

# An Act

ENROLLED HOUSE  
BILL NO. 3596

By: Hill of the House

and

Paxton of the Senate

An Act relating to labor; amending 40 O.S. 2021, Sections 1-201, as amended by Section 1, Chapter 360, O.S.L. 2022, 1-224, as amended by Section 8, Chapter 360, O.S.L. 2022, Section 3, Chapter 287, O.S.L. 2022, 2-503, as amended by Section 14, Chapter 360, O.S.L. 2022, 2-503.1, as amended by Section 15, Chapter 360, O.S.L. 2022, and 2-603 (40 O.S. Supp. 2023, Sections 1-201, 1-224, 1-231, 2-503, and 2-503.1), which relate to the Employment Security Act of 1980; modifying definitions; modifying time limit for maximum benefit duration; modifying notice to employer; modifying filing of employer protest; clarifying time limit for appeal; repealing 40 O.S. 2021, Section 3-201, which relates to employers; and providing an effective date.

SUBJECT: Labor

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 40 O.S. 2021, Section 1-201, as amended by Section 1, Chapter 360, O.S.L. 2022 (40 O.S. Supp. 2023, Section 1-201), is amended to read as follows:

Section 1-201. GENERAL DEFINITIONS. As used in the Employment Security Act of 1980:

1. "Additional initial claim" means a claim application which reactivates a claim during an existing benefit year and certifies to

a period of employment which occurred subsequent to the date of the filing of the last initial, additional, or reopened claim;

2. "Alternative base period" means the most recent four (4) completed calendar quarters immediately preceding the first day of an individual's benefit year. In the event that an individual's claim uses an alternative base period to meet the wage requirement under Section 2-207 of this title, this alternative base period shall be substituted for base period for all other purposes under the Employment Security Act of 1980;

3. "Assigned tax rate" means the tax rate assigned to an employer pursuant to Section 3-110.1 of this title when the employer does not have sufficient experience history to meet the At-Risk Rule set out in paragraph 3 of Section 3-110.1 of this title;

4. "Base period" means the first four (4) of the last five (5) completed calendar quarters immediately preceding the first day of an individual's benefit year;

5. "Benefit year" with respect to any individual means the one-year period beginning with the first day of the first week with respect to which the individual first files a valid claim for benefits and thereafter the one-year period beginning with the first day of the first week with respect to which the individual next files a valid claim for benefits after the termination of his or her last preceding benefit year. Any claim for benefits shall be deemed a valid claim for the purpose of this section if the individual has been paid the wages for insured work required under the Employment Security Act of 1980;

6. "Benefit wages" means the taxable wages earned by a claimant during the claimant's base period which are not in excess of the current maximum weekly benefit amount, as determined under Section 2-104 of this title, multiplied by the maximum number of weeks for which benefits could be paid to any individual ~~(now twenty-six (26) weeks)~~ pursuant to Section 2-106 of this title, multiplied by three (3); provided, however, no wages shall be included as benefit wages unless and until the claimant has been paid benefits for five (5) weeks in one (1) benefit year;

7. "Benefits" means the money payments payable to an individual as provided in the Employment Security Act of 1980 with respect to his or her unemployment, including extended benefits. The federal share of such extended benefits shall not be construed as benefits

for the purposes of computing contribution rates under the Employment Security Act of 1980;

8. "Calendar quarter" means the period of three (3) consecutive calendar months ending on March 31, June 30, September 30, or December 31, or the equivalent thereof as the Commission may by regulation prescribe;

9. "Client" shall have the same meaning as provided in paragraph 1 of Section 600.2 of this title;

10. "Coemployer" shall have the same meaning as provided in paragraph 2 of Section 600.2 of this title;

11. "Coemployment relationship" shall have the same meaning as provided in paragraph 3 of Section 600.2 of this title;

12. "Commission" means the Oklahoma Employment Security Commission;

13. "Commissioner" means a member of the Commission;

14. "Continued claim series" means an uninterrupted series of weekly claims filed by a claimant during the benefit year;

15. "Contributions" means the money payments, including taxes and reimbursements, required by the Employment Security Act of 1980 to be paid into the Unemployment Compensation Fund by an employer;

16. "Covered employee" shall have the same meaning as provided in paragraph 5 of Section 600.2 of this title;

17. "Digital portal filing" means electronic communication through the agency digital portal;

18. "Earned tax rate" means the tax rate calculated for an employer with sufficient experience history to meet the At-Risk Rule set out in paragraph 3 of Section 3-110.1 of this title, with the tax rate calculated pursuant to the provisions of Section 3-101 et seq. of this title;

