

1 HOUSE BILL NO. 132

2 INTRODUCED BY N. MCCONNELL

3 BY REQUEST OF THE DEPARTMENT OF LABOR AND INDUSTRY

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5 A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING THE APPEALS PROCESS FOR UNEMPLOYMENT
6 INSURANCE CLAIMS; AND AMENDING SECTIONS 39-51-2404 AND 39-51-2410, MCA."7
8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:9
10 **Section 1.** Section 39-51-2404, MCA, is amended to read:11 **"39-51-2404. Appeal to board procedure.** An interested party who is dissatisfied with a decision of an
12 appeals referee may appeal to the board. The department shall promptly transmit all records pertinent to the
13 appeal to the board. The appeal hearing may be conducted by telephone or by videoconference. When the board
14 renders a decision ~~is rendered by the board~~ and copies of the decision are mailed to all interested parties,
15 including the department, that decision is final unless an interested party ~~requests a rehearing or~~ initiates judicial
16 review ~~by filing a petition in district court within 30 days of the date of sending the board's decision to the party's~~
17 ~~address of record pursuant to 39-51-2410.~~"18
19 **Section 2.** Section 39-51-2410, MCA, is amended to read:20 **"39-51-2410. Finality of board's decision -- judicial review.** (1) (a) A decision of the board, in the
21 absence of an appeal filed within 30 days as provided by this section, becomes final 30 days after the decision
22 was sent to the parties at their respective addresses of record.23 (b) Judicial review is permitted only after any party claiming to be aggrieved has exhausted all remedies
24 before the board.25 (c) The department is considered to be a party to any judicial action involving a decision and may be
26 represented in that action by an attorney employed by the department or, at the department's request, by the
27 attorney general.28 (2) Within 30 days after the decision of the board was sent to the parties at their respective addresses
29 of record, any party aggrieved by the decision may secure judicial review by commencing an action in the district
30 court of the county in which the party resides and in which action any other party to the proceeding before the

1 board must be made a defendant. ~~In such an~~ As part of the action, the aggrieved party seeking judicial review
2 shall file a petition, which need not be verified but must state the grounds ~~upon on~~ which a review is sought; The
3 petition must be served ~~upon on~~ the commissioner of labor and industry and all interested parties in the manner
4 provided in the Montana Rules of Civil Procedure within 30 days of filing the petition.

5 (3) The department shall certify and file with the court all documents and papers and a record of all
6 testimony taken in the matter, together with the board's findings of fact and decision. The board may also in its
7 discretion certify to the court questions of law involved in any decision by the board.

8 (4) Whenever the department seeks review under this section of a decision of the board, all interested
9 parties must be served with a copy of its petition together with all documents filed with the court.

10 (5) In any judicial proceeding under 39-51-2406 through 39-51-2410, the findings of the board as to the
11 facts, if supported by evidence and in the absence of fraud, are conclusive and the jurisdiction of the court is
12 confined to questions of law. The action and the questions ~~so~~ certified as described in subsection (3) must be
13 heard in a summary manner and must be given precedence over all other civil cases.

14 (6) ~~An appeal may be taken from the~~ The district court's decision of the district court may be appealed
15 to the supreme court of Montana in the same manner, but not inconsistent with the provisions of this chapter, as
16 is provided in civil cases. It is not necessary in any judicial proceeding under this section to enter exceptions to
17 the rulings of the board and a bond may not be required for entering an appeal. Upon the final determination of
18 the judicial proceeding, the department shall enter an order in accordance with the determination."

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