



**MEETING OF THE
TEXAS WORKFORCE COMMISSION**

DATE

APRIL 5, 2022

1 Tuesday, April 5, 2022

2 CHAIRMAN DANIEL: Good afternoon, everyone.

3 This meeting is called to order. Mr. Trobman, has anyone signed
4 up for public comment?

5 MR. TROBMAN: Good afternoon, commissioners,
6 Les Trobman, general counsel. We have one commenter this
7 afternoon. As a reminder, comments are limited to three minutes.
8 We have Mr. Rodriguez. Mr. Rodriguez, if you could unmute
9 yourself, introduce your name for the record, and go ahead.

10 MR. RODRIGUEZ: Yes. My name is Marty
11 Rodriguez and I'd like to comment on the enforcement of laws
12 against employers who engage in retaliation. In October 2019,
13 two employers fired me within the same month. [inaudible] I was
14 that I was engaged in actions considered to be protected
15 activity. At FedEx Ground my actions surrounding the employee
16 complaint system for FedEx alumni because it does not provide
17 any feedback for the employees regarding resolution which
18 effectively categorized it as a suggestion box. While
19 investigating a matter for approximately one year [inaudible]
20 and I was terminated for misconduct, a disqualification for UI
21 benefits. I obtained employment quickly at UPS but after the
22 trainer approached me in a threatening manner and began to yell
23 at me in front of all the other trainees within the first four
24 days of employment, I reported to the management that a hostile
25 work environment existed. I was immediately accused by the

1 trainer of misconduct to protect herself and her position and
2 the result was UPS general manager fired me based on the
3 trainer's accusations of misconduct on the spot without an
4 impartial investigation into the matter. Again, it disqualified
5 [inaudible] qualification for UI benefits. [inaudible]
6 violations [inaudible] his own policies preventing retaliation.
7 But upon the Texas Workforce Commission's investigation for
8 determination of eligibility for benefits, I was granted those
9 benefits and provided with a statement from the Texas Workforce
10 Commission that stated I was not terminated for misconduct as my
11 employers had claimed. The reason why FedEx Ground identified a
12 policy that could not be provided to the Texas Workforce
13 Commission because it didn't exist. The FedEx Ground could not
14 prove the damage this time because there were none. In the UPS
15 case, Texas Workforce Commission investigator [inaudible]
16 stating UPS [inaudible] resigned voluntary. I disagreed with
17 that allegation as I was walked out of the building by two
18 younger male management [inaudible] a threat to the company for
19 reporting the hostile work environment. I did receive my
20 benefits and what got my attention was there was no attempt by
21 the Texas Workforce [inaudible] hold the employers accountable
22 for the attempt to commit fraud and deny my access to these
23 benefits. It's caused me to become very interested in how the
24 Texas Workforce Commission enforces the law to prevent employers
25 from providing false statements to deny you benefits. In this

1 case, these reasons, these false reasons were provided
2 intentionally and willfully. I filed complaints at the EOC
3 against UPS and FedEx Ground and began my own investigating the
4 matter shortly after the terminations in October 2019. Using the
5 Texas Public Information Act to request the information, this is
6 what I found. The general counsel at Texas Workforce Commission
7 who manages open records provided me with the information that
8 no statistics exist on the enforcement of Texas Labor Code
9 214.004, which was enacted to prevent employers from providing
10 fraudulent statements to deny you the benefits. General counsel
11 at Texas Workforce Commission is now refusing to provide the
12 pages in the Texas Workforce Commission's Unemployment Insurance
13 Benefits Manual that instructs employees on how to enforce the
14 Labor Code. Employees are regularly prosecuted for obtaining
15 unemployment insurance benefits illegally and those are
16 [inaudible] on the Texas Workforce Commission website. But no
17 public information, including efforts to prosecute, are
18 available on the efforts to hold employers accountable for the
19 fraud when they present false information and deny those same
20 benefits. Two district attorneys in both Travis County and
21 Dallas County both refused to take any action in these matters
22 in violation of Texas Labor Code 213.002 requiring them to
23 enforce the Labor Code. The city of Irving, Texas, including the
24 mayor and [inaudible] became involved due to their own intent to
25 obstruct justice and engage in witness [inaudible] to prevent me

