



## 102ND GENERAL ASSEMBLY

### State of Illinois

### 2021 and 2022

#### HB4440

Introduced 1/21/2022, by Rep. Joe Sosnowski

#### SYNOPSIS AS INTRODUCED:

New Act

20 ILCS 3305/7.5 new

820 ILCS 405/1502.4

820 ILCS 405/1504.1 new

820 ILCS 405/1400.01 new

820 ILCS 405/1400.3 new

820 ILCS 405/101 new

Provides that the Act may be referred to as the COVID-19 Small Business Relief Act. Creates the COVID-19 Immunity Act. Provides that an employer shall not be liable in a civil action claiming an injury from exposure or potential exposure to COVID-19 if the act or omission alleged to violate a duty of care of the employer was in compliance or consistent with guidance applicable at the time of the alleged exposure. Creates the COVID-19 Business Operation Compliance Act. Provides that a qualified employer may lawfully operate his or her business in the State by adhering to any health and safety guidance that is in place during a time when there is a COVID-19-related public health emergency. Creates the Temporary Employment Tort Moratorium Act. Provides that any lawsuit against a small business for wrongful termination that occurred in the calendar years of 2020 or 2021 shall be stayed until January 1, 2023. Amends the Illinois Emergency Management Agency Act. Provides that the Governor's 30 days of emergency powers shall not be extended, renewed, or successively issued by any subsequent disaster proclamations for the same disaster. Amends the Unemployment Insurance Act. Provides that for an annual administrative fee not to exceed \$5, an employer subject to the payment of contributions may pay its quarterly contributions due for wages paid during the first 3 quarters of a calendar year in equal installments. Provides that the Director of the Department of Employment Security may establish a temporary unemployment tax holiday for the purposes of providing temporary tax payment relief to an eligible employer in the State. Allows for the development and implementation of an unemployment benefits claims-processing and contribution-management model pilot program that is operated by a responsible private entity or administrator. Makes other changes. Effective immediately.

LRB102 21238 LNS 30349 b

1 AN ACT concerning COVID-19.

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

4 Article 1. COVID-19 Small Business Relief

5 Section 1-1. References to Act. This Act may be referred  
6 to as the COVID-19 Small Business Relief Act.

7 Article 5. Civil Immunity for Small Businesses

8 Section 5-1. Short title. This Article may be cited as the  
9 COVID-19 Immunity Act. References in this Article to "this  
10 Act" mean this Article.

11 Section 5-5. Definitions. As used in this Act:

12 "COVID-19" means the novel coronavirus identified as  
13 SARS-CoV-2, the disease caused by SARS-CoV-2, and conditions  
14 associated with the disease.

15 "Employer" means any individual, partnership, association,  
16 corporation, limited liability company, business trust, or any  
17 person or group of persons acting directly or indirectly in  
18 the interest of an employer in relation to an employee, for  
19 which one to 50 persons are gainfully employed on some day  
20 within a calendar year. An employer is subject to this Act in a

1 calendar year on and after the first day in such calendar year  
2 in which he employs one or more persons, and for the following  
3 calendar year.

4 "Guidance" means written guidelines related to COVID-19  
5 issued by the Centers for Disease Control and Prevention, the  
6 Occupational Safety and Health Administration of the United  
7 States Department of Labor, the Illinois Department of Public  
8 Health, the Illinois Department of Commerce and Economic  
9 Opportunity, or any other State agency, board, or commission.

10 Section 5-10. Civil immunity. Notwithstanding any other  
11 provision of law, an employer shall not be liable in a civil  
12 action claiming an injury from exposure or potential exposure  
13 to COVID-19 if the act or omission alleged to violate a duty of  
14 care of the employer was in compliance or consistent with  
15 federal or State regulations, a presidential or gubernatorial  
16 executive order, or guidance applicable at the time of the  
17 alleged exposure. If 2 or more sources of guidance apply to the  
18 conduct or risk at the time of the alleged exposure, the  
19 employer shall not be liable if the conduct is consistent with  
20 any applicable guidance.

21 Section 5-15. Exceptions. The immunity described in  
22 Section 5-10 does not apply to willful misconduct, reckless  
23 infliction of harm, or intentional infliction of harm. This  
24 Act does not affect rights and remedies under the Workers'

1 Compensation Act.

2 Article 10. Businesses Allowed to Operate Under Federal  
3 Guidance

4 Section 10-1. Short title. This Article may be cited as  
5 the COVID-19 Business Operation Compliance Act. References in  
6 this Article to "this Act" mean this Article.

