

## **BILL ANALYSIS**

Senate Research Center  
84R3603 MAW-F

H.B. 1251  
By: Alvarado et al. (West)  
Natural Resources & Economic Development  
5/8/2015  
Engrossed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

The Texas Workforce Commission holds the current position that a franchise agreement falls within the definition of "common ownership" under Section 403.083, Labor Code, and thereby a franchisee must fully or partially take on the franchisor's unemployment insurance (UI) experience rating.

This can drastically and adversely impact a franchisee's UI tax rate.

Anti-dumping statutes should not be repealed, but merely modified to acknowledge that franchise agreements are not the type of business transactions that the anti-dumping provisions are meant to cover.

H.B. 1251 amends current law relating to the transfer of compensation experience for purposes of the Texas Unemployment Compensation Act.

### **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 204.081, Labor Code, as follows:

Sec. 204.081. DEFINITIONS. (a) Creates this subsection from existing text and makes no further change.

(b) Provides that, for purposes of Subsection (a)(4) (defines "substantially common ownership"), following a partial acquisition of an organization, trade, or business of an employing unit, substantially common ownership does not exist solely because the predecessor employing unit has the right to repossess the part acquired by the successor employing unit in the event of the successor's failure to complete a condition of the acquisition.

SECTION 2. Amends Section 204.085, Labor Code, by adding Subsections (a-1) and (e), as follows:

(a-1) Requires the Texas Workforce Commission (TWC), in the case of a partial acquisition for which the transfer of compensation experience is required under Section 204.083 (Acquisition of All or Part of Experience-Rated Organization, Trade, or Business; Transfer of Compensation Experience), to require the predecessor employer and successor employer to jointly submit, not later than the second anniversary of the date the partial acquisition was completed, information necessary for making the determination described by Subsection (a) (relating to partial acquisition for the transfer of compensation experience). Requires that the period for which the required information be submitted is the lesser of:

(1) four years; or

(2) the length of time the predecessor employer was liable for the payment of a tax under this subtitle.

(e) Requires TWC to include information about the availability of a partial transfer of compensation experience under this subchapter:

(1) with the information provided by TWC to each new employer; and

(2) on any form, including in electronic format, required to be submitted by an employer to report a change of status.

SECTION 3. Provides that Sections 204.081(b) and 204.085(a-1), Labor Code, as added by this Act, apply only to a partial acquisition of an organization, trade, or business of an employing unit that occurs on or after the effective date of this Act. Makes application of this Act prospective.

SECTION 4. Effective date: September 1, 2015.