

TRANSCRIPT OF PROCEEDINGS
BEFORE THE
TEXAS WORKFORCE COMMISSION
AUSTIN, TEXAS

PUBLIC MEETING)
FOR THE TEXAS)
WORKFORCE COMMISSION)

COMMISSION MEETING

TUESDAY, JUNE 19, 2007

BE IT REMEMBERED THAT at approximately 9:00 a.m., Tuesday, the 19th day of June 2007, the above-entitled matters came on for hearing at the Texas Workforce Commission, TWC Building, 101 East 15th Street, Room 244, Austin, Texas before DIANE RATH, RON LEHMAN and RONALD G. CONGLETON, COMMISSIONERS, and GENE CRUMP, DEPUTY EXECUTIVE DIRECTOR, of the Texas Workforce Commission; and the following proceedings were reported by Patricia Gonzalez, a Certified Shorthand Reporter, in the State of Texas.

	TABLE OF CONTENTS	
		PAGE
1		
2		
3	AGENDA ITEM NO. 1.....	3
4	AGENDA ITEM NO. 2.....	4
5	AGENDA ITEM NO. 3.....	4
6	AGENDA ITEM NO. 4.....	4
7	AGENDA ITEM NO. 5.....	5
8	AGENDA ITEM NO. 6.....	No Action
9	AGENDA ITEM NO. 7.....	6
10	Reagan Miller	
11	AGENDA ITEM NO. 8.....	11
12	Adam Leonard	
13	AGENDA ITEM NO. 9.....	7
14	Adam Leonard	
15	AGENDA ITEM NO. 10.....	13
16	AGENDA ITEM NO. 11.....	14
17	Jesse Lewis	
18	AGENDA ITEM NO. 12.....	18
19	AGENDA ITEM NO. 13.....	18
20	AGENDA ITEM NO. 14.....	3
21	AGENDA ITEM NO. 15.....	No Action
22	AGENDA ITEM NO. 16.....	19
23	REPORTER'S CERTIFICATE.....	20
24		
25		

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

2 TUESDAY, JUNE 19, 2007

3 (9:00 a.m.)

4 AGENDA ITEM NO. 1

5 CHAIR RATH: Okay. We'll go ahead and
6 come into session.

7 AGENDA ITEM NO. 14

8 CHAIR RATH: And with the Commissioners'
9 permission, we're going to reorder the agenda and go
10 into Executive Session first and then come back out
11 and continue with Tax and Wage Claim.

12 So if there's no objection --

13 COMM. LEHMAN: No objection.

14 CHAIR RATH: -- we'll --

15 COMM. CONGLETON: No objection.

16 CHAIR RATH: Thank you.

17 We'll now go into Executive Session
18 pursuant to Government Code 551.071(1) concerning
19 contemplated litigation or the pending litigation of
20 the following cases: Hemant Bhatnagar versus Texas
21 Workforce Commission and Food Service Management, Inc.

22 And it is nine o'clock.

23 (Executive Session: 9:00 a.m. to
24 9:19 a.m.)

25 CHAIR RATH: This clock says it's 9:19,

1 and we'll come out of the Executive Session and take
2 no action.

3 And we'll go ahead and continue now with
4 the agenda, starting with tax cases.

5 AGENDA ITEM NO. 2

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

12 The Commission considered and approved a
13 request by Staff to resubmit Case Number 06-066410-2
14 on a future docket.

15 AGENDA ITEM NO. 3

16 Discussion, Consideration and Possible
17 Action Regarding Tax Liability Cases Listed on the
18 Texas Workforce Commission Docket 25.

19 The Commission considered and took
20 action on all tax liability cases listed on Docket 25.

21 AGENDA ITEM NO. 4

22 Discussion, Consideration and Possible
23 Action Regarding Higher Level Appeals in Wage Claim
24 Cases Listed on the Texas Workforce Commission Docket
25 25.

1 The Commission considered and took
2 action on all wage claim cases listed on Docket 25.

3 AGENDA ITEM NO. 5

4 Discussion, Consideration and Possible
5 Action Regarding Higher Level Appeals in Unemployment
6 Compensation Cases Listed on the Texas Workforce
7 Commission Docket 25.

