



Is Texas' New Unemployment Compensation Law Effective?

Publication

9.19.11

Sept. 1, 2011, marked the effective date of many new statutes in Texas. Texas legislators were busy this session with redistricting, public education, the state budget and the much ballyhooed (and ultimately mostly inconsequential) "loser pays" tort reform legislation. Lost in the shuffle, but of interest to Texas employers contemplating layoffs or reductions in force as the economy remains weak, were amendments to the Texas Labor Code designed to disqualify individuals from receiving unemployment compensation during the period they are receiving severance pay.

This change is meant to correct a disparity in the law under which recipients of workers' comp benefits, disability pay, or wages in lieu of notice were temporarily disqualified from receiving unemployment compensation, but those who were paid severance were not. In other words, the amendments are aimed at preventing "double dipping" by employees who receive a severance package upon termination of employment. However, the law's broad exclusions to the definition of severance pay may defeat this purpose.

The law is intended to allow employees who settle legal claims against their employers (such as discrimination charges or lawsuits) to receive unemployment compensation. To that end, "severance pay" specifically excludes remuneration received by an employee under a release of claims or settlement agreement based on either an alleged violation of the Civil Rights Act of 1991 or pursuant to a claim or cause of action filed in connection with the employment relationship. This was apparently meant to avoid penalizing an employee who has already been subjected to some sort of wrongdoing by barring them from collecting unemployment as well.

The amendments do provide that the commission may adopt rules as necessary to administer the law, so perhaps we can expect more guidance on these issues in coming months.

This article appeared on September 19, 2011 on [*Employment Law360*](#).