

BILL ANALYSIS

Senate Research Center

S.B. 439
By: Van de Putte
Economic Development
8/3/2011
Enrolled

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

S.B. 439 amends Section 204.022(a) (relating to exclusions from chargebacks), Labor Code, to protect employers' unemployment insurance tax accounts related to eligible unemployment benefit claims against the employer's tax account associated with Uniformed Services Employment and Reemployment Rights Act (USERRA).

USERRA ensures that members of the uniformed services are entitled to return to their civilian employment upon completion of their military service. USERRA also ensures that a service member is reinstated with the seniority, status, and rate of pay the service member would have enjoyed had the service member remained continuously employed by the civilian employer. USERRA also protects individuals from discrimination in hiring, promotion, and retention on the basis of present and future membership in the armed services.

Currently, when an individual is hired by an employer on a temporary basis to accommodate the absence of an employee performing military service, the temporary employee is laid off upon the return of the service member from military duty in compliance with federal law. The laid-off employee is determined to be eligible for unemployment insurance benefits, and the employer's tax account is subject to the liability associated with that eligible unemployment insurance claim.

By amending Section 204.022(a), Labor Code, a job separation under such circumstances would not result in the employer's unemployment tax account being eligible for a "chargeback." Section 204.022 (Exclusions From Chargebacks), Labor Code, already contains a similar exclusion from unemployment compensation chargebacks for employers of employees who are members of the military; such an exclusion for replacement workers because of USERRA is consistent with that intent.

S.B. 439 excludes from unemployment compensation chargebacks an employer of uniformed service members in which a job separation was caused by the employer's reinstatement of a qualified uniformed service member with reemployment rights and benefits and other employment benefits in accordance with the Uniformed Services Employment and Reemployment Rights Act of 1994 (38 U.S.C. Section 4301).

S.B. 439 amends current law relating to an exclusion from unemployment compensation chargebacks for certain employers of uniformed service members.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 204.022(a), Labor Code, as follows:

- (a) Includes among other factors prohibiting benefits computed on benefit wage credits of an employee or former employee from being charged to the account of an employer that the employee's last separation from the employer's employment before the employee's benefit year was caused by the employer's reinstatement of a qualified uniformed service

member with reemployment rights and benefits and other employment benefits in accordance with the Uniformed Services Employment and Reemployment Rights Act of 1994 (38 U.S.C. Section 4301 et seq.). Makes nonsubstantive changes.

SECTION 2. Makes application of this Act prospective.

SECTION 3. Effective date: September 1, 2011.