



99TH GENERAL ASSEMBLY

State of Illinois

2015 and 2016

HB6081

Introduced 2/11/2016, by Rep. Tom Demmer

SYNOPSIS AS INTRODUCED:

820 ILCS 405/211.4

from Ch. 48, par. 321.4

820 ILCS 405/212

from Ch. 48, par. 322

Amends the Unemployment Insurance Act. Provides that services performed for an employing unit shall be deemed to be employment unless proved by judicial precedent or a formal ruling from the Internal Revenue Service that the services do not constitute employment or unless proved in proceeding that the services do not constitute employment under the Federal Unemployment Tax Act. Provides that the changes made by this amendatory Act become operative on the January 1 immediately after certain bond obligations have been reduced to zero. Effective immediately.

LRB099 16783 JLS 41129 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning employment.

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

4 Section 5. The Unemployment Insurance Act is amended by
5 changing Sections 211.4 and 212 as follows:

6 (820 ILCS 405/211.4) (from Ch. 48, par. 321.4)

7 Sec. 211.4. A. Notwithstanding any other provision of this
8 Act, the term "employment" shall include service performed
9 after December 31, 1977, by an individual in agricultural labor
10 as defined in Section 214 when:

11 1. Such service is performed for an employing unit
12 which (a) paid cash wages of \$20,000 or more during any
13 calendar quarter in either the current or preceding
14 calendar year to an individual or individuals employed in
15 agricultural labor (not taking into account service in
16 agricultural labor performed before January 1, 1980, by an
17 alien referred to in paragraph 2); or (b) employed in
18 agricultural labor (not taking into account service in
19 agricultural labor performed before January 1, 1980, by an
20 alien referred to in paragraph 2) 10 or more individuals
21 within each of 20 or more calendar weeks (but not
22 necessarily simultaneously and irrespective of whether the
23 same individuals are or were employed in each such week),

1 whether or not such weeks are or were consecutive, within
2 either the current or preceding calendar year.

3 2. Such service is not performed in agricultural labor
4 if performed before January 1, 1980 or on or after the
5 effective date of this amendatory Act of the 96th General
6 Assembly, by an individual who is an alien admitted to the
7 United States to perform service in agricultural labor
8 pursuant to Sections 214(c) and 101(a)(15)(H) of the
9 Immigration and Nationality Act.

10 B. For the purposes of this Section, any individual who is
11 a member of a crew furnished by a crew leader to perform
12 service in agricultural labor for any other employing unit
13 shall be treated as performing service in the employ of such
14 crew leader if (1) the leader holds a valid certificate of
15 registration under the Farm Labor Contractor Registration Act
16 of 1963, or substantially all the members of such crew operate
17 or maintain tractors, mechanized harvesting or crop dusting
18 equipment, or any other mechanized equipment, which is provided
19 by the crew leader; and (2) the service of such individual is
20 not in employment for such other employing unit within the
21 meaning of ~~subsections A and C of~~ Section 212, and of Section
22 213.

23 C. For the purposes of this Section, any individual who is
24 furnished by a crew leader to perform service in agricultural
25 labor for any other employing unit, and who is not treated as
26 performing service in the employ of such crew leader under

1 subsection B, shall be treated as performing service in the
2 employ of such other employing unit, and such employing unit
3 shall be treated as having paid cash wages to such individual
4 in an amount equal to the amount of cash wages paid to the
5 individual by the crew leader (either on his own behalf or on
6 behalf of such other employing unit) for the service in
7 agricultural labor performed for such other employing unit.

8 D. For the purposes of this Section, the term "crew leader"
9 means an individual who (1) furnishes individuals to perform
10 service in agricultural labor for any other employing unit; (2)
11 pays (either on his own behalf or on behalf of such other
12 employing unit) the individuals so furnished by him for the
13 service in agricultural labor performed by them; and (3) has
14 not entered into a written agreement with such other employing
15 unit under which an individual so furnished by him is
16 designated as performing services in the employ of such other
17 employing unit.

18 (Source: P.A. 96-1208, eff. 1-1-11.)

19 (820 ILCS 405/212) (from Ch. 48, par. 322)

20 Sec. 212. Service deemed employment. Before the changes
21 made to this Section by this amendatory Act of the 99th General
22 Assembly become operative, service ~~Service~~ performed by an
23 individual for an employing unit, whether or not such
24 individual employs others in connection with the performance of
25 such services, shall be deemed to be employment unless and

1 until it is proven in any proceeding where such issue is
2 involved that--

3 A. Such individual has been and will continue to be free
4 from control or direction over the performance of such
5 services, both under his contract of service and in fact; and

6 B. Such service is either outside the usual course of the
7 business for which such service is performed or that such
8 service is performed outside of all the places of business of
9 the enterprise for which such service is performed; and

10 C. Such individual is engaged in an independently
11 established trade, occupation, profession, or business.

12 After the changes made to this Section by this amendatory
13 Act of the 99th General Assembly become operative, services
14 performed by an individual for an employing unit shall be
15 deemed to be employment unless and until it is proven in any
16 proceeding where such issue is involved that either:

17 (1) judicial precedent or a formal revenue ruling from
18 the Internal Revenue Service specifically relating to the
19 employing unit has expressly held the services do not
20 constitute employment under the Federal Unemployment Tax
21 Act if the judicial precedent or revenue ruling has not
22 been reversed or otherwise overturned; or

23 (2) the services would not be determined to constitute
24 employment under the Federal Unemployment Tax Act.

25 In applying items (1) and (2), control or direction, or the
26 right to control or direct, that is required because of any

1 provision of law, rule, or regulation governing the
2 organization, trade, or business of the employing unit shall
3 not be considered.

4 Items (1) and (2) do not apply to services that are
5 required to be covered as a condition of approval of this Act
6 by the United States Secretary of Labor under Section
7 3304(a)(6)(A) of the Federal Unemployment Tax Act.

8 The changes to this Section by this amendatory Act of the
9 99th General Assembly shall become operative on the January 1
10 immediately following the date on which all bond obligations
11 outstanding as of the effective date of this amendatory Act of
12 the 99th General Assembly have been reduced to zero.

13 (Source: Laws 1951, p. 32.)

14 Section 99. Effective date. This Act takes effect upon
15 becoming law.