

BILL ANALYSIS

Senate Research Center
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H.B. 3324
By: Keffer, Jim (Fraser)
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Engrossed

DIGEST AND PURPOSE

Due to the downturn in the economy, the Unemployment Compensation Fund is currently at a negative balance and is borrowing from the federal government to pay unemployment benefits. The interest rate on federal borrowing for calendar year 2003 is 6.08 percent, a cost that is paid by the employers of Texas. HB 3324 would allow the issuance of bonds if determined that bond financing is more cost effective than borrowing from the federal government.

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 the heading to Subchapter C, Chapter 203, Labor Code, to read as follows:

SUBCHAPTER C. ADVANCES FROM FEDERAL TRUST FUND AND OBLIGATION ASSESSMENT

SECTION 2. Amends Section 203.102, Labor Code, as follows:

Sec. 203.102. New heading: OBLIGATION TRUST FUND. (a) Provides that the obligation, rather than advance interest, trust fund is a dedicated trust fund outside of the state treasury in the custody of the comptroller.

(b) Authorizes the Texas Workforce Commission (TWC) and governor to use money in the obligation trust fund without legislative appropriation to pay certain obligations and expenses.

SECTION 3. Amends Section 203.104, Labor Code, as follows:

Sec. 203.104. New heading: LIMITATION ON TRANSFER FROM OBLIGATION TRUST FUND TO COMPENSATION FUND. Prohibits an amount that is attributable to the portion of the unemployment obligation assessment authorized by Section 203.105(a)(2) from being transferred to the compensation fund unless all bond obligations, including bond administrative expenses, have been fully paid and satisfied. Requires TWC, after the obligations have been fully satisfied, to transfer the balance of the obligation trust fund to the compensation fund. Deletes text authorizing the governor to authorize TWC to transfer money from the advance interest trust fund.

SECTION 4. Amends Section 203.105, Labor Code, as follows:

Sec. 203.105. New heading: UNEMPLOYMENT OBLIGATION ASSESSMENT. (a) Requires an unemployment obligation assessment to be imposed as provided by this section if after January 1 of a year:

- (1) an interest payment on an advance from the federal trust fund will be due and the estimated amount necessary to make the interest payment is not available in the obligation trust fund or available otherwise; and
- (2) bond obligations are due and the amount necessary to pay in full those obligations, including bond administrative expenses, is not available in the obligation trust fund or available otherwise.

(b) Provides that the unemployment obligation assessment rate is the total of the amounts required to make the payments necessary under Subsections (a)(1) and (2). Requires TWC to set the unemployment obligation assessment rate in an amount sufficient to ensure timely payment of interest under Subsection (a)(1), but not exceeding two-tenths of one percent. Requires TWC to set the unemployment obligation assessment rate in an amount sufficient to ensure timely payment of the bond obligations, including administrative expenses, and to provide an amount necessary in TWC's judgment to enhance investor acceptance of the bonds. Requires the rate to be based on a formula prescribed by TWC rule, using the employer's experience rating from the previous year. Provides that the unemployment obligation assessment rate applies to the same wage base to which the employer's unemployment tax applies for the year.

(c) Provides that the unemployment obligation assessment is due at the same time, collected in the same manner, and subject to the same penalties and interest as other contributions assessed under this subtitle.

(d) Requires revenue from the unemployment obligation assessment under this section to be deposited to the credit of the obligation trust fund under Section 203.102.

SECTION 5. Amends Chapter 203, Labor Code, by adding Subchapter F as follows:

SUBCHAPTER F. ISSUANCE OF FINANCIAL OBLIGATIONS
FOR UNEMPLOYMENT COMPENSATION FUND

Sec. 203.251. FINDINGS AND PURPOSE. (a) Provides that the legislature finds that:

- (1) it is an essential governmental function to maintain funds in an amount sufficient to pay unemployment benefits when due;
- (2) at the time of the enactment of this subchapter, borrowing from the federal government was the only option available to obtain sufficient funds to pay benefits when the balance in the compensation fund is depleted;
- (3) alternative methods of replenishing the unemployment compensation fund may reduce the costs of providing unemployment benefits and employers' cost of doing business in the state; and
- (4) funds representing revenues received from the unemployment obligation assessment authorized under this subchapter and any income from the investment of those funds are not state property.

(b) Provides that the purpose of this subchapter is to provide appropriate methods through which the state may continue the unemployment compensation program at the lowest possible cost to the state and employers in the state.

