

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

6 (20 ILCS 1015/7) (from Ch. 48, par. 183)

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

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

19 Section 15. The Unemployment Insurance Act is amended by
20 changing Sections 206.1, 225, 245, 702, 1402, 2101, 2201,
21 2201.1, and 2401 and by adding Sections 502 and 1402.1 as
22 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 405/225) (from Ch. 48, par. 335)

22 Sec. 225. This Section, and not Section 212 of this Act,
23 controls the determination of employment status for services
24 performed by individuals in the delivery or distribution of
25 newspapers or shopping news.

1 (A) The term "employment" shall not include services
2 performed by an individual under the age of eighteen in the
3 delivery or distribution of newspapers or shopping news.

4 (B) The term "employment" does not include the performance
5 of freelance editorial or photographic work for a newspaper.

6 (B-5) The employment status of individuals engaged in the
7 delivery of newspapers or shopping news shall be determined as
8 provided in this subsection. The term "employment" does not
9 include the delivery or distribution of newspapers or shopping
10 news if at least one of the following 4 elements is present:

11 (1) The individual performing the services gains the
12 profits and bears the losses of the services.

13 (2) The person or firm for whom the services are
14 performed does not represent the individual as an employee
15 to its customers.

16 (3) The individual hires his or her own helpers or
17 employees, without the need for approval from the person or
18 firm for whom the services are performed, and pays them
19 without reimbursement from that person or firm.

20 (4) Once the individual leaves the premises of the
21 person or firm for whom the services are performed or the
22 printing plant, the individual operates free from the
23 direction and control of the person or firm, except as is
24 necessary for the person or firm to ensure quality control
25 of the newspapers or shopping news, including, but not
26 limited to, the condition of the newspapers or shopping

1 news upon delivery and the location and timing of delivery
2 of the newspapers or shopping news.

3 (C) Notwithstanding subsection (B-5), the ~~The~~ term
4 "employment" does not include the delivery or distribution of
5 newspapers or shopping news to the ultimate consumer if:

6 (1) substantially all of the remuneration for the
7 performance of the services is directly related to sales,
8 "per piece" fees, or other output, rather than to the
9 number of hours worked; and

10 (2) the services are performed under a written contract
11 between the individual and the person or firm for whom the
12 services are performed, and the contract provides that the
13 individual will not be treated as an employee for federal
14 tax purposes.

15 (3) Delivery or distribution to the ultimate consumer
16 does not include:

17 (i) delivery or distribution for sale or resale,
18 including, but not limited to, distribution to a
19 newsrack or newsbox, salesperson, newsstand or retail
20 establishment;

21 (ii) distribution for further distribution,
22 regardless of subsequent sale or resale.

23 (D) Subsections (B-5) and Subsection ~~Subsection~~ (C) shall not apply in
24 the case of any individual who provides delivery or
25 distribution services for a newspaper pursuant to the terms of
26 a collective bargaining agreement and shall not be construed to

1 alter or amend the application or interpretation of any
2 existing collective bargaining agreement. Further, subsections
3 (B-5) and ~~subsection~~ (C) shall not be construed as evidence of
4 the existence or non-existence of an employment relationship
5 under any other Sections of this Act or other existing laws.

6 (E) Subsections (B), (B-5), and (C) shall not apply to
7 services that are required to be covered as a condition of
8 approval of this Act by the United States Secretary of Labor
9 under Section 3304 (a)(6)(A) of the Federal Unemployment Tax
10 Act.

11 (Source: P.A. 87-1178.)

12 (820 ILCS 405/245) (from Ch. 48, par. 370)

13 Sec. 245. Coordination with Federal Unemployment Tax Act.
14 Notwithstanding any provisions of this Act to the contrary,
15 excepting the exemptions from the definition of employment
16 contained in Sections 212.1, 217.1, 217.2, 226, and 231 and
17 subsections (B), (B-5), and (C) ~~B and C~~ of Section 225:

18 A. The term "employer" includes any employing unit which is
19 an "employer" under the provisions of the Federal Unemployment
20 Tax Act, or which is required, pursuant to such Act, to be an
21 "employer" under this Act as a condition for the Federal
22 approval of this Act requisite to the full tax credit, against
23 the tax imposed by the Federal Act, for contributions paid by
24 employers pursuant to this Act.

25 B. The term "employment" includes any services performed

1 within the State which constitute "employment" under the
2 provisions of the Federal Unemployment Tax Act, or which are
3 required, pursuant to such Act, to be "employment" under this
4 Act as a condition for the Federal approval of this Act
5 requisite to the full tax credit, against the tax imposed by
6 the Federal Act, for contributions paid by employers pursuant
7 to this Act.

