

**SUBJECT:** Changing restrictions on commissioners of Texas Workforce Commission.

**COMMITTEE:** Economic Development —favorable, with amendment

**VOTE:** 5 ayes — B. Cook, Anchia, Deshotel, Kolkhorst, McCall

0 nays

2 absent — Ritter, Seaman

**WITNESSES:** For — None

Against — None

On — Don Ballard, Texas Workforce Commission

**BACKGROUND:** Texas Workforce Commission (TWC) administers the unemployment compensation insurance program in the state. Employers must register with TWC within 10 days of becoming subject to the Texas Unemployment Compensation Act.

TWC registers most Texas employers, including employers that pay \$1,500 in wages in a calendar quarter or have at least one employee during 20 different weeks in a calendar year. An employer of domestic workers paying \$1,000 in total cash wages during any calendar quarter also must register with TWC.

Three full-time commissioners oversee the TWC and develop agency policy. The commissioners – one each representing employers, labor, and the public – are appointed by the governor.

Section 301.003 of the Labor Code restricts members of the commission from engaging in any other business, vocation, or employment during the member's term on the commission.

**DIGEST:** HB 2316, as amended, would prohibit a member of the commission or a member's spouse from being employed by a business or organization receiving money from the commission during the member's term.

Under the bill, "business" would not mean personal investment in real property, financial instruments, tangible assets, or provision of personal services as an independent contractor, other than workforce services in the state of Texas.

HB 2316 would provide exceptions to restrictions on members being registered, certified, licensed, permitted or otherwise authorized by the commission. These exceptions would include those registered as paying unemployment taxes under Subtitle A (TUCA) and those employing domestic service workers under section 201.027.

HB 2316 as amended would prohibit a member of the commission or the member's spouse from entering into a compensatory contract with a local workforce development board or with an entity that contracted with such a board.

If a member or a member's spouse were engaged in any other employment, the member would refrain from voting on or participating in any commission decision that involved the other employment.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2005.

**SUPPORTERS  
SAY:**

HB 2316 would loosen overly tight restrictions on commissioners to allow them to have outside businesses or jobs within certain limits. This is necessary because current restrictions limit too greatly the number of people who qualify for appointment as members of the commission.

TWC registers most Texas businesses that have employees, as well as many who hire domestic service workers. As a result, current restrictions preventing a person from membership if that person or the person's spouse is "registered, certified, licensed or permitted" with TWC creates an unreasonable restriction for potential members.

HB 2316 would allow a member or member's spouse to be registered with TWC as a Texas employer paying unemployment taxes or to employ a domestic service worker. The bill also would allow members to have outside businesses or employment as long as it involved personal investments in real property, financial instruments, tangible assets, or

provision of services as an independent contractor, other than for workforce services in Texas.

HB 2316 still would keep commissioners accountable because it would require members engaged in outside employment to recuse themselves from commission discussion or votes related to that employment. HB 2316 as amended would further restrict a member of the commission or a member's spouse in contracting with local workforce development boards.

OPPONENTS  
SAY:

HB 2316 would go too far in changing the restrictions on the commissioners. Because the bill would allow commissioners in some cases to provide services as contractors or to pay unemployment insurance taxes to the TWC, the potential for a conflict of interest would be present. It would be a mistake to loosen current ethics restrictions on TWC membership.

NOTES:

The committee amendment would prohibit a member of the commission or a member's spouse from entering into a compensatory contract with a local workforce development board or with an entity contracting with that board.

The companion bill, SB 1309 by Ellis, passed the Senate by 30-0 on April 21 and was reported favorably, without amendment, by the House Economic Development Committee on May 5, making it eligible to be considered in lieu of HB 2316.