

1-1 By: Eltife, et al. S.B. No. 1569  
1-2 (In the Senate - Filed March 10, 2009; March 17, 2009, read  
1-3 first time and referred to Committee on Economic Development;  
1-4 April 2, 2009, reported adversely, with favorable Committee  
1-5 Substitute by the following vote: Yeas 4, Nays 0; April 2, 2009,  
1-6 sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 1569 By: Eltife

1-8 A BILL TO BE ENTITLED  
1-9 AN ACT

1-10 relating to unemployment compensation modernization.  
1-11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:  
1-12 SECTION 1. Subchapter B, Chapter 201, Labor Code, is  
1-13 amended by adding Section 201.013 to read as follows:  
1-14 Sec. 201.013. DEFINITION OF BASE PERIOD; ALTERNATE BASE  
1-15 PERIODS. (a) For purposes of this subtitle and subject to this  
1-16 section, an individual's base period is the four consecutive  
1-17 completed calendar quarters, prescribed by the commission, in the  
1-18 five consecutive completed calendar quarters preceding the first  
1-19 day of an individual's benefit year.  
1-20 (b) For an individual precluded because of a medically  
1-21 verifiable illness or injury from working during a major part of a  
1-22 calendar quarter of the period that would otherwise be the  
1-23 individual's base period under Subsection (a), the base period is  
1-24 the first four calendar quarters of the five consecutive calendar  
1-25 quarters preceding the calendar quarter in which the illness began  
1-26 or the injury occurred if the individual files an initial claim for  
1-27 benefits not later than 24 months after the date on which the  
1-28 individual's illness or injury began or occurred.  
1-29 (c) For an individual who does not have sufficient benefit  
1-30 wage credits to qualify for benefits under the computation of the  
1-31 base period as provided by Subsection (a) or (b), the base period is  
1-32 the four most recently completed calendar quarters preceding the  
1-33 first day of the individual's benefit year.  
1-34 SECTION 2. Subsections (a), (c), and (d), Section 204.022,  
1-35 Labor Code, are amended to read as follows:  
1-36 (a) Benefits computed on benefit wage credits of an employee  
1-37 or former employee may not be charged to the account of an employer  
1-38 if the employee's last separation from the employer's employment  
1-39 before the employee's benefit year:  
1-40 (1) was required by a federal statute;  
1-41 (2) was required by a statute of this state or an  
1-42 ordinance of a municipality of this state;  
1-43 (3) would have disqualified the employee under Section  
1-44 207.044, 207.045, 207.051, or 207.053 if the employment had been  
1-45 the employee's last work;  
1-46 (4) imposes a disqualification under Section 207.044,  
1-47 207.045, 207.051, or 207.053;  
1-48 (5) was caused by a medically verifiable illness of  
1-49 the employee [~~or the employee's minor child~~];  
1-50 (6) was based on a natural disaster that results in a  
1-51 disaster declaration by the president of the United States under  
1-52 the Robert T. Stafford Disaster Relief and Emergency Assistance Act  
1-53 (42 U.S.C. Section 5121 et seq.), if the employee would have been  
1-54 entitled to unemployment assistance benefits under Section 410 of  
1-55 that act (42 U.S.C. Section 5177) had the employee not received  
1-56 state unemployment compensation benefits;  
1-57 (7) was caused by a natural disaster, fire, flood, or  
1-58 explosion that causes employees to be separated from one employer's  
1-59 employment;  
1-60 (8) was based on a disaster that results in a disaster  
1-61 declaration by the governor under Section 418.014, Government Code;  
1-62 (9) resulted from the employee's resigning from  
1-63 partial employment to accept other employment that the employee

2-1 reasonably believed would increase the employee's weekly wage;  
2-2 (10) was caused by the employer being called to active  
2-3 military service in any branch of the United States armed forces on  
2-4 or after January 1, 2003;

2-5 (11) resulted from the employee leaving the employee's  
2-6 workplace to protect the employee from ~~[family violence or]~~  
2-7 stalking as evidenced by:

2-8 (A) an active or recently issued protective order  
2-9 documenting ~~[family violence against, or]~~ the stalking of ~~[r]~~ the  
2-10 employee or the potential for ~~[family violence against, or]~~ the  
2-11 stalking of ~~[r]~~ the employee; or

2-12 (B) a police record documenting ~~[family violence~~  
2-13 ~~against, or]~~ the stalking of ~~[r]~~ the employee; ~~[or~~

