

Amendments to State Unemployment Insurance Laws

U.S. DEPARTMENT OF LABOR
Employment and Training Administration
Washington, D.C. 20210

REPORT ON STATE LEGISLATION

REPORT NO. 3
December 2006

ALASKA SB 306 ENACTED and EFFECTIVE May 18, 2006
(CH 27)

Financing

Amends, effective July 1, 2006, state law to include SUTA dumping prevention provisions which:

mandate transfer of experience from one employer to another when there is substantially common ownership, management, or control; apply to both total and partial transfers;
prohibit transfer of experience if a person becomes an employer by acquiring an existing business and if the purpose of the acquisition is to obtain a lower contribution rate; apply to persons, who prior to the acquisition of the business, (a) had no employees and (b) had some employees but not enough to be an employer for state law purposes;
provide meaningful civil and criminal penalties for knowingly violating or attempting to violate the law's requirements, and for knowingly advising to violate the law; and establish procedures to identify the transfer or acquisition of a business for purposes of the law.

Modifies the "rates for successors in business" provision to provide that this provision does not apply to an acquisition, transfer of a trade or business, or transfer of an employers workforce conducting the trade or business if the acquisition or transfer is determined by the commissioner (1) to have been primarily for the purpose of obtaining a more favorable rate of contributions; (2) to be inequitable to the parties; (3) to be contrary to the public interest; or (4) to be in violation of the SUTA Dumping Prevention Act of 2004 (effective July 1, 2006).

CALIFORNIA AB 2293 ENACTED and EFFECTIVE August 28, 2006
(CH 190)

Financing

Assesses a penalty of not less than 2 nor more than 10 times the claimant's weekly benefit amount against an employer who willfully makes a false statement or representation or willfully fails to report a material fact concerning the termination of a claimant who performed services for an educational institution.

Requires the deposit of the penalty into the Employment Development Department Contingent Fund.

CALIFORNIASB 1428
(CH 811)

ENACTED and EFFECTIVE September 30, 2006

Coverage

Adds to the definition of "employer" any employing unit that is a motion picture payroll services company who pays and controls the payment of wages of a motion picture production worker for services either to a motion picture production company or to an allied motion picture services company.

Financing

Provides penalties for each rating period beginning on or after January 1, 2007, for employers operating as motion picture payroll services companies who obtain or attempt to obtain more favorable rates of contributions due to deliberate ignorance, reckless disregard, fraud, intent to evade, misrepresentation, or willful nondisclosure.

Provides that on and after January 1, 2007, whenever a motion picture payroll services company creates or acquires a motion picture payroll services company, or acquires substantially all of the assets of a motion picture payrolls services company, the created or acquired motion picture payroll services company must constitute a separate employing unit, notwithstanding certain other provisions of the UI law.

Provides that when a motion picture payroll services company transfers all or part of its business or payroll to another motion picture payroll services company, the reserve account attributable to the transferor must be transferred to the transfer motion picture payroll services company.

The above provisions remain effective until January 1, 2012.

ILLINOISHB 4375
(P.A. 94-911)

ENACTED and EFFECTIVE June 23, 2006

Administration

Amends the "disclosure of information" provision to require the Director to make available to the Department of State Police, upon request, any information concerning the place/former places of employment of a registered sex offender that may be useful in enforcing the registration provisions requiring disclosure of places of employment to the law enforcement agency.

NEW HAMPSHIREHB 1474
(CH 308)ENACTED June 19, 2006
EFFECTIVE June 19, 2006
or as otherwise indicatedFinancing

Changes the percentage point decrease in the contribution rates based on the amounts in the unemployment fund on September 30 of the preceding calendar year. The reduction in the contribution rate occurs for the 4 calendar quarters during a calendar year. The range is a decrease of 0.5 percent if the fund equals or exceeds \$225,000,000; a decrease of 1.0 percent (was 0.5 percent) if the fund equals or exceeds \$250,000,000; a decrease of 1.5 percent (was 0.5 percent) if the fund equals or exceeds \$275,000,000, effective July 1, 2006.

Specifies that the minimum contribution rate for the above provision cannot be less than 0.01 percent, effective July 1, 2006, and not less than 0.10 percent, effective January 1, 2007.

Effective, June 19, 2006, nullifies the 2006 minimum rate provision changing the minimum contribution rate from not less than 0.01 percent to not less than 0.10 percent, effective January 1, 2007.

Monetary Entitlement

Increases the maximum weekly benefit amount from \$372 to \$427 and the maximum benefits payable from \$9,672 to \$11,102, effective July 1, 2007.

Increases the minimum wage credits required in the base period to qualify for the maximum weekly benefit amount from \$36,500 to \$41,500, effective July 1, 2007.

