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TRANSCRIPT OF PROCEEDINGS  
BEFORE THE  
TEXAS WORKFORCE COMMISSION  
AUSTIN, TEXAS

PUBLIC MEETING )  
FOR THE TEXAS )  
WORKFORCE COMMISSION)

COMMISSION MEETING

TUESDAY, MARCH 30, 2010

BE IT REMEMBERED THAT at approximately  
9:00 a.m., Tuesday, the 30th day of March 2010, the  
above-entitled matters came on for hearing at the  
Texas Workforce Commission, TWC Building, 101 East  
15th Street, Room 244, Austin, Texas, before TOM  
PAUKEN, RONALD G. CONGLETON, and ANDRES ALCANTAR,  
COMMISSIONERS, and GENE CRUMP, DEPUTY EXECUTIVE  
DIRECTOR, of the Texas Workforce Commission; and the  
following proceedings were reported by Janis Simon, a  
Certified Shorthand Reporter of:

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1 P R O C E E D I N G S

2 TUESDAY, MARCH 30, 2010

3 (9:00 a.m.)

4 AGENDA ITEM NO. 1

5 CHAIRMAN PAUKEN: Good morning. The  
6 meeting will now be called to order, and I'll turn the  
7 meeting over to Commissioner Alcantar to preside over  
8 that portion of the meeting involving Agenda Items 2  
9 through 5.

10 COMM. ALCANTAR: Thank you, Chairman  
11 Pauken.

12 AGENDA ITEM NO. 2

13 Discussion, Consideration, and Possible  
14 Action Regarding Whether to Assume Continuing  
15 Jurisdiction on Unemployment Compensation Cases, Wage  
16 Claim Cases, and/or Tax Liability Cases and  
17 Reconsideration of Unemployment Compensation Cases,  
18 Wage Claim Cases, and/or Tax Liability Cases, if Any

19 The Commission agreed to the  
20 resubmission of Cases 979416 and 09-050779-6 on a  
21 future docket.

22 AGENDA ITEM NO. 3

23 Discussion, Consideration, and Possible  
24 Action Regarding Tax Liability Cases Listed on the  
25 Texas Workforce Commission Docket 13

1                   The Commission considered and took  
2 action on all Tax Liability Cases listed on Docket 13.

3                   AGENDA ITEM NO. 4

4                   Discussion, Consideration, and Possible  
5 Action Regarding Higher Level Appeals in Wage Claim  
6 Cases listed on the Texas Workforce Commission  
7 Docket 13

8                   The Commission considered and took  
9 action on all Wage Claim Cases listed on Docket 13.

10                  AGENDA ITEM NO. 5

11                  Discussion, Consideration, and Possible  
12 Action Regarding Higher Level Appeals in Unemployment  
13 Compensation Cases Listed on the Texas Workforce  
14 Commission Docket 13

15                  The Commission considered and took  
16 action on all Unemployment Compensation Cases listed  
17 on Docket 13.

18                  (The Commission paused, then continued  
19 with the remainder of the agenda.)

20                  CHAIRMAN PAUKEN: Okay. If we could ask  
21 Fabian -- Fabian Gomez to come forward.

22                  (Brief pause)

23                  CHAIRMAN PAUKEN: All right. It's my  
24 pleasure to present on behalf of the -- the Commission  
25 our Service Recognition Award to Fabian Gomez for 30

1 years of service to the State of Texas.

2 Congratulations. Thank you.

3 (Applause)

4 MR. GOMEZ: Thank you. Thank you very  
5 much.

6 COMM. CONGLETON: Congratulations.

7 COMM. ALCANTAR: Appreciate all you do.

8 MR. CRUMP: Good job, Fabian.

9 AGENDA ITEM NO. 6

10 CHAIRMAN PAUKEN: Okay. Mr. Jones,  
11 anything on public comment?

12 MR. PAUL N. JONES: No public comment,  
13 Mr. Chairman.

14 CHAIRMAN PAUKEN: No public comment.  
15 All right.

16 AGENDA ITEM NO. 7

17 CHAIRMAN PAUKEN: No. 7, discussion,  
18 consideration, and possible action regarding the  
19 estimated Unemployment Trust Fund balance pursuant to  
20 Texas Labor Code Section 204.061, the estimated  
21 Employment and Training Investment Holding Fund  
22 balance available for transfer pursuant to Texas Labor  
23 Code Section 204.123, Mr. Townsend and Mr. Crump.

