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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 26, 2010

BE IT REMEMBERED THAT at 9:00 a.m., Tuesday,
the 26th day of October, 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 Lydia L. Edwards, a Certified Shorthand Reporter of:

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

2 TUESDAY, OCTOBER 26, 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 agenda involving Items 2 through 6.

9 COMMISSIONER ALCANTAR: Thank you,
10 Chairman Pauken.

11 AGENDA ITEM NO. 2

12 Discussion, consideration, and possible
13 action regarding whether to assume continuing
14 jurisdiction on unemployment compensation cases, wage
15 claim cases, and/or tax liability cases and
16 reconsideration of unemployment compensation cases, wage
17 claim cases, and/or tax liability cases, if any.

18 No discussion.

19 AGENDA ITEM NO. 3

20 Discussion, consideration and possible
21 action regarding tax liability cases listed on the Texas
22 Workforce Commission Dockets 42 and 43.

23 The Commission considered and took action
24 on tax liability cases TD-09-097-1009 and TD-10-024-0110
25 on Docket 42.

1 AGENDA ITEM NO. 4

2 Discussion, consideration and possible
3 action regarding higher level appeals in wage claim
4 cases listed on the Texas Workforce Commission
5 Dockets 42 and 43.

6 The Commission considered and took action
7 on all wage claim cases listed on Dockets 42 and 43.

8 AGENDA ITEM NO. 5

9 Discussion, consideration and possible
10 action regarding higher level appeals in unemployment
11 compensation cases listed on the Texas Workforce
12 Commission Dockets 42 and 43.

13 The Commission considered and took action
14 on all unemployment compensation cases listed on
15 Dockets 42 and 43.

16 AGENDA ITEM NO. 6

17 Discussion, consideration and possible
18 action regarding the removal or transfer of pending
19 unemployment compensation claims, if any, from an Appeal
20 Tribunal.

21 The Commission agreed with recommendation
22 to remove Cases 1279233 and 1309266 to the Commission.

23 (The Commission paused, then continued
24 with the remainder of the agenda.)

25

1 AGENDA ITEM NO. 7

2 CHAIRMAN PAUKEN: Okay. Mr. Jones, is
3 there anything?

4 MR. JONES: No public comment.

5 CHAIRMAN PAUKEN: Okay. Before we go any
6 further, let me turn it over to Commissioner Alcantar.

7 COMMISSIONER ALCANTAR: Good morning,
8 Everyone. Thanks for all your work over the past few
9 weeks; really appreciate all that everyone has been
10 doing, and I know the Commissioners share my gratitude
11 for all the hard work. I'd like to invite a special
12 person from my office who has for a number of years been
13 serving commissioners and working to support the efforts
14 of others in the agency in terms of fulfilling our
15 mission.

16 Billie, I'd like to ask you to come up
17 here. I really want to thank you for your efforts in
18 serving the State of Texas 25 years, I guess, which
19 amounts to half your life as of last week. So thanks
20 for all that you do.

21 MS. MENCHACA: I hadn't thought of it that
22 way, Commissioner, half my life.

23 COMMISSIONER CONGLETON: Oh, I'm sure it's
24 much less than that.

25 (Pause for picture taking.)

1 AGENDA ITEM NO. 8

2 CHAIRMAN PAUKEN: We're at Agenda 8,
3 Discussion, consideration, possible action regarding the
4 acceptance of pledges for Fiscal Year 2011 Child Care
5 Matching Funds, Reagan Miller.

6 MS. MILLER: Good morning, Chairman,
7 Commissioners; Reagan Miller with the Workforce
8 Division. This morning we have cash donations and
9 transfers totaling \$555,573. We have certifications
10 totaling \$1,384,991, for a total pledge amount of
11 \$1,940,564. And overall boards have secured 27 percent
12 of the statewide local match target for your approval.

13 CHAIRMAN PAUKEN: Commissioner Congleton.

14 COMMISSIONER CONGLETON: I move we accept
15 child care pledges for Fiscal Year 2011 child care
16 matching funds in the amount of \$1,940,564 as discussed
17 by staff.

18 COMMISSIONER ALCANTAR: I would second.

19 CHAIRMAN PAUKEN: It's unanimous.

20 AGENDA ITEM NO. 9

21 CHAIRMAN PAUKEN: All right. Agenda
22 Item 9, Discussion, consideration and possible action
23 regarding the Texas Back-to-Work Initiative, including
24 the deobligation and reallocation of funds and the
25 distribution of Fiscal Year 2011 funds, Luis Macias.