NEW HAMPSHIRE

HB 1478
(CH 129)

ENACTED May 19, 2006
EFFECTIVE July 1, 2006

Financing

Provides that any employing unit, officer or employee of a corporation, or member or employee of a partnership or limited liability company who as such officer, employee, or member is under a duty to perform and who fails or refuses to furnish a report which includes every individual who performed services in employment for the time period applicable to such report commits falsity. Provides that a penalty may be imposed of up to \$25 for each such individual not reported for each calendar day such violation continues.

Applies an amnesty from the assessment or payment of all penalties and of interest greater than ½ percent per month for unpaid contributions reported and paid in full during the period from July 1, 2006, through and including October 31, 2006, regardless of whether previously assessed; amnesty applies to contributions due but unpaid on or before October 31, 2006.

NEW HAMPSHIRE

HB 1588
(CH 130)

ENACTED May 12, 2006
EFFECTIVE January 1, 2007
or as otherwise indicated

Administration

Changes the way employer liability determinations are sent from by registered mail to by certified mail, return receipt requested, or first class mail, whichever the commissioner determines to be most appropriate, to the last address according to the records of the department, of each employing unit or employer affected (effective July 1, 2006).

Financing

Charges the unemployment fund instead of the most recent employer whenever unemployment benefits are paid and a chargeable employer has not been established following a determination that an individual previously disqualified but now is eligible due to monetarily requalifying.

Adds as part of the term "wages" for purposes of being totally unemployed and partially unemployed that the application of longevity, stay, retention, attendance, and similar

payments commencing with a period of one or more weeks of partial or total unemployment must be presumed reasonable if such payment was received 90 or fewer days prior to the commencement of such period.

Changes the minimum contribution rate from not less than 0.01 percent to not less than 0.10 percent.

Requires the employing unit to make restitution to the unemployment compensation fund in full for any and all unemployment benefits paid to an employee for a period covered by or reasonably deemed to be included in any arbitration award, back pay award, settlement agreement, or jury verdict.

Modifies the provisions concerning payment of contributions by the state, county, city, town or other political subdivision of New Hampshire to provide that if a claimant during the base period was employed by the state, county, city, town or other political subdivision of New Hampshire, and by certain other employers, the amount to be paid into the fund by such state, county, city, town or other political subdivision of New Hampshire with respect to such claimant will be prorated among the liable employers in proportion to the wages paid to such individual by such employer during the base period. (Previously the law required the state, county, city, town or other political subdivisions of New Hampshire to pay the fund the amount of benefits received by the claimant which were in addition to such amount as the claimant was entitled to receive on the basis of the wages paid by the other employers.

Repeals and reenacts the provision concerning proration of payments to provide that if the base period wages of an individual include wages from one or more reimbursing employers and one or more additional employers, reimbursing employer or taxpayer, benefits paid to such individual shall be charged to any such reimbursing employer in the same proportion as the wages from such reimbursing employers bears to the total amount of all wages in the individual's base period. Any benefit not charged to a reimbursing employer shall be charged to the most recent employer or as otherwise required by the state unemployment compensation law.

Modifies the provision pertaining to charging when an individual performed employment for more than one employer simultaneously by defining "performed employment" as including the receipt of wages or earnings found to apply to such time period.

Nonmonetary Eligibility

Redefines "most recent employer" to mean the last employer prior to the effective date of the initial claim with whom an individual's work record exceeded 4 consecutive weeks of employment while such individual received no benefits. (Previous definition was the last employer with whom an individual's work record exceeded 4 consecutive weeks of employment or exceeded 9 weeks of employment in the immediately preceding 13-week period while such individual received no benefits.)

Modifies the disqualifications for benefits provision's introductory paragraph to include: In this section, "date" as used in subsequent to the date" means the last calendar day on which the individual performed services for the employer.

Amends the definition of gross misconduct to include that an unemployed individual who has been discharged for assault which causes bodily injury or criminal threatening will suffer loss of all wage credits earned prior to the date of such dismissal.

WASHINGTON

SB 6359 ENACTED and EFFECTIVE March 14, 2006
(CH 47)

Financing

Amends state law to include SUTA dumping prevention provisions which:

mandate transfer of experience from one employer to another when there is substantially common ownership, management, or control; apply to both total and partial transfers;

prohibit transfer of experience if a person becomes an employer by acquiring an existing business and if the purpose of the acquisition is to obtain a lower contribution rate; apply to persons, who prior to the acquisition of the business, (a) had no employees and (b) had some employees but not enough to be an employer for state law purposes;

provide meaningful civil and criminal penalties for knowingly violating or attempting to violate the law's requirements, and for knowingly advising to violate the law; and establish procedures to identify the transfer or acquisition of a business for purposes of the law.

The above Washington provisions are applicable retroactively to January 1, 2006.