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SELECT COMMITTEE ON FEDERAL  
ECONOMIC STABILIZATION FUNDING

House Select Committee on Federal Economic Stabilization Funding  
Staff Report

**REVISED**

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**UNDERSTANDING THE UNEMPLOYMENT DECISION**

**THE UNEMPLOYMENT TRUST FUND IN TEXAS - STATUS TODAY**

Unemployment insurance benefits in Texas are fully funded by Texas employers through the Texas Unemployment Trust Fund. For the most part, this is a system that "self-levels" itself, meaning when the Trust Fund exceeds the statutory "ceiling," the employer's tax liability is reduced the following year. When the Trust Fund falls below the statutory "floor," the employer's tax increases the following year. These tax rate adjustments are automatic for the most part.

In March 2008, the amount of money in the Texas Unemployment Trust Fund was above the statutory "ceiling" and Governor Perry ordered the Texas Workforce Commission to suspend the collection of \$90 million in unemployment "replenishment" taxes for the remainder of the year. In January 2009, the replenishment tax rate was reinstated on employers.

The Unemployment Trust Fund is projected to have a deficit of \$812 million by Sept/Oct 2009. This projection is rising rapidly – the projection was a \$447 million deficit less than 8 weeks ago.

Approximately 16,200 Texans lost their jobs in December 2008, and over 50,000 lost their jobs in January 2009. February figures are scheduled to be released on March 26.

Last week, \$68 million was paid out of the Trust Fund. If this rate remains unchanged, total payments for calendar year 2009 could reach over \$3 billion. These are the payments that are anticipated without changing Texas law.

Under current law, the \$812 million deficit will automatically trigger what is called the "Deficit Tax" on employers. To cover an \$812 million deficit would require a tax increase on employers of an additional 0.95%. As the current average unemployment tax rate in Texas is 0.99%, with the new additional Deficit Tax, the total tax burden in 2010 would be 1.94% on the average employer. According to the Texas Workforce Commission, this is understated significantly since it does not calculate any increase in the General Tax for 2010.

The unemployment tax rates will be set by the Texas Workforce Commission in November or December 2009 and will take effect in January 2010.

## **HOW TO AVOID/LESSEN THE IMPACT OF THE TAX INCREASE**

### **BORROW AND/OR BOND THE MONEY**

The Texas Workforce Commission can borrow funds from the Federal Unemployment Trust Fund or issue bonds or do a combination of both to create a short term solution. A loan could be made from the Federal government, at no interest, on outstanding advances through December 31, 2010. Bonding would help lower the Deficit Tax initially but would lengthen the time employers have to pay. Under both options, Texas employers would still see higher tax rates in 2010 and would also be required to repay the loans/bonds over a period of years. According to the Texas Workforce Commission, borrowing only provides us with the short-term funding needed to pay benefits until the tax system adjusts with higher taxes on employers. Bonds provide a longer-term solution that will allow for employer tax increases to be spread over more than one or two years.

### **RETURN DIVERTED FUNDS TO THE UNEMPLOYMENT TRUST FUND**

For the last several years, up to \$40 million per biennium from the Holding Fund has gone into the Skills Development Fund, and up to \$120 million per biennium has gone into the Governor's Enterprise Fund. The Holding Fund is a component of the overall unemployment system and consists of .1% of all taxable wages paid by employers. When the Trust Fund rises above its statutory floor (constitutionally set at 1% of all taxable wages paid by employers throughout the State), the Holding Fund gets diverted to the Skills Development and Enterprise Funds. The last transfers out of the Holding Fund into these funds were made in September 2008. Currently the Governor's Enterprise Fund has a balance of \$245 million which could be moved to the Trust Fund to help avoid or reduce the increase in unemployment taxes on all Texas businesses.

### **ACCEPT STIMULUS FUNDS**

The American Reinvestment and Recovery Act allows Texas to receive \$555 million from the Federal Unemployment Trust Fund if the State makes certain modifications to its unemployment program. The annual cost of complying with the Act is estimated to be around \$75 million/year assuming the least costly options are adopted. The Act also allows states to receive the \$555 million immediately, but delay implementation for up to one year.

If the Stimulus funds alone are accepted, the Deficit Tax rate would be 0.34%, as compared to 0.95% if they are not accepted. If the Stimulus funds are accepted and the Enterprise Funds are moved to the Trust Fund, the Deficit Tax could be virtually eliminated.

Since Texas employers pay federal employment taxes into the Federal Unemployment Trust Fund, and since Texas is a net "donor" state--receiving only \$.30 on every \$1.00 paid into the federal fund-- the \$555 million payment is essentially a rebate to Texas employers. (This is a little more complicated since the \$.30 relates to administrative funding and not benefit payments.)

