

BILL ANALYSIS

C.S.H.B. 2581

By: Murphy

Economic & Small Business Development
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Many people who acquire a business believe that the Texas Workforce Commission should have the authority to issue a surplus credit to a successor employing unit if the predecessor employer was entitled to the surplus credit under the Texas Unemployment Compensation Act. Observers note that compensation experience may be transferred from the predecessor employer to a successor employing unit. Among other provisions, C.S.H.B. 2581 would entitle a successor employing unit, to which compensation experience is transferred, to a surplus credit attributable to the predecessor employer.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the Texas Workforce Commission in SECTION 1 of this bill.

ANALYSIS

C.S.H.B. 2581 amends the Labor Code to entitle a successor employing unit to a surplus credit attributable to, but not applied or received by, the predecessor employing unit if the predecessor employing unit's compensation experience is transferred to the successor employing unit under provisions of law relating to the acquisition of all or part of an experience-rated organization, trade, or business. The bill entitles a successor employing unit to a surplus credit attributable to, but not applied or received by, the predecessor employing unit. The bill establishes that a successor employing unit is not entitled to, and is prohibited from applying for or receiving, a surplus credit if the TWC determines that a transfer of compensation experience was accomplished solely or primarily for the purpose of obtaining a lower contribution rate. The bill establishes that a predecessor employing unit is not entitled to, and is prohibited from applying for or receiving, all or any portion of a surplus credit that is based on compensation experience that is transferred to a successor employing unit under provisions of law relating to the acquisition of an experience-rated employer. The bill requires the TWC to adopt rules necessary to implement and enforce the bill's provisions, including rules that ensure that only a successor employing unit applies for or receives all or part of a surplus credit previously attributable to a predecessor employing unit. The bill defines "surplus credit."

EFFECTIVE DATE

September 1, 2011.

COMPARISON OF ORIGINAL TO SUBSTITUTE

C.S.H.B. 2581 differs from the original by entitling a successor employing unit to which compensation experience is transferred from a predecessor employing unit under certain provisions of law relating to the acquisition of all or part of an experience-rated organization, trade, or business, including a transfer for which the Texas Workforce Commission (TWC) has made a determination that a definitely identifiable and segregable part of the predecessor employer's compensation experience is attributable to the part of the organization, trade, or business acquired by the successor employing unit, to a surplus credit attributable to, but not applied or received by, the predecessor employing unit, whereas the original entitles such successor employing units to both a surplus credit and surplus credit rate. The substitute omits a provision included in the original specifying that the surplus credit to which certain successor employing units are entitled, if the TWC has made a

determination relating to the part of the organization, trade, or business acquired by the successor employing unit, is a surplus credit attributable to, but not applied or received by, the predecessor employing unit for the part of the organization, trade, or business acquired by the successor employing unit. The substitute omits a provision included in the original defining "surplus credit rate." The substitute differs from the original in nonsubstantive and conforming ways.