24 Mr. Townsend first.

25 MR. TOWNSEND: Good morning,

1 Mr. Chairman, Commissioners. This morning I'm  
2 presenting the Trust Fund projection for October 1st,  
3 2010. We've prepared this information through March  
4 17th.

5 As of March 17th we're estimating the  
6 Trust Fund balance will be zero. We are also  
7 estimating the outstanding Title XII advance on that  
8 October 1st date would be 1 billion 707 million. That  
9 would put the Trust Fund 2 billion 520 million below  
10 the floor on October 1st based on our estimates.

11 Just a couple observations to share with  
12 you this morning, Commissioners. For the last six  
13 completed weeks, this was ending March 6th, the total  
14 net benefits paid averaged 65 million per week. That  
15 was still up about 11 percent from the one-year-ago  
16 six-week average of 58 million for net benefits paid.

17 Initial claims averaged 18,574 for six  
18 weeks ending March 6th. That was 11 percent below the  
19 one-year-ago six-week average of 26,000. Continued  
20 claims averaged 228,342 for six weeks ending March  
21 6th, and that number of continued claims was 15 --  
22 almost 16 percent above the one-year-ago average,  
23 six-week average.

24 CHAIRMAN PAUKEN: How -- how are your  
25 actual numbers comparing with your projections?

1                   MR. TOWNSEND: They're very close. I  
2 would say we -- our projections might be just a little  
3 bit -- a little bit higher, I mean, than what we had  
4 thought. And so the number is becoming a little bit  
5 better I guess, slightly, at this point. If it will  
6 hold, that -- that would be some -- a little bit of  
7 good news. Although, the -- as you heard from the --  
8 the balances we're talking about, they're still going  
9 to be a significant number we're going to be facing as  
10 far as the -- the amount below the floor.

11                   CHAIRMAN PAUKEN: Okay.

12                   Commissioner Alcantar.

13                   COMM. ALCANTAR: I have no questions.

14                   CHAIRMAN PAUKEN: Commissioner

15 Congleton.

16                   COMM. CONGLETON: No questions. Thank

17 you.

18                   CHAIRMAN PAUKEN: All right. Thank you,

19 Mr. Townsend.

20                   Anything you want to add, Mr. Crump?

21                   MR. CRUMP: Nothing at this time, sir.

22                   CHAIRMAN PAUKEN: Okay. Thank you.

23                   AGENDA ITEM NO. 8

24                   CHAIRMAN PAUKEN: No. 8, discussion,

25 consideration, and possible action regarding

1 publication for public comment of proposed rules  
2 relating to General Administration concerning  
3 Memoranda of -- of Understanding between the Texas  
4 Workforce Commission and governmental entities  
5 pursuant to Texas Labor Code Section 302.016,  
6 Ms. Carlson.

7 MS. CARLSON: Good morning; Debbie  
8 Carlson with the Workforce Division.

9 House Bill 1914 passed in the last  
10 legislative session established requirements in the  
11 Government Code concerning the Private Sector Prison  
12 Industries Program. As set out in the Government  
13 Code, TWC is required to adopt rules and to provide  
14 employer contact information to government -- to the  
15 government agency responsible for notification. The  
16 relevant government agencies are the Texas Department  
17 of Criminal Justice, the Texas Youth Commission, and  
18 any county that operates a Private Sector Prison  
19 Industry Program.

20 Staff proposes a new Rule 800.205. As  
21 proposed, the rules establish that TWC would enter  
22 into an MOU with the appropriate governmental entity.  
23 The MOU would establish that only publicly-available  
24 data sources would be used. Cost to TWC would be  
25 reimbursed. The information provided by TWC is

1 provided only for the purpose of allowing the relevant  
2 government agency to meet its notice requirements  
3 under the Government Code.

4                   We're seeking Commission approval of the  
5 proposed rules for publication in the Texas Register,  
6 and I'll be happy to try and answer any questions you  
7 may have.

8                   CHAIRMAN PAUKEN: Commissioner  
9 Congleton.

10                   COMM. CONGLETON: Well, I don't  
11 particularly like this proposed rule. I don't think  
12 it does what the legislator told -- the legislation  
13 told us to do and that I think we should specifically  
14 match up the job discretion and the industry types  
15 with the NAICS codes in our UI records in order to  
16 provide the list of names and addresses of all  
17 employers that can be affected by this program.  
18 That's what the legislators told us to do.

