

Amendments to State Unemployment Insurance Laws

U.S. DEPARTMENT OF LABOR
Employment and Training Administration
Washington, D.C. 20210

REPORT ON STATE LEGISLATION

REPORT NO. 2
November, 2003

DELAWARE HB 223 ENACTED and EFFECTIVE July 11, 2003
 (CH 143)

Monetary Entitlement

Increases the maximum weekly benefit amount from \$320 to \$330, effective for the benefit year beginning January 1, 2004, without regard to the balance in the Unemployment Insurance Trust Fund.

Financing

Increases each employer's new employer rate or basic assessment, whichever is applicable to such employer, by a supplemental assessment rate of 0.2 percent beginning January 1, 2004, and thereafter, without regard to the balance in the Unemployment Insurance Trust Fund.

GEORGIA SB 167 ENACTED and EFFECTIVE May 30, 2003
 (Act 84)

Financing

Extends suspension of overall rate increase through December 31, 2004, unless the State-wide Reserve Ratio is less than 1 percent in which case the Commissioner of Labor shall have the option of imposing an increase in the overall rate of up to 35 percent, as of the date of computation, for each employer.

Nonmonetary Eligibility

Extends the disqualification provision relating to employees of temporary help firms who fail to contact the employer for reassignment to employees of leasing companies and professional employer organizations.

HAWAII SB 773 ENACTED and EFFECTIVE July 2, 2003
 (Act No. 219)

Nonmonetary Eligibility

Provides for the use of an alternative base period consisting of the four completed calendar quarters immediately preceding the first day of an individual's benefit year if an individual fails to establish a valid claim using the standard base period and certain other requirements are satisfied, effective for benefit years beginning January 1, 2004.

Provides that employment and wages used to establish a benefit year cannot thereafter be reused to establish another benefit year.

IDAHO HB 70 ENACTED February 4, 2003
 (Act 2) EFFECTIVE January 1, 2003

Financing

Provides for a taxable wage base of \$27,600 for calendar years 2003 and 2004 (same taxable wage base that was in effect for calendar year 2002). Assigns tax rates for positive balance employers ranging from .2 percent to 1.4 percent for calendar years 2003 and 2004. Assigns tax rates for negative balance employers ranging from 2.6 percent to 5.4 percent for calendar years 2003 and 2004.

ILLINOIS HB 525 ENACTED July 23, 2003
 (PA 93-311) EFFECTIVE January 1, 2004

Administration

Requires the Department of Employment Security to disclose, upon request, to a State's Attorney of Illinois or a State's Attorney's investigator the current address or current information of an employer of a victim of a felony, a witness to a felony, or a person against whom an arrest warrant is outstanding.

LOUISIANA HB 1644 ENACTED and EFFECTIVE June 20, 2003
 (Act 457)

Administration

Provides for the issuance of determinations to base-period employers regarding the chargeability of benefits. Makes these determinations conclusive and binding unless an employer files an application for review within 20 days.

LOUISIANA HB 1645 ENACTED and EFFECTIVE June 20, 2003
 (Act 458)

Financing

Removes limitation on voluntary employer contributions to experience rating accounts.

LOUISIANA HB 1647 ENACTED and EFFECTIVE June 20, 2003
 (Act 460)

Financing

Provides for the transfer of an employer's experience rate whenever an employing unit succeeds to or acquires the employees of a predecessor employer.

LOUISIANA HB 1648 ENACTED and EFFECTIVE June 20, 2003
(Act 461)

Administration

Limits the amount attorneys for the state Department of Labor can be paid for the collection of delinquent UI contributions to 10 percent of the total dollars collected (was previously limited to 20 percent of the first \$2,000 collected, 10 percent of the next \$2,000 collected, and 5 percent of any amount over \$4,000 collected).

LOUISIANA SB 824 ENACTED and EFFECTIVE June 20, 2003
(Act 510)

Nonmonetary Eligibility

Clarifies that temporary or uncertified teachers or instructors, like other teachers, are not eligible for unemployment insurance between academic years or terms based on the instructional, research, or administrative services they provided during the year if reasonable assurance exists of performing such services in the next academic year or term.

MAINE HB 195 ENACTED and EFFECTIVE June 13, 2003
(CH 458)

Nonmonetary Eligibility

Provides that, beginning January 1, 2004, an individual who is not available for full-time work is not disqualified from receiving benefits if the individual worked:

less than full time for a majority of the weeks during that individual's base period and the individual is able and available for and actively seeking part-time work for at least the number of hours in a week comparable to those customarily worked in part-time employment during that individual's base period; or full time for a majority of the weeks during that individual's base period, but is able and available for and actively seeking only part-time work because of the illness or disability of an immediate family member or because of limitations necessary for the safety or protection of the individual or individual's immediate family member.

