

AN ACT concerning employment.

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

Section 5. The Unemployment Insurance Act is amended by changing Sections 1400 and 1402 and by adding Section 1400.2 as follows:

(820 ILCS 405/1400) (from Ch. 48, par. 550)

Sec. 1400. Payment of contributions. On and after July 1, 1937, contributions shall accrue and become payable by each employer for each calendar year in which he is subject to this Act, with respect to wages payable for employment occurring during the six months' period beginning July 1, 1937, and the calendar years 1938, 1939, and 1940. For the year 1941 and for each calendar year thereafter, contributions shall accrue and become payable by each employer upon the wages paid with respect to employment after December 31, 1940. Except as otherwise provided in Section 1400.2, such ~~Such~~ contributions shall become due and shall be paid quarterly on or before the last day of the month next following the calendar quarter for which such contributions have accrued; except that any employer who is delinquent in filing a contribution report or in paying his contributions for any calendar quarter may, at the discretion of the Director, be required to report and to pay contributions on a calendar month basis. Such contributions shall not be deducted, in whole or in part, from the wages of individuals in such employer's employ. If the Director shall find that the collection of any contributions will be jeopardized by delay, he may declare the same to be immediately due and payable.

In the payment of any contributions, interest, or penalties, a fractional part of a cent shall be disregarded unless it amounts to one-half cent or more, in which case it

shall be increased to one cent.

The Director may by regulation provide that if, at any time, a total amount of less than \$2 is payable with respect to a quarter, including any contributions, payments in lieu of contributions, interest or penalties, such amount may be disregarded. Any amounts disregarded under this paragraph are deemed to have been paid for all other purposes of this Act. Nothing in this paragraph is intended to relieve any employer from filing any reports required by this Act or by any rules or regulations adopted by the Director pursuant to this Act.

Except with respect to the provisions concerning amounts that may be disregarded pursuant to regulation, this Section does not apply to any nonprofit organization or any governmental entity referred to in subsection B of Section 1405 for any period with respect to which it does not incur liability for the payment of contributions by reason of having elected to make payments in lieu of contributions, or to any political subdivision or municipal corporation for any period with respect to which it is not subject to payments in lieu of contributions under the provisions of paragraph 1 of Section 302C by reason of having elected to make payments in lieu of contributions under paragraph 2 of that Section, or to the State of Illinois or any of its instrumentalities.

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

(820 ILCS 405/1400.2 new)

Sec. 1400.2. Annual reporting and paying; household workers. This Section applies to an employer who solely employs one or more household workers with respect to whom the employer files federal unemployment taxes as part of his or her federal income tax return, or could file federal unemployment taxes as part of his or her federal income tax return if the worker or workers were providing services in employment for purposes of the federal unemployment tax. For purposes of this Section, "household worker" has the meaning ascribed to it for purposes of Section 3510 of the federal Internal Revenue Code. If an

employer to whom this Section applies notifies the Director, in writing, that he or she wishes to pay his or her contributions for each quarter and submit his or her wage and contribution reports for each quarter on an annual basis, then the due date for filing the reports and paying the contributions shall be April 15 of the calendar year immediately following the close of the quarters to which the reports and contributions apply, except that the Director may, by rule, establish a different due date for good cause.

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

Sec. 1402. Penalties. A. If any employer fails, within the time prescribed in this Act as amended and in effect on October 5, 1980, and the regulations of the Director, to file a report of wages paid to each of his workers, or to file a sufficient report of such wages after having been notified by the Director to do so, for any period which begins prior to January 1, 1982, he shall pay to the Director as a penalty a sum determined in accordance with the provisions of this Act as amended and in effect on October 5, 1980.

B. Except as otherwise provided in this Section, any employer who fails to file a report of wages paid to each of his workers for any period which begins on or after January 1, 1982, within the time prescribed by the provisions of this Act and the regulations of the Director, or, if the Director pursuant to such regulations extends the time for filing the report, fails to file it within the extended time, shall, in addition to any sum otherwise payable by him under the provisions of this Act, pay to the Director as a penalty a sum equal to the lesser of (1) \$5 for each \$10,000 or fraction thereof of the total wages for insured work paid by him during the period or (2) \$2,500, for each month or part thereof of such failure to file the report. With respect to an employer who has elected to file reports of wages on an annual basis pursuant to Section 1400.2, in assessing penalties for the failure to submit all reports by the due date established

pursuant to that Section, the 30-day period immediately following the due date shall be considered as one month.

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

For wages paid in calendar years prior to 1988, the penalty or penalties which accrue under the two foregoing paragraphs with respect to a report for any period shall not be less than \$100, and shall not exceed the lesser of (1) \$10 for each \$10,000 or fraction thereof of the total wages for insured work paid during the period or (2) \$5,000. For wages paid in calendar years after 1987, the penalty or penalties which accrue under the 2 foregoing paragraphs with respect to a report for any period shall not be less than \$50, and shall not exceed the lesser of (1) \$10 for each \$10,000 or fraction of the total wages for insured work paid during the period or (2) \$5,000. With respect to an employer who has elected to file reports of wages on an annual basis pursuant to Section 1400.2, for purposes of calculating the minimum penalty prescribed by this Section for failure to file the reports on a timely basis, a calendar year shall constitute a single period. For reports of wages paid after 1986, the Director shall not, however, impose a penalty pursuant to either of the two foregoing paragraphs on any employer who can prove within 30 working days after the mailing of a notice of his failure to file such a report, that (1) the failure to file the report is his first such failure during the previous 20 consecutive calendar quarters, and (2) the amount of the total contributions due for

the calendar quarter of such report is less than \$500.

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

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

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

(Source: P.A. 85-956.)

Section 99. Effective date. This Act takes effect January 1, 2006.