8 C. The term "wages" includes any remuneration for services
9 performed within this State which is subject to the payment of
10 taxes under the provisions of the Federal Unemployment Tax Act.
11 (Source: P.A. 89-252, eff. 8-8-95; 89-649, eff. 8-9-96.)

12 (820 ILCS 405/502 new)

13 Sec. 502. Eligibility for benefits under the Short-Time
14 Compensation Program.

15 A. The Director may by rule establish a short-time
16 compensation program consistent with this Section. No
17 short-time compensation shall be payable except as authorized
18 by rule.

19 B. As used in this Section:

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

23 "Health and retirement benefits" means employer-provided
24 health benefits and retirement benefits under a defined benefit
25 pension plan (as defined in Section 414(j) of the Internal

1 Revenue Code) or contributions under a defined contribution
2 plan (defined in Section 414(i) of the Internal Revenue Code),
3 which are incidents of employment in addition to the cash
4 remuneration earned.

5 "Short-time compensation" means the unemployment benefits
6 payable to employees in an affected unit under an approved
7 short-time compensation plan, as distinguished from the
8 unemployment benefits otherwise payable under this Act.

9 "Short-time compensation plan" means a plan submitted by an
10 employer, for approval by the Director, under which the
11 employer requests the payment of short-time compensation to
12 workers in an affected unit of the employer to avert layoffs.

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

17 "Unemployment insurance" means the unemployment benefits
18 payable under this Act other than short-time compensation and
19 includes any amounts payable pursuant to an agreement under any
20 Federal law providing for compensation, assistance, or
21 allowances with respect to unemployment.

22 C. An employer wishing to participate in the short-time
23 compensation program shall submit a signed written short-time
24 compensation plan to the Director for approval. The Director
25 shall develop an application form to request approval of a
26 short-time compensation plan and an approval process. The

1 application shall include:

2 1. The employer's unemployment insurance account
3 number, the affected unit covered by the plan, including
4 the number of full-time or part-time workers in such unit,
5 the percentage of workers in the affected unit covered by
6 the plan, identification of each individual employee in the
7 affected unit by name and social security number, and any
8 other information required by the Director to identify plan
9 participants.

10 2. A description of how workers in the affected unit
11 will be notified of the employer's participation in the
12 short-time compensation plan if such application is
13 approved, including how the employer will notify those
14 workers in a collective bargaining unit as well as any
15 workers in the affected unit who are not in a collective
16 bargaining unit. If the employer will not provide advance
17 notice to workers in the affected unit, the employer shall
18 explain in a statement in the application why it is not
19 feasible to provide such notice.

20 3. The employer's certification that it has the
21 approval of the plan from all collective bargaining
22 representatives of employees in the affected unit and has
23 notified all employees in the affected unit who are not in
24 a collective bargaining unit of the plan.

25 4. The employer's certification that it will not hire
26 additional part-time or full-time employees for, or

1 transfer employees to, the affected unit, while the program
2 is in operation.

3 5. A requirement that the employer identify the usual
4 weekly hours of work for employees in the affected unit and
5 the specific percentage by which their hours will be
6 reduced during all weeks covered by the plan. An
7 application shall specify the percentage of reduction for
8 which a short-time compensation application may be
9 approved which shall be not less than 20% and not more than
10 60%. If the plan includes any week for which the employer
11 regularly provides no work (due to a holiday or other plant
12 closing), then such week shall be identified in the
13 application.

14 6. Certification by the employer that, if the employer
15 provides health and retirement benefits to any employee
16 whose usual weekly hours of work are reduced under the
17 program, such benefits will continue to be provided to the
18 employee participating in the short-time compensation
19 program under the same terms and conditions as though the
20 usual weekly hours of work of such employee had not been
21 reduced or to the same extent as other employees not
22 participating in the short-time compensation program. For
23 defined benefit retirement plans, the hours that are
24 reduced under the short-time compensation plan shall be
25 credited for purposes of participation, vesting, and
26 accrual of benefits as though the usual weekly hours of

1 work had not been reduced. The dollar amount of employer
2 contributions to a defined contribution plan that are based
3 on a percentage of compensation may be less due to the
4 reduction in the employee's compensation. Notwithstanding
5 any other provision to the contrary, a certification that a
6 reduction in health and retirement benefits is scheduled to
7 occur during the duration of the plan and will be
8 applicable equally to employees who are not participating
9 in the short-time compensation program and to those
10 employees who are participating satisfies this paragraph.

11 7. Certification by the employer that the aggregate
12 reduction in work hours is in lieu of layoffs (temporary or
13 permanent layoffs, or both). The application shall include
14 an estimate of the number of workers who would have been
15 laid off in the absence of the short-time compensation
16 plan.

