



Rep. Frank J. Mautino

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1 AMENDMENT TO SENATE BILL 3530

2 AMENDMENT NO. _____. Amend Senate Bill 3530 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Department of Employment Security Law of
5 the Civil Administrative Code of Illinois is amended by
6 changing Section 1005-47 as follows:

7 (20 ILCS 1005/1005-47)

8 Sec. 1005-47. IllinoisJobLink.com.

9 (a) The Department of Employment Security, through its
10 IllinoisJobLink.com System, or a successor system, shall
11 maintain a web site that allows job seekers to search online
12 for employment opportunities that match the skills of the
13 person seeking employment.

14 (b) Each executive branch State agency and any individual
15 or entity that is party to a contract with an executive branch
16 State agency, except those individuals or entities that are

1 party to a contract with a bona fide labor organization and
2 perform construction or construction-related services as
3 defined in Section 1-15.20 of the Illinois Procurement Code,
4 must ~~either (i) post employment vacancies on the Department's~~
5 ~~IllinoisJobLink.com System or its successor system or (ii)~~
6 ~~provide an online link to its employment vacancies so that this~~
7 ~~link is accessible through the web page of the~~
8 ~~IllinoisJobLink.com System or its successor system.~~ "State
9 agency" has the meaning as defined in Section 1-5 of the State
10 Officials and Employees Ethics Act and, for purposes of this
11 Section, includes community colleges. "Contract" has the
12 meaning given to that term in Section 1-15.30 of the Illinois
13 Procurement Code. The Department of Central Management
14 Services shall comply with this Section on behalf of executive
15 branch State agencies with one or more positions subject to any
16 jurisdiction of the Personnel Code.

17 This Section does not apply to positions exempt from the
18 requirements of the Rutan decision or to construction-related
19 services as defined in Section 1-15.20 of the Illinois
20 Procurement Code.

21 (c) All units of local government, school districts, and
22 other public and private employers not subject to subsection
23 (b) may, and are encouraged to, post employment vacancies on
24 the IllinoisJobLink.com System or successor system.

25 (d) The Department may not charge any employer or any
26 person seeking employment a fee for using the

1 IllinoisJobLink.com System or successor system.

2 (e) The Department is authorized to adopt all rules
3 necessary to implement and administer the IllinoisJobLink.com
4 System or any successor system under this Section.

5 (Source: P.A. 98-107, eff. 7-23-13.)

6 Section 10. The Public Employment Office Act is amended by
7 changing Section 7 as follows:

8 (20 ILCS 1015/7) (from Ch. 48, par. 183)

9 Sec. 7. No fee or compensation shall be charged or received
10 directly or indirectly from persons applying for employment or
11 help through said free employment offices, and any officer or
12 employee of the Department of Employment Security who shall
13 accept, directly or indirectly any fee or compensation from any
14 applicant or from his or her representative shall be guilty of
15 a Class C misdemeanor, except that this Section does not
16 prohibit referral of an individual to an apprenticeship program
17 that is approved by and registered with the United States
18 Department of Labor, Bureau of Apprenticeship and Training and
19 charges an application fee of \$50 or less.

20 (Source: P.A. 83-1503.)

21 Section 15. The Unemployment Insurance Act is amended by
22 changing Sections 206.1, 702, 1402, 2101, 2201, 2201.1, 2401,
23 and 2403 and by adding Sections 502 and 1402.1 as follows:

1 (820 ILCS 405/206.1)

2 Sec. 206.1. Employment; employee leasing company.

3 A. For purposes of this Section:

4 1. "Client" means an individual or entity which has
5 contracted with an employee leasing company to supply it
6 with or assume responsibility for personnel management of
7 one or more workers to perform services on an on-going
8 basis rather than under a temporary help arrangement, as
9 defined in Section 15 of the Employee Leasing Company Act.

10 2. "Employee leasing company" means an individual or
11 entity which contracts with a client to supply or assume
12 responsibility for personnel management of one or more
13 workers to perform services for the client on an on-going
14 basis rather than under a temporary help arrangement, as
15 defined in Section 15 of the Employee Leasing Company Act.

16 B. Subject to subsection C, services performed by an
17 individual under a contract between an employee leasing company
18 and client, including but not limited to services performed in
19 the capacity of a corporate officer of the client, are services
20 in "employment" of the employee leasing company and are not
21 services in "employment" of the client if all of the following
22 conditions are met:

23 1. The employee leasing company pays the individual for
24 the services directly from its own accounts; and

25 2. The employee leasing company, exclusively or in

1 conjunction with the client, retains the right to direct
2 and control the individual in the performance of the
3 services; and

4 3. The employee leasing company, exclusively or in
5 conjunction with the client, retains the right to hire and
6 terminate the individual; and

7 4. The employee leasing company reports each client in
8 the manner the Director prescribes by regulation; and -

9 5. The employee leasing company has provided, and there
10 remains in effect, such irrevocable indemnification, as
11 the Director may require by rule, to create a primary
12 obligation on the part of the provider to the Illinois
13 Department of Employment Security for obligations of the
14 employee leasing company accrued and final under this Act.
15 The rule may prescribe the form the indemnification shall
16 take including, but not limited to, a surety bond or an
17 irrevocable standby letter of credit. The obligation
18 required pursuant to the rule shall not exceed \$1,000,000.

19 C. Notwithstanding subsection B, services performed by an
20 individual under a contract between an employee leasing company
21 and client, including but not limited to services performed in
22 the capacity of a corporate officer of the client, are services
23 in "employment" of the client and are not services in
24 "employment" of the employee leasing company if:

25 1. The contribution rate, or, where applicable, the
26 amended contribution rate, of the client is greater than

1 the sum of the fund building rate established for the year
2 pursuant to Section 1506.3 of this Act plus the greater of
3 2.7% or 2.7% times the adjusted state experience factor for
4 the year; and

5 2. The contribution rate, or, where applicable, the
6 amended contribution rate, of the employee leasing company
7 is less than the contribution rate, or, where applicable,
8 the amended contribution rate of the client by more than
9 1.5% absolute.

