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P R O C E E D I N G S

TUESDAY, SEPTEMBER 4, 2007

(1:02 p.m.)

AGENDA ITEM NO. 1

CHAIR RATH: Okay. I think we'll go ahead and get started, and I think y'all have a case to walk in first.

AGENDA ITEM NO. 2

Discussion, Consideration and Possible Action Regarding Whether to Assume Continuing Jurisdiction on Unemployment Compensation Cases, Wage Claim Cases, and/or Tax Liability Cases and Reconsideration of Unemployment Compensation Cases, Wage Claim Cases, and/or Tax Liability Cases, if Any
The Commission considered and agreed to the resubmission of Case No. 953751 on a future docket.

AGENDA ITEM NO. 3

Discussion, Consideration and Possible Action Regarding Tax Liability Cases Listed on the Texas Workforce Commission Docket 36
The Commission considered and took action on all tax liability cases listed on Docket 36.

AGENDA ITEM NO. 4

Discussion, Consideration and Possible

1 Action Regarding Higher Level Appeals in Wage Claim
2 Cases Listed on the Texas Workforce Commission
3 Docket 36

4 The Commission considered and took action on
5 all Wage Claim Cases listed on Docket 36.

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 36

11 The Commission considered and took
12 action on all Unemployment Compensation Cases listed
13 on Docket 36.

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

16 CHAIR RATH: Okay. We'll go ahead and
17 come to order and continue our agenda.

18 And before we resume with the agenda, I
19 just wanted to -- all of us to take a moment for a few
20 moments of silent prayer in memory of Enrique Barrera.
21 For those of you that know him, he passed away Friday
22 and had an incredibly moving funeral yesterday
23 celebrated by the Archbishop. He worked many years
24 for this agency and some of our predecessor agencies.

25 So, if we can remember him for a few

1 minutes, and we can continue.

2 (Brief pause)

3 CHAIR RATH: Thank you. I -- I will say
4 when the mayor eulogized him, he did comment upon how
5 his background in workforce development and education
6 really did impact the Council and significantly
7 affected how they prioritized workforce training and
8 education in the community.

9 AGENDA ITEM NO. 6

10 CHAIR RATH: So, anyone signed up for
11 public comment?

12 MS. SANDERS: (Shaking head)

13 CHAIR RATH: Thanks.

14 AGENDA ITEM NO. 7

15 CHAIR RATH: And then we'll start,
16 Mr. Townsend, with the Trust Fund projection.

17 MR. TOWNSEND: Good afternoon,
18 Commissioners. For the record, my name is Randy
19 Townsend, Chief Financial Officer, presenting this
20 afternoon the Unemployment Trust Fund projection for
21 October 1st, 2007. It was prepared using information
22 through August 29th.

23 As of August 29th we are estimating the
24 Trust Fund balance to be 2 billion 122.4 million on
25 October 1st, 2007. That would be 1 billion 251.9

1 million above the floor. It would also mean that the
2 Trust Fund balance is 381.3 million above the ceiling
3 on that date.

4 I will go ahead and also share with you
5 some observations for the last six weeks, completed
6 weeks ending August 18th. For total net benefits paid
7 they averaged 23 million per week. That was up 4.4
8 percent from the one-year-ago six-week average of 22
9 million.

10 Also, initial claims averaged 11,596 for
11 the six weeks ending August 18th. That was 3.9
12 percent below the one-year-ago six-week average of
13 12,067. That's the portion dealing with the Trust
14 Fund.

15 Let me also share with you this
16 afternoon the Employment and Training Investment
17 Assessment Holding Fund balance. Of course, we
18 project this balance on September 1st. As of
19 September 1st it's estimated at this point -- it's
20 very -- pretty much complete now, to be 87.4 million.

21 We will have to take away the collection
22 expense that's associated with the collection of that.
23 We're estimating to be somewhere between 350 to
24 400,000. So, that would leave a balance roughly in
25 the neighborhood of 87 million.

1 The way those funds would be dispersed
2 would be 20 million to the Skills Fund for Fiscal Year
3 '08. The balance, 67 million, would be available for
4 the Enterprise Fund. And the reason the -- the
5 balance is available, you may recall, that the
6 Enterprise Fund and the Governor's appropriation
7 actually has a -- the full amount appropriated in the
8 first year of the biennium with unexpended balance for
9 the second year of the biennium.