1 from reporting this issue to the Dallas County DA, and the EOC
2 dismissed the complaint against FedEx Ground without even
3 considering the nonexistent policy and false claims and damages
4 identified by the Texas Workforce Commission investigators. This
5 problem of employer retaliation has been identified by the
6 president of the United States, EOC, and the NLRB, and appears
7 in the state of Texas to be caused by Texas Workforce Commission
8 refusal to prosecute employers for fraud under the authorization
9 of Texas Labor Code 214.004, which was enacted in 1993, almost
10 20 years ago, and this causes reasonable people to believe that
11 employers have been given the ability to deny an employee's
12 rights to the UI benefits without fear of the law. I have no
13 expectation my request will be addressed [inaudible] to provide
14 all the information identified in the law that's used by the
15 Texas Workforce Commission to prevent employers from retaliating
16 against employees and engage in UI benefits fraud to deny
17 benefits. I need the statistics on enforcement of these laws. I
18 need information showing why my employers were not prosecuted,
19 and last, I need the account of employees terminated for
20 misconduct but not [inaudible] for the last five years.
21 [inaudible] provided Texas Workforce Commission investigator to
22 work with me to ensure that my concerns are addressed
23 completely. My name is Marty Rodriguez. I'm 61 years old. I'm an
24 honorably discharged veteran of the United States Marine Corps.
25 You have my email address and contact information. I look

1 forward to your response on these matters. Thank you very much
2 for allowing me this time to speak to you. Appreciate it.

3 CHAIRMAN DANIEL: Thank you. Mr. Trobman, is
4 there any further public comments?

5 MR. TROBMAN: No, sir.

6 CHAIRMAN DANIEL: Thank you very much. Good
7 evening, Ms. Gonzales.

8 MS. GONZALES: Good afternoon.

9 CHAIRMAN DANIEL: Motion passes with the
10 exceptions noted. This brings us to the end of Agenda Items 3
11 through 7. Let's take a short break.

12 MS. GONZALES: Thank you.

13 CHAIRMAN DANIEL: This is Agenda Item 8, TWC
14 2023-2027 Strategic Plan and Budget Structure Elements for the
15 2024-2025 Biennium.

16 RANDY TOWNSEND: Good afternoon, Chairman
17 Daniel, Commissioner Alvarez, Commissioner Demerson. For the
18 record, Randy Townsend, deputy executive director. Every two
19 years agencies are required to update their strategic plan. As
20 part of that strategic plan you also have an opportunity to take
21 a look at your budget structure which includes the goals, the
22 strategies, and the performance measures. We've taken a look at
23 that for TWC this year. I think there are some opportunities to
24 add some clarity to our budget structure so we're bringing that
25 forth this afternoon for your consideration to submit by the

1 deadline which is this Friday. So just to provide a quick
2 highlight of the proposed budget structure, this would be for
3 the 24-25 biennium, goal A would include three objectives under
4 that local Workforce Solutions goal, objectives for local
5 workforce services, local education and reskilling services, and
6 a third objective for local child care services. The objective
7 for local workforce services would actually establish a new
8 strategy titled local workforce connection services that would
9 combine several strategies currently, namely the Workforce
10 Innovation Opportunity Act, a strategy [inaudible] choices, the
11 Supplemental Nutritional Assistance Program in the form of
12 training strategy as well as employment services, and finally
13 the reemployment services. This currently included the
14 unemployment insurance strategy so the focus on those local
15 workforce connections services. We retained the local youth
16 workforce currently as a separate standalone strategy, would
17 establish a second objective under that goal A, the local
18 education and reskilling which would include adult education and
19 family literacy strategy, the trade-affected worker as well as
20 the senior employment services. Those are currently standalone
21 strategies that are under the current goal structure within
22 TWC's budget structure. And then the third objective, local
23 child care services, would consist of three strategies. It would
24 combine currently two strategies that are focused on providing
25 direct care for children around the state. That would be called

