

Regular Session, 2013

HOUSE BILL NO. 566

BY REPRESENTATIVE DIXON

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

UNEMPLOYMENT COMP: Relative to reciprocal overpayment recovery arrangements with federal and state agencies

1 AN ACT

2 To amend and reenact R.S. 23:1665(A)(introductory paragraph) and to enact R.S.
3 23:1665(B), 1665.1, 1665.2, and 1665.3, relative to unemployment compensation;
4 to provide for reciprocal arrangements between federal and state agencies; to provide
5 for a reciprocal overpayment recovery arrangement; to provide definitions; to
6 provide with respect to duties and responsibilities of requesting and recovering
7 states; to provide for recovery of combined wage claims; and to provide for related
8 matters.

9 Be it enacted by the Legislature of Louisiana:

10 Section 1. R.S. 23:1665(A)(introductory paragraph) is hereby amended and
11 reenacted and R.S. 23:1665(B), 1665.1, 1665.2, and 1665.3 are hereby enacted to read as
12 follows:

13 §1665. Reciprocal arrangements with federal and state agencies

14 A. The administrator may enter into reciprocal arrangements with
15 appropriate and duly authorized agencies of other states or of the United States, or
16 both, whereby:

17 * * *

18 B. The administrator may enter into reciprocal arrangements concerning
19 recovery of overpaid benefits with appropriate and duly authorized agencies of other
20 states or of the United States, or both.

1 §1665.1. Definitions

2 As used in this Section, the following terms shall have the meanings ascribed
3 to them as follows:

4 (1) "Form IB-8606" is the interstate request for recovery document
5 submitted by states when requesting assistance in recovering overpayments.

6 (2) "Liable state" means any state against which an individual files a claim
7 for benefits through another state.

8 (3) "Offset" means the withholding of an amount against benefits which
9 would otherwise be payable for a compensable week of unemployment.

10 (4) "Overpayment" means an improper payment of benefits, from a state or
11 federal unemployment compensation fund that has been determined recoverable
12 under the requesting state's law.

13 (5) "Participating state" means a state which has subscribed to the Interstate
14 Reciprocal Overpayment Recovery Arrangement.

15 (6) "Paying state" means the state under whose law a claim for
16 unemployment benefits has been established on the basis of combining wages and
17 employment covered in more than one state.

18 (7) "Payment" means a check or electronic transfer for the amount
19 recovered.

20 (8) "Recovering state" means the state that has received a request for
21 assistance from a requesting state.

22 (9) "Requesting state" means the state that has issued a final determination
23 of overpayment and is requesting another state to assist in recovering the outstanding
24 balance from the overpaid individual.

25 (10) "State" means any of the fifty states of the United States of America, as
26 well as the District of Columbia, Puerto Rico, and the United States Virgin Islands.

27 (11) "Transferring state" means a state in which a combined wage claimant
28 had covered employment and wages in the base period of a paying state, and which

1 transferred such employment and wages to the paying state for its use in determining
2 the benefit rights of such claimant under its law.

3 §1665.2. Recovery of state or federal benefit overpayments

4 A. The requesting state shall do all of the following:

5 (1) Send the recovering state a written or electronic request for overpayment
6 recovery assistance, Form IB-8606, which includes certification that the
7 overpayment is legally collectable under the requesting state's law, certification that
8 the determination is final and that any rights to postponement of recoupment have
9 been exhausted or have expired, a statement as to whether the state is participating
10 in the cross-program overpayment recovery agreement with the United States
11 secretary of labor, a copy of the initial overpayment determination, and a statement
12 of the outstanding balance.

13 (2) Send notice of this request to the claimant.

14 (3) Send a new outstanding overpayment balance to the recovering state
15 whenever the requesting state receives any amount of repayment from a source other
16 than the recovering state.

17 B. The recovering state shall:

18 (1) Issue an overpayment recovery determination to the claimant which
19 includes at a minimum all of the following:

20 (a) The statutory authority for the offset.

21 (b) Have the opportunity to appeal the offset of benefits if the recovering
22 state allows for appeal on the recovery of overpayment of regular unemployment
23 compensation paid by such state.

24 (c) The name of the state requesting recoupment.

25 (d) The date of the original overpayment determination.

26 (e) The type of overpayment, fraud, or mistake.

27 (f) The program type, including but not limited to IU, UCFE, UCX, TRA.

28 (g) The total amount to be offset.

29 (h) The amount to be offset weekly.

1 (i) Instructions that any questions about the overpayment amount should be
2 referred to the requesting state.

3 (2) Offset benefits payable for each week claimed in the amount determined
4 under state law.

5 (3) Notify the claimant of the amount offset.

6 (4) Prepare and forward, no less than once a month, a payment representing
7 the amount recovered, made payable to the requesting state, except as provided for
8 in combined wage claims.

9 (5) Retain a record of the overpayment balance.

10 (6) Not redetermine the original overpayment determination.

