

Act 420 of the 1989 Regular Session.

Act 420

SB194

By: Senators Ingram, Walters and Chaffin

"AN ACT TO AMEND VARIOUS PROVISIONS OF ARKANSAS CODE ANNOTATED, AS AMENDED, SECTIONS 11-10-101 - 11-10-804; AND FOR OTHER PURPOSES."

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

SECTION 1. Arkansas Code Annotated 11-10-215(a)(1), as amended, is hereby amended to read as follows:

"(1) For purposes of 11-10-701 - 11-10-715, that part of remuneration paid to an individual by an employer with respect to employment during any calendar year prior to or ending December 31, 1989 which exceeds seven thousand five hundred dollars (\$7,500); however, for any calendar year beginning on and after January 1, 1990 that part of remuneration that exceeds Seven Thousand Eight Hundred Dollars (\$7,800.00) and for any calendar year beginning on and after January 1, 1991 that part of remuneration that exceeds Eight Thousand Dollars (\$8,000.00). For the purposes of this subsection, wages paid within a calendar year by a predecessor employer may be counted as though paid by a successor as defined in 11-10-701 - 11-10-715, and the term 'employment' includes services constituting employment under any unemployment insurance law of another state;"

SECTION 2. Arkansas Code Annotated 11-10-215(a)(5) as amended, is hereby amended to read as follows:

"(5) Fees, paid to corporate directors."

SECTION 3. Arkansas Code Annotated 11-10-314(e) is hereby amended by adding at the end thereof the following new paragraph (5):

"(5) Officers or employees of the U. S. Department of Housing and Urban Development and representatives of a public housing agency shall be entitled to certain wage and unemployment compensation information with respect to individuals applying for or participating in any housing assistance program administered by the Department of Housing and Urban Development as provided for in Section 303 of the Social Security Act at 42 U.S.C. 503 but only as and to the extent mandated by Section 904(c) of Public Law 100-628 (McKinney Homeless Act) and implementing regulations. The provisions of this paragraph (5) shall cease to be effective on and after October 1, 1994 unless otherwise extended by law."

SECTION 4. Arkansas Code Annotated 11-10-314(f), as amended, is hereby amended to read as follows:

(f)(1) All records, files, and documents of the Employment Security Division pertaining to claims, benefit payments, assessments, contributions, disqualifications for benefits, removals of disqualifications for benefits, charges and credits to accounts, and classification of employers, wherever located, which relate in any way to an employer or an employee of the employer shall be made available at all times for examination by an affected employer, a claimant, or their duly authorized representative, but no record, file, or document shall be removed from the custody of the Employment Security Division. Any information made available under this provision to a claimant

shall be information pertaining only to that claimant. Any information made available under this provision to an affected employer shall be information pertaining only to that employer.

(2) No finding of fact or conclusion of law contained in a decision of the employment security agency, an appeals referee, the board of review, or a court, obtained under this law shall have a preclusive effect in any other action or proceeding except proceedings under this law."

SECTION 5. Arkansas Code Annotated 11-10-506(a)(2) is hereby amended to read as follows:

"(2) After a study of previous employment records, and after investigation and hearing, the director shall determine the normal seasonal period or periods during which workers are ordinarily employed for the purpose of carrying on seasonal operations in each seasonal industry. Until the determination by the director, no industry shall be deemed to be seasonal. The director may initiate a study of an industry upon his own motion or upon a request filed with the director or the administrator by any employing unit or person that would be affected by any determination made as a result of such a study. If a study is made, it shall be mandatory for the director to make his determination and report thereon within ninety (90) days after written application for the determination has been filed. If the director initiates the study of an industry upon his own motion and finds that the industry meets the seasonal requirements set forth herein, he shall make his determination and report within ninety (90) days after the study is initiated. In either event, the industry shall be classified as a seasonal industry effective on the January 1 immediately following the date of the director's determination. Provided that, any employer who is classified as a seasonal employer under these provisions may make a written request to the Administrator asking not to be treated as a seasonal employer. If the request is approved, treatment as a seasonal employer will cease effective January 1 of the following calendar year."

