

TEXAS SESSION LAWS 1993

GENERAL AND SPECIAL

Seventy-Third Legislature, Regular Session

CHAPTER 1

S.B. No. 130

AN ACT

relating to the establishment, operation, and funding of an employment training program; reducing the entry level and replenishment unemployment tax rates; imposing an assessment for employment training purposes.

Be it enacted by the Legislature of the State of Texas:

ARTICLE I. LEGISLATIVE FINDINGS

SECTION 1.01. LEGISLATIVE FINDINGS. The legislature finds that:

(1) the development and expansion of business, commerce, and industry are essential to the economic growth of this state and to the full employment, welfare, and prosperity of its citizens;

(2) the number of people seeking jobs in this state exceeds the number of available jobs;

(3) despite the large number of unemployed job seekers, many employers in new and expanding industries are having difficulty finding the skilled workers they need, and a similar problem exists in industries in which overall employment may not be expanding but in which there is an acute need for skilled workers in particular occupations;

(4) studies have shown that the availability of an educated, skilled work force is the single most important factor in an employer's decision to relocate or expand its operations;

(5) the economy of this state is today being challenged by competition from other states and other countries, and our success in meeting that challenge will depend largely on our ability to maintain and improve a skilled and productive work force;

(6) employers, workers, organized labor, and government need to work together to ensure that the labor force of this state is prepared to succeed in the economic environment of the next century;

(7) the emergence of a global economy and the possible creation of the world's largest market through the North American Free Trade Agreement create opportunities for economic growth and social prosperity from which this state only can benefit if its work force is educated, skilled, and prepared to excel; and

(8) structural changes in the Texas economy and decreases in United States military expenditures affecting base closings and defense industries will require new training and retraining initiatives.

ARTICLE II. SMART JOBS FUND PROGRAM

SECTION 2.01. Chapter 481, Government Code, is amended by adding Subchapter J to read as follows:

for a job existing on the date that the project is scheduled to begin will be increased to the greater of:

(1) 10 percent over the wage in effect on the day before the date on which the project is scheduled to begin for that job; or

(2) 75 percent of the state average weekly wage.

(d) An employer may apply for a grant under this chapter if the employer is required to reduce or eliminate the employer's work force because of reductions in overall employment within an industry or a substantial change in the skills required to continue the employer's business because of technological changes or other factors. In awarding a grant under this subsection, the executive director may modify the requirements of Subsection (c). Grants awarded under this subsection for which the executive director has modified the requirements of Subsection (c) may not, in any fiscal year, exceed 10 percent of the total dollar amount of grants awarded under the program in that year.

(e) Unless modified by the executive director under rules adopted by the policy board, a grant may not be awarded for a project unless each employer participating in the project certifies that it will continue to spend on nonmanagerial training an amount from private sources equal to the average amount spent by that employer on such training for the most recent two-year period.

(f) A grant may not be awarded for a project if the project will impair existing contracts for services or collective bargaining agreements, except that a project inconsistent with the terms of a collective bargaining agreement may be undertaken with the written concurrence of the collective bargaining unit and the employer or employers who are parties to the agreement.

Sec. 481.156. GRANT APPLICATION. (a) The following may apply for a grant under this subchapter:

(1) one or more employers to secure training for demand occupations in a particular industry;

(2) one or more employers acting in partnership with an employer organization, labor organization, or community-based organization to secure training for demand occupations in a particular industry; or

(3) one or more employers acting in partnership with a consortium composed of one or more providers to secure training for demand occupations in a particular industry.

(b) A grant application must be filed with the department in a form approved by the executive director and must include a complete business and training plan, including:

(1) the number and kind of jobs available;

(2) the skills and competencies required for the identified jobs;

(3) the wages to be paid to trainees on successful completion of the project;

(4) the goals, objectives, and outcome measures for the project;

(5) the proposed curriculum for the project; and

(6) the projected cost per person enrolled, trained, hired, and retained in employment.

(c) The department may provide assistance to applicants in formulating the business and training plan required under Subsection (b).

(d) The department shall minimize the length of the application form.

(e) The executive director shall act on a completed application not later than the 30th day after the date on which the application is filed with the department.

