



98TH GENERAL ASSEMBLY

State of Illinois

2013 and 2014

HB4370

by Rep. Jay Hoffman

SYNOPSIS AS INTRODUCED:

820 ILCS 405/1400.2	
820 ILCS 405/1402	from Ch. 48, par. 552
820 ILCS 405/1404	from Ch. 48, par. 554
820 ILCS 405/1405	from Ch. 48, par. 555

Amends the Unemployment Insurance Act. Deletes provisions requiring employers to file, on a monthly basis, reports regarding employee wages.

LRB098 15820 OMW 50859 b

1 AN ACT concerning employment.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Unemployment Insurance Act is amended by
5 changing Sections 1400.2, 1402, 1404, 1405, and 1801.1 as
6 follows:

7 (820 ILCS 405/1400.2)

8 Sec. 1400.2. Annual reporting and paying; household
9 workers. This Section applies to an employer who solely employs
10 one or more household workers with respect to whom the employer
11 files federal unemployment taxes as part of his or her federal
12 income tax return, or could file federal unemployment taxes as
13 part of his or her federal income tax return if the worker or
14 workers were providing services in employment for purposes of
15 the federal unemployment tax. For purposes of this Section,
16 "household worker" has the meaning ascribed to it for purposes
17 of Section 3510 of the federal Internal Revenue Code. If an
18 employer to whom this Section applies notifies the Director, in
19 writing, that he or she wishes to pay his or her contributions
20 for each quarter and submit his or her wage reports for each
21 ~~month or quarter, as the case may be,~~ on an annual basis, then
22 the due date for filing the reports and paying the
23 contributions shall be April 15 of the calendar year

1 immediately following the close of the ~~months or~~ quarters to
2 which the reports and ~~quarters to which the~~ contributions
3 apply, except that the Director may, by rule, establish a
4 different due date for good cause.

5 (Source: P.A. 97-689, eff. 6-14-12.)

6 (820 ILCS 405/1402) (from Ch. 48, par. 552)

7 Sec. 1402. Penalties.

8 A. If any employer fails, within the time prescribed in
9 this Act as amended and in effect on October 5, 1980, and the
10 regulations of the Director, to file a report of wages paid to
11 each of his workers, or to file a sufficient report of such
12 wages after having been notified by the Director to do so, for
13 any period which begins prior to January 1, 1982, he shall pay
14 to the Department as a penalty a sum determined in accordance
15 with the provisions of this Act as amended and in effect on
16 October 5, 1980.

17 B. Except as otherwise provided in this Section, any
18 employer who fails to file a report of wages paid to each of
19 his workers for any period which begins on or after January 1,
20 1982, within the time prescribed by the provisions of this Act
21 and the regulations of the Director, or, if the Director
22 pursuant to such regulations extends the time for filing the
23 report, fails to file it within the extended time, shall, in
24 addition to any sum otherwise payable by him under the
25 provisions of this Act, pay to the Department as a penalty a

1 sum equal to the lesser of (1) \$5 for each \$10,000 or fraction
2 thereof of the total wages for insured work paid by him during
3 the period or (2) \$2,500, for each month or part thereof of
4 such failure to file the report. With respect to an employer
5 who has elected to file reports of wages on an annual basis
6 pursuant to Section 1400.2, in assessing penalties for the
7 failure to submit all reports by the due date established
8 pursuant to that Section, the 30-day period immediately
9 following the due date shall be considered as one month.

10 If the Director deems an employer's report of wages paid to
11 each of his workers for any period which begins on or after
12 January 1, 1982, insufficient, he shall notify the employer to
13 file a sufficient report. If the employer fails to file such
14 sufficient report within 30 days after the mailing of the
15 notice to him, he shall, in addition to any sum otherwise
16 payable by him under the provisions of this Act, pay to the
17 Department as a penalty a sum determined in accordance with the
18 provisions of the first paragraph of this subsection, for each
19 month or part thereof of such failure to file such sufficient
20 report after the date of the notice.

