

TRANSCRIPT OF PROCEEDINGS  
BEFORE THE  
TEXAS WORKFORCE COMMISSION  
AUSTIN, TEXAS

PUBLIC MEETING §  
FOR THE TEXAS §  
WORKFORCE COMMISSION §

COMMISSION MEETING

TUESDAY, JANUARY 23, 2007

BE IT REMEMBERED THAT at 9:02 a.m., on  
Tuesday, the 23rd day of January 2007, the  
above-entitled meeting was held at the Texas Workforce  
Commission, TWC Building, 101 East 15th Street,  
Room 244, Austin, Texas, before DIANE RATH, Chair;  
RON LEHMAN and RONALD G. CONGLETON, Commissioners, and  
LARRY TEMPLE, Executive Director of the Texas  
Workforce Commission; and the following proceedings  
were reported by William C. Beardmore, a Certified  
Shorthand Reporter of:





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

2 TUESDAY, JANUARY 23, 2007

3 (9:02 a.m.)

4 AGENDA ITEM NO. 1

5 CHAIRMAN RATH: Okay. And we can go  
6 ahead and come to order.

7 AGENDA ITEM NO. 2

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

14

15 The Commission considered and approved a request to  
16 issue a letter of continuing jurisdiction in Case  
17 Number 889908-4 for resubmission on a future docket.

18 AGENDA ITEM NO. 3

19 Discussion, Consideration and Possible Action  
20 Regarding Tax Liability Cases Listed on the Texas  
21 Workforce Commission Docket 4

22

23 The Commission considered and took action on all tax  
24 liability cases listed on Docket 4.

25

1 AGENDA ITEM NO. 4

2 Discussion, Consideration and Possible Action  
3 Regarding Higher Level Appeals in Wage Claim Cases  
4 Listed on the Texas Workforce Commission Docket 4

5

6 The Commission considered and took action on all wage  
7 claim cases listed on Docket 4.

8 AGENDA ITEM NO. 5

9 Discussion, Consideration and Possible Action  
10 Regarding Higher Level Appeals in Unemployment  
11 Compensation Cases Listed on the Texas Workforce  
12 Commission Docket 4

13

14 The Commission considered and took action on all  
15 unemployment compensation cases listed on Docket 4.  
16 (Wage Claim and UI cases were heard from 9:02 a.m. to  
17 9:19 a.m.)

18 CHAIR RATH: We'll go ahead and come  
19 back to order.

20 AGENDA ITEM NO. 6

21 CHAIR RATH: Is there anyone signed up  
22 for public comment?

23 MS. SNOW: Yes. Elaine Snow, for the  
24 record, for the Office of General Counsel, and we do  
25 have someone signed up for public comment.

1                   We're going to have Jerry W. Haisler  
2 from the Central Texas Workforce.

3                   CHAIR RATH: Jerry, are you speaking in  
4 general or is there a specific agenda item?

5                   MR. HAISLER: A specific agenda item.

6                   CHAIR RATH: Okay. Would you rather  
7 give you comments now or when that item comes up?

8                   MR. HAISLER: When that item comes up.

9                   CHAIR RATH: Can you let me know which  
10 agenda item it is?

11                  MR. HAISLER: IBPR.

12                  CHAIR RATH: Okay. Thank you. Make  
13 sure I don't -- and that's -- okay -- No. 11. Okay.  
14 Thank you.

15                                 AGENDA ITEM NO. 7

16                  CHAIR RATH: Okay. Then the first thing  
17 we have is FY'07, child care matching funds, and we  
18 have \$947,286 from Cameron, Dallas, Heart of Texas,  
19 Lower Rio and Upper Rio.

20                                 Are there any questions or is there a  
21 motion?

22                  COMM. LEHMAN: I move approval of the  
23 child care funds.

24                  COMM. CONGLETON: I agree.

25                  CHAIR RATH: And I also agree. And that

1 brings us to a little over 25-and-a-half million  
2 dollars. So we're getting closer.

3 AGENDA ITEM NO. 8

4 CHAIR RATH: Next we have some waiver  
5 requests. Ms. Verver?

6 We just want you to know that we're very  
7 proud of ourselves that we managed last week without  
8 any questions.

9 (Laughter)

10 MS. VERVER: I knew you could do that.  
11 I wasn't a bit concerned.

12 Good morning, Chair Rath, Commissioners.  
13 For the record, Nicole Verver, Workforce Development.

14 Today for your consideration we have  
15 three waiver requests asking the Commission to waive  
16 its definition of a parent, Section 809.26 of the  
17 Commission rules.

18 Case No. 53, the parent is incarcerated.  
19 Staff have received documentation and recommends  
20 approval.

21 COMM. LEHMAN: I agree on Case 53.

22 COMM. CONGLETON: I agree.

23 CHAIR RATH: And I do, too.

24 MS. VERVER: Case Nos. 54 and 55 are  
25 former CPS cases. Staff recommends approval pending

1 the receipt of documentation.

2 We just want to verify that the  
3 placement of the child with the child care applicant  
4 is actually ongoing.

5 COMM. LEHMAN: I agree.

6 COMM. CONGLETON: I agree.

7 CHAIR RATH: And I also do.

8 MS. VERVER: Okay. Thank you.

9 CHAIR RATH: Thank you.

10 AGENDA ITEM NO. 9

11 CHAIR RATH: And that brings us to  
12 No. 9, WIA exemplary awards.

13 MR. JONES: Thank you. For the record,  
14 my name is Larry Jones. Good morning, Commissioners,  
15 Mr. Temple.

16 This morning I am here to present to you  
17 the WIA PY'04 incentive awards -- exemplary awards --  
18 for three boards, and I will start by giving you a  
19 handout.

