

1 SENATE BILL NO. 265

2 INTRODUCED BY B. KEENAN

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING UNEMPLOYMENT LAWS AFFECTING
5 EMPLOYERS WITH EMPLOYEES WHO HAVE MORE THAN ONE JOB IN A BASE PERIOD; ELIMINATING
6 A CHARGE FOR UNEMPLOYMENT BENEFITS AGAINST AN EMPLOYER WHO CONTINUES TO EMPLOY
7 AN INDIVIDUAL WHO IS OTHERWISE ELIGIBLE FOR UNEMPLOYMENT INSURANCE BENEFITS BECAUSE
8 THE INDIVIDUAL'S WORK RELATIONSHIP WITH ANOTHER EMPLOYER WAS SEVERED; REQUIRING THE
9 DEPARTMENT TO CHECK PAYROLL RECORDS BEFORE NOTIFYING AN EMPLOYER WHO HAS
10 CONTINUED TO EMPLOY A CLAIMANT OF A POSSIBLE CHARGE; PROVIDING A 14-DAY PERIOD FOR AN
11 EMPLOYER TO RESPOND TO NOTIFICATION; AND AMENDING SECTIONS 39-51-605, 39-51-1212,
12 39-51-2104, AND 39-51-2115, MCA."

13
14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

15
16 NEW SECTION. **Section 1. Nonchargeable benefits.** (1) (a) Subject to 39-51-605 and subsection (2)
17 of this section, an individual's benefits paid are not chargeable to an employer that continues to employ, without
18 a reduction in hours or wages, the individual who is otherwise eligible for unemployment insurance benefits
19 because another employer of the individual severed the work relationship with that individual.

20 (b) Subsection (1)(a) applies to an employer not otherwise covered by 39-51-1125(4), 39-51-1212(7),
21 or 39-51-1214(2)(c).

22 (2) The department is initially responsible for verifying payroll information regarding continued
23 employment of the individual as provided in subsection (1) and may request information as provided in 39-51-605
24 from each employer in the individual's base period, including the employer who has continued employment for
25 the individual, unless payroll information for a particular employer shows no reduction in hours or wages for the
26 individual.

27
28 **Section 2.** Section 39-51-605, MCA, is amended to read:

29 **"39-51-605. Employing unit responsibility to respond to department requests for information --**
30 **waiver of rights -- department duties.** (1) An employing unit or its representative shall provide to the department

1 wage, employment, separation, and eligibility information requested by the department in a timely manner as
2 established by rule, except that the notification required in subsection (6) must allow a 14-day response period.

3 (2) (a) Subject to the provisions of ~~subsection~~ subsections (4) and (6), the department shall consider an
4 employing unit, with respect to a specific claim, to have waived its rights as provided in subsection (3) for:

5 (i) untimely filing information required under subsection (1) without good cause; or

6 (ii) failing to provide complete answers in response to the department's request for information.

7 (b) A request from the employing unit or its representative for a hearing without providing the requested
8 information is considered to be a failure to provide a timely or an adequate response as provided in subsection
9 (2)(a).

10 (3) A waiver of rights provided for under subsection (2) means that the department shall:

11 (a) consider the employing unit to be no longer eligible as an interested party with respect to the claim;
12 and

13 (b) deny credit to the employing unit for any resulting erroneous payment to the claimant.

14 (4) The department shall accept information submitted by an employing unit or its representative after
15 the required period established by rule and before the deadline set by 39-51-2402(3) or after the period provided
16 for in subsection (6) if the information is related to a separation from employment or concerning a claimant's
17 eligibility for benefits. After accepting the information, the department shall issue a determination or
18 redetermination that must include a decision on whether the employing unit or its representative presented good
19 cause for failure to meet the timely or complete information requirements in subsection (2). For good cause
20 shown, the department may in its determination or redetermination rescind the waiver of rights.

21 (5) An employing unit that elects to make payments in lieu of contributions pursuant to 39-51-1103 is also
22 subject to the provisions of this section.

23 (6) Before determining that an employer is chargeable for a claim because the employer is in the base
24 period, the department shall review payroll data to determine whether the claimant's hours or wages were
25 reduced by all of the claimant's employers or if one or more employers continues to employ the claimant. If the
26 payroll data is insufficient for a determination, the department shall notify the appropriate employer in the
27 claimant's base period that more information is needed and that the provisions in this section for benefits charges
28 against the employer may apply. A response from the employer must be received by the department within 14
29 days of notification under this subsection."

30

1 **Section 3.** Section 39-51-1212, MCA, is amended to read:

2 **"39-51-1212. Experience rating for governmental entities.** (1) The rates of governmental entities who
3 have accumulated experience rating credits must be adjusted annually as follows with each governmental entity
4 assigned a rate based upon:

5 (a) its benefit cost experience, to be arrived at by dividing the total sum of benefits charged to the
6 employer's account for all past periods that are completed transactions by December 31 by total wages from date
7 of subjectivity of the employing unit through December 31; and

8 (b) the benefit cost for all past years of governmental entities electing to pay contributions compared with
9 total payrolls reported for all past years by these governmental entities used as a median, with the rates fixed
10 using the median so that the rates will, when applied to the total annual payroll for subject governmental entities,
11 yield total paid contributions equaling approximately the total benefit costs.

