

BILL ANALYSIS

Senate Research Center

S.B. 280
By: Nelson
Government Organization
7/24/2003
Enrolled

BACKGROUND AND PURPOSE

The Texas Workforce Commission (TWC) was created in 1995 by the 74th Texas Legislature to merge employment and training programs from 10 agencies into a single, locally-controlled workforce system. TWC's two key functions are overseeing employment and job training services provided through local workforce development boards, and operating the state's unemployment insurance system. TWC is subject to the Sunset Act and will be abolished on September 1, 2003, unless continued by the legislature. As a result of its review of TWC, the Sunset Advisory Commission recommended continuation of the agency and several statutory modifications that are contained in this legislation.

RULEMAKING AUTHORITY

Rulemaking authority is expressly delegated to the Texas Workforce Commission in SECTIONS 4.01 (Section 2308.264, Government Code), 4.07 (Section 302.048, Labor Code), 7A.02 (Section 212.106, Labor Code), and 8.08 (Section 132.306, Education Code) of this bill. In addition, under the general rulemaking authority already granted to the policymaking body, rules may be developed to implement other new provisions found in this bill.

SECTION BY SECTION ANALYSIS

ARTICLE 1. CONTINUATION OF COMMISSION; GUIDELINES REGARDING FUNCTIONS OF COMMISSION AND STAFF

SECTION 1.01. Amends Subchapter A, Chapter 301, Labor Code, by adding Section 301.0015 and amending Section 301.008, as follows:

Sec. 301.0015. GUIDELINES REGARDING FUNCTIONS OF COMMISSION STAFF.

(a) Requires TWC, in administering its functions under this title or another law, to limit itself to certain activities.

(b) Authorizes TWC, except as provided by Subsection (c), to conduct the activities listed in Subsection (a) only when acting as a governmental body.

(c) Authorizes TWC, acting as a governmental body, or an individual member of TWC to conduct certain activities.

(d) Prohibits TWC, in administering its functions under this title or another law, from performing certain actions.

Sec. 301.008. Updates TWC's sunset date to September 1, 2009.

ARTICLE 2. MEMBERSHIP ON GOVERNING BODY OF COMMISSION

SECTION 2.01. Amends Section 301.002(a), Labor Code, to provide that TWC is composed of

certain individuals.

SECTION 2.02. Amends Section 301.003, Labor Code, as follows:

- (a) Defines “Texas trade association.”
- (b) Redesignated from Subsection (a) with no changes.
- (c) Updates standard Sunset language prohibiting a person from being a member of TWC or an employee of TWC employed in a “bona fide executive, administrative, or professional capacity.”
- (d) Prohibits certain persons from serving as a member of TWC.

SECTION 2.03. Amends Section 301.004, Labor Code, to update standard Sunset language to prohibit a person from being a member of TWC or acting as the agency’s general counsel if the person is required to be registered as a lobbyist related to the operations of the agency.

SECTION 2.04. Amends Section 301.006(a), Labor Code, to require the governor to designate the chair of TWC from among the membership. Updates standard Sunset language to clarify that the chair serves in that capacity at the pleasure of the governor.

SECTION 2.05. Amends Section 301.007, Labor Code, by amending Subsection (a) and adding Subsection (c), as follows:

- (a) Updates standard Sunset language to specify the grounds for removing a member. Clarifies a distinction between the duties of TWC, meaning the agency as a whole, and the duties of the members.
- (c) Updates standard Sunset language relating to a potential ground for removal.

SECTION 2.06. Amends, Subchapter A, Chapter 301, Labor Code, by adding Section 301.0075, to add standard Sunset language to require members to complete training before assuming their duties.

SECTION 2.07. Specifies that the changes to member qualifications and prohibitions apply only to a commissioner appointed on or after September 1, 2003.

ARTICLE 3. POWERS AND DUTIES

SECTION 3.01. Amends Section 301.023, Labor Code, to update standard Sunset language requiring TWC to maintain information on written complaints and notify the parties about policies for and status of complaints.

SECTION 3.02. Amends Section 301.043, Labor Code, to update standard Sunset language requiring the executive director to inform TWC members and employees of the qualifications and responsibilities for office.

SECTION 3.03. Amends Section 301.045 (a) and (b), Labor Code, to add Subsection (a-1), to update standard Sunset language requiring TWC to have a current equal employment opportunity policy.

SECTION 3.04. Amends Subchapter C, Chapter 301, Labor Code, by adding Sections 301.046 and 301.047, to add standard Sunset language requiring the executive director to inform employees about the State Employee Incentive Program. Clarifies that employees of TWC are directly accountable to the executive director.

SECTION 3.05. Amends the heading to Section 301.061, Labor Code, to read as follows:

Sec. 301.061. GENERAL POWERS AND DUTIES OF COMMISSION AND EXECUTIVE DIRECTOR.

SECTION 3.06. Amends Sections 301.061(a) and (b), Labor Code, as follows:

(a) Requires TWC to provide the public with a reasonable opportunity to appear before TWC and to speak on any issue under the jurisdiction of TWC, rather than adopt rules as necessary for the administration of this title.

(b) Requires the executive director to manage certain affairs and operations.

SECTION 3.07. Amends Subchapter D, Chapter 301, Labor Code, by adding Sections 301.0681, 301.0682, and 301.069 to update standard Sunset language on policies on technological solutions and negotiated rulemaking and alternative dispute resolution policy. Requires TWC to meet the needs of businesses in this state and to equip workers and job seekers with the skills required to compete for jobs in this state.

