

State of Arizona
Senate
Fifty-second Legislature
First Regular Session
2015

SENATE BILL 1343

AN ACT

AMENDING SECTIONS 23-617 AND 23-750, ARIZONA REVISED STATUTES; RELATING TO
UNEMPLOYMENT INSURANCE.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 23-617, Arizona Revised Statutes, is amended to
3 read:

4 23-617. Exempt employment; definition

5 "Exempt employment" means employment not considered in determining
6 whether an employing unit constitutes an "employer" under this chapter and
7 includes:

8 1. Agricultural labor as defined in section 23-603 unless the labor is
9 performed for an employing unit that after December 31, 1977 either:

10 (a) For some portion of a day, but not necessarily simultaneously, in
11 each of twenty different calendar weeks, whether or not the weeks are or were
12 consecutive, in either the current or the preceding calendar year, employed
13 in agricultural labor at least ten individuals irrespective of whether the
14 same individuals were employed in each day.

15 (b) In any calendar quarter in either the current or preceding
16 calendar year paid cash wages of twenty thousand dollars or more for
17 agricultural labor.

18 2. Domestic service in a private home, local college club, or local
19 chapter of a college fraternity or sorority unless performed after
20 December 31, 1977, for an employing unit that in any calendar quarter in
21 either the current or preceding calendar year paid cash wages of one thousand
22 dollars or more to individuals employed in that service.

23 3. Service performed on or in connection with a vessel or aircraft
24 that is not an American vessel or American aircraft, if the employee is
25 employed on and in connection with the vessel or aircraft when outside the
26 United States.

27 4. Service performed by an individual in the employ of the
28 individual's son, daughter, ~~or~~ spouse, and service performed by an
29 individual under twenty-one years of age in the employ of the individual's
30 father or mother.

31 5. Service performed in the employ of the United States government or
32 an instrumentality of the United States that is wholly or partially owned by
33 the United States or that is exempt from the tax imposed by section 3301 of
34 the federal internal revenue code, except that to the extent Congress ~~shall~~
35 ~~permit~~ PERMITS states to require instrumentalities of the United States to
36 make payments into an unemployment fund under a state unemployment
37 compensation law, ~~all of the provisions of~~ this chapter ~~shall be~~ IS
38 applicable to the instrumentalities, in the same manner, to the same extent
39 and on the same terms as to all other employers, employing units, individuals
40 and services, but if this state is not certified for any year by the
41 secretary of labor of the United States under section 3304 of the federal
42 internal revenue code, the payments required of the instrumentalities with
43 respect to the year shall be refunded by the department from the fund in the
44 same manner and within the same period as is provided in section 23-742 with
45 respect to contributions erroneously collected.

1 6. Service performed in the employ of another state, or any political
2 subdivision of another state, or an instrumentality of another state or
3 another state's political subdivision that is wholly owned by one or more
4 other states or political subdivisions and that exercises only governmental
5 as distinguished from proprietary functions, and service performed in the
6 employ of any political subdivisions of this or any other state to the extent
7 the instrumentality, with respect to the service, is exempt under the
8 Constitution of the United States from the tax imposed by section 3301 of the
9 federal internal revenue code, except that part of the service performed in
10 the employ of any of the foregoing that is "employment" under section 23-615,
11 subsection A, paragraph 6, 7 or 8. But any state, or a political subdivision
12 of a state, or instrumentality of any one or more of the foregoing that is
13 wholly owned by one or more states or political subdivisions may elect
14 coverage whether or not the service performed is governmental or proprietary
15 for any state or political subdivision thereof or any instrumentality thereof
16 or any department thereof in the manner prescribed and subject to the terms
17 of section 23-725, and election may exclude any services described in section
18 23-615, subsection B. This state or any instrumentality or political
19 subdivision of this state may appropriate funds to pay contributions or
20 payments in lieu of contributions as required by this chapter.

21 7. Service with respect to which unemployment compensation is payable
22 under an unemployment compensation system established by an act of Congress.

23 8. Service performed in any calendar quarter in the employ of an
24 organization exempt from income tax under section 501(a) (other than an
25 organization described in section 401(a)) or under section 521 of the federal
26 internal revenue code, if the remuneration for such service is less than
27 fifty dollars.

28 9. Service performed in the employ of a school, college or university,
29 if the service is performed either:

30 (a) By a student enrolled and regularly attending classes at the
31 school, college or university.

