

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: Provides relative to reciprocal overpayment recovery arrangements with federal and state agencies

1 AN ACT

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

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. R.S. 23:1665 is hereby amended and reenacted and R.S. 23:1665.1,
10 1665.2, and 1665.3 are hereby enacted to read as follows:

11 §1665. Reciprocal arrangements with federal and state agencies

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

15 (1) Service performed by an individual for a single employing unit for which
16 services are customarily performed by such individual in more than one state shall
17 be deemed to be services performed entirely within any one of the states (i) in which
18 any part of such individual's service is performed or (ii) in which such individual has
19 his residence or (iii) in which the employing unit maintains a place of business,
20 provided there is in effect, as to such services, an election, approved by the agency

1 charged with the administration of such state's unemployment compensation law,
2 pursuant to which all the services performed by such individual for such employing
3 unit are deemed to be performed entirely within such state;

4 (2) Potential rights to benefits accumulated under the unemployment
5 compensation laws of one or more states or of the United States, or both, may
6 constitute the basis for the payment of benefits through a single appropriate agency
7 under terms which the administrator finds will be fair and reasonable as to all
8 affected interests and will not result in any substantial loss to the fund;

9 (3) Wages or services, upon the basis of which an individual may become
10 entitled to benefits under an unemployment compensation law of another state or of
11 the United States, shall be deemed to be wages for insured work for the purpose of
12 determining his rights to benefits under this Chapter, and wages for insured work,
13 on the basis of which an individual may become entitled to benefits under this
14 Chapter shall be deemed to be wages or services on the basis of which
15 unemployment compensation under such law of another state or of the United States
16 is payable; but no such arrangement shall be entered into unless it contains
17 provisions for reimbursements to the fund for such of the benefits paid under this
18 Chapter upon the basis of such wages or services, and provisions for reimbursements
19 from the fund for such of the compensation paid under such other law upon the basis
20 of wages for insured work, as the administrator finds will be fair and reasonable as
21 to all affected interests; and

22 (4) For the purposes of R.S. 23:1543 through R.S. 23:1551, contributions due
23 under this Chapter with respect to wages for insured work shall be deemed to have
24 been paid to the fund as of the date payment was made as contributions therefor
25 under another state or federal unemployment compensation law; but no such
26 arrangement shall be entered into unless it contains provisions for the reimbursement
27 of such contributions and the actual earnings thereon, as the administrator finds will
28 be fair and reasonable as to all affected interests.

1 Reimbursements paid from the fund pursuant to ~~paragraph~~ Paragraph (3) of
2 this Section shall be deemed to be benefits for the purpose of Parts II and V of this
3 Chapter. The administrator may make to other state or federal agencies and receive
4 from them, reimbursements from or to the fund, in accordance with arrangements
5 entered into pursuant to the provisions of this Section.

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

9 §1665.1. Definitions

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

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

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

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

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

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

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

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

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

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

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

6 (11) "Transferring state" means a state in which a combined wage claimant
7 had covered employment and wages in the base period of a paying state, and which
8 transferred such employment and wages to the paying state for its use in determining
9 the benefit rights of such claimant under its law.

10 §1665.2. Recovery of state or federal benefit overpayments

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

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

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

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

24 B. The recovering state shall:

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

27 (a) The statutory authority for the offset.

1 **(b) The opportunity to appeal the offset of benefits if the recovering state**
2 **allows for appeal on the recovery of overpayment of regular unemployment**
3 **compensation paid by such state.**

4 **(c) The name of the state requesting recoupment.**

5 **(d) The date of the original overpayment determination.**

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

7 **(f) The program type, including but not limited to UI, UCFE, UCX, TRA.**

8 **(g) The total amount to be offset.**

9 **(h) The amount to be offset weekly.**

10 **(i) Instructions that any questions about the overpayment amount should be**
11 **referred to the requesting state.**

12 **(2) Offset benefits payable for each week claimed in the amount determined**
13 **under state law.**

14 **(3) Notify the claimant of the amount offset.**

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

18 **(5) Retain a record of the overpayment balance.**

19 **(6) Not redetermine the original overpayment determination.**

20 **(7) Recover across benefit years and programs.**

21 **(8) Use the ET Handbook No. 392, or any official superceding United States**
22 **Department of Labor requirements for determining priorities for offsetting**
23 **overpayments.**

24 **§1665.3. Combined wage claims; recovery of outstanding overpayment in**
25 **transferring state**

26 **A. The paying state shall:**

27 **(1) Offset any outstanding overpayment in a transferring state prior to**
28 **honoring a request from any other participating state.**

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

3 (3) Refer to the Interstate Benefit Payment Control section in the ET
4 Handbook No. 392, Handbook for Interstate Claimstaking, or any superceding
5 United States Department of Labor requirements for the priorities of offsetting
6 overpayments.

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

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

13 D. The recovering state shall:

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

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

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

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

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

27 E. The recovering state shall offset benefits payable under a state
28 unemployment compensation program to recover any benefits overpaid under a
29 federal unemployment compensation program as described in the recovering state's

1 agreement with the United States secretary of labor as provided in this Section, as
2 appropriate, if the recovering state and requesting state have entered into an
3 agreement with the United States secretary of labor to implement Section 303(a) of
4 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 U.S.

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; Adds R.S. 23:1665.1, 1665.2, and 1665.3)

Summary of Amendments Adopted by House

Committee Amendments Proposed by House Committee on Labor and Industrial Relations to the original bill.

1. Adds a technical amendment.

House Floor Amendments to the engrossed bill.

1. Adds technical amendments.