

## **BILL ANALYSIS**

Senate Research Center

C.S.S.B. 739  
By: Carona  
Economic Development  
4-10-97  
Committee Report (Substituted)

### **DIGEST**

Currently, the Texas Workforce Commission (TWC) does not have the authority to collect overpayments that were made due to its own error. Prevailing court decisions make it basically impossible for TWC to collect such overpayments. This bill would provide that a claimant is not entitled to an overpayment of benefits, regardless of the reason, and authorize TWC to collect such overpayments.

### **PURPOSE**

As proposed, C.S.S.B. 739 provides that a claimant is not entitled to overpayment of benefits by the Texas Workforce Commission (TWC) and authorizes TWC to collect such overpayments.

### **RULEMAKING AUTHORITY**

Rulemaking authority is granted to the Texas Workforce Commission in SECTION 2 (Section 207.121(b), Labor Code) of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 207.001, Labor Code, to provide that a claimant is not entitled to retain any benefits paid to that claimant that exceed the amount of benefits authorized by this subtitle. Makes a conforming change.

SECTION 2. Amends Chapter 207, Labor Code, by adding Subchapter G, as follows:

#### **SUBCHAPTER G. EFFECT OF ERRONEOUS OVERPAYMENT OF BENEFITS**

Sec. 207.121. NO ENTITLEMENT TO OVERPAID BENEFITS. (a) Provides that a claimant who receives an overpayment of benefits is not entitled to retain the amount overpaid.

(b) Requires the claimant to refund the amount overpaid in the manner prescribed by rules adopted by the Texas Workforce Commission (TWC). Authorizes TWC to allow, by rule, a repayment to be made in periodic payments.

(c) Requires TWC to deduct the amount overpaid to the claimant against that claimant's future benefits when TWC determines that a claimant who has received an overpayment of benefits is unable to refund the amount of the overpayment.

(d) Provides that an overpayment is collectible in the manner provided by Section 212.006(b) for recovery of benefits after a final decision made under Chapter 212.

(e) Requires TWC, notwithstanding Subsections (a)-(d), to reduce by 50 percent any benefit payments otherwise payable during a claimant's current benefit year and to collect the remaining balance of the overpayment under the procedure established under Subsection (c) if TWC determines that the claimant received an overpayment solely as a result of accidental or negligent error on the part of TWC; the overpayment was not the

result of a decision on appeal; TWC had not previously given notice to the claimant that an overpayment might result from an adverse decision on an issue affecting the claimant's entitlement to benefits; and recovery of the overpayment during the claimant's current benefit year at the time the overpayment is discovered would cause extraordinary and lasting financial hardship to the claimant.

(f) Entitles a claimant to a hearing in the manner provided by Chapter 212 for a disputed claim if the claimant disputes the designation of any benefits received by that claimant as overpaid benefits; or disagrees with a determination made under Subsection (e).

SECTION 3. Amends the heading of Section 211.004, Labor Code, as follows:

Sec. 211.004. New heading: OFFSET UNDER CERTAIN RECIPROCAL ARRANGEMENTS FOR OVERPAYMENT OF UNEMPLOYMENT BENEFITS.

SECTION 4. Effective date: September 1, 1997.

Makes application of this Act prospective.

SECTION 5. Emergency clause.

### **SUMMARY OF COMMITTEE CHANGES**

SECTION 2.

Amends Section 207.121, Labor Code, by revising Subsection (e) and adding Subsection (f).