32 (b) By the spouse of a student if the spouse is advised at the time
33 the spouse commences to perform the service that the employment is provided
34 under a program to provide financial assistance to the student by the school,
35 college or university and the employment will not be covered by any program
36 of unemployment compensation.

37 10. Service performed in the employ of a corporation, community chest
38 fund, ~~or~~ or foundation, organized and operated exclusively for religious,
39 charitable, scientific, testing for public safety, literary, ~~or~~ or educational
40 purposes, or for the prevention of cruelty to children or animals, no part of
41 the net earnings of which inures to the benefit of a private shareholder or
42 individual, no substantial part of the activities of which is carrying on
43 propaganda or otherwise attempting to influence legislation, and that does
44 not participate in or intervene in (including the publishing or distributing
45 of statements) any political campaign on behalf of any candidate for public

1 office; provided that services performed in the employ of an organization
2 operated for the primary purpose of carrying on a trade or business for
3 profit shall not be exempt on the ground that all of its profits are payable
4 to one or more organizations exempt under this paragraph, and further
5 provided that services exempt under this paragraph shall not include services
6 performed for an employing unit with respect to which the employing unit is
7 liable for any federal tax against which credit may be taken for
8 contributions required to be paid into a state unemployment compensation
9 fund, and further provided that services exempt under this paragraph shall
10 not include services that are "employment" under section 23-615, subsection
11 ~~B~~ A, paragraph 6, 7 or 8.

12 11. Services performed as a student nurse in the employ of a hospital
13 or a nurses' training school by an individual enrolled and regularly
14 attending classes in a nurses' training school chartered or approved pursuant
15 to state law, and service performed as an interne in the employ of a hospital
16 by an individual who has completed a four years' course in a medical school
17 chartered or approved pursuant to state law.

18 12. Service performed by an individual for an employing unit as an
19 insurance producer, if all service performed by the individual for the
20 employing unit is performed for remuneration solely by way of commission.

21 13. Service performed by an individual under the age of eighteen in the
22 delivery or distribution of newspapers or shopping news, not including
23 delivery or distribution to any point for subsequent delivery or
24 distribution, and service performed by an individual in, and at the time of,
25 the sale of newspapers or magazines to ultimate consumers under an
26 arrangement by which the newspapers or magazines are to be sold by the
27 individual at a fixed price, the individual's compensation being based on the
28 retention of the excess of such price over the amount at which the newspapers
29 or magazines are charged to the individual, whether or not the individual is
30 guaranteed a minimum amount of compensation for such service, or is entitled
31 to be credited with the unsold newspapers or magazines turned back.

32 14. Service performed by an individual for an employing unit as a
33 licensed real estate broker or a licensed cemetery broker or a licensed real
34 estate salesman or licensed cemetery salesman, if all service performed by
35 the individual for the employing unit is performed for remuneration solely by
36 way of commission, except that any service performed as a real estate broker,
37 a cemetery broker, a real estate salesman or a cemetery salesman for an
38 employing unit to which ~~the provisions of~~ section 23-750 ~~apply~~ APPLIES is not
39 exempt employment.

40 15. Service performed in the employ of a foreign government including
41 service as a consular or other officer or employee or a nondiplomatic
42 representative.

43 16. Service performed in the employ of an instrumentality wholly owned
44 by a foreign government if both:

1 (a) The service is of a character similar to that performed in foreign
2 countries by employees of the United States government or of an
3 instrumentality of the United States government.

4 (b) The department finds that the United States secretary of state has
5 certified to the United States secretary of the treasury that the foreign
6 government with respect to whose instrumentality exemption is claimed grants
7 an equivalent exemption with respect to similar service performed in the
8 foreign country by employees of the United States government and of
9 instrumentalities of the United States government.

10 17. Service covered by an arrangement between the department and the
11 agency charged with the administration of any other state or federal
12 unemployment compensation law pursuant to which all services performed by an
13 individual for an employing unit during the period covered by the employing
14 unit's duly approved election are deemed to be performed entirely within the
15 agency's state.

16 18. Casual labor not in the course of the employer's trade or business.

17 19. Service performed by an individual for an employing unit as a
18 securities salesman, if all such service performed by the individual for the
19 employing unit is performed for remuneration solely by way of commission,
20 except that any service performed as a securities salesman for an employing
21 unit to which ~~the provisions of~~ section 23-750 ~~apply~~ APPLIES is not exempt
22 employment.