1 the local child care solution strategy. We would actually
2 propose establishing a new strategy for quality activities for
3 child care which is something that's currently just combined
4 within our child care direct care strategy, and so to add some
5 clarity by separating that out, we would keep the Department of
6 Family and Protective Services strategy as a standalone. That is
7 goal A. Goal B would be focused on state workforce development.
8 There are five different objectives under there, first being
9 state workforce education and training. We would keep the
10 rehabilitative services as a separate objective, and then the
11 state workforce support and accountability would be the third
12 objective, and then the final two objectives are currently
13 unemployment services being renamed from the three strategies
14 for unemployment, and then civil rights as a standalone
15 objective and strategy. The final note here before I just hit
16 the highlights of a couple items on the detail pages, there's a
17 legend on the performance measures, the key measures that we're
18 proposing to recommend, and then a series of non-key measures.
19 There would be 23 key measures proposed and 21 non-key and then
20 14 measures that would be recommended for deletion because they
21 have been consolidated in several cases, and that we believe are
22 unnecessary going forward in a few of those cases. So, that's
23 the high-level summary. I thought I would move to the second
24 page and just highlight a couple items in here. Under goal one I
25 talked about the local workforce services objective and

1 proposing to bring that measure for employers served up under
2 that objective as currently within the business services pretty
3 far down in the budget structure, and then there's a series of
4 changes here for the non-key measures being proposed, and then
5 you can see the deletions and replacements being recommended
6 there. On page three I wanted to highlight under the strategy
7 for 1.3.1, local child care solutions, that would be
8 consolidating two current measures for children in care per day
9 and then establishing an average cost for children served but
10 establishing a monthly cost as opposed to average daily which we
11 believe will be a little easier to see what the cost of care is
12 reflected for the children in care. Then on page four under goal
13 two, state workforce development, I did want to highlight one
14 thing that was noted when I had done the briefings with the
15 offices, under strategy 2.1.1, skills development, we have some
16 language there that is dated and only refers to partnerships
17 with public, community and technical colleges, and proposing to
18 make a technical correction and reflect eligible training
19 providers and partnerships with local Workforce Development
20 Boards so we'll just make that where it's current with the
21 statutory requirements. I believe that was the highlights of the
22 proposal for your consideration. There's obviously some—if you
23 agree with this and would like to see us move forward and make
24 this request to the LBB and the Governor's Office following
25 their format and their requirements. Been working with Chris

1 Nelson on the finance side and Adam Leonard on the performance
2 measures, and I think we've got everything pretty much pulled
3 together at this point, ready to go if this is something that
4 meets with your approval this afternoon. Happy to answer any
5 questions, provide any clarity.

6 CHAIRMAN DANIEL: Comments or questions?

7 COMMISSIONER ALVAREZ: None here, chairman.

8 COMMISSIONER DEMERSON: Randy, thank you
9 guys for the briefings. Appreciate that.

10 CHAIRMAN DANIEL: Is there a motion?

11 COMMISSIONER ALVAREZ: Chairman, I move that
12 we approve the proposed budget structure and elements for the
13 2024 through 2025 biennium as recommended by staff and described
14 in the discussion paper with permission for staff to make minor
15 nonsubstantive and technical changes.

16 COMMISSIONER DEMERSON: Second.

17 CHAIRMAN DANIEL: It's been moved and
18 seconded. We're unanimous.

19 RANDY TOWNSEND: Thank you.

20 CHAIRMAN DANIEL: Thank you. I see nothing
21 else on the agenda. Mr. Serna, is there an executive director's
22 report?

23 ED SERNA: Just very quickly you'll notice
24 the Plexiglas is down. I notice you may have felt a little odd
25 in having that much freedom but it's down as we continue to move

1 to whatever our new normal is. However, I would like to make
2 sure that everybody understands that we're still dealing with
3 the effects from COVID and this is proven by the fact that one
4 of our divisions experienced 15 of its employees and seven of
5 its customers being tested positive. Fortunately nobody with
6 anything very serious but tested positive recently. We continue
7 to serve those customers. We'll work through that as well so we
8 continue to be cautious but we're taking steps to cutting it
9 back to a little bit of new normal.

10 CHAIRMAN DANIEL: Thank you. Mr. Serna,
11 while I got you here, I have a couple of requests for you. Could
12 you ask staff to prepare for the commission's consideration a
13 draft of a proposed summit of community colleges, technical
14 schools, state colleges, Lamar State University, and state
15 colleges specifically and others that we would typically work
16 with, and considering that we would partner with the Texas
17 Higher Education Coordinating Board for a date to be selected in
18 July in that particular timeframe. This summit we would discuss
19 credentialing in both the middle and high skills jobs, some
20 things that we've been working on and how our community,
21 technical, and state college partners would work with us. I
22 would hope when that proposal comes back, obviously this
23 commission would consider it, make this a commission priority
24 for some time in July. It's a good time for the colleges and
25 bring them together with some partners to talk through kind of