7 Section 10-5. Definitions. As used in this Act:

8 "COVID-19" means the novel coronavirus identified as  
9 SARS-CoV-2, the disease caused by SARS-CoV-2, and conditions  
10 associated with the disease.

11 "Guidance" means written guidelines related to COVID-19  
12 issued by the Centers for Disease Control and Prevention, the  
13 Occupational Safety and Health Administration of the United  
14 States Department of Labor, the Illinois Department of Public  
15 Health, the Illinois Department of Commerce and Economic  
16 Opportunity, or any other State agency, board, or commission.

17 "Qualified employer" means any essential businesses and  
18 operations as defined in Executive Order 2020-10 dated March  
19 20, 2020.

20 Section 10-10. Lawful operations during a COVID-19-related  
21 public health crisis. Notwithstanding any other provision of  
22 law, a qualified employer may lawfully operate his or her

1 business in the State by adhering to any health and safety  
2 guidance that is in place during a time when there is a  
3 COVID-19-related public health emergency. The qualified  
4 employer may choose to adhere to specific federal guidance in  
5 lieu of any guidance offered by the State or local  
6 governmental agency if the federal guidance is deemed less  
7 stringent by the qualified employer.

8 Section 10-15. Relation to other laws. This Act supersedes  
9 any State law, including any local law or ordinance, contract,  
10 agreement, policy, plan, practice, or other matter that  
11 reduces, limits, or eliminates in any manner any protection  
12 provided by this Act, including the establishment of  
13 additional prerequisites to the exercise of any such  
14 protection.

15 Article 15. Temporary Employment Tort Moratorium

16 Section 15-1. Short title. This Article may be cited as  
17 the Temporary Employment Tort Moratorium Act. References in  
18 this Article to "this Act" mean this Article.

19 Section 15-5. Temporary stay of wrongful termination  
20 suits.

21 (a) Due to the vast effects of the COVID-19 pandemic on  
22 small businesses and the response from the State government

1 that made it even more difficult for small businesses to  
2 operate, the purpose of this Act is to give small businesses  
3 time to recuperate some of their losses before any possible  
4 lawsuits may cause them any further harm.

5 (b) As used in this Section, "small business" means any  
6 business with 50 or fewer employees.

7 (c) Any wrongful termination lawsuit against a small  
8 business filed on the basis of a termination that occurred in  
9 the calendar years of 2020 or 2021 shall be stayed until  
10 January 1, 2023. This shall not abridge the right of a person  
11 to file or obtain any remedy for a wrongful termination suit  
12 and any statute of limitations period shall be tolled from the  
13 date the wrongful termination occurred or should have been  
14 discovered until January 1, 2023.

15 Article 20. Claims Against the State of Illinois; IEMA  
16 Disaster Declaration Limitation

17 Section 20-5. The Illinois Emergency Management Agency Act  
18 is amended by adding Section 7.5 as follows:

19 (20 ILCS 3305/7.5 new)

20 Sec. 7.5. Expiration of emergency powers of the Governor.  
21 The Governor's 30 days of emergency powers shall not be  
22 extended, renewed, or successively issued by any subsequent  
23 disaster proclamations for the same disaster. Neither shall

1 any disaster proclamations be extended, renewed, or  
2 successively issued beyond 30 days for the same disaster.  
3 Injunctive relief, attorney's fees, and court costs shall be  
4 awarded to a prevailing plaintiff in a suit alleging that an  
5 executive order by the Governor is in violation of this  
6 Section.

7 Article 25. Unemployment Benefit Charges Relief Extended; No  
8 Experience Factor Changes Based on COVID-19-Related  
9 Unemployment

10 Section 30-5. The Unemployment Insurance Act is amended by  
11 changing Section 1502.4 and by adding Section 1504.1 as  
12 follows:

13 (820 ILCS 405/1502.4)

14 Sec. 1502.4. Benefit charges; COVID-19.

15 A. With respect to any benefits paid for a week of  
16 unemployment that begins on or after March 15, 2020, and  
17 before June 30, 2021 ~~December 31, 2020~~, and is directly or  
18 indirectly attributable to COVID-19, notwithstanding any other  
19 provisions to the contrary an employer that is subject to the  
20 payment of contributions shall not be chargeable for any  
21 benefit charges.

22 B. With respect to any regular benefits paid for a week of  
23 unemployment that begins on or after March 15, 2020, and

1 before June 30, 2021 ~~December 31, 2020~~, and is directly or  
2 indirectly attributable to COVID-19, notwithstanding any other  
3 provisions to the contrary except subsection E, a nonprofit  
4 organization that is subject to making payments in lieu of  
5 contributions shall be chargeable for 50% of the benefits  
6 paid.

