

CHAPTER 1108

S.B. No. 977

AN ACT

relating to unemployment compensation benefits and to employer chargebacks for those benefits.

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

SECTION 1. Subdivision (2), Subsection (c), Section 7, Texas Unemployment Compensation Act (Article 5221b-5, Vernon's Texas Civil Statutes), is amended to read as follows:

(2)(A) With respect to any benefit year ~~[beginning after September 30, 1967]~~, the amount of benefit payments paid to a claimant shall be charged to the account of the claimant's base period employer or employers. ~~[With respect to any benefit year beginning prior to September 30, 1967, if the first benefit payment during such benefit year is not made until after September 30, 1967, then the amount of benefit payments shall be charged to the account of the claimant's base period employer or employers.]~~ When a benefit payment is made to a claimant who has two or more employers in his base period the chargeback to each employer shall be allocated in direct proportion to the percentage of the claimant's total benefit wage credits paid by such employer. This process may be designated as charging benefits to an employer's account, and benefits thus charged may be designated as chargebacks.

The chargebacks of each employer for a given calendar quarter shall be the benefits paid to all of his employees or former employees during such quarter; provided, that the chargebacks of an employer shall not include benefit payments which are based on wage credits of an employee or former employee, if the Commission finds that the employee's last separation from such employer's employment, prior to the benefit year in conjunction with which such base period was established, was (i) a separation required by a Federal or a Texas statute or a Texas municipal ordinance; or (ii) a separation for which a disqualification under subsections 5(a) or 5(b) of this Act would have been imposed if such employer's employment of the employee or former employee had been the employee's last work; or (iii) a separation with respect to which a disqualification was imposed under subsection 5(a) or 5(b) of this Act; or (iv) a separation caused by a medically verifiable illness; and provided further that for the purpose of this paragraph the term "last separation" shall, with respect to an employee whose initial determination disqualified him for benefits under subsection 5(d) of this Act, mean his next later separation from such employer's employment.

(2)(B) To each employer to whom notice of an initial claim has not already been mailed under subsection 6(b) of this Act, and whose account is potentially chargeable with benefits as the result of such initial claim and payment of benefits, a notice of his maximum potential chargebacks shall be mailed when benefits are first paid and an opportunity afforded for protest of his potential chargebacks. If any such employer desires to protest his potential chargebacks, he shall, within *fourteen (14)* ~~twelve (12)~~ days after such notice was mailed to him, mail his protest, including a statement of the facts upon which his protest is based, to the Commission at Austin, Texas. Any employer who does not protest his potential chargebacks within *fourteen (14)* ~~twelve (12)~~ days after notice was mailed to him shall be deemed to have waived his right to protest such chargebacks. If a timely protest is filed, the examiner shall promptly decide the issues involved in such protest and shall mail a notice of his decision thereon to the protesting employer. Such decision shall become final *twelve (12)* days from the date of mailing thereof, unless such employer mails to the Commission at Austin, Texas, a written appeal therefrom within such *twelve (12)* days. Administrative review hereunder shall be in accordance with Commission rules or regulations, and appeals to the Courts shall be permitted only after such employer has exhausted his administrative remedies (not including a motion for rehearing) before the Commission, and within the time prescribed by subsection 6(h) and subsection 6(i) of this Act with respect to Commission decisions on benefits. Venue and jurisdiction of appeals to the Courts with respect to chargebacks shall be the same as venue and jurisdiction of suits to collect contributions and penalties under this Act.

If notice of the claim has been sent previously to the employer under the provisions of Section 6 of this Act, the employer shall be mailed a notice of the amount of his potential chargeback resulting from the claim, and may, within twelve (12) days from the date such notice was mailed, protest any clerical or machine error as to amounts. Such employer shall be mailed a decision on such protest and may appeal within twelve (12) days from the date notice of such decision was mailed to him.

SECTION 2. Subdivision (3), Subsection (b), Section 19, Texas Unemployment Compensation Act (Article 5221b-17, Vernon's Texas Civil Statutes), is amended to read as follows:

(3) "Benefit period" means *the [such] period of seven (7) consecutive calendar days with respect to which entitlement to benefits is determined and equals the seven (7) consecutive calendar days ending at midnight on Saturday [as the Commission may by regulation prescribe].*

SECTION 3. This Act takes effect September 1, 1987, and applies only to benefit eligibility or employer liability for an unemployment compensation claim that is filed with the Texas Employment Commission on or after that date.

SECTION 4. 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 May 7, 1987, by a viva-voce vote; and that the Senate concurred in House amendment on May 31, 1987, by a viva-voce vote. Passed the House, with amendment, on May 29, 1987, by a non-record vote.

Approved June 19, 1987.

Effective Sept. 1, 1987.