1 where we are workforce wise and how we can start getting people
2 all the credentials they need and certainly have a pool of
3 employees available for employers who want to keep expanding in
4 this state. The second request that I have is—this is something
5 Commissioner Alvarez and I have talked about informally and
6 haven't really had a chance to talk in any depth about is an
7 idea that we both were discussing at the annual meeting. I think
8 there's some merit in us considering doing commission meetings
9 outside of Austin so I would ask staff to prepare a tentative
10 schedule of what in the fall, so starting in September, what
11 some alternate site meetings, what a schedule might look like
12 for us to hold a commission meeting outside of Austin, various
13 locations around the state. I would just ask staff to give us
14 kind of their recommendation on what that looks like, and rather
15 than Commissioner Alvarez and I having an informal conversation
16 about this at the annual meeting, let's let the commission
17 consider this in an open meeting and take some action on this
18 and see if we can't move some of our operations out to the
19 public and interact with the public and try to understand maybe
20 what some of the needs are out in communities. The only
21 stipulation I would put on staff's work is is let's please do
22 consider both urban, suburban, and certainly rural areas of the
23 state, and let's be geographically dispersed as best we can. Is
24 there any other order of business to come before the commission?

25

1 COMMISSIONER ALVAREZ: Chairman, I think
2 those are two great recommendations. Appreciate that. One is I'd
3 like to recognize Ronnie Burchett, is that her name? This is her
4 second day here so working in our communications team, and she's
5 come back to the agency. I guess she loved it so much she came
6 back so I want to congratulate her. Second thing I wanted to do
7 is I wanted to hand out some booklets to the commissioners.
8 That's for you and that's for Commissioner Demerson. Chairman,
9 what I'm providing to you all are handouts that we passed out to
10 a group of folks that were interested in health care
11 apprenticeship stakeholder meeting. Before I provide comments, I
12 would like to distribute, like I said, these reading materials.
13 The materials include health care apprenticeship workforce
14 studies, Texas Higher Education Coordinating Board 60x30 report
15 on the nursing shortage, LBB report, Texas Board of Nursing
16 Education guidelines, pertinent Texas Administrative Code, DOL
17 apprenticeship reference material, other model programs in the
18 state of Minnesota, Bureau of Labor statistics, O*NET
19 information on skills and abilities for nursing, [inaudible]
20 patient care technicians. The Governor's Office and I have been
21 in communication regarding these stakeholder meetings that we've
22 been having. On March 30, 2022, I held a convening for nurses in
23 health care apprenticeships. The convening was well attended. In
24 attendance were 23 of the 28 Workforce boards, 25 major health
25 care systems and industry partners, one traveled from out of

1 state from Colorado, 33 higher education partners from community
2 colleges, technical schools, career schools, and Texas Tech
3 University Health Science Center. Dudley Light [inaudible] from
4 the office of apprenticeship, U. S. Department of Labor were
5 also in attendance. Dr. Janice Hooper from the Texas Board of
6 Nursing joined us. Tina Jackson from Texas Higher Education
7 Coordinating Board and Chancellor Brenda Heller who took time
8 out of her busy schedule to attend this day, long day work
9 session. We had requested for additional participants but had to
10 quit off attendance due to the fire and safety codes. Eighty-
11 four participants contributing in mapping essential skills and
12 abilities for nursing education and participating in engaging
13 discussions led by Dr. Sally K. Janes, Vice Chancellor at San
14 Jacinto Community College regarding how registered
15 apprenticeships and established educational training model could
16 assist in increasing the number of registered nurses while
17 maintaining patient safety, very important to state.