20 What you have before you have is the  
21 names of the three boards who had achieved the highest  
22 performance.

23 Let me start by apologizing. We did not  
24 bring the PY'04 exemplary awards before you last  
25 spring as we had intended to, and we continued with

1 the award of PY'05 funds in Grapevine at the annual  
2 conference. So this was an oversight.

3 We have taken measures to be sure that  
4 that doesn't occur again. We've added that to our  
5 work plan.

6 We will have the award of the WIA  
7 exemplary awards in the quick base system. And, most  
8 importantly, from here on we'll be presenting those  
9 each year at the annual conference to be held in  
10 November, right now. So I think the combination of  
11 those three things will keep us on track.

12 We're recommending that we use the same  
13 criteria that we've used in the past, and those are  
14 laid out here, but I'll read those.

15 A board must not fall below 90 percent  
16 of its adjusted performance target for each individual  
17 WIA measure.

18 A board must achieve at least a  
19 100-percent cumulative program score for each of the  
20 three WIA program areas.

21 A board must meet or exceed at least an  
22 80-percent expenditure rate in each of the three WIA  
23 program areas, and a board must meet a 30-percent  
24 expenditure rate for out-of-school youth.

25 Staff recommends the Commission approve

1 the WIA PY'04 exemplary performance incentive awards  
2 for the three top performing boards that you see  
3 before you, with first place to be awarded \$100,000,  
4 second place \$75,000 and third place \$50,000.

5 Do you have any questions?

6 CHAIR RATH: No questions.

7 COMM. LEHMAN: None.

8 MR. JONES: Do I need a --

9 CHAIR RATH: Uh-huh.

10 COMM. LEHMAN: I'll enter a motion to  
11 accept staff recommendations regarding PY 2004 WIA  
12 exemplary performance awards.

13 COMM. CONGLETON: And I'll second that  
14 motion.

15 CHAIR RATH: And I also agree. And I  
16 would share an observation that Commissioner Congleton  
17 Made, that it's not like we weren't swamped last year  
18 with Katrina and Rita.

19 So I do think staff really -- I think  
20 it's understandable that, perhaps, this got swamped.

21 COMM. CONGLETON: I'm sure the boards  
22 will forgive us, and the check is in the mail.

23 MR. JONES: I think at least three will  
24 forgive us, yes, sir.

25 (Laughter)

1 CHAIR RATH: Very good. Thank you.

2 AGENDA ITEM NO. 10

3 CHAIR RATH: And next we have  
4 recognition of achievement of contracted performance  
5 by the boards for CY'06. Mr. Jones?

6 MR. JONES: Yes. And this was an  
7 initiative that we hope to continue for years to come.

8 What we wanted to do was recognize the  
9 boards who met all of their contracted performance  
10 measures for last year and specifically the contracted  
11 measures, including integrated common measures,  
12 re-employment and employer engagement, Workforce  
13 Investment Act measures, and then the choices and  
14 average number of children served per day.

15 In Calendar Year -- or, pardon me --  
16 BCY'06, there were 12 boards that met or exceeded  
17 performance on all of the 16 contracted measures.

18 They included Cameron County, Capital  
19 Area, Central Texas, Coastal Bend, Deep East Texas,  
20 East Texas, Northeast Texas, North Texas, Permian  
21 Basin, South Plains, Texoma and West Central.

22 We circulated letters to your offices  
23 last week, and staff recommends you issue the letters  
24 of recognition to the boards that I have named, and  
25 I'm ready to answer any questions you might have.

1 CHAIR RATH: And I think it was a great  
2 idea. I have one tiny change. I think the first CC  
3 needs to be that respective board area's lead CEO,  
4 also.

5 MR. JONES: We'll make that correction.

6 CHAIR RATH: Thank you. And I'm fine  
7 with the letter.

8 COMM. LEHMAN: Okay. So am I.

9 COMM. CONGLETON: I agree with the CC.

10 COMM. CONGLETON: I do, too.

11 CHAIR RATH: Very good. Thank you.

12 MR. JONES: Thank you.

13 AGENDA ITEM NOS. 6 AND 11

14 CHAIR RATH: Jerry, would you like to  
15 make your remarks now?

16 MR. HAISLER: Up here?

17 CHAIR RATH: Wherever you're more  
18 comfortable with. Standing or sitting, whichever is  
19 more comfortable for you.

20 PUBLIC COMMENT BY JERRY HAISLER

21 MR. HAISLER: Good morning, Chair Rath  
22 and Commissioners and Mr. Temple. It's my pleasure to  
23 be here this morning.

24 For the record, my name is Jerry  
25 Haisler. I'm the Director for Central Texas Workforce

1 and a member of the Steering Committee for the  
2 Integration Business Process Redesign Group. I'll  
3 refer to that as IBPR just because it's easier to get  
4 out.

5 I'll give you a little bit of  
6 background. This started in a visioning session that  
7 we had in October 2005. And a large group of  
8 Executive Directors from Workforce as well as contract  
9 staff, other board staff and TWC staff got together  
10 and we talked about how we might support in a better  
11 way an integrated workforce model that we're all  
12 striving for and achieving in many ways.

13 I think that visioning session led to  
14 some really great ideas and concepts that formed the  
15 basis for what I'm going to go over here in a moment.

16 The goals for our visioning matched  
17 nicely with the goals for TWC in regard to your  
18 strategic direction for an integrated service delivery  
19 system.

