

Amendments to State Unemployment Insurance Laws

U.S. DEPARTMENT OF LABOR
Employment and Training Administration
Washington, D.C. 20210

REPORT ON STATE LEGISLATION

REPORT NO. 5
October 2007

ARIZONA	HB 2246 (CH 119)	ENACTED April 24, 2007 EFFECTIVE July 30, 2007
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Appeals

Requires all appeal tribunal hearings to be recorded and allows the tribunal to secure a court reporter or an electronic means to create a clear and accurate record of the proceeding at the Department's expense. Provides that hearings will be transcribed at the Department's expense when an application for appeal to the court of appeals has been made. Provides that a scheduled hearing date may be postponed or advanced if parties agree or on a showing of good cause. (Previously postponement granted if requested at least five calendar days prior to hearing for the first request or on showing of good cause.)

CONNECTICUT	SB 1292 (CH 193)	ENACTED July 5, 2007 EFFECTIVE October 1, 2007
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Monetary Entitlement

Makes the alternative base period, which was to expire on December 31, 2007, permanent.

FLORIDA	SB 2482 (CH 106)	ENACTED June 12, 2007 EFFECTIVE July 1, 2007
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Coverage

Provides that employment in the employ of a public employer is not subject to the Florida unemployment insurance law if the service is performed by an individual in a position that, under state law, is designated as a major non-tenured policy making or advisory position, including any major non-tenured policy making or advisory position in the Senior Management Service, or a policy making or advisory position for which the duties do not ordinarily require more than 8 hours per week.

HAWAII	HB 1399 (CH 353)	ENACTED and EFFECTIVE May 25, 2007
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Coverage

Provides that an individual on work furlough is considered an employee or in employment. Provides that services performed by an inmate or any person committed to a penal institution will not be considered employment.

LOUISIANAHB 345
(Act No. 89)

ENACTED and EFFECTIVE June 22, 2007

Administration

Provides that the secretary may require the following employers to file both contribution and wage reports on magnetic media or by other electronic means at the following times:

employers employing 250 or more employees for contribution and wage reports due after January 31, 2008;

employers employing 200 or more employees for contribution and wage reports due after January 31, 2010;

employers employing 100 or more employees for contribution and wage reports due after January 31, 2012; and

employers employing fewer than 100 employees for contribution and wage reports due after January 31, 2014.

Provides that the secretary may prescribe the types of media and record layout to be used in the submission of these reports.

Provides that the reporting requirements may be waived by the secretary if the employer is able to show hardship in a request for a waiver.

Financing

Requires the administrator to establish by October 14 of each year the amount to be collected for the Incumbent Worker Training Account.

Requires the administrator to notify employers by December 31 of each year of their contribution rate for the subsequent year.

MAINESB 332
(CH 230)

ENACTED and EFFECTIVE June 5, 2007

Coverage

Excludes from the definition of "employment" service performed by an individual in the employ of that individual's son, daughter, or spouse and service performed by a child under the age of 18 in the employ of that child's father or mother, except for periods of such service for which unemployment insurance contributions are paid.

MINNESOTAHB 122
(CH 135)ENACTED May 25, 2007
EFFECTIVE July 1, 2007Administration

Requires the unemployment insurance telephone system to have an option available to any individual calling in to the system which allows them to speak to an unemployment insurance specialist who can provide direct assistance or can direct the caller to the person or office that is able to respond to the caller's needs.

Financing

Provides that the special assessment due from contributing employers will be levied at the rate of 0.10 percent per year on all taxable wages. (Previously, the rate was 0.10 percent for calendar years 2006 and 2007, and 0.085 percent beginning January 1, 2008.)

MISSOURI

SB 433

ENACTED July 13, 2007

EFFECTIVE August 28, 2007

Extensions and Special Programs

Amends the definition of "war on terror veteran" by limiting such term to Missouri residents (members of the Missouri National Guard or US armed forces reserve units officially domiciled in Missouri before deployment) who, as found by a Missouri court or U.S. district court in Missouri, was discharged or laid off during deployment.

