

1 **CHAPTER 815. UNEMPLOYMENT INSURANCE**

2
3 **PROPOSED RULES WITH PREAMBLE TO BE SUBMITTED TO THE TEXAS**
4 **REGISTER. THIS DOCUMENT WILL HAVE NO SUBSTANTIVE CHANGES BUT IS**
5 **SUBJECT TO FORMATTING CHANGES AS REQUIRED BY THE TEXAS REGISTER.**
6

7 The Texas Workforce Commission (Commission) proposes amendments to the following
8 sections of Chapter 815, relating to Unemployment Insurance:

9
10 Subchapter F. Extended Benefits, §815.170 and §815.171

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12 **PART I. PURPOSE, BACKGROUND, AND AUTHORITY**
13 **PART II. EXPLANATION OF INDIVIDUAL PROVISIONS**
14 **PART III. IMPACT STATEMENTS**
15 **PART IV. COORDINATION ACTIVITIES**
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18 **PART I. PURPOSE, BACKGROUND, AND AUTHORITY**

19 The purpose of the proposed Chapter 815 rule amendment is to adjust unemployment eligibility
20 periods, as necessary, to maximize receipt of 100 percent federally shared extended
21 unemployment benefits in accordance with the Tax Relief, Unemployment Insurance
22 Reauthorization, and Job Creation Act of 2010 (P.L. 111-312); the American Recovery and
23 Reinvestment Act of 2009, enacted February 17, 2009 (P.L. 111-5), Division B, Title II, relating
24 to Assistance for Unemployed Workers and Struggling Families, §2005. This authority was
25 granted to the Commission under House Bill (HB) 4586, 81st Texas Legislature, Regular Session
26 (2009).
27

28 The Commission must take this action in order to continue paying unemployed individuals who
29 are exhausting their regular and emergency unemployment benefits. During this period of high,
30 sustained unemployment, these 100 percent federally shared extended benefits are vital to out-of-
31 work Texans who are struggling to pay their bills while seeking work. These benefits also serve
32 as a much-needed stabilizing factor in local economies.
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35 **PART II. EXPLANATION OF INDIVIDUAL PROVISIONS**

36 (Note: Minor editorial changes are made that do not change the meaning of the rules and,
37 therefore, are not discussed in the Explanation of Individual Provisions.)
38

39 **SUBCHAPTER F. EXTENDED BENEFITS**

40 **The Commission proposes the following amendments to Subchapter F:**

41
42 **§815.170. State "On" and "Off" Indicator Weeks: Conditional Trigger**
43

44 Section 815.170(b)(1)–(2) adds an additional calendar year in the comparison period when
45 determining whether there is a state "on" indicator for the purposes of paying extended benefits.
46

1 To pay extended benefits, a state must reach a trigger related to statewide unemployment. Under
2 authority granted by the legislature, Texas may use a temporary trigger based upon its Total
3 Unemployment Rate (TUR).

4
5 If the TUR average equals or exceeds 6.5 percent and is at least 110 percent of the corresponding
6 three-month period in either or both of the prior two calendar years (look-back period), a state
7 must offer 13 weeks of extended benefits. If the average TUR equals or exceeds 8 percent and
8 meets the same 110 percent test, 20 weeks of extended benefits must be available.

9
10 As part of the TUR trigger methodology, the U.S. Department of Labor is instructed to compute
11 the three-month average TUR each week and compare it to the same look-back period in either
12 or both of the two preceding calendar years.

13
14 During 2011, the reference months for Texas will be in calendar years 2009 and 2010. The
15 unemployment rates—and therefore the moving three-month average for both 2009 and 2010—
16 are likely to be closer to, or even higher than, the rate for the equivalent period in 2011. Texas
17 will need to look back three years, to 2008, to meet the 110 percent criterion and remain
18 triggered on extended benefits. Congress recognized this dilemma; P.L. 111-312 allows states to
19 amend their law and temporarily add a third year to the look-back period to take advantage of
20 continued 100 percent federal funding of extended benefits.

21
22 **§815.171. High Unemployment Period: Maximum Total Extended Benefit Amount**

23
24 Section 815.171(a) adds a reference to §815.170(b) to indicate that a high unemployment period
25 also exists under the new three-year look-back option.

26
27
28 **PART III. IMPACT STATEMENTS**

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

31
32 There are additional estimated costs to the state and local governments expected as a result of
33 enforcing or administering the rules, as outlined below.

