

BILL ANALYSIS

Senate Research Center
83R15055 KSD-F

H.B. 2035
By: Vo (Elife)
Administration
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

H.B. 2035 conforms state law to changes made to federal law by the 112th Congress in H.R. 3630. It amends the Texas Labor Code to reflect new federal definitions of a short-time compensation program. In order to continue operating the program, commonly known in Texas as the Shared Work Program, the state must address the following requirements:

- ensuring that the program covers any layoffs, rather than “temporary” layoffs as provided under current statute;
- maintaining participant eligibility while engaging in employer-sponsored training or worker training under the Workforce Investment Act of 1998;
- requiring employers to continue providing health benefits and retirement benefits to any participant or to the same extent as other employees not participating in the program;
- requiring employers to submit a written plan specifying how the plan meets the intent of the program, how notice will be given to an employee whose workweek is to be reduced, the estimated number of layoffs that would have occurred absent the program, and any other appropriate information requested by the United States Department of Labor; and
- requiring employers to affirm that participation in the plan is consistent with the employer’s other obligations under state and federal law.

The new federal requirements provide for 100 percent federal funding of shared work benefits for up to 156 weeks or through August 2015 as well as a temporary chargeback protection for employers participating in the Shared Work Program while those benefits are funded by the federal government. If the state does not make these changes, it will be out of compliance with federal law and could lose federal funding. H.B. 2035 will ensure that the state retains federal funding for the administration of the unemployment insurance program.

H.B. 2035 amends current law relating to the shared work unemployment compensation program.

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 204.022, Labor Code, by adding Subsection (f), to prohibit shared work benefits paid under Chapter 215 (Shared Work Unemployment Compensation Program) from being charged to the account of an employer if the benefits are reimbursed by the federal government under the federal Layoff Prevention Act of 2012 (Pub. L. No. 112-96, Subtitle D, Title II).

SECTION 2. Amends Section 215.001, Labor Code, by amending Subdivision (2) to redefine "fringe benefit" and adding Subdivision (9) to define "training."

SECTION 3. Amends Section 215.022, Labor Code, as follows:

Sec. 215.022. REQUIREMENTS OF SHARED WORK PLAN. (a) Authorizes the Texas Workforce Commission (TWC) to approve a shared work plan if:

(1) the plan:

(A) Makes no change to this paragraph;

(B) identifies the employees in the affected unit by name and social security number and describes how the employees will be notified in advance of the plan, if feasible;

(C) provides an estimate of the number of employees who would be laid off if the employer does not participate in the shared work plan;

(D)-(E) Redesignates existing Paragraphs (C) and (D) as Paragraphs (D) and (E) and makes no further change; and

(F) permits eligible employees to participate in training;

(2) the employer certifies that the implementation of a shared work plan and the resulting reduction in work hours is in lieu of layoffs, rather than temporary layoffs, that would:

(A) affect at least 10 percent of the employees in the affected unit; and

(B) result in an equivalent reduction in work hours;

(3) the employer certifies that:

(A) if the employer currently provides fringe benefits, the fringe benefits continue for employees in the affected unit unless those benefits are not continued for employees not participating in the shared work plan; and

(B) participation in the shared work plan is consistent with the employer's obligations under state and federal law; and

(4) the employer agrees to furnish TWC reports relating to the operation of the plan as requested by TWC and any other information the United States secretary of labor determines is appropriate.

Deletes existing Subdivision (1)(E) authorizing TWC to approve a shared work plan if the plan describes the manner in which the participating employer treats the fringe benefits of each employee in the affected unit. Makes nonsubstantive changes.

(b) Prohibits a shared work plan from being implemented to subsidize a seasonal employer during the off-season, rather than being implemented to subsidize a seasonal employer during the off-season or to subsidize an employer who traditionally has used part-time employees.

SECTION 4. Provides that the change in law made by this Act applies only to a shared work plan submitted by an employer to TWC on or after the effective date of this Act. Provides that a shared work plan submitted before the effective date of this Act is governed by the law in effect on the date the plan was submitted, and the former law is continued in effect for that purpose.

SECTION 5. Effective date: September 1, 2013.