19. "Electronic e-filing" means filing by email or fax to email;

20. "Eligibility period" of an individual for extended benefits means the period consisting of the weeks in his or her benefit year, as defined by the Employment Security Act of 1980, which begin in an extended benefit period and, if his or her benefit year ends within such extended benefit period, any weeks thereafter which begin in such extended benefit period;

21. "Employer" shall have the same meaning as provided in Section 1-208 of this title;

22. "Employing unit" means any individual or type of organization, including any partnership, association, trust, estate, joint stock company, insurance company, limited liability company or corporation, whether domestic or foreign, or the receiver, trustee in bankruptcy, trustee or successor thereof, or the legal representative of a deceased person, which has or subsequent to January 1, 1936, had in its employ one or more individuals performing services for it within this state;

23. "Employment" shall have the same meaning as provided in Section 1-210 of this title;

24. "Employment office" means a free public employment office or branch thereof operated by this or any other state as a part of a state-controlled system of public employment offices or by a federal agency charged with the administration of an unemployment compensation program or free public employment offices;

25. "Employment Security Administration Fund" means the fund established in Section 4-602 of this title from which administration expenses under the Employment Security Act of 1980 shall be paid;

26. "Exhaustee" shall have the same meaning as provided in Section 2-712 of this title;

27. "Experience period" means the most recent twelve (12) consecutive completed calendar quarters occurring before July 1 of the year immediately preceding the year for which the employer's contribution rate is being calculated;

28. "Extended base period" means the four (4) quarters prior to the claimant's base period. These four (4) quarters may be substituted for base period quarters on a quarter-by-quarter basis to establish a valid claim regardless of whether the wages have been used to establish a prior claim, except any wages earned that would

render the Commission out of compliance with applicable federal law shall be excluded if used in a prior claim;

29. "Extended benefit period" shall have the same meaning as provided in Section 2-703 of this title;

30. "File", "files", or "filed" shall have the same meaning as provided in Section 1-224 of this title;

31. "Mail", "mails", "mailed", or "mailing" means communication sent by a postal service with sufficient postage;

32. "Foreign limited liability company" shall be defined by the provisions of the Oklahoma Limited Liability Company Act;

33. "Fund" means the Unemployment Compensation Fund established in Section 3-601 of this title;

34. "Hospital" means any hospital required to be licensed under the Oklahoma Public Health Code, Section 1-101 et seq. of Title 63 of the Oklahoma Statutes, and includes state mental hospitals and any other mental hospital or institution;

35. "Initial claim" means a new claim application submitted by a claimant to establish a benefit year for unemployment insurance benefits;

36. "Institution of higher education" shall have the same meaning as provided in Section 1-214 of this title;

37. "Insured work" means employment for employers as defined by the Employment Security Act of 1980;

38. "Lessor employing unit" means any independently established business entity which engages in the business of providing leased employees to any other employer, individual, organization, partnership, corporation, or other legal entity, referred to herein as a client lessee;

39. "Limited liability company" shall be defined by the provisions of the Oklahoma Limited Liability Company Act;

40. "Probationary period" means a period of time set forth in an established probationary plan, which applies to all employees or

a specific group of employees, and does not exceed ninety (90) calendar days from the first day a new employee begins work;

41. "Professional Employer Organization" or "PEO" means an organization that is subject to the Oklahoma Professional Employer Organization Recognition and Registration Act and which meets the definition set out in paragraph 9 of Section 600.2 of this title;

42. "Rate of insured employment" shall have the same meaning as provided in Section 2-708 of this title;

43. "Regular benefits" means benefits payable to an individual under the Employment Security Act of 1980, or under any other state law including dependents' allowances and benefits payable to federal civilian employees;

44. "Reopened claim" means a claim application which reactivates a claim during an existing benefit year when a claimant stopped filing for benefits before his or her claim was exhausted, but in which there occurred no intervening employment from the date of the filing of the last initial, additional, or reopened claim;

45. "State" includes, in addition to the states of the United States of America, the District of Columbia, the Commonwealth of Puerto Rico, and the Virgin Islands;

46. "State law" means the unemployment insurance law of any state, approved by the Secretary of Labor of the United States under Section 3304 of the Internal Revenue Code of 1954;

47. "Supplemental unemployment benefit plan" means a plan that provides for an employer to make payments to its employees during a permanent or temporary layoff that will supplement unemployment benefits received by the employees. The purpose of a supplemental unemployment benefit plan is to allow an employer to sustain the purchasing power of its employees or former employees during a layoff;

