

HB3860



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

HB3860

Introduced 2/26/2009, by Rep. Jack D. Franks

SYNOPSIS AS INTRODUCED:

820 ILCS 405/409

from Ch. 48, par. 409

Amends the Unemployment Insurance Act. Provides that, subject to appropriation, 13 weeks of additional benefits shall be paid to exhaustees.

LRB096 08342 WGH 18451 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 5. The Unemployment Insurance Act is amended by
5 changing Section 409 as follows:

6 (820 ILCS 405/409) (from Ch. 48, par. 409)

7 Sec. 409. Extended Benefits.

8 A. For the purposes of this Section:

9 1. "Extended benefit period" means a period which
10 begins with the third week after a week for which there is
11 a State "on" indicator; and ends with either of the
12 following weeks, whichever occurs later: (1) the third week
13 after the first week for which there is a State "off"
14 indicator, or (2) the thirteenth consecutive week of such
15 period. No extended benefit period shall begin by reason of
16 a State "on" indicator before the fourteenth week following
17 the end of a prior extended benefit period.

18 2. There is a "State 'on' indicator" for a week if the
19 Director determines, in accordance with the regulations of
20 the United States Secretary of Labor or other appropriate
21 Federal agency, that for the period consisting of such week
22 and the immediately preceding twelve weeks, the rate of
23 insured unemployment (not seasonally adjusted) in this

1 State (a) equaled or exceeded 4% and equaled or exceeded
2 120% of the average of such rates for the corresponding
3 13-week period ending in each of the preceding two calendar
4 years, or (b) equaled or exceeded 5%; for weeks beginning
5 after September 25, 1982 (1) equaled or exceeded 5% and
6 equaled or exceeded 120% of the average of such rates for
7 the corresponding 13-week period ending in each of the
8 preceding 2 calendar years, or (2) equaled or exceeded 6
9 percent.

10 3. There is a "State 'off' indicator" for a week if the
11 Director determines, in accordance with the regulations of
12 the United States Secretary of Labor or other appropriate
13 Federal agency, that for the period consisting of such week
14 and the immediately preceding twelve weeks, the rate of
15 insured unemployment (not seasonally adjusted) in this
16 State (a) was less than 5% and was less than 120% of the
17 average of such rates for the corresponding 13-week period
18 ending in each of the preceding 2 calendar years, or (b)
19 was less than 4%; and for weeks beginning after September
20 25, 1982, (1) was less than 6% and less than 120% of the
21 average of such rates for the corresponding 13-week period
22 ending in each of the preceding 2 calendar years, or (2)
23 was less than 5%.

24 4. "Rate of insured unemployment", for the purpose of
25 paragraphs 2 and 3, means the percentage derived by
26 dividing (a) the average weekly number of individuals

1 filing claims for "regular benefits" in this State for
2 weeks of unemployment with respect to the most recent 13
3 consecutive week period, as determined by the Director on
4 the basis of his reports to the United States Secretary of
5 Labor or other appropriate Federal agency, by (b) the
6 average monthly employment covered under this Act for the
7 first four of the most recent six completed calendar
8 quarters ending before the close of such 13-week period.

9 5. "Regular benefits" means benefits, other than
10 extended benefits and additional benefits, payable to an
11 individual (including dependents' allowances) under this
12 Act or under any other State unemployment compensation law
13 (including benefits payable to Federal civilian employees
14 and ex-servicemen pursuant to 5 U.S.C. chapter 85).

15 6. "Extended benefits" means benefits (including
16 benefits payable to Federal civilian employees and
17 ex-servicemen pursuant to 5 U.S.C. chapter 85) payable to
18 an individual under the provisions of this Section for
19 weeks which begin in his eligibility period.

20 7. "Additional benefits" means benefits totally
21 financed by a State and payable to exhaustees (as defined
22 in subsection C) by reason of conditions of high
23 unemployment or by reason of other specified factors. If an
24 individual is eligible to receive extended benefits under
25 the provisions of this Section and is eligible to receive
26 additional benefits with respect to the same week under the

1 law of another State, he may elect to claim either extended
2 benefits or additional benefits with respect to the week.

3 8. "Eligibility period" means the period consisting of
4 the weeks in an individual's benefit year which begin in an
5 extended benefit period and, if his benefit year ends
6 within such extended benefit period, any weeks thereafter
7 which begin in such period.