21 For wages paid in calendar years prior to 1988, the penalty
22 or penalties which accrue under the two foregoing paragraphs
23 with respect to a report for any period shall not be less than
24 \$100, and shall not exceed the lesser of (1) \$10 for each
25 \$10,000 or fraction thereof of the total wages for insured work
26 paid during the period or (2) \$5,000. For wages paid in

1 calendar years after 1987, the penalty or penalties which
2 accrue under the 2 foregoing paragraphs with respect to a
3 report for any period shall not be less than \$50, and shall not
4 exceed the lesser of (1) \$10 for each \$10,000 or fraction of
5 the total wages for insured work paid during the period or (2)
6 \$5,000. With respect to an employer who has elected to file
7 reports of wages on an annual basis pursuant to Section 1400.2,
8 for purposes of calculating the minimum penalty prescribed by
9 this Section for failure to file the reports on a timely basis,
10 a calendar year shall constitute a single period. For reports
11 of wages paid after 1986, the Director shall not, however,
12 impose a penalty pursuant to either of the two foregoing
13 paragraphs on any employer who can prove within 30 working days
14 after the mailing of a notice of his failure to file such a
15 report, that (1) the failure to file the report is his first
16 such failure during the previous 20 consecutive calendar
17 quarters, and (2) the amount of the total contributions due for
18 the calendar quarter of such report ~~(or, in the case of an~~
19 ~~employer who is required to file the reports on a monthly~~
20 ~~basis, the amount of the total contributions due for the~~
21 ~~calendar quarter that includes the month of such report)~~ is
22 less than \$500.

23 ~~For any month which begins on or after January 1, 2013, a~~
24 ~~report of the wages paid to each of an employer's workers shall~~
25 ~~be due on or before the last day of the month next following~~
26 ~~the calendar month in which the wages were paid if the employer~~

1 ~~is required to report such wages electronically pursuant to the~~
2 ~~regulations of the Director; otherwise a report of the wages~~
3 ~~paid to each of the employer's workers shall be due on or~~
4 ~~before the last day of the month next following the calendar~~
5 ~~quarter in which the wages were paid.~~

6 Any employer who wilfully fails to pay any contribution or
7 part thereof, based upon wages paid prior to 1987, when
8 required by the provisions of this Act and the regulations of
9 the Director, with intent to defraud the Director, shall in
10 addition to such contribution or part thereof pay to the
11 Department a penalty equal to 50 percent of the amount of such
12 contribution or part thereof, as the case may be, provided that
13 the penalty shall not be less than \$200.

14 Any employer who willfully fails to pay any contribution or
15 part thereof, based upon wages paid in 1987 and in each
16 calendar year thereafter, when required by the provisions of
17 this Act and the regulations of the Director, with intent to
18 defraud the Director, shall in addition to such contribution or
19 part thereof pay to the Department a penalty equal to 60% of
20 the amount of such contribution or part thereof, as the case
21 may be, provided that the penalty shall not be less than \$400.

22 However, all or part of any penalty may be waived by the
23 Director for good cause shown.

24 (Source: P.A. 97-689, eff. 6-14-12; 97-791, eff. 1-1-13;
25 98-463, eff. 8-16-13.)

1 (820 ILCS 405/1404) (from Ch. 48, par. 554)

2 Sec. 1404. Payments in lieu of contributions by nonprofit
3 organizations.

4 A. For the year 1972 and for each calendar year thereafter,
5 contributions shall accrue and become payable, pursuant to
6 Section 1400, by each nonprofit organization (defined in
7 Section 211.2) upon the wages paid by it with respect to
8 employment after 1971, unless the nonprofit organization
9 elects, in accordance with the provisions of this Section, to
10 pay, in lieu of contributions, an amount equal to the amount of
11 regular benefits and one-half the amount of extended benefits
12 (defined in Section 409) paid to individuals, for any weeks
13 which begin on or after the effective date of the election, on
14 the basis of wages for insured work paid to them by such
15 nonprofit organization during the effective period of such
16 election. Notwithstanding the preceding provisions of this
17 subsection and the provisions of subsection D, with respect to
18 benefit years beginning prior to July 1, 1989, any adjustment
19 after September 30, 1989 to the base period wages paid to the
20 individual by any employer shall not affect the ratio for
21 determining the payments in lieu of contributions of a
22 nonprofit organization which has elected to make payments in
23 lieu of contributions. Provided, however, that with respect to
24 benefit years beginning on or after July 1, 1989, the nonprofit
25 organization shall be required to make payments equal to 100%
26 of regular benefits, including dependents' allowances, and 50%