20 We know that we're being successful in  
21 building an integrated system, and we know that demand  
22 for our services and, in fact, the number of satisfied  
23 customers are increasing and we know also that we  
24 can't anticipate that resources will necessarily  
25 continue to rise with the demand.

1                   So we have to look for ways to be more  
2 efficient, to be more business like, and I think what  
3 we're going to lay out to you this morning will give  
4 you a business model that will support and create an  
5 infrastructure on some things that we have in place  
6 that aren't where they need to be.

7                   If you will also recall in the Sunset  
8 review and subsequently, Senate Bill SB 280 came out  
9 of that. And, again, I think what the Legislature had  
10 in mind was a holistic customer flow model, one that  
11 made it easy on our clients and our customers, one  
12 that intended to support an integrated system so that  
13 customers had a minimal number of people they had to  
14 interact with, a minimal number of times that they had  
15 to give information, a minimal number of times that we  
16 had to record information.

17                   And, again, this IBPR process is  
18 addressing some of the barriers that we have in regard  
19 to data management in regard to succeeding with that  
20 directive and that law as well as succeeding with our  
21 own vision and direction to have something that,  
22 again, provides a basis and infrastructure.

23                   With that in mind, what has happened  
24 since that visioning session in 2005 is extensive work  
25 by a work group with the steering committee that I'm

1 on overseeing the work.

2 I am represented on that committee as  
3 well as Kay O'Dell, Laurie Larea (phonetic) and Mike  
4 Temple. Linda Davis was on that committee and  
5 Mark Nagari (phonetic) has taken her place and also  
6 Marshall Lindsey from a board area is on that as well  
7 as state TWC staff and representatives from different  
8 local workforce areas.

9 During that process, policies, rules,  
10 laws, practices, organizational structures have been  
11 codified, reviewed.

12 I think the first thing that we realized  
13 is, we didn't really understand what all we have going  
14 on. We have 28 workforce board areas.

15 And by the model that we have in place,  
16 we know that we have the flexibility and adaptability  
17 to design our service systems to meet our local needs  
18 based on our business and job-seeker customers.

19 So we needed to codify and look at how  
20 everything was working, kind of come to some common  
21 ground on processes. That work has been very much  
22 well along the way, and I have this book here that  
23 reflects that work.

24 It's very, very good work. It's very  
25 time intensive, but we have really some of the best

1 workforce experts, I think, in the state working on  
2 that.

3 Workforce information systems such as  
4 TWIST, WorkInTexas, the child care data system --  
5 those are all very good systems and, in fact, they are  
6 award-winning systems -- we know that.

7 They are great systems as stand-alone  
8 systems, but they are not great systems in terms of  
9 being an integrated system, and that is really what's  
10 lacking here.

11 As the Executive Directors and others  
12 came together in our visioning sessions, we knew we  
13 wanted something that's adaptive, something that we  
14 can modify easily something that has integrity,  
15 something that is demand driven; i.e., we can do  
16 strategic planning for our area based on data -- not  
17 based on intuition, not based on data that we sort of  
18 have, not based on just what we can throw together. I  
19 think that's really important.

20 I will give a personal example. This  
21 year our area went through doing a Texas quality  
22 application. We found that this area clearly -- and  
23 we knew this going into it -- but this area of data --  
24 management, data collection, reporting, the ability to  
25 use it for business practices clearly is lacking.

1                   Now, all of us have made this work, and  
2 there's some great people in this room that have  
3 helped, again, tweak these systems so that they are  
4 working for us, but we can do much better, I think.

5                   I think another good example during the  
6 last year was our Katrina efforts. Nobody could  
7 predict what we would have gotten into.

8                   And I think one of the things that  
9 really churned up a lot of resources after the fact  
10 was our data management and the kinds of things we  
11 needed to collect that we couldn't easily do because  
12 we didn't have the systems, really, that supported it  
13 at the time.

14                   So in my vision and our vision of the  
15 steering committee, we feel like that we need to  
16 continue to work to continue this business process  
17 redesign and move forward.

18                   We're just finishing this first phase.  
19 And, like I said, much, much excellent work has been  
20 done. I think we're absolutely moving in the right  
21 direction.

22                   And, again, this is the tools that we  
23 need so that we can continue to be the best workforce  
24 system in the world.

25                   CHAIR RATH: Thank you.

1                   MR. JONES:  Again, good morning,  
2 Commissioners.  For the record, I'm Larry Jones with  
3 Workforce Development.

4                   We had originally asked Mary Ross to be  
5 here with us this morning as well.  Mary has been very  
6 active on the steering committee and has been very  
7 constructive in her comments and her efforts to  
8 support the IBPR.

9                   Unfortunately, Mary had jury duty today  
10 and was unable to be with us.  So I send you her  
11 apologies, and I know she wanted to be here.

12                  CHAIR RATH:  Let me interrupt you for  
13 one minute, because I neglected to see if anyone has  
14 questions for Jerry before we proceed.

15                  COMM. LEHMAN:  No, I'll wait.

16                  MR. JONES:  And we'll both stand for  
17 questions at the end, if you like.

18                  CHAIR RATH:  Okay.  Thank you.

19                  MR. JONES:  The IBPR has two phases.  
20 The first is a business process redesign, and much of  
21 that Jerry described to you.

22                  The second phase is the actual  
23 application development.  To this date, you have  
24 approved the first phase which is for the business  
25 process redesign, and that has three sets of

1 deliverables.