8 9. Notwithstanding any of the provisions of Sections
9 1404, 1405B, and 1501, no employer shall be liable for
10 payments in lieu of contributions, and wages shall not
11 become benefit wages, by reason of the payment of extended
12 benefits which are wholly reimbursed to this State by the
13 Federal Government. With respect to extended benefits,
14 paid prior to July 1, 1989, wages shall become benefit
15 wages under Section 1501 only when an individual is first
16 paid such benefits with respect to his eligibility period
17 which are not wholly reimbursed to this State by the
18 Federal Government. Extended benefits, paid on or after
19 July 1, 1989, shall become benefit charges under Section
20 1501.1 only when any individual is paid such benefits with
21 respect to his eligibility period which are not wholly
22 reimbursed by the Federal Government.

23 B. An individual shall be eligible to receive extended
24 benefits pursuant to this Section for any week which begins in
25 his eligibility period if, with respect to such week (1) he has
26 been paid wages for insured work during his base period equal

1 to at least 1 1/2 times the wages paid in that calendar quarter
2 of his base period in which such wages were highest, provided
3 that this provision applies only with respect to weeks
4 beginning after September 25, 1982; (2) he has met the
5 requirements of Section 500E of this Act; (3) he is an
6 exhaustee; and (4) except when the result would be inconsistent
7 with the provisions of this Section, he has satisfied the
8 requirements of this Act for the receipt of regular benefits.

9 C. An individual is an exhaustee with respect to a week
10 which begins in his eligibility period if:

11 1. Prior to such week (a) he has received, with respect
12 to his current benefit year that includes such week, the
13 maximum total amount of benefits to which he was entitled
14 under the provisions of Section 403B, and all of the
15 regular benefits (including dependents' allowances) to
16 which he had entitlement (if any) on the basis of wages or
17 employment under any other State unemployment compensation
18 law; or (b) he has received all the regular benefits
19 available to him with respect to his current benefit year
20 that includes such week, under this Act and under any other
21 State unemployment compensation law, after a cancellation
22 of some or all of his wage credits or the partial or total
23 reduction of his regular benefit rights; or (c) his benefit
24 year terminated, and he cannot meet the qualifying wage
25 requirements of Section 500E of this Act or the qualifying
26 wage or employment requirements of any other State

1 unemployment compensation law to establish a new benefit
2 year which would include such week or, having established a
3 new benefit year that includes such week, he is ineligible
4 for regular benefits by reason of Section 607 of this Act
5 or a like provision of any other State unemployment
6 compensation law; and

7 2. For such week (a) he has no right to benefits or
8 allowances, as the case may be, under the Railroad
9 Unemployment Insurance Act, or such other Federal laws as
10 are specified in regulations of the United States Secretary
11 of Labor or other appropriate Federal agency; and (b) he
12 has not received and is not seeking benefits under the
13 unemployment compensation law of Canada, except that if he
14 is seeking such benefits and the appropriate agency finally
15 determines that he is not entitled to benefits under such
16 law, this clause shall not apply.

17 3. For the purposes of clauses (a) and (b) of paragraph
18 1 of this subsection, an individual shall be deemed to have
19 received, with respect to his current benefit year, the
20 maximum total amount of benefits to which he was entitled
21 or all of the regular benefits to which he had entitlement,
22 or all of the regular benefits available to him, as the
23 case may be, even though (a) as a result of a pending
24 reconsideration or appeal with respect to the "finding"
25 defined in Section 701, or of a pending appeal with respect
26 to wages or employment or both under any other State

1 unemployment compensation law, he may subsequently be
2 determined to be entitled to more regular benefits; or (b)
3 by reason of a seasonality provision in a State
4 unemployment compensation law which establishes the weeks
5 of the year for which regular benefits may be paid to
6 individuals on the basis of wages in seasonal employment he
7 may be entitled to regular benefits for future weeks but
8 such benefits are not payable with respect to the week for
9 which he is claiming extended benefits, provided that he is
10 otherwise an exhaustee under the provisions of this
11 subsection with respect to his rights to regular benefits,
12 under such seasonality provision, during the portion of the
13 year in which that week occurs; or (c) having established a
14 benefit year, no regular benefits are payable to him with
15 respect to such year because his wage credits were
16 cancelled or his rights to regular benefits were totally
17 reduced by reason of the application of a disqualification
18 provision of a State unemployment compensation law.

19 D. 1. The provisions of Section 607 and the waiting period
20 requirements of Section 500D shall not be applicable to any
21 week with respect to which benefits are otherwise payable
22 under this Section.

23 2. An individual shall not cease to be an exhaustee
24 with respect to any week solely because he meets the
25 qualifying wage requirements of Section 500E for a part of
26 such week.

1 3. For the purposes of this Section, the "base period"
2 referred to in Sections 601 and 602 shall be the base
3 period with respect to the benefit year in which the
4 individual's eligibility period begins.

