SUBJECT: Using surplus unemployment compensation funds to repay bond debt

COMMITTEE: Economic Development —favorable, without amendment

VOTE: 5 ayes — Deshotel, Straus, Dunnam, Ortiz, Veasey

0 nays

2 absent — Kolkhorst, Morrison

WITNESSES: For — (*Registered, but did not testify:* Joe Arabie, Texas AFL-CIO; Don Baylor, Center for Public Policy Priorities; Michael Cunningham, Texas Building and Construction Trades Council, AFL-CIO; Bill Hammond, Texas Association of Business; Rick Levy, Texas AFL-CIO)

Against —None

BACKGROUND: The Texas Workforce Commission (TWC) administers the unemployment insurance program that provides benefits to Texans who become unemployed through no fault of their own. The unemployment insurance program is financed by a payroll tax paid by employers. The revenue from the tax is deposited into the Unemployment Compensation Fund and is used to pay unemployment insurance benefits.

Labor Code, sec. 204.061 stipulates that the Unemployment Compensation Fund must maintain a minimum balance of $400 million or 1 percent of the state’s total taxable wages, whichever is greater. The fund’s maximum balance is 2 percent of taxable wages for the year ending June 30. Any amount above this ceiling must be credited to employers.

In 2002, the fund became insolvent, which prompted TWC to borrow money from the federal government at a 6 percent interest rate. SB 280 by Nelson, enacted in 2003 by the 78th Legislature, authorized TWC to finance the debt through bond obligations. These bonds are paid with funds from the Obligation Trust Fund, which comprises money from an unemployment obligation tax paid by employers. In 2003, TWC completed the sale of $1.4 billion in bonds, which were used for payments of unemployment benefits.

According to the Legislative Budget Board (LBB), the estimated fixed rate bond debt balance for September 2007 is $256 million. The amount in the Unemployment Compensation Fund will exceed the ceiling by $220 million by October 1, 2007.

DIGEST: HB 1489 would allow the use of monies above the ceiling of the Unemployment Compensation Fund to buy down bond debt or provide a credit to employers in the form of a reduced unemployment insurance payroll tax rate in 2008.

The bill would amend Labor Code, sec. 203.102(a) to allow the Obligation Trust Fund to comprise revenue from the unemployment obligation assessment and surplus revenue from the Unemployment Compensation Fund. HB 1489 also would amend Labor Code sec. 204.065 to allow TWC to transfer some of the surplus to the Obligation Trust Fund to pay outstanding bond obligations. TWC also could use surplus funds to provide employers with a surplus credit or surplus credit rate, if the employer was entitled to an experience rate.

Under Labor Code, sec. 204. 0651, a surplus credit would be calculated by multiplying the surplus ratio by the employer's contributions for the four calendar quarters. A surplus credit rate, under sec. 204.0652, would be calculated by multiplying the surplus ratio by the employer's general and replenishment tax rates from the prior year. The surplus credit rate would be subtracted from the sum of the general and replenishment tax rates to calculate the adjusted unemployment compensation rate the employer would pay. The adjusted rate could not be less than zero and would be rounded to the nearest hundredth.

An employer could not apply a surplus credit against delinquent contributions but would become eligible for a surplus credit rate in the next quarter after paying the delinquent contributions.

HB 1489 would amend Labor Code, sec. 204.066(b) to clarify that the amount eligible to pay bond indebtedness would be the amount above the ceiling of the Unemployment Compensation Fund. The bill also would add sec. 204.067 to give TWC the discretion to adjust rates under this subchapter.

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, 2007.

SUPPORTERS SAY:

HB 1489 would benefit employers by keeping unemployment taxes low, reducing an employer's cost of doing business in the state, and helping to maintain the solvency of the Unemployment Compensation Fund. By authorizing the use of surplus funds to pay the bond debt, HB 1489 could help employers save millions of dollars in assessments for interest payments and debt service reduction that were introduced with the enactment of SB 280. According to the LBB, if the $220 million surplus, along with revenues from the Obligation Trust Fund, were used to pay off outstanding bond obligations, Texas employers could see $50 million in net savings by avoiding an obligation assessment of $270 million in calendar 2008.

HB 1489 also would help increase TWC's debt capacity for future use in case of an economic downturn. While the bill would decrease the tax liability on employers, it would mitigate the problem of defunding the Unemployment Compensation Fund by ensuring that only amounts above the ceiling were used to pay down bond debt.

OPPONENTS SAY:

The bill should redirect some of the surplus credit to job creation and job training programs under the Skills Development Fund administered by TWC. It would be appropriate to use the surplus for this purpose because the fund already receives a small percentage of unemployment taxes to support the creation of job training programs by businesses in conjunction with community and technical colleges. While the surplus would not amount to much if it were distributed among employers, an infusion of $50 million into the Skills Development Fund, for example, would allow TWC to train nearly 8,000 workers in fiscal 2008-09.

NOTES:

The companion bill, SB 679 by Williams, passed the Senate on the Local and Uncontested Calendar on April 12 and was reported favorably, without amendment, by the House Economic Development Committee on April 18.