10 D. Except as provided in this Section and notwithstanding
11 any other provision of this Act to the contrary, services
12 performed by an individual under a contract between an employee
13 leasing company and client, including but not limited to
14 services performed in the capacity of a corporate officer of
15 the client, are services in "employment" of the client and are
16 not services in "employment" of the employee leasing company.

17 E. Nothing in this Section shall be construed or used to
18 effect the existence of an employment relationship other than
19 for purposes of this Act.

20 (Source: P.A. 91-890, eff. 7-6-00.)

21 (820 ILCS 405/502 new)

22 Sec. 502. Eligibility for benefits under the Short-Time
23 Compensation Program.

24 A. The Director may by rule establish a short-time
25 compensation program consistent with this Section. No

1 short-time compensation shall be payable except as authorized
2 by rule.

3 B. As used in this Section:

4 "Affected unit" means a specified plant, department,
5 shift, or other definable unit that includes 2 or more workers
6 to which an approved short-time compensation plan applies.

7 "Health and retirement benefits" means employer-provided
8 health benefits and retirement benefits under a defined benefit
9 pension plan (as defined in Section 414(j) of the Internal
10 Revenue Code) or contributions under a defined contribution
11 plan (defined in Section 414(i) of the Internal Revenue Code),
12 which are incidents of employment in addition to the cash
13 remuneration earned.

14 "Short-time compensation" means the unemployment benefits
15 payable to employees in an affected unit under an approved
16 short-time compensation plan, as distinguished from the
17 unemployment benefits otherwise payable under this Act.

18 "Short-time compensation plan" means a plan submitted by an
19 employer, for approval by the Director, under which the
20 employer requests the payment of short-time compensation to
21 workers in an affected unit of the employer to avert layoffs.

22 "Usual weekly hours of work" means the usual hours of work
23 for full-time or part-time employees in the affected unit when
24 that unit is operating on its regular basis, not to exceed 40
25 hours and not including hours of overtime work.

26 "Unemployment insurance" means the unemployment benefits

1 payable under this Act other than short-time compensation and
2 includes any amounts payable pursuant to an agreement under any
3 Federal law providing for compensation, assistance, or
4 allowances with respect to unemployment.

5 C. An employer wishing to participate in the short-time
6 compensation program shall submit a signed written short-time
7 compensation plan to the Director for approval. The Director
8 shall develop an application form to request approval of a
9 short-time compensation plan and an approval process. The
10 application shall include:

11 1. The employer's unemployment insurance account
12 number, the affected unit covered by the plan, including
13 the number of full-time or part-time workers in such unit,
14 the percentage of workers in the affected unit covered by
15 the plan, identification of each individual employee in the
16 affected unit by name and social security number, and any
17 other information required by the Director to identify plan
18 participants.

19 2. A description of how workers in the affected unit
20 will be notified of the employer's participation in the
21 short-time compensation plan if such application is
22 approved, including how the employer will notify those
23 workers in a collective bargaining unit as well as any
24 workers in the affected unit who are not in a collective
25 bargaining unit. If the employer will not provide advance
26 notice to workers in the affected unit, the employer shall

1 explain in a statement in the application why it is not
2 feasible to provide such notice.

3 3. The employer's certification that it has the
4 approval of the plan from all collective bargaining
5 representatives of employees in the affected unit and has
6 notified all employees in the affected unit who are not in
7 a collective bargaining unit of the plan.

8 4. The employer's certification that it will not hire
9 additional part-time or full-time employees for, or
10 transfer employees to, the affected unit, while the program
11 is in operation.

12 5. A requirement that the employer identify the usual
13 weekly hours of work for employees in the affected unit and
14 the specific percentage by which their hours will be
15 reduced during all weeks covered by the plan. An
16 application shall specify the percentage of reduction for
17 which a short-time compensation application may be
18 approved which shall be not less than 20% and not more than
19 60%. If the plan includes any week for which the employer
20 regularly provides no work (due to a holiday or other plant
21 closing), then such week shall be identified in the
22 application.

23 6. Certification by the employer that, if the employer
24 provides health and retirement benefits to any employee
25 whose usual weekly hours of work are reduced under the
26 program, such benefits will continue to be provided to the

1 employee participating in the short-time compensation
2 program under the same terms and conditions as though the
3 usual weekly hours of work of such employee had not been
4 reduced or to the same extent as other employees not
5 participating in the short-time compensation program. For
6 defined benefit retirement plans, the hours that are
7 reduced under the short-time compensation plan shall be
8 credited for purposes of participation, vesting, and
9 accrual of benefits as though the usual weekly hours of
10 work had not been reduced. The dollar amount of employer
11 contributions to a defined contribution plan that are based
12 on a percentage of compensation may be less due to the
13 reduction in the employee's compensation. Notwithstanding
14 any other provision to the contrary, a certification that a
15 reduction in health and retirement benefits is scheduled to
16 occur during the duration of the plan and will be
17 applicable equally to employees who are not participating
18 in the short-time compensation program and to those
19 employees who are participating satisfies this paragraph.

20 7. Certification by the employer that the aggregate
21 reduction in work hours is in lieu of layoffs (temporary or
22 permanent layoffs, or both). The application shall include
23 an estimate of the number of workers who would have been
24 laid off in the absence of the short-time compensation
25 plan.

26 8. Agreement by the employer to: furnish reports to the

1 Director relating to the proper conduct of the plan; allow
2 the Director or his or her authorized representatives
3 access to all records necessary to approve or disapprove
4 the plan application, and after approval of a plan, to
5 monitor and evaluate the plan; and follow any other
6 directives the Director deems necessary for the agency to
7 implement the plan and which are consistent with the
8 requirements for plan applications.

9 9. Certification by the employer that participation in
10 the short-time compensation plan and its implementation is
11 consistent with the employer's obligations under
12 applicable Federal and Illinois laws.

13 10. The effective date and duration of the plan, which
14 shall expire no later than the end of the 12th full
15 calendar month after the effective date.