5 E. With respect to any week which begins in his eligibility
6 period, an exhaustee's "weekly extended benefit amount" shall
7 be the same as his weekly benefit amount during his benefit
8 year which includes such week or, if such week is not in a
9 benefit year, during his applicable benefit year, as defined in
10 regulations issued by the United States Secretary of Labor or
11 other appropriate Federal agency. If the exhaustee had more
12 than one weekly benefit amount during his benefit year, his
13 weekly extended benefit amount with respect to such week shall
14 be the latest of such weekly benefit amounts.

15 F. An eligible exhaustee shall be entitled, during any
16 eligibility period, to a maximum total amount of extended
17 benefits equal to the lesser of the following amounts:

18 1. Fifty percent of the maximum total amount of
19 benefits to which he was entitled under Section 403B during
20 his applicable benefit year; or

21 2. Thirteen times his weekly extended benefit amount as
22 determined under subsection E.

23 3. Notwithstanding subparagraphs 1 and 2 of this
24 subsection F, and if the benefit year of an individual ends
25 within an extended benefit period, the remaining balance of
26 extended benefits that the individual would, but for this

1 subsection F, be otherwise entitled to receive in that
2 extended benefit period, for weeks of unemployment
3 beginning after the end of the benefit year, shall be
4 reduced (but not below zero) by the product of the number
5 of weeks for which the individual received any amounts as
6 trade readjustment allowances as defined in the federal
7 Trade Act of 1974 within that benefit year multiplied by
8 his weekly benefit amount for extended benefits.

9 G. 1. A claims adjudicator shall examine the first claim
10 filed by an individual with respect to his eligibility
11 period and, on the basis of the information in his
12 possession, shall make an "extended benefits finding".
13 Such finding shall state whether or not the individual has
14 met the requirement of subsection B(1), is an exhaustee
15 and, if he is, his weekly extended benefit amount and the
16 maximum total amount of extended benefits to which he is
17 entitled. The claims adjudicator shall promptly notify the
18 individual of his "extended benefits finding", and shall
19 promptly notify the individual's most recent employing
20 unit, with respect to benefit years beginning on or after
21 July 1, 1989 and the individual's last employer (referred
22 to in Section 1502.1) that the individual has filed a claim
23 for extended benefits. The claims adjudicator may
24 reconsider his "extended benefits finding" at any time
25 within one year after the close of the individual's
26 eligibility period, and shall promptly notify the

1 individual of such reconsidered finding. All of the
2 provisions of this Act applicable to reviews from findings
3 or reconsidered findings made pursuant to Sections 701 and
4 703 which are not inconsistent with the provisions of this
5 subsection shall be applicable to reviews from extended
6 benefits findings and reconsidered extended benefits
7 findings.

8 2. If, pursuant to the reconsideration or appeal with
9 respect to a "finding", referred to in paragraph 3 of
10 subsection C, an exhaustee is found to be entitled to more
11 regular benefits and, by reason thereof, is entitled to
12 more extended benefits, the claims adjudicator shall make a
13 reconsidered extended benefits finding and shall promptly
14 notify the exhaustee thereof.

15 H. Whenever an extended benefit period is to begin in this
16 State because there is a State "on" indicator, or whenever an
17 extended benefit period is to end in this State because there
18 is a State "off" indicator, the Director shall make an
19 appropriate public announcement.

20 I. Computations required by the provisions of paragraph 6
21 of subsection A shall be made by the Director in accordance
22 with regulations prescribed by the United States Secretary of
23 Labor, or other appropriate Federal agency.

24 J. 1. Interstate Benefit Payment Plan means the plan
25 approved by the Interstate Conference of Employment
26 Security Agencies under which benefits shall be payable to

1 unemployed individuals absent from the state (or states) in
2 which benefit credits have been accumulated.

3 2. An individual who commutes from his state of
4 residence to work in another state and continues to reside
5 in such state of residence while filing his claim for
6 unemployment insurance under this Section of the Act shall
7 not be considered filing a claim under the Interstate
8 Benefit Payment Plan so long as he files his claim in and
9 continues to report to the employment office under the
10 regulations applicable to intrastate claimants in the
11 state in which he was so employed.

12 3. "State" when used in this subsection includes States
13 of the United States of America, the District of Columbia,
14 Puerto Rico and the Virgin Islands. For purposes of this
15 subsection, the term "state" shall also be construed to
16 include Canada.

17 4. Notwithstanding any other provision of this Act,
18 effective with weeks beginning on or after June 1, 1981 an
19 individual shall be eligible for a maximum of 2 weeks of
20 benefits payable under this Section after he files his
21 initial claim for extended benefits in an extended benefit
22 period, as defined in paragraph 1 of subsection A, under
23 the Interstate Benefit Payment Plan unless there also
24 exists an extended benefit period, as defined in paragraph
25 1 of subsection A, in the state where such claim is filed.
26 Such maximum eligibility shall continue as long as the

1 individual continues to file his claim under the Interstate
2 Benefit Payment Plan, notwithstanding that the individual
3 moves to another state where an extended benefit period
4 exists and files for weeks prior to his initial Interstate
5 claim in that state.

