

By: Swinford

H.B. No. 2867

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the recovery by the Texas Workforce Commission of  
3 unpaid unemployment compensation contributions and improper  
4 unemployment compensation benefits.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

6 SECTION 1. Section 203.201(b), Labor Code, is amended to  
7 read as follows:

8 (b) The special administration fund consists of:

9 (1) all interest and penalties collected under this  
10 subtitle;

11 (2) any amounts received under any surety bond for  
12 losses sustained by the special administration fund; and

13 (3) the amount of any fee collected under Section  
14 213.031(b) or 214.002(c) [money transferred under Section  
15 203.103].

16 SECTION 2. Section 203.202(a), Labor Code, is amended to  
17 read as follows:

18 (a) Money in the special administration fund may be spent in  
19 accordance with this subtitle and may be used:

20 (1) to pay the cost of reimbursing the benefit account  
21 in the compensation fund for benefits paid to former employees of  
22 this state that are based on service for this state, and the cost of  
23 construction and purchase of buildings and land necessary for that  
24 administration;

1 (2) in the administration of Chapters 51, 61, and 62;

2 (3) for payment of interest on advances from the  
3 federal trust fund;

4 (4) as a revolving fund to cover expenditures that are  
5 necessary and proper under this subtitle and for which federal  
6 funds have been requested but not received, subject to the charging  
7 of the expenditures against the federal funds when received;

8 (5) to refund a penalty as provided by Section  
9 203.203; and

10 (6) subject to the provisions of Chapter 2107,  
11 Government Code, to pay persons who contract with the commission to  
12 collect an amount of improper benefits, as defined by Section  
13 214.002, delinquent unemployment taxes, penalties, and interest  
14 owed under this subtitle.

15 SECTION 3. Section 213.031, Labor Code, is amended to read  
16 as follows:

17 Sec. 213.031. COLLECTION REQUIRED; METHODS. (a) If after  
18 notice an employer does not pay a contribution or a penalty or  
19 interest on a contribution, the commission shall collect the amount  
20 due by:

21 (1) bringing a civil action in the name of the state  
22 and the attorney general in a district court in Travis County; ~~or~~

23 (2) serving a notice of assessment on the defaulting  
24 employer, stating the amount of the contribution, penalty, and  
25 interest outstanding; or

26 (3) employing a private collection agency to seek  
27 repayment of the amount owed, but only if the commission determines

1 the amount owed is otherwise uncollectible.

2 (b) If the commission employs a collection agency under  
3 Subsection (a)(3), the commission may assess a reasonable fee  
4 against the defaulting employer. The fee may be collected in any  
5 manner provided by Subsections (a)(1) and (2) and any other  
6 provision of this subchapter or Subchapter D for the collection of  
7 past due contributions, except that the amount collected must:

8 (1) remain separate from the repaid contribution,  
9 penalty, or interest, as applicable; and

10 (2) be deposited to the unemployment compensation  
11 special administration fund under Section 203.201.

12 SECTION 4. Section 214.002, Labor Code, is amended to read  
13 as follows:

14 Sec. 214.002. LIABILITY FOR [~~IMPROPERLY~~] OBTAINING  
15 IMPROPER BENEFITS. (a) A person who has received improper benefits  
16 is liable for the amount of the improper benefits. The commission  
17 may recover improper benefits by:

18 (1) deducting the amount of the improper benefits from  
19 any future benefits payable to the person; [~~or~~]

20 (2) collecting the amount of the improper benefits for  
21 the compensation fund in the same manner provided by Sections  
22 213.031, 213.032, 213.033, 213.035, and 213.051 for the collection  
23 of past due contributions; or

24 (3) employing a private collection agency to seek  
25 repayment of the amount of the improper benefits, but only if the  
26 commission determines the improper benefits are otherwise  
27 uncollectible.

1 (b) In this section, "improper benefit" means any [the]  
2 benefit or payment obtained under this subtitle by a person who was  
3 or is subsequently disqualified or otherwise determined to be  
4 ineligible to receive the benefit or payment for any reason under a  
5 final determination or decision made under this subtitle[+]

6 [~~(1) because of the nondisclosure or~~  
7 ~~misrepresentation by the person or by another of a material fact,~~  
8 ~~without regard to whether the nondisclosure or misrepresentation~~  
9 ~~was known or fraudulent; and~~

10 [~~(2) while:~~

11 [~~(A) any condition imposed by this subtitle for~~  
12 ~~the person's qualifying for the benefit was not fulfilled in the~~  
13 ~~person's case; or~~

14 [~~(B) the person was disqualified from receiving~~  
15 ~~benefits].~~

16 (c) If the commission employs a collection agency under  
17 Subsection (a)(3), the commission may assess a fee against the  
18 person determined to have received an improper benefit. The fee may  
19 be collected in the manner used to collect improper benefits,  
20 except that the amount collected must:

21 (1) remain separate from the repaid benefits; and

22 (2) be deposited to the unemployment compensation  
23 special administration fund under Section 203.201.

24 SECTION 5. The changes in law made by this Act apply only to  
25 a claim for unemployment compensation benefits that is filed with  
26 the Texas Workforce Commission on or after the effective date of  
27 this Act. A claim filed before that date is governed by the law in

1 effect on the date the claim was filed, and the former law is  
2 continued in effect for that purpose.

3 SECTION 6. This Act takes effect September 1, 2007.