

**TITLE 40. SOCIAL SERVICES AND ASSISTANCE
PART XX. TEXAS WORKFORCE COMMISSION
CHAPTER 815. UNEMPLOYMENT INSURANCE**

PROPOSED RULES WITH PREAMBLE TO BE SUBMITTED TO THE *TEXAS REGISTER*. THIS DOCUMENT WILL NOT HAVE ANY SUBSTANTIVE CHANGES BUT IS SUBJECT TO FORMATTING CHANGES AS REQUIRED BY THE *TEXAS REGISTER*.

ON MAY 11, 2004 THE TEXAS WORKFORCE COMMISSION PROPOSED THE BELOW RULE WITH PREAMBLE TO BE SUBMITTED TO THE *TEXAS REGISTER*.

Estimated Publication Date of the Proposal in the *Texas Register*: May 28, 2004.
Estimated End of Comment Period: June 28, 2004.

The Texas Workforce Commission (Commission) proposes amendments to Chapter 815 Unemployment Insurance, Subchapter B. Benefits, Claims and Appeals, Section 815.15 Parties with Appeal Rights; Section 815.28 Work Search Requirements; and to Subchapter C. Tax Provisions, Section 815.109 Payment of Contributions and Reimbursements.

Purpose

The purpose of the proposed rule changes is twofold:

To clarify the applicability of the Unemployment Insurance (UI) administrative rules regarding Work Search requirements to certain classifications of UI claimants, by amending Sections 815.15 and 815.28(a)(1), and

To define the due date for payment of additional taxes and interest resulting from a chargeback adjustment by amending Subsection 815.109 (e).

The Commission proposes amending §815.15 Parties With Appeal Rights, to clarify that employers affected by the proposed §815.28(a)(1)(E)(v) shall be parties of interest in any appeals proceedings resulting from circumstances described in the new clauses.

The Commission proposes amending §815.28 Work Search Requirements, to add three additional classifications of exempted claimants to those listed in Subsection (a)(1)(E), and to add a new Subsection (a)(1)(F), clarifying the applicability of work search requirements to claimants receiving extended UI benefits and to individuals engaged in efforts to establish themselves in a self-employment venture.

The Commission proposes amending §815.109 Payment of Contributions and Reimbursements, to clarify that if an additional tax results from a chargeback adjustment, the due date for the quarters affected by the adjustment is the first day of the second month following the month in which the Agency mailed the statement or letter notifying

the employer of the change in tax rate and additional tax due. The amendment shall also clarify that amounts due shall be paid on or before the last day of this second month.

Background

§815.15. Parties with Appeal Rights

The Commission proposes to amend §815.15 by adding subsection §815.15 (c)(6) in coordination with proposed §815.28 (a)(1)(E)(v). For claimants on a temporary layoff of longer than 12 weeks, a waiver from work search requirements may be requested by the separating employer and granted by the Agency Executive Director. The Executive Director's decision in such a case will be subject to review in any benefits appeal where a determination of ineligibility for benefits results from the decision. Proposed §815.15(c)(6) will make the requesting employer a party of interest in any such appeal. The Commission proposes to conform §815.15(c) to eliminate the specific references to paragraphs (1-5) and create a general reference to the paragraphs.

Proposed amendments to §815.28 (a)(1)(E)

With few exceptions, UI claimants are required as a condition of eligibility to register for Wagner-Peyser job matching and reemployment services. This work registration requirement, often referred to as the “work test” for UI eligibility, is the only specific “work search” requirement for regular UI claimants set out in federal law. As a result, “work registration” and “work search” are closely connected in law and historical precedent. Consequently, the Commission finds that the terms should be applied and treated consistently.

Section 815.28 (a)(1)(E) currently includes explicit exemptions to the rule's requirements for two classifications of UI claimants:

(1) Individuals participating in a Shared Work Plan under Texas Labor Code §215.041(c), and

(2) Individuals participating in Agency approved or Trade Act training under Texas Labor Code §207.022 and §207.023.

Section 815.28 (a)(1)(E) also excludes individuals otherwise exempted by other law.

Based on other law and historical Commission precedent, three other classifications of UI claimants are exempt from the Wagner-Peyser job matching registration and reemployment services requirement. However, these claimants are not explicitly exempted from the Work Search requirements of §815.28. These three classifications of UI claimants are:

(1) Individuals on temporary layoff with a definite date to return to work, and who are exempt from work registration requirements under §815.20(8)(A);

(2) Individuals who are members in good standing of a union with a nondiscriminatory hiring hall and are exempt from work registration requirements under §815.20(8)(B); and

(3) Individuals performing jury service.

