

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 79TH LEGISLATIVE REGULAR SESSION

May 16, 2005

TO: Honorable Troy Fraser, Chair, Senate Committee on Business & Commerce

FROM: John S. O'Brien, Deputy Director, Legislative Budget Board

IN RE: HB3250 by Ritter (Relating to the acquisition of unemployment compensation experience after the transfer of an employing unit; providing penalties.), **As Engrossed**

Estimated Two-year Net Impact to General Revenue Related Funds for HB3250, As Engrossed: an impact of \$0 through the biennium ending August 31, 2007.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2006	\$0
2007	\$0
2008	\$0
2009	\$0
2010	\$0

All Funds, Five-Year Impact:

Fiscal Year	Probable Savings/(Cost) from UNEMPLOYMENT TRST FND ACCT 938
2006	\$78,500,000
2007	\$78,500,000
2008	\$78,500,000
2009	\$78,500,000
2010	\$78,500,000

Fiscal Analysis

The provisions of the bill amend the Labor Code and set forth the conditions under which the businesses involved in acquisitions may apply for a transfer of compensation experience and the conditions under which the commission shall deny such a transfer. The provisions also lay out how the successor employing unit's contribution rate shall be calculated for both experience rated and nonexperience rated successor employers.

The provisions address the contribution rate for successor employers when there is substantially common management, control or common ownership, and certain partial acquisitions. A new subsection (a) lays out the computation of an experience rate for a partial acquisition when the compensation experience for the acquisition can be identified and computed. Subsection (b) clarifies

when a new computation of experience rate shall take effect for the successor employing unit with an experience rate. The new subsection (c) parallels (b), but for successor employing units that do not have an existing experience rate. A new subsection (d) sets the contribution rate for a successor engaging in an acquisition solely to obtain a lower contribution rate at the initial contribution rate.

The provisions of the bill set the computation for a compensation rate for successor employers when substantially common management, control or common ownership exists. According to the new provision (b), the acquiring business shall pay a contribution rate through the end of the calendar year that takes into account the combined experience rate of both businesses for the prior 36 months. In (c), a successor without an experience rating shall pay at the highest rate of the acquisition(s) through the end of the calendar year. New Subsection (d) lays out the contribution rate calculation for businesses after the end of the first calendar year through the next three years. It also addresses the computation of the predecessor employing unit's contribution rate.

The bill sets the penalties for persons that advise others to violate the provisions of this subchapter, or commit violations, which are Class A Misdemeanors.

The provisions charge the Texas Workforce Commission (TWC) with adopting a rule that establishes procedures for identifying the transfer or acquisition of a business.

The bill requires TWC to administer the provisions in conformity with federal regulations prescribed by the United States Secretary of Labor.

The bill takes effect on September 1, 2005.

Methodology

TWC estimates that there would be minimal costs associated with implementing the provisions of the bill and it is estimated that any additional workload resulting from the passage of the bill could be reasonably absorbed within current resources.

According to TWC, savings for fiscal year 2006 and subsequent years of \$78.5 million are based on an equivalent to actual lost revenue of \$74 million during 2004 through experience rating manipulations which the agency identified through a manual process involving twenty-four large employers.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 320 Texas Workforce Commission

LBB Staff: JOB, JRO, MW, DE