16 11. Any other provision added to the application by the
17 Director that the United States Secretary of Labor
18 determines to be appropriate for purposes of a short-time
19 compensation program.

20 D. The Director shall approve or disapprove a short-time
21 compensation plan in writing within 45 days of its receipt and
22 promptly communicate the decision to the employer. A decision
23 disapproving the plan shall clearly identify the reasons for
24 the disapproval. The disapproval shall be final, but the
25 employer shall be allowed to submit another short-time
26 compensation plan for approval not earlier than 30 days from

1 the date of the disapproval.

2 E. The short-time compensation plan shall be effective on
3 the mutually agreed upon date by the employer and the Director,
4 which shall be specified in the notice of approval to the
5 employer. The plan shall expire on the date specified in the
6 notice of approval, which shall be mutually agreed on by the
7 employer and Director but no later than the end of the 12th
8 full calendar month after its effective date. However, if a
9 short-time compensation plan is revoked by the Director, the
10 plan shall terminate on the date specified in the Director's
11 written order of revocation. An employer may terminate a
12 short-time compensation plan at any time upon written notice to
13 the Director. Upon receipt of such notice from the employer,
14 the Director shall promptly notify each member of the affected
15 unit of the termination date. An employer may submit a new
16 application to participate in another short-time compensation
17 plan at any time after the expiration or termination date.

18 F. The Director may revoke approval of a short-time
19 compensation plan for good cause at any time, including upon
20 the request of any of the affected unit's employees or their
21 collective bargaining representative. The revocation order
22 shall be in writing and shall specify the reasons for the
23 revocation and the date the revocation is effective. The
24 Director may periodically review the operation of each
25 employer's short-time compensation plan to assure that no good
26 cause exists for revocation of the approval of the plan. Good

1 cause shall include, but not be limited to, failure to comply
2 with the assurances given in the plan, termination of the
3 approval of the plan by a collective bargaining representative
4 of employees in the affected unit, unreasonable revision of
5 productivity standards for the affected unit, conduct or
6 occurrences tending to defeat the intent and effective
7 operation of the short-time compensation plan, and violation of
8 any criteria on which approval of the plan was based.

9 G. An employer may request a modification of an approved
10 plan by filing a written request to the Director. The request
11 shall identify the specific provisions proposed to be modified
12 and provide an explanation of why the proposed modification is
13 appropriate for the short-time compensation plan. The Director
14 shall approve or disapprove the proposed modification in
15 writing within 30 days of receipt and promptly communicate the
16 decision to the employer. The Director, in his or her
17 discretion, may approve a request for modification of the plan
18 based on conditions that have changed since the plan was
19 approved provided that the modification is consistent with and
20 supports the purposes for which the plan was initially
21 approved. A modification may not extend the expiration date of
22 the original plan, and the Director must promptly notify the
23 employer whether the plan modification has been approved and,
24 if approved, the effective date of modification. An employer is
25 not required to request approval of plan modification from the
26 Director if the change is not substantial, but the employer

1 must report every change to plan to the Director promptly and
2 in writing. The Director may terminate an employer's plan if
3 the employer fails to meet this reporting requirement. If the
4 Director determines that the reported change is substantial,
5 the Director shall require the employer to request a
6 modification to the plan.

7 H. An individual is eligible to receive short-time
8 compensation with respect to any week only if the individual is
9 eligible for unemployment insurance pursuant to subsection E of
10 Section 500, not otherwise disqualified for unemployment
11 insurance, and:

12 1. During the week, the individual is employed as a
13 member of an affected unit under an approved short-time
14 compensation plan, which was approved prior to that week,
15 and the plan is in effect with respect to the week for
16 which short-time compensation is claimed.

17 2. Notwithstanding any other provision of this Act
18 relating to availability for work and actively seeking
19 work, the individual is available for the individual's
20 usual hours of work with the short-time compensation
21 employer, which may include, for purposes of this Section,
22 participating in training to enhance job skills that is
23 approved by the Director, including but not limited to as
24 employer-sponsored training or training funded under the
25 Workforce Investment Act of 1998.

26 3. Notwithstanding any other provision of law, an

1 individual covered by a short-time compensation plan is
2 deemed unemployed in any week during the duration of such
3 plan if the individual's remuneration as an employee in an
4 affected unit is reduced based on a reduction of the
5 individual's usual weekly hours of work under an approved
6 short-time compensation plan.

7 I. The short-time compensation weekly benefit amount shall
8 be the product of the percentage of reduction in the
9 individual's usual weekly hours of work multiplied by the sum
10 of the regular weekly benefit amount for a week of total
11 unemployment plus any applicable dependent allowance pursuant
12 to subsection C of Section 401.

13 1. An individual may be eligible for short-time
14 compensation or unemployment insurance, as appropriate,
15 except that no individual shall be eligible for combined
16 benefits (excluding any payments attributable to a
17 dependent allowance pursuant to subsection C of Section
18 401) in any benefit year in an amount more than the maximum
19 benefit amount, nor shall an individual be paid short-time
20 compensation benefits for more than 52 weeks under a
21 short-time compensation plan.

22 2. The short-time compensation paid to an individual
23 (excluding any payments attributable to a dependent
24 allowance pursuant to subsection C of Section 401) shall be
25 deducted from the maximum benefit amount established for
26 that individual's benefit year.

1 3. Provisions applicable to unemployment insurance
2 claimants shall apply to short-time compensation claimants
3 to the extent that they are not inconsistent with
4 short-time compensation provisions. An individual who
5 files an initial claim for short-time compensation
6 benefits shall receive a monetary determination.

7 4. The following provisions apply to individuals who
8 work for both a short-time compensation employer and
9 another employer during weeks covered by the approved
10 short-time compensation plan:

11 i. If combined hours of work in a week for both
12 employers do not result in a reduction of at least 20%
13 of the usual weekly hours of work with the short-time
14 compensation employer, the individual shall not be
15 entitled to benefits under this Section.