SECTION 3.08. Specifies that changes to TWC's written complaint and notification policy apply only to written complaints filed on or after the effective date of the bill, September 1, 2003.

SECTION 3.09. Specifies that TWC must implement an equal employment opportunity policy, make effective use of technology, develop a policy that encourages the use of negotiated rulemaking, and partner with the business community not later than February 1, 2004.

ARTICLE 3A. TAX REFUNDS FOR WAGES PAID TO CERTAIN EMPLOYEES RECEIVING FINANCIAL ASSISTANCE

SECTION 3A.01. Amends Section 1(b), Article 21.52K, Insurance Code, to redefine "group health benefit plan."

SECTION 3A.02. Amends Subchapter H, Chapter 301, Labor Code, by amending Sections 301.104 and 301.105 and adding Section 301.108, as follows:

Sec. 301.104. Adds new language to subdivision (3) of existing text relating to eligibility standards for refunds of wages.

Sec. 301.105. Adds the words "medical assistance or" to existing text relating to certification of refunds of wages.

Sec. 301.108. LIMITATION ON CONVEYANCE, ASSIGNMENT, OR TRANSFER OF REFUND. Authorizes a person to convey, assign, or transfer a refund under this subchapter to another person only if certain criteria exist.

SECTION 3A.03. Makes application of the changes in law made by this Article to Sections 301.104 and 301.105, Labor Code, prospective.

ARTICLE 4. WORKFORCE DEVELOPMENT

SECTION 4.01. Amends Section 2308.264, Government Code, by amending Subsections (a), (b), and (d) and adding Subsections (e) and (f), as follows:

(a) Provides that except as otherwise provided by this section, a board may not directly provide workforce training or one-stop workforce and services.

- (b) Authorizes a board to request from TWC a waiver of Subsection (a).
- (d) Makes conforming changes.
- (e) Requires TWC by rule to establish, in consultation with local workforce development boards, contracting guidelines for boards under this section, including certain guidelines.
- (f) Requires TWC to ensure that each board complies with this section and may approve local plan under Section 2308.304 only if the plan complies with this section.

SECTION 4.02. Amends Sections 2308.267 (b) and (c), Government Code, as follows:

- (b) Prohibits a board's staff from directing or controlling the staffing of any entity providing one-stop workforce services.
- (c) Makes conforming changes.

SECTION 4.03. Amends Subchapter G, Chapter 2308, Government Code, by adding Section 2308.319, as follows:

Sec. 2308.319. COLLABORATIVE READING INITIATIVES. Requires TWC to encourage each local workforce development board to raise an amount of local funds in excess of the amount required to meet performance measures to be used to support collaborative reading initiatives.

SECTION 4.04. Amends Subchapter A, Chapter 31, Human Resources Code, by adding Section 31.0121, as follows:

Sec. 31.0121. SKILLS ASSESSMENT AND DEVELOPMENT FOR CERTAIN RECIPIENTS. (a) Requires TWC to ensure that each local workforce development board assesses the skills development needs of recipients referred to the CHOICES program administered by the board.

(b) Provides that if, after assessing a recipient's skills development needs, a local workforce development board determines that the recipient requires job-specific training for placement in a job paying wages that equal or exceed the self-sufficiency wage developed for the board under the Workforce Investment Act of 1998 (29 U.S.C. Section 2801 et seq.), as amended, the board must to the extent allowed by federal law, place the recipient in training activities designed to improve employment and wage outcomes and job retention rates and ensure that the training activities under Subdivision (1) target occupations that are in demand by local employers.

(c) Authorizes a local workforce development board to use a single list of targeted occupations that is developed for other training programs for purposes of meeting the requirements of Subsection (b)(2).

(d) Authorizes a recipient participating in the CHOICES program who is placed in training activities under Subsection (b) to concurrently engage in those training activities and in work activities.

(e) Requires TWC, to meet the requirements of this section, to use CHOICES program funds and, to the extent possible, existing funds from other training programs for which a recipient participating in the CHOICES program may qualify, including funds from certain programs.

SECTION 4.05. Amends Section 302.006(a), Labor Code, to authorize, rather than require, TWC to develop and administer a program under which it awards scholarships in the amount of \$1,000 each for professional child-care training to eligible recipients.

SECTION 4.06. Amends Subchapter A, Chapter 302, Labor Code, by adding Sections 302.0042, 302.0043, 302.0044, 302.0046, and 302.013 to require TWC to conduct an annual evaluation of child care allocation formulas to ensure that local child care needs and costs are reflected in the formulas. Specifies that the evaluation assess each local workforce board area's use of current allocations, ability to meet performance measures, general cost of care in the area, poverty rate relative to state poverty rate, and other factors. Requires TWC to track employment-related outcomes of parents receiving subsidized child care, including whether parents who receive child care get and keep jobs, whether their earnings increase, how long parents receive care, and the reasons parents leave care. Requires TWC to periodically analyze the information collected by TWC under this section and to compile its findings regarding the effectiveness of TWC's child care program in helping parents receiving subsidized child care to maintain employment or to move toward self-sufficiency. Requires TWC, in consultation with local workforce development boards, to compile information on employment services under Temporary Assistance for Needy Families. Requires TWC to provide notice regarding termination of certain child-care benefits. Establishes a nine-member Local Workforce Board Advisory Committee to advise TWC on the programs, policies, and rules that affect the boards and local workforce operations. Requires the executive committee of the Workforce Leadership of Texas (WLT) to appoint the committee members, consisting of nine representatives from WLT.

