LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 79TH LEGISLATIVE REGULAR SESSION

April 12, 2005

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

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

IN RE: **SB1229** by Fraser (Relating to the powers and duties of the Texas Workforce Commission, including the administration of unemployment compensation; providing a penalty.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for SB1229, As Introduced: 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 from *UNEMPLOYMENT TRST FND ACCT* 938
2006	$36,255,459
2007	$34,276,147
2008	$34,276,147
2009	$34,276,147
2010	$34,276,147

Fiscal Analysis

The provisions of the bill would amend the Labor Code relating to voluntarily leaving work. A staff leasing services company (SLSC) must demonstrate that written instructions are provided to their employees to contact the SLSC once their assignment is completed. If the SLSC provides written notice and an employee does not contact the SLSC for new work, a disqualification of unemployment benefits may result. The provisions of the bill would require the SLSC or the client company acting on the SLSC’s behalf to give written notice and written instructions to the employee, at the time the employee's assignment with a client company is concluded, to contact the SLSC for additional work. Failure of the SLSC, or the client company on SLSC's behalf, to follow the requirements may result in a determination to pay unemployment benefits.

The provisions also allow TWC to contract with an outside private collection agency to seek repayment of uncollectible unemployment insurance benefit payments, and assess a fee against an individual to compensate the private collection agency. Any fees collected must be kept separate and the fees cannot be deposited into the Trust Fund. Uncollectible is defined as any improper benefits 24 months or older.

TWC anticipates any additional work resulting from the passage of the bill could be reasonably absorbed within current resources.

The bill would take effect September 1, 2005.

Methodology

According to TWC, during fiscal Year 2004, 759,277 initial claims (IC) were filed. According to historical projections, averages of 18 percent of ICs filed are deemed not monetarily eligible. Approximately 622,607 ICs were monetarily eligible for fiscal year 2004. There were 344,050 job separation determinations issued gleaned from employer responses that claimants quit or were fired. This leaves 278,557 ICs that did not have a job separation case (laid off). Based on these numbers, an average of 45 percent of claims filed have a job separation of lay off and are eligible for payment.

A review of four months (Oct-Jan 2005) showed the pay rate for fired cases averages at 61 percent and the pay rate for quit cases averages at 16 percent. The data for January 2005 is representative of these averages. Cases with a job separation of quit and fired were eligible an average of 46 percent of the time.

There were 27,225 claims taken where the last employing unit (LEU) was not liable and the dates worked were less than 42 days. If the claimant were to name the employer before the short term LEU, the agency would perform a review of the job separation reason from that employer. Forty-five (45) percent of claims have lay off as the job separation, which is a payable determination. Forty-six (46) percent of claims with a quit or fired job separation will result in a payable determination.

The total claims paid would be 19,139 based on a 70 percent payable rate and therefore 30 percent would be disqualified. Based on total dollar amount of claims paid of $113,708,149, 30 percent or $34,112,445 in benefit payments is estimated to be saved each year.

Existing overpayment collections:
The methodology used to estimate the potential savings to the UI Trust Fund is based on the results of the 1999 pilot program where TWC used a private collection agency to seek repayment of improper benefit payments with a collection rate of .74 percent.

TWC indicates it reviewed all overpayments established prior to December 31, 2002, and deducted any recoveries, or adjustments due to an appeal, bankruptcies, or records of deceased individuals. The total overpayments that are deemed uncollectible (older than 24 months) for regular UI benefits is $267,474,571.

By applying .74 percent to the total outstanding improper benefit payments (267,474,571 times .74 percent equals $1,979,312), the total annual savings to the Trust Fund is $1,979,312 for 2006 for the overpayments that existed prior to December 31, 2002. Total outstanding collectible overpayments prior to December 31, 2002 that can be collected during fiscal year 2006 is $1,979,312.

Additional overpayment collections:
In calendar year 2003, 102,135 overpayments were created for a total of $79,169,552 (includes all UI overpayments, fraud and non-fraud, as reported to U.S Department of Labor in the ETA 227 report). During that same time frame, 66 overpayments had a waived amount and a processing code of C12 for a total of $248,521.

In calendar year 2004, 91,830 overpayments were created for a total of $79,349 (includes all UI overpayments, fraud and non-fraud, as reported to U.S Department of Labor in the ETA 227 report). During that same time frame, 25 overpayments had a waived amount and a processing code of C12 for a total of $78,883.

Using an average of the overpayments for 2003 and 2004, the amount that can be recovered for each year equals $163,702 ($248,521 plus $78,883 equals $327,404 / 2); therefore it is estimated that $163,702 can be recovered each year.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 320 Texas Workforce Commission

LBB Staff: JOB, JRO, MW, DE