1 of extended benefits, including dependents' allowances, paid
2 to an individual with respect to benefit years beginning during
3 the effective period of the election, but only if the nonprofit
4 organization: (a) is the last employer as provided in Section
5 1502.1 and (b) paid to the individual receiving benefits, wages
6 for insured work during his base period. If the nonprofit
7 organization described in this paragraph meets the
8 requirements of (a) but not (b), with respect to benefit years
9 beginning on or after July 1, 1989, it shall be required to
10 make payments in an amount equal to 50% of regular benefits,
11 including dependents' allowances, and 25% of extended
12 benefits, including dependents' allowances, paid to an
13 individual with respect to benefit years beginning during the
14 effective period of the election.

15 1. Any employing unit which becomes a nonprofit
16 organization on January 1, 1972, may elect to make payments
17 in lieu of contributions for not less than one calendar
18 year beginning with January 1, 1972, provided that it files
19 its written election with the Director not later than
20 January 31, 1972.

21 2. Any employing unit which becomes a nonprofit
22 organization after January 1, 1972, may elect to make
23 payments in lieu of contributions for a period of not less
24 than one calendar year beginning as of the first day with
25 respect to which it would, in the absence of its election,
26 incur liability for the payment of contributions, provided

1 that it files its written election with the Director not
2 later than 30 days immediately following the end of the
3 calendar quarter in which it becomes a nonprofit
4 organization.

5 3. A nonprofit organization which has incurred
6 liability for the payment of contributions for at least 2
7 calendar years and is not delinquent in such payment and in
8 the payment of any interest or penalties which may have
9 accrued, may elect to make payments in lieu of
10 contributions beginning January 1 of any calendar year,
11 provided that it files its written election with the
12 Director prior to such January 1, and provided, further,
13 that such election shall be for a period of not less than 2
14 calendar years.

15 4. An election to make payments in lieu of
16 contributions shall not terminate any liability incurred
17 by an employer for the payment of contributions, interest
18 or penalties with respect to any calendar quarter ~~(or~~
19 ~~month, as the case may be)~~ which ends prior to the
20 effective period of the election.

21 5. A nonprofit organization which has elected,
22 pursuant to paragraph 1, 2, or 3, to make payments in lieu
23 of contributions may terminate the effective period of the
24 election as of January 1 of any calendar year subsequent to
25 the required minimum period of the election only if, prior
26 to such January 1, it files with the Director a written

1 notice to that effect. Upon such termination, the
2 organization shall become liable for the payment of
3 contributions upon wages for insured work paid by it on and
4 after such January 1 and, notwithstanding such
5 termination, it shall continue to be liable for payments in
6 lieu of contributions with respect to benefits paid to
7 individuals on and after such January 1, with respect to
8 benefit years beginning prior to July 1, 1989, on the basis
9 of wages for insured work paid to them by the nonprofit
10 organization prior to such January 1, and, with respect to
11 benefit years beginning after June 30, 1989, if such
12 employer was the last employer as provided in Section
13 1502.1 during a benefit year beginning prior to such
14 January 1.

