

1 State of Arkansas  
2 94th General Assembly  
3 Regular Session, 2023  
4

# A Bill

HOUSE BILL 1433

5 By: Representative Lundstrum  
6 By: Senator K. Hammer  
7

## For An Act To Be Entitled

9 AN ACT TO ENACT THE DIVISION OF WORKFORCE SERVICES'  
10 GENERAL OMNIBUS ACT; TO AMEND THE DIVISION OF  
11 WORKFORCE SERVICES LAW REGARDING RULES AND DISCLOSURE  
12 OF INFORMATION; TO AMEND JUDICIAL REVIEW OF CLAIM  
13 DECISIONS BY THE BOARD OF REVIEW AND CLAIMS RECOVERY;  
14 TO ASSIGN THE DIVISION OF WORKFORCE SERVICES TO  
15 ADMINISTER ANY AND ALL ADULT EDUCATION FUNDS; TO  
16 DECLARE AN EMERGENCY; AND FOR OTHER PURPOSES.

## Subtitle

18  
19 TO ENACT THE DIVISION OF WORKFORCE  
20 SERVICES' GENERAL OMNIBUS ACT; AND TO  
21 DECLARE AN EMERGENCY.  
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23  
24

25 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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27 SECTION 1. Arkansas Code § 11-10-307(a), concerning rules adopted by  
28 the Director of the Division of Workforce Services, is amended to read as  
29 follows:

30 (a)(1) General ~~and~~, special, and emergency rules may be adopted,  
31 amended, or rescinded by the Director of the Division of Workforce Services  
32 only after public hearing or opportunity to be heard thereon, on which proper  
33 notice has been given.

34 (2) General rules shall become effective ten (10) days after  
35 filing with the Secretary of State and publication in one (1) or more  
36 newspapers of general circulation in this state.



1 (3) Special rules shall become effective ten (10) days after  
 2 notification to or mailing to the last known address of the individuals or  
 3 employing units affected thereby.

4 (4)(A) Emergency rules shall be:

5 (i) Effective upon filing with the Secretary of  
 6 State and posting on the Division of Workforce Services' website; and

7 (ii) Published in one (1) or more newspapers of  
 8 general circulation in this state as soon as possible following the effective  
 9 date.

10 (B) Emergency rules are subject to review and approval by  
 11 the Executive Subcommittee of the Legislative Council under § 10-3-309(d).

12  
 13 SECTION 2. Arkansas Code § 11-10-314(a)(1), concerning the disclosure  
 14 of information obtained by the Director of the Division of Workforce  
 15 Services, is amended to read as follows:

16 (a)(1) Except as otherwise provided in this section, information  
 17 obtained by the Director of the Division of Workforce Services from any  
 18 employing unit or individual pursuant to the administration of this chapter,  
 19 and the methods used by the Division of Workforce Services to identify and  
 20 investigate fraudulent claims, and any determination as to the rights or  
 21 status of any employer or individual made by the director pursuant to the  
 22 administration of this chapter shall be held confidential, shall be protected  
 23 by government privilege, and ~~is~~ are exempt from the Freedom of Information  
 24 Act of 1967, § 25-19-101 et seq.

25  
 26 SECTION 3. Arkansas Code § 11-10-529(a)(1), concerning judicial review  
 27 of the Board of Review decision related to unemployment benefits claims, is  
 28 amended to read as follows:

29 (a)(1)(A)(i) Any party entitled to a decision of the Board of Review  
 30 shall have thirty (30) calendar days from the date the decision is mailed to  
 31 his or her last known address in which to request a judicial review by filing  
 32 in the Court of Appeals a petition for review of the decision, and in the  
 33 proceedings any other party to the proceeding before the board shall be made  
 34 a party respondent.

35 (ii) Only a party who has been adversely affected by  
 36 a decision of the board that results in a pecuniary loss may file an appeal

1 from a decision of the board.

2 (B)(i) If mailed, a petition for review shall be  
3 considered filed as of the date of the postmark on the envelope.

4 (ii) In the event of a nonexistent or illegible  
5 postmark, the Clerk of the Court of Appeals shall notify the appellant by  
6 mail.

7 (iii) The appellant shall then have ten (10)  
8 calendar days from the posted mailing date of the clerk's notification letter  
9 to provide the court proof of timely mailing of the request for judicial  
10 review by producing a delivery confirmation or a certified mail return  
11 receipt document bearing evidence of the accurate post date.

12 (C)(i) If the last day for taking action under this  
13 section falls on a Saturday, Sunday, legal holiday, or other day when the  
14 Court of Appeals Clerk's office is closed, the time for the action shall be  
15 extended to the next business day.

16 (ii) In computing any period of time for taking  
17 action under this section, the day of the act that the designated period of  
18 time begins to run shall not be included.

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20 SECTION 4. Arkansas Code § 11-10-532(b)(2), concerning recovery claims  
21 by the Division of Workforce Services, is amended to read as follows:

22 ~~(2)(A)~~ In lieu of requiring the repayment, the director may  
23 recover the amount by deduction of any future benefits payable to the person  
24 under this chapter unless the director finds that the overpayment was  
25 ~~received as a direct result of an error by the Division of Workforce Services~~  
26 without fault on the part of the recipient and that its recovery would be  
27 against equity and good conscience.

28 ~~(B) As used in subdivision (b)(2)(A) of this section,~~  
29 ~~"direct result of an error by the Division of Workforce Services" does not~~  
30 ~~include overpayments established under an appeal reversal as a result of the~~  
31 ~~successful appeal of a denial of benefits.~~

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33 SECTION 5. Arkansas Code § 15-4-3704(b)(6), concerning membership on  
34 the Arkansas Workforce Development Board, is amended to read as follows:

35 (6) The Director of the Division of State Services for the Blind  
36 ~~of the Department of Human Services;~~

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2 SECTION 6. Arkansas Code § 25-30-103 is amended to read as follows:

3 25-30-103. Adult education funds.

4 ~~The Career Education and Workforce Development Board and the State~~  
5 ~~Board of Education~~ Division of Workforce Services shall remain the sole state  
6 ~~agencies~~ agency to administer any and all state and federal adult education  
7 funds.

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9 SECTION 7. EMERGENCY CLAUSE. It is found and determined by the  
10 General Assembly of the State of Arkansas that unemployment insurance fraud  
11 is a widespread problem that is often perpetrated by criminal enterprises;  
12 that the Division of Workforce Services must continually adapt its protocols  
13 for investigating and detecting fraud to combat increasingly sophisticated  
14 criminal schemes; and that this act is immediately necessary to prevent fraud  
15 detection protocols from being accessed by those committing fraud. Therefore,  
16 an emergency is declared to exist, and this act being immediately necessary  
17 for the preservation of the public peace, health, and safety shall become  
18 effective on:

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

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

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