

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 79TH LEGISLATIVE REGULAR SESSION

March 29, 2005

TO: Honorable Allan Ritter, Chair, House Committee on Economic Development

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 Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for HB3250, As Introduced: a negative impact of (\$148,242) 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	(\$98,828)
2007	(\$49,414)
2008	(\$49,414)
2009	(\$49,414)
2010	(\$49,414)

All Funds, Five-Year Impact:

Fiscal Year	Probable Savings/(Cost) from GENERAL REVENUE FUND 1
2006	(\$98,828)
2007	(\$49,414)
2008	(\$49,414)
2009	(\$49,414)
2010	(\$49,414)

Fiscal Year	Change in Number of State Employees from FY 2005
2006	1.5
2007	0.5
2008	0.5
2009	0.5
2010	0.5

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 non-experience 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 bill sets 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 provisions set 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. According to the TWC, the U. S. Department of Labor (DOL) has determined that the provisions of the bill do not conform to federal law.

The bill takes effect on September 1, 2005.

Methodology

According to TWC, because the provisions are non-conforming to federal law it is assumed that funding would be from General Revenue, as opposed to TWC's federal Unemployment Insurance funds.

According to the TWC, programming changes required to implement the provisions of the bill will include changes to status programs, screens and data fields to identify employers who acquired part of a business and qualify for a mandatory transfer of experience rating. Approximately five new forms will need to be added and several more will need to be updated to provide for the new liability and rate transfer requirements. One FTE will be required for the initial programming and .5 FTE will be required for maintenance.

Cost includes salaries, benefits (29.74 percent) and indirect administration and support (20 percent).

TWC estimates it would need 1 Programmer V at \$66,000 per year in fiscal year 2006 with total costs including \$66,000 plus \$19,628 plus \$13,200 equaling \$98,828.

TWC estimates it would need a .5 Programmer V at \$66,000 per year (\$33,000 per half year) totaling \$33,000 plus \$9,814 plus \$6,600 equaling \$49,414 in fiscal year 2006 and subsequent years.

In addition, based on TWC's analysis that the provisions of the bill would change the law to render Texas as non-conforming to UI statutes, then Texas employers' FUTA discount would be denied. The increased cost to employers would be 5.4 percent (FUTA Tax Rate with Tax Credit Withdrawn) times

\$7,000 (Federal UI Tax Wage Ceiling) equals \$378 (New Per-Employee Federal UI Annual Tax). According to TWC, if non-conforming legislation is passed, Texas employers would pay an additional \$378 per employee times the 9,329,180 covered employees in Texas each year to the Unemployment Trust Fund: 9,329,180 times \$378 equals \$3,526,430,040.

Local Government Impact

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

Source Agencies: 320 Texas Workforce Commission

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