

SUBJECT: Confidentiality of unemployment employment information

COMMITTEE: Economic Development — favorable, without amendment

VOTE: 5 ayes — Deshotel, Straus, Morrison, Ortiz, Veasey

0 nays

2 absent — Kolkhorst, Dunnam

SENATE VOTE: On final passage, May 1 — 31-0, on Local and Uncontested Calendar

WITNESSES: *(On House companion bill, HB 3825 by Morrison:)*
For — *(Registered, but did not testify:)* Cathy DeWitt, Texas Association of Business; Rick Levy, Texas AFL-CIO)

Against — None

On — *(Registered, but did not testify:)* Don Ballard, Texas Workforce Commission)

BACKGROUND: On September 27, 2006, the United States Department of Labor (DOL) published rules — 20 CFR, part 603 — on confidentiality and disclosure of state unemployment compensation (UC) information. The rules create minimum requirements for confidentiality and stipulate that states may adopt more stringent confidentiality provisions than those imposed by the final regulations. The rules address three primary categories of information:

- UC information that must be open to the public;
- UC information that must be kept confidential; and
- UC information that a state may choose to keep confidential and/or release under limited circumstances.

The rules became effective October 27, 2006, but allowed states up to two years to enact rules or legislation that would comply with these federal regulations. Compliance with the federal rules would ensure that Texas

employers continued to receive the Federal Unemployment Tax Act (FUTA) tax credit.

FUTA authorizes the Internal Revenue Service to collect a federal employer tax used to fund state workforce agencies. FUTA covers some of the costs of administering the unemployment insurance and job service programs in all states. Employers pay this tax annually as well as a state unemployment tax. Employers who pay the state unemployment tax on a timely basis receive an offset credit of up to 5.4 percent, regardless of the rate of tax they pay the state. This tax credit goes to offset the federal FUTA tax of 6.2 percent of taxable wages.

DIGEST:

SB 1619 would amend Labor Code, ch. 301, to add confidentiality provisions for employment information and unemployment compensation information.

The bill expressly would state that employment information may not be published or made available for public inspection except as deemed necessary by the Texas Workforce Commission (TWC) to administer unemployment services or as provided by TWC rule and consistent with federal law. In addition, unemployment compensation information would not be considered public information under the Texas Public Information Act.

The bill would authorize TWC to adopt and enforce rules consistent with federal law governing confidentiality, use, preservation, and disclosure of unemployment compensation information. The rules would have to contain safeguards to protect the confidentiality of identifying information.

Misuse of employment and unemployment compensation information would be a class A misdemeanor (up to one year in jail and/or a maximum fine of \$4,000). An offense would include soliciting, disclosing, receiving, or using another individual's unemployment compensation information — alone or in combination with other information — that revealed identifying information about an individual or a past or present employer.

The bill would take effect September 1, 2007, and would apply only to an offense committed on or after that date.

NOTES: The identical companion bill, HB 3825 by Morrison, was heard and left pending in the House Economic Development Committee on April 18.