15 6. Written elections to make payments in lieu of
16 contributions and written notices of termination of
17 election shall be filed in such form and shall contain such
18 information as the Director may prescribe. Upon the filing
19 of such election or notice, the Director shall either order
20 it approved, or, if it appears to the Director that the
21 nonprofit organization has not filed such election or
22 notice within the time prescribed, he shall order it
23 disapproved. The Director shall serve notice of his order
24 upon the nonprofit organization. The Director's order
25 shall be final and conclusive upon the nonprofit
26 organization unless, within 15 days after the date of

1 mailing of notice thereof, the nonprofit organization
2 files with the Director an application for its review,
3 setting forth its reasons in support thereof. Upon receipt
4 of an application for review within the time prescribed,
5 the Director shall order it allowed, or shall order that it
6 be denied, and shall serve notice upon the nonprofit
7 organization of his order. All of the provisions of Section
8 1509, applicable to orders denying applications for review
9 of determinations of employers' rates of contribution and
10 not inconsistent with the provisions of this subsection,
11 shall be applicable to an order denying an application for
12 review filed pursuant to this subsection.

13 B. As soon as practicable following the close of each
14 calendar quarter, the Director shall mail to each nonprofit
15 organization which has elected to make payments in lieu of
16 contributions a Statement of the amount due from it for the
17 regular and one-half the extended benefits paid (or the amounts
18 otherwise provided for in subsection A) during the calendar
19 quarter, together with the names of its workers or former
20 workers and the amounts of benefits paid to each of them during
21 the calendar quarter, with respect to benefit years beginning
22 prior to July 1, 1989, on the basis of wages for insured work
23 paid to them by the nonprofit organization; or, with respect to
24 benefit years beginning after June 30, 1989, if such nonprofit
25 organization was the last employer as provided in Section
26 1502.1 with respect to a benefit year beginning during the

1 effective period of the election. The amount due shall be
2 payable, and the nonprofit organization shall make payment of
3 such amount not later than 30 days after the date of mailing of
4 the Statement. The Statement shall be final and conclusive upon
5 the nonprofit organization unless, within 20 days after the
6 date of mailing of the Statement, the nonprofit organization
7 files with the Director an application for revision thereof.
8 Such application shall specify wherein the nonprofit
9 organization believes the Statement to be incorrect, and shall
10 set forth its reasons for such belief. All of the provisions of
11 Section 1508, applicable to applications for revision of
12 Statements of Benefit Wages and Statements of Benefit Charges
13 and not inconsistent with the provisions of this subsection,
14 shall be applicable to an application for revision of a
15 Statement filed pursuant to this subsection.

16 1. Payments in lieu of contributions made by any
17 nonprofit organization shall not be deducted or
18 deductible, in whole or in part, from the remuneration of
19 individuals in the employ of the organization, nor shall
20 any nonprofit organization require or accept any waiver of
21 any right under this Act by an individual in its employ.
22 The making of any such deduction or the requirement or
23 acceptance of any such waiver is a Class A misdemeanor. Any
24 agreement by an individual in the employ of any person or
25 concern to pay all or any portion of a payment in lieu of
26 contributions, required under this Act from a nonprofit

1 organization, is void.

2 2. A nonprofit organization which fails to make any
3 payment in lieu of contributions when due under the
4 provisions of this subsection shall pay interest thereon at
5 the rates specified in Section 1401. A nonprofit
6 organization which has elected to make payments in lieu of
7 contributions shall be subject to the penalty provisions of
8 Section 1402. In the making of any payment in lieu of
9 contributions or in the payment of any interest or
10 penalties, a fractional part of a cent shall be disregarded
11 unless it amounts to one-half cent or more, in which case
12 it shall be increased to one cent.

13 3. All of the remedies available to the Director under
14 the provisions of this Act or of any other law to enforce
15 the payment of contributions, interest, or penalties under
16 this Act, including the making of determinations and
17 assessments pursuant to Section 2200, are applicable to the
18 enforcement of payments in lieu of contributions and of
19 interest and penalties, due under the provisions of this
20 Section. For the purposes of this paragraph, the term
21 "contribution" or "contributions" which appears in any
22 such provision means "payment in lieu of contributions" or
23 "payments in lieu of contributions." The term
24 "contribution" which appears in Section 2800 also means
25 "payment in lieu of contributions."

