

BILL ANALYSIS

Senate Research Center
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S.B. 658
By: Deuell
Economic Development
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

When an individual is found to have received improper unemployment insurance benefits through wilful fraud, meaning the individual illustrated intent to defraud the system, current statute requires only that the individual repay the amount of the improper benefits by means expressed in statute: future benefit offset, civil suit, notice of assessment, or restitution through criminal prosecution. Current statute also requires that any penalties and interest recovered by the Texas Workforce Commission for improperly obtained benefits be deposited into the Unemployment Compensation Administration Fund created by Section 203.151 (Administration Fund), Labor Code.

H.R. 2832, the federal generalized system of preferences bill passed by Congress in 2011, amended Section 303 of the Social Security Act to require that all states impose a minimum 15 percent penalty on fraudulently obtained state and federal unemployment benefits. The federal legislation further requires that these penalty amounts must be deposited into the state's Unemployment Insurance Trust Fund. If Texas fails to conform to federal law, the state's federal grant for the administration of the Unemployment Insurance Program could be rescinded by the federal government.

S.B. 658 aligns state law to federal law by amending the Texas Labor Code to provide a minimum 15 percent penalty on unemployment insurance benefit overpayments that were obtained through wilful fraud. The penalty amounts are to be deposited into the Unemployment Insurance Trust Fund. The penalty applies to both state and federal unemployment insurance programs. The bill specifies that the penalty must be in state law and assessed on any fraudulent overpayments established after October 21, 2013.

As proposed, S.B. 658 amends current law relating to the imposition and collection of a penalty for fraudulently obtaining unemployment compensation benefits.

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. Amends Section 203.201(b), Labor Code, to provide that the special administration fund consists of certain amounts and money, including all interest and penalties collected under this subtitle, other than a penalty addressed under Section 214.003(a)(2).

SECTION 2. Amends the heading to Section 214.003, Labor Code, to read as follows:

Sec. 214.003. FORFEITURE OR CANCELLATION OF BENEFITS PAID AND REMAINING BENEFITS; PENALTY.

SECTION 3. Amends Section 214.003, Labor Code, by amending Subsections (a) and (c) and adding Subsection (d), as follows:

(a) Provides that if, by wilful nondisclosure or misrepresentation of a material fact, whether the nondisclosure or misrepresentation is made by the person or for the person by another, a person receives a benefit when a condition imposed by this subtitle for the person's qualifying for the benefit is not fulfilled or the person is disqualified from receiving the benefit:

(1) the person forfeits the:

(A) benefit received; and

(B) rights to benefits that remain in the benefit year in which the nondisclosure or misrepresentation occurred; and

(2) TWC is required to require the person to pay a penalty in an amount equal to 15 percent of the amount of the benefits paid to the person as a result of the nondisclosure of misrepresentation.

(c) Provides that a forfeiture, cancellation, or penalty, rather than a forfeiture or cancellation, imposed under this section is effective only after the person has been afforded an opportunity for a fair hearing before TWC or its duly designated representative.

(d) Provides that a person who is assessed a penalty by TWC under Subsection (a)(2) is liable for the amount of the penalty. Authorizes TWC to collect the penalty in the same manner as provided by Sections 213.031 (Collection Required; Methods), 213.032 (Service of Notice of Assessment; Contents as Prima Facie Evidence; Judicial Review; Effect), 213.033 (Limitations), 213.035 (Costs), and 213.051 (Forfeiture of Right to Employ Individuals In This State; Bond) for the collection of past-due contributions. Requires TWC to deposit a penalty assessed under Subsection (a)(2) in the unemployment compensation fund established under Section 203.021 (Unemployment Compensation Fund; Separate Accounts).

SECTION 4. Makes application of this Act prospective to October 21, 2013.

SECTION 5. Effective date: September 1, 2013.