2                   The BPR -- the business process  
3 redesign -- allows the Workforce Commission to  
4 identify processes that support a market-driven system  
5 with business as one of the primary customers while  
6 taking into account the minimum requirements imposed  
7 by federal agencies and any additional state  
8 requirements.

9                   The BPR will determine if there are  
10 recommended changes to rules, policies and procedures  
11 that will better support an integrated workforce  
12 service delivery automation design.

13                   Now, I highlighted from the discussion  
14 paper that you have up near the top of the second  
15 page, conducting the BPR before designing the  
16 automated system ensures that the resulting system has  
17 the flexibility to support varying local approaches to  
18 customer flow, service delivery and management rather  
19 than a system that drives or inhibits local business  
20 processes.

21                   And so we felt in the steering committee  
22 that that was a very important concept, and so I  
23 wanted to emphasize that for you here today.

24                   As I said, the business process redesign  
25 will produce three major deliverables. Briefly, the

1 first of those is the future business processes, and  
2 that's what we're here to gain your, I guess, approval  
3 on today, and we're recommending that you authorize us  
4 to go forward with the second and third deliverables.

5           The portions of the business process  
6 redesign have been briefed to you, and I came around  
7 with staff in the month of December and I know your  
8 staffs were again briefed last week on the BPR.

9           The various portions of the business  
10 processes are described there, including Appendix A,  
11 the findings and recommendations; Appendix B, Quick  
12 Wins. Appendix C1 is the laws, rules, regulations,  
13 guidelines and policies.

14           Appendix C2 is the business requirements  
15 traceability matrix; Appendix C3, the business  
16 requirements glossary and data elements. Appendix D  
17 is the context diagram. Appendix E is the future  
18 business processes, and Appendix F is a glossary.

19           The due date for that is December 31st  
20 of 2006. We completed it by that date, and we're here  
21 now today giving that to you.

22           The second deliverable is a gap analysis  
23 and revised future business processes, and that's  
24 where additional detail will be put into the business  
25 processes designed in the first -- designated in the

1 first deliverable. That is due April 30th.

2                   And shortly after that date we will come  
3 back to you just as we're doing today and garner your  
4 approval and recommendation to move forward with the  
5 third deliverable.

6                   The third deliverable is actually a  
7 business implementation plan. This deliverable will  
8 plan the application development phase from a  
9 technical and business perspective. That's due on  
10 June 30th.

11                   And on that date, not only will we come  
12 back and show you our results and request your  
13 approval to move forward, but there will also be a  
14 fund approval at that point to approve the funds for  
15 the application development.

16                   And so that concludes my presentation  
17 today. Staff is recommending the continuation of the  
18 IBPR project team's work on the next deliverable under  
19 Phase 1; that is, the gap analysis and revised future  
20 business processes due in April of 2007.

21                   So if you have any questions, Jerry will  
22 answer the tough questions and I'll take the rest.

23                   CHAIR RATH: Thank you. Commissioner,  
24 do you have any questions?

25                   COMM. LEHMAN: No, I don't, actually.

1 CHAIR RATH: Commissioner?

2 COMM. CONGLETON: I have a little  
3 statement.

4 MR. JONES: Yes, sir.

5 COMM. CONGLETON: And I agree with the  
6 gap analysis and implementation plan. I would also  
7 like to see a streamlined approach.

8 Flexibility is a great thing. We need  
9 to keep a careful guard against scope creep. We have  
10 already put a lot of money in this project without  
11 writing the first line of code.

12 It's good to have steering committees  
13 and working groups, but everybody needs to come to  
14 agreement on a simple standardized process, and we  
15 need to do that sooner than later.

16 CHAIR RATH: Thank you. I appreciate  
17 the work everyone is doing on it. And I think this  
18 really in a large way demonstrates the complexity of  
19 this agency's work and the service delivery that  
20 occurs on the front lines in our workforce centers.

21 I think sometimes the complexity of our  
22 system is easy to underestimate when things work  
23 well.

24 I think that was one of the challenges  
25 when we went through Sunset because we knew our goal

1 was integration and, yet, conveying the difficulty we  
2 had in achieving full integration was a task that I  
3 think was not well appreciated and, apparently, we  
4 struggled with.

5                   And so I think both the complexity and  
6 the cost of achieving integration was, perhaps, not  
7 fully appreciated as we went through Sunset by  
8 everyone external to this agency.

9                   I think that 280 was very, very clear in  
10 giving us guidance and what we needed to do, and  
11 I think the testimony and the comments as we went  
12 through Sunset certainly indicated that this is what  
13 needed to happen.

14                   There was a great deal of questioning at  
15 the time of the cost estimates that we attached to  
16 that component of the Sunset bill, and a great deal  
17 of -- well, of criticism of our estimates and I think  
18 true questioning of it.

19                   And I think that when we look at this  
20 project it is validating the legitimacy of the numbers  
21 that were put forth at that time, both as you said,  
22 Commissioner, with the dollars that have already been  
23 expended and the dollars that we have estimated in the  
24 future.

25                   So I think that this is important, and I

1 think it is very directly in response -- or it is  
2 responsive to our Sunset law -- now our Sunset law.

3                   And I think as we're up for review next  
4 year, there is discussion about, perhaps, postponing  
5 that, but I think we need to be fully prepared to move  
6 forward demonstrating that we heard the message that  
7 was delivered before and that we are attempting to  
8 respond and that we have really convened significant  
9 components of this system in response to that.

10                   And I think that the work that has been  
11 done by the Executive Directors, the work that's been  
12 done by the team, that everyone coming together is  
13 necessary to demonstrate this system's commitment to  
14 achieving full integration but really helping,  
15 particularly, external forces be better able to  
16 appreciate how complex that is.