26 4. All of the provisions of Sections 2201 and 2201.1,

1 applicable to adjustment or refund of contributions,
2 interest and penalties erroneously paid and not
3 inconsistent with the provisions of this Section, shall be
4 applicable to payments in lieu of contributions
5 erroneously made or interest or penalties erroneously paid
6 by a nonprofit organization.

7 5. Payment in lieu of contributions shall be due with
8 respect to any sum erroneously paid as benefits to an
9 individual unless such sum has been recouped pursuant to
10 Section 900 or has otherwise been recovered. If such
11 payment in lieu of contributions has been made, the amount
12 thereof shall be adjusted or refunded in accordance with
13 the provisions of paragraph 4 and Section 2201 if
14 recoupment or other recovery has been made.

15 6. A nonprofit organization which has elected to make
16 payments in lieu of contributions and thereafter ceases to
17 be an employer shall continue to be liable for payments in
18 lieu of contributions with respect to benefits paid to
19 individuals on and after the date it has ceased to be an
20 employer, with respect to benefit years beginning prior to
21 July 1, 1989, on the basis of wages for insured work paid
22 to them by it prior to the date it ceased to be an
23 employer, and, with respect to benefit years beginning
24 after June 30, 1989, if such employer was the last employer
25 as provided in Section 1502.1 prior to the date that it
26 ceased to be an employer.

1 7. With respect to benefit years beginning prior to
2 July 1, 1989, wages paid to an individual during his base
3 period, by a nonprofit organization which elects to make
4 payments in lieu of contributions, for less than full time
5 work, performed during the same weeks in the base period
6 during which the individual had other insured work, shall
7 not be subject to payments in lieu of contributions (upon
8 such employer's request pursuant to the regulation of the
9 Director) so long as the employer continued after the end
10 of the base period, and continues during the applicable
11 benefit year, to furnish such less than full time work to
12 the individual on the same basis and in substantially the
13 same amount as during the base period. If the individual is
14 paid benefits with respect to a week (in the applicable
15 benefit year) after the employer has ceased to furnish the
16 work hereinabove described, the nonprofit organization
17 shall be liable for payments in lieu of contributions with
18 respect to the benefits paid to the individual after the
19 date on which the nonprofit organization ceases to furnish
20 the work.

21 C. With respect to benefit years beginning prior to July 1,
22 1989, whenever benefits have been paid to an individual on the
23 basis of wages for insured work paid to him by a nonprofit
24 organization, and the organization incurred liability for the
25 payment of contributions on some of the wages because only a
26 part of the individual's base period was within the effective

1 period of the organization's written election to make payments
2 in lieu of contributions, the organization shall pay an amount
3 in lieu of contributions which bears the same ratio to the
4 total benefits paid to the individual as the total wages for
5 insured work paid to him during the base period by the
6 organization upon which it did not incur liability for the
7 payment of contributions (for the aforesaid reason) bear to the
8 total wages for insured work paid to the individual during the
9 base period by the organization.

10 D. With respect to benefit years beginning prior to July 1,
11 1989, whenever benefits have been paid to an individual on the
12 basis of wages for insured work paid to him by a nonprofit
13 organization which has elected to make payments in lieu of
14 contributions, and by one or more other employers, the
15 nonprofit organization shall pay an amount in lieu of
16 contributions which bears the same ratio to the total benefits
17 paid to the individual as the wages for insured work paid to
18 the individual during his base period by the nonprofit
19 organization bear to the total wages for insured work paid to
20 the individual during the base period by all of the employers.
21 If the nonprofit organization incurred liability for the
22 payment of contributions on some of the wages for insured work
23 paid to the individual, it shall be treated, with respect to
24 such wages, as one of the other employers for the purposes of
25 this paragraph.

