

By: Vo

H.B. No. 2458

A BILL TO BE ENTITLED

1 AN ACT

2 Relating to the forfeiture, recovery, and the reduction of the
3 fraudulent benefit payments in the administration of the Texas
4 Unemployment Compensation Act.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

6 SECTION 1. Section 203.201, Labor Code, is amended to read
7 as follows:

8 Sec. 203.201. SPECIAL ADMINISTRATION FUND. (a) The
9 unemployment compensation special administration fund is a special
10 fund.

11 (b) The special administration fund consists of:

12 (1) all interest and penalties collected under this
13 subtitle, other than a penalty to be deposited in the unemployment
14 compensation fund established under Section 203.021 per Section
15 214.003(d) assessed under Section 214.003(a)(2); and

16 (2) any amounts received under any surety bond for
17 losses sustained by the special administration fund.

18 SECTION 2. Section 203.202, Labor Code, is amended to read
19 as follows:

20 Sec. 203.202. USE OF SPECIAL ADMINISTRATION FUND. (a)
21 Money in the special administration fund may be spent in accordance
22 with this subtitle and may be used:

23 (1) to pay the cost of reimbursing the benefit account
24 in the compensation fund for benefits paid to former employees of

1 this state that are based on service for this state, and the cost of
2 construction and purchase of buildings and land necessary for that
3 administration;

4 (2) in the administration of Chapters 51, 61, and 62;

5 (3) for payment of interest on advances from the
6 federal trust fund;

7 (4) as a revolving fund to cover expenditures that are
8 necessary and proper under this subtitle and for which federal
9 funds have been requested but not received, subject to the charging
10 of the expenditures against the federal funds when received;

11 (5) to refund a penalty as provided by Section
12 203.203; ~~and~~

13 (6) subject to the provisions of Chapter 2107,
14 Government Code, to pay persons who contract with the commission to
15 collect delinquent unemployment taxes, penalties, and interest
16 owed under this subtitle; and

17 (7) to cover expenditures related to fraud prevention
18 and investigation, misclassification, as well as the collection of
19 benefits obtained fraudulently and/or forfeited.

20 (b) Money in the special administration fund may not be
21 spent in any manner that would permit its substitution for, or a
22 corresponding reduction in, federal funds that would, in the
23 absence of that money, be available to finance expenditures for the
24 administration of this subtitle.

25 (c) The commission by a resolution entered in its minutes
26 may authorize to be charged against the special administration fund
27 any expenditure the commission considers proper in the interest of

1 good administration of this subtitle if the resolution states that
2 no other funds are available for the expenditure.

3 SECTION 3. Section 207.021, Labor Code, is amended to read
4 as follows:

5 Sec. 207.021. Benefit Eligibility Conditions

6 (a) Except as provided by Chapter 215, an unemployed
7 individual is eligible to receive benefits for a benefit period if
8 the individual:

9 (1) has registered for work at an employment office
10 and has continued to report to the employment office as required by
11 rules adopted by the commission;

12 (2) has made a claim for benefits under Section
13 208.001;

14 (3) is able to work;

15 (4) is available for work;

16 (5) is actively seeking work in accordance with rules
17 adopted by the commission;

18 (6) for the individual's base period, has benefit wage
19 credits:

20 (A) in at least two calendar quarters; and

21 (B) in an amount not less than 37 times the
22 individual's benefit amount;

23 (7) after the beginning date of the individual's most
24 recent prior benefit year, if applicable, earned wages in an amount
25 equal to not less than six times the individual's benefit amount;

26 (8) has been totally or partially unemployed for a
27 waiting period of at least seven consecutive days; ~~and~~

1 (9) participates in reemployment services, such as a
2 job search assistance service, if the individual has been
3 determined, according to a profiling system established by the
4 commission, to be likely to exhaust eligibility for regular
5 benefits and to need those services to obtain new employment,
6 unless:

7 (A) the individual has completed participation
8 in such a service; or

9 (B) there is reasonable cause, as determined by
10 the commission, for the individual's failure to participate in
11 those services; and

12 (10) has repaid any unemployment compensation
13 benefits forfeited, with associated penalties, per section
14 [214.003](#).

15 SECTION 4. Section [208.002](#), Labor Code, is amended to read
16 as follows:

17 Sec. 208.002. Initial Claim; Last Work

18 (a) When used in connection with an initial claim, "last
19 work" and "person for whom the claimant last worked" refers to ~~+~~

20 ~~(1) the last person for whom the claimant actually~~
21 ~~worked, if the claimant worked for that person for at least 30 hours~~
22 ~~during a week, or~~

23 ~~(2) the employer, as defined by Subchapter C, Chapter~~
24 ~~201, or by the unemployment law of any other state,~~ for whom the
25 claimant last worked.

26 (b) The commission shall mail a notice of the filing of an
27 initial claim to the person for whom the claimant last worked before

1 the effective date of the initial claim. If the person for whom the
2 claimant last worked has more than one branch or division operating
3 at different locations, the commission shall mail the notice to the
4 branch or division at which the claimant last worked.

5 (c) Mailing of a notice under this section to the correct
6 address of the person, branch, or division for which the claimant
7 last worked constitutes notice of the claim to the person.

8 SECTION 5. Section 212.006, Labor Code, is amended to read
9 as follows:

10 Sec. 212.006. RECOVERY OF BENEFITS PAID. (a) Benefits paid
11 to a claimant that are not in accordance with the final decision
12 shall be:

- 13 (1) refunded by the claimant to the commission; or
14 (2) in the discretion of the commission, deducted from
15 future benefits payable to the claimant under this subtitle.