17 8. Agreement by the employer to: furnish reports to the
18 Director relating to the proper conduct of the plan; allow
19 the Director or his or her authorized representatives
20 access to all records necessary to approve or disapprove
21 the plan application, and after approval of a plan, to
22 monitor and evaluate the plan; and follow any other
23 directives the Director deems necessary for the agency to
24 implement the plan and which are consistent with the
25 requirements for plan applications.

26 9. Certification by the employer that participation in

1 the short-time compensation plan and its implementation is
2 consistent with the employer's obligations under
3 applicable Federal and Illinois laws.

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

7 11. Any other provision added to the application by the
8 Director that the United States Secretary of Labor
9 determines to be appropriate for purposes of a short-time
10 compensation program.

11 D. The Director shall approve or disapprove a short-time
12 compensation plan in writing within 45 days of its receipt and
13 promptly communicate the decision to the employer. A decision
14 disapproving the plan shall clearly identify the reasons for
15 the disapproval. The disapproval shall be final, but the
16 employer shall be allowed to submit another short-time
17 compensation plan for approval not earlier than 30 days from
18 the date of the disapproval.

19 E. The short-time compensation plan shall be effective on
20 the mutually agreed upon date by the employer and the Director,
21 which shall be specified in the notice of approval to the
22 employer. The plan shall expire on the date specified in the
23 notice of approval, which shall be mutually agreed on by the
24 employer and Director but no later than the end of the 12th
25 full calendar month after its effective date. However, if a
26 short-time compensation plan is revoked by the Director, the

1 plan shall terminate on the date specified in the Director's
2 written order of revocation. An employer may terminate a
3 short-time compensation plan at any time upon written notice to
4 the Director. Upon receipt of such notice from the employer,
5 the Director shall promptly notify each member of the affected
6 unit of the termination date. An employer may submit a new
7 application to participate in another short-time compensation
8 plan at any time after the expiration or termination date.

9 F. The Director may revoke approval of a short-time
10 compensation plan for good cause at any time, including upon
11 the request of any of the affected unit's employees or their
12 collective bargaining representative. The revocation order
13 shall be in writing and shall specify the reasons for the
14 revocation and the date the revocation is effective. The
15 Director may periodically review the operation of each
16 employer's short-time compensation plan to assure that no good
17 cause exists for revocation of the approval of the plan. Good
18 cause shall include, but not be limited to, failure to comply
19 with the assurances given in the plan, termination of the
20 approval of the plan by a collective bargaining representative
21 of employees in the affected unit, unreasonable revision of
22 productivity standards for the affected unit, conduct or
23 occurrences tending to defeat the intent and effective
24 operation of the short-time compensation plan, and violation of
25 any criteria on which approval of the plan was based.

26 G. An employer may request a modification of an approved

1 plan by filing a written request to the Director. The request
2 shall identify the specific provisions proposed to be modified
3 and provide an explanation of why the proposed modification is
4 appropriate for the short-time compensation plan. The Director
5 shall approve or disapprove the proposed modification in
6 writing within 30 days of receipt and promptly communicate the
7 decision to the employer. The Director, in his or her
8 discretion, may approve a request for modification of the plan
9 based on conditions that have changed since the plan was
10 approved provided that the modification is consistent with and
11 supports the purposes for which the plan was initially
12 approved. A modification may not extend the expiration date of
13 the original plan, and the Director must promptly notify the
14 employer whether the plan modification has been approved and,
15 if approved, the effective date of modification. An employer is
16 not required to request approval of plan modification from the
17 Director if the change is not substantial, but the employer
18 must report every change to plan to the Director promptly and
19 in writing. The Director may terminate an employer's plan if
20 the employer fails to meet this reporting requirement. If the
21 Director determines that the reported change is substantial,
22 the Director shall require the employer to request a
23 modification to the plan.

24 H. An individual is eligible to receive short-time
25 compensation with respect to any week only if the individual is
26 eligible for unemployment insurance pursuant to subsection E of

1 Section 500, not otherwise disqualified for unemployment
2 insurance, and:

3 1. During the week, the individual is employed as a
4 member of an affected unit under an approved short-time
5 compensation plan, which was approved prior to that week,
6 and the plan is in effect with respect to the week for
7 which short-time compensation is claimed.

8 2. Notwithstanding any other provision of this Act
9 relating to availability for work and actively seeking
10 work, the individual is available for the individual's
11 usual hours of work with the short-time compensation
12 employer, which may include, for purposes of this Section,
13 participating in training to enhance job skills that is
14 approved by the Director, including but not limited to as
15 employer-sponsored training or training funded under the
16 Workforce Investment Act of 1998.

17 3. Notwithstanding any other provision of law, an
18 individual covered by a short-time compensation plan is
19 deemed unemployed in any week during the duration of such
20 plan if the individual's remuneration as an employee in an
21 affected unit is reduced based on a reduction of the
22 individual's usual weekly hours of work under an approved
23 short-time compensation plan.