Provides for the collection of erroneously paid benefits to war on terror veterans.

NEBRASKA

LB 265

ENACTED and EFFECTIVE May 31, 2007

Administration

Provides that an employee of the Commission who violates any provision concerning information obtained and disclosed under certain circumstances and any person who receives certain information that has been disclosed to them and rediscloses such information for any purpose other than the purpose for which it was originally obtained will be guilty of a Class III misdemeanor.

Provides for the disclosure of confidential information obtained under certain circumstances not limited to but including:

- for the proper presentation of the contest of an unemployment benefit claim or tax appeal to any claimant or employer or representative of a claimant or employer, as a party before an appeal tribunal or court;
- in appeals records and decisions on coverage of employers, employment, wages, and benefit eligibility if all social security numbers have been removed and such disclosure is otherwise consistent with federal and state law; or
- to public officials or their agent/contractor for use in the performance of their official duties.

Provides that confidential information obtained about an individual or employer may be disclosed under certain conditions to certain agents acting for the individual or employer including elected officials, attorneys, a third party or its agent.

Provides that confidential information obtained may be disclosed under the following circumstances:

- information about an individual or employer must only be disclosed to the respective individual or employer;
- to a local state or federal governmental official,
- disclosures to a federal official for purposes of unemployment compensation program oversight and audits including disclosures under certain Codes of Federal

Regulations as they existed on January 1, 2007.

Provides for recovering costs of providing information unrelated to the administration of the Employment Security Law or the unemployment insurance compensation program prior to providing the information, unless costs are nominal or the entity is a governmental agency which provides reciprocal service.

Financing

Redefines wages for purposes of services performed in employment in agricultural labor to mean cash remuneration and the cash value of commodities not intended for personal consumption by the worker and his or her immediate family for such services.

Permits the Commissioner to assess a fee to recover payments for returned check charges and electronic payments not accepted.

Removes the provision providing that if the state's reserve ratio on September 30, 2008, or September 30, 2009, is less than 0.4 percent and an emergency solvency surcharge is imposed for such year, then the maximum weekly benefit amount for the following calendar year will not be increased over the then current maximum weekly benefit amount.

Amends the law to provide that for any employer who has not been subject to the payment of contributions during each of the 2 4-calendar-quarter periods ending on September 30 of any year, but has been subject to the payment of contributions in any 2 4-calendar-quarter periods regardless of whether such 4-calendar quarter periods are consecutive, such employer's combined tax rate for the following tax year must be:

the highest combined tax rate for employers with a positive experience account balance if the employer's experience account balance exhibits a positive balance as of September 30 of the year of rate computation; or
the standard rate if the employer's experience account exhibits a negative balance as of September 30 of the year of rate computation.

(Previously, the law provided that for any employer who has been subject to the payment of contributions for any 8 preceding calendar quarters regardless of whether such calendar quarters are consecutive and whose experience account exhibits a negative balance as of September 30 of the year of rate computation, the rate must be equal to or greater than the highest combined tax rate for positive experience account balance rated employers on his or her annual payroll but not greater than the standard rate until such time as the experience account exhibits a positive balance.)

Changes the experience factor from 0.15 to 0.00 for eligible experience rated employers in the lowest rate category, making the minimum rate 0.00 percent. The experience factors for categories 15, 16, and 17 were also changed.

Provides that employers delinquent in filing their combined tax reports as of October 31 of any year must be assigned to category 20 for the following calendar year unless the delinquency is corrected prior to December 31 of the year of rate calculation.

Requires that all voluntary contributions received on or before January 10 (previously March 10) of any year be considered as having been paid at the beginning of the calendar year.

Provides that an individual employer, partner, corporate officer, or member of a limited liability company or limited liability partnership who willfully fails or refuses to make any combined tax payment must be jointly and severally liable for the payment of such combined tax and any penalties and interest owed.