17                   You can't just connect a couple of  
18 systems and it's going to work fine. And I think  
19 that's one of our challenges that we always face.

20                   So I say that because I do think it's  
21 necessary. I'm very grateful, but I think the  
22 importance of this project sometimes can almost become  
23 routine as opposed to the strategic importance to the  
24 agency and to service delivery.

25                   And it's not just another one of our

1 projects, but it really is almost a fundamental  
2 underpinning of how we function and how the service is  
3 delivered, and I think that's important for us to  
4 remember sometimes.

5 I have no questions, aside from that  
6 observation.

7 MR. TEMPLE: Commissioners, I would like  
8 to recognize publicly -- there's a lot of hours for  
9 staff and the EDs and the staff that the EDs have sent  
10 from the boards that has occurred here -- a lot of  
11 investment in our time, and our time is money, and  
12 nothing else has slipped other than the '04 incentive  
13 awards.

14 (Laughter)

15 MR. TEMPLE: We've pretty much made  
16 every deadline we've had. We've had a hurricane.  
17 We've had another hurricane, and we've gotten a lot of  
18 work done, and people have invested the time.

19 I've sat in on a couple of these -- the  
20 original vision sessions and some of the work sessions  
21 since that time -- and it's an auditorium full of  
22 people working hard.

23 They are doing this and they are doing  
24 their other jobs. A lot of times they are having to  
25 do those jobs -- they are doing them after hours and

1 they are doing them on weekends and late at night and  
2 coming in early, and I appreciate the work.

3                   There's another big agency in this state  
4 that's going through the same thing, and they are over  
5 \$400 million and still don't have it up yet. So we're  
6 doing this one pretty much in-house and getting our  
7 other work done as well.

8                   So I just want to recognize those people  
9 that are doing that.

10                   CHAIR RATH: And I think that's a very  
11 important point that you just made that we all need to  
12 remember, and we need to probably do a better job of  
13 reminding people of that, too, at the appropriate  
14 times. Thank you.

15                   MR. JONES: Thank you, Commissioners.  
16 We will be back in April to present to you our second  
17 deliverable.

18                   CHAIR RATH: Very good. I want to make  
19 sure there's no action we need to take to move  
20 forward. I don't believe there is, but I wanted to  
21 make sure.

22                   Okay. Thank you.

23                   MR. JONES: Thank you.

24                   CHAIR RATH: Very good.

25

1 AGENDA ITEM NO. 12

2 CHAIR RATH: Next we will move to the  
3 adoption of rules relating to charges for copies of  
4 public records.

5 MS. MILLER: Good morning, Chair Rath,  
6 Commissioners. Reagan Miller with Workforce  
7 Development.

8 At the October 31st Commission meeting  
9 you approved rule amendments for public comments to  
10 Chapter 800 regarding charges for copies of open  
11 records.

12 As a reminder, these rules implement  
13 provisions of Senate Bill 452 which transferred all  
14 duties related to the Public Information Act over to  
15 the Office of the Attorney General, conforms our rule  
16 language with the OAG rules regarding the amounts that  
17 we charge for open record requests, and specifically  
18 allow us to recoup costs for certain requests that are  
19 under 50 pages in alignment with the OAG.

20 We received no comments on the proposed  
21 rules during the public comment period. So for your  
22 consideration today are the final rules with no  
23 changes to Chapter 800.

24 CHAIR RATH: Thank you. Are there any  
25 questions or is there a motion?

1                   COMM. LEHMAN: I have no questions.

2                   COMM. CONGLETON: I move that we adopt  
3 amendments to Section 800-3, 800-5, 800-6 and 800-7 in  
4 regard to matters of general administration with and  
5 without changes as designated and recommended by staff  
6 and the materials provided.

7                   COMM. LEHMAN: Second.

8                   CHAIR RATH: And I agree.

9                   MS. MILLER: Thank you.

10                   AGENDA ITEM NO. 13

11                   CHAIR RATH: Next we have discussion and  
12 possible action regarding report on charges for copies  
13 of public information.

14                   MS. CHASTAIN: Good morning, Chair Rath,  
15 Commissioners, Mr. Temple. Lona Chastain with the  
16 Office of General Counsel.

17                   Before you today is a report that's  
18 required every two years. It is required to be posted  
19 on our TWC Web page. It contains the provisions  
20 regarding charges for public records.

21                   It is consistent with the rule just  
22 adopted under the previous item. And at this time,  
23 staff would recommend approval of the report for  
24 posting on the TWC Web page.

25                   CHAIR RATH: Are there any questions or

1 is there a motion?

2 COMM. LEHMAN: No questions.

3 COMM. CONGLETON: No questions, and I  
4 move that we sign the cover letter and publish the  
5 report charges for copies as presented by staff.

6 COMM. LEHMAN: Second.

7 CHAIR RATH: And I agree.

8 MS. CHASTAIN: Thank you.

9 CHAIR RATH: Thank you.

10 AGENDA ITEM NO. 14

11 CHAIR RATH: Next we have the possible  
12 adoption of rules relating to the Civil Rights  
13 Division concerning right of access to confidential  
14 records.

15 MS. MILLER: Again, for the record,  
16 Reagan Miller. At the October 31st Commission meeting  
17 you approved rule amendments for public comment to  
18 Chapter 819 regarding materials that are available to  
19 the parties in Civil Rights matter.

20 As a reminder, these final rules align  
21 the Civil Rights Division practices with the Equal  
22 Employment Opportunity Commission's policies regarding  
23 the release of records and employment discrimination  
24 complaints as reflected in an MOU between CRD and the  
25 EEOC.

