



100TH GENERAL ASSEMBLY

State of Illinois

2017 and 2018

HB2504

by Rep. Mary E. Flowers

SYNOPSIS AS INTRODUCED:

New Act
30 ILCS 105/5.878 new

Creates the Wage Insurance Act. Establishes a wage insurance program to be administered by the Department of Employment Security. Provides that an individual is eligible for benefits if the individual is a claimant under the Unemployment Insurance Act at the time the individual obtains reemployment and is not employed by the employer from which the individual was last separated. Provides for benefits in an amount sufficient to pay the individual the difference between the wage the individual received at the time of separation from the employer by which the individual was employed immediately before becoming a claimant under the Unemployment Insurance Act and the wages received from reemployment. Imposes a 0.4% tax on payroll beginning January 1, 2018. Provides that claims may be made beginning July 1, 2018. Provides for recovery of erroneous payments, hearings, penalties, unpaid tax, rules, and other matters. Creates the Wage Insurance Fund, provides for the continuing appropriation from the Fund of amounts necessary for the purposes authorized by the Act, and amends the State Finance Act to include the Wage Insurance Fund as a special fund in the State treasury.

LRB100 09069 JLS 19220 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

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 1. Short title. This Act may be cited as the Wage
5 Insurance Act.

6 Section 5. Definitions. As used in this Act:

7 "Department" means the Department of Employment Security.

8 "Director" means the Director of the Department of
9 Employment Security.

10 "Employer" means (1) any person, partnership, corporation,
11 association, or other business entity that employs one or more
12 employees for each working day during each of 20 or more
13 calendar workweeks; and (2) the State of Illinois and any other
14 unit of local government.

15 "Wage insurance benefits" means the benefits payable under
16 this Act.

17 "Tax" means the tax imposed under Section 25 of this Act.

18 Section 10. Wage Insurance Program.

19 (a) The Department shall establish and administer a Wage
20 Insurance Program.

21 (b) The Department shall establish procedures and forms for
22 filing claims for benefits under this Act.

1 (c) Information contained in the files and records
2 pertaining to an employee under this Act is confidential and
3 not open to public inspection, other than to public employees
4 in the performance of their official duties. However, the
5 employee or an authorized representative of an employee may
6 review the records or receive specific information from the
7 records on the presentation of the signed authorization of the
8 employee. An employer or the employer's duly authorized
9 representative may review the records of an employee employed
10 by the employer in connection with a pending claim. At the
11 Department's discretion, other persons may review records when
12 such persons are rendering assistance to the Department at any
13 stage of the proceedings on any matter pertaining to the
14 administration of this Act.

15 An employer must keep at its place of business records of
16 employment from which the information needed by the Department
17 for purposes of this Act may be obtained. The records shall at
18 all times be open to the inspection of the Department pursuant
19 to rules adopted by the Department.

20 (d) The Department shall develop and implement an outreach
21 program to ensure that individuals who may be eligible to
22 receive wage insurance benefits under this Act are made aware
23 of these benefits. Outreach information shall explain, in an
24 easy to understand format, eligibility requirements, the
25 claims process, weekly benefit amounts, maximum benefits
26 payable, notice requirements, reinstatement and

1 nondiscrimination rights, confidentiality, and coordination of
2 benefits under this Act and other laws, collective bargaining
3 agreements, and employer policies. Outreach information shall
4 be available in English and in languages other than English
5 that are spoken as a primary language by a significant portion
6 of the State's population, as determined by the Department.

7 Section 15. Eligibility for benefits.

8 (a) Benefits under this Act are payable to an individual
9 who is a claimant under the Unemployment insurance Act at the
10 time the individual obtains reemployment and who is not
11 employed by the employer from which the individual was last
12 separated.

13 (b) The Department may require that a claim for wage
14 insurance benefits under this Act be supported by a
15 certification of wages issued by the individual's employer.

16 Section 20. Disqualification from benefits.

17 (a) An individual is disqualified from wage insurance
18 benefits under this Act if the individual willfully makes a
19 false statement or misrepresentation regarding a material
20 fact, or willfully fails to disclose a material fact, to obtain
21 benefits.

22 (b) A disqualification for wage insurance benefits is for a
23 period of 2 years, and commences on the first day of the
24 calendar week in which the individual filed a claim for

1 benefits under this Act. An individual who is disqualified for
2 benefits is liable to the Department for a penalty in an amount
3 equal to 15% of the amount of benefits received by the
4 individual.

5 Section 25. Payroll tax.

6 (a) There is imposed a tax upon employees in the amount of
7 0.4% of wages as defined in Section 235 of the Unemployment
8 Act. The Department shall by rule provide for the collection of
9 this tax.

10 (b) Moneys collected pursuant to subsection (a), and any
11 accrued cash balances, shall be deposited into the Wage
12 Insurance Account Fund for payment of benefits and the
13 expenditures of the Department in carrying out the functions
14 and duties of the Department under this Act.

15 Section 30. Duration of benefits; amount of benefits.

16 (a) Wage insurance benefits are payable for a maximum of 2
17 years.

18 (b) The first payment of wage insurance benefits shall be
19 made to an employee within 2 weeks after the claim is filed.
20 Subsequent payments shall be made twice a month thereafter.

21 (c) Wage insurance benefits shall be paid in an amount
22 sufficient to pay to the individual the difference between the
23 wage received by the individual at the time of the separation
24 from the employer by which the individual was employed

1 immediately before becoming a claimant under the Unemployment
2 Insurance Act and the wages received by the individual from
3 reemployment.