SECTION 4.07. Amends Subchapter C, Chapter 302, Labor Code, by adding Section 302.048, to require TWC to develop, by rule, criteria to assess local workforce development boards' overall capacity to administer and oversee local funds and services. Requires TWC to publish the results of how well each board is doing in meeting these criteria on the agency's Web site. Requires TWC to develop a set of performance measures to evaluate how well local workforce development boards, and individual local workforce centers, are performing, and make that information available to the public on the agency's Web site. Requires TWC annually to compile information provided to TWC by local workforce development boards that aggregates existing performance measure data on each local career development center in a consistent format demonstrating overall performance across multiple programs.

SECTION 4.08. Amends Subchapter D, Chapter 302, Labor Code, by adding Section 302.065, to require local workforce development boards to streamline the delivery of services in local career development centers by integrating the operation of certain federal block grant programs and caseworker functions associated with those programs. Requires TWC, in consultation with local workforce development boards, to ensure that state-level rules, policies, procedures, and organizational structures support the integration of workforce services and related support services at the local level. Requires each local career development center that provides workforce services to provide integrated eligibility determination for workforce services and case management for a customer receiving workforce services. Requires each local career development center that provides services through the federal block grant programs to provide certain services.

SECTION 4.09. Requires TWC to adopt rules as required by Section 2308.264(e), Government Code, as added by this article, not later than March 1, 2004. Requires TWC to consider using negotiated rulemaking procedures under Chapter 2008 to adopt those rules.

SECTION 4.10. Requires TWC to adopt rules to establish criteria to be used to evaluate each local workforce development board as required by Section 302.048, Labor Code, as added by this article, not later than May 1, 2004.

SECTION 4.11. Requires TWC to implement Section 302.048, Labor Code, not later than September 1, 2004.

SECTION 4.12. Requires TWC to implement Section 31.0121, Human Resources Code, and Sections 302.0042, 302.0043, and 302.0044, Labor Code, as soon as possible after the effective date of this Act.

SECTION 4.13. Requires TWC to implement Section 302.065, Labor Code, not later than September 1, 2007.

SECTION 4.14. Requires TWC, by September 1, 2004, to conduct a review of its programs, rules, policies, procedures, and organizational structure to identify barriers to service integration; conduct three to five pilot projects in different local workforce board areas to identify best methods to integrate services; and modify and develop TWC's programs, rules, policies, procedures, and organizational structure to support service integration. Allows TWC to request a waiver from federal requirements to implement service integration. Requires TWC to submit a report by January 15, 2005, to the 79th Legislature regarding the results of the pilot projects.

ARTICLE 5. ADULT EDUCATION AND LITERACY ISSUES

SECTION 5.01. Amends Chapter 301, Labor Code, by adding Subchapter I, to require the Texas Education Agency (TEA) and TWC to improve the coordination and implementation of adult education and literacy services. Requires TWC, under contract with TEA, to develop a workplace literacy and basic skills curriculum. Requires TWC to evaluate existing efforts and potential cost savings resulting from such a curriculum; contract for development assistance; target up to five industry sectors that would benefit; pilot test the curriculum in those industry sectors; and develop appropriate credentials associated with the curriculum. Requires TWC to develop and implement a plan to encourage participants who successfully complete the curriculum to pursue postsecondary education opportunities leading to certificates and degrees. Provides that this section expires September 1, 2005.

SECTION 5.02. Amends Section 302.021(a), Labor Code, to make technical changes to delete an incorrect reference to adult education programs that were not consolidated at TWC, and to remove outdated language referring to the Job Training Partnership Act. Changes reference to the words "proprietary schools" to "career schools and colleges."

SECTION 5.03. Amends Section 29.252, Education Code, by amending Subsection (a) and adding Subsection (a-1), to require TEA to collaborate with TWC to improve the coordination and implementation of adult education and literacy services, and to monitor and evaluate educational and employment outcomes of students who participate in TEA adult education and literacy programs. Requires TEA to use existing funds to contract with TWC for the development of a workplace literacy and basic skills curriculum. Provides that the requirement for TEA to contract with TWC for a curriculum expire September 1, 2005.

SECTION 5.04. Amends Subchapter C, Chapter 2308, Government Code, by adding Section 2308.1016, to require the Texas Council on Workforce and Economic Competitiveness (council) to evaluate adult education and literacy programs at the Texas Education Agency (TEA) and TWC, to identify any problems, including any duplication of planning and lack of client information sharing. Requires the council to develop and implement immediate and long-term strategies for improving any problems affecting the delivery of services. Requires the council to develop a system to monitor and evaluate the employment outcomes of participants in TEA-administered adult education and literacy programs. Requires the council to report to the governor and the legislature problems identified, and the result of measures taken to address them. Requires the council to identify the agency responsible for implementing each strategy, and a schedule for implementation.

SECTION 5.05. Amends Section 2308.104, Government Code, by adding Subsection (i), to require the council to include any long-term strategies for improving the delivery of adult education and literacy services in its strategic plan.

SECTION 5.06. Requires TWC to collaborate with TEA to improve the coordination and implementation of adult education and literacy as soon as possible after the effective date of the bill, September 1, 2003.

SECTION 5.07. Requires TWC, under contract with TEA, to develop a workplace literacy and basic skills curriculum by September 1, 2005.

SECTION 5.08. Requires TEA, as soon as possible after the effective date of the bill, September 1, 2003, to collaborate with TWC to improve the coordination and implementation of adult education and literacy, and to contract with TWC to implement a workplace literacy and basic skills curriculum.

SECTION 5.09. Requires the council, by December 31, 2003, to develop long-range strategies to facilitate delivery of adult education and literacy services, and include them in the council's strategic plan.