23 20. During any period in which it does not meet the definition of
24 employment in section 23-615, subsection A, paragraph 10, service performed
25 by an individual who is enrolled at a nonprofit or public educational
26 institution that normally maintains a regular faculty and curriculum and
27 normally has a regularly organized body of students in attendance at the
28 place where the institution's educational activities are carried on as a
29 student in a full-time program, and taken for credit at the institution,
30 which combines academic instruction with work experience, if the service is
31 an integral part of the program, and the institution has so certified to the
32 employer, except that this paragraph shall not apply to service performed in
33 a program established for or on behalf of an employer or group of employers.

34 21. Service performed in the employ of a hospital if the service is
35 performed by a patient of the hospital.

36 22. Service performed by individuals solely to the extent that the
37 compensation includes commissions, overrides or profits realized on sales
38 primarily resulting from the in-person solicitation of orders for or making
39 sales of consumer goods in the home, except that any service performed by an
40 individual for an employing unit to which ~~the provisions of~~ section 23-750
41 ~~apply~~ APPLIES is not exempt employment.

42 23. Services performed by an individual for an employing unit in the
43 preparation of tax returns and related schedules and documents, if all
44 services are performed for remuneration solely by way of commissions,
45 independent of the control of the employing unit, other than that required by

1 the internal revenue service for correct preparation of the returns, except
2 that any service performed by an individual for an employing unit to which
3 ~~the provisions of~~ section 23-750 ~~apply~~ APPLIES is not exempt employment.

4 Sec. 2. Section 23-750, Arizona Revised Statutes, is amended to read:

5 23-750. Special provisions for nonprofit organizations and
6 state and local governments

7 A. The provisions of this section apply to:

8 1. Any nonprofit organization described in ~~paragraph 10 of~~ section
9 23-617, PARAGRAPH 10, ~~which~~ THAT but for the provisions of section 23-613,
10 subsection A, paragraph 2, subdivision (c) would not be subject to this
11 chapter, or ~~which~~ THAT is not mandatorily subject to this chapter because of
12 insufficient employees but ~~which~~ THAT has voluntarily elected to become
13 subject to this chapter.

14 2. This state, or a political subdivision ~~thereof~~ OF THIS STATE, or
15 any instrumentality, agency or board of any one or more of the foregoing or
16 any instrumentality of any of the foregoing and one or more other states or
17 political subdivisions.

18 B. Benefits paid to employees of employing units to which this section
19 applies shall be financed ~~in accordance with the provisions of~~ PURSUANT TO
20 this subsection.— AS FOLLOWS:

21 1. Any employing unit to which this section applies:

22 (a) ~~Which~~ THAT is or becomes subject to this chapter on January 1,
23 1972, may elect to become liable for payments in lieu of contributions for a
24 period of not less than three consecutive taxable years beginning with
25 January 1, 1972, provided it files with the department a written notice of
26 its election not later than sixty days after written notice that ~~such~~ THE
27 election may be made is first given to the employing unit by the department.

28 (b) ~~Which~~ THAT becomes subject to this chapter after January 1, 1972,
29 may elect to become liable for payments in lieu of contributions for a period
30 of not less than three consecutive taxable years by filing a written notice
31 of its election with the department not later than thirty days immediately
32 ~~following~~ AFTER the date of the determination of such subjectivity.

33 (c) ~~Which~~ THAT makes an election in accordance with subdivision (a) or
34 (b) of this paragraph shall continue to be liable for payments in lieu of
35 contributions until it files with the department a written notice terminating
36 its election not later than thirty days ~~prior to~~ BEFORE the beginning of the
37 taxable year for which ~~such~~ THE termination shall first be effective.

38 (d) ~~Which~~ THAT has been paying contributions under this chapter
39 subsequent to January 1, 1972, for a period of not less than three
40 consecutive taxable years may elect to become liable for payments in lieu of
41 contributions for a period of not less than three consecutive taxable years
42 by filing a written notice of its election with the department not later than
43 thirty days ~~prior to~~ BEFORE the beginning of the taxable year for which ~~such~~
44 THE election shall first be effective.

1 2. The department may for good cause extend the period within which a
2 notice of election or a notice of termination must be filed.

