

BILL ANALYSIS

C.S.H.B. 2458
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Business & Industry
Committee Report (Substituted)

BACKGROUND AND PURPOSE

The Texas unemployment insurance system was tested in ways it had never been tested before during the COVID-19 pandemic. During this period, fraudsters became aware of the federal money that was added to unemployment claim payments and misrepresented their earning and eligibility status to receive these increased benefits. C.S.H.B. 2458 seeks to prevent an individual from defrauding or attempting to defraud the unemployment insurance system by requiring any previous fraudulent overpayment and penalties to be repaid to the Texas Workforce Commission before an individual may file a new claim for benefits.

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. 2458 amends the Labor Code to include among the eligibility requirements an unemployed individual must meet for unemployment benefits under the Texas Unemployment Compensation Act the satisfaction of any outstanding obligation in relation to unemployment benefits forfeited by the individual on the grounds that they received the benefits by wilful nondisclosure or misrepresentation of a material fact of their qualification for benefits. The bill establishes the following regarding this eligibility requirement:

- the requirement applies only if the benefit period for which the individual is seeking benefits is not in the same benefit year in which the nondisclosure or misrepresentation of a material fact occurred; and
- the amount that must be satisfied includes the amount of any penalty assessed against the individual.

With respect to an initial claim for such benefits, the bill removes the following as persons to whom the terms "last work" and "person for whom the claimant last worked" refer:

- the last person for whom the claimant actually worked, if the claimant worked for that person for at least 30 hours during a week; and
- the employer, as defined by the unemployment law of any other state for whom the claimant last worked.

C.S.H.B. 2458 applies only to a claim for unemployment compensation benefits filed with the Texas Workforce Commission on or after the bill's effective date.

EFFECTIVE DATE

September 1, 2023.

COMPARISON OF INTRODUCED AND SUBSTITUTE

While C.S.H.B. 2458 may differ from the introduced in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

The substitute omits the following provisions that appeared in the introduced prescribing the manner in which the Texas Workforce Commission (TWC) collects improper unemployment compensation benefits and associated penalties:

- a provision increasing the amount of the required penalty for a person who forfeits a benefit the person received by wilful nondisclosure or misrepresentation of a material fact, from an amount equal to 15 percent of the amount forfeited to 50 percent of that amount;
- provisions establishing methods by which TWC may collect such penalties, requiring TWC by rule to prescribe a base amount which is exempt from levy to recover the forfeited benefits, with associated imposed penalties, and establishing the inapplicability of the exemption of a right to benefits from debt collection to such benefits and penalties;
- a requirement for TWC to deposit 35 percent of any such assessed penalty in the unemployment compensation special administration fund and a change to the amount of such penalties required to be deposited in the unemployment compensation fund from any such assessed penalty to 15 percent of such an assessed penalty; and
- a provision expanding the purposes for which that administration fund may be used by including covering expenditures related to fraud prevention and investigation, misclassification, as well as the collection of certain benefits.

While both the introduced and the substitute require an individual, to be eligible for unemployment benefits, to have satisfied any outstanding obligation in relation to benefits forfeited by the individual, the substitute makes the eligibility requirement applicable only if the benefit period for which the individual is seeking benefits is not in the same benefit year in which the nondisclosure or misrepresentation of a material fact occurred, whereas the introduced did not include that applicability condition.

The substitute changes the bill's effective date from January 1, 2024, as in the introduced, to September 1, 2023.