26 E. Two or more nonprofit organizations which have elected

1 to make payments in lieu of contributions may file a joint
2 application with the Director for the establishment of a group
3 account, effective January 1 of any calendar year, for the
4 purpose of sharing the cost of benefits paid on the basis of
5 the wages for insured work paid by such nonprofit
6 organizations, provided that such joint application is filed
7 with the Director prior to such January 1. The application
8 shall identify and authorize a group representative to act as
9 the group's agent for the purposes of this paragraph, and shall
10 be filed in such form and shall contain such information as the
11 Director may prescribe. Upon his approval of a joint
12 application, the Director shall, by order, establish a group
13 account for the applicants and shall serve notice upon the
14 group's representative of such order. Such account shall remain
15 in effect for not less than 2 calendar years and thereafter
16 until terminated by the Director for good cause or, as of the
17 close of any calendar quarter, upon application by the group.
18 Upon establishment of the account, the group shall be liable to
19 the Director for payments in lieu of contributions in an amount
20 equal to the total amount for which, in the absence of the
21 group account, liability would have been incurred by all of its
22 members; provided, with respect to benefit years beginning
23 prior to July 1, 1989, that the liability of any member to the
24 Director with respect to any payment in lieu of contributions,
25 interest or penalties not paid by the group when due with
26 respect to any calendar quarter shall be in an amount which

1 bears the same ratio to the total benefits paid during such
2 quarter on the basis of the wages for insured work paid by all
3 members of the group as the total wages for insured work paid
4 by such member during such quarter bear to the total wages for
5 insured work paid during the quarter by all members of the
6 group, and, with respect to benefit years beginning on or after
7 July 1, 1989, that the liability of any member to the Director
8 with respect to any payment in lieu of contributions, interest
9 or penalties not paid by the group when due with respect to any
10 calendar quarter shall be in an amount which bears the same
11 ratio to the total benefits paid during such quarter to
12 individuals with respect to whom any member of the group was
13 the last employer as provided in Section 1502.1 as the total
14 wages for insured work paid by such member during such quarter
15 bear to the total wages for insured work paid during the
16 quarter by all members of the group. With respect to calendar
17 ~~months and~~ quarters beginning on or after January 1, 2013, the
18 liability of any member to the Director with respect to any
19 penalties that are assessed for failure to file a timely and
20 sufficient report of wages and which are not paid by the group
21 when due with respect to the calendar ~~month or~~ quarter, ~~as the~~
22 ~~case may be,~~ shall be in an amount which bears the same ratio
23 to the total penalties due with respect to such ~~month or~~
24 quarter as the total wages for insured work paid by such member
25 during such ~~month or~~ quarter bear to the total wages for
26 insured work paid during the ~~month or~~ quarter by all members of

1 the group. All of the provisions of this Section applicable to
2 nonprofit organizations which have elected to make payments in
3 lieu of contributions, and not inconsistent with the provisions
4 of this paragraph, shall apply to a group account and, upon its
5 termination, to each former member thereof. The Director shall
6 by regulation prescribe the conditions for establishment,
7 maintenance and termination of group accounts, and for addition
8 of new members to and withdrawal of active members from such
9 accounts.

10 F. Whenever service of notice is required by this Section,
11 such notice may be given and be complete by depositing it with
12 the United States Mail, addressed to the nonprofit organization
13 (or, in the case of a group account, to its representative) at
14 its last known address. If such organization is represented by
15 counsel in proceedings before the Director, service of notice
16 may be made upon the nonprofit organization by mailing the
17 notice to such counsel.

18 (Source: P.A. 97-689, eff. 6-14-12.)

19 (820 ILCS 405/1405) (from Ch. 48, par. 555)

20 Sec. 1405. Financing Benefits for Employees of Local
21 Governments.

22 A. 1. For the year 1978 and for each calendar year
23 thereafter, contributions shall accrue and become payable,
24 pursuant to Section 1400, by each governmental entity (other
25 than the State of Illinois and its wholly owned

1 instrumentalities) referred to in clause (B) of Section 211.1,
2 upon the wages paid by such entity with respect to employment
3 after 1977, unless the entity elects to make payments in lieu
4 of contributions pursuant to the provisions of subsection B.
5 Notwithstanding the provisions of Sections 1500 to 1510,
6 inclusive, a governmental entity which has not made such
7 election shall, for liability for contributions incurred prior
8 to January 1, 1984, pay contributions equal to 1 percent with
9 respect to wages for insured work paid during each such
10 calendar year or portion of such year as may be applicable. As
11 used in this subsection, the word "wages", defined in Section
12 234, is subject to all of the provisions of Section 235.