16 ii. If combined hours of work for both employers
17 results in a reduction equal to or greater than 20% of
18 the usual weekly hours of work for the short-time
19 compensation employer, the short-time compensation
20 benefit amount payable to the individual is reduced for
21 that week and is determined by multiplying the
22 percentage by which the combined hours of work have
23 been reduced by the sum of the weekly benefit amount
24 for a week of total unemployment plus any applicable
25 dependent allowance pursuant to subsection C of
26 Section 401. A week for which benefits are paid under

1 this subparagraph shall be reported as a week of
2 short-time compensation.

3 iii. If an individual worked the reduced
4 percentage of the usual weekly hours of work for the
5 short-time compensation employer and is available for
6 all his or her usual hours of work with the short-time
7 compensation employer, and the individual did not work
8 any hours for the other employer either because of the
9 lack of work with that employer or because the
10 individual is excused from work with the other
11 employer, the individual shall be eligible for
12 short-time compensation for that week. The benefit
13 amount for such week shall be calculated as provided in
14 the introductory clause of this subsection I.

15 iv. An individual who is not provided any work
16 during a week by the short-time compensation employer,
17 or any other employer, and who is otherwise eligible
18 for unemployment insurance shall be eligible for the
19 amount of regular unemployment insurance determined
20 without regard to this Section.

21 v. An individual who is not provided any work by
22 the short-time compensation employer during a week,
23 but who works for another employer and is otherwise
24 eligible may be paid unemployment insurance for that
25 week subject to the disqualifying income and other
26 provisions applicable to claims for regular

1 unemployment insurance.

2 J. Short-time compensation shall be charged to employers in
3 the same manner as unemployment insurance is charged under
4 Illinois law. Employers liable for payments in lieu of
5 contributions shall have short-time compensation attributed to
6 service in their employ in the same manner as unemployment
7 insurance is attributed. Notwithstanding any other provision
8 to the contrary, to the extent that short-term compensation
9 payments under this Section are reimbursed by the federal
10 government, no benefit charges or payments in lieu of
11 contributions shall be accrued by a participating employer.

12 K. A short-time compensation plan shall not be approved for
13 an employer that is delinquent in the filing of any reports
14 required or the payment of contributions, payments in lieu of
15 contributions, interest, or penalties due under this Act
16 through the date of the employer's application.

17 L. Overpayments of other benefits under this Act may be
18 recovered from an individual receiving short-time compensation
19 under this Act in the manner provided under Sections 900 and
20 901. Overpayments under the short-time compensation plan may be
21 recovered from an individual receiving other benefits under
22 this Act in the manner provided under Sections 900 and 901.

23 M. An individual who has received all of the short-time
24 compensation or combined unemployment insurance and short-time
25 compensation available in a benefit year shall be considered an
26 exhaustee for purposes of extended benefits, as provided under

1 the provisions of Section 409, and, if otherwise eligible under
2 those provisions, shall be eligible to receive extended
3 benefits.

4 (820 ILCS 405/702) (from Ch. 48, par. 452)

5 Sec. 702. Determinations. The claims adjudicator shall for
6 each week with respect to which the claimant claims benefits or
7 waiting period credit, make a "determination" which shall state
8 whether or not the claimant is eligible for such benefits or
9 waiting period credit and the sum to be paid the claimant with
10 respect to such week. The claims adjudicator shall promptly
11 notify the claimant and such employing unit as shall, within
12 the time and in the manner prescribed by the Director, have
13 filed a sufficient allegation that the claimant is ineligible
14 to receive benefits or waiting period credit for said week, of
15 his "determination" and the reasons therefor. The Director may,
16 by rule adopted with the advice and aid of the Employment
17 Security Advisory Board, require that an employing unit with 25
18 ~~50~~ or more individuals in its employ during a ~~the prior~~
19 calendar year, or an entity representing 5 or more employing
20 units during a ~~the prior~~ calendar year, file an allegation of
21 ineligibility electronically in a manner prescribed by the
22 Director for the one year period commencing on July 1 of the
23 immediately succeeding calendar year and ending on June 30 of
24 the second succeeding calendar year. In making his
25 "determination," the claims adjudicator shall give

1 consideration to the information, if any, contained in the
2 employing unit's allegation, whether or not the allegation is
3 sufficient. The claims adjudicator shall deem an employing
4 unit's allegation sufficient only if it contains a reason or
5 reasons therefor (other than general conclusions of law, and
6 statements such as "not actively seeking work" or "not
7 available for work" shall be deemed, for this purpose, to be
8 conclusions of law). If the claims adjudicator deems an
9 allegation insufficient, he shall make a decision accordingly,
10 and shall notify the employing unit of such decision and the
11 reasons therefor. Such decision may be appealed by the
12 employing unit to a Referee within the time limits prescribed
13 by Section 800 for appeal from a "determination". Any such
14 appeal, and any appeal from the Referee's decision thereon,
15 shall be governed by the applicable provisions of Sections 801,
16 803, 804 and 805.

17 (Source: P.A. 97-621, eff. 11-18-11.)

18 (820 ILCS 405/1402) (from Ch. 48, par. 552)

19 Sec. 1402. Penalties.

20 A. If any employer fails, within the time prescribed in
21 this Act as amended and in effect on October 5, 1980, and the
22 regulations of the Director, to file a report of wages paid to
23 each of his workers, or to file a sufficient report of such
24 wages after having been notified by the Director to do so, for
25 any period which begins prior to January 1, 1982, he shall pay

1 to the Department as a penalty a sum determined in accordance
2 with the provisions of this Act as amended and in effect on
3 October 5, 1980.

4 B. Except as otherwise provided in this Section, any
5 employer who fails to file a report of wages paid to each of
6 his workers for any period which begins on or after January 1,
7 1982, within the time prescribed by the provisions of this Act
8 and the regulations of the Director, or, if the Director
9 pursuant to such regulations extends the time for filing the
10 report, fails to file it within the extended time, shall, in
11 addition to any sum otherwise payable by him under the
12 provisions of this Act, pay to the Department as a penalty a
13 sum equal to the lesser of (1) \$5 for each \$10,000 or fraction
14 thereof of the total wages for insured work paid by him during
15 the period or (2) \$2,500, for each month or part thereof of
16 such failure to file the report. With respect to an employer
17 who has elected to file reports of wages on an annual basis
18 pursuant to Section 1400.2, in assessing penalties for the
19 failure to submit all reports by the due date established
20 pursuant to that Section, the 30-day period immediately
21 following the due date shall be considered as one month.

