

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 79TH LEGISLATIVE REGULAR SESSION

April 11, 2005

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

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

IN RE: SB790 by Williams (Relating to the determination of benefit wage credits for purposes of unemployment compensation.), **As Introduced**

The provisions of the bill amend the Texas Labor Code to state that a claimant would lose their benefit wage credits if they were disqualified under any of the situations contained in Subsection C.

According to the Texas Workforce Commission (TWC), current law defines benefit wage credits as those wages used to determine an individual's right to Unemployment Insurance (UI) benefits. TWC shall credit an individual with wages received during the individual's base period as the individual's benefit wage credits. Subchapter C outlines the special circumstances that would disqualify certain individuals from receiving benefits that include: individuals working for an educational institution; working as an athlete; services performed by an alien; misconduct; quits; failure to apply for, accept, or return to work; labor disputes; receipt of remuneration, pension, or annuity; and sale of a business.

According to TWC, in a March 2, 2005, letter from the U.S. Department of Labor (DOL) to TWC, DOL states that, "As written, S.B. 790 would raise a federal conformity issue if it would result in the total cancellation of wages contrary to Section 3304(a)(10) of the Federal Unemployment Tax Act (FUTA)." This FUTA provision states, "Compensation shall not be denied to any individual by reason of cancellation of wage credits or total reduction of his benefit rights for any cause other than discharge for misconduct connected with his work, fraud in connection with a claim for compensation, or receipt of disqualifying income."

DOL also states that: "If SB 790 is enacted, as written, federal conformity proceedings, after an opportunity for a fair hearing, may be brought against the State of Texas, and the State could lose its year-end certification and payment of grant funds for the UI program. This would mean that all employers in Texas, subject to the Federal Unemployment Tax Act, could lose the 5.4 percent credit against the federal unemployment tax at 6.2 percent."

The bill takes effect on September 1, 2005.

Methology: 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

LBB Staff: JOB, JRO, MW, DE