8 The Commission considered and took
9 action on all unemployment compensation cases listed
10 on Docket 25.

11 The Commission paused and continued with
12 the remainder of the agenda.

13 CHAIR RATH: Okay. It's 9:37. We'll
14 open the doors and have everyone join us and continue
15 with our agenda.

16 (Brief Pause)

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

19 AGENDA ITEM NO. 6

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

22 MR. BALLARD: No.

23 CHAIR RATH: And we'll comment that we
24 have Mr. Crump today with us.

25 So welcome.

1 MR. CRUMP: Good morning, Chair Rath,
2 Commissioners.

3 AGENDA ITEM NO. 7

4 CHAIR RATH: Next we have WIA Statewide
5 Initiatives.

6 MS. MILLER: Good morning, Chair Rath,
7 Commissioners. I'm Reagan Miller with Workforce
8 Development.

9 This morning for your consideration is a
10 WIA Statewide Initiative. The WIA regulations provide
11 that WIA funds may be used for employer outreach and
12 job development activities, including participation in
13 local business resource centers, often called
14 "incubators," and to provide technical assistance to
15 small and new businesses. We are recommending that
16 the Commission set aside a million dollars to provide
17 technical assistances to small and new businesses, and
18 these services could include any allowable activity
19 under the Workforce Investment Act.

20 If you do approve this, we are
21 recommending that we reduce a previously approved
22 statewide initiative in nanotechnology by the
23 one million and that that million now be dedicated to
24 technical assistance services to small and new
25 businesses.

1 And I'd be happy to answer any questions
2 that you have.

3 CHAIR RATH: Any questions?

4 COMM. LEHMAN: I have no questions.

5 I've been thinking a lot about this, and
6 so I'm -- not only thinking about ideas of how to help
7 spend it, but I'm in favor of it. So I did -- motion
8 to approve.

9 COMM. CONGLETON: I'd be glad to help
10 spend it as well.

11 Thank you.

12 CHAIR RATH: Thank you.

13 And I agree.

14 MS. MILLER: Thank you.

15 CHAIR RATH: Thank you.

16 AGENDA ITEM NO. 9

17 CHAIR RATH: Next, we have two items. I
18 think we're going to reorder, if there's no objection,
19 and take the Department of Labor negotiations about
20 WIA and ES first, and then we'll follow that with the
21 discussion and possible action regarding the FY '08
22 planning estimates, allocations and performance
23 targets.

24 Mr. Leonard.

25 MR. LEONARD: Good morning. For the

1 record, Adam Leonard, Performance Analysis and
2 Reporting.

3 Before you today, as you mentioned, the
4 first item we wanted to talk about were the
5 negotiations with the Department of Labor regarding
6 WIA and Employment Services targets for PY -- I'm
7 sorry -- PY '07 and PY '08. I believe I've got that
8 right here -- yes.

9 In your packages, I provided a brief
10 summary of where we started and where we've gotten to.
11 And on Page 2 of that handout, there's a table that
12 shows some of our recent history on these measures --
13 there's 12 of them -- what TWC's proposal was
14 initially that you approved, what DOL counterproposed
15 to us in the course of negotiations, and, finally,
16 what Staff agreed upon to recommend with you as a
17 negotiated target for your approval today. So the
18 numbers that we're requesting your approval on are the
19 final two columns on that table on Page 2 for PY '07
20 and PY '08.

21 As you can see, in most cases, the
22 numbers ended up changing somewhat from where we
23 started. The Department of Labor is continuing with
24 their definition of "continuous improvement" as
25 meaning something higher than whatever it is today

1 without regard for some of the concerns that we had
2 raised, but they did consider a number of them and so
3 we felt fairly comfortable with where we ended up on
4 these measures.