7 C. With respect to any benefits paid for a week of  
8 unemployment that begins on or after March 15, 2020, and  
9 before June 30, 2021 ~~December 31, 2020~~, and is directly or  
10 indirectly attributable to COVID-19, notwithstanding any other  
11 provisions to the contrary except subsection E, the State and  
12 any local government that is subject to making payments in  
13 lieu of contributions shall be chargeable for 50% of the  
14 benefits paid, irrespective of whether the State or local  
15 government paid the individual who received the benefits wages  
16 for insured work during the individual's base period.

17 D. Subsections A, B, and C shall only apply to the extent  
18 that the employer can show that the individual's unemployment  
19 for the week was directly or indirectly attributable to  
20 COVID-19.

21 E. No employer shall be chargeable for the week of  
22 benefits paid to an individual under the provisions of Section  
23 500D-1.

24 (Source: P.A. 101-633, eff. 6-5-20.)



1       Sec. 1504.1. State experience factor evaluation. The  
2       Department shall recommend to the General Assembly and the  
3       Governor that no change to the State's experience factor  
4       should be made in a calendar year if the Department reasonably  
5       believes that any change will result in increased costs to  
6       employers in the State.

7       Article 30. Quarterly Unemployment Insurance Contributions

8       Section 35-5. The Unemployment Insurance Act is amended by  
9       adding Section 1400.01 as follows:

10       (820 ILCS 405/1400.01 new)

11       Sec. 1400.01. Payments of contributions. For an annual  
12       administrative fee not to exceed \$5, an employer subject to  
13       the payment of contributions may pay its quarterly  
14       contributions due for wages paid during the first 3 quarters  
15       of a calendar year in equal installments as follows:

16       (1) For contributions due for wages paid during the  
17       first quarter of that calendar year, one-fourth of the  
18       contributions due shall be paid on or before April 30 of  
19       that calendar year, one-fourth shall be paid on or before  
20       July 31 of that calendar year, one-fourth shall be paid on  
21       or before October 31 of that calendar year, and one-fourth  
22       shall be paid on or before January 31 of the succeeding  
23       calendar year.

1           (2) In addition to the payments specified in paragraph  
2           (1), for contributions due for wages paid during the  
3           second quarter of that calendar year, one-third of the  
4           contributions due shall be paid on or before July 31 of  
5           that calendar year, one-third shall be paid on or before  
6           October 31 of that calendar year, and one-third shall be  
7           paid on or before January 31 of the succeeding calendar  
8           year.

9           (3) In addition to the payments specified in  
10           paragraphs (1) and (2), for contributions due for wages  
11           paid during the third quarter of that calendar year,  
12           one-half of the contributions due shall be paid on or  
13           before October 31 of that calendar year, and one-half  
14           shall be paid on or before January 31 of the succeeding  
15           calendar year.

16           (4) The annual administrative fee assessed for  
17           electing to pay under this Section for a calendar year  
18           shall be due and payable on or before April 30 of that  
19           calendar year and shall be deposited into the Special  
20           Administrative Account.

21           Interest shall not accrue on any contribution that becomes  
22           due for wages paid during the first 3 quarters of a calendar  
23           year if the employer elects to use the provisions of this  
24           Section and pays its contributions and administrative fee in  
25           accordance with paragraphs (1) through (4). If an employer  
26           elects to use the provisions of this Section but fails to pay

1 its contributions when due in accordance with paragraphs (1)  
2 through (4), interest shall accrue as of the date that the  
3 payment was originally due without regard to this Section.

4 The Director may adopt such rules as the Director deems  
5 necessary to carry out this Section.

6 Article 35. Unemployment Tax Holiday

7 Section 40-5. The Unemployment Insurance Act is amended by  
8 adding Section 1400.3 as follows:

9 (820 ILCS 405/1400.3 new)

10 Sec. 1400.3. Employer's contribution holiday. For calendar  
11 year 2021, the Director may establish a temporary unemployment  
12 tax holiday for the purposes of providing temporary tax  
13 payment relief to an eligible employer in the State. As used in  
14 this Section, "eligible employer" means an employer with 50 or  
15 fewer employees who is subject to this Act.

