

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

1 State of Arkansas
2 91st General Assembly
3 Regular Session, 2017
4

As Engrossed: H2/9/17

A Bill

HOUSE BILL 1405

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

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.
15
16

Subtitle

18 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.



1
2 SECTION 2. Arkansas Code § 11-10-215(a), concerning wage calculations
3 for unemployment benefits, is amended to read as follows:

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

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

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

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

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

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

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

27 ~~(i)-(a)~~ Wages paid within a calendar year by a
28 predecessor employer may be counted as though paid by a successor as defined
29 in §§ 11-10-701 – 11-10-715; and

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

33 ~~(2)-(B)~~ The amount of any payment, with respect to services
34 made to, or on behalf of, an individual in its employ under a plan or system
35 established by an employing unit which makes provision for its employees, or
36 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 ~~(i)~~(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 ~~(i)~~(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.

33

34 SECTION 3. Arkansas Code § 11-10-502(a), concerning the weekly benefit
35 amount of unemployment benefits, 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, an insured worker's weekly
2 benefit amount shall be an amount equal to ~~one twenty-sixth (1/26)~~ one-
3 thirtieth (1/30) of his or her average wages for insured work paid during the
4 four (4) quarters of his or her base period.

5
6 SECTION 4. Arkansas Code § 11-10-504(a), concerning the maximum
7 unemployment benefits payable, is amended to read as follows:

8 (a) For initial claims filed on or after the first day of the calendar
9 quarter following ~~July 22, 2015~~ January 1, 2018, the maximum potential
10 benefits of an insured worker in a benefit year shall be the amount equal to
11 the lesser of:

12 (1) ~~Twenty (20) Sixteen (16)~~ sixteen (16) times his or her weekly benefit
13 amount; or

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

16
17 SECTION 5. Arkansas Code § 11-10-507, concerning conditions for
18 eligibility for unemployment benefits, is amended to add an additional
19 subsection to read as follows:

20 (b) A individual who receives severance pay from his or her last
21 employer is not eligible for benefits for the number of weeks equaling the
22 number of weeks represented by the amount of severance pay.

23
24 SECTION 6. Arkansas Code § 11-10-509, concerning eligibility for
25 unemployment benefits of employees of educational institutions, is amended to
26 add an additional subsection to read as follows:

27 (e) An individual who has been employed by an educational institution
28 in a work study program or internship is not eligible for benefits following
29 the completion of that program or internship.

30
31 SECTION 7. Arkansas Code § 11-10-517(1), concerning disqualification
32 from unemployment benefits for receipt of other remuneration, is amended to
33 read as follows:

34 (1) Separation Payments. Except as provided in § 11-10-507(b),
35 (A)(i) Separation payments shall be treated as earnings in
36 accordance with § 11-10-503.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36

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

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

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

/s/Lundstrum