4 (d) The Department shall provide a tax form to each
5 individual who has received wage insurance benefits for the
6 individual's use in paying federal income tax on the benefits
7 and shall advise an individual filing a new claim for wage
8 insurance benefits, at the time of filing the claim, that:

9 (1) benefits are subject to federal income tax;

10 (2) requirements exist pertaining to estimated tax
11 payments;

12 (3) the individual may elect to have federal income tax
13 deducted and withheld from the individual's payment of
14 benefits at the amount specified in the federal Internal
15 Revenue Code; and

16 (4) the individual is permitted to change a previously
17 elected withholding status.

18 Amounts deducted and withheld from benefits must remain in
19 the Wage Insurance Fund until transferred to the federal taxing
20 authority as a payment of income tax.

21 The Director shall follow all procedures specified by the
22 federal Internal Revenue Service pertaining to the deducting
23 and withholding of income tax.

24 Section 35. Recovery of erroneous payments.

25 (a) If an individual receives any wage insurance benefits

1 under Section 30 which the employee is not entitled:

2 (1) the individual is liable to the Department for the
3 amount of benefits received; and

4 (2) the amount of benefits received may be deducted by
5 the Department from any future benefits otherwise payable
6 to the individual under Section 30.

7 (b) If the Department decides that an individual has been
8 paid wage insurance benefits to which the individual is not
9 entitled because of an error, and that the individual is not
10 subject to disqualification under Section 20, the amounts
11 received in error may be recovered by the Department only by
12 deductions from benefits otherwise payable to the employee
13 under Section 30 during the 52 weeks following the date on
14 which the order establishing the amount of the erroneous
15 payment becomes final. If amounts determined to be recoverable
16 have not been paid within that time, the liability shall be
17 canceled by the Department and charged against the Wage
18 Insurance Fund.

19 (c) Except as provided in subsection (d), if benefits
20 determined to be recoverable under this Section have not been
21 paid within 3 years after the date that the order of the
22 Department establishing the liability of the individual
23 becomes final, and no payments have been received on the
24 liability for at least 3 months, the liability shall be
25 canceled by the Department and charged against the Wage
26 Insurance Fund.

1 (d) Any amount due under this Section may be collected by
2 the Department in a civil action against the individual brought
3 in the name of the Department.

4 (e) Interest on any benefits recoverable under this Section
5 shall be paid and collected at the same time repayment of
6 benefits is made by the individual. Interest on an amount
7 recoverable under this Section accrues at the rate specified in
8 Section 2-1303 of the Code of Civil Procedure, beginning on the
9 first day of the month following 60 days after entry of the
10 order establishing the amount recoverable.

11 (f) Any amount collected under this Section by the
12 Department shall be paid into the Wage Insurance Fund.

13 Section 40. Hearings. A person aggrieved by a decision of
14 the Department under this Act may request a hearing. The
15 Department shall adopt rules governing hearings and the
16 issuance of final orders under this Act in accordance with the
17 provisions of the Illinois Administrative Procedure Act. All
18 final administrative decisions of the Department under this Act
19 are subject to judicial review under the Administrative Review
20 Law.

21 Section 45. Civil penalty.

22 (a) The Department may assess a civil penalty not to exceed
23 \$5,000 against an employer that:

24 (1) fails to pay when due the taxes imposed under

1 Section 25; or

2 (2) fails to comply with this Act or any rules adopted
3 by the Department relating to reports or other requirements
4 necessary to carry out the purposes of this Act.

5 (b) All civil penalties collected under this Section shall
6 be applied first toward reimbursement of the costs incurred in
7 investigating violations, conducting hearings, and assessing
8 and collecting penalties. All remaining amounts shall be paid
9 into the Wage Insurance Fund.

10 Section 50. Unpaid tax.

11 (a) If an employer defaults with respect to any tax payment
12 required to be made by the employer tax under Section 25, a
13 person described in subsection (b) of this Section who, as an
14 officer, member, partner, or employee, is under a duty to
15 perform the actions required by employers under this Act shall
16 be personally liable for amounts due under Section 25. More
17 than one person may be jointly and severally liable under this
18 Section.

19 (b) This Section applies only to a person who is one or
20 more of the following:

21 (1) An officer or employee of a corporation.

22 (2) A member or an employee of a limited liability
23 corporation.

24 (3) A partner in or an employee of a limited liability
25 partnership.

1 (c) If the Director determines that an amount is due under
2 this Section, the Director shall issue a notice of assessment
3 to the person liable under this Section mailed to the person's
4 last-known address of record with the Director.

5 Section 55. Wage Insurance Fund. The Wage Insurance Fund is
6 created as a special fund in the State treasury. All moneys
7 received under this Act shall be deposited into the Fund. This
8 Section constitutes a continuing appropriation from the Fund of
9 all amounts necessary for the purposes authorized by this Act.
10 Any interest earned on moneys in the Wage Insurance Fund shall
11 be deposited into the Fund.

12 Section 60. Rules. The Department may adopt any rules
13 necessary to implement this Act.

14 Section 65. Commencement date.

15 (a) Employers shall first withhold taxes from employees'
16 earnings for quarters worked beginning January 1, 2018.

17 (b) Individuals may first file claims wage insurance
18 benefits under this Act on or after June 1, 2018.

19 Section 70. Authority to contract. The Department may
20 contract or enter into interagency agreements with other State
21 agencies for the initial administration of the Wage Insurance
22 Program.

1 Section 105. The State Finance Act is amended by adding
2 Section 5.878 as follows:

3 (30 ILCS 105/5.878 new)

4 Sec. 5.878. Wage Insurance Fund.