

By: Lucio, Ellis

S.B. No. 1006

A BILL TO BE ENTITLED

AN ACT

relating to unemployment compensation modernization.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter B, Chapter 201, Labor Code, is amended by adding Section 201.013 to read as follows:

Sec. 201.013. DEFINITION OF BASE PERIOD; ALTERNATE BASE PERIODS. (a) For purposes of this subtitle and subject to this section, an individual's base period is the four consecutive completed calendar quarters, prescribed by the commission, in the five consecutive completed calendar quarters preceding the first day of an individual's benefit year.

(b) 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 Subsection (a), 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.

(c) For an individual who does not have sufficient benefit wage credits to qualify for benefits under the computation of the base period as provided by Subsection (a) or (b), the base period is the four most recently completed calendar quarters preceding the

1 first day of the individual's benefit year.

2 SECTION 2. Sections 204.022(a), (c), and (d), Labor Code,
3 are amended to read as follows:

4 (a) Benefits computed on benefit wage credits of an employee
5 or former employee may not be charged to the account of an employer
6 if the employee's last separation from the employer's employment
7 before the employee's benefit year:

8 (1) was required by a federal statute;

9 (2) was required by a statute of this state or an
10 ordinance of a municipality of this state;

11 (3) would have disqualified the employee under Section
12 207.044, 207.045, 207.051, or 207.053 if the employment had been
13 the employee's last work;

14 (4) imposes a disqualification under Section 207.044,
15 207.045, 207.051, or 207.053;

16 (5) was caused by a medically verifiable illness of
17 the employee [~~or the employee's minor child~~];

18 (6) was based on a natural disaster that results in a
19 disaster declaration by the president of the United States under
20 the Robert T. Stafford Disaster Relief and Emergency Assistance Act
21 (42 U.S.C. Section 5121 et seq.), if the employee would have been
22 entitled to unemployment assistance benefits under Section 410 of
23 that act (42 U.S.C. Section 5177) had the employee not received
24 state unemployment compensation benefits;

25 (7) was caused by a natural disaster, fire, flood, or
26 explosion that causes employees to be separated from one employer's
27 employment;

1 (8) was based on a disaster that results in a disaster
2 declaration by the governor under Section 418.014, Government Code;

3 (9) resulted from the employee's resigning from
4 partial employment to accept other employment that the employee
5 reasonably believed would increase the employee's weekly wage;

6 (10) was caused by the employer being called to active
7 military service in any branch of the United States armed forces on
8 or after January 1, 2003;

9 (11) resulted from the employee leaving the employee's
10 workplace to protect the employee from ~~[family violence or]~~
11 stalking as evidenced by:

12 (A) an active or recently issued protective order
13 documenting ~~[family violence against, or]~~ the stalking of ~~[~~ the
14 employee or the potential for ~~[family violence against, or]~~ the
15 stalking of ~~[~~ the employee; or

16 (B) a police record documenting ~~[family violence~~
17 ~~against, or]~~ the stalking of ~~[~~ the employee ~~[, or~~

18 ~~[(C) a physician's statement or other medical~~
19 ~~documentation that describes the family violence against the~~
20 ~~employee that:~~

21 ~~[(i) is recorded in any form or medium that~~
22 ~~identifies the employee as the patient, and~~

23 ~~[(ii) relates to the history, diagnosis,~~
24 ~~treatment, or prognosis of the patient];~~

25 (12) resulted from the employee leaving the employee's
26 workplace to protect the employee from family violence, as
27 evidenced by reasonable and confidential documentation, that

1 causes the employee reasonably to believe that the employee's
2 continued employment would jeopardize the safety of the employee or
3 of any member of the employee's immediate family;

4 (13) resulted from a move from the area of the
5 employee's employment that:

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

8 (B) is to a location from which it is impractical
9 for the individual to commute; and

10 (C) is due to a change in the location of the
11 spouse's employment [~~(B) resulted from the spouse's permanent~~
12 ~~change of station of longer than 120 days or a tour of duty of longer~~
13 ~~than one year~~];

14 (14) [~~(13)~~] was caused by the employee being unable to
15 perform the work as a result of a disability for which the employee
16 is receiving disability insurance benefits under 42 U.S.C. Section
17 423; or

18 (15) [~~(14)~~] resulted from the employee leaving the
19 employee's workplace because of the illness or disability of a
20 member of the employee's immediate family [~~to care for the~~
21 ~~employee's terminally ill spouse as evidenced by a physician's~~
22 ~~statement or other medical documentation, but only if no~~
23 ~~reasonable, alternative care was available~~].

