

## **BILL ANALYSIS**

Senate Research Center  
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C.S.H.B. 2120  
By: Deshotel (Williams)  
Business & Commerce  
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Committee Report (Substituted)

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

Under the Texas Unemployment Compensation Act (TUCA), an individual is entitled to unemployment benefits based upon wages actually received during that individual's base period of employment. Current law authorizes the Texas Workforce Commission (TWC) to count only wages actually received when determining wage credits for an individual's base period. TWC has no authority to credit wages owed but not actually paid to an individual. Wage credits determine whether an individual qualifies monetarily for unemployment benefits.

On September 27, 2006, the United States Department of Labor published final rules on confidentiality and disclosure of state unemployment compensation information. These comprehensive rules set out minimum requirements for confidentiality but make clear that states may adopt more stringent confidentiality provisions than those imposed by the final regulations. The final rules became effective on October 27, 2006; however, states have up to two years to enact necessary conforming state laws to implement changes required or authorized by these federal regulations.

C.S.H.B. 2120 allows TWC to count wages owed as benefit wage credits in the individual's base period of employment even if payment of those wages has not yet been made. The bill conforms state law to newly issued federal unemployment compensation confidentiality regulations.

### **RULEMAKING AUTHORITY**

Rulemaking authority is expressly granted to the Texas Workforce Commission in SECTION 1 (Section 207.002, Labor Code), SECTION 2 (Section 207.004, Labor Code), SECTION 3 (Section 301.081, Labor Code) and SECTION 4 (Section 301.085, Labor Code) of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 207.002, Labor Code, by amending Subsection (a) and adding Subsections (a-1) and (a-2), as follows:

(a) Provides that, for purposes of this subsection, the wages received by the individual from employment by employers during the individual's base period include wages ordered to be paid to the individual by a final order of the Texas Workforce Commission (TWC) under Chapter 61 (Payment of Wages) that were due to be paid to the individual by an employer during the individual's base period and will be credited to the date or dates on which the payment of those wages was due.

(a-1) Requires TWC by rule to determine the method of crediting wages to a particular quarter for purposes of Subsection (a).

(a-2) Creates this subsection from existing text.

SECTION 2. Amends Section 207.004, Labor Code, by amending Subsection (a) and adding Subsection (a-1), as follows:

(a) Requires TWC to credit as benefit wage credits during an individual's base period wages the individual received for employment from an employer during the individual's base period and wages order to be paid by a final order issued by TWC under Chapter 61

that were due to be paid by an employer during the individual's base period and will be credited to the date or dates on which the payment of those wages was due.

(a-1) Requires TWC by rule to determine the method of crediting wages to an individual's base period for purposes of Subsection (a).

SECTION 3. Amends Sections 301.081(c) and (d), Labor Code, as follows:

(c) Prohibits employment information obtained or otherwise secured under this section from being published and provides that it is not open to public inspection, other than to a public employee in the performance of public duties, except as TWC considers necessary for the proper administration of this title (Employment Services and Unemployment) or as provided by TWC rule and consistent with federal law.

(d) Provides that a person, rather than an employee or member of TWC, commits an offense if the person violates any provision of this section (Employee Records of Employing Unit; Offense; Penalty). Provides that an offense under this subsection is a Class A misdemeanor, rather than punishable by a fine in an amount between \$20 and \$200, confinement in jail for not more than 90 days, or both fine and confinement.

SECTION 4. Amends Subchapter F, Chapter 301, Labor Code, by adding Section 301.085, as follows:

Sec. 301.085. UNEMPLOYMENT COMPENSATION INFORMATION; OFFENSE; PENALTY. (a) Defines "unemployment compensation."

(b) Requires TWC, consistent with federal law, to adopt and enforce reasonable rules governing the confidentiality, custody, use, preservation, and disclosure of unemployment compensation information. Requires the rules to include safeguards to protect the confidentiality of identifying information regarding any individual or any past or present employer or employing unit contained in unemployment compensation information, including any information that foreseeably could be combined with other publicly available information to reveal identifying information regarding the individual, employer, or employing unit, as applicable.

(c) Provides that unemployment compensation information is not public information for purposes of Chapter 552 (Public Information), Government Code.

(d) Sets forth certain actions that constitute the commission of an offense related to disclosure of confidential identifying information, unless the action is permitted by this subchapter (Records) or TWC rule.

(e) Provides that an offense under Subsection (d) is a Class A misdemeanor.

SECTION 5. (a) Makes application of the changes in law made by this Act prospective to eligibility for unemployment benefits based on an unemployment claim filed with TWC on or after the effective date of this Act.

(b) Makes application of the change in law made by this Act to Section 301.081(d), Labor Code, prospective.

SECTION 6. Effective date: upon passage or September 1, 2007.