

BILL SUMMARY
2nd Session of the 56th Legislature

Bill No.:	HB 2523
Version:	CS
Request Number:	9739
Author:	Rep. McDaniel
Date:	2/15/2018
Impact: Oklahoma Employment Security Comm.:	\$0

Research Analysis

HB 2523 makes several changes to the Oklahoma Employment Security Act. The measure clarifies how base period wages are determined. The bill also clarifies how benefits apply in educational institutions, when services are performed in two successive academic years. Certain notices to employers would have to have an admonition that failure to respond to the notice may affect the employer's tax rate.

The measure requires that an order to withhold income or other process used for collection of child support through deduction from unemployment benefits be served on the appropriate state or local child support enforcement agency and on the Oklahoma Employment Security Commission.

Finally, the measure updates language relating to food stamps and food assistance programs.

Prepared By: Sean Webster

Fiscal Analysis

The measure, as written has \$0 fiscal or revenue considerations to the state.

Prepared By: Jenny Mobley

Other Considerations

1. § 2-207–Wage requirement during base period
This is a clarification amendment that will clarify the procedure for using alternative base period wages. This statute states that certain wage thresholds must be reached in the claimant's base period before benefits can be granted. The wage thresholds are set out in subparagraphs A and B. Subparagraph C allows for an alternative base period which will include the last completed calendar quarter in the base period. The use of the alternative base period allows lower-paid workers a better opportunity to obtain benefits. The wage thresholds set out in subparagraphs A and B apply in the same manner to the alternative base period as to the regular base period. Under the current wording of the statute, there was some confusion as to whether or not the wage threshold would apply. This change will clear up that confusion.
2. § 2-209. Benefits for employees of governmental or nonprofit employers
Subsections (1), (2) and (3) are being amended to correct a conformity issue. Due to recent interpretations by the U.S. Department of Labor in UIPL 5-17, when an employee of a school is given reasonable assurance of employment with the school system for the next academic

year, the reasonable assurance must state that the services to be performed in the next academic year will be in the same capacity, that is professional or non-professional, as the services performed in the previous academic year. Under the current wording of the statute, reasonable assurance is found if the employer offers employment in any type of service in the next academic year.

Subsection (5) is being stricken because it is obsolete with the enactment of §2-209.1 concerning educational service contractors.

3. § 2-209.1 Benefits of educational service contractors

Subsections (B)(1) and (2) are being amended to correct a conformity issue for the same reasons as set out for § 2-209 above.

Subsection (B)(3) is being added to deny UI benefits during vacation periods within a regular school year. Subsection (B)(4) is being added to allow persons with non-school related wages to be allowed benefits on those wages, if the worker is eligible. The school related wages would be taken out of the eligibility calculation in those cases.

4. § 2-303. Assignments void, exemption from process

This is a cleanup amendment to remove obsolete language referring to the purchase of “necessaries” and to modernize the statute by changing the term “food stamp” to “food purchase assistance.”

5. § 2-411. Retirement payments

The amendment to this section is being made in subsection (1)(a) by changing “or” to “and.” The statute will now state that retirement payments will be deductible from unemployment if the retirement plan was maintained or contributed to by an employer who is in the claimant’s base period and will be chargeable for the claim. If the employer is not both a base period employer and a chargeable employer, retirement payments will not be deducted from the benefit amount.

6. § 2-418. Seek and accept work—Indefinite disqualification

This section is being amended in subparagraph (A)(1) and (2), by adding a reference to 40 O.S. §2-409. Section 2-409 works in conjunction with §2-408 when making a determination on suitable work. Both statutes will now be referenced in the seek and accept work statute.

7. § 2-503. Claims, notices and objections

A provision is being added to subsection (B) to state that the OESC will add an admonition to the notice of a UI claim that will warn the employer that failure to respond to the notice may affect the employer’s tax rate.

8. § 2-613. Benefit overpayments

The rules concerning administrative overpayments are being amended in subsection (3) of this statute. In subsection (3)(b) it defines an administrative overpayment as one in which an individual has received benefits and, “under a redetermination or a reversal of a decision on appeal, the individual has been found to be not entitled to benefits.” This is being stricken because it does not correctly state the law. All overpayments are the result of some form of redetermination. The current language creates a possible loophole in which a claimant that has received a fraud or mistake overpayment might be able to argue that his or her

overpayment should be considered an administrative overpayment because it was the result of a redetermination. This was not the intent of this statute. This subsection is being amended to state that if an individual has received benefits and the decision to grant benefits was reversed at a higher level of appeal, then an administrative overpayment would result. This was the original intent of this statute.

9. § 2-801. Child support obligations

A new subsection (C) is being added to this statute to state that income withholding orders for child support should be served on both the Oklahoma Department of Human Services (ODHS) and the OESC. The OESC is required to pay all monies deducted from unemployment benefits for the payment of child support to ODHS. This will streamline the child support collection process and allow ODHS to set up the mechanisms necessary in which to deliver the money to the appropriate party once the deduction from unemployment benefits has occurred.

10. § 2-803. Food purchase assistance overissuances

This is a cleanup amendment to delete and revise obsolete language. This statute refers to “food stamps” in several places throughout the statute. Food stamps are no longer issued. Instead funds are electronically transmitted to debit cards. The program is now called the “food purchase assistance program”. These changes are being made to modernize the statute and delete the obsolete language.

11. § 4-509. Information to be furnished to public agencies

This is a cleanup amendment to replace the term “food stamp” with the term “food purchase assistance.” Agency procedures will remain the same, the language is just being modernized with the deletion of obsolete terms.

12. 74 O.S. § 3111. Use of social security numbers by state or subdivision prohibited—
Exceptions

This statute prohibits any state agency from requiring a member of the public to divulge his or her Social Security Number before service is provided. The OESC must have an exception from this statute because all wage records on which benefits are based are indexed by Social Security Number, and all unemployment insurance claims are indexed by Social Security Number. Employers must give the OESC Social Security Numbers when filing quarterly tax reports, and claimants must give the OESC his or her Social Security Number in order for the OESC to find reported wages to allow for the setting of the benefit amount. The Oklahoma Tax Commission, the State Department of Education and State Board of Education have previously received exceptions from this statute. It is believed that the OESC was left out because of an oversight.

Prepared by: John E. Miley, General Counsel, Oklahoma Employment Security Commission

