

SUBJECT: Applying for unemployment benefits after temporary agency assignments

COMMITTEE: Economic Development — favorable, without amendment

VOTE: 7 ayes — Ritter, B. Cook, Anchia, Deshotel, Kolkhorst, McCall, Seaman
0 nays

WITNESSES: For — Garry Bradford, UNIQUE Employment Service; Pamela Bratton, Career Consultants Staffing Services, Inc.; (*Registered, but did not testify*: Kate Hill, Texas Association of Staffing)

Against — Becky Moeller, Texas AFL-CIO; (*Registered, but did not testify*: Marc House, United Auto Workers Local 218)

On — Ron Lehman, Texas Workforce Commission; Steve Riley, Texas Workforce Commission; (*Registered, but did not testify*: Mark Fenner, Texas Workforce Commission)

BACKGROUND: Unemployment insurance is an employer-paid insurance program that provides temporary financial benefits to unemployed individuals based on their previous earnings while they are looking for other work. Employer taxes and reimbursements support the Unemployment Trust Fund.

To establish a payable claim, individuals must be unemployed through no fault of their own, must have received enough wages to meet the requirements, and must meet ongoing work availability and work search requirements. These claim requirements apply to separation from most jobs, including temporary jobs.

A person who leaves his last place of employment voluntarily without good cause is disqualified from receiving unemployment benefits. An employee who was disqualified from receiving unemployment insurance benefits on a claim could not receive benefits until the employee returned to work and requalified by earning six times the weekly benefit amount and meeting all other eligibility requirements.

A temporary help firm is a company that employs individuals and assigns them to support or supplement a client's workforce during employee

absences, temporary skill shortages, seasonal workloads, special assignments and projects, and other similar work situations.

DIGEST:

Under HB 1745, a temporary employee of a temporary help firm would be considered to have left the employee's last work voluntarily without good cause if the employee did not contact the firm upon completion of a temporary assignment and allow the firm at least three business days to reassign the employee.

A temporary employee who had not been advised of these requirements, or of the fact that the employee could be denied unemployment benefits as a result would not be considered have to have left work voluntarily without good cause.

The bill would take effect September 1, 2005, and would apply to eligibility for unemployment compensation benefits based only on claims filed on or after that date.

**SUPPORTERS
SAY:**

HB 1745 would cut down on frivolous unemployment claims by establishing a waiting period during which employees of temporary agencies could not file for unemployment benefits. Current law creates an administrative burden for the Texas Workforce Commission (TWC) and temporary agencies. Thousands of people file unemployment claims after working for temporary agencies and then do not file continued claims before returning to work, which suggests that these people never truly were unemployed because they returned to work almost immediately and received no benefits. Yet the filing of an initial claim requires TWC and the temporary agencies to conduct a number of time-consuming administrative procedures. With a waiting period, a number of these frivolous claims could be avoided.

Every claim raises costs in one way or another. It is even a cost to the system to file a claim and then to cancel it. In 2003, TWC's average cost per claim investigation was \$23, costing TWC almost \$200,000 in administrative expenses.

HB 1745 would create little if any impact on receipt of benefits. This bill would not deprive workers. The three-day wait might influence the timing of the first benefit, but because the benefit pool for each person is finite, this lag would not make the actual benefit paid smaller.

Because temporary employees can file for unemployment benefits in such an expedient manner, the tax rates for the temporary agency industry are higher than they should be. In 2005, the average tax rate for temporary firms was 3.19 percent. This rate is almost double the average experience tax rate of 1.63 percent. As a result, this industry pays \$35 million dollars more in taxes than a company with rates at the state average.

The current situation creates an opportunity for fraud. A person who files for benefits immediately might receive a work assignment after a few days but decline to report this new assignment to TWC in order to continue receiving benefits. A waiting period might discourage such fraud.

There is no economic advantage to a temporary firm of making a person wait three days to get an assignment. In addition, the Labor Code allows a worker to turn down an unsuitable assignment, including from a temporary agency, without the negative consequences of being disqualified for unemployment benefits.

OPPONENTS
SAY:

Temporary workers face many challenges in making ends meet. They show a willingness to work and should not be punished through the delay of unemployment benefits. Fraud is not an issue when it comes to temporary workers and unemployment benefits. These workers are not trying to take advantage of the system. They simply are trying to obtain unemployment benefits fairly so they can pay their bills.

Temporary agencies might take advantage of the proposed three-day rule. The agency might make assignments based not on an employee's qualifications, but how soon he or she would pass the three-day deadline that would confer eligibility for unemployment benefits. In addition, the agency could further avoid or delay the unemployment benefit process by offering unrealistic, low-paying, or distant positions to worker knowing that the worker would decline the position. Such an employee might be considered to have left the firm voluntarily. While these strategies might benefit the temporary agency, they would not benefit the worker.

NOTES:

The fiscal note projects that HB 1745 would result in an administrative annual cost savings to TWC of about \$483,000 in federal unemployment insurance funds per year due to an estimated decrease in initial claims filed of 17,000 per year. The bill also would result in an estimated

savings of \$85,910 per year to the unemployment insurance trust fund based on projections that 1,200 claimants would wait to file a claim.