Section 815.28 (a)(1)(E)(iii-v) Relates to Exemptions from Work Search Requirements for Individuals on Temporary Layoff with a Definite Date to Return to Work.

The Commission proposes to amend §815.28 in order to explicitly exempt from the rule's requirement individuals temporarily laid off but with a definite date to return to work. These individuals are already exempt from the work registration requirement under §815.20(8)(A). The Commission proposes to grant exemptions when:

- (a) the individual is on temporary layoff with a definite return to work date, which is eight weeks or less from the layoff date;
- (b) the individual is on temporary layoff with a definite return to work date which is no more than 12 weeks from the layoff date, provided that written confirmation of the return to work date is received from the separating employer; and
- (c) the individual is on temporary layoff that is more than 12 weeks due to a disaster or other extraordinary circumstances, provided that a waiver from work search requirements is granted by the Agency Executive Director. The Executive Director's decision in such cases will be subject to review in any benefits appeal where ineligibility results from the decision. The requesting employer will be made a party of interest to any such appeal.

While the purpose of work search requirements is to move unemployed workers toward reemployment as quickly as possible, exemptions are warranted in the case where workers are merely temporarily laid off. This is because employers have a substantial investment in their trained employees. The Commission's work search rules should not operate to move the trained worker away from the previous employer or to separate the worker from his soon-to-be reinstated job opportunity. Employers should not be deprived of their investment because of a requirement for the employee to seek other work simply because economic conditions dictate a temporary workforce reduction. Additionally, the claimant worker should not be required, because of attendant work search requirements, to relocate or change occupations during the period between a temporary lay off and the return to work date. Loss of trained workers may also delay the economic recovery of a business, which may in turn delay the recovery of the Texas economy as a whole. An exemption in these cases from work search requirements is therefore in the best interests of the temporarily laid off workers, their employers, and all Texans.

Given the significant interest in exempting workers temporarily laid off and the interest in re-employing claimants as soon as possible, the Commission's longstanding practice is to limit work search exemptions to eight weeks unless the claimant's employer

requests a longer exemption period of up to 12 weeks. Employer requests for exemptions of more than 12 weeks are granted only after administrative review. This procedure was developed as a balance between the two objectives: 1) rapid reemployment of claimants, and 2) assisting employers retain skilled workers in order to rapidly recover from economic dislocations.

§815.28 (a)(1)(E)(vi) Exemption from Work Search Requirements for Individuals who are Members in Good Standing of a Union with a Nondiscriminatory Hiring Hall

The Commission further proposes to amend §815.28 to explicitly exempt from the general work search requirements any UI claimants who are members in good standing of a union with a nondiscriminatory hiring hall since they are exempt from work registration requirements under §815.20(8)(B).

A hiring hall is best defined by its function which is to match workers and jobs. Traditionally, it is a physical location where employers seek workers and workers come to seek employment. Since 1934, Merriam-Webster has defined *hiring hall* more specifically as “a union-operated placement office where registered applicants are referred in rotation to jobs.” The key elements of the hiring hall are a list of job assignments maintained by the union business agent, and a “daybook” listing of available employees. Most unions with hiring halls maintain the daybook where active members must sign, in person, at least once a week. Many also require a daily call-in. Generally, laid off workers sign the daybook to indicate their availability and, with some allowances for seniority or experience, are referred to new job assignments on a first come, first served basis. In effect, the labor organization performs ongoing work search and job placement activities on behalf of its members.

In many cases, exclusive contracts between labor and employer organizations require that workers supplied by the union complete necessary training, attain certain experience levels, or achieve other qualifying standards. To meet these contractual obligations, the labor organizations have established hiring halls, and members are generally required by their union, as a condition of membership, both to accept hiring hall referrals and to refuse employment offers which are not made through the union hiring hall.

Employers frequently provide members’ insurance and/or retirement benefits through the union. The bylaws or dispatching rules of union hiring halls spell out the hall’s purpose and procedure with respect to such benefits. Depending on the union, some members must work at least 1,000 to 1,500 hours per year to maintain insurance benefits and to qualify for a year of service toward retirement. Seeking employment with nonunion employers, and failing to seek work through the hiring hall according to union rules or bylaws could therefore cause members to lose their union membership, insurance, vacation, and pension.

