

REFERENCE TITLE: unemployment insurance; omnibus

State of Arizona
House of Representatives
Fiftieth Legislature
Second Regular Session
2012

HB 2519

Introduced by
Representative Fann

AN ACT

AMENDING SECTIONS 23-353, 23-769, 23-771 AND 23-776, ARIZONA REVISED STATUTES; AMENDING TITLE 23, CHAPTER 4, ARTICLE 6, ARIZONA REVISED STATUTES, BY ADDING SECTION 23-795; RELATING TO EMPLOYMENT SECURITY.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 23-353, Arizona Revised Statutes, is amended to
3 read:

4 23-353. Payment of wages of discharged employee; violation;
5 classification

6 A. When an employee is discharged from the service of an employer, he
7 shall be paid wages due him ~~within three working days or~~ BY the end of the
8 next regular pay period, ~~whichever is sooner.~~

9 B. When an employee quits the service of an employer he shall be paid
10 in the usual manner all wages due him no later than the regular payday for
11 the pay period during which the termination occurred. If requested by the
12 employee, such wages shall be paid by mail.

13 C. Every employer, including ~~the~~ THIS state and its political
14 subdivisions, shall pay wages or compensation due an employee under this
15 section in lawful money of the United States by negotiable check, draft,
16 money order or warrant, in the case of the state or any political
17 subdivision, which can be immediately redeemed in cash at a bank or other
18 financial institution, payable on demand or by deposit in a financial
19 institution of employee's choice and dated not later than the day upon which
20 the check, draft, money order or warrant is given, and not otherwise.

21 D. A person violating this section is guilty of a petty offense.

22 Sec. 2. Section 23-769, Arizona Revised Statutes, is amended to read:

23 23-769. Job training employer tax

24 A. Beginning on January 1, 2001, a tax equal to one-tenth of one per
25 cent of taxable wages as provided and defined in section 23-622 and that are
26 paid to an employee each year is imposed on each employer in this state
27 except employers described in subsection B or C of this section.

28 B. Subsection A of this section does not apply to employers who have
29 elected to become liable for payment in lieu of contributions pursuant to
30 section 23-750.

31 C. Until the amount of the excise tax imposed pursuant to 26 United
32 States Code section 3301 is reduced to **A PERCENTAGE THAT IS LESS THAN** six per
33 cent ~~or less~~, subsection A of this section does not apply to employers:

34 1. With a positive reserve ratio of at least thirteen per cent
35 pursuant to section 23-730.

36 2. With a positive reserve ratio of at least twelve per cent but less
37 than thirteen per cent.

38 3. That are assigned the contribution rate of two per cent pursuant to
39 section 23-729 or two and seven-tenths per cent pursuant to section 23-730.

40 4. With a negative reserve ratio pursuant to section 23-730.

41 D. The department of economic security shall collect this tax on a
42 quarterly basis and shall deposit, pursuant to sections 35-146 and 35-147,
43 the monies collected pursuant to this section in the Arizona job training
44 fund established by section 41-1544. Monies collected pursuant to this

1 section shall not be commingled in any manner with monies collected pursuant
2 to articles 4, 5 and 5.1 of this chapter.

3 E. From and after December 31, 2004, the payment of contributions or
4 job training employer taxes is not required if the quarterly amount of the
5 contributions and taxes is less than ten dollars.

6 Sec. 3. Section 23-771, Arizona Revised Statutes, is amended to read:
7 23-771. Eligibility for benefits

8 A. An unemployed individual shall be eligible to receive benefits with
9 respect to any week only if the department finds that the individual:

10 1. Has registered for work at and thereafter has continued to report
11 at an employment office in accordance with such regulations as the department
12 prescribes.

13 2. Has made a claim for benefits in accordance with section 23-772.

14 3. Is able to work.

15 4. Is available for work AND BOTH OF THE FOLLOWING APPLY:

16 (a) THE INDIVIDUAL HAS ENGAGED IN A SYSTEMATIC AND SUSTAINED EFFORT TO
17 OBTAIN WORK DURING AT LEAST FOUR DAYS OF THE WEEK.

18 (b) THE INDIVIDUAL HAS MADE AT LEAST THREE WORK SEARCH CONTACTS DURING
19 THE WEEK.

20 5. Has been unemployed for a waiting period of one week. A week
21 shall not be counted as a week of unemployment for the purpose of this
22 paragraph:

23 (a) Unless it occurs within the benefit year that includes the week
24 with respect to which the individual claims payment of benefits.

25 (b) Unless the individual was eligible for benefits with respect
26 thereto as provided in this section and sections 23-775, ~~through 23-776~~ AND
27 23-777.

28 (c) If benefits have been paid in respect thereto.