24 I. The short-time compensation weekly benefit amount shall
25 be the product of the percentage of reduction in the
26 individual's usual weekly hours of work multiplied by the sum

1 of the regular weekly benefit amount for a week of total
2 unemployment plus any applicable dependent allowance pursuant
3 to subsection C of Section 401.

4 1. An individual may be eligible for short-time
5 compensation or unemployment insurance, as appropriate,
6 except that no individual shall be eligible for combined
7 benefits (excluding any payments attributable to a
8 dependent allowance pursuant to subsection C of Section
9 401) in any benefit year in an amount more than the maximum
10 benefit amount, nor shall an individual be paid short-time
11 compensation benefits for more than 52 weeks under a
12 short-time compensation plan.

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

18 3. Provisions applicable to unemployment insurance
19 claimants shall apply to short-time compensation claimants
20 to the extent that they are not inconsistent with
21 short-time compensation provisions. An individual who
22 files an initial claim for short-time compensation
23 benefits shall receive a monetary determination.

24 4. The following provisions apply to individuals who
25 work for both a short-time compensation employer and
26 another employer during weeks covered by the approved

1 short-time compensation plan:

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

7 ii. If combined hours of work for both employers
8 results in a reduction equal to or greater than 20% of
9 the usual weekly hours of work for the short-time
10 compensation employer, the short-time compensation
11 benefit amount payable to the individual is reduced for
12 that week and is determined by multiplying the
13 percentage by which the combined hours of work have
14 been reduced by the sum of the weekly benefit amount
15 for a week of total unemployment plus any applicable
16 dependent allowance pursuant to subsection C of
17 Section 401. A week for which benefits are paid under
18 this subparagraph shall be reported as a week of
19 short-time compensation.

20 iii. If an individual worked the reduced
21 percentage of the usual weekly hours of work for the
22 short-time compensation employer and is available for
23 all his or her usual hours of work with the short-time
24 compensation employer, and the individual did not work
25 any hours for the other employer either because of the
26 lack of work with that employer or because the

1 individual is excused from work with the other
2 employer, the individual shall be eligible for
3 short-time compensation for that week. The benefit
4 amount for such week shall be calculated as provided in
5 the introductory clause of this subsection I.

6 iv. An individual who is not provided any work
7 during a week by the short-time compensation employer,
8 or any other employer, and who is otherwise eligible
9 for unemployment insurance shall be eligible for the
10 amount of regular unemployment insurance determined
11 without regard to this Section.

12 v. An individual who is not provided any work by
13 the short-time compensation employer during a week,
14 but who works for another employer and is otherwise
15 eligible may be paid unemployment insurance for that
16 week subject to the disqualifying income and other
17 provisions applicable to claims for regular
18 unemployment insurance.

19 J. Short-time compensation shall be charged to employers in
20 the same manner as unemployment insurance is charged under
21 Illinois law. Employers liable for payments in lieu of
22 contributions shall have short-time compensation attributed to
23 service in their employ in the same manner as unemployment
24 insurance is attributed. Notwithstanding any other provision
25 to the contrary, to the extent that short-term compensation
26 payments under this Section are reimbursed by the federal

1 government, no benefit charges or payments in lieu of
2 contributions shall be accrued by a participating employer.

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

8 L. Overpayments of other benefits under this Act may be
9 recovered from an individual receiving short-time compensation
10 under this Act in the manner provided under Sections 900 and
11 901. Overpayments under the short-time compensation plan may be
12 recovered from an individual receiving other benefits under
13 this Act in the manner provided under Sections 900 and 901.

14 M. An individual who has received all of the short-time
15 compensation or combined unemployment insurance and short-time
16 compensation available in a benefit year shall be considered an
17 exhaustee for purposes of extended benefits, as provided under
18 the provisions of Section 409, and, if otherwise eligible under
19 those provisions, shall be eligible to receive extended
20 benefits.

21 (820 ILCS 405/702) (from Ch. 48, par. 452)

22 Sec. 702. Determinations. The claims adjudicator shall for
23 each week with respect to which the claimant claims benefits or
24 waiting period credit, make a "determination" which shall state
25 whether or not the claimant is eligible for such benefits or