The Commission’s longstanding policy of exempting from work registration and work search requirements individuals who are members in good standing of a union with a nondiscriminatory hiring hall is grounded in federal and state law. In the Landrum-

Griffin Act, 29 U.S.C. §151(d), 29 U.S.C. §401 and elsewhere, the U.S. Congress guaranteed workers the right to organize, set out structural standards for labor organizations, and required that mutual activities such as hiring halls must be respected. The Texas Labor Code § 207.008(b), mirroring language of the Federal Unemployment Tax Act (FUTA), 26 U.S.C. § 3304(5)(c), states that UI benefits may not be denied “to an otherwise eligible individual for refusal to accept new work if... as a condition of being employed, the individual is required to join a company union or to resign from or refrain from joining a bona fide labor organization.”

In recognition of all of these factors, the Commission has historically exempted this classification of claimants from work search requirements. The Commission has previously determined that claimants who usually obtain work through a union meet the requirement of making an active, independent search for work if each of the following conditions is met: (1) the claimant is a union member in good standing; and (2) the union maintains a nondiscriminatory hiring hall, as that term is defined by the Landrum-Griffin Act. The Commission finds that these conditions warrant continued exemption from the work search requirements.

The Commission estimates that the number of claimants in this classification represent only 1.71 percent of all regular Texas UI claimants. Further, claimants who meet this exemption tend to collect benefits for fewer weeks than other claimants and are less likely to exhaust their benefits.

Although the Commission finds that an exemption is appropriate for these claimants, the Commission emphasizes that any UI claimant who is a member in good standing of a union with a nondiscriminatory hiring hall must maintain contact with and use the placement services of the hiring hall.

§815.28 (a)(1)(E)(vii) Exemption from Work Search Requirements for Individuals Actively Engaged in Jury Service

The Commission proposes to amend §815.28 to explicitly exempt from the rule’s requirements individuals performing jury service for a period of three days or longer, with such exemption to apply only to weeks in which the claimant is actively performing jury service.

The Commission has taken the position that to hold a claimant unavailable during a period of jury service would be to penalize the claimant for complying with the claimant’s legal citizenship obligation. The Commission will not force a claimant to choose between receipt of unemployment benefits and violation of the claimant’s statutory obligation to serve on a jury.

§815.28 (a)(1)(F) Applicability of Work Search Requirements to Certain Classifications of Claimants

The Commission proposes to amend §815.28 to add a new Subsection (a)(1)(F), clarifying that Work Search requirements shall apply to:

(a) recipients of state extended UI benefits, who are required to actively seek work under Texas Labor Code §209.043;

(b) recipients of federal extended unemployment benefits, except that if the federal legislation establishing such benefits or administrative directives for administering such benefits includes work search requirements, which are in conflict with those established by §815.28, the federal requirements or administrative directives shall apply; and

(c) individuals who are engaged in efforts to establish themselves in a self-employment venture.

Texas Labor Code § 209.043, Requirement to Seek Work, provides work search requirements for claimants receiving Texas (state) extended unemployment benefits. In addition, some national legislation providing federal extended unemployment benefits has included work search requirements, which may conflict with the provisions of §815.28. Section 815.28 does not now specifically address the applicability of the rule to claimants receiving either state or federal extended benefits. The Commission amends the rule to clarify that the work search requirements apply to these claimants.

Similarly, the Commission has previously determined that the work search requirement under §815.28 does not exempt claimants who are establishing a self-employment venture for themselves. Again, the Commission amends the rule to explicitly provide that the requirements apply to these claimants.

The Commission's Appeals Policy and Precedent Manual currently includes a work search component at AA 160.05, "General Statement of Commission Policy on Work Search." The Commission intends that the amended rule once adopted shall supersede the General Statement of Commission Policy on Work Search contained in the Appeals Policy and Precedent Manual at AA 160.05. It also will supersede Appeal No. 2925-CA-77, which is digested in the Manual at AA 160.10 and at 415.05; Appeal Precedent Number 1994-CA-0581, digested in Appeals Policy and Precedent Manual at AA 370.10; and any other provisions in the Appeals Policy and Precedent Manual in conflict. The Commission intends to rescind the precedents in an open meeting.