16 (b) Benefits paid that are not in accordance with the final
17 decision are also collectible in the manner provided by Sections
18 213.031, 213.032, 213.033, 213.035, and 213.051 for the collection
19 of past due contributions.

20 (b-1) Unemployment compensation benefits forfeited, with
21 associated penalties, per section 214.003, that are not in
22 accordance with the final decision are also collectible from a
23 financial institution in the manner provided by section 213.059.
24 By rule, the commission shall prescribe a base amount which is
25 exempt from levy to recover unemployment compensation benefits
26 forfeited, with associated penalties imposed under section
27 214.003. Section 207.075(b) is not applicable to benefits and

1 penalties recovered by the Commission under this subsection.

2 (c) The commission shall accept payment for benefits
3 refunded by a claimant under Subsection (a)(1) by personal check,
4 cashier's check, money order, debit card, electronic check, or
5 electronic funds transfer. The commission shall accept payment
6 through the mail and by Internet, as applicable. The commission may
7 adopt rules to accept forms of payment not listed in this
8 subsection.

9 SECTION 6. Section 214.002, Labor Code, is amended to read
10 as follows:

11 Sec. 214.002. LIABILITY FOR IMPROPERLY OBTAINING BENEFITS.

12 (a) A person who has received improper benefits is liable for the
13 amount of the improper benefits. The commission may recover
14 improper benefits by:

15 (1) deducting the amount of the improper benefits from
16 any future benefits payable to the person;

17 (2) collecting a refund from a claimant; ~~or~~

18 (3) collecting the amount of the improper benefits for
19 the compensation fund in the same manner provided by Sections
20 213.031, 213.032, 213.033, 213.035, and 213.051 for the collection
21 of past due contributions; or

22 (4) collecting unemployment compensation benefits
23 forfeited, with associated penalties, per Section 214.003, from a
24 financial institution in the manner provided by section 213.059.

25 By rule, the commission shall prescribe a base amount which is
26 exempt from levy to recover the unemployment compensation benefits
27 forfeited, with associated penalties imposed under Section

1 214.003. Section 207.075(b) is not applicable to benefits and
2 penalties recovered by the Commission under this subsection.

3 (b) In this section, "improper benefit" means the benefit
4 obtained by a person:

5 (1) because of the nondisclosure or misrepresentation
6 by the person or by another of a material fact, without regard to
7 whether the nondisclosure or misrepresentation was known or
8 fraudulent; and

9 (2) while:

10 (A) any condition imposed by this subtitle for
11 the person's qualifying for the benefit was not fulfilled in the
12 person's case; or

13 (B) the person was disqualified from receiving
14 benefits.

15 (c) The commission shall accept payment for benefits
16 refunded by a claimant under Subsection (a)(2) by personal check,
17 cashier's check, money order, debit card, electronic check, or
18 electronic funds transfer. The commission shall accept payment
19 through the mail and by Internet, as applicable. The commission may
20 adopt rules to accept forms of payment not listed in this
21 subsection.

22 SECTION 7. Section 214.003, Labor Code, is amended to read
23 as follows:

24 Sec. 214.003. Forfeiture or Cancellation of Benefits Paid
25 and Remaining Benefits; Penalty

26 (a) If, by willful nondisclosure or misrepresentation of a
27 material fact, whether the nondisclosure or misrepresentation is

1 made by the person or for the person by another, a person receives a
2 benefit when a condition imposed by this subtitle for the person's
3 qualifying for the benefit is not fulfilled or the person is
4 disqualified from receiving the benefit:

5 (1) the person forfeits the:

6 (A) benefit received; and

7 (B) rights to benefits that remain in the benefit
8 year in which the nondisclosure or misrepresentation occurred; and

9 (2) the commission shall require the person to pay a
10 penalty in an amount equal to ~~15~~ 50 percent of the amount forfeited
11 under Subdivision (1)(A).

12 (b) If a person attempts to obtain or increase benefits by a
13 nondisclosure or misrepresentation as provided by Subsection (a),
14 the commission may cancel the person's right to benefits that
15 remain in the benefit year in which the nondisclosure or
16 misrepresentation occurred.

17 (c) A forfeiture, cancellation, or penalty imposed under
18 this section is effective only after the person has been afforded an
19 opportunity for a fair hearing before the commission or its duly
20 designated representative.

21 (d) A person who is assessed a penalty by the commission
22 under Subsection (a)(2) is liable for the amount of the penalty. The
23 commission may collect the penalty in the same manner as provided by
24 Sections 212.006 (a)(1), (b), and (b-1) ~~213.031, 213.032, 213.033,~~
25 ~~213.035, 213.051,~~ and 214.002(a)(2), (a)(3), and (a)(4) ~~213.051~~ for
26 ~~the collection of past-due contributions.~~ The commission shall
27 deposit 15 percent of any penalty assessed under ~~Subsection (a)(2)~~

1 this Section in the unemployment compensation fund established
2 under Section 203.021. The commission shall deposit 35 percent of
3 any penalty assessed under this Section in the unemployment
4 compensation special administration fund established under
5 Subchapter E, Chapter 203, for the purposes described in Section
6 203.202(a)(7).

7 SECTION 8. The change in law made by this Act applies only
8 to a claim for unemployment compensation benefits that is filed
9 with the Texas Workforce Commission on or after the effective date
10 of this Act. A claim filed before the effective date of this Act is
11 governed by the law in effect on the date the claim was filed, and
12 the former law is continued in effect for that purpose.

13 SECTION 9. This Act takes effect January 1, 2024.