SECTION 6. Arkansas Code Annotated 11-10-507(5)(B), as amended, is hereby amended to read as follows:

"(B) REQUALIFYING WAGES. For all benefit years, no individual may requalify on a succeeding benefit year claim unless he has been paid wages for insured work equal to not less than thirty (30) times his weekly benefit amount and has wages paid for insured work in at least two (2) calendar quarters of his base period, and subsequent to filing the claim which established his previous benefit year, he has had insured work and was paid wages for work equal to three (3) times his weekly benefit amount."

SECTION 7. Arkansas Code Annotated 11-10-509, as amended, is hereby amended by deleting the beginning paragraph in its entirety immediately preceding paragraph (1) to hereby read as follows:

"(1) With respect to service performed in an instructional, research, or principal administrative capacity for an educational institution, benefits shall not be paid based on services for any week of unemployment commencing during the period between two (2) successive academic years or terms, during a similar period between two (2) regular but not successive terms, or during a period of paid sabbatical leave provided for in the individual's contract, to any individual if the individual performs the services in the first of the academic years or terms and if there is a contract or a reasonable assurance that the individual will perform services in any such capacity for any educational institution in the second of the academic years or terms; and

(2)(A) With respect to services performed in any other capacity for an

educational institution, benefits shall not be paid on the basis of services to any individual for any week which commences during a period between two (2) successive academic years or terms if the individual performs the services in the first of the academic years or terms and there is a reasonable assurance that the individual will perform the services in the second of the academic years or terms.

(B) If compensation is denied to any individual under this subdivision and the individual was not offered an opportunity to perform the services for the educational institution for the second of the academic years or terms, the individual, if otherwise eligible, shall be entitled to a retroactive payment of compensation for each week for which the individual filed a timely claim for compensation and for which compensation was denied solely by reason of this clause, provided the individual makes an application for retroactive payment within two (2) weeks after receipt of notification from the educational institution that he will not have an opportunity to perform the services at that institution in the second academic year or term;

(3) With respect to any services described in subdivisions (1) or (2) of this section, compensation payable on the basis of these services shall not be payable to any individual for any week which commences during an established and customary vacation period or holiday recess if the individual performs these services in the period immediately before a vacation or holiday recess, and there is a reasonable assurance that the individual will perform the services in the period immediately following the vacation period or holiday recess.

(4) With respect to any services described in subdivisions (1) and (2) of this section, compensation payable on the basis of services in any such capacity shall be denied as specified in subdivisions (1), (2), and (3) of this section to any individual who performed the services in an educational institution while in the employ of an educational service agency. For purposes of this subdivision, the term "educational service agency" means a governmental agency or governmental entity which is established and operated exclusively for the purpose of providing such services to one (1) or more educational institutions."

SECTION 8. Arkansas Code Annotated 11-10-705(1) is hereby amended by amending the Contribution Rate Schedule to read as follows:

"(1) The contribution rate of an employer who has had three (3) or more years of benefit risk shall be that shown on the corresponding line which reflects his reserve ratio in the rate schedule which follows. The reserve ratio in this schedule is determined by dividing the difference in contributions paid and regular benefits charged by the annual taxable payroll.

CONTRIBUTION RATE SCHEDULE

CONTRIBUTION RATE	RESERVE RATIO
0.1%	9.95% or more
0.3%	9.35% but less than 9.95%
0.5%	8.85% but less than 9.35%
0.8%	8.65% but less than 8.85%
1.2%	8.35% but less than 8.65%
1.6%	7.95% but less than 8.35%
2.0%	7.35% but less than 7.95%
2.4%	6.75% but less than 7.35%
2.8%	5.45% but less than 6.75%

3.2%	2.45% but less than 5.45%
4.0%	1.35% but less than 2.45%
5.0%	Less than 1.35% with two (2) years or less negative balance
6.0%	More than 2 years negative balance"

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SECTION 9. Arkansas Code Annotated 11-10-705(2) (A) is hereby amended to read as follows:

"(A) Notwithstanding any other inconsistent provisions of the law, an employer who has been assigned a contribution rate pursuant to this law may upon the voluntary payment to the fund of an amount equivalent to any portion or all of the regular benefits charged to his account obtain a cancellation of regular benefits charged to his account equal to the payment so voluntarily made to the fund."

