

SUBJECT: Prohibiting partial unemployment benefits for misconduct

COMMITTEE: Economic Development — committee substitute recommended

VOTE: 6 ayes — Oliveira, Greenberg, Keffer, Luna, Seaman, Siebert
0 nays
3 absent — Yarbrough, Raymond, Van de Putte

WITNESSES: For — Ronda Bauman, Texas Association of Business and Chambers of Commerce; Robert Howden, National Federation of Independent Businesses; David Pinkus, Small Business United of Texas
Against — None
On — Rick Levy, Texas AFL-CIO; Mike Sheridan, Texas Workforce Commission

BACKGROUND
:
Under the Texas Unemployment Compensation Act, individuals are considered “partially unemployed” if they qualify for unemployment benefits but work part-time and earn a wage that is more than five dollars or 25 percent of their regular salary but less than unemployment benefits would be if they were not working at all. The individual receives a benefit payment that takes into account the amount of money earned for partial employment.

Individuals do not qualify for unemployment benefits if they were discharged from their last job for misconduct. The act defines “misconduct” as mismanagement of a position of employment by action or inaction, neglect that jeopardizes the life or property of another, intentional wrongdoing or malfeasance, intentional violation of a law, or violation of a policy or rule adopted to ensure the orderly work and the safety of employees. An employee's action is not considered misconduct if it is taken in response to an unconscionable act by an employer or supervisor.

DIGEST: CSHB 1720 would specify that individuals do not qualify for partial unemployment benefits if their working hours were reduced as a result of misconduct on the part of the individual. The prohibition against partial unemployment benefits because of misconduct would be limited to four weeks.

CSHB 1720 would apply only to unemployment benefit claims filed after September 1, 1997.

SUPPORTERS SAY: CSHB 1720 would clarify that individuals who are temporarily removed from their job or have their hours reduced as the result of misconduct cannot receive even partial unemployment benefits. Although existing law specifies that those who are discharged for misconduct cannot collect unemployment benefits, it is unclear whether it applies to individuals who are removed from their jobs temporarily or who have their hours reduced because of misconduct.

For employers and employees alike, temporary removal for misconduct can be a desirable alternative to firing the employee. But under such circumstances, it is unfair to allow the worker to collect even partial unemployment benefits.

The four-week limitation against collecting partial unemployment benefits would discourage employers from extending temporary unemployment beyond four weeks. If the employer wants to keep an employee but imposes a suspension of longer than four weeks, the employee should be able to collect at least partial unemployment benefits to substitute for lost income during a lengthy partial suspension period.

OPPONENTS SAY: CSHB 1720 is unnecessary because for the few situations in which an employee might request partial unemployment benefits a hearing process is already in place to determine whether the individual qualifies for such benefits. The law is already clear that an individual who is discharged for misconduct does not qualify for unemployment benefits; even though it does not specify whether it applies to full or partial employment, the prohibition is generally applied whether the individual is considered fully or partially unemployed.

As a practical matter, it is unlikely that an individual would go to the trouble of applying for partial unemployment benefits to cover the four-week period specified in the bill. The individual must wait seven days before applying for unemployment benefits, so there would be only three more weeks to go through the process of applying for benefits. In this short time period, the individual probably would either be back on the job full-time or have left the job altogether. If the individual then applies for unemployment compensation, the rules governing full unemployment would apply.

OTHER
OPPONENTS
SAY:

If employees should not be allowed to collect partial unemployment benefits when they have been removed from the job or their hours have been reduced as the result of misconduct, the provision should apply under all circumstances, regardless of the time period involved. It is unclear what purpose the four-week time limitation is meant to serve.

NOTES:

The committee substitute specified that an employee is not considered partially unemployed if the employee's hours were reduced as the result of misconduct connected with the work on the part of an individual, rather than because of a disciplinary action, as stated in the original version of HB 1720. The committee substitute also limited to four weeks the period that an individual could be denied partial unemployment benefits because of misconduct.

The companion bill, SB 738 by Carona, is pending in the Senate Economic Development Committee.