22 If the Director deems an employer's report of wages paid to
23 each of his workers for any period which begins on or after
24 January 1, 1982, insufficient, he shall notify the employer to
25 file a sufficient report. If the employer fails to file such
26 sufficient report within 30 days after the mailing of the

1 notice to him, he shall, in addition to any sum otherwise
2 payable by him under the provisions of this Act, pay to the
3 Department as a penalty a sum determined in accordance with the
4 provisions of the first paragraph of this subsection, for each
5 month or part thereof of such failure to file such sufficient
6 report after the date of the notice.

7 For wages paid in calendar years prior to 1988, the penalty
8 or penalties which accrue under the two foregoing paragraphs
9 with respect to a report for any period shall not be less than
10 \$100, and shall not exceed the lesser of (1) \$10 for each
11 \$10,000 or fraction thereof of the total wages for insured work
12 paid during the period or (2) \$5,000. For wages paid in
13 calendar years after 1987, the penalty or penalties which
14 accrue under the 2 foregoing paragraphs with respect to a
15 report for any period shall not be less than \$50, and shall not
16 exceed the lesser of (1) \$10 for each \$10,000 or fraction of
17 the total wages for insured work paid during the period or (2)
18 \$5,000. With respect to an employer who has elected to file
19 reports of wages on an annual basis pursuant to Section 1400.2,
20 for purposes of calculating the minimum penalty prescribed by
21 this Section for failure to file the reports on a timely basis,
22 a calendar year shall constitute a single period. For reports
23 of wages paid after 1986, the Director shall not, however,
24 impose a penalty pursuant to either of the two foregoing
25 paragraphs on any employer who can prove within 30 working days
26 after the mailing of a notice of his failure to file such a

1 report, that (1) the failure to file the report is his first
2 such failure during the previous 20 consecutive calendar
3 quarters, and (2) the amount of the total contributions due for
4 the calendar quarter of such report (or, in the case of an
5 employer who is required to file the reports on a monthly
6 basis, the amount of the total contributions due for the
7 calendar quarter that includes the month of such report) is
8 less than \$500.

9 For any month which begins on or after January 1, 2013, a
10 report of the wages paid to each of an employer's workers shall
11 be due on or before the last day of the month next following
12 the calendar month in which the wages were paid if the employer
13 is required to report such wages electronically pursuant to the
14 regulations of the Director; otherwise a report of the wages
15 paid to each of the employer's workers shall be due on or
16 before the last day of the month next following the calendar
17 quarter in which the wages were paid.

18 Any employer who willfully ~~wilfully~~ fails to pay any
19 contribution or part thereof, based upon wages paid prior to
20 1987, when required by the provisions of this Act and the
21 regulations of the Director, with intent to defraud the
22 Director, shall in addition to such contribution or part
23 thereof pay to the Department a penalty equal to 50 percent of
24 the amount of such contribution or part thereof, as the case
25 may be, provided that the penalty shall not be less than \$200.

26 Any employer who willfully fails to pay any contribution or

1 part thereof, based upon wages paid in 1987 and in each
2 calendar year thereafter, when required by the provisions of
3 this Act and the regulations of the Director, with intent to
4 defraud the Director, shall in addition to such contribution or
5 part thereof pay to the Department a penalty equal to 60% of
6 the amount of such contribution or part thereof, as the case
7 may be, provided that the penalty shall not be less than \$400.

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

10 C. With regard to an employer required to report monthly
11 pursuant to this Section, in addition to each employee's name,
12 social security number, and wages for insured work paid during
13 the period, the Director may, by rule, require a report to
14 provide the following information concerning each employee:
15 the employee's occupation, hours worked during the period,
16 hourly wage, if applicable, and work location if the employer
17 has more than one physical location. Notwithstanding any other
18 provision of any other law to the contrary, information
19 obtained pursuant to this subsection shall not be disclosed to
20 any other public official or agency of this State or any other
21 state to the extent it relates to a specifically identified
22 individual or entity or to the extent that the identity of a
23 specific individual or entity may be discerned from such
24 information. The additional data elements required to be
25 reported pursuant to the rule authorized by this subsection may
26 be reported in the same electronic format as in the system

1 maintained by the employer or employer's agent and need not be
2 reformatted.

3 (Source: P.A. 97-689, eff. 6-14-12; 97-791, eff. 1-1-13;
4 98-463, eff. 8-16-13.)

5 (820 ILCS 405/1402.1 new)

6 Sec. 1402.1. Processing fee.

7 A. The Director may, by rule, establish a processing fee of
8 \$50 with regard to a report of contributions due that is not
9 required to be submitted electronically if the employer fails
10 to submit the report on the form designated by the Director or
11 otherwise provide all of the information required by the form
12 designated by the Director. With respect to the first instance
13 of such a failure after the effective date of the rule, the
14 Director shall issue the employer a written warning instead of
15 a processing fee, and no such processing fee shall be assessed
16 unless the Director has issued the employer a written warning
17 for a prior failure.

18 B. The Director may, by rule, establish a processing fee of
19 \$50 with regard to any payment of contributions, payment in
20 lieu of contributions, interest, or penalty that is not made
21 through electronic funds transfer if the employer fails to
22 enclose the payment coupon provided by the Director with its
23 payment or otherwise provide all of the information the coupon
24 would provide, regardless of the amount due. With respect to
25 the first instance of such a failure after the effective date

1 of the rule, the Director shall issue the employer a written
2 warning instead of a processing fee, and no such processing fee
3 shall be assessed unless the Director has issued the employer a
4 written warning for a prior failure.