Overpayments

Provides that individuals liable to repay an overpayment of benefits due to willfully failing to disclose amounts earned at the same time benefits are claimed or willfully failing to disclose or has falsified facts and fails or refuses to repay such overpayment within 12 months after the final determination, may be subject to a levy on their salary, wages, or other regular payment due to or received by such individuals which will be continuous from the date the levy is served until the amount of the levy is satisfied; provides for appeal of a levy; provides that any person failing or refusing to honor the levy without cause may be held liable for the amount of the levy up to the value of the assets of the person liable to repay the overpayment.

NEW HAMPSHIRE	SB 69 (CH 307)	ENACTED July 13, 2007 EFFECTIVE September 11, 2007
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Administration

Permits the Social Security Administration and the department of unemployment security to establish a reciprocal electronic data-exchange agreement provided that data exchanged through this agreement is used for establishing and verifying eligibility and payment amounts, and preventing and detecting waste, abuse, fraud and identity theft. Access will be granted to authorized federal employees on a case by case basis upon a finding by the commissioner that sufficient guarantees of continued confidentiality are in place.

NEW HAMPSHIRE	SB 97 (CH 204)	ENACTED June 20, 2007 EFFECTIVE July 1, 2007 or as otherwise indicated
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Financing

Reduces each contributing employer's rate by 2/10 of one percent (previously 1/10 of one percent) beginning in the second quarter of 2007. Requires all employers to pay an administrative contribution equal to the amount of this reduction. (Effective April 1, 2007.)

Removes the provision providing that in the event the unemployment compensation trust fund fails to equal or exceed \$275,000,000 throughout the preceding calendar quarter, the administrative contribution funds shall not be deposited quarterly in the training fund as required but shall be deposited in the contingent fund and expended only as provided by the contingent fund purposes and not for any other purposes. (Effective April 1, 2007.)

OREGON	HB 3339 (CH 657)	ENACTED June 26, 2007 EFFECTIVE January 1, 2008
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Nonmonetary Eligibility

Modifies the conditions under which an individual may be eligible for unemployment insurance benefits when the individual is unemployed due to a lockout resulting from a labor dispute.

OREGONSB 219
(CH 657)ENACTED June 25, 2007
EFFECTIVE January 1, 2008Administration

Allows the Department of Labor to provide confidential information including names and addresses of employers and employees, and payroll data to the Department of Transportation in order to assist in debt collection, including taxes. Proscribes the Department of Transportation from releasing such information in any manner that would identify any employing unit or employee except as required to carry out Department of Transportation duties and disclosing this information to any private collection agency.

TEXASHB 550
(CH 1180)ENACTED June 15, 2007
EFFECTIVE September 1, 2007Financing

Provides that benefits computed on benefit wage credits of an employee or former employee may not be charged to the account of an employer if the employee's last separation from the employer's employment before the employee's benefit year resulted from the employee leaving the employee's workplace to care for the employee's terminally ill spouse as evidenced by a physician's statement or other medical documentation, but only if no reasonable, alternative care was available.

Nonmonetary Eligibility

Provides that specific information is required in a physician's statement or other medical documentation for it to be considered evidence that an individual leaves the workplace to protect the individual from family violence or stalking, and the individual would not be disqualified from benefits.

Provides that an individual is not disqualified from benefits if the individual leaves the workplace to care for the individual's terminally ill spouse as evidenced by a physician's statement or other medical documentation, but only if no reasonable, alternative care was available.

TEXASSB 1619
(CH 1333)ENACTED June 15, 2007
EFFECTIVE September 1, 2007Administration

Provides that an offense of the law pertaining to disclosure of information is a Class A misdemeanor, previously a fine of \$20-200 and/or 90 days in jail.

Defines "unemployment compensation information" as records of the commission that pertains to the administration of the unemployment compensation program, including all information collected, received, developed, and maintained in the administration of both the unemployment compensation benefits and tax systems.

Requires the commission to adopt and enforce reasonable rules governing the confidentiality, custody, use, preservation, and disclosure of unemployment compensation information consistent with Federal law. These rules must include safeguards to protect the confidentiality of identifying information regarding any individual or any past or present employer or employing unit contained in unemployment compensation information.

Provides that unemployment compensation information is not public information.