24 (c) Except as provided by law, evidence regarding an
25 employee described by Subsection (a)(11) or (12) may not be
26 disclosed to any person without the consent of the employee.

27 (d) For purposes of Subsections [~~Subsection~~] (a)(11), (12),

1 and (15):

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

7 (2) "Family violence" has the meaning assigned by
8 Section 71.004, Family Code.

9 (3) "Illness" means a verified illness that
10 necessitates the care of an ill person by the employee for a period
11 longer than the employer is willing to grant leave to the employee.

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

14 (5) "Reasonable documentation" includes:

15 (A) a statement supporting recent family
16 violence from a qualified professional from whom the employee has
17 sought assistance, including a counselor, shelter worker, member of
18 the clergy, attorney, or health care worker;

19 (B) an active or recently issued protective order
20 documenting:

21 (i) family violence against the employee or
22 any member of the employee's immediate family; or

23 (ii) the potential for family violence
24 against the employee or any member of the employee's immediate
25 family; or

26 (C) a police record documenting family violence
27 against the employee or any member of the employee's immediate

1 family.

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

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

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

10 SECTION 4. Sections 207.045(c) and (d), Labor Code, are
11 amended to read as follows:

12 (c) Notwithstanding any other provision of
13 [Disqualification for benefits under] this section, [for] an
14 individual who left work to accompany [move with] the individual's
15 spouse is not disqualified for benefits if the move is:

16 (1) to a location from which it is impractical for the
17 individual to commute; and

18 (2) due to a change in the location of the spouse's
19 employment [from the area where the individual worked continues for
20 not less than six benefit periods and not more than 25 benefit
21 periods following the filing of a valid claim as determined by the
22 commission according to the circumstances of the case].

23 (d) Notwithstanding any other provision of this section, an
24 individual who is available to work may not be disqualified for
25 benefits because the individual left work because of:

26 (1) a medically verified illness of the individual [~~or~~
27 ~~the individual's minor child~~];

- 1 (2) injury;
- 2 (3) disability;
- 3 (4) pregnancy; or
- 4 (5) an involuntary separation as described by Section
- 5 207.046 [~~or~~
- 6 [~~(6) a move from the area of the individual's~~
- 7 ~~employment that:~~
- 8 [~~(A) was made with the individual's spouse who is~~
- 9 ~~a member of the armed forces of the United States; and~~
- 10 [~~(B) resulted from the spouse's permanent change~~
- 11 ~~of station of longer than 120 days or a tour of duty of longer than~~
- 12 ~~one year]~~.

13 SECTION 5. Section 207.046, Labor Code, is amended to read
14 as follows:

15 Sec. 207.046. INVOLUNTARY SEPARATION. (a) An individual
16 is not disqualified for benefits under this subchapter if:

17 (1) the work-related reason for the individual's
18 separation from employment was urgent, compelling, and necessary so
19 as to make the separation involuntary;

20 (2) the individual leaves the workplace to protect the
21 individual from [~~family violence or~~] stalking as evidenced by:

22 (A) an active or recently issued protective order
23 documenting [~~family violence against, or~~] the stalking of[~~7~~] the
24 employee or the potential for [~~family violence against, or~~] the
25 stalking of[~~7~~] the employee; or

26 (B) a police record documenting [~~family violence~~
27 ~~against, or~~] the stalking of[~~7~~] the employee; [~~or~~

1 ~~[(C) a physician's statement or other medical~~
2 ~~documentation that describes the family violence against the~~
3 ~~employee that:~~

4 ~~[(i) is recorded in any form or medium that~~
5 ~~identifies the employee as the patient, and~~

6 ~~[(ii) relates to the history, diagnosis,~~
7 ~~treatment, or prognosis of the patient, or]~~

8 (3) the individual's separation from employment was
9 due to the illness or disability of a member of the individual's
10 immediate family; or

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

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

23 (c) In this section, "disability," "family violence,"
24 "illness," "member of the employee's immediate family,"
25 "reasonable documentation," and "stalking" have the meanings
26 assigned those terms by Section 204.022(d) [+

27 ~~[(1) "Family violence" has the meaning assigned by~~

1 ~~Section 71.004, Family Code.~~

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

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

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

10 SECTION 7. Section 208.002, Labor Code, is amended to read
11 as follows:

12 Sec. 208.002. [~~NOTICE OF~~] INITIAL CLAIM; LAST WORK.

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

15 (1) the last person for whom the claimant actually
16 worked, if the claimant worked for that person for at least 30 hours
17 during a week; or

18 (2) the employer, as defined by Subchapter C, Chapter
19 201, or by the unemployment law of any other state, for whom the
20 claimant last worked.