Sec. 203.252. DEFINITIONS; GENERAL PROVISION. (a) Defines "authority," "bond," "bond administrative expenses," "bond obligations," and "credit agreement."

(b) Requires an amount owed by the authority or TWC under a credit agreement to be payable from and secured by a pledge of revenues received from the unemployment obligation assessment and amounts on deposit in the obligation trust fund to the extent provided in the proceedings authorizing the credit agreement.

Sec. 203.253. REQUEST FOR BOND ISSUANCE. (a) Authorizes TWC, if TWC determines that the issuance of bonds is necessary to reduce or avoid the need to borrow or obtain a federal advance under Section 1201, Social Security Act (42 U.S.C. Section 1321), as amended, or any similar federal law, or to refinance a previous loan or advance received by TWC and that bond financing is the most cost-effective method of funding the payment of benefits, to request the authority to issue bonds on its behalf or may issue its own bonds. Requires TWC, before making a request of the authority under this subsection or issuing bonds, by resolution to determine that the issuance of bonds for the purposes established by this section will result in a savings to the state and to employers in this state as compared to the cost of borrowing or obtaining an advance under Section 1201, Social Security Act (42 U.S.C. Section 1321), as amended, or any similar federal law.

(b) Requires TWC to:

- (1) specify in TWC's request to the authority the maximum principal amount of the bonds, not to exceed \$2 billion for any separate bond issue, and the maximum term of the bonds, not to exceed 10 years; or
- (2) specify in TWC's authorizing resolution the maximum principal amount of the bonds, not to exceed \$2 billion for any separate bond issue, and the maximum term of the bonds, not to exceed 10 years.

(c) Authorizes the principal amount determined by TWC under Subsection (b) to be increased to include an amount sufficient to:

- (1) pay the costs of issuance of the authority or TWC, as appropriate;
- (2) provide a bond reserve fund; and
- (3) capitalize interest for the period determined necessary by TWC, not to exceed two years.

Sec. 203.254. ISSUANCE OF BONDS BY AUTHORITY. (a) Requires the authority to issue bonds on request by TWC, in accordance with the requirements of Chapter 1232, Government Code, and other provisions of Title 9, Government Code, that apply to bond issuance by a state agency.

(b) Requires the authority to determine the method of sale, type of bond, bond form, maximum interest rates, and other terms of the bonds that, in the authority's judgment, best achieve the economic goals of the commission and effect the borrowing at the lowest practicable cost.

(c) Authorizes the authority to enter into a credit agreement in connection with the bonds.

Sec. 203.255. ISSUANCE OF BONDS BY COMMISSION. (a) Requires TWC to issue, sell, and deliver bonds in the name of TWC in an amount determined by TWC.

(b) Requires TWC to issue bonds, in accordance with the requirements of Title 9, Government Code, that apply to bond issuance by a state agency.

(c) Requires TWC to determine the method of sale, type of bond, bond form, maximum interest rates, and other terms of the bonds that, in the TWC's judgment, best achieve its economic goals of the TWC and effect borrowing at the lowest practicable cost.

(d) Authorizes TWC to enter into a credit agreement in connection with the bonds.

Sec. 203.256. BOND PROCEEDS. (a) Authorizes the proceeds of bonds issued by the authority under this subchapter to be deposited with a trustee selected by the authority and

TWC or held by the comptroller in a dedicated trust fund outside the state treasury in the custody of the comptroller.

(b) Authorizes the proceeds of bonds issued by TWC under this subchapter to be deposited with a trustee selected by TWC or held by the comptroller in a dedicated trust fund outside the state treasury in the custody of the comptroller.

(c) Requires bond proceeds, including investment income, to be held in trust for the exclusive use and benefit of TWC. Authorizes TWC to use the proceeds in a certain manner.

(d) Authorizes any excess money remaining after the purposes for which the bonds were issued are satisfied to be used to purchase or redeem outstanding bonds.

(e) Requires the remaining proceeds to be transferred to the unemployment compensation fund, if there are no outstanding bonds or bond interest to be paid.

Sec. 203.257. REPAYMENT OF COMMISSION'S FINANCIAL OBLIGATIONS. (a) Requires TWC to assess an unemployment obligation assessment annually on each employer entitled to an experience rating under Chapter 204 if any bonds issued under this subchapter are outstanding.