5 (820 ILCS 405/2101) (from Ch. 48, par. 661)

6 Sec. 2101. Special administrative account. Except as
7 provided in Section 2100, all interest and penalties collected
8 pursuant to this Act shall be deposited in the special
9 administrative account. The amount in this account in excess of
10 \$100,000 on the close of business of the last day of each
11 calendar quarter shall be immediately transferred to this
12 State's account in the unemployment trust fund. However,
13 subject to Section 2101.1, such funds shall not be transferred
14 where it is determined by the Director that it is necessary to
15 accumulate funds in the account in order to have sufficient
16 funds to pay interest that may become due under the terms of
17 Section 1202 (b) of the Federal Social Security Act, as
18 amended, upon advances made to the Illinois Unemployment
19 Insurance Trust Fund under Title XII of the Federal Social
20 Security Act or where it is determined by the Director that it
21 is necessary to accumulate funds in the special administrative
22 account in order to have sufficient funds to expend for any
23 other purpose authorized by this Section. The balance of funds
24 in the special administrative account that are in excess of
25 \$100,000 on the first day of each calendar quarter and not

1 transferred to this State's account in the unemployment trust
2 fund, minus the amount reasonably anticipated to be needed to
3 make payments from the special administrative account pursuant
4 to subsections C through I, shall be certified by the Director
5 and transferred by the State Comptroller to the Title III
6 Social Security and Employment Fund in the State Treasury
7 within 30 days of the first day of the calendar quarter. The
8 Director may certify and the State Comptroller shall transfer
9 such funds to the Title III Social Security and Employment Fund
10 on a more frequent basis. The moneys available in the special
11 administrative account shall be expended upon the direction of
12 the Director whenever it appears to him that such expenditure
13 is necessary for:

14 A. 1. The proper administration of this Act and no Federal
15 funds are available for the specific purpose for which such
16 expenditure is to be made, provided the moneys are not
17 substituted for appropriations from Federal funds, which in the
18 absence of such moneys would be available and provided the
19 monies are appropriated by the General Assembly.

20 2. The proper administration of this Act for which purpose
21 appropriations from Federal funds have been requested but not
22 yet received, provided the special administrative account will
23 be reimbursed upon receipt of the requested Federal
24 appropriation.

25 B. To the extent possible, the repayment to the fund
26 established for financing the cost of administration of this

1 Act of moneys found by the Secretary of Labor of the United
2 States of America, or other appropriate Federal agency, to have
3 been lost or expended for purposes other than, or in amounts in
4 excess of, those found necessary by the Secretary of Labor, or
5 other appropriate Federal agency, for the administration of
6 this Act.

7 C. The payment of refunds or adjustments of interest or
8 penalties, paid pursuant to Sections 901 or 2201.

9 D. The payment of interest on refunds of erroneously paid
10 contributions, penalties and interest pursuant to Section
11 2201.1.

12 E. The payment or transfer of interest or penalties to any
13 Federal or State agency, pursuant to reciprocal arrangements
14 entered into by the Director under the provisions of Section
15 2700E.

16 F. The payment of any costs incurred, pursuant to Section
17 1700.1.

18 G. Beginning January 1, 1989, for the payment for the legal
19 services authorized by subsection B of Section 802, up to
20 \$1,000,000 per year for the representation of the individual
21 claimants and up to \$1,000,000 per year for the representation
22 of "small employers".

23 H. The payment of any fees for collecting past due
24 contributions, payments in lieu of contributions, penalties,
25 and interest shall be paid (without an appropriation) from
26 interest and penalty monies received from collection agents

1 that have contracted with the Department under Section 2206 to
2 collect such amounts, provided however, that the amount of such
3 payment shall not exceed the amount of past due interest and
4 penalty collected.

5 I. The payment of interest that may become due under the
6 terms of Section 1202 (b) of the Federal Social Security Act,
7 as amended, for advances made to the Illinois Unemployment
8 Insurance Trust Fund.

9 The Director shall annually on or before the first day of
10 March report in writing to the Employment Security Advisory
11 Board concerning the expenditures made from the special
12 administrative account and the purposes for which funds are
13 being accumulated.

14 If Federal legislation is enacted which will permit the use
15 by the Director of some part of the contributions collected or
16 to be collected under this Act, for the financing of
17 expenditures incurred in the proper administration of this Act,
18 then, upon the availability of such contributions for such
19 purpose, the provisions of this Section shall be inoperative
20 and interest and penalties collected pursuant to this Act shall
21 be deposited in and be deemed a part of the clearing account.
22 In the event of the enactment of the foregoing Federal
23 legislation, and within 90 days after the date upon which
24 contributions become available for expenditure for costs of
25 administration, the total amount in the special administrative
26 account shall be transferred to the clearing account, and after

1 clearance thereof shall be deposited with the Secretary of the
2 Treasury of the United States of America to the credit of the
3 account of this State in the unemployment trust fund,
4 established and maintained pursuant to the Federal Social
5 Security Act, as amended.

6 (Source: P.A. 94-1083, eff. 1-19-07.)

7 (820 ILCS 405/2201) (from Ch. 48, par. 681)

8 Sec. 2201. Refund or adjustment of contributions. Not
9 later than 3 years after the date upon which the Director first
10 notifies any contributions, interest or penalties thereon were
11 paid, an employing unit that it ~~which~~ has paid ~~such~~
12 contributions, interest or penalties thereon erroneously, the
13 employing unit may file a claim with the Director for an
14 adjustment thereof in connection with subsequent contribution
15 payments, or for a refund thereof where such adjustment cannot
16 be made; provided, however, that no refund or adjustment shall
17 be made of any contribution, the amount of which has been
18 determined and assessed by the Director, if such contribution
19 was paid after the determination and assessment of the Director
20 became final, and provided, further, that any such adjustment
21 or refund, involving contributions with respect to wages on the
22 basis of which benefits have been paid, shall be reduced by the
23 amount of benefits so paid. Upon receipt of a claim the
24 Director shall make his determination, either allowing such
25 claim in whole or in part, or ordering that it be denied, and

