

SUBJECT: Requiring employers to inform employees of the earned income tax credit

COMMITTEE: Business and Industry — favorable, without amendment

VOTE: 7 ayes — Deshotel, Elkins, Gattis, Giddings, Orr, Quintanilla, S. Turner

1 nay — Keffer

3 absent — Christian, England, S. Miller

WITNESSES: For — (*Registered, but did not testify*: Jason Sabo, United Ways of Texas)

Against — None

On — Don Baylor, Center for Public Policy Priorities

BACKGROUND: The Earned Income Tax Credit (EITC) is a refundable federal income tax credit for low-to-moderate income working individuals and families. The Comptroller's Office is the primary agency charged with promoting awareness of the EITC. The comptroller publishes EITC-related informational materials for distribution by businesses and community organizations and may recruit other state agencies and the Governor's Office to coordinate in EITC-related promotional efforts.

The Internal Revenue Service offers free tax return preparation assistance to low-to-moderate income (generally, \$42,000 or below) families and individuals through the Volunteer Income Tax Assistance (VITA) program, which is administered by certified volunteers in communities across the country.

DIGEST: HB 2360 would require an employer to provide annually to its employees information regarding eligibility for the federal Earned Income Tax Credit (EITC) at the time the employer provided its employees with their W-2 Internal Revenue Service (IRS) Forms. The employer could provide the required eligibility information by providing an employee with:

- IRS publications related to the EITC;
- EITC-related information prepared by the comptroller;

- the federal income tax forms an employee would have to file in order to claim the EITC; or
- information about a local Volunteer Income Tax Assistance (VITA) program that provided free federal income tax preparation services, including the program's address, website, phone number, or any other relevant information, if the employer's place of employment was located in close geographic proximity to the program.

HB 2360 would authorize the Texas Workforce Commission (TWC) to adopt rules as necessary that would establish the manner by which an employer would have to provide its employees with EITC eligibility information. The bill also would require the comptroller to produce and make available to employers written information regarding the EITC and explaining the availability of and contact information for local VITAs.

The bill would take effect September 1, 2009.

**SUPPORTERS
SAY:**

HB 2360 could put over a billion taxpayer dollars back into the pockets of low-to-moderate income working Texas families and individuals by promoting awareness of the federal Earned Income Tax Credit (EITC). According to the comptroller, 2.2 million Texans claimed the credit in 2008 and received more than \$5.1 billion in federal tax refunds, an average of \$2,260 per qualifying household. However, the Center for Public Policy Priorities has reported that as many as one in four EITC-eligible Texans failed to claim the credit in 2009, depriving families and individuals of approximately \$1.4-1.9 billion in unclaimed refunds. The number of unfiled EITC claims reflects a lack of awareness among Texans about their eligibility for the credit and demonstrates a clear need for greater availability of information about EITC eligibility, a need which has gone unfilled by existing VITA programs.

The loss of taxpayer dollars due to failure to claim the EITC redounds to the state's economy in the form of decreased spending. By generating interest and education about EITC eligibility, HB 2360 would enable Texans to spend more and could stimulate the economy. Texans could also choose to save refunds and pay down debt, affording themselves and their families greater financial independence and stability.

HB 2360 would not place any additional significant cost burden on Texas employers. As envisioned, the bill would allow employers to satisfy the EITC notice requirement simply by printing copies of online flyers

produced by the comptroller or the IRS and distributing them to employees. Any paper costs or loss of staff time would be marginal and would be far outweighed by the benefits of putting tax refunds back into Texans' pockets.

**OPPONENTS
SAY:**

While everyone agrees about the need to educate Texans about whether they qualify for the EITC, HB 2360 would go about it the wrong way, by delegating the task to employers. Employers should not be burdened with the responsibility of spending time and money to educate employees about tax credits. The information that the bill would require employers to provide could just as easily be provided by the state or by local community organizations, or some combination thereof.

NOTES:

Rep. Farias intends to offer a floor amendment clarifying that employers would not have to determine which of their employees were eligible for the EITC in order to satisfy the bill's EITC notice requirement. Employers could satisfy the bill's EITC eligibility notice requirement by providing notice to all employees.

The amendment also would require employers to provide notice of potential EITC eligibility to employees on an individual basis, rather than by posting the notice in an general area at the employer's place of employment.

The amendment would allow the comptroller to provide information about EITC eligibility to employers in written form or online electronically.

Finally, the amendment would require the Texas Workforce Commission to remind employers periodically of the requirement to provide employees with information about their potential eligibility for the EITC.