2-14 ~~[(C) a physician's statement or other medical~~  
2-15 ~~documentation that describes the family violence against the~~  
2-16 ~~employee that:~~

2-17 ~~[(i) is recorded in any form or medium that~~  
2-18 ~~identifies the employee as the patient; and~~

2-19 ~~[(ii) relates to the history, diagnosis,~~  
2-20 ~~treatment, or prognosis of the patient];~~

2-21 (12) resulted from the employee leaving the employee's  
2-22 workplace to protect the employee from family violence, as  
2-23 evidenced by reasonable and confidential documentation, that  
2-24 causes the employee reasonably to believe that the employee's  
2-25 continued employment would jeopardize the safety of the employee or  
2-26 of any member of the employee's immediate family;

2-27 (13) resulted from a move from the area of the  
2-28 employee's employment that:

2-29 (A) was made with the employee's spouse ~~[who is a~~  
2-30 ~~member of the armed forces of the United States];~~

2-31 (B) is to a location from which it is impractical  
2-32 for the individual to commute; and

2-33 (C) is due to a change in the location of the  
2-34 spouse's employment ~~[(B) resulted from the spouse's permanent~~  
2-35 ~~change of station of longer than 120 days or a tour of duty of longer~~  
2-36 ~~than one year];~~

2-37 (14) ~~[(13)]~~ was caused by the employee being unable to  
2-38 perform the work as a result of a disability for which the employee  
2-39 is receiving disability insurance benefits under 42 U.S.C. Section  
2-40 423; or

2-41 (15) ~~[(14)]~~ resulted from the employee leaving the  
2-42 employee's workplace because of the illness or disability of a  
2-43 member of the employee's immediate family ~~[to care for the~~  
2-44 ~~employee's terminally ill spouse as evidenced by a physician's~~  
2-45 ~~statement or other medical documentation, but only if no~~  
2-46 ~~reasonable, alternative care was available].~~

2-47 (c) Except as provided by law, evidence regarding an  
2-48 employee described by Subsection (a)(11) or (12) may not be  
2-49 disclosed to any person without the consent of the employee.

2-50 (d) For purposes of Subsections ~~[Subsection]~~ (a)(11), (12),  
2-51 and (14):

2-52 (1) "Disability" means a verified disability that  
2-53 necessitates the care of an ill person by an employee for a period  
2-54 longer than the employer is willing to grant leave to the employee.  
2-55 The term includes a mental or physical disability, a permanent or  
2-56 temporary disability, and a partial or total disability.

2-57 (2) "Family violence" has the meaning assigned by  
2-58 Section 71.004, Family Code.

2-59 (3) "Illness" means a verified illness that  
2-60 necessitates the care of an ill person by the employee for a period  
2-61 longer than the employer is willing to grant leave to the employee.

2-62 (4) "Member of the employee's immediate family" means  
2-63 a spouse, a parent, or a minor child under the age of 18.

2-64 (5) "Reasonable documentation" includes:

2-65 (A) a statement supporting recent family  
2-66 violence from a qualified professional from whom the employee has  
2-67 sought assistance, including a counselor, shelter worker, member of  
2-68 the clergy, attorney, or health care worker;

2-69 (B) an active or recently issued protective order

3-1 documenting:  
 3-2 (i) family violence against the employee or  
 3-3 any member of the employee's immediate family; or  
 3-4 (ii) the potential for family violence  
 3-5 against the employee or any member of the employee's immediate  
 3-6 family; or  
 3-7 (C) a police record documenting family violence  
 3-8 against the employee or any member of the employee's immediate  
 3-9 family.

3-10 (6) [~~2~~] "Stalking" means conduct described by  
 3-11 Section 42.072, Penal Code.

3-12 SECTION 3. Section 207.021, Labor Code, is amended by  
 3-13 adding Subsection (d) to read as follows:

3-14 (d) An individual is available for work for purposes of  
 3-15 Subsection (a)(4) even if the individual is seeking and available  
 3-16 only for part-time work. For purposes of this subsection,  
 3-17 "part-time work" means employment of at least 20 hours per week.