12 (2) New governmental entities electing to pay contributions must be assigned the median rate for the
13 year in which they become subject.

14 (3) The minimum rate may not be less than 0.06% and the maximum rate may not be greater than 1.5%.
15 The rates are to be graduated at one-tenth intervals.

16 (4) If benefit charges exceed contributions paid in the last 2 completed state fiscal years, governmental
17 entities' rates must be adjusted by increasing all rates to the next higher schedule.

18 (5) The computed rate is effective July 1 of each year.

19 (6) Governmental entities must be charged for their share of the total benefits paid to a claimant if the
20 governmental entity contributed wages during the claimant's base period. The benefit charged must be based
21 on the percentage of wages paid by the governmental entity as compared to the total wages paid by all employers
22 in the claimant's base period.

23 (7) Subject to the provisions of 39-51-605 and [section 1], the department ~~may~~ shall relieve benefit
24 charges paid by a governmental employer with respect to benefits paid to an individual if the governmental
25 employer continues to provide employment to the individual without a reduction in hours or wages."

26

27 **Section 4.** Section 39-51-2104, MCA, is amended to read:

28 **"39-51-2104. General benefit eligibility conditions.** (1) An unemployed individual, including an alien
29 entitled to benefits under the provisions of 39-51-2110, is eligible to receive benefits for any week of total
30 unemployment within the individual's benefit year only if the department finds that the individual:

1 (a) has filed a claim and has filed continued claims in accordance with rules that the department may
2 prescribe;

3 (b) is able to work, is available for work, and is seeking work. An individual may not place limitations on
4 the individual's availability that would constitute a withdrawal from the labor market. A claimant is not considered
5 ineligible in any week of unemployment for failure to comply with the provisions of this subsection if the failure
6 is because of an illness or disability that occurs after the claimant has filed or reopened a claim for unemployment
7 insurance benefits and suitable work has not been offered to the claimant after the beginning of the illness or
8 disability.

9 (c) prior to the first week for which the individual is paid benefits, has been totally unemployed for a
10 waiting period of 1 week. A week is not counted as a week of total unemployment for the purposes of this
11 subsection:

12 (i) if benefits have been paid for that week;

13 (ii) unless the individual was eligible for benefits during the week;

14 (iii) unless it occurs within the benefit year of the claimant;

15 (iv) unless it occurs after benefits first could become payable to any individual under this chapter.

16 (d) has registered for work with the individual's local job service office unless the individual is excused
17 by department rule from registering for work.

18 (2) (a) Except as provided in subsection (2)(b) or (2)(c), if an individual is unavailable for work for less
19 than 3 days within a week for which work is available, the individual must be paid the weekly benefit amount
20 reduced by one-fifth of that amount for each day or part of a day that the individual is unavailable for work.

21 (b) If the individual is unavailable for work for 3 days or more, or part of each of 3 days or more, within
22 a week for which work is available, the individual must be considered unavailable for work for the entire week and
23 is not eligible to receive benefits for the week.

24 (c) If the individual is unavailable for work because the individual has maintained or increased hours with
25 a separate employer with whom the employee continued work at the time of the filing for unemployment insurance
26 benefits because of a severing of the work relationship with another employer, only the portion of benefits
27 available based on the laid-off employment may be paid.

28 (3) (a) The department shall establish a profiling system to identify individuals who are likely to exhaust
29 their regular benefits and who are in need of reemployment services.

30 (b) In addition to the requirements listed in subsection (1), an individual identified pursuant to subsection

1 (3)(a) may be required to participate in reemployment services in order to be eligible for unemployment benefits.

2 (c) The requirement for participation in reemployment services may be waived if the department
3 determines that:

4 (i) the individual has completed reemployment services; or

5 (ii) the individual's failure to participate in reemployment services is justifiable."
6

7 **Section 5.** Section 39-51-2115, MCA, is amended to read:

8 **"39-51-2115. Part-time work search -- eligibility for benefits.** (1) Except as provided in subsection
9 (2), an individual may not be denied regular unemployment compensation benefits solely because the individual
10 is seeking only part-time work, as that term is defined in rules adopted by the department.

11 (2) In order to be qualified for benefits under subsection (1), the majority of the individual's workweeks
12 in the base period must have been part-time.

13 (3) For the purposes of this section, a person who holds more than one part-time job or a combination
14 of part-time and full-time jobs prior to being qualified for benefits is eligible only for that portion of benefits
15 associated with the job in which the person no longer is employed."
16

17 NEW SECTION. **Section 6. Codification instruction.** [Section 1] is intended to be codified as an
18 integral part of Title 39, chapter 51, part 12, and the provisions of Title 39, chapter 51, part 12, apply to [section
19 1].

20 - END -