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March 25, 2024

ENGROSSED 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.

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

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

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

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

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

17 5. "Benefit year" with respect to any individual means the one-
18 year period beginning with the first day of the first week with
19 respect to which the individual first files a valid claim for
20 benefits and thereafter the one-year period beginning with the first
21 day of the first week with respect to which the individual next
22 files a valid claim for benefits after the termination of his or her
23 last preceding benefit year. Any claim for benefits shall be deemed
24 a valid claim for the purpose of this section if the individual has

1 been paid the wages for insured work required under the Employment
2 Security Act of 1980;

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

12 7. "Benefits" means the money payments payable to an individual
13 as provided in the Employment Security Act of 1980 with respect to
14 his or her unemployment, including extended benefits. The federal
15 share of such extended benefits shall not be construed as benefits
16 for the purposes of computing contribution rates under the
17 Employment Security Act of 1980;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

24

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

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

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

10 28. "Extended base period" means the four (4) quarters prior to
11 the claimant's base period. These four (4) quarters may be
12 substituted for base period quarters on a quarter-by-quarter basis
13 to establish a valid claim regardless of whether the wages have been
14 used to establish a prior claim, except any wages earned that would
15 render the Commission out of compliance with applicable federal law
16 shall be excluded if used in a prior claim;

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

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

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

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

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

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

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

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

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

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

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

21 40. "Probationary period" means a period of time set forth in
22 an established probationary plan, which applies to all employees or
23 a specific group of employees, and does not exceed ninety (90)
24 calendar days from the first day a new employee begins work;

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

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

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

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

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

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

22 47. "Supplemental unemployment benefit plan" means a plan that
23 provides for an employer to make payments to its employees during a
24 permanent or temporary layoff that will supplement unemployment

1 benefits received by the employees. The purpose of a supplemental
2 unemployment benefit plan is to allow an employer to sustain the
3 purchasing power of its employees or former employees during a
4 layoff;

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

12 49. "Wages" shall have the same meaning as provided in Section
13 1-218 of this title;

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

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

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

24 Section 1-224. FILE.

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

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

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

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

1 ~~3.~~ 2. Electronic e-filing to the Oklahoma Employment Security
2 Commission, as directed by the instructions on the determination
3 letter, order or other document issued by the Commission, by
4 midnight on or before the date due. Timely transmission shall be
5 determined by the Commission's transmission log file; or

6 ~~4.~~ 3. Digital portal filing by midnight on or before the date
7 due. Timely transmission shall be determined by the Commission's
8 transmission log file.

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

14 SECTION 3. AMENDATORY Section 3, Chapter 287, O.S.L.
15 2022 (40 O.S. Supp. 2023, Section 1-231), is amended to read as
16 follows:

17 Section 1-231. LIMITATIONS ON DURATION OF BENEFITS.

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

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

4 1. a. Sixteen (16) weeks if the state's average unemployment
5 insurance claims are at or below five thousand (5,000)
6 claims,

7 b. An additional two (2) weeks shall be added in addition
8 to the sixteen (16) weeks for each fifteen thousand
9 (15,000) increments if the state's average
10 unemployment insurance claims are above five thousand
11 (5,000) claims, or

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

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

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

24 Section 2-503.

1 CLAIMS, NOTICES, AND OBJECTIONS.

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

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

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

23 D. Notice shall be deemed to have been given when the
24 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

1 separation from employment until the expiration of the ten-day time
2 period set out in subsection E of Section 2-503 of this title.

3 ~~Unless the employer has opted out of receiving electronic~~
4 ~~communications and filed their statement of objection through any~~
5 ~~method listed in Section 1-224 of this title, the~~ The statement of
6 ~~objection must be filed through the employer portal and~~ objections
7 must contain a statement of specific facts and documentation which:

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

10 2. Make the claimant ineligible for benefits under Sections 2-
11 201 through 2-210 of this title;

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

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

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

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

3 Section 2-603. APPEAL TRIBUNAL.

4 The claimant or any other party entitled to notice of a
5 determination may file an appeal from the determination with the
6 appeal tribunal within ten (10) calendar days after the date of
7 mailing of the notice to the claimant's or other party's last-known
8 address or, if the notice is not mailed, within ten (10) calendar
9 days after the date of delivery of the notice. The claimant or
10 other party may file an appeal in any manner allowed by Section 1-
11 224 of this title or by telephone to the Commission's call center.
12 In order to be considered timely, filing of an appeal made by
13 telephone through a claims representative must be completed before
14 the end of normal business hours.

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

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

18 COMMITTEE REPORT BY: COMMITTEE ON BUSINESS AND COMMERCE
19 March 25, 2024 - DO PASS
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