18 Participants signed up for small groups to continue their work
19 on these health care models, and we will convene this summer,
20 specifically in June. I am so humbled to have received so many
21 thanks from industry partners and educational institutions, and
22 so inspired as I received buy-in and support from the Texas
23 Higher Education Coordinating Board, Board of Nursing, and
24 moving forward TEA. The Department of Labor is fully onboard as
25 they hope to replicate and scale these models nationwide. States

1 such as Florida, Alaska, North Dakota, and Colorado have already
2 expressed interest in our work. Dr. Janice Hooper will be
3 presenting on this initiative at the April 21-22 Board of
4 Nursing meeting and will advise that this initiative is
5 complementary to the outline in their educational guidelines
6 3.8.3a, Practice Education Partnership Internships, which you'll
7 find in your manual. Commissioner Harrison Keller and Dr. Tina
8 Jackson from Texas Higher Education Coordinating Board have
9 pledged ongoing support. I would like to take this opportunity
10 to thank a couple of hard-working individuals who made this a
11 success. Desi Holmes, TWC apprenticeship director and her
12 apprenticeship Texas team who will do the heavy lifting on
13 making sure this initiative is a success. Dr Sally K. Janes for
14 her support and help in moving this initiative forward and
15 overseeing the apprenticeship and clinical piece. I'd also like
16 to thank Alaina Zachmann from my office who makes this
17 organization an event and keeping everything on track. Lowell
18 Keig, Jim Stephens, Julia Mercado, Gloria Torres who supported
19 the logistics of this event to help keep running things smoothly
20 and seamlessly. I'd also like to especially thank Jenna Delacruz
21 and again Alaina Zachmann particularly for putting the reading
22 material and the workbook together which took more than six
23 months for us to do. I look forward to these continuing work
24 sessions as we move forward on this initiative. I will be

1 providing updates on a periodic basis to the commission and to
2 our executive director. Thank you.

3 CHAIRMAN DANIEL: Thank you, commissioner.

4 COMMISSIONER DEMERSON: Mr. Chairman, a
5 couple of comments quickly and move us forward. Last week we had
6 the fifth annual foster care conference and the team did a
7 phenomenal job putting that together and the opportunity to
8 bring some welcome remarks. Chairman, your video was shown as
9 well so a lot of good support and Commissioner Alvarez as well.
10 Second, I wanted to say congratulations to the North Central
11 Texas Workforce Solutions board as well. Phedra and that team
12 put together with Weatherford College a partnership and the
13 first of its kind where we're housing a local Workforce
14 Solutions office inside of the community college and that was
15 first of its kind type effort and something that entire
16 community, Dr. Tod Farmer, president of Weatherford College,
17 they were very proud of hosting that event and I was delighted
18 to be a part of that. It was good to see Senator Springer
19 participate in that event as well. Moved down to the Valley area
20 where we wrapped up National Disability Awareness Month in
21 March, and had an opportunity to be with Commissioner Alvarez
22 where we honored three individuals, three employers, through the
23 We Hire Ability Program, Kumori Sushi, A&B Lopez Supermarket,
24 and Advocates Searching for Independence. Those were three
25 employers that were making a difference in this space, and so

1 special thanks to Frank Almaraz, the CEO of the Lower Rio Grande
2 Valley area, and also Evelyn Cano who is president of the
3 Disability Chamber of Commerce RGV group. Evelyn is also a
4 governor appointee as well, and then [inaudible] who joined us
5 as well. We ended the day with a company, Noble, Rene Capistran
6 who is the CEO of Texas Noble Builders, and we were recognizing
7 them through a We Hire Vets program I think partnering with
8 Texas Veterans Commission and Texas Leadership program, and Pat
9 Hobbs and his team with Cameron County Workforce Solutions
10 office. A well-attended event, a lot of appreciation. Mario
11 Lozoya who is a JET board member works for Noble and asked us to
12 participate in that particular event and so it was just good to
13 see work being done, employers that are recognizing folks in the
14 disability community and recognizing our veterans was time well
15 spent. And lastly, we wrapped up with an employer summit for
16 folks with disabilities. Susan Cheryl Fuller and that team did a
17 phenomenal job of hosting that particular event and again, we
18 are positioning ourselves to make sure that if employers need
19 employees that both the veterans and those that are disabled are
20 encountering a pipeline for those employers. So just wanted to
21 kind of share that business is booming in Texas and we're out
22 there doing some great things. The agency as a team is doing
23 some great things so thank you for the opportunity.

24 CHAIRMAN DANIEL: Any other item of
25 business?

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COMMISSIONER ALVAREZ: None here, chairman.

CHAIRMAN DANIEL: Is there a motion to adjourn?

COMMISSIONER ALVAREZ: Chairman, I move that we adjourn.

COMMISSIONER DEMERSON: Second the motion.

CHAIRMAN DANIEL: It's been moved and seconded to adjourn. We're adjourned.