48. "Taxable wages" means the wages paid to an individual with respect to employment during a calendar year for services covered by the Employment Security Act of 1980 or other state unemployment compensation acts which shall equal the applicable percentage of the state's average annual wage for the second preceding calendar year as determined by the Commission, rounded to the nearest multiple of One Hundred Dollars (\$100.00);

49. "Wages" shall have the same meaning as provided in Section 1-218 of this title;

50. "Wages paid" means wages actually paid to the worker; provided, however, that in the event of any distribution of an employer's assets through insolvency, receivership, composition, assignment for the benefit of creditors, or termination of business, wages earned but not actually paid shall be considered as paid; and

51. "Week" means such period of seven (7) consecutive days, as the Commission may by regulation prescribe.

SECTION 2. AMENDATORY 40 O.S. 2021, Section 1-224, as amended by Section 8, Chapter 360, O.S.L. 2022 (40 O.S. Supp. 2023, Section 1-224), is amended to read as follows:

Section 1-224. FILE.

A. For purposes of this section, "OESC 2020-21 business process transformation" means a change from paper process to integrated digital technology. Upon completion of the OESC 2020-21 business process transformation, electronic e-filing will be the Commission's preferred filing method for tendering and receiving documents. All claimants and employers tendering documents to the Commission will be expected to tender the documents electronically. If the claimant or employer has elected to utilize other means of transmittal, it will be the responsibility of the claimant or employer to notify the Commission of this preference.

B. When the provisions of the Employment Security Act of 1980 or the rules promulgated under the authority of the act require any document to be filed with the Oklahoma Employment Security Commission or its affiliate entities, the term "file", "files", or "filed" shall mean:

~~1. Hand delivery to the central administrative office of the Oklahoma Employment Security Commission by the close of business on or before the date due;~~

~~2.~~ Mailing by means calculated to ensure receipt by the Oklahoma Employment Security Commission on or before the date due. Timely mailing shall be determined by the United States Postal Service postmark. If there is no such legible postmark, the date of receipt by the Commission shall constitute the date of filing;

~~3.~~ 2. Electronic e-filing to the Oklahoma Employment Security Commission, as directed by the instructions on the determination letter, order or other document issued by the Commission, by midnight on or before the date due. Timely transmission shall be determined by the Commission's transmission log file; or

~~4.~~ 3. Digital portal filing by midnight on or before the date due. Timely transmission shall be determined by the Commission's transmission log file.

C. If the Employment Security Act of 1980 or the rules promulgated under the Employment Security Act of 1980 require that a document be filed with a court or any other agency of this state, the term "file", "files" or "filed" shall be defined by the statutes, rules or practice governing that court or agency.

SECTION 3. AMENDATORY Section 3, Chapter 287, O.S.L. 2022 (40 O.S. Supp. 2023, Section 1-231), is amended to read as follows:

Section 1-231. LIMITATIONS ON DURATION OF BENEFITS.

A. For purposes of this section, "state average unemployment insurance claims" means the weekly average of Continued UI Claims for the thirteen (13) weeks beginning with the first file week ending in the month of July in the calendar year prior to the current calendar year as published by the Oklahoma Employment Security Commission or the agency responsible for collecting and publishing unemployment insurance claims data.

B. On January 1, 2025, for unemployment compensation claims submitted during a calendar year, the duration of benefits is limited to:

1. a. Sixteen (16) weeks if the state's average unemployment insurance claims are at or below five thousand (5,000) claims,
- b. An additional two (2) weeks shall be added in addition to the sixteen (16) weeks for each fifteen thousand (15,000) increments if the state's average unemployment insurance claims are above five thousand (5,000) claims, or

c. Up to the maximum of twenty (20) weeks; or

2. In the event that the weekly claims data of continued claims administered by the Oklahoma Employment Security Commission exceeds forty thousand (40,000) claims, the maximum duration of benefits shall immediately be raised to twenty-six (26) weeks. This maximum benefit duration shall be in place until the weekly claims data of continued UI claims falls below forty thousand (40,000) claims at which time the maximum duration of benefits shall be determined pursuant to paragraph 1 of subsection B of this section.

SECTION 4. AMENDATORY 40 O.S. 2021, Section 2-503, as amended by Section 14, Chapter 360, O.S.L. 2022 (40 O.S. Supp. 2023, Section 2-503), is amended to read as follows:

Section 2-503. CLAIMS, NOTICES, AND OBJECTIONS.