ARTICLE 6. ISSUANCE OF OBLIGATIONS AND IMPOSITION OF ASSESSMENTS FOR UNEMPLOYMENT COMPENSATION SYSTEM

SECTION 6.01. Amends the heading to Subchapter C, Chapter 203, Labor Code, to read as follows:

SUBCHAPTER C. ADVANCES FROM FEDERAL TRUST FUND AND OBLIGATION ASSESSMENT

SECTION 6.02. Amends Section 203.102, Labor Code, as follows:

Sec. 203.102. OBLIGATION TRUST FUND. (a) Provides that the obligation, rather than the advance interest, trust fund is a dedicated trust fund outside of the state treasury in the custody of the comptroller.

(b) Authorizes TWC and the governor to use money in the obligation, rather than advance interest, trust fund without legislative appropriation to pay bond obligations and bond administrative expenses and principal and interest incurred on advances from the federal trust fund

SECTION 6.03. Amends Section 203.104, Labor Code, as follows:

Sec. 203.104. LIMITATION ON TRANSFER FROM OBLIGATION TRUST FUND TO COMPENSATION FUND. Prohibits an amount that is attributable to the portion of the unemployment obligation assessment authorized by Section 203.105(a)(2) from being transferred to the compensation fund unless all bond obligations, including bond administrative expenses, have been fully paid and satisfied. Requires TWC, after the obligations have been fully satisfied, to transfer the balance of the obligation trust fund to the compensation fund.

SECTION 6.04. Amends Section 203.105, Labor Code, as follows:

Sec. 203.105. UNEMPLOYMENT OBLIGATION ASSESSMENT (a) Requires an unemployment obligation assessment to be imposed as provided by this section if after January 1 of a year certain conditions exist. Requires TWC to set the unemployment obligation assessment rate in an amount sufficient to ensure timely payment of interest under Subsection (a)(1), but not exceeding two-tenths of one percent. Requires TWC to set the unemployment obligation assessment rate in an amount sufficient to ensure timely payment of the bond obligations, including administrative expenses, and to provide an amount necessary in TWC's judgment to enhance investor acceptance of the bonds. Requires the rate to be based on a formula prescribed by TWC rule, using the employer's experience rating from the previous

year. Provides that the unemployment obligation assessment rate applies to the same wage base to which the employer's unemployment tax applies for the year.

(c) Provides that the unemployment obligation assessment is due at the same time, collected in the same manner, and subject to the same penalties and interest as other contributions assessed under this subtitle.

(d) Provides that revenue from the unemployment obligation assessment under this section shall be deposited to the credit of the obligation trust fund under Section 203.102.

SECTION 6.05. Amends Chapter 203, Labor Code, by adding Subchapter F, as follows:

SUBCHAPTER F. ISSUANCE OF FINANCIAL OBLIGATIONS
FOR UNEMPLOYMENT COMPENSATION FUND

Sec. 203.251. FINDINGS AND PURPOSE. (a) Provides that the legislature finds certain information.

(b) Provides that the purpose of this subchapter is to provide appropriate methods through which the state may continue the unemployment compensation program at the lowest possible cost to the state and employers in the state.

Sec. 203.252. DEFINITIONS; GENERAL PROVISION. (a) Defines "authority," "bond," "bond administrative expenses," "bond obligations," and "credit agreement."

(b) Requires an amount owed by the authority under a credit agreement to be payable from and secured by a pledge of revenues received from the unemployment obligation assessment and amounts on deposit in the obligation trust fund to the extent provided in the proceedings authorizing the credit agreement.

Sec. 203.253. REQUEST FOR BOND ISSUANCE. (a) Authorizes TWC, if it determines that the issuance of bonds is necessary to reduce or avoid the need to borrow or obtain a federal advance under Section 1201, Social Security Act (42 U.S.C. Section 1321), as amended, or any similar federal law, or to refinance a previous loan or advance received by TWC and that bond financing is the most cost-effective method of funding the payment of benefits, to request the authority to issue bonds on its behalf. Requires TWC, before making a request of the authority under this subsection, to by resolution determine that the issuance of bonds for the purposes established by this section will result in a savings to the state and to employers in this state as compared to the cost of borrowing or obtaining an advance under Section 1201, Social Security Act (42 U.S.C. Section 1321), as amended, or any similar federal law.

(b) Requires TWC to specify in TWC's request to the authority the maximum principal amount of the bonds, not to exceed \$2 billion for any separate bond issue, and the maximum term of the bonds, not to exceed 10 years.

(c) Authorizes the principal amount determined by TWC under Subsection (b) to be increased to include an amount sufficient to certain criteria.

Sec. 203.254. ISSUANCE OF BONDS BY AUTHORITY. (a) Requires the authority to issue bonds on request by TWC, in accordance with the requirements of Chapter 1232, Government Code, and other provisions of Title 9, Government Code, that apply to bond issuance by a state agency.

(b) Requires the authority to determine the method of sale, type of bond, bond form, maximum interest rates, and other terms of the bonds that, in the authority's judgment, best achieve the economic goals of TWC and effect the borrowing at the lowest practicable cost.

(c) Authorizes the authority to enter into a credit agreement in connection with the bonds.

Sec. 203.255. BOND PROCEEDS. (a) Authorizes the proceeds of bonds issued by the authority under this subchapter to be deposited with a trustee selected by the authority and TWC or held by the comptroller in a dedicated trust fund outside the state treasury in the custody of the comptroller.

(b) Requires bond proceeds, including investment income, to be held in trust for the exclusive use and benefit of TWC. Authorizes TWC to use the proceeds to pay certain costs.

