

BILL ANALYSIS

Senate Research Center

H.B. 2029
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Business & Commerce
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Engrossed

DIGEST AND PURPOSE

The Consolidated Appropriations Act 2001, (Act) signed into law December 21, 2000, made amendments affecting current federal and state unemployment insurance laws retroactive to December 21, 2000. In Texas, prior to January 1, 1995, Indian tribes were treated as political subdivisions and had the option to elect reimbursing status for unemployment benefits. In 1995, the United States Department of Labor (DOL) notified the Texas Workforce Commission (TWC) that classifying Indian tribal councils as governmental entities and allowing them to pay reimbursements was not in compliance with DOL regulations, and TWC changed the tribes' status accordingly. The Act essentially returns the tribes to the status they held prior to 1995. H.B. 2029 modifies provisions relating to unemployment insurance to bring Texas into compliance with regulations mandated by federal law under the Act.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Section 201.011, Labor Code, is amended by adding Subdivision (26) to define "Indian tribe."

SECTION 2. Amends Chapter 201D, Labor Code, by adding Section 201.048, as follows:

Sec. 201.048. SERVICE FOR INDIAN TRIBE. Provides that, except as provided by Sections 201.063 and 201.067, in this subtitle, "employment" includes service performed in the employ of an Indian tribe if the services are excluded from the definition of employment under the Federal Unemployment Tax Act (26 U.S.C. Section 3301 et seq.), as amended, solely because of Section 3306(c)(7) of that Act.

SECTION 3. Amends Section 201.063(a), Labor Code, to add language to provide that in this subtitle, "employment" does not include service described by Subdivisions (1)-(3) performed in the employ of an Indian tribe.

SECTION 4. Amends Section 201.067, Labor Code, to make a conforming change.

SECTION 5. Amends Chapter 204A, Labor Code, by adding Section 204.010, as follows:

Sec. 204.010. PAYMENT OF CONTRIBUTIONS BY INDIAN TRIBES. Requires an Indian tribe that is subject to this subtitle to pay contributions under the same terms and conditions as any other subject employer unless the Indian tribe elects under Chapter 205 to make reimbursements for benefits instead of contributions.

SECTION 6. Amends Section 205.001(a), Labor Code, to make conforming changes.

SECTION 7. Amends Chapter 205A, Labor Code, by adding Section 205.004, as follows:

Sec. 205.004. ELECTION BY INDIAN TRIBE. (a) Requires an Indian tribe that elects to make reimbursements for benefits instead of contributions to make the election under this chapter in the same manner and subject to the same conditions as the state or a political subdivision of the state.

(b) Requires an Indian tribe that makes an election under this chapter to determine whether the election is for the tribe as a whole, individual tribal units, or a combination of individual tribal units.

(c) Requires an Indian tribe that makes an election under this chapter to pay the full amount of benefits attributable to service performed in the employ of the Indian tribe on the same schedule as other employing units that have elected to make reimbursements for benefits instead of contributions.

(d) Provides that an Indian tribe that fails to make a required payment, including payment of a penalty and interest, before the 91st day after receiving notice of the payment loses the option to pay reimbursements instead of contributions for the following tax year unless the Texas Workforce Commission (commission) receives payment in full before the date contribution rates for that tax year are computed.

(e) Authorizes an Indian tribe that loses the option to pay reimbursements instead of contributions due to late payments under Subsection (d) to resume that option if, after the expiration of one year following the date of losing the option, the Indian tribe has timely paid all contributions and no contributions, payments instead of contributions for benefits paid, penalties, or interest remain outstanding.

SECTION 8. Amends Chapter 207A, Labor Code, by adding Section 207.009, as follows:

Sec. 207.009. PAYMENT OF BENEFITS BY INDIAN TRIBE. Provides that benefits based on service in the employ of an Indian tribe, as described by Section 201.048, are payable in the same amount, on the same terms, and subject to the same conditions as benefits paid on the basis of other service under this subtitle.

SECTION 9. Amends Chapter 209E, Labor Code, by adding Section 209.0845, as follows:

Sec. 209.0845. CHARGES TO INDIAN TRIBE. Requires the total amount of extended benefit payments that are attributable to service in the employ of an Indian tribe and not reimbursed by the federal government to be charged to the Indian tribe.

SECTION 10. Amends Chapter 213A, Labor Code, by adding Section 213.010, as follows:

Sec. 213.010. NOTICE TO INDIAN TRIBES. Requires a notice of payment or notice of delinquency provided to an Indian tribe under this chapter to inform the Indian tribe that failure to make full payment within the required time will or may cause certain outcomes.

SECTION 11. Amends Chapter 213D, Labor Code, by adding Section 213.060, as follows:

Sec. 213.060. ENFORCEMENT AGAINST INDIAN TRIBE. (a) Provides that services performed for an Indian tribe that fails to make a required payment, including payment of a penalty and interest, are not considered, after the exhaustion of all necessary collection activities by the commission, to be employment for purposes of Section 201.048.

(b) Authorizes services for an Indian tribe that loses coverage under Subsection (a) to be considered to be employment for purposes of Section 201.048 if the Indian tribe

has paid all contributions, payments instead of contributions for benefits paid, penalties, and interest owed by the Indian tribe.

(c) Requires the commission to notify the Internal Revenue Service and the United States Department of Labor of an Indian tribe that fails to make required payments.

SECTION 12. Authorizes an Indian tribe that was an employer for purposes of Subtitle B, Title 4, Labor Code, immediately before the effective date of this Act to make the initial election permitted under Section 205.004, Labor Code, as added by this Act, to be effective for the 2002 calendar year.

SECTION 13. Effective date: upon passage or September 1, 2001.