3 3. The department shall notify the employing unit of any determination
4 made of its status as an employer and of the effective date of any election
5 or termination of ~~such~~ THE election made ~~in accordance with~~ PURSUANT TO this
6 subsection. ~~Such~~ THE determination shall be subject to reconsideration,
7 petition for hearing, ~~and~~ judicial review ~~in accordance with the provisions~~
8 ~~of~~ PURSUANT TO section 23-724.

9 4. EXCEPT AS PROVIDED IN PARAGRAPH 5 OF THIS SUBSECTION, an employing
10 unit shall pay to the department for the fund an amount equal to the amount
11 of regular benefits and of one-half of the extended benefits paid ~~which~~ THAT
12 were based ~~upon~~ ON wages paid during the employing unit's period of election
13 to make payments in lieu of contributions, except that a governmental entity
14 shall pay to the department for the fund an amount equal to the total amount
15 of extended benefits paid for weeks of unemployment beginning on or after
16 January 1, 1979, ~~which~~ THAT are based ~~upon~~ ON wages paid by the governmental
17 entity during its election to make payments in lieu of contributions. The
18 provisions of sections 23-727, 23-773 and 23-777, insofar as they apply to
19 noncharging an employer's account for benefit payments, do not apply to
20 benefits paid ~~which~~ THAT were based ~~upon~~ ON wages paid during the employing
21 unit's period of election to make payments in lieu of contributions.

22 5. BENEFITS PAID OR PAYABLE TO A CLAIMANT ARE NOT ATTRIBUTABLE TO
23 SERVICE WITH AN EMPLOYING UNIT UNDER THIS SECTION IF THE EMPLOYING UNIT
24 EMPLOYS ONE EMPLOYEE AND WAS A BASE PERIOD EMPLOYER FROM WHICH THE EMPLOYEE
25 VOLUNTARILY TERMINATED THE EMPLOYEE'S EMPLOYMENT. THE EMPLOYING UNIT IS NOT
26 REQUIRED TO REIMBURSE THE BENEFITS IF THE EMPLOYING UNIT PROVIDES THE
27 DEPARTMENT WITH INFORMATION SUFFICIENT TO ESTABLISH THE EMPLOYEE'S VOLUNTARY
28 TERMINATION FROM THE EMPLOYING UNIT WITHIN TEN DAYS AFTER RECEIPT OF A
29 BENEFIT CHARGE NOTICE FROM THE DEPARTMENT OR MAILING OF NOTICE BY THE
30 DEPARTMENT THAT THE INDIVIDUAL HAS FILED A CLAIM FOR BENEFITS.

31 C. As soon as practicable after the end of each calendar quarter the
32 department shall determine the amount of payments in lieu of contributions
33 due from each employing unit and shall bill each employing unit for the
34 amount due. If payment is not made on or before the date due and payable as
35 prescribed by the department, the whole or part thereafter remaining unpaid
36 shall bear interest at the rate of one ~~per cent~~ PERCENT per month or fraction
37 thereof, from and after the due date until payment is received by the
38 department. The amount of payments due ~~hereunder~~ but not paid may be
39 collected by the department, together with interest and penalties, if any, in
40 the same manner and subject to the same conditions as contributions due from
41 other employers. The amount due specified in any bill from the department
42 shall be conclusive and binding on the employing unit unless not later than
43 fifteen days after the bill was mailed to its last known address, the
44 employing unit files an application for redetermination. A redetermination
45 made under this subsection shall be subject to petition for hearing and

1 judicial review ~~in accordance with the provisions of~~ PURSUANT TO section
2 23-724.

3 D. Two or more employing units that have become liable for payments in
4 lieu of contributions may file a joint application to the department for the
5 establishment of a group account for the purpose of sharing the cost of
6 benefits paid that are attributable to service in the employ of ~~such~~ THE
7 employing units. Each application shall identify and authorize a group
8 representative to act as the group's agent for the purposes of this
9 subsection. ~~Upon~~ ON approval of the application, the department shall
10 establish a group account for ~~such~~ THE employing units effective as of the
11 beginning of the calendar quarter in which the application is received and
12 shall notify the group's representative of the effective date of the account.
13 The account shall remain in effect for ~~not less than~~ AT LEAST three years and
14 thereafter until terminated at the discretion of the department or ~~upon~~ ON
15 application by the group. ~~Upon~~ ON establishment of the account, each member
16 of the group shall be liable for payments in lieu of contributions with
17 respect to each calendar quarter in the amount that bears the same ratio to
18 the total benefits paid in ~~such~~ THAT quarter that are attributable to service
19 performed in the employ of all members of the group as the total wages paid
20 for service in employment by ~~such~~ THE member in ~~such~~ THAT quarter bear to the
21 total wages paid during ~~such~~ THAT quarter for service performed in the employ
22 of all members of the group. The department shall prescribe ~~such~~ regulations
23 as it deems necessary with respect to applications for establishment,
24 maintenance, ~~and~~ and termination of group accounts that are authorized by this
25 subsection, for addition of new members to, and withdrawal of active members
26 from, ~~such~~ THE accounts, and for the determination of the amounts that are
27 payable under this subsection by members of the group and the time and manner
28 of ~~such~~ THE payments.