3-18 SECTION 4. Subsections (c) and (d), Sections 207.045, Labor  
 3-19 Code, are amended to read as follows:

3-20 (c) Notwithstanding any other provision of  
 3-21 [Disqualification for benefits under] this section, [~~for~~] an  
 3-22 individual who left work to accompany [~~move with~~] the individual's  
 3-23 spouse is not disqualified for benefits if the move is:

3-24 (1) to a location from which it is impractical for the  
 3-25 individual to commute; and

3-26 (2) due to a change in the location of the spouse's  
 3-27 employment [~~from the area where the individual worked continues for~~  
 3-28 ~~not less than six benefit periods and not more than 25 benefit~~  
 3-29 ~~periods following the filing of a valid claim as determined by the~~  
 3-30 ~~commission according to the circumstances of the case].~~

3-31 (d) Notwithstanding any other provision of this section, an  
 3-32 individual who is available to work may not be disqualified for  
 3-33 benefits because the individual left work because of:

3-34 (1) a medically verified illness of the individual [~~or~~  
 3-35 ~~the individual's minor child];~~

3-36 (2) injury;

3-37 (3) disability;

3-38 (4) pregnancy; or

3-39 (5) an involuntary separation as described by Section  
 3-40 207.046[~~, or~~

3-41 [~~(6) a move from the area of the individual's~~  
 3-42 ~~employment that:~~

3-43 [~~(A) was made with the individual's spouse who is~~  
 3-44 ~~a member of the armed forces of the United States; and~~

3-45 [~~(B) resulted from the spouse's permanent change~~  
 3-46 ~~of station of longer than 120 days or a tour of duty of longer than~~  
 3-47 ~~one year].~~

3-48 SECTION 5. Section 207.046, Labor Code, is amended to read  
 3-49 as follows:

3-50 Sec. 207.046. INVOLUNTARY SEPARATION. (a) An individual  
 3-51 is not disqualified for benefits under this subchapter if:

3-52 (1) the work-related reason for the individual's  
 3-53 separation from employment was urgent, compelling, and necessary so  
 3-54 as to make the separation involuntary;

3-55 (2) the individual leaves the workplace to protect the  
 3-56 individual from [~~family violence or~~] stalking as evidenced by:

3-57 (A) an active or recently issued protective order  
 3-58 documenting [~~family violence against, or~~] the stalking of[~~7~~] the  
 3-59 employee or the potential for [~~family violence against, or~~] the  
 3-60 stalking of[~~7~~] the employee; or

3-61 (B) a police record documenting [~~family violence~~  
 3-62 ~~against, or~~] the stalking of[~~7~~] the employee; [~~or~~

3-63 [~~(C) a physician's statement or other medical~~  
 3-64 ~~documentation that describes the family violence against the~~  
 3-65 ~~employee that:~~

3-66 [~~(i) is recorded in any form or medium that~~  
 3-67 ~~identifies the employee as the patient; and~~

3-68 [~~(ii) relates to the history, diagnosis,~~  
 3-69 ~~treatment, or prognosis of the patient; or]~~

4-1 (3) the individual's separation from employment was  
4-2 due to the illness or disability of a member of the individual's  
4-3 immediate family; or

4-4 (4) the individual's separation from employment was  
4-5 due to family violence, verified by reasonable and confidential  
4-6 documentation, that causes the individual reasonably to believe  
4-7 that the individual's continued employment would jeopardize the  
4-8 safety of the individual or of any member of the individual's  
4-9 immediate family [~~individual leaves the workplace to care for the~~  
4-10 ~~individual's terminally ill spouse as evidenced by a physician's~~  
4-11 ~~statement or other medical documentation, but only if no~~  
4-12 ~~reasonable, alternative care was available].~~

4-13 (b) Except as provided by law, evidence regarding an  
4-14 employee described by Subsection (a)(2) or (4) may not be disclosed  
4-15 to any person without the consent of the employee.

4-16 (c) In this section, "disability," "family violence,"  
4-17 "illness," "member of the employee's immediate family,"  
4-18 "reasonable documentation," and "stalking" have the meanings  
4-19 assigned those terms by Section 204.022(d) [+

4-20 [~~(1) "Family violence" has the meaning assigned by~~  
4-21 ~~Section 71.004, Family Code.~~

4-22 [~~(2) "Stalking" means conduct described by Section~~  
4-23 ~~42.072, Penal Code].~~

4-24 SECTION 6. Section 207.047, Labor Code, is amended by  
4-25 adding Subsection (a-1) to read as follows:

4-26 (a-1) An individual is not disqualified for benefits under  
4-27 this section if the individual is seeking and available only for  
4-28 part-time work. For purposes of this subsection, "part-time work"  
4-29 means employment of at least 20 hours per week.

4-30 SECTION 7. Section 208.002, Labor Code, is amended to read  
4-31 as follows:

4-32 Sec. 208.002. [~~NOTICE OF~~] INITIAL CLAIM; LAST WORK.

