

SUBJECT: Unemployment compensation eligibility for victims of sexual assault

COMMITTEE: Economic and Small Business Development — committee substitute recommended

VOTE: 7 ayes — J. Davis, Y. Davis, Isaac, Murphy, Perez, E. Rodriguez, Workman

0 nays

2 absent — Vo, Bell

WITNESSES: For — Rick Levy, Texas AFL-CIO; Glenn Stockard, TAASA;
(*Registered, but did not testify:* Eileen Garcia, Texans Care for Children)

Against — (*Registered, but did not testify:* Kathy Barber, NFIB Texas)

On — Steve Riley, Texas Workforce Commission

BACKGROUND: Labor Code, ch. 204 governs the Texas unemployment compensation contribution system. Under sec. 204.021, benefits paid to a claimant are charged to the account of the claimant’s former employer. An employer’s unemployment compensation rate is calculated based on the history of unemployment claims against the employer. Benefits paid to a claimant are counted as “chargebacks” against the employer’s account. An employer’s premiums rise if a former employee receives benefits from the unemployment compensation fund. A claim filed against an employer remains on the employer’s account for three years.

Sec. 204.022(a) allows employers to be exempted from the chargeback system when a former employee claims unemployment benefits. This may occur in specified situations, one of which is when an employee leaves the employer to seek protection against family violence or stalking. Chargebacks are not posted on those employers’ accounts. Added costs of providing unemployment benefits to these claimants is paid by all contributors to the unemployment insurance system.

When a chargeback is not posted to an employer’s account due to a family violence or stalking situation, evidence demonstrating the need for the

employee's leaving must be provided in one of three forms:

- a recently issued protective order documenting the family violence or stalking of the employee;
- a police record documenting the family violence or stalking; or
- medical documentation describing the family violence, which identifies the employee as the patient and has to do with treatment the patient received.

Sec. 207.046 states that an individual is not disqualified from receiving unemployment compensation benefits in certain instances of voluntary separation due to a compelling need. One qualifying situation is when an employee leaves to seek protection against family violence or stalking. Any of the documentation listed above may be used as evidence for the need.

DIGEST:

CSHB 26 would amend Government Code, sec. 204.022 to add that an employee's departure due to the need of the employee or an immediate family member for protection against violence related to sexual assault would not be charged to the account of the employer. Evidence of the sexual assault could be provided in the form of a protective order, police record, physician's statement, or written description from a family violence center documenting the sexual assault.

The bill would add protection against sexual assault for the employee or an immediate family member to the list of criteria under which an individual would not lose unemployment compensation after involuntary separation from an employer, as evidenced by the same forms of documentation used to justify a chargeback exemption.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2013. The bill would only apply to unemployment compensation claims filed with the Texas Workforce Commission on or after the effective date.

**SUPPORTERS
SAY:**

CSHB 26 would protect people victimized by sexual assault who were forced to quit voluntarily, while also not penalizing their employers. The purpose of unemployment compensation insurance is to provide a cushion to individuals who lose their job through no fault of their own. Sexual assault is certainly a crime people do not wish on themselves. Many

sexual assault victims end up losing their jobs or being forced to quit for many reasons, which might include having the perpetrator as a coworker or due to anxiety, fear, or embarrassment associated with the crime.

Texas already has made the decision to grant unemployment benefits to victims of domestic violence. With this being the case, the equal if not more serious situation of sexual assault should be included, as well. Nine other states offer this form of compensation, and there would be no significant fiscal impact to the state. Employers would not receive chargebacks to their accounts, as the cost to the Unemployment Compensation Trust Fund would be socialized. For the replenishment of tax paid by all employers to go up 0.1 percent, \$4.5 million in new claims would have to result from claims made by sexual assault victims. The projected total claims of \$70,000 per year by these victims falls well below this threshold.

OPPONENTS
SAY:

Employers pay into the Unemployment Trust Fund so that when they lay off employees, those employees can receive unemployment benefits. There are already a number of allowances, ranging from family violence situations to disability, where former employees can access these benefits. However, these allowances are unrelated to work. By including victims of sexual assault, the bill would add yet another allowance unrelated to work.

Over time, if the state continues expanding the number of these allowances, the unemployment insurance taxes for employers will go up. Employers want the funds in the trust fund to go toward the intended purpose— namely, providing benefits to employees laid off from work.