

Stricken language would be deleted from and underlined language would be added to present law.

1 State of Arkansas *As Engrossed: H2/9/17 S3/16/17*

2 91st General Assembly

A Bill

3 Regular Session, 2017

HOUSE BILL 1405

4

5 By: Representatives Lundstrum, Ballinger, Barker, Bentley, Brown, Coleman, Collins, Davis, Dotson,
6 Fortner, Gates, Gonzales, K. Hendren, Hollowell, House, Maddox, McCollum, Payton, Penzo, B. Smith,
7 Speaks, Warren, Watson, *Bragg*

8 By: Senators J. Hendren, Hester

9

10 For An Act To Be Entitled

11 AN ACT TO AMEND THE TAXABLE WAGE BASE, WEEKLY BENEFIT
12 AMOUNT, MAXIMUM BENEFIT AMOUNT, AND CERTAIN
13 ELIGIBILITY REQUIREMENTS UNDER THE DEPARTMENT OF
14 WORKFORCE SERVICES LAW; AND FOR OTHER PURPOSES.

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Subtitle

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TO AMEND LAWS RELEVANT TO UNEMPLOYMENT
19 TAXES, UNEMPLOYMENT BENEFITS AND
20 UNEMPLOYMENT ELIGIBILITY.

21

22

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

24

25 SECTION 1. DO NOT CODIFY. Legislative findings.

26 The General Assembly finds that:

27 (1) The State of Arkansas needs to take steps to ensure the
28 financial stability of the Unemployment Compensation Fund;

29 (2) Arkansas's unemployment costs to employers are higher than
30 some surrounding states;

31 (3) Arkansas employers have been paying increased unemployment
32 taxes since 2009 as a result of a recession which dramatically increased
33 unemployment; and

34 (4) Making the changes set forth in this bill will increase the
35 stability of the Unemployment Compensation Fund and increase the state's
36 employers' ability to compete in attracting businesses.



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SECTION 2. Arkansas Code § 11-10-215(a), concerning wage calculations for unemployment benefits, is amended to read as follows:

(a)(1) As used in this chapter, ~~unless the context clearly requires otherwise,~~ “wages” means all remuneration paid for personal services, including, ~~but not limited to~~ without limitation, commissions, bonuses, cash value of all remuneration paid in any medium other than cash, the value of which shall be estimated and determined in accordance with regulations prescribed by the Director of the Department of Workforce Services, and tips received while performing services which constitute employment and which are included in a written statement furnished to the employer pursuant to 26 U.S.C. § 6053(a).

(2) ~~Provided that, the term “wages” shall~~ “Wages” does not include:

~~(1)(A)(A)(i)~~ For the purposes of §§ 11-10-701 – 11-10-715:

~~(i)(a)~~ That part of remuneration paid to an individual by an employer with respect to employment during any calendar year beginning after December 31, 2003, and ending December 31, 2009, which exceeds ten thousand dollars (\$10,000); ~~and~~

~~(ii)(b)~~ For any calendar year beginning after December 31, 2009, that part of remuneration which exceeds twelve thousand dollars (\$12,000); and

(c) For a calendar year beginning after December 31, 2017, that part of remuneration that exceeds ten thousand dollars (\$10,000).

~~(B)(ii)~~ For the purposes of this subsection:

~~(i)(a)~~ 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

~~(ii)(b)~~ The term “employment” includes services constituting employment under any unemployment insurance law of another state;

~~(2)(B)~~ The amount of any payment, with respect to services made to, or on behalf of, an individual in its employ under a plan or system established by an employing unit which makes provision for its employees, or for its employees and their dependents, including any amount paid by an

1 employing unit for insurance or annuities, or into a fund, to provide for any
2 payment, on account of:

3 ~~(A)~~(i) Retirement;

4 ~~(B)~~(i)(ii)(a) Sickness or accident disability,
5 except payments made directly to the employee or his or her dependents.