1                   We received no comments during the  
2 public comment period. So for your consideration  
3 today are final rules to Chapter 819 for adoption.

4                   CHAIR RATH: Are there any questions or  
5 is there a motion?

6                   COMM. LEHMAN: No.

7                   COMM. CONGLETON: I do not believe that  
8 we have anything to hide, and I think those  
9 investigator notes should be disclosed on request.

10                  On the other hand, EEOC wants them to be  
11 kept confidential, and I understand we're bound to do  
12 this by our agreement with them.

13                  This puts us between a rock and a hard  
14 place. We have good arguments both ways, but I'm  
15 going to stick with open government and vote "no."

16                  CHAIR RATH: Very good. Then is there a  
17 motion?

18                  COMM. LEHMAN: Madam Chair, I move we  
19 establish the proposed changes as recommended by staff  
20 to Chapter 819, Subchapter F, Equal Opportunity  
21 Employment records and recordkeeping.

22                  CHAIR RATH: And I agree. So we will  
23 adopt the amendments without changes to Chapter 819  
24 regarding the Civil Rights Division, and it will show  
25 that it is a vote of 2 to 1. Very good. Thank you.

1 MS. MILLER: Thank you.

2 AGENDA ITEM NO. 15

3 CHAIR RATH: Next we go to the repeal of  
4 rules relating to community development initiatives.

5 MS. MILLER: Again, Reagan Miller. At  
6 the October 17th Commission meeting you approved for  
7 public comment proposed rules to repeal Chapter 833  
8 relating to the Texas Individual Development Account  
9 Pilot Project as the statute necessitating those rules  
10 has expired.

11 No comments were received during the  
12 public comment period. So for your consideration  
13 today are adoption of the final rules regarding the  
14 appeal of Chapter 833, Subchapter B, regarding IDAs.

15 CHAIR RATH: Again, are there any  
16 questions or is there a motion?

17 COMM. LEHMAN: Motion to approve and  
18 proceed.

19 COMM. CONGLETON: Second.

20 CHAIR RATH: And I agree. So we will  
21 repeal the relevant sections of Chapter 833 relating  
22 to the community development initiatives.

23 COMM. CONGLETON: And I believe those  
24 are 11, 12, 13, 14 and 15.

25 COMM. LEHMAN: Yes.

1 CHAIR RATH: 11 through 15, yes, sir.

2 MS. MILLER: Yes.

3 CHAIR RATH: Thank you. Very good.

4 Thank you.

5 AGENDA ITEM NO. 16

6 CHAIR RATH: Next we have possible  
7 action regarding publication for comment relating to  
8 the modification of the WIA plan.

9 MS. MILLER: Again, for the record,  
10 Reagan Miller. On December 5th you approved a plan  
11 modification to the WIA ES state plan for public  
12 comment.

13 The public comment period ended on  
14 January 5th. Included in the plan modification was a  
15 description of TWC's intent to streamline the ES  
16 service delivery system and more fully integrate these  
17 services into the Texas Workforce system.

18 Subsequent to the publication of the  
19 state plan, the Department of Labor released a notice  
20 of proposed rulemaking on December 20th.

21 And included in these proposed  
22 regulations are amendments regarding the provision of  
23 Wagner-Peyser funded employment services which provide  
24 states the flexibility to fully integrate ES services  
25 at the local level.

1                   These proposed regulations are very  
2 similar to what TWC did propose in the plan  
3 modification but are slightly different.

4                   And based on these new proposed  
5 regulations, we are recommending adding some  
6 additional language to our plan modification.

7                   And we're asking for permission to post  
8 for public comment on the TWC Website from January  
9 23rd through February 6th TWC's intent to fully  
10 implement the DOL provisions upon adoption.

11                   If you approve this, we will still be  
12 able to meet our time frame to get a final plan to you  
13 for approval prior to the TWIC March meeting. Are  
14 there any questions?

15                   COMM. LEHMAN: I have none.

16                   COMM. CONGLETON: Can you clarify -- the  
17 quality control part was the centerpiece of the  
18 earlier one. Are we now going to jettison that?

19                   MS. MILLER: Under the DOL rulemaking we  
20 would be able to fully allocate all funds.

21                   I think the quality assurance piece  
22 could then be something that was handled at the local  
23 level by those local staff rather than having state  
24 staff perform those functions.

25                   CHAIR RATH: Do you have any other

1 questions, Commissioner?

2                   COMM. CONGLETON: I disagree with that,  
3 but, no.

4                   CHAIR RATH: Okay. Very good. Then is  
5 there a motion on publishing the modification to our  
6 plan for comment?

7                   COMM. LEHMAN: So made.

8                   COMM. CONGLETON: It's no secret that  
9 I'm against this. It weakens our partnerships in the  
10 one-stop. Instead of being a partner, we intend to be  
11 nothing more than a funding source.

12                   The proposal makes us weaker -- not  
13 stronger. Consistency and accountability demand that  
14 state employees should remain in the one-stops. It  
15 ensures that no matter who you are or where you come  
16 from or what part of the state you live in, you get  
17 the same high level of service when you walk in the  
18 door, and I vote "no."

19                   CHAIR RATH: Thank you. I agree, and I  
20 think that this will allow us to finally, after 11  
21 years, implement our state law that mandated the  
22 granting of this program to our local workforce  
23 boards.

24                   I'm very proud that every single  
25 program -- and there's about eight now that have been

1 transitioned to local boards -- after the transition  
2 year have enhanced and improved performance.