A. Claims for benefits shall be made in accordance with all rules that the Oklahoma Employment Security Commission may prescribe.

B. Promptly after an initial claim or an additional initial claim is filed, the Commission shall give notice of the claim to the last employer of the claimant for whom the claimant worked at least fifteen (15) working days. These days are not required to be consecutive. Provided, that promptly after the Commission is notified of the claimant's separation from employment obtained during a continued claim series, the Commission shall give notice of the claim to the last separating employer. Notices to separating employers during a continued claim series will be given to the last employer in the claim week without regard to length of employment. Each notice shall contain an admonition that failure to respond to the notice could affect the employer's tax rate.

C. Promptly after the claim is paid for the fifth week of benefits the Commission shall give written notice of the claim to all other employers of the claimant during the claimant's base period. The notice will be given by electronic means, ~~or if the employer has opted out of such method of communication, the notice will be sent~~ by mail.

D. Notice shall be deemed to have been given when the Commission transmits the notice by electronic means ~~or, if the employer has opted out of such method of communication, the notice will be sent~~ by mail.

E. Within ten (10) days after the date the notice is ~~emailed sent,~~ an employer may ~~send by email all~~ file a statement of objections to the claim setting forth specifically the facts which:

1. Disclose the name and Social Security number of the employee;

2. Make the claimant ineligible for benefits under Sections 2-201 through 2-210 of this title;

~~2.~~ 3. Disqualify the claimant from benefits under Sections 2-401 through ~~2-417 and~~ 2-419 of this title; or

~~3.~~ 4. Relieve the employer from being charged for the benefit wages of such claimant.

F. An untimely employer objection to a claim for unemployment benefits made pursuant to subsection E of this section may be allowed for good cause shown.

SECTION 5. AMENDATORY 40 O.S. 2021, Section 2-503.1, as amended by Section 15, Chapter 360, O.S.L. 2022 (40 O.S. Supp. 2023, Section 2-503.1), is amended to read as follows:

Section 2-503.1 FILING OF EMPLOYER PROTEST AND DOCUMENTS ~~THROUGH EMPLOYER PORTAL.~~

A. An employer may file a statement of objections to the claim of a former employee at any time from the moment of discharge or separation from employment until the expiration of the ten-day time period set out in subsection E of Section 2-503 of this title. ~~Unless the employer has opted out of receiving electronic communications and filed their statement of objection through any method listed in Section 1-224 of this title, the~~ The statement of objection ~~must be filed through the employer portal and~~ objections must contain a statement of specific facts and documentation which:

1. Disclose the name and Social Security number of the employee;

2. Make the claimant ineligible for benefits under Sections 2-201 through 2-210 of this title;

3. Disqualify the claimant for benefits under Sections 2-401 through 2-419 of this title; or

4. Relieve the employer from being charged for the benefit wages of this claimant.

B. Any timely statement of objection filed shall be considered a valid protest to a claim for unemployment benefits and the employer shall be considered an interested party to the claim. A statement of objection filed outside the time period or in any manner other than as set out in subsection A of this section shall not be considered a valid protest to a claim for unemployment of the former employee, and the employer shall not be considered an interested party to the claim.

SECTION 6. AMENDATORY 40 O.S. 2021, Section 2-603, is amended to read as follows:

Section 2-603. APPEAL TRIBUNAL.

The claimant or any other party entitled to notice of a determination may file an appeal from the determination with the appeal tribunal within ten (10) calendar days after the date of mailing of the notice to the claimant's or other party's last-known address or, if the notice is not mailed, within ten (10) calendar days after the date of delivery of the notice. The claimant or other party may file an appeal in any manner allowed by Section 1-224 of this title or by telephone to the Commission's call center. In order to be considered timely, filing of an appeal made by telephone through a claims representative must be completed before the end of normal business hours.

SECTION 7. REPEALER 40 O.S. 2021, Section 3-201, is hereby repealed.

SECTION 8. This act shall become effective November 1, 2024.

Passed the House of Representatives the 6th day of March, 2024.

\_\_\_\_\_  
Presiding Officer of the House  
of Representatives

Passed the Senate the 17th day of April, 2024.

\_\_\_\_\_  
Presiding Officer of the Senate

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this \_\_\_\_\_

day of \_\_\_\_\_, 20\_\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

By: \_\_\_\_\_

Approved by the Governor of the State of Oklahoma this \_\_\_\_\_

day of \_\_\_\_\_, 20\_\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

\_\_\_\_\_  
Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this \_\_\_\_\_

day of \_\_\_\_\_, 20\_\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

By: \_\_\_\_\_