

BILL ANALYSIS

Senate Research Center
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C.S.S.B. 919
By: Eltife
Economic Development
4/3/2013
Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

C.S.S.B. 919 aligns state law to federal law by amending the Texas Labor Code to conform to the federal changes made by 112th Congress under H.R. 3630. The bill amends the Texas Labor Code to reflect the new federal definitions of a Short-Time Compensation (STC) program. In order to continue operating the program, commonly known in Texas as the Shared Work Program (SWP), the state must amend current law to address certain requirements, including:

- ensuring that the program covers any layoffs, and not “temporary” layoffs as it states under current statute;
- maintaining participant eligibility while engaging in employer sponsored training or worker training under the Workforce Investment Act of 1998;
- requiring employers to continue providing health benefits and retirement benefits to any participant or to the same extent as other employees not participating in the program;
- requiring employers to submit a written plan specifying how the plan meets the intent of the program, how notice will be given to an employee whose work week is to be reduced, estimated number of layoffs that would have occurred absent the program, and any other appropriate information requested by the United States Department of Labor; and
- requiring employers to affirm that participation in the plan is consistent with the employer’s other obligations under state and federal law.

The new federal requirements provided for 100 percent federal funding of SWP benefits for up to 156 weeks or through August 2015 as well as a temporary chargeback protection for employers participating in SWP while those benefits are funded by the federal government. The Texas Labor Code currently does not explicitly reflect such requirements. To remain in conformity with federal law, the state must make such statutory changes. If the state fails to conform to federal law, the state will be out of compliance with federal law and the state’s federal grant for the administration of the unemployment insurance program can be rescinded by the federal government.

C.S.S.B. 919 makes necessary changes to state law to meet the new federal requirements for operating the program to take advantage of the 100 percent federal funding, to provide the temporary chargeback protection for participating employers, and to retain the federal funding for the administration of the unemployment insurance program.

C.S.S.B. 919 amends current law relating to the shared work unemployment compensation program.

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, Labor Code, by adding Subsection (f), to prohibit shared work benefits paid under Chapter 215 (Shared Work Unemployment Compensation Program) from being charged to the account of an employer if the benefits are reimbursed by the federal

government under the federal Layoff Prevention Act of 2012 (Pub. L. No. 112-96, Subtitle D, Title II).

SECTION 2. Amends Section 215.001, Labor Code, by amending Subdivision (2) to redefine "fringe benefit," and adding Subdivision (9) to define "training."

SECTION 3. Amends Section 215.022, Labor Code, as follows:

Sec. 215.022. REQUIREMENTS OF SHARED WORK PLAN. (a) Authorizes the Texas Workforce Commission (TWC) to approve a shared work plan if:

(1) the plan:

(A) applies to and identifies a specific affected unit;

(B) identifies the employees in the affected unit by name and social security number and describes how the employees will be notified in advance of the plan, if feasible;

(C) provides an estimate of the number of employees who would be laid off if the employer does not participate in the shared work plan;

(D) Redesignates existing Paragraph (C) as Paragraph (D) and makes no further change;

(E) Redesignates existing Paragraph (D) as Paragraph (E) and makes no further change; and

(F) permits eligible employees to participate in training;

(2) the employer certifies that the implementation of a shared work plan and the resulting reduction in work hours is in lieu of layoffs, rather than temporary layoffs, that would:

(A) affect at least 10 percent of the employees in the affected unit; and

(B) result in an equivalent reduction in work hours;

(3) the employer certifies that:

(A) if the employer currently provides fringe benefits, the fringe benefits continue for employees in the affected unit unless those benefits are not continued for employees not participating in the shared work plan; and

(B) participation in the shared work plan is consistent with the employer's obligations under state and federal law; and

(4) the employer agrees to furnish the TWC reports relating to the operation of the plan as requested by TWC and any other information the United States secretary of labor determines is appropriate.

Deletes existing Subdivision (1)(E) authorizing TWC to approve a shared work plan if the plan describes the manner in which the participating employer treats the fringe benefits of each employee in the affected unit. Makes nonsubstantive changes.

(b) Prohibits a shared work plan from being implemented to subsidize a seasonal employer during the off-season, rather than being implemented to subsidize a seasonal employer during the off-season or to subsidize an employer who traditionally has used part-time employees.

SECTION 4. Provides that the change in law made by this Act applies only to a shared work plan submitted by an employer to TWC on or after the effective date of this Act. Provides that a shared work plan submitted before the effective date of this Act is governed by the law in effect on the date the plan was submitted, and the former law is continued in effect for that purpose.

SECTION 5. Effective date: September 1, 2013.