11 (7) Recover across benefit years and programs.

12 (8) Use the ET Handbook Number 392, or any official superceding United
13 States Department of Labor requirements for determining priorities for offsetting
14 overpayments.

15 §1665.3. Combined wage claims; recovery of outstanding overpayment in
16 transferring state

17 A. The paying state shall:

18 (1) Offset any outstanding overpayment in a transferring state prior to
19 honoring a request from any other participating state.

20 (2) Credit the deductions against the statement of benefits paid to combined
21 wage claimants, Form IB-6, or forward a payment to the transferring state.

22 (3) Refer to the interstate benefit payment control section in the ET
23 Handbook No. 392, Handbook for Interstate Claimstaking, or any superceding
24 United States Department of Labor requirements for the priorities of offsetting
25 overpayments.

26 B. Withdrawal of a combined wage claim after benefits have been paid shall
27 be honored only if the combined wage claimant has repaid any benefits paid or
28 authorizes the new liable state to offset the overpayment.

1 C. The paying state shall issue an overpayment determination and forward
2 a copy, together with an overpayment recovery request and an authorization to offset,
3 to the liable state.

4 D. The recovering state shall:

5 (1) Prioritize the offset of overpayments as described in the Interstate
6 Benefit Payment Control section of the ET Handbook No. 392, Handbook for
7 Interstate Claimstaking, or any superceding United States Department of Labor
8 requirements.

9 (2) Offset the total amount of any overpayment, resulting from the
10 withdrawal of a combined wage claim, prior to the release of any payments to the
11 claimant.

12 (3) Offset the total amount of any overpayment, resulting from the
13 withdrawal of a combined wage claim, prior to honoring a request from any other
14 participating state.

15 (4) Provide the claimant with a notice of the amount offset.

16 (5) Prepare and forward a payment representing the amount recovered to the
17 requesting state.

18 E. The recovering state shall offset benefits payable under a state
19 unemployment compensation program to recover any benefits overpaid under a
20 federal unemployment compensation program as described in the recovering state's
21 agreement with the United States secretary of labor as provided in this Section, as
22 appropriate, if the recovering state and requesting state have entered into an
23 agreement with the United States secretary of labor to implement Section 303(a) of
24 the Social Security Act.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

Dixon

HB No. 566

Abstract: Provides with respect to reciprocal arrangements between federal and state agencies in unemployment cases.

Present law allows the administrator to enter into reciprocal arrangements with appropriate and duly authorized agencies of other states or of the United States.

Present law provides that services performed by an individual for a single employing unit in more than one state shall be deemed to be performed entirely within any one of the states that the service is performed, in which the worker has his residence, or in which the employing unit maintains its place of business.

Proposed law retains present law.

Proposed law allows the administrator to enter into reciprocal arrangements regarding the recovery of overpaid benefits with appropriate agencies of other states or with the United States.

Proposed law provides for definitions.

Proposed law provides for the recovery of state or federal benefits by providing the procedure both the requesting state and the recovering state must follow.

Proposed law requires the requesting state to send the recovering state a request for overpayment, as well as a notice of such to the claimant.

Proposed law further requires the requesting state to send a new overpayment balance to the recovering state whenever the requesting state receives any amount of repayment from a source other than the recovering state.

Proposed law requires the recovering state to issue an overpayment recovery determination to the claimant, and provides what this determination shall include.

Proposed law further provides that the recovering state shall offset benefits payable for each week claimed in the amount determined under state law and to notify the claimant of the offset.

Proposed law requires that the recovering state shall prepare and forward, at least once a month, a payment representing the amount recovered, made payable to the requesting state except as provided for in combined wage claims.

Proposed law requires the recovering state to retain a record of the overpayment balance, not redetermine the original overpayment determination, recover across benefit years and programs, and use the ET Handbook for determining priorities for offsetting overpayments.

Proposed law provides for combined wage claims, and outlines the procedure for both the paying state and the recovering state.

Proposed law requires the paying state to offset any outstanding overpayment in a transferring state prior to honoring a request from any other participating state and credit the

deductions against the statement of benefits paid to combined wage claimants, or forward a payment to the transferring state.

Proposed law provides that withdrawal of a combined wage claim after benefits have been paid shall be honored only if the claimant has repaid any benefits paid or authorizes the new liable state to offset the overpayment.

Proposed law requires the paying state to issue an overpayment determination and forward a copy of the determination, with an overpayment recovery request and an authorization to offset, to the liable state.

Proposed law requires the recovering state to prioritize the offset of overpayments, and offset the total amount of any overpayment prior to the release of any payments to the claimant.

Proposed law requires the recovering state to provide the claimant with a notice of the amount offset and prepare and forward a payment representing the amount recovered to the requesting state.

(Amends R.S. 23:1665(A)(intro. para.); Adds R.S. 23:1665(B), 1665.1, 1665.2, and 1665.3)