(c) Authorizes any excess money remaining after the purposes for which the bonds were issued is satisfied to be used to purchase or redeem outstanding bonds.

(d) Provides that if there are no outstanding bonds or bond interest to be paid, the remaining proceeds must be transferred to the unemployment compensation fund.

Sec. 203.256. REPAYMENT OF COMMISSION'S FINANCIAL OBLIGATIONS. (a) Requires TWC to assess an unemployment obligation assessment annually on each employer entitled to an experience rating under Chapter 204 if any bonds issued under this subchapter are outstanding.

(b) Requires the authority, with regard to outstanding bonds issued by the authority under this subchapter, to notify TWC of the amount of the bond obligations and the estimated amount of bond administrative expenses each year in sufficient time, as determined by TWC, to permit TWC to assess the annual rate of the unemployment obligation assessment, subject to verification by a financial advisor of TWC or as otherwise specified in the proceedings authorizing the bonds.

(c) Requires TWC to deposit all revenue collected from the unemployment obligation assessment into the obligation trust fund. Authorizes money deposited in the fund to be invested as permitted by general law. Requires money in the obligation trust fund required to be used to pay bond obligations and bond administrative expenses to be transferred to the authority or used by TWC in the manner and at the time specified in the resolution adopted in connection with the bond issue to ensure timely payment of obligations and expenses, or as otherwise provided by the bond documents.

(d) Requires TWC, for bonds issued by the authority for TWC, to provide for the payment of the bond obligations and the bond administrative expenses by irrevocably pledging revenues received from the unemployment obligation assessment and amounts on deposit in the obligation trust fund, together with any bond reserve fund, as provided in the proceedings authorizing the bonds and related credit agreements.

Sec. 203.257. BOND PAYMENTS. (a) Authorizes revenues received from the unemployment obligation assessment to be applied only as provided by this subchapter.

(b) Authorizes TWC to pay bond obligations with other legally available funds.

(c) Provides that bond obligations are payable only from sources provided for payment

in this subchapter.

Sec. 203.258. EXCESS REVENUE COLLECTIONS AND INVESTMENT EARNINGS. Authorizes revenue collected from the unemployment obligation assessment in any year that exceeds the amount of the bond obligations and bond administrative expenses payable in that year and interest earned on the obligation trust fund to be, in the discretion of TWC, used to pay for certain obligations.

Sec. 203.259. STATE DEBT NOT CREATED. (a) Provides that a bond issued under this subchapter, and any related credit agreement, is not a debt of the state or any state agency or political subdivision of the state and is not a pledge of the faith and credit of any of them. Provides that a bond or credit agreement is payable solely from revenue as provided by this subchapter.

(b) Requires a bond, and any related credit agreement, issued under this chapter to contain on its face a specific statement.

Sec. 203.260. STATE NOT TO IMPAIR BOND OBLIGATIONS. Provides that if bonds under this subchapter are outstanding, the state may not take action to limit or restrict TWC's rights to fulfill its responsibility to pay bond obligations or in any way impair the rights and remedies of the bond owners until the bonds are fully discharged.

Sec. 203.261. EXEMPTION FROM TAXATION. Provides that a bond issued under this subchapter, any transaction relating to the bond, and profits made from the sale of the bond are exempt from taxation by this state or by a municipality or other political subdivision of this state.

Sec. 203.262. NO PERSONAL LIABILITY. Provides that the members of TWC, TWC employees, the board of directors of the authority, and the employees of the authority are not personally liable as a result of exercising the rights and responsibilities granted under this subchapter.

SECTION 6.06. Amends the heading to Section 204.063, Labor Code, to read as follows:

Sec. 204.063. DEFICIT ASSESSMENT.

SECTION 6.07. Amends Section 204.064(b), Labor Code, to provide that the numerator is computed by subtracting the balance of the compensation fund, considering any federal advance, from the floor of the compensation fund.

SECTION 6.08. Repealer: Section 203.103, Labor Code.

SECTION 6.09. Provides that the advance interest trust fund established under Section 203.102, Labor Code, as that section existed before the effective date of this article, is abolished on the effective date of this article. Provides that all money in that fund on that date is transferred to the obligation trust fund established by Section 203.102, Labor Code, as amended by this article.

ARTICLE 7. PARTIAL TRANSFERS OF UNEMPLOYMENT

COMPENSATION EXPERIENCE RATES

SECTION 7.01. Amends Section 204.084 (c), Labor Code, and adds Subsection (d), to authorize TWC to deny a partial transfer of unemployment compensation experience if TWC determines the acquisition or reorganization was done primarily to qualify for a reduced unemployment insurance tax rate by circumventing the experience rating system or manipulating the experience rating system by minimizing the impact of chargebacks to the predecessor employer's tax account. Establishes a one-

year time limit for employers to file an application for a partial transfer due to an acquisition or reorganization. Prohibits partial transfers for part of an organization, trade, or business that cannot operate independently. The part of the business being transferred would have to be a stand-alone part of the business, able to operate on its own, and not be just a few select employees or a particular division of the business.

SECTION 7.02. Specifies that changes to requirements for partial transfers of unemployment compensation experience apply only to an acquisition of an organization, trade, or business that occurs on or after the effective date of the bill, September 1, 2003.