21 (b) The commission shall mail a notice of the filing of an
22 initial claim to the person for whom the claimant last worked before
23 the effective date of the initial claim. If the person for whom the
24 claimant last worked has more than one branch or division operating
25 at different locations, the commission shall mail the notice to the
26 branch or division at which the claimant last worked.

27 (c) [~~(b)~~] Mailing of a notice under this section to the

1 correct address of the person, branch, or division for which the
2 claimant last worked constitutes notice of the claim to the person.

3 SECTION 8. The following laws are repealed:

- 4 (1) Section 201.011(1), Labor Code; and
- 5 (2) Section 207.045(e), Labor Code.

6 SECTION 9. (a) Not earlier than January 1, 2012, the
7 governor shall appoint a Task Force on Unemployment Compensation
8 Reform. The nine-member task force shall be comprised of the
9 following:

- 10 (1) a person representing large businesses or chambers
11 of commerce in this state;
- 12 (2) a person representing small businesses in this
13 state;
- 14 (3) a person representing organized labor;
- 15 (4) a recognized state or national expert on
16 unemployment insurance financing and eligibility;
- 17 (5) a person representing low-wage or unemployed
18 workers in this state;
- 19 (6) a recognized expert from the field of economics
20 and labor market analysis;
- 21 (7) a person with experience in workforce development
22 and training programs;
- 23 (8) a person appointed by the lieutenant governor; and
- 24 (9) a person appointed by the speaker of the house of
25 representatives.

26 (b) Representatives from the office of the governor, Texas
27 Workforce Commission, Legislative Budget Board, house of

1 representatives, senate, and the comptroller of public accounts
2 shall advise the members of the Task Force on Unemployment
3 Compensation Reform.

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

8 (1) identify best practices in the financing of state
9 unemployment insurance funds, including the taxable wage base,
10 statutory floor and ceiling, and surplus credits;

11 (2) identify best practices in the administration of
12 state unemployment insurance systems, including technological
13 improvements;

14 (3) identify methods to reduce waste, fraud, and abuse
15 in unemployment claims and eligibility; and

16 (4) examine the advantages and disadvantages of
17 modernizing unemployment insurance eligibility under the
18 Assistance for Unemployed Workers and Struggling Families Act,
19 Title II of Division B of Public Law No. 111-5, enacted February 17,
20 2009.

21 (d) The Task Force on Unemployment Compensation Reform
22 shall identify findings and make recommendations to the Texas
23 Workforce Commission not later than January 1, 2014. At that time,
24 the commission shall determine whether any of the unemployment
25 insurance compensation reforms required under the American
26 Recovery and Reinvestment Act of 2009 (Pub. L. No. 111-5) warrant
27 continuation.

1 SECTION 10. The provisions of Chapters 201, 204, and 207,
2 Labor Code, amended by this Act remain in effect and are not subject
3 to discontinuation throughout the period federal funding is
4 provided to the Texas Workforce Commission to carry out the
5 implementation and administration of those provisions.
6 Notwithstanding any conflicting interpretations made by the courts
7 or by the United States Department of Labor of what constitutes
8 permanent law, the provisions of Chapters 201, 204, and 207, Labor
9 Code, amended by this Act will not extend beyond the period that
10 federal funding received by this state under the Assistance for
11 Unemployed Workers and Struggling Families Act, Title II of
12 Division B of Pub. L. No. 111-5, enacted February 17, 2009, has been
13 exhausted in implementing and administering the provisions of
14 Chapters 201, 204, and 207, Labor Code, amended by this Act. Once
15 that federal funding has been exhausted for implementing and
16 administering the provisions of Chapters 201, 204, and 207, Labor
17 Code, amended by this Act, the Texas Workforce Commission shall
18 inform the governor and legislature. Immediately thereafter, the
19 provisions of Chapters 201, 204, and 207, Labor Code, as amended by
20 this Act, revert to the language of those provisions as they existed
21 immediately before amendment by this Act.

22 SECTION 11. This Act applies only to eligibility for
23 unemployment compensation benefits based on a claim that is filed
24 with the Texas Workforce Commission on or after the effective date
25 of this Act. A claim filed before the effective date of this Act is
26 governed by the law in effect on the date the claim was filed, and
27 the former law is continued in effect for that purpose.

1 SECTION 12. Except as otherwise provided by this Act, this
2 Act takes effect immediately if it receives a vote of two-thirds of
3 all the members elected to each house, as provided by Section 39,
4 Article III, Texas Constitution. If this Act does not receive the
5 vote necessary for immediate effect, this Act takes effect
6 September 1, 2011, except as otherwise provided by this Act.