29 6. Has met one of the following requirements:

30 (a) Has been paid wages for insured work during the individual's base
31 period equal to at least one and one-half times the wages paid to the
32 individual in the calendar quarter of the individual's base period in which
33 such wages were highest, and the individual has been paid wages for insured
34 work in one calendar quarter of the individual's base period equal to ~~at~~
35 ~~least one thousand five hundred dollars~~ AN AMOUNT THAT IS EQUAL TO AT LEAST
36 THREE HUNDRED NINETY TIMES THE MINIMUM WAGE PRESCRIBED BY SECTION 23-363 THAT
37 IS IN EFFECT WHEN THE INDIVIDUAL FILES A CLAIM FOR BENEFITS.

38 (b) Has for a benefit year beginning on or after September 2, 1984,
39 been paid wages for insured work during at least two quarters of the
40 individual's base period and the amount of such wages paid in one quarter
41 would be sufficient to qualify the individual for the maximum weekly benefit
42 amount payable under this chapter and the total of the individual's
43 base-period wages is equal to or greater than the taxable limit as specified
44 in section 23-622, subsection B, paragraph 1.

1 7. Following the beginning date of a benefit year established under
2 this chapter or the unemployment compensation law of any other state and
3 prior to the effective date of a subsequent benefit year under this chapter,
4 has performed services whether or not in employment as defined in section
5 23-615 for which wages were payable in an amount equal to or in excess of
6 eight times the weekly benefit amount for which the individual is otherwise
7 qualified under section 23-779. In making a determination under this
8 paragraph the department shall use information available in its records or
9 require the individual to furnish necessary information within thirty days
10 from the date notice is given that such information is required.

11 8. HAS BEEN PAID WAGES FOR INSURED WORK DURING AT LEAST TWENTY WEEKS
12 OF THE INDIVIDUAL'S BASE PERIOD, AS DETERMINED BY THE DEPARTMENT ON THE
13 INITIAL CLAIM OF BENEFITS. IN MAKING THE DETERMINATION UNDER THIS PARAGRAPH,
14 IT SHALL BE PRESUMED THAT THE INDIVIDUAL HAS MET THE REQUIREMENTS OF THIS
15 PARAGRAPH UNLESS SUBSEQUENTLY DISPUTED BY THE EMPLOYER. ONLY IF THE EMPLOYER
16 DISPUTES THE DETERMINATION MADE UNDER THIS PARAGRAPH SHALL THE EMPLOYER BE
17 REQUIRED TO PROVIDE INFORMATION TO THE DEPARTMENT DEMONSTRATING THAT THE
18 INDIVIDUAL DID NOT MEET THE REQUIREMENTS UNDER THIS PARAGRAPH.

19 B. If an unemployed individual cannot establish a benefit year as
20 defined in section 23-609 due to receipt during the base period of
21 compensation for a temporary total disability pursuant to chapter 6 of this
22 title, or any similar federal law, the individual's base period shall be the
23 first four of the last five completed calendar quarters immediately preceding
24 the first day of the calendar week in which the disability began. Wages
25 previously used to establish a benefit year may not be reused. This
26 subsection does not apply unless all of the following occur:

27 1. The individual has filed a claim for benefits not later than the
28 fourth calendar week of unemployment after the end of the period of
29 disability.

30 2. The claim is filed within two years after the period of disability
31 begins.

32 3. The individual meets the requirements of subsection A of this
33 section.

34 4. The individual has attempted to return to the employment where the
35 temporary total disability occurred.

36 C. If an unemployed individual is a member of the national guard or
37 other reserve component of the United States armed forces, the individual
38 shall not be considered to be either employed or unavailable for work by
39 reason of the individual's participation in drill, training or other national
40 guard or reserve activity that occurs on not more than one weekend per month
41 or in lieu of a weekend drill or the equivalent.

42 D. The department shall not disqualify an individual from receiving
43 benefits under this chapter on the basis of the individual's separation from
44 employment if the individual is a victim of domestic violence and leaves
45 employment due to a documented case ~~of a~~ INVOLVING domestic violence ~~offense~~

1 ~~as defined in~~ PURSUANT TO section 13-3601 or 13-3601.02. Benefits paid to an
2 individual pursuant to this subsection shall not be charged against an
3 employer's account pursuant to section 23-727, subsection G.

4 E. For the purposes of subsection A, paragraph 6 of this section,
5 wages shall be counted as "wages for insured work" for benefit purposes with
6 respect to any benefit year only if that benefit year begins subsequent to
7 the date on which the employing unit by which those wages were paid has
8 become an employer subject to this chapter.

9 Sec. 4. Section 23-776, Arizona Revised Statutes, is amended to read:

10 23-776. Disqualification from benefits for failure to accept
11 suitable work or actively seek work; exceptions

12 A. An individual shall be disqualified for benefits if the department
13 finds ~~he~~ THE INDIVIDUAL has failed without cause either to apply for
14 available, suitable work, when so directed by the employment office or the
15 department, ~~or~~ TO ACTIVELY ENGAGE IN SEEKING WORK, to accept suitable work
16 when offered ~~him~~, or to return to ~~his~~ THE INDIVIDUAL'S customary
17 self-employment when so directed by the department. The disqualification
18 shall begin with the week in which the failure occurred and shall continue
19 for the duration of ~~his~~ THE INDIVIDUAL'S unemployment and until ~~he~~ THE
20 INDIVIDUAL has earned wages in an amount equivalent to ~~eight~~ _____ times
21 ~~his~~ THE INDIVIDUAL'S weekly benefit amount otherwise payable.

