

Discussion Paper Authorizing Use of the Special Administration Fund

Background

On August 8, 2020, President Donald Trump authorized the Federal Emergency Management Agency (FEMA) to expend up to \$44 billion from the Disaster Relief Fund for lost wage payments, known as the Lost Wages Supplemental Payment Assistance (LWA) program. LWA replaced the Federal Pandemic Unemployment Compensation program (FPUC) for the benefit weeks ending August 1, 2020, through September 5, 2020 (6 weeks), and provided an additional \$300 for every payable week during those 6 weeks. TWC expended \$2.95 billion in FEMA-funded LWA payments for those benefit weeks.

Issue: LWA Overpayments

Federal Unemployment Insurance (UI) payments made under the authority of Department of Labor (DOL) do not require TWC to remit overpayments back to DOL at the time the determination of overpayment is made or at the closeout of any federal benefit program. Historically, TWC collects overpayments and remits those payments to DOL as TWC collects on the overpayments, which could be long after the DOL program has ended. FEMA has notified all states that any LWA outstanding overpayments that were not waived by TWC under federally-mandated guidelines must be returned to FEMA on or before closeout, September 27, 2022, whether TWC has collected the overpayment from the claimant or not.

TWC has determined there are 2,818 claimants in an LWA overpayment status totaling \$4,184,400 in overpayments.

Decision Point: Use of the Special Administration Fund (Fund 0165-Penalties and Interest) to cover LWA Overpayments

The Special Administration Fund (Fund 0165) was created to receive penalties and interest collected under the Unemployment Compensation Act. Section 203.202

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of the Texas Labor Code describes the allowable uses of Fund 0165. Section 203.202(c) states, *The commission by a resolution entered in its minutes may authorize to be charged against the special administration fund any expenditure the commission considers proper in the interest of good administration of this subtitle if the resolution states that no other funds are available for expenditure.*

Although LWA is not classified a UI Benefit, LWA payments were combined with other eligible UI programs when claimants were paid. There are no other funds to return to FEMA until TWC collects the LWA overpayments from claimants. If the Special Administration Fund is authorized to repay FEMA for LWA overpayments, any LWA overpayment funds TWC collects from claimants would be deposited to the Special Administration Fund instead of depositing into the UI trust fund. The current balance of Fund 0165 is \$27.5 million.

TWC staff requests that the Commission authorize the use of unappropriated funds in the Special Administration Fund (Fund 0165) in the amount of \$4,184,400 to return the LWA overpayments to FEMA until the funds can be collected from claimants.