

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 84TH LEGISLATIVE REGULAR SESSION

April 8, 2015

TO: Honorable Angie Chen Button, Chair, House Committee on Economic & Small Business Development

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB3373 by Miller, Doug (Relating to the liability of reimbursing employers under the Texas Unemployment Compensation Act.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for HB3373, As Introduced: a negative impact of (\$3,046,883) through the biennium ending August 31, 2017.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

General Revenue-Related Funds, Five-Year Impact:

| Fiscal Year | Probable Net Positive/(Negative) Impact to General Revenue Related Funds |
|--------------------|---|
| 2016 | (\$1,972,262) |
| 2017 | (\$1,074,621) |
| 2018 | (\$1,074,621) |
| 2019 | (\$1,074,621) |
| 2020 | (\$1,074,621) |

All Funds, Five-Year Impact:

| Fiscal Year | Probable (Cost) from General Revenue Fund 1 | Change in Number of State Employees from FY 2015 |
|--------------------|--|---|
| 2016 | (\$1,972,262) | 20.4 |
| 2017 | (\$1,074,621) | 13.0 |
| 2018 | (\$1,074,621) | 13.0 |
| 2019 | (\$1,074,621) | 13.0 |
| 2020 | (\$1,074,621) | 13.0 |

Fiscal Analysis

This bill would amend the Labor Code relating to the liability of reimbursing employers under the Texas Unemployment Compensation Act.

This bill removes liability of a reimbursing employer for reimbursements for benefits paid to an individual if the individual's separation from work resulted from their being discharged for misconduct, or voluntarily leaving work without good cause. If the Texas Workforce Commission (TWC) bills the reimbursing employer in violation of this new provision, the bill permits the employer to contest the billing using the agency's existing dispute resolution procedures.

The U.S. Department of Labor (DOL) issued an informal opinion that the provisions of this bill are conforming to Federal law. However, TWC notes the potential for a conformity conflict with Section 3309(a)(2) of the Federal Unemployment Tax Act (FUTA), as referenced in Section 5(F) of DOL's Unemployment Insurance Program Letter 02-12, if situations arise in which the adequacy and timeliness of a reimbursing employer's response to TWC becomes an issue.

This bill would take effect September 1, 2015.

Methodology

Based on information provided by TWC, it is estimated that the provisions of the bill would result in an increase of approximately 8,200 appeal hearings in each fiscal year. TWC would require 13.0 new full-time equivalent (FTEs) positions to handle the increased workload. The agency also anticipates a one-time need of 7.4 FTEs necessary to reprogram the existing Unemployment Insurance Benefits and Chargeback database system.

The agency estimates that the 13.0 FTEs would require recurring costs of \$671,526 in salaries and \$361,482 in related support and benefit costs each fiscal year. Additional program costs include \$41,613 in recurring operating costs, and \$66,170 in initial one-time start up costs. The 7.4 FTEs needed in fiscal year 2016 for one-time technology costs would require \$540,512 in salaries and \$290,959 in related support and benefit costs.

The bill is anticipated to have a zero net effect to the Unemployment Compensation Fund. TWC assumes that the reimbursing payments not charged under this bill would instead be borne by contributing employers by incorporating the cost of those benefits into the replenishment ratio, replenishment tax, and general tax rate. The agency estimates approximately \$58.4 million of tax liability will be shifted from reimbursing employers to contributing private employers.

Technology

TWC estimates a need of 12,194 programming hours in fiscal year 2016 to reprogram the existing Unemployment Insurance Benefits and Chargeback database system in order to implement the provisions of the bill. This equates to 7.4 FTEs, requiring \$540,512 in salaries and \$290,959 in related support and benefit costs. TWC also anticipates recurring technology costs of \$23,335 each fiscal year related to personal computers and software for the additional 13.0 FTEs needed to carry out the provisions of the bill.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 320 Texas Workforce Commission

LBB Staff: UP, CL, NV, JLi