

HCS HB 611 -- UNEMPLOYMENT COMPENSATION (Lant)

COMMITTEE OF ORIGIN: Committee on Workforce Development and Workplace Safety

This substitute changes the laws regarding unemployment compensation. In its main provisions, the substitute:

(1) Defines:

(a) "Erroneous payment" as a payment that, but for the failure by the employer or the agent of the employer to respond timely and adequately to a written request from the Division of Workers Compensation within the Department of Labor and Industrial Relations for information with respect to the claim for unemployment benefits, would not have been made;

(b) "Newly hired employee" as an employee who has not previously been employed by the employer or was previously employed by the employer but has been separated from the prior employment for at least 60 consecutive days for the purposes of reporting to the state's directory of new hires. Unemployment compensation recipients are crosschecked against state and federal new hire databases; and

(c) "Pattern of failing" as repeated documented failure on the part of the employer or agent of the employer to respond, taking into consideration the number of instances of failure in relation to the total volume of requests. An employer or an agent failing to respond must not be determined to have engaged in a pattern of failure if the number of failures during the prior year is fewer than two or less than 2% of the requests, whichever is greater;

(2) Prohibits the removal of penalty charges from an employer's account when the division determines that:

(a) The employer's or the agent of the employer's failure to timely or adequately respond to a written request for information relating to a claim for unemployment benefits resulted in an erroneous payment of unemployment compensation benefits; and

(b) The employer or an agent of the employer has established a pattern of failing to respond timely and adequately to the requests;

(3) Specifies that noncharge determinations must be subject to appeal or protest in the same manner as other determinations of the division regarding the charging of employer accounts;

(4) Specifies that the noncharge determinations apply to erroneous payments established on or after October 1, 2013; and

(5) Specifies that effective October 1, 2013, regarding payments made toward the penalty amount, an amount equal to 15% of the total amount of the unemployment compensation fraudulently obtained must be immediately deposited into the Unemployment Compensation Fund and the remaining penalty amount must be credited to the Special Employment Security Fund.