(b) Requires the authority to notify TWC of the amount of the bond obligations and the estimated amount of bond administrative expenses each year in sufficient time, as determined by TWC, to permit TWC to assess the annual rate of the unemployment obligation assessment, subject to verification by a financial advisor of TWC or as otherwise specified in the proceedings authorizing the bonds.

(c) Requires TWC, if the outstanding bonds were issued by TWC, to determine the amount of the bond obligations and the estimated amount of bond administrative expenses each year in sufficient time to permit TWC to assess the annual rate of the unemployment obligation assessment, subject to verification by a financial advisor of TWC or as otherwise specified in the proceedings authorizing the bonds.

(d) Requires TWC to deposit all revenue collected from the unemployment obligation assessment into the obligation trust fund. Authorizes money deposited in the fund to be invested as permitted by general law. Requires money in the obligation trust fund required to be used to pay bond obligations and bond administrative expenses to be transferred to the authority or used by TWC in the manner and at the time specified in the resolution adopted in connection with the bond issue to ensure timely payment of obligations and expenses, or as otherwise provided by the bond documents.

(e) Requires TWC, for bonds issued by TWC or by the authority for TWC, to provide for the payment of the bond obligations and the bond administrative expenses by irrevocably pledging revenues received from the unemployment obligation assessment and amounts on deposit in the obligation trust fund, together with any bond reserve fund, as provided in the proceedings authorizing the bonds and related credit agreements.

Sec. 203.258. BOND PAYMENTS. (a) Authorizes revenues received from the unemployment obligation assessment to be applied only as provided by this subchapter.

(b) Authorizes TWC to pay bond obligations with other legally available funds.

(c) Provides that bond obligations are payable only from sources provided for

payment in this subchapter.

Sec. 203.259. EXCESS REVENUE COLLECTIONS AND INVESTMENT EARNINGS. Authorizes revenue collected from the unemployment obligation assessment in any year that exceeds the amount of the bond obligations and bond administrative expenses payable in that year and interest earned on the obligation trust fund to, in the discretion of TWC, be:

- (1) used to pay bond obligations payable in the subsequent year, offsetting the amount of the assessment that would otherwise have to be levied for the year under this subchapter;
- (2) used to redeem or purchase outstanding bonds;
- (3) deposited in the unemployment compensation fund; or
- (4) used to pay principal and interest on advances from the federal trust fund.

Sec. 203.260. STATE DEBT NOT CREATED. (a) Provides that a bond issued under this subchapter, and any related credit agreement, is not a debt of the state or any state agency or political subdivision of the state and is not a pledge of the faith and credit of any of them. Provides that a bond or credit agreement is payable solely from revenue as provided by this subchapter.

(b) Requires a bond, and any related credit agreement, issued under this chapter to contain on its face a statement to the effect that:

- (1) neither the state nor a state agency, political corporation, or political subdivision of the state is obligated to pay the principal of or interest on the bond except as provided by this subchapter; and
- (2) neither the faith and credit nor the taxing power of the state or any state agency, political corporation, or political subdivision of the state is pledged to the payment of the principal of or interest on the bond.

Sec. 203.261. STATE NOT TO IMPAIR BOND OBLIGATIONS. Prohibits the state from taking certain actions, if bonds under this subchapter are outstanding.

Sec. 203.262. EXEMPTION FROM TAXATION. Provides that a bond issued under this subchapter, any transaction relating to the bond, and profits made from the sale of the bond are exempt from taxation by this state or by a municipality or other political subdivision of this state.

Sec. 203.263. NO PERSONAL LIABILITY. Provides that the members of TWC, TWC employees, the board of directors of the authority, and the employees of the authority are not personally liable as a result of exercising the rights and responsibilities granted under this subchapter.

SECTION 6. Amends the heading to Section 204.063, Labor Code, to read as follows:

Sec. 204.063. DEFICIT ASSESSMENT.

SECTION 7. Amends Section 204.064(b), Labor Code, to provide that the numerator is computed by subtracting the balance of the compensation fund, considering any federal advance, from the floor of the compensation fund.

SECTION 8. Repealer: Section 203.103 (Transfer to Special Administration Fund), Labor Code.

SECTION 9. Provides that the advance interest trust fund established under Section 203.102, Labor Code, as that section existed before the effective date of this Act, is abolished on the effective date of this Act. Provides that all money in that fund on that date is transferred to the obligation trust fund established by Section 203.102, Labor Code, as amended by this Act.

SECTION 10. Effective date: upon passage or September 1, 2003.