1 waiting period credit and the sum to be paid the claimant with
2 respect to such week. The claims adjudicator shall promptly
3 notify the claimant and such employing unit as shall, within
4 the time and in the manner prescribed by the Director, have
5 filed a sufficient allegation that the claimant is ineligible
6 to receive benefits or waiting period credit for said week, of
7 his "determination" and the reasons therefor. The Director may,
8 by rule adopted with the advice and aid of the Employment
9 Security Advisory Board, require that an employing unit with 25
10 ~~50~~ or more individuals in its employ during a ~~the prior~~
11 calendar year, or an entity representing 5 or more employing
12 units during a ~~the prior~~ calendar year, file an allegation of
13 ineligibility electronically in a manner prescribed by the
14 Director for the one year period commencing on July 1 of the
15 immediately succeeding calendar year and ending on June 30 of
16 the second succeeding calendar year. In making his
17 "determination," the claims adjudicator shall give
18 consideration to the information, if any, contained in the
19 employing unit's allegation, whether or not the allegation is
20 sufficient. The claims adjudicator shall deem an employing
21 unit's allegation sufficient only if it contains a reason or
22 reasons therefor (other than general conclusions of law, and
23 statements such as "not actively seeking work" or "not
24 available for work" shall be deemed, for this purpose, to be
25 conclusions of law). If the claims adjudicator deems an
26 allegation insufficient, he shall make a decision accordingly,

1 and shall notify the employing unit of such decision and the
2 reasons therefor. Such decision may be appealed by the
3 employing unit to a Referee within the time limits prescribed
4 by Section 800 for appeal from a "determination". Any such
5 appeal, and any appeal from the Referee's decision thereon,
6 shall be governed by the applicable provisions of Sections 801,
7 803, 804 and 805.

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

9 (820 ILCS 405/1402) (from Ch. 48, par. 552)

10 Sec. 1402. Penalties.

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

20 B. Except as otherwise provided in this Section, any
21 employer who fails to file a report of wages paid to each of
22 his workers for any period which begins on or after January 1,
23 1982, within the time prescribed by the provisions of this Act
24 and the regulations of the Director, or, if the Director
25 pursuant to such regulations extends the time for filing the

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

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

24 For wages paid in calendar years prior to 1988, the penalty
25 or penalties which accrue under the two foregoing paragraphs
26 with respect to a report for any period shall not be less than

1 \$100, and shall not exceed the lesser of (1) \$10 for each
2 \$10,000 or fraction thereof of the total wages for insured work
3 paid during the period or (2) \$5,000. For wages paid in
4 calendar years after 1987, the penalty or penalties which
5 accrue under the 2 foregoing paragraphs with respect to a
6 report for any period shall not be less than \$50, and shall not
7 exceed the lesser of (1) \$10 for each \$10,000 or fraction of
8 the total wages for insured work paid during the period or (2)
9 \$5,000. With respect to an employer who has elected to file
10 reports of wages on an annual basis pursuant to Section 1400.2,
11 for purposes of calculating the minimum penalty prescribed by
12 this Section for failure to file the reports on a timely basis,
13 a calendar year shall constitute a single period. For reports
14 of wages paid after 1986, the Director shall not, however,
15 impose a penalty pursuant to either of the two foregoing
16 paragraphs on any employer who can prove within 30 working days
17 after the mailing of a notice of his failure to file such a
18 report, that (1) the failure to file the report is his first
19 such failure during the previous 20 consecutive calendar
20 quarters, and (2) the amount of the total contributions due for
21 the calendar quarter of such report (or, in the case of an
22 employer who is required to file the reports on a monthly
23 basis, the amount of the total contributions due for the
24 calendar quarter that includes the month of such report) is
25 less than \$500.

26 For any month which begins on or after January 1, 2013, a

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

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

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

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

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

20 (Source: P.A. 97-689, eff. 6-14-12; 97-791, eff. 1-1-13;
21 98-463, eff. 8-16-13.)

22 (820 ILCS 405/1402.1 new)

23 Sec. 1402.1. Processing fee.

24 A. The Director may, by rule, establish a processing fee of
25 \$50 with regard to a report of contributions due that is not

1 required to be submitted electronically if the employer fails
2 to submit the report on the form designated by the Director or
3 otherwise provide all of the information required by the form
4 designated by the Director. With respect to the first instance
5 of such a failure after the effective date of the rule, the
6 Director shall issue the employer a written warning instead of
7 a processing fee, and no such processing fee shall be assessed
8 unless the Director has issued the employer a written warning
9 for a prior failure.

10 B. The Director may, by rule, establish a processing fee of
11 \$50 with regard to any payment of contributions, payment in
12 lieu of contributions, interest, or penalty that is not made
13 through electronic funds transfer if the employer fails to
14 enclose the payment coupon provided by the Director with its
15 payment or otherwise provide all of the information the coupon
16 would provide, regardless of the amount due. With respect to
17 the first instance of such a failure after the effective date
18 of the rule, the Director shall issue the employer a written
19 warning instead of a processing fee, and no such processing fee
20 shall be assessed unless the Director has issued the employer a
21 written warning for a prior failure.