Provides that a person has committed an offense if the person solicits, discloses, receives, uses, authorizes, permits, participates in, or acquiesces in another person's use of unemployment compensation information that reveals identifying information regarding any individual or any past or present employer or information that could be paired with other publicly available information that could reveal identifying information regarding any individual or past or present employer/employing unit.

WASHINGTON

HB 1407
(CH 327)

ENACTED May 4, 2007
EFFECTIVE July 1, 2007

Financing

Removes the language requiring that all penalties and interest collected for state unemployment tax act (SUTA) dumping activities be expended solely for prevention, detection, and collection activities related to evasion of the successorship provisions, and for no other purposes.

Requires the commissioner to engage in prevention, detection, and collection activities related to evasion of the successorship provisions.

Modifies the provision requiring that any amount of contributions payable to finance the employment security department's administrative account in the administrative contingency fund that exceed the amount that would have been collected at a rate of 0.004 of one percent be deposited in the unemployment compensation trust fund by requiring the excess instead be deposited in the account that finances the special programs to assist the unemployed.

Removes the requirement for using the one percent interest penalty imposed for failing to repay an overpayment assessment or arranging for repayment terms for fully funding either social security number cross match audits or other more effective activities, and to fund other detection and recovery of overpayment and collection activities, but requires the department to continue to conduct such activities.

WASHINGTON

SB 5653
(CH 248)

ENACTED April 30, 2007
EFFECTIVE January 1, 2008
through July 1, 2012

Extensions and Special Programs

Establishes a self-employment assistance (SEA) program. Unemployed individuals are eligible to participate in the SEA program if they are:

otherwise eligible for regular benefits;
likely to exhaust regular unemployment benefits under a profiling program; and
enrolled in a SEA program approved by the Commissioner.

Provides that individuals participating in a SEA program are eligible to receive regular unemployment benefits. Provides that the requirements relating to availability for work, active search for work, and refusal to accept suitable work are not applicable for the first 52 weeks of an individual's participation in the program.

Provides that failure to participate in an approved SEA program disqualifies the individual from continuation in the program. Provides that individuals completing the program may not compete with their separating employer for a period of up to one year based on identified factors.

Provides that the Commissioner is not obligated to expend funds for the operation of the SEA program unless specific funding is provided through federal or state appropriation.

Provides that individuals enrolled in a course of study of 12 or more hours a week in an approved SEA program are not disqualified from receiving benefits.

Requires the Department to report to the House and Senate Committees by December 1, 2011, on the performance of the SEA program including an analysis of the self-employment impacts, wage and salary outcomes, benefit payment outcomes, and a cost benefit analysis.

WASHINGTON

SB 5915
(CH 287)

ENACTED May 2, 2007
EFFECTIVE July 22, 2007

Administration

Requires the Department of Labor to provide to new employers printed material of all recommended or required postings and a copy of any printed material that has substantive changes to each employer.

WASHINGTON

SB 5373
(CH 146)

ENACTED April 20, 2007
EFFECTIVE October 1, 2007
or as otherwise indicated

Coverage

Allows a corporation that is a public company (other than nonprofit, governmental, or Tribal) to exempt from coverage an officer who:

- is voluntarily elected or appointed consistent with articles of incorporation or bylaws;
- is a shareholder;
- exercises substantial control in the daily management; and
- whose primary responsibilities do not include the performance of manual labor.

In a non public company, allows a corporation to exempt from coverage 8 or fewer officers who agree to be exempted, are voluntarily elected or appointed, and who exercise substantial control in the daily management without regard to performance of manual labor if the officer is a shareholder. It may also exempt from coverage any number of officers if all of the exempted officers are related by blood within the third degree or marriage.

Defines the requirements for the corporations to file exemptions from or reinstatements of coverage for corporate officers.

Provides that personal services provided by corporate offices are not considered services in employment unless the corporation registers and elects to provide coverage.

Provides that an officer or family member who owns 10 percent or more of company stock whose claim for benefits is based on wages with the corporation is not unemployed in any week during the individual's term of office or ownership but is unemployed upon dissolution of the corporation or if the officer resigns or is permanently removed from his/her appointment.