ARTICLE 7A. OTHER UNEMPLOYMENT COMPENSATION ISSUES

SECTION 7A.01. Amends Section 204.022, Labor Code, by amending Subsection (a) and adding Subsections (c), (d), and (e), as follows:

- (a) Prohibits benefits computed on benefit wage credits of an employee or former employee from being charged to the account of an employer if the employee's last separation from the employer's employment before the employee's benefit year meets certain criteria.
- (c) Provides that except as provided by law, evidence regarding an employee described by Subsection (a)(9) may not be disclosed to any person without the consent of the employee.
- (d) Defines "family violence" and "stalking" for purposes of Subsection (a)(9).
- (e) Prohibits benefits from being charged to the account of an employer, regardless of whether the liability for the chargeback arises in the employee's current benefit year or in a subsequent benefit year, if the employee's last separation from the employer's employment before the employee's benefit year was or would have been excepted from disqualification under Section 207.052(b).

SECTION 7A.02. Amends Subchapter C, Chapter 212, Labor Code, by adding Section 212.106, as follows:

Sec. 212.106. RULES REGARDING HEARINGS CONDUCTED BY TELEPHONE CONFERENCE. Requires TWC by rule to develop procedures to ensure that an appeal tribunal makes every effort in a hearing conducted by telephone conference under this subchapter to obtain all relevant facts and evidence from the parties to the appeal.

SECTION 7A.03. Amends Section 207.045(d), Labor Code, to prohibit an individual, notwithstanding any other provision of this section, who is available to work from being disqualified for benefits because the individual left work because of an involuntary separation as described by Section 207.046.

SECTION 7A.04. Amends Section 207.046, Labor Code, to provide that an individual is not disqualified for benefits under this subchapter if certain conditions are met.

- (b) Provides that except as provided by law, evidence regarding an employee described by Subsection (a)(2) may not be disclosed to any person without the consent of the employee.
- (c) Defines "family violence" and "stalking."

SECTION 7A.05. Makes application of the changes in law made by this Act to Section 204.022, Subsection (d), Section 207.045, and Section 207.046, Labor Code, prospective.

ARTICLE 8. CAREER SCHOOLS AND COLLEGES

PART 1. SUBSTANTIVE CHANGES REGARDING CAREER
SCHOOLS AND COLLEGES

SECTION 8.01. Amends Section 132.001, Education Code, by amending Subdivisions (1) through (8), (10), and (12) and adding Subdivision (13), as follows:

- (1) Defines "career school or college."
- (2) Defines "owner."
- (3) Defines "school employee."
- (4) Defines "representative."
- (5) Defines "agency administrator."
- (6) Defines "notice to the career school or college."
- (7) Defines "support" or "supported."
- (8) Defines "person."
- (10) Defines "small career school or college."
- (12) Defines "division."
- (13) Defines "distance education."

SECTION 8.02. Amends Subchapter A, Chapter 132, Education Code, by adding Section 132.0015, as follows:

Sec. 132.0015. REFERENCE TO PROPRIETARY SCHOOL. Provides that a reference in this code or another law to a proprietary school means a career school or college.

SECTION 8.03. Amends Section 132.002, Education Code, by amending Subsections (a) and (d) and adding Subsections (e) and (f), as follows:

- (a) Authorizes certain schools or educational institutions to be exempted from this chapter by TWC under Subsection (d).
- (d) Provides that a school or educational institution is exempt from regulation under this chapter only if certain conditions are met.
- (e) Authorizes TWC, after a school or educational institution is declared exempt by TWC under this section, to inspect the school or institution or require the owner of the school or institution to provide any information TWC considers necessary for TWC to ensure the school or institution's continued compliance with the requirements of the exemption.
- (f) Authorizes a school or educational institution listed in Subsection (a) to seek a certificate of approval under Subchapter C.

SECTION 8.04. Amends Section 132.051, Education Code, as follows:

- (a) Prohibits a career school or college from maintaining, advertising, soliciting for, or conducting any course of instruction in this state before the later of the 30th day after the date the school or college applies for a certificate of approval under this chapter or the date the school or college receives a certificate of approval from TWC.
- (b) Provides that any note, other instrument of indebtedness, or contract relating to payment for educational services obtained from a career school or college that does not hold a certificate of approval issued under this chapter is unenforceable in any action brought on the note, instrument, or contract. Makes conforming changes.

SECTION 8.05. Amends Section 132.055, Education Code, to make conforming changes.

SECTION 8.06. Amends Section 132.061, Education Code, to change all references to the words “proprietary schools” to “career schools and colleges.” Clarifies that a closing proprietary school must make full refunds to students, and that each officer, director, and owner of a career school is personally liable for the amount of any refund owed. Provides that each owner of a closing career school or college to which a certificate of approval has not been issued under this chapter is personally liable for the amount of any refund owed to a student under Subsection (h).

SECTION 8.07. Amends Section 132.152(c) through (i), Education Code, as follows:

(c) Requires TWC to impose an administrative penalty if, after examination of a possible violation and the facts relating to that possible violation, TWC concludes that a violation has occurred.

(d) Requires the hearing, if the person charged requests a hearing, to be conducted in the same manner as a hearing on the denial of certificate of approval under Section 132.101. Requires TWC to perform certain tasks if the hearing results in a finding that a violation has occurred.

(e) Requires the person, not later than the 30th day after the date the person receives the order entered by TWC under Subsection (d), to perform certain tasks.

(f) Provides that TWC’s order is subject to judicial review in the same manner as an appeal of a decision to deny a certificate of approval under Section 132.102.

(g) Requires TWC, if on review the court does not sustain the occurrence of the violation or finds that the amount of the penalty should be reduced, to remit the appropriate amount to the person charged with the violation not later than the 30th day after the date the court's judgment becomes final.

(h) Requires and authorizes the court to perform certain task if the court sustains the occurrence of the violation.