3 I think it does validate that when  
4 individuals and community groups are able to analyze  
5 their local needs they are in the best position  
6 possible to figure out the best solutions for them.

7 I say that knowing that our role is very  
8 much one of accountability for both fiscal and  
9 performance oversight.

10 And in doing that and as we implement  
11 this, those high standards will continue to be in  
12 effect and I think will be very sensitive to the need  
13 to continue the upward trend that we have seen in the  
14 performance of ES the past few years because, clearly,  
15 the performance has improved recently as opposed to  
16 when it really had deteriorated not too many years  
17 ago.

18 So thank you. So with that, we will  
19 publish for comment on the TWC Website this  
20 modification.

21 MS. MILLER: Thank you.

22 CHAIR RATH: Thank you.

23 AGENDA ITEM NO. 17

24 CHAIR RATH: With that, we will go to  
25 nominees for Workforce boards. And we have nominees

1 from Upper Rio, South Plains, Alamo and East Texas.

2 Are there any questions or is there a  
3 motion?

4 COMM. LEHMAN: I have no questions.

5 COMM. CONGLETON: No questions.

6 COMM. LEHMAN: I'll enter a motion to  
7 approve the nominees.

8 COMM. CONGLETON: And I'll second it.

9 CHAIR RATH: And I agree. And I want to  
10 really thank Upper Rio. When we have, you know, two  
11 former Chairs, with Irene and Charlie both coming back  
12 to continue their service, that says a lot when folks  
13 have been Chair and continue to be committed to their  
14 boards. So I appreciate their ongoing efforts.

15 So the nominees are now approved.

16 AGENDA ITEM NO. 18

17 CHAIR RATH: I understand we have  
18 nothing on legislative issues --

19 AGENDA ITEM NO. 19

20 CHAIR RATH: -- but we do have something  
21 on state or federal. So, Mr. Lewis.

22 MR. LEWIS: Good morning, Chair Rath,  
23 Commissioners. Jesse Lewis, External Relations.

24 Of course, the big news today, the State  
25 of the Union address will be tonight from the

1 President.

2                   In the Senate, the primary action  
3 continues to be the minimum wage bill. They're  
4 expected to add about 8.3 billion in small business  
5 tax relief.

6                   That does include the extension of the  
7 Work Opportunity Tax Credit. We also expect that  
8 there will be an attempt to amend the bill to expire  
9 the .2 percent FUTA surtax. Staff in Washington will  
10 be watching that closely and updating you as things  
11 move.

12                   February 5th we also expect the release  
13 of the President's budget. Here in Texas the  
14 Lieutenant Governor has appointed Senate committees.

15                   Most of the members of our committees  
16 have remained relatively the same, and we'll be  
17 getting -- we'll be visiting with those new members in  
18 the coming week.

19                   The House is expected to make committee  
20 appointments in the next few days. I would give you a  
21 date but I'd probably be wrong. We also expect the  
22 initial draft of the budget from the LBB and the  
23 Governor to be released today.

24                   So as soon as we get that, we'll get  
25 that to you as well. I'll be glad to answer any

1 questions you may have.

2 CHAIR RATH: Any questions for  
3 Mr. Lewis?

4 COMM. LEHMAN: No questions.

5 CHAIR RATH: Thank you very much.

6 AGENDA ITEM NO. 20

7 CHAIR RATH: Anything on Katrina and  
8 Rita?

9 MR. TEMPLE: Commissioners, one thing  
10 that's kind of related, after the hurricanes the  
11 Department of Labor put together a UI preparedness  
12 workshop -- work group -- trying to -- lessons  
13 learned.

14 That report has been finalized. It's  
15 not been released yet. Texas -- we had worked part of  
16 it. I was a member of it. So I believe that DOL is  
17 listening pretty well.

18 Part of that process they're having as  
19 part of their financial -- DOL financial conferences  
20 around the state which -- I mean, around the nation.  
21 The first one starts next week in Atlanta.

22 There are going to be panels kind of  
23 rolling out this and letting states talk about. So  
24 we've been invited. I've been invited to be on a  
25 panel Wednesday in Atlanta for that.

1 I'll leave late Tuesday afternoon.  
2 Texas was an integral part of this report and should  
3 be acknowledged, I'm sure, formally in it. And as  
4 soon as we get that final draft I will circulate it  
5 around to you.

6 CHAIR RATH: Very good. Thank you.

7 AGENDA ITEM NO. 21

8 CHAIR RATH: Next, the state data  
9 center. Mr. Crump?

10 MR. CRUMP: For the record, Gene Crump,  
11 Deputy Executive Director. Commissioners, I have  
12 nothing to report on the state data center this week.

13 CHAIR RATH: Okay. I think it's  
14 important -- I have one request that we make, and I  
15 think it's very important as stewards of the public  
16 dollars and having responsibility for the service  
17 delivered and the integrity of what we purchase with  
18 those funds -- that we really continue to advocate for  
19 the most efficient manner possible for us to be able  
20 to provide the most service to Texans.

21 And I'm very, very concerned about the  
22 possible fiscal implications to this agency by the  
23 early projections of the cost. I think it is counter  
24 to what this state was promised and what we were  
25 promised as we went through that process.

1                   When we look at this agency putting  
2 forth almost 5,000 hours of IT time alone thus far and  
3 we look at what I view as commitments being made that  
4 there would be no harm done to any agency and then we  
5 come up with projections that are very serious and  
6 certainly cause of concern on our ability to deliver  
7 our services in the same manner and in the future, I'm  
8 very worried about the implications.

