

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

As Engrossed: H2/22/23

# 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 DECLARE AN EMERGENCY; AND FOR OTHER PURPOSES.

## Subtitle

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18 TO ENACT THE DIVISION OF WORKFORCE  
19 SERVICES' GENERAL OMNIBUS ACT; AND TO  
20 DECLARE AN EMERGENCY.  
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23 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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25 SECTION 1. Arkansas Code § 11-10-307(a), concerning rules adopted by  
26 the Director of the Division of Workforce Services, is amended to read as  
27 follows:

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29 amended, or rescinded by the Director of the Division of Workforce Services  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

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

35 (3) Special rules shall become effective ten (10) days after  
36 notification to or mailing to the last known address of the individuals or



1 employing units affected thereby.

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

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

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

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

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

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

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

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

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

36 (B)(i) If mailed, a petition for review shall be

1 considered filed as of the date of the postmark on the envelope.

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

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

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

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

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

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

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

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

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

1         SECTION 6. EMERGENCY CLAUSE. It is found and determined by the  
2 General Assembly of the State of Arkansas that unemployment insurance fraud  
3 is a widespread problem that is often perpetrated by criminal enterprises;  
4 that the Division of Workforce Services must continually adapt its protocols  
5 for investigating and detecting fraud to combat increasingly sophisticated  
6 criminal schemes; and that this act is immediately necessary to prevent fraud  
7 detection protocols from being accessed by those committing fraud. Therefore,  
8 an emergency is declared to exist, and this act being immediately necessary  
9 for the preservation of the public peace, health, and safety shall become  
10 effective on:

- 11               (1) The date of its approval by the Governor;  
12               (2) If the bill is neither approved nor vetoed by the Governor,  
13 the expiration of the period of time during which the Governor may veto the  
14 bill; or  
15               (3) If the bill is vetoed by the Governor and the veto is  
16 overridden, the date the last house overrides the veto.

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18   */s/Lundstrum*  
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