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TRANSCRIPT OF PROCEEDINGS
BEFORE THE
TEXAS WORKFORCE COMMISSION
AUSTIN, TEXAS

PUBLIC MEETING)
FOR THE TEXAS)
WORKFORCE COMMISSION)

COMMISSION MEETING

TUESDAY, AUGUST 24, 2010

BE IT REMEMBERED THAT at approximately
9:00 a.m., Tuesday, the 24th day of August 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 LARRY TEMPLE, 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, AUGUST 24, 2010

3 (9:00 a.m.)

4 AGENDA ITEM NO. 1

5 CHAIRMAN PAUKEN: Good morning. And
6 before I turn the meeting over to Commissioner
7 Alcantar, Roger, I understand this is your last
8 meeting and --

9 MR. DICKINSON: Yes, sir, I believe so.

10 CHAIRMAN PAUKEN: -- we're going to --
11 we're going to miss you. You've done a terrific job,
12 and I wish you well in your -- in your future
13 endeavors. And -- and thanks for your service.
14 You're a real professional, and we appreciate your
15 good work. Your shoes are going to be hard to fill.

16 MR. DICKINSON: Well, I greatly
17 appreciate that.

18 CHAIRMAN PAUKEN: Okay.

19 MR. DICKINSON: Thank you.

20 CHAIRMAN PAUKEN: At this point, let me
21 turn the meeting over to Commissioner Alcantar who
22 will preside over that portion of the meeting
23 involving Agenda Items 2 through 5.

24 COMM. ALCANTAR: Roger, Roger, you're
25 just going to walk away.

1 (Laughter)

2 CHAIRMAN PAUKEN: He's had all of this
3 he can handle.

4 (Laughter)

5 COMM. ALCANTAR: We are going to miss
6 you, and we really appreciate your professionalism.
7 And I'm sure I'll run into you eating a hamburger
8 somewhere, so I look forward to that.

9 (Laughter)

10 AGENDA ITEM NO. 2

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

17 The Commission agreed to the resubmission of
18 MR 12268997 on a future docket.

19 AGENDA ITEM NO. 3

20 Discussion, Consideration, and Possible
21 Action Regarding Tax Liability Cases Listed on the
22 Texas Workforce Commission Docket 34

23 No discussion.

24 AGENDA ITEM NO. 4

25 Discussion, Consideration, and Possible

1 Action Regarding Higher Level Appeals in Wage Claim
2 Cases listed on the Texas Workforce Commission
3 Docket 34

4 The Commission considered and took
5 action on all Wage Claim Cases listed on Docket 34.

6 AGENDA ITEM NO. 5

7 Discussion, Consideration, and Possible
8 Action Regarding Higher Level Appeals in Unemployment
9 Compensation Cases Listed on the Texas Workforce
10 Commission Docket 34.

11 The Commission considered and took action on
12 all Unemployment Compensation Cases listed on Docket
13 34.

14 (The Commission paused, then continued
15 with the remainder of the agenda.)

16 AGENDA ITEM NO. 6

17 CHAIRMAN PAUKEN: Okay. We're ready.
18 There's no public comment, I understand.

19 AGENDA ITEM NO. 7

20 CHAIRMAN PAUKEN: Discussion,
21 consideration, and possible action regarding the
22 acceptance of pledges for Fiscal Year 2011.

23 MR. LARRY JONES: (Shaking head)

24 CHAIRMAN PAUKEN: Nothing on that today.

25 And, Mr. Jones, I need to see you after the

1 meeting for a minute on an issue that we talked about
2 yesterday.

3 AGENDA ITEM NO. 8

4 CHAIRMAN PAUKEN: Discussion --
5 Mr. Townsend, discussion, consideration, and possible
6 action regarding the Fiscal Year 2011 Operating Budget
7 and the Fiscal Year 2012-2013 Legislative
8 Appropriations Request, including funding priorities,
9 staffing levels, performance measures, and other
10 budget-related issues, Mr. Townsend and Mr. Crump.

11 MR. TOWNSEND: Good morning,
12 Mr. Chairman, Commissioners; for the record, Randy
13 Townsend, Chief Financial Officer.