(i) Authorizes TWC, if the person does not pay the amount of the penalty after TWC's order becomes final for all purposes to refer the matter to the attorney general for collection of the amount of the penalty.

SECTION 8.08. Amends Chapter 132, Education Code, by adding Subchapter J, to authorize TWC to issue a cease-and-desist order to bring an unlicensed proprietary school into compliance with state law. Provides that only schools that fail to respond to the cease-and-desist order would be referred to the Consumer Protection Division of the Office of the Attorney General for further action. Requires TWC to adopt rules as necessary to implement the changes.

SECTION 8.09. Amends Subchapter I, Chapter 132, Education Code, by adding Section 132.2415, as follows:

Sec. 132.2415. TUITION TRUST ACCOUNT. (a) Provides that the TWC depository bonds guaranty trust account is renamed the career school or college tuition trust account. Provides that the career school or college tuition trust account is the account designated to receive all amounts related to the protection of career school or college tuition. Prohibits the balance of the trust account from exceeding \$1 million.

(b) Authorizes TWC to collect annually a fee from each career school or college to be deposited to the credit of the career school or college tuition trust account. Requires the total amount of the fees collected in a year to be set by TWC in the amount estimated as necessary to pay the liabilities of the trust account during that year, not to exceed 0.2 percent of the gross amount of tuition and fees charged by career schools

and colleges in that year, excluding amounts refunded under Section 132.061.

(c) Authorizes TWC, if, at the end of a fiscal year, TWC determines that TWC has collected fees under this chapter in excess of the amount necessary to defray the expense of administering this chapter, to transfer any portion of the excess amount to the career school or college tuition trust account.

(d) Requires TWC, from money in the career school or college tuition trust account, to attempt to provide a full refund to each student of a closed career school or college of the amount owed to the student as determined under Section 132.061. Authorizes TWC to provide a partial refund to a student only if TWC determines that the amount in the trust account is insufficient to provide a full refund to the student. Requires TWC to consider certain factors in determining the amount of a partial refund to be paid to a student.

(e) Authorizes TWC, notwithstanding Subsection (b), in the state fiscal year ending August 31, 2004, to collect a fee under Subsection (b) only if on January 1 of that year the amount in the career school or college tuition trust account is less than \$300,000. Provides that this subsection expires September 1, 2005.

SECTION 8.10. Amends Section 132.242, Education Code, to change all references to the words “proprietary schools” to “career schools and colleges.” Increases from \$50,000 to \$150,000 the amount that can be spent per school closure from the Tuition Protection Fund.

SECTION 8.11. Makes application of the change in law made by this part to Section 132.051(b), Education Code, prospective.

SECTION 8.12. Makes application of the change in law made by this part to Section 132.055, Education Code, prospective.

SECTION 8.13. Makes application of the changes in law made by this part to Section 132.061(b), Education Code, prospective.

SECTION 8.14. Makes application of the changes in law made by this part to Section 132.152, Education Code, prospective.

SECTION 8.15. Requires on or after the effective date of this part, any amount remaining in or payable to the credit of the tuition protection fund under Section 132.241, Education Code, as that section existed before repeal by this Act, to be transferred to the credit of the career school or college tuition trust account established under Section 132.2415, Education Code, as added by this part.

PART 2. CONFORMING AMENDMENTS REGARDING CAREER SCHOOLS AND COLLEGES

SECTION 8.16. Amends Section 52.32(b), Education Code, to change all references to the words “proprietary schools” to “career schools and colleges.”

SECTION 8.17. Amends Section 53.02(5), Education Code, to change all references to the words “proprietary schools” to “career schools and colleges.”

SECTION 8.18. Amends Section 54.6001, Education Code, to change all references to the words “proprietary schools” to “career schools and colleges.”

SECTION 8.19. Amends Section 54.601(9), Education Code, to change all references to the words “proprietary schools” to “career schools and colleges.”

SECTION 8.20. Amends Section 54.605(a), Education Code, to change all references to the words “proprietary schools” to “career schools and colleges.”

SECTION 8.21. Amends Section 54.618(b), Education Code, to change all references to the words “proprietary schools” to “career schools and colleges.”

SECTION 8.22. Amends Section 54.619(h), Education Code, to change all references to the words “proprietary schools” to “career schools and colleges.”

SECTION 8.23. Amends heading of Chapter 132, Education Code, to change the reference to “proprietary schools” to “career schools and colleges.”

SECTION 8.24. Amends Sections 132.021(a), (b), and (d), Education Code, to change all references to the words “proprietary schools” to “career schools and colleges,” and to clarify that The commissioners, meaning the three full-time commissioners, have responsibility for adopting rules and policies for carrying out this chapter.

SECTION 8.25. Amends Section 132.022, Education Code, to change all references to the words “proprietary schools” to “career schools and colleges.”

SECTION 8.26. Amends Section 132.023, Education Code, to change all references to the words “proprietary schools” to “career schools and colleges.” Clarifies that the commissioners, meaning the three full-time commissioners, have responsibility for adopting rules; and that staff have responsibility for implementing policy.

SECTION 8.27. Amends Section 132.052, Education Code, to change all references to the words “proprietary schools” to “career schools and colleges.”

SECTION 8.28. Amends Section 132.053, Education Code, to change all references to the words “proprietary schools” to “career schools and colleges.” Clarifies a distinction between the duties of TWC, meaning the agency as a whole.

SECTION 8.29. Amends Section 132.054, Education Code, to change all references to the words “proprietary schools” to “career schools and colleges.”