22 (820 ILCS 405/2101) (from Ch. 48, par. 661)

23 Sec. 2101. Special administrative account. Except as
24 provided in Section 2100, all interest and penalties collected
25 pursuant to this Act shall be deposited in the special

1 administrative account. The amount in this account in excess of
2 \$100,000 on the close of business of the last day of each
3 calendar quarter shall be immediately transferred to this
4 State's account in the unemployment trust fund. However,
5 subject to Section 2101.1, such funds shall not be transferred
6 where it is determined by the Director that it is necessary to
7 accumulate funds in the account in order to have sufficient
8 funds to pay interest that may become due under the terms of
9 Section 1202 (b) of the Federal Social Security Act, as
10 amended, upon advances made to the Illinois Unemployment
11 Insurance Trust Fund under Title XII of the Federal Social
12 Security Act or where it is determined by the Director that it
13 is necessary to accumulate funds in the special administrative
14 account in order to have sufficient funds to expend for any
15 other purpose authorized by this Section. The balance of funds
16 in the special administrative account that are in excess of
17 \$100,000 on the first day of each calendar quarter and not
18 transferred to this State's account in the unemployment trust
19 fund, minus the amount reasonably anticipated to be needed to
20 make payments from the special administrative account pursuant
21 to subsections C through I, shall be certified by the Director
22 and transferred by the State Comptroller to the Title III
23 Social Security and Employment Fund in the State Treasury
24 within 30 days of the first day of the calendar quarter. The
25 Director may certify and the State Comptroller shall transfer
26 such funds to the Title III Social Security and Employment Fund

1 on a more frequent basis. The moneys available in the special
2 administrative account shall be expended upon the direction of
3 the Director whenever it appears to him that such expenditure
4 is necessary for:

5 A. 1. The proper administration of this Act and no Federal
6 funds are available for the specific purpose for which such
7 expenditure is to be made, provided the moneys are not
8 substituted for appropriations from Federal funds, which in the
9 absence of such moneys would be available and provided the
10 monies are appropriated by the General Assembly.

11 2. The proper administration of this Act for which purpose
12 appropriations from Federal funds have been requested but not
13 yet received, provided the special administrative account will
14 be reimbursed upon receipt of the requested Federal
15 appropriation.

16 B. To the extent possible, the repayment to the fund
17 established for financing the cost of administration of this
18 Act of moneys found by the Secretary of Labor of the United
19 States of America, or other appropriate Federal agency, to have
20 been lost or expended for purposes other than, or in amounts in
21 excess of, those found necessary by the Secretary of Labor, or
22 other appropriate Federal agency, for the administration of
23 this Act.

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

26 D. The payment of interest on refunds of erroneously paid

1 contributions, penalties and interest pursuant to Section
2 2201.1.

3 E. The payment or transfer of interest or penalties to any
4 Federal or State agency, pursuant to reciprocal arrangements
5 entered into by the Director under the provisions of Section
6 2700E.

7 F. The payment of any costs incurred, pursuant to Section
8 1700.1.

9 G. Beginning January 1, 1989, for the payment for the legal
10 services authorized by subsection B of Section 802, up to
11 \$1,000,000 per year for the representation of the individual
12 claimants and up to \$1,000,000 per year for the representation
13 of "small employers".

14 H. The payment of any fees for collecting past due
15 contributions, payments in lieu of contributions, penalties,
16 and interest shall be paid (without an appropriation) from
17 interest and penalty monies received from collection agents
18 that have contracted with the Department under Section 2206 to
19 collect such amounts, provided however, that the amount of such
20 payment shall not exceed the amount of past due interest and
21 penalty collected.

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

26 The Director shall annually on or before the first day of

1 March report in writing to the Employment Security Advisory
2 Board concerning the expenditures made from the special
3 administrative account and the purposes for which funds are
4 being accumulated.

5 If Federal legislation is enacted which will permit the use
6 by the Director of some part of the contributions collected or
7 to be collected under this Act, for the financing of
8 expenditures incurred in the proper administration of this Act,
9 then, upon the availability of such contributions for such
10 purpose, the provisions of this Section shall be inoperative
11 and interest and penalties collected pursuant to this Act shall
12 be deposited in and be deemed a part of the clearing account.
13 In the event of the enactment of the foregoing Federal
14 legislation, and within 90 days after the date upon which
15 contributions become available for expenditure for costs of
16 administration, the total amount in the special administrative
17 account shall be transferred to the clearing account, and after
18 clearance thereof shall be deposited with the Secretary of the
19 Treasury of the United States of America to the credit of the
20 account of this State in the unemployment trust fund,
21 established and maintained pursuant to the Federal Social
22 Security Act, as amended.