§815.109. Payment of Contributions and Reimbursements

The Commission proposes to amend §815.109 (e), by re-lettering (e) to (f) and (f) to (g) and inserting a new (e). This amendment clarifies when an additional tax resulting from a chargeback adjustment is due, and when interest will begin to accrue on any unpaid balance. The Commission intends that if, for example, an employer receives a notice of additional taxes due, which is dated March 15, the due date for payment will be May 1, the final date for payment without further penalty will be May 31, and interest will begin to accrue on June 1.

UI tax rates are calculated annually during the fourth quarter and are effective January 1 of the following year. Chargebacks are the primary component in an employer's experience rating, which in turn is the primary factor determining the employer's annual tax rate. Annual tax rates, including prior year tax rates, can be adjusted at any time during the year when chargebacks are adjusted as a result of an appeal of a UI benefit decision.

When a claimant is initially disqualified for benefits but appeals the decision and ultimately prevails, the employer's tax rate is recalculated based on benefits paid to that claimant. It is not unusual for the Commission to resolve such an appeal after the new year's tax rate notice has been mailed and the employer has already paid taxes under that new rate. Generally, each employer in the claimant's base period shares in the chargebacks proportionately according to the wages earned by the claimant from each employer. This is true unless a base period employer timely responds to the notice of chargeback and is not chargeable for the benefits based upon a Commission determination. However, when the employer is liable the chargebacks are posted to the employer's account for the quarter in which they occurred. The employer's annual tax rate is recalculated based upon the revised chargebacks.

Assessment of Interest. When the recalculated tax rate is higher than the original rate, the employer is notified of the increase and of the additional tax and interest due for each quarter affected. The interest is calculated *retroactively*, based on the original due date of the quarterly report. Moreover, the length of the appeal process sometimes causes the total period of adjustment, including the interest assessment, to encompass several quarters in prior years and to extend to the most recently filed quarter. This current policy on interest assessments can produce a financial burden for affected employers.

Due dates for payment of tax are set by §815.109 (a) which states, in part, "contributions shall accrue quarterly and shall become due on the first day of the month following the calendar quarter. They shall be paid to the Agency on or before the last day of the month."

Exceptions to timely payment of tax due. Under §815.109 (e), the Commission has provided for extensions of up to 60 days beyond the required due dates for payment of regular quarterly taxes. However, the rule does not speak directly to due dates in the situation described above, where the amounts of tax due (and interest charges) result from appeals decisions that occur considerably later than 60 days after the original quarterly due date.

Interest is charged on taxes not paid by due dates. The Texas Labor Code §213.021(a) states, in part "An employer who does not pay a contribution on or before the date prescribed by the commission is liable to the state for interest of one and one-half percent of the contribution for each month or portion of a month that the contribution and interest payments are not paid in full."

There is no specific provision in statute or Commission rule addressing the Commission's ability to accept payment in chargeback adjustment cases without assessing interest. However, the Commission has often granted employers in such cases an additional 30 days from the notice to pay without assessing interest. The proposed amendment will clarify TWC's business practice and preserve it in rule. The proposed amendment also will grant employers more flexibility by making the due date contingent upon the date the Agency mailed the statement or letter notifying the employer of the change in tax rate and additional tax due, rather than a fixed 30-day deadline.

Coordination with Stakeholders: Prior to proposing these rule amendments, the Commission circulated a policy concept paper outlining the changes to the Board chairs, members and executive directors, and the Texas Association of Workforce Boards Policy Committee requesting feedback on the draft policy changes. As §815.109 does not directly affect Boards, the Commission determined that the concept review phase could be expedited. In addition, the concept for amendments to §815.28 and §815.15 were discussed on March 19, 2004, in a conference call with Board Executive Directors and staff. While no written remarks were submitted, clarification of the Boards' roles in the work search process and in other areas was requested and provided.

Randy Townsend, Chief Financial Officer, has determined that for each year of the first five years the amendments will be in effect, the following fiscal statements will apply:

There are no additional estimated costs to the state and to local governments expected as a result of enforcing or administering the amendments;

There are no estimated reductions in costs to the state and to local governments as a result of enforcing or administering the amendments;

There are no estimated losses or increases in revenue to the state or to local governments as a result of enforcing or administering the amendments

There are no foreseeable implications relating to costs or revenue of the state or local government as a result of enforcing or administering the amendments; and

Mr. Townsend has also determined that there is no adverse economic effect on small businesses as a result of enforcing or administering the rules.