SECTION 8.30. Amends Section 132.056, Education Code, to change all references to the words “proprietary schools” to “career schools and colleges.”

SECTION 8.31. Amends Section 132.058, Education Code, to change all references to the words “proprietary schools” to “career schools and colleges.”

SECTION 8.32. Amends Sections 132.059(a), (b), and (d), Education Code, to change all references to the words “proprietary schools” to “career schools and colleges.”

SECTION 8.33. Amends Section 132.062, Education Code, to change all references to the words “proprietary schools” to “career schools and colleges.”

SECTION 8.34. Amends Section 132.063, Education Code, to change all references to the words “proprietary schools” to “career schools and colleges.”

SECTION 8.35. Amends Section 132.064, Education Code, to change all references to the words “proprietary schools” to “career schools and colleges.”

SECTION 8.36. Amends Section 132.151, Education Code, to change all references to the words

“proprietary schools” to “career schools and colleges.”

SECTION 8.37. Amends Section 132.153, Education Code, to clarify a distinction between the duties of TWC, meaning the agency as a whole. Changes all references to the words “proprietary schools” to “career schools and colleges.”

SECTION 8.38. Amends Section 132.154(a), Education Code, to change all references to the words “proprietary schools” to “career schools and colleges.”

SECTION 8.39. Amends Section 132.156, Education Code, to change all references to the words “proprietary schools” to “career schools and colleges.”

SECTION 8.40. Amends Sections 132.157(a), (b), (c), and (d), Education Code, to change all references to the words “proprietary schools” to “career schools and colleges.”

SECTION 8.41. Amends Sections 132.201(a), (c), (d), (e), (f), (h), and (i), Education Code, to change all references to the words “proprietary schools” to “career schools and colleges.”

SECTION 8.42. Amends Section 52.013(b), Government Code, to change all references to the words “proprietary schools” to “career schools and colleges.”

SECTION 8.43. Amends Section 305.002(3), Labor Code, to change all references to the words “proprietary schools” to “career schools and colleges.”

SECTION 8.44. Amends Section 305.023, Labor Code, to change all references to the words “proprietary schools” to “career schools and colleges.”

SECTION 8.45. Amends Section E, Section 2.23A, Texas Non-Profit Corporation Act (Article 1396-2.23A, V.T.C.S.), to change all references to the words “proprietary schools” to “career schools and colleges.” Includes conforming changes to update agency names.

ARTICLE 9. REPEALER

SECTION 9.01. Repealer:

- (1) Section 132.060, Education Code;
- (2) Sections 132.152(j) through (m), Education Code;
- (3) Section 132.241, Education Code;
- (4) Section 201.002, Labor Code;
- (5) Section 301.006, Labor Code, as added by Section 5.82(a), Chapter 76, Acts of the 74th Legislature, Regular Session, 1995;
- (6) Section 301.061(c), Labor Code; and
- (7) Section 302.005(k), Labor Code.

ARTICLE 10. GENERAL CONFORMING AMENDMENTS

SECTION 10.01. Amends Section 30.103, Education Code, with a conforming change to update the agency name.

SECTION 10.02. Amends Sections 501.095(d), Government Code, to require TWC to develop a memorandum of understanding (MOU).

SECTION 10.03. Amends Section 531.045(b), Government Code, to clarify that the executive director of TWC appoints a representative of TWC to the Interagency Task Force on Electronic Benefits Transfers.

SECTION 10.04. Amends Section 572.003(c), Government Code, with conforming changes to

update agency names, and to clarify a distinction between the duties of TWC, meaning the agency as a whole; and the duties of the commissioners, meaning the three full-time commissioners, acting as the governing body of the agency. Includes a conforming change to delete a reference to an agency that no longer exists.

SECTION 10.05. Amends Section 656.001, Government Code, with a conforming change to update the agency name.

SECTION 10.06. Amends Section 656.021(l), Government Code, with a conforming change to update the agency name, and to clarify a distinction between TWC, meaning the agency as a whole.

SECTION 10.07. Amends Section 657.009, Government Code, with a conforming change to update the agency name, and to clarify a distinction between the duties of TWC, meaning the agency as a whole.

SECTION 10.08. Amends Section 772.0031(a), Government Code, to clarify that the executive director of TWC appoints a representative of TWC to the Human Resource Task Force.

SECTION 10.09. Amends Section 2162.051(a), Government Code, to clarify a distinction between TWC, meaning the agency as a whole.

SECTION 10.10. Amends Section 115.002(c), Human Resources Code, to clarify that the executive director of TWC is an ex-officio member of the Governor's Committee on People with Disabilities.

SECTION 10.11. Amends Section 61.005(a), Labor Code, to clarify that agency staff, or an authorized representative, have responsibility for implementing procedures tied to a person's refusal to obey a subpoena issued by the agency.

SECTION 10.12. Amends Section 62.107(c), Labor Code, with conforming change to update the agency name.

SECTION 10.13. Amends Section 201.011(8), Labor Code, to clarify a distinction between the duties of TWC, meaning the agency as a whole.

SECTION 10.14. Amends Sections 306.007(a) and (b), Labor Code, to require TWC through project RIO to assist in the reintegration into the labor force those persons formerly sentenced to the institutional division or the state jail division. Clarifies a distinction between the duties of TWC, meaning the agency as a whole. Includes a conforming change to update an agency name.

ARTICLE 11. EFFECTIVE DATE

SECTION 11.01. Effective date: September 1, 2003, except that Article 6 of this Act takes effect immediately upon passage. Provides that if this Act does not receive the vote necessary for immediate effect, Article 6 takes effect September 1, 2003.