LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 87TH LEGISLATIVE REGULAR SESSION

April 13, 2021

TO: Honorable Chris Turner, Chair, House Committee on Business & Industry

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: **HB3620** by Turner, Chris (Relating to unemployment compensation benefits.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for HB3620, As Introduced : an impact of $0 through the biennium ending August 31, 2023.

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***
2022	$0
2023	$0
2024	$0
2025	$0
2026	$0

All Funds, Five-Year Impact:

Fiscal Year	**Probable Savings/(Cost) from** ***Workforce Commission Federal Acct*** **5026**	**Probable Revenue Gain/(Loss) from** ***Workforce Commission Federal Acct*** **5026**	**Probable Savings/(Cost) from** ***UNEMPLOYMENT TRST FND ACCT*** **938**	*Change in Number of State Employees from FY 2021*
2022	($1,771,973)	($135,440,000)	($41,568,917)	17.4
2023	($1,371,450)	($135,440,000)	($34,661,466)	14.0
2024	($1,367,734)	($135,440,000)	($32,933,894)	14.0
2025	($1,365,063)	($135,440,000)	($31,775,159)	14.0
2026	($1,363,496)	($135,440,000)	($31,273,333)	14.0

Fiscal Analysis

The bill would make a number of changes to different portions of the Texas Unemployment Compensation Act (TUCA).

The bill would establish two additional alternative base periods by which a claimant who would otherwise lack sufficient base period wage credits under current law could establish a claim.

The bill would add to the list of conditions under which work would not be considered suitable work conditions relating to (a) whether the work offered violates federal, state, or local protocols relating to the spread of infectious diseases, including COVID 19, and (b) whether the work offered presents an unreasonable risk of exposure to infectious diseases, including COVID-19.

The bill would require the Texas Workforce Commission (TWC) to suspend for 30 days the work search and waiting week requirements for all claimants where TWC determines that the number of initial claims filed in any seven-day period exceeds five times the number of initial claims filed in the preceding seven-day period. The 30 days would begin on the first day of the seven-day period with the excessive number of claims.

The bill would make several changes to the section of TUCA which concerns disqualifications where a claimant's unemployment is caused by labor disputes.

The bill would require TWC to provide information to claimants concerning the Patient Protection and Affordable Care Act.

The bill would amend TUCA so that the maximum amount of extended benefits is 60 percent of the total amount of regular benefits (rather than 50 percent).

The bill would prohibit TWC from recovering from claimants any “improper benefits” received by such claimants, where TWC determines that the number of initial claims filed in any seven-day period exceeds five times the number of initial claims filed in the preceding seven-day period, during the 30 days beginning on the first day of the seven-day period with the excessive number of claims. There is an exception for improper benefits obtained by knowing or fraudulent nondisclosure or misrepresentation.

The bill would repeal a section which currently defines the base period for an initial claim and the only alternative base period option currently allowed under TUCA.

Methodology

According to the Texas Workforce Commission (TWC) and an informal review of the bill by the U. S. Department of Labor (DOL), the bill's provisions related to suspension of work search requirements, recovering improperly paid benefits under certain circumstances, and increasing the maximum amount of Extended Benefits payable to an individual to more than 50 percent, raise conformity issues with federal law. If the conformity issues were sustained, TUCA would not be certified by the Labor Secretary and unemployment insurance (UI) administrative grants would not be issued.

Administrative Costs
According to TWC, this conformity issue would cause UI administrative grants issued from the U.S. Department of Labor (DOL) to be withheld. This would result in a Federal Funds revenue loss of $135,440,000 each fiscal year. According to TWC, this amount represents the base allocation issued to Texas through a formula used by DOL based on workload data and projections reported by TWC; this does not include additional funding provided by DOL in times of very high claim volumes. TWC reports the state UI operations would end without these UI administrative grants. This analysis assumes the state would use General Revenue Funds to fill in for the lost Federal Funds which could result in a cost of $135.4 million per fiscal year.