22 B. In determining whether or not work is suitable for an individual,
23 the department shall consider the degree of risk involved to ~~his~~ THE
24 INDIVIDUAL'S health, safety and morals, ~~his~~ THE INDIVIDUAL'S physical fitness
25 and prior training, ~~his~~ THE INDIVIDUAL'S experience and prior earnings, ~~his~~
26 THE INDIVIDUAL'S length of unemployment and prospects for securing local work
27 in ~~his~~ THE INDIVIDUAL'S customary occupation and the distance of the
28 available work from ~~his~~ THE INDIVIDUAL'S residence.

29 C. Notwithstanding any other provisions of this chapter, ~~no~~ work shall
30 NOT be deemed suitable and benefits shall not be denied under this chapter to
31 an otherwise eligible individual for refusing to accept new work under any of
32 the following conditions:

33 1. ~~If~~ The position offered is vacant due directly to a strike, lockout
34 or other labor dispute.

35 2. ~~If~~ The wages, hours or other conditions of the work offered are
36 substantially less favorable to the individual than those prevailing for
37 similar work in the locality.

38 3. ~~If~~ As a condition of being employed the individual would be
39 required to join a company union or to resign from or refrain from joining a
40 bona fide labor organization.

41 D. AN INDIVIDUAL IS CONSIDERED TO HAVE REFUSED AN OFFER OF SUITABLE
42 WORK UNDER SUBSECTION A OF THIS SECTION IF AN OFFER OF WORK IS WITHDRAWN BY
43 AN EMPLOYER AFTER AN INDIVIDUAL EITHER:

1 1. TESTS POSITIVE FOR DRUGS AFTER A DRUG TEST GIVEN PURSUANT TO
2 CHAPTER 2, ARTICLE 14 OF THIS TITLE BY OR ON BEHALF OF A PROSPECTIVE EMPLOYER
3 AS A CONDITION OF AN OFFER OF EMPLOYMENT.

4 2. REFUSES, WITHOUT GOOD CAUSE, TO SUBMIT TO A DRUG TEST THAT IS
5 REQUIRED BY A PROSPECTIVE EMPLOYER AS A CONDITION OF AN OFFER OF EMPLOYMENT.

6 Sec. 5. Title 23, chapter 4, article 6, Arizona Revised Statutes, is
7 amended by adding section 23-795, to read:

8 23-795. Services for a charter school; benefits

9 A. NOTWITHSTANDING ANY OTHER LAW, BENEFITS BASED ON SERVICE FOR A
10 CHARTER SCHOOL, AS DESCRIBED IN SECTION 15-181, SHALL NOT BE PAID TO AN
11 INDIVIDUAL FOR ANY WEEK OF UNEMPLOYMENT THAT BEGINS DURING A PERIOD BETWEEN
12 TWO SUCCESSIVE ACADEMIC YEARS OR TERMS IF THE INDIVIDUAL PERFORMS THESE
13 SERVICES IN THE FIRST OF THE SUCCESSIVE ACADEMIC YEARS OR TERMS AND THERE IS
14 A REASONABLE ASSURANCE THAT THE INDIVIDUAL WILL PERFORM THE SAME SERVICES IN
15 THE SECOND OF THE ACADEMIC YEARS OR TERMS, EXCEPT THAT IF BENEFITS ARE DENIED
16 TO ANY INDIVIDUAL UNDER THIS SUBSECTION AND THAT INDIVIDUAL WAS NOT OFFERED
17 AN OPPORTUNITY TO PERFORM THESE SERVICES FOR THE EMPLOYER FOR THE SECOND
18 SUCCESSIVE ACADEMIC YEAR OR TERM, THE INDIVIDUAL IS ENTITLED TO A RETROACTIVE
19 PAYMENT OF BENEFITS FOR EACH WEEK THE INDIVIDUAL FILED A TIMELY CLAIM FOR
20 BENEFITS AND THE BENEFITS WERE DENIED SOLELY BY REASON OF THIS SUBSECTION.

21 B. BENEFITS BASED ON SERVICE FOR A CHARTER SCHOOL, AS DESCRIBED IN
22 SECTION 15-181, SHALL NOT BE PAID TO AN INDIVIDUAL FOR ANY WEEK OF
23 UNEMPLOYMENT THAT BEGINS DURING AN ESTABLISHED AND CUSTOMARY VACATION PERIOD
24 OR HOLIDAY RECESS IF THE INDIVIDUAL PERFORMS THESE SERVICES IN THE PERIOD
25 IMMEDIATELY BEFORE THE VACATION PERIOD OR HOLIDAY RECESS AND IF THERE IS A
26 REASONABLE ASSURANCE THAT THE INDIVIDUAL WILL PERFORM THE SERVICES IN THE
27 PERIOD IMMEDIATELY FOLLOWING THE VACATION PERIOD OR HOLIDAY RECESS.