**OPTIONS CURRENTLY BEFORE THE LEGISLATURE**

***ACCEPT THE GOVERNOR'S PLAN - DON'T TAKE THE STIMULUS FUNDS***

$$\begin{array}{lcl} \text{Deficit} & = & \text{Deficit Tax Rate} \\ \$812 \text{ million} & = & 0.95\% \end{array}$$

***TAKE THE STIMULUS PLAN – MAKE CHANGES IN LAW***

$$\begin{array}{lclcl} \text{Deficit} & - & \text{Stimulus} & = & \text{Deficit Tax Rate} \\ \$812 \text{ million} & - & \$555 \text{ million} & = & 0.34\% \end{array}$$

***TAKE THE STIMULUS and DIVERT ENTERPRISE UNSPENT MONEY***

$$\begin{array}{lclclcl} \text{Deficit} & - & \text{Stimulus} & - & \text{Enterprise Balance} & = & \text{Deficit Tax Rate} \\ \$812 \text{ million} & - & \$555 \text{ million} & - & \$245 \text{ million} & = & 0.01\% \end{array}$$

**WHAT CHANGES HAVE TO BE MADE TO GET THE \$555 MILLION?**

*(Cost estimates below were provided by the Texas Workforce Commission)*

In order to qualify for the \$555 million, Texas must make three changes in current law.

**CHANGE #1 – "Alternative Base Period" Change = \$42.5 million per year**

Currently, a worker has to have worked (earned income credits) in 2 out of 4 consecutive Quarters, excluding the most recently completed Quarter.

The Recovery Act requires that Texas not exclude the most recently completed Quarter for an individual that cannot qualify under the current base period. The 2- out-of-4-consecutive-quarters requirement remains the same.

Here is an example:

Jane Doe graduates from UT-Austin in early June 2008 and obtains a job in July 2008. She works continuously, but then is terminated without cause on March 17, 2009. She has worked 8 ½ months. Under Texas' current system, Jane would not qualify for unemployment. Under the Federal change she would.

	2008			2009		
	1st Q	2nd Q	3rd Q	4th Q	1st Q	
	J F M	A M J	J A S	O N D	J F M	
Months worked			x x x	x x x	x x /	

Jane has worked in 2 completed Quarters. However, Texas does not count the most recent completed Quarter (i.e. 4th Q of 2008). The 1st Quarter of 2009 also does not count because it is not "completed" (i.e., she was terminated without cause before the end of March).

**CHANGES #2 and #3 (pick ANY TWO OPTIONS of the four options listed below)**

OPTION A – "Compelling Family Reasons" Change - \$4.6 million per year

Part A: Currently in Texas, if your spouse is in the military and is relocated, you can quit your job to follow your spouse and still qualify for unemployment. The Recovery Act change would add non-military spouses.

Part B: Currently in Texas, if you are the victim of spousal abuse and have to quit your job to relocate, you can still draw unemployment. The Recovery Act does not change this.

Part C: Currently in Texas, if you have to quit to take care of an ill or disabled child, you can still draw unemployment after the need to provide care has passed and you are available and able to work. The Recovery Act change would allow a person to care for an ill or disabled spouse or the workers' ill or disabled parents.

OPTION B – "Training" Change - \$34 million per year

Workers who have exhausted their benefits can continue them contingent upon that worker being enrolled and attending a TWC approved training/re-training course. The benefits are only extended for the period for which the worker is actually enrolled and attending an approved course; but in no case more than 26 weeks.

OPTION C – "Looking for Part-Time Work" Change - \$28 million per year

Currently those receiving unemployment must be seeking full time employment. By rule—not state statute—TWC has disallowed workers from receiving benefits that are seeking only part time employment. The Recovery Act would allow those currently seeking part time employment to receive UI benefits.

OPTION D – "Dependent Expansion " Change - \$285.8 million per year

Qualified unemployed workers will receive an additional \$15 per week per dependent.

**WHEN DO WE HAVE TO PASS THE LAW?**

The law must be passed prior to receiving the funds, however, we can delay the law's effective date for 1 year. Even if the law is effective in 2010, the \$555 million will be received immediately. States have until August 22, 2011, to submit an application to the Department of Labor for UI Modernization incentive funding.

**CAN THE LAW BE PASSED WITH AN AUTOMATIC REPEALER (i.e. Sunset)?**

No. However, according to a March 19, 2009 advisory released by the US Department of Labor, "if a state eventually decides to repeal or modify any of these provisions, it may do so, and it will not be required to return any incentive payments." Any changes that a state makes that are subject to automatic repeal/sunset are to be ignored by the Secretary of Labor in determining who qualifies for the funds.

**OVERALL HOW MUCH WILL THE CHANGES COST THE TEXAS SYSTEM?**

Currently Texas is spending \$68 million per week on unemployment. The minimum changes above will add \$1.47 million per week (an approximate 2.3% overall increase).

For a 2.3% increase in benefits to unemployed workers, the upcoming Deficit Tax on employers that would be required to make up an \$812 million deficit could be reduced 2/3rds (66%).

If the changes are not repealed, the \$555 million in Federal funds will pay for 7 years of the overall cost of the changes (Dr. Ray Perryman estimates it is actually 10 years if the time value of the money is factored in).

The multiplier effect of \$1 in unemployment benefits paid is x \$2.66.

- Sources:*
1. *Texas Workforce Commission & Staff, [www.txstimulusfund.com](http://www.txstimulusfund.com) transcripts and documents*
  2. *US Department of Labor*