14 In your Commission Notebook under the Tab 8
15 there's information that I have -- have included
16 regarding a resolution for the -- proposed resolution
17 for the Fiscal 2012 and '13 Legislative Appropriation
18 Request and the Fiscal Year 2011 Operating Budget. As
19 I -- I go over this information, I had provided to you
20 this morning a -- a two-page handout that will be
21 the -- kind of the highlights or the talking points,
22 and there is one discussion item that we need to get
23 final direction on this morning.

24 Just as a way of summary, we're -- we're
25 presenting a budget for 2011, this 1.1 billion. 2012

1 is -- and '13 is just over 1.1 billion as well in --
2 in each of those years. On that highlighted summary
3 sheet, I break that information down for you in terms
4 of the -- the method of finance, the federal funds, of
5 course, making up well over 80 percent of the agency's
6 overall budget for most of those years that we're
7 talking about. There is the anomaly for Fiscal Year
8 '10 actual where we have Recovery Act Funds that make
9 up a significant portion of the agency's budget in
10 that one year at about a little over 12 percent.

11 The one item for decision this morning that
12 we want to make sure we're -- we're clear on as -- as
13 to how you, the Commission, would like to proceed.
14 Last week, as you'll recall, there was a
15 recommendation by Commissioner Alcantar regarding the
16 Employment Services funding for 2012 and '13. The
17 materials that you have in front of you reflect the
18 amounts that -- that would be included if that's
19 approved this morning.

20 We would be including 3 million for -- for
21 2012, and this is under that Recovery Act Federal
22 Funded Strategies and then a million and a half for
23 Fiscal Year 2013. And that would fund, on average,
24 about a hundred FTEs in Fiscal '12 and 50 additional
25 FTEs in -- in Fiscal '13 to allow for that ramp down

1 from the current staffing for -- that we're planning
2 for 2011. So, I just wanted to make sure that that
3 reflects the -- the direction of the Commission. I
4 did want to provide one more piece of information that
5 once you -- if that were to be programmed in and
6 approved by the Commission, you would be looking at
7 the Unemployment Special Administrative --
8 Administration Funds totaling -- with a total balance
9 remaining of just under 4.6 million after those -- if
10 that action were to be approved by the Commission this
11 morning.

12 So, with that, I'd be happy to address any
13 additional -- additional questions or comments.

14 CHAIRMAN PAUKEN: Commissioner Alcantar.

15 COMM. ALCANTAR: I have no questions.

16 CHAIRMAN PAUKEN: Commissioner

17 Congleton.

18 COMM. CONGLETON: I -- I -- I like the
19 idea, but I want to make sure if we do this -- do this
20 ES thing that we have the proper oversight from the
21 agency, because the boards have a tendency to use ES
22 for other things besides ES. And we have enough work
23 out there to keep these ES people plenty busy just
24 trying to help people find jobs. So, I would -- I
25 would -- I would want to make sure that we had

1 oversight from the -- from the TWC and that we have
2 some kind of measure, whether it's a soft measure or
3 sort of hard measures, to make sure these people are
4 making progress in what we're having them do --

5 CHAIRMAN PAUKEN: Mr. Temple or
6 Mr. Crump, do you want to respond?

7 MR. TEMPLE: Well, we -- we certainly do
8 have the measures and then the -- of course, the
9 training that we're doing now is -- is reinforcing all
10 the -- the --

11 (Simultaneous discussion)

12 COMM. CONGLETON: The -- the training is
13 great. But if -- the training don't work if you've
14 got them doing TANF or something else kind of stuff.
15 And the board -- the board -- they work the
16 contractors out there who will assign them other
17 stuff, and we have plenty of work out there for ES to
18 be doing ES work.

19 So, we need some kind of oversight from this
20 Commission and this agency to make sure that that's
21 what they are doing, since it's federally mandated
22 that that's what they do.

