

- SUBJECT:** Repayment of improper unemployment compensation benefits
- COMMITTEE:** Economic Development — favorable, without amendment
- VOTE:** 4 ayes — Deshotel, Straus, Kolkhorst, Morrison  
3 nays — Dunnam, Ortiz, Veasey
- WITNESSES:** For — Lance Lively, National Federation of Independent Business  
(*Registered, but did not testify*: Shelton Green, Texas Association of Business)  
Against — Rick Levy, Texas AFL-CIO
- BACKGROUND:** Under Labor Code, sec. 214.002, a claimant who improperly receives unemployment insurance benefits is responsible for repayment to the Texas Workforce Commission (TWC). “Improper benefit” is defined as a benefit obtained by a person due to the nondisclosure or misrepresentation of a material fact, without regard to whether the nondisclosure or misrepresentation was known or fraudulent, and while:
- the person had not filled a condition required for qualification for the benefit; or
  - the person was disqualified from receiving benefits.
- In *Martinez v. TEC*, 570 S.W.2d 28 (Tex. Civ. App. 1978), the Thirteenth Court of Appeals held that an overpayment due solely to TWC error was not collectible under Labor Code, sec. 214.002.
- DIGEST:** HB 2866 would amend Labor Code, sec. 214.002(b) to define “improper benefit” as any unemployment benefit or payment obtained by a person who was or is subsequently disqualified or otherwise determined to be ineligible to receive the benefit or payment for any reason under a TWC final determination or decision.
- The bill would take effect, September 1, 2007, and would apply only to a claim for unemployment benefits filed with TWC on or after that date.

SUPPORTERS  
SAY:

HB 2866 would allow TWC to reclaim money that was paid erroneously to claimants. The bill would affirm that claimants cannot receive benefits that they did not rightfully earn. While it is regrettable that state agencies, including TWC, occasionally make mistakes, this still does not entitle people to claim benefits to which they are not entitled.

Furthermore, the bill would reduce the cost to the Unemployment Insurance Trust Fund for benefits that had been improperly paid and continue to ensure the fund's solvency through prudent fiscal management and appropriate and accurate payment of claims. TWC estimates that the bill would save the trust fund approximately \$135,000 over a five-year period. Finally, the bill would not require immediate restitution from affected claimants. TWC would notify claimants of the overpayment and offer them the option of making repayment or having future benefits reduced.

OPPONENTS  
SAY:

HB 2866 unfairly would disadvantage people who relied on TWC to accurately calculate their unemployment benefits and received overpayments not through fraud, dishonesty, or misrepresentation but due to agency error. This bill would worsen the already tenuous financial position of these claimants who had received extra benefits through no fault or knowledge of their own. Texas law should follow the precedent set by *Martinez v. TEC* by continuing to protect vulnerable claimants from financial hardship caused by TWC error.

NOTES:

The companion bill, SB 1818 by Carona, has been referred to the Senate Business and Commerce Committee.