5 The one we were most concerned about was
6 the WIA Adult Entered Employment measure, which we
7 talked about at the last performance briefing, that
8 there's been a change in the mix of the customers
9 served and we've been serving more harder-to-serve
10 customers. What we've noticed in the last rolling
11 four quarters, looking at the individual quarterly
12 values, is they're starting to rise again. And so we
13 had bottomed out at about 70.X percent, and it looks
14 like every quarter since then it started to rise
15 again. The last two quarters have been around
16 74 percent. And so we're basically hoping that that
17 kind of represents that we're moving in the right
18 direction here, which, of course, would put us in line
19 very nicely with a 74 percent target for PY '07 as
20 agreed upon by Staff and DOL.

21 So I'm happy to answer any questions you
22 may have about this. Otherwise, I request Commission
23 approval.

24 CHAIR RATH: Thank you. I wanted to say
25 that it looks like for the -- perhaps, increasingly,

1 there is more negotiation occurring as opposed to a
2 mandate handed down from above. So it does look like
3 we made a proposal, they came back and then you-all
4 came to an agreement. So that is encouraging.

5 And I hope that with the current
6 historical levels of unemployment, with 4.1 percent,
7 that really should be a help to these individuals that
8 are making changes in their work lives. And, clearly,
9 since we know that these are the months that are going
10 to count so much, that it is a good opportunity for
11 the Boards to really demonstrate the true value they
12 have.

13 MR. LEONARD: Certainly.

14 COMM. LEHMAN: I appreciated your
15 rationale more than I did DOL's, but I'm not willing
16 to --

17 (Laughter)

18 MR. LEONARD: Thank you.

19 COMM. LEHMAN: I'm not willing to fight
20 over the differences at this point.

21 COMM. CONGLETON: I'm comfortable with
22 them.

23 CHAIR RATH: Okay. Is there a motion to
24 approve the targets?

25 COMM. CONGLETON: Move to approve the

1 negotiated targets on WIA and ES measures as presented
2 by Staff.

3 CHAIR RATH: I'm not sure your mic is
4 on.

5 COMM. CONGLETON: No, it's not.

6 CHAIR RATH: Thanks.

7 COMM. CONGLETON: Move to approve the
8 negotiated targets on WIA and ES measures as presented
9 by Staff.

10 COMM. LEHMAN: Second.

11 CHAIR RATH: And I agree.

12 Thanks.

13 AGENDA ITEM NO. 8

14 MR. LEONARD: The second item which we'd
15 like to talk about is related to what -- the targets
16 you just approved. As you know, when we came before
17 you several weeks ago to talk about WIA targets for
18 Boards, we suggested formally contracting five siloed
19 WIA measures to the Boards, and those are the WIA
20 Adult Average Evenings, WIA Dislocated Worker Average
21 Earnings, WIA Youth Placement in Employment or
22 Education, WIA Youth Attainment of Degree or
23 Certificate and WIA Youth Literacy and Numeracy Gains.
24 Three of those measures have slightly higher targets
25 than what we initially proposed to DOL, and we based

1 our proposals to the Boards, in part, on what we
2 proposed to DOL.

3 For the earnings measures, we had
4 already proposed individualized targets to the Boards
5 anyway. We were not so much concerned with the
6 Statewide by itself but how each Board fit within to
7 it, and for -- but for the WIA Youth Attainment of
8 Degree or Certificate, we had pretty much proposed
9 going with the State target for all Boards, which was
10 50 percent and now is 52 based on what you just
11 approved.

12 Despite these changes, Staff would like
13 to recommend at this time that we not go ahead and
14 adjust the Board targets -- the proposed targets for
15 the Boards on those measures. We don't think that
16 these differences -- these changes of the difference
17 between meeting or not meeting for the system as a
18 whole -- that is, if we don't hit 50, 52 isn't going
19 to be the difference. We need to make -- if we get up
20 there to 50, we are within range for the 52,
21 certainly, and at this late date, it wouldn't offer a
22 lot of opportunity for Boards to react to these
23 changes, since we do need to try to get them approved
24 next Tuesday, the individual Board targets.

