

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas
2 83rd General Assembly
3 Regular Session, 2001
4

A Bill

Act 1467 of 2001
HOUSE BILL 2215

5 By: Representative Carson
6 By: Senator Whitaker
7

For An Act To Be Entitled

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9
10 AN ACT TO AMEND VARIOUS SECTIONS OF THE ARKANSAS
11 EMPLOYMENT SECURITY LAW.
12

Subtitle

13
14 AN ACT TO AMEND VARIOUS SECTIONS OF THE
15 ARKANSAS EMPLOYMENT SECURITY LAW.
16
17

18 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
19

20 SECTION 1. Arkansas Code Title 11, Chapter 10, Subchapter 2 is amended
21 to add an additional section to read as follows:

22 11-10-227. Treatment of Indian Tribes.

23 (a) The term "employer" shall include any Indian tribe for which
24 service in employment as defined under this chapter is performed.

25 (b) The term "employment" shall include service performed in the employ
26 of an Indian tribe, as defined in Section 3306(u) of the Federal Unemployment
27 Tax Act (FUTA), provided such service is excluded from "employment" as defined
28 in FUTA solely by reason of Section 3306(c)(7), FUTA, and is not otherwise
29 excluded from "employment" under this chapter. For purposes of this section,
30 the exclusions from employment in §11-10-210(a)(4) shall be applicable to
31 services performed in the employ of an Indian tribe.

32 (c) The term "tribal unit" means subdivisions, subsidiaries, and
33 business enterprises wholly owned by an Indian tribe.

34 (d) Benefits based on service in employment defined in this section
35 shall be payable in the same amount, on the same terms and subject to the same
36 conditions as benefits payable on the basis of other service subject under

1 this chapter.

2 (e)(1) Indian tribes or tribal units subject to this chapter shall pay
3 contributions under the same terms and conditions as all other subject
4 employers, unless they elect to pay into the State unemployment fund amounts
5 equal to the amount of benefits attributable to service in the employ of the
6 Indian tribe.

7 (2) Indian tribes electing to make payments in lieu of
8 contributions must make such election in the same manner and under the same
9 conditions as provided in §11-10-713 pertaining to state and local governments
10 and nonprofit organizations subject to this chapter. Indian tribes will
11 determine if reimbursement for benefits paid shall be elected by the tribe as
12 a whole, by individual tribal units, or by combinations of individual tribal
13 units.

14 (3) Indian tribes or tribal units shall be billed for the full
15 amount of benefits attributable to service in the employ of the Indian tribe
16 or tribal unit on the same schedule as other employing units that have elected
17 to make payments in lieu of contributions.

18 (f)(1)(A) Failure of the Indian tribe or tribal unit to make required
19 payments, including assessments of interest and penalty, within ninety (90)
20 days after receipt of the bill shall cause the Indian tribe to lose the option
21 to make payments in lieu of contributions, as described in subsection (e), for
22 the following tax year unless payment in full is received before contribution
23 rates for next tax year are computed.

24 (B) Any Indian tribe that loses the option to make payments
25 in lieu of contributions due to late payment or nonpayment, as described in
26 subdivision (f)(1)(A), shall have such option reinstated if, after a period of
27 one (1) year, all contributions have been made timely, provided, no
28 contributions, payments in lieu of contributions for benefits paid, penalties
29 or interest remain outstanding.

30 (2)(A) Failure of the Indian tribe or any tribal unit thereof to
31 make required payments, including assessments of interest and penalty, after
32 all collection activities deemed necessary by the director have been
33 exhausted, shall cause services performed for such tribe to not be treated as
34 "employment" for purposes of subsection (b).

35 (B) The director may determine that any Indian tribe that
36 loses coverage under subdivision (f)(2), may have services performed for such

1 tribe again included as "employment" for purposes of subsection (b) if all
2 contributions, payments in lieu of contributions, penalties and interest have
3 been paid.

4 (C) If an Indian tribe fails to make payments required
5 under subdivisions (f)(2)(A) and (B), including assessments of interest and
6 penalty, within ninety (90) days after a final notice of delinquency, the
7 director will immediately notify the United States Internal Revenue Service
8 and the United States Department of Labor.

9 (g) Notices of payment and reporting delinquency to Indian tribes or
10 their tribal units shall include information that failure to make full payment
11 within the prescribed time frame:

12 (1) Shall cause the Indian tribe to be liable for taxes under
13 FUTA;

14 (2) Shall cause the Indian tribe to lose the option to make
15 payments in lieu of contributions; and

16 (3) Could cause the Indian tribe to be excepted from the
17 definition of "employer", as provided in subsection (a), and services in the
18 employ of the Indian tribe, as provided in subsection (b), to be excepted from
19 "employment".

20 (h) Extended benefits paid that are attributable to service in the
21 employ of an Indian tribe and not reimbursed by the Federal government shall
22 be financed in their entirety by such Indian tribe.

23
24 SECTION 2. Arkansas Code 11-10-314(f)(2) is amended to read as follows:

25 (2) No finding of fact or conclusion of law contained in a
26 decision of the department, an appeals ~~referee~~ hearing officer, the Board of
27 Review, or a court, obtained under this chapter shall have a preclusive effect
28 in any other action or proceeding except proceedings under this chapter.

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30 SECTION 3. Arkansas Code 11-10-523(a)(2), pertaining to the Board of
31 Review, is amended to read as follows:

32 (2) The members of the board shall be appointed by the Governor
33 for a term of office of ~~two (2)~~ four (4) years or until their successors are
34 appointed and qualified. Such four year terms are to run concurrently with
35 the term of the office of the Governor.

SECTION 4. Arkansas Code 11-10-523(b), pertaining to the Board of Review, is amended by adding an additional subdivision to read as follows:

(3) The Chairman shall have a four (4) year term beginning with the 2003 appointment.

SECTION 5. Arkansas Code 11-10-523(g)(1)(A), pertaining to appeal tribunals, is amended to read as follows:

(A) Each tribunal shall consist of either a ~~referee,~~ hearing officer selected in accordance with §11-10-310, or a body consisting of three (3) members, one of whom shall be a representative of employers and the other of whom shall be a representative of employees.

SECTION 6. Arkansas Code 11-10-523(g)(2)(D), pertaining to appeal tribunals, is amended to read as follows:

(D) The appeal ~~referee~~ hearing officer, as such, shall have all power bestowed on him as chairman of the appeals tribunal.

SECTION 7. EMERGENCY CLAUSE. It is hereby found and determined by the Eighty-third General Assembly that this act should go into effect as soon as possible in order to bring the Arkansas Employment Security Law into conformity with the Federal Unemployment Tax Act, as amended, so that Arkansas employers may continue to receive the tax credits accorded by the Federal Unemployment Tax Act and the Arkansas workers may receive unemployment benefits when they are unemployed. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto.

APPROVED: 4/10/2001