

State of Arkansas
87th General Assembly
Regular Session, 2009

A Bill

SENATE BILL 429

By: Senator Steele

For An Act To Be Entitled

AN ACT TO AMEND VARIOUS PROVISIONS OF THE
DEPARTMENT OF WORKFORCE SERVICES LAW; AND FOR
OTHER PURPOSES.

Subtitle

TO AMEND VARIOUS PROVISIONS OF THE
DEPARTMENT OF WORKFORCE SERVICES LAW.

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

SECTION 1. Arkansas Code § 11-10-215(a)(1)(A), concerning remunerations that are not included in the definition of wages, is amended to read as follows:

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

(i) That part of remuneration paid to an individual by an employer with respect to employment during any calendar year beginning after December 31, ~~1994~~ 2003, and ending December 31, ~~2002~~ 2009, which exceeds ~~nine thousand dollars (\$9,000)~~ ten thousand dollars (\$10,000);

(ii) For the calendar year beginning after December 31, ~~2002~~ 2009, and ending December 31, ~~2010~~, that part of remuneration which exceeds ~~nine thousand five hundred dollars (\$9,500)~~ ten thousand five hundred dollars (\$10,500); and

(iii) For any calendar year beginning after December 31, ~~2003~~ 2010, that part of remuneration which exceeds ~~ten thousand dollars (\$10,000)~~ eleven thousand dollars (\$11,000).

SECTION 2. Arkansas Code § 11-10-514(a)(3), concerning the



1 continuation of a disqualification for misconduct, is amended to read as
2 follows:

3 (3)(A) Except as otherwise provided in this section, an individual's
4 disqualification for misconduct shall be for eight (8) weeks of unemployment
5 as defined in § 11-10-512.

6 (B) However, for a discharge that occurs during the period of
7 July 1, 2009, through June 30, 2011, the disqualification under subdivision
8 (a)(3)(A) of this section shall continue until, subsequent to filing a claim,
9 he or she has had at least thirty (30) days of employment covered by an
10 unemployment compensation law of this state, another state, or the United
11 States.

12
13 SECTION 3. Arkansas Code § 11-10-524(b)(1), concerning the appeal of a
14 claims determination made by the Department of Workforce Services, is amended
15 to read as follows:

16 (b)(1) Unless the appeal is withdrawn with its permission or is
17 removed to the board, the appeal tribunal, after affording the parties a
18 reasonable opportunity for a fair hearing, and on the basis of the record,
19 shall affirm, modify, reverse, dismiss, or remand the determination.

20
21 SECTION 4. Arkansas Code § 11-10-525(c)(1), concerning the appeal of a
22 claims determination of the appeal tribunal, is amended to read as follows:

23 (c)(1) Upon review on its own motion or upon appeal and on the basis
24 of evidence previously submitted in the case, or upon the basis of any
25 additional evidence as it may direct be taken, the board may affirm, modify,
26 ~~or reverse, the findings and conclusions of the appeal tribunal or may~~
27 dismiss, or remand the case.

28
29 SECTION 5. Arkansas Code § 11-10-526(a)(2), concerning the
30 promulgation of rules governing appeals under the Department of Workforce
31 Services Law, is amended to read as follows:

32 (2) In like manner as provided at § 11-10-307(a) for the adopting,
33 amending, or rescinding of general rules by the Director of the Department of
34 Workforce Services, the board ~~shall~~ may adopt reasonable regulations
35 governing the manner of filing appeals, the conduct of hearings, and other
36 appellate procedures, consistent with this chapter.

SECTION 6. Arkansas Code § 11-10-532(a)(2), concerning the method for recovering an overpayment resulting from a false statement, misrepresentation, or omission that was knowingly made by a claimant, is amended to read as follows:

(2) ~~However, beginning on July 1, 2001, the person shall not be liable to repay such amount to the fund, except through the deduction of future benefits, after ten (10) years from the date the determination of the amount of the overpayment becomes final within the meaning of § 11-10-527.~~ Once the overpayment becomes final pursuant to § 11-10-527, the amount owed shall accrue interest at the rate of ~~one and one half percent (1.5%) per month~~ ten percent (10%) per annum beginning thirty (30) days after the date of the first billing statement.

SECTION 7. Arkansas Code § 11-10-532(b), concerning the limitation of liability for repayment of a benefit that a claimant was not entitled to receive, is amended to read as follows:

(b)(1)~~(A)~~ If the director finds that ~~any~~ a person has received ~~any~~ an amount as benefits under this chapter to which he or she was not entitled by reasons other than fraud, willful misrepresentation, or willful nondisclosure of facts, the person shall be liable to repay the amount to the fund.

