

Stricken language would be deleted from and underlined language would be added to law as it existed prior to the 82nd General Assembly.

1 State of Arkansas
2 82nd General Assembly
3 Regular Session, 1999
4

As Engrossed: H3/3/99
A Bill

HOUSE BILL 1713

5 By: Representatives Minton, Vess, Sheppard
6 By: Senators Wooldridge, Bradford
7

8
9 **For An Act To Be Entitled**

10 "AN ACT TO AMEND VARIOUS PROVISIONS OF ARKANSAS CODE
11 TITLE 11, CHAPTER 10, CITED AS THE ARKANSAS EMPLOYMENT
12 SECURITY LAW; AND FOR OTHER PURPOSES."
13

14 **Subtitle**

15 "AN ACT TO AMEND VARIOUS PROVISIONS OF
16 ARKANSAS CODE TITLE 11, CHAPTER 10,
17 CITED AS THE ARKANSAS EMPLOYMENT
18 SECURITY LAW."
19

20
21 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
22

23 SECTION 1. Arkansas Code 11-10-108(b)(2) pertaining to limitation of
24 fees is amended to read as follows:

25 "(2) No counsel or agents shall either charge or receive an
26 aggregate amount of more than ~~two hundred fifty dollars (\$250)~~ five hundred
27 dollars (\$500) for services rendered at the administrative appeal levels
28 before the appeal tribunal or the Board of Review."
29

30 SECTION 2. Arkansas Code 11-10-109 pertaining to assignment of benefits
31 is amended by adding the following new subsection (e) at the end thereof:

32 "(e) Benefits shall be subject to tax levies issued by the Internal
33 Revenue Services in accordance with 26 U.S.C., Section 6331(h) provided an
34 agreement is entered into between the Internal Revenue Service and the
35 Arkansas Employment Security Department, and approved by the United States
36 Department of Labor, that provides for the payment of all administrative costs

1 associated with processing the tax levies."

2
3 SECTION 3. Arkansas Code 11-10-210(a)(4)(C) exempting services from the
4 definition of employment is amended to read as follows:

5 "(C) In the employ of a governmental entity referred to in
6 subdivision (a)(2) of this section if the service is performed by an
7 individual in the exercise of duties:

8 (i) As an elected official;

9 (ii) As a member of a legislative body or a member of
10 the judiciary of a state or political subdivision;

11 (iii) As a member of the state National Guard or Air
12 National Guard;

13 (iv) In a position which, under or pursuant to the
14 laws of this state, is designated as a major nontenured policymaking or
15 advisory position, or a policymaking or advisory position the performance of
16 the duties of which ordinarily does not require more than eight (8) hours per
17 week; ~~or~~

18 (v) During any calendar year beginning on and after
19 January 1, 1999, as an election official or election worker if the amount of
20 the remuneration received by the individual during the calendar year is less
21 than one thousand dollars (\$1,000); or"

22
23 SECTION 4. Arkansas Code 11-10-210(a)(4)(F) exempting services from the
24 definition of employment is amended to read as follows:

25 "(F) By an inmate of a custodial or penal institution; or"

26
27 SECTION 5. Arkansas Code 11-10-210(a)(4) exempting services from the
28 definition of employment is amended by adding the following new subdivision
29 (G) at the end thereof:

30 "(G) Beginning on and after July 1, 1999, by a person
31 committed to a penal institution;"

32
33 SECTION 6. Arkansas Code 11-10-314(h) pertaining to disclosure of
34 information is amended to read as follows:

35 "(h) Notwithstanding any other provisions of this chapter, information
36 obtained in the administration of this chapter and in the administration of

1 and concerning Job Training Partnership Act (Pub. L. No. 97-300) and its
 2 successor, the Workforce Investment Act (Pub. L. No. 105-220), programs by the
 3 department ~~shall be disclosed to the extent permitted and in accordance with~~
 4 ~~the Job Training Partnership Act of 1982, Pub. L. No. 97-300, as amended, and~~
 5 ~~implementing regulations promulgated thereunder by the United States~~
 6 ~~Department of Labor and~~ shall be made available to persons and agencies for
 7 purposes appropriate to the department's operation and administration of the
 8 Job Training Partnership Act and its successor, the Workforce Investment Act,
 9 Pub. L. No. 105-220 programs. Pursuant to an agreement between the Arkansas
 10 Employment Security Department and the appropriate agencies, the director
 11 shall establish safeguards as are necessary to protect the confidential
 12 information made available pursuant to this section."