13 2. An Indian tribe for which service is exempted from the
14 federal unemployment tax under Section 3306(c)(7) of the
15 Federal Unemployment Tax Act may elect to make payments in lieu
16 of contributions in the same manner and subject to the same
17 conditions as provided in this Section with regard to
18 governmental entities, except as otherwise provided in
19 paragraphs 7, 8, and 9 of subsection B.

20 B. Any governmental entity subject to subsection A may
21 elect to make payments in lieu of contributions, in amounts
22 equal to the amounts of regular and extended benefits paid to
23 individuals, for any weeks which begin on or after the
24 effective date of the election, on the basis of wages for
25 insured work paid to them by the entity during the effective
26 period of such election. Notwithstanding the preceding

1 provisions of this subsection and the provisions of subsection
2 D of Section 1404, with respect to benefit years beginning
3 prior to July 1, 1989, any adjustment after September 30, 1989
4 to the base period wages paid to the individual by any employer
5 shall not affect the ratio for determining payments in lieu of
6 contributions of a governmental entity which has elected to
7 make payments in lieu of contributions. Provided, however, that
8 with respect to benefit years beginning on or after July 1,
9 1989, the governmental entity shall be required to make
10 payments equal to 100% of regular benefits, including
11 dependents' allowances, and 100% of extended benefits,
12 including dependents' allowances, paid to an individual with
13 respect to benefit years beginning during the effective period
14 of the election, but only if the governmental entity: (a) is
15 the last employer as provided in Section 1502.1 and (b) paid to
16 the individual receiving benefits, wages for insured work
17 during his base period. If the governmental entity described in
18 this paragraph meets the requirements of (a) but not (b), with
19 respect to benefit years beginning on or after July 1, 1989, it
20 shall be required to make payments in an amount equal to 50% of
21 regular benefits, including dependents' allowances, and 50% of
22 extended benefits, including dependents' allowances, paid to
23 an individual with respect to benefit years beginning during
24 the effective period of the election.

25 1. Any such governmental entity which becomes an employer
26 on January 1, 1978 pursuant to Section 205 may elect to make

1 payments in lieu of contributions for not less than one
2 calendar year beginning with January 1, 1978, provided that it
3 files its written election with the Director not later than
4 January 31, 1978.

5 2. A governmental entity newly created after January 1,
6 1978, may elect to make payments in lieu of contributions for a
7 period of not less than one calendar year beginning as of the
8 first day with respect to which it would, in the absence of its
9 election, incur liability for the payment of contributions,
10 provided that it files its written election with the Director
11 not later than 30 days immediately following the end of the
12 calendar quarter in which it has been created.

13 3. A governmental entity which has incurred liability for
14 the payment of contributions for at least 2 calendar years, and
15 is not delinquent in such payment and in the payment of any
16 interest or penalties which may have accrued, may elect to make
17 payments in lieu of contributions beginning January 1 of any
18 calendar year, provided that it files its written election with
19 the Director prior to such January 1, and provided, further,
20 that such election shall be for a period of not less than 2
21 calendar years.

22 4. An election to make payments in lieu of contributions
23 shall not terminate any liability incurred by a governmental
24 entity for the payment of contributions, interest or penalties
25 with respect to any calendar quarter ~~(or month, as the case may~~
26 ~~be)~~ which ends prior to the effective period of the election.

1 5. The termination by a governmental entity of the
2 effective period of its election to make payments in lieu of
3 contributions, and the filing of and subsequent action upon
4 written notices of termination of election, shall be governed
5 by the provisions of paragraphs 5 and 6 of Section 1404A,
6 pertaining to nonprofit organizations.

