

State of Arkansas
94th General Assembly
Regular Session, 2023

As Engrossed: H2/22/23

A Bill

HOUSE BILL 1433

By: Representative Lundstrum

By: Senator K. Hammer

For An Act To Be Entitled

AN ACT TO ENACT THE DIVISION OF WORKFORCE SERVICES' GENERAL OMNIBUS ACT; TO AMEND THE DIVISION OF WORKFORCE SERVICES LAW REGARDING RULES AND DISCLOSURE OF INFORMATION; TO AMEND JUDICIAL REVIEW OF CLAIM DECISIONS BY THE BOARD OF REVIEW AND CLAIMS RECOVERY; TO DECLARE AN EMERGENCY; AND FOR OTHER PURPOSES.

Subtitle

TO ENACT THE DIVISION OF WORKFORCE SERVICES' GENERAL OMNIBUS ACT; AND TO DECLARE AN EMERGENCY.

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

SECTION 1. Arkansas Code § 11-10-307(a), concerning rules adopted by the Director of the Division of Workforce Services, is amended to read as follows:

(a)(1) General ~~and~~, special, and emergency rules may be adopted, amended, or rescinded by the Director of the Division of Workforce Services only after public hearing or opportunity to be heard thereon, on which proper notice has been given.

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

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



employing units affected thereby.

(4)(A) Emergency rules shall be:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

~~(2)(A)~~ In lieu of requiring the repayment, the director 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 as a direct result of an error by the Division of Workforce Services without fault on the part of the recipient and that its recovery would be against equity and good conscience.

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

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

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

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

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

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

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

/s/Lundstrum

APPROVED: 3/6/23