Terminates for new applications for benefits on September 30, 2005, but continues to apply to individuals who have remaining entitlement as of that date.

MICHIGAN HB 4945 ENACTED and EFFECTIVE August 14, 2003

(PA 174)

Extensions and Special Programs

Establishes a TUR trigger on a temporary basis effective beginning May 25, 2003, and ending December 27, 2003. Provides that extended benefits are payable beginning August 17, 2003:

For 50 percent of regular benefits up to 13 weeks when the average TUR for the most recent 3 months equals or exceeds 6.5 percent and the average state TUR equals or exceeds 110 percent of the average state TURs in the corresponding 3-month period in either or both of the preceding 2 calendar years.

For 50 percent of regular benefits up to 20 weeks when the average TUR equals or exceeds 8 percent as described immediately above.

Charges contributing employers' share of extended benefits based on the TUR trigger to the nonchargeable benefits account, effective for benefit charges paid for weeks of unemployment beginning the week of August 17, 2003, and ending the week ending January 17, 2004.

Charges, for reimbursing employers, the contingent fund for the full amount of extended benefits based on the TUR trigger effective for benefit charges paid for weeks of unemployment beginning the week of August 17, 2003, and ending the week ending January 17, 2004.

MICHIGAN SB 370 ENACTED and EFFECTIVE July 21, 2003
(PA No. 84)

Financing

Requires that solvency taxes collected and deposited in the contingent fund to no longer be used for the unemployment insurance automation project.

MONTANA HB 150 ENACTED and EFFECTIVE March 19, 2003
(CH 83)

Coverage

Excludes from the definition of "employment" service performed to provide companionship services or respite care for individuals who, because of age or infirmity, are unable to care for themselves when the person providing the service is employed directly by a family member or an individual who is a legal guardian.

MONTANA HB 338 ENACTED and EFFECTIVE April 21, 2003,
except as indicated

Financing

Revises the ratios used to calculate unemployment insurance contribution rates

resulting in the following rates:

Eligible employers –
Most favorable 0.00 percent to 1.67 percent
Least favorable 1.67 percent to 3.47 percent
Deficit employers –
Most favorable 3.17 percent to 6.37 percent
Least favorable 4.97 percent to 6.37 percent

Monetary Entitlement

Increases the maximum number of benefit weeks to which an individual is eligible from 26 to 28.

Provides that to qualify for the 28 week duration, an individual's ratio of total base period earnings to the highest quarter base period earnings must be at least 3.50.

Increases the percentage for calculating the maximum weekly benefit amount from 63 percent to 66.5 percent of the average weekly wage.

Increases the minimum weekly benefit amount from \$70 to \$73 and the maximum weekly benefit amount from \$297 to \$306, effective July 7, 2003.

NEW HAMPSHIRE

SB 101
(CH 116)

ENACTED June 9, 2003
EFFECTIVE August 8, 2003,
except as Indicated

Administration

Provides that delivery of a written notice for collection of state contributions by an authorized representative of the commissioner must be deemed proper service of process.

Modifies the interstate collections provision to allow the courts to entertain actions in the name of the commissioner to collect benefits for which liability has accrued under the employment security law of any other state or the federal government; and gives authority to the commissioner to collect any debts of benefits, contributions, or interest by civil action in any manner provided for the collection of contributions in the state's unemployment compensation law for debt collection.

Appeals

Modifies the appeals provisions to require that decisions from appeals be sent in whichever manner the commissioner determines to be most appropriate, including by first class mail.

Coverage

Amends the definition of "employer" to include service performed for an Indian tribe, resulting in unemployment insurance coverage of such services; and to exclude

coverage of certain services. Considers as an Indian tribe any subdivision, subsidiary, or business enterprise wholly owned by an Indian tribe.

Allows an Indian tribe to either pay contributions or to elect to make reimbursements.

May require reimbursing tribe or tribal unit to execute and file a surety bond or deposit money or securities at the discretion of the commissioner.

Extended benefits not reimbursed by the federal government must be financed in their entirety by the Indian tribe.

Under certain circumstances, terminates the reimbursement election and coverage when a tribe fails to make the required payments; provides for reinstatement when failure is corrected.

Excludes from the definition of "employment" services by a direct seller if engaged in the trade or business of the delivering or distribution of newspapers or shopping news, including any services directly related to such trade or business.

Nonmonetary Eligibility

Provides individuals are ineligible for benefits between two successive academic years or terms and during vacation or holiday recess while performing services as a non professional or for an educational institution only if applicable to such services in the employ of the state or any political subdivision thereof, to Indian tribes and to certain nonprofit organizations, effective June 9, 2003.

