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Bobby Jindal, Governor
Curt Eysink, Executive Director

Office of the Executive Director

January 7, 2016

The Honorable Chuck Kleckley
House Speaker
LA House of Representatives
PO Box 94062
Baton Rouge, LA 70804-9062

Via email to: apa.housespeaker@legis.la.gov

The Honorable Chris Broadwater
Acting Chairman
House Committee on Labor and Industrial Relations
LA House of Representatives
PO Box 94062
Baton Rouge, LA 70804-9062

Via email to: apa.h-lir@legis.la.gov

The Honorable John A. Alario, Jr.
Senate President
LA Senate
P.O. Box 94183
Baton Rouge, LA 70804

Via email to: apa.senatepresident@legis.la.gov

The Honorable A.G. Crowe
Chairman
Senate Committee on Labor and Industrial Relations
LA Senate
P.O. Box 94183
Baton Rouge, LA 70804

Via email to: apa.s-l&r@legis.la.gov

RE: Oversight Report on Louisiana Workforce Commission's Office of Workforce Development Proposed Rulemaking for Certification of High Unemployment Areas

Honorable Members of the Louisiana Legislature:

In accordance with the Administrative Procedure Act (R.S. 49:950 et seq.) as amended, we are submitting the attached documents for the proposed Rule for Certification of High Unemployment Areas-Application Fee.

The Workforce Commission published a Notice of Intent on this proposed Rule in the November 20, 2015 issue of the *Louisiana Register* (Volume 41, Number 11). A public hearing was held on December 30, 2015 at which only Workforce Commission staff was present. No oral testimony or written comments were received regarding this proposed Rule.

The Workforce Commission anticipates adopting the Notice of Intent as a final Rule in the March 20, 2016 issue of the *Louisiana Register*.

The following documents are attached:

1. a copy of the Notice of Intent; and
2. the public hearing attendance roster.

If you have any questions, you may contact Jenee Slocum at (225) 938-9333.

Sincerely,


Curt Eysink

CE/dlg

Attachments (2)

NOTICE OF INTENT

**Workforce Commission
Office of Workforce Development**

**Certification of High Unemployment Areas
(LAC 40:XXI.101)**

Pursuant to the authority granted by R.S. 36:310 and 8 CFR Part 204.6(i) and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., notice is hereby given that the Louisiana Workforce Commission proposes to promulgate LAC 40:XXI.101. The purpose of the promulgation of this Rule is to allow the Workforce Commission to charge a fee to cover expenses related to certifying high unemployment areas under the Employment Based Fifth Category Visa Program (EB-5). This proposed Rule is being promulgated to continue the provisions of the Emergency Rule adopted on September 9, 2015.

Title 40

LABOR AND EMPLOYMENT

Part XXI. High Unemployment Areas

Chapter 1. Certification of High Unemployment Areas

§101. Application Fee

A. An application fee in the amount of \$250 shall be required for each request for certification of a high unemployment area under the Employment Based Fifth Category Visa Program (EB-5).

B. All fees shall be paid in advance by check, money order, or other authorized method of payment and made payable to: Louisiana Workforce Commission. Cash cannot be accepted.

AUTHORITY NOTE: Promulgated in accordance with 8 CFR Part 204.6(i) and R.S. 36:310.

HISTORICAL NOTE: Promulgated by the Workforce Commission, Office of Workforce Development, LR 42:

Family Impact Statement

Implementation of the proposed Rule should not have any known or foreseeable impact on any family as defined by R.S. 49:972(D) or on the six criteria set forth in R.S. 49:972(B), except that the proposed Rule could result in a positive impact on family earnings and budget under R.S. 972(B)(4), if the certification issued under this proposed Rule results in investment and job creation in a high unemployment area.

Poverty Impact Statement

The proposed Rule will have no impact on poverty as described in R.S. 49:973, except that the proposed Rule could result in a positive impact on employment and workforce development under R.S. 973(B)(3), if the certification issued under this proposed Rule results in investment and job creation in a high unemployment area.

Small Business Statement

The proposed Rule's impact on small businesses has been considered in accordance with R.S. 49:965.6, and it is estimated that the proposed action will have negligible impact on small businesses as defined in the Regulatory Flexibility Act.

Provider Impact Statement

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of the 2014 Regular Legislative Session. In particular, it is anticipated that this proposed Rule will have no known or foreseeable effect on the staffing level requirements or qualifications required to provide the same level of service, no direct or indirect cost to the provider to provide the same level of service, and will have no impact on the provider's ability to provide the same level of service as described in HCR 170.

Public Comments

All interested parties are invited to submit views, arguments, information, or comments on the proposed rule to Jenee Slocum, Office of Workforce Development, Workforce Commission, P.O. Box 94094, Baton Rouge, LA 70804-9094. The deadline for receipt of all written comments is 4 p.m. on December 29, 2015. No preamble was prepared.

Public Hearing

A public hearing on this proposed Rule is scheduled for Wednesday, December 30, 2015, at 10 a.m. at the LWC Training Center, 2155 Fuqua Street, Baton Rouge, LA 70802.

Curt Eysink
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Certification of High Unemployment Areas

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule promulgates Title 40 Labor and Employment, Part XXI High Unemployment Areas, Chapter I

Certification of High Unemployment Areas, and Section 101 Application Fees. This rule allows the Louisiana Workforce Commission (LWC) to charge a cost-recuperation fee to cover expenses related to certifying high unemployment areas under the federal Employment Based Fifth Category Visa Program (EB-5). The EB-5 program requires immigrant investors to invest \$1 million in a business that creates at least 10 jobs, or \$500,000 for a business located in a Targeted Employment Area (TEA), in order to qualify for a permanent resident visa within two years. Under 8 CFR Part 204.6(i), EB-5 applicants investing in Louisiana must have a certification letter from LWC determining that the TEA criteria is met and properly documented. The administrative infrastructure to manage the application process is currently in place.

Besides the cost to publish in the *Louisiana Register*, the proposed rule is not anticipated to require any additional expenditure by the department nor will the proposed rule result in any savings to LWC. In addition, the proposed rule is not anticipated to result in any costs or savings to other state or local governmental units. The cost of publishing rules is appropriated in the department's existing operating budget.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The LWC receives an average of 70 TEA letter requests a year. Therefore, a \$250 cost-recuperation fee is anticipated to generate \$17,500 annually (70 letters x \$250 fee). The proposed rule is not expected to impact local revenue collections.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The LWC has no statistical data to forecast, with any degree of accuracy, the economic benefits to affected persons or non-governmental groups. However, there is a potential of additional employers entering Louisiana and additional employment generated due to the EB-5 program.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The LWC does not anticipate that there will be any effect on competition. A small portion of the projects related to the EB-5 program may grow into businesses that create jobs; thus, positively affecting employment rates.

Curt Eysink
Executive Director
1511#081

Evan Brasseaux
Staff Director
Legislative Fiscal Office

