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## Labor & Workforce Development Committee

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### HB 1395

**Brief Description:** Implementing the unemployment insurance integrity provisions of the federal trade adjustment assistance extension act of 2011.

**Sponsors:** Representatives Sells, Manweller, Reykdal, Wylie, Chandler, Condotta, Hunt, Van De Wege, Green, Warnick, Appleton and Morrell; by request of Employment Security Department.

#### Brief Summary of Bill

- Subjects individuals who commit unemployment claimant fraud for the first time to an additional penalty of 15 percent of benefits overpaid.
- Prohibits relief from benefit charges when benefits were paid because an employer failed to respond timely or adequately to the Employment Security Department's requests for information without good cause and the employer has a pattern of such failures.

**Hearing Date:** 2/6/13

**Staff:** Joan Elgee (786-7106).

#### Background:

The unemployment compensation system provides partial wage replacement for workers who are unemployed through no fault of their own. Eligible unemployed workers receive benefits based on their earnings in their base year. The Employment Security Department (Department) administers this system.

Under the Federal Trade Adjustment Assistance Extension Act of 2011, states must meet certain requirements to remain in conformity with federal law. States not in conformity risk the loss of

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federal administrative funding and the loss of federal tax credits that employers receive for payment of state unemployment taxes.

An individual who obtains or attempts to obtain benefits fraudulently is disqualified from receiving benefits and liable for repayment of the benefits. An individual disqualified for a second time is also subject to a penalty of 25 percent of the benefits overpaid and a third disqualification results in an additional penalty of 50 percent of the benefits overpaid.

The State Unemployment Trust Fund is composed of amounts paid by employers, amounts received from the federal government, and specified other moneys. Moneys in this fund may be used only to pay unemployment benefits. The Administrative Contingency Fund is composed of fines and penalties as well as specified other revenue. Moneys in this fund are used for administrative expenses.

Most employers pay contributions (payroll taxes) to finance unemployment benefits. The tax rate for these employers, known as "contributing employers," is experience rated so that the rate is determined, in part, by the benefits paid to its employees. Some employers, such as the state, and certain nonprofit corporations that have elected to do so, make payments in lieu of contributions and are known as reimbursable employers. Reimbursable employers reimburse the Department for benefits paid to former employees.

Some benefits, however, are "non-charged" and are pooled within the unemployment system or "socialized." An employer may request relief from charging if, for example, the employer discharged the employee for certain misconduct or the employee left the employment voluntarily for reasons not attributable to the employer.

**Summary of Bill:**

An additional penalty of 15 percent of benefits overpaid applies to a first time disqualification for benefits. This amount is deposited into the Unemployment Compensation Fund.

Relief from benefit charges is not available if benefits were paid because the employer or employer's agent failed to respond timely or adequately without good cause to the Department's written information requests and the employer or its agent has a pattern of such failures. A pattern is shown if the failures without good cause occurred at least three times in the previous two years or in 20 percent of the total current claims against the employer, whichever is greater. If an agent is used, a pattern is established based on each individual client employer. "Adequately" means providing accurate information of sufficient quantity and quality that would allow a reasonable person to determine eligibility for benefits.

**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date:** The bill takes effect October 20, 2013.