23 MR. TEMPLE: Correct. And -- and the ES
24 measures that we have, the boards are held accountable
25 to those ES measures. If we want to look at some

1 other measures other than Entered Employment and
2 those, we can look at those, but we -- those same
3 measures are in place --

4 COMM. CONGLETON: If we have -- if we
5 have the measures in place, as long as we have
6 oversight, then that's the key issue. But, you know,
7 we'll look at -- I'll -- I'll --

8 (Simultaneous discussion)

9 CHAIRMAN PAUKEN: Well -- and I think
10 what you can do is if you -- if you pick up that
11 that's -- there's some problems out there in that
12 respect, I mean --

13 COMM. CONGLETON: We have people out
14 there that go to the boards that could -- could do
15 that oversight for us. They're already doing --

16 CHAIRMAN PAUKEN: Uh-huh.

17 COMM. CONGLETON: -- oversight on other
18 things, and they could just add that to their --

19 MR. TEMPLE: Yes --

20 (Simultaneous discussion)

21 MR. TEMPLE: -- and we'll -- we'll
22 work -- of course, that comes in our quarterly
23 performance, but we will work with you inside of the
24 quarterly performance deals on what we're seeing on a
25 monthly basis to let you see that and let you monitor

1 that closer.

2 COMM. CONGLETON: Okay.

3 CHAIRMAN PAUKEN: Okay.

4 COMM. ALCANTAR: And -- and I'm -- and
5 I'm very much in agreement with that.

6 The -- the other thing, Chairman, is -- I'm
7 assuming you're okay with this --

8 CHAIRMAN PAUKEN: Uh-huh.

9 COMM. ALCANTAR: -- I would only suggest
10 that, should federal funds become available through
11 the regular ES stream, then we could always reconsider
12 this and move -- move these dollars back. And I would
13 be supportive of that if that situation were to occur.

14 CHAIRMAN PAUKEN: Okay.

15 COMM. ALCANTAR: Thank you.

16 CHAIRMAN PAUKEN: All right. Is there a
17 motion, Commissioner Congleton?

18 COMM. CONGLETON: Move that we approve
19 the 2012-'13 Legislative Appropriations Request for
20 FY 2011 Operating Budget as discussed.

21 COMM. ALCANTAR: I would second.

22 CHAIRMAN PAUKEN: Okay.

23 MR. TOWNSEND: Commissioner, I believe
24 Adam would just like to clarify for the -- for the
25 record on the Employment Services what you just

1 adopted of the impact to the performance measure on
2 that one.

3 MR. LEONARD: Yes.

4 There's the ES Average Cost Per Customer
5 Served Measure, which the targets would change
6 slightly from what's in your books. They would go
7 from 13.32 in FY '12 to 14.96; that's \$14.96 per, and
8 then in '13 it would go from 13.62 to 14.46. And I
9 just wanted to get that on the record that it's a
10 relatively simple adjustment but just so that you knew
11 that that would need to be part of -- what was
12 approved and sent to the LBB.

13 CHAIRMAN PAUKEN: Okay.

14 COMM. ALCANTAR: That would be fine.

15 CHAIRMAN PAUKEN: All right.

16 Okay. Anything else?

17 MR. TOWNSEND: Nothing on the budget,
18 sir.

19 CHAIRMAN PAUKEN: Okay.

20 AGENDA ITEM NO. 9

21 CHAIRMAN PAUKEN: Discussion,
22 consideration, and possible action regarding the
23 Fiscal Year 2011 allocations and performance targets
24 for local workforce development board areas,
25 Mr. Townsend again.

1 MR. TOWNSEND: Yes. Yes, sir. Good
2 morning, again, Commissioners. For the record, again,
3 Randy Townsend, Chief Financial Officer.

4 In your materials under Tab 9 is the packet
5 for our Fiscal Year 2011 allocations. As you'll
6 recall, you've already approved a portion of these
7 allocations previously under -- with Commission action
8 regarding the Workforce Investment Act Formula
9 allocations and then the WIA Alternative funding.

10 If I may just have you turn to Page 3 of
11 that document, A-3 is at the bottom of the page,
12 there's a recap by funding source. I thought I would
13 just highlight a few items for your information this
14 morning.

15 Under the -- about midway down the page
16 there, the recap by funding source for the Child Care,
17 I did want to point -- point out that we -- and this
18 deviates slightly from your previously-approved
19 planning estimate. We had increased the -- the
20 allocation amount for Child Care to 468.6 million
21 almost to reflect -- to -- to allow for the
22 maintaining -- maintaining the number of children in
23 care at the approved -- just under 111,000 per day.
24 That reflects the cost to -- to allow for that to
25 occur.