25 CHAIR RATH: I really, I think, commend

1 the approach, because I think it's very respectful of
2 our partners, the Boards, and we just hope they really
3 do perform very well in return for that respect, I
4 guess. So it's fine with me.

5 COMM. LEHMAN: Yeah. I have no
6 disagreement with the concept or the strategy.

7 COMM. CONGLETON: I'm fine.

8 CHAIR RATH: Very good. I think you
9 have a consensus of approval.

10 MR. LEONARD: Then we'll be bringing
11 back our recommendations to you next week for
12 individual Board targets on these measures.

13 CHAIR RATH: Thanks. Very good.

14 AGENDA ITEM NO. 10

15 CHAIR RATH: Next we have before us
16 Workforce Board nominees from North East Texas
17 representing Education.

18 Are there any questions or is there a
19 motion?

20 COMM. LEHMAN: Go ahead.

21 COMM. CONGLETON: Move to approve the
22 nominee from North East Texas Workforce Development
23 Board as presented by Staff.

24 COMM. LEHMAN: Second.

25 CHAIR RATH: And I agree.

1 Thank you.

2 AGENDA ITEM NO. 11

3 CHAIR RATH: Next we have Legislation.

4 Mr. Lewis.

5 MR. LEWIS: Good morning, Chair Rath,
6 Commissioners. Jesse Lewis, External Relations.

7 The Senate Appropriations Subcommittee
8 is set to mark up the Labor Spending Bill today. The
9 full committee mark-up is tentatively scheduled for
10 Thursday, the 21st. It's likely that funding is going
11 to be held at '07 levels, similar to the way it was in
12 the House.

13 As I mentioned last week, the House
14 Appropriations full committee was scheduled to mark up
15 the Labor Bill last Tuesday. That meeting was
16 canceled. It's now anticipated that the meeting will
17 take place sometime late March or early July.

18 The mark-up from the House
19 Appropriations Subcommittee rejected the
20 administration's proposal of a 323 -- excuse me,
21 335 million-dollar rescission in unexpended WIA funds
22 in support of maintaining the sequence of services.
23 It also instructs DOL to avoid overlap between WIA and
24 Wagner-Peyser, requiring that local One-Stop Centers
25 have coordination agreements with Employment Services.

1 It provides 1.4 billion for the WIA Dislocated Worker
2 Program; of that, 1. -- almost 1.2 is reserved for
3 formula grants to the states. The other 282 million
4 is dedicated to the Secretary's National Reserve for
5 things such as NEG, community-based job training
6 grants and other initiatives.

7 The bill also instructs DOL to make no
8 additional grants to advance the administration's
9 career advancement account proposal. It provides
10 2.5 billion for State operations of the unemployment
11 compensation system. Included in that amount is an
12 additional 40 million to be used in -- for in-person
13 re-employment and eligibility assessments. It
14 provides contingency funding for increased workloads
15 to the states. It specifies that an additional
16 28.6 million be made available from Unemployment
17 Insurance Trust Fund for every 100,000 increase in
18 average weekly insured claims above 2.9 million. It
19 also directs DOL to take no action to amend or modify
20 the definition of "administrative cost" or redesigning
21 local workforce investment areas until WIA
22 Reauthorization has been enacted.

23 With WIA, the Senate HELP Committee
24 staff has circulated to -- a completed draft of WIA
25 Reauthorization with the minority staff. It's

1 expected that an informal committee version should be
2 available by the end of this week. The HELP staff
3 indicated that once the full committee has completed
4 their mark-up on Higher Ed, they plan to -- the next
5 thing they plan to take out is WIA. If they kept this
6 schedule, we expect it would be marked up around the
7 week of the 25th of June.

8 House staff on the Ed and Labor
9 Committee inform us that a hearing on WIA
10 Reauthorization is tentatively scheduled for
11 June 28th.

12 As we visited last week, the Food Stamp
13 Employment and Training Program is included in the
14 Farm Bill. One of the things that we brought forward
15 was that the merit staff requirement for provision of
16 service, it is -- it's our understanding that the
17 intention was to apply only to eligibility and
18 application activities. Of course, as written, it
19 would affect all activities and could disrupt many of
20 the post-eligibility determination activities. We've
21 been working with committee staff as well as our
22 delegation regarding that language.

