

BILL ANALYSIS

C.S.H.B. 3685
By: Anderson, Charles "Doc"
Economic & Small Business Development
Committee Report (Substituted)

BACKGROUND AND PURPOSE

According to interested parties, the description of persons engaged in rehabilitative work needs to be updated in the Labor Code to remove any presumption in statute that individuals with disabilities are not able to fully participate in the labor market. The legislation seeks to shift the paradigm, statutorily, from the belief that opportunities for individuals with disabilities in the workplace are limited to the belief that individuals with disabilities can fully participate in the workplace with the full rights and benefits of their colleagues who don't have disabilities. C.S.H.B. 3685 acknowledges that enhanced training, accommodations, and new technologies in the workplace have allowed individuals with disabilities to be productive members of the workforce.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 3685 amends Labor Code provisions defining "employment" for purposes of establishing the eligibility of certain individuals performing rehabilitative service or work relief to receive unemployment compensation benefits to make the exception for services performed by certain blind individuals apply instead to services performed by certain trained individuals. The bill describes an individual who performs such services as an individual whose earning capacity is impaired by age, physical impairment, developmental disability, mental illness, or intellectual disability or injury and removes certain other descriptions of such a person. The bill removes references to a person who is blind in statutory provisions regarding services performed by an individual in training or who, after training, is working for a sheltered workshop operated by a charitable organization and includes any facility operated by a charitable organization for purposes of those provisions. The bill specifies that statutory provisions regarding services performed by an individual who, after training, is working at an authorized facility apply to an individual whose earning capacity is impaired by age, physical impairment, developmental disability, mental illness, or intellectual disability or injury, other than an individual compensated under the Texas Minimum Wage Act for services rendered to the Texas Department of Aging and Disability Services or a department facility at a percentage of the adopted base wage.

EFFECTIVE DATE

January 1, 2016.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 3685 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED

SECTION 1. Section 201.067, Labor Code, is amended to read as follows:

Sec. 201.067. REHABILITATIVE SERVICE; WORK RELIEF; EXCEPTION FOR SERVICES PERFORMED BY CERTAIN TRAINED ~~[BLIND]~~ INDIVIDUALS. (a) In this subtitle, "employment" does not include service performed ~~[by an individual who]:~~

(1) by an individual whose earning capacity is impaired by age, physical impairment, developmental disability, mental illness, or intellectual disability or injury ~~[receives rehabilitative work or paying work in the employ of a facility that:~~

~~[(A) is conducted to carry out a program of rehabilitation for individuals whose earning capacity is impaired by:~~

~~[(i) age;~~

~~[(ii) physical impairment, other than blindness; or~~

~~[(iii) mental deficiency or injury; or~~

~~[(B) provides paying work for individuals who, because of their impaired physical or mental capacity, cannot be readily absorbed in the competitive labor market;~~

~~[(2) is blind]~~ while the individual is in training at a sheltered workshop or other facility operated by a charitable organization under a rehabilitation program that includes:

(A) an individual plan for employment as required by 29 U.S.C. Section 722, as amended by the Workforce Innovation and Opportunity Act (Pub. L. No. 113-128);

(B) a timeline for completion of the training; and

(C) a planned employment outcome; or

(2) by an individual who ~~[(3)]~~ receives work relief or work training as a part of an unemployment work-relief or work-training program assisted or financed in whole or in part by a federal agency, an agency of a state, a political subdivision of a state, or an Indian tribe.

(b) Notwithstanding Subsection (a)(1) ~~[(a)]~~, in this subtitle "employment" includes service performed by an individual whose

HOUSE COMMITTEE SUBSTITUTE

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(1) by an individual whose earning capacity is impaired by age, physical impairment, developmental disability, mental illness, or intellectual disability or injury ~~[receives rehabilitative work or paying work in the employ of a facility that:~~

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~~[(i) age;~~

~~[(ii) physical impairment, other than blindness; or~~

~~[(iii) mental deficiency or injury; or~~

~~[(B) provides paying work for individuals who, because of their impaired physical or mental capacity, cannot be readily absorbed in the competitive labor market;~~

~~[(2) is blind]~~ while the individual is in training at a sheltered workshop or other facility operated by a charitable organization under a rehabilitation program that includes:

(A) an individual plan for employment as required by 29 U.S.C. Section 722, as amended by the Workforce Innovation and Opportunity Act (Pub. L. No. 113-128);

(B) a timeline for completion of the training; and

(C) a planned employment outcome; or

(2) by an individual who ~~[(3)]~~ receives work relief or work training as a part of an unemployment work-relief or work-training program assisted or financed in whole or in part by a federal agency, an agency of a state, a political subdivision of a state, or an Indian tribe.

(b) Notwithstanding Subsection (a)(1) ~~[(a)]~~, in this subtitle "employment" includes service performed by an individual whose

earning capacity is impaired by age, physical impairment, developmental disability, mental illness, or intellectual disability or injury ~~[who is blind]~~ and who, after training, is working for a sheltered workshop or other facility operated by a charitable organization:

- (1) temporarily while awaiting placement in a position of employment in the competitive labor market; or
- (2) permanently because the individual is unable to compete in the competitive labor market.

SECTION 2. 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 3. This Act takes effect January 1, 2016.

earning capacity is impaired by age, physical impairment, developmental disability, mental illness, or intellectual disability or injury, other than an individual compensated as provided by Section 62.057, ~~[who is blind]~~ and who, after training, is working for a sheltered workshop or other facility operated by a charitable organization:

- (1) temporarily while awaiting placement in a position of employment in the competitive labor market; or
- (2) permanently because the individual is unable to compete in the competitive labor market.

No equivalent provision.

SECTION 2. Same as introduced version.