

BILL ANALYSIS

H.B. 2316
By: Miller
Economic Development
Committee Report (Amended)

BACKGROUND AND PURPOSE

Section 301.003(b) of the Labor Code prohibits members of the Texas Workforce Commission (Commission) from engaging in any business, vocation or employment during their term of office. It also bars someone from serving as a member if his or her spouse “is registered, certified, licensed, permitted, or otherwise authorized by the Commission.” Because of the Texas Workforce Commission’s role in the Unemployment Insurance program, the Commission “registers” virtually every Texas business with employees. In addition, if a commissioner employs a domestic service worker and pays Unemployment Insurance taxes on that worker the member is “registered” by the commission with an UI tax identification. This is a violation under current law. These restrictions mean that members of TWC may not engage in any other business, vocation or employment – even if those outside interests are not in conflict with their duties to the state. Further, the restrictions hamper the ability of members’ spouses to secure employment or employ others. Ultimately, these restrictions may severely limit the number of people who might qualify for appointment as a member of the commission in the future.

HB 2316 will allow a TWC Commission member to have an outside business or employment so long as it involves personal investments in real property, financial instruments, or tangible assets, or the provision of services as an independent contractor (other than for workforce services in the state of Texas). Members continue to be prohibited from being employed by community colleges receiving money from the Commission and career schools. Individuals may also serve as members if they or their spouses are registered, certified, licensed, permitted or otherwise authorized by the Commission under the Unemployment Compensation Act, or if they employ a domestic service worker under section 201.027, Labor Code.

Members who are engaged in an outside employment must recuse themselves from all commission discussion or votes related to that employment.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

SECTION 1. Amends Section 301.003, Labor Code, to read as follows:

Section 301.003 MEMBER RESTRICTIONS. (a) Adds a definition of “business” that excludes personal investment in real property, financial instruments or tangible assets, or the provision of personal services, other than workforce services in the state of Texas, as an independent contractor. (b) Prohibits a commissioner and his/her spouse from being employed by any business or organization receiving money from the Commission during the commissioner’s term of office. (d) States that a commissioner’s employment of domestic service workers does not create a grounds for removal. (e) Adds a new section to prohibit commissioners from voting on or participating in any Commission decision involving their or their spouses’ outside employment.

SECTION 2. Provides the effective date of this Act.

EFFECTIVE DATE

Upon passage, or, if the Act does not receive the necessary vote, the Act takes effect September 1, 2005.

EXPLANATION OF AMENDMENTS

The amendment adds subsection (f) which further restricts a member of the commission or a member's spouse regarding contracting with a local workforce development board or a contracting entity.