Contributory Employer Costs
According to TWC, FUTA requires that each employer pay federal UI taxes of 6.0 percent of the first $7,000 of wages paid to each employee, which equals $420 per employee per year. If the employer pays all of its state unemployment taxes in a timely fashion, and the state's unemployment insurance law is deemed to be in conformity with federal law, the employer will be given a 5.4 percent tax rate credit. When applied, this credit brings the FUTA tax rate to 0.6 percent, which equals $42 per employee per year. As TWC and DOL have reported, enactment of the bill would make state law be out of conformity with federal law which would result in employers becoming ineligible for the 5.4 percent offset credit. This would make the effective federal UI tax rate increase from 0.6 percent to 6.0 percent. Based on information provided by TWC, this analysis assumes Texas' contributing employers tax liability would increase from approximately $678.1 million to approximately $6,780.7 million per year.

Unemployment Trust Fund Impact
Alternative Base Periods

(Sections 1, 8, 9) Based on information provided by TWC, this analysis assumes the number of additional individuals who would receive benefits under the bill's first alternative base period provision is 0.587 percent higher than the estimated claims for fiscal years 2022 through 2026, the average weekly benefits for these individuals would be 83.40 percent of the estimated average weekly benefits for regular claims, and the projected duration would be 99.3 percent of the projected duration of all regular claims. This results in a total increased cost of $107.8 million to the Unemployment Trust Fund Account for the five year period from fiscal year 2022 through fiscal year 2026. According to TWC, the second proposed alternative base period is expected to have approximately 50 percent of the impact on the Trust Fund as the first alternative base period because it is based on wages earned in a truncated quarter resulting in a total increased cost of $53.9 million to the Unemployment Trust Fund Account for the five year period from fiscal year 2022 through fiscal year 2026.

Suitable Work Conditions
Based on information provided by TWC, this analysis assumes the number of additional individuals who would receive benefits under the bill's provisions related to suitable work conditions is 0.002056 percent higher than the estimated claims for fiscal years 2022 through 2026. This results in a total increased cost of $4.6 million to the Unemployment Trust Fund Account for the five year period from fiscal year 2022 through fiscal year 2026.

Work Search and Waiting Week
Based on information provided by TWC, this analysis assumes a total increased cost of $5.9 million to the Unemployment Trust Fund Account for the five year period from fiscal year 2022 through fiscal year 2026 due to the work search and waiting week waiver provisions of the bill.

Based on information provided by TWC, this analysis assumes a minimal Trust Fund impact related to the strike-based claims and claims related to the maximum total extended benefit amount.

UI Administration
According to TWC, claimants who would qualify under the bill's alternative base period provisions would result in an increased workload for the Tele-Center and appeals departments. Enactment of the bill would require TWC to manually request wages from employers because this data would not be available in the Tax system. The agency estimates an increased need of 14.0 full-time equivalent (FTE) program staff positions, including 6.0 Customer Service Representatives, 6.0 Hearings Officer II, and 2.0 Administrative Assistant II, beginning in fiscal year 2022. Implementation of the bill would also require programming changes to the Apply for Benefits Application and the UI benefits system. TWC anticipates this would require an additional 3.4 technology FTEs in fiscal year 2022 only. This results in a total increased cost of $7.0 million to the Workforce Commission Federal Funds account for FTE salaries, benefits, and other operating expenses for the five year period from fiscal year 2022 through fiscal year 2026.

It is assumed that the administrative costs associated with the bill's provisions relating to the determination of whether work is suitable for an individual for the purpose of determining the individual's unemployment compensation benefit eligibility, the work search and waiting week waivers, the claims related to certain labor dispute, the development of the new form to inform applicants of the Patient Protection and Affordable Care Act (ACA), and the maximum total extended benefit amount could be absorbed using existing resources. TWC anticipates this impact would be limited to training and the updating of manuals. TWC anticipates certain programming changes, screens for staff computers, and web systems updates will be needed. TWC reports these costs are estimated as minimal and can be absorbed through existing resources.

According to TWC, providing the new ACA form to each initial claim applicant would result in a total increased cost of $271,077 to the Workforce Commission Federal Account for the five year period from fiscal year 2022 through fiscal year 2026.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 320 Texas Workforce Commission

LBB Staff: JMc, SZ, MB, DFR