Sec. 481.157. MATCHING REQUIREMENTS; EXEMPTIONS. (a) Money provided under a grant for a project must be matched by private funds provided by the employer benefiting from the project in an amount at least equal to the amount provided by the grant.

(b) The policy board may adopt rules modifying the requirements of Subsection (a) for employers with fewer than 50 employees and may also adopt rules modifying the requirements of Subsection (a) for projects that provide significant economic benefits to an entire region of the state.

(c) *Employer matches may include documented in-kind contributions as well as wages paid to trainees during the training period.*

Sec. 481.158. **TRAINEES.** *The program shall give priority to residents of this state.*

Sec. 481.159. **CONTRACTS.** (a) *The executive director may approve any project that meets the requirements of this subchapter. If the executive director approves a project and funds are available, the department shall enter into a contract with the grant applicant and with each employer participating in the project. The contract must specify those skills and competencies to be gained as a result of the project.*

(b) *Reimbursable costs in the contract may include only those expenses related to direct training in job-related basic skills, including literacy skills, job-related vocational skills, and administrative costs. Total administrative costs for any particular project may not exceed 10 percent of the project's expenditures.*

(c) *Each contract must provide a schedule for payment of smart jobs fund money. Twenty-five percent of the grant award shall be withheld by the department for 90 days after the date of completion of the project. If all of the trainees in the project have been retained in employment for that 90-day period, the amount of the grant award withheld shall be remitted to the employer. For each trainee who is not retained in employment for that 90-day period, the amount withheld shall be reduced by the amount of the training costs for that trainee that is derived from grant money, and any balance shall be remitted to the employer. If there is a negative balance, the employer is liable for the amount of the negative balance and shall remit that amount to the department not later than the 30th day after the date on which the employer is notified of the negative balance by the department.*

Sec. 481.160. **ANNUAL REPORT.** (a) *The executive director shall report to the governor and the legislature at the end of each fiscal year on the status of the program.*

(b) *The annual report must include for that fiscal year:*

- (1) *the number of employers receiving grants under the program;*
- (2) *the total amount of grants awarded;*
- (3) *the value, expressed in dollars and as a percentage of total training expenditures, of matching contributions made by employers;*
- (4) *the number of small businesses, as defined by Section 481.101(3), that receive grants under the program and the total amount of the grants awarded to those businesses;*
- (5) *the number of businesses located in enterprise zones, as that term is defined by the Texas Enterprise Zone Act (Article 5190.7, Vernon's Texas Civil Statutes), that receive grants under the program and the total amount of the grants awarded to those businesses;*
- (6) *the geographical distribution of employers receiving grants under the program;*
- (7) *the total number of jobs created, enhanced, or retained under the program, reported by region of the state and by occupation;*
- (8) *the wage levels of trainees entering or returning to the work force, broken down by current employees undergoing retraining and new hires, at three months, one year, and three years after the conclusion of their training;*
- (9) *the number and percentage of participating employers that provide workers' compensation insurance coverage and the number and percentage of employees covered;*
- (10) *the number and percentage of participating employers that offer health care insurance coverage and the number and percentage of employees covered;*
- (11) *the number and percentage of women employers and minority employers receiving grants under the program and the total amount of the grants awarded, broken out by group;*
- (12) *the number and percentage of women, minority group members, and disabled individuals participating as trainees in training projects, broken out by group; and*
- (13) *the number and percentage of women private providers and private providers who are minority group members utilized by employers in training projects, broken out by group.*

Sec. 481.161. **EXPIRATION.** *This subchapter expires December 31, 1999.*

ARTICLE III. EMPLOYMENT TRAINING INVESTMENT
ASSESSMENT; PROGRAM FUNDING

SECTION 3.01. Subsection (b), Section 7, Texas Unemployment Compensation Act (Article 5221b-5, Vernon's Texas Civil Statutes), is amended to read as follows:

(b) Rate of contributions: *Except as provided by subsection (e) of this Section, each [Each] employer shall pay contributions equal to two and seven-tenths percentum (2%~~0~~%) of wages paid by him with respect to employment, except as provided in subsection (c) of this Section.*

SECTION 3.02. Subdivision (1), Subsection (c), Section 7, Texas Unemployment Compensation Act (Article 5221b-5, Vernon's Texas Civil Statutes), is amended to read as follows:

(1) *Except as provided by Subsection (f) of this section, as [As] of October 1 of each year, the Commission shall establish by industry an average contribution rate for the immediately succeeding calendar year for each Major Group listed in the Standard Industrial Classification Manual published by the United States Office of Management and Budget. The Commission shall establish the annual contribution rate for a particular industry by averaging the contribution rates paid by employers in that industry over the preceding year ending September 30, based on the employment records maintained by the Commission. The Commission shall assign each employer to a Major Group in accordance with the definitions contained in the manual. An employer shall pay contributions for the calendar year in which the person becomes an employer at the rate established for that year for the Major Group to which the employer is assigned, or at two and seven-tenths percent (2.7%) of the taxable wages paid by that employer, whichever rate is greater, until his account has been chargeable with benefits throughout each calendar month of the four (4) consecutive calendar quarters immediately preceding the date as of which such employer's rate is determined. The contribution rate of each employer who has had at least four (4) such calendar quarters of compensation experience shall be determined as provided below; except that the contribution rate of any employing unit which becomes an employer for the first time during the calendar year 1972, other than one which first becomes an employer because of the provisions of Subsection 19(f)(2) of this Act, shall be one percent (1%) rather than two and seven-tenths percent (2.7%) until such time as his account has been chargeable with benefits for four (4) consecutive calendar quarters and an experience rate is computed for him in accordance with this Act.*

SECTION 3.03. Subdivision (8), Subsection (c), Section 7, Texas Unemployment Compensation Act (Article 5221b-5, Vernon's Texas Civil Statutes), is amended to read as follows:

(8) *Except as provided by Subsection (g) of this section, in [In] addition to the general rate provided by Subdivision (6) of this subsection, each employer entitled to an experience rate shall pay a replenishment tax at a rate equal to a percentage, stated to the nearest hundredth, derived from the following numerator and denominator. The numerator is an amount equal to one-half of the amount of benefits paid during the twelve (12) months ending the preceding September 30 that are not charged to an employer's account, that are charged to employers' accounts after the employers have reached maximum liability because of the maximum tax rate, or that are charged but considered not collectible. The denominator is the total taxable wages for the four quarters ending the preceding June 30.*

SECTION 3.04. Section 7, Texas Unemployment Compensation Act (Article 5221b-5, Vernon's Texas Civil Statutes), is amended by adding Subsections (e), (f), and (g) to read as follows:

(e) *Rate of contributions: Notwithstanding Subsection (b) of this section, on and after January 1, 1994, each employer shall pay contributions equal to two and six-tenths percent (2%~~0~~%) of wages paid by him with respect to employment, except as provided in Subsection (c) of this section. This subsection expires December 31, 1999.*

(f) *Notwithstanding Subsection (c)(1) of this section, on and after January 1, 1994, each employer's contribution rate shall be two and six-tenths percent (2%~~0~~%) until his account has been chargeable with benefits throughout each calendar month of the four (4) consecutive calendar quarters immediately preceding the date as of which such employer's rate is determined. The contribution rate of each employer who has had at least four (4) such calendar quarters of compensation experience shall be determined as provided by Subsection (c)(4) of this section. This subsection expires December 31, 1999.*

(g) Notwithstanding Subsection (c)(8) of this section, on and after January 1, 1994, in addition to the general rate provided by Subsection (c)(6) of this section, each employer entitled to an experience rate shall pay a replenishment tax at a rate equal to a percentage, stated to the nearest hundredth, computed by dividing the amount equal to one-half of the amount of benefits paid during the twelve (12) months ending the preceding September 30 that are not charged to an employer's account, that are charged to employers' accounts after the employers have reached maximum liability because of the maximum tax rate, or that are charged but considered not collectible by an amount equal to the total taxable wages for the four quarters ending the preceding June 30, and subtracting 0.1 from the quotient. This subsection expires December 31, 1999.

