

SUBJECT: Defining “last work” for initial unemployment compensation claims

COMMITTEE: Business and Industry — favorable, without amendment

VOTE: 8 ayes — Deshotel, Elkins, Christian, England, Giddings, S. Miller, Orr, Quintanilla

0 nays

3 absent — Gattis, Keffer, S. Turner

SENATE VOTE: On final passage, April 2 — 31-0, on Local and Uncontested Calendar

WITNESSES: (*On House companion bill, HB 1348:*)
For — Bill Hammond, Texas Association of Business; (*Registered, but did not testify:* Jon Fisher, Associated Builders and Contractors of Texas; Will Newton, NFIB/Texas)

Against — Rick Levy, Texas AFL-CIO

On — Steve Riley, Texas Workforce Commission

BACKGROUND: Labor Code, sec. 208.002 requires the Texas Workforce Commission (TWC) to mail a notice of an unemployed worker’s initial claim for unemployment insurance to the worker’s last employer. Mailing the notice to the correct address of the person, branch, or division for which the claimant last worked constitutes TWC’s notice of the claim to the employer.

DIGEST: SB 859 would amend Labor Code, sec. 208.002 by adding the definition of “last work” to be used in connection with an initial claim under the unemployment compensation system. Under the bill, the “last work” of a person applying for benefits would be the last person for whom the claimant worked at least 30 hours a week or the last person for whom the claimant worked who met the definition of an employer in the Texas Unemployment Compensation Act.

The bill would take effect on September 1, 2009, and would apply to initial claims for unemployment insurance claims filed on or after that date.

**SUPPORTERS
SAY:**

SB 859 could save up to an estimated additional \$82.6 million during the next five years for the unemployment insurance trust fund by ending a deceptive practice some claimants use to avoid disqualification under existing state laws. Under current law, an employee who is fired can maintain eligibility by assuming an informal, temporary job for a short time, often with a neighbor or relative. Once the short-term “work assignment” ends, the person applies for benefits that would be paid by the last employer who paid unemployment taxes. SB 859 would add a reasonable and enforceable provision to define “last work” as employment in excess of 30 hours per week or through an employer that was part of the unemployment insurance system in the state. This measure would effectively end this deceptive practice by removing this loophole in eligibility.

**OPPONENTS
SAY:**

Proponents of SB 859 vastly overstate the extent of unemployment system fraud and the likely fiscal benefits of the bill. Securing unemployment benefits can be difficult enough without additional obstacles that would be provided by the bill. Statistics show that since 1976 only about 22 percent of eligible out-of-work Texans actually received unemployment insurance benefits. The claimed savings of \$82.6 million would be for a five-year period and would not provide immediate relief needed to meet shortfalls that could start as soon as July. In addition, while the fiscal note on the House version of the bill claimed an initial estimate of an \$82.6 million gain based on an analysis by the TWC, the fiscal note on SB 859 says no significant fiscal implication to the state is anticipated.

NOTES:

SB 1569 by Eltife, the unemployment compensation bill on the May 20 Major State Calendar, contains provisions similar to those in SB 859 that would define “last work” requirements.

The House companion bill, HB 1348 by Christian, was reported favorably, without amendment, by the Business and Industry Committee on April 14, but died in the Calendars Committee.