1 serve notice upon the claimant of such determination. Such
2 determination of the Director shall be final at the expiration
3 of 20 days from the date of service of such notice unless the
4 claimant shall have filed with the Director a written protest
5 and a petition for hearing, specifying his objections thereto.
6 Upon receipt of such petition within the 20 days allowed, the
7 Director shall fix the time and place for a hearing and shall
8 notify the claimant thereof. At any hearing held as herein
9 provided, the determination of the Director shall be prima
10 facie correct and the burden shall be upon the protesting
11 employing unit to prove that it is incorrect. All of the
12 provisions of this Act applicable to hearings conducted
13 pursuant to Section 2200 shall be applicable to hearings
14 conducted pursuant to this Section. Upon the conclusion of such
15 hearing, a decision shall be made by the Director and notice
16 thereof given to the claimant. If the Director shall decide
17 that the claim be allowed in whole or in part, or if such
18 allowance be ordered by the Court pursuant to Section 2205 and
19 the judgment of said Court has become final, the Director
20 shall, if practicable, make adjustment without interest in
21 connection with subsequent contribution payments by the
22 claimant, and if adjustments thereof cannot practicably be made
23 in connection with such subsequent contribution payments, then
24 the Director shall refund to the claimant the amount so
25 allowed, without interest except as otherwise provided in
26 Section 2201.1 from moneys in the benefit account established

1 by this Act. Nothing herein contained shall prohibit the
2 Director from making adjustment or refund upon his own
3 initiative, within the time allowed for filing claim therefor,
4 provided that the Director shall make no refund or adjustment
5 of any contribution, the amount of which he has previously
6 determined and assessed, if such contribution was paid after
7 the determination and assessment became final.

8 If this State should not be certified for any year by the
9 Secretary of Labor of the United States of America, or other
10 appropriate Federal agency, under Section 3304 of the Federal
11 Internal Revenue Code of 1954, the Director shall refund
12 without interest to any instrumentality of the United States
13 subject to this Act by virtue of permission granted in an Act
14 of Congress, the amount of contributions paid by such
15 instrumentality with respect to such year.

16 The Director may by regulation provide that, if there is a
17 total credit balance of less than \$2 in an employer's account
18 with respect to contributions, interest, and penalties, the
19 amount may be disregarded by the Director; once disregarded,
20 the amount shall not be considered a credit balance in the
21 account and shall not be subject to either an adjustment or a
22 refund.

23 (Source: P.A. 90-554, eff. 12-12-97.)

24 (820 ILCS 405/2201.1) (from Ch. 48, par. 681.1)

25 Sec. 2201.1. Interest on Overpaid Contributions, Penalties

1 and Interest. The Director shall semi-annually ~~quarterly~~
2 furnish each employer with a statement of credit balances in
3 the employer's account where the balances with respect to all
4 contributions, interest and penalties combined equal or exceed
5 \$2. Under regulations prescribed by the Director and subject to
6 the limitations of Section 2201, the employer may file a
7 request for an adjustment or refund of the amount erroneously
8 paid. Interest shall be paid on refunds of erroneously paid
9 contributions, penalties and interest imposed by this Act,
10 except that if any refund is mailed by the Director within 90
11 days after the date of the refund claim, no interest shall be
12 due or paid. The interest shall begin to accrue as of the date
13 of the refund claim and shall be paid at the rate of 1.5% per
14 month computed at the rate of 12/365 of 1.5% for each day or
15 fraction thereof. Interest paid pursuant to this Section shall
16 be paid from monies in the special administrative account
17 established by Sections 2100 and 2101. This Section shall apply
18 only to refunds of contributions, penalties and interest which
19 were paid as the result of wages paid after January 1, 1988.

20 (Source: P.A. 90-554, eff. 12-12-97.)

21 (820 ILCS 405/2401) (from Ch. 48, par. 721)

22 (Text of Section after amendment by P.A. 98-107)

23 Sec. 2401. Recording and release of lien. A. The lien
24 created by Section 2400 shall be invalid only as to any
25 innocent purchaser for value of stock in trade of any employer

1 in the usual course of such employer's business, and shall be
2 invalid as to any innocent purchaser for value of any of the
3 other assets to which such lien has attached, unless notice
4 thereof has been filed by the Director in the office of the
5 recorder of the county within which the property subject to the
6 lien is situated. The Director may, in his discretion, for good
7 cause shown ~~and upon the reimbursement of any recording fees~~
8 ~~paid by the Director with respect to the lien,~~ issue a
9 certificate of withdrawal of notice of lien filed against any
10 employer, which certificate shall be recorded in the same
11 manner as herein provided for the recording of notice of liens.
12 Such withdrawal of notice of lien shall invalidate such lien as
13 against any person acquiring any of such employer's property or
14 any interest therein, subsequent to the recordation of the
15 withdrawal of notice of lien, but shall not otherwise affect
16 the validity of such lien, nor shall it prevent the Director
17 from re-recording notice of such lien. In the event notice of
18 such lien is re-recorded, such notice shall be effective as
19 against third persons only as of the date of such
20 re-recordation.

21 B. The recorder of each county shall procure at the expense
22 of the county a file labeled "Unemployment Compensation
23 Contribution Lien Notice" and an index book labeled
24 "Unemployment Compensation Contribution Lien Index." When a
25 notice of any such lien is presented to him for filing, he
26 shall file it in numerical order in the file and shall enter it

1 alphabetically in the index. The entry shall show the name and
2 last known business address of the employer named in the
3 notice, the serial number of the notice, the date and hour of
4 filing, and the amount of contribution, interest and penalty
5 thereon due and unpaid. When a certificate of complete or
6 partial release of such lien issued by the Director is
7 presented for filing in the office of the recorder where a
8 notice of lien was filed, the recorder shall permanently attach
9 the certificate of release to the notice of lien and shall
10 enter the certificate of release and the date in the
11 Unemployment Compensation Contribution Lien Index on the line
12 where the notice of lien is entered. In case title to land to
13 be affected by the Notice of Lien is registered under the
14 provisions of "An Act Concerning Land Titles", approved May 1,
15 1897, as amended, such notice shall be filed in the office of
16 the Registrar of Titles of the county within which the property
17 subject to the lien is situated and shall be entered upon the
18 register of titles as a memorial or charge upon each folium of
19 the register of title affected by such notice, and the Director
20 shall not have a preference over the rights of any bona fide
21 purchaser, mortgagee, judgment creditor or other lien holder
22 arising prior to the registration of such notice.

