

## **BILL ANALYSIS**

H.B. 2866  
By: Swinford  
Economic Development  
Committee Report (Unamended)

### **BACKGROUND AND PURPOSE**

Currently the Texas Unemployment Compensation Act (TUCA) provides that a claimant who receives unemployment insurance (UI) benefits improperly is responsible for repayment to the Texas Workforce Commission (Commission). Statute establishes how the Commission may recover the improper benefits. It also defines an "improper benefit" as one obtained by the claimant, or another person, because of the nondisclosure or misrepresentation of a material fact, without regard to whether the nondisclosure or misrepresentation was known or fraudulent.

In *Martinez vs. TEC*, the Court of Civil Appeals held that where an overpayment was caused solely by a Commission error (in this case, wage credits for another worker were included in the claimant's wage credit calculations) the overpayment was not collectible under Section 214.002, Labor Code, because there was no nondisclosure or misrepresentation by the claimant or by another person. Essentially, the interpretation as currently written is that an improper payment caused solely by a Commission error is not collectible. The Court concluded that the Commission could not make a nondisclosure or misrepresentation to itself. H.B. 2866 would redefine and clarify "improper benefit" in state law to apply to benefits improperly paid to any claimant for any reason, even agency error.

### **RULEMAKING AUTHORITY**

It is the opinion of the committee that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### **ANALYSIS**

SECTION 1. Amends Section 214.002, Labor Code, by establishing a new heading entitled, "LIABILITY FOR OBTAINING IMPROPER BENEFITS."

SECTION 2. Amends Section 214.002(b), Labor Code, by redefining an "improper benefit" to mean a benefit or payment obtained by an individual who was or is subsequently disqualified from or otherwise determined to be ineligible to receive the benefit or payment, for any reason, under a final determination by the Commission. The section also deletes the language that the benefit was received because of nondisclosure or misrepresentation by the claimant or by another person of a material fact, whether known or fraudulent.

SECTION 3. Provides that any changes to law made by this bill apply only to claims for unemployment benefits filed on or after the effective date of the bill.

SECTION 4. States the effective date for this Act.

### **EFFECTIVE DATE**

September 1, 2007.