

BILL ANALYSIS

C.S.H.B. 1914
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Economic & Small Business Development
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties assert that federal laws relating to unemployment compensation have changed and individual states are now required to impose a liability on employers failing to respond in a timely manner to a request for information relating to an unemployment claim. The parties explain that compliance with federal law is mandatory or employers in Texas could lose a tax credit provided by the federal government. C.S.H.B. 1914 seeks to make changes relating to certain required notices under the Texas Unemployment Compensation Act to amend Texas laws as necessary to comply with federal law.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the Texas Workforce Commission in SECTION 2 of this bill.

ANALYSIS

C.S.H.B. 1914 amends the Labor Code to provide that a reimbursing employer is not entitled to a refund of, or credit for, the reimbursement paid by the employer to the Texas Workforce Commission (TWC) for unemployment compensation benefits paid to a claimant that are not in accordance with the final determination or decision under the Texas Unemployment Compensation Act, unless the employer complied with the bill's provisions and statutory provisions relating to the notification of adverse facts affecting a claim for those benefits.

C.S.H.B. 1914 requires a notification provided to TWC by a person for whom the claimant last worked that includes facts known to the person that may adversely affect the claimant's rights to unemployment compensation benefits or affect a charge to the person's account, including an initial response to the notice of the claimant's filing of an initial claim for benefits mailed to the person, to include sufficient factual information to allow TWC to make a determination regarding the claimant's entitlement to those benefits. The bill requires benefits paid to a claimant that are not in accordance with the final determination or decision under the Texas Unemployment Compensation Act to be charged to the account of a person if the person, or the person's agent, without good cause, fails to provide timely or adequate notification of this information to TWC and if TWC determines that the person, or the person's agent, has failed to provide such timely or adequate notification on at least two prior occasions. The bill specifies that such a notification is not adequate if the notification merely alleges that a claimant is not entitled to unemployment compensation benefits without providing sufficient factual information, other than a general statement of the law, to support the allegation. The bill specifies that good cause is established only by showing that a person, or the person's agent, was prevented from complying with the notification requirements due to compelling circumstances beyond the person's control. The bill authorizes TWC to adopt rules as necessary to implement the bill's provisions and statutory provisions relating to the notification.

C.S.H.B. 1914 requires a chargeback to be made to an employer's account for unemployment compensation benefits paid to a claimant that are not in accordance with the final determination

or decision under the Texas Unemployment Compensation Act if the benefits were paid due to the failure of the employer, or the employer's agents, to comply with the bill's provisions and statutory provisions relating to the notification of adverse facts affecting a claim for those benefits.

EFFECTIVE DATE

October 1, 2013.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 1914 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and highlighted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED

SECTION 1. Section 205.013, Labor Code, is amended.

SECTION 2. Section 208.004, Labor Code, is amended by adding Subsections (a-1), (c), (d), (e), and (f) to read as follows:

(a-1) A notification provided by a person under Subsection (a), including an initial response to a notice mailed to the person under Section 208.002, must include sufficient factual information to allow the commission to make a determination regarding the claimant's eligibility for benefits under this subtitle.

(c) Notwithstanding Subchapter B, Chapter 204, benefits paid to a claimant, including benefits paid to a claimant that are not in accordance with the final determination or decision under this subtitle, shall be charged to the account of a person if:

(1) the person, or the person's agent, without good cause, fails to provide adequate notification under this section within the time required by Subsection (b); and

(2) the commission determines that the person, or the person's agent, has failed to provide timely and adequate notification under this section on at least two prior occasions.

(d) For purposes of Subsection (c), a notification is not adequate if the notification merely alleges that a claimant is not eligible for benefits without providing sufficient factual information, other than a general statement of the law, to support the allegation.

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Same as introduced version.

SECTION 2. Section 208.004, Labor Code, is amended by adding Subsections (a-1), (c), (d), (e), and (f) to read as follows:

(a-1) A notification provided by a person under Subsection (a), including an initial response to a notice mailed to the person under Section 208.002, must include sufficient factual information to allow the commission to make a determination regarding the claimant's entitlement to benefits under this subtitle.

(c) Notwithstanding Subchapter B, Chapter 204, benefits paid to a claimant that are not in accordance with the final determination or decision under this subtitle shall be charged to the account of a person if:

(1) the person, or the person's agent, without good cause, fails to provide adequate or timely notification under this section; and

(2) the commission determines that the person, or the person's agent, has failed to provide timely or adequate notification under this section on at least two prior occasions.

(d) For purposes of Subsection (c), a notification is not adequate if the notification merely alleges that a claimant is not entitled to benefits without providing sufficient factual information, other than a general statement of the law, to support the allegation.

(e) For purposes of Subsection (c), good cause is established only by showing that a person, or the person's agent, was prevented from complying with this section due to compelling circumstances that were beyond the person's control.

(f) The commission may adopt rules as necessary to implement this section.

SECTION 3. Section 212.005, Labor Code, is amended.

SECTION 4. The change in law made by this Act applies only to a claim for unemployment compensation benefits filed with the Texas Workforce Commission on or after the effective date of this Act. A claim filed before the effective date of this Act is governed by the law in effect on the date the claim was filed, and the former law is continued in effect for that purpose.

SECTION 5. This Act takes effect **September 1, 2013.**

(e) For purposes of Subsection (c), good cause is established only by showing that a person, or the person's agent, was prevented from complying with this section due to compelling circumstances that were beyond the person's control.

(f) The commission may adopt rules as necessary to implement this section.

SECTION 3. Same as introduced version.

SECTION 4. The changes in law made by this Act apply only to a final determination made by the Texas Workforce Commission on or after October 1, 2013, that a person received an erroneous payment. A final determination made before that date is governed by the law in effect on the date the determination was made, and the former law is continued in effect for that purpose.

SECTION 5. This Act takes effect **October 1, 2013.**