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

24 (820 ILCS 405/2201) (from Ch. 48, par. 681)

25 Sec. 2201. Refund or adjustment of contributions. Not

1 later than 3 years after the date upon which the Director first
2 notifies ~~any contributions, interest or penalties thereon were~~
3 ~~paid,~~ an employing unit that it ~~which~~ has paid ~~such~~
4 contributions, interest or penalties thereon erroneously, the
5 employing unit may file a claim with the Director for an
6 adjustment thereof in connection with subsequent contribution
7 payments, or for a refund thereof where such adjustment cannot
8 be made; provided, however, that no refund or adjustment shall
9 be made of any contribution, the amount of which has been
10 determined and assessed by the Director, if such contribution
11 was paid after the determination and assessment of the Director
12 became final, and provided, further, that any such adjustment
13 or refund, involving contributions with respect to wages on the
14 basis of which benefits have been paid, shall be reduced by the
15 amount of benefits so paid. Upon receipt of a claim the
16 Director shall make his determination, either allowing such
17 claim in whole or in part, or ordering that it be denied, and
18 serve notice upon the claimant of such determination. Such
19 determination of the Director shall be final at the expiration
20 of 20 days from the date of service of such notice unless the
21 claimant shall have filed with the Director a written protest
22 and a petition for hearing, specifying his objections thereto.
23 Upon receipt of such petition within the 20 days allowed, the
24 Director shall fix the time and place for a hearing and shall
25 notify the claimant thereof. At any hearing held as herein
26 provided, the determination of the Director shall be prima

1 facie correct and the burden shall be upon the protesting
2 employing unit to prove that it is incorrect. All of the
3 provisions of this Act applicable to hearings conducted
4 pursuant to Section 2200 shall be applicable to hearings
5 conducted pursuant to this Section. Upon the conclusion of such
6 hearing, a decision shall be made by the Director and notice
7 thereof given to the claimant. If the Director shall decide
8 that the claim be allowed in whole or in part, or if such
9 allowance be ordered by the Court pursuant to Section 2205 and
10 the judgment of said Court has become final, the Director
11 shall, if practicable, make adjustment without interest in
12 connection with subsequent contribution payments by the
13 claimant, and if adjustments thereof cannot practicably be made
14 in connection with such subsequent contribution payments, then
15 the Director shall refund to the claimant the amount so
16 allowed, without interest except as otherwise provided in
17 Section 2201.1 from moneys in the benefit account established
18 by this Act. Nothing herein contained shall prohibit the
19 Director from making adjustment or refund upon his own
20 initiative, within the time allowed for filing claim therefor,
21 provided that the Director shall make no refund or adjustment
22 of any contribution, the amount of which he has previously
23 determined and assessed, if such contribution was paid after
24 the determination and assessment became final.

25 If this State should not be certified for any year by the
26 Secretary of Labor of the United States of America, or other

1 appropriate Federal agency, under Section 3304 of the Federal
2 Internal Revenue Code of 1954, the Director shall refund
3 without interest to any instrumentality of the United States
4 subject to this Act by virtue of permission granted in an Act
5 of Congress, the amount of contributions paid by such
6 instrumentality with respect to such year.

7 The Director may by regulation provide that, if there is a
8 total credit balance of less than \$2 in an employer's account
9 with respect to contributions, interest, and penalties, the
10 amount may be disregarded by the Director; once disregarded,
11 the amount shall not be considered a credit balance in the
12 account and shall not be subject to either an adjustment or a
13 refund.

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

15 (820 ILCS 405/2201.1) (from Ch. 48, par. 681.1)

16 Sec. 2201.1. Interest on Overpaid Contributions, Penalties
17 and Interest. The Director shall semi-annually ~~quarterly~~
18 furnish each employer with a statement of credit balances in
19 the employer's account where the balances with respect to all
20 contributions, interest and penalties combined equal or exceed
21 \$2. Under regulations prescribed by the Director and subject to
22 the limitations of Section 2201, the employer may file a
23 request for an adjustment or refund of the amount erroneously
24 paid. Interest shall be paid on refunds of erroneously paid
25 contributions, penalties and interest imposed by this Act,

1 except that if any refund is mailed by the Director within 90
2 days after the date of the refund claim, no interest shall be
3 due or paid. The interest shall begin to accrue as of the date
4 of the refund claim and shall be paid at the rate of 1.5% per
5 month computed at the rate of 12/365 of 1.5% for each day or
6 fraction thereof. Interest paid pursuant to this Section shall
7 be paid from monies in the special administrative account
8 established by Sections 2100 and 2101. This Section shall apply
9 only to refunds of contributions, penalties and interest which
10 were paid as the result of wages paid after January 1, 1988.
11 (Source: P.A. 90-554, eff. 12-12-97.)

