

Stricken language would be deleted from and underlined language would be added to present law.

State of Arkansas  
91st General Assembly  
Regular Session, 2017

As Engrossed: H2/9/17 S3/16/17  
**A Bill**

HOUSE BILL 1405

By: Representatives Lundstrum, Ballinger, Barker, Bentley, Brown, Coleman, Collins, Davis, Dotson, Fortner, Gates, Gonzales, K. Hendren, Hollowell, House, Maddox, McCollum, Payton, Penzo, B. Smith, Speaks, Warren, Watson, *Bragg*  
By: Senators J. Hendren, Hester

### For An Act To Be Entitled

AN ACT TO AMEND THE TAXABLE WAGE BASE, WEEKLY BENEFIT AMOUNT, MAXIMUM BENEFIT AMOUNT, AND CERTAIN ELIGIBILITY REQUIREMENTS UNDER THE DEPARTMENT OF WORKFORCE SERVICES LAW; AND FOR OTHER PURPOSES.

### Subtitle

TO AMEND LAWS RELEVANT TO UNEMPLOYMENT TAXES, UNEMPLOYMENT BENEFITS AND UNEMPLOYMENT ELIGIBILITY.

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

SECTION 1. DO NOT CODIFY. Legislative findings.

The General Assembly finds that:

(1) The State of Arkansas needs to take steps to ensure the financial stability of the Unemployment Compensation Fund;

(2) Arkansas's unemployment costs to employers are higher than some surrounding states;

(3) Arkansas employers have been paying increased unemployment taxes since 2009 as a result of a recession which dramatically increased unemployment; and

(4) Making the changes set forth in this bill will increase the stability of the Unemployment Compensation Fund and increase the state's employers' ability to compete in attracting businesses.



SECTION 2. Arkansas Code § 11-10-215(a), concerning wage calculations for unemployment benefits, is amended to read as follows:

(a)(1) As used in this chapter, ~~unless the context clearly requires otherwise,~~ “wages” means all remuneration paid for personal services, including, ~~but not limited to~~ without limitation, commissions, bonuses, cash value of all remuneration paid in any medium other than cash, the value of which shall be estimated and determined in accordance with regulations prescribed by the Director of the Department of Workforce Services, and tips received while performing services which constitute employment and which are included in a written statement furnished to the employer pursuant to 26 U.S.C. § 6053(a).

(2) ~~Provided that, the term “wages” shall~~ “Wages” does not include:

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

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

~~(ii)(b)~~ For any calendar year beginning after December 31, 2009, that part of remuneration which exceeds twelve thousand dollars (\$12,000); and

(c) For a calendar year beginning after December 31, 2017, that part of remuneration that exceeds ten thousand dollars (\$10,000).

~~(B)(ii)~~ For the purposes of this subsection:

~~(i)(a)~~ Wages paid within a calendar year by a predecessor employer may be counted as though paid by a successor as defined in §§ 11-10-701 – 11-10-715; and

~~(ii)(b)~~ The term “employment” includes services constituting employment under any unemployment insurance law of another state;

~~(2)(B)~~ The amount of any payment, with respect to services made to, or on behalf of, an individual in its employ under a plan or system established by an employing unit which makes provision for its employees, or for its employees and their dependents, including any amount paid by an

employing unit for insurance or annuities, or into a fund, to provide for any payment, on account of:

~~(A)~~(i) Retirement;

~~(B)~~(i)(ii)(a) Sickness or accident disability, except payments made directly to the employee or his or her dependents.

~~(ii)~~(b) However, payments made directly to an employee or his or her dependents under a workers' compensation law shall not be considered to be "wages";

~~(C)~~(iii) Medical and hospitalization expenses in connection with sickness or accident disability; or

~~(D)~~(iv) Death, provided the individual in its employ does not have the:

~~(i)~~(a) Option to receive, instead of provision for the death benefit, any part of the payment, or, if the death benefit is insured, any part of the premiums or contributions to premiums paid by his or her employing unit; and

~~(ii)~~(b) Right, under the provisions of the plan or system or policy of insurance providing for the death benefit, to assign the benefit or to receive cash consideration in lieu of the benefit either upon his or her withdrawal from the plan or system providing for the benefit or upon termination of the plan or system or policy of insurance or of his or her services with the employing unit;

~~(3)~~(C) The payment by an employing unit, without deduction from the remuneration of the individual in its employ, of the tax imposed by the Federal Insurance Contributions Act upon an individual in its employ with respect to services performed;

~~(4)~~(D) Payments made by an employer under a cafeteria plan, within the meaning of 26 U.S.C. § 125, if the payment would not be treated as wages without regard to the plan and it is reasonable to believe that, if 26 U.S.C. § 125 applied for purposes of this section, 26 U.S.C. § 125 would not treat any wages as constructively received; or

~~(5)~~(E) Fees paid to corporate directors.

SECTION 3. Arkansas Code § 11-10-504(a), concerning the maximum unemployment benefits payable, is amended to read as follows:

*(a) For initial claims filed on or after ~~the first day of the calendar~~*

~~quarter following July 22, 2015~~ January 1, 2018, the maximum potential benefits of an insured worker in a benefit year shall be the amount equal to the lesser of:

- (1) ~~Twenty (20)~~ Sixteen (16) times his or her weekly benefit amount; or
- (2) One-third (1/3) of his or her wages for insured work in his or her base period.

SECTION 4. Arkansas Code § 11-10-517(1), concerning disqualification from unemployment benefits for receipt of other remuneration, is amended to read as follows:

(1)(A) Separation Payments.

~~(A)(i)(a)~~ Separation payments shall be treated as earnings in accordance with § 11-10-503.

~~(ii)(b)~~ Separation payments in excess of those covering a period of eight (8) weeks of wages and an armed services severance payment paid to a former member of the United States armed services shall not be disqualifying under the terms of this section.

~~(B)(ii)~~ Separation payments provided in the form of a lump sum are disqualifying only for the week in which they are received.

~~(G)(iii)~~ Remuneration paid as back pay in settlement of a claim or grievance and supplemental unemployment benefits shall not be disqualifying.

(B) For initial claims made on and after January 1, 2018:

(i)(a) Separation payments are disqualifying for the number of weeks following the date of the separation that equals the number of weeks of wages received in the separation payment.

(b) An armed services severance payment paid to a former member of the United States armed services shall not be disqualifying under the terms of this section.

(c) Remuneration paid as back pay in settlement of a claim or grievance and supplemental unemployment benefits shall not be disqualifying; and

(ii)(a) The employer shall specify the total amount of separation pay and the number of weeks of wages represented by the separation pay.

(b) If the employer does not specify the number of weeks under subdivision (1)(B)(ii)(a) of this section, the Department of Workforce Services shall allocate the separation pay using the claimant's average weekly wage;

/s/Lundstrum