SECTION 3.05. The Texas Unemployment Compensation Act (Article 5221b-1 et seq., Vernon's Texas Civil Statutes), is amended by adding Section 9e to read as follows:

Sec. 9e. EMPLOYMENT TRAINING INVESTMENT ASSESSMENT; HOLDING FUND; SMART JOBS FUND. (a) In addition to any taxes imposed by this Act, there is hereby levied on each employer paying contributions under this Act a separate and additional assessment of 0.1 percent of wages paid by the employer. This assessment shall be known as the employment training investment assessment and shall be deposited by the commission into the holding fund created under Subsection (b) of this section. The assessment shall be due at the same time, collected in the same manner, and subject to the same penalties and interest as a contribution assessed under Section 7 of this Act (Article 5221b-5, Vernon's Texas Civil Statutes).

(b) The holding fund is established as a special trust fund in the custody of the state treasurer separate and apart from all public money or funds of this state. The state treasurer shall administer the fund in accordance with the directions of the commission. Interest accruing on amounts in the holding fund shall be deposited on a quarterly basis into the Unemployment Compensation Fund.

(c) If, on September 1 of any calendar year, the commission determines that the amount in the Unemployment Compensation Fund will exceed 100 percent of its floor as computed under Section 7(c)(6)(B) of this Act (Article 5221b-5, Vernon's Texas Civil Statutes) on the next October 1 computation date, the commission shall transfer the amount in the holding fund to the smart jobs fund created under Section 481.154, Government Code.

(d) If, on September 1 of any calendar year, the commission determines that the amount in the Unemployment Compensation Fund will be at or below 100 percent of its floor as computed under Section 7(c)(6)(B) of this Act (Article 5221b-5, Vernon's Texas Civil Statutes) on the next October 1 computation date, the commission shall transfer to the Unemployment Compensation Fund as much of the amount in the holding fund as is necessary to raise the amount in the Unemployment Compensation Fund to 100 percent of its floor, up to and including the entire amount in the holding fund. The commission shall transfer any balance remaining in the holding fund to the smart jobs fund created under Section 481.154, Government Code.

(e) This section expires December 31, 1999.

ARTICLE IV. REPEALER

SECTION 4.01. Section 481.076, Government Code, is repealed.

ARTICLE V. TRANSITION; EFFECTIVE DATES; EMERGENCY CLAUSE

SECTION 5.01. (a) Except as provided by Subsections (b) and (c) of this section, this Act takes effect September 1, 1993.

(b) Except as provided by Subsection (c) of this section, the assessment imposed under Section 9e, Texas Unemployment Compensation Act (Article 5221b-1 et seq., Vernon's Texas Civil Statutes), as added by Article III of this Act, applies only to wages paid on or after January 1, 1994.

(c) If, on October 1, 1993, the amount in the Unemployment Compensation Fund is less than the floor of that fund, as computed under Paragraph (B), Subdivision (6), Subsection (c),

Section 7, Texas Unemployment Compensation Act (Article 5221b-5, Vernon's Texas Civil Statutes), Article III of this Act takes effect January 1, 1995.

SECTION 5.02. If, as of June 1, 1994, the Texas Employment Commission determines that the amount in the Unemployment Compensation Fund will exceed 100 percent of the floor of that fund, as computed under Paragraph (B), Subdivision (6), Subsection (c), Section 7, Texas Unemployment Compensation Act (Article 5221b-5, Vernon's Texas Civil Statutes), on the next October 1 computation date, the commission shall immediately transfer from the holding fund established under Subsection (b), Section 9e, Texas Unemployment Compensation Act (Article 5221b-1 et seq., Vernon's Texas Civil Statutes), as added by this Act, into the smart jobs fund established under Section 481.154, Government Code, as added by this Act, an amount equal to 25 percent of the anticipated balance in the holding fund as of September 1, 1994.

SECTION 5.03. If the work force development functions and job training functions performed by the Texas Employment Commission, Texas Department of Commerce, and other state agencies are consolidated for performance by one state agency by the 73rd Legislature, it is the intent of the legislature that the administration of the smart jobs fund program created under this Act be transferred to that agency, along with any records or property relating to the operation of the smart jobs fund program.

SECTION 5.04. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

Passed the Senate on February 4, 1993, by a viva-voce vote; passed the House on February 11, 1993, by a non-record vote.

Approved February 16, 1993.

Effective September 1, 1993. except as provided in § 5.01.