

# Updates from the Office of the Commissioner Representing Employers

## Texas Business Today

Aaron S. Demerson  
Commissioner Representing Employers

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Texas Employers:

Happy 2023!

Welcome to the January issue of *Texas Business Today*! There is great news for Texas employers regarding their 2023 state unemployment tax rates. See the article below by our Senior Legal Counsel Tommy Simmons regarding this good news.

In addition, the 88th Texas Legislature has begun. We will be following all bills related to Texas employers and employment law and will continue to provide updates throughout the session.

In other news, we have announced our 2023 Texas Conference for Employers schedule, with locations available throughout the state. The conferences offer employers and human resources professionals the opportunity to learn about new employment law updates and talk one-on-one with employment law attorneys. For a list of upcoming conferences, go to: <https://www.twc.texas.gov/texas-conference-employers>.

Also, remember that our Texas Employer Hotline (1-800-832-9394) is available to all Texas employers. The attorneys answer this hotline and provide guidance on employment law questions Monday-Friday, 8am-5pm. They answer anything from the simplest to the most complex questions. Please do not hesitate to contact us for assistance.



Lastly, thank you for your continued investment in our state!. Each employer, large and small, contributes to Texas' success, and makes Texas the best state in the country in which to do business. May your successes reach even higher heights in 2023!

Let's Continue to Make Progress!

A handwritten signature in black ink, appearing to be 'Aaron Demerson', written over a white background.

Aaron Demerson  
Commissioner Representing Employers  
Texas Workforce Commission



## Employment Law Updates for the New Year

By Tommy Simmons  
Senior Legal Counsel to Commissioner Aaron Demerson

### Average Unemployment Tax Rates Go Down for 2023

Texas employers have good news for 2023 regarding their state unemployment tax rates: there are across-the-board reductions in the minimum and maximum rates and all of the variables that go into the tax rate calculations.

Unemployment taxes in Texas have always been among the very lowest in the nation. During 2020, 2021, and 2022, the minimum and maximum rates stayed at 0.31% and 6.31%, respectively. For 2023, the minimum rate will decrease to 0.23%, and the maximum will be 6.23%. Given that the taxable wage base in Texas is \$9,000, that means that an employer with the minimum tax rate will pay \$20.70 per employee in 2023, while the tax for an employer with the maximum rate will be \$560.70 per employee.

Employers with no chargebacks from unemployment claims for the preceding three years will qualify for the minimum rate, while employers with some amount of chargebacks during that three-year period will have a higher rate that is capped at 6.31%. The exact formula for the unemployment tax rate in Texas is explained online at <https://twc.texas.gov/businesses/your-tax-rates>.

Employers may “buy down” their chargebacks and achieve a tax rate reduction using the steps outlined on the TWC website at <https://twc.texas.gov/voluntary-contribution-program>. That page has a link to the Unemployment Tax Services online portal at <https://twc.texas.gov/businesses/unemployment-tax-services>, where there is a tab for using an estimator to determine whether and how much to pay toward such a reduction.

### New Unemployment Tax Online System Coming in -2023

In mid-year 2023, the current unemployment tax system will be replaced with a **NEW** Texas Unemployment System, also known as TxUS. The agency is replacing Unemployment Tax Registration (UTR), Unemployment Tax Services (UTS), QuickFile, GoAnywhere portal, and Magnetic Media with this new system.



The new system will be implemented in two phases with UI Tax going live in mid-2023, with UI Benefits and UI Appeals following in 2024. Stay tuned for more info!

### **Chargeback Notices**

Many employers have already received and responded to the Notices of Chargeback Review that were mailed out in late 2022, giving employers that received chargeback notices back in 2020 another opportunity to respond if they did not respond earlier because they were misled by public announcements in April of 2020 concerning chargeback protection for pandemic-related claims.

If your business received such a notice and has not already responded, it would be a good idea to do so as soon as possible. If your business can qualify for chargeback protection for any of the claims filed in 2020, it could mean recalculation of the 2021, 2022, and 2023 rates, and depending upon the exact amount of chargebacks and which calendar quarters they are in, your business may be eligible for a tax refund or credit against future taxes owed. It would certainly be worth looking into. Questions on chargeback issues may be sent to [employerinfo@twc.texas.gov](mailto:employerinfo@twc.texas.gov), or an employer can call the toll-free employer hotline at 1-800-832-9394 (option 4).

### **New Federal Laws for 2023**

Two important new federal laws take effect in 2023 that affect the rights of pregnant employees and nursing mothers. The Pregnant Workers Fairness Act is modeled after the Americans with Disabilities Act and requires employers to reasonably accommodate employees whose ability to work is affected by pregnancy or childbirth, unless a requested accommodation would result in an undue hardship for the employer. The burden of proving that such a hardship exists would be on the employer.

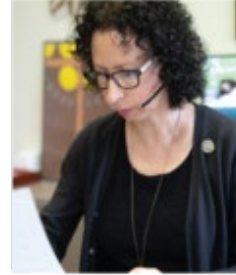
In addition, the Providing Urgent Maternal Protections for Nursing Mothers Act (the "PUMP Act") extends the right to reasonable breaks for nursing mothers to express breast milk to salaried exempt employees, who were exempt from the 2010 legislation that first recognized that right. In addition, the PUMP Act provides that "time spent to express breast milk must be considered hours worked if the employee is also working." Of course, such time has always been compensable, but the new legislation clarifies that fact and leaves no room for doubt. The new law also allows employers a "grace period" of up to ten days to make a space suitable for nursing mothers before an employee can go to court. A suitable space for nursing mothers must be private, sanitary, and not a restroom. For official guidance from the U.S. Department of Labor, see <https://www.dol.gov/agencies/whd/nursing-mothers>.

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# TEXAS EMPLOYER HOTLINE

## 1-800-832-9394

Hiring Issues • Medical Leave-Related Laws • Personnel Policies and Handbooks • Independent Contractors and Unemployment Tax Issues • The Unemployment Claims and Appeals Process • Texas and Federal Wage and Hour Laws



**Employer Hotline Hours: M-F, 8am-5pm**

*Information provided by employment law attorneys in the Office of the Commissioner Representing Employers at the Texas Workforce Commission*

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### **Connect with the Office of the Commissioner Representing Employers**

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