1 We also had reduced the TANF Choices
2 allocation amount to 81 -- 81.6 million. That amount
3 is a slight reduction from what you had approved
4 previously as the planning estimate. And, again,
5 that -- in this case that reflects the amount of
6 carry-forward funds that are no longer available to
7 maintain that allocation at the previous level. There
8 was an increase in the current year since we had the
9 available funds. That is no -- no longer available to
10 us for 2011, and that continues -- we expect that to
11 continue into '12 and '13 and was reflected in the --
12 the budget you just passed.

13 Employment Services, the -- the only point
14 on that I would like to make is that we are keeping --
15 we are able to keep that funding level for this year
16 out of the -- the regular grant. And I understand the
17 Commissioner's point about if those funds were to
18 increase in the future. We -- we haven't seen that
19 trend, unfortunately, at the federal level for that
20 funding source.

21 If that does continue the way we would
22 expect it to, we really don't believe we'll be able to
23 continue this funding level in '12 and '13 at this --
24 at this same funding level. So, that is just kind of
25 an early heads up that that's -- that's what we're

1 anticipating for the -- for the future on that one.

2 The only other point I'll make is under the
3 Supplemental Nutrition Assistance Program, the SNAP
4 E&T, that reflects the available funds excluding the
5 ABAWD, the Able-Bodied Without Dependents, funding
6 source that comes in usually in the fall, typically
7 probably even after October. We'll learn how much the
8 state would be available to draw from this 20 million
9 source of funds that you have -- you have to apply
10 for. We've been very fortunate in the past to get
11 a -- a fairly high percentage of those at 20 million.
12 We've estimated 4 million in -- in the -- in here
13 for -- for this upcoming year, but we won't know that
14 for a few more months it looks like. Once we know
15 that number, then we get that -- that information out
16 to the boards and the same relative proportion.

17 With that, I believe that addresses the --
18 the proposed FY 2011 allocations. If you have
19 questions or comments, we'd be happy to address --

20 CHAIRMAN PAUKEN: Commissioner
21 Congleton.

22 COMM. CONGLETON: Well, they look -- it
23 looks fine to me. You know, I -- I do have some
24 reservations about what -- under Unemployment what
25 we're going to do with the people who have completely

1 exhausted. Now, we -- is there any way we can follow
2 those and see what -- how those people are doing? If
3 they're working or is there anything like that we --
4 we need to do that. And we also need to give them
5 something when they exhaust about our other programs.
6 There needs to be a package sent out to them.

7 MR. TEMPLE: Yes, sir. We're -- we're
8 going to put together, absent the blue book and all --
9 a couple weeks before they exhaust, giving them more
10 information. Of course, we -- we reinforce that as
11 they go through the -- go through their process on
12 continuing claims. But we'll put -- we're putting
13 together something with UI and Workforce, and then
14 we'll get something out there and notify the boards
15 that we're letting them know this.

16 But we can follow those and -- and -- and
17 looking at wages and New Hire, and probably New Hire
18 will be much more timely than following wage claims
19 with the -- with the lag --

20 COMM. CONGLETON: Well, I would be
21 interested in that information. I'd also -- I'm glad
22 you're going to put those packets together, because
23 they need to know what our programs are once they
24 totally exhaust.

25 MR. TEMPLE: Yes, sir.

1 COMM. CONGLETON: Hopefully they don't
2 get to that point.

3 CHAIRMAN PAUKEN: Adam, do you have
4 something you wanted to add?

5 MR. LEONARD: Briefly, I just wanted to
6 mention a couple things about the targets that are
7 associated with this -- this pending action.

8 There's a lot of similarity to what we're
9 proposing this year to what we've done in previous
10 years, but there a couple of things that are a little
11 bit different. And I just thought I'd highlight them
12 for you and -- and also for those listening.

13 One is, is that in the past when we've had a
14 measure that we call an LBB measure, one that has a
15 specific target from the Legislature, we've typically
16 passed that target onto the boards. However, with the
17 approval of the LAR this year just a moment ago, we
18 included estimates for what we think the performance
19 for '11 is going to be. And so we're recommending
20 that, in those instances where we do have an LBB
21 measure, we would go with the LAR estimated target for
22 the boards.