1 MR. MACIAS: Good morning, Chairman Pauken
2 and Commissioners. For the record, my name is Luis
3 Macias. I'm the coordinator for the Texas Back-to-Work
4 Program. This morning, Commissioners, we are requesting
5 your approval for the final distribution of funds to the
6 boards for operation of the Texas Back-to-Work Program
7 for the Fiscal Year '11.

8 Commissioners, you'll recall the last time
9 that we visited with you-all. We indicated that we
10 would be coming back in late October. We wanted to make
11 sure that we had a good feel for the number of
12 individuals who had been initially covered through the
13 TANF ECF funds for whom we would have an obligation, and
14 so we have those numbers as built into our estimates.

15 So what we're proposing, Commissioners, is
16 to ask you-all to approve our distribution for
17 approximately five million dollars, which is the
18 remainder of the Fiscal '11 funds that are available for
19 Texas Back-to-Work and an additional deobligation and
20 redistribution of about \$800,000 which would make up the
21 distribution to the 28 boards in order for them to
22 operate the program. We expect enrollments to run to
23 about the end of January, Commissioners.

24 And as we indicated before, we're trying
25 to get them all to end at approximately the same time.

1 So we've taken into account their historical production
2 for that period of time, the number of TANF people for
3 whom they have remaining obligations and taken that into
4 our estimations as we developed this proposed
5 distribution. I would point out to the Commissioners
6 that there are nine boards that will actually see a
7 reduction in funds as part of this effort, their
8 production being not as high as some of the others.

9 So with that, Commissioners, we'd ask your
10 approval of our proposed FY '11 distribution of funds,
11 including deob and reallocation of funds. I'm available
12 to answer any questions.

13 CHAIRMAN PAUKEN: Commissioner Congleton.

14 COMMISSIONER CONGLETON: I have no
15 questions. And I move that we approve the
16 redistribution -- or the distribution of \$4,920,061 in
17 Fiscal Year 2011 Back-to-Work for Texas funds to 19
18 boards, deobligation of \$800,954 for 9 boards and the
19 redistribution of those funds to the 19 boards that need
20 additional funding as discussed.

21 COMMISSIONER ALCANTAR: I second.

22 CHAIRMAN PAUKEN: It's unanimous.

23 MR. MACIAS: Thank you, Commissioners.

24 COMMISSIONER CONGLETON: I'd like a list
25 of those nine boards.

1 MR. MACIAS: Sir?

2 COMMISSIONER CONGLETON: I'd like a list
3 of those nine boards.

4 MR. MACIAS: Yes, sir, absolutely.

5 COMMISSIONER CONGLETON: Thank you.

6 AGENDA ITEM NO. 10

7 CHAIRMAN PAUKEN: Okay. Issue -- Agenda
8 Item 10, Discussion, consideration, possible action
9 regarding the incentive award criteria and weighting for
10 Board Contract Year 2011 pursuant to rules relating to
11 general administration, Adam Leonard.

12 MR. LEONARD: For the record, Adam
13 Leonard, Performance Analysis and Reporting. Good
14 morning, Commissioners. Before you today, I wanted to
15 talk about the incentive award criteria that we're
16 recommending for awards in the new, current contract
17 year that just began which would be given out at the
18 conference in 2011. By rule, Commissioners, you have
19 the authority to identify which criteria you'd like to
20 be used for setting these awards while waiting to give
21 them. And for the past several years, they have evolved
22 slightly, but I think last year -- or for -- in 2009 we
23 moved to four separate awards and continued that again
24 in 2010 and will be presenting those awards at the
25 conference in a few weeks.

1 What we're recommending to you-all for
2 Board Contract Year '11 is that we move forward with
3 basically the same approach that we used in '10 with two
4 exceptions. One is not a terribly substantive
5 exception, and that has to do with the choices single
6 parent participation rate, that for Board Contract Year
7 '11, we moved from two separate measures in that area to
8 a single measure. And we'd recommend going ahead and
9 making the same change here in the choices instead of a
10 work criteria.