LaSha Lenzy, Director of Unemployment Insurance and Regulation, has determined that for each year of the first five years the rules are in effect, the public benefits anticipated as a result of clarifying the rules are to a) provide improved service to employers, UI claimants, and the people of Texas; b) assist employers in retaining trained workers; c) stabilize local economies by helping employers quickly recover from short-term dislocations.

Mark Hughes, Director of Labor Market Information, has determined that the proposed rules would positively impact private employment by facilitating employers' efforts to

obtain and retain qualified workers. While the proposed rules are intended in part to stabilize local economies and facilitate economic recovery by local businesses, the impacts are relatively minor in broader economic context. Mr. Hughes does not expect any significant impact upon overall employment conditions in the state as a result of the proposed rules.

Comments on the proposal may be submitted to John Moore, Office of the General Counsel, Texas Workforce Commission, 101 East 15th Street, Room 608, Austin, Texas 78778-0001, (512) 463-3041. Comments may also be submitted via fax (512) 463-2220 or e-mail at John.Moore@twc.state.tx.us. Comments must be received by the Commission within thirty (30) days from the date this proposal is published in the Texas Register. A Public Hearing will be conducted if requested under Government Code section 2001.029.

The amendments are proposed under Texas Labor Code §301.0015 and §302.002, which provide the Texas Workforce Commission with the authority to adopt, amend, or repeal such rules as it deems necessary for the effective administration of services and activities.

The amendments affect Texas Labor Code, Title 4.

SUBCHAPTER B. BENEFITS, CLAIMS AND APPEALS

Proposed Language to amend §815.15:

§815.15. Parties with Appeal Rights.

- (a) This section defines the circumstances under which a party has appeal rights. For the purposes of appeals under this chapter, the term “party of interest” shall be used to denote a party with appeal rights.
- (b) A claimant may file an appeal from an action of the Agency and/or the Commission that affects the claimant’s right to benefits subject to this chapter and the Act.
- (c) An employer may file an appeal from a determination that affects a claimant’s entitlement to benefits if the employer is a party of interest to the determination. ~~Paragraphs (1)-(5) of this subsection are situations in which the Agency shall treat an employer as a party of interest in a specific proceeding.~~ The paragraphs of this subsection are situations in which the Agency shall treat an employer as a party of interest in a specific proceeding. Only one employer shall be a party of interest to a proceeding.
 - (1) An employer named as the last work on an initial claim is a party of interest to a determination(s) ruling on the merits of the claimant’s separation and other specific issues raised by the employer regarding the

claimant's entitlement to benefits, if the employer filed a timely response to notice of the claimant's initial claim.

- (2) An employer named as the last work on an additional or continued claim is a party of interest to a determination(s) ruling on the merits of that additional or continued claim separation, if the employer filed a timely response to notice of the claimant's additional or continued claim and:
 - (A) was the employer named as the last work on the claimant's initial claim and the employer filed a timely response to notice of the claimant's initial claim; or
 - (B) is a base period employer whose account has been ruled subject to chargeback.

- (3) A reimbursing employer named as the last work on an additional or continued claim is a party of interest to a determination(s) ruling on the merits of that additional or continued claim separation, if the employer filed a timely response to notice of the claimant's additional or continued claim and:
 - (A) was the employer named as the last work on the claimant's initial claim and the employer filed a timely response to notice of the claimant's initial claim; or
 - (B) is a base period employer.

- (4) If an employer, during a claimant's benefits year, provides the Agency with information that raises specific issues including, but not limited to, a potential disqualification, ineligibility, or allegations of fraud, each of which affects that claimant's entitlement to benefits, then the employer shall be a party of interest to a determination ruling on the merits of the specific issue raised by the employer as follows:
 - (A) the employer is named as the last work on the claimant's initial claim and the employer filed a timely response to notice of the claimant's initial claim;
 - (B) the employer is a base period taxed employer whose account has been ruled subject to chargeback (even if that employer was named as the last work on the claimant's initial claim and did not timely respond to notice of the claimant's initial claim); or
 - (C) the employer is a base period reimbursing employer.

- (5) An employer against whom a claimant has alleged entitlement to additional base period wages shall be a party of interest to that issue.
- (6) If an employer has requested a waiver under Section 815.28(a)(1)(E)(v) of this subchapter and the Agency Executive Director denies the waiver, the employer shall be a party of interest to any benefits appeal where ineligibility results from that denial.