7 6. With respect to benefit years beginning prior to July 1,
8 1989, wages paid to an individual during his base period by a
9 governmental entity which elects to make payments in lieu of
10 contributions for less than full time work, performed during
11 the same weeks in the base period during which the individual
12 had other insured work, shall not be subject to payments in
13 lieu of contribution (upon such employer's request pursuant to
14 the regulation of the Director) so long as the employer
15 continued after the end of the base period, and continues
16 during the applicable benefit year, to furnish such less than
17 full time work to the individual on the same basis and in
18 substantially the same amount as during the base period. If the
19 individual is paid benefits with respect to a week (in the
20 applicable benefit year) after the employer has ceased to
21 furnish the work hereinabove described, the governmental
22 entity shall be liable for payments in lieu of contributions
23 with respect to the benefits paid to the individual after the
24 date on which the governmental entity ceases to furnish the
25 work.

26 7. An Indian tribe may elect to make payments in lieu of

1 contributions for calendar year 2003, provided that it files
2 its written election with the Director not later than January
3 31, 2003, and provided further that it is not delinquent in the
4 payment of any contributions, interest, or penalties.

5 8. Failure of an Indian tribe to make a payment in lieu of
6 contributions, or a payment of interest or penalties due under
7 this Act, within 90 days after the Department serves notice of
8 the finality of a determination and assessment shall cause the
9 Indian tribe to lose the option of making payments in lieu of
10 contributions, effective as of the calendar year immediately
11 following the date on which the Department serves the notice.
12 Notice of the loss of the option to make payments in lieu of
13 contributions may be protested in the same manner as a
14 determination and assessment under Section 2200 of this Act.

15 9. An Indian tribe that, pursuant to paragraph 8, loses the
16 option of making payments in lieu of contributions may again
17 elect to make payments in lieu of contributions for a calendar
18 year if: (a) the Indian tribe has incurred liability for the
19 payment of contributions for at least one calendar year since
20 losing the option pursuant to paragraph 8, (b) the Indian tribe
21 is not delinquent in the payment of any liabilities under the
22 Act, including interest or penalties, and (c) the Indian tribe
23 files its written election with the Director not later than
24 January 31 of the year with respect to which it is making the
25 election.

26 C. As soon as practicable following the close of each

1 calendar quarter, the Director shall mail to each governmental
2 entity which has elected to make payments in lieu of
3 contributions a Statement of the amount due from it for all the
4 regular and extended benefits paid during the calendar quarter,
5 together with the names of its workers or former workers and
6 the amounts of benefits paid to each of them during the
7 calendar quarter with respect to benefit years beginning prior
8 to July 1, 1989, on the basis of wages for insured work paid to
9 them by the governmental entity; or, with respect to benefit
10 years beginning after June 30, 1989, if such governmental
11 entity was the last employer as provided in Section 1502.1 with
12 respect to a benefit year beginning during the effective period
13 of the election. All of the provisions of subsection B of
14 Section 1404 pertaining to nonprofit organizations, not
15 inconsistent with the preceding sentence, shall be applicable
16 to payments in lieu of contributions by a governmental entity.

17 D. The provisions of subsections C through F, inclusive, of
18 Section 1404, pertaining to nonprofit organizations, shall be
19 applicable to each governmental entity which has elected to
20 make payments in lieu of contributions.

21 E. 1. If an Indian tribe fails to pay any liability under
22 this Act (including assessments of interest or penalty) within
23 90 days after the Department issues a notice of the finality of
24 a determination and assessment, the Director shall immediately
25 notify the United States Internal Revenue Service and the
26 United States Department of Labor.

1 2. Notices of payment and reporting delinquencies to Indian
2 tribes shall include information that failure to make full
3 payment within the prescribed time frame:

4 a. will cause the Indian tribe to lose the exemption
5 provided by Section 3306(c)(7) of the Federal Unemployment
6 Tax Act with respect to the federal unemployment tax;

7 b. will cause the Indian tribe to lose the option to
8 make payments in lieu of contributions.

9 (Source: P.A. 97-689, eff. 6-14-12.)