19                   And the question of confidentiality, I  
20 don't believe, really exists. I don't believe the  
21 list of names in NAICS codes is confidential. We  
22 aren't going to release tax rates, the number of  
23 claims filed, the number of chargeback protections, or  
24 any other information which might be confidential.

25                   And by -- and by and large business

1 wants people to know what they're called, what they  
2 do, and where their place of business is. That's sure  
3 as heck what -- want to know -- they sure as heck want  
4 to know when they're up against slave labor, let's put  
5 it that way, and competition. And I don't believe  
6 this -- this goes -- that -- to what we need to do.  
7 And I think, if you've got a question, we could ask  
8 the AG for an opinion. And I am in the understanding  
9 that we already provide most of this information to  
10 them anyway.

11 CHAIRMAN PAUKEN: Ms. Carlson, do you  
12 want to respond?

13 MS. CARLSON: Okay. Several comments  
14 there, and so let me kind of take these one at time.

15 We do provide some information now. My  
16 understanding is that it is not information that we  
17 obtain through our tax records. There's some  
18 consideration of the confidentiality. Commissioner,  
19 you raised that issue.

20 And one of the issues, as I understand  
21 it, if you have in -- in a labor market area, if you  
22 only have two or three businesses that do a certain  
23 type of -- of employment, then you get into issues of  
24 confidentiality when you start -- when you start  
25 revealing the average type wages. You know, we're --

1 I'm not quite sure how to say this. We get to a point  
2 where we're -- we're releasing information that is --

3                   COMM. CONGLETON: Well, we're only  
4 releasing -- releasing this to the -- that group of  
5 people. We're not giving it to the public. Now, if  
6 they put it out to the public, that's their problem.

7                   But we're not giving them information  
8 that's not known already in -- in -- in those  
9 communities, I can assure you. That -- I don't -- I  
10 don't see how any confidentially -- we would have any  
11 problem with confidentiality between the two, TWC and  
12 the Prison Board. It's just -- that's -- it's  
13 unrealistic to me how that -- how that could be a  
14 problem.

15                   MS. MILLER: Commissioner, if -- if we  
16 could, could we look into this and perhaps carry this  
17 forward to the next meeting?

18                   CHAIRMAN PAUKEN: Yeah, I was just going  
19 to --

20                   (Simultaneous discussion)

21                   COMM. CONGLETON: I think it would be a  
22 good idea --

23                   CHAIRMAN PAUKEN: -- I -- I would -- I  
24 would --

25                   COMM. CONGLETON: -- because this --

1 this is not what the Legislature told us.

2 CHAIRMAN PAUKEN: Yeah, let's just --  
3 let's do that. I'm glad you suggested it, Ms. Miller.  
4 I was about to suggest the same thing. All right.

5 COMM. CONGLETON: Thank you.

6 CHAIRMAN PAUKEN: Okay.

7 COMM. CONGLETON: Thank you, ladies.

8 MS. CARLSON: Thank you.

9 AGENDA ITEM NO. 10

10 CHAIRMAN PAUKEN: Okay. I don't know  
11 that we have -- we have no nominees this time.

12 AGENDA ITEM NO. 11

13 CHAIRMAN PAUKEN: Do we have anything  
14 from you, Tom?

15 MR. McCARTY: No.

16 CHAIRMAN PAUKEN: Nothing.

17 AGENDA ITEM NO. 12

18 CHAIRMAN PAUKEN: Anything from you,  
19 Mr. Crump?

20 MR. CRUMP: Nothing.

21 CHAIRMAN PAUKEN: Anything else?

22 (Discussion off the record)

23 MR. CRUMP: No. Nothing, sir.

24 CHAIRMAN PAUKEN: Okay.

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AGENDA ITEM NO. 15

CHAIRMAN PAUKEN: Is there a motion to

adjourn?

COMM. CONGLETON: So made.

COMM. ALCANTAR: Second.

CHAIRMAN PAUKEN: It's unanimous.

(Meeting adjourned: 9:36 a.m.)

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C E R T I F I C A T E

STATE OF TEXAS )  
COUNTY OF TRAVIS )

I, JANIS SIMON, a Certified Shorthand Reporter 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            day of            , 2010.

JANIS SIMON  
Certified Shorthand Reporter  
CSR No. 7076 - Expires 12/31/11  
Firm Registration No. 276  
Kennedy Reporting Service, Inc.  
1801 Lavaca Street, Suite 115  
Austin, Texas 78701