6 5. To assure full tax credit to the employers of this
7 state against the tax imposed by the Federal Unemployment
8 Tax Act, the Director shall take any action or issue any
9 regulations necessary in the administration of this
10 subsection to insure that its provisions are so interpreted
11 and applied as to meet the requirements of such Federal Act
12 as interpreted by the United States Secretary of Labor or
13 other appropriate Federal agency.

14 K. 1. Notwithstanding any other provisions of this Act, an
15 individual shall be ineligible for the payment of extended
16 benefits for any week of unemployment in his eligibility
17 period if the Director finds that during such period:

18 a. he failed to accept any offer of suitable work
19 (as defined in paragraph 3 below) or failed to apply
20 for any suitable work to which he was referred by the
21 Director; or

22 b. he failed to actively engage in seeking work as
23 prescribed under paragraph 5 below.

24 2. Any individual who has been found ineligible for
25 extended benefits by reason of the provisions of paragraph
26 1 of this subsection shall be denied benefits beginning

1 with the first day of the week in which such failure has
2 occurred and until he has been employed in each of 4
3 subsequent weeks (whether or not consecutive) and has
4 earned remuneration equal to at least 4 times his weekly
5 benefit amount.

6 3. For purposes of this subsection only, the term
7 "suitable work" means, with respect to any individual, any
8 work which is within such individual's capabilities,
9 provided, however, that the gross average weekly
10 remuneration payable for the work must exceed the sum of:

11 a. the individual's extended weekly benefit amount
12 as determined under subsection E above plus

13 b. the amount, if any, of supplemental
14 unemployment benefits (as defined in Section
15 501(c)(17)(D) of the Internal Revenue Code of 1954)
16 payable to such individual for such week; and further,

17 c. pays wages not less than the higher of --

18 (i) the minimum wage provided by Section 6
19 (a)(1) of the Fair Labor Standards Act of 1938,
20 without regard to any exemption; or

21 (ii) the applicable state or local minimum
22 wage;

23 d. provided, however, that no individual shall be
24 denied extended benefits for failure to accept an offer
25 of or apply for any job which meets the definition of
26 suitability as described above if:

1 (i) the position was not offered to such
2 individual in writing or was not listed with the
3 employment service;

4 (ii) such failure could not result in a denial
5 of benefits under the definition of suitable work
6 for regular benefits claimants in Section 603 to
7 the extent that the criteria of suitability in that
8 Section are not inconsistent with the provisions
9 of this paragraph 3;

10 (iii) the individual furnishes satisfactory
11 evidence to the Director that his prospects for
12 obtaining work in his customary occupation within
13 a reasonably short period are good. If such
14 evidence is deemed satisfactory for this purpose,
15 the determination of whether any work is suitable
16 with respect to such individual shall be made in
17 accordance with the definition of suitable work
18 for regular benefits in Section 603 without regard
19 to the definition specified by this paragraph.

20 4. Notwithstanding the provisions of paragraph 3 to the
21 contrary, no work shall be deemed to be suitable work for
22 an individual which does not accord with the labor standard
23 provisions required by Section 3304(a)(5) of the Internal
24 Revenue Code of 1954 and set forth herein under Section 603
25 of this Act.

26 5. For the purposes of subparagraph b of paragraph 1,

1 an individual shall be treated as actively engaged in
2 seeking work during any week if --

3 a. the individual has engaged in a systematic and
4 sustained effort to obtain work during such week, and

5 b. the individual furnishes tangible evidence that
6 he has engaged in such effort during such week.

7 6. The employment service shall refer any individual
8 entitled to extended benefits under this Act to any
9 suitable work which meets the criteria prescribed in
10 paragraph 3.

11 7. Notwithstanding any other provision of this Act, an
12 individual shall not be eligible to receive extended
13 benefits, otherwise payable under this Section, with
14 respect to any week of unemployment in his eligibility
15 period if such individual has been held ineligible for
16 benefits under the provisions of Sections 601, 602 or 603
17 of this Act until such individual had requalified for such
18 benefits by returning to employment and satisfying the
19 monetary requalification provision by earning at least his
20 weekly benefit amount.

21 8. This subsection shall be effective for weeks
22 beginning on or after March 31, 1981, and before March 7,
23 1993, and for weeks beginning on or after January 1, 1995.

24 L. Subject to appropriation, 13 weeks of additional
25 benefits, as defined in paragraph 7 of subsection A, shall be
26 paid to exhaustees.

1 (Source: P.A. 86-3; 87-1266.)