10 So, again, the -- the totals on that
11 would be Enterprise Fund 67 million estimated and the
12 Skills Fund, of course, the 20 million that's
13 appropriated. And that concludes my presentation this
14 afternoon, if you have questions or comments.

15 CHAIR RATH: Thank you.

16 Are there any questions?

17 COMM. LEHMAN: No, I have none.

18 COMM. CONGLETON: No questions.

19 CHAIR RATH: Very good.

20 MR. TOWNSEND: Thank you.

21 CHAIR RATH: Thank you.

22 AGENDA ITEM NO. 8

23 CHAIR RATH: Okay. And that brings us
24 to the UI Reemployment and Eligibility Assessment
25 Grant.

1 MS. MILLER: Good afternoon,
2 Commissioners. Reagan Miller with Workforce
3 Development.

4 This afternoon for your consideration is
5 the Fiscal Year -- Fiscal Year 2008 grant application
6 for these UI REA grants. The state proposals are due
7 September 8th, and this is the fourth year that DOL
8 has made this funding available.

9 I do want to point out DOL didn't make
10 any substantive changes in the program design. The
11 funds will continue to be used to fund services to
12 claimants, including the development of work search
13 plans and assessments to help people return to work.

14 We did receive one interesting
15 clarification from DOL regarding the target population
16 to be served. They clarified that their intent is
17 that we serve claimants who were not called in for
18 services under the Rapid Reemployment model.

19 So, you'll recall you set the -- the
20 .600 score. Those individuals will be called in
21 through that Rapid Reemployment model, and this grant
22 will compliment Rapid Reemployment and will really
23 call in that middle tier who do have some barriers to
24 employment but, again, aren't the hardest to serve
25 based on the profiling model.

1 So, we think that was some good
2 clarification, and we really can now see a lot of
3 benefits and the compliment that these two services
4 will provide for the claimant population. This grant
5 application that we're proposing would continue
6 supporting the five boards that received funding in
7 Fiscal Year '07. I also want to point out that DOL
8 would require states to participate in a post-program
9 evaluation.

10 So, we are working with Shu Ching's
11 group to really ensure that we have an appropriate
12 research model developed, and it will allow us to
13 establish a control group and to really measure the
14 efficacy and efficiency that these services bring to
15 claimants. We do have a total grant proposal of
16 \$478,849, and we are requesting that you authorize
17 staff to submit this to the Department of Labor.

18 CHAIR RATH: I've got a couple of
19 questions.

20 And, first of all, I agree that I think
21 with the clarification on who is called in as a result
22 of worker profiling will be very, very helpful, and
23 being able to focus on what this group is will really
24 allow us to do some comparisons. And I look forward
25 to seeing what value there is with this investment of

1 funds.

2 I have a -- a couple of questions about
3 North East Texas on why their cost per participant is
4 so high, because it's like almost \$50 higher than the
5 rest of them.

6 MS. MILLER: It is -- North East has a
7 little different design than some of the others.
8 They've incorporated a work readiness certificate into
9 the services that they provide claimants. They did
10 this based upon some employer feedback in -- from
11 their local area.

12 That really accounts for the higher
13 cost.

14 CHAIR RATH: And, I guess, does
15 everybody get the work readiness certificate?
16 Because, I'll tell you, I have real questions about
17 recently-separated UI claimants needing a work
18 readiness certificate. I mean, I think they've
19 probably demonstrated it, since they've been
20 successfully employed in the workforce.

21 I truly see the value of it for TANF,
22 for students that are new to the workforce, for RIO or
23 ex-offenders. I mean, I do believe that there are
24 special categories that clearly can benefit from that
25 or even having the -- some demonstrable certificate

1 for employers might be helpful.

2 But I really question the value -- and
3 maybe it's just me. But I question the value for UI
4 claimants who really have, apparently, been able to
5 manage long enough to qualify needing a work readiness
6 certificate. To me, the market has spoken. So,
7 that's one question I have.

8 And then that's even -- I guess I'm more
9 seriously questioning it, because it's not a
10 transferable certificate. It's just this local
11 conceived idea that, no offense, but it doesn't mean
12 anything outside that area. So, I am concerned in our
13 investing very scarce resources in something that
14 really has no industry or -- or other credentials
15 associated with it.