29 E. Benefits are payable on the basis of employment to which this
30 section applies, in the same amount, on the same terms, and subject to the
31 same conditions as benefits payable on the basis of other employment subject
32 to this chapter, except that notwithstanding ~~the provisions of~~ sections
33 23-779 and 23-780:

34 1. Benefits based on service in an instructional, research, ~~or~~
35 principal administrative capacity for an educational institution shall not be
36 paid to an individual for any week of unemployment ~~which~~ THAT begins during
37 the period between two successive academic years, or during a similar period
38 between two regular terms, whether or not successive, or during a period of
39 paid sabbatical leave provided for in the individual's contract, if the
40 individual performs ~~such~~ THE services in the first ~~of such~~ academic years
41 YEAR or ~~terms~~ TERM and if there is a contract or a reasonable assurance that
42 ~~such~~ THE individual will perform services in any such capacity for any
43 educational institution in the second ~~of such~~ academic years YEAR or ~~terms~~
44 TERM.

1 2. Benefits based on service in any other capacity for an educational
2 institution shall not be paid to an individual for any week of unemployment
3 ~~which THAT~~ begins during a period between two successive academic years or
4 terms if the individual performs ~~such THE~~ services in the first ~~of such~~
5 academic ~~years YEAR~~ or ~~terms TERM~~ and if there is a reasonable assurance that
6 ~~such THE~~ individual will perform ~~such THE~~ services in the second ~~of such~~
7 academic ~~years YEAR~~ or ~~terms TERM~~, except that if benefits are denied to any
8 individual under this paragraph and that individual was not offered an
9 opportunity to perform ~~such~~ services for the educational institution for the
10 second ~~of such~~ academic ~~years YEAR~~ or ~~terms TERM~~, the individual is entitled
11 to a retroactive payment of benefits for each week for which the individual
12 filed a timely claim for benefits and for which benefits were denied solely
13 by reason of this paragraph.

14 3. Benefits based on services described in paragraph 1 or 2 of this
15 subsection shall not be paid to an individual for any week of unemployment
16 ~~which THAT~~ begins during an established and customary vacation period or
17 holiday recess if the individual performs ~~such THE~~ services in the period
18 immediately before ~~such THE~~ vacation period or holiday recess and if there is
19 a reasonable assurance that ~~such THE~~ individual will perform ~~such THE~~
20 services in the period immediately following ~~such THE~~ vacation period or
21 holiday recess.

22 4. With respect to any services described in paragraph 1 or 2 of this
23 subsection, benefits are not payable on the basis of services in any capacity
24 specified in paragraph 1, 2 or 3 of this subsection to any individual who
25 performed ~~such THE~~ services in an educational institution while in the employ
26 of an educational service agency. For the purposes of this paragraph,
27 "educational service agency" means a governmental agency or governmental
28 entity ~~which THAT~~ is established and operated exclusively for the purpose of
29 providing such services to one or more educational institutions.

30 5. With respect to services described in paragraph 1, 2 or 3 of this
31 subsection, benefits are not payable on the basis of services specified in
32 paragraph 1, 2 or 3 of this subsection to any individual who performed these
33 services while in the employ of an entity that provides these services to or
34 on behalf of an educational institution.

35 F. In determining contribution rates assigned to employers under this
36 chapter, the payrolls of employing units liable for payments in lieu of
37 contributions shall not be included in computing the contribution rates to be
38 assigned to employers under this chapter. The payments in lieu of
39 contributions made by ~~such THE~~ employing units shall be included in the total
40 assets of the fund in the same manner as contributions paid by other
41 employers.

42 G. Except as inconsistent with the provisions of this section, the
43 provisions of this chapter and regulations of the department shall apply to
44 any matter arising pursuant to this section.