I second the motion. The
23 item is approved. Thank you.

24 MR. SERNA: Thank you.

25 AGENDA ITEM NO. 14

1 CHAIR HUGHS: Item 14, Discussion,
2 Consideration and Possible Action Regarding Approval of
3 Local Workforce Development Board Nominees.

4 MR. BELL: Good morning, Madam Chair,
5 Commissioner Alvarez, Mr. Serna. Cameron Bell, Workforce
6 Development Division.

7 Before you we have a single Workforce
8 Development Board Nominee from South Texas.

9 CHAIR HUGHS: All right, any comments or
10 questions?

11 COMM. ALVAREZ: No comments. I move that we
12 approve the board nominee from South Texas.

13 CHAIR HUGHS: And I second. The nominee is
14 approved.

15 MR. BELL: Thank you.

16 CHAIR HUGHS: Thank you, Mr. Bell.

17 AGENDA ITEM NO. 15

18 CHAIR HUGHS: Item 15, Discussion,
19 Consideration and Possible Action Regarding Statewide
20 Initiatives Funded with WIOA, TANF, AEL, Child Care, or
21 Other State Level Funds.

22 I believe there's two proposals up for
23 discussion this morning under this item with a vote after
24 each proposal. Is that correct?

25 MS. TROKE: That is correct. Thank you,

1 Chair Hughs. Good morning. Good morning, Commissioner
2 Alvarez, Mr. Serna. For the record; Jen Troke, Workforce
3 Division.

4 First, I seek your approval on funding for
5 the Adult Education and Literacy Accelerate Texas for
6 Integrated Education and Training, RFA, published on June
7 22, 2018 for award in November of 2018.

8 The objective of -- of Accelerate Texas is to
9 build Texas' capacity to expand, develop, and implement the
10 IET model and its core components. Including workforce
11 training, workforce preparation activities, and AL
12 activities related to coordination, staffing, curriculum
13 development, education and career counseling services, and
14 other allowable service delivery.

15 TWC's commission originally approved this
16 program at \$2.8 million for fiscal year '18, and approved an
17 additional 2.18 -- 2.8 million in the FY '19 budget. TWC
18 received and evaluated eligible proposals for 2018 from a
19 variety of offers totaling \$5,962,082. Based on this
20 increased interest staff seeks direction on awarding
21 additional grants with the current FY '18 funds, using a
22 portion of FY '19 funds, or some combination, to ensure that
23 TWC capitalizes on the development of as many IET programs
24 as possible.

25 Staff seeks direction on using all of the FY

1 '18 funds, and a portion of the '19 funds, to award grants
2 totaling \$4,474,582, and on publishing the FY '19 RFA with
3 the remaining balance of \$1,125,418. Any questions?

4 CHAIR HUGHS: Commissioner Alvar

5 COMM. ALVAREZ: So is this for the schools,
6 or the colleges?

7 MS. TROKE: Yes, that's correct. So there
8 are -- what we are proposing is there are 11 awards that
9 would go out.

10 COMM. ALVAREZ: So, Chair Hughs, would you
11 have any interest in funding all eligible applicants? After
12 looking more and seeing how close the scores were, or would
13 you have any objection to funding the last three?

14 CHAIR HUGHS: Well, I'd consider staff's
15 recommendation, and the reason I agree with it, is I don't
16 really know how the method of funding would happen to get to
17 all of them, where we would pull that money from, and it is
18 a pretty low score. So I definitely would agree, as staff
19 is recommending, to the first 11, and what we could do,
20 Commissioner Alvarez, is maybe when we have a third
21 commissioner revisit the other three if you feel strongly
22 about it. But I certainly support staff's recommendation of
23 the first 11 if you do, and we can have that -- that caveat
24 if you want to revisit it.

25 COMM. ALVAREZ: So would it be appropriate to

1 rule on it today? Is this time sensitive, or could we wait
2 till the third commissioner is appointed?

3 MS. TROKE: We're -- we're trying to award
4 the grants in November. I -- I have a couple of funding
5 options, if you all want me to put them forward, or I can
6 also hold on those.