~~(B)(2)~~ In lieu of requiring the repayment, the director, ~~on and after July 1, 1999,~~ may recover the amount by deduction of any future benefits payable to the person under this chapter unless the director finds that the overpayment was received without fault on the part of the recipient and that its recovery would be against equity and good conscience.

~~(2) Any person held liable to repay an amount to the fund or to have the amount deducted from any future benefits payable to him or her shall not be liable to repay the amount nor shall recovery be made from any future benefits after four (4) years from the date the determination of the amount of the overpayment becomes final within the meaning of the provisions of § 11-10-527.~~

SECTION 8. Arkansas Code § 11-10-532, concerning the recovery of a benefit obtained through misrepresentation, omission, or fraud, is amended to add an additional subsection as follows:

1 (e) The federal income tax refund of a person held liable to repay an
 2 amount to the fund as the result of a finding of fraud shall be subject to
 3 interception pursuant to Public Law No. 110-328 and any rule or regulation
 4 adopted to implement that law.

5
 6 SECTION 9. Arkansas Code § 11-10-901 (a) and (b), concerning the
 7 director's duties and the hiring and duties of the administrator, are amended
 8 to read as follows:

9 11-10-901. Creation – Administrator – Authority.

10 (a)(1) The Director of ~~There is established within~~ the Department of
 11 Workforce Services ~~a division to be called the Division~~ is assigned
 12 responsibility for the administration of the State New Hire Registry, ~~which~~
 13 ~~shall be administered by a full-time salaried administrator who shall be~~
 14 ~~appointed by and serve at the pleasure of the Director of the Department of~~
 15 ~~Workforce Services.~~

16 (2) The director shall hire an administrator of the State New
 17 Hire Registry who shall serve at the pleasure of the director.

18 (b)(1) ~~The division administrator~~ shall compile a state registry of
 19 newly hired and returning employees as required by the Personal
 20 Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. No.
 21 104-193.

22 (2) The director may enter into such professional services
 23 contracts as may be necessary to assist in the development and operation of
 24 the state new hire registry.

25
 26 SECTION 10. Arkansas Code § 11-10-902 is amended to read as follows:

27 11-10-902. Reporting requirements – Enforcement of child support
 28 obligations – Confidentiality.

29 (a) As used in this section:

30 (1) "Administrator" means the administrator of the State New
 31 Hire Registry;

32 ~~(1)~~(2) "Employee" means an individual who is an employee as
 33 defined in Chapter 24 of the Internal Revenue Code of 1986 but does not
 34 include an employee of a federal or state agency performing intelligence or
 35 counterintelligence operations if the head of the agency has determined that
 36 reporting pursuant to subsection (b) of this section could endanger the

1 safety of the employee or could compromise an ongoing operation or
 2 investigation;

3 ~~(2)~~(3) "Employer" means an employer as that term is defined in §
 4 3401(d) of the Internal Revenue Code of 1986 and includes any labor
 5 organization and any governmental entity; and

6 ~~(3)~~(4) "Labor organization" means a labor organization as that
 7 term is defined in § 2(5) of the National Labor Relations Act and includes
 8 any entity, sometimes known as a "hiring hall", that is used by the labor
 9 organization and an employer to carry out the requirements listed in §
 10 8(f)(3) of the federal act of an agreement between the organization and the
 11 employer.

12 (b)(1) ~~On and after October 1, 1997, the Division of the State New~~
 13 ~~Hire Registry~~ The administrator shall compile an automated state registry of
 14 newly hired and returning employees.

15 (2) An employer shall report electronically or in any manner
 16 authorized by the ~~Arkansas Employment Security Department~~ Department of
 17 Workforce Services for inclusion in the ~~state registry~~ State New Hire
 18 Registry whenever an employee is newly hired or returns to work.

19 (3) An employer shall include in each report the name, address,
 20 and social security number of the employee and the name, address, and federal
 21 taxpayer identification number of the employer.

22 (4) An employer shall make the report by submitting a copy of
 23 Internal Revenue Service Form W-4 for the employee or, ~~at the option of the~~
 24 ~~employer,~~ an equivalent form. An employer may transmit the report by first
 25 class mail, magnetically, or electronically. If an employer makes the report
 26 by mail, the reporting date is that of the postmark. The report shall be
 27 received not later than twenty (20) days after the date the employer hires
 28 the employee or, in the case of an employer transmitting reports magnetically
 29 or electronically, by two (2) monthly transmissions, if necessary, not less
 30 than twelve (12) days nor more than sixteen (16) days apart.