SECTION 10. Arkansas Code Annotated 11-10-706(b) (5) is hereby amended to read as follows:

"(5) If the assets of the fund on the computation date are less than one-half of one percent (1/2%) of total payrolls for employment during the preceding calendar year, the stabilization tax shall be five-tenths of one percent (0.5%). However, if the assets of the fund on the computation date are less than one-fourth (1/4) of one percent (1%) of total payrolls for employment during the preceding calendar year, the stabilization tax shall be eight-tenths (0.8) of one percent (1%)."

SECTION 11. Arkansas Code Annotated 11-10-707(a) (1) is hereby amended to read as follows:

"(a) (1) As used in this subchapter, the term 'annual payroll' means the total amount of taxable wages paid during a calendar year by an employer for employment and for the employer who has had three (3) or more years of benefit risk experience. The term 'average annual payroll' means the average of the annual payrolls for the last three (3) or the five (5) preceding calendar years, whichever is the lesser."

SECTION 12. Arkansas Code Annotated 11-10-709(a) is hereby amended to read as follows:

"(a) For the purposes of 11-10-701 and 11-10-702, wages shall not include that part of remuneration paid to an individual by an employer or his predecessor with respect to the employment during any calendar year which exceeds that part of remuneration paid specified in 11-10-215(a) (1), unless that part of the remuneration is subject to a tax under a federal law imposing a tax against which credit may be taken for contributions required to be paid into a state unemployment fund."

SECTION 13. Arkansas Code Annotated 11-10-717(b) (3), as amended, is hereby amended to read as follows:

"(3) A penalty of thirty dollars (\$30.00) or fifteen percent (15%) of the contributions due on the report, whichever is the greater, shall be assessed when:

(A) the employer has failed to supply all information (including, but not limited to, employee wage information, employee social security number, separate accounting of seasonal worker wages within and without the normal seasonal period of operations) directed by regulations prescribed by the Director, or

(B) the Director deems it necessary to estimate wage information, or

(C) a subpoena must be used to obtain wage information;"

SECTION 14. Arkansas Code Annotated 11-10-717(e)(2)(A), as amended, is hereby amended to read as follows:

"(2)(A) In order to relieve client lessees from joint and several liability and the separate reporting requirements imposed under subdivision (1) of this subsection, any lessor employing unit as defined in subdivision (4) of this subsection may post and maintain a surety bond issued by a corporate surety authorized to do business in Arkansas in the amount of one hundred thousand dollars (\$100,000) to insure prompt payment of contributions, interest, and penalties for which the lessor employing unit may be, or becomes, liable under this chapter. If after three (3) years throughout which the lessor employing unit as defined in subdivision (4) has paid all contributions due in a timely manner the bond shall be reduced to thirty-five thousand dollars (\$35,000.00) and shall remain at \$35,000 so long as the lessor employing unit continues to report and pay all contributions due in a timely manner."

SECTION 15. All provisions of this Act of a general and permanent nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code Revision Commission shall incorporate the same in the Code.

SECTION 16. All laws and parts of laws in conflict with this Act are hereby repealed.

SECTION 17. Emergency. It is hereby found and determined by the General Assembly that in order to correct certain inequities in the payment and in the denial of benefits to unemployed workers, to make needed technical corrections, and 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 that Arkansas workers may receive unemployment benefits when they are unemployed, an emergency is hereby declared to exist and this Act being necessary for the immediately preservation of the public peace, health and safety shall take effect and be in full force after its passage and approval.

APPROVED: March 8, 1989

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