16 Article 40. Private Sector Option for Unemployment Insurance  
17 Contribution and Benefit Pilot Program

18 Section 45-5. The Unemployment Insurance Act is amended by  
19 adding Section 101 as follows:

20 (820 ILCS 405/101 new)

1       Sec. 101. Private Sector Option for Unemployment Insurance  
2       Contribution and Benefit Pilot Program.

3       (a) The State is facing one of the most challenging  
4       financial times in State history that was brought about by the  
5       2019 novel coronavirus. While at the beginning of the global  
6       pandemic, and to this day, the novel coronavirus created a  
7       public health crisis, its continued impacts on public health  
8       have additionally given way to an economic crisis. This has  
9       placed an incredible strain on the Department of Employment  
10       Security. Facing an unprecedented need for unemployment and  
11       other assistance, the Department has proven ineffectual in its  
12       safe, secure, and timely handling and processing of  
13       unemployment claims and benefits. All across this State, there  
14       have been countless cases of reported and suspected  
15       unemployment fraud committed against State residents. The  
16       great need for assistance by legitimate claimants and the  
17       seemingly unknown levels of fraudulent claims has resulted in  
18       an unworkable benefits delivery model that does not appear to  
19       be improving. Therefore, the State affirms herein the need to  
20       employ a new alternative method of processing unemployment  
21       claims that allows Illinois workers and businesses greater  
22       flexibility, security, and cost-effectiveness.

23       (b) The Department may allow for the development and  
24       implementation of an unemployment benefits claims-processing  
25       and contribution-management model pilot program that is  
26       operated by a responsible private entity or administrator with

1 all appropriate, safe, and secure integrity measures that are  
2 required by State and federal laws governing the  
3 administration of unemployment insurance benefit systems.

4 (c) In establishing the pilot program, the Department may  
5 establish an unemployment insurance contribution model that  
6 allows qualified employers to, in lieu of making regular  
7 unemployment insurance contributions under the provisions of  
8 this Act, secure a bond that is managed by the responsible  
9 private entity or administrator for purposes of paying out any  
10 qualified unemployment claims. Similarly, a qualified employee  
11 may secure a bond that is managed by the responsible private  
12 entity or administrator for purposes of accessing qualified  
13 unemployment claims. In establishing the pilot program, the  
14 Department may, additionally, allow for the portability of any  
15 unemployment insurance that allows qualified employees to work  
16 with the responsible private entity or administrator to ensure  
17 that timely and secure payments are made from the bond. The  
18 Department may set any reasonable criteria for the  
19 establishment of the pilot program and may establish any  
20 necessary guidelines to ensure the State's compliance with any  
21 federal law.

22 (d) The pilot program shall be overseen by the Department  
23 and the Department, in consultation with the Department of  
24 Revenue, may adopt any rules necessary to ensure that the  
25 pilot program and the responsible private entity or  
26 administrator that acts as the administrator of the pilot

1 program is abiding by all applicable State and federal laws.

2 (e) The Department may receive any and all information  
3 deemed necessary and appropriate from the responsible private  
4 entity or administrator to ensure the compliance of the  
5 responsible private entity or administrator with all State and  
6 federal laws, including any reporting requirements that the  
7 Department may deem reasonable and appropriate.

8 (f) Participation in the pilot program created under this  
9 Section may be limited to any qualified employee that:

10 (1) has filed for and received unemployment insurance  
11 benefits in calendar year 2020 or 2021; or

12 (2) has been the victim of unemployment insurance  
13 fraud; and

14 (3) is an employee of a qualified employer in the  
15 State that employs less than 50 employees in the State.

16 (g) The pilot program under this Section shall become  
17 effective beginning on January 1, 2022 and shall be in effect  
18 until January 1, 2025.

19 (h) Nothing in this Section shall be interpreted to create  
20 a new tax or increase the rate of contribution of any employer  
21 required under this Act.

22 (i) As used in this Section:

23 "Private administration of unemployment insurance  
24 benefits" means the direct administration of State  
25 unemployment insurance benefits for qualifying taxpayers and  
26 businesses that elect to participate in the pilot program

1 created under this Section.

2 "Qualified employee" means an Illinois worker who filed  
3 for and received unemployment benefits in calendar year 2020  
4 or 2021 or an Illinois worker who was the victim of  
5 unemployment insurance benefit fraud in calendar year 2020 or  
6 2021.

7 "Qualified employer" means any business with 50 or fewer  
8 employees.

9 "Responsible private entity or administrator" means a  
10 nonpublic entity that has operated in the business of  
11 insurance or unemployment insurance administration and is  
12 licensed in the State and deemed capable and competent to  
13 implement the provisions of the pilot program created under  
14 this Section.

15 Article 99. Effective Date

16 Section 99-99. Effective date. This Act takes effect upon  
17 becoming law.