

By: Miller

H.B. No. 2316

A BILL TO BE ENTITLED

1 AN ACT

2 relating to member restrictions for commissioners of the Texas  
3 Workforce Commission.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Section 301.003, Labor Code, is amended to read  
6 as follows:

7 Sec. 301.003. MEMBER RESTRICTIONS.

8 (a) In this section~~[7]~~:

9 (1) "Business" does not mean personal investment in  
10 real property, financial instruments or tangible assets, or the  
11 provision of personal services, other than workforce services in  
12 the state of Texas, as an independent contractor.

13 (2) "Texas trade association" means a cooperative and  
14 voluntarily joined statewide association of business or  
15 professional competitors in this state designed to assist its  
16 members and its industry or profession in dealing with mutual  
17 business or professional problems and in promoting their common  
18 interest.

19 (b) A member of the commission or the member's spouse may  
20 not ~~[engage in]~~ be employed by any [other] business~~[, vocation]~~ or  
21 ~~[employment]~~ other organization receiving money from the  
22 commission during the member's term on the commission.

23 (c) A person may not be a member of the commission or an  
24 employee of the commission employed in a "bona fide executive,

1 administrative, or professional capacity," as that phrase is used  
2 for purposes of establishing an exemption to the overtime  
3 provisions of the federal Fair Labor Standards Act of 1938 (29  
4 U.S.C. Section 201 et seq.), and its subsequent amendments, if:

5 (1) the person is an officer, employee, or paid  
6 consultant of a Texas trade association in the field of labor,  
7 business, workforce development, child care, or career schools and  
8 colleges; or

9 (2) the person's spouse is an officer, manager, or paid  
10 consultant of a Texas trade association in the field of labor,  
11 business, workforce development, child care, or career schools and  
12 colleges.

13 (d) A person may not serve as a member of the commission if  
14 the person or the person's spouse:

15 (1) is employed by or participates in the management  
16 of a career school or college or a business entity or other  
17 organization receiving money from the commission;

18 (2) owns or controls, directly or indirectly, more  
19 than a 10 percent interest in a career school or college or a  
20 business entity or other organization receiving money from the  
21 commission; or

22 (3) is registered, certified, licensed, permitted, or  
23 otherwise authorized by the Commission. For purposes of this  
24 section, registered, certified, licensed, permitted or otherwise  
25 authorized by the Commission does not include the following:

26 (A) the Commission's role under Subtitle A of  
27 this title; and

1                   (B) employment of domestic service workers under  
2 Section 201.027 of this title.

3           (e) If a member of the commission or the member's spouse is  
4 engaged in any other employment, the member of the commission shall  
5 refrain from voting on or participating in any commission decision  
6 that involves the other employment.

7           SECTION 2. EFFECTIVE DATE.       This Act takes effect  
8 immediately if it receives a vote of two-thirds of all the members  
9 elected to each house, as provided by Section 39, Article III, Texas  
10 Constitution. If this Act does not receive the vote necessary for  
11 immediate effect, this Act takes effect September 1, 2005.

1                                    COMMITTEE AMENDMENT NO. 1

2                    Amend H.B. No. 2316 on page 2, after line 32, by inserting the  
3 following new subsection:

4                    (f) A member of the commission or the member's spouse may  
5 not enter into a contract, either directly with a local workforce  
6 development board or with an entity that contracts with a local  
7 workforce development board, under which the member or the member's  
8 spouse receives compensation for services provided by the member or  
9 the member's spouse.

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Kolkhorst