11 The other one would be to try to create
12 some kind of third criterion for the claimant
13 reemployment section of these awards. Right now we're
14 using the two claimant measures that exist in contract,
15 and we've been using them for several years. And given
16 the interest in the relatively new phenomenon of
17 claimants exhausting possibly as many as 93 weeks of
18 benefits and the concern that you-all have raised at
19 various public meetings about making sure that we're
20 still serving those populations and helping them get
21 back to work, we wanted to try to create a measure that
22 would focus on reemployment of these exhaustees. And as
23 of right now, I don't have that data or specific measure
24 in mind, but I thought that if you-all would go forth
25 and basically tell the boards now that these are the

1 criteria as they are recommended but that you agree that
2 staff should try to develop a third one to stick in the
3 claimant reemployment area, they'd be on notice now as
4 knowing that they really need to continue focusing on
5 these -- this population, the exhaustees, and that we
6 would hopefully come back within the next several weeks;
7 although, in all likelihood, it probably wouldn't be
8 till December, with a more formal measure that would be
9 used in this area. I'd be happy to answer any questions
10 you may have.

11 MR. TEMPLE: Commissioners, we're able to
12 identify them in with. So the boards are able to
13 identify who the exhaustees are, and we can work with
14 them on some other ad hoc reporting if they need it.
15 But the data is there for them to be able to identify
16 exhaustees to be able to target those as well.

17 COMMISSIONER CONGLETON: I like it.

18 CHAIRMAN PAUKEN: Okay. Sounds fine. You
19 don't need a resolution or --

20 COMMISSIONER CONGLETON: A motion.

21 MR. LEONARD: I do need a motion today so
22 we could go forward with these as kind of a default with
23 some notice that there might be a change.

24 CHAIRMAN PAUKEN: All right. Commissioner
25 Congleton.

1 COMMISSIONER CONGLETON: I move that we
2 approve the staff recommendation for Board Contract Year
3 2011 criteria, weighting board classification and award
4 amounts with the understanding that the staff will
5 return with recommended -- recommendations relating to
6 UI exhaustees.

7 COMMISSIONER ALCANTAR: I would second.

8 CHAIRMAN PAUKEN: Okay. It's unanimous.

9 AGENDA ITEM NO. 11

10 CHAIRMAN PAUKEN: Discussion,
11 consideration and possible action regarding the winners
12 of incentive awards for Board Contract Year 2010
13 pursuant to rules relating to general administration,
14 Adam Leonard.

15 MR. LEONARD: Commissioners, we're going
16 to bring this back for your attention next week. We
17 just got the data yesterday to kind of identify who the
18 final folks are, and we're going through that right now
19 to make sure that there are no questions or issues. So
20 we will be by your offices this week to brief and come
21 forward in a rare off-week meeting to present it to make
22 sure there's enough time to get off everything engraved
23 and recorded for the conference.

24 CHAIRMAN PAUKEN: All right. That sounds
25 fine.

1 COMMISSIONER CONGLETON: That sounds fine.

2 AGENDA ITEM NO. 12

3 CHAIRMAN PAUKEN: Discussion -- No. 12,
4 Discussion, consideration, possible action regarding
5 recommendations for Program Year 2009 Workforce
6 Investment Act Exemplary Awards, Debbie Carlson.

7 MS. CARLSON: Good morning. Debbie
8 Carlson with the Workforce Division. For your
9 consideration today, we had the Program Year 2009 WIA
10 Exemplary Award winners. As you know, the Workforce
11 Investment Act requires that states provide incentive
12 awards to local areas based on exemplary performance.
13 In a previous public meeting, the Commission adopted the
14 federal methodology for performance calculation. In
15 addition, the Commission established expenditure
16 thresholds that should be considered for these award
17 winners. Staff using this methodology have determined
18 the top three performing boards, and at this time, we
19 seek your approval of those for recognition at next
20 month's annual conference.

21 CHAIRMAN PAUKEN: Commissioner Congleton.

22 COMMISSIONER CONGLETON: Move that we
23 approve the Program Year 2009 WIA Exemplary Performance
24 Incentive Awards for the three type of performing boards
25 as discussed.

1 COMMISSIONER ALCANTAR: I agree.

2 CHAIRMAN PAUKEN: It's unanimous. Thank
3 you, Ms. Carlton.

4 MS. CARLSON: Thank you.

5 AGENDA ITEM NO. 13

6 CHAIRMAN PAUKEN: No. 13, Discussion,
7 consideration, possible action regarding approval of
8 local workforce development board nominees, John Fuller.