31 (5) An employer that has employees employed in two (2) or more
 32 states and transmits reports magnetically or electronically may comply with
 33 the reporting requirements of this section by designating one (1) state in
 34 which the employer has employees and to which the employer will transmit the
 35 report required by this section. Any employer that transmits reports shall
 36 notify the Secretary of the Department of Health and Human Services in

1 writing as to which state the employer designates for the purpose of sending
2 reports.

3 (c)(1) Information reported pursuant to this section shall be entered
4 into the ~~registry~~ State New Hire Registry data base maintained by the
5 ~~Arkansas Employment Security Department~~ Department of Workforce Services or
6 its designated contractor within five (5) business days of receipt from an
7 employer. As used herein, "business day" means a day on which state offices
8 are open for regular business.

9 (2) Within two (2) business days after the ~~data~~ date information
10 regarding a newly hired employee is entered into the ~~registry~~ State New Hire
11 Registry, the Office of Child Support Enforcement of the Revenue Division of
12 the Department of Finance and Administration shall transmit a notice to the
13 employer directing the employer to withhold from the income of the employee
14 an amount equal to the monthly or other periodic child support obligation,
15 including any past due child support obligation, of the employee.

16 (3) Within three (3) business days after the date information
17 regarding a newly hired employee is entered into the ~~registry~~ State New Hire
18 Registry, the ~~Arkansas Employment Security Department~~ Department of Workforce
19 Services or its designated contractor shall furnish the information to the
20 National Registry Directory of New Hires.

21 (4) On a quarterly basis, the ~~state registry~~ State New Hire
22 Registry shall furnish to the ~~national registry~~ National Directory of New
23 Hires extracts of reporting required to be made to the Secretary of Labor
24 concerning the wages and unemployment compensation paid to individuals by
25 such dates, in such format, and containing such information as the Secretary
26 of the Department of Health and Human Services shall specify in regulations.

27 (5)(A) The Department of Human Services shall have access to
28 information reported by employers pursuant to this section for the purpose of
29 verifying eligibility for programs pursuant to 42 U.S.C. § 1320B-7.

30 (B) The ~~Arkansas Employment Security Department~~ Department
31 of Workforce Services shall have access to information reported by employers
32 pursuant to this section for purposes of administering the ~~Arkansas~~
33 ~~Employment Security Department's~~ Department of Workforce Services's programs.

34 (C) The Workers' Compensation Commission shall have access
35 to information reported by employers pursuant to this section for purposes of
36 administering the workers' compensation programs.

(d)(1) ~~Not later than May 1, 1998, the Arkansas Employment Security Department~~ The Department of Workforce Services shall directly or by contract conduct automated comparisons of the social security numbers reported by employers and the social security numbers appearing within records of the Office of Child Support Enforcement of the Revenue Division of the Department of Finance and Administration for cases being enforced under the Title IV – D State Plan.

(2) When an information comparison reveals a match with respect to the social security number of an individual required to provide child support under a support order, the ~~registry~~ State New Hire Registry shall immediately provide the Office of Child Support Enforcement of the Revenue Division of the Department of Finance and Administration with the name, address, and social security number of the employee to whom the social security number is assigned and the name, address, and federal employer identification number of the employer.

(e) The Office of Child Support Enforcement of the Revenue Division of the Department of Finance and Administration shall use information received pursuant to subsection (d) of this section to locate individuals for purposes of establishing paternity and establishing, modifying, and enforcing child support obligations and may disclose that information to its agents under contract for purposes connected to the administration of the Title IV-D Child Support Program.

(f) All information gathered and maintained by the ~~registry~~ State New Hire Registry:

(1) ~~Shall~~ shall be held confidential and be utilized solely for the purposes authorized in this section; and

(2) ~~The information shall be considered~~ Is an exception to the open public record requirements of the Freedom of Information Act of 1967, § 25-19-101 et seq.

(g) To the maximum extent allowable, all expenses associated with the development and operation of the ~~registry~~ State New Hire Registry shall be reimbursed through available funding under the Title IV-D Child Support Program.

SECTION 11. EMERGENCY CLAUSE. It is found and determined by the General Assembly of the State of Arkansas that this act should go into effect

1 as soon as possible in order to assure the prompt determination of claims for
2 unemployment benefits and the continued provision of benefits and services to
3 eligible persons. Therefore, an emergency is declared to exist and this act
4 being immediately necessary for the preservation of the public peace, health,
5 and safety shall become effective on:

6 (1) The date of its approval by the Governor;

7 (2) If the bill is neither approved nor vetoed by the Governor,
8 the expiration of the period of time during which the Governor may veto the
9 bill; or

10 (3) If the bill is vetoed by the Governor and the veto is
11 overridden, the date the last house overrides the veto.