6 ~~(ii)~~(b) However, payments made directly to an
7 employee or his or her dependents under a workers' compensation law shall not
8 be considered to be "wages";

9 ~~(C)~~(iii) Medical and hospitalization expenses in
10 connection with sickness or accident disability; or

11 ~~(D)~~(iv) Death, provided the individual in its employ
12 does not have the:

13 ~~(i)~~(a) Option to receive, instead of provision
14 for the death benefit, any part of the payment, or, if the death benefit is
15 insured, any part of the premiums or contributions to premiums paid by his or
16 her employing unit; and

17 ~~(ii)~~(b) Right, under the provisions of the
18 plan or system or policy of insurance providing for the death benefit, to
19 assign the benefit or to receive cash consideration in lieu of the benefit
20 either upon his or her withdrawal from the plan or system providing for the
21 benefit or upon termination of the plan or system or policy of insurance or
22 of his or her services with the employing unit;

23 ~~(3)~~(C) The payment by an employing unit, without deduction
24 from the remuneration of the individual in its employ, of the tax imposed by
25 the Federal Insurance Contributions Act upon an individual in its employ with
26 respect to services performed;

27 ~~(4)~~(D) Payments made by an employer under a cafeteria
28 plan, within the meaning of 26 U.S.C. § 125, if the payment would not be
29 treated as wages without regard to the plan and it is reasonable to believe
30 that, if 26 U.S.C. § 125 applied for purposes of this section, 26 U.S.C. §
31 125 would not treat any wages as constructively received; or

32 ~~(5)~~(E) Fees paid to corporate directors.

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34 SECTION 3. Arkansas Code § 11-10-504(a), concerning the maximum
35 unemployment benefits payable, is amended to read as follows:

36 (a) For initial claims filed on or after ~~the first day of the calendar~~

1 ~~quarter following July 22, 2015~~ January 1, 2018, the maximum potential
2 benefits of an insured worker in a benefit year shall be the amount equal to
3 the lesser of:

4 (1) ~~Twenty (20)~~ Sixteen (16) times his or her weekly benefit
5 amount; or

6 (2) One-third (1/3) of his or her wages for insured work in his
7 or her base period.

8
9 SECTION 4. Arkansas Code § 11-10-517(1), concerning disqualification
10 from unemployment benefits for receipt of other remuneration, is amended to
11 read as follows:

12 (1)(A) *Separation Payments.*

13 ~~(A)(i)(a)~~ *Separation payments shall be treated as*
14 *earnings in accordance with § 11-10-503.*

15 ~~(ii)(b)~~ *Separation payments in excess of those*
16 *covering a period of eight (8) weeks of wages and an armed services severance*
17 *payment paid to a former member of the United States armed services shall not*
18 *be disqualifying under the terms of this section.*

19 ~~(B)(ii)~~ *Separation payments provided in the form of*
20 *a lump sum are disqualifying only for the week in which they are received.*

21 ~~(G)(iii)~~ *Remuneration paid as back pay in settlement*
22 *of a claim or grievance and supplemental unemployment benefits shall not be*
23 *disqualifying.*

24 (B) For initial claims made on and after January 1, 2018:

25 (i)(a) Separation payments are disqualifying for the
26 number of weeks following the date of the separation that equals the number
27 of weeks of wages received in the separation payment.

28 (b) An armed services severance payment paid
29 to a former member of the United States armed services shall not be
30 disqualifying under the terms of this section.

31 (c) Remuneration paid as back pay in
32 settlement of a claim or grievance and supplemental unemployment benefits
33 shall not be disqualifying; and

34 (ii)(a) The employer shall specify the total amount
35 of separation pay and the number of weeks of wages represented by the
36 separation pay.

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(b) If the employer does not specify the number of weeks under subdivision (1)(B)(ii)(a) of this section, the Department of Workforce Services shall allocate the separation pay using the claimant's average weekly wage;

/s/Lundstrum