23 There was an amendment offered last week
24 that would have struck that requirement. It failed to
25 a six to five vote. The merit staff issue is expected

1 to bring a significant debate for -- before the full
2 committee.

3 Also, in Unemployment Insurance, a bill
4 was introduced regarding UI Integrity. It's -- HR
5 2608 by McDermott would allow the U.S. Treasury to
6 collect overpayments of UI benefits through an
7 intercept with the income tax refunds, similar to what
8 we've been able to do with child support for years
9 now.

10 On the State side, the following pieces
11 of legislation that the Commission brought forward
12 were signed by the Governor: House Bill 550 by Dukes,
13 family violence, Unemployment Insurance; House Bill
14 2120, a wage credit and UI confidentiality; House Bill
15 2371 by Morrison, cease and desist, career schools;
16 3074 by Creighton, more contractor advertising; Senate
17 Bill 589 by Nelson which allows us to serve child-only
18 cases; Senate Bill 679, UI bond bill; and Senate Bill
19 1619 by Senator Lucio, also UI confidentiality. The
20 Governor also signed the Sunset Bill which moved us
21 back to 2013.

22 With that, I'll be glad to answer any
23 questions.

24 CHAIR RATH: I just wanted to really
25 once again take this opportunity to commend GR and all

1 the agency for, I think, positioning the Agency so we
2 can do a really good job. Our initiatives were passed
3 and then signed by the Governor.

4 So you-all just did a super job and I
5 think we're very indebted to that. And clearly the
6 action postponing sunset clearly demonstrates that.
7 So that was a wonderful accomplishment for every part
8 of this system. Thanks.

9 Any questions?

10 COMM. LEHMAN: None.

11 COMM. CONGLETON: No questions.

12 CHAIR RATH: Very good. Thank you.

13 AGENDA ITEM NO. 12

14 CHAIR RATH: Anything on Katrina and
15 Rita?

16 (No verbal response)

17 AGENDA ITEM NO. 13

18 CHAIR RATH: And I know we don't have
19 Staff reports, but do you have anything, Mr. Crump?

20 MR. CRUMP: No, ma'am.

21 CHAIR RATH: Thank you.

22 Commissioner, do you have anything?

23 COMM. LEHMAN: I just have a request of
24 Mr. Crump, and I hope he'll coordinate with the Staff.

25 I was reflecting on Jesse's update on

1 the request for the Treasury and I realized I had not
2 had an update on the use of WATSI (phonetic) or EITC
3 or the advanced EITC, earnings income tax credit, in
4 some time, and I guess I want -- I'd like to be up to
5 date on how well that's being subscribed to and how
6 much money we think we're leaving on the table.

7 I know that a couple of states are
8 gaining some notoriety or some notability about
9 launching initiatives, and I know that Heart of Texas
10 did one a while back and had some success with it and
11 we did some things out of my office a few years and
12 probably ought to rekindle that if it's worth doing.
13 So I'd like an update if I could have one, please.

14 MR. CRUMP: Yes, sir. We'll make that
15 happen.

16 COMM. LEHMAN: Thank you.

17 CHAIR RATH: Commissioner, do you have
18 anything?

19 COMM. CONGLETON: I have nothing.

20 CHAIR RATH: Very good. I have nothing.

21 AGENDA ITEM NO. 16

22 CHAIR RATH: And it's 9:56 and we'll
23 stand adjourned.

24 (Proceedings concluded at 9:56 a.m.)

25

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

C E R T I F I C A T E

STATE OF TEXAS)
COUNTY OF TRAVIS)

I, Patricia Gonzalez, 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 26th day of June 2007.

PATRICIA GONZALEZ
Certified Shorthand Reporter
CSR No. 6367-Expires 12/31/08

Firm Certification No. 276
Kennedy Reporting Service, Inc.
Cambridge Tower
1801 Lavaca Street, Suite 115
Austin, Texas 78701
512.474.2233