7 CHAIR HUGHS: With respect to what?

8 MS. TROKE: If we wanted to try to fund all
9 of them, just sort of how we could use '18, '19 and some
10 reserve balances. There are options for you guys to
11 consider if you were interested, or we can hold.

12 CHAIR HUGHS: I don't know if that's
13 something staff recommends, funding all of them. I just --
14 I want to be respectful of the evaluation process, and the
15 scores, and just, you know, throwing them all out and going
16 with all. I know in the past we've said, let's make sure we
17 don't necessarily do that. So that we do reserve funds for
18 future applications where people might score higher or do a
19 better job going forward.

20 So that's why I'm supportive of the top 11,
21 and what I'm saying, because they need to award these maybe
22 we could today vote on the top 11, and revisit if there is
23 any way to consider the following three, as soon as we're
24 able to if we have a new commissioner.

25 COMM. ALVAREZ: So would you be willing,

1 Madam Chair, to look at the options that are at least
2 available to us?

3 CHAIR HUGHS: Right, right --

4 COMM. ALVAREZ: No, I mean today?

5 CHAIR HUGHS: Oh, well --

6 COMM. ALVAREZ: Because -- because, again,
7 looking at 11 and 12, I mean it's -- they're very -- if you
8 look at the scoring they're fairly very close. And, again,
9 I'd be open to discussing this with our third commissioner
10 as appointed, but could -- Jen; could I ask her to elaborate
11 a little bit on the -- the two options, or these options
12 that are available?

13 MS. TROKE: Sure, the option -- there's an
14 option A, and an option B, that I put together just in case.

15 CHAIR HUGHS: Sure.

16 MS. TROKE: So if we wanted to get to funding
17 all of the applicants, which means we need \$5,962,000, then
18 we could use, option A, is all of the '18 dollars, which is
19 2.8 million. All of the '19 dollars, which is another 2.8
20 million, and then a portion of the AL Reserve. That gets us
21 to the 5.9.

22 Or Option B, we could use all of the '18, 2
23 million of the '19, all of the reserve, and then that leave
24 -- get's us also to the 5.9 million. But what that means is
25 we could still issue an FY '19 RFA immediately, so -- and we

1 could award those in the spring.

2 CHAIR HUGHS: Versus funding the top 11, and
3 then having funding to put another one out and have
4 applications that are evaluated with the criteria that we're
5 hoping to get and scoring we're hoping to see going forward.

6 MS. TROKE: Right. So if we go with what's
7 proposed in the discussion paper then we would take that
8 balance, so I think it was 1.1, we would add it to the 2.8,
9 and that's what would go in the new RFA for '19.

10 CHAIR HUGHS: I just want to set up these
11 programs to succeed, and so I don't think it's the best way
12 to start betting the two years, and I think that's what I
13 heard from staff, so I certainly defer that recommendation
14 and -- and would support the top 11 if Commissioner Alvarez
15 is comfortable with it.

16 MS. TROKE: We -- we did go back and look at
17 all the proposals just to -- to let you know that the --
18 there were no major deficiencies in any of the proposals.
19 It -- there was just -- it was lower scores than we
20 typically see, so I appreciate your concern. Thank you.

21 CHAIR HUGHS: Are we at an impasse? You'd
22 want to fund all of them?

23 COMM. ALVAREZ: I would. I would.

24 CHAIR HUGHS: Based on what you heard, even
25 with all the funding in the two years that you'd have to

1 pull, and the reserve?

2 COMM. ALVAREZ: Well, again, I had -- I had
3 -- was able to have this discussion with Jen yesterday, and
4 of course I wouldn't have done it if I didn't feel like we
5 would be able to fund the programs next year, or the
6 following years.

7 CHAIR HUGHS: We wouldn't be able to.

8 COMM. ALVAREZ: Well, I think we could if we
9 used the second option that she just shared with us. Yeah.

10 MS. TROKE: The second option we would use
11 2.8 million from '18, 2 million from '19, all of the
12 reserve, so 1.12 million of the reserve, and -- at that gets
13 us to the 5.9. So there would still be money left for an
14 RFA. We would \$765,000 left for an FY '19 RFA.