Proposed Language to amend §815.28:

§815.28. Work Search Requirements.

- (a) Purpose. The purpose of this rule is to describe the work search requirements and process that must be met for claimants to continue to receive unemployment compensation benefits. A claimant is required to register for work, to actively seek work and be available for work, as well as accept suitable work. The rule also describes the process to be utilized by Local Workforce Development Boards (Boards) when formulating the numerical weekly work search contact requirements.
 - (1) A claimant shall be considered available for work during the time the claimant is making a reasonable search for suitable work as defined by this section.
 - (A) Work registration alone does not establish that the claimant is making a reasonable search for suitable work.
 - (B) The claimant shall make a personal and diligent search for work.
 - (C) Unreasonable limitations by a claimant as to salary, hours, or conditions of work indicate that a claimant is not making a reasonable search for suitable work.
 - (D) The Agency expects each claimant to act in the same manner as a prudent person who is out of work and seeking work.
 - (E) This section shall not apply to:
 - (i) individuals participating in a Shared Work plan, §215.041(c) of the Act;
 - (ii) individuals participating in Agency approved or Trade Act training, §207.022 and §207.023 of the Act;
 - (iii) individuals on temporary layoff with a definite date to return to work that is within eight weeks or less from the date of layoff;
 - (iv) individuals on temporary layoff with a definite return to work date that is within eight to 12 weeks from the date of

layoff, provided the exemption from work search requirements is explicitly requested in writing by the separating employer;

- (v) individuals on temporary layoff with a definite return to work date that is more than 12 weeks from the date of layoff provided that a waiver from work search requirements is requested by the separating employer and granted by the Agency Executive Director. The Executive Director's decision is subject to review in any benefits appeal where ineligibility results from the decision. The requesting employer is a party of interest to any such appeal, as described in §815.15 (c)(6) of this subchapter;
- (vi) individuals who are members in good standing of a union that maintains a nondiscriminatory hiring hall, as that term is defined by the Landrum-Griffin Act, and who maintain contact with and use the placement services of the hiring hall;
- (vii) individuals who perform jury service for a period of three days or longer, during the weeks in which the individual is actively performing jury service; or
- (viii) individuals who are otherwise exempted by law.

(F) This section shall apply to all claimants unless specifically exempted, including:

- (i) recipients of state extended unemployment benefits, who are required to actively seek work under Texas Labor Code §209.043;
- (ii) recipients of federal extended unemployment benefits, except that if the legislation establishing such benefits or administrative directives for administering such benefits include work search requirements, which are in conflict with those established herein, the federal requirements or administrative directives shall apply; or
- (iii) individuals who are engaged in efforts to establish themselves in a self-employment venture.

(2) The reasonableness of a search for work will, in part, depend upon the employment opportunities in the claimant's labor market area. A work search that may be appropriate in a labor market area with limited opportunities may be totally unacceptable in an area with greater opportunities.

(b) General Work Search Requirements. A claimant shall make the minimum number of weekly work search contacts as required by the Agency.

- (1) The claimant will be notified of the minimum number of weekly work search contacts required.
- (2) If there is a change to the minimum weekly number of work search contacts, the claimant shall be notified of the change in writing by U.S. mail.
- (3) Claimants are required to maintain weekly work search contact logs and may be required to submit weekly work search contact logs, using an acceptable method as determined by the Agency.
- (4) The Agency shall provide to and publish guidelines for claimants describing the types of activities that may constitute a work search contact for purposes of a productive search for suitable work. Examples of such activities include, but are not limited to:
 - (A) utilizing employment resources available at Workforce Centers that directly lead to obtaining employment, such as:
 - (i) using local labor market information;
 - (ii) identifying skills the claimant possesses that are consistent with targeted or demand occupations in the local workforce development area;
 - (iii) attending job search seminars, or other employment workshops that offer instruction in developing effective work search or interviewing techniques;
 - (iv) obtaining job postings and seeking employment for suitable positions needed by local employers;
 - (B) attending job search seminars, job clubs, or other employment workshops that offer instruction in improving individuals' skills for finding and obtaining employment;
 - (C) interviewing with potential employers, in-person or by telephone;
 - (D) registering for work with a private employment agency, placement facility of a school, or college or university if one is available to the claimant in his or her occupation or profession; and
 - (E) other work search activities as may be provided in Agency guidelines.
- (5) Failure to comply with work search requirements, without good cause, could result in an ineligibility determination that may result in a loss of benefits.

