LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 83RD LEGISLATIVE REGULAR SESSION

March 13, 2013

TO: Honorable John Davis, Chair, House Committee On Economic & Small Business Development

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: **HB983** by Elkins (Relating to the eligibility of temporary election officers for unemployment compensation.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for HB983, As Introduced: a negative impact of ($260,472,853) through the biennium ending August 31, 2015.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2014	($131,654,885)
2015	($128,817,968)
2016	($127,270,961)
2017	($126,156,192)
2018	($126,156,192)

All Funds, Five-Year Impact:

Fiscal Year	Probable (Cost) from *General Revenue Fund* 1	Probable Revenue Gain/(Loss) from *Wrkforce Commission Fed* 5026
2014	($131,654,885)	($131,654,885)
2015	($128,817,968)	($128,817,968)
2016	($127,270,961)	($127,270,961)
2017	($126,156,192)	($126,156,192)
2018	($126,156,192)	($126,156,192)

Fiscal Analysis

The bill would amend the Labor Code relating to the eligibility of temporary election officers for unemployment compensation. Provisions of the bill add a subsection to exclude “service in the employ of a political subdivision or of an instrumentality of a political subdivision that is wholly owned by one or more political subdivisions as a temporary election worker, officer, or official in conducting an election in the political subdivision” from the definition of employment, making the individual ineligible to receive unemployment compensation benefits.

The bill would take effect September 1, 2013.

Methodology

According to information provided by the Texas Workforce Commission (TWC), the Department of Labor (DOL) issued an informal opinion that the bill would not conform to the Federal Unemployment Tax Act (FUTA) Section 3309(b)(3)(F), and to FUTA Section 3304(a)(6)(A). Adoption of state legislation that the DOL determines to be non-conforming would make Texas employers ineligible for the 5.4 percent offset credit under FUTA Section 3304, effectively increasing the FUTA tax rate from 0.6 percent to 6.0 percent. Currently, because Texas law is conforming and certified by the Secretary of Labor, Texas' contributing employers receive the full 5.4 percent offset credit, making the effective FUTA tax rate 0.6 percent. If Texas' contributing employers lose the offset credit, the FUTA rate would increase to the maximum, 6.0 percent. For the purpose of this analysis, TWC estimates a five-year cost to Texas' contributing employers of approximately $22.8 billion.

In addition, state law determined non-conforming to FUTA Section 3304 may not be certified by the Secretary of Labor under the Social Security Act. Such certification is required for the state to receive its Unemployment Insurance State Administrative Grant under Social Security Act Section 303.

According to information provided by TWC, implementing the provisions of the bill would result in a loss in the Unemployment Insurance (UI) State Administration Grant. The fiscal impact of losing the grant is reflected in the table above and is based on projected unemployment compensation insurance administrative grant funding for state fiscal years 2014 through 2018 according to the analysis provided by TWC. TWC estimates a loss of approximately $131.6 million in fiscal year 2014; $128.8 million in 2015; $127.3 million in fiscal year 2016; and $126.2 million in fiscal years 2016-17, for a five-year loss of $640.1 million.

In addition, this analysis assumes TWC would be unable to administer the UI Program due to the loss in staff and program administration federal funding if no other funding source was available to replace the lost funds. TWC estimates a loss of 1,731 Full-Time-Equivalents (FTEs) in fiscal year 2014; 1,606 FTEs in fiscal year 2015; 1,589 FTEs in fiscal year 2016; and 1,535 FTEs in fiscal years 2017-2018 for staff working to assist with claims, appeals and in the tax department. Accordingly, this analysis assumes that costs for implementing the provisions of the bill would be funded with General Revenue funds instead of Federal Funds. This analysis also assumes the same administrative costs to operate the program would be necessary despite the anticipated decrease in individuals that would be eligible for unemployment compensation benefits under the provision of the bill. This analysis does not reflect or consider any savings to the UI Compensation Trust Fund because that fund is outside the Treasury.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 320 Texas Workforce Commission
LBB Staff: UP, RB, MW, NV