23 It's -- in a few cases, that's a little bit
24 lower. In one or two, it's a little higher. But the
25 real key difference in -- in it is that these are

1 essentially what we think the targets would have been
2 set at two years ago had we had the information we
3 have now about the economy then which, of course, we
4 did not.

5 Another thing that I wanted to mention was
6 that within the REEMs targets, Reemployment and
7 Employer Engagement Measures, for the past few years
8 the boards have been carrying the same targets that
9 were set back in Board Contract Year '08 when we were
10 kind of at, what I describe, its peak performance. We
11 certainly had some settling in those and in some cases
12 some serious drop-off in performance in the last two
13 years. But what we've seen, particularly for the
14 10-Week Measure this year, is that the floor was
15 reached, and we're now actually starting to see
16 recovery and improvement in performance.

17 And so rather than set the targets at the
18 '08 level again, we're recommending that they
19 basically be set roughly in the midway point between
20 where they're finishing this year and where that --
21 that peak level was so that we would see improvement
22 over the coming year but recognizing the fact that,
23 with the few exceptions, they're not likely to reach
24 that peak performance all the way back within one
25 year. And so this provides kind of a path back to --

1 to that excellence we were seeing before.

2 The last thing I wanted to mention was that
3 for the last few years we've had a Single Parent
4 Participation Measure that we had split in two for two
5 slightly different populations, one that we call the
6 Texas Mandatory where our policies and federal
7 policies -- and by "ours," I mean, Texas law and HHSC
8 rules -- agree on the requirement that these people
9 participate; and then one we call Texas Nonmandatory
10 is where in Texas, because of those rules or statutes,
11 they were exempted from performance. And we had split
12 those before several years ago because we didn't have
13 a lot of data yet, and we had a lot of concerns about
14 the boards's ability to meet the -- a combined
15 measure.

16 At this point we think we've got enough
17 data, and we're much more comfortable with a single
18 measure. And we've discovered that the -- having two
19 separate measures actually creates some structural
20 measure definition kind of problems that are solved by
21 combining them again. And so we're proposing to bring
22 those back together into a single measure and setting
23 it at the LAR estimate of 40 percent.

24 And so I'm happy to answer any questions you
25 may have about the measures.

1 CHAIRMAN PAUKEN: Okay. All right.

2 Any questions?

3 COMM. CONGLETON: No.

4 CHAIRMAN PAUKEN: Okay. Is there a
5 motion, Commissioner Congleton?

6 COMM. CONGLETON: Move that we approve
7 the 2011 board allocations and performance measures.

8 COMM. ALCANTAR: I would second.

9 CHAIRMAN PAUKEN: It's unanimous.

10 AGENDA ITEM NO. 11

11 CHAIRMAN PAUKEN: All right.

12 Mr. McCarty, do you have anything today?

13 MR. McCARTY: (Shaking head)

14 AGENDA ITEM NO. 12

15 CHAIRMAN PAUKEN: All right.

16 Mr. Temple, do you have anything?

17 MR. TEMPLE: Just one thing, just to
18 give you an update. We've gotten everything in from
19 the -- the boards on their NEG request relative to the
20 last storm and the flooding: South Texas, Lower Rio,
21 Cameron, and Middle Rio. We have staff working with
22 South Texas now completing theirs, and we'll be
23 submitting this next week.

24 So, we will keep you updated on that as
25 we -- as we get that sent.

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AGENDA ITEM NO. 15

CHAIRMAN PAUKEN: Okay. Is there a
motion to adjourn?

COMM. CONGLETON: So made.

COMM. ALCANTAR: Second.

CHAIRMAN PAUKEN: It's unanimous.

(Meeting adjourned: 9:46 a.m.)

1 C E R T I F I C A T E

2 STATE OF TEXAS)
3 COUNTY OF TRAVIS)

4

5 I, Janis Simon, Certified Shorthand Reporter
6 in and for the State of Texas, do hereby certify that
7 the above-mentioned matter occurred as hereinbefore
8 set out.9 I FURTHER CERTIFY THAT the proceedings of
10 such were reported by me or under my supervision,
11 later reduced to typewritten form under my supervision
12 and control and that the foregoing pages are a full,
13 true, and correct transcription of the original notes.14 IN WITNESS WHEREOF, I have hereunto set my
15 hand and seal this 31st day of August 2010.

16

17

18

19

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