- (c) Number of Work Search Requirements. The minimum number of weekly contacts assigned shall be three work search contacts for all claimants, unless otherwise provided by this section.
- (d) A Board, based on specific local labor market information and conditions, may advise the Agency that a claimant residing in the workforce area are required to make more than three work search contacts per week.
- (e) Rural Counties. In counties designated as “rural” by the Agency the Board may reduce the minimum number of weekly work search contacts in response to specific local labor market information and conditions. “Rural” counties are defined as those counties having a population estimated by the Texas State Data Center at Texas A&M University to be not more than 10,000 as of July 1 of the most recent year for which county population estimates have been published.
- (f) Local Boards shall have the flexibility within the guidelines provided in this section to formulate the appropriate minimum number of weekly work search contacts for their respective workforce area, using appropriate guidelines to be developed in consultation with Agency staff, and shall maintain written documentation. Boards shall review the minimum number of weekly work search contacts for each workforce area at least once per year on a date to be determined by the Agency.
- (g) Local Policies. A Local Board shall develop, adopt, and modify its policies to promulgate the appropriate methodology for formulating the appropriate number of work search contacts for the workforce area in a public process consistent with the procedures required for compliance with the Texas Open Meetings Act, Texas Government Code, Chapter 551 *et seq.* A Board shall maintain written copies of the policies that are required by federal and state law or as requested by the Agency and make such policies available to the Agency and the public upon request. A Board shall also submit any modifications, amendments, or new policies to the Agency no later than two weeks after adoption of the policy by the Board.

SUBCHAPTER C. TAX PROVISIONS

Proposed Language to amend §815.109:

§815.109. Payment of Contributions and Reimbursements.

- (a) When, in any calendar year, an individual or employing unit becomes an employer (other than a reimbursing employer) subject to this Act, the employer shall, on or before the last day of the month following the month during which the employer became a subject employer, file a report as specified in §815.107 and pay contributions with respect to all completed calendar quarters in the calendar year. Contributions for the quarter during which the employer becomes a subject

employer shall be due on the first day of the month immediately following the quarter and shall be paid on or before the last day of the month. Contributions shall accrue quarterly and shall become due on the first day of the month immediately following the calendar quarter. They shall be paid to the Agency on or before the last day of the month. The provisions in this subsection (a) shall apply unless otherwise provided in §201.027 of the Act.

- (b) Reimbursements shall become due on the last day of the month following the end of each quarter and shall be paid to the Agency on or before the last day of the next month.
- (c) When the last day for payment of contributions or reimbursements falls on a Saturday, Sunday, or a legal holiday on which the Agency office is closed, the payment may be made on the next regular business day.
- (d) An employer or other entity, including agents paying on behalf of multiple employers, which paid contributions in the preceding state fiscal year of \$250,000 or more, and which is reasonably anticipated to do the same in the current fiscal year, is required to transfer payment amounts of contributions by electronic funds transfer on or before the date the contributions are due, unless the Agency in writing has approved another method or form of payment. Except as otherwise provided in this subsection, employers, including agents may voluntarily transfer payment of contributions by electronic funds transfer on or before the date the contributions are due, unless the Agency in writing has approved another method or form of payment. The transfers, when applicable, shall be subject to the provisions of the Texas Government Code, §404.095, and to rules adopted by the state comptroller pursuant to that section.
- (e) Additional tax resulting from a chargeback adjustment is due on the first day of the second month following the month in which the Agency mailed the statement or letter notifying the employer of the change in tax rate and additional tax due. Amounts due from such chargeback adjustments shall be paid and must be received by the Agency on or before the last day of this second month.
- (f) When good cause is shown, the Agency may extend the due date for the payment of contributions or reimbursements; however, the extension may not exceed 60 days and shall not be effective unless the extension is authorized in writing by the Agency. In the event the Agency for good cause shown extends the due date for payment of contributions or reimbursements the payments shall be made to the Agency on or before the 30th day following the extended due date.
- (g) An agent or other entity making a payment on behalf of 20 or more employers shall furnish an allocation list on magnetic or electronic media using a format prescribed by this Agency, unless the Agency has approved another format and method in writing. This list shall be furnished with the remittance, and the

remittance shall be allocated to the credit of the employers according to the order in which the employers appear on the list.