12 (820 ILCS 405/2401) (from Ch. 48, par. 721)

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

14 Sec. 2401. Recording and release of lien. A. The lien
15 created by Section 2400 shall be invalid only as to any
16 innocent purchaser for value of stock in trade of any employer
17 in the usual course of such employer's business, and shall be
18 invalid as to any innocent purchaser for value of any of the
19 other assets to which such lien has attached, unless notice
20 thereof has been filed by the Director in the office of the
21 recorder of the county within which the property subject to the
22 lien is situated. The Director may, in his discretion, for good
23 cause shown ~~and upon the reimbursement of any recording fees~~
24 ~~paid by the Director with respect to the lien,~~ issue a
25 certificate of withdrawal of notice of lien filed against any

1 employer, which certificate shall be recorded in the same
2 manner as herein provided for the recording of notice of liens.
3 Such withdrawal of notice of lien shall invalidate such lien as
4 against any person acquiring any of such employer's property or
5 any interest therein, subsequent to the recordation of the
6 withdrawal of notice of lien, but shall not otherwise affect
7 the validity of such lien, nor shall it prevent the Director
8 from re-recording notice of such lien. In the event notice of
9 such lien is re-recorded, such notice shall be effective as
10 against third persons only as of the date of such
11 re-recordation.

12 B. The recorder of each county shall procure at the expense
13 of the county a file labeled "Unemployment Compensation
14 Contribution Lien Notice" and an index book labeled
15 "Unemployment Compensation Contribution Lien Index." When a
16 notice of any such lien is presented to him for filing, he
17 shall file it in numerical order in the file and shall enter it
18 alphabetically in the index. The entry shall show the name and
19 last known business address of the employer named in the
20 notice, the serial number of the notice, the date and hour of
21 filing, and the amount of contribution, interest and penalty
22 thereon due and unpaid. When a certificate of complete or
23 partial release of such lien issued by the Director is
24 presented for filing in the office of the recorder where a
25 notice of lien was filed, the recorder shall permanently attach
26 the certificate of release to the notice of lien and shall

1 enter the certificate of release and the date in the
2 Unemployment Compensation Contribution Lien Index on the line
3 where the notice of lien is entered. In case title to land to
4 be affected by the Notice of Lien is registered under the
5 provisions of "An Act Concerning Land Titles", approved May 1,
6 1897, as amended, such notice shall be filed in the office of
7 the Registrar of Titles of the county within which the property
8 subject to the lien is situated and shall be entered upon the
9 register of titles as a memorial or charge upon each folium of
10 the register of title affected by such notice, and the Director
11 shall not have a preference over the rights of any bona fide
12 purchaser, mortgagee, judgment creditor or other lien holder
13 arising prior to the registration of such notice.

14 C. The Director shall have the power to issue a certificate
15 of partial release of any part of the property subject to the
16 lien, ~~upon the reimbursement of any recording fees paid by the~~
17 ~~Director with respect to the lien,~~ if he shall find that the
18 fair market value of that part of such property remaining
19 subject to the lien is at least equal to the amount of all
20 prior liens upon such property plus double the amount of the
21 liability for contributions, interest and penalties thereon
22 remaining unsatisfied.

23 D. Where the amount of or the liability for the payment of
24 any contribution, interest or penalty is contested by any
25 employing unit against whose property a lien has attached, and
26 the determination of the Director with reference to such

1 contribution has not become final, the Director may issue a
2 certificate of release of lien upon the ~~reimbursement of any~~
3 ~~recording fees paid by the Director with respect to the lien~~
4 ~~and the~~ furnishing of bond by such employing unit in 125% the
5 amount of the sum of such contribution, interest and penalty,
6 for which lien is claimed, with good and sufficient surety to
7 be approved by the Director conditioned upon the prompt payment
8 of such contribution, together with interest and penalty
9 thereon, by such employing unit to the Director immediately
10 upon the decision of the Director in respect to the liability
11 for such contribution, interest and penalty becoming final.

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

18 FOR THE PROTECTION OF THE OWNER, THIS RELEASE SHALL
19 BE FILED WITH THE RECORDER OR THE REGISTRAR
20 OF TITLES, IN WHOSE OFFICE, THE LIEN WAS FILED.

21 F. The Director may, by rule, require, as a condition of
22 withdrawing, releasing, or partially releasing a lien recorded
23 pursuant to this Section, that the employer reimburse the
24 Department for any recording fees paid with respect to the
25 lien.

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

1 (820 ILCS 405/1704.1 rep.)

2 Section 20. The Unemployment Insurance Act is amended by
3 repealing Section 1704.1.

4 Section 99. Effective date. This Act takes effect July 1,
5 2014, except that the changes to Sections 2201 and 2201.1 of
6 the Unemployment Insurance Act take effect January 1, 2015.