13
 14 SECTION 7. Arkansas Code 11-10-314(j)(1)(A) pertaining to disclosure of
 15 information is amended to read as follows:

16 "(A) The employer's name, mailing address, business
 17 location in Arkansas; name of the owner, chief executive officer, or plant
 18 manager; current number of employees; and the standard industrial
 19 classification code for each employer classified by the agency in Standard
 20 Industrial Classification Codes 20-87 (or the equivalent classification codes
 21 under the North American Industry Classification System);"

22
 23 SECTION 8. Arkansas Code 11-10-314(j)(3) pertaining to disclosure of
 24 information is amended to read as follows:

25 "(3) The University of Arkansas at Little Rock, ~~Center for~~
 26 ~~Information Services~~ Institute for Economic Advancement, may be provided
 27 covered wage and employment data by the two-digit Office of Management and
 28 Budget standard industrial classifications (or the equivalent classification
 29 codes under the North American Industry Classification System) by county on a
 30 quarterly basis."

31
 32 SECTION 9. Arkansas Code 11-10-507(3)(E) pertaining to eligibility of
 33 being able and available for work is amended to read as follows:

34 "(E) An individual on short-term layoff who expects to be
 35 recalled by his employer to a full-time job and whose employer intends to
 36 recall the individual to a full-time job within ~~eight (8)~~ ten (10) weeks after

1 the initial date of his layoff shall not be required during the layoff to
2 register for work at an Arkansas Employment Security Department office or to
3 seek other work."

4
5 SECTION 10. Arkansas Code 11-10-509(a) and (b)(1) pertaining to
6 eligibility of employees of educational institutions are amended to read as
7 follows:

8 "(a) With respect to service performed in an instructional, research,
9 or principal administrative capacity for an educational institution, ~~or for a~~
10 ~~community program licensed by the Division of Developmental Disabilities~~
11 ~~Services~~, benefits shall not be paid based on services for any week of
12 unemployment commencing during the period between two (2) successive academic
13 years or terms, during a similar period between two (2) regular but not
14 successive terms, or during a period of paid sabbatical leave provided for in
15 the individual's contract, to any individual if the individual performs the
16 services in the first of the academic years or terms and if there is a
17 contract or a reasonable assurance that the individual will perform services
18 in any such capacity for any educational institution in the second of the
19 academic years or terms.

20 (b)(1) With respect to services performed in any other capacity for an
21 educational institution, ~~or for a community program licensed by the Division~~
22 ~~of Developmental Disabilities Services~~, benefits shall not be paid on the
23 basis of services to any individual for any week which commences during a
24 period between two (2) successive academic years or terms if the individual
25 performs the services in the first of the academic years or terms and there is
26 a reasonable assurance that the individual will perform the services in the
27 second of the academic years or terms."

28
29 SECTION 11. Arkansas Code 11-10-514(b) pertaining to disqualifications
30 for being discharged for misconduct is amended to read as follows:

31 "(b) If he is discharged from his last work for misconduct in
32 connection with the work on account of dishonesty, drinking on the job,
33 reporting for work while under the influence of intoxicants including a
34 controlled substance, or willful violation of ~~the~~ bona fide rules or customs
35 of the employer pertaining to the safety of fellow employees, persons or
36 company property, he shall be disqualified from the date of filing his claim

1 until he shall have ten (10) weeks of employment in each of which he shall
2 have earned wages equal to at least his weekly benefit amount."

3
4 SECTION 12. Arkansas Code 11-10-525(c) pertaining to administrative
5 appeals is amended to read as follows:

6 "(c)(1) Upon review on its own motion or upon appeal, and on the basis
7 of evidence previously submitted in the case, or upon the basis of such
8 additional evidence as it may direct be taken, the board may affirm, modify,
9 or reverse the findings and conclusions of the appeal tribunal or may remand
10 the case.

11 (2) In cases where the Board of Review directs that additional
12 evidence be taken, upon request from any interested party in an intrastate
13 claim an in-person hearing shall be granted."

