

State of Arizona
Senate
Fifty-third Legislature
Second Regular Session
2018

CHAPTER 25
SENATE BILL 1205

AN ACT

AMENDING SECTIONS 23-750 AND 23-787, ARIZONA REVISED STATUTES; 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 23-750, Arizona Revised Statutes, is amended to
3 read:

4 23-750. Special provisions for nonprofit organizations and
5 state and local governments

6 A. ~~The provisions of~~ This section ~~apply~~ APPLIES to:

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

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

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

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

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

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

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

40 (d) ~~Which~~ THAT has been paying contributions under this chapter
41 ~~subsequent to~~ AFTER January 1, 1972, for a period of ~~not less than~~ AT
42 LEAST three consecutive taxable years may elect to become liable for
43 payments in lieu of contributions for a period of ~~not less than~~ AT LEAST
44 three consecutive taxable years by filing a written notice of its election

1 with the department not later than thirty days ~~prior to~~ BEFORE the
2 beginning of the taxable year for which ~~such~~ THE election shall first be
3 effective.

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

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

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

26 C. As soon as practicable after the end of each calendar quarter
27 the department shall determine the amount of payments in lieu of
28 contributions due from each employing unit and shall bill each employing
29 unit for the amount due. If payment is not made on or before the date due
30 and payable as prescribed by the department, the whole or part thereafter
31 remaining unpaid shall bear interest at the rate of one ~~per cent~~ PERCENT
32 per month or fraction thereof, from and after the due date until payment
33 is received by the department. The amount of payments due hereunder but
34 not paid may be collected by the department, together with interest and
35 penalties, if any, in the same manner and subject to the same conditions
36 as contributions due from other employers. The amount due specified in
37 any bill from the department shall be conclusive and binding on the
38 employing unit unless not later than fifteen days after the bill was
39 mailed to its last known address, the employing unit files an application
40 for redetermination. A redetermination made under this subsection shall
41 be subject to petition for hearing and judicial review in accordance with
42 ~~the provisions of~~ section 23-724.

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

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

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

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

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

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

36 6. IF AN INDIVIDUAL PROVIDES SERVICES TO MORE THAN ONE EDUCATIONAL
37 EMPLOYER DESCRIBED IN PARAGRAPH 1, 2 OR 3 OF THIS SUBSECTION, BENEFITS ARE
38 NOT PAYABLE ON THE BASIS OF SERVICES PROVIDED TO AN EDUCATIONAL EMPLOYER
39 FOR WHICH THERE IS A CONTRACT OR REASONABLE ASSURANCE FOR DETERMINING
40 ELIGIBILITY FOR BENEFITS BETWEEN OR WITHIN TERMS, BUT BENEFITS ARE PAYABLE
41 ON THE BASIS OF SERVICES PROVIDED TO AN EMPLOYER FOR WHICH THERE IS NO
42 CONTRACT OR REASONABLE ASSURANCE.

1 F. In determining contribution rates assigned to employers under
2 this chapter, the payrolls of employing units liable for payments in lieu
3 of contributions shall not be included in computing the contribution rates
4 to be assigned to employers under this chapter. The payments in lieu of
5 contributions made by ~~such~~ THESE employing units shall be included in the
6 total assets of the fund in the same manner as contributions paid by other
7 employers.

8 G. Except as inconsistent with ~~the provisions of~~ this section, ~~the~~
9 ~~provisions of~~ this chapter and regulations of the department shall apply
10 to any matter arising pursuant to this section.

11 Sec. 2. Section 23-787, Arizona Revised Statutes, is amended to
12 read:

13 23-787. Repayment of and deductions for benefits obtained by
14 claimants not entitled to benefits; collection;
15 interest

16 A. A person who receives any amount as benefits under this chapter
17 to which the person is not entitled is liable to repay the overpaid amount
18 to the department. The department may deduct all or a portion of the
19 overpayment from future benefits payable to the person under this chapter.

20 B. If benefits to which a person is not entitled are received by
21 reason of fraud committed by the person as determined by the department,
22 the department shall assess a penalty on the person equal to fifteen
23 percent of the amount of the erroneous payment and the person is not
24 eligible to receive any benefits under this chapter until the total amount
25 of the overpayment and all penalties and interest have been
26 recovered, ~~waived~~ or otherwise satisfied in compliance with a civil
27 judgment. **FOR THE PURPOSES OF THIS SECTION ONLY, ANY INTEREST ON A FRAUD**
28 **OVERPAYMENT THAT HAS BEEN WAIVED UNDER SUBSECTION G OF THIS SECTION SHALL**
29 **BE TREATED AS THOUGH IT WAS RECOVERED. FRAUD OVERPAYMENTS AND PENALTIES**
30 **MAY NOT BE WAIVED.** The department shall immediately deposit all
31 assessments paid pursuant to this subsection in the unemployment
32 compensation fund established by section 23-701.

33 C. If benefits to which a person is not entitled are received
34 without any fault on the person's part and if repayment or deduction from
35 future benefits would be against equity and good conscience, the
36 department may waive all or a portion of the amount overpaid.

37 D. If benefits to which a person is not entitled are received
38 without any fault on the person's part, deductions made by the department
39 pursuant to subsection A of this section from benefits payable to an
40 individual for any week shall not exceed twenty-five percent of the
41 individual's weekly benefit amount unless required by federal law, except
42 that the amount recouped from benefits payable may be fifty percent of the
43 weekly benefit amount if the individual has previously received benefits
44 but has not received benefits for at least twelve consecutive months

1 before the most recent receipt of benefits and there has been no
2 reasonable attempt to repay the indebtedness during that period. The
3 fifty percent recoupment rate may not be put in effect before one year
4 after the establishment of the overpayment.

5 E. The department shall adopt rules to implement subsection D of
6 this section.

7 F. The attorney general or the appropriate county attorney may
8 institute appropriate court proceedings to recover in the name of the
9 department any amount for which a person is liable to the department.

10 G. Interest on all benefit overpayment debts, including those
11 reduced to judgment, shall accrue at ten percent a year. The department
12 may waive a portion of any accrued interest on a benefit overpayment debt
13 for good cause shown. For benefit overpayment debts classified as fraud,
14 the amount of interest waived may not exceed twenty-five percent.

15 H. THE DEPARTMENT MAY NOT COLLECT AN OVERPAYMENT AMOUNT OR INTEREST
16 AMOUNT THAT HAS BEEN WAIVED PURSUANT TO SUBSECTION C OR G OF THIS SECTION,
17 RESPECTIVELY.

18 I. THIS SECTION DOES NOT PROHIBIT THE DEPARTMENT FROM ACCEPTING
19 VOLUNTARY PAYMENTS.

APPROVED BY THE GOVERNOR MARCH 16, 2018.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MARCH 16, 2018.