

BILL ANALYSIS

Senate Research Center
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S.B. 638
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Economic Development
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As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Favorable economic conditions and low unemployment can currently lead to a surplus in the state's Unemployment Insurance Trust Fund. Under current law, the surplus credit is awarded to the entity that paid the wages upon which the credit was based, and thus a successor company is not awarded the surplus credit. The surplus credit that would have been awarded then remains in the Unemployment Insurance Trust Fund.

This bill addresses this issue by allowing successor companies who acquire another company to obtain the surplus credits to which a predecessor company was entitled. This bill matches the predecessor's liability for unemployment insurance tax that the successor company takes on when acquiring a new company with the benefits that the predecessor company had in surplus credits toward unemployment insurance.

As proposed, S.B. 638 amends current law relating to the computation of a surplus credit and a surplus credit rate for certain successor employing units.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to Texas Workforce Commission in SECTION 1 (Section 204.0861, Labor Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subchapter E, Chapter 204, Labor Code, by adding Section 204.0861, as follows:

Sec. 204.0861. SURPLUS CREDIT AND SURPLUS CREDIT RATE FOR SUCCESSOR EMPLOYING UNITS. (a) Defines "surplus credit" and "surplus credit rate" in this section.

(b) Entitles a successor employing unit (successor unit) to which compensation experience is transferred under Section 204.083 (Acquisition of All or Part of Experience-Rated Organization, Trade, or Business; Transfer of Compensation Experience) to a surplus credit and surplus credit rate attributable to, but not applied or received by, the predecessor employing unit (predecessor unit).

(c) Entitles a successor unit to which compensation experience is transferred under Section 204.084 (Acquisition of Part of Experience-Rated Organization, Trade, or Business; Approval of Transfer of Compensation Experience Without Substantially Common Management or Control or Substantially Common Ownership; Contribution Rate) to a surplus credit and surplus credit rate attributable to, but not applied or received by, the predecessor unit for the part of the organization, trade, or business acquired by the successor unit if the Texas Workforce Commission (TWC) determines that the requirement described by Section 204.084(c)(3) (relating to a condition for approving an application to transfer compensation) is satisfied.

(d) Provides that, if TWC determines that a transfer of compensation experience was accomplished solely or primarily for the purpose of obtaining a lower contribution rate, a successor unit is not entitled to, and may not apply or receive, a surplus credit and surplus credit rate under Subsection (b) or (c).

(e) Provides that a predecessor unit is not entitled to, and may not apply or receive, all or any portion of a surplus credit or surplus credit rate that is based on compensation experience that is transferred to a successor unit under this subchapter.

(f) Requires TWC to adopt rules necessary to implement and enforce this section, including rules that ensure that only a successor unit applies or receives all or part of a surplus credit or surplus credit rate previously attributable to a predecessor unit.

SECTION 2. Makes application of this Act prospective.

SECTION 3. Effective date: September 1, 2011.