15 CHAIR HUGHS: Significantly lower than what
16 we usually come into this with. I'm inclined to go staff's
17 recommendation. I would move that we vote on the top 11,
18 and that we leave the opportunity to vote on the remaining
19 three once we have a third commissioner. Meaning the top 11
20 would definitely get funded, and that could go out
21 immediately. The other three could maybe be revisited when
22 there's another commissioner that might agree with going
23 into the reserve as much as we would need to, to get there
24 based on these low scores for these three. So that would be
25 my -- my motion.

1 COMM. ALVAREZ: Well, I -- I understand the
2 time-sensitive issue, and if you can assure me that we can
3 revisit this again with staff's recommendation to possibly
4 maybe fund the last three I'd be open to that. So with that
5 I move that we use fiscal '18 funds and a portion of FY '19
6 funds to award grants totaling 4.474,582 and publishing that
7 FY '19 RFA with a balance of 1,125,418 for your
8 recommendation.

9 CHAIR HUGHS: Yeah. And we'll definitely
10 read this with the other three. I know the timing is going
11 to be very dependent on when we have another commissioner,
12 but I appreciate you supporting the top 11. I just can't
13 get there with the amount of money it would take to fund all
14 of them. So thank you for that.

15 Okay, then. Moving along to Item --

16 MS. TROKE: I have a second issue.

17 CHAIR HUGHS: Oh, that's right. You have the
18 second Item. Central Texas. Yes.

19 MS. TROKE: Okay. So I am seeking direction
20 on a request for additional National Dislocated Worker Grant
21 Funding for the Central Texas Workforce Development Board.
22 As of September 30th Central Texas' prior National
23 Dislocated Worker Grant expired, and they need additional
24 funding to continue serving their military community until
25 the DOL grant award is received.

1 TWC has the funds available to cover the cost
2 and allow services to continue with minimal interruption.
3 Staff seeks direction on approving \$291,927 in addition we
4 have Assistance for Dislocated Workers to Central Texas.
5 for the purpose of continuing services for currently
6 enrolled individuals. Any questions?

7 COMM. ALVAREZ: No questions.

8 CHAIR HUGHS: Commissioner Alvarez?

9 COMM. ALVAREZ: Madam Chair, I move that we
10 approve additional WIO Assistance for Dislocated Workers in
11 the amount of \$291,927 for the Central Texas Workforce Board
12 as described by staff.

13 CHAIR HUGHS: Thank you. I second the
14 motion. The Item is approved.

15 MS TROKE: Thank you both.

16 CHAIR HUGHS: If I didn't second previously I
17 do. I think I moved and then you moved, so --

18 COMM. ALVAREZ: Uh-huh.

19 CHAIR HUGHS: We covered on that one?

20 COMM. ALVAREZ: Yeah.

21 CHAIR HUGHS: Thank you.

22 AGENDA ITEM NO. 16

23 CHAIR HUGHS: Okay, that brings us to Item
24 16. There's nothing for Item 16.

25 AGENDA ITEM NO. 17

1 CHAIR HUGHS: Item 17, any updates regarding
2 enacted, proposed or considered federal or state
3 legislation? I see Tom McCarty nodding his head no. Thank
4 you, Tom.

5 AGENDA ITEM NO. 18

6 CHAIR HUGHS: Item 18, any updates then?

7 MR. SERNA: Just a brief message to the
8 Commissioner that we will be posting the Chief Information
9 Officer position this week with the -- hopefully getting it
10 filled by December. Going through the open posting process.
11 Used -- using the current WorkInTexas. Hopefully the
12 individual will not hit submit before they complete their
13 application. So --

14 CHAIR HUGHS: Right. We had that discussion
15 yesterday. And if they do they can fax, or email, right?
16 Hard copy of -- mail?

17 MR. SERNA: Absolutely. I think that's all
18 we have.

19 CHAIR HUGHS: Any other updates? Okay. Is
20 there a motion to adjourn?

21 COMM. ALVAREZ: I move that we adjourn.

22 CHAIR HUGHS: I second. We are adjourned.
23 Thank you, everyone.

24 (Proceedings concluded at 9:23:08 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 23rd day of October, 2018.

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

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