34
35 There are no estimated reductions in costs to the state and local governments as a result of
36 enforcing or administering the rules.

37
38 There are no estimated losses in revenue to the state and local governments as a result of
39 enforcing or administering the rules. We cannot estimate what the increase in revenue to the
40 state and local governments will total, as a result of enforcing or administering the rules,
41 although it is indicated that there will be an increase because of increased economic activity and
42 probable tax revenue resulting from an estimated \$333.5 million in extended benefits being paid
43 (most or all of which would subsequently be expended by unemployment compensation
44 claimants).

1 There are implications relating to the costs (described below) or revenues (described above) of
2 the state or local governments as a result of enforcing or administering the rules.

3
4 There are no anticipated economic costs to persons required to comply with the rules.

5
6 There is no estimated adverse economic effect on small businesses as a result of enforcing or
7 administering the rules.

8
9 The Agency estimates that \$333.5 million in unemployment compensation (UC) extended
10 benefits—as authorized by the Tax Relief, Unemployment Insurance Reauthorization and Job
11 Creation Act of 2010 (P.L. 111-312) and American Recovery and Reinvestment Act of 2009
12 (P.L. 111-5), and pursuant to authority provided to the Commission under HB 4586, 81st Texas
13 Legislature, Regular Session (2009)—will be paid and expended for the effective period of June
14 3, 2011, through January 7, 2012 (i.e., for individuals who are otherwise eligible for extended
15 unemployment compensation benefits even if their benefit year for regular benefits has expired).

16
17 These extended benefit payments consist of federal funds, except for benefit payments based on
18 benefit wage credits earned from: (1) a state; (2) any political subdivision of a state; or (3) any
19 instrumentality of any one or more states or political subdivisions that is wholly owned by one or
20 more states or political subdivisions. Assuming that expenditures of UC extended benefits will
21 occur among base period employers largely in the same proportion as they occurred for UC
22 extended benefits during the most recent 23-week period in Texas (August 31, 2010–January 14,
23 2011), estimates were made for the effective period of June 3, 2011, through January 7, 2012,
24 which would be facilitated by these proposed rule amendments. These estimates are that UC
25 extended benefits paid to former employees for which local governments in Texas have been
26 their base period employer are estimated to total \$5.6 million, and UC extended benefits paid to
27 former employees for which state government in Texas (including state agencies, and state
28 universities and hospitals) has been their base period employer are estimated to total \$2.8
29 million.

30
31 Rich Froeschle, Director of Labor Market and Career Information, has determined that there is
32 no significant negative impact upon employment conditions in the state as a result of the rules.

33
34 LaSha Lenzy, Director of the Unemployment Insurance Division, has determined that for each
35 year of the first five years the rules are in effect, the public benefit anticipated as a result of
36 enforcing the proposed amendment will be to ensure compliance with federal and state
37 requirements.

38
39 The Agency hereby certifies that the proposal has been reviewed by legal counsel and found to
40 be within the Agency's legal authority to adopt.

41 42 43 **PART IV. COORDINATION ACTIVITIES**

44 Comments on the proposed rules may be submitted to TWC Policy Comments, Workforce
45 Policy and Service Delivery, attn: Workforce Editing, 101 East 15th Street, Room 440T, Austin,
46 Texas 78778; faxed to (512) 475-3577; or e-mailed to TWCPolicyComments@twc.state.tx.us.

1 The Commission must receive comments postmarked no later than 30 days from the date this
2 proposal is published in the *Texas Register*.

3
4 The rules are proposed under Texas Labor Code §301.0015, which provide the Texas Workforce
5 Commission with the authority to adopt, amend, or repeal such rules as it deems necessary for
6 the effective administration of Agency services and activities.

7
8 The proposed rules affect Texas Labor Code, Title 4, Subtitle A, Texas Unemployment
9 Compensation Act.

10

1
2 **§815.171. High Unemployment Period: Maximum Total Extended Benefit Amount.**
3

- 4 (a) If the conditions under §815.170(a) or (b) of this subchapter are met except that the
5 average rate of total unemployment equals or exceeds 8 percent, a high
6 unemployment period shall exist.
7
- 8 (b) Effective with respect to weeks beginning in a high unemployment period, the total
9 extended benefit amount payable to an eligible individual for the individual's
10 eligibility period is 80 percent of the total amount of regular benefits that were
11 payable to the individual under the Act in the individual's benefit year.
12
- 13 (c) This section applies as long as §815.170 of this subchapter is in effect.
14