16 COMM. CONGLETON: And I agree with that.
17 These people have a work record already.

18 COMM. LEHMAN: Could you clarify, is
19 that the BrainBench program that they're using?

20 MS. MILLER: I'll -- I'll tell you --
21 I -- let me see if I have it in my papers. This is --

22 COMM. LEHMAN: Well, I tell you what.
23 Rather than answer the question, the real question
24 would be, what is the program they're using, and to
25 what degree are other boards using it? Because I

1 share the Chair's concern, and I've made my views
2 known to the boards about a -- a roll-your-own --
3 or -- so -- or a program and certification process
4 that's so unique that it means really nothing and it's
5 not transportable.

6 So, I guess my question would be, if
7 that one fits into the category of not transportable,
8 locally-owned, then I would echo her comments. If it
9 has some more national acclaim, then -- and -- and it
10 truly has proven its worth, then where else is it
11 being used?

12 MS. MILLER: The -- the test that
13 they're using is -- is purchased from a company. It's
14 called Work Certified. So, they are purchasing it.

15 I can't answer the question about who
16 recognizes it and if it's -- if it's transferable.
17 Workforce staff has had conversations with the board
18 about whether or not this was truly an appropriate --
19 appropriate service to be providing, and the board
20 felt strongly that the employers in their area were --
21 were committed to the certification and to -- to
22 the -- I guess the demonstration that the claimant has
23 the skills. Although, they probably do have the
24 skills, as you point out, because they are recently
25 separated.

1 We have continued to work with the board
2 to try to analyze the appropriateness of this and to
3 determine if -- if it's required. As we continue the
4 conversations with them, we could see a reduction in
5 the average cost if -- if it turns out that, perhaps,
6 this is something they want to reconsider or if you
7 believe that it really is inappropriate, we can
8 certainly work with them to modify that.

9 CHAIR RATH: I can tell you, I
10 personally don't think it's appropriate for UI
11 claimants. I mean, \$50 is an awful lot of money when
12 they've demonstrated to far more serious audiences
13 than the testers on that. Again, I -- I -- it makes
14 sense to me for TANF, for new students, for RIO, for
15 anyone that has significant barriers.

16 I -- my comments don't extend to that
17 population. But for UI claimants, I -- I just don't
18 see it.

19 COMM. CONGLETON: And I agree.

20 MS. MILLER: We -- we would certainly be
21 happy to modify the grant application to reflect that.

22 CHAIR RATH: Okay. Is there a motion,
23 once staff having heard all of our comments, prepares
24 a grant application for submittal to DOL for these
25 funds?

1 COMM. CONGLETON: So made.

2 COMM. LEHMAN: I don't agree with
3 cutting the allocation to North East based on what
4 I've heard today. So, I don't -- I -- I would have to
5 stand firm on the staff recommendation.

6 CHAIR RATH: Okay.

7 I agree with submitting the application.
8 Let me clarify.

9 Commissioner, are you in favor with
10 submitting the application as the first step?

11 COMM. LEHMAN: Correct.

12 CHAIR RATH: Okay. So, all of us are in
13 favor of submitting the application for DOL. And,
14 then, at least two of us are in favor of not having
15 North East include the certification for UI claimants.
16 And Commissioner Lehman is, at this point, still
17 supportive of at least moving forward with that,
18 pending more information.

19 COMM. LEHMAN: Yes, that's correct.

20 MS. MILLER: Okay. We'll move forward
21 with those instructions.

22 CHAIR RATH: Thank you.

23 MS. MILLER: Thank you.

24 AGENDA ITEM NO. 9

25 CHAIR RATH: Okay. Next, IBPR.

1 MR. JONES: We don't have anything.

2 CHAIR RATH: Okay. Thanks.

3 AGENDA ITEM NO. 10

4 CHAIR RATH: Then, Workforce Board
5 Nominees, and we have before us South East Texas and
6 North Central. Are there any questions, or is there a
7 motion?

8 COMM. LEHMAN: I have no questions.

9 Enter a motion to approve the nominees.

10 COMM. CONGLETON: Second the motion.

11 CHAIR RATH: And I agree.

12 I would comment that South East, I'm
13 really happy that their demographics are moving in the
14 right direction but would point out they still
15 continue to -- to need a better reflection of their
16 area and that North Central, although -- and -- I
17 mean, Mr. Martinez is a wonderful nominee, because I
18 know him and he really brings some great business
19 perspective to the board. But they do continue to
20 need representation for the accomodation of food
21 industry sectors.