Financing

Requires employers to register, obtain an employment security account number, and provide specific information to the Department. Requires any changes in owners, partners, members or corporate officers to be reported to the Department at intervals prescribed by the commissioner.

Adds new requirements for employer reports to include the full names, social security numbers and total hours worked for each worker. Provides that benefits paid using computed hours are not considered an overpayment and are not subject to collection when the correction of computed hours results in an invalid or reduced claim. However, contribution paying employers who fail to report the numbers of hours worked will have their experience rating account charged based on computed hours and reimbursing employers who fail to report the number of hours worked will have to reimburse the trust fund for benefits paid based on hours computed.

Provides that when a benefit claim becomes invalid due to an employer failing or inaccurately reporting hours worked, remuneration paid, or both, the employer will be charged or reimbursed based on the originally filed incomplete or inaccurate report.

Imposes a penalty of \$25 per violation for an employer who fails to file timely reports. (Previously, penalty up to lesser of \$250 or 10 percent of quarterly contribution)

Adds new penalties for employers who file incomplete or incorrectly formatted tax and wage reports as follows:

first occurrence-employer must receive a warning letter; for subsequent occurrences within 5 years of last occurrence, the penalties:
when no contribution is due, will result in increasing penalties (second-\$75; third-\$150; and fourth and each occurrence thereafter-\$250).
when contributions are due, for second are 10 percent of the quarterly contribution due (not less than \$75 and not more than \$250); for third 10 percent (not less than \$150 or more than \$250); and for fourth and each occurrence thereafter \$250.

Penalties may be waived for good cause if the employer is not at fault.

Adds definitions for a professional employer organization, client employer, covered employee, professional employer services, co-employment relationship, and professional employer agreement.

Requires professional employer organizations to:

register;
provide the department with specific information regarding client employers;
notify the department within 30 days each time it adds or terminates a relationship with a client employer;
provide proof it is authorized to act on behalf of the client employer for

unemployment insurance (UI) purposes;
ensure separate and distinct information for each client employer is filed in
quarterly wage and contribution reports; and
maintain and make available for review accurate payroll records for each client
employer.

Provides that a professional employer organization's authority may be revoked if it fails to
comply with these requirements.

Provides that each client employer is assigned its individual contribution rate based on its
own experience and is liable for payment of any taxes, interest, or penalties due. Provides
that professional employer organizations may collect and pay taxes for client employers.
Specifies collection procedures for late payments.

Changes the definition of temporary staffing services company. Provides that the
temporary staffing services company is the employer. Removes the employee leasing
agency definition. Changes the services referral agency definition. Adds a definition for
third-party payer.

Adds a definition for common paymaster and provides that the common paymaster is not
the employer. Provides that joint accounts may not be established for professional
employer organizations or third-party payers and their clients.

Provides that any officer, member, or owner of a company that is dissolved who willfully
evades contributions, willfully destroys or falsifies any record, or fails to truthfully account
for the condition of the company is personally liable for any unpaid contributions and
interest and penalties on those contributions.

Adds limited liability company to the definition of employer.

Provides that a corporation is not an employing unit when all personal services are
performed only by bona fide corporate officers unless the corporation registers and elects
to provide coverage.

Requires the department to report on the impact of this act on professional employer
organizations, small businesses, and the integrity of the UI system by December 1, 2010.

Overpayments

Changes, effective January 1, 2008, the disqualification provision for individuals who
knowingly made a false statement or representation involving a material fact or knowingly
failed to report a material fact and obtained or attempted to obtain benefits as specified
below:

first time disqualified: disqualified for an additional 26 weeks;
second time disqualified: disqualified for an additional 52 weeks and subject to an
additional penalty of 25 percent of the benefits overpaid;
subsequent disqualifications: disqualified for an additional 104 weeks and subject to
an additional penalty of 50 percent of the benefits overpaid.

(Previously, the disqualification was for an additional 26 weeks, but not applicable after 2
years from date of mailing of determination of disqualification.)

All penalties must be collected, and collected penalties must be used for UI administration.