9 MR. FULLER: Good morning, Chairman
10 Pauken, Commissioner Congleton, Commissioner Alcantar
11 and Mr. Temple. For the record, I'm John Fuller with
12 the Workforce Development Division. Before you today,
13 you have nominees from the West Central Texas, North
14 Central Texas, Golden Crescent and the Lower Rio Grande
15 workforce development boards. I'll answer any question
16 you may have.

17 CHAIRMAN PAUKEN: They look fine to me.
18 Is there a motion, Commissioner Congleton?

19 COMMISSIONER CONGLETON: I'm voting
20 against the fourth nominee from West Central. While
21 this individual may be well-qualified and an asset to
22 the board, he represents the Chamber of Commerce which
23 did not take one of the seats reserved for labor or
24 community-based organizations. West Central has two
25 other Chambers of Commerce up for nomination today in

1 the private sector slots, which is where they belong in
2 all fairness, and I'm fine with all the other nominees.

3 CHAIRMAN PAUKEN: Is there a motion to
4 approve all nominees?

5 COMMISSIONER ALCANTAR: I move that we
6 approve all nominees as submitted by staff.

7 CHAIRMAN PAUKEN: I second. So we have a
8 2-1 vote on approval of all nominees.

9 MR. FULLER: Thank you, Commissioners.

10 AGENDA ITEM NO. 14

11 CHAIRMAN PAUKEN: There's no legislative
12 report today, I've been informed, by Mr. McCarty.

13 AGENDA ITEM NO. 15

14 CHAIRMAN PAUKEN: Mr. Temple, is there a
15 staff report?

16 MR. TEMPLE: We are submitting Phase 2 for
17 BRAC funding, roughly 6.1 million to serve 1,456
18 individuals. Northeast, Alamo, Central and Upper Rio
19 will be the recipients of this. Costal and North Texas
20 have already expended their money. So this will be
21 directed to these four per their request. So we'll give
22 you updates on that as it goes.

23 CHAIRMAN PAUKEN: I heard things went well
24 in El Paso when you were out there with the Lieutenant
25 Governor on the Texas Back-to-Work program.

1 MR. TEMPLE: Well, he's very supportive.
2 And I will say they're having a job fair in two weeks.
3 They've got 300 employers with 4,500 job openings at
4 that job fair. So --

5 CHAIRMAN PAUKEN: That's encouraging. All
6 right. Thank you.

7 AGENDA ITEM NO. 16

8 CHAIRMAN PAUKEN: We're going to go now
9 into executive session pursuant to Government Code
10 551.071(1) concerning contemplated litigation or pending
11 litigation of the following cases: Cathy Wright v. TWC
12 and the Conservative Jewish Day School.

13 (At this time, the Texas Workforce
14 Commissioners went into executive
15 session from 10:08 o'clock a.m. until
16 10:18 o'clock a.m., after which time the
17 proceedings continued as follows:)

18 CHAIRMAN PAUKEN: All right. We're back
19 in session. Commissioner Congleton.

20 COMMISSIONER CONGLETON: I move that we --
21 in the case of Wright v. TWC and the Conservative Jewish
22 School that the OAG request the Court to remand the case
23 to the Commission for further attention.

24 COMMISSIONER ALCANTAR: I would second.

25 CHAIRMAN PAUKEN: It's unanimous. Is

1 there a motion to adjourn?

2 COMMISSIONER CONGLETON: So make.

3 COMMISSIONER ALCANTAR: Second.

4 CHAIRMAN PAUKEN: Thank you.

5 (At this time, the proceedings were
6 adjourned at 10:19 o'clock a.m.,
7 Tuesday, October 26, 2010.)

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1 STATE OF TEXAS)

2 COUNTY OF TRAVIS)

3 I, LYDIA L. EDWARDS, certified shorthand
4 reporter for the State of Texas, do hereby certify that
5 the above-captioned matter came on for hearing before
6 the TEXAS WORKFORCE COMMISSION as hereinafter set out.

7 I FURTHER CERTIFY that the proceedings of said
8 hearing were reported by me, accurately reduced to
9 typewriting under my supervision and control, and, after
10 being so reduced, were filed with the TEXAS WORKFORCE
11 COMMISSION.

12 GIVEN UNDER MY OFFICIAL hand of office at
13 Austin, Texas, the _____ day of November, 2010.

14

15

16

17

Lydia L. Edwards
Certification No. 2567
My Commission Expires 12/31/10

18

19

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