14
15 SECTION 13. Arkansas Code 11-10-532 pertaining to recovery of
16 unemployment benefit overpayments is amended by adding the following new
17 subdivision (c) at the end thereof:

18 "(c) Any person held liable to repay an amount to the fund shall be
19 subject to having any state income tax refund to which he may be entitled
20 intercepted pursuant to Arkansas Code beginning at § 26-36-301 as administered
21 by the Revenue Division of the Department of Finance and Administration."

22
23 SECTION 14. Arkansas Code 11-10-532(b)(1)(B) pertaining to recovery of
24 unemployment benefit overpayments is amended to read as follows:

25 "(B) In lieu of requiring the repayment, the director may,
26 on and after July 1, 1999, recover the amount by deduction ~~from fifty percent~~
27 ~~(50%)~~ of any future benefits payable to the person under this chapter unless
28 the director finds that the overpayment was received without fault on the part
29 of the recipient and that its recovery would be against equity and good
30 conscience."

31
32 SECTION 15. Arkansas Code 11-10-803(d)(1) pertaining to distribution of
33 funds is amended to read as follows:

34 (d)(1) Money credited to the account of this state in the Federal
35 Unemployment Trust Fund by the Secretary of the Treasury pursuant to § 903 of
36 the Social Security Act, as amended, may not be requisitioned from this

1 state's account or used except for the payment of benefits and for the payment
 2 of expenses incurred for the administration of this chapter. However, the
 3 money may not be used for Job Training Partnership Act programs and
 4 activities. The money may be requisitioned pursuant to the provisions of this
 5 chapter for the payment of benefits. The money may also be requisitioned and
 6 used for the payment of expenses incurred in the administration of this
 7 chapter. The money may only be used pursuant to a specific appropriation by
 8 the General Assembly and only if the expenses are incurred and the money is
 9 requisitioned after the enactment of an appropriation law which:

10 (A) Specifies the purposes for which money is appropriated
 11 and the amounts appropriated therefor;

12 (B) Limits the period within which the money may be
 13 obligated to a period ending not more than two (2) years after the date of the
 14 enactment of the appropriation law; ~~and~~

15 (C) Limits the amount which may be obligated to an amount
 16 which does not exceed the amount by which the aggregate of the amounts
 17 transferred to the account of this state pursuant to § 903 of the Social
 18 Security Act exceeds, the aggregate of the amounts used by this state pursuant
 19 to this chapter and charged against the amounts transferred to the account of
 20 this state; and

21 (D) Notwithstanding subdivision (1), moneys credited with
 22 respect to federal fiscal years 1999, 2000, and 2001, shall be used solely for
 23 the administration of the unemployment compensation program or in a manner
 24 allowable by the enabling legislation."

25
 26 SECTION 16. All provisions of this act of a general and permanent
 27 nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas
 28 Code Revision Commission shall incorporate the same in the Code.

29
 30 SECTION 17. If any provision of this act or the application thereof to
 31 any person or circumstance is held invalid, such invalidity shall not affect
 32 other provisions or applications of the act which can be given effect without
 33 the invalid provision or application, and to this end the provisions of this
 34 act are declared to be severable.

35
 36 SECTION 18. All laws and parts of laws in conflict with this act are

1 hereby repealed.

2

3 SECTION 19. EMERGENCY CLAUSE. It is hereby found and determined by the
4 Eighty-second General Assembly that in order to correct certain inequities in
5 the payment and in the denial of benefits to unemployed workers, to make
6 needed technical corrections and to bring the Arkansas Employment Security Law
7 into conformity with the Federal Unemployment Tax Act, as amended, so that
8 Arkansas employers may continue to receive the tax credits accorded by the
9 Federal Unemployment Tax Act and the Arkansas workers may receive unemployment
10 benefits when they are unemployed. Therefore, an emergency is declared to
11 exist and this act being immediately necessary for the preservation of the
12 public peace, health and safety shall become effective on the date of its
13 approval by the Governor. If the bill is neither approved nor vetoed by the
14 Governor, it shall become effective on the expiration of the period of time
15 during which the Governor may veto the bill. If the bill is vetoed by the
16 Governor and the veto is overridden, it shall become effective on the date the
17 last house overrides the veto.

18

/s/ Minton, et al