22 But, with that, they're all approved.

23 AGENDA ITEM NO. 11

24 CHAIR RATH: And that brings us to --
25 anything on state and federal issues?

1 MR. LEWIS: (Shaking head)

2 CHAIR RATH: Okay.

3 AGENDA ITEM NO. 12

4 CHAIR RATH: And, Mr. Temple, you've got
5 our staff report.

6 MR. TEMPLE: Yes. Scott Eychner is
7 going to give you an update on the Phase 2 TWIST and
8 the enhancements as well as the ES/UI Integration.

9 MR. EYCHNER: Good afternoon,
10 Commissioners, Mr. Temple. We wanted to take just a
11 few minutes of your time to give you a status update
12 of two projects underneath the Work In Texas umbrella,
13 those being WIT Phase 2 and ES/UI Phase 2.

14 They, as you recall, were both
15 Commission-approved and were to be completed -- have
16 been completed by the end of the Fiscal Year '07.
17 It's my privilege to tell you that they both were.
18 They were both implemented; the last pieces were on
19 August 24th, Friday a week ago.

20 They were done slightly ahead of
21 schedule ever so much and slightly under budget, which
22 are both good -- good things. The full project
23 closeout reports will be provided to you at the IT
24 Work Session in October.

25 This is not to circumvent that. This

1 was just to give you a little bit of an update of
2 what's going on and to kind of highlight some of the
3 changes and the benefits for us as an agency and for
4 our customers.

5 Related to ES/UI Phase 2, the real
6 benefit of that was to redesign the job seeker
7 registration flow in Work In Texas for a couple
8 reasons. One, we wanted to allow job seekers to
9 provide more information up front at the time that
10 they are registering. We also wanted to put more
11 questions in front of them to try and get more
12 information back from them so that we could have -- we
13 had a better quality application.

14 At the end of the completion of
15 registration we wanted to show a -- the job seekers a
16 picture of their resume as an employer would see it in
17 the system so they know how they're being represented,
18 because a picture is worth a thousand words. And then
19 we wanted to take all that information that we
20 gathered during registration and provide that to
21 employers as an output so that they can make better
22 decisions when they're referring job seekers and
23 trying to hire people. The -- so, that was one
24 project.

25 The other project that we wanted to --

1 just to give you two cents on was Work In Texas Phase
2 2. You may recall, this was originally scoped as 11
3 items. All those 11 items are complete, and I'm not
4 going to talk about all of them.

5 There were four, though, that we wanted
6 to highlight that we have -- that have just recently
7 gone in. One of them was ad hoc. We have an approved
8 reporting infrastructure now that we can do ad hoc
9 internally and will be able -- soon will be able to
10 provide that ability to boards, to staff, to anybody
11 who wants to do that, to do -- run ad hoc queries
12 against Work In Texas data, much like they can do with
13 TWIST reports now; it's essentially the same
14 functionality.

15 We developed a couple new reports. One
16 of them is a job postings by occupation report. This
17 is something that we get a lot of questions about.

18 For instance, if you want to know the
19 number of truck drivers in South East, the number of
20 postings that we have for that, this report allows you
21 to go in and pull that type of information. And it's
22 available to anybody that has access to Work In Texas.

23 We have -- also, the morning report,
24 which you may be familiar with. Mr. Crump uses it to
25 provide monthly Work In Texas labor exchange

1 activity -- that's a big word -- to provide you stats
2 on Work In Texas every month. That report has been
3 redesigned and combined with another report that was
4 already in Work In Texas to provide a little bit more
5 accurate, a little bit more comprehensive, a little
6 bit more up-to-the-minute report, information to you.

7 And we're working on a different way to
8 maybe get that information to you so there's no manual
9 intervention that has to be done by staff. But that's
10 kind of a second piece to this. The -- initially, we
11 just want to let you know that we've taken the morning
12 report and -- and changed it a little bit so that it's
13 no longer available in the function that it was, but
14 the information we can still provide to you, no
15 problem.

