

BILL ANALYSIS

C.S.H.B. 2623
By: Deshotel
Business & Industry
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Many part-time workers have legitimate reasons for pursuing only part-time work, such as having school-aged children, but only those workers available for full-time work may access the unemployment insurance (UI) pool. Part-time workers are excluded from the UI pool even though their wages are subject to UI payroll taxes and their part-time earnings meet the monetary eligibility rules. All states use base periods to calculate eligibility for UI, and the income earned during these base periods determines eligibility and benefit levels. A base period is typically four calendar quarters, and most states define a base period as the first of the last five completed calendar quarters. Depending on when a UI claim is filed and how a base period is defined, wages from as early as 18 months previous may be considered as recent earnings. Current rules do not accurately reflect labor market changes, including an increase in low-wage and part-time workers.

C.S.H.B. 2623 includes individuals who are available for part-time work in the unemployment insurance pool if they have a reason for pursuing such work and a history of working part-time. The current system specifies that wages earned during the first four out of the last five consecutive quarters may be used to determine eligibility; the bill provides alternative base periods to track an individual's recent earnings that are necessary to satisfy Texas monetary eligibility rules for unemployment insurance. The bill provides that certain employees are not disqualified from benefits upon separation from employment, including an employee separating from an employer to protect the employee from family violence, an employee moving from the area of employment with the employee's spouse due to a change in the location of the spouse's employment, or an employee who has an illness or disability in the employee's immediate family.

RULEMAKING AUTHORITY

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

ANALYSIS

C.S.H.B. 2623 amends the Labor Code to establish for purposes of the Texas Unemployment Compensation Act and subject to this bill's provisions, that an individual's base period is the four consecutive completed calendar quarters, prescribed by the Texas Workforce Commission, in the five consecutive completed calendar quarters preceding the first day of an individual's benefit year. The bill provides that, for an individual precluded because of a medically verifiable illness or injury from working during a major part of a calendar quarter of the period that would otherwise be the individual's base period, the base period is the first four calendar quarters of the five consecutive calendar quarters preceding the calendar quarter in which the illness began or the injury occurred, if the individual files an initial claim for benefits not later than 24 months after the date on which the individual's illness or injury began or occurred. The bill provides that, for an individual who does not have sufficient benefit wage credits to qualify for unemployment compensation benefits under the computation of the base period, the base period

is the four most recently completed calendar quarters preceding the first day of the individual's benefit year.

C.S.H.B. 2623 makes changes in provisions relating to chargebacks. The bill removes a provision prohibiting benefits computed on benefit wage credits of an employee or former employee from being charged to the account of an employer if the employee's last separation from employment before the employee's benefit year was caused by a medically verifiable illness of the employee's minor child. The bill adds provisions prohibiting such a charge to the account of an employer if the employee's last separation from employment before the employee's benefit year resulted from the employee leaving the workplace for protection against family violence, as evidenced by reasonable and confidential documentation that causes the employee to reasonably believe that continued employment would jeopardize the safety of the employee or of any member of the employee's immediate family; if the employee's last separation resulted from a move from the employee's area of employment that was made with the employee's spouse, is to a location from which it is impractical for the individual to commute, and is due to a change in the location of the spouse's employment; and if the employee's last separation resulted from the employee leaving the workplace because of the illness or disability of a member of the employee's immediate family, rather than to care for the employee's terminally ill spouse. The bill removes provisions conditioning this prohibition on whether the employee's spouse is a member of the armed forces of the United States and has undergone a permanent change of station of longer than 120 days or a tour of duty of longer than one year. The bill defines "disability," "illness," "member of the employee's immediate family," and "reasonable documentation" for these purposes.

C.S.H.B. 2623 establishes that an unemployed individual is available for work even if the individual is seeking and available only for part-time work. The bill provides that, for these purposes, "part-time work" means employment of at least 20 hours per week.

C.S.H.B. 2623 makes changes in provisions relating to benefit eligibility that conform to the changes in the above chargeback provisions.

C.S.H.B. 2623 repeals the following sections in the Labor Code:

- Section 201.011(1), defining "base period"
- Section 207.045(e), relating to a medically verified illness of a minor child

EFFECTIVE DATE

On passage, or, if the act does not receive the necessary vote, the act takes effect September 1, 2009.

COMPARISON OF ORIGINAL AND SUBSTITUTE

C.S.H.B. 2623 adds provisions not in the original defining the base period for purposes of the Texas Unemployment Compensation Act and an alternate base period for an individual precluded because of a medically verifiable illness or injury from working during a major part of a calendar quarter of the period that would otherwise be the individual's base period under the act.

C.S.H.B. 2623 adds provisions not in the original to prohibit chargebacks to the employer if an individual separates from an employer due to family violence, a move from the area of employment made with the employee's spouse, or an illness or disability in the employee's immediate family. The bill removes provisions in the original that entitle individuals to extended benefits if they are unemployed, have exhausted all regular benefits, and are enrolled in certain job training programs. The substitute adds definitions not in the original for "disability," "illness," "member of the employee's immediate family," and "reasonable documentation."

C.S.H.B. 2623 removes a provision from the original that makes it a condition of an unemployed individual's availability for work, if the individual is seeking only part-time work, that the majority of the weeks worked by the individual during the individual's base period do not include part-time work. The substitute differs from the original by defining "part-time work" to mean employment of at least 20 hours per week, rather than work having comparable hours to the individual's work in the individual's base period, except that an individual is required to be available for at least 20 hours of work per week and available for hours that are comparable to the individual's work at the time of the individual's most recent separation from employment, as in the original.

C.S.H.B. 2623 differs from the original by making changes in provisions relating to benefit eligibility that conform to the above changes in provisions relating to chargebacks.

C.S.H.B. 2623 repeals Sections 201.011(1) and 207.045(e) of the Labor Code, which are not repealed in the original.

C.S.H.B. 2623 differs from the original by making its provisions effective on passage, or, if the bill does not receive the required vote, September 1, 2009, whereas the original makes its provisions effective September 1, 2009.