

1-1 By: Alvarado, Geren, Thompson of Harris H.B. No. 1251  
 1-2 (Senate Sponsor - West)  
 1-3 (In the Senate - Received from the House May 6, 2015;  
 1-4 May 6, 2015, read first time and referred to Committee on Natural  
 1-5 Resources and Economic Development; May 14, 2015, reported  
 1-6 adversely, with favorable Committee Substitute by the following  
 1-7 vote: Yeas 9, Nays 0; May 14, 2015, sent to printer.)

1-8 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-9				
1-10	X			
1-11	X			
1-12			X	
1-13	X			
1-14			X	
1-15	X			
1-16	X			
1-17	X			
1-18	X			
1-19	X			
1-20	X			

1-21 COMMITTEE SUBSTITUTE FOR H.B. No. 1251 By: Estes

1-22 A BILL TO BE ENTITLED  
 1-23 AN ACT

1-24 relating to the transfer of compensation experience for purposes of  
 1-25 the Texas Unemployment Compensation Act.

1-26 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-27 SECTION 1. Section 204.081, Labor Code, is amended to read  
 1-28 as follows:

1-29 Sec. 204.081. DEFINITIONS. (a) In this subchapter:

1-30 (1) "Compensation experience" includes the period  
 1-31 that benefit wage credits or benefits have been chargeable and any  
 1-32 other factor under Subchapter A, B, C, or D necessary to the  
 1-33 computation of experience rating under those subchapters.

1-34 (2) "Person" means an individual, trust, estate,  
 1-35 partnership, association, company, or corporation.

1-36 (3) "Substantially common management or control"  
 1-37 exists if, after the acquisition of the organization, trade, or  
 1-38 business of an employing unit, the predecessor employing unit  
 1-39 continues to:

1-40 (A) own or manage the organization that conducts  
 1-41 the organization, trade, or business;

1-42 (B) own or manage the assets necessary to conduct  
 1-43 the organization, trade, or business;

1-44 (C) control through security or lease  
 1-45 arrangements the assets necessary to conduct the organization,  
 1-46 trade, or business; or

1-47 (D) direct the internal affairs or conduct of the  
 1-48 organization, trade, or business.

1-49 (4) "Substantially common ownership" exists if, on the  
 1-50 date of an acquisition of the organization, trade, or business of an  
 1-51 employing unit, a shareholder, officer, or other owner of a legal or  
 1-52 equitable interest in the predecessor employing unit, or the spouse  
 1-53 or a person within the first degree of consanguinity or affinity, as  
 1-54 determined under Chapter 573, Government Code, of the shareholder,  
 1-55 officer, or other owner:

1-56 (A) is a shareholder, officer, or other owner of  
 1-57 a legal or equitable interest in the successor employing unit; or

1-58 (B) holds an option to purchase a legal or  
 1-59 equitable interest in the successor employing unit.

1-60 (5) "Transfer of trade or business" includes the

2-1 transfer of part or all of an employer's workforce to another  
2-2 employer if, as the result of the transfer, the transferring  
2-3 employer no longer performs trade or business with respect to the  
2-4 transferred workforce and the employer to whom the workforce is  
2-5 transferred performs trade or business with respect to the  
2-6 workforce.

2-7 (6) "Knowingly" means having actual knowledge of or  
2-8 acting with deliberate ignorance of or reckless disregard for the  
2-9 prohibition involved.

2-10 (b) For purposes of Subsection (a)(4), following a partial  
2-11 acquisition of an organization, trade, or business of an employing  
2-12 unit, substantially common ownership does not exist solely because  
2-13 the predecessor employing unit has the right to repossess the part  
2-14 acquired by the successor employing unit in the event of the  
2-15 successor's failure to complete a condition of the acquisition.

2-16 SECTION 2. Section 204.085, Labor Code, is amended by  
2-17 adding Subsections (a-1) and (e) to read as follows:

2-18 (a-1) In the case of a partial acquisition for which the  
2-19 transfer of compensation experience is required under Section  
2-20 204.083, the predecessor employer and successor employer may  
2-21 jointly submit, not later than the second anniversary of the date  
2-22 the partial acquisition was completed, information necessary for  
2-23 making the determination described by Subsection (a). The period  
2-24 for which the information is submitted must be the lesser of:

- 2-25 (1) four years; or
- 2-26 (2) the length of time the predecessor employer was  
2-27 liable for the payment of a tax under this subtitle.

2-28 (e) The commission shall include information about the  
2-29 availability of a partial transfer of compensation experience under  
2-30 this subchapter:

2-31 (1) with the information provided by the commission to  
2-32 each new employer; and

2-33 (2) on any form, including in electronic format,  
2-34 required to be submitted by an employer to report a change of  
2-35 status.

2-36 SECTION 3. Sections 204.081(b) and 204.085(a-1), Labor  
2-37 Code, as added by this Act, apply only to a partial acquisition of  
2-38 an organization, trade, or business of an employing unit that  
2-39 occurs on or after the effective date of this Act. An acquisition  
2-40 that occurs before the effective date of this Act is governed by the  
2-41 law in effect on the date the acquisition occurred, and the former  
2-42 law is continued in effect for that purpose.

2-43 SECTION 4. This Act takes effect September 1, 2015.

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