

**SUBJECT:** Relating to chargebacks for unemployment compensation benefits

**COMMITTEE:** Economic and Small Business Development — committee substitute recommended

**VOTE:** 8 ayes — J. Davis, Vo, Bell, Isaac, Murphy, Perez, E. Rodriguez, Workman  
0 nays  
1 absent — Y. Davis

**WITNESSES:** For — Barbara Domel; (*Registered, but did not testify:* Kathy Barber, NFIB Texas; Cathy Dewitt, Texas Association of Business)  
Against — None  
On — Chuck Ross, Texas Workforce Commission

**BACKGROUND:** Labor Code, ch. 204 governs the Texas unemployment compensation contribution system. Sec. 204.021 says 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 if a former employee claims unemployment benefits. This may occur in specified situations when the separation from employment was not due to the fault of the employer, such as in the event of a natural disaster. 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.

**DIGEST:** CSHB 916 would amend Labor Code, sec. 204.022 to add the requirement that a chargeback not be posted to an employer's account for benefits paid

to an employee who continued to work his or her customary hours for the employer when the employee's benefit year began. This provision would not apply to unemployment benefits claims made under the shared work unemployment compensation program,.

The bill would take effect on September 1, 2013, and would apply only to unemployment compensation claims filed on or after that date.

**SUPPORTERS  
SAY:**

This bill would protect an employer from receiving a chargeback for unemployment benefits paid to an employee who continued to work his or her customary hours for that employer when the employee benefits year began.

A situation like this occurred at the beginning of 2010. An individual held two jobs, one full time and one part time, and was laid off by her full-time employer and received unemployment benefits in 2009. After being temporarily laid off from the part-time job at the end of the same year, the person still lacked full-time employment and became eligible for a new unemployment claim in 2010. The Texas Workforce Commission (TWC) had to calculate benefits based on the part-time employer as the most recent employer, so the part-time employer received chargebacks for the 2010 unemployment claim after the employee had resumed part-time employment. The employer paid wages to the reinstated employee and was penalized with an increased unemployment tax rate. According to TWC, this is the only instance in which an employer has experienced a chargeback such as this. The bill would close a loophole in the law and prevent this from happening to another business.

The bill would prevent chargebacks only in narrow situations, where an individual qualified for two consecutive benefit years and was still working for the same employer during the second benefit year for the same pay amount. The protection would not apply to situations involving the shared work unemployment compensation program.

**OPPONENTS  
SAY:**

No apparent opposition.

**NOTES:**

The committee substitute differs from the filed bill by specifying that it would not apply to situations in which an employer used the shared work unemployment compensation program and by removing a requirement for TWC to track hourly wage records for individuals partially employed.