9                   So I would like legal to really analyze  
10 the ability of this agency to respond in the best  
11 interest of being stewards of both our fiscal  
12 resources and our responsibility to provide service to  
13 Texans of analyzing both the law and possible  
14 contracts so that we can see what possible actions or  
15 alternative actions we have available.

16                   MS. SNOW: We will do that, Chair Rath.

17                   CHAIR RATH: Thank you.

18                   AGENDA ITEM NO. 22

19                   CHAIR RATH: Okay. That brings us to  
20 staff reports.

21                   MR. TEMPLE: Nothing.

22                   CHAIR RATH: We don't have anything.  
23 Commissioner, do you have anything?

24                   COMM. LEHMAN: No, ma'am, I do not.  
25 Thank you.

1 CHAIR RATH: Commissioner?

2 COMM. CONGLETON: I go with your  
3 thoughts on the contracts, and thank you very much.

4 CHAIR RATH: Thank you. I have one  
5 request. Mr. Temple, I guess this week reading the  
6 clips I was concerned when I saw an article that was  
7 saying how the employment of young veterans that are  
8 returning has improved to -- unemployment is now  
9 10 percent of young veterans returning.

10 And when you look at this state's  
11 unemployment rate, now down to 4.5 percent -- closely  
12 approaching record unemployment -- and we look at the  
13 need, our employees continue to voice of needing  
14 skilled, committed, responsive employees, I'm very  
15 concerned about that.

16 So I was wondering if staff could  
17 consider some options. I have a couple that I would  
18 like to suggest for you-all to look at; the first,  
19 seeing if there's anyway we can maybe hold back  
20 postings to when we have postings for WorkInTexas to  
21 put up for a couple of days for veterans to have a  
22 priority or first dibs on them before they opened up  
23 to everyone, if we have any flexibility or ability to  
24 do that, looking at how we can profile any services to  
25 veterans, and then looking at -- if there's any

1 resources available for programs to provide services  
2 particularly to those young veterans in workforce  
3 centers that do not have LVERs and DVOPs available,  
4 because with our number of 260-some-odd workforce  
5 centers there's a lot of individuals seeking our  
6 services that aren't being provided the services  
7 through their targeted resources, to see if there's  
8 anything we can do to be more efficient or effective  
9 in delivering those services.

10 MR. TEMPLE: Certainly. I know there  
11 are a couple of states -- Georgia, for one, I do know  
12 they have, like, a two-day hold period on all  
13 postings, and they send notices out through their  
14 system to all vets who are registered in their system  
15 of the postings and their DVOP and LVRs are notified  
16 on a nightly basis.

17 So it's -- they're worked. They're  
18 not -- just not held before they're worked. They're  
19 actually worked, but they're worked with the Vets in  
20 mind as a first part.

21 And I think two days is the most I've  
22 heard of any of them, but we'll double-check that.

23 CHAIR RATH: Okay. And then just see,  
24 perhaps, if there's anything we can do to WorkInTexas  
25 to better supplement that, just to see if we can't be

1 more responsive, particularly in a state with a  
2 veteran population that we have. Thank you.

3 Anything else?

4 COMM. LEHMAN: I'll hitchhike on to your  
5 comments.

6 It would seem to me that a starting  
7 point would just be a good detailed data analysis of  
8 how many veterans are in the system and how many job  
9 orders are in the system.

10 Since this is being broadcast, I would  
11 make the observation that our enrollment in the  
12 WorkInTexas system is nowhere near at a level that it  
13 should be in view of the total amount of hiring  
14 activity in Texas.

15 So it might be that one of the things we  
16 have to look at is how many veterans are actually in  
17 the system.

18 And if we have the kind of attribute  
19 profiles of those veterans, we might need to look at  
20 some targeted outreach initiatives to those industries  
21 where those veteran attributes are the best match.

22 So there's a whole range of things that  
23 could happen, but my suspicion is that we have not  
24 aggressively enough pushed to get employer job  
25 openings in WorkInTexas as it is.

1                   I think if we did that, we would  
2 probably realize more success for all job seekers,  
3 including veterans.

4                   MR. TEMPLE: Absolutely.

5                   CHAIR RATH: Very good. Do you have  
6 anything?

7                   COMM. CONGLETON: I agree with both of  
8 you.

9                   CHAIR RATH: Okay. Good. Then if  
10 there's nothing else to come before us, then, we will  
11 stand adjourned at 10:14.

12                   (Proceedings concluded at 10:14 a.m.)

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

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4 STATE OF TEXAS )  
COUNTY OF TRAVIS )

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6

7 I, William C. Beardmore, a Certified  
8 Shorthand Reporter in and for the State of Texas, do  
9 hereby certify that the above-mentioned matter  
10 occurred as hereinbefore set out.

11

12 I FURTHER CERTIFY THAT the proceedings  
13 of such were reported by me or under my supervision,  
14 later reduced to typewritten form under my supervision  
15 and control and that the foregoing pages are a full,  
16 true, and correct transcription of the original notes.

17

18 IN WITNESS WHEREOF, I have hereunto set  
19 my hand and seal this 29th day of January 2007.

20

21

22 \_\_\_\_\_  
William C. Beardmore  
23 Certified Shorthand Reporter  
CSR No. 918 - Expires 12/31/08  
Kennedy Reporting Service, Inc.  
Cambridge Tower  
24 Firm No. 276  
1801 Lavaca Street, Suite 115  
25 Austin, Texas 78701KENNEDY REPORTING SERVICE, INC  
(512)474-2233