16 And the last one was a -- kind of an
17 effort that we partnered with LMCI to do, which was to
18 create what we call the labor availability check.
19 Essentially, what this is is LMCI has always been able
20 to provide estimated numbers of people in an area who
21 were looking for work. If you want to -- you're a
22 plumber and you want to open a plumbing business in
23 Dime Box, you can go look at LMCI, and they can tell
24 you that they have -- they estimate there are 50
25 people with that skill set.

1 What this does is give employers access
2 to the people in Work In Texas that have that skill
3 set. So, while LMI can estimate that there are 50
4 people there, they can also tell you that 37 of them
5 are registered in Work In Texas, and here they are.
6 So, it's just -- it's another step to provide
7 employers information when they're trying to make
8 decisions about where they want to be, what they want
9 to do, that type of thing.

10 And that's really it. That's all the
11 information that I have. That concludes my report.

12 I am happy to answer any questions that
13 you may have.

14 CHAIR RATH: Thank you.

15 Any questions, Commissioner?

16 COMM. LEHMAN: No, I'm going to try the
17 features first, and then I'll come back with
18 questions.

19 (Laughter)

20 CHAIR RATH: Commissioner?

21 COMM. CONGLETON: No questions. Thanks,
22 Scott.

23 CHAIR RATH: I -- I want to salute
24 everyone and thank everyone. Coming in early and
25 under budget is always a good thing, and we really do

1 appreciate that. And from all -- you know, after the
2 experience we've had, it seems to be working and
3 working without problems.

4 So, that's another really good thing.

5 So, congratulations to everyone who did it.

6 And I've got one question on the UI/ES
7 Integration because, from my perspective, one of the
8 most important pieces was claimants just having to
9 enter the data once. Did you talk about that, and did
10 I miss it or --

11 MR. EYCHNER: I -- I did not. That's
12 actually -- ES/UI was broken into three phases.

13 CHAIR RATH: Yes.

14 MR. EYCHNER: That's the third phase
15 that actually we started -- today's Tuesday, right --

16 CHAIR RATH: Uh-huh.

17 MR. EYCHNER: -- today. It --

18 CHAIR RATH: Okay.

19 MR. EYCHNER: Sorry.

20 (Laughter)

21 CHAIR RATH: Just checking --

22 MR. EYCHNER: It begins --

23 CHAIR RATH: -- because, to me, that's
24 the single most important piece --

25 COMM. CONGLETON: Yeah --

1 MR. EYCHNER: Yes, ma'am. That's the --
2 that's the part that everybody wants, and that --
3 we've just begun that -- or just undertaken that last
4 step to do that.

5 CHAIR RATH: Okay. And what's -- and --
6 and pardon my forgetting, but what's the estimated
7 completion? Do you know offhand?

8 MR. EYCHNER: It was estimated as an
9 18-month project to be completed in February of '09.

10 CHAIR RATH: Okay. Thank you very much.

11 MR. EYCHNER: Thank you.

12 CHAIR RATH: Anything else?

13 (No response)

14 CHAIR RATH: Great.

15 Okay. Do you have anything else?

16 MR. TEMPLE: That's all.

17 CHAIR RATH: Very good.

18 AGENDA ITEM NO. 13

19 CHAIR RATH: Well then, we're going into
20 Executive Session pursuant to Government Code
21 551.071(1) concerning contemplated litigation or the
22 pending litigation of Minihan Oil versus TWC, and it
23 is 1:37.

24 (Executive Session: 1:37 p.m. to
25 1:47 p.m.)

1 CHAIR RATH: Okay. It's 1:47, and we
2 will come back from Executive Session.

3 Commissioners, is there any further
4 business to come before us?

5 COMM. LEHMAN: I have none.

6 COMM. CONGLETON: None.

7 AGENDA ITEM NOS. 14 & 15

8 CHAIR RATH: Then, if there's nothing
9 else, then we will stand adjourned until next week.
10 Thanks.

11 (Meeting adjourned: 1:47 p.m.)

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C E R T I F I C A T E

STATE OF TEXAS)
COUNTY OF TRAVIS)

I, JANIS SIMON, a Certified Shorthand Reporter in and for the State of Texas, do hereby certify that the above-mentioned matter occurred as hereinbefore set out.

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

IN WITNESS WHEREOF, I have hereunto set my hand and seal this day of 2007.

JANIS SIMON
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