

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION**

**April 26, 2009**

**TO:** Honorable Mark Strama, Chair, House Committee on Technology, Economic Development & Workforce

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

**IN RE: HB1135** by Legler (Relating to required drug testing for applicants and recipients of unemployment compensation benefits.), **As Introduced**

**Estimated Two-year Net Impact to General Revenue Related Funds** for HB1135, As Introduced: a negative impact of (\$84,959,723) through the biennium ending August 31, 2011.

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
2010	(\$43,116,084)
2011	(\$41,843,639)
2012	(\$39,948,952)
2013	(\$38,785,999)
2014	(\$38,220,827)

**All Funds, Five-Year Impact:**

Fiscal Year	Probable (Cost) from General Revenue Fund 1	Change in Number of State Employees from FY 2009
2010	(\$43,116,084)	47.0
2011	(\$41,843,639)	43.0
2012	(\$39,948,952)	43.0
2013	(\$38,785,999)	43.0
2014	(\$38,220,827)	43.0

**Fiscal Analysis**

The bill would amend the Labor Code relating to required drug testing for applicants and recipients of unemployment compensation benefits. The bill would amend the Texas Unemployment Compensation Act (TUCA) by adding a new eligibility criterion to providing that each claimant or recipient of unemployment benefits must submit to drug testing. The Texas Workforce Commission (TWC) must adopt rules and implement a drug-testing program. Each initial claimant must successfully pass a drug test and benefit recipients must submit to random, periodic drug testing.

Claimants and recipients who do not pass the test will be disqualified from benefit receipt until they have worked for six weeks or earned six times their weekly benefit amount. There are exceptions to this disqualification for individuals in a drug-treatment program or individuals taking medically necessary prescriptions that caused the test failure.

TWC estimates a reduction in benefit outlays from the Unemployment Compensation Trust Fund to include: \$139,182,154 in FY 2010, \$138,317,765 in FY 2011, \$130,826,447 in FY 2012, \$127,487,543 in FY 2013 and \$126,572,600 in FY 2014 totaling \$662,386,509 over the five-year period FY2010-14.

This bill would take effect September 1, 2009.

## **Methodology**

According to the analysis provided by TWC, all Unemployment Insurance (UI) claimants who are monetarily eligible to receive benefits will be directed to complete a drug screening test. In order to meet DOL first-payment time standards, TWC could not delay the screening until the claimant has been determined fully eligible for benefits. This means that TWC will be screening individuals who would not qualify for benefits for other reasons, such as a disqualifying work separation. TWC determined that 86 percent of the regular claims will fall into this category. The reduction in benefit outlays is predicated upon individuals who are projected to receive a first payment of benefits but fail a drug screening. This ensures that TWC is only considering individuals who would receive benefits but for a failed drug screening.

For the purposes of this analysis TWC estimates there will be additional costs associated with additional staff required to operate the call center and to assist with the appeals process. Staff anticipates an increase in telephone call volume related to this new initial and on-going eligibility requirement. Based upon past experience with new claimant requirements, staff anticipates TWC would see approximately 30 percent of initial claimants and claimants randomly selected for drug screening calling TWC with questions and clarification. Over the five-year period, that is an average of approximately 290,000 additional telephone inquiries per year. Staff anticipates each call to last approximately 10 minutes. Based upon approved resource allocations methodologies, staff projects the need for 28 additional customer service representatives in the first year of implementation and similar levels of staffing in future years.

TWC assumes each additional job separation investigation will result in a determination of benefit eligibility and approximately 20 percent of all determinations result in an appeal. Thus, TWC anticipates there will be an increase in the number of lower and higher appeals of eligibility determinations. In the first year of implementation for the first level of appeals TWC estimates an additional 8 Hearing Officers II and 4 Clerks IV and programming staff would be needed. For the second level of appeals, TWC estimates it would need 2 Attorneys IV and 1 Clerk IV. Both levels would require similar levels of staffing in future years.

In their cost analysis for drug testing for FY2010, TWC assumes the following: 1,137,000 regular claims; 977,820 individuals subject to drug testing; 54,236 claimants are in active filing status subject to drug testing; 39,218 claimants are estimated to fail the drug test; 7,844 individuals are estimated to appeal the test (first appeal); and 1,569 will go into second level appeals. Based on these assumptions, TWC estimates it will cost \$34.2 million for initial drug screening + \$1.9 million for random-sampled claimants in active filing status drug screening + \$1.4 million for additional costs associated with positive results on the drug tests + \$1.9 million for contract costs for appeals = approximately \$39.4 million.

For FY 2010 TWC estimates \$1,834,200 (Salaries) + \$524,031 (Benefits) + 410,278 (Equipment and Infrastructure Costs) + \$603,545 (Print and Mail Costs) + \$39,744,030 (Drug Testing and Hearing Costs) = approximately \$43.1 million and for FY 2011 TWC estimates \$1,553,000 (Salaries) + \$443,692 (Benefits) + 87,505 (Equipment and Infrastructure Costs) + \$596,757 (Print and Mail Costs) + \$39,162,685 (Drug testing costs and Hearing Costs) = approximately \$41.8 million.

## **Technology**

TWC estimates a one-time technology impact for FY2010 to make changes to the UI Benefit System: Salaries (2 Programmers V and 1.5 Systems Analyst V @ \$74,000 per FTE) = \$281,200 + Benefits of \$80,339 + Indirect and Administrative Support of \$56,240 = \$417,779 for the five-year period.

## **Local Government Impact**

No fiscal implication to units of local government is anticipated.

**Source Agencies:** 320 Texas Workforce Commission

**LBB Staff:** JOB, JRO, MW, NV