Disqualifies an individual for benefits for any week during which the individual resides other than in New Hampshire, another State, the District of Columbia, Puerto Rico, the Virgin Islands, or a contiguous country with which the United States has an agreement with respect to unemployment compensation.

Modifies the labor dispute provisions to provide that a person unemployed due to a stoppage of work must have worked in 5 or more weeks (formerly consecutive weeks) in employment as defined in the state's unemployment compensation law (except service performed in the employ of the United States), or wages earned in a like manner in another state to requalify for benefits.

Overpayments

Allows the commissioner to waive interest, penalties, fees and legal costs totaling \$50 or less related to overpaid benefits or contribution adjustments.

OHIO HB 95 ENACTED and EFFECTIVE June 25, 2003
(Session Law 12)

Financing

Appropriates, from Reed Act funds, \$53.7 million for fiscal year 2004 and \$47.3 million for fiscal year 2005 for administration of the UI program, employment services, and

other allowable expenditures. Provides for an increase in this appropriation, upon request of the Director of Job and Family Services, for fiscal year 2004 by the amount remaining unspent from fiscal year 2003, and, for fiscal year 2005, by the amount remaining unspent from fiscal year 2004.

OREGON HB 2161 ENACTED and EFFECTIVE May 28, 2003
 (CH 112)

Financing

Permits, rather than requires, a report of taxes due for employment consisting exclusively of domestic service in a private home, local college club or local chapter of a college fraternity or sorority where in any calendar quarter, the cash remuneration for such service is \$1,000 or more, to be filed annually rather than quarterly.

OREGON HB 2163 ENACTED and EFFECTIVE June 4, 2003
 (CH 197)

Appeals

Permits an administrative law judge to dismiss a request for a hearing when:

- the request for a hearing is withdrawn by the requesting party;
- in response to a request by the administrative law judge or his/her designee, the requesting party fails to provide, in a timely manner, the information necessary to allow the matter to be scheduled for a hearing;
- the requesting party fails to appear at the time of the hearing;
- the issues are resolved by cancellation or amendment of the decision that is the subject of the hearing request;
- the requesting party fails to file the request for a hearing within the time allowed by statute or rule and fails to show good cause for the delay;
- the request for a hearing is filed prior to the date of the written decision or written determination that is the subject of the request; or
- the request for a hearing is made by a person who is not entitled to a hearing or is not the authorized representative of a party who is entitled to a hearing.

Provides that such a dismissal by the hearing officer is final unless the party whose request for a hearing has been dismissed files, within 20 days of mailing of the dismissal notice, an application for review. Further provides, however, that a requesting party whose request has been dismissed because that party failed to appear may file a request to reopen the hearing notwithstanding the 20 day time limit.

OREGON SB 237 ENACTED and EFFECTIVE June 20, 2003
 (CH 401)

Financing

Revises the amount of bond or deposit that a nonprofit employing unit that elects to reimburse the Unemployment Compensation Trust Fund in lieu of paying taxes must

executive director or other commission staff about those details.

Appeals

Provides for the commission to develop, by rule, procedures to ensure that an appeal tribunal makes every effort in a hearing conducted by telephone to obtain all relevant facts and evidence.

Nonmonetary Eligibility

Provides that an individual will not be disqualified from receiving benefits because the individual left work to protect the individual from family violence or stalking (prohibits evidence regarding an employee who leaves work for this reason to be disclosed to any person without the consent of the employee, except as provided by law).

Financing

Provides that the commission may deny the transfer of an experience tax rate if it determines, based on credible evidence, that an acquisition was done primarily to qualify for a reduced unemployment insurance tax rate by:

circumventing the experience rating system; or
manipulating the experience rating system by minimizing the impact of chargebacks to the predecessor employer's tax account.

Requires, for a transfer of experience to be approved, that among other things:

an application for such a transfer be filed not later than the first anniversary of the effective date of the acquisition; and
the applicants show that:

the acquired part of the organization, trade, or business is capable of operating independently and separately from the predecessor employer;
and
the wages attributable to the acquired part of the organization, trade, or business are solely attributable to services provided on behalf of the acquired part of the organization, trade, or business.

Non-charges an employer's account for benefits paid to an employee or former employee whose separation from employment results from the employee leaving the workplace to protect the employee from family violence or stalking as evidenced by:

an active or recently issued protective order documenting family violence against, or the stalking of, the employee or the potential for family violence against, or the stalking of, the employee;
a police record documenting family violence against, or the stalking of, the employee; and
a physician's statement or other medical documentation of family violence against the employee.

Non-charges an employer's account for benefits paid to an individual who leaves work