4-33 (a) When used in connection with an initial claim, "last work" and  
4-34 "person for whom the claimant last worked" refer to:

4-35 (1) the last person for whom the claimant actually  
4-36 worked, if the claimant worked for that person for at least 30 hours  
4-37 during a week; or

4-38 (2) the employer, as defined by Subchapter C, Chapter  
4-39 201, or by the unemployment law of any other state, for whom the  
4-40 claimant last worked.

4-41 (b) The commission shall mail a notice of the filing of an  
4-42 initial claim to the person for whom the claimant last worked before  
4-43 the effective date of the initial claim. If the person for whom the  
4-44 claimant last worked has more than one branch or division operating  
4-45 at different locations, the commission shall mail the notice to the  
4-46 branch or division at which the claimant last worked.

4-47 (c) [~~(b)~~] Mailing of a notice under this section to the  
4-48 correct address of the person, branch, or division for which the  
4-49 claimant last worked constitutes notice of the claim to the person.

4-50 SECTION 8. The following laws are repealed:

4-51 (1) Subdivision (1), Section 201.011, Labor Code; and

4-52 (2) Subsection (e), Section 207.045, Labor Code.

4-53 SECTION 9. (a) Not earlier than January 1, 2010, the  
4-54 governor shall appoint a Task Force on Unemployment Compensation  
4-55 Reform. The nine-member task force shall be comprised of the  
4-56 following:

4-57 (1) a person representing large businesses or chambers  
4-58 of commerce in this state;

4-59 (2) a person representing small businesses in this  
4-60 state;

4-61 (3) a person representing organized labor;

4-62 (4) a recognized state or national expert on  
4-63 unemployment insurance financing and eligibility;

4-64 (5) a person representing low-wage or unemployed  
4-65 workers in this state;

4-66 (6) a recognized expert from the field of economics  
4-67 and labor market analysis;

4-68 (7) a person with experience in workforce development  
4-69 and training programs;

5-1 (8) a person appointed by the lieutenant governor; and  
5-2 (9) a person appointed by the speaker of the house of  
5-3 representatives.

5-4 (b) Representatives from the office of the governor, Texas  
5-5 Workforce Commission, Legislative Budget Board, house of  
5-6 representatives, senate, and the comptroller of public accounts  
5-7 shall advise the members of the Task Force on Unemployment  
5-8 Compensation Reform.

5-9 (c) The charge of the Task Force on Unemployment  
5-10 Compensation Reform is to study the administration, financing, and  
5-11 benefit eligibility relating to the Texas Unemployment  
5-12 Compensation Act, Chapter 201, Labor Code. The task force shall:

5-13 (1) identify best practices in the financing of state  
5-14 unemployment insurance funds, including the taxable wage base,  
5-15 statutory floor and ceiling, and surplus credits;

5-16 (2) identify best practices in the administration of  
5-17 state unemployment insurance systems, including technological  
5-18 improvements;

5-19 (3) identify methods to reduce waste, fraud, and abuse  
5-20 in unemployment claims and eligibility; and

5-21 (4) examine the advantages and disadvantages of  
5-22 modernizing unemployment insurance eligibility under the  
5-23 Assistance for Unemployed Workers and Struggling Families Act,  
5-24 Title II of Division B of Public Law No. 111-5, enacted February 17,  
5-25 2009.

5-26 (d) The Task Force on Unemployment Compensation Reform  
5-27 shall identify findings and make recommendations to the Texas  
5-28 Workforce Commission not later than January 1, 2012. At that time,  
5-29 the commission shall determine whether any of the unemployment  
5-30 insurance compensation reforms required under the American  
5-31 Recovery and Reinvestment Act of 2009 (Pub. L. No. 111-5) warrant  
5-32 continuation.

5-33 SECTION 10. This Act applies only to eligibility for  
5-34 unemployment compensation benefits based on a claim that is filed  
5-35 with the Texas Workforce Commission on or after the effective date  
5-36 of this Act. A claim filed before the effective date of this Act is  
5-37 governed by the law in effect on the date the claim was filed, and  
5-38 the former law is continued in effect for that purpose.

5-39 SECTION 11. This Act takes effect immediately if it  
5-40 receives a vote of two-thirds of all the members elected to each  
5-41 house, as provided by Section 39, Article III, Texas Constitution.  
5-42 If this Act does not receive the vote necessary for immediate  
5-43 effect, this Act takes effect September 1, 2009.

5-44 \* \* \* \* \*