23 C. The Director shall have the power to issue a certificate
24 of partial release of any part of the property subject to the
25 lien, ~~upon the reimbursement of any recording fees paid by the~~
26 ~~Director with respect to the lien,~~ if he shall find that the

1 fair market value of that part of such property remaining
2 subject to the lien is at least equal to the amount of all
3 prior liens upon such property plus double the amount of the
4 liability for contributions, interest and penalties thereon
5 remaining unsatisfied.

6 D. Where the amount of or the liability for the payment of
7 any contribution, interest or penalty is contested by any
8 employing unit against whose property a lien has attached, and
9 the determination of the Director with reference to such
10 contribution has not become final, the Director may issue a
11 certificate of release of lien upon the ~~reimbursement of any~~
12 ~~recording fees paid by the Director with respect to the lien~~
13 ~~and the~~ furnishing of bond by such employing unit in 125% the
14 amount of the sum of such contribution, interest and penalty,
15 for which lien is claimed, with good and sufficient surety to
16 be approved by the Director conditioned upon the prompt payment
17 of such contribution, together with interest and penalty
18 thereon, by such employing unit to the Director immediately
19 upon the decision of the Director in respect to the liability
20 for such contribution, interest and penalty becoming final.

21 E. When a lien obtained pursuant to this Act has been
22 satisfied ~~and upon the reimbursement of any recording fees paid~~
23 ~~by the Director with respect to the lien,~~ the Department shall
24 issue a release to the person, or his agent, against whom the
25 lien was obtained and such release shall contain in legible
26 letters a statement as follows:

1 FOR THE PROTECTION OF THE OWNER, THIS RELEASE SHALL
2 BE FILED WITH THE RECORDER OR THE REGISTRAR
3 OF TITLES, IN WHOSE OFFICE, THE LIEN WAS FILED.

4 F. The Director may, by rule, require, as a condition of
5 withdrawing, releasing, or partially releasing a lien recorded
6 pursuant to this Section, that the employer reimburse the
7 Department for any recording fees paid with respect to the
8 lien.

9 (Source: P.A. 98-107, eff. 7-1-14.)

10 (820 ILCS 405/2403) (from Ch. 48, par. 723)

11 Sec. 2403. Enforcement of lien. In addition and as an
12 alternative to any other remedy provided by law, the Director
13 may foreclose the lien created by Section 2400 by petition in
14 the name of the People of the State of Illinois to the Circuit
15 Court of the county wherein the property subject to the lien is
16 situated, in the same manner as provided by law for the
17 foreclosure of other liens, provided that no hearing or
18 proceeding provided by this Act for the review of the liability
19 for the payment of the sums secured by such lien is pending and
20 the time for taking thereof has expired. The process, practice
21 and procedure for such foreclosure shall be the same as
22 provided in the Civil Practice Law, as amended, except that in
23 all such cases, it shall not be necessary that the petition
24 describe the property to which the lien has attached. The
25 employer against whom such petition has been filed shall file

1 in the proceedings a full and complete schedule, under oath, of
2 all property and rights thereto which he owned at the time the
3 contributions, upon which the lien sought to be foreclosed is
4 based, became due, or which he subsequently acquired, and if
5 such employer fails to do so after having been so ordered by
6 the court, he may be punished as in other cases of contempt of
7 court.

8 The court in any proceeding commenced pursuant to the
9 provisions of this Act may appoint a receiver with power to
10 administer or liquidate the assets subject to the lien,
11 pursuant to the order of the court.

12 Upon sale of the above stated property, the proceeds shall
13 be applied to the payment of the costs incurred in the
14 proceedings, and the satisfaction of such liens as have
15 attached to the property in the order of their priority; the
16 balance, if any, shall be paid to such parties as the court
17 shall find to be entitled thereto. The Director is hereby
18 empowered to bid at any sale conducted pursuant to the
19 provisions of this Act.

20 The Director may also enforce the lien created by this Act
21 to the same extent and in the same manner as is provided by the
22 Retailers' Occupation Tax Act, as amended, for the enforcement
23 of the lien created by that Act, except that, notwithstanding
24 any provision of that Act to the contrary, the Director may
25 also enforce the lien created by this Act by using designated
26 agents to serve and enforce bank levies. When a bank is served

1 with a levy by the Director on the account of an employer, the
2 bank may assert its right to "setoff" its loan to the employer
3 only if the bank has declared the employer's loan to be in
4 default prior to the service of the Director's levy and the
5 bank has seized the funds from the employer's account and made
6 them unavailable to the employer prior to the date of such
7 service.

8 The Director's rights to redemption from a judicial sale or
9 a sale for the enforcement of a judgment, or a judgment
10 satisfying indebtedness secured by a mortgage on, any real
11 estate which is subject to a lien created by this Act, which is
12 inferior to the lien enforced or foreclosed by such sale, or
13 the lien securing the indebtedness satisfied, as the case may
14 be, shall be the same as those of the Department of Revenue
15 with reference to the lien created by the Retailers' Occupation
16 Tax Act, and the procedure provided by law for the termination
17 of the rights of redemption by the Department of Revenue shall
18 be applicable to the termination of the rights of redemption of
19 the Director. The statutory notice required to be served upon
20 and endorsed by the Director of Revenue by the Retailers'
21 Occupation Tax Act shall be served upon and endorsed by the
22 Director.

23 (Source: P.A. 88-655, eff. 9-16-94.)

24 (820 ILCS 405/1704.1 rep.)

25 Section 20. The Unemployment Insurance Act is amended by

1 repealing Section 1704.1.

2 Section 99. Effective date. This Act takes effect July 1,
3 2014, except that the changes to Sections 2201 and 2201.1 of
4 the Unemployment Insurance Act take effect January 1, 2015."